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**Micro-policies on
land tenure in
three villages in
Bam province,
Burkina Faso**
Local strategies
for exchanging land

**Volker Stamm,
Jean-Pierre Sawadogo,
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Summary

The aim of this study is to analyse modes of access to land and agreements regulating the exchange of plots between families and between villages. It is based on a quantitative survey of 95 smallholders and over 300 plots (49 of which are cultivated by women), as well as qualitative analysis using transcriptions of interviews with groups of dignitaries, men and women. The main means of access to land identified are via inheritance and gifts, which together accounted for access to 80% to 90% of the plots surveyed. The remaining 10% to 20% of cultivated plots were obtained through family ties/social relations or loans, which are becoming subject to more rigid conditions. Men generally inherit or are given their land, while women do not have the right to inherit land and mainly gain access through gifts or social relationships. Through these relationships women are sometimes able to farm relatively large areas. Our sources reported that lenders do not set strict limits regarding access to, management, use of, or investment in the land borrowed. This is partly confirmed by levels of investment: in two of the three villages studied, no significant difference was observed in the level of improvements made to land obtained via inheritance, gifts, social relationships or loans. With little difference between the conditions governing access to and use of family or village lands, or land belonging to another village, land is frequently exchanged within and between villages as the need arises. The agreements regulating these transactions mainly focus on the borrower's obligations to the lender, and the requirement to maintain and preserve the fertility of the plot and perform annual sacrifices.

This logic of exchange reinforces the flexible nature of the rules governing land tenure, which can help ease pressure on resources. The kinds of local practices observed in this study are often compared with local codes for managing farmland, which have nonetheless proved difficult to disseminate. Our analysis indicates that this is because their special field of application is the domain of renewable natural resources shared by several user groups.

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1. Introduction

As demographic growth and extensive land use seem to make it more and more difficult to gain access to land, local people have responded by implementing adaptive strategies and mechanisms that necessarily involve changing the system whereby land is managed.

The main objective of this study is to provide up-to-date information about the dynamics of land tenure in Bam province, in order to inform the current debate on tenure policies in the Sahel. Its three specific objectives are to:

1. Analyse the opportunities for access to land through exchanges,¹ loans, gifts and other forms of transaction, at a time when family or village land reserves are exhausted;
2. Determine the frequency, form and implications of these transactions, taking account of possible restrictions on the utilisation and productive use of land thus acquired;
3. Evaluate the role of local codes in the context of these arrangements.

Women's opportunities to acquire land will also be analysed, taking account of the fact that women in the study area can only gain access to land if they are given or borrow it.

This study forms part of the current debate on a number of closely related issues. In the first place, it discusses "land saturation" and the growing pressure on land resources, showing that local people have in place mechanisms that enable them to balance their demand for land. It also considers calls to "formalise" 'derived rights' over land (see Lavigne Delville et al., 2002) in order to "secure them" (as proposed by the World Bank, 2003²), analysing the most common forms of these rights (such as borrowing, etc.) and their inherent level of security or insecurity. Much of the current debate about land tenure policies centres around instruments

1. "Exchange" refers to all transfers balancing the need for and availability of land, not the act of exchanging one plot for another. We use the generic term of *cession*, or assignment, to designate the transfer of the right to use land for a limited or open-ended period.

2 See Stamm, 2004, for a discussion of this document.

such as local codes or local agreements. This paper highlights the existence of many, usually informal, village-level agreements that at first sight resemble local codes, and which should be taken into consideration before pursuing a policy to disseminate these codes. Finally, a new concern emerging in recent literature on this issue is equity (e.g. Peters, 2002). Analysis of the practices in our study area shows that they facilitate access to land even for people of very limited financial means. Any intervention in these systems runs the risk of disturbing them and thereby undermining the most vulnerable members of the rural population. This question of equitable access is closely related to the issue of the negotiability of rights over land (Berry, 1993). We should remember, however, that when everything is negotiable, those with the most power are most likely to win. We will show that in our study area access to land is negotiated within a known and respected framework of reference, and that the process of negotiation leads to the confirmation of a range of rules and can provide the opportunity to modify or supplement them.

