Land conflicts in Senegal revisited: Continuities and emerging dynamics

Mayke Kaag, Yaram Gaye & Marieke Kruis

Following on from Gerti Hesseling's work on the social workings of law concerning land issues and our own previous research, this chapter investigates how the dynamics of land conflicts in Senegal are evolving. By way of one urban (Yoff, Dakar) and two rural case studies (Ross Bethio in the north and Kaymor in central Senegal), it considers how urbanization and increasing pressure on agricultural land are leading to an intensification of land conflicts. But while external actors are contributing to conflict dynamics in Dakar and Ross Bethio, conflicts in Kaymor are intensifying but remain limited to the local level. In all three cases, however, we observe that, whereas in the past, the co-existence of customary law and state law offered local stakeholders and the authorities the space to invent provisional and flexible solutions suiting most parties, in the current era of rising (commercial) land values, such co-existence appears to be becoming contra-productive and contributing to greater insecurity for the parties concerned as well as to a hardening of conflicts.

The research described in this chapter was made possible by a short-term grant from the IS Academy on Land Governance (www.landgovernance.org) and was carried out in collaboration with the Senegalese think-tank and research NGO IPAR (www.ipar.sn). See Kaag (2010), Kaag, Gaye & Kruis (2011) and IPAR (2010). The authors would like to thank Karin Nijenhuis for her comments on an earlier version of this chapter.
on land grabbing has been rather alarmist, assuming that external investors are
directly and automatically threatening the tenure security of local populations,
but there has been little empirical investigation into the processes by which in-
vestors are gaining access to land and local populations become marginalized.2
There is a tendency to consider Africans as the passive victims who have been
overruled by external ‘invaders’ (particularly when speaking about non-Western
investors) and it is only recently that the role of local and national elites in
practising and facilitating land grabbing has come to the fore (Hilhorst et al.
2011).

While acknowledging that the threat of land grabbing is real, we argue that
more research is needed into the (political) micro-processes underlying ‘suc-
cessful’ land grabbing, and that current land-grab practices should be consid-
ered from a more historically informed perspective. What can history teach us
about the current dynamics of land claims (including land grabbing), the ways
land conflicts are solved, and their implications for tenure security? This implies
a plea for building on past research on land use and land governance in order to
understand current dynamics, and to have debates on land governance from the
1990s inform the current debate on land grabbing. We can only wonder what
Gerti Hesseling would have contributed to this current debate if she were still
with us today. We imagine that she would have urged us to go into the field, to
investigate empirically what was happening on the ground and to analyze the
social and political workings of the law in processes of gaining access to land.

On the basis of these reflections, we propose to look in more detail at the
ways in which land governance and land conflicts have recently evolved and to
trace processes of change and continuity, thus providing a bridge between the
older literature and current developments. We will do so by investigating land
conflicts in three different regions of Senegal. The first is Yoff, a former fishing
village that has become part of Dakar’s urban congregation. The pressing
urbanization and the concomitant increase in the commercial value of land in
combination with a variety of institutions having a say over its use, have led to
increased conflicts at family and community level, and between the community
and other actors, such as the central state. The second case study is Ross Bethio,
an agricultural area in the Senegal River region in northern Senegal where the
availability of large tracts of arable land in combination with possibilities for
irrigation has attracted investors from outside the local community, both from
Senegal and abroad. The final case study is Kaymor, an isolated rural commu-
nity in the former ‘peanut basin’, where land and water degradation are impor-
tant problems. These case-study areas represent different, generally distin-

---

2 Among the exceptions is interesting work done by the IIED, as exemplified by
Vermeulen & Cotula (2010).
mission of rights. In the past, the eldest male, usually a younger brother of the deceased, was the main inheritor and it was only if there were no male representatives in one generation that land went to the next generation. This system has been transformed by the increased influence of Islamic law, and land rights are nowadays usually transmitted from a father to his sons. Women are traditionally not allowed to inherit land, which is justified by the fact that when they marry they leave the family home.

