



Received: 06-05-2023
Accepted: 16-06-2023

ISSN: 2583-049X

Legitimizing "Customary" Power in Land Management in Côte D'ivoire (Adiopodoume), the Challenges of Rurbanization

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Abstract

The galloping urbanization in Abidjan brings two modes of land management into confrontation. In this land practice, the actors play according to their own principles. Thus, the "customary" power and the modern power collaborate and oppose each other in the face of the effects of rapid demographic growth. In this game of actors, the peripheries are confronted with a deliberate urbanization, a source of frequent land conflicts, problems related to the risk of flooding and a degradation of the living environment of the population. In this study, we want to analyze the legitimacy of "customary" power in land management through the peri-urban area of Adiopodoumé, in the commune of Yopougon. To do this, we will use documentary research, interviews with customary and municipal authorities and a questionnaire administered to buyers to establish our methodology. It thus emerges that there is an entanglement

between "customary" power and modern power in the practice of land tenure in Adiopodoumé. This leads the village community of Adiopodoumé to adopt strategies of circumvention, recuperation, and fragmentation of land. Thus, the rurbanization of the urban model that is taking place is taking place exclusively under the control of the village community of Adiopodoumé, with 72.6% by the village community as opposed to only 1.6% by the state and 25% by individuals. This entanglement between "customary" and modern power creates tensions and duality within the "customary" power in Adiopodoumé. In conclusion, the entanglement between "customary" and modern power in the peri-urban area of Adiopodoumé creates an impressive urban dynamic made up of stratagems with tensions over urban development.

Keywords: Legitimizing, Land Management, Rurbanization, Côte D'ivoire

1. Introduction

The traditional chief represents village authority, the cornerstone of "customary" power. In Côte d'Ivoire, in the village space, "customary" power is established in accordance with the habits and customs in the given space. This principle is supported by law n°2014 of July 14, on the status of kings and traditional chiefs. This provision gives legality to the status of "customary" power and, in fact, legitimacy, if the conditions for designating the traditional chief respect the customs and practices to which the customary authority belongs. According to Lebris *et al*, 1991, in this African conception, the customary authority has a share of responsibility in the appropriation of land, namely that of designating the status of the users of the space, the uses to be made of it and their land tenure.

This status of decision-maker of "customary" power seems to escape it to the benefit of modern power. In fact, the land compromises made by the natives during colonization and continued after independence will drive the economic development of African capitals. Thus, Abidjan became the country's main city with a current population of 5,616,633 inhabitants, compared to only 300,000 inhabitants in 1950 (www.ins.ci). This strong urban growth, which nibbles away at the rural areas surrounding the city, is the basis for new forms of social and spatial organization. This spatial and social transformation that is taking place in the capital highlights a game of collaboration between "customary" power and modern power in land management. However, this collaboration is tending to fade in the face of the rapid urbanization of recent years. Land compromises are turning into illegal land grabbing. This illegal monopolization leads the modern power to reduce the competences of the "customary" power in the management of land. This illegal monopolization leads modern authorities to reduce the competences of "customary" power in land management to the resolution of conflicts only. However, this power is recognized by the legislation as a legitimate power. Hence the question of the legitimacy of "customary" power.

Located on the Abidjan-Dabou axis, in the district of the commune of Yopougon, the "customary" power of the "customary" power of Adiopodoumé decided to take full responsibility for the management of urban development. Thus, the "customary"

power is involved in land management, resulting in frequent overlap with the modern power. This entanglement of power leads to new forms of spatial organization that are diverse in nature and unequal in size and are often sources of conflict. Based on this confrontation between "customary" power and modern power, what analysis do we make of the relationship between these two authorities? To establish the link, we will analyze successively the historical ratio of space occupation, the legal and regulatory framework of the urban and rural land domain and finally the structural organization put in place by the village community.

2. Materials and Methods

The methodology adopted in this work is based on documentary research coupled with a field survey. The documentary research consisted in consulting books and articles referring to land management before and after the country's independence. This allowed us to constitute the basis for land legislation. This also allowed us to identify the actors in the procedures and regulations of urban planning.

