

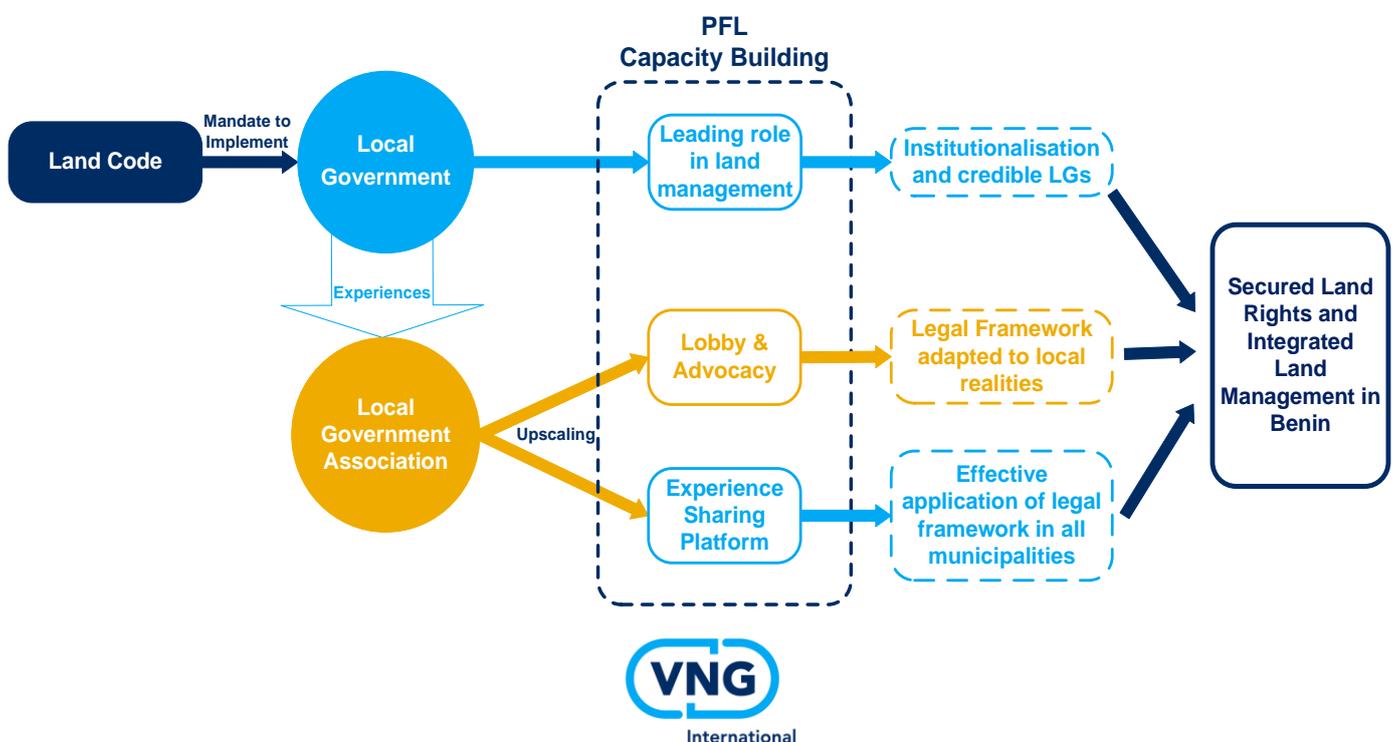
An indispensable partner for sustainable land management

The Local Government Association ensures local experiences contribute to modifications of the new land legislation in Benin

“I am the mayor of the floating villages in the Ouémè Lake. The Land code notably speaks of factual land, so how does the code take into account the land rights at play in my municipality?” The intervention of the Mayor of Sô-Ava can count on some laughter around the table, but his question is very relevant. It showcases just one of the shortcomings of the new Land Code, *Code Foncier et Domanial (CFD, 2013)*. It is these kind of questions that enable the National Association of Municipalities in Benin (ANCB) to lobby for a land code that corresponds with the realities on the ground, as experienced by the local institutions mandated to implement the code. In the first place the *communes*.

