

Appendix A: Senegal case study report

**THE SOCIAL AND ECONOMIC IMPACT OF LAND TITLING
PROGRAMMES IN DAKAR, SENEGAL**

**Main findings of the socio-economic survey in five
settlements in Dakar and Pikine**

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Part 1: Objectives

1.1 Introduction

The present case study of socio-economic impacts of land regularisation policies has been prepared by a team of Senegalese experts specialising in urban planning, coordinated by the *Groupe Foncier et d'Urbanisme* (GEFU), land administration, and land and socio-economic issues¹. They have all been involved, over the last fifteen years, in the definition and the implementation of National Programme of Restructuration and Regularisation of Spontaneous Settlements (*Programme de Restructuration et de Régularisation Foncière de l'Habitat Spontané*). After 1999, the Programme was renamed Prevention and Restructuration of Spontaneous Settlements (*Prévention et Restructuration des Quartiers Spontanés*). Its management and coordination was shifted from the Ministry of Urban Planning and Housing to an independant institution, the Foundation Right to the City (*Fondation Droit à la Ville*) which is backed by the Government of Senegal, the German Coopération (GTZ and KfW), and the communities involved.

The report analyses the social and economic impact of tenure regularisation policy implemented in Dakar, between 1987 and 2007

The objective of the study is to address a range of questions relating to land tenure regularisation programmes carried out in informal settlements in Dakar since early 1990. One of the central questions of the study regards the reasons for deciding to regularise the informal settlements/ by delivering property rights to occupants. From the very beginning of the regularisation programme, the decision was made to deliver a particular type of land title: a surface right. Who made that decision and why? Who were the beneficiaries of that regularisation? What was the impact of the programme on housing, access to services, employment and residential mobility? Was the economic situation of households improved? Were the programme's objectives achieved?

Even though land regularisation operations and settlement upgrading started nearly 20 years ago, no systematic study has been undertaken during that period. This study therefore provides an opportunity to assess the social and economic impacts of the programme designed and implemented in Senegal.

Why is the case of Dakar relevant?

Senegal was the first West African country to decide, to implement a nationwide tenure regularisation programme based on the delivery of real property rights in urban areas.

Tenure regularisation is based on the mass provision of Surface Rights (SR, *droit de superficie*). At the time, no other country in the region had envisaged the implementation of tenure

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regularisation of all urban informal settlements. Contrary to most tenure regularisation projects carried out in other West African cities, tenure regularisation in irregular settlements in Dakar was carried out systematically, rather than sporadically. In other words, all households entitled to tenure regularisation in selected settlements (dwelling unit owners and, in some settlements, tenants) were to be delivered a real property right.

The Senegalese programme was an innovative response to tenure informality in West Africa. Another innovation was to attempt to implement tenure regularisation incrementally. The surface right was clearly seen as a step towards the allocation of a freehold title. It provided full tenure security while giving beneficiaries time to improve their economic situation.

Tenure regularisation or land titling programme?

Whether this programme can be considered as a titling programme in the strict sense of the term deserves some attention. The right delivered is real and accordingly, can be transferred and mortgaged, although only 5 years subsequent following. Surface rights themselves are not freehold titles as they are granted for a renewable 50 year period. However, surface rights can be converted into freehold titles after the land has been developed and the fees, taxes and cost of regularisation and administered price of the land has been fully paid.

The debate about the type of title to be provided by the national tenure regularisation programme took place in 1987-1988, following the launching of the pilot project in Dalifort. It deserves particular attention as it raised a series of issues regarding property rights as faced by most West African countries. Four options were discussed at the highest level of government administration.

Delivery of communal titles at settlement level

Although the process of delivery of communal titles should have been faster than of individual titles, institutions in charge of land administration (*Direction des Domaines* and *Direction du Cadastre*) found difficulties with the subsequent individualisation of those rights. This would not permit access to mortgage credit and would not stimulate land markets, making land transfers and inheritance an overcomplicated issue, which would inevitably shift to the next generation. The policy of "one plot, one owner" from the outset was therefore preferred to that of communal land titles.

Individual renewable leases

Individual leases, with the annual payment of a fee based on the assessed value of the allocated land, were not considered as economically feasible (fees would be too low, and the cost of recovery of fees too high). Furthermore, this formula can apply to an empty land, not to a plot that has been constructed/built up/developed.

Delivery of land titles

Allocation of a land title (*Titre foncier*) provides the beneficiary with full ownership of the land (freehold). However, institutions in charge of land administration rejected this option, arguing that, given the length and complexity of existing procedures, it would be impossible to deliver land titles at scale; given its cost (administrative costs, fees and price of land), it should not be affordable to occupants living in low income settlements. Government authorities were aware of the risks that could result from the expectation of a massive allocation of freehold titles in case it would not be possible to cope with the demand. Furthermore, simplification of procedures proved to be extremely difficult for both technical and political reasons, and the determined opposition of government institutions involved (vested interests in land allocation process).

Delivery of surface rights

This option was preferred for the following reasons:

1. Surface rights are real property rights that can be inherited, transferred and mortgaged, to finance the construction of a house or for any other any other investment.
2. Tenure regularisation can only take place within the limits of areas designated for urban renewal, as stated by the Urban Planning Code (*Code de l'Urbanisme*) of 1988.; this planning objective aimed clearly at controlling urban sprawl and retain the eminent rights of the State over land.
3. Contrary to leases, which is payable annually, the SR is are payable in one time, when it is delivered, then ensuring the replicability of regularisation projects.
4. Contrary to land titles, which must be paid in one time, payment for the SR can be spread out over a period of 5 years (or even more), through community organisation (the Economic Interest Group - *Groupement d'Intérêt Économique – GIE*) set up at settlement level.
5. Temporary restriction of transfers (land sales) of surface rights. Transfer / sale requires prior authorization of public authorities for a period of five years. These restrictions have two objectives: a) limit speculation on titled land and consequently market driven eviction, b) protect the long-term state's interests (in case of expropriation for public interest) . This would not be possible with land titles
6. Although beneficiaries have the full ownership of the structure built on the land and enjoys a 50 year renewable SR, the state can rely on faster procedures to recover the land than those imposed in case of expropriation for public interest of land title holders.

1.2 Background

No evaluation has been made so far of the social and economic impacts of tenure regularisation and land titling policy in cities in Senegal

Over the last 20 years, a series of studies, progress and assessment reports and academic dissertations have analysed the situation of so-called “spontaneous settlements” in Dakar. These have identified the social and economic constraints of physical upgrading and tenure regularisation low-income settlements. However, surprisingly, very few attempts have been made so far to evaluate the social and economic impact of the tenure regularisation programme.

Pre-project technical feasibility studies have been made in several settlements in Dakar and Pikine. Another series of studies have been made on the legal and regulatory framework of land management and administration and on tenure systems and policies. Some assessments of the administrative, legal, regulatory and financial aspects of tenure regularisation programme have been made by funding agencies (GTZ/KfW, *Agence Française de Développement*). They focus mainly on the role and performance of the *Fondation Droit à la Ville* (FDV), the private foundation created the follow the implementation of the tenure regularisation and upgrading of “spontaneous” settlements (GITEC Consult GmbH, 1998, CAP, 2004). The CAP report underlines the slowness of regularisation procedures, difficulties encountered in the implementation of simplified regularisation procedures, the limits imposed by poverty and the low contributing capacity of target population and the lack of legal and regulatory tools for carrying out systematic tenure regularisation. ADIRA Consultant (2006) underlines delays in the elaboration of planning documents required to initiate tenure regularisation, in the provision of land for resettlements, and in the delivery of surface rights by government institutions (*Direction des Domaines*).

Four documents address the achievements of the tenure formalisation programme in Dakar, but social and economic impacts are discussed only in very general terms:

- The Agence Française de Développement report by Madaule & Bascoulard in 1999 attempts to evaluate two regularization projects completed in regularised settlements in Dakar (Medina Fass M'Bao Project and Rail project)
- World Bank, in 2004, assesses the impact of formal and informal settlements interventions
- Barbier, 2006: Evaluation of the restructuration programme of informal settlements
- Government of Senegal – APIX 2006: Analysis of past and present interventions in informal settlements in Pikine Sud.

All these documents underline the limited achievements of the tenure regularisation programme and the reluctance of administration involved to implement it.

An evaluation is required of the social and economic impact of tenure regularisation and land titling policy in Dakar as the Senegalese experience is still considered as an innovative model for possible application in other West African cities.

Tenure systems and rights in urban areas in Senegal

The legal and regulatory framework of land management and administration

Details on the legal and regulatory framework that impact on tenure regularisation, and a short summary of the content of the main laws and decrees and their impact on tenure regularisation are provided in Annexe 1. The most important ones are:

- The Constitutional Law n° 2001-03 reaffirming the right to private land ownership and guarantee property rights
- The law 64-46 on the National Domain (1964) and its implementation decrees of 1964, 1966 and 1972
- The law 76-66 of 1976 and its implementation decree on the State Domain, defining the conditions under which surface rights can be delivered
- The law 76-67 of 1976 and its implementation decree of 1977, which set the conditions for expropriation for public interest
- The law 87-11 of 1987 authorising the sale of the private domain of the State for housing projects in urban areas
- The law 88-05 of 1998 on the Urban Planning Code (*Code de l'Urbanisme*)
- The decree 91-386 of 1991 organising tenure regularisation in informal settlements in areas declared for, urban renewal
- The decree 96-386 establishing the Restructuration and Tenure Regularisation Fund (FORREF)

Types of tenure in urban and periurban areas

In Dakar, tenure regularisation and land titling are implemented in a particular tenure context where a clear distinction is made between tenure rights and occupancy rights, and where primary rights and secondary rights on land overlap frequently with customary claims. Its main characteristics can be summarised as follows:

Primary rights on land:

- *State land* includes land of the Public domain of the state, which is untransferable, and land of the private domain of the State and local authorities, which can be transferable under certain conditions. These lands are registered under the name of the State.
- *National Domain land* is a concept specific to Senegal. It includes all the land on which a land title has not already been issued by the time the Law on National Domain had been passed (in 1994) and that had not been registered under the name the State since that date. If required in the name of public interest, the National Domain land can be registered under the name of the State. Then it becomes part either of the public domain of the state or, more frequently, of its private domain.
- *Private land* owned by private individuals or entities (*personnes physiques et morale*) and on which a land title – *titre foncier* – has/had been issued (sometimes before decolonisation, and never repealed)

Secondary tenure rights

- Property titles:
 - i. Lease ("*bail*", 30 year renewable leases) are delivered on Private Domain of the State or on National Domain land after it has been registered under the name of the State (registration must be justified by public interest). Annual fees are paid to the State
 - ii. Surface rights (*droit de superficie*) are allocated for a period of 50 years (renewable one time). Fees are paid in full when the SR is delivered. It can be converted into a land tile.
 - iii. Land title (*titre foncier*)
- Administrative certificates (AC, *certificat administratif*). Since the late 1990s, they have replaced the permit to occupy - PTO ("*permis d'occuper*"). The PTO was an administrative permit delivered by the Gouvernement (Direction des Domaines) to allottees of land plots in public land development schemes. Beneficiaries had to pay fees and administrative cost of allocation. PTO holders are progressively being allocated either a surface right or a land title. Administrative certificates (AC) are allocated by the Government (Governor) in areas covered by master plans but within which a detailed development plan ("*plan d'urbanisme de detail*") has not yet been adopted. They are temporary and revocable. Applicants must simply submit a draft location plan along with a description of the present development of the plot they want to be allocated. Allocation procedures take about one year. When the detailed development plan is adopted and implemented, public authorities are entitled to undertake land readjustments and ask AC occupants to modify the plot boundaries. AC is delivered for free. It can be changed into a lease if the development complies with planning prescriptions. Households that cannot provide such documents are considered as "irregular" ones.

Tenure informality/irregularity and occupancy status in Dakar area

According to the 2002 Population census, of households in Dakar's urban area (which includes Dakar, Pikine and Rufisque) 44% were owners, 48% were tenants, and 8% were being accommodated for free. The term 'owner' can be a misleading concept in Dakar as it can refer either to 'regular' owners or to 'irregular' ones, depending on the tenure status of the land on which the house they own has been built. Regular owners will have either a land title, a surface right, a lease, or an administrative permit. Irregular owners are those households who cannot provide such documents but may have a private land sale contract passed with a customary owner, or a person claiming a customary right on the land. This document does not have any

formal legal value, but it is usually recognised by government administration as sufficient proof of ownership to entitle its holder to tenure regularisation.

To a large extent, tenure informality is closely associated to the types of settlements that can be identified in Dakar. In 2003, a morphological study of housing identified the following types of settlements (as a percentage of the total urbanised area).

Settlement types in Dakar Region

Source: CAUS-BCEOM, Plan directeur d'urbanisme de Dakar – Horizon 2025

Types	Dakar Region	Departments		
	%	Dakar	Pikine	Rufisque
	%	%	%	%
Regular housing, buildings, villas	62	89	43	32
Spontaneous settlements	22	3	42	10
Village type settlements*	16	8	15	58
Total	100	100	100	100

* Informal settlements around sub-urban rural villages

Customary rights and claim

People living in informal/spontaneous settlements prior to tenure regularisation did not necessarily have irregular tenure status. Some had an administrative 'Permit to occupy', others a lease, a few of them may have had a land title. However, the vast majority of "owners" in these settlements already had access to land through customary land delivery channels.

Although customary rights have not been recognised by law in urban and peri-urban areas since 1964, and customary land has been incorporated with the National Domain Land, the customary land market is still very active, and no decision has been made regarding planning or development matters without negotiations with customary owners.

Initial objectives of tenure regularisation in urban areas in Senegal

Among the many implications of tenure irregularity/informality in the vast majority of peri-urban areas were the following:

- Difficulties in access to basic urban services (until the law of 1991),
- Risk of tenure insecurity and evictions (until the law of 1991),
- Obstacles in the development of formal land markets as investments are not secured.

The stated objectives of tenure regularisation, set in progression by the Government of Senegal between 1987 (in the pilot project in Dalifort's informal settlement) and 1991 (the decree organising tenure regularisation in areas declared for urban renewal) are as follows:

- Improving living conditions in informal areas (such as social inclusion, poverty alleviation and integration of the urban poor)
- Integrating informal settlements within the urban framework through the provision of infrastructures at community level, and of basic services: tenure regularisation is combined with physical restructuring and upgrading of informal settlements.
- Providing security of tenure to households living in informal settlements through the delivery of real property rights (surface rights).

- Improving land management and administration
- Increasing revenue from land taxation

Population participation is ensured by the creation, in each settlement declared for regularisation, of Economic Interest Groups (EIG) involving all households eligible for tenure regularisation.

History of tenure formalisation through land titling: a citywide programme that has been progressively reduced

In 1985, massive eviction without relocation took place in two informal settlements in Dakar (Grand Yoff and Arafat settlements). Justification of the eviction was to make land available for a public housing project (*Société Nationale HLM*, Low-cost housing National Agency) targeted towards high medium and high-income groups. This event gave rise to a major drive in public opinion, backed by political changes in Senegal with the election of President Abdou Diouf in 1981, political liberalisation, the rise of civil society organisations and NGOs, increasing awareness amongst politicians of the magnitude of the housing problem and the limits of conventional responses in the provision of serviced land and low-cost housing.

