

MAURITANIA LAND SECTOR

A SNAPSHOT



الاراضي العربية
مبادرة
Arab Land Initiative

MAURITANIA LAND SECTOR: A SNAPSHOT

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THIS PAPER

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THE GLOBAL LAND TOOL NETWORK AND THE ARAB LAND INITIATIVE

GLTN is a multi-sectoral alliance of international partners committed to increasing access to land and tenure security for all, with a focus on the poor, women and youth. The Network's partners include international rural and urban civil society organizations, research and training institutions, bilateral and multilateral organizations, and international professional bodies. In 2016, GLTN Partners, led by UN-Habitat and the World Bank, launched the Arab Land Initiative to promote equal access to land, peace, stability and economic growth in the Arab region through good land governance and transparent, efficient and affordable land administration systems. The Initiative aims at empowering land champions from the region by developing capacities, increasing collaboration and promoting innovation, learning and sharing of best practices. It also supports the implementation of land gender-responsive and fit-for-purpose land tools and approaches at national and local level. The Research Innovation Fund is one of the streams of work of the Arab Land Initiative.

For more information, please consult the referenced documents, visit <https://arabstates.gltm.net/> or www.gltm.net

Overview

The Islamic Republic of Mauritania is situated in Northwest Africa and represents both geographical and cultural contact between Northern Africa and the Sub-Saharan region. The country borders Western Sahara to the northwest, Mali to the south-east and Senegal to the south-west. It is subdivided into four major regions: the sandy desert along the Atlantic coast, the central highlands region, large dunes in the east feeding into the Sahara Desert and the southern valley straddled by the Senegal River. Roughly two quarters of the country is either desert or semi-desert while less than one per cent of the territory is arable land. Mauritania is vulnerable to climate change, drought and floods, with desertification as its most pressing land-related environmental challenge [3].

With a population of over 4.8 million people living on a territory of 1,030,700 square kilometers, Mauritania has one of the lowest population densities of all Sub-Saharan African countries. Most Mauritians (56 per cent) live in urban areas, but the rural economy continues to contribute to the national GDP production. Approximately 62 per cent of the population depend on agricultural activities including pastoralism and fishing. The main agricultural products are corn, millet, sorghum and dates while fishery represents 20 per cent of the country's revenues. Around 40 per cent of exports stem from the mining sector. More recently, an offshore gas field was discovered in the border region of Mauritania and Senegal, which has attracted international investment interest [4].

Mauritania is composed of different socio-cultural groups, including the Soninké, the Peuls, the Moorish, the Toucouleurs and the Wolofs. Mauritania was colonized by the French in 1904, and remained a largely nomadic population (roughly three-quarters of the total population) until Mauritania's Independence in 1960. The French colonial administration led the groundwork for the legal and institutional system, which still largely prevails today.

Legal and institutional framework

The land sector in Mauritania is governed by a combination of different legal sources, including customary law and tribal rights, Islamic law and the legacy of the French Codes.

Article 15 of the Constitution of Mauritania guarantees the right to own property and the right of inheritance. However, the law can "limit the extent of the exercise of private property if the exigencies of economic and social development necessitate it". There is a juridical regime for expropriation of land, but this can only take place "when public utility commands it and after a just and prior indemnity". The allocation of Waghf land (religious endowments) and Waghf assets and foundations are also recognized and protected by law. Article 57 confirms that "transfers of property from the public sector to the private sector" is of the domain of the law [1].

The Land Code (Ordinance 83-127 of 5 June 1983) represents the most recent major land sector reform in Mauritania. According to Article 1, "the land belongs to the nation and all Mauritians and without discrimination of any kind, some inhabitants own their own lands. By complying with the laws of ownership the land can thus be a private property". Article 2 of the Land Code confirms that "The State recognizes and

guarantees private ownership of land which, in accordance with Sharia, contributes to the economic and social development of the owner, thus of the country". Article 2 of the Land Code also ends Mauritania's recognition of tribal property, stating that "any property right that is not tied directly to any person or entity and which does not result in a legally protected development is non-existent". However, Article 6 continues to recognize the "collective rights legitimately acquired under the previous regime, previously confined to farmland, benefiting all those who have either participated in the initial development or contributed to the sustainability of the operation" [2].

Despite this, most land in Mauritania is in practice governed by customary law, which is almost fully based on Sharia law. Customary land tenure is most prevalent in rural areas, where traditional agreements are recognized as evidence of property rights [3].

In rangeland areas, the Pastoral Code of 2000 (Law No. 2000-44) recognizes usufruct rights of pastoralists, which are given priority over cultural uses of the land [3].

The revised Forest Code (Law No. 2007-055) lays out the framework for the creation, management and protection of forests, parks, reserves and protected areas, whether belonging to the State or individuals. State forests have specific protections, and there is scope for granting usufruct use of such lands. A separate law, No. 98-016, governs the sustainable participatory management of oases [3].

