

BRIEFING NOTES

*to improve our understanding
and ability to ask the right questions
and take effective action on land
matters in West Africa*

“Land Tenure and Development” Technical Committee

Local authorities and local territories in rural West Africa

by Eric Idelman¹, December 2010

The process of transferring the land tenure management authority from the central government to local authorities involves the determination of the jurisdiction of the future incumbent authorities, i.e. their control on a set of specified land and natural resources. But, why does the delimitation of local authorities' area of influence cause so many problems in most West African countries? Does decentralization not usually result in the artificial and top-down creation of local administrative units whose entire legitimacy in the area of land management is yet to establish, while village or inter-village authorities have a strong local anchorage? Does one of the major rural land management challenges not consist in striking balance between the capacities devolved to the newly established municipal authorities and the historical roles of already existing village institutions?

Since colonial times, rural land management in West Africa has been characterized by a dual nature. On the one hand, we have the traditional leadership-based management system, the oldest and so far the most legitimate one, which is also the main reference of rural populations; and, on the other hand, the state-controlled land management system, which has not actually been able to scale up the enforcement of its standards in rural areas. The latter is in conflict with traditional conceptions. So, most farmers still considered it as imported and therefore illegitimate. Conversely, traditional rights associated with land and natural resource management enjoy very little or even no legal recognition. The existence of a state-controlled standard system seeking to assert itself gives rise to uncertainties about rights, thus weakening rural land and natural resource control systems. The rural decentralization process, which has been ongoing on since the 1990s, has developed into a third type of management carried out by local elected representatives.

In this context, in which terms does the issue of delimitating local authorities' area of influence arise? Is it immediately essential and should it be physically materialized? In the proc-

ess of building operational authorities, what may be the role of village level institutions? The following sections deal with the way local administrative units were established, the issue of transferring of responsibilities and the control of public estates and the need for local authorities to have their areas of influence clearly defined or not, and eventually analyze the land management levels and authorities.

Establishment of local administrative units

In general, West African countries create two or three levels of local administrative units. The basic local administrative unit (BLAU), generally known as “commune”, includes a relatively large number of villages.

Does the establishment of these authorities mean the creation of new local administrative entities? Not in some countries like Benin and Guinea Conakry, which have adopted a system consisting in a mere superposition of local administrative units on already existing administrative bodies. But, in other countries, new local entities have emerged. In this regard, Mali adopt-

Production coordinated by:



¹ Eric Idelman, PhD, Development Geography: antaeric@live.fr

ed an ambitious approach consisting of a simultaneous “communalisation” of the entire country. The Malian approach is original in that it is based on the voluntary clustering of villages: in the mid-1990s, the formation of local administrative units occurred in the country through a process of free clustering of villages.

A detailed review of these situations shows that the establishment of BLAUs occurred without any prior clarification as to land management. In Mali, like in Senegal for example, the rural BLAUs are represented in the laws only by the list of the administrative villages that make up the unit. Therefore, their jurisdictions are not precisely delineated. In addition, this approach does not take into account the hamlets that are physically distant from these villages, but socially bound to them. Even in countries which have “converted” administrative constituencies into BLAUs, the land issue is not clarified.

Indeed, in most countries, land-based, historical and political relations between villages, as well as inter-village

spatial philosophies have been taken into account neither during the establishment of local administrative units nor before, i.e. during the creation of administrative constituencies.

Because the clear delimitation of territories is a potential source of conflict, most governments have decided not to tackle this issue head-on. So, Mali, among others, gave priority to ‘social’ peace keeping, hoping for a further reconciliation between legality and legitimacy, which stands as one of the main potential challenges related to decentralization.

Furthermore, it is important to keep in mind that, from the villagers’ perspective, giving important privileges to BLAUs in land management is rather an act of centralization than one of decentralization of the decision-making authority. Indeed, decentralization takes that authority away from the village by introducing a new level of authority: i.e. the BLAU. The latter may interfere with the privileges of the traditional leadership or even supersede them.

Transfer of authority and public estate control

The transfer of public estate control to local administrative units raises the critical issue of formalizing the ownership of land by local administrative units. Despite a few negative examples, legal frameworks in West African countries generally provide for both the transfer of public estate ownership and that of public estate management authority. But these transfers are not compulsory and systematic.

Thus each public estate ownership transfer transaction must be negotiated on a case-by-case basis, following land registration procedures (such as land title based registration) that are generally long, costly and totally inconsistent with rural land tenure policies. All these make it very difficult to ensure the transfer of estate ownership from the government to rural local administrative units.

Governments seem to be reluctant to do such transfers. Failure to clarify the legal framework of transfers maintains



the *status quo* by virtue of which the government keeps control of land, at least in principle. In fact, land management in rural areas is usually the responsibility of the traditional leadership (even in Senegal where representatives elected by BLAU hold and exercise the right to allocate land).

Beyond political will considerations, the transfer of public estate ownership to BLAUs is limited by the lack of clarity as to the limits of local administrative units' jurisdictions.