In 1986, the German cooperation agency (GTZ) suggested putting emphasis on the upgrading and tenure regularisation of informal settlements. This approach was inspired by the upgrading and tenure regularisation experiences in Brazilian slums in which the GTZ had been and still were involved.

In 1986, the Government of Senegal and the GTZ agreed to launch a pilot project in the Dalifort settlement, in the northern part of Dakar municipality, in order to evaluate the feasibility of physical upgrading and tenure regularisation with the Spontaneous Settlement Upgrading Pilot Project in Dalifort (*Projet de structuration de l'habitat spontané*). The project was undertaken by the Ministry of Planning and Housing (MUH) and the Department of Planning and Housing (DUA). The decision was made to carry out studies in physical upgrading and tenure regularisation in parallel. The Dalifort project was considered successful.

In 1991, the National Slum Upgrading Programme (*Programme de Restructuration de l'Habitat Spontané*) was created. A decree of July 1991 (n° 91-748 of July 29 1991) provided the regulatory framework of settlement upgrading and tenure regularisation. Another decree, adopted one month earlier (n° 95-595 of June 14 1991), was repealed and replaced by a more operational one in 1996 (n° 96-368 of May 15 1996), which provided the financial framework for the programme. A special fund was created (*Fonds de Régularisation et de Restructuration Foncière - FORREF*) in order to ensure the replicability of the projects.

In 1995, the population of Senegal was nearly 8 million, 52% being urbanised. It was estimated nationally that about 1,334,000 people were living in urban informal settlements (usually called spontaneous settlements). This figure represented the initial target population for tenure regularisation.

At first, the objective was to regularise about 410,000 people nationwide, representing 30% of the total estimated population living in informal settlements in urban areas. The programme mainly focussed on the capital region of Dakar and Pikine. The total area covered was 1,400.00 hectares, or 41,000 plots of land.

PLANNED TENURE REGULARISATION PROJECTS IN URBAN AREAS IN 1991

Source: GEFU – Groupe d'Etudes Foncière et d'Urbanisme, Dakar.

Settlement	Areas (in Ha)	number of plots	Population
Dalifort:	18.24	618	
Ainoumady	14.96	424	
Sam Sam 1	30	870	
Sam Sam 2	16.14	540	
Sam Sam 3	27.6	1,085	
Wakhinane	12.32	405	
Médina Fass Mbao	29	870	
Arafat/Dakar	42	998	
Tenghory/Bignona	463.95	14,000 *	
Pikine / Saint Louis	40	1,200 *	
Khouma / Richard-Toll	125	3,750 *	
Reste Pikine Sud Irrégulier :	580	17,400 *	
Total	1,399 ha	40,960 plots	409,600 persons
Average :	30 plots / hectare		

* Estimate on the basis of 30 plots per hectare

** Population included in the regularisation programme: estimate made on the basis of 10 persons per plot.

Between 1995 and 2002, due to both the lack of human/financial resources and obstacles made by institutions in charge of land registration and administration to tenure regularisation, the initial objective of 40,960 plots to be regularised was drastically reduced by 90%, dropping to 4,800 plots only. The number of titles actually delivered was even less: between 1991 and September 2007, less than 1,600 surface rights had been delivered in the Dakar region (Dakar, Pikine and Rufisque). In Pikine Sud Irrégulier (a large area in the southern part of Pikine, where the most important irregular settlements in the Dakar region are located), it was estimated that 28,400 plots were still to be regularised in July 2006 (République du Sénégal, 2006).

During the last few years, efforts have been made to reactivate projects that had been abandoned in Pikine/Saint-Louis and in Khouma/Richard-Toll. In Pikine Irrégulier Sud (South Pikine Informal Area), the programme has also been expanded to four additional settlements. Major works to road infrastructure undertaken in 2006 (construction of the highway Dakar-Diamniadio) and related displacement and relocation have given an impetus to the titling programme: 70,000 people living on about 7,000 plots are expected to benefit in informal South Pikine (*Pikine Sud Irrégulier*).

Procedures and processes of tenure regularisation

Tenure regularisation procedures are set out in the Decree n° 91.748 of July 29, 1991. It is implemented jointly by government administrations (*Directions des Domaines, du Cadastre, de l'Urbanisme et de l'Architecture*), local authorities (especially since 1996, when planning responsibilities were transferred to municipalities) and, since 1999 by a specialised private

operator (the Foundation Right to the City). Emphasis is placed on participatory processes that involve the communities concerned.

Land titling programmes place heavy demands on land administration agencies, since they involve a number of administrative procedures including:

- Surveying the areas to be titled
- Recording survey information
- Checking areas to be titled for conformity with official planning norms
- Identifying claimants
- Resolving conflicting claims
- Preparing and allocating title documents
- Preparing the land registry
- Updating the registry as transfers occur
- Communicating with other authorities regarding land taxation

The administrations responsible are overstretched performing even routine tasks and do not have the human or financial resources to cope with the additional procedures required by tenure regularisation. Prior to simplifications proposed in 1993, tenure regularisation and the delivery of property rights in Dakar involved 44 stages and 12 different central and local administrative offices, as well as other entities (Durand-Lasserve, Ndiaye and Sall, 1993). Following drastic procedural simplifications, these stages have been reduced to 14, reducing administrative offices involved to 10. In 2000, the Foundation Right to the City (*Fondation Droit à la Ville*, FDV), a specialised implementing agency was created with bilateral funding (KfW). It intended to speed up the land regularisation process by providing the administration in charge of tenure regularisation (the Department of State Domain) with pre-processed application files, work that had been the responsibility of the Department of State Domain.

The rule and the practice of tenure regularisation regarding land management and administration

In Senegal, law enforcement issues remain a major problem for tenure. The legal and regulatory framework regarding land management and administration provides unambiguous responses to complex cases involving the ownership, possession and use of land. In practice, enforcement is made difficult by (i) the coexistence of statutory law and customary law, (ii) clientelism and network solidarity based on a wide range of social, cultural, economic and political criteria, (iii) the will of public authority to compromise in cases of dispute rather than to opt for non-consensual solutions that could threaten social order and disrupt the fragile balance of a diverse society undermined by economic uncertainties and chronic poverty. Tenure regularisation is one of the manifestations, at legal and planning levels, of this approach, and widely shared by political elites, where emphasis is put on the search for status quo solutions and recognition of a de facto solution if a land dispute arises, rather than on legal decision that would be unenforceable.

If somebody settles on private land (land with a real right, such as a land title), it is extremely difficult for the owner to recover his property. If illegal occupation of the land (squatting) is established by a bailiff, and if the owner lodges a complaint against the squatter, judgment by a tribunal can take as long as 3 to 5 years. Even if the owner wins the case, enforcement of the decision will be extremely difficult, if not impossible, as the State does not want any disturbance to public order. Unless the State can pay compensation to the expropriated party, the court decision will never be enforced and the squatter will not be evicted. Yet, the government fund

set up to provide such compensation (*Fonds d'indemnisation*, which is managed by the Ministry of Finance) has not had the required resources for over two decades. Alternatively, the State could propose and exchange to compensate the owner, but once again, the cost for the administrations involved (the *Direction des domaines* and the *Direction du cadastre*) is such that they usually reject the claim and consider it as a private matter.

Another illustration is provided by the attitude of both government authorities and the population with regard to customary tenure. Customary ownership is not recognised by laws in urban and peri-urban areas since 1964. All customary lands are National Domain land. Yet, customary “owners” still sell the land they consider as their property. In practical terms, the leaseholder of a plot of land located on the National Domain can't occupy his land without a payment to the concerned customary owner. This informal sale is usually certified by sale agreement signed before witnesses, and is recognised by tribunal in case of dispute. Government authorities usually avoid any kind of confrontation with customary “owners”, organised in a powerful lobby (case of the Lebou community in the Dakar region).

These examples show how the principle of land titling as a way to secure tenure is questionable in the context of Senegal and more generally of West African countries with comparable socio-cultural backgrounds, legal frameworks, and administrative practices.

1.3 Methodology

The analysis of the social and economic impact of tenure regularisation programme in Dakar is based on the joint use of:

- Desktop research (tenure regularisation-related documentation since the first project was launched in Dalifort in 1987)
- Analysis of the legal, regulatory, political and economic frameworks of land regularisation policy in urban areas in Senegal
- Identification and main characteristics of tenure regularisation and land titling projects in Senegal (Annexe 2.1.)
- Household random survey in 5 settlements, out of which 4 have been regularised (Dalifort, Aïnoumady, Sama Sam 1, Wakhiname 1) and 1 has not been regularised (Wakhiname 2) (Annexe 2.2)
- Survey on land markets and changes in land values following tenure regularisation and the provision of real property rights (surface rights) amongst Economic Interest Group, settlements leaders and residents involved in land markets (Annexe 2.3.)

Note that very few reliable statistical sources are available on tenure systems, and tenure and occupancy status. Some data has been collected on poverty in national sample surveys. Distinction is made between rural and urban areas, data on Dakar can be usually isolated, but not data on informal settlements. Few and fragmented studies available on the social and economic impact of tenure regularisation projects, except some academic works on Dalifort and Fass M'Bao settlements. It seems that the main funding agencies involved in tenure regularisation in Dakar (the German Technical Cooperation, the Government of Germany through the KfW and, to a lesser extent, French Cooperation) did not give any priority to the assessment of the result of their massive financial assistance to the tenure regularisation programme in Senegal.

Selected settlements

In order to assess the impacts of the tenure regularisation programme in Dakar, sample surveys were carried out in five settlements in Dakar-Pikine between September and November 2007. Four of these have undergone tenure regularisation and physical upgrading programmes since 1987: Dalifort (the pilot project launched in 1987) Ainoumady, Sam-Sam 1 and Wakhinane 1. A fifth settlement, Wakhinane 2, which has not undergone physical upgrading and tenure regularisation, was also selected. (See map of informal settlements in Dakar in Annex 3.1., and location of selected settlements in Annexe 3.2.).

A survey was carried out among a sample of 20% of households (based on the number of plots recorded the year tenure regularisation was launched between 1987 and 1996, depending on settlements).

Dalifort

This settlement began to develop in the 1950s, within the municipality of Dakar. Built partly on customary land, partly on squatted titled land owned by a French national. Most of the land is not suitable for development as it is subject to flooding. The 1960s and 1970s were characterised by the accelerated commodification of land in the settlement. Threat of eviction and poverty explain why occupants did not use permanent material to build houses. Tenure regularisation was initiated in 1987 with the support of the German Cooperation (GTZ). In 1995, Dalifort covered 18.24 hectares and was subdivided in 618 plots.

Total population was estimated at 6,180 (an average occupation per plot of 10 people). The 2007 survey covered 124 plots and 188 households.

Ainoumady

Located in Pikine, this settlement began to develop in the early 1960s. Initially occupied by workers from the private sector who set up an association and purchased land from Lebou customary owner (the Lebus are the "original" owners of the in the Dakar region). Two thirds of occupants surveyed in 2007 settled in the neighbourhood between 1970 and 1989. There has been little speculation on land due to its distance from Dakar municipal boundaries. Proximity of one of the bigger markets in Dakar (Thiaroye Market) ensures a relatively good rate of employment. Tenure regularisation was initiated in 1993 with the support of the German Cooperation (GTZ & KfW).

Ainoumady covers 14.94 hectares subdivided into 424 plots. Total population is estimated at 4,224 (with an average occupation per plot of 10 people). The 2007 survey covered 97 plots and 131 households.

Sam Sam 1

Located in Pikine, this settlement began to develop in the late 1960s and early 1970s on customary (Lebou) land. Occupied by rural-urban migrants pushed out of rural areas during the 1980s due to droughts. The population is poor and ethnically heterogeneous. The area is an enclave, far away from areas of employment and with poor access. Paradoxically, many houses, although in poor condition and dilapidated, are built with permanent materials. The survey of key informants suggests that this was done to prevent eviction. Tenure regularisation in Sam Sam 1 is a consequence of tenure regularisation implemented in Ainoumady. Tenure regularisation started in 1996 with the support of the German Cooperation (GTZ & KfW).

In 1995, Sam Sam 1 covered 30 hectares subdivided into 870 plots. Total population was estimated at 8,700 (an average occupation per plot of 10 people). The 2007 survey covered 174 plots and 229 households.

Wakhinane 1

The settlement began to develop in the mid 1960s, at the initiative of an association of *Toucouleurs* (an ethnic group from Northern Senegal). It developed along the main road of Dakar-Rufisque. Land was bought from customary owners (Lebou). A conflict over the customary sale with some of the original owners, who complained to a court, had an unexpected long-term impact on land prices, which had increased at the same rate as in other settlements. More than 50% of the owners surveyed in 2007 had settled in Wakhinane between 1965 and 1979. Tenure regularisation commenced in 1996 with the support of the German Cooperation (GTZ & KfW).

In 1995, Wakhinane 1 covered 12,32 hectares subdivided into 405 plots. Total population was estimated at 4,050 persons (average occupation per plot: 10 persons). The 2007 survey covered 81 plots and 96 households.

Wakhinane 2

This is the only settlement (within the five selected settlements) that has not been regularised. It began to develop in the mid 1960s along the main road Dakar-Rufisque. Unlike Wakhinane 1, its population is ethnically heterogeneous. Land was bought from customary owners (Lebou community), some times by relatively wealthy people. Similarly to Sam Sam 1, most constructions are built in permanent material on order to be protected against forced evictions.

The settlement is subdivided into about 500 plots, of which 100 have been surveyed in 2007, and occupied by 153 households.

The research team included 15 enumerators and field survey supervisors experienced in socio-economic surveys. The research was supervised by Alain Durand-Lasserve, who has been involved in the project from the beginning of the tenure regularisation programme (the feasibility study of the pilot project at the start of tenure regularisation in Dalifort in 1987), and has been regularly consulted by funding institutions and the government of Senegal to design simplified tenure regularisation procedures, and to assess its achievements and impacts.

Biases attributed to the scale of implementation and macro-economic factors

The first bias regarding impact evaluation of tenure regularisation is the limited scale of implementation.

Less than 2000 real property rights (surface rights) had been established in the 11 informal settlements that had been or were being regularised between 1988 and December 2007, of which only 1600 had actually been allocated. These 11 settlements account for only 3% of the total population living in informal settlements in Dakar. Had tenure regularisation been carried out in all the settlements targeted in 1991, impact would have been very different, especially for land markets (lower pressure from speculative investments on regularised settlements) and on government revenues (higher incomes).

Combining tenure regularisation with physical upgrading and the provision of basic services

One of the characteristics of tenure regularisation in Dakar is that it is carried out jointly with physical upgrading of targeted settlements and the provision of services. This characteristic has major methodological impacts when assessing the social and economic impact of tenure

regularisation: should observed changes be attributed to regularisation, or should they be considered as a consequence of heavily subsidised physical upgrading and provision of services?

Contribution of tenure regularisation to social and economic change at settlement level, compared with other possible causes is difficult to assess

Social and economic changes in informal settlements over the last few years in Dakar cannot be attributed solely to tenure regularisation but also to:

- Population pressure
- Investments in economic activities
- Penetration of national and international investment capital in the land and real estate markets in Dakar.

The respective share of tenure regularisation and other demographic, social and economic factors at city level is difficult to evaluate.