2. Methodology

This study covers three villages in Bam (Noh, Tamiougou and Pitenga). Several investigative techniques were employed to gather data: a formal survey using a questionnaire on a sample of thirty farmers from each village, and semi-structured interviews (focus groups) with three socio-economic groups from each village (dignitaries, men and women). All interviewers were fluent in *mooré*, the dominant language in the region, and each interview was recorded and studied to ensure that all the views expressed were represented, including opposing opinions and the arguments supporting them.

Some of the results obtained have already been published (Sawadogo and Stamm, 2000). These mainly relate to local people's interpretations of their practices and their perceptions of local land tenure systems.

This paper considers the practices themselves, in order to understand them in the dynamic context of the rural Sahel and make an informed assessment of land tenure policies. While there is currently much deliberation and activity centred around this issue, this does not always take account of major developments on the ground.

To put into context the references to land tenure policies made in this paper, we should explain that in the initial stage of our research we were mainly interested in the dissemination and impact of local codes. These are supposed to provide solutions to the problems outlined in the introduction: increasing scarcity of arable land, difficulties in gaining access to land, unequal land distribution and the conflicts engendered by these problems. During the course of our research we became aware that local people have their own tools for dealing with these challenges, and that it was important to understand them better and evaluate their sphere of application and effectiveness before introducing new instruments such as codes.

To a certain extent the original orientation of our research changed as a result of practical findings in the field.

The 1998 baseline study was quickly followed by two further studies on the same subject and same region: the first by V. Stamm in 2002, and the second by J-P. Sawadogo in 2002/2003. Neither necessitated any significant modifications to the original data (for a summary see Reij and Thiombiano, 2003).

3. Brief description of the study zone and villages

3.1 Socio-economic characteristics

Bam province is a densely populated zone in the central plateau. Its principal town, Kongoussi, is located about 115 km from the capital Ouagadougou, on the Ouagadougou-Djibo axis.

The two main ethnic groups in the province's seven departments and 206 villages are the Fulani and the dominant Mossi³, who are longstanding inhabitants of the region. The main activities in the area are farming and livestock rearing.

Based on the 1996 INSD census, the populations of Noh, Pitenga and Tamiougou are respectively estimated at 2119, 1676 and 996. An average household from the sample consists of 17 individuals in Pitenga, 15 in Noh and just 10 in Tamiougou. Smallholders from each village farm an average of three or four plots per person.

Land in the study area is managed according to family-based tenure, with permanent and/or temporary rights of use. The total average area, i.e. the sum of the different plots managed by a single individual, is 4 to 6 hectares. On average, men tend to manage larger areas and more plots than women,⁴ although it is not unusual for women to cultivate several plots covering quite a substantial area (see Table 3.1 below).⁵

3. From *moose* (plural of *moaga*) inhabitants of the *moogo*, or land of the *moose*.

4. Except in Noh, where the average figure reflects the fact that a widow in the sample from this village manages two large plots covering 5.5 hectares.

5. It was not possible to make a systematic study of the number of women with access to a plot of land because the unit of observation for this study was the person responsible for the plot, or the plot itself. The authors were limited to studying the case of women responsible for plots, their modes of access to them, their area and any restrictions on use. This approach presupposes that most women have access to land (a view shared by Kevane and Grey, 1999: 11), at least the majority of women married to a head of household. There is definitely a need for further research into this issue, looking into individual households and taking account of women's age, family status (married/single/widowed) and social situation (married to the head or another member of the household), and analysing the frequency and substance of their respective rights.

Table 3.1 Total average area cultivated, showing figures for men and women

Area	Pitenga		Noh		Tamiougou	
	Ha	n	Ha	n	Ha	n
Average total area managed per person	5.76	34	3.95	30	5.22	31
Average area of plots managed by men	1.77	105	1.38	78	1.6	94
Average area of plots managed by women	0.52	19	1.71	7	0.48	23
Number of plots; number of cases	ANP	n	ANP	n	ANP	n
Average number of plots per man	3.75	28	3	26	3.92	24
Average number of plots per woman	3.17	6	1.75	4	3.29	7

Source: Data from the formal survey

Legend: Ha = hectare; ANP = average number of plots; n = number of cases.

