

# MALI

## FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

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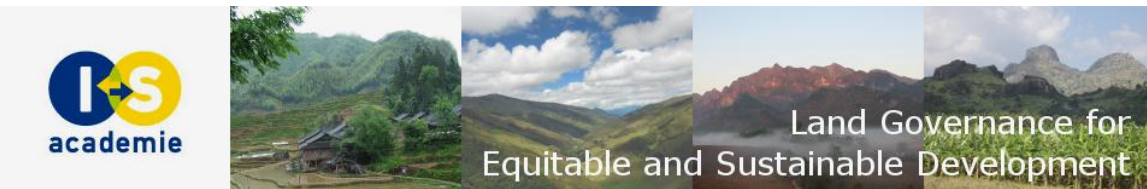
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### ABSTRACT

Food security in Mali is dependent on access to land and tenure security. Most of the land is regulated under customary tenure systems. Competition over land and natural resources is increasing, putting more pressure on customary arrangements. Within communities, secure access to good quality land is becoming more difficult for groups with weaker rights, such as women and migrants. Women access to land mostly through family members. Their plots are often of low quality and with little tenure security. Between communities, the pressure is on livestock holders. Relying on mobility to access grazing lands, water and markets, they find livestock corridors blocked and pastures converted into fields. A new development is the acquisition of land from customary land holders by urban based elites and investors, who then formalize these transactions. Land tenure systems are different in the Office du Niger. Smallholders hold annual leases while large-scale investors sign different contracts with government agencies to access land and water rights. Conflict over land and water is increasing in the Office du Niger and can become violent, particularly if availability of water is reduced. Moreover, general insecurity after the 2012 military coup adds to the current tenure insecurity.





This country factsheet was prepared under auspices of LANDac – The IS academy on land governance - and compiled by the Royal Tropical Institute (KIT – Thea Hilhorst and Nicolas Porchet) at the request of the Ministry of Foreign Affairs – The Netherlands.

### **About IS Academy on Land Governance for Equitable and Sustainable Development**

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

### **About KIT**

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

### **Country expert contribution:**

We acknowledge and thank Mr Moussa Djire (University of Bamako) for his insights and comments on the latest development impacting land governance in Mali.

## 1 POLICY AND LEGISLATION

Policy and legislation The government of Mali is introducing a number of legislative measures to change how property rights are perceived and managed. The most important among these documents (existing or currently being drafted) are the *Politique Foncière (générale)*, the *Code Domanial et Foncier* (CDF), the *Loi d’Orientation Agricole* (LOA), the *Charte Pastorale* and the first draft of the *Politique Foncière Agricole*. Moreover, in the Office du Niger area, a decree states that management of land is transferred to the Office du Niger.

The future land policy (*Politique Foncière Nationale*) is to guide the harmonization of the range of codes, laws, and regulations governing the use of land and other natural resources. This policy is under the auspices of the *Ministère du Logement, des affaires foncières et de l’urbanisme* (Ministry of Housing, Land Issues, and Urban Planning). The final national workshop of the *Etats Généraux du Foncier* took place in December 2009 after a series of public consultations with respect to the updating of the CDF. The Ministry of Agriculture has initiated a process to clarify rural land tenure and land management procedures as part of the *Loi d’Orientation Agricole* (LOA) for which a zero draft was discussed in 2012.

Given that two ministries coming from different backgrounds work on policies and legislation, the challenge will be to ensure policy coherence.

| Law   | Content   |
|---|---|
| 1992 Constitution   | Guarantees citizens the right to own property<br>Provides for the protection of property  |
| 2000 Land Code amended (Ordinance No 00-27/P-RM of March 2000 Pertaining to the State Property and Land Code) | Recognizes state land, land owned by individuals and entities<br>Did not take into account the implications of decentralization. The local governments have still no domains assigned.<br>Recognizes use-rights to customary land held by groups and individual group members   |
| Agricultural Orientation Law (Law No. 06-045 of September 2006)   | Agricultural development policy (modernizing family farming, investments) which also includes article on securing land rights   |
| Pastoral Charter (Law No. 01-004) of 2001 (implementation decree in 2006)                                     | Recognizes pastoralism and the right of pastoralists to move their livestock<br>Requires local authorities, who have primary responsibility for managing pastoral land, to work with pastoralists, traditional authorities, and farmers to maintain pastoral tracks and paths<br>Requires local authorities to create calendars of use of natural resources |
| Law No. 95-034 AN-RM of 12 April 1995   | Gives local authorities (the Regional Assembly, the Circle Council, and community councils) responsibility for land administration, land-use planning and development, and organizing rural activities, including agro-forestry-pastoral production   |

(GOM 1992; GOM 2000, GOM 2001; Konate 2003).