The announcement of tenure regularisation and de facto protection against evictions has further improved security of tenure in the settlements selected for tenure regularisation after 1991. One can assume that security of tenure impacts positively on the economic situation of households living in informal settlements, although this impact is difficult to measure.

Investment in housing and infrastructure, access to formal credit, and economic development depends on household incomes. However, the impact of tenure regularisation on household incomes is not clearly established by the survey in sample areas.

Comparability and control group/sample

Dalifort is the only pilot project where some survey data prior to tenure regularisation are available. In other settlements they are not available. However, location of Dalifort within the city makes it difficult to differentiate what is attributed to tenure regularisation and what should be attributed to the urbanisation and gentrification process observed in all new housing developments surrounding Dalifort.

Comparisons between W1 (regularised) and W2 (not regularised) proved that, in the context of Dakar, provision of real property rights did not have a major social and economic impact. This was confirmed by interviews with key stakeholders (cf. additional interviews with questionnaire 2 and discussion during the post-survey restitution meeting).

Although the tenure status of people living in the surveyed settlements before tenure regularisation is similar, (access to land through customary/informal land markets and squatting of privately owned land on which land titles had been issued prior to 1964), each settlement had had its own particular history (the year settlements started, the origin of migrants, relationships with customary “owners” etc) which impacts on the way the settlements concerned react to tenure regularisation.

Relevance and interpretation of answers made by surveyed households remains a major problem

There were problems of definition, particularly: (i) confusion over occupants with a “land title” (*titre foncier*) as people do not usually have a land title, but are living on plots which are on land for which a base title (*“titre mere”*) had been issued.

Information collection

- Identification of settlements to be surveyed as well as sampling: did not raise problems, as detailed map of the settlements were available.
- Household surveys. One difficulty: to find settlements residents at home and available for interviews, + city dwellers already 'exposed' to different kind of surveys and reluctant to answer the questions, as noted by previous teams involved in similar surveys (World Bank, 2004)
- The questionnaire has been adapted to fit local conditions, but is still dependant on the methodological hypotheses and practical objectives on which tenure regularisation policies are based (and which are in themselves debatable), including access to credit, improvement of local taxation, unification/formalisation of land markets.

Statistical categories used in Senegal derive from those defined and established in northern countries, and more precisely in France by the *Institut National de la Statistique et des Etudes Economiques* (INSEE), tentatively adapted to the context of Senegal. They are mainly used for national population census and surveys on incomes and employment. Yet statistical categories are the output/result of social and economic history, and correspond to specific local situations and systems of representation that must be shared and understood by both surveyors and respondents (for example, in the French statistical system, the category "unemployed" means a person who is searching for a stable and full time job but cannot find one. This means that the reference norm is a regular fulltime job. The situation is very different in Senegal, where social codes of conduct, value systems and power relations between individuals and the community are different).

Definitions of the main reference categories in any study on property rights vary with the respondents and influence their answer:

- Present and past tenure status (owner, tenant, squatter)
- Employment, under-employment, unemployment
- Revenues and incomes

Statistical categories do not have the same meaning for surveyors and respondents.

Biases in relationships surveyors/surveyed

The surveyors were young graduates and professionals experienced in socio-economic studies, mainly from urban middle-class families (Dakar and other cities).

Relationships with surveyed head of households are influenced by cultural differences, ethnic and linguistic affiliations, regional origins, class and cast relations and age difference. Deference and respect to the elderly did not allow them to request any evidence to back their assumptions, especially with regard to property, for example a copy of the lease, permit to occupy, "surface right" or land title.

Dissimulation.

Surveyors are frequently suspected to be government employees or informers who are likely to communicate survey questionnaires to government authorities, especially when questions related to ownership and income are raised.

The surveyed households usually dissimulate what their actual tenure status is, especially when they are illegal occupants, because they are afraid that information given to surveyors will be used to justify their eviction.

Many land transfers by customary owners, administrative permits holders, and surface rights holders are not legal, even when it happened that the transfer or the sale had been approved by government administrations. A certain percentage of occupants declare themselves as being the original right holder, even if they have bought the right from someone else.

Answers to questionnaires are frequently considered as a way to send a message to government authorities.

In order to be recognised as an owner, people might declare that they are the full owner of the property, even if they only had access to land through informal and customary land delivery channels.

There is frequently confusion between expectations, wishes, and reality, especially when the following subjects are discussed:

- Access to credit and investments
- Perception of tenure regularity and irregularity
- Cost of regularisation
- Employment: for example, the surveyed person wants either to be considered as a responsible person whose professional activity gives a respectable status, or to request some kind of support and emphasise that he/she is unemployed and has no income.

Language problems

Although translation of the survey output from French into English was not a significant problem, translation from French, the official language of Senegal, to Wolof, Serere, Peul, Mandingue, Soninke or Diola (les 6 premières langues du pays) was more difficult. Language is an important issue as surveyed heads of households from the first or second generation of migrants from rural areas, are poor and often illiterate. Illiteracy has been observed by researchers involved in other projects and Economic Interest Group EIG leaders, especially among older members of the community.

Part 2: Research findings: Titling programme impacts

General characteristics of surveyed settlements

Population, household size, average plots size, general characteristics of housing

POPULATION, HOUSEHOLD SIZE, AVERAGE PLOTS SIZE

(1) In Dakar region in 2002: 45%. Source. DPS/ESAM II, 2001 (Data adjusted on the basis of the 2002 Population Census)

(2) In Dakar region in 2002: 50.45%. Source. DPS/ESAM II, 2001 (Data adjusted on the basis of the 2002 Population Census)

Land tenure and occupancy status (in September 2007)

OWNER OCCUPANTS AND ABSENTEE OWNERS

Owner-occupants are the majority in all settlements

“Owner” has an ambiguous meaning: the head of the surveyed households would frequently declare themselves as owner of the land when in fact they owned only the dwelling unit. This understanding of “owner” is widely accepted, including in official definitions, which makes it difficult to distinguish “legal owners” (i.e. house or shack owners who have either a title or a surface right of an administrative permit) from “illegal owners”, who do not have any document recognised by the administration. This is why nearly 80% of the residents of Wakhinane 2 (which has not been regularised) consider themselves as “owner-occupants”. The percentage is about the same in the other settlements, but lower in Dalifort, where it drops to 64%.

Tenure status of occupants

Surface rights predominate in all surveyed settlements that have been regularised (55.6% in Dalifort, 47.4% in Ainoumady, 38.3% in Wakhinane 1). In Wakhinane 2 (unregularised), 42% of households have an administrative permit or a government lease, 19% have access to land through customary/informal land delivery channels. Interestingly, 8% of surveyed households declare that they have a land title but, as confirmed by the qualitative survey, they simply occupy informally, as squatters or tenants on land on which a land title has been issued, probably before 1964. This suggests the relative nature of perceptions of tenure status by some surveyed households.

2.1 Tenure security

Surveys carried out as part of the present research in four regularised settlements in Dakar were combined with the output of surveys previously carried out in two of them by M'baye (1996) and Precht (2002). They provide valuable information about the impact of tenure regularisation on tenants, especially in the case of Dalifort, where real property rights (surface rights) were issued between 1988 and the early 2000s. Detrimental impacts on tenants had been anticipated from the very beginning of the tenure regularisation programme, as well as the risk of massive land speculation to the benefit of a limited number of families. This is why, in Dalifort: i) tenants were considered eligible for tenure regularisation (this was not included in the other regularisation projects because it was considered too complicated), and ii) to prevent a small number of rental shack owners benefiting from tenure regularisation, they were required to pay extra charges amounting to twice the cost of regularisation. This restriction proved to have

limited impact, as the price set by the administration, even with the extra charges, was far below the market value of the regularised property.

In 1987, 71% of households in Dalifort were tenants, or were accommodated for free in rooms and shacks (Precht 2002). 60% of the people claiming ownership of rooms or shacks (despite having no legal basis for this claim) were living on the same plot, 13% were living on other plots in Dalifort, and 27% were living elsewhere, indicating a significant proportion of absentee 'owners'. Most existing tenants benefited from the first stage of tenure regularisation, as they were offered either a "surface right" on the plot they occupied, or a plot in the relocation site adjoining the settlement. The number of 'owners' increased by 25% between 1987 and 2000 (GERPES 2000), as these beneficiaries claimed their plots. At the same time, rents increased sharply for remaining tenants, as shack owners transferred onto them the costs of tenure regularisation and physical upgrading of the settlement. According to Guey (2000), between 1987 and 2000, the average rent for a room in Dalifort jumped from 3,000 FCFA to 150,000 – 20,000 FCFA.

Illicit registrations, sometimes encouraged by administrative practices, later weakened the situation of tenants. The Presidential Decree of 1991, organising tenure regularisation in informal settlements, authorised owners of several plots to register plots in addition to the one they already occupied, if "duly justified", and at twice the normal price of regularisation for a single owner-occupied plot set by the project (from 2,500 to 5,000 FCFA per square metre). Even when doubled, this is far below the market price of a regularised plot (13,000 to 14,000 FCFA per square metre in 1995) (M'baye, 1996) and enabled 'owners' of more than one plot to claim legal ownership of several plots at a discounted price. In addition, in many cases reported by Sidibe (1990) and Precht (2002) in Dalifort, multi-plot owners benefited from tenure regularisation through 'men of straw' (extended family members, and sometimes their own tenants).

Evidence from case studies confirms that, whilst there are substantive differences between formal, informal and customary tenure categories, perceptions are important in determining tenure security². For people living in informal settlements in Dakar, security of tenure is gained through two processes: i) recognition within the neighbourhood, which is considered the most important (customary ownership and private sale agreement provide such security); ii) formal recognition by the state, which is seen as a long-term objective. Although customary ownership is not formally recognised in the 1964 law on the National Domain, people who settled in the so-called "traditional villages" of the urban fringe do in practice enjoy a high level of security of tenure (Precht, 2003).

In Dakar, tenure regularisation contributes to improved security of tenure. However, it must be stressed that residents in most informal settlements already enjoy *de facto* guarantees supported by government commitments made at the very beginning of the tenure regularisation project in 1988, legal measures adopted in 1991, and administrative and customary practices.

One of the paradoxes of tenure regularisation is, therefore, that it benefits communities that are not directly exposed to evictions because their settlement is located: i) on land within the private domain of the State, National Domain land, or on private land (for which a land title was issued prior to the law on National Domain of 1964), and ii) on land suitable for urban development and

² The tenure categories identified by the South African team include: Formal ownership, intermediate ownership, expectation of ownership, informal ownership, occupying, formal rental, informal rental and 'looking after'.

designated for residential development in planning documents. These two conditions make the land potentially eligible for tenure regularisation. Qualitative studies as well as quantitative surveys carried out in Dakar in 2007 in four settlements that have been, or are in the process of being, regularised (Dalifort, Aïnoumady, Sam Sam 1, Wakhinane 1) and one control area that has not been regularised (Wakhinane 2) confirm that most occupants consider that, as they own the dwelling unit, they are the owner of the property, including the land, whatever their tenure status is. Accordingly, they believe that they enjoy full tenure security. This is reflected in the percentage of self-declared 'owners', compared with the percentage of actual real property rights holders. For example, 80% of surveyed households in Aïnoumady consider that they are "owners", yet, only 22% of occupants entitled to a property right had received it by December 2007. In Wakhinane 1 88% of surveyed households consider that they are "owners", but only 43% of occupants entitled to property right have received it. In Sam Sam 1, 89% of occupants consider that they are "owners", yet, only 18% of occupants entitled to property right have received them. The provision of titles therefore makes little difference to perceived tenure security, which is already high.

Another reason why perceptions of tenure security are high, even in informal settlements, is that on the whole physical upgrading is interpreted by beneficiary communities as a form of official recognition and a commitment to long term occupation, whether or not they have paid the cost of tenure regularisation. In this context, one can assume that beneficiaries' interest in tenure formalisation is not just security of tenure, but the access it gives to the formal land market.

According to Sidibe (1990) and M'baye (1996), security of tenure is not only perceived as protection against eviction; it is also a protection against encroachments: in informal settlements, security of tenure can be weakened by disputes between neighbours about plot boundaries.

In these circumstances, the first and most important step towards tenure regularisation is the census of households entitled to receive a surface right and the preparation of the layout plan that determines plot boundaries prior to physical upgrading and tenure formalisation. Identification of potential rights holders and plot boundaries is equally important, since the mere announcement of tenure regularisation exacerbates land disputes in settlements. All potential beneficiaries are involved in the exercise, which is carried out collectively at community level. The delivery of a real property right (in the case of Dakar, a "surface right") comes later, after physical improvement and sometimes land readjustment, and provides formal security of tenure. This is a much longer process that may take years.

The Senegal case study reports that a significant percentage of people entitled to a surface right in regularised settlements have not yet been delivered this right (only 56% of owner occupants in Dalifort have received a surface right, 47% in Aïnoumady and 38% in Wakhinane 1. There are three main reasons for this:

- delays in the administrative tenure regularisation process (République du Sénégal, 2006, Fondation Droit à la Ville, 2004 and 2006);
- potential beneficiaries do not have sufficient resources to pay the cost of regularisation
- people are unwilling to pay for the cost of regularisation as long as: i) they feel that they are protected against evictions because they are entitled to tenure regularisation, and ii) they do not intend to sell their right.

	Dalifort	Aïnoumady	Sam Sam 1	Wakh. 1	Wakh. 2
Property right					
- Surface right	55,6	47,4	38,5	38,3	0
- L. Title (Titre foncier)	13,7	13,4	15,5	24,7	8
- Lease / Adm permit	n.a	1	5,7	8,6	42
- Customary/informal	8,1	15,5	21,8	9,9	23
- No answer	22,6	22,7	18,5	18,5	31

This suggests that at least some households in Dakar consider that having the option of completing the titling process is sufficient for obtaining an adequate level of tenure security. Thus, finalising the process can be delayed indefinitely, especially if completion exposes them to additional expenditure which they regard as unnecessary. Many members of the Economic Interest Groups (EIG) (*Groupement d'Intérêt Économique*) that are set up locally at the commencement of tenure regularisation consider that it is not necessary to proceed up to the end of the process. Participation in a GIE provides in itself adequate security of tenure. This explains why so many potential beneficiaries of "surface rights" do not apply for them or, according to key informants, apply only if they intend to sell their property.

Not all residents of informal settlements, however, have tenure security. During regularisation, settlements exposed to eviction are those located on land unsuitable for urban development (for example subject to seasonal floods or landslides), or those developed on public land needed for infrastructure (such as rights of way) or public utility purposes, such as the construction of highways. This resulted in the eviction and relocation of about 3131 households (approx. 28,600 persons) in 2006-2007 in South Pikine Area (République du Sénégal, 2007). Such settlements are, by definition, not eligible for tenure regularisation, but most of them will be relocated in Keur Massar Area. However, in contrast to the policy prevailing until the mid-1990s, the public authorities do now provide evicted households with relocation options.

TYPES OF DOCUMENTS

All EIG and community leaders agree that female beneficiaries are frequently more willing to pay for the cost of regularisation than male. This attitude is attributed to their more vulnerable social status. Being a property owner is considered a form of protection.

