

Case Studies of Land Access Practices in Fianarantsoa province, Madagascar

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Abstract While paying particular attention to the anticipated impact of land registration, this article will present three different local actors' views on land access, namely those of the Local Government, the NGOs and the local villagers. Research was done in the *communes rurales*⁶⁵ Alakamisy Ambohimala, Ambila, Ambahatrazo and Mizilo in central and southeast Madagascar. A fieldwork project was set up, aiming to discover whether in practice, the goals and objectives of recently implemented land registration policy, which were to provide the population with legal proof of their customary land ownership so that they may gain greater legal and social security, have actually produced the desired results for the agrarian population in the research areas. In this article the main focus will be on small subsistence farmers in Fianarantsoa province.

⁶⁴ The fieldwork for this research was conducted by D.F. Müller in the context of her master studies at VU University Amsterdam. She graduated in October 2006. S.J.T.M. Evers co-authors this article in her capacity as supervisor of the research and thesis of D.F. Müller.

⁶⁵ *Communes rurales* means rural communities. A *commune rurale* consists of several *fokontany* i.e an administrative unity that incorporates a group of villages.

Supported by the International Monetary Fund and the World Bank, the Malagasy government is carrying out economic and political reforms throughout the country (Christeansen et al. 2002: 1). The long term goal of these reforms is not only to stimulate economic development but also to tackle poverty in a structural way, in the hope that it will lead to an increase in employment and greater economic opportunities for the Malagasy population. Kanbur, cited by Christeansen et al. described economic growth as a condition accomplishing a permanent trend in poverty reduction (Christeansen et al. 2002: 1). The government claims that in order to make Madagascar economically attractive for foreign and Malagasy investors, it will be necessary to make land ownership in Madagascar more transparent by incorporating it in a land registry, which would also facilitate the reintroduction of a land tax (*Ministère de L'Amenagement du Territoire et de la Ville 2000*). As the Ravalomanana government believes that providing villagers and town dwellers with land titles is one way of realizing this, it promoted a system of land registration that is currently being used, called the *Individual Land Titling System*⁶⁶.

I. Introduction to the Research

This article aims to describe the perceived impact of land registration within four communities in two regions of the province Fianarantsoa, in central and southeast Madagascar. The data for this article is based on results from a Master's study by Daniëlle Müller in collaboration with Tiana Rasabohanitriniaina, a Malagasy student studying English. This study was part of a research project on poverty and natural resource management organized by the department of Social and Cultural Anthropology of the VU University Amsterdam, the 'Institut de Civilisations et Musée d'Art et d'Archéologie' of the University of Antananarivo and the Dutch development organisation 'Interchurch organisation for development cooperation' (ICCO).

The anthropological fieldwork was carried out in cooperation with the Malagasy NGO Fiantso in Fianarantsoa from March until June 2005. Fiantso is a partner organisation of ICCO in Madagascar and is among other things, active in the implementation of land registration pilots in Fianarantsoa province. For that reason research was conducted in two prospected pilot areas of Fiantso in the *commune rurale* Alakamisy Ambohimaha in the region of Haute Matsiatra and in the *communes rurales* Ambila, Ambahatrazo and Mizilo in the region of Vatovavy Fitovinagny, in

⁶⁶ In this article the name *Individual Land Titling System* (*l'immatriculation foncière individuelle*) will be used for the formal system of land registration currently employed in Madagascar, which is based on the *Loi de 1960* (Teyssier 2004). After the *Programme National Foncier* (PNF) - the other land registration system discussed in this article - has been fully implemented, the *Individual Land Titling System* will continue to run parallel with it.

Fianarantsoa province.

Our research project in Madagascar served as a fact-finding study for the implementation of prospective pilot projects that Fiantso, supported by the European Union and ICCO, was planning to implement in the research villages. These are pilot projects for the introduction of *guichets fonciers*, which will be set up in order to provide financial and technical support to the land registration process (ICCO 2005). The *guichets fonciers* project is part of the *Programme National Foncier* (PNF) of the Malagasy state, the World Bank and NGOs. Our study may also have some scientific relevance, as it contributes to theories on land access and concepts of land ownership in Madagascar. On the 5th and 6th of September 2005, the Dutch students organised the seminar 'Applied Perspectives on Poverty and Natural Resource management in Madagascar' (VU University Amsterdam) under the guidance of the Dutch research project initiator and coordinator Dr. Sandra Evers.

Cooperation with Fiantso gave us access to sources of information which were needed for this research. Employees of Fiantso informed us not only on the technical side, but also on the policy-making aspects of land registration (*Individual Land Titling System* and PNF pilots) and the *guichets fonciers* project. In addition Fiantso's efficient networking provided us with introductions to respondents, thus enabling us to speak directly to government employees responsible for the attribution of (legal) land titles, the *services fonciers* 'Domaine and Topographie' in the cities Fianarantsoa and Manakara. Interview appointments were also arranged with two NGOs⁶⁷ that deal with issues in connection with land registration.

Since Fiantso is on very good terms with both the local population and the authorities in the two research areas, we were immediately accepted by the local rulers, as well as the mayors and traditional leaders in the research villages. The local rulers' approval of conducting research in the villages not only made contact with the research population much easier, but also resulted in the possibility for the research party to stay with local families for the duration of the project.

One of the advantages of working with the Malagasy researcher was that since she could speak both the Betsileo and the Antaimoro dialect, she could not only act as an interpreter, but could also explain the context of my observations; for instance, when we entered the *fokontany* Ambila for the first time, I saw a group of people pushing each other, so my first impression was that people were fighting. The Malagasy researcher explained however, that what I saw as a fight

⁶⁷ These are 'Association FERT' (Formations conseils pour lesson organisations paysannes) in Fianarantsoa and 'SAF/FJKM' (Sampan'asa Momban'ny Fampanandroana/Fiangonan'I Jesoa Kristy eto Madagasikara) in Manakara.

was in fact a burial ceremony. Possibly intoxicated by rum⁶⁸, people were trying to disorientate the deceased person by roughly turning him or her around, so that the spirit could not find its way back home. Another advantage was that she taught me about Malagasy standards and values, such as the Malagasy rules of respect⁶⁹, which turned out to be especially useful during both the meetings and interviews with the *ampanjaka*⁷⁰ in the *communes rurales* Ambila, Mizilo and Ambahatrazo and the *andriana*⁷¹ men in Alakamisy Ambohimaha.

