The Local Land Offices: Commune service or implants set by development projects?

With the adoption of the Law on private non-titled property and its application decree, immediately concretized by the establishment of Local Land Offices in 300 communes in Madagascar over a three – years space, the Malagasy land reform displays a “rise in power” talking about decentralization of land tenure management to Communes. While the legal challenge was overcome, the insertion of this new commune service is facing up to institutional, technical and financial stakes. First, the concept of decentralized land tenure management is brand new for local deconcentrated and decentralized actors, and still requires support in terms of conception, training and support. Second, as a consequence of the current political crisis, the sudden interruption of some outside financing means that henceforth the communes must cover all operating costs and ensure the sustainability of the Local Land Offices. The question of how this system has been appropriated by local rulers has therefore emerged as a crucial stake. Between success stories and missteps, the third issue of LandScope compiles, summarizes and presents the initial observations on how well a new responsibility has been integrated by the decentralized administrations.
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## Acronyms

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<tr>
<td>BVPI</td>
<td>Watershed and Irrigated Perimeters (department of Agriculture program)</td>
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<td>MGA</td>
<td>Madagascar Ariary (the national currency) – 1 dollar ~ 2,000 MGA; 1 euro ~ 2,800 MGA</td>
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<tr>
<td>BV Lac</td>
<td>Lake Alaotra Watershed (project)</td>
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<td>CRL</td>
<td>Commission de Reconnaissance Locale, or local recognition commission</td>
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<td>CTD</td>
<td>Collectivité Territoriale Décentralisée, or decentralized administration</td>
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<td>LLO</td>
<td>Local land office</td>
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<td>IFT/IPFB</td>
<td>Land Tax – Tax on built properties</td>
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<td>JIRAMA</td>
<td>Jiro sy Rano Malagasy (the water and electric company)</td>
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Why decentralize land tenure management?

A statement of an overwhelmed centralized land administration

Madagascar’s land tenure administration system is a legacy of a colonial system\(^1\) based on state ownership of land; this colonial system was itself inspired by the Australian Torrens Act (Teyssier, Ravelomanantsoa, 2008). At the time, the principle was to secure exploitation companies’ real estate and agricultural projects, characterized by their small number but large tracts of land. This system, which was able to function with a small staff, rapidly began to suffocate following Madagascar’s independence when access to land ownership rights was made possible thanks to Edict 60-146.

Starting in 1960, the administrative machine—which had not adopted any noteworthy reforms in response to the new institutional, demographic and economic context—rapidly found itself submerged by thousands of individual requests for registration, requests that it was no longer able to process. “Thus, over the space of 110 years, the land and state property administration progressively became paralyzed; it has been able to deliver only 400,000 land titles in a country that has roughly five million agricultural and urban plots of land. The pace of title delivery has stagnated over the past 15 years, with an average of 1,500 land titles delivered every year.” “This system, a legacy from the colonial period, has turned out to be entirely unsuited to the current magnitude of demand for land right protection” (Teyssier et al., 2009).

Faced with the distance of the land administration and to get around long and costly procedures that create lengthy delays in obtaining land titles, users (mostly rural) established a new form of social recognition of rights: “little papers.” These are transaction acts, under private seal, established by the two parties, signed by witnesses, and registered with the fokontany\(^2\) or, at best, endorsed by the commune. This new practice—without legal value—rapidly spread, sometimes on land titles.

Observing this gap between practice and written law along with the installation of a land crisis in Madagascar pushed the government to undertake a new land reform policy in 2005, which aimed to “meet the massive demand for land tenure security”; the suppression of the state land principle and the decentralization of land tenure management were its major pillars.

The expectations from a decentralization of the land tenure management

The decentralization of the land tenure management consisted of the creation of a new responsibility for the mayors via the establishment of Local Land offices (LLO) at the Commune level, to manage private non-titled occupied lands. The LLO are in charge of formalizing the occupants’ rights on exploited or occupied land that is not yet titled or registered in the cadastre, by issuing land certificates.

The principle behind decentralizing land tenure management is to bring into alignment the legality and the legitimacy (Lettre de Politique Foncière, 2005). In practice, the aim is to reconcile local practices (occupation of private non-titled land and “small papers”, social arbitration) denied by the government authorities and the laws of which users are unaware.