This inequality between men and women is confirmed when users are categorised according to gender and the area cultivated. When smallholders are divided into three groups according to the area farmed, it is clear that most men farm fields covering 1 to 3 hectares. Thus, 69% to 70% of farmers in Tamiougou and Pitenga, and 60% of farmers in Noh cultivate between 1 and 3 hectares of land. The pattern is different for women: about 87% to 90% of female farmers in Tamiougou and Pitenga cultivate less than one hectare per plot, while more women in Noh (57%) farm between 1 and 3 hectares. An estimated 14% of women in Noh farm an area of more than 3 hectares – although it should be noted that this figure is accounted for by one woman, the widow mentioned earlier, who manages a total of 5.5 hectares, including one 4-hectare plot.

Category	Pitenga	Noh	Tamiougou
<i>Men</i>	<i>n=105</i>	<i>n=78</i>	<i>n=94</i>
< 1 ha	20	35.9	22.3
1-3 ha	69.5	60,3	69.1
> 3 ha	10.5	3.8	8.5
Total	100	100	100
<i>Women</i>	<i>n=19</i>	<i>n=7</i>	<i>n=23</i>
< 1 ha	89.5	28.6	87
1-3 ha	10.5	57.1	13
> 3 ha	–	14.3	–
Total	100	100	100

Source: Data from the formal survey

Customary authority is exercised by the *naaba*,⁶ who is assisted by the *tengsoba*⁷ and neighbourhood elders. The *tengsoba* is responsible for tenure of village territory, while each family has autonomy over its own land, which is managed by the family members responsible for land.

6. *Naaba*, pl..*Nanamse*: an individual holding power, a chief.

7. *Tengsoba*, pl. *Tensobnanamse* (from *teng/tenga*, meaning earth, land, fauna, forest, water, flora; and *soba*, meaning owner, possessor, manager): an individual responsible for customary land tenure.

4. Methods and dynamics of modes of access to land

This section examines modes of access to land and the systems used to assign land between families (borrowing or lending within villages) and between villages (exchanges outside the village).

4.1 Modes of access to land

The history of land settlement shows that each neighbourhood (*saka*) or family (*buudu*) manages its lands. The results of the survey also reveal that social factors (kinship ties, social relationships, gratitude, solidarity) play a key role in the land tenure system of rural Burkina Faso. The economic aspects of borrowing and lending seem to play a secondary role. In all the villages studied at least 66% of smallholders had obtained their land through inheritance, while 5% to 23% of land was obtained through gifts or intra-village loans. Table 4.1 below summarises the main modes of access to land in the study area.

Smallholders develop and establish relationships based on the lending, borrowing and exchange of land within and between villages, as they lend, borrow and give each other plots of land to cultivate. In the local context it is unacceptable to refuse land to anyone wishing to use it to

Village	Inheritance	Gift	Loan within the village	Loan outside the village	Social relationships
Pitenga (n=124)	66.1	22.6	7.3	–	4
Noh (n=85)	69.4	21.2	4.7	–	4.7
Tamiougou (n=117)	70.9	10.3	12.0	0.9	6.0
Total (n=321)	68.7	17.8	8.3	0.3	4.9

Source: Formal survey data

meet their food needs. All types of owner⁸ lend out their land, from traditional authorities, such as village or land chiefs, to close relatives, in-laws or straightforward landowners. About 70% of farmers in the study villages have undisputed management of their smallholdings.

Due to circumstantial reasons it seems that loans outside the village are under-represented in the study sample, as subsequent verification revealed that this practice is widespread in the region. Participants in the study reported that the only disadvantage of this mode of access to land is having to travel long distances to plots located outside their village.

There were no recorded cases of land being sold; land is seen more as a family heritage than a commodity (see Barrière et al., 2003).