The in 2013 newly adopted Code Foncier et Domanial (CFD) fundamentally changes all aspects of land management in Benin and places local institutions at the centre of its implementation. The CFD prescribed for a completely revised institutional framework to come to integrated land management, leading to confusion about the roles and responsibilities of the different and sometimes new actors on both a national and local level. The **Projet d’appui à la gestion Foncière au niveau Local (PFL)**, funded by the Royal Netherlands Embassy in Cotonou, experiments with the practical application of the CFD in the municipalities of Dogbo and Klouékanmè. By placing the local governments at the centre of the project’s implementation and supporting them in fulfilling their mandate, they can discover what works and what does not, while also ensuring that results become institutionalised. In order to achieve the larger objective of the project to secure land rights for citizens across Benin, upscaling these results is a major component of the project. The National Association of Municipalities in Benin, the ANCB, is an important partner of VNG International in this project to ensure knowledge sharing with the other 75 municipalities in the country as well as allowing for these local concerns and experiences to influence the national legislation and policy dialogue.

On the basis of the local concerns and experiences expressed both by the local land management authorities, notably the two municipalities, as well as those from citizens, the ANCB has successfully lobbied for the modification of the CFD for it to better correspond to the realities on the ground. This article presents ANCB’s successful lobby, and thereby aims to showcase the indispensable role of both local governments and their associations as indispensable partners towards institutionalised and therefore sustainable land management.



The need for understanding at the national level

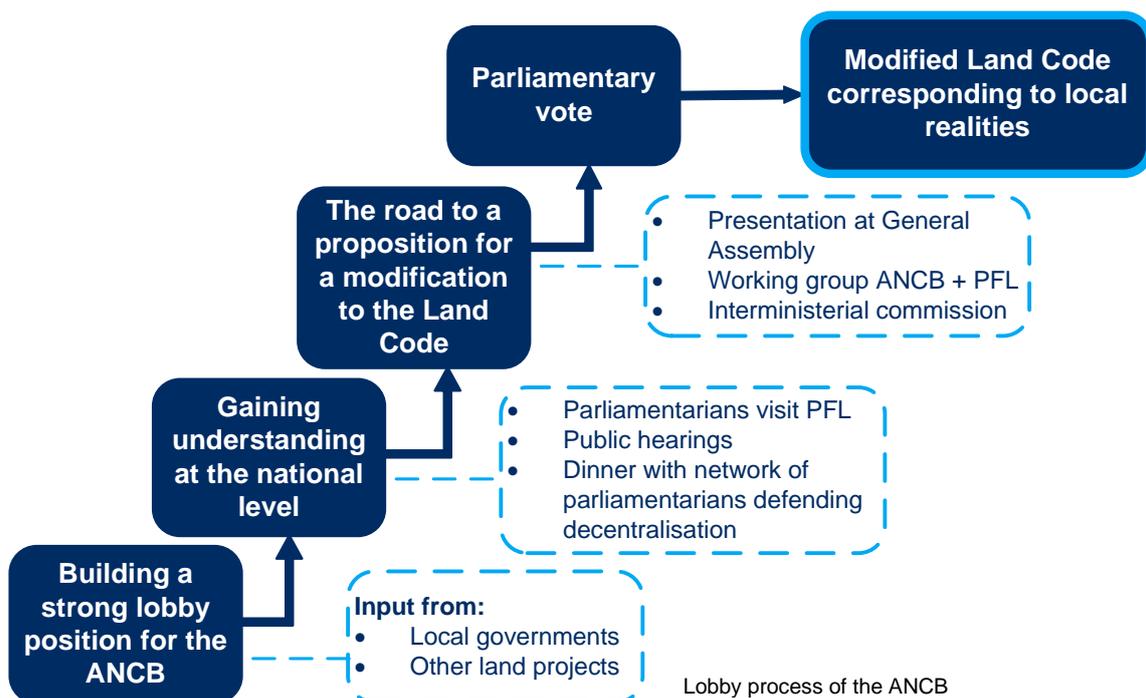
When in October 2016 all land registration activities were suspended by the national government, the need for a lobby at the national level became ever more important. The suspension revealed a significant level of misunderstanding between national and local actors regarding implementation of the CFD and national actors needed to see what is happening at the local level. This incident triggered the ANCB to position itself instantly to lobby for better comprehension of the practical application of the CFD on a local level, in the short term to lift the suspension and in the long-run to modify the legislative framework in a way to better correspond to the realities on the ground. Four (04) steps in this process have been crucial: 1) building a strong lobby position by assembling experiences and feedback from its members, 2) gaining understanding at the national level by reaching out, 3) advocate a proposition for modification of the land code, and 4) secure the parliamentary vote. In practice, steps one to three do not linearly succeed one another, but can occur simultaneously.