The 1964 Law on the National Domain has turned virtually all rural land into state property, which, in turn, is given in usufruct to the farmers. The allocation or withdrawal of user rights is based on the productive use of land, and an applicant also has to live in the community (Hesseling 2009: 250-251). Within six months of passing this law, customary land owners could claim their land and register it provided that long-term use and customary ownership of it could be proven (Ibid.: 244-245). This however only happened in a limited number of cases, mainly because of a lack of knowledge and urgency on the part of the local population. The rule that after a death, the sons have to re-register it is generally not adhered to either.

In practice, families that were already cultivating land have been allowed to continue as before, albeit under the ultimate supervision of the state. Only when land is not put to sufficient use can it be taken away and allocated to someone else. In addition, one can claim rights to a tract of land if one has cultivated it for more than three years. This means that local land rules are recognized within the limits set by national law. Families can claim rights to their land as long as they continue to till it but fallow periods lasting more than a few years and longer-term leases can create problems in that the rural council or the temporary tenants may claim the land on the basis of national legislation.

The Law on the National Domain introduced a revised Senegalese administrative infrastructure with the creation of rural communities made up of a number of adjacent villages, as well as communes in the urban areas. The administration of these new entities lies with a rural council or municipal council of elected locals with a five-year mandate. Their task is applying the Law on the National Domain by allocating and reallocating land, and executing modest development projects covered by its own budget, which comes mainly from local taxes. The village chief still continues to play an important role at village

---

3 This is not the case for the Lébou community in Yoff that originally applied a matrilineal system.
4 The introduction of these rural communities administered by a rural council in 1972 was the first phase in the Senegalese decentralization process. The second step was taken in 1990, when the president of the rural council was given greater authority to the detriment of higher levels of administration, particularly with respect to budgetary matters. The third stage was set in motion in 1996 when competencies that
Land conflicts in Senegal revisited

agricole in 2003 when industry- and business-like forms of agriculture were promoted based on the use of wage labour and high-level investments in technology. For this, the privatization of land and the opportunity to buy and sell land would be prerequisites. But the topic is sensitive: it runs counter to the interests of the majority of small family firms in Senegal, which makes it difficult for the government to introduce fundamental reforms. Despite ongoing preparations, the Law on the National Domain is still the law of reference. However, practices are evolving, partly due to government agricultural policies that promote land allocation to large-scale investors, population growth and evolving market forces, all of which increase the gap between rules and practices. The following sections consider what this means for the evolution of land conflicts and their solutions in Yoff, Ross Bethio and Kaymor.

Yoff: Land speculation and overlapping authorities in an urban context

Yoff is today an integral part of the bustling urban landscape of Senegal’s capital Dakar. Founded as a fishing village on the Atlantic Ocean by the ethnic group of the Lébou some 400 years ago, it retained its rural character for a long time. With the urbanization of the last few decades, it has become increasingly encroached upon by the city and its population has grown from 40,000 to 100,000. In 1996, Yoff changed administratively from being a rural community to a commune.

In the old part of Yoff, the Lébou people still account for the majority of the population, living in big compounds of up to seven households headed by a family chief. Even though fish and agricultural land are increasingly scarce, the population is still geared towards its traditional occupations. The old village is easily distinguishable from the newly established neighbourhoods in Yoff (such as Nord Foire, Ouest and Sud Foire) where people live in smaller family groupings and property owners are civil servants, staff from universities and NGOs, and migrants, who have often bought their lots illegally from the Lébou.

Land conflicts in Yoff have a long history. In the colonial period, the traditional Lébou leaders challenged attempts by the colonial authorities to acquire their land for urban expansion purposes (Laborde 1995). Conflicts within families over inheritance have existed for generations because the Lébou traditionally had a matrilineal system in which land was passed down from a maternal uncle to a nephew. Since the advent of Islam, however, the pattern of father-to-son inheritance has been promoted. As a result, disputes over land