WOMEN ENTITLED TO PROPERTY RIGHTS IN REGULARISED SETTLEMENTS IN DAKAR

In order of regularisation	Settlements	No. plots to be regularised	% of women eligible for regularisation	% of women who have paid cost of regularisation *
1	Dalifort	618	16.2	83
2	Wakhinane	403	18.4	100
3	Ainoumady	385	20.3	100
4	Sam Sam 1	866	13.6	100
5	Sam Sam 2	681	19,2	55
6	Sam Sam 3	1520	20	100
7	Medina. Fass Mbao	1500	13.7	88

8	Hamdalah 1/3	668	15,3%	100%
9	Hamdalah 4/5	608	18,7%	100%
10	Nassouroulah	753	13,4%	50%

Source: figures provided by Fondation Droit à la Ville, 2008. Figures provided by Economic Interest Groups – EIG, February 2, 2008.

The percentages above are based on the number of established property rights issued by the administration, (this figure is lower than that of the number of plots *scheduled* for regularisation, especially in settlements where the regularisation process has only recently been launched). Established property titles are delivered to beneficiaries only after they have paid the costs in full to the Economic Interest Group (EIG), for both regularisation and their contribution to physical upgrading of the settlement.

The number of women entitled to property rights in tenure regularisation projects is slightly less than the number of female-headed households in Dakar. According to the 2004 Second National Household Survey (*Seconde Enquête Sénégalaise auprès des Ménages*, ESAM, 2004) this figure is 24.6%, and 26.6% according to figures provided by the Fondation Right to the City in 2005 (these figures relate to two informal settlements in Pikine, which are similar to those that have been surveyed by the team).

2.2 Investment in housing and/or infrastructure & access to services

In Senegal, the relationship between the allocation of real property rights and investment is difficult to assess, as tenure regularisation was generally accompanied by physical restructuring and upgrading, plus the provision of basic services and improved roads. A series of other factors make it difficult to isolate the impact of tenure regularisation on investment in housing and/or infrastructure: (i) the initial condition of the housing stock in the settlement and the level of services and infrastructure before regularisation, (ii) the length of the regularisation process and the actual number of eligible households that have been delivered a property right, and (iii) income distribution and corresponding investment capacity of households in each settlement. However, some settlements (eg Sam Sam 1 or Whakhinane 1) have implemented tenure regularisation without significant physical improvements, and another settlement (Wakhinane 2) has experienced neither physical improvement nor tenure regularisation, providing an opportunity to isolate titling as a determining variable in investment levels.

Investments in housing

The survey provides information on investment made by households in home and environmental improvements following tenure regularisation and the allocation of real property rights.

Investments in housing concern mainly: i) the replacement of shacks and dwelling units built using non-permanent materials with dwelling units using permanent materials; ii) physical improvement of the existing dwelling unit (often construction of a roof in asbestos or concrete); and iii) extension of the house by the construction of additional rooms or storeys.

The most visible changes can be observed in Dalifort, the first settlement to be regularised, over the last two decades. In 1987, before tenure regularisation, 90% of the dwelling units were

shacks built in non-permanent materials. In 2000, after regularisation, 48% of the houses were built of permanent building materials (GERPES, 2000), a proportion which increased to 68% in 2007.

The surveys carried out in Dakar for this study indicate that tenure regularisation had an impact on improvements and extensions of houses by beneficiary households. Investment mainly focused on the following improvements that require a significant level of investment:

- roof improvements (iron sheets or non-permanent materials are replaced by asbestos concrete roofs or terraces)
- construction of additional rooms at ground level
- construction of an additional storey.

Fig 2.1: Proportion of households making improvements, as recorded in the Dakar cases

Dalifort: 53% of roofs improved; 44% have added one to four rooms; 24% have added one to two storeys
 Aïnoumady: 83% of roofs improved; 38% have added one to four rooms; 18% have added one to two storeys
 Sam Sam 1: 56% of roofs improved; 37% have added one to four rooms; 7% have added one to two storeys
 Wakhinane 1: 65% of roofs improved; 44% have added one to four rooms; 7% have added one to two storeys.
 Whakhinane 2: 29% have added one to four rooms; 11 % have added one to two storeys.

The survey shows (see Fig 2.1) that improvements in the structural quality of houses are more frequent in the regularised settlements than in the non-regularised one (Wakhinane 2). It shows also that it is in Dalifort that expansion of the floor areas is most important. This phenomenon seems to be closely related to the development of rental accommodation.

The highest proportion of owners investing in roof improvements is in Aïnoumady, with over half to two thirds of owners doing so in the other areas. A significantly higher proportion of households have invested in the more expensive vertical extension of houses in regularised settlements. This suggests that beneficiaries have been encouraged to invest following the allocation of real property rights.

Though these figures suggest that tenure regularisation has an impact on investments in housing, in Dalifort they can also be attributed to a series of other interrelated factors:

- the long time since the tenure regularisation process in Dalifort was initiated compared with other settlements
- Dalifort's prime location, which encourages owners to invest in the construction of rental rooms: improvement and expansion of houses are frequently linked with the development of rental accommodation: i) demand for rental accommodation encourages property rights holders to invest in housing improvement and expansion (vertically or horizontally); ii) in turn, income from rent increases revenue that can be invested in housing
- demand for land and its impact on land markets and land prices
- residential mobility and ongoing process of gentrification (see below section 2.6), as reflected in the coexistence of high-quality houses and shacks (Precht, 2001).

In the context of Dakar, investment in housing construction or improvement can be observed in settlements that are being regularised, as well as in settlements that residents *expect* to be regularised in the future (i.e. all informal settlements, except those vulnerable to eviction in the public interest or those which developed on land unsuitable for urban residential development). This suggests that Government commitments regarding tenure regularisation have been interpreted by people living in informal settlements as a sufficient protection against forced evictions and demolitions, and a sufficient incentive to invest in housing even if formal regularisation is not yet in place. Titles, or the anticipation of receiving them, have therefore clearly stimulated investment in housing. However, even for households not expecting titles, risks are limited, as government practices assure house owners that they will be paid compensation for the value of the built structures if they are evicted, whatever their tenure status (République du Sénégal, 2008). Furthermore, investment in housing is seen by informal occupants as a means of legitimising their rights to land and, accordingly, their entitlement to future tenure regularisation.

Investments in infrastructure and access to services

The impact of tenure regularisation on investments in environmental improvements is more difficult to isolate. Prior to the 1991 decree organising tenure regularisation in informal settlements, provisions of services in irregular settlements were not permitted, as they could have been interpreted as a form of *de facto* recognition of the settlement. Since 1991, services (water supply, electricity) are available in all settlements, including those that are not regularised, if the service provider deems there is sufficient local demand.

Sample areas usually have good access to water (on average 79%), electricity (85%) and septic tanks (90%). Connection to telephone networks is reasonable at between 40% and 45% of plots. The level of water service, electricity and telephone services is a result of the strategy of urban service providers (National Electricity Company – SENELEC, and Sénégalaise Des Eaux – SDE) and the National Telephone Company (SONATEL). Service can be provided whatever the tenure status of the occupant, as long as he/she can pay for services provided.

Conversely, some settlements have benefited from tenure regularisation without physical improvements. However, most settlements are still underserved because of their distance from main supply networks and because they cannot pay for services, and particularly since the early 2000 due to a lack of public resources for physical upgrading (insufficient public subsidies and failure of cost-recovery).

In regularised settlements (excluding Sam Sam 1 and Wakhinane 1), provision of infrastructure and environmental improvements accompanies tenure regularisation, so investments in environmental improvements by beneficiaries of real property rights depend, to a large extent, on the investments being made in infrastructure at settlement level by tenure regularisation implementing agencies (usually improved drainage, sewerage, water supply and roads, which usually require land readjustment and the design of a new layout plan).

Tenure regularisation does not always result in significant improvement in sanitation, sewerage and drainage.

	Dalifort	Ainou.	S.S.1	Wakh.1	Wakh.2
Addition of storey	24,2	17,5	8	8,6	14
-1 level	17,7	14,4	8	7,4	11
- 2 levels	0	3,1	0	0	0
Addition of rooms	43,2	38,2	36,7	44,5	29
- 1 room	5,6	9,3	5,7	2,5	9
- 2 rooms	11,3	9,3	9,8	7,4	8
- 3 rooms	7	6,2	8,6	6,2	6
- 4 rooms	19,3	13,4	12,6	28,4	6
- No answer	0	0	0,8	3,6	3

In Dalifort, the first informal settlement to be regularised in the late 1980s and early 1990s, sanitation and drainage of surface water has not been significantly improved. Flooding problems are recurring during the rainy season in all the surveyed settlements.

There is a lack of land available in informal settlements for the provision of social services such as health and education as the land is already occupied. Land is not reserved for social services. They are located in regular/formal areas most of the time far away from settlements (informal ones as well as newly regularised settlements). Existing health centres and primary schools can't meet the increase in demand, despite the significant global rate of school enrollment for the whole target areas. Better located settlements which are, such as Dalifort (near formal residential areas) have a better access to social services.

This motivated the addition by the Foundation of *Droit à la Ville* (FDV) to add two more elements to the restructuring and land regularisation programmes in Pikine Irregular South (PIS): basic education (which began in Pikine in Dakar with school and multi-purpose centres) and flood management.

Costs of upgrading, improvements and tenure regularisation are supposedly covered by the contribution of beneficiaries of the property rights, on a cost-recovery basis: the property right is delivered after payment by the beneficiary, through the EIG, of the cost of land, plus administrative costs and fees, plus the cost of infrastructure. In fact, cost-recovery is not effective and improvements to the local environment, as well as provision of basic infrastructure, are heavily subsidised, with minor contributions from beneficiary households.

2.3 Access to formal credit

In Senegal, the field survey indicates that tenure regularisation has very limited impact on access to (formal) mortgage credit, irrespective of whether the objective is:

- to invest in economic activities or to set up a business/commercial activity
- to buy another property
- to build a new house on the plot, or upgrade an existing one.

With regard to access to credit, a clear distinction must be made between credit granted by commercial banks and specialised institutions such as the Banque de l'Habitat du Sénégal (BHS) which are, or can be, mortgage loans for which the property right is used as a collateral, and small loans granted by micro-credit institutions.

Having a real property right, such as a 'surface right', does not necessarily give access to mortgage credit. In addition to collateral, banks usually ask for a bank guarantee provided by another person, or ask the borrower to provide evidence that he or she has a regular income. The Senegal surveys confirm that access to bank loans for the acquisition of a property or the construction or improvement of a house in regularised settlements is in general very low: 5% in Dalifort; 21% in Aïnoumady; 13% in Sam Sam1; 13% in Wakhinane 1; 4% only in Wakhinane 2, which has not been regularised and is not scheduled for regularisation. The surveys do not provide evidence that the property rights delivered on the occasion of the tenure regularisation project are used as collateral. Although the low percentage of loans granted in the unregularised Wakhinane 2 settlement would suggest that there is a relationship between tenure regularisation and access to credit, the *terms* of the relationship are not clear. In Dalifort, where important investments have been made in housing construction, and where a steady gentrification process can be observed, access to mortgage credit is particularly low. Savings are preferred to credit. According to key informants, this can be explained by the relatively high incomes of newcomers, and dissimulations in land transactions resulting from legal restrictions on transfers of property rights.

Banks are reluctant to provide mortgage loans to low-income property rights holders unless the land i): is well located – and consequently has a good market value – in terms of road access, proximity of areas of employment and middle and high income housing developments and ii); has access to basic infrastructures and services.

Firstly, access to mortgage credit is not considered as a priority objective for the majority of people living in regularised informal settlements. Reasons are many, but include:

- The formal credit system is not adapted to the needs and economic situation of low-income families. (In the 5 surveyed settlements, between 40% and 62% of people live on daily incomes of less than US\$0.9).
- Poverty of the communities concerned, with low incomes and unemployment: a lack of savings excludes the vast majority of households from any form of credit other than micro-credit. Loans are granted for a maximum period of 20 years. Personal deposits required by the banks vary between 10% and 20% of the loan.
- Low rate of economic activity (this is determined statistically by the proportion of the population aged 15 and more in active employment) combined with irregular incomes. The rate of labour force participation in Wakhinane 2, the poorest settlement, is low, with only 21% in work (either in the formal or informal sector); even in Dalifort, only 26% of those aged 15+ are working. Yet monthly repayments are permitted by the lending institutions to exceed 1/3 of a borrower's income, as assessed by his/her last three pay slips or other certified documents acceptable to the bank.
- The high cost of credit (the rate of interest plus fixed costs including administrative costs and insurance). The average rate of interest for a mortgage loan is 12% per year. The Banque de l'Habitat du Senegal (BHS) provides loans at lower rates: 8% to 10% per year, up from the rate in 1998 which was between 6-7%. The borrower must also subscribe to insurance covering life, job loss, fire, and disability.
- The risk of expropriation if repayments are not made by the fixed date, particularly with well located land (there was anecdotal evidence from key informants in surveyed settlements about several cases of borrowers' land being expropriated following minor repayment delays).

Secondly, most families rely on their own savings, or on extended family savings and solidarity systems for major expenditures related to the purchase of properties, housing construction and improvements. Amongst the owners that have purchased a property in the regularised settlements since the regularisation project was launched (either a dwelling unit or a plot and the dwelling unit built on the plot), the majority had relied on their own savings: 79% in Dalifort, 70% in Sam Sam 1, 54% in Wakhinane 1, and 50% in Aïnoumady.

Thirdly, low-income families can borrow money from moneylenders who operate at local and settlement levels. According to key informants in the surveyed settlements, many people rely on this semi-formal credit system. Rates of interest are higher than those of micro-credit institutions, but access to credit is simple, rapid and private land sale agreements – not necessarily property rights – can be given as collateral to the moneylender, to be returned to the borrower when the money is reimbursed.

Fourth, alternative credit systems, based on community and group savings, have been set up and promoted in all regularised settlements as an accompanying measure to tenure regularisation. Their functioning derives from – and relies on – the traditional revolving savings and credit system, usually set up at neighbourhood level, known as “*tontines*”. These micro credit groups have benefited from the creation of Economic Interest Groups at settlement level when regularisation projects are being prepared and implemented (World Bank, 2004). Women’s organisations are playing a major role in micro-credit organisation and management. The objective of community saving groups is to provide micro-credit to improve the economic situation of the beneficiary households (poverty alleviation), in order to help them cope with the costs incurred during both physical and tenure upgrading. However, the loans granted are modest and targeted mainly at the development of home-based activities and are by no means sufficient to finance housing construction, expansion and upgrading, or major improvements. Micro-credit is based on community organisation and mutual trust amongst micro-credit group members, and between them and the NGOs or other institutions involved (Groupe Agence Française de Développement, 1999). Property rights are not used as collateral.

Tenure regularisation and physical upgrading have clearly contributed to improved access to micro-credit and to the development of micro-credit institutions. However, one cannot assume that this is the result of the provision of real property rights alone.