The field survey conducted from February to May 2020, was carried out on the whole of Adiopodoumé, namely the village and the urban extension. The direct observation consisted of contacting the space. This allowed us to note different urban forms. The interviews conducted with the village chiefdom, associations, indigenous populations, and the technical services of the Yopougon town hall, through direct and semi-direct interviews, allowed us to note the establishment of the village, the methods of land acquisition, and the relationships between the customary authority and the municipality in the spatial and social organization. At this level, we note that the people interviewed were interviewed because of their availability and the need to obtain essential information.

The processing of the information through the computer tools Word, Excel and ARGIS, allowed us to realize maps and figures. The data compiled allows us to define this work in three points: colonial land management as a source of devaluation of customary rights; the strategy of bypassing modern rights in the practice of land management; the mistrust of modern authorities; the valorization of "customary" power and the overlapping of competence as a cause of land tensions.

3. Results and Discussion

3.1 Results

3.1.1 Colonial Land Management as a Source of Devaluation of Customary Rights

The urbanization is inherited from the colonization. This urbanization was a means for the colonist to stimulate economic development through agricultural and forestry exploitation. Indeed, the colonial policy pushed the colonists to look for cultivable land. This search for forestry by the colonists weakened the indigenous populations' right to hold land, sometimes going so far as to ignore it. The implementation of decrees and articles of law, including the one declaring: "vacant and masterless lands, in the colonies and territories of French West Africa (AOF), belong to the State"; the registration of lands are restrictive measures for customary law. Thus, by this article, the law gives full power to the colonial farmers to dispose of all the land that is developed through agricultural and forestry operations. This allowed them to dispose of all the land, especially in the southern part. If this exploitation of the settlers has been

beneficial to the development of the Ivorian economy, it should be recognized that this article is the main cause of the land problems. This land law has led to vast agrarian movements, thus giving a high rate of immigration to areas with land resources, mainly the South which lacks labor. This policy also disrupted the settlers' rules for allocating plots of land, which required the natives to allocate part of the land to the immigrants in exchange for their labor. This management of land by the colonists marks a weakening of customary powers in the land question, through the imposition of immigrants in the structuring of land in village communities.

This practice of land management continued after independence and even intensified, in application of the Law of 20 March 1963, which followed the declaration of President Felix Houphouët Boigny of 30 October 1970:

"(...) The Government and the Party have therefore decided, in the interest of the country, to recognize that any Ivorian citizen of origin or adoption, who develops a piece of land, regardless of its size, has the right to use it on a permanent basis and to pass it on to his heirs."

This legal decision, whose approach is primarily aimed at the mass ruralization of agricultural areas, also confirms the strategy implemented by the colonialists in land management, namely to weaken "customary" power, through the absence of its authority in decision-making on land acquisition. Thus, by proceeding in this way on the land question, the political authority creates competition between actors with skills in land management. This introduces a balance of power that can lead to blockages and even latent crises in the land sector. We can say that the land law implemented is based on Western origins, yet as Africans we have land guarantors, to whom we must refer for the transfer of land. The fact of not referring to the "customary" power has led the village community to develop strategies to force the modern power to give back the word to the landowners.

3.1.2 Strategy for Bypassing Modern Rights

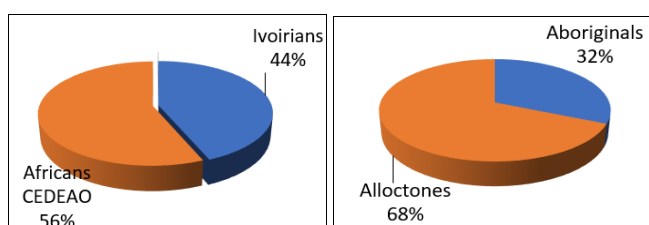
Settler land management has weakened "customary" power as a guarantor of land distribution. In Adiopodoumé, this situation has prompted the village community to adopt a strategy of reclaiming land under exploitation by settlers.