The creation of LLO would aim therefore to meet:

- The idea of a local body authorized to secure de facto occupations and arbitrate conflicts.
- The idea of improving governance via social control, that is to say moving decision-making and management closer to the grassroots communities (fokonolona), allowing them to react to decision-makers and managers, notably during elections. Unlike centralized land titling systems, the land certification procedures would value the communities’ knowledge by visually identifying plots of land on PLOF images, and during local recognition commission meetings.
- In the medium term, the idea of establishing coordinated approach between decentralized land tenure management and its tools (PLOFs) with the decentralization of land taxation, and triggering the development of local governments via rural and/or urban land use planning.\(^3\)

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1 The equivalent of the Torrens Act was instituted in Madagascar by the Law of 9 March 1896 on indigenous land ownership, and by its application decree of 4 February 1911.
2 Fokontany: the basic territorial unit, and the smallest administrative unit in a commune.
3 Among other things, the Land Policy’s ultimate goal is land tenure management conducive to the development of decentralized territorial governments via the provision of territorial management and taxation tools (LPF).
A public policy designed for the long term

Creating LLO fulfills a public policy that makes Communes responsible for managing non-titled property. The Communes want this new responsibility but run up against technical and financial constraints. The first observations in regard to what is expected from decentralized land tenure management made it possible to observe notably that institutionalizing this service is meaningless unless it is built for the long term through an internalization process.

Various levels of integration of the LLOs by the Communes

LLOs confirm their role as a public service in locally securing land tenure

As the Lettre de Politique Foncière (or land policy letter) announced, “a proximity land administration”, the most expected function of LLO, is about to be fulfilled. At the end of October 2009, about 105,000 certification requests and 48,000 issued land certificates, for the 301 communes with LLO (i.e. one-fifth of the Malagasy territory), were recorded. In three years, the land tenure securing via the land certificate represents, in terms of number of land documents, already 12%-14% of what land registration had provided in 110 years.4 While the initial results seem promising, the proper engagement of the Communes cannot yet clearly be highlighted in some cases. These numbers need certainly to be connected to the amount and quality of outside support that the LLO benefitted, introducing therefore a great diversity in regard to insertion within local administrations.

Beyond quantitative aspects, the observations in the first “self - operated” LLOs reveal two major trends: LLOs that are perfectly integrated as a commune service, like Soavinandriana (Itasy), Faratsiho (Vakinankaratra), Amparafaravola or Ambatondrazaka (Alaotra), and the LLOs seen as “rejected implants” that underwent clear development while external support was present, and then collapsed.

What indicate the integration of LLOs within the Communes

Research in communes converge in direction of a general observation: the population went rapidly aware of the importance and usefulness of LLO as a service to improve tenure security and development (cf. notably LandScope No. 1: “Land reform: are users satisfied?”). For the communes that were able to appropriate the system as a public service, various initiatives were taken by the managers. Among the signs that reveal this progressive appropriation, let’s point out:

− In an elementary manner, the designation of a Commune manager in charge of monitoring the LLOs activities and the inclusion of the LLOs expenditures in the annual budget emerge as one of the first indicators of appropriation.

− There were also local initiatives, such as those taken by the inter-commune LLO of Soavinandriana and Ampary that deployed an entrepreneurial strategy for certification (mass communication on the local radio station, sensitization to the fokontany with regional authorities’ representatives, the organization of requests and recognition processes in function of the pre-harvest or harvest seasons, hiring additional contract agents, etc.). With this system, the LLO was able to issue 1,000 land certificates, receive 2,300 requests, and generate revenues of 52 million ariary in two years of self - operating management. In 2010, the LLO plans to build an additional floor, acquire a third motorcycle and a second computer, and hire a fourth agent (in several communes, the GF is run by a single agent) to improve its reception capacity.

− the additional investments to initial support provided by the donors.

− some local adjustments in compliance with the legal framework can also be seen in response to social demand. In Amparafaravola district (Alaotra region), the LLO recommends establishing physical markers following the outlines of the certified plots, at recipients’ request.