Observations made in Dalifort over the last two decades (Mbaye, 1996, Precht 2001), as well as qualitative interviews in the regularised settlements, suggest that the creation of Economic Interest Groups - EIG (Groupement d’Intérêt Économique) at the start of the regularisation process acted as the catalyst. In Dalifort, the Promotion of Economic Activities (PEA) supported by the GTZ in 1989 had been accompanied by the creation of a revolving fund which granted micro-credit to residents for the development of home-based economic activities. The PEA was dissolved in 1990, due to mismanagement. Another micro-credit institution set up in 1995, the *Caisse Populaire d’Épargne et de Crédit* (CAPEC), formally recognised by the Ministry of Finance, was unable to fulfil its mission for the same reason. The most successful institution, the *Institution Mutualiste Communautaire d’Épargne et de Crédit* (IMCEC) was created in 1998. In its first three years of activity, about 80% of the loans were granted to promote small commercial activities. According to Precht (2001), quoting IMCEC sources, the tenure regularisation project was a precondition for the success of this initiative, but it is not clear whether the success must be attributed to the physical improvement of the settlement, to street addressing (that gives every resident a postal address), or to the use of the property right to secure the loan.

2.4 Municipal government revenues

In the tenure regularisation and physical upgrading projects in urban areas, property rights are delivered to the beneficiaries when they have fully paid i) the price of land to the Taxation Department as set by the administration, plus the administrative costs of regularisation, fees and stamp duties; (ii) their contribution towards the cost of development and provision of infrastructure to the Physical Upgrading and Regularisation Fund ("*Fonds de Restructuration et de Régularisation*" – FORREF). Nothing is paid to local authorities.

Financial benefits of tenure regularisation for local authorities are expected to derive mainly from the payment, at a later stage of the titling process, of real estate tax ("*taxes sur le foncier bâti*"), and tax on property transactions. However, the impact of the provision of real property rights on municipal government revenues is limited, at least in the short and medium terms.

According to the Taxation Code ("*Code des impôts*"), real estate taxes apply to both formal and informal properties. Some owners in regularised settlements usually the wealthiest ones, can benefit from a ten-year exemption (because their houses conform to official construction norms). Those owners who cannot comply with construction norms and standards, or whose house has not been built recently, have to pay taxes. This encourages dissimulation, reducing revenues from taxation. In practice, the vast majority of people living in informal settlements do not pay real estate taxes because of the assessed low value of their properties.

Low levels of revenue from real estate taxation can be also attributed to another factor: in many cases, house owners have simply not yet been recorded by the Taxation Department ("*Service des impôts*"): in most informal settlements, there are no official records or census of residents, and no postal addresses. In this regard, it is not the allocation, in itself, of a property right that improves tax recovery, but the identification of potential tax payers in the first place. This is done in the preparatory stage of tenure regularisation, following the census of all households, the identification of those who are entitled to tenure regularisation, and the setting up of the Economic Interest Group (EIG). The question is therefore whether the allocation of real rights is the fastest, cheapest and simplest way to identify potential tax payers, or whether other approaches, such as "street addressing," would be sufficient.

The tax on property transactions amounts to 15% of the assessed value of the property. Revenues from taxation on transactions are shared equally (50%-50%) between central government and local authorities. It concerns only the formal property market. As transactions made in the informal market are not recorded – and accordingly escape taxation – one can expect that tenure regularisation will improve municipal government revenues. In fact, qualitative surveys suggest that being caught within the property tax net may have discouraged households entitled to a property right from finalising the tenure regularisation procedure, as long as they have the required guarantees that they are eligible for tenure regularisation and will be allocated their property title when they have fully paid the cost of regularisation. Key informants in the surveyed settlements consider that tax evasion is one of the reasons (along with poverty and dissimulation with respect to non-authorized transactions) for the reluctance of beneficiaries to finalise payments for the property right to which they are entitled.

Thus in principle, tenure regularisation should increase revenues for central government and local authorities. However, in reality, formalisation makes a negligible contribution to local government revenues. There are several reasons for this:

- The limited scale of tenure regularisation in Dakar and Pikine (though this might have increased revenues if it had, in fact, been implemented on a larger scale)
- Widespread tax exemptions due to the low assessed value of the properties;
- Lack of appropriate tools (and the failure of attempts made in the late 1980s to implement a fiscal cadastre in Dakar - Cadastre Fiscal Sénégalais);
- Dissimulation with respect to transactions, to avoid administrative restrictions imposed on the transfer of property rights
- Illicit collection of taxes.

So far, the financial costs of tenure regularisation have been much higher than the revenues generated through taxation. Tenure regularisation is heavily dependant on grants and loans from bilateral agencies (mainly the GTZ) and central government subsidies to the FORREF and the implementing agency, the Foundation Right to the City ("*Fondation Droit à la Ville*" – FDV) (Barbier, 2006, Durand-Lasserve, 2006). However, improvements in the economic situation resulting from tenure regularisation, as observed in the regularised settlements, may have a positive long term economic impact, although this is not measurable at present given the available information and data.

Occupants in settlements entitled to tenure regularisation frequently invoke the risks of increased taxation as justification for not applying for a Surface Right. Many people consider that they have more to lose than to win. In the context of Dakar, given administrative practices and the general poverty of the communities concerned, the taxation issue can be seen as a major obstacle to the large-scale implementation/replicability of tenure regularisation. From the very beginning of the regularisation programme in, cost recovery has always been below the most pessimistic forecast, and the programme could not have survived without massive subsidies.

2.5 Impacts on economic development for poverty reduction

In Senegal, the tenure regularisation process has been carried out since 1991 with ambitious objectives. However, only a small part of the programme has actually been implemented. Dalifort is therefore the only settlement where a medium term assessment can be made of the impact of tenure regularisation on economic development. Between 1988 and December 2007, a total number of 618 house plots for which a property right (surface right) was to be allocated, 421 had been actually delivered (and about 35 already converted in freehold titles); 150 had been processed, but not yet delivered to the beneficiaries (because they did not pay for the cost of the surface right), 7 were being processed and 40 had yet to be established. However, short-term impacts have been observed in other regularised settlements, such as Rail, a small inner-city squatter settlement, where tenure regularisation was coordinated by a local NGO (Enda-Rup), or in Medina Fass Mbaou.

The survey shows that tenure regularisation may have had an impact on employment: in Wakhinane 2 (not regularised) only 21% of persons aged more than 15 have a job (formal or informal). The percentage is slightly higher in other settlements, but never higher than 26%. Amongst employed persons, the percentage of those working in the formal sector is the lowest in Wakhinane 2 (31%). It is 37% in Wakhinane 1 and 50% in Dalifort.

The impact of regularisation on incomes is not clearly measurable and does not permit definite conclusions to be drawn. Wakinane 1, regularised, has the highest average incomes (678 FCFA per person per day). The lowest income level is found in the control sample in Wakinane 2,

which has not been regularised (537 FCFA). However, incomes are not significantly higher in Dalifort, the first settlement regularised (547 FCFA). It seems that improved environmental conditions, commercial activities and gentrification of the settlement, have had an impact on incomes, but this has been compensated for by the arrival in the settlement of a large group of poor tenants. This introduced income disparities between households and lowered average incomes.

Qualitative interviews during the survey suggest that tenure regularisation has resulted in the development of rental housing, with impacts at two levels:

- employment opportunities in the construction and expansion of houses (not measurable/visible in the survey)
- incomes from rent (7% of incomes in Sam Sam 1, 6% in Whakhinane 2), these figures being probably below reality given dissimulation by owners interviewed.
- In Wakhinane 2, it is in the group of the poorest families that revenues from rental and remittance are highest.

Evaluation of the impacts of tenure regularisation on economic development in the Dakar case studies is complicated for several reasons.

First, tenure regularisation in Dalifort and Aïnoumadi was accompanied by important investments in physical upgrading and by the provision of basic services. In assessing the impact on poverty reduction, it is therefore difficult to differentiate which improvements must be attributed to tenure regularisation, and which are the results of the provision of infrastructure and basic services.

Second, in all surveyed regularised settlements (Dalifort, Aïnoumadi, Sam Sam 1 and Wakhinane 1), 'Economic Interest Groups' (EIG) have been established in order to identify right holders eligible for tenure regularisation and to determine the contribution that each beneficiary household must make to the costs of physical upgrading and provision of services. EIGs provided a sound framework for the development of community based organisations and micro-credit local institutions which have contributed to the development of commercial activities at settlement level, a process in which women are playing a leading role. Although tenure regularisation has seen the development of commercial activities, it is not a direct link.

Third, economic activities and improved rates of employment in the surveyed settlements depend on external factors. For example, in Dalifort, key informants indicated that middle and high-middle income residential development around the regularised settlement provided new job opportunities to residents.

Fourth, gentrification following tenure regularisation introduced another series of considerations.

These considerations are identified by Precht (2001), reporting from Dalifort. The tenure regularisation and physical upgrading project has generated new economic development opportunities and, accordingly, new resources for residents including construction of rental rooms, and development of commercial activities and services provided to middle-income residential developments built near Dalifort over the last 10 years. The survey the author made to identify economic factors in the settlement show that most of them settled in Dalifort in the 1990s, following regularisation, because they obtained guarantees that they would not be exposed to eviction. They used their own savings to set up small-scale businesses. Their investment has impacted on local employment, and their commercial activity has contributed to improving access to basic goods and services in the settlement. However, according to the

	Dalifort	Aïnoum.	S.S. 1	Wakh. 1	Wakh. 2
Rate of activity% (1)	25.9	26.5	26.9	20.3	20.7

settlement's inhabitants, they have indirectly hindered investments by the original residents who were poorer than newcomer investors, and unable to mobilise small savings. Precht concludes that (2001:86) "for those individuals that have not been able to mobilise external resources, the main advantages of tenure regularisation was limited to the possibility of being employed by newcomer investors, to the rental of part of their plot or dwelling unit, or to find employment in the more affluent neighbourhoods that had developed near Dalifort. Those households that cannot have access to these new sources of incomes might consider that the only alternative to get a financial benefit from regularisation could be to sell their plot". In-depth interviews with households in the outer periphery of Dakar and Pikine indicate that the settlements are deprived of economic activities. The grant of the surface right was not sufficient in itself to significantly improve the socio-economic situation of households.

Information collected during the survey on residential mobility in Dakar suggests that the economic impact of tenure regularisation through provision of property rights is not necessarily measurable within regularised settlements. Sales of newly regularised plots on the informal (if the transfer is not authorised) and formal land market generate a profit: the seller takes advantage of land price increases following tenure regularisation and usually re-settle on cheaper land in informal settlements in the outer fringe of the city. Part of the surplus from the sale of the regularised land, which is not used for emergency expenditures or consumption can possibly be used for small investments, but in another settlement than the one that had been regularised.

However, for some households, regularisation had a negative impact. This is clearly summarised by Precht ((2001:104): "following the displacement of poor tenants in outer fringe informal settlements, a trend can be observed now amongst the beneficiaries of regularisation who are not sufficiently strong, in economic terms, to resist market pressure. Most land sales in Dalifort are involuntary ones, imposed by the economic situation. This is contradictory with one of the objectives of tenure regularisation, which is to promote economic activities. Many families are so poor that they are unable to improve their housing conditions, and can even not benefit from rental revenues. As such, families cannot – by definition – embark into economic activities that would generate revenues, and the sale of the property is seen by some of them as the only option".

EMPLOYMENT AND INCOMES

Rate of activity% (1)	25.9	26.5	26.9	20.3	20.7
- % of regular salaried amongst employed population	26.8	37.9	19.2	26.2	26.1
- Monthly incomes in (in <u>FCFA</u>)	131,357	144,870	130,590	183,111	145,223
- Percentage of incomes < 100 000	60	54	61,8	40,1	60,3
> 200 000	12	18.3	11.5	21.3	10.7

(1) Rate of activity: Percentage of employed people aged 15 and more / total number of people aged 15 and more.

According to the Ministry of Economy and Finance (Situation économique et sociale du Sénégal, 2001), the rate of activity in the Dakar Region in 2001 was 40,8%

2.6 Impacts on urban land and housing markets

The tenure regularisation programme used two main measures to limit land speculation: limiting the benefit of regularisation to multi-plot owners, and restrictions on land transfers following tenure regularisation without permission from the administration (GERPES, 2000). However, these measures had no tangible effect. This was because: i) households were entitled to regularise only one plot of land at a price determined by the administration, but they were permitted to regularise other property at a price twice higher than the administered price, but still much lower than the market price and; ii) restrictions were imposed on beneficiaries of property rights preventing the transfer of rights without prior government authorisation for a period of 5 years. This restriction resulted in the development of an informal land market of regularised plots.

The literature therefore reveals evidence of two opposing approaches by governments concerning the integration of titled areas into the formal land and housing markets. In some cases, transfers are encouraged, but do not always happen for the reasons predicted, whilst in other cases, transfers are discouraged for social reasons, but may actually take place, though not for the reasons predicted. It is possible that the problem of predicting outcomes may be the result of introducing dramatic and sudden changes to property values, or attitudes towards property which do not reflect the priorities or needs of the groups affected. This lies at the heart of the issue as to whether it is preferable to effect a complete transformation of the legal and economic status of informal land into the legal and formal market, or whether a more incremental approach may be more effective.

Land titling programmes place heavy demands on land administration agencies, since they involve a number of administrative procedures:

- Surveying the areas to be titled
- Recording survey information
- Checking areas to be titled for conformity with official planning norms
- Identifying claimants
- Resolving conflicting claims
- Preparing and allocating title documents
- Preparing the land registry
- Updating the registry as transfers occur
- Communicating with other authorities regarding land taxation, etc

Many of these agencies are overstretched performing routine tasks, so their ability to adapt to new challenges within a dynamic policy and economic environment imposes further demands. Augustinus (2003) states that “large scale and sweeping tenure reform can lead to a loss of security of tenure by underestimation of the record-keeping requirements required to implement reforms, and putting pressure on already weak administrations to carry out tasks (land survey, adjudication, titles/deeds registration) for which they do not have the human and financial resources”. Prior to simplifications proposed in 1993, the tenure regularisation of property rights

in Dakar required 44 steps and involved 12 different central and local administrative offices and other entities (Durand-Lasserve and Sall, 1993). Following drastic procedural simplifications, these steps have been reduced to 14, involving 10 different administrative offices and other entities. In 2000, a specialised implementing agency the Foundation Right to the City ("*Fondation Droit à la Ville*" - FDV), was created with the financial support of bilateral funding (KfW, Germany). It aimed at speeding up the land regularisation process, by providing the administration in charge of tenure regularisation (the Department of State Domain) pre-processed application files, to perform part of the work that would have been normally under the responsibility of the Department of State Domain.

The tenure regularisation programme was launched in 1987 in Dalifort. In 1999, e.g. 12 years after the tenure regularisation had been launched, only 25% of entitled households had received their property right (Precht, 2001). The conversion of property rights into freehold land titles, that should have been a routine procedure according to the law of 1991 on tenure regularisation, proved to be nearly impossible. Two applications only had been submitted in 1999, but they were rejected by the administration, which invoked technical processing problems. Key informants in the surveyed regularised settlements in 2007 confirm that nearly no property rights allocated at the occasion of the tenure regularisation projects had been successfully converted into freehold titles.

The Dalifort regularisation project expanded to major informal settlements of Dakar metropolitan areas in the 1990s and had delivered, in June 2006, less than 1,280 "surface rights", a form of real property rights. At this pace, decades would be needed to respond to the titling needs, despite drastic simplification of procedures and the setting up, in the late 1990s, of a specialised entity responsible for speeding up the titling process (République du Sénégal, 2006).