The power of experiencing first-hand

In direct response to the suspension, the ANCB in the framework of PFL and in collaboration with AWEPA (Association of European Parliamentarians with Africa) organised public hearings for deputies of the General Assembly combined with a study visit to VNG International's Projet Foncier Local in December 2016. These public hearings, in which deputies could engage with citizens and hear first-hand experiences, were organised in villages involved in PFL as well as one non-PFL village. The results of these hearings were twofold. First, the project's benefits for citizens were understood by deputies as they realised that the project positively contributes to successfully implementing the CFD at the local level, i.e. putting a place a functional institutional framework and land management practices. Secondly, and most importantly, the hearings shed light on the difficulty of implementing the land code and created space for a reflection on how to make its implementation easier in the field.

Local Government Association

Local government associations unite local governments in countries and aim to support the overall development of local government in a country. They are usually established when decentralisation increases in a country and local governments gain more roles and responsibilities, with the objective to facilitate effective cooperation between local governments and join the forces of local governments. It was also for these purposes that the **ANCB** was established in 2003, currently representing all 77 municipalities of Benin. Generally, the role of a local government association is threefold, namely 1) to advocate the interests of local governments on behalf of their members (vis-à-vis the central government), 2) to provide services to members, and 3) to offer a platform for the exchange of experience among members.



Building a strong lobby position for the ANCB

In the framework of PFL a diagnostic study was done that laid bare the complex hurdles to be taken in the institutional reform by municipalities in order to comply with the provisions of the CFD. That study alone, but particularly coupled with the opening provided by the public hearings with deputies, the ANCB's commission on Agriculture, Land Management and Spatial Planning (CAFAT) initiated a reflection process together with the technical assistance team of PFL. The main objective of this process was to structure the experiences of municipalities and build a strong position for the ANCB to defend the needs of local governments at the national level. During two sessions, principal actors regarding land affairs at the municipal level (from PFL communes, non-PFL communes, other land projects) were invited to share information on their experiences with the implementation of the CFD. A striking discovery during these sessions, which underlines the importance of the work of the ANCB, was the ignorance and unawareness of many municipalities with regard to many dispositions of the new land code.

Local concerns

Many of the concerns and experiences identified by the local governments boil down to a need for clarification and in some cases revision of the roles and responsibilities of local and national actors in the implementation of the CFD. Operating on a local level, local governments have a better understanding of certain local realities than national organs have. It is with good reason often their main argument to plea for further decentralisation, i.e. to be given the responsibility for the execution of tasks concerning these realities. However, the current CFD does not provide for this sufficiently. The notion of decentralisation that is generally adopted in Benin since the beginning of the century should be better taken into account also in the implementation of this legislation.

