Similarities and differences between the French and British civil and common law systems.

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| **Similarity** | **Differences** | |
| **French speaking** | **English speaking** |
| * Most post-colonial government sustain the land tenure system inherited from the French and British colonial administration * In the 1990 most of the SSA countries (3/4) have land reform programme to remediate the past inequality inherited from the colonial system in access to land by rural community * Both French and English-speaking nations have experienced an improvement in post-colonial land reforms which recognise customary rights. * In most of SSA countries the states do not adequately compensate rural community for the loss of their land (Wily, 2011). | * In the French speaking countries, a general land law was designed for the federation of French West African Nations which was based on the French colonial tenure system of 1932. The French government through Article 10 of the decree of 23 10 1904 claimed all vacant land in its colonies. French civil code gave power over land ownership for food and cash crop production to the central colonial administration (Chauveau & Colin, 2010). | * In contrast to the French land tenure system, the British colonial administration adopted the concept of native land in 1930 which allowed rural communities to claim ownership rights over their land (Opoku, 1973). |

The post-colonial land policy reforms

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| 1. **Land law of 1963** |
| **Summary** |
| The 1963 land law was developed for economic development, but had the consequence of favouring the national elites’ interests and ignoring customary rights. The 1963 land law reinforced the state ownership of all land within the country and made those who occupied them temporal ownership. Land registration was done on behalf of the state. This had the consequence of generating tensions between the state and rural community members for communal land loss (Dagrou, 2007). Consequently the 1963 land law was not implemented because of its weaknesses. All land was vested to the state. The 1963 land law attempted to (i) abrogate all customary rights to land, (ii) allow the state to allocate all land, and (iii) made individual rights to land revocable until land was registered for full ownership (Strozeski, 2006). |
| **Strengths** |
| * Enabled the state to assume ownership of all unregistered and uncultivated lands, without any distinction, and which never actually came into force. |
| **Weaknesses** |
| * Led to conflicts between rural community leaders and the state. * Land registrations were made in the name of the state even though a title of ownership was issued to the occupant. |
| 1. **Decree No.64-164 of 11 April 1964** |
| **Summary** |
| This decree was implemented to allow the state to regulate the land market. All land sales transacted through private contract were considered invalid. The Ministry of Finance (where the cadastre is located) confirmed the 1964 decree and declared all private contracts null and void*.* Only registered land was valid (Rassam, 1990). |
| **Strengths** |
| * Access to land was successful for rural communities and private agribusiness corporations for cash crop (cocoa, coffee, oil palm, and rubber trees) farming in the forest belt. * Access to land was successful for the State-owned company for large scale farming. * Eliminated land sale through private contracts. * Encouraged economic development. |
| **Weaknesses** |
| * The decree was not fully implemented leading to land occupation in rural areas and increasing land conflicts. * Limited penalties for any infraction. * Contradicted rural community members’ practices to land. |
| 1. **Law No. 64-379 of 7 October 1964** |
| **Summary** |
| Outlawed polygamy and regulated inheritance. This legislation aimed to prohibit matrilineal succession, whereby a man’s property passes to his sister’s sons, and generational succession, whereby a man’s property passes first to his brothers and only after their death to his son. The law specified that succession is to be from father to sons. Matrilineal inheritance was illegal (Rassam, 1990). Unfortunately, this law failed because of the Ivorian custom based on matrilineal and polygamy. |
| **Strength** |
| * Access to communal land was successful from father to sons after the death. * Reduced conflict of inheritance through father to son. |
| **Weakness** |
| * May have caused conflict because polygamy and matrilineal inheritance were deeply rooted in the Ivorian custom. |
| 1. **Decree No. 71-74 of 16 February 1971** |
| **Summary**  The decree 71-74 related to any domain land and strengthened the 1964 land law. It provided additional provisions of the decree of July 9, 1936, and stated that the state will not recognise any private land contract. It prohibited any private land contract. According to the provisions of article 2 “*the rights relating to the use of the land, known as customary rights, are personal to those who exercise them and cannot be ceded to any title whatsoever*'' (Dagrou, 2007). |
| **Strengths** |
| * Regulated the administrative procedures relating to traditional lands and public lands. * Reduced illegal private land markets. * Prohibited the sale of land within the customary land ownership domain. * That customary rights are personal and non-transferable. |
| **Weaknesses** |
| * May have caused the lack of regulations penalty in the informal land market in rural areas and increasing land conflicts between rural community and the state. * May have caused conflict between customary rights and the modern tenure system due to a lack of policy. |
| 1. **Circular of December 19, 1984** |
| **Summary** |
| The circular of 1984 fixed the size of land concessions and defined administrative procedures for land grants and leases. It is relative to the allocation of cultivable land. Until 1984, no such procedure existed in the post-colonial land policy that was established under the colonial administration in the 1938 supplement, which is ad hoc in nature. The 1984 land legislation established the procedure for land rights (Rassam, 1990; Strozeski, 2006). |
| **Strengths** |
| * Successful access to land for small scale and large-scale farming: cocoa, coffee, oil palm, and rubber trees, in the forest zones. |
| **Weaknesses** |
| * Resulted in increasing land conflict with ineffective land policy pertaining to land concessions. * The lack of a land policy may have led to land occupation in rural areas. * Led to conflict because buyers asserted their permanent ownership of land whereas sellers (local people) considered the buyers to have a right of use, and not ownership. * The results were contrary to the aims of the land tenure systems due to inconsistent f regulations. |
| 1. **The rural land act 98-750 of December 23, 1998** |
| **Summary** |
| The 1998 land reform policy established the procedure to acknowledge customary rights over their traditional land and to render communal land more secure in Côte d’Ivoire. This policy was a response to challenges in access and control to land, in a context of high tensions between locals and outsiders (migrant farmers and agribusiness corporations) in the forest zones of the country. Section 1 Article 1 states that only Ivorians can own land (Dagrou, 2007). |
| **Strengths** |
| * Enabled rural community members to raise their rights to ownership of their traditional land. * Allowed the issuance of a land certificate to the local community that can enable land to be leased for large scale farming. * Enabled the state to raise its rights to land ownership in rural areas. |
| **Weaknesses** |
| * Led to conflicts between agribusiness developers and rural community members to secure land ownership. * Slowed the establishment of agribusinesses with ineffective land policy that regulates land acquisition and benefit sharing between rural communities and agribusiness corporations. * May have limited the issuance of land certificates to agribusiness corporations regarding the decree 99-594 of 13 October 1999 fixing the terms and conditions of land ownership in rural areas. * The decree 99-594 resulted in ambiguity and contradiction related to the issuance of land certificates, for example, to the Agribusiness Corporation. It was admitted that the non-Ivorian may apply for a land certificate while they contract a long lease with the state. * Resulted, in the inconsistency of regulations that the agribusiness corporations right seem to depend on the goodwill of the rural community members who apply for the land certificate. * Led to discriminatory interpretations against agribusiness corporations. * May have limited local government capacity to ensure responsibility in rural land management, in the issuance of a land certificate, the establishment of agribusiness corporations. * Resulted in the inconsistency of a specific policy framework to resolve land disputes on the establishment of agribusiness. * Resulted in the inconsistency of a policy on land restitution of any land previously conceded to the establishment of agribusiness corporations. |