Opposite impacts of tenure regularisation on land markets

Case studies of the citywide tenure regularisation programme, show that the programme is having two opposite impacts: i) it has accelerated the formalisation of informal land markets (provision of transferable real property rights) and; ii) it has induced an "informalisation" of formal land transactions (to avoid taxation or temporary restrictions put on the transfer of real property rights). These two phenomena are closely interrelated and cannot be disentangled one from each other.

Tenure regularisation has an impact on informal land markets, but its impact on formal land markets is limited. It has encouraged the property market because: i) the settlements do enjoy security of tenure and; ii) tenure regularisation is being accompanied by physical restructuring of the settlements through the provision of basic amenities and infrastructure. Rising property prices in Dalifort have boosted demand for land and promoted speculative strategies.

Increased land prices following regularisation have encouraged land transfers. The realisation of windfall gains and distress sales combined together impacted on the volume of land sales by the lowest income groups. According to a survey made by Mbaye (1996) on land sales in Dalifort between 1991 and 1995 (in the 6 years that followed regularisation) more than 11% of the plots had been sold. The author estimates that 69% of land sales are "distress sales", 16% are made by regularised occupants that cannot pay for the cost of the surface right and prefer to sell the plot, formally or informally, before they are deprived of their right to be regularised. The remaining 15% are people who want to settle elsewhere or have to sell the land following inheritance. The majority of sellers stay in Dalifort, where they become tenants. About 25% settle in informal settlements in the urban fringe.

Market-driven displacements can be seen as a normal and unavoidable phenomenon. However, if tenure regularisation is accompanied by large-scale displacements, it means that only part of the objectives of tenure regularisation are being met. Many sales are distress sales (Prechts, 2001). Property rights delivered can be seen as a form of subsidy which has only a short-term impact on urban poverty.

The provision of property rights in a context of extreme poverty (more than half of the target population is living below the poverty line) makes land indirectly available for formal private developments. Despite administrative restrictions of transfer of property rights by newly regularised occupants, tenure regularisation has given rise to active formal and informal land markets. These dynamics may result in market-driven displacements and, without provision of land for housing, in the acceleration of the spatial expansion of informal settlements in peri-urban areas unsuitable for urban development. Furthermore, given the asymmetry in access to the administrative machinery, to land related-information and to sources of funding, significant parts of the benefit of tenure regularisation are captured by the most affluent segments of the urban population.

Slightly more than 50% of buyers come from other areas in the Dakar urban area and 40% are Senegalese workers living abroad and sending money back home to Senegal. A regularised settlement, such as Dalifort in the mid 1990s, attracts mainly middle income buyers who can have access to land with secure tenure status at a price which is lower than in formal developments, and benefit from the simplicity of informal, although secure, transactions.

In 2000, GERPES estimated that 20% of all regularised plots had been sold. Yet, the name of the original beneficiary remains on the official records of the administration and of the EIG. However, in the short term, the Dakar case study suggests that market-driven displacements do not follow tenure regularisation immediately, but must be seen as a long-term trend. This can be illustrated by the regularisation project carried out in Rail, in the northern part of Dakar city centre, a small settlement of 1 hectare with a majority living as tenants. The programme was launched in 1996 with the support of French co-operation, and was evaluated two years later. At this early stage of regularisation, the vast majority of the beneficiaries expressed satisfaction about the regularisation: it had resulted in a sharp decrease in housing expenditures, which fell from 5,000 to 15,000 FCFA (rent paid to shack owners) to 2,700 FCFA (the negotiated contribution to tenure regularisation whose tenants benefited).

Gentrification can be observed in all of Senegal's informal settlements located in prime urban areas, whether or not they have been formally regularised. However, the extent of market-driven displacement generated by informal sales of formal titles allocated at the occasion of tenure regularisation cannot be quantified as surveyed households usually dissimulate this practice³.

Tenure regularisation and informalisation of land delivery channels

As restrictions have been put on land sales or transfers for newly regularised properties, many transactions have become informal, although land administration officials are involved. Non-

³ Whilst market driven displacement may be acceptable if the displaced households leave voluntarily and receive compensation at market rates, experience shows that this is rarely the case. Many transfers are distress sales (Prechts, 2001) and enable well informed and well connected developers (and often officials) to acquire well located land at discounted prices. As a result, the main benefits are captured by the most affluent segments of the urban population.

directive interviews indicate that land titles have frequently been sold to a person who authorises the original beneficiary to stay on the land, or who rents out the shack to low-income households pending the construction of a high standing house. Legal restrictions put on transfers of land titles during the five years that follow tenure regularisation encourages this practice. From its early stage, tenure regularisation had an impact on land markets and land prices. As soon as the Dalifort regularisation project was announced, but prior to it being officially launched, influential residents in the settlement and owners of rental houses in the settlement, as well as some absentee shack-owners, managed to buy a large number of houses and shacks on the informal land market, and claimed that they were entitled to tenure regularisation. In other cases, an arrangement was made with tenants to declare the property under the name of a family member of the owner (Precht, 2001).

Rather than creating a formal land market, tenure regularisation has frequently encouraged the development of new forms of informal land delivery channels/markets. According to municipal sources in Dakar, most land sales in newly regularised settlements, especially in Dalifort, are not declared, because they have not been formally authorised. Usually, 50% of the agreed price of the land is paid by the buyer to the original beneficiaries of surface rights when the private agreement is signed. The balance can be spread over a few years. Original surface right holders can stay on the land until the buyer takes it over and develops it or, more frequently, move out to an informal settlement in the periphery of Dakar and Pikine (such as Yembé in the case of Dalifort). The informal transfer will be formally regularised in a later stage. Paradoxically, formalisation of land tenure has resulted in the informalisation of formal practices.

Survey evidence underlines the importance of population migration by regularised and non-regularised households to and from other settlements, irrespective of their tenure status. The survey shows clearly that, despite tentative restrictions to control land transfers, a large proportion of initial owners who had been allocated property rights, but had later sold their plot on the informal land market, resettled in informal settlements (37% in Dalifort, 50% in Aïnoumady, 40% in Sam Sam 1). However, in Wakhinane 1, many title beneficiaries who sold their plots resettled within the neighbourhood. Most newcomers who bought plots from regularised owners came from informal settlements (42% in Dalifort and Aïnoumady, 47% in Sam Sam 1). In Wakhinane 29% of buyers of regularised plots were previously living in the neighbourhood. Displacements to and from informal settlements can also be observed in Wakhinane 2, which has not been regularised (respectively 52% and 40%).

Tenure regularisation impacts on land prices

The surveys in Dakar reveal a strong increase in land prices⁴ in all neighbourhoods. The average price for a 150 sq.m parcel in 1997 was: 1,540,000 francs CFA in Dalifort; 880,000 in Aïnoumady; 1,714,746 in Sam Sam; 12,250,000 in Wakhnane and; 21,180,000 in Wakhinane. Prices for the same plots recorded during 2007 in the five surveyed settlements indicate that the price has been multiplied more than ten times in Dalifort, by 8 times in Aïnoumady, by 7 in Sam Sam 1, by 2.4 in Wakhinane 1, but less than 4 times in Wakhinane 2, which has not been regularised, demonstrating that regularisation has a major impact on land price increases, except in Whakhinane 1. Qualitative interviews, and the analysis of the settlement formation and development over time, underline the cohesion of the community, its social homogeneity and,

⁴ Land prices increased far more rapidly than inflation, which has consistently remained low in Senegal following the devaluation of 2004. Between 1997 and 2007, inflation has never exceeded 2%, except in 2003 when it reached 3%.

for these reasons, its lower vulnerability to market pressure compared with other regularised settlements.

The regularisation project of Medina Fass M'Bao settlements (1,400 plots) was launched in 1993 with the financial support of the French Cooperation ("*Agence Française de Développement – AFD*"). An impact evaluation made in 1999 (AFD, 1999) also confirmed a sharp increase in land prices. The average price of a plot before regularisation was 260,000 FCFA. This jumped to 3,590,000 FCFA 5 years later (an increase of 14 times). Such an increase cannot be attributed solely to the physical upgrading of settlements carried out in parallel with tenure regularisation, but also to land speculation.

Note that the provision of property titles is a prerequisite for the development of housing projects by formal private investors. However, they are not sufficient to ensure the success of a land and/or housing development project: location of the land and access to infrastructures (access roads and service infrastructure networks) are essential conditions for investment by formal private developers. In some areas, it seems inappropriate to measure the role of tenure regularisation in increases of land prices as it can be attributed to other factors. For example, observations made by Mbaye, in 1996, and Precht, in 2000-2001 suggest that residential development for middle and upper income groups which took place in the vicinity of the regularised settlement in the early 1990s (Hann Mariste and Belvedere developments), where land was sold at prices between 12,000 and 16,500 FCFA per sq.m, have boosted land prices in Dalifort, where land had been allocated at the administered price of 2,500 FCFA. Between 1991 and 1995, the price of land in Dalifort has multiplied more than 5 times.

The trend in land price increases seems to be irreversible, thereby exposing the regularised occupants of land with low incomes to be displaced by higher income households who buy only for the sake of accessing property or for speculation (lease, appreciation, hoarding). The consequence of this is the creation of new informal areas through the resettlement process. However, increases in land prices since 2000 in urban and peri-urban settlements cannot be attributed only to tenure regularization, since a shortage of formal supply compared with demand has been a major contributing factor. Under the tenure regularisation programme in Dakar, only 2,010 property rights were actually delivered between 1988 and January 2008. When existing projects are completed – this will take up to 10 years at the current rate – it is projected that 8,000 property rights will be delivered.

According to key real estate business informants in Dakar, other factors have a part to play in land price increases:

- De facto security of tenure which impacts on informal land markets, boosted by a high demand of land for housing
- Liberalisation of land markets following political change in 2001
- Macro-economic trends, such as the, over-investment of foreign capital (Arab countries, other sub-Saharan African countries) in property markets and real estate development in Dakar, Senegal being considered as a politically stable country, and Dakar as a globalised city.

Location of the settlement within the city fabric also impacts on land prices. The sharp increase in Dalifort is related to the proximity of the settlement to the city centre and areas of employment.

Origins of right holders	Dalifort	Aïnoum.	S.S. 1	Wakh. 1	Wakh. 2
- State original beneficiaries of prop. right	21,1	21,1	21,4	15,6	29,2
- Land purchase by original holders	7,1	6,9	6,5	6,3	4,8
- Other property rights holders who	42,1	42,1	42,9	46,9	29,2
- Increase in land parcels	133	123	123	125	132
- Land parcel over	517	517	714,1	313,2	410
Destination of sight holders	x 8,1	x 8,6	x 2,4		x 4,1
- Barriers to the status of property	31,6	14,3	18,8	37,5	20
- Right holders who purchased land to	36,8	50	40,6	37,5	52
- Original beneficiaries	5,2	0	28,1	16,7	12
- Other region in Senegal	257,9	257,4	662,5	462,5	452
- Foreign country	536,9	1213,3	623,1	420,8	128
- Free accommodation %	5,2	21,3	9,4	16,7	20
Access to property	67,9	66,7	74,2	70,6	78,1
- Purchased	25	28,6	18,6	26,5	18,8
- Inheritance	7,1	4,7	7,2	2,9	3,1
- No answer					

LAND SALES AND ACCESS TO PROPERTY RIGHTS

	Dalifort	Aïnou.	S. S. 1	Wakh.1	Wakh. 2
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RESIDENTIAL MOBILITY

	Dalifort	Aïnou.	S. S. 1	Wakh.1	Wakh. 2
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LAND AND HOUSING MARKET

PART 3: CONCLUSIONS

Impacts of tenure regularisation based on the provision of real property rights

Tenure regularisation through the provision of real property rights convertible into full land titles has a limited impact on security of tenure as this is already guaranteed by the national government, which made a clear government commitment against forced evictions.

Impacts on housing improvements are difficult to measure given problems in identifying what should be attributed to regularisation and what should be attributed to the provision of infrastructure.

Impacts on access to credit are extremely limited. Low income owners very rarely use their title as collateral, and collateral for micro-credit is usually not the property title.

An assessment of the cost-benefit of tenure regularisation in the short, medium and long-term, for local authorities and for the central government is required. Projects are too small (and, except Dalifort, too recent) to have a measurable impact on municipal governments revenues. So far, the costs of regularisation are not being recovered. Administrative cost recovery procedures are too complicated and too long. Populations are reluctant or unable to pay for a land plot they had already paid for to an informal or customary owner. No compulsory recovery procedures can be enforced. Taxation may be a disincentive for poor households to pay for the full cost of the surface right.

The impact of tenure regularisation on poverty reduction, which is expected to encourage and secure investments, is not verifiable on a statistical basis. However, tenure regularisation provides opportunities to set up community-based organisations, which impact on economic development, empower women, and stimulate public participation in physical upgrading of the settlement.

Impacts on land and housing markets are seen as contradictory. The case study suggests that, when tenure regularisation takes place in very low-income settlements, it does not result in better security of tenure, but tends to accelerate gentrification processes through market-driven displacements.

Are the very principles of land titling questionable?

Two decades after implementation of the pilot project in Dalifort began, it is clear that achievements of the tenure regularisation programme in urban areas in Dakar are limited when compared with the considerable human and financial resources that were mobilised.

Tenure regularisation policy through the provision of real rights was not, properly speaking, a choice made by the Government of Senegal, but a policy choice made by a bilateral co-operation agency (German Cooperation – GTZ, backed by the KfW) in the late 1980s and, to a lesser extent, by French Cooperation in the 1990s. It was supported and implemented by the Government of Senegal, and officially adopted in 1991 as a national programme.

Its implementation during the two following decades (1987-2007) is a long story of obstruction by government institutions in charge of land management and administrations, by government officials who had vested interests in the former land allocation system based on “permits to

occupy” and on “leases”. Complex patron-client relationships around access to urban land, from neighbourhood level to central government, have further hindered implementation of the programme. As a result of weak governance in land administration, and lack of resources, the ambitious target to regularise citywide 410,000 persons was progressively reduced to 40,000 in 2002, and 30,000 in 2006. By the end of 2006, about 1,600 real property rights (surface rights) had been attributed, and only a few tens concerted into freehold land titles (*Titres fanciers*).

Yet, contrary to titling programmes tentatively implemented in other developing countries, the tenure programme in Senegal had been carefully designed, implemented by committed persons, and its technical implementation was regularly monitored and assessed. Emphasis was, and still is, put on incremental processes, population participation, and on a balanced combination of provisions of infrastructure and allocation of property rights.

One of the first questions raised by the Senegal case study concerns the very limits of land titling in the social and economic context of the countries in the region, characterised as these are by urban poverty, weak governance in land administration, and dual tenure systems.

In four out of the five settlements which have been regularised, between 40% and 62% of people live with daily incomes of less than US\$0.9. Furthermore, most resources are generated from informal economic activities which are exposed to fluctuations from one month to another. As a result, people have no resources to invest in housing improvement, cost recovery objectives cannot be met, there are no impacts on municipal and government revenues, and people do not look for mortgage credit, as they have no resources, or fear they will be evicted in case they cannot repay the loan.

Administrative agencies involved in land management and administration are not adapted to the mass delivery of real rights, and are overstretched between routine tasks and additional ones induced by land titling. In addition, administrative processes are over-complicated, there are many illicit practices and corruption in land administration, and a lack of political will and resources to implement at scale. To these factors must be added the existence of dual tenure systems and the predominance of tenure informality in low income settlements, whilst political influence, particularly in Dakar, of Lebou customary owners, makes implementation of land titling more complicated.