The Investment Code of 2012 (Law No. 2012-052) facilitates investments into Mauritania's agricultural sector. This Code established the introduction and use of Investment Certificates as a tool for the simplification of agribusiness investment [3].

Land tenure

Many individual and collective land rights holders in Mauritania are not able to register their land as the registration process is considered quite complicated, resulting in high levels of land tenure insecurity in the country. Even the Land Code revisions of 1990 do not provide sufficient security for women or smallholders with usufructuary rights. Formal recognition of land rights of small farmers is only available through associations and cooperatives. Landlessness is also prevalent, though there have been attempts to address the phenomenon, including through a 1990 revision of the 1983 Land Code which recognizes some long-term land users as owners. In a limited number of cases of large-scale irrigation projects that have risked displacing local communities, land has been distributed to landless peasants as compensation, as in Kaédi and Boghé. Lack of access to land is a major factor contributing to poverty in the country; many former slaves continue working for their former enslavers due to lack of alternative land options [3].

The 1983 Land Code defines the country's main land tenure regime. The reforms brought about through the Code reinforce the role of the State in land management and land allocation processes, and abolished traditional land tenure. All land, except plots owned privately by individuals, is designated State land. Privately owned land is defined as land registered by individuals or land that has been developed (or partially developed) as a result of a concession or of Law 60-139 of 1960 on the reorganization of the state. Between passage of the

law in 1960 and the year 2000, more than 27,000 full freehold titles were issued, primarily in urban areas, along with 500,000 provisional title deeds in Nouakchott [3].

Customary tenure is the most common form of land governance in rural areas, though it is not recognized under the law. There are, however, formally recognized rights for pastoralists in rangeland areas. In areas where customary tenure prevails, large plots of community land are managed by traditional land chiefs who ensure that everyone in the community is granted access to the land. Such communities also often designate land for use by pastoralists, including for the conditions of movement and exploitation of natural resources, though the right to the land is always retained by the community. Roughly five per cent of land is governed by such usufruct transfer agreements [3].

The adoption of the land reform brought associated land rights, which were transferred through definitive grants (concessions) allocated by the State. The legal and administrative system still recognizes pre-existing rights, such as customary or tribal rights largely based on Sharia law – which in turn includes different forms of land tenure and sources of rights – and are recognized by traditional agreements. This, however, contradicts the principles of the 1983 reform, as the latter includes the intention to abolish traditional forms of land tenure. This confusion has fueled tensions and led to a rather unclear regularization of tribal rights in conflict-affected areas, such as the Senegal River region.

Between 1983 and 2010, decentralized and deconcentrated bodies, such as *walis* (governors) and *hakims* (prefects), had authority over rural areas. This changed with the adoption of a decree in 2010, which further entrenched centralized control and allocation of rural land, becoming the jurisdiction of national ministries.

There is no national-level cadastral plan or land register. An electronic land registry was established in Nouakchott in 2014, which eliminated duplicate and false titles, though the initiative was temporary. Land management in urban areas is the responsibility of the Ministry of Housing, Urban Development and Regional Management. Land registration activities are primarily concentrated in urban areas, while rural land users are not able to obtain official documentation and registration of their rights [3].

Land titles can be obtained through the Ministry of Finance, the *Direction des Domaines* (land department) and the Ministries of Urban Planning and Rural Development, including through their regional offices. However, the process for obtaining land titles is considered a long and complicated procedure due to the number of ministries and departments involved. Regional offices also lack resources [3].

Land value

In the early 2000s, Mauritania adopted a decentralization policy, shifting some of the fiscal responsibilities to municipal authorities. Communal fiscal commissions oversee the valuation of rental properties. Land taxes for both built-up and agricultural land, as well as housing taxes, are collected by municipal authorities. Built property is taxed, which must be paid by the property owner, and is calculated based on the rental value at a rate between three per cent and 10 per cent (in practice a rate of 8 per cent is applied) [12]. Joint Order No. R-558 of 2001 sets the amounts of fees and the final transfer price of concessions in rural areas.

Land use

Up until a series of droughts that occurred in the 1970s, land use in Mauritania was dominated by nomadism and pastoralism. Around 38 per cent of land is used for agricultural purposes, which includes pastoralism and fishing. However, desertification and urbanization trends are at risk of reducing the availability of agricultural land. The size of forested areas has been declining steadily since the 1990s, and more recently due to forest fires. Forested lands represent less 0.3 per cent of the country's total area.

Rapid urban growth is changing how land is used and is increasing competition over arable and habitable land. The vast majority of Mauritania's population lives on just one-fifth of the land, as most of the country is considered uninhabitable. The Senegal River Valley is considered the most fertile area of Mauritania. Changes in land use patterns are further impacted by disappearing traditional knowledge, the overexploitation of groundwater resources, land fragmentation and unsustainable practices, which also increase Mauritania's vulnerability to climate change. Sand dunes from the east are also encroaching on urban centres. Since 2000, the Government of Mauritania has engaged in the Green Belt initiative for Nouakchott, which aims is to protect the capital city from further desertification [3] [6].

