

In the early 1990s the government of Burkina Faso committed itself to a national decentralisation programme aimed at fundamentally changing the relationship between the State and its citizens and reducing the gap between local people and public services. The decentralisation process and its accompanying legislative framework will have a significant impact on natural resource management and profound implications for rural communities, since these resources underpin rural livelihoods and are an important source of income for both central and local government.

Its success will depend upon its ability to integrate existing knowledge and experience and achieve synergy between interventions at the local level. The studies initiated by the Groupe de Recherche et Action sur le Foncier (GRAF) and the Royal Tropical Institute (KIT) are part of the ongoing analysis of key issues that is a fundamental element of this process.

This bulletin focuses on access to land and natural resources, particularly by groups with the least political muscle, and considers the opportunities and risks that rural decentralisation poses for management of these resources at the local level. Going beyond the specifics of the current progress of decentralisation in Burkina Faso, the studies in this publication also deal with themes relevant to other West African countries, and reflect upon the role that devolutionary processes play in natural resource management and local economies.

Groupe de Recherche et Action sur le Foncier

Challenges for a viable decentralisation process in rural Burkina Faso

CHALLENGES FOR A VIABLE DECENTRALISATION PROCESS IN RURAL BURKINA FASO

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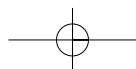
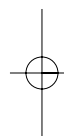
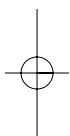
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The bulletin Series of the Royal Tropical Institute (KIT) deals with current themes in international development co-operation. KIT bulletins offer a multi-disciplinary forum for policy makers, advisors and practitioners in rural development, natural resource management, health, culture, and gender. These fields reflect the broad scope of the Royal Tropical Institute activities.

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- African Network on Participatory Approaches (1999). Village participation in rural development.
- Oosterhout, F. (2002). Moving targets. Towards monitoring democratic decentralization. KIT Bulletin 349.
- Groupe de Recherche et Action sur le Foncier (2003) Enjeux et viabilité des communes rurales au Burkina Faso. KIT bulletin 351.
- Cissé, A., Diabaté, H., Ballo, D., Baltissen, G., Heus, M., and Hilhorst, T. (2003). Soutenir la mise en oeuvre de la décentralisation en milieu rural au Mali.
- Mukhopadhyay, M. (ed.), (2003). Governing for Equity, Gender, Citizenship and Governance.
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Le Groupe de Recherche et d'Action sur le Foncier (GRAF) is a network of individuals working to address the problems associated with land tenure and natural resource management. Set up in Burkina Faso in 1999, GRAF brings together researchers, practitioners and decision-makers in the quest for a broader range of viewpoints, analysis and proposals regarding this issue. Its objectives are to make available local expertise on land-related issues, to produce research, to promote discussion, and to involve all stakeholders in a genuine national debate on the options for policy and land tenure legislation. The postal address for GRAF is: 05 BP 6082, Ouagadougou 05, Burkina Faso. Tel. +226-341457.
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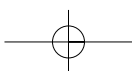
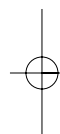
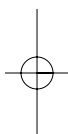
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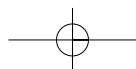
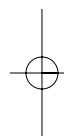
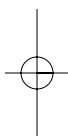
The GRAF team were the mainstay of this collaboration, particularly Harouna Bary, Hubert Ouédraogo, Moussa Ouédraogo and Daniel Thiéba. Support from KIT was co-ordinated by Thea Hilhorst and Gerard Baltissen, and the whole project came together under the admirable management and co-ordination of Mme Virginie Sermé.

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Abbreviations

- CND** *Commission Nationale de Décentralisation*
(Commission for Decentralisation)
- CIVGT** *Commission Inter-Villageoise de Gestion de Terroirs*
(Inter Village Land Management Commission)
- CVGT** *Commission Villageoise de Gestion de Terroirs*
(Village Land Management Commission)
- MATD** *Ministère de l'Administration Territoriale et de la Décentralisation*
(Ministry for Territorial Administration and Decentralisation)
- RAF** *Réorganisation Agraire et Foncière*
(Land Reform Act)
- SDAU** *Schéma Directeur d'Aménagement et d'Urbanisme*
(master development and town planning scheme)
- TOD** *Textes d'Orientation de la Décentralisation*
(legal framework for decentralisation)



1 Introduction

1.1 Establishment of a legal framework for decentralisation

A landlocked Sahelian country, Burkina Faso has an estimated population of around 12 million inhabitants and covers 274 000 km² (see map). Its location presents considerable challenges for the economic development of the country. The climate can be classified as Sudanese, with two contrasting seasons, a rainy and a dry season lengthening into the more northern reaches of Burkina. Rainfall varies from one year to another and droughts can take a heavy toll on agricultural production, which is the mainstay of the Burkinabé economy.

The June 1991 constitution defined decentralisation as a key element in the promotion of development and democracy in Burkina Faso. The government of Burkina Faso committed itself to a decentralisation programme aimed at fundamentally changing the relationship between the State and its citizens. This will be accomplished by prudently and progressively unrolling the process across the country and drawing on the lessons learned as implementation proceeds.

The legal framework for this process was established in the *Textes d'Orientation de la Décentralisation* (TOD), the overall law setting out the broad principles of decentralisation. The institutional framework of legislation and regulations required for its progressive implementation began to take shape in 1993, with five laws paving the way for elections in 1995 that would establish council offices in 33 fully functioning municipalities, and in a further 16 municipalities in the year 2000. After this first stage, which primarily concerned urban areas, the process was to be extended into rural areas.

The TOD has been amended twice since it was passed in 1998: first in July 2001 with the introduction of the region as a level of local government (and an administrative division), and secondly in August 2003, when the province was abolished as a local government level but retained as an administrative division. As a result of these changes the institutional landscape is now shaped by two principal levels of local government – regions and urban or rural municipalities; and by four administrative divisions – the region, province, department and village. The progressive procedure adopted to implement decentralisation was enshrined in Programme Law 43/98/AN, which suggested that rural decentralisation should commence with elections held in 2003 or 2005. This law was amended in August 2003, and elections are now scheduled for 2005 in rural municipalities and 2011 in the regions.

The process of decentralisation and its associated legislation will have a profound impact on the way that land and natural resources are managed. Policies are already changing, and increasingly focused on creating a legal framework for consensual local management of natural resources. However, while the decree of 2000 covering the creation of Village Land Management Commissions (*Commission Villageoise de Gestion de Terroir* or CVGTs) represent a step in the right direction, questions remain about the level to which powers over natural resource management will be transferred, and the nature of the relationship between rural municipalities and CVGTs.

1.2 Decentralisation in rural areas

Before decentralisation could be progressively extended into rural areas much had to be done in terms of formulating decrees for implementation and identifying the practical measures needed to expedite the process. Thus, in 1999 the National Commission for Decentralisation (CND)¹ instigated a package of activities, preliminary studies and workshops in collaboration with the Ministry for Territorial Administration and Decentralisation (MATD), several other ministerial departments, civil society groups and customary authorities. The problems addressed by the CND are designed to help make decentralisation work, particularly in rural areas. The process is based upon multi-faceted analysis of issues that are fundamental to the country's development and involves all stakeholders. Therefore, its outcomes are more likely to be appropriated and consolidated by a wide range of actors.

The activities focussed on two major themes: the transfer of powers and resources to local governments and the quest for national agreement on a standard model for rural municipalities in Burkina Faso. Sectoral, regional and national workshops held in 2000 as part of the drive to develop mechanisms for transferring competences and resources from the State to local governments covered various themes, such as:

- Management and use of public lands
- Economic planning and urban development;
- Environment and natural resources,
- Health and hygiene,
- Basic education, vocational training and literacy training;
- Culture, sports, and leisure;
- Civil defence, Social welfare and support;
- Electricity and water
- Infrastructure, markets, slaughterhouses, cemeteries;

These themes are linked to the specific blocks of powers that will be transferred to local governments and these workshops enabled participants to identify what needed to be done to prepare for the devolutionary process.

¹ The CND, which was attached to the MATD in 2002, task is to produce the requisite proposals for draft regulations and legislation on rural municipalities and other areas.

The second line of action was undertaken as part of the groundwork for the challenging process of extending decentralisation into rural areas. In the quest for agreement on a standard national model for rural municipalities, this research was intended to help clarify issues such as:

- The physical limits of rural municipalities (territorial demarcation);
- Determining the land belonging to rural municipalities;
- Defining the specific competences of rural municipalities;
- Modalities for electing municipal councils;
- Budgets and resources;
- The strategy for informing /training elected officials and local actors;
- A system of technical and financial support for rural municipalities.

1.3 How the issue of rural municipalities evolved in 2003

By 2003 a number of draft regulations and pieces of legislation on rural municipalities were been formulated on the basis of the results presented and analysed at various regional and national workshops. A national workshop on rural municipalities, which was organised by the CND in January 2003,² marked an important stage in the process initiated in 1998 after the adoption of the TOD. One of the main outcomes of this workshop was the proposal to abandon the principle of 'agglomeration' and make departments the entry point for creating rural municipalities, which would cover the entire territory of Burkina Faso. This involves boundary adjustments of existing departments in order to create viable areas based on economic and sociological criteria.

In the end this option was abandoned, while investigations into the practical details of implementation were still under way, and it was decided that the principle of 'agglomeration' should continue to be used as the starting point for establishing rural municipalities. This principle was confirmed in an amendment passed in August 2003, with qualifying criteria for a rural municipality of 5,000 inhabitants and the capacity to mobilise a minimum annual budget of 5 million francs CFA. The main focus of the August 2003 amendment seems to have been to address concerns about the relevance of the three units of local government and the territorial overlap between regions and provinces, which ultimately created an overlap between certain prerogatives.

The amending law reduced the levels of local government to two (the region and the municipality) and made it more complicated for villages (and hamlets) outside municipalities to become involved in the decentralisation process. Instead of closing the gap between people and public services, placing villages under regional rather than provincial control will distance villagers from the authorities that are supposed to represent them - the regional councils scheduled to be put in place in 2011.

Furthermore, the competences previously devolved to provinces have been systematically (mechanically) transferred to regions as though there was no

² Just before the 2003/2005 deadline prescribed by the Programme law on rural decentralisation.

difference in the way that powers are exercised at provincial and regional level. Hopefully the fact that none of these modifications specifically concern urban or rural municipalities means that the particular characteristics of the latter may yet be discussed, and still making a future extension of decentralisation into rural areas of Burkina a possibility.

While the ongoing process of decentralisation is being established upon a series of new laws it is not being unrolled into a historical vacuum, and must therefore take account of the pre-existing institutional context. In the rush to establish functional local structures that give rural populations the autonomy they desire and the opportunity to demonstrate their capacity to manage local affairs, we should not forget that many people mistrust the State and its policies. Some see decentralisation and “modern” governance as an opportunity, while others fear the risks associated with change, particularly the possibility of losing control over access to land and natural resources. They still remember the colonial administration and types of initiative undertaken during the country’s revolutionary period. Unless they understand the process, people may be suspicious of those attempting to promote elected local government and a greater role for political parties in local affairs.

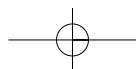
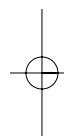
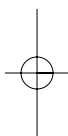
Therefore, it is particularly important that the culture and identity of rural communities is taken into account when the process is extended into rural areas, and that attention is paid to their vision of decentralisation. It is not just a question of adjusting the institutional setting and organising elections, but of creating a new dynamic in which local governments play an active role in allowing people to manage their own affairs and establishing local democracy and citizenship.

If this is to happen we must reflect upon the ongoing process of decentralisation in rural areas, consider the issues and risks involved and assess possible approaches for achieving dynamic, sustainable and equitable development. The success of this process will depend upon its capacity to integrate existing knowledge and experience and achieve synergy between interventions at the local level. The studies initiated by GRAF (the *Groupe de Recherche et d’Action sur le Foncier*) and KIT (the Royal Tropical Institute) form part of the ongoing plural analysis of key issues that is a fundamental element of this process.

1.4 Content of this bulletin

In rural areas decentralisation will have significant implications for local people and the natural resources upon which their livelihoods depend. Our contribution to this analysis of core questions focuses on access to land and natural resources, particularly by those groups with the least political muscle, and on the opportunities and risks that rural decentralisation poses for more sustainable and equitable management at local levels. Conducted by resource persons with experience in this field, the studies in this publication were appraised by various stakeholders in Burkinabé decentralisation during debates organised by GRAF in collaboration with the CND. The different themes discussed in each chapter have a bearing on the current stage of the decentralisation process and its extension into rural areas:

- Chapter One, *the challenges presented by decentralisation for the management of shared natural resources* discusses the lessons learned from local experiences with natural resource management and the implementation of the Land Reform Act (Réorganisation Agraire et Foncière or RAF). The first part of this chapter gives several examples of how shared natural resources are managed, the rules established for their use, how they are organised, policed and monitored, and the role of the RAF in all this. It identifies the basic conditions for decentralised management: autonomy in formulating rules for access to and use of resources, organisation, and the opportunity to control and monitor resources and access the fees levied on them. This chapter highlights the opportunities, limitations and risks presented by the TOD under current conditions, and discusses the strategies likely to be adopted by stakeholders in light of the interests involved in local resource management. Particular attention is paid to the risks entailed in centralising powers at local government level.
- The next chapter, *creating residential plots in rural municipalities (lotissement) and its effects on local livelihoods* describes the conversion of rural into urban land, followed by the allocation of plots for housing. The implementation of decentralisation and related administrative reforms has led to a division between rural and urban lands in Burkina Faso. The conversion of rural into urban land followed by allotment is often detrimental to rural livelihoods. As things stand, local people are stripped of the farmland that is their main production tool, while the process frequently grinds to a halt amid much bad feeling since the population is not involved at grassroots level. It would be better to wait with such initiatives until municipal councils are established, with well thought out development projects that will enable citizens to set up equitable and transparent management systems and make informed choices about the future of their villages.
- The final chapter, *risks and opportunities for pastoralists of the decentralisation process* considers the challenge of establishing decentralisation while respecting diversity. Pastoralism is an important socio-economic activity, but its particular characteristics - such as the fact that rangelands cover large areas - raise the question of how local governments can be made to work without prejudicing very specific types of activity. Pastoralists need to be represented within rural municipalities and on the local authorities responsible for natural resource management. They also urgently require capacity building in lobbying and negotiation, if the current decentralisation process is to provide a genuine opportunity to preserve and secure pastoral areas and guarantee livestock mobility between grazing areas and water points.



