



FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

Mali



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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 and the continuing terrorist threat adds to the current tenure insecurity. Since 2000 a series of laws and decrees have dealt with land tenure issues. In October 2015 the Council of Ministers adopted draft legislation for an Agricultural Land Law. This law would secure individual land rights and collective rights of family farms and agricultural enterprises. Adoption of this law by parliament is foreseen in 2016.

This country factsheet was prepared under auspices of LANDac – The IS academy on land governance – and was originally compiled by the Royal Tropical Institute (KIT – Thea Hilhorst and Nicolas Porchet) at the request of the Ministry of Foreign Affairs – The Netherlands. In 2015, the factsheet was updated by Souleymane Dembélé PhD in environmental science (soul972003@yahoo.fr), in collaboration with LANDac (Gerard Baltissen, KIT) with support from the Food and Business Knowledge Platform (F&BKP) as part of the LANDac/F&BKP knowledge agenda on land governance and food security. In 2016, the factsheet was updated by Mr. Richmond Antwi-Bediako of PhD Candidate at Utrecht University and director of the Rural Environmental Care Association, and Dr. John Tia Bugri of Kwame Nkrumah University of Science and Technology (KNUST) in collaboration with LANDac (Gerard Baltissen, KIT, and Gemma Betsema, UU) with support from the Food and Business Knowledge Platform (F&BKP) as part of the LANDac/F&BKP knowledge agenda on land governance and food security.

About LANDac

LANDac, the Netherlands Academy on Land Governance for Equitable and Sustainable Development, is a partnership between Dutch organizations working on land governance. The partners are the International Development Studies (IDS) group at Utrecht University (leading partner), African Studies Centre, Agriterra, the Sociology of Development and Change (SDC) group at Wageningen University, HIVOS, the Royal Tropical Institute (KIT), and the Netherlands Ministry of Foreign Affairs. The LANDac network conducts research, disseminates information, and organizes courses and training, focusing on new pressures and competing claims on land and natural resources. Guiding question is how to optimize the link between land governance, sustainable development and poverty alleviation.

www.landgovernance.org

About F&BKP

The Food and Business Knowledge Platform (F&BKP) is one of the five Knowledge Platforms initiated by the Dutch Ministry of Foreign Affairs. It is an open and independent initiative where representatives from international networks and organizations of business, science, civil society and policy come together. The Platform shares, critically reflects on, generates, deepens and improves (interdisciplinary) knowledge and feeds practices and policies on food and nutrition security. Land governance is one of the prioritized themes in its mission to develop a more focused knowledge agenda.

www.knowledge4food.net

Regulatory land governance framework

The government of Mali has introduced since 2000 a number of legislative measures to change how land and property rights are perceived and managed. The most important among these documents are the Domains and land code (*Code Domanial et Foncier – CDF*), the Agricultural orientation Law (*Loi d’Orientation Agricole – LOA*), the Pastoral Charter (*Charte Pastorale*) and the Agricultural land policy (*Politique Foncière Agricole – PFA*). Moreover, in the Office du Niger area, a decree states that management of land is transferred to the Office du Niger.

In 2006 the Agricultural orientation Law (LOA) was enacted. The Government of Mali initiated a political process for implementation of the LOA and its land tenure component. The LOA complements the provisions of the Land code from 2000 (amended in 2002) through recognition of family farms as well as the implementation of a specific land policy.

In May 2014, the Ministry of Rural development held a national workshop to validate an agricultural land policy (PFA), based on the LOA, which focuses primarily on family farms and farmers for equitable and secured land access. The PFA was adopted on December 31, 2014. It gives more consistency to the customary rights (already recognized by the CDF Land Code) and decentralization (implemented since 1996) in land management.

