

FOCUS ON LAND IN AFRICA BRIEF

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Mali



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Lesson 2:

The Challenge of Decentralization in Mali

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INTRODUCTION

When properly implemented, the decentralization of authority over land and natural resource management to the local level can lead to the improved management of natural resources, create an enabling environment for local land and natural resource tenure systems, and strengthen legal recognition of customary land use rights. However, improving security of tenure for rural people through decentralization requires clear and implementable legislation, statutory recognition of customary laws and conventions governing land and natural resource tenure, and the engagement and buy-in of both State and local institutional actors.

In Mali, the process of decentralization, in which the management of public services was transferred to local governments, has been heralded as a success. Decentralization has vested important land and natural resource management responsibilities in local governments and communities, which the State hopes will improve land and natural resource management. Mali's process of decentralization is unique in its participatory local boundary demarcation, and for its participatory local management of land and other natural resources. But while decentralization has the potential to improve resource sustainability and facilitate more equitable resource distribution, challenges to its effective implementation abound, including a lack of: legal recognition of local conventions; capacity to effectively manage natural resources at the community level; and clarification as to how the statutory framework should be applied.

FRAMEWORK FOR DECENTRALIZATION IN MALI

Mali's process of decentralization followed decades of State control over natural resources that began during the French colonial period. Under the colonial regime, the State owned all resources that were considered "ownerless" (i.e. lacking a formal title). The only way to establish legal ownership over resources was through *mise en valeur* (productive use) which, in practical terms, meant that vast tracts of land were transferred to State ownership and management. Though customary resource users had well-established norms guiding natural resource management and exploitation, these norms were viewed as environmentally destructive and were replaced by statutory laws.

Under the colonial regime, government administration was highly centralized. The main administrative unit in Mali was the Cercle, which was divided into Subdivisions. Subdivisions were further divided into Cantons among sedentary groups and Tribus among nomadic groups. Local authorities to govern these units were appointed as administrative representatives of the State rather than elected by citizens. This even included the appointment of traditional customary authorities at Canton and Tribus levels. Following independence in 1960, the Government of Mali retained the

government structure established by the French. Though successive regimes recognized the need for the devolution of authority from the center to local levels, very little change was implemented.

The process of democratization and decentralization began in 1991 following the ousting of longtime head of state, Moussa Traore. In Mali, decentralization was a rejection of the colonial style of centralized government, which had created local governments, but vested little authority in them. The Government of Mali's goals for decentralization included empowering local government, encouraging development, protecting the environment, and fostering political stability.

The democratically elected Government of Mali adopted a series of laws and policies designed to guide decentralization. The 1992 Constitution provides the basic tenants of decentralization while the law on decentralization (Loi 93-008), adopted in 1993, provides a general framework for decentralization. The law establishes *régions* (regions), *cercles* (districts), and *communes* (communes) as *collectivités* (territorial units) in rural areas. The law also calls for elected assemblies or councils to manage the *collectivités*, and establishes that the *collectivités* should manage their own natural resources.

Under the *Codes des Collectivités Territoriales*, the principal decentralization law, and *Loi N° 96-050* du 16 octobre 1996, local governments are given control over the management and protection of natural resources. According to the *Codes des Collectivités Territoriales*, the State may transfer the responsibility of public lands management to local governments while, under *Loi N° 96-050*, local governments are responsible for protecting the environment, managing public lands, formulating land use plans, protecting and developing government land, and organizing agro-forestry production. In turn, *communes* are charged with land management, including developing land use plans and ratifying leases to land for residential purposes.

In addition to devolving management responsibilities, the law also devolves rights and authority over land to local governments through the revised *Code Domanial et Foncier*. Under the law, local governments can subdivide and lease or sell public land for residential uses in a process called *lotissement*. Local



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PARTICIPATORY ESTABLISHMENT OF COMMUNES

Mali's process of decentralization has been notably participatory, particularly in regards to the establishment of administrative territorial units. Under Loi N° 96-059 de 4 novembre 1996, the process of creating communes should be "progressive, consultative and participatory." Villages are allowed to choose the other villages with which they would like to form a commune. Most villages choose to affiliate with villages of shared kinship or lineage, or villages comprised of similar ethnic groups.

The process began with local tasks forces formed by La Mission de Décentralisation et des Réformes Institutionnelles (MDRI) who sensitize local communities on the process of creating communes. Commissions Locales de Découpage (CLD) were ultimately responsible for establishing boundaries on the basis of geographic location, demographics (minimum of 10,000 citizens residing there), and a "desire to live together," in addition to "social cohesion and economic viability." Today, Mali has 703 communes making up 49 cercles, which are in turn grouped into 8 régions.

The process of establishing administrative territorial units has had its challenges. Some villages' requests to form communes have been rejected for fear that conflicts might emerge between different social groups. Many communes are considered too small and must merge with other communes despite the wishes of local people. These challenges have contributed to community-level confusion and disillusionment in the process. In addition, the areas for local government administration and allocation have not yet been delineated. Loi N 96-056 calls for the establishment of local government boundaries, but these boundaries have only rarely been established in the process of creating communes. It is predicted that, as pressure on land and other natural resources increases, there will be more incentive for communes to demarcate their land so that they can better enforce local agreements relating to its use.

CONCLUSIONS

The rapid and participatory creation of local governments and their territories in Mali is heralded as a success, but decentralization and the devolution of natural resource management has not been a perfect solution. The laws

governing decentralization are dense, difficult to interpret, and perhaps even harder to implement. Communes often lack the financial capacity to effectively fulfill their responsibilities, which has led to the abuse of lotissements, fueled land speculation and benefited the elite. Also, though the State seeks to devolve responsibility over natural resource governance to local governments and communities, the security of communities' rights to land and resources remains weak in the absence of legal recognition for local conventions and customary rules.

Despite its imperfections, decentralization in Mali has proven to be an important avenue for communities to gain greater control over land use decisions and over the natural resources on which they depend. Local governments are working closely with citizens and are better able to navigate the local customs governing natural resources. However, until the Malian government enforces local conventions and accords greater recognition and security to customary rights over land, incentives for communities to comply with natural resource management conventions and invest in good stewardship practices may not endure over the long-term.





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