2 Experience with devolution of natural resource management and issues for the decentralisation process

Daniel Thiéba

2.1 Introduction

Rural livelihoods in the Sahel depend on the shared use of natural resources, particularly forest, pastoral, fauna, fishing and water resources. These resources have the following characteristics: their use is common and they are physically accessible to all potential users because exclusion is difficult and expensive. They are also divisible, limited and subtractive, in that the activities of one user reduce the total amount of the resource available to others.

Research on the management of such common resources has identified several principles that will help create the conditions for effective and sustainable management by local institutions (Ostrom, 1990). They are:

- Autonomy in determining the rules regulating access to and use of resources;
- Autonomy in defining organisational rules;
- Power to put in place local authorities to police resources and impose sanctions, supported when necessary by external authorities;
- Power to levy fees and taxes.

This requires regulatory frameworks formulated at the national level, which specify the modalities and scope of local autonomy as well as the powers conferred upon local institutions (McKean, 2000).

The problems associated with sustainable management of shared natural resources are caused by the rationales and practices of their various users. In Burkina Faso these are partly based on their interpretation of the arrangements prescribed by the Land Reform Act (RAF). The aim of the RAF is a complete reform of the land system and conditions of agricultural production in order to eliminate obstacles to economic and social development and was promulgated in 1984. The RAF also intended to unify the country's diverse and contradictory land tenure regimes, facilitate access to natural resources and reduce conflicts over land. Over time, the RAF is developed further by supplementary legislation concerning its application. The applicability of the RAF is more appropriate to urban than to rural lands (see Chapter 3).

The *Textes d'Orientation de la Décentralisation* (TOD), the overall law setting out the broad principles of decentralisation, outlines the framework for the process of transferring responsibility for various domains, such as natural resource management, to local governments.

The first part of this chapter provides several examples of how shared natural resources are managed and their use regulated, organised, policed and monitored, as well as the role played by the RAF in these processes. The second part analyses the issues raised by the TOD, which regulate decentralisation in rural areas. The opportunities, limitations and risks presented by this legislation in the current context are discussed, as well as the strategies likely to be adopted by various protagonists, given the stakes involved in local resource management. The chapter closes with the recommendation that the legal framework be improved in order to facilitate more sustainable natural resource management.

2.2 Present context for managing shared natural resources

In the introduction several principles that will help create the conditions for effective and sustainable management of natural resources by local institutions were identified. In practice, however, these conditions are rarely fulfilled. In this section various constraints to sustainable natural resource management in Burkina Faso will be discussed.

Lack of autonomy in regulating access to forests and fisheries

One of the major constraints of the RAF is that it does not recognise customary rights over natural resources. Because the managers of a particular resource do not have the legal power to make users abide by their rules, they cannot regulate how intensely it is used.

According to the RAF, this should be done by the State through the forestry services and arrangements regarding woodcutting or fishing permits. User's permits are issued by the central administration without recourse to local village authorities. As things stand, anyone holding a relevant permit is legally entitled to use forest resources. This arrangement has been much criticised and challenged at the local level: firstly, because permits were not negotiated in consultation with local communities, which suffer rather than benefit from it; and secondly, because it interferes with other customary land tenure rights and local regulations as it does not specify where wood may be cut. These permits compromise local control over land since resources can be accessed without the consent of local institutions, even those with a legitimate remit to manage natural resources. As they are often unable to get external users to respect their regulations, many local communities are finding that their riverbanks are becoming degraded and forest resources overexploited.

The situation is the same with fishing, since according to the Fisheries Code any Burkinabé can use the resources of a given area if they have the relevant permit, regardless of the wishes of local resource users. The arrangements set out in this code have had a negative impact on small-scale fisheries because it is impossible to control the situation at local level when fishing permits are issued by the state authorities.³ As a result, fishing resources are freely accessible since anyone with a permit has the right to use them. Meanwhile, the fisheries

³ Articles 184 to 187.

service is unable to manage resource use or monitor and enforce its own regulations because it lacks a reliable information system for assessing the condition of fishing resources and regulating access accordingly. The service also lacks motivated and competent staff who are regularly on the ground.

Given the ongoing process of decentralisation and roles devolved to the State, it seems inappropriate for this issue to be dealt with at the centralised level of the ministry. In order to avoid over-fishing, fishermen's groups should have the power to co-opt or refuse access to a stretch of water within defined boundaries, according to clear criteria regarding fishing potential, the number of users already in the area, the need to protect breeding areas and young fish, and ban fishing practices that do not conform to local norms.

Malou, for example, is a village in the centre of northern Burkina Faso. The construction of a dam in the River Nakambé has caused major changes in the way that fishing is organised, transforming the small-scale fishing of the 1980s into a highly profitable commercial undertaking. Malou fishermen's association has 50 members, but at peak periods over 100 fishermen use the area. It is becoming increasingly difficult for local actors to control the different fishing techniques employed by the growing number of users on this stretch of water, some of which can be detrimental to fish production. The local fishermen's group was concerned about the lack of expertise among the incomers pouring in at peak periods, and the fact that their equipment often failed to meet the technical standards set by the Department. For example, the use of fine mesh nets slows down reproduction rates as many small fish are caught before they reach maturity (Padlos, 1997). Lack of control over catch size causes over-fishing at certain periods.

Thus, despite the regulations and officially decreed norms, many fishermen carry on with their illegal practices in Malou. The heterogeneous interests of the many fishermen using local waters and the wide variety of fishing techniques risk generating violent conflicts. It seems logical that fishing concessions should be made available to those fishermen using certain stretches of water for both subsistence and commercial purposes.⁴ If fishing resources are to be managed efficiently, the terms and conditions for their use should be flexible enough to allow for the formulation of local rules, which should naturally take account of the general provisions set out in the national plan. Moreover, in the interests of sustainable natural resource management, communities should give their consent to any administrative arrangements concerning their resources, and receive some kind of compensation for the transaction.

Lack of autonomy over the rules regarding the management of natural resources

One of the underlying reasons for the often violent conflicts over the use of natural resources is that protagonists involved interpret the RAF in different ways, depending on their situation and interests. Many incomers using resources base their claims on the RAF, or at least their interpretation of it. The indigenous

⁴ Such as prescribed in Chapter 3 of the ministerial decree.

population, however, only recognises customary rules. The only way of overcoming this gap is to have locally formulated rules and local legitimacy (see Box 1). In order to manage natural resources the RAF determines which spaces are protected and practices forbidden, and prescribes arrangements for the movements of transhumant herders and their livestock, etc. In addition to this, it would be advisable to give local authorities the opportunity to determine the details of rules and sanctions regarding resource use and temporary incoming residents, tailored to local circumstances. These rules should be established on the basis of negotiation with stakeholders and ratified by the public authorities.

Box 1: Kadomba

Kadomba lies about 50 km from Bobo-Dioulasso, in western Burkina Faso. Like many other villages Kadomba is home to a large number of migrants, who now outnumber the indigenous population. Population increase has significantly reduced the amount of available land in the area and increased competition and disputes over land, which generally arise between the indigenous population and incomers, or between farmers and herders. The conflicts caused by pressure on land have hardened positions and increased tension on both sides.

The three main causes of disputes between the indigenous population and migrants are: failure to respect boundaries set by the former on land used by the latter; misuse and unauthorised use of land; and migrants refusing to return land to the indigenous owner or lender. The latter is seen as a violation of the original agreement stipulating that the land on loan should immediately be returned to the lender -holder of customary rights- when he/she has need of it. Those among the indigenous population that hold rights of appropriation are increasingly refusing to confer rights of use and contesting and denouncing previously accorded rights; while incomers try to survive by "buttressing" the rights that they have been granted. Incomers no longer accept the decisions of the lineage and land chiefs who are the custodians of customary land management; while indigenous villagers increasingly contest decisions made by the administrative authority (prefect) since the latter gives preference to user rights, in accordance with the spirit of the RAF. As a result of this situation the organisations responsible for regulating land tenure are overwhelmed with claims and counter-claims.

In the conflicts between farmers and herders, the latter are either transhumant herders or herding communities that have recently moved onto Kadomba village lands. These disputes usually revolve around damage to farmers' fields, which is partly due to the lack of access routes to water resources used by livestock, or to the refusal of the indigenous population to create livestock corridors and access routes. Conflicts used to arise between incoming pastoralists and the population of Kadomba, because they had not formulated any rules for managing natural resources that could be negotiated and agreed with the herders. This caused many disputes, but peace returned to the area when local rules that took account of pastoralists' concerns were formulated (Grefco, 1998).

Autonomy in defining organisational regulations: the case of CVGTs

It is some time now since external agencies and the administrative authorities began putting in place Village Land Management Commissions (CVGTs) – village bodies responsible for natural resource management and land tenure (see Box 2). The decree on CVGTs, was promulgated in 2000 to regulate the legal framework recognising village structures, in accordance with the arrangements prescribed by the RAF.⁵ Article 4 of the inter-ministry edict of 3 February 2000 states that CVGTs are “responsible for the management of community infrastructures, village woodlands, pastures, fauna and natural resources in general” and “in the context of fulfilling their duties, CVGTs are, at village level, specifically responsible for allocating, evaluating and withdrawing land from the national domain”.

Actors at the village level see the decree instituting CVGTs as a provision that they must adapt to in order to enjoy all the benefits of legal recognition, particularly access to the financial resources available via projects and the authorities. The proliferation of CVGTs is not simply the result of private operators wanting to demonstrate their ability to set up local structures, but also due to local initiatives by villages wishing to establish their own structures that are in accordance with legislation. The term CVGT seems to be increasingly recognised as generic, as it is their functions that are important, according to certain officials, who admit that institutions fulfilling the same functions as CVGTs will be legally recognised as such even though they go by a different name.

In seeking to benefit from the opportunities offered by official regulation villagers have sometimes ended up creating parallel structures (with the encouragement of the technical agencies): a legal one that conforms to the decree instituting CVGTs, and one with legitimacy and genuine decision-making powers. The CVGT set up by the project in East Manga, an area covered by the Zoudweogo Local Development Programme (PDL/Z) is one such example.⁶ In practice members of this CVGT responsible for regulating conflicts draw their authority from the village chief, who also decides on any important operation concerned with land administration, such as the division and allocation of land. There has been a significant reduction in “illegal” practices, where the rules and modalities for sanctions are formulated by the community through the CVGT and policed by local people.

⁵ The creation of CVGTs was supported by the PNGT, the National Village Land Management Programme (Programme National de Gestion du Terroir), whose objective is to support local development in Burkina Faso. PNGT is also involved in preparations for decentralisation in rural areas.

⁶ Under current procedures projects are no longer authorised to set up CVGTs. After recent deliberations with the PNGT this prerogative was given to CCTPs (provincial technical consultative committees), which can create commissions for this purpose. They contracted private operators to establish CVGTs, and hundreds were created in 2002.

Box 2: Kadomba's CVGT

Following a project-assisted process of internal consultation between different social groups, the CVGT was officially established in 1998 as a federative body for existing structures in Kadomba village. Training in accounting, management, secretarial work, etc. was provided to help develop the necessary local capacities that would enable the CVGT to function and work with the administration, and in order to generate confidence about the transparency of accounting procedures.

Kadomba CVGT is a dual structure: a 10-member executive office that addresses the major concerns of the village, and a committee composed of representatives from each of the 25 specific organisations already existing in the village. These include women's groups and associations of migrants. The rules for various arenas, including conflict management, are proposed by specialised commissions, set up to manage activities, and then discussed and adopted by villagers. The technical services are not involved in this process, but they do verify that the rules conform to general legislation on natural resource management (environmental codes). Security of tenure and natural resource management in the area have improved since the introduction of these local arrangements for resource use and conflict prevention as well as their recognition by the Prefecture (Grefco, 1998).

The decree instituting CVGTs gives detailed instructions regarding their organisation, but it should also recognise that village communities already have their own organisational constructs, and that these may vary greatly according to the history, culture and experiences of each village. Many have customary authorities whose legitimacy is recognised by the majority of the population, and which are empowered to promulgate rules and prevent or manage conflicts, usually in consultation with other actors such as lineage chiefs or leaders from existing associations. The continuing relevance of traditional authorities, such as chiefs, dignitaries and bush guardians, was noted in a study in Houet province. The study revealed that traditional councils had very specific rules regarding their composition, functions and decision-making processes. It also outlined the difficulties inherent in extending CVGTs, and the consequent risk of "creating an organisation by decree" in order to achieve the desired objectives and targets (MESSRS, 1999).