During this research, various interviewing methods were employed, along with the participant observation method, in which the researcher observes the research population while at the same time participating in their activities. This also gave the villagers the chance to get used to the two strangers in their midst and at the same time facilitated a better understanding of the existing relations and structures in the research villages. As the village population and the two researchers became familiar with each other thanks to the various interviews and informal chats in the street, shops or in *hotely* (small restaurants), they invited us to take part in various ceremonies and festivities. Attending these events provided the opportunity of becoming more familiar with the villagers themselves, their cultural habits, and the prevailing social structures.

In order to gain clearer insight into the situation of land access for the research population, the villagers were divided into eight 'social categories': rich and poor, masculine and feminine, native and migrant, old and young, which turned out to be essential in determining

⁶⁸ They drink rum, which is used as an aid to communicating with the deceased person.

⁶⁹ Examples of showing respect are offering an object to a person with both hands; asking for permission from the traditional leaders before entering a sacred place or building; waiting before approaching the *ampanjaka* until permission is given; waiting to shake hands by resting right wrist on left hand until the person reaches out his hand to you.

⁷⁰ The Antaimoro in the communities of Tsiazombazaha are divided into 13 families or subgroups, each of which has one representative or family head called 'the *ampanjaka*'. The 13 families have one main leader known as the *ampanjaka-be*, the Antaimoro informants speak about him as big 'king', yet we prefer to use the term 'traditional leader' (of the kin group). Every four years an *ampanjaka* of another family is chosen to be the next *ampanjaka-be*. Each of the 13 families has its own large sacred house (*trano-be*) where they perform ancestral rituals. *Trano-be* is also the name for the big (burial) tomb of the Antaimoro.

⁷¹ *Andriana* are people claiming to be of noble descent within in the Betsileo and Merina society (Evers 1999: 258). The *andriana* men in Alakamisy Ambohimaha are nobles of Betsileo origin. Nowadays they are still highly respected because they are considered to be the direct descendants of the *tompon-tany*, who are the founders of the community. Because of this position the *andriana* men are asked to give speeches to the ancestors during ceremonies in the villages, which gives them an important social role in community life.

eligibility for access to land in the *communes rurales*⁷². These categories also serve an analytic purpose and have a dynamic nature, which means they have no strict boundaries, but flow over into one another. A person can be a member of more than one category, for example, an individual can be a man, old, native and rich. Another reason why the social divisions old-young and rich-poor are considered dynamic, is that people can outgrow them, as in the following cases, in which a rich man can become less wealthy or even poor, due to bad investments, or a young woman will age as time passes.

The agrarian population of Fianarantsoa province

In Madagascar poverty is a widespread problem and at present the agrarian population is facing a particularly large-scale poverty increase, as 80% of the farmers and 90% of the small farmers in Madagascar are living under the poverty line (PNUD 2000: 31). No less than 80% of the population in Madagascar works in the agrarian sector (European Union, 2006) which means that the majority of the population is struggling with acute poverty.

Because of its agrarian character, Fianarantsoa province, situated in the central highlands, is one of the poorest provinces of Madagascar (ICCO 2001; Kooistra 2004) and is responsible for 23% of the national poverty rate. 85% of the population in Fianarantsoa live in the countryside and are dependent on agriculture to make a living (Fiantso 2003: 15). Proper access to land and other natural resources are therefore of great importance. The *Programme des Nation-Unies pour le Developpement* (PNUD) goes so far as to emphasize the importance of access to land by citing it as one of the main causes of poverty (PNUD 2000: 32).

Since small farmers depend so heavily on access to land for their livelihood, each change that occurs in the question of land access will have major consequences. It is for this reason that we have chosen to study the current land access situation and the possible impact of PNF in two rural areas in Fianarantsoa province.

The central questions

As the basis of this research, two central questions are at issue. The first relates to what the current situation is as regards land access and land ownership, in view of the legal and social security⁷³ in the *communes rurales* Alakamisy Ambohimaha, Ambila, Ambahatrazo and Mizilo in the

⁷² By means of observations in the villages and talks with local leaders, villagers and Fiantso, we formed an understanding of the relationship of dependency that exists between the different social categories of villagers as regards gaining access to land in the research area.

⁷³ It is theorised that *legal security* results in officially recognized legal land rights by means of land titling or certificating and is most likely to have consequences for social security. So when people obtain legal security over

province of Fianarantsoa, and the second question pertains to whether people expect land registration to lead to more legal and social security.

In order to be able to answer the central research questions, the focus of our research analysis was on three main topics. The first relates to the current land access and customary land ownership situation in the research villages; while the second deals with the role of land in providing people an (in)secure livelihood, and then finally there is the (hypothetical) impact of land registration (*Individual Land Titling System* and PNF) on the current livelihood situation.

II. The research locations

La commune rurale Alakamisy Ambohimaha

The *commune rurale* Alakamisy Ambohimaha is located in the Betsileo area⁷⁴ where the majority of the people are of Betsileo⁷⁵ origin, although there are also migrants such as the *Merina* from the region of Antananarivo, the Antandroy from the region of Toliara, the Antaimoro⁷⁶ from the region of Manakara and the Bara from southern Madagascar (Data was obtained from the mayor of Alakamisy Ambohimaha).