---

5 Fieldwork in Yoff was carried out by Yaram Gaye between August and October 2010.

6 Interview with staff at the local Public Records Office in Yoff in 2010.
It is not surprising that, with land values increasing, the political dynamics surrounding land issues and the power play between the different authorities are becoming increasingly intense. It is important for politicians to maintain their position and win as many votes as possible at election time. The customary authorities, for their part, are trying to secure allies within the administration to handle their land interests. They feel that the Law on the National Domain has severely weakened their control and rendered them dependent on the whims of the administration. The municipal authorities, even when they act within the law, are often placed in a difficult situation that requires tact on their part. If they do not take into account the demands of Lébou families (supported by their notables), they have to reckon with serious resistance. This is all the more problematic because the customary leaders are strategic partners in the execution of all kinds of municipal activities, such as the mobilization of the population for public manifestations, and bad relationships with the customary authorities may result in the loss of votes on election day.

The following case illustrates the complex interaction between the different authorities in land matters in Yoff.

The APECSY (Association pour la Promotion Economique et Culturelle de Yoff) was set up in the 1970s as a community association by educated youngsters supported by the Fré Yoff. With the support of the Khalife of the Layennes, APECSY received authority from the state to give out and manage 1160 new lots in the Yoff extension zone in 1996. Everything went well, according to the association’s representative, until 2006 when the notables of Yoff, under the guidance of the djiraff, criticized the group’s management because they said there was a lack of transparency in the assigning of plots. In addition, they claimed the association had bought land for FCFA 1 million and sold the plots for FCFA 18 million to FCFA 25 million per parcel. From then on, the conflict was out in the open and the contesters subsequently got hold of plots that, the association said, had been destined for public infrastructure projects. The matter went to court but has not yet been resolved. APECSY members claimed to be astonished by the course of events as the final allocation of a plot by APECSY had been in 2001. When asked, inhabitants thought that the djiraff, in all good faith, had initially wanted accountability and more transparency but that later, influenced by others in his camp, he had allowed them the appropriation of the last tracts of land in the extension zone. The people remain divided about the whole issue. Those living in the extension zone say they are quite satisfied: they had never thought of having a house of their own, but thanks to APECSY they now have one. Others claimed that they did not understand how the state could give an organization like APECSY such a mandate on the sensitive issue of land allotment. An official at the préfecture thought that it had been a ‘poisoned present’.

---

8 In the Lébou gerontocratic system, this can be anybody under the age of 55 (Billaud 2009).
These monetary transactions, particularly sales, are most often taking place in non-transparent ways, not only from the perspective of the buyer but also in view of the seller's family members. In the past, patrimonial land had been managed by the head of the family but increasingly, and helped by registration under the Law on the National Domain, family representatives may use land as their own personal property. A family representative may for instance sell land without reporting the fact to his family, or inform them but not evenly distribute any profits between those who, from a customary perspective, are co-proprietors. The precarious situation in which many families and individuals find themselves can lead to short-term calculations and the selling of land in order to meet immediate urgent financial commitments but to the detriment of longer-term family interests.

In the following section, we will see that the increase in the commercial value of land is not confined to the urban areas but has also had an important impact on land conflicts in the rural area of Ross Bethio.

Ross Bethio: External investors contributing to a complexification of land conflicts

Ross Bethio is in the fertile Senegal River delta in the north of Senegal. The population’s income comes from agriculture, fishing and cattle. Given its sufficient water resources, the area is suitable for agriculture all year long, and is well known for its riziculture, the large-scale production of rice. For the development of the latter, the parastatal organization SAED (Société d’Aménagement d’Exploitateurs des Terres de Delta) was established in the 1960s. Its role was to prepare land for cultivation and redistribute it amongst the local population. Under pressure from the structural adjustment programmes implemented by the World Bank and the IMF, SAED was severely cut in the 1980s. In 1987 its activities regarding the distribution of land were transferred to the rural community of Ross Bethio although SAED continues to offer technical assistance (Quatrida 2009: 64-65).

