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**Non-Centralized Provision of Public Services
and Governance and Management of Renewable
Natural Resources in Contemporary Mali**

**Volume I
October 1991**

Final Report

**Studies on Decentralization in the Sahel
(OECD Contract No. 90/52)**

***Managed by:*
Associates in Rural Development, Inc.**

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James T. Thomson
Maître Mountaga Tall**



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Acronyms, Abbreviations, and Definitions

CILSS	Permanent Interstate Committee for Drought Control in the Sahel
CREDIBLE	Center to Support Local Governance Alternatives (Cellule Régionale pour le Développement des Initiatives sur des Bases Locales)
deconcentration	weakest form of decentralization, means transfer of administrative authority from higher to lower levels
delegation	weak form of decentralization, denotes revocable transfer of authority from a government to a lower-level government or to an extra-governmental organization such as a parastatal or a voluntary association
deregulation	elimination of legislative controls over private or public conduct
devolution	permanent transfer of decision-making authority from a higher- to a lower-level autonomous government
privatization	transfer of state-run enterprises to the private sector
PSP	public service provision
RNR	renewable natural resources
RNRGM	renewable natural resources management and governance

Non-Centralized Provision of Public Services and Governance and Management of Renewable Natural Resources in Contemporary Mali

A. Introduction

This volume summarizes results of studies carried out in Mali at the invitation of the Government during October - November 1990 under the auspices of the Club du Sahel and the Permanent Interstate Committee for Drought Control in the Sahel (CILSS). Two study teams explored possibilities for decentralized provision of public services (see Volume II of this document) and governance and management of renewable natural resources (see Volume III). The entire three-volume report highlights the extent to which local people currently produce, or co-produce specific public services and govern and manage renewable resources, as well as institutional and material constraints on these efforts.

The report focuses on strategies local people adopt to provide public services and to sustain renewable resources indispensable to their survival in a given location. Some of these strategies are entirely indigenous in origin. Many others involve on-going collaboration - co-production - with state technicians, project personnel and agents of non-governmental organizations.

Most public service provision and renewable natural resource (RNR) governance and management strategies involve mobilization of resources - labor and materials at least as often as cash - by local communities. Many communities mobilize large amounts of these resources. Some communities approach the level of auto-financing. These local efforts at self-help merit attention: they illustrate both the capacities and limitations of local communities in providing public services and RNR governance and management.

They also illustrate the impact of national institutions, rules and practices on local efforts to provide services and RNR management and governance.

After reviewing applied research findings and conclusions, the report sketches out several follow-on activities, including:

- a conference of Sahelian state, producer, ONG and donor representatives to disseminate and discuss results of the initial studies;
- short-, medium- and long-term applied research activities designed to enhance understanding of Sahelian decentralization and local governance options; and
- creation of a Center to Support Local Governance Alternatives (CREDIBLE) linked to CILSS.

This volume contains six more sections: (a) background of the research; (b) a discussion of the methodologies adopted for the study of public service provision (PSP) and renewable natural resource governance and management (RNRGM) problems; (c) findings concerning PSP; (d) results of the RNRGM case studies; (e) a summary of formal rules regulating local organization, as well as policies concerning home rule provisions under consideration by the Malian government; and (f) conclu-

sions and recommendations, including the conference, applied research and the creation of the CREDIBLE regional unit. A study undertaken by a Malian law firm of formal rules regulating the legal capacities of Malians to organize at local levels for PSP and RNRGM appears as an appendix to this first volume.

B. Decentralization Studies Background

1. Historical Context

The Club du Sahel and CILSS have organized studies and conferences on issues relating to the general topic of "decentralization" since 1987. The applied research on PSP and RNRGM underlying this three-part report reflect the Club/CILSS continuing concern with the issue of decentralization.

The initial motivation for Club/CILSS interest in decentralization was the perception, first spelled out in detail in the Club "futures study,"¹ that CILSS countries courted disaster if current trends of public service erosion, renewable resource destruction and environmental degradation, high dependence on outside financing and overcentralization persisted. Almost simultaneously, the political events of 1989 in Eastern Europe and the Soviet Union cast serious doubts on the institutional underpinnings of the African Socialist welfare state model, precipitating a governance crisis in many CILSS countries. Residents of CILSS states as well as their leaders have, in the intervening two years, begun an urgent search for institutional alternatives.