3.1.2.1 Village Community Land Reclamation Strategy

Settler land management has weakened "customary" power as a guarantor of land distribution. In Adiopodoumé, this situation has prompted the village community to adopt a strategy of reclaiming land under exploitation by the settlers. The village of Adiopodoumé, formerly located on the CNRA site, will be relocating to the current site, to force a settler farmer to stop forestry activities on their land. According to the latter, colonial policy gave free access to land for agricultural and forestry activities. The village's geographical location (to the south and bordering the Ebrié lagoon) makes it a favorable location, with enormous natural resource potential, for such activities. Faced with the use of their land and the progress of the work, the deprived village community proceeded to reclaim it. The village community thus relocates to the logging site. This strategic move is designed to prevent the logging company from continuing

its activities. Each family has its plot, I have my plot, he has his plot...he will occupy this space and so on". Thus, in 1930, the people of the village of Adiopodoumé moved to the current site "to prevent the gentleman from continuing his work".

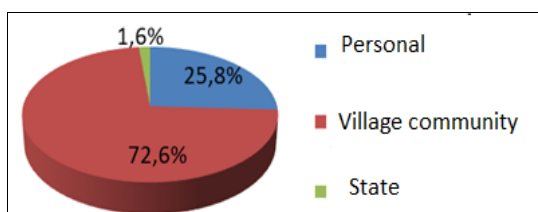
This gradual occupation with the arrival of a few families became effective in 1930 with the full settlement of all families. Thereafter, the village community regained control of its land. It is the community, through its "customary" power, that now settles on the land. As reported by a notable: "As far as the first immigrant workers are concerned, when they come, they ask for authorization.. they work in the coffee and cocoa fields. Later, it's up to each family to make its own allotment and hand over an authorization signed by the chief. This game played by the indigenous populations is designed to put the village community in control of the plots, giving free rein to the decisions of "customary" power, according to their rights and without the imposition of a third party. The result is a cosmopolitan population (Fig 1) under the control of "customary" power.



Source: Field surveys, 2019-2020

Fig 1: Adiopodoumé population map

This decision continues despite strong urban growth in the area. Indeed, the population of Adiopodoumé rose from 1,501 in 1998 to 2,387 (check this figure) in 2014, compared with an estimated 2,881 in 2018 (INS, RGPH 2014). This growth has an impact on the land management of the indigenous population, which accounts for 32% of land use. Yet, in the Greater Abidjan Scheme project, urban planning shows a land occupation area of 60% for residential neighbourhoods versus only 18% for other areas (JICAD, 2015). These developments are supported and participated in by the village community, which makes available the plots required for their implementation. In Adiopodoumé, 72.6% of urban land is transferred by the village community. As shown in Fig 2 below, taken from a previous article.



Source: Field surveys, 2019-2020

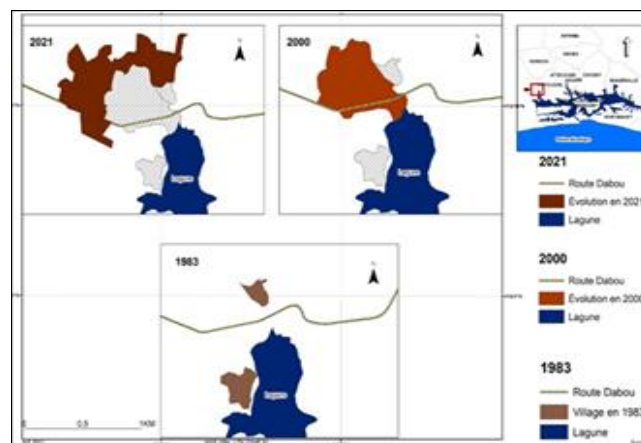
Fig 2: Representation of actors in the transfer of land at Adiopodoumé

As this excerpt from an interview with the chiefdom shows: *Yes, they take things into account....., we've got a school up there, EPP, they're the ones who did it..... he's the one who did the road there...., the ORSTOM school roof,*

everything was spoiled, they did it, they're doing it, they're doing it. They've built a youth hostel now, they say they're going to build a town hall annex there. When this is not the case, the village community opposes? the implementation plan. Own measures are then implemented.

3.1.2.2 Fragmentation of space: A Safety Measure Adopted by the Community

The village of Adiopodoumé, after its exodus to the current site, opted to preserve its land. This strategy led the "customary" power to develop the space in a "V" shape. This spatial occupation aims to center the village within the space, with extension zones at the extremities. In fact, the choice of positioning the village reveals three (3) main roads serving the village and its axes. Of these three roads, two (2) are paved and one (1) is unpaved. The one in the middle is the main road into the village. This fragmentation gives the area three entities. These are: the village, the western flank, and the eastern flank. The village covers an area of 118.56 ha, including the former site.