Ross Bethio covers two ecological zones: the walo (the fertile zone along the river where land was allocated under SAED’s supervision) and the diery, the drier zones further away that are often traditional family lands. Most land in Ross Bethio has been acquired through inheritance of customary family land, allocated by SAED or assigned by the rural council. The chances of obtaining

---

10 Registration is normally done under an individual’s name.
11 Fieldwork in Ross Bethio was done by Marieke Kruis between August and October 2010.
12 The rural community of Ross Bethio was restructured in 2008 and became the urban commune of Ross Bethio and the rural communities of Diama and Ngouith.
million that were provided by her son in Italy, who also bought two machines to prepare the land for agriculture. After making the down payment, the entrepreneur prepared part of the land and started to cultivate onions. After the first harvest she handed over the remaining FCFA 4.5 million to the vendor.

According to the woman, the problems started at this point, when she was getting ready to prepare the rest of the land. One of the marabout’s employees came to see her, claiming that 140 ha of the land she was preparing for the cultivation of rice belonged to the marabout. According to him, he had been given user rights to this land in 1989 by the former communauté rurale of Ross Bethio. He claimed he had the papers to prove it. When he asked the female entrepreneur to show him an official document from the communauté rurale, she was not able to do so. The marabout claims that the woman told him that she had noticed that no one was using the land and that she had just started working on it.

The female entrepreneur was summoned by the rural council but the only thing she could show the authorities was her déclaration de vente. She then tried to settle things informally with the marabout but he claims that all his papers are in order and refused to give up the land. At this point the woman turned to the police, who directed her towards the sous-préfet, who tried to contact the land committee of the rural council but could not reach them. The sous-préfet ordered all work on the disputed area of land to be put on hold immediately. According to the woman, the marabout respected this order for a week but then started cultivating the land. The marabout himself claims that he has the right to work the land because the case has been closed. The woman, however, claims that she is still waiting for the case to come to trial.

The case of the marabout and the female entrepreneur highlights the hierarchies of power in a rural community and how they influence people’s access to land. Even if the woman is a relatively wealthy farmer, she seems to have little chance in the face of the marabout, who has close relations with the political authorities and the court.

Increasingly, however, competition and conflict over land are no longer restricted to local parties as investors from outside the community are becoming interested in the agricultural opportunities in this region of Senegal. The agricultural policies of the Wade government, particularly the GOANA initiative (Grande Offensive Agricole pour la Nourriture et l’Abondance), have been influential. This programme was launched in 2008 to develop Senegal’s food security by promoting rice, maize and millet and offering subsidies on fertilizers and equipment. All rural communities were asked to contribute 1000 ha of land to the execution of the programme and, when distributing the land, to give priority to those with the means to cultivate it. In addition, the President declared that ‘Ministers, high-level officials, directors and business executives are invited to cultivate minimally 20 ha and there is no upper limit’. This led to massive allocations benefiting political and religious dignitaries, both from the communities themselves and from outside. There are numerous stories about land having been taken from local farmers and given to important outsiders
entrepreneur from Ross Bethio. While in a case limited to local-level actors the latter would have a good chance of winning due to his status, with the advent of outside investors, hierarchies change and so do the dynamics of conflicts and their possible solutions.

Kaymor: An intensification of conflicts but (still) restricted to the local level

Kaymor is a rural community some 20 km north of the Gambian border in the Kaolack region and the department of Nioro du Rip. Its location, behind the natural barrier offered by the Grand Baobolon River and with only a connection to the tarmac N4 road by a laterite track, makes access rather difficult.

The main means of subsistence are agriculture and livestock husbandry. Millet is the most important subsistence crop. Peanuts were introduced as a cash crop in the colonial era and have remained the area’s most important crop despite the dismantling of the state agricultural extension services in the 1970s and 1980s, and the failure to set up a more efficient private system for peanut cultivation and commercialization in the 1990s. Both millet and peanuts are grown on the higher sandy soils where family fields were traditionally situated. In the 1970s, people started clearing land in the valleys with their heavier clay soils for the small-scale cultivation of rice and vegetables (Kaag 2001, 2005). Rich farmers may have large herds of up to 100 cattle, while poor ones may have only a few sheep and/or goats. The extension of agricultural lands over the last decades means that increasing competition between agriculture and husbandry has developed.

Important problems are growing land scarcity, serious wind and water erosion that has resulted in the formation of large gullies, and reduced soil fertility. After the withdrawal of the state from the agricultural sector in the 1980s, many farmers have encountered difficulties in paying for seeds and fertilizer.