Land development

The Local Government Code of 2008 includes legal provisions for land development and planning that have been transferred to decentralized authorities and municipalities.

It is possible for both investors and individuals to acquire state-owned land. Agriculture is the major source of attraction for investors, and the National Agricultural Development Plan (PNDA) aims to intensify and diversify the country's agricultural production by 2025. The Investment Code promotes land-related investment through incentives such as special benefits for medium-sized enterprises or favourable conditions in Free Zones.

There are three major agricultural investment projects in the Senegal River Valley currently operating, each of about 10,000 hectares in size. For permission to develop land for these projects, investors first apply to the Ministry of Economy and Finance and then register the land that they have been granted to the *Direction des Domaines* (land department) under the Ministry of Housing. If the investor has purchased land, they must still register at the *Direction des Domaines*; however there are rules in place that allow foreign investors to circumvent this process by obtaining a Certificate of Investment. Many communities in areas governed by customary law, however, are against these investor-lead developments of State-granted land [3].

Large scale land development projects, such as in the municipality M'Bagne, are areas where traditional land users and practices confront modern laws and developers. In the M'Bagne area, a development site of nearly 20,000 hectares supervised by the Ministry of Environment, a parcel map showing existing land rights of farmers was drawn up as a way to avoid conflicts.

The National Agricultural Development Plan encourages the intensification and diversification of agricultural production, especially through agribusiness investments by medium-sized companies and multinationals. The Government of Mauritania has also encouraged Land development through large-scale land acquisitions and promoted Special Economic Zones.

Planning provisions also exist in forestry policy. This puts in place plans to manage and control land clearing, overgrazing, bush fires and firewood exploitation. The revised Forest Code concerns both state forests and those of local communities and individuals.

Land dispute resolution

Since the adoption of the 1983 land reform, conflicts around land and access to natural resources have been on the rise in Mauritania. Land-related disputes are typically over Mauritania's scarce fertile lands, usually in the form of conflict between pastoralists and farmers. Other sources of land disputes are large-scale mining projects, agribusiness investments in the Senegal River Valley and ethnic tensions [3].

The Senegal River Valley is one of the areas most affected by post-reform violence, where herders and farmers once lived together harmoniously, based on cyclic and complementary land use arrangements. Between 1989 and 1992, however, lack of clarity on the definition of land rights, their recognition, delimitation and materialization triggered an episode of violent conflict between farmers and herders regarding land use rights on the Mauritania-Senegal border. Black population groups were expelled as they were not considered Mauritanian and others in the Valley had their land expropriated. In 2007, the then President called for the return of 35,000 refugees, which involved the question of the restitution of their lost lands.

Conflicts have also occurred as the result of settlement programs aiming for a definitive sedentarization of the herder groups of the Peuls and the Haratine in areas officially inhabited by the Wolofs, Soninkés, Haalpularen and Moorish. Furthermore, government-promoted land development and investment policies have facilitated access to land titles for national agribusiness entities that dispose of considerable financial resources to exploit and develop land. These initiatives have encountered local resistance and protest.

Other land conflicts take place in urban areas, resulting from unclear land and property management and land information. They are further fueled by unplanned and informal occupations in certain peri-urban areas and the sometimes-questionable application of land law.

In 2000, land dispute resolution commissions were created at the *wilaya* and *hakem* levels. Their mission is to resolve conflicts by finding private arrangements and friendly solutions. If these instances fail to resolve a conflict, the national commission of collective land conflicts intervenes, which is informed and trained by the Ministry of Rural Development and Environment. National courts are rarely called upon, as for many, they are considered insufficiently effective and lacking objectivity. The absence of a national registry is a major roadblock for the mediation and settlement of land disputes, particularly in rural areas [3].

Women's land rights

The Land Code guarantees equal land rights to women and men. However, in rural areas where customary practices are the norm, women still face difficulty in accessing and managing land. Only eight per cent of title deeds in Mauritania are held by women, primarily in cities where customary practices have less influence and women are more independent. In the Senegal River Valley, for example, only five per cent of title deeds are held by women, while Trarza has the highest levels of land ownership by women. Women are able to inherit

land, but patriarchal practices encourage women to be given movable property rather than land as a way of ensuring land remains in the man's family [3] [5].

Women often do not have full information on the procedure for acquiring land titles, despite their strong interest in obtaining titles to secure their access to land. They are also often illiterate, unknowledgeable about their rights or lacking the funds needed for the process of registration. Women, and especially women's agricultural cooperatives, are encouraged by the government to register their land, but in practice there is no legislation that prevents discrimination against women. There are very few women in government land management or land conflict resolution positions [3] [5].

Key documents and links

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- [7] Choplin, A. and Ould Bah, M. F. (2018). [Foncier, droit et propriété : au cœur de la société mauritanienne](#). In A. Choplin & M. Fall Ould Bah (Eds.), *Foncier, droit et propriété en Mauritanie* (pp. 15-23). Centre Jacques-Berque.
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