Map: Land use dynamics at Adiopodoumé

The urban expansion zone on the western flank is characterized by block housing. The first block, which represents the first foreign settlements, is made of salvaged materials, and has no sanitary facilities. This fragmentation was built for workers and laborers for derisory sums and without any urban planning.

"That's what we said. Where there's no structure, those who came first.....that's where they were installed.....where there are roads, that's the housing estates, but down here..... if we gave you 1,000 francs or..."

The result is a steep, hard-to-reach area. Therefore, it's known as the "Bas-fond" district. This area is followed by the housing block. In this area, urban land is ceded in exchange for demarcation work and incorporated into the town's urban plan. The result is well-structured neighbourhoods with unpaved roads, not to mention water and electricity supplies. However, in the face of urban growth, this area was to undergo further remodelling in terms of land use. New fragmentations will be created, resulting in an area strongly marked by a lack of sanitation, wastewater run-off and soil leaching, with risks of erosion and landslides.

As for the area on the eastern flank, which litters the village, it is reserved for the village's land heritage: "we've said here, this is a corner that is already allotted.....If he doesn't have the means to build, he rents it out. Here we can't sell...it's a son of the village who can build on it. The other side..., he can sell. And as it's a lease, we can't...it's to exploit, the day he's ready, he says my brother...". When the indigenous population cannot always find common ground on the division of plots, the "customary" authorities decide to lease the land until a definitive solution is found. The land can be repossessed at any time. The only activities allowed on these areas are livestock rearing (poultry and pigs) and farming (cassava fields and rubber plantations), which are easy to dismantle.

Panel 1: General view of the Adiopodoumé east front



Photo 1: Pig farm



Photo 2: Cassava field

However, not all the measures taken by "customary" power to organize space are free of land tensions. This is illustrated by the duality of customary power in outlying villages. In Adiopodoumé, for example, there is a duality within the "customary" power.

3.1.3 Overlapping Jurisdiction as a Cause of Dual "customary" Power

Originally, "customary" power in Atchan country was based on the customs and traditions of age groups and classes. This strategy gives rotating power to the different categories. As we can see from this figure.

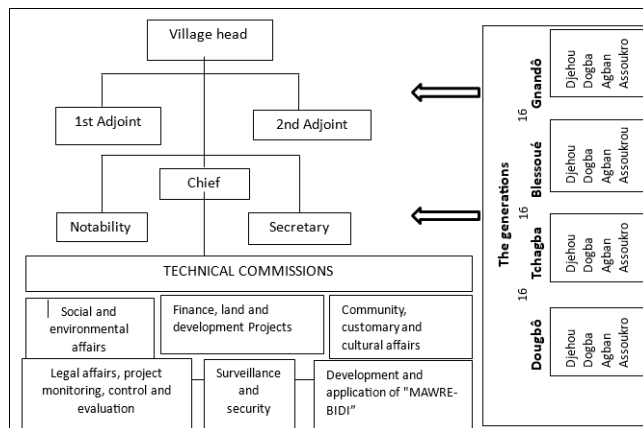


Fig 3: Power organization in Atchan country

In recent years, however, it has been observed that different generations continue to hold power in Atchan villages. This is at the root of frequent tensions within "customary" power. This situation gives rise to a two-headed customary chieftaincy in village communities. This overlapping of power can be explained by Law n°2014 of July 14 on the status of traditional kings and chiefs, which stipulates that "kings, tribal chiefs and village chiefs are appointed in accordance with the customs and practices to which they belong". This law thus attests to the regalian competence of the latter, in administrative acts, especially about village attestations. Indeed, in land tenure practice, only the signature of the village chief attests to the veracity of the document, which entitles the purchaser to apply for an Arrester de Cession Definitive. As evidenced by the words of one notable: "The head of the family, I want to subdivide my plot. I decide.... I come to see the chief to get the village attestations..... When they give you a certificate, you go to the town hall and legalize it. Otherwise, the town hall doesn't get involved in our allotment. However, this law lacks precision for some in practice, which raises a controversy, through the following statements: *It's the district that wants to take this plot (behind the palace house)..... We wanted to subdivide this corner, 48 hectares, but when the town hall launched the commodo in commodo inquiry, the district objected. They say they have a project here. They say what project do you have, and we're not informed? We went to the district, to see the people in charge and why, and again according to the law, the deadline has passed and since it's the district how do we proceed? That said, they say they've understood and will withdraw their opposition, but the situation is the same as it is today.*