Most people in the community are Wolof although some 10% are Toucouleur. According to customary law, land belongs to those families that first cleared it. Apart from these hereditary rights, several temporary rights to land have emerged. Firstly, a family could lend out a piece of land for a period of time that was limited but not agreed on beforehand and the person who received the plot in usufruct was not obliged to pay. This occurred when a family had more land than it could cultivate at a certain time. The practice was called *dink*. Another was called *dogal*. In this case, the duration of the loan was clearly determined in advance (usually one year) and some form of payment was involved. In addition to these practices, land is also distributed within the family. The land that is distributed each year by the head of the family or household to his dependents is given in *abal* (Venema 1978).
As a result of a rush towards land in the valley that can be partly explained by the collapse of the organized cash-crop sector, the valley has been entirely cleared since early 2000 and all the reserves on the territory have been exhausted. Since then, increasing numbers of conflicts between farmers over plots in the valley have been reported, with some farmers trying to claim other people’s land there by simply enlarging their own area under cultivation, for example by moving the demarcation signs between the plots. Despite the fact that these conflicts often concern small areas, they can have a big impact, as is shown by the following case.

The village chief of Kaymor was the first person to clear a plot in the valley in the early 1970s and to start an orchard. As a former World War II combatant and a police officer in different parts of Senegal, he had visited many places and his experiences had helped him see the possibilities for horticulture in the valley. The local people did not see any agricultural value in the valley and it was only when they saw that production was good that they themselves progressively started to clear land for themselves. Nowadays, the valley is entirely under cultivation and makes up a small but qualitatively important part of people’s property. The soil is fertile and offers the possibility to diversify crops and cultivate beyond the rainy season. The village chief worked in the orchard, which produced well, and his son continued to do so after his father’s death at the end of the 1990s. He had just been elected president of the rural council at that time. The village chief’s son went to the oldest male representative of the next generation, the son of the deceased village chief’s brother. When the son of the former village chief was not re-elected president of the rural council in 2002, the family of the new village chief started to claim part of the land adjacent to the orchard. (The orchard itself had been one of the rural council’s first allocations – the previous village chief had asked for official recognition in order to dig a well.) The conflict concerning the ownership of the plot has not yet been settled but has resulted in increasing alienation within the extended family. The cousins in both lineages who used to be good friends are now trying to avoid one another.

In spite of the increasing pressure on land and regular conflicts surrounding it, these are restricted to local actors and can normally still be settled at the local level, within the family or by involving the village chief or asking rural councillors to mediate. This holds true particularly in the smaller villages of the rural community. In the village of Passy Kaymor, for instance, people who had migrated to the Casamance in search of land but returned after a few seasons were given tracts of land to cultivate by their fellow villagers after communal deliberations within the village. This solution was facilitated by the village being small and consisting of only a few families. But in larger villages too,

---

13 The rural community was thus also not able to respond to the President’s call to contribute 1000 ha to activities in the framework of GOANA (Faye et al. 2011).
power of the village chief, as he is considered to work for peace in society and not to act on the basis of a partisan logic. Yet we have seen that the strategies currently being implemented to achieve peace, such as the formulation of provisional and flexible solutions, are no longer working well in many instances, particularly when there is growing pressure on the land by a variety of local and non-local actors and land is increasingly being given a monetary value. The challenge is therefore to retain the objective of social peace but to develop better means for achieving this. In our view, an improved traceability of rights and decisions concerning land through a form of cadastre is important, as are enhanced accountability mechanisms – the improved capacity of citizens to scrutinize their administrators – at both local and national levels. To achieve the latter, it is important to increase knowledge relating to land legislation, including the rights of the different parties involved, the control mechanisms provided by the law and the ways these mechanisms can be used in practice. It is clear that people can only monitor those who govern them if they know the rules. Strengthening the public debate on land governance, both at the local and the national level, would help civic education and the creation of more transparency, and provide a vehicle for real debate on current land-governance practices and the desired land reform.

References