4 The total number of land titles issued is not known with exactitude. An overall estimate shows 330,000 land titles delivered since 1896 (LPF, pg. 3). Out of this estimated total, approximately 96,527 were delivered during the colonial period—1896 to 1960—representing a surface area of 27,400 sq. km., of which 40% representing tracts of land for colonial concessions (Raparison, 2009).
Land certificates are sometimes used for other administrative acts. Several urban and rural Communes have made it mandatory to present a land certificate in order to request a construction permit or a water and electricity connection. In Faratsiho (Vakinankaratra region), the commune began to inventory land and built property taxpayers using PLOF data in 2008.°

One also sees aspects of governance and the education of commune citizens on their rights. The establishment of LLO and their integration in the day-to-day life of the population are very recent. The strong historical imprint of the land title system and the still tenacious rumors denigrating the legal value of the land certificate are as many constraints for complete appropriation by users. In this way, the commune’s awareness-raising efforts to educate citizens on their rights illustrate true proof of governance and indicate the integration of the LLO system in civic life.

Fig. 1: The fokonolona demonstration in one commune of the Menabe reveals awareness of their rights and a determination to claim them. The banner displayed along the national road says, “We do not accept the establishment of a false land certificate to steal our land—our CRLs did not attend the recognition.”

These indicators may appear in variable proportions in the communes. For the moment, their observation has not yet been able to reveal quantified elements. They can notwithstanding serve as an analysis grid for wider evaluation at a later time with the aim of measuring how effective communes have been in assuming this new responsibility.

Inversely, other communes show a lack of integration or very poor integration of the LLO in commune life. Generally speaking, these LLOs did not withstand the withdrawal of donor financing. They had always operated as a separate service that met the donor’s objectives and instructions. All the approaches related to the LLO operation and to the land tenure security promotion—certificate cost setting, annual land certificate issuance objectives, integration in an inter-commune alliance, extension of the LLO activities towards related issues (contribution to land taxation, land use planning), sustainability strategies, etc.—were dictated by the support practitioners, the payment of whose services was conditional on attaining quantitative objectives. Once the outside financing ended, the commune did not make an effort to allocate funds to maintain and continue the activities of what it legitimately saw as a “project in the commune.”

These LLOs either closed their doors or operate as best they can with break downs of computer equipment or vehicles, or they are in the process of being re-launched by the PNF’s technical support teams.

The role of proximity mediation not yet emerging

Local land offices are seen nearly everywhere as a rights recognition body. They are also understood to be a proximity arbitration body, a form of “decentralized land court” (expression used by a survey respondent). For instance, in Tanambe, a Commune in the Amparafaravola district (Alaotra – Mangoro region), the number of land conflicts brought before the commune for arbitration nearly tripled after the creation of the LLO in October 2007 (Fig. 2). “The opening of the Land Office pushed inhabitants to bring forth latent conflicts that were real but that they had attempted until then to resolve more or less clumsily within the family or neighborhood” explained the deputy mayor. “They see in the LLO a new hope of resolving affairs that had remained without follow-up for years in the court’s archives.”

° As the PLOF is still incomplete, the inventory was again done on 11 of the 18 fokontany that make up the commune.
These data established in the Commune of Tanambe obviously illustrate a need for a public service to mediate land conflicts. Another observation in the Commune of Tanambe is that simultaneously with the increase in the number of requests for conflict resolution, the number of resolved cases also quadrupled.

However, most communes do not yet show the same aptitude for mediation. In several communes, the LLO refuses to accept requests in regard to land under litigation, especially when opinions have already been issued by the state bodies (state land administration or court). In this case, it is left up to applicants to adopt amicable resolution of the dispute between the claimers, or failing this to bring the conflicts before the court.

While the raiamandreny (elders) and fokontany chiefs are as a general rule familiar with the social mediations in which they participate regularly, the same cannot be said of the LLO agents. What is more, the new terminologies introduced by modern law (tenure, right of way, contrary evidence, etc.) are as many concepts that the members of the local recognition commissions need to assimilate. Their training on the subject was generally insufficient: the sessions often last less than a day, and are generally provided to large groups by trainers who do not always have experience with the subject (Fig. 3). In this way, many commune actors do not feel fully competent to take on land mediation.