Law	Content
1992 Constitution	Guarantees citizens the right to own property. Provides for the protection of property
Decentralization Law No. 95-034 AN-RM of 12 April 12 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
2000 Domains and Land Code amended in 2002 (Loi n° 02-008 du 12.02.2002)	Recognizes state land, land owned by individuals and entities Did not take into account the implications of decentralization. The local governments have still no domains assigned. 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 an 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 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 Requires local authorities to create calendars of use of natural resources
Agricultural Land Policy (PFA) adopted on December 31, 2014.	Addresses customary rights and decentralization in land management.
Draft legislation for an Agricultural Land Law (adopted by government in October 2015)	Secures individual land rights and collective rights of family farms and agricultural enterprises

Land tenure forms

The Land code of 2000 confirms collective or individual customary rights on non-registered land. But individual customary rights can only be confirmed only if they contain a clear and permanent presence on the land like buildings or agricultural activities. The recognition of customary rights can be done according to the customary rules.

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).

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 ¹) 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).

Institutional 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 the decentralization Law of 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 implies the creation of special land management committees that have to play a leading role in mediation and resolving land-related conflict (art 79 LOA). It includes:

- Regional land Commissions: chaired by the Governor or his representative, and including local elected representatives and the decentralized technical services. They are responsible, among others, for effectiveness in land laws and decrees implementation; reconciliation; and to give their opinion on the amount of compensation in case of expropriation for public use.
- Domains commissions at local government level, assisted by officials from the Ministry of planning. Each local community has a domains commission. They are responsible for land management implementation of the local community and to decide on the disputes that exist within their localities.

In the Office du Niger, the « *Secrétariat d'Etat auprès du 1er 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.

¹ A sub-communal entity recognized in the Mali Decentralization Code but without legally recognized autonomous authority

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 small river basins 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).

In rural areas customs and tradition only consider men to be heads of households with access to land for housing and agriculture to satisfy household food security. Women can rent to grow grain or legumes but must hand over the produce or income from agriculture in case the men claim it. However, in some localities, certain types of land, such as rice paddies, agricultural activities are exclusively operated by women mostly because of support by NGOs.

Agriculture is the main activity of rural women but they face obstacles resulting in lower productivity compared to men. Disparities arise in terms of access to land, to inputs, and extension services. Access to credit remains a major constraint for women. Few women benefit from credits from banks or micro-credit due to a lack of collateral (land), reimbursement rates are too high for women to invest in agriculture.

Inadequate application of the land code and non-reliability of current statistical data do not enable to get a real overview of women's access to land and their contribution in economic activities.

Foreign direct investment

The land code indicates that the Malian State remains the principal owner of the land. The State and its public structures remain the only purveyors of land to foreign and national buyers for their economic needs (agricultural, housing, or other...). Legal instruments, such as the LOA, as well as the investment code, facilitate direct investments by foreigners.

Furthermore, the Government of the Republic of Mali negotiates investments with national and foreign companies or other States, aimed at securing these investments and lease contracts validated by government agencies. These leases are generally used for large-scale operations involving neighboring States, private investors and international organizations with a duration of 50 years, unlike the ordinary lease which has a term of 20 years.

Plots directly managed by the State are attributed in three forms: annual operation contract, agriculture operations permit and the housing permit. Article 82 of the LOA, defines that, within the framework of promoting investment and growth of agricultural production, arrangements are being made to reduce costs and simplify procedures for delivering land titles and for long-term leases to farmers. The State shall make provisions to facilitate obtaining land titles to the national operators and leases to foreign operators wishing to invest in agricultural development in Mali.

In many areas of Mali, especially in rural areas, access to the land by migrants is traditionally organized, demands are addressed to the host or an intermediary and migrants are given a piece of land with the agreement of the head of the family, migrants can use the land provided that they do not undertake "sustainable" activities, such as planting of trees or installing water pump.

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

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.

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).

FOOD SECURITY

Chapter I of the 2006 LOA defines food insecurity as: availability and accessibility at any time and in any place of quality food products to satisfy food needs for an active and healthy life. Mainly an agricultural country, Mali is located in the Sahelian zone with vulnerable ecosystems almost excluding sustainable food sovereignty.