Certain interpretations of the RAF acknowledge that traditional village authorities have a role to play, and in reality most villages seem to have developed a hybrid system that appears to conform to the law. This combines the theoretical directives set out in the decree with practical forms of organisation and decision-making that take account of the socio-cultural context and history of the village. However, it can also cause ambiguity and lead to disputes. If the new system is to be appropriated by local communities it will have to be built on local experience - although this is not an argument for simply reproducing traditional systems, which often take insufficient account of the need to represent different social categories or for villagers to participate in decision-making processes.

While recognising the need to transfer or decentralise prerogatives, it should be noted that many existing institutions do not have the characteristics required to manage natural resources. The advantage of legitimacy is often counterbalanced by organisational weaknesses. Village communities often have problems establishing viable and legitimate institutions through local committees, including CVGTs, partly because perceptions of natural resources are so diverse, and partly because of other factors like their inability to cover administrative and policing costs, autocratic chiefs or the possibility of takeover by a faction. These issues could be addressed by formal and recognised procedures for appointing leaders and their renewal, well-defined and allocated prerogatives, transparent accounting, written records (an important consideration in this day and age) and the possibility of recourse and making leaders accountable for their actions.

Sound and effective institutions are built upon local experience, including with leadership systems. Although the different forms of local organisation share certain common principles, they also draw on specific local knowledge and traditions. It would be counter-productive to try to replace this with a single model. Unless they have some degree of organisational autonomy it is unlikely that communities will appropriate institutional rules and adapt them to their local context. With nit-picking regulations this simply will not happen. What is needed is general legislation that leaves room for local modifications undertaken in accordance with the spirit of the law. Experience has shown that the sustainability of these organisations is dependent on their ability to engage and mobilise local people, which will only happen if they are fully appropriated by the community (MESSRS, 1999).

The law will need to reconcile legitimacy and legality if it is to succeed in harnessing the creativity of local organisations. Therefore the law should set out the general constitutional rules to ensure legitimacy and transparency in the way that structures are managed and their officials appointed, but let local actors determine the organisational details, such as the structure and designation of their offices, composition of their commissions and tasks and responsibilities of the various structures, etc. Flexibility facilitates adaptation and organisational innovation, although this is often not recognised because it is thought to be incompatible with the pernickety and unwieldy law.

Policing, controls and sanctions

Natural resources cannot be managed effectively unless there is an efficient system for managing disputes over land and resources, something that is clearly lacking among the multiplicity of poorly co-ordinated arbitrating authorities operating in rural areas. Because measures to protect the environment are not specific about the roles played by the administration, local governments or village communities, there is considerable leeway for interference by the public authorities. And interfere they do, even though past experience suggests that they do not have the capacity to identify and sanction offenders. Even when they are caught, miscreants usually find some loophole or make a 'deal' that enables them to get them off the hook and continue their activities.

According to the principle of subsidiarity advocated by the RAF, local communities should have responsibilities at the most decentralised level, and local arbitration authorities be officially recognised by administrative structures such as prefectures. However, many prefects operate on the assumption that it is the public authorities that should set and apply sanctions, which suggests that the administrative agents working in direct contact with villages do not understand the roles that the State should play in the process of decentralisation and devolution. It is not uncommon for the prefectorial authorities to try to interpret or twist legislation, or to interfere in the management of certain conflicts and challenge decisions made by local authorities or CVGTs - either because they have not referred to legitimately formulated rules or because of widespread corruption.

However, progress is being made in some areas, as illustrated by the fact that the prefectorial authorities ratified the regulations formulated by Kadomba CVGT following internal consultations that took account of the interests of each group of participants (see Box 2). In the few prefectures where subsidiarity is applied, the official recognition has considerably increased the authority of these local institutions.

RAF legislation should explicitly recognise that local authorities, village communities and users' associations - either legal or legitimate- have the right to deal with disputes, which they do anyway on a daily basis. If one party is dissatisfied with the verdict, the role of the public administration and police should be to help enforce sanctions, provided that they are in accordance with legitimate local government rules that have been approved by the Prefecture and are thus in accordance with the spirit of the RAF. It is imperative that the prerogatives of local structures be clearly specified so that their authority will not be undermined by attempts to fix the rules or interpret the RAF in a way that suits particular actors.

Charges

Village communities and associations depend on user fees to cover the cost of running local structures, particularly the police, and to make essential collective investments. These resources and a corresponding capacity for transparent management are essential pre-requisites for effective natural resource management. In Kadomba, for example, the revenue directly collected by the CVGT helps cover various running costs and developments.

Taxes on the commercial exploitation of natural resources (rights of use, permits, fines, etc.) should go to decentralised local governments, which need financial resources to be able to exercise their powers. The TOD recognises that a certain amount of flexibility will be required in setting charges to take account of context and local specificities, so that fees can be raised if there is a need to protect threatened resources or discourage external users. If taxes are set centrally, as prescribed by current legislation,⁷ there is no flexibility to adapt to context.

⁷ Article 64 of the Forestry Code, for example.

2.3 Devolution of natural resource management

The TOD defines local governments as institutional frameworks that are responsible for the management of local affairs and natural resources. The proposal to transfer competences from the State to local governments presents a number of opportunities, although some elected officials will not necessarily see the issue of environmental management as a priority, since it is a long-term and complex problem. In its provisions for the creation of local governments in rural areas the law considers two categories: (i) rural municipalities, which will cover main departmental towns and various large market towns, and (ii) regions, which will have regional councils.

Plans to transfer the prerogatives of state authorities to local governments in rural areas will involve revising certain pieces of RAF legislation, and could facilitate better natural resource management. However, although the principle of subsidiarity enshrined in this legislation has obvious potential, the success of this initiative will depend on a genuine transfer of power to the communities that manage these resources, and will also entail certain risks that need to be analysed.

Municipal and regional councils will be responsible for managing local affairs and overseeing activities like environmental protection, safeguarding gazetted woodlands, and measures to reduce pollution and other nuisances. However, while the TOD defines the competences to be transferred to local governments, it says nothing about certain prerogatives such as setting and collecting user fees, controlling and collecting fines or issuing hunting and fishing permits. This restricts the opportunities for external influence on resource management, although this often depends on the strength of local resource user's associations.

There is also a risk that local governments may not manage natural resources in the interests of either their users or their sustainability, given the economic interests and power at stake, and the composition of rural councils (Lavigne Delville, 2002). Rural councils will have to deal with external pressure from political authorities and professional resource users as well the internal pressures of servicing a local clientele. This could result in a sort of decentralisation of corrupt practices, making natural resource management vulnerable to political interference and 'politics of the belly' (Bayart, 1991). One only has to look at the way that residential plots have been managed by urban municipalities to get an idea of some of the risks involved (see Chapter three). While the new prerogatives assigned to local governments do constitute progress and should therefore be supported, they will not automatically lead to better governance unless there are stronger mechanisms for control, more information sharing and greater participation in decision-making.

Other factors are also likely to hinder the type of local involvement in natural resource management envisaged by the TOD. The extent of the regions and number of villages concerned can only complicate sustainable natural resource management by regional councils. The regions will be expected to manage most forests, but as these cover huge areas they will have to deal with greater diversity

of resources and resource use, and a wide variety of local actors. This requires more cumbersome mechanisms that will inevitably make decision-making a longer and more ponderous process, as well as making it difficult to constantly modify and adapt the rules according to context and local circumstances.

As it stands, the region seems a very large entity to function effectively as a spatial unit and framework for partnership and intra-and inter-village negotiations. The problem is not so much an issue of the size of the area covered by local governments, but of the requirement to respect the principle of subsidiarity. The diversity and specificity of certain localities, even within the same region, require rules that are appropriate to context and which can be revised accordingly – something that cannot be contemplated at regional level. There is a clear danger that in assuming this task local governments will centralise the rights exercised by other institutions, even though they are not equipped to manage them effectively.

The need to delegate

It is vital that local governments confine themselves to putting into practice at the local level the guidelines and objectives defined at national level, and leave the day-to-day management of resources to the village and inter-village communities and users' associations that currently manage them. As they are finally accountable to the State, the job of local governments should be to monitor the commitments made by various local institutions, ensure that contracts are adhered to, and take the measures needed to support the application of local rules, arbitration, sanctioning failure to fulfil commitments, etc.

More realistic than the TOD, the RAF recognises the devolution of natural resource management to local government and points up the possibility of transferring rights to village or inter-village communities on a contractual basis. This is a significant step forward for natural resource management. However, the term "possibility", which the law uses to mention the transfer to village communities and users' associations, is not sufficiently binding as it places too much reliance on the goodwill of elected local officials and their possible interpretation of the conditions necessary for this transfer. This would open the door to "centralisation by municipal rural councils", negating the principle of subsidiarity that is fundamental to natural resource management. The law must be formulated and implemented in such a way that existing practices are taken into consideration, respected and upheld.

Starting with the principle of subsidiarity, the law should even stipulate that elected governments must observe this principle if certain conditions are met by the beneficiaries - village communities or users' associations. These criteria could take account of previous and recorded involvement in management of the resource in question, the legitimacy and legality of the proposed management structure, the existence of accounting arrangements and proof of a minimum ability for transparent management. These village communities and users' associations will not acquire full rights of appropriation, and the concomitant feeling of ownership, if local government councils have the power to make

decisions about key issues such as access to natural resources by incomers, rules of use, and modes of control and conflict management. If these roles are not transferred to existing management institutions there is a real danger that current management will be disrupted and resources degraded.

It is important that the procedures for transferring these powers are clarified, given the very real risk that the interpretation and application of this law will depend upon the goodwill of elected local officials. By stipulating that local governments are obliged to delegate rights when predetermined criteria are met, decentralisation would maintain and safeguard existing dynamics and initiatives. Therefore it should be stated unambiguously that the associations already exercising this type of prerogative will continue to do so.

Users' associations have the legal possibility of obtaining management powers from rural municipalities. Although municipalities are responsible for the management of local government affairs and not legally obliged to agree to this, they should not be able to refuse to cede these powers if an association or village structure meets the minimum conditions required. This would mean that rural community councils would only manage those areas whose management rights have not been transferred to a local association or village structure.

A provision should be made to limit the risk of "inequitable or destructive management" at local levels. Under such arrangements contracts could be annulled if they are not fulfilled: for example, if resources become degraded when the agreed objectives were to protect them, or in the case of disputes, biased local management committees, abuse of power by committee members, etc.

Moving towards local agreements

Some natural resources in Burkina Faso are already managed by legitimately constituted local users' associations that have put in place more or less formalised local agreements or regulations based on stakeholder consultation. While there are not many of these organisations (known to people in the development world), and few of their agreements have been registered with the local administration, they have shown their potential. It would be logical for the decentralisation process to support such initiatives by recognising their legal right to pursue their activities, provided that other users are not systematically excluded and that they pursue the specific objective of preserving the resource concerned. This is important, given that local rules are influenced by local social relationships, which may be inequitable or exclude minority groups such as women, migrants, and herders. It is the responsibility of the authorities to ensure that local rules conform to republican values, and to verify that they uphold core values such as equity and equality.

However, many resource users' associations are not traditional village structures, but were established following assistance from projects and operate on the basis of formalised and legally recognised regulations. There are several types of users' association: for example those centred around natural resources with high economic value, such as the co-operatives in irrigated areas that are

developing modalities for water management, or fishermen's associations; and associations in sylvo-pastoral areas (pastures, woods) that have developed contractual systems to deal with the use of diverse forest resources, through local agreements covering one or more villages.

Running through the risks presented by rural decentralisation, representatives of these associations or co-operatives are worried on several counts. These associations believe that they are capable of establishing themselves as natural resource management institutions, and expect local governments to support their efforts by delegating the relevant responsibilities to them. They are particularly concerned that local governments in rural areas will strip them of the powers they already exercise over natural resource management. Those of them that are aware of the arrangements prescribed by the TOD would have preferred that all zones where local agreements or other forms of local understanding on natural resource management (whatever they are called) are in place would become rural municipalities. They also worry that local government does not delegate the rights prescribed in the TOD. There is criticism of the potential risks of politics intruding upon the management of local affairs, which is seen as one of the greatest dangers to the long-term sustainability of local initiatives (Banzhaf *et al.*, 2000).

2.4 New roles for central government

The deepening of decentralisation requires a reposition of central government and not disengagement. Once it has transferred many of its prerogatives, the role of central government will be to guide, inform, supervise, inspect and arbitrate as required and provide financial support. So that forms of exclusion and social injustice do not develop in the name of autonomy, the State must not only transfer powers that will further local accountability, but also ensure that local rules do not contradict the spirit of the law and republican values.

The State must also take care to ensure that local governments in rural areas recognise existing prerogatives and forms of management, that they ratify local management systems proven to be effective (subject to their being equitable and respecting republican values), and transfer rights to nascent associations as and when requested. More specifically, its tasks will be to:

- Disseminate information on the law and republican values prescribing inclusion and equity;
- Ensure that the spirit of the law is respected and implemented;
- Assist and advise various actors on implementation of the different powers devolved to them;
- Monitor the results and impacts of actions and supervise overall arrangements.