The overall conflict rate of 2% is in fact a manifestation of a different reality: most GFs prefer not to process contentious applications.
For instance, the 2,150 reported oppositions related to the 105,000 received requests for land certification, giving an overall conflict rate of 2%, could lead one to believe that conflicts are rare when applications are processed. In fact, they reveal a different reality: most LLO prefer not to process contentious requests and do not wish to take on the role of proximity arbitration body.

Nevertheless, when commune actors have received adequate training and accept contentious cases, the conflict resolution rate—67% in the month of October 2009—is a perfect illustration of the mastery of arbitration and mediation issues.

**Land tenure management implementation skills limited mostly to LLO agents**

The decentralization of land tenure management brought about the emergence of a new skill set that concerns no less than 600 LLO agents. Without there being a true “LLO school,” these agents display, thanks to the occasional training courses offered by various practitioners, mastery of the new administrative and technological tools created for decentralized land tenure management.

However, this acquisition of skills by LLO agents often seems to have been built at the expense of mayors’ skills. From the status of technician necessary for the LLO operation, agents have taken on the position of central element. In some communes, the development of the LLO depends on the agent’s dynamism and initiatives. Accomplishing the certification procedures seems to be “directed” by the agent with the mayor being involved only in the final stage as signatory of the printed land certificate.

A few things could explain this situation. First, there is a clear difference in education levels: with the prospect of a reform based on the introduction of new technologies (PLOFs), the level required to be a LLO agent is at least a high school diploma. Mayors are rarely graduates, and the mayors of rural communes often ended their studies in primary school. In addition, the training programs provided by practitioners seem to favor these commune technicians more than their bosses. Mayors receive barely one to three days of additional training while the future agents may receive twenty days to six months of training. Sometimes, the salary and importance that certain practitioners and donors grant to agents has the effect of marginalizing the agent in relation to the commune administration as a whole.

The sometimes complicated relationship between the mayor and “his” LLO agent can have an impact on the proper implementation of rights recognition and arbitration procedures. In more than one commune, the plot registers—a fundamental element for the registration and guarantee of land rights—are managed by the agent and no longer signed by the mayor. In another, the agent has taken it upon himself to revoke the raiamandreney (elders) members of the Local Recognition Commission, representatives normally designated by the fokonolona whose nomination is confirmed by order of the commune.

In other locations, this lack of involvement by the mayor leaves the field open for dishonest agents who deliver two certificates to two different people on the same plot, or who extract additional fees from users before delivering their land certificates. The issuance of land certificates on plots for which certificates have never been requested, or on land status that is no more under the responsibility of the LLO has also been seen.

What could be even more serious in what could be referred to as the “agent-mayor conflict” or the failed integration of LLO agents in the commune administrative organization is the very sustainability of the structure. Several mayors refuse to pay the agents’ full salaries once the donors have withdrawn. These agents threaten to quit their jobs if this situation is not rectified as soon as possible.

**LLO’s still timid contribution to the development of decentralized administration**

Another indicator of integration is whether the LLO has become a development tool for decentralized administration, notably by facilitating the identification of plots of land and the fiscal census. The LLOs currently only fulfill their primary function of ensuring tenure security. A few initiatives show the use of the land certificate for administrative matters (JIRAMA, construction permits, etc.); also to be pointed out the harmonization of the PLOF and the urban master plan in Ambatondrazaka, and the beginnings of taxpayers

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6 Source: Land Observatory, August 2009. During the processing of requests, the neighbors, rights holders, fokonolona and/or the brotherhood can oppose the applicant’s right to certify the plot, or reject the plot boundaries announced by the applicant, thus launching a mediation process by the CRL.
census based on the plots certified in the PLOF in Faratsiho. These initiatives show the LLO’s potential when it comes to contribute to the development of rural or urban communes, but they are still marginal.