"Decentralization" has been proposed as a possible solution to several problems. First, decentralization may encourage greater responsiveness among state officials to popular concerns. Second, decentralization is seen by some as a way to shift more of the financial burden for public services provision and renewable natural resources governance and management to those who benefit from PSP and RNRGM. Third, some observers argue decentralization will encourage local initiative in solving the fundamental problems in PSP and RNRGM that must be overcome if the populations of CILSS states are ever again to enjoy a rising standard of living after several decades of deteriorating conditions.

This report takes a somewhat more nuanced view of the potential benefits of decentralization. It does so on both theoretical and practical grounds. Furthermore, it firmly rejects "decentralization" as a panacea that will cure what ails west sahelian polities, public sectors and environments. Instead, the report views decentralization as an often appropriate response to problems faced by populations of CILSS countries, but one which should be adapted to the attributes of the problems posed, and adopted only when it fits.

2. Types of Decentralization

Before elaborating on this point, definitions of decentralization are in order. The term incorporates five sub-concepts: deconcentration, delegation of authority, devolution, deregulation and privatiza-

¹ *The Sahel Facing the Future; Increasing Dependence or Structural Transformation?* (Paris: Club du Sahel-Organisation for Economic Co-operation and Development/CILSS, 1988).

tion. The latter two are relevant particularly in polities governed in accord with socialist welfare state models. Definitions below indicate how the terms are used here.

Deconcentration, the weakest form of decentralization, means transfer of administrative authority from higher to lower levels. It may increase the capacity of field officers to respond to popular concerns, but does not often expand opportunities for popular participation. Delegation, also a weak form, denotes revocable transfer of authority from a government to a lower-level government or to an extra-governmental organization such as a parastatal or a voluntary association. Devolution connotes a permanent transfer of decision-making authority from a higher- to a lower-level autonomous government. In many CILSS states, devolution may in future take the form of permanent transfers of authority from the lowest echelons of the administrative apparatus (the *arrondissements*, *postes administratifs*, etc.) to sedentary villages, cantons, pastoral camps and tribes, special purpose jurisdictions, urban and rural communes, and other non-administrative governmental units. Deregulation implies the elimination of legislative controls over private or public conduct. Privatization, finally, involves the transfer of state-run enterprises to the private sector. Deregulation and privatization may involve permanent or temporary transfers of authority, depending on how these measures are framed.

3. Why Decentralize: Measures and Problem Attributes

Decentralization may be an appropriate strategy to resolve specific problems, particularly in highly centralized polities. But whether decentralization will encourage popular participation in problem solving depends on both the character of the decentralization measure and the attributes of the target problem.

Nature of the Decentralization Measure

Decentralization measures as defined above vary in their permanence and impact, and thus in the degree to which they create incentives for individuals, local groups and local governments to address problems. Deconcentration may decrease the transactions costs - the time, energy and money - required to obtain an administrative decision, but it does not shift authority from national government personnel to local government officials, non-governmental organizations or private firms.

Delegation is a slightly stronger form of decentralization, because it does involve a transfer of authority. However, those who base their actions on delegated authority risk seeing that authority re-centralized. This may affect their willingness to make commitments and invest resources.

Devolution is a strong form of decentralization because the transfer of authority is considered non-revocable. Other things being equal this should encourage risk-taking by local governments and others who benefit from the transfer of authority. Devolution necessarily involves risks. People are unlikely to learn to solve problems effectively until they are responsible for their actions, bear the costs of their failures and enjoy the fruits of their successes. Devolution as defined here implies that central government officials will permit local governments to make mistakes, rather than recentralizing authority if local governments run into trouble.

Deregulation and privatization may be strong or weak forms of decentralization, depending on the legislation and contract law governing such shifts in authority.

Attributes of the Problem

Careful diagnosis of the problem is required before informed policy recommendations can be offered. In fact, as the sectors and cases analyzed in the second and third volumes of this study reveal,

many PSP and RNRGM problems involve multiple levels of activity. Local communities, local-level governments and NGOs (whether or not formally recognized) are generally best suited to deal with certain aspects of these problems. Other aspects exceed the technical, capital, fiscal, legal or political capacities of these units. These aspects of the same problems are often best dealt with by larger units of government, up to and including the national government, or by local governments contracting out production of such services to other governments or to private enterprises.