It should be remembered that this controversy over the texts has been revealed since the 1963 law on rural land tenure, which failed to be promulgated. The various laws introduced to improve land management have left landowners wanting more. As a result, the legal framework for land tenure remains highly complex. It is this complexity that gives rise to the entanglement of powers between municipal authorities, the Ministry, the District, and "customary" power. For things to work in urban governance, there needs to be a dominant force, namely modern power (the State). But there are several contradictions in the way the law works. For example, article 428 of law n°2014 of July 14 on the status of traditional kings and chiefs reveals a distinction between legality and legitimacy. What is legal is not

necessarily legitimate. This alliance between the State and landowners is not free of contradiction. This complexity shows us that relations with the State are social constructs that are constantly being renegotiated. So, the question today is less about finding resources than about capturing the transformation and orientation of "customary" power in land practice.

3.2 Discussion

Rurbanization was first used by geographers Bauer and Roux in 1977 to explain the phenomenon of peri-urbanization. For the authors, "a rurbanized area is one that is close to certain urban centres and is subject to the residential influx of a new population, mainly of urban origin". According to P. George and Verger, this definition denotes the development of an area extending from a conurbation, over which peri-urbanization is spreading. Historically, the phenomenon of peri-urbanization or rurbanization can be traced back to accelerated urbanization, with its attendant inconveniences, which prompted some city dwellers to seek peace and quiet in outlying areas. This urban development, with all that goes with it, urban mobility, the desire for a single-family home, the advent of real estate operators and the high cost of living in urban centres, has led to growth on the outskirts. This spread of urbanization to rural areas is not the same in Africa. Thus, the incessant, complex, uncontrolled change in which city dwellers are actors, despite the web of constraints, creates the problem of inventing how to handle the city in sub-Saharan Africa. Piermay 2002, p.59 However, for Bertrand and Marcelpoil 1998, the phenomenon of peri-urbanization or rurbanization (Bauer and Roux) is an analysis of the spread of urbanization and the "application" of urban logic to rural areas. The logic behind the construction of peri-urban territories should be a continuation of that of metropolises. In Africa, application is difficult. Lebris, 1991. In fact, in rural areas, land ownership is vested exclusively in the village community. It is this community that is responsible for all land management. As a result, rurbanization cannot take place without customary actors intervening in the name of customary law, which refers to collective or lineage ownership. Sarrassoro, 2015. Thus, customary law has legal weight, even if it is weak. This weakness lies in the fact that in the modern land tenure system, the law is based on individual or private ownership, whereas customary law refers to collective ownership. Thus, this appropriation of land to the detriment of the traditional principle leads to the dissolution of the collective terroir, the loss of customary power and the disruption of traditional heritages Goerg 2006. According to the author, customary actors are recognized for their role, which, depending on the politics and history of the area, is due solely to the intervention of customary authorities in conflict resolution. The customary authorities' role as land guarantors is limited to conflict resolution. As a result, customary law becomes legally blurred, and this is also reflected in the status of land. Indeed, when land changes use or destination, the right of use, in the collective system, cannot and must not in any way be confused with the right of use and the right of ownership. Thus, the confusion of right of use and right of ownership at the level of this mutation or change of value is a source of numerous conflicts and constitutes a serious obstacle to urban development Crousse *et al* 1986; Houedin and Ehui 2016; Oura 2013.