Nevertheless, an inconsistency has emerged that the concerned departments have to consider soon. The decentralization process and the latest Finance Law intend to promote land taxation at the expense of and for the profit of the communes. Yet, maintaining centralized land management is a complete mismatch with a decentralized land taxation system. Unlike land certificates, the information on land titles does not go through the communes; the communes do not know the status, occupation, and size of titled lands, or even the holders of taxable rights.

It is hoped that the PLOFs compensate for this gap, but the PLOFs are currently in an initial state and very often incomplete; in addition, one must note that the exchange of information between SRDs and communes, provided for under the law, does not work in either direction.

It is legitimate to conclude that, overall, decentralized land management has until now been limited to a technical set up at the expense of the establishment of true institutional foundations.

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**Decentralized land management reduced to a scope of project**

- Speed favored at the expense of appropriation and sustainability

The establishment of the first LLO was initially heavily stimulated by the government’s determination to make improving land tenure security one of its priorities. The Madagascar Action Plan (MAP), a strategic framework for national and sector development policies, announced in its fourth “commitment”7 the desire to secure land tenure for 75% of households by the end of 2012.

While the realism of this objective is subject to debate, its operational modalities for implementing the land reform, and more specifically the LLO, were greatly influenced by it. The notion of “land tenure security” was assimilated with a numerical target to attain in terms of LLOs created and land titles or certificates issuance.

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Fig. 4: Different modes of operation according to donor. The graph compares the pace of LLOs creation in the Vakinankaratra Region (pre-selected Communes) and in the Alaotra Region (at the communes’ request).

A method aiming to create LLOs “on request” by local governments was designed at the start of the reform. This method is based on key stages, including:

- A first phase consisted of communicating broadly on decentralized land management and soliciting the interest of communes that wanted to have a LLO. These informative sessions were planned to be given primarily in the form of regional forums, held in each region and attended by the district representatives, mayors and commune councils.

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7 The MAP contains eight “commitments” that are broken down into “challenges.” Commitment 4, rural development, announced its first challenge to be securing land ownership.
A second internal consultation phase among commune actors was to focus on local land tenure security needs and possibly lead to requests for assistance creating LLO.

Another key stage was the reception and processing of communes’ requests for assistance creating LLO.

Then, social and land-issues diagnostics would be conducted with the aim of describing the land tenure situation in the requesting communes, including: the different statuses of land within the commune in question, the amount of titled or registered land, how up-to-date information on titled land was, the prevalence of land conflicts, land management and types of tenure, the balance of power between customary and modern rights, the forms of “social” tenure security, and possibly the existence of a social demand for written formalization of property rights. This diagnostic would determine, among other things, the relevance of establishing a LLO.

A list of communes to support and types of systems proposed would be established, and financing would be sought.

While some donors complied with this process, others more heavily favored a project approach aiming to produce rapid quantitative results at the expense of the duration and quality of training, indispensable conditions for establishing true skills within the commune. In this case, the communes were selected without consulting the local authorities beforehand.

While the appropriation aspects were somewhat neglected, this search for numerical objectives nevertheless helped land reform implementation because it made it possible to fulfill political expectations and strengthen the process through rapid and considerable results. This “volume strategy” activated the transformation of a process that was still experimental in 2006 and a nearly national movement starting in 2008. However, its effect was a highly variable integration of LLO in commune life.

The institution-building process, or in other words the integration of the LLO in the regional and local institutional landscape, differs from one location to the next. These different situations may be explained by:

- The institutions initiating the creation of LLO, largely in response to donors’ initiatives, financed the establishment of 278 out of the 301 GFs created (i.e. 97%). For the remaining 3%, the creation was supported either by the region (in Ihorombe), the Regional state Land Administration (Bongolava, Androy), or by the commune itself (Mananasy). It is clear that the communes that created a LLO on their own initiative integrated it immediately.