### 1.1 Land tenure forms

Land is classified as either state land or private land under the Land Code. State land includes all public property (e.g., roads, public buildings, and large surface water sources), land titled in the name of the state or transferred to the state, and all unregistered land, including vacant land. Private land ownership is recognized in Mali through land titling and registration.

Most of the smallholder farmers or agropastoralists hold their land under customary systems. They rarely have registered their land. Formally such “untitled”land is under state ownership. One exception is the Office du Niger, where farmers have registered use rights. These rights are renewed annually if water fees have been paid.

The primary form of land administration in rural Mali continues to be customary tenure administrative systems. Despite variations in customary law across regions and ethnic groups general principles of customary law recognize the right of clan and community members to access land for a residence and for farming. (Djiré 2006; Benjaminsen 2002; Beeler 2006).

The Millennium Challenge Cooperation programme will introduce titles to irrigated land in the Office du Niger, as a pilot.

There is a growing demand for registration in urban and peri-urban areas. For a plot or other property that is already registered (*Réquisition Foncière*) it takes max. 30 days and 11.9% of the value to transfer this property to the new owner (Doing business 2011)

| Land Tenure Forms            |   |
|------------------------------|---|
| Ownership                    | Obtained by an individual or entity through a land title and the registration of the title with the state. A group (including residential lineage groups, villages or nomadic fractions <sup>1</sup> ) can apply for a title to customary land. Individuals can apply for title to customary land based on their actual use of the land   |
| Leasehold                    | Individuals and entities can lease state land to for periods of 50 years, or as otherwise agreed to by the Council of Ministers and the lessee. The state can also enter into a purchase agreement with a lessee, allowing for the transfer of ownership of the land following registration   |
| Rural concession             | Rural concessions to unregistered state land can be granted by the state. If the land on which the concession is granted is subject to competing customary use-rights, customary users may be compensated for the expropriation, assuming that they can establish their customary rights. Concessionaires must develop the land in accordance with the concession document; the concession is conditional upon the agreed development within an established timeframe |
| Permit rights                | Occupation permits to urban land to individuals can be issued by the state and local governments. The occupation permits allow residential use of the land. The state also issues various types of permits to individuals and groups for cultivation of irrigated land, particularly where the land is under a publicly funded irrigation scheme  |
| Use-rights to customary land | The rights of groups and individuals to use unregistered land are recognized by the Land Code. The group and its members have authority to enter into agreements with third parties, but customary rights to use the land can only be transferred to individuals within groups with the same customary rights   |
| Use of land by pastoralists  | Open-access resources for pastoralists of community <i>bourgoutières</i> (natural pasture) and fallow land is provided for by the Pastoral Charter, although use can be prioritized in accordance with custom and local management, and fees for use may be assessed in some circumstances. Livestock may have access to cropland after harvest, subject to terms imposed by local authorities  |

(GOM 2000, GOM 2001, Djiré 2006; Djiré 2007).

<sup>1</sup> a sub-communal entity recognized in the Mali Decentralization Code but without legally recognized autonomous authority

## 1.2 Institutional land governance framework

The *Ministère du logement, des affaires foncières et de l'urbanisme* was established in 2000 and until recently responsible for developing both urban and rural land policy and operating property-registration offices. However, after the military coup of 2012, the transition government has created the *Ministère des transports, de l'équipement, de l'urbanisme et du logement* which is now in charge of land tenure. The "National Directorate for Public Property and Cadastre" within this Ministry runs the property registration offices.