A specific example of where the CFD insufficiently takes the role of decentralised governmental institutions into account, is the issuing of documents on presumptive property rights (Attestation de Détention Coutumière - ADC). These documents refer to the first indication of what land belongs to whom, that can subsequently be formalised in the form of a land property certificate (CPF). This step of formalising an ownership right requires the execution of rural land plans (PFR), a costly process that municipalities at this stage cannot afford for their whole territory. However, that should not obstruct the process of issuing presumptive property rights as a first step for securing land rights to all citizens. Under the current provision of the CFD, both the presumptive documents and the formal land property certificate (CPF) are issued by the National Cadastre ANDF and its deconcentrated bodies on municipal level, the BCDF. From a legal and financial perspective this means the ANDF has a double agenda, being both judge and revenue collector. Instead of bypassing the municipalities, the municipalities through the ANCB plea for the responsibility to issue these presumptive property documents, to confirm the ownership of a parcel. The main arguments they bring forward are that the local land management organs fall under their responsibility and that they operated closest to the population to judge the local situation (culture, history, credibility and trust from local community). The ANDF would retain its controlling role for issuing the land property certificates.

In addition to this example, the ANCB assembled and identified some more local concerns with regards to the implementation of the CFD by municipalities. These include amongst others the need to extend the transition period of the land code with 2 years; the need to provide municipalities with the mandate to procure rural spatial development plans (PFR); and the need to include ANCB in the advisory board on land affairs to parliament.

Overall, this reflection created room for constructive discussions on which modifications are required to render current land legislation better applicable at the local level. The final product of this process was a clearly structured argumentation including the main elements of concern that could be brought to the attention of the national government.

Main actors involved in carrying out lobby

- Technical Assistance Team PFL
- ANCB
- AWEPA

Main actors providing input for lobby

- Principal actors regarding land affairs at municipal level (from PFL and non-PFL communes)
- Local populations
- Other donor-funded land projects

Main target audience of lobby

- Network of parliamentarians defending decentralisation
- General Assembly
- Interministerial commission
- National Cadastre : ANDF/BCDF
- IGN (Institut Géographique National)

Reaching out

Packed with a clear assignment from its members, the ANCB ensured to reach out to all relevant actors at the national level. In the first place, the results of the reflection sessions were shared with other national actors in the field of land management, such as the national cadastre (Agence National du Domaine et du Foncier – ANDF) and national institute for geography (Institute Géographique National – IGN) to raise awareness and increase their understanding of the realities at the local level.

In the meantime, the General Assembly had started at their own initiative a process for the modification of the CFD without involving local actors to defend their needs. This evidently presented an excellent opportunity to seize the momentum and to tap into the process to better accommodate of the concerns and responsibilities of its members, the municipalities of Benin, in implementing the CFD. In that respect, the ANCB organised a dinner with the network of parliamentarians that defend decentralisation in the General Assembly in a successful attempt to convince them of the need to delegate certain additional responsibilities to the municipalities.

The road to a new proposition

That ANCB's efforts did not go unnoticed was exemplified by the request of the national government to organise a working group that formulated a proposition for concrete amendments to the CFD. Hereafter, the ANCB was invited to the General Assembly to present this proposition in presence of the government. This led to the creation of an inter-ministerial commission reassembling all relevant ministries to finalise a proposition for the modification of the CFD on the basis of the ANCB's address before the General Assembly as well as in this process. The network of deputies defending decentralisation also ensured monitoring of this process at the national level on behalf of the municipalities.

On 26 May 2017 the deputies of the General Assembly have approved the modification of the CFD. Thanks to this entire process spearheaded by the ANCB, Benin now has a national land code that better corresponds with the needs on the ground. The table below provides an overview of the modifications that have come about.

Topic	Current law	Proposition	Outcome vote
National Land Advisory Board (Conseil Consultatif Foncier – CCF)	Municipalities are not represented	Municipalities represented by the ANCB	ANCB is a member to the National Land Advisory Board (CCF)
Proof of customary detention (attestation de détention coutumière)	Issued by ANDF	Issued by municipalities	Issued by municipalities
Length of transition period	2013 – 2018	2013 – 2020	2013-2023
Land management body at the level of districts	Envisioned to be established	This organ is removed from the code	This organ is removed from the code
Realisation of the PFR	Established by ANDF/BCDF	Possibility to delegate the establishment to the municipalities	Possibility to delegate the establishment to the municipalities
Suspension of PFR activities		Suspension lifted	Suspension lifted

Main propositions and outcomes of the vote

For more information please visit our website www.vng-international.nl or contact our experts:

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