- Support institutions’ operating mode is also decisive when it comes to mayors’ attitudes about and their understanding of the LLO. Radically different interpretations can be seen:
  - The commune sees the LLO as an outside and temporary project. The LLO is the donor’s business, especially if management of its operating costs is centralized within the donor during the subsidy phase (agents’ salaries paid directly by the donor, how operating costs are covered is not known because this is the donor’s responsibility alone, etc.).
  - The commune sees the LLO as a local manifestation of the deconcentrated land administration. This interpretation may be all the more justified when the certification procedures are handled by topographic agents and the mayors meet monthly to report to the head of the Regional state Land Administration.
  - The commune sees the LLO as its responsibility, but hopes to continue to be able to rely on outside financing. The mayor knows that the electorate responds favorably to it but as long as a donor is present, why not ask for financing extensions for the LLO and take advantage of the situation to direct the commune revenues toward other priorities.
  - The commune sees the LLO as one of its services and as an opportunity to trigger commune development.

The financing includes the initial investments, design of the PLOF, coverage of operating costs for a specific period of time, and the training of commune actors.
The centralizing attitudes and top-down approaches of certain donors—ranging from hiring LLO agents to unilateral financial management of operations—have fostered some wait-and-see and dependency attitudes among commune leaders, sometimes constrained to request an extension of the financing to continue to keep the LLO open and operational.

To ensure the effectiveness of their interventions, some partners had the Communes sign “agreements” or “objectives contract” in which the mayors took on responsibility for ensuring the proper operation of the LLO and the issuance of a certain number of certificates. The signature of these documents, which sometimes attained the apex of legal complexity, was often seen by mayors as a mandatory step in order to access to equipment and financing without, however, feeling responsible for respecting the commitments.

In some cases, the decentralization of land tenure management was paradoxically triggered at the expense of truly creating responsibility.

These observations lead to the recommendation of operating modes that favor the immediate integration of the LLOs in the communes, not only by establishing contractual documents but also by involving the local government in each stage involved in creating the LLOs.

The suspension of financing: an opportunity to re-orient approaches?

The circumstance of the change in regime in March 2009 generated a lasting political crisis. The international community’s failure to recognize the transition government caused the suspension of some of the financing allocated to the land reform.
Local land offices: Commune service or implants set by development projects?

Fig. 5: LLOs status before (map no. 1) and after (map no. 2) the suspension of international financing.
This is the case for:

- the MCA-Madagascar, the PNF’s largest donor, in the amount of 37.8 million dollars out of the 43 million dollars allocated to the land reform until now; and
- the World Bank whose financing in support of the land reform came agreements via the BVPI and PE III programs.

The suspension of the World Bank’s financing and the cessation of the MCC’s financing have had serious consequences on the implantation of commune LLOs in the regions where they intervene. While financial responsibility for approximately twenty LLOs (in blue on the maps) was shifted entirely to the commune budgets, the future of some two hundred LLOs remains uncertain (light orange on the maps). The sudden cut-off had unfortunate consequences for the communes that were used to the presence of donors:

- **Uncertain skills for local actors** – The training and support work had not been completed. The commune agents (mayor, LLO agents, fokontany chiefs, CRL) received training limited to a few weeks. Their mastery of the decentralized land tenure management tools, documents and procedures is still incomplete.
- **Concerns on sustainability** – The suddenness of the suspension of financial support meant that the turn-over questions involved in taking over the LLOs and making them sustainable had not yet truly been addressed. No strategies had yet been established for improved tenure security or for the linking of land tenure and taxation.
- **Disappearance of monitoring and technical support systems** – Approximately 230 communes no longer have an interlocutor to provide advice on managing their LLO, which exposes them to the risk of missteps or abuses.

On the social level, the short operation and then closure of the LLO or the slowing of the services provided to users, likely risks creating troubles, notably:

- **risk of worsening land-related tensions** – In the current political context of institutional destabilization, one can fear a multiplication of land grabbing maneuvers. The LLOs that have closed or are barely operational will find it difficult to protect existing land rights. Worse, without outside control, they may be complicit in spoliation tactics.
- **negative social reactions** – The applications whose fees have already been paid but whose processing has been stopped, the sudden rise in the price of land certificates that were delivered at reduced cost in the context of the subsidy, the incapacity to conduct recognition processes in distant villages because of a lack of fuel, the processing times that will increase, and the unequal situations between neighbors could cause some to challenge the validity of this new land tenure security system.