Responsibility for land administration, land-use planning and development, and organizing rural activities, including agro-forestry pastoral production was granted to local authorities (the Regional Assembly, *Cercle*, and *commune* councils) by Law No. 95-034 AN-RM of 12 April 1995. Also the Pastoral Charter, 2001, requires local councils to manage natural resources together with pastoralists and other users of natural resources (GOM 2001). However the Pastoral Charter has not been fully implemented and there is limited information regarding the extent to which local governments enforce the Charter's mandates, and the extent to which pastoralists actually participate in local governance of natural resources (GOM 2001; Djiré 2006; Chenevix-Trench 1997).

The LOA foresees the creation of special land management committees that have to play a leading role in mediation and resolving land-related conflict (art 79 LOA). Pilot activities are starting in Yorosso.

In the Office du Niger, the « *Secrétariat d'Etat auprès du 1<sup>er</sup> Ministre chargé du Développement Intégré de la Zone Office du Niger* » (Sedizon) is in charge of the entire area , while the « office du Niger » is responsible for the irrigation scheme and land allocation. However, the negotiations and signing of contracts for large-scale land acquisitions has involved a range of different agencies.

Domestic investors are acquiring land under customary rules in the rainfed areas, and then later on seek to formalize these acquisitions.

## 1.3 Gender

Discrimination on the basis of gender is prohibited by the Mali Constitution which provides that all citizens have the rights to own land. The LOA actually promotes positive discrimination as for each new state land development, plots must be allocated to women.

Though Mali has a policy to promote women and acknowledge and strengthen their rights, the status of women has not improved due to poor legal awareness and persistent socio-cultural norms (GOM 1992; GOM 2002). Family laws tend to favor men, requiring a specific writing to confirm joined property in marriage. Women are excluded from inheriting land from their natal family under customary law and are also barred from inheriting within their marital family.

The customary rights to land that women hold are usually not very secure, except for the "bas-fonds" in the south of Mali where they grow rice. Women are sometimes given use-rights to land by their family. Groups of women may acquire land through village chiefs for gardening. Wealthier women may purchase land, (Djiré 2006; Chauveau et al. 2006; Benjaminsen 2002; Cotula 2006; Hamilton and Dama 2003).

## 1.4 Foreign direct investment

Foreign operators are entitled to leases only – accompanied by a statement of requirements. These leases can have a duration of up to 50 years and can be renewed. The Mali government is seeking to attract foreign agricultural investment and several agro-industry projects are under way, mostly in the Office du Niger area, although since the military coup of 2012 some seem on halt.

The land matrix from the International Land Coalition (ILC) indicates 27 deals over 581,891 ha, mostly for agricultural purposes and both domestic and foreign investors, although the validity of these findings need to be verified. Large scale land acquisitions in the office du Niger, in particular the Libyan company Malibya, are a potential source of conflict. The new sugar cane plantation may create water shortage for the existing smallholder scheme in the Office du Niger.

Water rights are as important as land rights. The contracts that have become available in the public domain indicate that water rights are part of the contract, and that the protection of rights for existing land users is weak. Government agencies involved in the negotiations differ from contract to contract (Baumgart, 2011; Cotula 2011).

## 2 INTEGRATED WATER MANAGEMENT

### 2.1 Regulatory Framework

In the dry north of Mali where pastoralism is the main livelihood, access to grazing land is obtained by digging wells.

Mali hosts with the Inner Niger Delta the largest inland wetland in West Africa, with annual floods bringing up to between 25,000 and 30,000 square kilometers of land into production (USAID, 2010).

The 2002 Water Code (Law No. 02-006) and 2000 Land Code specify that the state owns all water resources with only limited exceptions for smaller bodies of surface water. The state owns also all groundwater. The use, conservation, protection, and management of water resources is regulated by the Water Code which also requires permits for extraction of water, with exceptions for water used for domestic purposes and in amounts below specific volumes. Local governments are responsible for water supply under the Water Code, (GOM 2000; Cotula 2006). Moreover, the country has recently adopted an IWRM policy.

Several hydropower installations and dams for irrigation are being established in the Niger, but coordination seem to be limited, despite the existence of an international body governing the Niger (*Autorité du Bassin du fleuve Niger - ABN*). **Irrigation management** within the Inner Delta has been the focus of government work with donors (USAID, 2010), but more broadly the question remains what downstream effects will be of increasing water extraction for irrigation upstream.