Should local administrative units' areas of influence be clearly delimited?

Should governments undertake a clear delimitation of the jurisdictions of local administrative units? This issue is at the center of a debate, especially in Sahelian countries such as Mali and Niger. In this regard, some countries like Burkina Faso have tried to delineate their BLAUs, while others prefer to wait.

Such delimitation could be deemed necessary because, for a government to be able to transfer the ownership of an estate to a local administrative unit, it seems logical or even necessary to define in advance, the subject of the transfer, including its limits. It could also be seen as impossible for a local administrative unit to formulate a relevant development policy for its jurisdiction if the latter is not fully known.

But, other contentions go against a systematical delimitation of rural BLAUs. Indeed, the physical delimitation of land itself is a potential source of conflict in rural areas.

For farmers, boundaries between villages, family lands or customary territories for example are rather an inter-



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face than demarcation lines. So, such boundaries are not demarcated, except in specific cases. Moreover, they are not stable: they are subject to negotiations that can change over time. Therefore, physically demarcating a boundary amounts to trying to fix the instable and dynamic balance determining the place of each community in terms of land.

Yet, in regions where land rights have been individualized, like the forest zone in Cote d'Ivoire, boundaries tend to become more and more precise and stable.

Even without being demarcated, the boundaries are well known by rural actors. Approximate and not physically delimited boundaries can be functional, reflecting the fact that there can be "territoriality" without visible "boundaries". In fact, we note that the need for delimitation in rural areas only arises when the stakes are high, for instance a cross-border natural resource shared by two local administrative units which is ripe for econom-

ic exploitation. In this case, the need to demarcate boundaries can gradually arise.

Therefore, the lack of delimitation of BLAUs has the advantage of not departing abruptly from the traditional perception of space. Thus, it could be envisaged to entrust the elected authorities, together with the traditional leadership and according to the organization patterns of rights on the latter's space, with the task of clearly determining the limits of BLAUs, as need arises.

Land management levels and platforms

Within the decentralized environment that currently characterizes most West African countries, at which level should the transfer of land and natural resource management responsibilities occur: the BLAU, the village or both of them?

The village enjoys a double advantage: first of all, it is a living and working en-

vironment organized and managed by a human community and placed under the authority of leaders recognized as legitimate; second, the legitimacy of elected representatives in dealing with land issues is not easy to establish at all in rural areas: it is not quite clear how this legitimacy could, in the short term, supersede that of the traditional leadership in land management.

BLAUs have the advantage of enjoying the legal status of “local administrative units”. As such, they are fully recognized by the government and the designated new incumbents of the responsibilities and public estate control power transferred. In addition, they are the most “local” ones, i.e. they are nearer to the traditional leadership.

Thus, we note in many cases that there are close relationships between elected representatives and the traditional leadership (power relationships remaining generally in favor of the latter). Moreover, BLAUs theoretically have the advantage of operating according to “democratic principles”: equality of citizens, elected representatives being accountable to their respective communities, etc.

Instead of denying the existence of a traditional land management system, it seems to be necessary to strike a fair balance between the roles as-

signed to elected representatives in BLAUs and those played so far by village authorities.

In fact, in countries like Senegal, many local elected representatives involve village authorities in land allocation applications processing. Yet, Senegal has, formally and for a long time, “abolished” customary rights and no longer recognizes any land management system at the village level.

“Intercommunality” is another interesting prospect, as it facilitates some delimitation exercises by creating socially and economically more sustainable entities.

As for the government, it plays a major role under the new decentralized system: in the area of land management, it must keep on establishing the overall legal framework and exercising an effective control. ●

FOR FURTHER INFORMATION

>> Fiches pays “Décentralisation, acteurs locaux et foncier”, de Rochedude Alain et Plançon Caroline :

www.foncier-developpement.org/outils/cadres-legislatifs-et-institutionnels/fiches-pays

>> IDELMAN E., 2009, *Décentralisation et limites foncières au Mali*, Dossier IIED n° 151, Programme Réussir la décentralisation - zones arides, juin 2009, 28 p.

URL : www.iied.org/pubs/display.php?o=12558FIED&n=1&l=2&k=idelman

>> IDELMAN E., 2008, *Le transfert des compétences en gestion des ressources naturelles aux communes rurales de la région de Kita (Mali). D'un encadrement étatique intégré à des logiques d'acteurs locaux*, Thèse de doctorat en Géographie, Université de Paris X - Nanterre, décembre 2008. URL : <http://tel.archives-ouvertes.fr/tel-00353162/fr>

>> LIMA S., 2003, *Découpage entre espace et territoire : la fin des limites? La fabrique des territoires communaux dans la région de Kayes, Mali*, Thèse de doctorat en géographie, Université de Poitiers, 531 p.

ORIGINAL VERSION IN FRENCH “Collectivités locales et territoires locaux en Afrique de l'Ouest rurale”, translated by Lara Colo.

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