The reactions to the cessation of support seem similar from one commune to the next: a determination to keep the LLO open and keep its agents on staff without, however, the ability to financially ensure its operation. As best they can, the communes have developed “emergency” strategies to cover the agents’ salaries, primarily with the cost of land certificates. Some doubled or tripled the price of land certificates overnight, while others preferred to lay off an agent.

One characteristic seems to be universal: the mayor is aware of the electoral weight that the LLO could give him, and the suspension of financing should not be a motive provoking users’ anger, mistrust or disappointment. **Thus, this period of crisis may paradoxically have a positive effect: the forced integration of LLOs in their communes.**

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**Lessons to favor the integration of LLO**

- **The GFs’ integration in the Communes is conditional on operating modes**

Given the new nature, a certain technical level, and the magnitude of initial costs (images, PLOFs, equipment, etc.), setting up LLO usually takes place within the scope of projects, provided the advantages created by this situation (availability of financing, rigor in managing the system, presence of support, etc.).
The ideal would be, of course, to make all the elements necessary to open their own LLO available to communes, with their own financing, and available advice and information, in the form of guidebooks and technical support from the regions or SRDs, and PLOFs that would provide them with clear information on the status of land (titled property, state lands, etc.). This system is the direction toward which the land reform should move on the national scale. In such a context, the communes could work on opening their own LLO at their own pace and according to their priorities.

It appears that the operating modes of these support institutions heavily determine the communes’ ability to integrate LLO. Depending on the creation process, they may emerge as an integrated commune service, or sometimes as a more or less well accepted implant.

These specificities and integration modalities are conditioned by several factors, some inherent to the communes and local actors and others inherent to the operating modes of donors and practitioners in the field. In the communes, the primary factors determining integration are:

- first, the commune’s decision to open a LLO. The communes that took the initiative to create their land offices integrated them automatically in their services;
- the leadership of the commune leaders;
- the dynamism of the land office agent;
- the involvement of the district or the region. This involvement may take several forms but, in an elementary fashion, it could already be manifest by including land tenure issues on the agenda of the monthly district meetings; and
- the social and land tenure situations in the commune or region that determine the leaders’ and the local population’s perception of the “need” for a LLO: competition for control of land between migrants and indigenous populations—between families and lineage groups—between farmers and cattle farmers, the manifestation of large-scale land investment projects, the overall population’s level of training, the degree to which land has been commercialized, the level of conflicts incidence, etc.

It is appropriate to note that the distribution of land statuses within the commune, particularly the amount of private titled property, large titles or registered lands, cannot be seen as a crucial factor in integration. In the Alaotra, for example, one can see the determination of a mayor who took steps with the central administration to speed-up the granting of land titled to the state to his commune, whereas in the same situation, other commune managers placed their LLOs “on hold.”

Other factors more closely relate to the diversity of operating modes during the set up process:

- the process used to consult local actors;
- whether or not a social and land-issues diagnostic is conducted;
- the real organization and skill of those involved, notably the quality, proximity and frequency of technical support;
- the forms of “bringing-on board” during the initial creation and when the LLO is “handed over”;
- the quality of the training provided;
- pressure from donors and politicians; and
- the length of time taken for creation does not a priori determine integration, which is more dependent on the above conditions.

The integration of LLOs necessarily takes time

One shared characteristic has been indicated for LLOs that have been integrated as a commune service: appropriation happens over time. Whether the land offices are created on the donor’s initiative or by the commune, learning takes place along the way and over the medium term. The first communes to open land offices are those who have taken initiatives to integrate their land offices in the local administrative, social and economic landscape.
Thus, this appropriation is not always built on donors’ or the government’s “numerical” policies. The goal is mainly to create an operational and integrated service that would primarily aim to ensure the sustainability of a proximity public land tenure service.

### Desirable changes in implementation approach

The full challenge for decentralized land tenure management is now to evolve from a project approach to a vision of institution building. Adjustments in this direction are therefore to be made to certain elements in the process.

#### The importance of the social and land-issues diagnostic.

A social and land-issues diagnostic should be systematically conducted prior to the creation of LLO: is there a true demand for land tenure security on the part of the population? What is the extent of private non-titled property and, thus, of the LLO’s jurisdiction? What financial resources does the commune have? etc. Besides determining the relevance or not of opening the land office, the diagnostic will aim to specify the possible support actions needed to create optimal conditions for the elaboration and integration of the service.