### 2.2 Institutional framework around Integrated Water Resource Management

Water for hydroelectricity and irrigation is overseen by the Ministry of Energy and Water Resources, whereas large-scale irrigation schemes are overseen by para-statal agencies such as the Office du Niger. The office du Niger is in charge of distributing water, maintaining infrastructure and charging water fees, and also allocates land.

The monitoring of water regulations rests with the Commission of Regulation of Water and Electricity, an independent entity that works with the Ministry of Energy and Water (Cotula 2006; World Bank 2007).

## 3 REALITIES ON THE GROUND

A growing commoditization of land and increased competition among land users characterizes Mali's land situation. Suitable land for farming, and access to fallow land for maintaining soil fertility, is becoming scarcer. The planting of trees (fruit trees, yatropha) may be undertaken

by borrowers as a cheaper way to appropriate the land (rather than digging a well or constructing a building) (Benjaminsen 2002; Djiré 2006; Beeler 2006).

**Disputes over land** are widespread, taking several forms, including: (1) within sedentary communities (tenancy); (2) between generations; and (3) between different groups of natural resource users. Conflicts occur, when a family that lent land to another attempts to retrieve it, or when the borrowers start to invest on the land, which is land holder considers an attempt to appropriate the land. Fighting for access to land between young or landless members within family groups can also generate conflict (Coulibaly 2003; Beeler 2006). However the **most violent land conflicts** tend to be between **herders and farmers**. In 2010, pastoralist were chased from one *cercle* in southern Mali. The expansion of land under cultivation can obstruct routes for livestock and waterholes and cause increased tension between the groups. The damage of crops by livestock is treated as a criminal case (Hamilton and Dama 2003; Beeler 2006). Some land-related conflicts go to court, and according to government, 80% of the case load are land related conflicts.

Some observers are of the opinion that the **decentralization process** weakens the position of village chiefs and increase of influence to political parties, which may contribute to conflicts over land (Beeler 2006; Benjaminsen 2002). For others, decentralization may generate space for more subsidiarity of land management and land governance, which may actually reduce conflict over common lands (Hilhorst, 2010). Local governments in rural areas find it difficult to regulate land sales to urban based investors (and speculators).

## 4 RESOURCES AND OTHER INFORMATION

### 4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltpproducts/country-profiles/mali/>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=MLI>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/MLI/index.htm>
- World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/MALIEXTN/0,,menuPK:362189~pagePK:141159~piPK:141110~theSitePK:362183,00.html>

### 4.2 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

### 4.3 Maps and databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: [http://www.fao.org/nr/water/infores\\_databases.html](http://www.fao.org/nr/water/infores_databases.html)
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>  
[http://www.fao.org/nr/water/infores\\_maps.html](http://www.fao.org/nr/water/infores_maps.html)

### 4.4 Portals and other resources

- [http://landportal.info/search/apachesolr\\_search/mali](http://landportal.info/search/apachesolr_search/mali)
- [http://www.hubrural.org/resultats\\_recherche.html?lang=fr&recherche=mali&.x=0&.y=0](http://www.hubrural.org/resultats_recherche.html?lang=fr&recherche=mali&.x=0&.y=0)
- <http://www.foncier-developpement.fr/?s=mali&lang=fr>

#### 4.5 Donor support programs

There is donor coordination around land, headed by AFD.

- AFD is supporting the implementation of the LOA and active in the Office du Niger
- The German Agency for Technical Cooperation (GTZ) is supporting urban cadastre and supporting land use programmes. GTZ has also undertaken some studies on large-scale land acquisition in the Office du Niger.
- The Millennium Challenge Corporation promotes policy reform also on land tenure, particularly in the Office du Niger where a new land tenure system is being tested
- The World Bank will undertake a Land Governance Assessment Framework.
- FAO is assisting Mali in setting up a land observatory as part of the future land policy (Politique Foncière Nationale)

#### 4.6 Civil society organizations working on land governance

Farmer organizations in Mali participate actively in land policy consultation processes such as the LOA and the politique national foncière. They are also becoming more outspoken with respect to large-scale land acquisitions, in particular in the Office du Niger.

- CNOP –Coordination nationale des organisations paysannes - [www.cnop-mali.org/](http://www.cnop-mali.org/)
- AOPP – Associations des Organisation Professionnelles Paysannes [www.aopp-mali.org](http://www.aopp-mali.org)
- SEXAGON

No members of International Land Coalition from Mali.