Education illustrates this point. Construction and maintenance of school buildings, particularly if state architectural standards are relaxed so that children attend school in buildings of local construction, are often best handled by local units. Teacher training on the other hand cannot be effectively provided by village-level governments or NGOs. Larger scale units such as regional or national governments can better organize teacher training. Private universities offer another option. Larger scale governments are usually appropriate vehicles to handle teacher testing and certification. Financing of primary school teachers' salaries may well best be handled as a responsibility shared between the local community and higher levels of government.

While relatively few natural resources problems involve a whole region many, such as watershed management, often extend beyond the scale of a single village government. But many watershed management activities must be carried out at the level of the individual field. Thus, like primary education, watershed management is a complex activity. Success depends on effective coordination of behavior at many levels. Farm families generally offer an appropriate unit of organization within which to arrange for creation and maintenance of water-harvesting devices on individual fields. Collective water management and drainage structures at the level of the micro-watershed may require, for their installation and maintenance, coordination of the efforts of all farmers within that small basin. Larger-scale works designed to regulate water flows within seasonal watercourses may require coordination of the efforts of several villages. This may be accomplished by informal agreements among local governments, or through creation of a special purpose jurisdiction for watershed management that encompasses affected local governments. The kinds of engineering skills required to regulate flows on seasonal watercourses will not likely be found at the village level. Larger-scale governmental units, or private firms, may be more appropriate producers of such services, providing ways can be found to ensure adequate financing.

These two examples illustrate why complex problems often require complex solutions. Institutional arrangements, in consequence, must often also be complex. The levels in a single administrative pyramid may simply be inadequate to handle such problems effectively.

4. Decentralization: Strategic Considerations

Proposing some form of decentralization as a potential solution to a given problem must be viewed with care for two reasons. First, the incentives promoting local initiative in problem solving inherent in a given form of decentralization may not be adequate to motivate new forms of behavior. Second, those who fear decentralization measures will diminish their own power or authority may try to resist or frustrate them.

Devolution of authority to regulate human behavior relevant to a problem, deregulation and privatization are not sufficient conditions guaranteeing appropriate solutions will developed and sustained. If devolved regulatory authority does not include authority to mobilize the resources necessary to finance the solution, then decentralization may be nothing more than a trap. Indeed, over the last four

decades many countries have implemented "decentralization" programs based on devolution of authority to local governments that failed essentially because control over adequate resources did not follow political power.

Decentralization policies that involve devolution, deregulation or privatization have practical constitutional implications. Devolution, as defined in this report, denotes non-revocable transfers of authority. Such transfers redefine the relationship between the state and its officers, on the one hand, and the "civil society," as that concept is used in francophone circles, on the other. When devolution occurs, by definition multiple governments exist within a single country. Alongside the national government exist various types of general purpose and special purpose local governments. State officials no longer retain final authority over all aspects of devolved issues. They will clearly continue to control areas such as defense and foreign relations, and will play significant roles in helping devise solutions to many complex PSP and RNRGM problems.

Where decentralization takes the form of deregulation or privatization, various actors in the civil society may obtain authority formerly reserved to state officials. Entrepreneurs and individuals are not likely to invest their time, energy and resources unless they believe that specific instances of deregulation and privatization will create sustainable opportunities for individual or group benefit. If people fear that deregulation and privatization as forms of decentralization will be transitory, they will be less motivated to take risks to realize new opportunities.

Such changes involve real shifts in power. They may not be welcomed by all. Predictably some state officials, often motivated by a desire to retain their prerogatives, will oppose these power shifts. When local government units err in their decisions, or simply make decisions that central officials consider inappropriate, the temptation to recentralize to "save people from themselves" will be quite strong.

C. Applied Research Methodologies

The PSP and RNRGM teams that carried out the applied research upon which this document is based adopted two different, but complementary methodologies. The PSP team's approach was sectoral and generalizing in character. The RNRGM team focused on specific renewable resource governance and management problems in particular local setting. Each will be described below. Both approaches were designed to illustrate possibilities and problems in the chosen sector or problem area. Materials presented in the second and third volumes of this study are not intended to be representative of conditions throughout Mali, although in certain respects they may be.

1. Public Service Provision Field Research Methodology

The PSP team examined service provision problems in a variety of sectors such as primary education, public health, water supply and rural roads maintenance. In each sector the team collected information about resource mobilization arrangements, service provision strategies and problems at all levels of the administrative system (national, regional, *cercle* and *arrondissement*). They then visited a small number of communities to observe service provision operations and to interview service consumers about service quality.