The purchasability of land in Burkina Faso is a hotly debated issue. Several authors (see Mathieu et al., 2003, for example) have written about the “emergence” of cash transactions related to land, although they do not provide any empirical data with which to assess the scope and quantitative significance of this phenomenon. We did not find any evidence of this practice in Bam, and our observations were confirmed by a recent field study in south-western Burkina Faso, which is seen as the centre of these financial transactions (Pickardt, 2003).

While waiting for more representative data we will content ourselves with the apt and still pertinent concept of “the imperfect commodification of land”⁹ proposed by Etienne Le Roy in 1995.

Table 4.2 below shows that most women are given their “*beolse*”¹⁰ (28% in Noh and 52% in Tamiougou), usually by their husband. If a man does not have much land he will approach other landowners to provide for his wife. In Pitenga 31.6% of women obtain a *beolga* in this way, compared with 17% of women in Tamiougou and 14% in Noh. Women also use social relationships as a means of obtaining several plots of land, with 57% of women in Noh, 26% in Pitenga and 30% in Tamiougou approaching their in-laws, cousins or nephews for land. The husband is always informed when borrowed land is allocated to his wife.

8. For the purposes of this paper, “owner” denotes the person holding rights to dispose of the land.

9. We would like to add that this commodification is variable, as well as “imperfect”. It would be surprising if even the most distant regions of Burkina Faso remained unaffected by the global trend towards the commodification of social relationships.

10. Plots farmed by women are known as *beolga*, pl. *beolse*.

Table 4.2 Distribution of modes of access according to gender					
Village	Men				
	Inheritance	Gift	Loan within the village	Loan outside the village	Social relationships
Pitenga (n=105)	78.1	19	2.9	–	–
Noh (n=78)	75.6	20.5	3.8	–	–
Tamiougou (n=94)	88.3	–	10.6	1.1	–
Village	Women				
	Inheritance	Gift	Loan within the village	Loan outside the village	Social relationships
Pitenga (n=19)	–	42.1	31.6	–	26.3
Noh (n=7)	–	28.6	14.3	–	57.1
Tamiougou (n=23)	–	52.2	17.4	–	30.4

Source: Formal survey data

These results confirm the special status of women in all land-related issues. While over 75% of men inherit their land, none of the women surveyed obtained theirs in this way. This suggests that they have no rights to own land, and only enjoy the right to use it. The main ways that they obtain land are by being given it, borrowing it from other villagers or through family ties/social relations.

The assignment of land within and between villages is affected by similar factors. Once again, social relationships play an important part in these transactions. Interviews in all the study villages revealed that they are particularly significant in inter-village assignments, where they play a vital role in the process of obtaining a plot from another village.

There is some controversy over the question of *how modes of access to land influence the way in which it is managed*. Soil and water conservation measures (SWC) were in place in every category of land in our sample, and in only one village, Tamiougou, was the percentage of measures implemented on inherited land appreciably greater than the figure for borrowed land. Less inherited land was developed in Pitenga (62%) than in Noh or Tamiougou (76% and 90% respectively). There were very few

cases of trees being planted as a long-term development, even on inherited land (3% of plots in Noh and 1% in Tamiougou).

A relatively large number of developed plots are obtained through family ties or social relations. Comparison of Tables 4.2 and 4.3 shows that these are exclusively plots cultivated by women, which means that the results of our study do not confirm the commonly held belief that women do not develop their plots.

	Inheritance	Gift	Loan within the village	Loan outside the village	Social relations
Pitenga (n=124)	n=82	n=28	n=9	n=0	n=5
Undeveloped	37.8	46.4	44.4	–	20
SWC measures	62.2	50.0	55.6	–	80
Tree planting	–	3.6	–	–	–
Total	100	100	100	–	100
Noh (n=85)	n=59	n=18	n=4	n=0	n=4
Undeveloped	20.3	33.3	25.0	–	25
SWC measures	76.3	61.1	75		75
Tree planting	3.4	5.6	–	–	–
Total	100	100	100	–	100
TAMIOUGOU (n=117)	n=83	n=12	n=14	n=1	n=7
Undeveloped	8.4	50.0	64.3	–	28.6
SWC measures	90.4	50.0	35.7	100	71.4
Tree planting	1.2	–	–	–	–
Total	100	100	100	100	100

Source: Formal survey data

4.2 Causes and frequency of land assignment

Everyone we spoke to in Tamiougou and Pitenga agreed that the assignment of land between families and between villages is on the increase. In Noh, however, only 32% of the dignitaries interviewed felt that land assignment is increasing, while 68% reported a drop in demand due to land management methods such as bunds, mulching, tree planting, etc., which have increased yields.