Another question relates to the relevance of titling in contexts such as Senegal, where communities living in informal settlements already enjoy rather high de facto levels of tenure security, and the government has made clear commitments not to rely on evictions, unless duly justified and fairly compensated. Communities interpret the mere announcement of a tenure regularisation project in a settlement as a sufficient guarantee to secure tenure, and house owners entitled for tenure regularisation will not even try to embark onto a time-consuming and over-complicated process to obtain a real property right.

At implementation level, the relationship between physical improvement of the settlement, provision of basic services, and tenure regularisation was not clearly understood and accepted by the population concerned and did not work as expected. Tenure regularisation was, and still is, expected to facilitate in the integration of beneficiary populations within the sphere of the formal economy. However, tenure regularisation (i); requires the payment of fees (given that people have already paid for their land in the informal land market), (ii); imposes costly planning and construction norms on beneficiaries which many cannot afford and (iii); results in exposure to land taxes. Even in middle and high income settlements in Dakar, some people refuse to have land titles to avoid paying taxes. As long as house-owners understand that they have de

facto security they usually do not have much interest and do not look to upgrade their administrative permit into a land title that would result in increased expenditure.

The allocation of real property rights provides the highest level of security of tenure. This should not be underestimated, even if most households are protected against forced eviction. Another benefit of tenure regularisation for low-income families is that they can sell their “property” at a better price than if it were located in settlements not declared for tenure regularisation, as (i); the buyers will not be exposed to evictions, (ii); the buyer will benefit from physical improvements, or (iii); they may expect formal tenure regularisation in a later stage. However, given the informal nature of the transfer (restriction imposed: the transfer required the prior authorisation of government administration) the benefit for low-income sellers is limited, as they sell the land below the market price. The main beneficiaries are the buyers, especially those whose access to the administration allows them to have the sale formally registered.

Except in Wakhinane 1, which is a homogeneous and cohesive community, market-driven displacements can be observed in all regularised settlements, and, consequently, development of informal settlements in other areas of the urban periphery (sometimes in worse location than that of the regularised settlement). New slums will need further regularisation. Some, which fulfil the tenure and planning status criteria to be regularised, will be entitled to, others will not.

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ANNEXE 1: LEGAL AND REGULATORY FRAMEWORK OF LAND TITLING

LE CADRE LÉGAL ET RÉGLEMENTAIRE DE LA RÉGULARISATION FONCIÈRE PAR L'ATTRIBUTION DE DROITS RÉELS

Rappel des principaux textes

Le Sénégal s'est doté très tôt d'un arsenal juridique formé de textes législatifs et réglementaires afin d'asseoir un cadre légal et formel à la gestion foncière, au système de tenure du sol et au régime de la propriété foncière. Nous avons recensé à ce jour, les principaux textes qui figurent dans l'énumération ci après accompagnés d'un commentaire succinct pour en saisir la substance.

1. La loi constitutionnelle n° 2001 – 03 du 22 janvier 2001

La **Constitution** sénégalaise réserve au droit de propriété foncière une attention particulière aussi bien dans son préambule que dans son corpus. En effet, il est clairement affirmé dans le préambule du texte fondamental que le droit de propriété est sacré. Le corpus fait explicitement référence au droit de propriété qu'il garantit en ses articles 8 et 15.

L'article 15 défend toute atteinte au droit de propriété, « sauf dans le cas de nécessité publique légalement constatée, sous réserve d'une juste et préalable indemnité ».

L'exercice du droit de propriété est garanti (article 8) de façon explicite par la Constitution.

La constitution proclame l'égal accès de l'homme et de la femme à la possession d'une terre et à la propriété foncière (art 15) par ailleurs. Cependant que vaut un droit si on ne peut l'exercer concrètement.

2. Le décret du 26 juillet 1932, portant réorganisation du régime de la propriété foncière dans l'ex AOF.

... le décret foncier du 26 juillet 1932, toujours applicable au Sénégal indépendant, fixe les conditions et règles d'organisation du régime de la propriété foncière, les droits réels et son fonctionnement.

Le régime de la propriété foncière fondée sur l'immatriculation des immeubles sur des registres publics appelés livres fonciers a pour but de sécuriser la propriété et les transactions immobilières afin de faciliter la circulation des immeubles dans le commerce.

.... le service de la conservation de la propriété foncière et des droits fonciers ... assure aux titulaires la garantie des droits réels qu'ils possèdent sur les immeubles soumis au régime de l'immatriculation.

Cette garantie est obtenue par la publication sur les livres fonciers, de tous les droits réels qui se rapportent à un immeuble ...

Le décret foncier énumère limitativement les droits réels immobilier qui sont (art 20) :

- la propriété des biens immeubles
- l'usufruit des mêmes biens, pendant sa durée ;
- les droits d'usage et d'habitation ;
- l'emphytéose ;
- le droit de superficie ;
- les privilèges et hypothèques ;
- les actions qui tendent à revendiquer ces mêmes droits.

L'ensemble de ces droits réels peut circuler dans le commerce et, pour se faire, le décret foncier organise un système d'information et de renseignements à l'endroit du public.

Le décret foncier mérite d'être actualisé pour le mettre en phase avec la loi 64.46 du 17 juin 1964 relative au domaine national, qui en purgeant toutes les terres non immatriculées des droits coutumiers, a rendu caduques certaines ses dispositions. Il compte beaucoup d'anachronismes qu'il faudra éliminer.

D'autres textes sont venus modifier, annuler ou rendre inopérantes certaines dispositions du décret foncier de 1932.

3. Le code des obligations Civiles et Commerciales (COCC) .

Le COCC détermine les liens contractuels et les rapports entre particuliers ayant trait à la propriété des immeubles et aux droits réels immobiliers.

Il fixe les conditions et règles des contrats relatifs aux droits réels sur les immeubles immatriculés avec comme principe de base l'immatriculation obligatoire et préalable de l'immeuble avant la passation de tout contrat constituant, transférant ou modifiant un droit réel immobilier.

4. Loi 64 – 46 du 17 juin 1964 relative au domaine national et les décrets pris pour son application n°s 64- 573 – 64 574 du 30 juillet 1964 – 66 858 du 7 novembre 1966 – 72 -1288 du 27 octobre 1972.

C'est l'article premier de la loi qui définit le domaine national. Aux termes de cet article « constituent de plein droit le domaine national les terres non classées dans le domaine public, non immatriculées, ou dont la propriété n'a pas été transcrite à la conservation des hypothèques à la date d'entrée en vigueur de la présente loi. Ne font pas non plus partie de plein droit du domaine national les terres qui à cette même date, font l'objet d'une procédure d'immatriculation au nom d'une personne autre que l'Etat ».

L'article 3 de la loi réserve à l'Etat le droit de requérir l'immatriculation des terres du domaine national à son nom. La loi 64 46 du 17 juin 1964 relative au domaine national a introduit une triple réforme domaniale, foncière et de publicité foncière.

Elle a introduit une réforme domaniale en créant une entité originale appelée domaine national qui regroupe essentiellement les anciennes possessions et tenures coutumières. L'administration des terres du domaine national est faite sous l'autorité de l'Etat. Les services de l'Etat gèrent directement les terres du domaine national comprises dans les zones urbaines, les zones classées et les zones pionnières.

Elle a simplifié le système foncier en purgeant les terres soumises à ce régime de tout droit réel tout en laissant subsister les titres fonciers et le système de l'immatriculation foncière.

5. Loi 76.66 du 2 juillet 1976 portant code du domaine de l'Etat et son décret d'application n° 81 557 du 21 mai 1981.

La loi 76.66 du 2 juillet 1976 distingue deux entités composant le domaine de l'Etat : le domaine public et le domaine privé c'est-à-dire l'ensemble des « biens et droits mobiliers et immobiliers qui appartiennent à l'Etat ».

a) Le domaine Public
Il peut faire cependant l'objet :

- **d'autorisation d'occuper** accordée à titre précaire et révocable pouvant être retirée à tout moment sans indemnité ;
- de permission de voirie essentiellement précaire et révocable ;
- de concession et autorisation d'exploitation réservées aux installations ayant un caractère d'intérêt général (équipements touristiques, complexes hôteliers).

b) Le domaine privé de l'Etat

Le domaine privé se subdivise en domaine immobilier et en domaine mobilier. Sur ce domaine l'Etat agit comme un propriétaire sous réserve du respect de certaines règles.

Le domaine privé immobilier se divise en :

- domaine affecté comprenant les immeubles mis gracieusement à la disposition des services de l'Etat ou des établissements publics pour leur permettre d'assurer leur fonctionnement.
- domaine non affecté, les dépendances de ce domaine, en nature de terrains à mettre en valeur, sont administrées de manière à assurer leur utilisation et leur mise en valeur rationnelle, conformément aux plans de développement et d'urbanisme ou aux programmes d'aménagement.
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6. Les dépendances du domaine privé immobilier de l'Etat peuvent faire l'objet :

- **d'autorisation d'occuper** à titre précaire et révocable pour les terrains situés dans une zone non encore dotée d'un plan d'urbanisme ...
- **de baux ordinaires** consentis pour une durée de 18 ans maximum moyennant le paiement de redevances et l'obligation de mise en valeur dans un délai déterminé ;
- **de baux emphytéotiques** conférant un droit réel. Il est consenti pour une durée de 18 ans au minimum et cinquante ans au maximum avec possibilité de renouvellement et moyennant le paiement de redevances annuelles et l'obligation de mise en valeur ;
- **de concessions du droit de superficie.** Dans le cas où on a séparé la propriété du sol et la propriété des constructions qui y ont été édifiées, le droit de superficie porte sur la propriété de l'espace représenté par la surface du sol. Le droit de superficie est un droit réel. Il est concédé pour une durée comprise entre vingt cinq (25) ans au minimum et cinquante ans au maximum moyennant une redevance égale à la valeur du terrain assortie de l'obligation de mise en valeur dans un délai déterminé.

Seuls les terrains situés dans une zone résidentielle dotée d'un plan d'urbanisme de détail et destinés à la construction d'une habitation individuelle ou d'un immeuble collectif à usage d'habitation peuvent faire l'objet de

concession d'un droit de superficie. Cependant la pratique administrative déroge à cette règle et tend à étendre la concession du droit de superficie dans les opérations de restructuration et de régularisation foncière avec un lotissement approuvé.

7. La loi 76.67 du 2 juillet 1976 relative à l'expropriation pour cause d'utilité publique et aux autres opérations foncières d'utilité publique. Décret n° 77.563 du 3 juillet 1977 pris pour son application

8. La loi n° 88- 05 du 20 juin 1988 portant Code de l'urbanisme édicte les principales règles en matière d'urbanisme.

9. Décret n° 91 748 du 29 juillet 1991 organisant la procédure d'exécution des opérations de restructuration foncière des quartiers non lotis dans les limites des zones déclarées de rénovation urbaine et le Décret n° 96 386 du 15 mai 1996 instituant un fonds de restructuration et de régularisation foncière (FORREF).

L'opération de restructuration consiste en l'aménagement des zones non loties, vétustes ou insalubres caractérisées par une occupation anarchique de l'espace avec des parcelles enclavées ou mal desservies, un manque d'équipements collectifs, des habitations précaires, en vue d'asseoir une utilisation et une organisation plus harmonieuse et plus rationnelle de l'espace, d'améliorer le cadre de vie et de régulariser par l'octroi de titres la situation foncière des ayants droit conformément à un plan de restructuration conçue avec la participation active des populations bénéficiaires.

C'est le décret n ° 91 748 du 29 juillet 1991 qui a fixé la procédure des opérations de restructuration et de régularisation foncière avec les différentes phases.

L'Etat, la commune ou la communauté rurale prennent l'initiative de la restructuration et peuvent la réaliser en régie ou la confier à un organisme public ou privé d'aménagement comme la Fondation Droit à la Ville (FDV) mise en place avec l'appui de la GTZ

La restructuration comporte les principales opérations ci après :

- état des lieux de la zone à restructurer ;
- recensement des propriétaires et locataires ;
- établissement de la liste des occupants du quartier pouvant bénéficier de la régularisation foncière ;
- organisations des futurs attributaires de parcelles en vue de favoriser leur participation à l'opération de restructuration ;
- élaboration d'un PUD ;
- immatriculation au nom de l'Etat de tous les terrains du Domaine national et expropriation pour cause d'utilité publique des terrains privés nécessaires à la réalisation de l'opération ;
- élaboration d'un plan de lotissement – restructuration participatif ;
- fixation de la participation financière des attributaires de parcelles ;
- établissement de droits de superficie en guise de régularisation foncière pour les ayants droit.
- Confection et application d'un plan de recasement élaboré suivant les normes d'urbanisme.

10. Le décret 96 386 du 15 mai 1996

Ce décret organise le fonds de restructuration et de régularisation foncière (FORREF) en vue de promouvoir la répétition des opérations de restructuration.

Le FORREF a été créé en vue d'assurer le financement des opérations de restructuration et de régularisation foncière sur toute l'étendue du territoire national. Ce décret aborde notamment les aspects suivants :

- les ressources du fonds ;
- les conditions de remise des actes portant concession de droit de superficie aux occupants des parcelles ;
- la participation de l'Etat au financement des opérations représentée par une subvention annuelle versée au crédit du FORREF ;
- les dépenses du fonds ;
- l'administration du fonds ;
- la gestion du fonds.

ANNEX 2. QUESTIONNAIRES AND GUIDELINES

ANNEXE 2.1: GUIDELINES FOR CASE STUDIES

**IMPACT SOCIOÉCONOMIQUE DE LA RÉGULARISATION DE LA TENURE FONCIÈRE
DAKAR, SÉNÉGAL
AOÛT 2007**

CADRAGE DES ÉTUDES DE CAS

Cette note vise à présenter le cadre général de la politique de régularisation foncière en milieu urbain au Sénégal.

1. DONNÉES SOCIOÉCONOMIQUES GÉNÉRALES, ADMINISTRATION FONCIÈRE ET TENURE FONCIÈRE AU NIVEAU NATIONAL ET EN MILIEU URBAIN

1.1. Au niveau national

- 1.1.1. Données socioéconomiques de base (population, démographie, taux d'urbanisation, revenus rural / urbain).
- 1.1.2. Cadre légal régissant la gestion du sol, le système de tenure et le régime de la propriété foncière au niveau national (zones rurales et urbaines), en particulier depuis la loi de 1964 sur le Domaine national.
- 1.1.3. Cadre institutionnel de l'administration foncière
- 1.1.4. Existe-t-il un système d'information foncière (SIF) ?
 - Type (cadastre, ...)
 - État de la mise à jour
 - Gestion du SIF centralisée / décentralisée
 - Zones / superficies couvertes par le SIF (milieu rural et urbain)
- 1.1.5. Existe-t-il un système d'enregistrement foncier? oui / non
 - Enregistrement des titres
 - Enregistrement des actes
 - Administrations responsables de l'enregistrement

1.2. À Dakar

- 1.2.1. Typologies des situations foncières types rencontrées en milieu urbain, dans les quartiers réguliers et irréguliers. Identifier et décrire succinctement les situations les plus fréquentes
- 1.2.2. Proportion de quartiers irréguliers
- 1.2.3. Proportion tenure formelle / tenure informelle (précisez la définition du terme «tenure informelle » en utilisant une grille d'identification des situations rencontrées.
- 1.2.4. Institution(s) responsables de la gestion et de l'administration foncière en milieu urbain. Précisez la fonction de chacune et les liens qu'elles entretiennent entre elles.