The largest portion of the research in Alakamisy Ambohimaha was conducted in the *fokontany* Alakamisy Ambohimaha, in the *commune rurale* Alakamisy Ambohimaha. Due to its location near the *Route Nationale 7 (RN7)*, the *fokontany* is within easy reach of Fianarantsoa as it is about 25km or a half an hour's drive away in a northerly direction. The RN7 is the most important road in Madagascar crossing the country from the capital Antananarivo in the central highlands, to Toliara which is located on the southwest coast. The road RN7 is of major importance for the community of Alakamisy Ambohimaha, since not only the many *hotely*, and shops, but also the street vendors and the local market that are situated along the RN7 are

land they will often experience an improvement in their social security. And if people's legal security diminishes, it will influence their social security. *Social security* as defined in the 'Annual Report on Health and Welfare' (1999) is "protection from risks through social systems". In this article we have adjusted this definition of social security as follows: "protection against threats from inside and outside the community for the local agrarian population in the villages". Empirical examples of threats from inside and outside the community are conflicts over land, land-taking by others (outsiders, neighbors and family members), and robberies.

⁷⁴ The ethnic composition of the southern Highlands in Madagascar is dominated by Betsileo (Evers 1999: 258).

⁷⁵ The name Betsileo means 'the many unbeatables'. This name was given to them in the 19th century when fiercely resisting the Merina expansion (Evers 1999: 264).

⁷⁶ The name Antaimoro means 'people of the coast'. They live on and near the southeastern coast of Madagascar (Encyclopaedia Britannica 2007).

dependent on the passing traffic and custom it brings.

The villagers in the *fokontany* Alakamisy Ambohimaha, where many Merina migrants from Antananarivo live, are considered to be well-to-do, since because they live close to the RN7, the land on which they have built their houses is valuable. Most of these villagers are either shopkeepers, teachers at the primary or secondary school or civil servants at the town hall and often take an active role in unions (associations) and councils, which keeps them well informed about new developments and also gives them a voice in local politics. Yet the majority of inhabitants are small subsistence farmers who live a difficult life. In order to earn extra income, they sell small portions of the harvest at the local market and many of them also work at wood carving, producing farm machinery or on the land of the large landowners. Many women weave and braid reed products and keep chickens and ducks, which they sell for very little profit at the local market.

Les communes rurales de Tsiazombazaha

The other research area consists of the three *communes rurales* Ambila, Ambahatrazo and Mizilo, also called *les communes rurales de Tsiazombazaha* by the local people, which refers to *la forêt de Tsiazombazaha*, located near the villages. The villagers feel a close affinity with this forest, since they are not only dependent on it for their livelihood, but it also gives them access to natural resources such as wood for making fires and for building houses and *prauws*, which are small long boats, and also land for cultivation and medicinal plants (cf. Ramanarana et al. 2005: 1).

Most of the research period was spent in the *fokontany* Ambila⁷⁷ which is located on the *Route National 12*, a road that connects Fianarantsoa with the east coast.

With the exception of approximately ten Betsileo migrants from Fianarantsoa, the villagers from *les communes de Tsiazombazaha* are of Antaimoro origin, and live a poor and difficult life. Almost all households, except for those of civil servants and migrants, are dependent on the cultivation of land for their livelihood. Rice, which is the most important crop cultivated, is harvested twice a year, in December (*vary bosy*) and in May (*vary vato mandry*), and is produced for their own private use.

In order to earn some extra money however, the villagers also sell crops⁷⁸ at the daily local market in the villages, and to passers-by along the RN12 or along the train tracks (FCE). Their

⁷⁷ The name Ambila derives from the Antaimoro word *vila* or *agnambila*, which means ‘fence’, and dates back to the time when the villagers had to protect themselves against the alligators by building a fence of wooden pilings along the bank of the Managnano river (Ramanarana et al. 2005: III.1.1).

⁷⁸ The small subsistence farmers cultivate and export bananas mainly because they can grow them all year round. There are also season-related crops cultivated, such as coffee, leeches, mangos, avocados, oranges and mandarins.

customers are not only Malagasy, but are also often foreigners passing the villages of *Tsiazombazaha* by car or by train, frequently offering far too little money for the Antaimoro's merchandise. So, since the poor villagers depend heavily on this custom, they have to agree to the price they are offered, even though quite often these prices do not even cover the costs incurred in producing the crops.

The villagers also keep cows (*zebus*), and in the traditional cultural context the possession of *zebus* is considered to give the owners a great deal of prestige⁷⁹ (Ramanarana et al. 2005: II.1 and II.2). Keeping poultry and catching fish are other ways of earning a living, and women who have no access to land can earn a small income by selling braided reed products. There are also young women who sell fruit along the side of the road (RN12), however, some of them also sell their bodies to passing drivers. Fiantso is implementing a project around ecotourism inside *les communes de Tsiazombazaha*, which should provide the communities with a new source of income in the future.

III. Theoretical considerations.

A. Discourses concerning land claims

It is important to highlight the significant role played by the ancestors in defending land claims, as it forms the basis of many discourses concerning property claims.

Just as in many other African countries, land in Madagascar holds great emotional value, thus giving land a deeper meaning than that of purely being economic property. As cited by Middleton, the authors Friedman, Bloch and Tilley explain that the Malagasy often see the ancestors as the real owners of the land (Middleton 1999: 14). As customary land ownership in Madagascar is often linked to the ancestral claim on land by a kinship group in a certain community, it is in this light that land is seen as collective ancestral property and is thus closely related to the identity and location of the local community. Therefore, land can be seen as one of the most fundamental 'inalienable possessions' (Theuvs and Roymans 1999: 14). Nowadays more and more individual families are claiming their piece of ancestral land, and it is because of this that collective land has turned into individual plots of land. The situation in Alakamisy Ambohimaha is a good example of this. Yet there are also villages where the collective value of land is still of major importance, as can be seen in *les communes de Tsiazombazaha*, where land is still seen as a piece of communal property for the whole kinship group, which is composed of 13

⁷⁹Informants in Alakamisy Ambohimaha told us that due to the danger of *dabalo* and infectious diseases, many farmers do not keep large cattle.