These agreements are mainly due to demographic growth and the resulting pressure on families with insufficient land, or whose land is or too degraded to enable them to meet their household's food needs. Other factors behind the growing demand for land are lack of rainfall and the declining yields that this often occasions, although the primary cause in all the villages studied seems to be population pressure.

4.3 Obligations related to the assignment of land

Access to a plot is subject to a range of obligations that have to be fulfilled before and after the transaction: the former specify conditions to be met before the land is assigned, while the latter determine how it may be used.

There are few conditions regarding access to land in any of the three study villages. Between 86% and 97% of those surveyed reported that access was not subject to any conditions, and only 1% of the sample in Tamiougou indicated that lenders demanded some kind of contribution in kind in return for access to their land. However, respondents from every study village reported that sacrifices are required before a plot can be obtained.

Our findings on obligations related to land use show that 74% of interviewees in Pitenga and 82% in Tamiougou reported that there are no conditions stipulating how borrowed land may be used in their villages. The situation was different in Noh, where only 39% of participants made this claim. However, it is considered important to perform sacrifices in order to fully enjoy the benefits of borrowed or gifted land, particularly in Noh, where over half of the sample (about 61%) said that sacrifices are needed to ensure harmonious land use. Given that only 16% of those interviewed in Tamiougou and 21% from Pitenga expressed similar views, does this mean that villagers in Noh still retain their links with the sacred aspects of land?

None of the respondents from Noh, and only 5% of the sample from Pitenga and 2% from Tamiougou reported that continued use of land is dependent upon part of the harvest being given to its owner. These very low figures confirm the view that rural people in this part of the Sahel see land as a means of producing food, rather than an important economic resource.

Village	No conditions		Part of the harvest		Sacrifices	
	Access	Utilisation	Access	Utilisation	Access	Utilisation
Pitenga (n=124)	96.8	74.2	–	4.8	3.2	21
Noh (n=85)	89.4	38.8	–	–	10.6	61.2
Tamiougou (n=117)	86.3	82.1	0.9	1.7	12.8	16.2
Total (n=326)	91.1	67.8	0.3	2.4	8.6	29.8

Source: Formal survey data

Restrictions on land use largely cover short-term improvements (stone clearance, mulching, fire-breaks), medium-term measures (bunds, anti-erosion hedges, wind breaks, fencing to prevent theft and damage by wandering livestock) and long-term developments (tree planting, irrigation and root clearance). Between 92% and 98% of interviewees in all three villages think that farmers are free to manage and develop the land they work, particularly in terms of short- and medium-term measures. However, they were more reticent about long-term undertakings, such as tree planting, with 2.4% of respondents from Noh and Pitenga and 8% from Tamiougou stating that borrowers should not undertake long-term developments on the land assigned to them.

Village	Short-/medium-term developments	Long-term developments	No restrictions
Pitenga (n=124)	–	2.4	97.6
Noh (n=85)	–	2.4	97.6
Tamiougou (n=117)	0.9	7.7	91.5
Total	0.3	4.3	95.4

Source: Formal survey data

These results seem to contradict some of the opinions expressed by the focus groups. Participants from Noh and Tamiougou reported that long-term developments could constitute a limit to land use, although this was apparently not an issue for their counterparts in Pitenga. However, it is considered very important to respect *kisgu*, the village or bush taboos banning disputes, the killing of wild animals and sexual liaisons in certain areas.

There was general agreement that developments of any kind require prior authorisation, a view expressed by 55% of the dignitaries from the study villages, and all the women and 78% of the men from Tamiougou.

Looking at the restrictions on land use according to gender, everyone interviewed in Noh and Pitenga stated that women are free to use their land as they like. Leaving aside what they thought the researchers wanted to hear, this may be due to the fact that women generally content themselves with development such as bunds. However, the men expressed various reservations about long-term developments.