Rather than being an opportunity, rurbanization becomes a fear of living, an uncertainty of tomorrow for village communities. Oura K., 2013 According to the author, land cession based on village community decisions meets the diktat of the state. Land mutation, which used to be based on compromise, is no longer. Village communities see rurbanization not as an opportunity, but as a plundering of their lands, whose land management seems to escape customary authorities. Oura K., 2013, p.153. Decentralization policy also gives customary authorities a political role as decision-makers. This political game of decision-maker of "customary power" through the customary or traditional chief calls into question the competence of the actors identified, in the functioning and management of governance. In implementation, each actor is assigned clearly defined competences to avoid interference in the competence of some with others. However, this decentralization policy is poorly implemented, according to Alvergne p.41 *"The African State was not sufficiently strong and centralized to proceed with decentralization. African states are urban. (...) Under these conditions, what we call decentralization is more a reorganization of powers. It will be very difficult for local authorities to obtain recognition from the State of their role and responsibilities. It is therefore up to them, and them alone, to wrest power rather than wait, to implement actions and policies they deem useful for the local population, and to find ways and means of strengthening citizenship and local taxation"*. The policy of decentralization is not understood by the political players, who interfere with competences by misallocating tasks. In other words, the central policy in Africa does not allow the political authorities to let go.

According to Goerg O.2006, the issue of competency does not arise in the same way in all locations, nor does it evolve at the same pace, for different reasons. In fact, the question of areas of competence and their impact on urban development, particularly land development, cannot be considered in a uniform manner "because they often seek to copy external models, whereas the local political culture and the powers in place differ" p.7 In Africa, the influx of populations and the political will to build an economic state is changing the way powers operate, so the modes of relationship between the authorities and the inhabitants cannot be the same. This weakens urban governance.

Although the law n°98-750 of December 23, 1998, legitimizes "customary law" and, even more so, the recognition of traditional power in Côte d'Ivoire, this law is perceived as unequal to the needs of the local population. This law is perceived as unequal, as it does not benefit immigrants Amalaman, 2018. According to the author, this law has not achieved its objective of land protection but creates more inconveniences in terms of land management. Indeed, this situation often leads to a feeling of powerlessness and frustration on the part of long-standing land occupants, which implies land conflicts. As the authors Houedin and Ehui 2016 p.4 relate in the land conflict that pitted the inhabitants of the village of Sébia-Yao against those of Adjamé-Bingerville. While for the various village communities, a property right is claimed on different grounds, for the authors it is rather the lack of a formal state framework that is blamed. Local government officials are battling it out on a non-transparent terrain, where there is a risk of contradictions between customary and modern law.

The complexity of modern law, where legitimacy and legitimization reside, pits modern law against customary law. This confrontation between customary law and modern law creates a frequent tangle of competences, implying new strategies for village communities. For village communities, land management is exclusively a matter of customary law. Customary law is the sole basis for any transfer of land resources. In recent years, this has led to an acceleration in the financial income of these peripheral peoples in the land business. Land is acquired for a fixed sum per plot, or in monthly instalments. This process of land cession is customary among village communities, particularly those bordering the outskirts of the city of Abidjan; leading to leasing, which is the main mode of access to space for market gardening. Koffi-Didia, 2015, p.51. *Thus, agricultural land is the object of land speculation: its value on the land market is no longer related to its agricultural potential but to its potential for urbanization p.48.* For the author, galloping urbanization, which requires more and more land resources, is pushing village communities to change the rules of land accessibility in their favor. The interplay of these actors led Lebris 1993 to assert that: "In sub-Saharan Africa, urban land has acquired the status of a quasi-commodity, but it remains more 'rentier' than 'marketable'. As a result, these areas are subject to two authorities: customary authority and state authority. The chief's legitimacy is recognized and extended to other urban dwellers, through the trust placed in the deeds signed by the chief, reinforced by the Goerg administration (2006). In this vast urban planning movement, customary law is playing an increasingly important role. This form of traditional power organization is adapting and trying to survive the centralist politics in which the modern African state remains a pyramidal, centralized power apparatus applied to largely autonomous societies that it cannot yet integrate or domesticate, Alain Marie 1988. Indeed, African city-dwellers still have rural reflexes, and urban growth is powerful and rapid, but social habits have not kept pace. As a result, social coverage in peri-urban areas is inadequate, or even non-existent.

4. Conclusion

Customary power plays a key role in land management in Africa. The political change in the powers of "customary" power in legislative and regulatory texts concerning urban development creates confusion between "customary" power and modern power. The result is a tangled land management system, a source of conflict and a serious obstacle to urban development, as in Adiopodoumé. So how can we reconcile the efforts of all stakeholders, particularly the State, to achieve harmonious rurbanization in peri-urban areas?

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