Antaimoro families. 'Communal property' is possibly a misleading term here, since not all villagers have (equal) access to land in the villages. Each of the 13 families of the kinship group are given a portion of land that is then divided among the men of the family. The men however, do not have legal possession of that land, although they can transfer the rights of the land they use to their children through inheritance⁸⁰. Yet the *ampanjaka* can reclaim the land at any time, since all the land falls under their control and they can also decide which members of the kinship group will or will not have access to the land in question. However the conditions surrounding getting access to land might change over time depending on the social and economic context.

Land in Madagascar is mainly being appropriated on the basis of claims to ancestral land, which are often based on myths and represented as part of a sacred order created by the ancestors (cf. Theuws and Roymans 1999: 14)⁸¹. As an example of how this works in practice Evers' study in the southern highlands of Madagascar (1999) describes the *tompon-tany* ('masters of the land')⁸² - the founders of a Betsileo community in the southern highlands - who also appropriated land by claiming it as their 'ancestral land' (Evers 1999; 2005). However, the *tompon-tany* have no ancestral ties with the land to which they migrated. Yet the *tompon-tany* created a myth that 'makes' the land their 'ancestral' land, and to ratify this myth they built tombs in which to bury their deceased, thus legitimizing their status as *tompon-tany*, despite their recent settlement in the region (Evers 2005: 226, 238).

The presence of tombs is seen as proof that the land belongs to a certain family. Because of their visual appearance, tombs function as geographic marking points of family origin in a certain region, and no matter how recent this installation may have been, tombs anchor families to the land and justify their land claims (ibid: 223). Seen in this light, the performance of ancestral rituals and ceremonies in the *commune rurale* of Alakamisy Ambohimaha may therefore also be seen as a tool to express that the land belongs to the ancestors of a certain family (cf. Müller 2006).

⁸⁰ According to the local structures, only those sons that have been recognized as such, are given a portion of land, while the unrecognised sons have no share in the inheritance of land. It is up to the father whether he recognizes his son or not. In most cases the husband will recognise his wife's children, but does not recognize children he has conceived with other women.

⁸¹ Theuws and Roymans (1999) did a study about land and ancestors during the Middle Ages in the Netherlands. There is a similarity between the way they describe land claims being made in the Netherlands and the present situation in Madagascar.

⁸² "The expression '*tompon-tany*' is well-known all over Madagascar, and is translated into 'master(s) of the land' instead of 'owner(s) of the land', since despite the fact that their claim to the land was legitimated by all the villagers, the *tompon-tany* do not have a registered title over the land" (Evers 2005: 223).

In the Alakamisy Ambohimaha community, there is a trend among the well-to-do villagers, who are the nobility of Betsileo origin known as *andriana*, of building a private family tomb on the land near their house. In doing so they break with an old tradition of being buried in the large family tomb located in their ancestral land. Despite the fact that building new tombs in Madagascar is nothing new - think of the previously cited new tombs built by migrants in the southern Highlands - the fact that *andriana* villagers are building them at present in Alakamisy Ambohimaha is of special interest, especially when this trend is placed in the current context of land registration. Building a tomb gains a deeper dimension when the existing insecurity about land titling are viewed in connection with land access and the property of the local farmers concerned. The *andriana* farmers that built tombs have lots of land, but have no legal proof of customary ownership. For this reason it may perhaps be interesting to see whether the newly built tombs will serve the *andriana* as visual proof of having a rightful claim to the land (cf. Müller 2006).

Legitimacy of claims

Lentz (2005) postulates that: "Claiming membership to the group of first-comers in an area is the most widespread strategy for legitimizing land rights in West Africa, much as it is in the rest of the continent (Kopytoff 1989), since first-comers are believed to have established a special relationship with the spirits of the land" (Lentz 2005: 157). In both the research areas there was a strong belief that the land belonged to the ancestors. In *les communes de Tsiazombazaha* the *ampanjaka* are considered to be the closest to the ancestors, and should therefore have control of the land in the villages, while in Alakamisy Ambohimaha the *andriana* are seen as the descendants of the first-comers and therefore have the most legitimate claim to land. Yet the *andriana* consists of different families, which means that the land is divided among each of them. According to the respondents, it is accepted that *andriana* families in the villages may claim land that has been cultivated by their families for generations. Yet, some of the *andriana* land has been sold or given to other families over the years, with the result that non-*andriana* land claims may become legitimate if the *andriana* family and the other villagers agree to it. This process of legitimizing land claims is also of great importance in the current situation of land registration, in that if others do not corroborate your discourses on the land claim, your position in the village will become weak.

B. Theoretical framework of 'land access' and 'land property'

In this article it is Ribot and Peluso's definitions (2003) of land access and land property that will be adopted. Land property is seen "as the 'right' to benefit from things⁸³", and land access "as the 'ability' to derive benefit from things" (ibid:153). Ribot and Peluso claim to focus "on natural resources [land] as the things in question, [in order to] explore the range of powers embodied in and exercised through various mechanisms, processes, and social relations that affect people's ability to benefit from resources" (ibid: 154). A dependency-based relationship may be said to exist since in order for some people to have access to land, they are obliged to depend on those who control that land. Ribot and Peluso claim that access analysis will provide us with a tool for understanding why some have rights to land and enjoy benefits from it, while others do not have such advantages (ibid). Because access-analysis focuses on 'ability', it looks to a wide 'range of social relationships that can constrain or enable people to benefit from resources', whereas the analysis of rights, looks solely at property relations (ibid). The authors go on to say that the concept of access they present "aims to facilitate grounded analyses of who actually benefits from things [land] and through what processes they are able to do so" (ibid). Briefly put, property consists of "understanding claims", while access is about "understanding the multiplicity of ways people derive benefits from resources, including, but not limited to, property relations" (ibid).