The content of inter-family and inter-village assignment agreements is never explicit, nor is their form or duration. The stability of these transactions stems from the codes of conduct implicitly conveyed in the agreements, which mainly determine how the borrower should behave towards the landowner, his or her obligation to fulfil customary rituals performed by the landowner or land chief for the benefit of the whole village, and to respect the boundaries of the plot assigned and maintain and conserve its fertility.

Village	Men			Women		
	Short-/medium-term developments	Long-term developments	No restrictions	Short-/medium-term developments	Long-term developments	No restrictions
Pitenga	–	2.9	97.1	–	–	100
Noh	–	2.6	97.4	–	–	100
Tamiougou	1.1	5.3	93.6	–	17.4	82.6

Source: Formal survey data

While few of the assignment agreements in Noh specify that plot boundaries must be respected, they do focus on how borrowers should behave towards the landowner, and how they should express their indebtedness to him through their daily activities. A network of multi-faceted relationships is established between the different parties (borrowers and lenders), in which borrowers are judged according to their behaviour towards the lender, the lender's family and even his friends. A key factor in this relationship is the respect shown to the benefactor, especially the material gifts presented to him.

In addition to these gifts, borrowers are also expected to provide the landowner with the wherewithal to perform annual sacrifices. They also have a responsibility to maintain the land upon which they work and to respect the boundaries of the assigned plot. Their list of duties refers first and foremost to their behaviour towards the landowner, before outlining their obligations regarding the borrowed land.

In Tamiougou assignment agreements also focus on the borrower's obligations to the landowner, stipulating that they should be grateful, respectful and ensure that the landowner has what is required to perform any sacrifices. The borrower's duties regarding the assigned land are summed up as the requirement to maintain it. Respecting the boundaries of the borrowed land does not seem to figure as a requirement in inter-family and inter-village agreements.

In Pitenga, however, assignment agreements explicitly – and rather unusually – focus on the borrowers’ duties with regard to the borrowed land, and how it should be maintained and protected. Here, the landowners’ concern for the upkeep and restoration of their land seems to favour the development of assigned plots, and the borrower’s obligations towards the landowner essentially boils down to recognition of the service rendered. Borrowers are rarely expected to provide the resources required to perform annual sacrifices, as they are on the decline in this village (probably due to the influence of Christianity).

We should pay close attention to the fact that borrowers are expected to maintain the assigned land and conserve its fertility, a duty that is often under-estimated by research.

4.4 The authors of land assignment agreements

Modes of access to land are still strongly influenced by social relationships, since intra-village agreements are generally drawn up by those responsible for family lands and, in cases where women wish to borrow land, by their husbands.

Inter-village agreements are drawn up by land and village chiefs, as well as the individuals mentioned above.

The land chief plays a particularly important role in the process when land is required for habitation. A request of this kind proceeds in two stages: the applicant must first obtain authorisation to settle in the village and build a house, and then apply for a plot of land to cultivate. The land chief is central to the first part of this process.

“The system is a bit different when land is lent to an incomer wishing to settle in the village, because in these cases the settlement site has to be found before the field. The procedure for borrowing varies depending on how the land is to be used. If it is for housing, the applicant first has to approach the village chief, who will set up a meeting for possible consultations with the tengbissi. It is they who created the village, even though they take orders from the chief. After the incomer has gone the chief presents the problem to the tengbissi and they discuss it amongst themselves before giving their consent. On the day of the

meeting the incomer is told where the house may be built, and is given permission to settle there once the land chief has carried out the customary sacrifices.

After this the incomer has to go back to the chief to ask for a plot to cultivate. This is usually quite straightforward, as you don't give a mat to a stranger and then let him go to sleep hungry. Anyway, in this kind of situation the farmland is already ready. Once again, the chief consults the tengbissi, and they show the incomer the boundaries of the new field and then explain any local taboos and bush codes and practices."

(Extract from a discussion with a group of young people from Noh).