Central government should also bring together different types of appeals, and in a timely manner use the powers needed to proceed with arbitration, in accordance with the principles and articles of the law. The various courts should help local institutions apply locally defined rules, once they have been endorsed and legally recognised by the administrative authorities.

Moreover, the *a posteriori* control exercised by the State should ensure that commitments are upheld to safeguard natural resources and biodiversity. The State should help municipalities and other local structures draw up contracts that take account of the objectives of preserving natural resources, in accordance with national policies and international commitments. It should also ensure that they are respected, and if not, should make arrangements to provide assistance (information, training, equipment, etc.). It is also important to recognise that local communities alone cannot manage some natural resources. Resources of strategic interest, such as international heritage sites, large tracts of forest, natural parks, watercourses, etc., can only be effectively managed by central government.

These important tasks call for reorientation around new functions that will demand new skills and capacities of staff in the technical services and administration. The repositioning of the State also entails powers to implement the prescribed arrangements and ensure that the rules of the game are respected.

However, responsibility for monitoring the implementation of proposed or adopted regulatory arrangements should not rest solely with the State. The spirit of the law and principle of subsidiarity will be better safeguarded if “the rules of the game” are overseen by civil society organisations too. They would be seen as the most credible protectors of the role played by local communities, and would be able to halt attempts by local government to centralise powers.

2.5 Conclusion

Given the country’s experience with centralised management it is inevitable that state prerogatives will be transferred to local structures. Legal provisions should encourage the transfer of resources to local government or it will risk depriving these emerging institutions of the financial resources that will enable them to function and pursue their activities.

The boldness of the RAF in developing the possibility of transferring prerogatives through a contractual framework should be applauded and supported. However, lack of clarity regarding certain issues, such as the role of elected local officials, makes it difficult to determine the full implications of this legislation. While it is essential that responsibilities are devolved and autonomy recognised, issuing and implementing a decree to this effect will not automatically result in effective and sustainable forms of management within rural municipalities. In order to change behaviour and practices with respect to natural resources, many of the articles of the RAF need to be reviewed to meet the requirements of decentralised management and the principles of subsidiarity.

The transfer of responsibility to local actors is advocated in the framework of the RAF, and more comprehensively in the provisions prescribed by the TOD. The TOD should combine with the RAF in specifying how power will be transferred to local organisations, and go further, being more explicit about the delegation of management responsibilities from local to village and inter-village bodies and associations. The decree on CVGTs should ensure a community

autonomy in setting up an organisation and even its name, as well as providing the legal backing that will enable them to collect revenue, manage land and apply sanctions according to certain modalities and principles that have yet to be defined.

While this decree recognises the CVGT's authority to manage land tenure and natural resources, no one is clear yet about how competences will be divided up between central and local governments. We need to better understand the importance of the roles played by the State and particularly by civil society. The capacity to respect the spirit of the law will depend upon the organisational capacity of civil society, through NGOs and regional-level associations.

We must be realistic about the complexity of the process and acknowledge the significant risks entailed in transferring responsibilities, and therefore guard against illusion and rethink approaches to local development and natural resource management accordingly. One challenge that needs to be addressed is the management capacity of village communities and future local governments. This is more likely to improve if local actors fully understand what is at stake and believe that devolution provides a real opportunity to access and utilise their natural resources.

These observations are made on the basis of what has been learned from experience. The "success stories" succeeded, through the efforts of local village-level actors but also, and particularly, thanks to the technical and administrative state authorities that were prepared to support and assist innovative initiatives. The common thread running through these experiences was the support provided by projects, which guaranteed the autonomy of local actors and ensured that the state authorities respected the sovereignty of local institutions. However, any attempt to apply legislation according to the letter of the law or interpret it in a particular way would have suffocated these initiatives, as happened to many others. The only way to foster the emergence and reinforcement of decentralised natural resource management initiatives is to formulate appropriate institutional arrangements and maintain scrupulous respect for the principle of local autonomy.

Although this chapter has focused on the regulatory framework of decentralisation, other factors also play a role in changing practices and improving natural resource management; not least continuous investment in developing local capacities, improving approaches and support strategies and enhancing the performance of the administration and technical services.

3 Land use reform in rural municipalities and its consequences for livelihoods

Alain S. Bagré, Ardjouma Ouattara, Moussa Ouédraogo

3.1 Introduction

Land tenure is central to the dynamics of the agrarian system in Burkina Faso, and secure access to land is becoming increasingly important in both urban and rural settings as traditional land management systems come under mounting pressure from the combined effects of social change, population growth, the market economy and ongoing agrarian reforms. There is growing concern in rural areas about the impact on access to land of the decentralisation process and the emergence of local governments with their own domains. What will be the status of municipal lands and how will be managed the process of creating urban land and distributing residential plots? What will it mean for the future of family units and the economic fabric of society, and what guarantees are there that land will be distributed equitably and transparently?

Most people, including the vast majority of staff in the public services, know little about the legislation and procedural guidelines for changing the status of lands and parcelling out of residential plots. Information on this complex subject is hard to come by.⁸ Therefore, this chapter mainly concentrates on describing situations, illustrating them with case studies and analysing the different laws and processes involved, rather than assessing quantitative data.

This chapter begins with a brief review of the legal framework for land management in Burkina Faso and then moves on to describe the strategies and process used in which the status of municipal lands has been restructured from rural to urban, followed by the distribution of residential plots. It will analyse the procedures used, the level of participation of local people and assess their impacts on local economies. It will also discuss the shortcomings of the process and suggest how it could be adapted to produce socially acceptable and sustainable results.

3.2 Legal framework for land management in Burkina Faso

The national domain and different categories of land

Legislation on land tenure in Burkina has gone through many changes, the most recent being Law No.014/96 ADP of 23 May 1996, or RAF. Despite successive modifications the RAF has retained several constant themes, such as the creation

⁸ The first evaluations of the restructuring process will soon be disseminated by the Central Office for Decentralisation and the National Commission for Decentralisation.

of a national domain (DFN) and distinct regimes for rural and urban lands, and management of these areas by Village Land Management Commissions (CVGTs) (Ouédraogo, 2001).

The general land tenure regime in Burkina is state ownership as enshrined in the creation of the national domain,⁹ which “is rightfully the property of the State”.¹⁰ All authorised private land ownership is therefore an exception to this general law. Within the national domain, the law distinguishes between rural and urban lands,¹¹ and by endorsing the principle that these two categories of land exist, suggests that each should have its own distinct legal regime.

However, apart from setting out the principles for planning and development, little has been done to clarify the legal status of rural lands. Some arrangements have been made regarding access to rural land but these are unworkable and inappropriate, while there are no legal provisions for areas managed according to customary rules. It seems that the current reliance on mutual tolerance over management of these areas is set to continue for some time.

As rural areas in Burkina Faso support agro-pastoral, forestry and fishing activities and make up most of the land subject to tenure, it is important to clarify the exact status accorded them by current legislation. The arrangements set out in the RAF need to be analysed, particularly those concerning rural areas, so that the status of rural lands can be clarified, the opportunities offered by the law exploited and its shortcomings clearly identified.

Urban and suburban lands

As urban and suburban lands are defined according to two criteria - administration and activities - it is worth considering what these criteria cover. According to Article 39, all areas within administrative town boundaries or covered by master development and town planning schemes (SDAUs¹²) are classified as urban land. Urban areas across the country can thus be classified into two groups, according to how they achieved this status: Ouagadougou, Bobo-Dioulasso and thirty other towns have SDAUs, while the administrative boundaries of towns and villages for which there is no SDAU are determined by regulatory legislation.

⁹ The national domain is legally defined in terms of its constituent elements, namely the body of lands located within national territorial boundaries. According to Article 3 of the Law of 23 May 1996, the national domain also includes “landed or comparable property cited in Article 34...of this law”. This concerns elements that are traditionally part of the state public domain, such as rivers and riverbeds, lakes, roads and tracks. The lands cited in Article 34 are subject to a special legal regime guaranteeing that they will be allocated for public use. They are inalienable and imprescriptible.

¹⁰ Article 4, Law of 23 May 1996.

¹¹ Article 38: “Land in the national estate is classified into two (2) categories according to its location and use. The two categories are urban and rural land.

¹² Schéma Directeur d'Aménagement et d'Urbanisme.

Regarding the activities criterion, the law states that urban lands are mainly intended for essentially urban activities, such as habitation, commercial, industrial and administrative uses and small-scale enterprises. Since it seems reasonable to interpret the law as meaning that any land within the administrative boundaries of towns and villages is rightfully urban land, activities would seem to be a supplementary criterion. However, it has to be recognised that blocks of urban land do exist within what are broadly classified as rural areas.¹³

The law also distinguishes suburban areas as a sub-category of urban lands.¹⁴ These are undeveloped urban areas on the outskirts of towns, particularly areas that have not yet been registered, had boundaries marked, services installed or been put to productive use.¹⁵ Their legal status is ambiguous as it is not clear whether they fall under urban or rural land tenure regimes. Strictly speaking, they should be seen as urban areas that are sometimes allocated for particular types of productive use, but which are distinguished by the fact that they are waiting to be developed. In practice, however, they are often confused with rural lands, and there is fierce competition between the State and customary authorities over who should manage them. With no obvious state intervention to “occupy” them, these areas are also often targeted for unregulated housing development or property speculation (Ouédraogo, 1999).

Rural lands

The RAF states that rural land is determined according to “residual” criteria, since any land that cannot be defined as urban is considered to be rural.¹⁶ Therefore the legal importance of a completely unambiguous concept of urban land is obvious. If, as in many cases, the administrative boundaries of a village have not yet been set, all land outside a 2 to 4 kilometre radius from a built-up area is seen as rural land.¹⁷ There is also an additional economic criterion regarding the main activities undertaken in an area, so that rural lands are those areas allocated for activities related to life in the country, such as farming, livestock production, forestry, fishing, etc.¹⁸ These activities also indicate the general use of rural lands.

The law also distinguishes between developed and undeveloped land within rural areas, classifying all areas covered by a development plan (*aménagement*

¹³ Thus, in a village the residential area theoretically falls under the regime for urban land, while the area where crops are grown is covered by the regime for rural land.

¹⁴ Article 39, para. 2.

¹⁵ This does not cover land within the boundaries of an SDAU that has undeveloped sites in rural areas.

¹⁶ Article 40: “All land outside the administrative boundaries of towns and villages or the area covered by an SDAU is considered to be rural land”.

¹⁷ The distance of 2 to 4 km is determined as a function of the size of the agglomeration in question.

¹⁸ Article 40 of the RAF.

de territoire) as developed rural land.¹⁹ Thus, these areas could be seen as part of the national domain that has been put to productive use by the State or its various departments, or that the State has set aside for productive purposes.²⁰

As a legal category, undeveloped rural land is subsidiary to developed land, and is subject to the legal regime covering undeveloped lands. Undeveloped rural areas are generally village lands used by local communities for productive activities, as fallow or land reserves, and are usually managed according to customary practices.

Legally, they are subject to certain general arrangements prescribed by the RAF, which do little to clarify their status.²¹ The provisional arrangements set out in the RAF enforcement order²² maintain the *status quo* by allowing rural communities to continue to use their land without being subject to any legal requirements. Thus, landholders in village territories do not need to have pre-ordained title to their land or have to pay taxes to use it. However, these advantages are offset by the fact that they do not enjoy any of the legal protection or security accorded to holders of land tenure rights, particularly the right to be compensated for land appropriated for public use or the right to apply for title to private ownership. This leaves customary landholders with very little security of tenure.

As the RAF law and decree make no explicit reference to the suppression of customary rights, it could be argued that they tacitly recognise customary land tenure; and that by permitting customary landholders to continue their activities, the law actually sanctions holdings that existed when the RAF was promulgated. So, while these customary landholders do not enjoy the same security as holders of title deeds, they should not be treated as temporary occupants. Although the law states that authorisation should be obtained from the administration before land can be used for a new purpose,²³ new land clearances are usually overseen by the customary authorities.

If *de facto* recognition of traditional land uses is seen as being advantageous to rural communities, it is particularly important to identify the rural land uses that existed when the law was promulgated. Otherwise how can it be decided who

¹⁹ This includes national, regional or provincial master plans, cf. Articles 9 to 12 of the Law.

At the moment there is only one regional development plan, which covers the Sahel, and one provincial one covering Zoudweogo, as urban development plans have yet to be drawn up for the other regions and provinces.

²⁰ The types and conditions of rural developments are specified by ministerial decree, see Article 32.

²¹ See Article 64, which defines the procedure for allocating undeveloped rural land, and Article 184 of the enforcement order specifying the conditions for commercial occupancy of this type of land.

²² Articles 505 and 506 of the RAF enforcement order.

²³ Article 505 para.2 of the RAF enforcement order. The administration concerned will be the Prefect of the relevant territorial department.

should be recognised as a *de facto* user and who has to apply for authorisation? A realistic approach would be to survey and inspect uncleared land and make occupancy conditional upon prior authorisation.

Article 506 of the RAF enforcement order endeavours to determine which rural areas are used for pastoral purposes, thereby providing a legal basis for securing pastoral resources and areas where livestock gather during transhumance.²⁴ If these areas were identified they would be legally protected, in that the administration would have to authorise any change of land use. National or regional development plans may also specify that certain areas be set aside for purely pastoral purposes.²⁵

According to the RAF, the State can transfer to local governments the management and use of any of land from the national domain that is located within local government territorial boundaries.²⁶ Their powers over various land-related affairs are laid down in the law setting out the broad principles of decentralisation (TOD), which states that local governments may be responsible for management and use of the national domain, land use and town planning, environment and natural resource management, and economic planning and development.