Investigations at all levels focused on the incentives for the providers, producers and consumers of public services to work for quality public services or, because of inappropriate institutional arrange-

ments, lack of means and inadequate results, to reduce or minimize their efforts. The sources of incentives are found in the attributes of the services (technical and economic characteristics), the attributes of the communities where the services are provided, produced and consumed (production systems, social mores, religious beliefs, etc.) , and in the nature of the rules influencing the conduct of technicians, administrators, elected representatives, services consumers, etc. Relevant rules include local working rules, community governance arrangements, administrative and agency regulations, public finance rules and constitutional settlements allocating authority among various governmental levels within the country.

With each service, but in most detail for primary education and public health, the team sought to understand how these various incentives for and against providing quality services lead different actors to adopt individual strategies concerning the service. When actors implement their strategies, interactions occur. The outcomes of interactions are evaluated in terms of service cost and quality, efficiency of provision, sustainability, etc.

The team conducted group interviews at the regional, *cercle* and *arrondissement* levels, to gather information about the way public service provisioning decisions were made at each level. Team members collected information about the allocation of responsibilities among governmental levels as well as between governments and populations, within a given service sector such as education or health. They then sought to identify the strengths and weaknesses within each sector. They assessed the extent to which local communities below the *arrondissement* level could take over responsibility for providing certain elements of a given public services, given the technical, financial, legal and political issues involved.

2. Renewable Natural Resource Governance and Management Field Research Methodology

The RNRGM team selected six sites in Regions I - V (two in Region I) where local populations were reported to be governing and managing various renewable natural resources. In each site the team collected five categories of information:

- attributes of the resources involved;
- attributes of the community;
- attributes of the institutional arrangements;
- interactions; and
- outcomes.

The first three categories are viewed as sources of incentives for particular individuals to adopt or reject specific strategies to manage the target resources. The first category refers to whether a given resource has the characteristics of a private good; a private good with externalities; a public good; or a common pool resource. These characteristics will affect the incentives that individuals have to manage it. The second category, attributes of the community, refers to the history, values and composition of the community, its production systems, etc. Communities with a stable population, limited diversity within that population, clear boundaries, and a history of collective decision-making involving many local people in leadership positions, will likely find it easier to govern their renewable resources than communities without these characteristics.

The third category, attributes of institutional arrangements, directs attention to the rules that affect control over and exploitation of renewable natural resources. These may be local and place specific, such as traditional land tenure, fisheries or pasture management rules, or they may be of a more general character, such as a forestry code. The rules effectively applied in a given situation can be analyzed to determine whether they create an enabling environment that encourages resource governance and management. Critical points to investigate here are whether the rules facilitate: (1) development of collective or individual property rights to resources; (2) collective organization where necessary to undertake governance and management of resources; and (3) mobilizing resources necessary to carry out management activities.

The fourth category, interactions, focuses attention on what happens when individuals pursue strategies to obtain their preferences. The fifth category, outcomes, refers to the consequences of the interactions, assessed in terms of criteria such as efficiency, equity and resource sustainability.

The RNRGM team collected information on each category, through extended interviews with informants selected at each site for their knowledge of the local situation. This information was analyzed and presented in a series of case studies.

D. Public Service Provision Findings

The PS team examined service provision in the following areas: primary education, primary health care, general administration, local water supply, waste removal, roads maintenance, and livestock and conservation services. Provision of these services is generally complex, in the sense that several different organizations and administrative levels are involved in their production. Primary education, for instance, is produced within the primary school. But teaching is only part of the process of producing primary education. Students also have to learn. In this sense, primary education is co-produced by teachers and their students. Both of these sets of actors are supported by others. Teachers in French-language state-run schools are trained in teacher training schools, derive their salaries in part from the state funds distributed through the Ministry of Education, and receive supplies from both the Ministry and from local communities. Students are supported by their families, who generally contribute as well to maintaining the primary school building.

Public health is also a complex good, co-produced by health practitioners at various levels and by patients and the public at large. Local water supply, waste removal, roads maintenance, livestock and conservation services are also complex goods that involve multiple producers and production units.

Team members found that local populations in every community visited are mobilizing resources to provide or supplement public services. Resource mobilization efforts range from full shouldering of all costs and management responsibilities, e.g., functional literacy, to a structured participation in recurrent cost recovery via fee for service arrangements in public health and education. The most common form of popular contribution to service provision is the mobilization of labor for infrastructure creation, most notably in road maintenance, school construction and construction of health facilities (dispensaries, maternity wards, etc.).