V. Research data from the field – the voices of the local parties concerned

First, research was conducted on the question as to what the current situation is as regards land access and customary land ownership⁸⁴, in view of both legal and social security in the *communes rurales* Alakamisy Ambohimaha, Ambila, Ambahatrazo and Mizilo in the province of Fianarantsoa. Before being able to answer this research question, insight would be needed into the attitude of the different social levels of the population towards security of livelihood in relation to land access. This may be achieved by studying not only the problems and uncertainties which the different social categories of villagers face concerning land access and customary ownership, but also how each level experiences these difficulties. In addition, it would be important to gain insight into three important areas, the first of which would be the local custom system (*dina/bako*)⁸⁵, which describes all the locally agreed rules and practices. Secondly, close

⁸³ Although "Things, including material objects, persons, institutions, and symbols" is written by Ribot and Peluso (2003: 153), for this article we suggest to read reading 'things' as 'land'.

⁸⁴ Customary land ownership should be understood as corresponding to Ribot and Peluso's definition of property.

⁸⁵ Among the Betsileo in Alakamisy Ambohimaha, this local custom system is called *dina*, and in *les communes de Tsiazombazaha* among the Antaimoro it is known as *bako*.

observation and analysis of the prevalent social networks and structures would need to be undertaken, along with an assessment of the nature of the *communes rurales*, in order to ascertain whether they are of an open, closed, modern or traditional structure (note that these are dynamic categories).

Since the majority of the agrarian research population depends on agriculture for their existence, access to land is an important factor in realizing livelihood security. In both research areas the inhabitants face problems of land scarcity, largely caused by inherited land being divided up amongst generation after generation of heirs, till it is reduced to portions of land that are too small to live from. As a result, great pressure has been put on land and its management.

In Alakamisy Ambohimaha this lack of sufficient land has increased due to changes in inheritance and customary land ownership, which stipulate that daughters should receive a share of the inheritance that is equal to that given to their brothers. The inclusion of daughters in the inheritance means that the land has to be shared among more children, which reduces the share of inherited land per child⁸⁶. Since the inherited land alone will not be enough to live from, the call for more land has increased. Yet there is hardly any land available. In the past land was mostly obtained either by inheritance, as a gift (in Betsileo *tolomata* or *tolobararata*) or by clearing fallow land and preparing it for agricultural purposes. But nowadays land can also be bought, though only by the rich villagers, who are mostly of *andriana* descent but also migrants. The lack of available land, coupled with difficult access to new land in the *commune rurale* Alakamisy Ambohimaha makes life for small subsistence farmers very difficult, especially for the villagers who are poor and young. In general, both categories of villagers own no land close to the village, nor do they have money to buy any, which makes their position in the village very uncertain. In order to survive, they are dependent on the large landowners, which leads to a relationship of economic dependency, in which they work the land for the large landowners in return for a daily wage of either money or food. These young small farmers are also dependent on their parents for their inheritance, but also for help when they are having problems. Since children do not usually inherit until later in life, after both parents have passed away, many of them intimate that they feel the urge to migrate to areas with available fertile lands. Since these areas tend to have a poor infrastructure and are often an easy target for the *dabalo*, or cattle thieves, this would not be a particularly attractive alternative. Yet for some it may be the only chance of a better life.

In contrast to Alakamisy Ambohimaha, most women in *les communes de Tsiazombazaha* have

⁸⁶ According to Betsileo custom, land is divided among all the children, the eldest being given the most upper part of the land and the youngest the lowest part. But there are times when the eldest child is given all the land to divide among the other siblings.

no access to customary land ownership nor can they inherit land, although sometimes there are exceptions made to this rule²⁴. According to the local Antaimoro structures in the local custom system, single women and divorced women, widows, unmarried young women⁸⁷ and migrants are prohibited from gaining access to land. As a result, there is far less pressure as regards land access and customary land ownership than in Alakamisy Ambohimaha. To the question as to why women and migrants were being excluded from customary land ownership, the *ampanjaka* answered that the rules of the ancestors forbid those outside the kinship group to have access to sacred ancestral land. Another reason that they gave is that the land control structures of the local custom system serve as a powerful tool in securing the unity of the kinship group Antaimoro, by excluding both women and migrants; the women, because they will be married outside the kinship group⁸⁸, and the migrants - already outsiders - from access to land. "The power of persuasion and hence the security of property claims however, cannot rely on 'good stories' alone, but also depends on the effective manipulation of social networks and political power" (Lentz 2005: 176). This reference to the ancestors of *ampanjaka* can be seen in the light of being a 'myth' or 'story' in order to manipulate the control of land in the villages. These structures have resulted in unequal access to customary land ownership and inheritance for women, migrants and unrecognised sons, which gives the traditional rulers, the *ampanjaka* and their advisors the *keisatry*, a power base on which they can control these social categories of villagers. It is due to this practice that relations of dependency have arisen. This gives the native Antaimoro villagers power over migrants, men power over women, old villagers power over young villagers and the *ampanjaka* power over all villagers, since according to the local rules all land falls under their control.

⁸⁷ Married women have access to their parents' land, however, as they do not actually own it, according to the local inheritance customs, both the inherited land and any other possession are to go to their recognised sons. Second in line for inheritance is the man's (parental) family. If the man still has young children, and he wants his wife to raise them after his death, she is sometimes given a piece of land. In the case of a woman getting divorced, the local rules stipulate that her husband should get all their possessions. Yet, some women wish to fight against these local rules in court (*Tribunal*) and are being seen to be becoming more influential on a community level due to not only their membership in the local council 'the *CoBa (Communauté de Base)*' but also their successful management of *la forêt de Tsiazombazaha*. Since these changes have major consequences for the social, political and economic context in the *communes rurales*, it is probably only a matter of time before the conditions for women will change as regards access to land, and perhaps even land ownership.

⁸⁸ Although women will generally marry outside the kin group, they are likely to maintain a strong bond with their own kin group. This is illustrated by the fact that according to the local inheritance custom, every four years the sisters (*anakviamindreny*) come back to choose the *ampanjaka* of their family - a privilege that only the sisters have.