Some observations on current legislation

The wide range of powers devolved to local governments reflects the difficulties involved in regulating local development in a way that respects the objectives of decentralisation.²⁷ It also underlines the law's desire to address the localisation of activities, urbanisation, natural resource management, and to tackle the social problems of the municipalities concerned. In accordance with this objective, the law specifies that a clear distinction should be made between urban and rural land in local government domains, and that these areas should be allocated, used and regulated accordingly.

However, as it stands the law says nothing about the territorial scope of these local governments, and there are no guidelines to help the administrations, local people and other actors easily determine the geographic boundaries of their area of jurisdiction. The situation is made even more confused by the TOD, which stipulates that "built-up areas with a population of at least 5,000 and sufficient economic activity to generate the resources to balance an annual budget of at least 5,000,000 FCFA may become municipalities".

Thus, because the criteria for defining municipalities take no account of land tenure, the law does not establish their administrative boundaries. This lack of

²⁴ Article 507, RAF enforcement order.

²⁵ Land may also be set aside by natural or legal persons, newcomers to agro-business that have significant landholdings in rural areas.

²⁶ Article 69, Law No. 041/98/AN.

²⁷ Article 2, Law No. 40/98/AN.

precision is at the root of all the problems associated with changing the status and use of the land attached to principal departmental towns, which are already seen as future rural municipalities under the arrangements set out in the TOD. Most principal departmental towns include within their territorial boundaries built-up areas that could, according to the TOD, claim local government status. Thus, for example, as a departmental capital Sabcé has power over the villages of Bissa, Zandkom, Rounou, Tanguiema, Bissiguin, etc., even though some of these villages could also claim local government status under current legislation. The law makes no provision for the possibility of federating several built-up areas into one local government, and the current legal definition of rural municipalities would immediately cause problems if this was to happen.

3.3 Strategies and procedures used for restructuring rural lands

Procedures for obtaining authorisation to restructure the status of land and redistribution

In 2001 the Ministry for Infrastructure, Housing and Town Planning and the Ministry for Home Affairs and Decentralisation jointly passed two orders outlining the procedures for so-called *restructuration* of land and establishing the content of master development and town planning schemes. These two orders are used as a reference point in rural municipalities across the country that are planning or undertaking *restructuration* of land, which is commonly known as “*lotissement*”.

The spirit of the orders indicates that land *restructuration*, involves creating land with an urban status, allocating land to individuals for the purposes of housing and installing basic amenities. Authorisation for *restructuration* is obtained through a substantiated application that the “local” authority²⁸ submits to the Minister of Town Planning through the minister responsible for home affairs. To be admissible, an application must contain the following information:

- Number of inhabitants and demographic trends in the locality;
- Main activity or activities undertaken by these people;
- Number of plots set aside in the locality and whether or not they are put to productive use;
- Date of the last *lotissement*;
- Size of the area to be developed and number of plots requested.

This information should be accompanied by sketches showing the location of the area where land is to be allocated, and plans of those areas where operations have already been completed. Once authorisation has been granted, the relevant public services and registered firms of surveyors make an initial visit to the site to survey it and assess the situation. They must give a detailed report on what the land and buildings are used for, the vegetation and topography of the site, existing roadways, property titles already issued or being processed, etc. In parallel with these surveys, information needed for the smooth running of implementation should be gathered and used to prepare plans for *lotissement*.

²⁸ The elections for rural municipal councils have not yet taken place, so rural municipalities do not legally exist. In the interim prefects are acting as special delegates.

Most of the operations involved in designing and approving the necessary documentation to restructure land are carried out by the public services and surveyors, and these documents are then fed into proposals for an urban development plan. Over fifty proposed *lotissements* have been approved and implemented since 1999, with around 128,000 residential plots allocated in about 45 villages (see Table). These include 17,080 plots in Bobo-Dioulasso and 97,522 plots covering 6,121 hectares in Ouagadougou in the same period

Table 1: Villages outside Ouagadougou and Bobo-Dioulasso affected by *lotissement* between 1999 and 2001

Year	Number of localities involved	Number of plots
1999	16	18 377
2000	14	16 219
2001	13	17 490

Source: Department of urban analysis and statistics, Ouagadougou

Content of urban development plans

SDAUs are the main instrument used in *lotissement* operations. The public services are responsible for most of the procedures for formulating and authorising these plans, which consist of written and illustrated reports (see Box 1 below).

Box 1: Content of SDAUs

Written reports covering:

- Analysis of the current situation and main characteristics of demographic and economic development in the territory concerned, taking account of its relationship with neighbouring territories
- Elements of the development retained for implementation and justification for their inclusion, taking account of the points above, the need to balance urban and rural development and optimal use of existing or proposed amenities
- Outline of the main phases of implementation
- Analysis of the initial environmental conditions and extent to which the plan aims to preserve them
- The conditions and constraints upon land use

Illustrated reports, covering:

- General land use
- Preferred zones for extending the built-up area
- Main wooded areas to be retained, modified or created
- Location of major activities and main public/general amenities
- General organisation of traffic and transport, with plans of the main highways infrastructure
- Basic elements of the water, electricity and waste networks and rubbish disposal system
- Possible area of zones covered by the urban development plan
- Basic elements of the first phase of implementation

3.4 Analysis of lotissement in practice: Sabcé and Koubri

Although *restructuration* used to be seen as a primarily urban concern it has now extended into rural areas. Over the last few years *lotissement* and *restructuration* operations have affected the 350 principal departmental towns across the country that have been designated as future rural municipalities as part of the ongoing process of decentralisation.

The term *rural* municipality stems from the fact that the economy of these localities is completely dependent on agro-sylvo-pastoral production. Unless there has been a *lotissement*, it will be difficult to differentiate between the principal departmental towns and other rural localities in terms of land use during the rainy season. In addition to farming, livestock production is another important activity for resident communities, whose economy is thus firmly rooted in the land.

Rural municipalities will only be able to achieve the twin goals of viability and sustainability if *restructuration* takes account of the conditions required to promote and develop agro-sylvo-pastoral activities. Using data from two sites, Koubri and Sabcé, a study of the practices currently used to restructure and allocate land shows how different aspects of the economy are taken into account and the various stages of the process have been implemented.

Koubri and Sabcé are both classified as departmental capital. Situated in the province of Kadiogo, some 30 km southeast of Ouagadougou, Koubri had a population of 8,113 in 1996, of whom 53% were women. With infrastructures that include dams and reservoirs it is a good area for market gardening and agro-pastoral activities, while its proximity and easy access to Ouagadougou favour the development of tertiary activities. The village of Sabcé lies in Bam province, 100 km or so north of the capital. In 1996 its population numbered 7,572 inhabitants, 53% of whom were women. Both villages have a large enough population to fulfil TOD criteria for becoming rural municipalities, and both have primarily farming-based economies.

It is some time now since Koubri and Sabcé began the process of *lotissement*. Because of its proximity to Ouagadougou much of the farmland in Koubri is used by city dwellers, reducing land availability for local people. The land around Sabcé is generally degraded and much of it is no longer usable. Only the wetlands and the better-fertilised fields near the village (*champ de case*) are suitable for cultivation now, and here too there are very few opportunities to extend farming activities. In both places the lack of cultivable land has created considerable tension over land tenure.

Lotissement is an additional constraint to farming since this activity is prohibited once these plots have become 'urban land' and been allotted. Customary land chiefs are losing control over the land to beneficiaries that may not even live in the village, and as plots cannot be farmed by the former landowner after reallocation, the only options open to those who have been stripped of their assets are migration or switching to another activity.

3.5 Main stages in restructuring

Initiating the process and applying for authorisation

As part of the decentralisation process, the elected mayor is responsible for applying for authorisation to reorganise land. However, since rural municipalities have not yet held their elections, some of the powers to be devolved to elected local officials are now exercised by prefects, who represent the administration. They play a key role in *lotissement* projects, as it is their office that is responsible for initiating applications for authorisation and sending them on to the minister responsible for town planning.

According to the spirit of the legislation, these projects should be initiated by communities from the localities concerned. In practice, however, they are often instigated by the local elite and their relations in town. Moves to allocate land in Koubri were started by the local development association, *l'Association de Développement Communautaire de Koubri* (see Box 2, p. 40), while in Sabcé they were instigated by the departmental development association. Both these associations are run by migrants originating from these villages, who are the real decision-makers and they are supposed to represent and defend the interests of the whole community. In practice they only report back sporadically to resident communities about discussions with the public services, and do not involve local people in decision-making processes.

As the leaders of these associations often occupy privileged positions as high-ranking civil servants, politicians, businessmen, etc., they have no difficulty in getting their applications accepted. There have been many cases of city dwellers capitalising on their position to instigate development projects in their home village, and proposals being accepted on the basis of the applicant's identity rather than the merits of the actual proposal.

Although the underlying intention may be commendable and prompted by a desire to promote and encourage development in "their village", the fact is that these communities often lack the resources to sustain this type of urban development. Moreover, projects are far more likely to run into major difficulties if local people are not involved in them from their inception.

Initial meetings with local communities

Lotissement projects are often presented to resident communities as a *fait accompli* as they are usually only involved in the process once a project has been authorised. Information gathered in the field suggests that many of the problems raised by the communities concerned should and could be addressed in the early stages of a project.

In Koubri, the first meetings with local people regarding the *lotissement* project were held to inform them about the size of the plots, the criteria and modalities for allocation, how much they would be expected to pay, etc. The points raised at these meetings illustrate some of the shortcomings of this approach, such as the fact that it is impossible to determine the number of plots required without first canvassing the potential beneficiaries of a project.

Box 2: The process of lotissement in Koubri

Koubri is one of ten "village centres" identified for development by the *Ouagadougou Projet Village Centre Banlieue* (PVCBO) to relieve congestion in the capital, better integrate these villages into the city and provide them with amenities in an attempt to halt the exodus into Ouagadougou. Thus, in 1996 the PVCBO funded an operation in Koubri in which 1,657 housing plots covering 231 hectares were made available to residents and non-residents. Demand soon outstripped supply as the location and potential of the site attracted numerous applicants from Ouagadougou. Many local people, particularly those that had moved from Koubri to the capital, were infuriated at the nepotism and speculative deals that flourished in the scramble for plots. The authorities were approached for permission to expand operations in order to deal with the large number of applicants, particularly émigrés from the community and local landowners. Because the area earmarked for development was inhabited, it was decided that every applicant should pay a single subscription fee of 30,000 FCFA plus a registration fee of 5,000 FCFA, and that compensatory plots should be set aside for landowners and their children. The extension went ahead in 1998-1999, but again prompting a number of objections at the way that it was managed.

An audit that had been commissioned never got off the ground because customary landowners were unhappy with the situation and refused to participate in it. They felt expropriated from the land without having been compensated sufficiently. These complaints were justified since their main activity was farming.

The situation in Sabcé was even more remarkable, as local communities were not involved in any of the major stages of the project. The aim of the first meeting with local people was to inform them about the modalities for allocating plots, which were widely criticised by both resident and émigré populations, particularly those from Ouagadougou. In order to remedy the many problems caused by the local authorities' approach, an informal consultative committee was formed and attempted to find solutions to the many problems that should have been resolved before the whole process of *restructuration* was set in motion. These included the location of certain socio-economic infrastructures, identification of sacred places, the need to maintain family units, the hierarchy of beneficiaries, proposals for maintaining and strengthening the economic fabric of the community and addressing the needs of deprived groups, etc. However, since the concept and design of the various urban development plans were already fairly advanced at the time of the meeting, many of the concerns expressed by local people went unanswered and the process progressed in a climate of tension.

In another place, the process ground to a halt, having been rejected by local communities that were more interested in opening up the village with a good road than they were in *lotissement*. Elsewhere, villagers showed so little interest in the scheme that the plots that were allocated were never put to productive use and ended up being reabsorbed into fields. They were still being cultivated until a short time ago.

Once again, these examples illustrate the shortcomings of the strategies and approaches used to implement *lotissement* projects. Not only are they often instigated without involving resident communities, but the behaviour of local authorities also leaves much to be desired.

Inventory of beneficiaries of residential plots

The procedures prescribed by legislation state that all applications for authorisation should specify the number of plots to be created, which assumes that there is at least some information on the number of potential beneficiaries of any scheme. Making an inventory of these potential beneficiaries has proved to be one of the most problematic aspects of the whole initiative, as it is not only the most sensitive part of the process, but also the most confused and open to irregularities such as fraud and embezzlement.

It is not unusual to find that lists are incomplete or have been compiled without any regard for chronological order, that information has been duplicated, that there are no precise categories of the people surveyed in a particular area, that books of receipts are missing or numbers on receipts do not tally, that more than one applicant has paid for the same plot number, or that there is a difference between the number of plots created and the number of people surveyed. All these irregularities are due to poor work practices and are often the result of a deliberate strategy by certain actors to embezzle funds under the cover of muddled and opaque financial management.