The greatest difficulty local communities encounter in providing public services is ensuring routine resource mobilization. Most villages can mobilize resources on a one-time basis to construct facilities, for instance, furnishing labor to build a school classroom or raising a set amount of money to in-

itiate a service, e.g., installation of a hand pump. Much more difficult is the upkeep of these facilities and the payment of routine operating costs.

The lack of a clear link between taxes paid and services received is the most evident cause of difficulty in mobilizing resources through tax mechanisms. Nevertheless, residents of communities consulted indicated a general acceptance of taxation for service provision so long as local communities were accorded authority to oversee utilization of tax monies. Communities have variable capacity to deal with the free rider problem in mobilizing resources and in enforcing participation. All communities visited, reported applying a principle of equity in determining contributions. They routinely take account of the capabilities of individuals or families in determining assessments, whether in labor, materials or money.

E. Renewable Natural Resources Findings

The RNR team examined selected governance and management systems for woodstocks, fisheries, pastures, watersheds and irrigation systems. Local populations in all six sites actively manage renewables. They make and enforce use and access rules, and mobilize resources to ensure that management activities are carried out. All management schemes confront technical problems, some of which are better understood, and mastered, than others. In a number of situations, local resource users and outside actors such as village migrants, Malian civil servants, PVO staffs and employees of donor projects are actively developing or have consolidated mutually productive partnerships for the management and enhancement of renewables stocks. Local people understand that enforcement of use rules and resource mobilization are keys to successful RNR governance and management. Generally they demonstrate keen awareness of the impacts of rules and rule changes on resource management possibilities and integrate conflict and conflict resolution in their resource governance operations. This applies to relationships with state officials as well as with other users. In turn, many state officials express a heightened awareness of the capacities—and successes—of local people in managing RNRs, and are acting in ways clearly designed to buttress traditional as well as hybrid and new RNR management systems.

This willingness of civil servants to help people build on and strengthen existing local institutions and human resources is perhaps the single most encouraging result of the RNR study. The six cases highlight the existence of multiple local informal governments (general and special purpose jurisdictions) within each study community. They also show how appropriate actions by national government agents, and project and PVO staffs can, at relatively low cost, sharply upgrade the capacity of local people, working through local institutions, to govern renewables.

The cases also reveal that local people often have a formidable capacity to mobilize resources routinely, most frequently in the form of labor, to build infrastructure facilities to manage watersheds, irrigation systems, woodstocks, pastures and fisheries, and to police and govern these systems. The design of many RNR management systems reflects a deft allocation of the costs of management between individuals and families who benefit directly, on the one hand, and the community as a whole with its joint interest in ensuring adequate management of watersheds, pastures and irrigation systems.

Resource management problems arise in both technical and institutional areas. Local people grapple constantly with technical issues. In some instances they demonstrate a firm mastery of the experi-

mental process, with impressive success in adapting standardized technical packages to the exigencies of specific local environments. In almost all cases they demonstrate a canny ability to evaluate production options and to pick those most likely to be effective at acceptable levels of risk and cost.

Institutional issues in Mali exist in many villages, but they are posed with much greater acuity at levels between the village and the *cercle* (many *arrondissements* have such limited staffs and resources that they can do little by themselves to manage renewables). The problem is a lack of appropriate jurisdictions at these intermediate levels to govern, for instance, a watershed or a fisheries that involves lands or populations of four or five different communities. Transhumant herders also pose difficulties in some rural areas of Mali because they do not fall under the authority of local informal governments. The Ministry of Territorial Administration and Local Development was considering, before the regime change, whether to propose legislation allowing communities to create special districts at their own initiative and under their primary control. If such legislation is approved, it can be expected to increase the ability of local people to resolve some institutional issues that currently impede RNR governance.

RNR team members concluded that Malian rural communities have preserved local governance institutions and self-governance skills far more than in some other CILSS countries. While in all cases formal recognition of these local institutions seems advisable, in some CILSS countries it is imperative if rural people are to play a more active and effective role in resource management. In this sense the Malian case studies demonstrate what is possible by way of effective local involvement in renewables management and governance, rather than the average situation in francophone Sahelian countries.

F. Formal Rules Regulating Local Collective Action and Governance Initiatives

Malian formal legislation and regulations defining the capacity of local communities to organize are detailed in Appendix A. to this volume. In summary terms, legislation authorized formal arrangements for the governance of local urban and rural communities. Urban *communes* have some formal autonomy. Less authority has been transferred to rural villages and pastoral camps. In practical terms however, these formal grants of authority are undercut by three factors, outlined below.