The character of the *communes rurales*

In both research areas a huge difference was observed in the role of the local custom system in community life. In *les communes de Tsiazombazaha* it is still of great influence, as the structures and rules in the villages are still being derived from it⁸⁹, whereas in the *commune rurale* Alakamisy Ambohimaha the local custom system is losing more and more of its authority.

Social change and influx of migrants have gradually eroded the influence of the local rules and regulations in communal life, as together with the large number of migrants who live on good terms with the native Betsileo villagers in Alakamisy Ambohimaha, they give the community an 'open character'. The villagers said that because of this open character, they experience great 'freedom of movement'. *Les communes de Tsiazombazaha* may be described as being 'closed', as the strong local structures and the strict social control in the villages ensures that the inhabitants experience less freedom. Women related that according to the regulations of the local custom system, they have to live monogamously and must wear traditional clothes, while sexual relations with more than one woman are condoned for both single and married men, and they are also allowed to wear modern clothes. The migrants revealed that the closed character and the strong unity of the Antaimoro group make them feel socially isolated.

It would be a mistake to think that the open 'free' character of Alakamisy Ambohimaha only has advantages, since not only do the current local custom structures of land ownership and inheritance lead to increasing problems of land scarcity, but they also make the villages more vulnerable to danger from both inside and outside the *commune rurale*. As an external danger the villagers cited the problem of land being stolen by the rich and cattle by the *dabalo* or cattle thieves, particularly in the villages in the east of Alakamisy Ambohimaha, a remote location, where they are an easy target for the *dabalo*. As danger from the inside, the informants in Alakamisy Ambohimaha cited the land conflicts in the villages, which the inhabitants have been experiencing as a great threat to their livelihood, since they are dependent on good access to land in order to be able to survive.

The local custom system is still very influential and powerful in the 'traditional' *communes de Tsiazombazaha*, whereas the local structures in Tsiazombazaha are still being adhered to and respected and have undergone no major changes over the years as regards the core values of authority and respect⁹⁰. According to the guidelines of the local customary system, problems have

⁸⁹ The local custom rules come from the ancestors. If a person does not live according to these rules, he or she will be punished according to the type of rule violated. Please note, however, as these customs evolve naturally, and are not static, they are subject to constant change.

⁹⁰ However the changing position of women will probably influence the structures in the (near) future.

to be solved within the communities of Tsiazombazaha itself. In the past that was also the case in Alakamisy Ambohimaha, but nowadays most problems are no longer solved there by following the local customary law. It is generally rich people who follow the modern statutory ways of going directly to the police or a 'Tribunal', but the poor people quite often take no action at all, as they seem to have some kind of 'fear' of authority, which may be due to the fact that many of them do not read, speak or understand French, let alone legal language (cf. Evers et al. 2005). But even on a community level, the very poorest small farmers do not participate in the various councils and associations, because as was intimated by some of these poor villagers, they appear to feel ashamed of their illiteracy and also have a very low sense of self-esteem. In an interview a poor man said that his family felt ashamed of him and that was why he received no help from them. He concluded by saying that when you are poor, nobody wants to know you, a feeling which was also corroborated by other informants.

In order to ensure that the Antaimoro villagers follow the local guidelines, the traditional rulers are putting huge pressure on the Antaimoro villagers in order to persuade them to act according to the desired guidelines. The local structures may therefore be seen as 'a tool' to safeguard unity and guarantee the closed character of the villages. Since the Antaimoro villagers do not let outsiders integrate into the villages, this unity and the feeling of belonging to the group of the Antaimoro in the villages is being upheld. This sense of community would appear to contribute to a strong feeling of group identification among the Antaimoro villagers, who also confided that they see the local rules as a rigid but justified tool that gives them not only social security, but also protection against danger from the outside. As an example they mentioned that these structures protected them from the stealing of land by non-Antaimoro migrant descendants and the *dabalo* or cattle thieves. These local structures also offer the villagers social protection in times of disease and death, in the latter case the *ampanjaka* blows the *antsiva*, the sign for all villagers to come to help.

Another question that invited research, was whether people expect Land Registration to provide more legal and social security, which led to the discovery that the majority of land in Madagascar is not yet registered due to an inefficient land registration system. Only about 10% of all land in Madagascar is registered (cf. Raharison et al. 2006). The *services fonciers Domaine* and *Topographie* and the non-governmental organisations Fiantso, 'Association FERT' in Fianarantsoa and 'SAF/FJKM' in Manakara have estimated that this percentage is also around 10% for the two regions Fianarantsoa and Manakara, where the research was being conducted. However, the fact that during the entire research period, there was only one man interviewed that had gained

entitlement to his land, would indicate that land registration has barely been implemented in the research communities. Informants in Alakamisy Ambohimaha reported that none of the other villagers had officially recognised land property papers for their plots of land. The same was true for the villagers in the communities of Tsiazombazaha.

An investigation was held on the reasons why land registration had hardly been implemented, in which this same question was put to the different parties involved in the implementation and execution of land registration on a local level. Included in those interviewed were the officials of the *services fonciers Domaine* and *Topographie* in Manakara and Fianarantsoa who are responsible for conferring land titles, the communal officials in the research communities including the Mayors, but also the traditional leaders such as the *ampanjaka*, the *filobampokonolona*⁹¹ and the *andriana* men, along with the local NGOs and the agrarian research population. The following reasons were given to explain the delay: the *Individual Land Titling System* seems to be working inefficiently, the *services fonciers Topographie* and *Domaine* can not do their work due to lack of funds, the people in the rural villages do not see the necessity of land registration, and finally, there is the duality of the Malagasy legal system.

The *Individual Land Titling System* is inefficient because first of all it is too expensive compared to the income of the (small subsistence) farmers. The costs for land registration are FMG 3.000.000 (~ US\$350) while according to the World Bank, in 2006 the per capita income in Madagascar was US\$290 (ICCO 2005: 5; Raharison et al. 2006; World Bank 2006).