It should be stressed that all agreements regarding land exchange are drawn up between those responsible for the smallholding, with varying levels of input from the traditional authorities. External agencies such as projects are never involved in these transactions.

5. Interpretation and implications for land tenure policies

5.1 Interpretation of results

These results confirm the continuity of the known structure of modes of access to land, in which inheritance plays a predominant role. Unlike many other regions of Burkina Faso, our study area is still unaffected by the commercialisation of the social relationships linking man and earth. However, the system of circulating borrowed lands, imposing time limits on loans and, to a lesser extent, the risk of assigned land being withdrawn, means that borrowers are now less secure than in the past. This element of insecurity merits further study, even though borrowing accounted for no more than 12% of our sample.

There is no foundation to the widespread belief in development circles that “traditional land tenure” is a major obstacle to developing land (a view contested by a significant number of researchers). Investment in inherited land is not significantly greater than investment in land that has been borrowed, given or obtained through family ties/social relations. Neither producers nor the local authorities reported any serious restrictions on the use of borrowed land, at least not economic ones.

Nor does our study confirm the impression that lands on the central plateau are saturated, despite their very high population density. While there is genuine pressure on land reserves, most land exchanges still take place within villages, within or between families; and there are still possibilities to exchange land between villages without imposing any major constraints on access to or use of these lands. There are no particular limitations on the development of fields outside village territories.

Our study also failed to confirm received wisdom about the situation of women with regard to land tenure. They may not have the right to inherit land, but they are not systematically marginalized in their use of this resource. While our research shows that women still cultivate significantly fewer plots and less land than men, it also revealed that there are a number of women managing significant amounts of land and using it for a wide variety of purposes, including cereal crops. It is true that the study was not able to differentiate between women of different social status,

and further research is needed to examine this fundamental issue. According to those interviewed in the focus group, the main constraint to increasing women's access to land is their workload.¹¹

There was no indication that opportunities for women to gain access to land are progressively declining, or that more stringent conditions are being imposed upon them. In fact, these conditions remain stable, even though the results obtained are far from satisfactory in terms of facilitating women's access to land. This raises the question as to whether the local order, which is certainly biased against women, will be able to open up in response to multiple pressures and legitimate claims for land resources to be distributed more equitably between the sexes.¹² Those that believe it will not be able to do so advocate reform of statute law in order to improve the situation for women. However, there are many instances in which women's position has worsened following the introduction of formalised management procedures (for further discussion of this issues, see Kevane/Grey, 1999, and Whitehead/Tsikata, 2003). There was no indication of this type of erosion of existing rights in our sample villages, where "custom" prevails.

We cannot contribute much to this debate on the basis of our very limited study, which only highlighted the major role played by local management structures and the extremely negligible influence exerted by government-sponsored policy orientations. As things stand, these do not constitute a sufficiently robust and effective basis for consolidating women's rights to land tenure.

5.2 Implications for land tenure policies

Our research shows that there are many agreements between family and village units regulating land exchanges and the modalities of these transactions. These agreements could be compared with contracts under civil law, even though their actual terms are often deliberately vague and refer to unspoken understandings shared by the community. It is interesting to note that these terms include a duty of borrowers to put the assigned land to productive use, and to maintain and protect it – contradicting the common perception that borrowers do not have the right to develop their

11. See also Whitehead/Tsikata, 2003.

12. The study by Kevane/Grey (1999) suggests the possibility of such a development.

land. The only precondition is that the landowner must be consulted before any such undertaking.

These results have the following implications of for land tenure policies:

Firstly, the regulation of access to land and land use has a solid local base: there is no need to impose detailed government legislation (such as the national *Réorganisation Agricole et Foncière*, the RAF, or law on agrarian and land tenure reorganisation). To repeat a well known but often ignored theory, a more pragmatic approach would be to design a framework law or *loi d'orientation* regulating the broad outlines of natural resource use and delegating responsibility for day-to-day management to private actors.

The second point concerns the policy of decentralising the management of land resources and formulating local codes, which are seen as an effective tool in development circles.