In Sabcé local people were shocked to learn that it would not be possible for every applicant to claim a residential plot because demand exceeded supply. This situation may be partly explained by two serious shortcomings of the procedure used there. The first concerned the design of the survey, which was a very complex process involving numerous applicants that did not usually live in the village, and which should have taken account of émigrés that still had links with Sabcé.²⁹ The second concerned the way in which applications for plots were prioritised and processed.

The process of *lotissement* usually concerns inhabited areas within departmental capitals. Communities from these areas feel that they have a rightful claim to all prerogatives over the territory in question and should take priority in any proposed developments within the boundaries of “their land”. Since many approaches fail to take them into account, customary landowners often simply refuse to ratify the new allocations – as happened in Koubri, where local people were initially opposed to allocation of plots and their occupation by incomers.

So, who should be listed and which groups should take priority over others? The local authorities’ strategy of allocating plots on the basis of applications received makes it impossible either to set priorities or take account of social circumstances, and the only people who really benefit from the process are those with the means to pay the various fees charged.

²⁹ Some observers claim that this survey was never carried out.

Modalities for allocating plots

Much of the information gathered in the field regarding the strategies and modalities used to allocate plots suggests that in its current form, *lotissement* is an anti-social and anti-democratic process. Firstly, because the various taxes and charges that applicants are expected to pay bear no relation to the local realities. These charges may amount to sums of up to 100,000 FCFA, even though some localities are so poor that most of the communities concerned live well below the 1998 poverty threshold of 72,690 FCFA per adult per year. In Sabcé, for example, applicants are expected to pay about 87,000 FCFA per plot. Because most people cannot pay user's tax, priority is given to the most affluent applicants. This leaves the process open to all kinds of malpractice, with one person being allocated several plots while others come away with nothing. The consequences of this can be disastrous as family units are broken up and those who cannot pay the allocation fees are forced to leave for areas unaffected by *lotissement*.

3.6 Lessons learned*The shortcomings and limitations of legislation on lotissement and restructuration*

When the content of the two orders is analysed it becomes apparent that they focus more on urban development than on rural development. While the procedure for formulating SDAUs clearly sets out the parameters for successful *restructuration* in urban areas (resident population, number of plots to be created), less consideration is given to economic activities, and particularly to agro-sylvo-pastoral activities. The nature of the data collected and passed on to decision-makers does not enable them to take these activities into account or set aside the space needed to pursue them. It is not enough simply to list the main activities in an area: a detailed evaluation of the land under crops and required for farming is needed. This type of information is essential if SDAUs are to be able to respond to the needs of rural municipalities.

Furthermore, those involved in the various procedures prescribed for formulating plans and reorganising land never mention the local people who are supposed to be the main beneficiaries of the whole initiative. The different stages of the process are led and approved by local authorities and 'experts' rather than local communities, and no mention is made of consulting with resident communities or getting them to endorse proposals and decisions regarding projects. Although communication between the different actors involved is surely a vital part of the process, this is apparently left to the discretion of individuals within the local authorities, who do not always seem to see the need to take the view of others into account.

Current legislation also fails to deal with another important aspect of *restructuration* – how the funds raised during these operations should be managed. These shortcomings and lack of precision leave the legislation open to malpractice and increase the risk of misunderstanding between those involved in the process.

The actors involved in the various processes

Until now the main actors involved in *lotissement* projects have been the local authorities, which are represented by the prefecture. Allocation commissions are generally composed of the Prefect (who chairs the commission), delegates from the village authorities and representatives from the property department, tax office and town planning - although their composition varies slightly depending on local circumstances. For example, in Koubri, the commission includes the village chief and two émigré representatives. In Sabcé customary chiefs are not represented on the commission because there are tensions between them, but development associations representing local communities have managed to secure a seat as observers.

It is clear that the main stakeholders in the process need to be more involved in running operations if they are to proceed peacefully and produce a sustainable outcome. Since the administration has no legal authority to instigate and lead these initiatives it should heed the sit-ins outside prefectures and protest marches demanding greater consultation, and adopt a more participatory and consensual approach by allowing the elected mayor and his municipal council to take responsibility for the process.

It is also important that the commissions established to run these operations in rural areas are sensitive to different local concerns. Even if *restructuration* is based on the premise that “the national domain (land) rightfully belongs to the State”, customary chiefs, socio-professional associations, women and youth groups still need to be included in the process. Since they are not, it is hardly surprising that “informal” groups are becoming increasingly vocal in claiming their rights and expressing their reservations about the way that these operations are run, with no elected municipal councils involved and far from transparent management.

The next section analyses the process used to restructure common lands in rural areas, in order to see what can be learned from the experience.

Lack of communication and consultation

The lack of communication and consultation between different actors is highlighted by the various problems encountered during the process of *lotissement*. Instead of discussing key issues and concerns with local people, the administration often takes decisions and imposes them without consultation, only meeting with local communities to give them basic information about how these decisions will be implemented. It is only when local people protest (often violently) about the ongoing process that consultative mechanisms are put in place and attempts are finally made to address their concerns.

The communication methods and tools used during implementation are also inappropriate and badly flawed, particularly the practice of issuing directives rather than attempting to convey information. This prevents local people from actively participating in discussions and decision-making processes, and is a particularly serious failing in such a complex undertaking, where activities can be halted by the slightest misunderstanding.

Unfulfilled expectations of lotissement

According to the local communities and administrative officials we spoke to, *lotissement* is seen as a means of urbanising an area, of “turning our villages into towns”. In other words, they expect that the process will lead to the arrival of amenities and infrastructure such as electricity, drinking water, roadways, etc. They also hope that the ownership rights conferred with the plots, which are supposed to provide security of tenure, will attract investors, particularly those interested in property development. “Now our village will become a big town with beautiful houses. Business will take off and we’ll have everything on our doorstep – telephones, good TV reception, etc.”.

It seems that this is the vision guiding most of the people involved in *lotissement* operations and why all efforts are channelled into urban affairs - to the detriment of rural areas. Most people seem to believe that *lotissement* will automatically transform their village into an urban setting with instant electricity, water, telephone services, etc. What is often forgotten is the fact that most existing towns are the product of dynamic economic development and are rarely artificially created. It is hardly surprising that they become disillusioned when these amenities are slow to materialise.

This is a major weakness of all *lotissement* initiatives, even in major cities such as Ouagadougou. The daily newspaper *Sidwaya* sounded the alarm on 20 August 2002, answering its own question “Should we call a halt to *lotissement*?” with the following comment: “This is a difficult question, but one that needs to be asked. What’s happening in Bogodogo, Boulmiougou, Nongr’Maasom and Sigh-Noghin can’t really be called ‘*lotissement*’ for residential purposes. It’s actually land division in plots. These plots may have sold very quickly, but there are no plans to install services like roadways, gutters, water, electricity, etc. in these areas. The communities living in these new neighbourhoods are really suffering, and some people are saying that there is no urban development plan for Ouagadougou. Our mayors should concentrate on making the zones that have already been allocated habitable, instead of always thinking about new large-scale *lotissements*”.³⁰

When all is said and done, *restructuration* operations in rural areas have done little to foster their development. Not only are the objectives of creating “towns” unlikely ever to be achieved, but what has been done has contributed to the breakdown of their social and economic fabric and weakened already precarious local livelihoods.

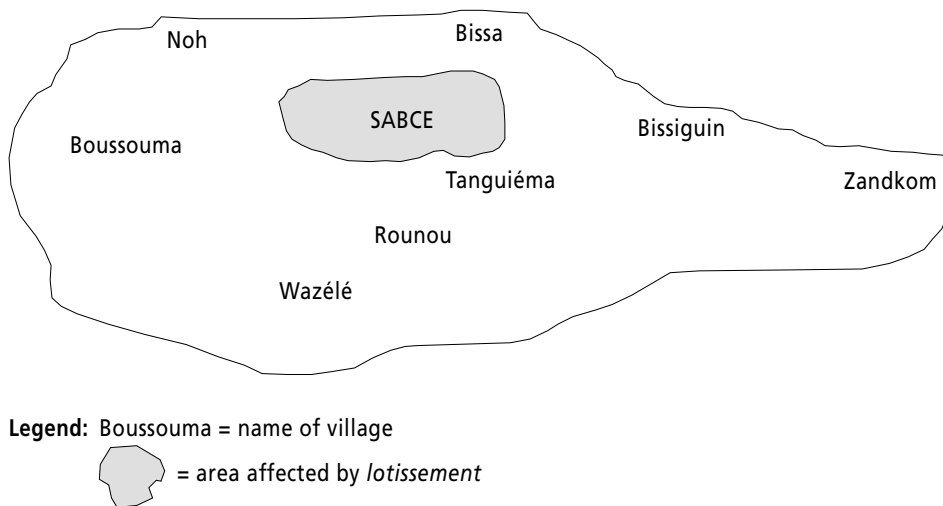
Spatial, social and economic definition of rural municipalities

What is a rural municipality in geographic terms - a village seen as one specific built-up area, or a group of villages? This point needs to be clarified so that different development approaches can be implemented more effectively. According to the law, when a village has a built-up area, it is therefore eligible to become a rural municipality if its population and financial capacity exceed

³⁰ *Sidwaya*, 20 August 2002, “*Coup de gueule*”.

certain minimum levels. While it is usual for villages to have a budget, the current configuration of rural municipalities goes against official norms because it groups several villages, like the rural municipality of Sabcé illustrated in Figure 1 below.

Figure 1: Boundaries of the rural municipality of Sabcé



Although the geographic area covered by the rural municipality of Sabcé currently includes nine villages, residential plots are only set aside in one locality, the old site of Sabcé village, causing an uproar. Theoretically there is no reason why inhabitants of the other villages in the municipality cannot claim a plot here since their villages fall within the municipal envelope. There are several reasons why the *lottissement* approach used in Sabcé has proved so contentious: the first being that authorities seem to aim for the confinement of the population of the municipality to the principal village which goes against pre-existing forms of social organisation and excludes surrounding villages from the process. Traditional practices and links between the various villages do not suggest that there is a strong case for bringing their inhabitants together. Even in the medium term, it would be hard to envisage the inhabitants of Boussouma wanting to get together with villagers from Sabcé, since the canton chief from Riziam who lives in Sabcé is traditionally enthroned in Boussouma, which is also the burial site for chiefs. Local people are unwilling to break with this tradition and are thus reluctant to support the plans for *lotissement* in Sabcé only. Apart from disrupting traditional power structures, there is also a risk that the new way of organising settlement will break up family units.

Finally, there are concerns about how these initiatives will affect the local economy. Although the law states that all rural municipalities should have distinct urban and rural areas, the approach used in Sabcé does not take account of this; and even if *restructuration* was limited to the legal definition of Sabcé as a village rather than a municipality (see Figure 1 above), it would be virtually impossible to establish a large enough rural area to support agro-sylvo-pastoral activities.

The process followed in Sabcé focused on urban concerns: there was no evaluation of the need for farmland and no arrangements were made to negotiate with surrounding villages to compensate farmers whose land had been appropriated for urban development. If this initiative had included the whole municipality, i.e. all the villages shown in Figure 1, it would have been possible to allocate residential plots on a village-by-village basis, which would have had the advantage of maintaining traditional land organisation and preserving the productive areas between the plots allocated.

Equity and transparency in restructuration

One subject that has rarely been out of the national news over the last few years is the issue of equity and transparency in the management of *lotissement* operations. The allocation and sale of plots is seen as an opportunity to generate the money that municipalities need to buy equipment and infrastructures, so charges are fixed according to the municipality's financial needs. In Sabcé, for example, the cost of extending the zone in which land will be allocated is borne by future beneficiaries, who are also liable for user's tax. Some of the money raised is invested in local infrastructures, such as the housing for teachers planned in Sabcé.

This system works against the poorest sectors of society, since anyone who cannot afford to pay the various taxes and fees is either forced to leave the zone or to sell their land to wealthier citizens. These individuals may be able to afford several plots, while poorer people are effectively excluded from the area once it has been developed. This is what has happened in Koubri, while *lotissement* in Sabcé has caused many problems for the local community, and particularly for women (see Box 3, p. 47).

Not only is the system for allocating plots inequitable, but the mechanisms for managing the money raised are often unorthodox and far from transparent. During the case studies we noted that many different people are involved in collecting taxes, from the local authorities and state property department to agents from the allocation commissions, etc. Furthermore, some of the books of receipts that were produced for the project disappeared once the money was collected, while the management commissions now consist of just one person representing the local authority, who spends the money in its name.

In many places, such as Koubri, for example, the new authorities have no records of how plots have been allocated. And in Ouagadougou the audits commissioned by the central mayor's office revealed that several hundred millions of francs CFA had been siphoned off during *lotissement* operations in the city, through over-billing, wheeling and dealing in the handover of markets, parallel sale of plots, etc.

Box 3: The impact of *lotissement* on women from Sabcé

Well, times have really changed. There was a time when you couldn't go far from the village for fear of being attacked by wild animals, but they've all disappeared now. And we women have lost something even more precious – our self-respect. You see, the women who are most admired are those who serve their husband and his guests the best meals and tastiest sauces. When a woman's husband gives her permission to go and see her relatives, she'll take lots of cereals, niébé, cotton and especially condiments, to give to her aunts, the old women and sisters in law. This is a way of showing that her household is thriving and how much her husband loves her. When she goes home the gifts she has been given show her standing in her own family - that she is respected and has her family's blessing for having accepted the husband they chose for her. A dynamic woman is also judged by the quality and quantity of what she gives at ceremonies like family funerals.