Secondly, it is too complicated and time-consuming, as the procedure consists of no less than 24 steps which are executed by two different institutes, namely the *services fonciers Domaine* and *Topographie*. Officials of the land services claimed that it was time consuming to send the application file for a land title after each step over to another service.

And thirdly, it was confusing, not only for the officials of the *services fonciers Domaine* and *Topographie*, but also for the people who wish or need to apply for a land title. Officials from the land services recounted many cases of people waiting ten years to obtain a land title. These problems are seen to arise due to the inefficiency of the system itself. For example, if the original applicants for a land title, say the parents, happen to die, their children cannot continue the land registration procedure their parents started, but instead are obliged to start the procedure all over again. Even when the parents had already received a land title before they died, but had not yet registered the papers in their children's names, the children have to start a new land registration

⁹¹ Betsileo name for the traditional leader of a *fokonolona* (a traditional village council [Raharison et al. 2006] among the Betsileo).

procedure in order to change the name on the land registration papers.

Topographie and *Domaine* are unable to do their work efficiently. According to the officials of these services that were consulted, this is caused by problems of understaffing. They said that the number of land service officials has been reduced by 25% over the last 10 years. Another problem that was indicated, was not having the right office equipment at their disposal. It also seems that there is neither a digital database nor a sufficient supply of paper (cf. ICCO 2005: 6). The head of the service *Domaine* in Manakara said that this would create problems with their credibility: “Nowadays when we need paper to make a dossier we have to ask the people to buy the paper themselves. The people see this as corruption. But in fact the government does not give us enough materials to do our work. We applied for 10 packs of paper and they gave us only 2. So we have no choice other than to ask the people”. Another problem is that they do not have the means to inform people about their status of land registration request, because they do not have money to call or mail them. Since their jeeps and motor-bikes broke down they have no longer been able to personally inform their customers either, which sometimes leads to situations in which the procedure for the application of a land title has been stopped for months or years, without the applicant knowing.

In addition, the agrarian population often does not see the necessity of land registration. In the research villages the inhabitants have always been used to basing their land user’s rights on the ancestral customs (*fomba gasy*)⁹². Since they are assumed to have derived from the ancestors, they were therefore given the title ‘ancestral’ by the local people. The villagers presume that the ancestral custom rules and practices concerning land ownership offer them sufficient protection and claim that they do not need official proof, since the land in the village belongs to their ancestors and has already been in use by the same families for generations (cf. Evers 2002). For that reason they see land registration as a superfluous and expensive tool, which even after land registration has been completed, will lead to even higher costs due to a land-tax which is levied by the state, for which the people claim to have no money. This illustrates that people mainly see the downside of land registration, an attitude that is likely due to the inadequate provision of information about land registration on a local level. The informants in the research villages indicated that so far no one from either an NGO or the government, had come to inform them about land registration, with the result that local people appear unaware that the new scheme constitutes a direct challenge to the validity of a land claim solely based on custom. Neither do they know what legal benefits there are regarding land registration for their specific land claim.

In Madagascar two different legal systems are in use side by side, one is the official

⁹² *Fomba gasy*, is the Malagasy term for customs (Evers et al. 2006: 2; Evers 2002).

statutory law, and the other the local custom law or *dina*. Despite some overlap between the two, a situation of *legal pluralism*⁹³ is said to exist (Dekker 2003: 70). In Madagascar legal pluralism arose after the French introduced the *Code Civil*, which is derived from the French legal system. At first it was mainly used by the French themselves, while the local population was left to use their own local customary law system, but this led to a situation in which two legal systems were being used side by side in Madagascar (Blanc-Jouvan 1971: 228). This duality in the legal system has stimulated a number of people to choose the forum of which they expect the best results to get their wishes granted, a process which is called *forum shopping* (Whitehead and Tsitaka 2003: 23; Biezeveld 2002: 21, 136).

In order to tackle the current problems with the *Individual Land Titling System*, the government, the World Bank, and the NGOs have created a new system of land registration, known as the *Programme National Foncier* (PNF) whose objective is to strengthen not only the administrative structure, but also to provide clarity concerning rights and legal property of land, and to secure as much land as possible with a view to preventing serious obstacles in rural development. A primary objective of PNF in simplifying land registration, is to create a sound environment for future investments. Another of the PNF's objectives is to reintroduce land tax (Teyssier 2000: 3, 2004: 14), to which end the PNF has devised a system of quick collective registration, so that a whole village can be registered at once. The collective character of PNF is likely to ensure that this form of land registration is quicker and less expensive than individual registration, and also allows land registration to become accessible to the poor agrarian population.

The PNF land registration system claims to bring more security because, first of all, thanks to PNF, customary ownership of land which is based on local, ancestral custom rules, may be turned into official land certificates (*kara-tany*). However, although these land certificates will give people legal land rights, they are still not the equivalent of land titles, but may be transferred to official land titles at a later date.

Secondly, land registration on a local level will be executed by the placement of land offices (*guichets fonciers*) inside the villages which will enable villagers to control whether the rightful owners of the land are the ones to be given a land certificate.

At the same time PNF may create uncertainties for some villagers as it is difficult to check whether the genuine rightful owner is receiving a land certificate. It is conceivable that the commission (*Commission de reconnaissance locale*) appointed to monitor this, may make a wrong

⁹³ Legal pluralism' in land tenure: the simultaneous existence of multiple normative constructions of property rights in a social organization (Dekker 2003: 70).

decision due to either a lack of information or perhaps a complicated conflict of interests. The possibility that the judgement of members of such a commission's may be influenced by social pressures is not unthinkable.

In addition, the question as to which claim the commission is likely to honour, is thought-provoking. For example, the question arises whether they will bestow more legitimacy to the leaser of a piece of land who claims ownership because he has cultivated it for ten years (according to the law: *Loi n°60-004: 1960*) or to the person with an ancestral claim, whose family has owned the land in question for generations. In short one wonders whether the commission will acknowledge the rights of the tenant or the descendant?