This view is only partly corroborated by the lessons learned in the field, which actually tend to underline the importance of villagers having their own instruments and agreements for managing and exchanging their lands, and suggest that codes present a number of problems in this respect.

These two tools (codes and exchange agreements) have similar legal bases: contracts between actors claiming rights over a given land resource or natural resource. The arrangement between the lender and borrower of land is bilateral and takes account of the fact that, in our study area, the right to manage land is well defined and generally known and recognised. Therefore there is no need to go beyond this bilateral level and, through a local code, introduce community elements into the management of agricultural land.

The local code, by contrast, can be compared to a multi-lateral contract; its field of application is multi-functional resources (*bas-fonds*,¹³ forests, grazing areas, etc.) utilised by multiple users.

This view is confirmed by common practice, in which local codes are given a greater role in the management of shared resources. Only two or three of the one hundred and fifty or so local codes inventoried by M. Gensler

13. Low-lying, seasonally flooded land, such as valley bottoms or depressions.

in West Africa (personal correspondence, 2003) covered agricultural land. All the rest related to problems associated with shared resources, particularly forests.

In Bam province we identified only one example of a local code, documented in the “Practical Guide to Village Land Management” produced by the PATECORE project in 1997.¹⁴ This concerned a reclaimed area on Oui village lands that had been abandoned since 1980 because it was infertile, and identified for regeneration as farmland in return for a collective effort by the village community. Before the development began, equitable distribution of the regenerated land was negotiated with the landowner, “setting out the following principles: after regeneration the landowner has automatic rights to part of the land; everyone who participated in the works has the right to a plot of land (...); allocation does not confer the right to permanent appropriation; the regenerated land will always remain the property of the landowner” (Practical Guide, pp. 22-25).

Unfortunately this interesting experience has not served as an example; nor was it properly followed up by the intervening structure. However, it does show that there is some potential for applying local agreements to agricultural land, not just resources like forests, pastures and water-courses, which are typically subject to shared management. It also shows that this can be done without interfering in the decision-making power over farms. This collective effort to regenerate degraded areas and develop *bas-fonds* raises the question of who benefits from the regenerated lands, while highlighting the problem of access to land that has been developed and subsequently put to productive use.

This case shows that even land can take on the characteristics of a shared resource, a prime area for the application of local codes.

In the current context of West African legislation on land tenure, both tools – the local codes and exchange agreements – are *contra legem*. They presuppose a right over a resource that is generally not legally recognised. With agreements, this constraint could easily be removed by finally and unambiguously recognising land tenure rights based on local practices, and by allowing them to be transferred.¹⁵

14. A Burkinabé-German development project to develop and conserve village land resources in Bam province.

15. In certain countries so-called traditional rights are recognised but their transfer is not permitted.

Our research does not indicate that there is any need to “secure” assignment agreements, or that they should “evolve into written form”. None of the farmers mentioned this as a priority, although their silence on this point may have been prompted by the desire to avoid being seen as ungrateful towards the owners whose land they are borrowing.

Our research objectives did not include analysis of the decentralisation process, which was not operational in rural areas when the initial surveys were conducted and still not up and running at the end of 2003, at the time of writing. However, some of the results of this study sound a note of warning with regard to decentralisation. We spent a long time considering the rights legitimately and effectively assumed by numerous actors, particularly farmers responsible for family-run farms, and village-level authorities. They dispose of and manage their lands in various ways, which include assigning plots to individuals wishing to borrow land. The rights of these actors must be maintained in the context of decentralisation, and guaranteed in relation to the competences of the new local authorities, which have yet to be well defined. There is also a need to guard against attempts to create private, local government-owned estates, as there is a real risk that these could absorb land presently managed by family-run farms or villages.

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Drylands Programme

The Drylands Programme aims to contribute towards more effective and equitable management of natural resources in semi-arid Africa. It has a particular focus on decentralised management of natural resources, pastoral development, land tenure and resource access. Key objectives of the programme are to strengthen local capacity for sustainable resource management, by building effective and accountable local institutions; identify and promote national policies that legitimise and enable local-level decision making and authority; argue and lobby for global policies and institutions that support the development needs and priorities of dryland peoples.

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