You can't do anything unless you've got some money. We women can't rely on our husbands for everything, so we try to earn money during the rainy season. We manage these little plots ourselves and produce enough on them to meet most of our needs. In our case, most of this land is near where we live, in the residential area. It's been getting harder to get cultivable land and tensions over land have increased as the population has grown, but we've always managed to get by. Nothing's the same now though, and everything seems to have got worse since the *lotissement* project started. First our little plots were allocated for housing, then we heard that the Prefect has banned us from growing crops in fields inside the allotted area, which is where we had our little farms. What are we supposed to do now? Where can we grow anything? I'm old and my days are numbered, but you and your wives and sisters will be on handouts for evermore. And I've still got to eat, but who's going to feed me? You? I didn't give up, but I was stripped of my livelihood. And by the way, when you get back to Ouagadougou tell all my granddaughters to buy me some condiments, because I've broken my *daba*.

(Transcript of a conversation with an elderly woman, by Moussa Ouédraogo)

3.7 Conclusion

In Burkina Faso the implementation of decentralisation and its administrative reforms has led to the restructuring or *lottissement* of land in both urban and rural municipalities. This has sometimes had disastrous consequences on rural livelihoods because local communities have not been involved in the process, even though decentralisation “bestows upon local governments the right to freely administer and manage their own affairs in order to promote grassroots development and reinforce local governance”.³¹ Many of the setbacks encountered during *lotissement* are due to local people being excluded from a process that is supposed to strengthen or improve their livelihoods. Instead, it has frequently exacerbated the socio-economic situation as people have ended up being stripped of the farmland that is their main asset.

³¹ Law 040/98/AN on guidelines for decentralisation in Burkina Faso, Article 2, paragraph 2.

One of the reasons for this is that the municipal councils that should have been democratically elected in 2003 are still not in place. Since the administration is not empowered to initiate and lead village development projects, one might ask why the local administrative authorities, particularly prefects, are in such a hurry to restructure the principal towns in their departments, which will in time become rural municipalities. Wouldn't it be better if the émigrés "pushing" files in offices in Ouagadougou concentrated on other ways of developing their villages? Why not wait until the municipal councils are in place and let them distribute residential plots in a way that best serves the interests of local communities?

Since the conditions for restructuring rural municipalities are not yet right, it would be better to let the municipal councils get established before proceeding with *restructuration*. Given time, they could design development projects and establish a transparent management system that would enable local communities to make decisions in full knowledge of what the future holds for their villages.

4 Dealing with mobility in decentralisation: risks and opportunities for pastoralists

Harouna Bary

4.1 Introduction

Extensive livestock production is still the most widespread system of animal production in Burkina Faso, a country where the key resources - natural pastures and water - are seasonal and dispersed. Statistics from the Ministry of Livestock Resources indicate that 70% of cattle go on transhumance. Often covering huge areas, this particular form of mobility enables herders to capitalise on the complementarity between different zones, and is a key strategy for making the most of scattered and annually variable resources. Nowadays access to pastoral resources is less secure. Pastoralists are not well represented within the 'formal' local authorities responsible for natural resource management. At a time when much thought is being devoted to the process of decentralisation in rural areas, we need to consider whether the transfer of natural resource management to local communities is an opportunity to recognise pastoralism, or whether there is a genuine risk that stakeholders who are a minority and less well represented in formal structures will be further marginalised?

This chapter begins by analysing the importance of livestock production for local economies, before moving on to describe traditional natural resource management systems, and examine the effects of government policies and development programmes working on village land management on pastoralism. It concludes by considering how the changes in natural resource management associated with decentralisation will affect the development of pastoral activities and its impact on the position of herders.

4.2 Role of pastoralism in food security and the local economy

Pastoralism plays a huge role in helping Sahelian households meet their financial and food needs. Transhumance is a sustainable system for managing herds and pastures in the Sahel. After 17 years of monitoring woody and herbaceous vegetation in the Ferlo (Senegal), it has been concluded that this type of pastoralism is a benign system of utilising arid environments. Rather than being detrimental to resources it helps regenerate them, as in the long term grazing is beneficial to the grassy stratum and helps stabilise pastures (Daniel, 2000). Research has shown that transhumant cattle calve earlier than sedentary stock in the Sahel, while other trials demonstrate that cows in transhumant and nomadic systems produce more milk than those in sedentary systems (Schlecht *et al.*, 2000).³²

³² The index of bovine milk production, expressed in litres of milk produced per 250kg adult female per year, are over 21% for nomadic cattle and 34% for transhumant cattle.

In this region food security is an issue in terms of both the availability and accessibility of cereals, which are respectively determined by production and income. The figures for cereal production indicate that despite the enormous efforts invested in agriculture, farming households have never been fully self-sufficient in cereals and regularly produce 10% to 20% less than their annual grain requirement (PSB, 1999). Livestock provide households with milk and meat that can be used for domestic consumption or sold to purchase cereals. In a normal year small ruminants play an important role in enabling local people to acquire cereals, and that without livestock many households would be extremely vulnerable in terms of food security. There is also a strong correlation between the price of livestock and the price of cereals, with cereal prices dropping when livestock prices are high, and vice versa.

Official statistics based on data on exported livestock, poultry, small ruminants, leather and hides indicate that 10% to 12% of the national economy revolves around livestock production.³³ It should be noted that much of this income is generated by cattle, and that most of these animals are reared by mobile pastoralists. As very few studies have been made on this topic we can assume that pastoralism actually plays a much greater role in the national economy than these figures suggest.

The contribution that livestock markets make to the local economy is also significantly underestimated. They provide various sources of revenue for households in the vicinity, ranging from taxes raised by the local administration, jobs for young people herding, loading and feeding livestock on their way to market, and income for women selling water and food. The *téfas*, or intermediaries who are an integral part of the marketing process, receive between 1,000 FCFA to 5,000 FCFA per head of cattle sold, depending on the markets and season. Assuming that each *téfa* in Pouytenga market earned 1,500 FCFA per head, they would have earned a total of 67,188,000 FCFA on sales of 44,792 animals during the first quarter of 2000 (Livestock Statistics Department, 2000).

Thus, pastoral activities inject significant amounts of money into the local economy. However, despite its vitality pastoralism remains the “poor relation” of development policies, as can be seen from the fact that the government budget for livestock production fell from 1.52% to 0.51% between 1961 and 1990 (MRA, 2000).

4.3 Traditional systems of natural resource management in pastoral areas

In the past access to pastoral resources was regulated by collective management and reciprocal practices developed in response to local needs. Herders individually and collectively tailored their movements to the seasons, according to the annual dispersion of resources and their proximity to farming areas and markets at certain times of year. The scattered and variable nature of pastoral resources

³³ At the national level, cattle represent 60% of Units of Tropical Livestock (UTLs). One UTL represents a theoretical live animal weighing 250kg. This unit is used to evaluate the size of herds in a given area, particularly for calculating the carrying capacity of pastures.

calls for highly adapted collective management. The history of livestock production the Sahel demonstrates that pastoral societies have survived down through the centuries as a result of their social and economic systems and their often ingenious responses to specific situations. Despite this, they are still seen as “landless itinerants” and transhumance as “unregulated drifting”.

In order to develop their activities, pastoralists used their socio-political organisations to draw up rules governing access to resources, and appointed various individuals to organise and control specific aspects of transhumance. These included:

- The *rouga*: a resident villager selected from herders with the most experience in driving livestock, who is responsible for all herders in the zone and designates the grazing areas for the coming rainy season;
- The *garso*: responsible for herds on transhumance, the *garso* lives in the bush and is responsible for all livestock utilising pastures in his zone of intervention. This person is chosen from herders with detailed knowledge of transhumance routes, grazing areas, water points and traditional methods of animal husbandry. Mainly active on rangelands in the dry season, he is responsible for contacting the local customary authorities when necessary, and negotiating the resolution of disputes between herders and farmers. On return from transhumance he reports back to the *rouga*;
- The *dogari* is selected from the older herdsmen, to act as their representative and be responsible for keeping the hierarchical chiefs (*rouga* and *garso*) and herders in the zone informed about what is going on. This is done at markets and any event where herders get together.

Nowadays these positions are still operative in eastern Burkina Faso and in Niger. Other pastoral societies in the Sahel also control the use of resources through traditional leadership systems: the Touareg and Fulani, for example, have posts for policing animal health and pastures, and for allocating reserved grazing and fallback areas for transhumant livestock in predominantly farming areas.

4.4 Destabilisation of traditional management systems

Unfortunately the colonial and post-colonial administrations failed to take account of either the knowledge or the traditional rules for managing rangelands, and throughout the colonial period pastoralists progressively lost their hold over their lands. This began with legislation passed by the colonial administration, particularly the Decree on the National Domain and regarding the Regulation of National Lands in French West Africa. The latter regulation raised the issue of productive land use, a concept that effectively excluded pastoral activities since it was limited to occupancy of cultivated and built-up land. The development policies introduced alongside this restriction of productive land use to material occupation signalled the beginning of a process that has continued, through subsequent private and state appropriation of lands, to imperil pastoral areas and with key resources for livestock production.

Traditional rangeland management systems have been destabilised by a number of other factors too, which have also led to pastoralism being progressively

marginalised by development initiatives. These include the droughts of 1973 and 1984, population growth, expansion of farmland, failure of land tenure codes to recognise pastoral activities as productive land use and the advent of the *Conseil National de la Révolution*, or CDR (National Revolutionary Council) in 1983. This removed social control over access to grazing and water points from traditional leaders,³⁴ and instigated a “clampdown on vagrant livestock” that caused considerable hardship for the many pastoralists whose cattle were destroyed. They saw the initiative as a threat to their mobility and an attempt to marginalize their activity.

This was certainly the effect of the widespread land management and development programmes implemented in the 1980s, since the installation of bunds and development of wetlands for agriculture considerably reduced the grazing available within village territories. Pastoral activities were also restricted by the local authorities responsible for natural resource management, such as the Village Land Management Commissions or CVGTs, whose activities will be analysed in greater detail in the final section of this chapter.

4.5 Evolution of government policy on livestock production

In colonial times, livestock production policy was centred on measures to prevent and treat contagious diseases (cattle plague and bovine peripneumonia) and to protect livestock from wild animals (hyenas). The Ministry for Livestock, which was until recently headed by veterinarians, was mainly concerned with animal health rather than the issue of rangelands. The “strictly veterinary” approach instigated by the colonial administration continued until the droughts of 1973, when the government began to intervene in rangeland management.

The first government initiative was the establishment of four pastoral zones covering a total area of around 156,000 hectares. The objectives were to increase and maximise livestock production; integrate farming and livestock production; and organise marketing to meet internal and external demand and increase herders’ incomes. Another intention is to use these zones to promote milk production in order to curb spending on imported milk and dairy products. Today the Ministry of Livestock has set aside 2,000,000 hectares of land for pastoral use. These are broken down into 56 pastoral zones, 25 of which are currently used for pastoral purposes. This allocation of land for pastoral activities provided an element of security for herders, meaning that they could rely on the designated pastoral zones as fallback or reception areas without being forced into sedentary systems of animal husbandry.

In some places, such as Comoé, in south-western Burkina Faso, the development of pastoral zones attracted large numbers of humans and their livestock, drawn

³⁴ Edict 83-21 issued by the Conseil National de la Révolution regarding the reorganisation of the territorial administration of Burkina Faso, and establishing provinces and municipalities. As soon as it came to power, the CNR abolished customary leadership by setting up *Comités de Défense de la Révolution* or CDRs (Revolutionary Defence Committees).

to areas where they could pursue their activities without having to get involved in endless negotiations with those who control access to lands.³⁵

4.6 Growth of conflict between herders and farmers

However, as the number of transhumant herders, migrant farmers³⁶ and livestock in pastoral areas grew, so did the risk of epidemics of highly contagious diseases, and many pastoralists opted to move on in the face of this threat to their livelihoods. Concern about the push towards sedentarisation has led many herders to abandon certain pastoral areas. Since operations to demarcate pastoral zones and legally establish the amount of land used for pastoral purposes have not been completed, much of the land designated for pastoral use was not properly secured for this purpose and has been taken over for farming.

As they left migrant farmers poured into the area, attracted by high yields³⁷ and the apparent availability of land. This is what happened in the pastoral area of Samoroguan, where there are now so many migrant farmers that they conduct tenure transactions without involving local customary landowners. The latter are so fed up with the situation that they have started reclaiming their land, for as one customary official from the area stated: “We were approached by government administrators, and after lengthy negotiations we agreed that these lands could be ceded to Fulani herders. Now lots of other people have come and set themselves up and they are distributing land without consulting us, so we’re going to go and see the Prefect and say we want our land back ...”

Elsewhere, the indigenous population had accepted the arrival of migrant farmers in pastoral zones without any pressure from the administration, and resisted the idea of returning the land to its former purpose of grazing land once it had been cleared. Their ferocious opposition to the slightest suggestion that these pastoral lands should be reinstated is illustrated by the violent conflicts in some pastoral zones of the Comoé, where they have “come down heavily” on pastoralist camps. Each year livestock corridors and seasonal transhumance routes are completely subsumed by entire villages, their infrastructures (schools, chapels) and cultivated fields. This situation has led to continuous and bloody confrontations between farming and herding communities, with entire pastoral communities frequently being punished for damage done to fields.