The Malian State has developed legal tools to deal with this difficult situation. Among these tools is Decree No. 04-150/P-RM of 18 May 2004 for the establishment of the food security commission to develop and ensure implementation of the national food security policy. As such it:

- Proposes strategies, prepares and implements, in relation with several ministerial departments, measures designed to ensure full coverage of food demand in the country;
- Controls management of the national cereal banks and safety stocks;
- Carries out analysis of perspectives of the food situation by monitoring agricultural production and identification of affected or deficit areas;
- Plans, coordinates and supervises distribution of food in disaster areas;
- Develops and implements, with public and private structures involved, grain markets and modernization of food distribution channels;
- Ensures information to consumers especially on food prices and on nutritional quality of food.

According to Article 5 of the same Decree the following services and projects are supervised by the commission:

- World Food Program projects;
- Integrated food security project Nara;
- Income and food security project and income in the Kidal region (PSARK);
- Special food security program (SPFS/FAO);
- Programme of support for the development and marketing of agricultural products (PAVCOPA);
- Decentralised information system on agricultural market (PASIDMA);
- Programme for the restructuring of the grain market (BDRP);
- Office of agricultural products from Mali (OPAM).

A food security policy, which would be one of the principal instruments of the commission, is still in the process of elaboration. The legislative framework still used by the commission is the LOA.

Linking land governance and food security

The process of land grabbing, whether internal or external, raises many concerns and questions at the level of producers including the family farms, who are thus deprived of land and access to water (Traoré, 2012). The transfer of large land areas necessarily includes land owned or used by local families and smallholders.

In fact 70% of food production in the world comes from family agriculture (Cirad, 2014). However, these family farmers face an unfavorable environment in particular in terms of land policies in a context of increasing commodification of land, conducive to private ownership (Brondeau, 2014). The occupants of land in Mali are exposed to risks of having to abandon their land, most often with or without compensation.

Developments and improvements of land planned or carried out the last two years in Mali only take into account small farm families for 2.5% of its investments. At the same time, more than 700,000 ha were transferred to large private investors, merchants, big importers of rice, or to foreign States (ex: Malibya, to the technical and financial partners (case of Millennium Challenge Corporation) and international organizations.

But tenure security is a guarantee for farmers, especially smallholder farmers, to have access to land in the long term, to practice agriculture to feed their families and eventually to achieve savings. Fear to dispose continuously of cropland limits agricultural production of the household and contributes to food insecurity for families. The State, which must ensure tenure and food security, doesn't seem to put all its efforts in developing a land and food security policy expected to take into account concerns of all actors including small farmers.

However, can securing access to land in Mali be considered as the only pledge to ensure food security? It needs an analysis taking into account different options (private/collective or individual/community) and the modalities of land appropriation under various customary and State rights.

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, pastoralists 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).

RESOURCES AND OTHER INFORMATION

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>

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>

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

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

Portals and other resources

http://landportal.info/search/apachesolr_search/mali

http://www.hubrural.org/resultats_recherche.html?lang=fr&recherche=mali&x=0&y=0

<http://www.foncier-developpement.fr/?s=mali&lang=fr>

Donor support programs

The Global Donor Working Group on Land (GDWGL) quotes 28 donor programmes and projects in Kenya (finalized and active ones): <https://landgov.donorplatform.org>

AFD (Agence Française de Développement)

GIZ (Gesellschaft für Internationale Zusammenarbeit) remplace GTZ

MCC (Millennium Challenge Corporation) no longer in Mali since 2012

FAO: Fonds des Nations Unies pour l'Alimentation et l'Agriculture

FIDA: Fonds International pour Développement Agricoles

BAD: Banque Africaine de Développement

BM: Banque Mondiale

BID: Banque Islamique de Développement

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 nationale 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

AOPP: Association des Organisations Professionnelles Paysannes

SEXAGON: Syndicat des Exploitants Agricoles de la zone Office du Niger

APCAM: Assemblée Permanente des Chambres d'agriculture du Mali

SYCOV: Syndicat des producteurs de coton et Vivriers

SNV: Organisation Néerlandaise pour le Développement (très actif dans l'accompagnement des producteurs agricoles)

FARANFAN SISO (Structure d'appui- Conseil aux riziculteurs)

FEBEVIM: Groupement des Fédérations Interprofessionnelles de la Filière Bétail/Viande du Mali

No members of International Land Coalition from Mali.

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More information about LANDac and our activities is available on our website: www.landgovernance.org.

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