2. OBJECTIFS DES PROJETS DE RÉGULARISATION FONCIÈRE EN MILIEU URBAIN

2.1. Objectifs généraux

2.2. Objectifs spécifiques

- Lutte contre la pauvreté
- Équipement des quartiers
- Sécurité foncière
- Amélioration de l'administration foncière

- Amélioration des recettes fiscales
- Développement du marché foncier et immobilier
- Autres objectifs

Pour les question 3 à 6 ci-dessous, remplir une fiche par programme et projets programme

3. PROGRAMMES ET PROJETS DE RÉGULARISATION FONCIÈRE MIS EN ŒUVRE EN MILIEU URBAIN ET PÉRIURBAIN (DAKAR ET AUTRES VILLES DU SÉNÉGAL)

Inventaire de l'ensemble des programmes ou projets de régularisation foncière menés/réalisés à Dakar et dans les autres villes du pays au cours des 20 dernières années, y compris ceux faisant l'objet d'études de cas.

3.1. Localisation et nom des programmes et projets identifiés

3.2. État d'avancement / dates de réalisation

Prévu

- Dates prévues de début et durée estimée

En cours

- Dates du début et date estimée d'achèvement

Achevé

- Dates de début et d'achèvement

Commencé puis différé, suspendu ou abandonné

- Dates du début et de l'abandon
- Raison de l'abandon du projet

3.3. Principales caractéristiques des programmes ou projets

- 3.3.1. Nom du quartier et nombre d'habitants
- 3.3.2. Objectifs spécifiques / justification du projet
- 3.3.3. Organisme ayant assuré le financement du projet
- 3.3.4. Organisme chargé de la réalisation du projet ou du programme
- 3.3.5. Évaluation / résultats obtenus / leçons du projet ou programme
Donner les références des documents & rapports d'évaluation

4. PROJETS DE RÉGULARISATION FONCIÈRE PAR L'ATTRIBUTION DE DROITS RÉELS FAISANT L'OBJET D'UNE ÉTUDES DE CAS

4.1. Nom du projet ou programme

4.2. État d'avancement du projet ou programme

Achevé

En cours (date d'approbation, de début, et date prévue d'achèvement)

4.3. Zone concernée

Villes

Nom du quartier

Superficie du quartier

Nombre estimé de parcelles

Nombre estimé d'habitants

4.4. Population concernée par le projet de régularisation, selon les tranches de réalisation (tranche 1, 2, 3,...)

4.5. Calendrier et phases de réalisation du projet en septembre 2007

4.5.1. Si le projet a été achevé, ou a été commencé et abandonné

Date de début de réalisation du projet

Date d'achèvement du projet

4.5.2. Si le projet est en cours de réalisation

Date de début de réalisation du projet

Tranches prévues

Tranche actuelle de réalisation

Date prévue d'achèvement du projet.

4.6. Projet réalisé à l'initiative de

4.7. Organisme / agence assurant le financement du projet

4.8.. Organisme / agence responsable de la réalisation du projet / maître d'ouvrage

4.9. Institution responsable de la mise en œuvre du projet / maître d'œuvre

4.10. Autres acteurs impliqués

Secteur public et parapublic

Secteur privé

ONG / fondation

Organisations communautaires / GIE

Autres

5. COÛTS ET FINANCEMENT

5.1. Coût estimé du projet de régularisation foncière

5.2. Financement des diverses composantes du projet (équipement et régularisation) assuré par

5.3. Financement du volet régularisation foncière du projet

- Aide étrangère

- Sources nationales de financement

- Recouvrement des coûts / participation de la population

6. PROCEDURES ET PROCESSUS DE RÉGULARISATION FONCIÈRE

6.1. Niveau de centralisation

- Centralisé

- Décentralisé

- Participation de la communauté concernée

6.2. Schéma / graphe simplifié indiquant le processus de régularisation

(de l'étude de faisabilité à l'évaluation du projet)

6.3. Bénéficiaires du projet / population cible

6.3.1. Qui sont les bénéficiaires

Tous les occupants (propriétaires et locataires)

Propriétaires seulement

- 6.3.2. Critères d'éligibilité pour bénéficier de la régularisation (statuts fonciers ou d'occupation, date / durée de l' occupation) : preuves / papiers / attestations que doit fournir l'occupant pour faire valoir ses droits à la régularisation
- 6.4. Documents délivrés aux ayant droit (ménages reconnus comme pouvant bénéficier de la régularisation**
- Types de documents
 - Délivrés par...
 - Nombre de documents délivrés à ce jour

Les questions 7 à 9 concernent l'ensemble des projets

7. ÉVALUATION ET IMPACTS DE LA RÉGULARISATION FONCIÈRE

7.1. Existe-t-il une évaluation de l'impact socioéconomique de la régularisation par l'attribution de droits réels ?

7.2. Impacts de la régularisation sur :

Résumé succinct des documents existants

- La sécurité de la tenure foncière
- L'investissement dans le logement
- La qualité structurelle du logement
- La valeur du logement
- L'accès au crédit
- La capacité d'épargne des bénéficiaires
- L'emploi
- La mobilité de l'emploi
- la fourniture et l'accès aux services et aux équipements
- l'amélioration de l'environnement du quartier
- les déplacements liés à la pression du marché

7.3. Principaux problèmes identifiés dans la réalisations du programme et des projets de régularisation.

8. LEÇONS TIRÉES DES EXPÉRIENCES DE RÉGULARISATION FONCIÈRE

9. BIBLIOGRAPHIE ET DOCUMENTS DE RÉFÉRENCE

ANNEXE 2.2.**QUESTIONNAIRE FOR HOUSEHOLD SURVEY**

REPUBLIQUE DU SENEGAL
REGION DE DAKAR
COMMUNE DE PIKINE

**IMPACT SOCIO-ÉCONOMIQUE DES POLITIQUES
DE RÉGULARISATION FONCIÈRE**

N° DU QUESTIONNAIRE

1 Département de

Commune

2 d'arrondissement :

3 Quartier :

4 Numéro de la parcelle :

|_|_|_|_|_|_|_|

5 Date de l'interview : |_|_|_|_| |_|_|_|_|

|_|_|_|_|_|_|_|

6 Prénom et Nom de l'Enquêteur :

.....

7 Prénom et Nom du

Superviseur :

HABITAT ET EQUIPEMENT

Section A : Occupation et taille de la parcelle

N° d'ordre	A1- Nom et prénom des propriétaires	A2- Sexe 1. Masculin 2. Féminin	A3- Date d'installation	A4. Situation de l'occupation 1. occupant 2. Non occupant	A5. Taille de la parcelle
1		_	_ _ _ _		
2		_	_ _ _ _		
3		_	_ _ _ _		
4		_	_ _ _ _		

A5. Nombre de ménages dans la parcelle |_|_|||_|_|

Section B- Caractéristiques de l'habitat (les questions B1 à B5 concernent le bâtiment principal)

N°	B1- Type de logement	B2- Ancienneté de la construction	B3- Etat du logement 1. Excellent 2. Moyen 3. Dégradé	B4- Utilisation principale 1. Habitat 2. Activité économique 3. Autres	B5- Toiture 1. Béton 2. Ardoise/Tuile 3. Tôle galvanisée/Zinc 4. Chaume/Paille 5. Bois 6. Autres
1		_ _ _ _	_	_	_
2		_ _ _ _	_	_	_
3		_ _ _ _	_	_	_
4		_ _ _ _	_	_	_
5		_ _ _ _	_	_	_

Section C - Amélioration de l'habitat

N°	C1- Type de logement	C2- Ajout de niveaux	C3- Sol	C4- Toiture	C5- Extension horizontale
		1. R+1 2. R+2 3. R+3	1. En dur ciment 2. Carrelage 3. Autre	1. Fibrociment 2. Tuiles 3. Dalle	1. Une pièce 2. deux pièces 3. trois pièces 4. quatre pièces
1		_ _ _	_ _ _	_ _ _	_ _ _
2		_ _ _	_ _ _	_ _ _	_ _ _
3		_ _ _	_ _ _	_ _ _	_ _ _
4		_ _ _	_ _ _	_ _ _	_ _ _
5		_ _ _	_ _ _	_ _ _	_ _ _

Section D- Equipement du logement

D1- Fosse septique	D2- Robinet intérieur	D3- Electricité	D4- Puisard
1. Oui 2. Non	1. Oui 2. Non	1. Oui 2. Non	1. Oui 2. Non
_ _	_ _	_ _	_ _

Section D- Equipement du logement (suite)

D5- Télévision	D6- Vidéo	D7- Réfrigérateur / Congélateur	D8- Ventilateur	D9- Ligne Téléphonique Fixe
1. Oui 2. Non	1. Oui 2. Non	1. Oui 2. Non	1. Oui 2. Non	1. Oui 2. Non
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MENAGES

Section E : taille des ménages

E1- Code ménage	E2- Prénom & Nom CM	E3- Nombre de femmes	E4- Nombre d'hommes	E5- Nombre d'enfants 0 – 5ans	E6- Nombre d'enfants 5 – 10 ans	E7- Nombre d'enfants 10 – 15 ans	E8- Total

Section F : mobilité résidentielle (de F4 à F6 propriétaires seulement)

F1- Code ménage	F2- Prénom & Nom CM	F3- Date d'installation	F4- statut d'occupation	F5- Justificatif de propriété	F6- Ayant droit initial	F7- Sinon mode d'acquisition
			1. Propriétaire 2. Copropriétaire 3. Locataire 4. Hébergé/Gardien	1. Bail 2. Droit de superficie 3. Titre foncier 4. Permis administratif 5. Autre	1. Oui 2. Non	1. Achat 2. héritage 3. Droit coutumier 4. Autre
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Autres= acte de vente informel, donation, concession privée, certificat d'hérédité

MENAGES

Section G : emplois des membres du ménage

G1- Code ménage	G2- Prénom & Nom CM	G3- Profession chef de ménage	G4- Nombre de personnes ayant un emploi (dont CM)	G5- Statut dans l'emploi (dont CM)	G6- Nombre d'employés par statut d'emploi
				1. Salariés du public	1. Salariés du public
				2. Salariés du privé	2. Salariés du privé
				3. Professions libérales	3. Professions libérales
				4. Commerçant du secteur formel	4. Commerçant du secteur formel
				5. Commerçants informels	5. Commerçants informels
				6. Journaliers	6. Journaliers
				7. Autres	7. Autres
					01 _ _
					02 _ _
					03 _ _
			_ _ _		_04_ _ _
					05 _ _
					06 _ _
					07 _ _
					01 _ _
					02 _ _
					03 _ _
			_ _ _		_04_ _ _
					05 _ _
					06 _ _
					07 _ _
					01 _ _
					02 _ _
					03 _ _
			_ _ _		_04_ _ _
					05 _ _
					06 _ _
					07 _ _
					01 _ _
					02 _ _
					03 _ _
			_ _ _		_04_ _ _
					05 _ _
					06 _ _
					07 _ _

MENAGES

Section H : revenus du ménage

H1- Code ménage	H2- Prénom & Nom CM	H3- Revenu mensuel du CM	H4- Apports mensuels des autres membres du ménage	H5- revenus mensuels provenant des transferts	H6- Revenus mensuels provenant des locations	H7- Total des revenus mensuels du ménage
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Section I : scolarisation

I8- Code ménage	I2- Nom et prénom chef de ménage	I3- Nombre total d'enfants	I4- Enfants scolarisés du préscolaire	I5- Enfants scolarisés du primaire	I6- Enfants scolarisés du secondaire	I7- Enfants dans le supérieur	I8- Enfants non scolarisés de 6 à 14 ans
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Non scolarisés = n'ayant jamais été inscrits à l'école

Déscolarisés = ayant abandonné l'école

MENAGES

Section J : projets (concerne les propriétaires)

J1- Code ménage**J2- Prénom & Nom CM****J3- Rester ou partir****J4- Améliorer le logement****J5- Emprunt g
l'hypothèq
Nantissement
propriété**

1. Rester
2. Partir

1. Oui
2. Non

1. Oui
2. Non

|____|

|____|

|____|

**ANNEXE 2.3.
QUESTIONNAIRE ON LAND MARKETS (QUALITATIVE SURVEY)**

**IMPACT SOCIO-ÉCONOMIQUE DES POLITIQUES
DE RÉGULARISATION FONCIÈRE**

**SONDAGE D'OPINION SUR L'ÉVOLUTION DU PRIX DU SOL
AUPRES DE PERSONNES SPÉCIFIQUES DANS LE QUARTIER**

N° DU QUESTIONNAIRE

- 1 Département de
- 2 Commune d'arrondissement :
- 3 Quartier :
- 4 Date de l'interview : | | | | | | | | | |
- 5 Prénom et Nom de l'Enquêteur :
- 6 Prénom et Nom du Superviseur :
- 7 Prénom & Nom du répondant
- 8 Qualité du répondant
- 9 Age | | | |
- 10 Sexe 1-M | | 2-F | |
- 11 Prix d'une parcelle il y a 10 ans | | | | | | | | | |
- 12 Prix d'une parcelle aujourd'hui | | | | | | | | | |

- Le questionnaire sera administré selon un échantillon de 1/10 du nombre de parcelles enquêtées par quartier.
- Personnes spécifiques = délégués de quartier, /notables ayant une bonne connaissance du peuplement du quartier

ANNEXE 3: ETUDE DE L'IMPACT SOCIO-ECONOMIQUE DES POLITIQUES DE REGULARISATION FONCIERE

Participants in the Restitution Seminar
Hotel Savana, Dakar, January 17, 2008

N°	NOM	Qualification/Profession
1	Amadou KAMARA.	Socio-économiste. Direction de l'habitat.
2	SIDIBE. Moussa. G	Urbaniste-architecte. Chargé de la restructuration des villages traditionnels. Ville de Dakar.
3	DURAND-LASSERVE Alain	Directeur de recherche, CNRS. France . Coordinateur de l'étude sur le Sénégal
4	Sellé NDIAYE	Urbaniste aménagiste. Consultant
5	Mamadou DIOUF.	Administrateur civil. Ex Directeur des collectivités locales. Ministère de l'Intérieur.
6	Badara CISSE	Expert Foncier. Ex Directeur des Domaines (de l'Enregistrement, des Douanes et du Timbre)
7	Abdoulaye D DIALLO.	Géographe environnementaliste. DUA. MUA
8	Amadou L DIALLO	Médiateur Pédagogique. Programme de développement rural. Consultant
9	Rokhaya DIOP	Juriste
10	Ange MBAYE	Ingénieur en gestion du développement urbain. Consultant. G.E.F.U
11	Mally BAMANE	Sociologue. Chargé de programme. ENDA
12	Landing SANE	Ingénieur urbaniste. Ex Directeur de l'Urbanisme et de l'Aménagement (DUA). Chargé de la mise en place de la F.D.V

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TIFF (Uncompressed) decompressor
are needed to see this picture.

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