#### 4.7 References

- Baumgart, J. 2011. Assessing the contractual arrangements for large scale land acquisitions in Mali with special regard to water rights. Presentation annual World Bank conference.
- Beeler, Sabrina. 2006. Conflicts between Farmers and Herders in North-Western Mali. International Institute for the Environment and Development. <http://www.iied.org/pubs/pdfs/12533IIED.pdf>
- Benjaminsen, Tor A. 2002. Enclosing the Land: Cotton, Population Growth and Tenure in Mali. *Norwegian Journal of Geography*, 56:1–9.
- Chauveau, Jean-Pierre, J. Colin, J. Jacob, P. Delville, and P. Le Meur. 2006. Changes in Land Access and Governance in West Africa: Markets, Social Mediations and Public Policies. International Institute for Environment and Development. <http://www.iied.org/pubs/pdfs/12528IIED.pdf>
- Chenevix-Trench, Pippa, M. Tessougue, and P. Woodhouse. 1997. Land, Water and Local Governance in Mali: Rice Production and Resource Use in the Sourou Valley, Bankass Cercle. Working Paper No. 6, Rural Resources – Rural Livelihoods. [http://www.sed.manchester.ac.uk/idpm/research/publications/wp/rr/documents/rr\\_wp\\_06.pdf](http://www.sed.manchester.ac.uk/idpm/research/publications/wp/rr/documents/rr_wp_06.pdf)
- Cotula, Lorenzo, 2011. Land deals in Africa: What is in the contracts? IIED.
- Cotula, Lorenzo, ed. 2006. Land and Water Rights in the Sahel: Tenure Challenges of Improving Access to Water for Agriculture. International Institute for Environment and Development . <http://www.iied.org/pubs/pdfs/12526IIED.pdf>
- Djiré, Moussa. 2006. Improving Tenure Security for the Rural Poor: Mali – Country Case Study. Working Paper No. 4, Food and Agriculture Organization of the United Nations/Legal Empowerment of the Poor (FAO/LEP). <ftp://ftp.fao.org/docrep/fao/010/k0785e/k0785e00.pdf>
- . 2007. Land registration in Mali – No land ownership for farmers? July. Issue Paper No. 144, International Institute for Environment and Development. <http://www.iied.org/pubs/pdfs/12538IIED.pdf>
- Government of Mali. 1992. The Constitution of the Republic of Mali. <http://confinder.richmond.edu/admin/docs/Mali.pdf>



- . 2000. Ordinance No 00-27/P-RM of 22 March 2000, Pertaining to the State Property and Land Code (Land Code 2000). On file with Rural Development Institute (RDI).
- . 2001. Pastoral Charter of Mali. Law No. 01-004 OF. As amended 2003. On file with Rural Development Institute (RDI).
- . 2007a. *Ministère du Logement, des Affaires Foncières, et de l'Urbanisme* (Ministry of Housing, Land Affairs, and Urbanism). Website. [http://www.mlafu.gov.ml/index.php?option=com\\_content&task=view&id=36&Itemid=](http://www.mlafu.gov.ml/index.php?option=com_content&task=view&id=36&Itemid=)
- Hamilton, Lucy and Aly Dama. 2003. Gender and Natural Resource Conflict Management in Niore du Sahel, Mali. International Institute for Environment and Development . <http://www.iied.org/pubs/display.php?o=9235IIED&n=329&l=2327&w=NR>
- Hilhorst T. 2010. Decentralisation, land tenure reforms and local institutional actors. Building partnerships for equitable and sustainable land governance in Africa. *FAO land tenure journal*.
- Konate, Aly Bacha. 2003. Local Networks as a Tool for Influencing Policy: Experiences of the GDRN5 Network in Mali. *Securing the Commons*, 6. [http://www.sahel.org.uk/pdf/Securing%20the%20Commons%20No.6%20\(English\).pdf](http://www.sahel.org.uk/pdf/Securing%20the%20Commons%20No.6%20(English).pdf)
- United States Agency for International Development 2010. Mali land tenure assessment report. [usaidlandtenure.net/library/country-level-reports/mali](http://usaidlandtenure.net/library/country-level-reports/mali)