Thirdly, in the process of granting land certificates, or ruling on land allocation on a local level, any legal procedure that may need to be performed, will have to adhere to the rules laid down by the local custom system in order to be deemed legitimate at the local level.

Finally, conflicts that arise during land registration will be legally assessed according to the local criteria of legitimacy. These land conflicts will then be resolved according to the local legal procedures within the village community. It is only after the local legal procedures have failed to find a solution to the conflict, that the case will go to the Malagasy Courts (*Tribunal*).

Lavigne-Delville et al. state that there is no automatic link between a 'land title' and having 'security over land property' because the means to gaining security are just as dependent on the context as on the parties involved (2002: 162), all of which has to do with the principle of legitimacy. For land registration to be a success, it will have to be accepted by the agrarian population to the extent that they will honour land certificates on a local level, which in turn will largely depend on whether the procedures involved, coincide with their ideological and discursive principles. For if the parties involved on a local level do not accept the validity of a given land certificate, then this certificate will afford neither protection nor security over livelihood.

VI. Conclusions

Since land registration is presented by the Malagasy government as an instrument that accomplishes legal and social security over land ownership, the challenge will now be try to ascertain whether both the current system and the new PNF pilots, will indeed lead to legal and social security over land access and ownership.

The results of our research would indicate that due to its expensive nature, the current *Individual Land Titling System*, may only be financially possible for well-to-do farmers, which is likely to lead to an increase in socio-economic inequality between rich and poor villagers (cf. Teyssier 2004: 4-6; Lavigne-Delville 2002: iii; Platteau 2000: 68). The United Nations even say it

is 'discriminating' towards the poor agrarian population (PNUD 2000: 44). Furthermore, for most subsistence farmers in Alakamisy Ambohimaha, the inability to register land has led to an increase in conflicts created by a fear of 'rich' outsiders, neighbours or even one's own family members stealing land. (cf. Jacoby and Minten 2005: 2-3). Whereas the *Individual Land Titling System* has exacerbated the uncertainty over land access and legal property among the villagers in Alakamisy Ambohimaha, it did not cause much commotion among the Antaimoro villagers in the communities of Tsiazombazaha, who seem to have no insecurities about individual land titling, due to a strong belief that the local custom system will protect ancestral land against land crapping by people outside the kinship group.

The newly implemented PNF system (PNF pilots) makes land registration possible for everyone. This is due to the much cheaper collective manner of land registration, whereby all individual land registration applications in one village will be registered together at the same time. Because of this, the people in the research villages are said to have high expectations of PNF. They want to believe that the realization of land registration will lead to not only a transparent legal land property situation but also land boundaries that will prevent most arguments and conflicts over land, thus bringing social peace and security back to the villages. During our fieldwork we heard several stories of people having recently been killed over a land issue. The people are therefore, more than willing to believe land registration will be 'the answer' to many of their social and legal insecurities. However, it is more realistic to think that the current situation will not be so positive, since it is not possible to create a secure land situation for everyone (cf. Lavigne-Delville 2002: 162). Land registration will provide only one single individual with a land title or certificate for a plot of land, whereas in practice, more than one person will often claim to be the legitimate owner. For this reason it may be said that land registration is likely to offer security to one claimant while taking it away from another.

PNF will technically be able to accomplish land registration all over Madagascar in a short period of time, yet financially it may not be so realistic to expect to accomplish nation wide registration. Another downside of PNF registration, is that contrary to expectations, it is not likely to lead to a general improvement of access to land and legal security over land for 'all' Malagasy people. Those people who are able to obtain a land title or certificate will indeed gain legal and social security over their land, and will therefore also be entitled to secure legal access to it. But many others who are unable to do so for the land that they are currently leasing, will probably experience a change for the worse as regards legal access. We therefore expect that in order to gain access to a piece of land, they will be forced to depend even more heavily on the people who gain legal property rights of the land, a situation which will more than likely intensify

the degree of dependency already present in the relationships between the different social categories of villagers.

Another goal that the Malagasy government would like to see accomplished, is a boost in investment potential as a result of newly gained legal security over land property rights, which would entice them to start making new investments (*Ministère de L'Aménagement du Territoire et de la Ville 2000*). Furthermore, land registration may offer the government an instrument for accomplishing its goal of making the land tenure situation in Madagascar more transparent, which, along with the new legal land rights, may lead to a safe basis for potential investors. Another benefit resulting from the completion of land registry would be the possibility of reintroducing land tax (cf. Teyssier 2000: 3, 2004: 14). Local political actors involved in our research argue that tax money would help certain regions to improve their infrastructure by building or repairing water wells, roads and schools, which in turn could stimulate growth impulses that would not only improve the economy and employment figures but also the over-all standard of living in Madagascar, and thus for the livelihood and security of the Malagasy people as a whole.

The texts above suggest that land registration will ideally lead to an increase in livelihood security. However, Jacoby and Minten (2005) say that “the private economic benefits from extending land titling is minor”⁹⁴(ibid 23). According to their calculations, since individual land titling costs US\$350, “it only makes economic sense to title plots in excess of around 6 hectares. Unfortunately, less than 3% of the plots in [the researchers’] sample have an area of 6 hectares or more”(ibid). Findings from their study shows that “the marginal costs of a title have to fall by a factor of six in order for it to be economical to title the median-sized plot in [their] sample (1hectare), (..) [while the] “median plot size nationally is only 0.20hectares”(ibid). This shows that in order for the newly implemented registration system PNF to be economically successful for the agrarian population, the individual costs of registration per plot of land should not be higher than US\$58,33⁹⁵. This will only be possible with subsidies from the World Bank, the IMF, the EU and the USA. The effectiveness of the system also hinges on its affordability for the land holders, which is a fundamental condition to obtaining support from ordinary citizens.

⁹⁴ Jacoby and Minten base the results of their study on a large sample of plots in the region Lac Alaotra in rural Madagascar (2005: 1).

⁹⁵ The amount of US\$58,33 is based on a plot size of 1hectare (350/6=US\$58,33).

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