In many places in the south and south west of Burkina the hostility towards transhumant herders as well as migrant farmers settling in pastoral areas has erupted into conflicts whose violence reflects the high political and social stakes involved. These conflicts reflect the major economic interests at stake, given the bargaining power conferred by control over land (and thus water,

³⁵ An agreement reached one season for grazing rights may be challenged the following season, depending on how customary landowners or land chiefs have been influenced.

³⁶ The indigenous population sometimes used migrant farmers to prevent herders from becoming established in the area.

³⁷ Obtained by using organic manure and animal traction.

fauna, fishing resources, wood, etc.), which has even led to the emergence of a new group of stakeholders in rural areas: absentee owners of large-scale farms of up to 100 hectares.

In this context, the establishment of rural municipalities raises the political stakes. Indigenous communities, who have become a minority, fear that the “participatory approach” advocated by decision-makers, as well as decentralisation and the elections accompanying this process will marginalise them on their own land. The views on “indigenouness” expressed by political leaders during the last municipal and legislative elections reflect a desire to prevent incoming people from participating in the life of rural municipalities. This situation is exacerbated by the position taken by urban based émigrés or “sons of the land” on the primacy of indigenous people in local management, which are giving incomers some serious cause for concern.

Local customary authorities are hostile too to the Agrarian Land Reform act (RAF) and its assertion that the State enjoys full rights over all rural lands, having seen migrant farmers flock onto their land and their encampments given the administrative status of villages, thereby effectively releasing the incomers from their obligations to their former hosts.

For their part, herders are extremely worried about the increasingly precarious status of pastoral areas, as the farmland granted to villagers to grow crops and rear livestock is regularly taken from land that the customary authorities used to allocate to herders for grazing. Alongside this concern there is also frustration that the justification for withdrawing this land is that these herders are only ‘strangers’. The stakes are thus doubled for many pastoralists, who find themselves fighting for the survival of both their livelihood and their culture and wondering how their community can exist in reduced and enclosed areas.

4.7 Marginalisation of pastoralist in the village land management approach

The droughts of 1973 and 1984 led to the widespread implementation of village land and natural resource management programmes (*programmes de gestion de terroir*). This period was characterised too by a growing awareness of the need to encourage local communities to participate in the planning and implementation of development initiatives. Decision-makers pronounced on the need for community involvement in natural resource management in order to establish a basis for sustainable development, and practitioners have spent the last twenty years developing a wide variety of approaches and tools for this purpose. One of these, the Village Land Management approach, was refined and tried out by several projects.³⁸ This participatory, multi-sectoral and decentralised approach is based on three fundamental concepts: spatial organisation of land, dynamic management of the natural resources found on village lands, and the collective and individual accountability of villagers.

³⁸ For example Burkina Sahel Programme (PSB), PATECORE (Project d’Aménagement des Terroirs et de Conservation des Ressources in the central plateau), the Niéna Dionkélé project.

Sufficient time has elapsed since then to evaluate this approach to pastoral activity. On the whole, many of the agencies putting the concept of Village Land Management into practice took a highly interventionist and territorial approach to development -focusing on finite village boundaries - that was frequently detrimental to the type of rangelands found in the Sahel. Despite its commitment to participatory management and the existence of a range of tools for its implementation, those involved in the Village Land Management approach have not always consulted with or involved all the relevant stakeholders. Apart from some rare exceptions,³⁹ very few projects work with pastoralists, and development activities have often been detrimental to rangelands. In most cases the projects involved in Village Land Management failed to address the thorny issue of rangeland management, although it must be said that this is a particularly difficult problem, given the climatic hazards and multiplicity of users involved.

In 1990 a project started to regenerate rangelands and improve millet production by fencing off degraded rangelands and installing anti-erosion measures. Ten years on, it is apparent that none of the land that was fenced off was taken from grazing areas used by livestock from these villages. The sites selected were located in parts of the rangelands that were used by animals that came from outside these villages or even outside the province, and were identified without involving the herders who were their primary users. The producers that participated in meetings to decide on these sites were often small-scale livestock owners who could pursue their activities unhindered. As far as local people are concerned, having degraded areas set aside is the most effective way of maintaining contact with a project and negotiating other forms of support.

Another example is the Touro plain, wetlands near Gorom-Gorom that contained key resources for pastoral activities and provided a fallback area for livestock during the growing season. Despite their strategic importance, they were developed for rice growing "due to popular local demand" following the type of community-based planning sessions advocated by the Village Land Management approach in which pastoralists had no voice.⁴⁰ These wetlands are now mainly used by city dwellers from Gorom-Gorom, project staff, shopkeepers, etc. The pastoralists have lost their grazing areas and had livestock corridors obstructed as a result of the land tenure transactions arising from this development. There are regular disputes between farmers cultivating the plain and the transhumant herders who still see it as "their" land.

By focusing on "land for agricultural production" development activities provoked numerous conflicts between herders and farmers. When stone lines were laid many areas were turned over to farming, and pastoralists were relegated to the most degraded land. In Bam province the work done to regenerate weathered and degraded sites effectively put large areas of rangeland out of commission, which worsened as stone lines started encroaching upon livestock corridors.

³⁹ Such as PSB/GTZ in the Sahel, the VARENA project in the south west and PDRI/HKM in the west.

⁴⁰ Project managers went ahead with this development as a result of pressure from elected officials.

In the view of farming communities, agriculture took precedence over pastoral activities. The project involved barely consulted pastoralists during the first few years of its intervention, failing to invite them to meetings with the local community, making decisions without involving them and, as pastoralists saw it, “expelling” them from these lands. In the end conflicts forced the project to review its intervention strategy, and in 1997 it produced a set of proposals that would enable it to take more account of pastoralism in its activities.

4.8 Involvement in CVGTs and CIVGTs

The lack of pastoralist involvement in Village Land Management programmes is clearly illustrated by the composition of the CVGTs, bodies that are now formally responsible for decentralised natural resources management (see Chapter Two). These commissions are dominated by members of farmer groups and associations with very few including herders, apart from those in the North. Meanwhile, in southern and south western Burkina discussions about pastoralist participation have ground to a halt as conflicts between indigenous farmers and herding communities escalated.

This is particularly significant in view of the important role that CVGTs are supposed to play according to the RAF in promoting rural development and initiatives concerned with access to land and natural resources. CVGTs are also responsible for formulating land management and development plans, even though the issues involved in managing pastures and water extend beyond the village level. Building organisations at village level means that there is a risk that groups using shared natural resources, such as pastoralists, will end up being excluded from their management.

Several CVGTs can get together to form an inter-village land management commission, or CIVGT, in order to manage a development project or carry out a shared activity. Seeing CIVGTs as aggregations of CVGTs raises the issue of how shared resources should be taken into account. Moreover, there is little chance of transhumant herders becoming involved in their management structure if they are simply regarded as a confederation of CVGTs. This could pose serious problems for the decentralised management and equitable use of natural resources.

In such a context on non-participation, herders could become victims of discriminatory measures such as rangelands or farmland being withdrawn. The way CVGTs are established could contribute further to the marginalisation of pastoralists in local development. The current phase of the National Land Management Programme (PNGT) anticipates that CVGTs will be set up by private operators, who will be competing to set up as many CVGTs as possible. They are unlikely to want to deal with groups whose involvement requires effort and potentially lengthy consultations. Pastoralists could well be the first victims of this type of operation.

Pastoral land tenure: a recent government concern

After numerous publications, meetings and a great deal of lobbying, pastoralism was finally given serious consideration as a development option in the Sahel, at the Praia conference on land tenure and decentralisation organised by CILSS⁴¹ in June 1994, which focused on pastoralists as a marginalised group. Proposals for securing pastoral land tenure were formulated.

The Burkinabé government started expressing an interest in pastoral land tenure in the mid-1990s, when it emerged as an aspect of policies concerned with the utilisation of land and natural resources (Ouédraogo, 1997). Over the last few years the Ministry for Livestock has drawn up legislation aimed at securing pastoral development initiatives and reducing conflicts over pastoral resources. Pastoralists have great hopes for this bill on pastoralism, which guarantees the right to livestock mobility, protects stock routes and regulates transhumance movements and promotes the use of a pre-determined conciliation procedure before making any submission for legal settlement in the relevant court of law.⁴² This decree also anticipates the establishment of departmental commissions, although their composition, is still dominated by administrative officials (prefects, police, gendarmerie, RAVs⁴³ and the technical services), with just one representative each from herder and farmer organisations.

There are also some doubts about the real scope of this legislation, in view of certain communities' ferocious opposition to the execution of judgements handed down by the courts. Over the last few years the "indigenous" inhabitants of Comoé have regularly campaigned for the release of their "kin" imprisoned for attacks on pastoralist families.

4.9 Pastoralists and the civil society movement

For many years social and economic development initiatives have taken scant account of pastoralists' knowledge, and pastoralists have only recently been made aware of the need to form groups and associations to demand recognition for their production system. One reason was that the means of popularising this type of information were not adapted to their activities. In 1992 there were 811 pastoralist groups compared to the 9,348 bodies set up by farmers. Pastoralists still have much to learn about functioning effectively in a formal system, and it is therefore important to focus on building the institutional capacities of existing pastoral organisations, particularly the newly established *Fédération des Eleveurs du Burkina*, the Burkinabé Herders' Federation.

Serious consideration also needs to be given to the composition of the local authorities responsible for conflict resolution. Given the gravity of the current conflicts, it is important that these authorities are capable of formulating

⁴¹ Comité Permanent Inter-Etats de Lutte contre la Sécheresse dans le Sahel.

⁴² The idea of a pre-determined conciliation procedure is also set out in Articles 2 and 3 of the related Decree of 21/07/2002, on disputes between farmers and herders.

⁴³ Responsables Administratifs des Villages, or Village Administrative Officials.

appropriate rules for conflict resolution, and this will not be possible unless all the protagonists are involved in the process. It is therefore vital to strengthen the capacity of leaders of pastoralists, whether they are active at the local level or within formal organisations such as unions or federations. If they enjoy genuine legitimacy leaders can play a key role in conflict management, as has been demonstrated by the charismatic individuals that have helped resolve disputes in the cotton belt in the east, or in areas such as Boulgou, where pressure on land is most intense.

It is important that training for pastoralists is no longer limited to purely technical concerns such as haymaking and conservation, forage crops, etc., for while these topics are certainly of some relevance, they do nothing to address the increasingly pressing problem of insecurity of tenure. Training pastoralists in advocacy and lobbying techniques will give them the tools they need to be able to work effectively towards safeguarding their activities. It will help increase pastoralist involvement in the civil society movement, arouse their interest in “citizens’ issues” and demonstrate the benefits of participating in the election of councillors and other local political officials.

4.10 Conclusion

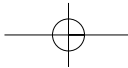
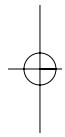
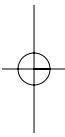
Decentralisation works on the principle that while elected local governments are part of a larger entity, the central State, they are capable of managing their own affairs by themselves. This involves mobilising all their potential and resources in order to promote local social and economic development. Without resources, particularly financial resources, municipalities cannot function effectively. This is one reason why such a strong case can be made in support of pastoralism. Pastoralism not only contributes an enormous amount to the economy of the Sahel through the marketing of livestock and livestock products, but also plays a key role in combating poverty and domestic food insecurity. As a vital element in the prosperity of Sahelian households, pastoral activities enable them to contribute to the development of the municipality. In addition, taxes on activities such as livestock markets also provide elected local governments with a direct source of income. Rather than viewing pastures and water points as vacant areas ripe for clearance, elected local officials need to work with pastoralists to ensure that these resources are managed in a sustainable manner and remain available to livestock production.

Some of the key criteria of the decentralisation process are participation, transparency, accountability and the primacy of a State governed by law and an independent judiciary. Until now initiatives towards decentralisation in Burkina Faso have done little to work with pastoralists on securing access to pastoral resources. Instead, pastoralists have been excluded from discussions and forced to watch the rangelands shrinking as first the revolutionary authorities and now the municipal councils set aside tracts of pastureland for developments, granting individual titles for agro-pastoral farms, clearance permits and allocating areas of wetland as farmland in village territories.

Rangeland management should be based on concepts of mobility, equity and reciprocity, while care should be taken not to accentuate imbalances between different groups. Effective rangeland management takes account of the diverse spaces and users involved, and to function well it requires consensus and jointly defined rules. It takes time and considerable patience to reach such consensus, as can be seen by the local agreements (Banzhaf et al, 2000).

As powers over the environment and natural resources are transferred to local government, questions arise as to the advisability of leaving rangeland management to municipal councillors. The site of Jularè neighbourhood in the municipality of Fada, which used to be a herders' encampment and has now been overtaken by urban development, shows that the initial response of elected officials is to allocate land for habitation rather than securing it for productive activities. Moreover, effective pastoral systems generally cover a large area which may exceed the area of local government entities. If good governance is shared, then care should be taken to ensure that decentralisation does not negate the State's functions as a ruling body or exacerbate conflicts between migrants and indigenous communities.

Given the huge stakes involved in pastoral land tenure it is vital that pastoralists are represented within local authorities responsible for managing natural resources, either directly or through alliances with other producer groups. The ongoing process of decentralisation will only provide a genuine opportunity to preserve and safeguard pastoralism as a viable activity if herders are given support in strengthening their advocacy and negotiating capacities. Only then will they have the tools that will enable them to participate more effectively in civil society, and to build and consolidate alliances with other producers.



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