#### Review the “objectives contracts”.

Prior experiences have proven that these contracts are not necessarily cure-alls to get communes to contribute to a process that they see as imported. However, some form of involvement is necessary as long as the signature of the contract is not a goal in and of itself. The document signed by the commune and the National Land Program’s Coordination Unit or the operator active in the region should manifest the formalization of the two parties’ mutual commitment, and be the result of an awareness-raising, consultation and negotiation process conducted for each Commune. Furthermore, it would be appropriate to rename the former contracts of agreed objectives “partnership agreements.” It would be preferable for the commune council to deliberate prior to the signature of this agreement, which would mean that the council has knowledge of its contents. Also, it would be desirable to include the district’s approval below the two signatures to increase the official nature of the commitments.

#### Correct failed institution building.

The period of political transition, during which the pressure of certain donors to produce quantitative results is put on hold, should be taken advantage of to re-examine the Communes’ need and determination to set up LLO. Commune and regional actors should be consulted to address this question. Out of a concern for economies of scale and in order to generate exchange and interactions, the proposal is to hold “mayors’ forums” in the administrative center of each district where land offices have been opened. These meetings will serve as a new basis for communes to take on the effective operation of decentralized land tenure management systems. Similarly, initiatives will be launched to involve the regions, who have seemed to be forgotten in the process of decentralizing land tenure management.

#### Revise training content

To strengthen and balance agents’ and mayors’ training (in decentralized land tenure management; laws on land tenure, taxation, local land use planning), and the training of CRLs and fokontany chiefs (in mediation, conflict management, land tenure and state property laws).

Launch a process so that local land offices are created “on request.” When a list of recipient communes has been established in advance by a project or donor, the project or donor shall involve the mayor in LLO management from the start, notably when hiring land office’s agents, something that is furthermore provided for in Decree 2007-1109 (Art. 5: “The Executive Head of the decentralized base administration hires and/or nominates the land office’s agents according to the recruitment conditions for agents of the decentralized base administration or Commune.”).

#### Commune GFs’ control needs and modalities.

While the texts provide for the role of state representatives in the legal control of the communes’ administrative acts,9 in practice this involvement...
is low and not nearly systematic. The Commune council could in this case be viewed as the first “practical” level of day-to-day control.

Integration of GF agents in the commune staff. A clear and respected contract must be established between the mayor and his “employee.” The mayor should also commit to monitoring the LLO’s activities, something that he cannot do successfully unless he has received the appropriate training. More advanced reflections could examine institutionalizing LLO by integrating their agents as civil servants as for the case of the vital records department agent.

Land and tax policies for each Commune

LLOs will be fully integrated in the life of the communes when the municipal leaders have their own land management and property taxation policies and when they understand the interest of this tool to protect their constituents and increase the local government’s financial resources.

Thus, the sustainability of the LLOs cannot be conceived in isolation from the reflections on commune resources, or one risks limiting land office financing to only the fees paid to obtain certificates. In the short term, such a strategy would have the consequence of pushing up the cost of certificates, lowering demand considerably and thus a very partially fulfilled function of tenure security. Covering the communes’ territories with land certificates would take a very long time and its impact would not be felt for decades.

The communes should be provided with assistance conceiving a policy that combines land tenure security and property taxation. The objective is to allow every commune to have in the medium term (two to five years?) exhaustive information on the land included in its territory to organize a fiscal inventory that is no longer based on declarations but on the data recorded and updated by the LLO. For this, commune-level certification campaigns must be favored with various forms of user incentives: temporary tax exemptions for certified lands, massive reduction of the cost of certificates during a set period of time, etc. On the contrary, unregistered land could be subject to higher taxation.

The conception of a commune-level land tenure and fiscal policy must, what is more, promote the updating of land certificates as the various transactions take place. It is clear that the certificate holders for land that has been sold will not want to continue paying taxes on plots they no longer own, and they will be motivated to formalize the transfer at the LLO. These linkages between tenure security and property taxation remain to be tested in collaboration with pilot communes.
Bibliography


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