The imposed organizational forms are nationally standardized on single models (one each for village associations, village *tons* and cooperatives). These standard models take no account of local variations in governance skills, economic capacity, literacy levels, nature of community, etc. In consequence, local communities have little legal authority to tailor governance arrangements to local conditions. Costs of getting organized rise very dramatically under these circumstances, and discourage self-governance.

Government officials, until the March 1991 regime change, employed a top-down, rather authoritarian approach to governance inherited from colonial practices. They asserted their tutelary authority over local initiatives in public service provision and renewable natural resources governance and management. Not infrequently they ignored or overrode existing regulations devolving certain types of authority to sub-national governmental units. These practices severely limited local autonomy.

Formal local authority to mobilize resources to finance service provision and renewable natural resource management was severely limited. In many cases devolution of formal authority for self-governance failed for want of the legal capacity to mobilize resources. This is particularly true in the

area of public services. Significant local self-help efforts to co-produce certain public services could not really overcome this handicap.

Just before its overthrow the Traoré government was considering a series of measures that would have transferred some authority to local populations, particularly in rural areas, to organize special purpose jurisdictions at their own initiative, for purposes of providing services and governing and managing renewable natural resources. Such a home rule provision would presumably have limited the type of authority devolved to local communities. On the other hand by authorizing community governments, within those limits, to initiate activities and structure institutional arrangements to their liking, it would have reduced costs of organizing collective action and so encouraged greater local self-help efforts.

G. Conclusions and Recommendations

1. Conclusions

Field research in the public service and RNR sectors at sites in five regions in Mali supports the following conclusions:

- overcentralization is a reality, and a costly one in terms of its impact on development possibilities in Mali;
- overcentralization limits the authority of local and rural communities to identify local problems, propose and test solutions and fashion institutional arrangements that are equitable and efficient in specific local contexts;
- allocation of funds favors urban over rural areas;
- government personnel costs crowd out material and operating costs, rendering provision of quality public services virtually impossible;
- nevertheless, communities visited frequently mobilize significant amounts of resources, often in the form of labor, to co-produce public services and RNR management and governance;
- traditional local governments are capable of regulating behavior and organizing collective action in many situations, and thus represent a very considerable institutional resource that has to date been seriously underutilized;
- in some cases governments officials have initiated collaborative activities with local people, with promising results.

The overall goal, in an era of growing recognition of the limitations of the central state, should be to liberate and encourage local initiative in public service provision and RNRG and RNRM. In addition to changes in formal rules, movement towards that goal will necessitate a new willingness on the part of state, NGO and foreign assistance agencies to recognize the existence of local potential, and to carefully adapt their policies, rules and programs to local strengths and capacities, as well as local weaknesses and limitations. It is no longer adequate to assume either that the "village will do it," or that "everything must be done for rural people." It is crucial to assist local people, if they feel they need help, to strengthen their own capacities for self-governance and self-management.

Rural communities in the country, as elsewhere in the Sahel, vary in their capacity to undertake collective action, provide services, facilitate private sector activities, coordinate RNRM and RNRG initiatives across several local jurisdictions or informal governments and resolve disputes. Indeed, almost all the site visits and case studies reveal problems and limitations affecting the ability of local governments to provide services and govern RNR adequately. At the same time, limitations in local capacities should not be seen as a valid argument for refusing to devolve more service provision and RNR governance and management authority to local communities. Such a refusal would amount to a rejection of the very considerable institutional and human resources available at various local levels in Mali.

These local institutional and human resources should be taken as the starting point of thinking about public service provision and RNR management and governance in Mali and elsewhere in the Sahel. The study communities have demonstrated considerable ability to create working institutions for RNR management and governance. They have, over a period of years, consistently mobilized and managed the necessary labor, material and money to protect and enhance local RNR. They have successfully resolved conflicts concerning their renewable natural resources. They have shown willingness and ability to collaborate effectively on RNRM and RNRG problems with outsiders, whether other local communities, state agents, NGOs or foreign assistance personnel. In light of such capacities demonstrated by the study villages, but by a large number of other Malian rural communities as well, attention in the future should focus on (a) finding out what local capacities are and (b) trying to strengthen them through appropriate legislation, through technical assistance, and through circulation of ideas.

2. Recommendations for Follow-On Activities

To capitalize on the work done to date on decentralized provision of public services and of RNR management and governance in CILSS countries, a national workshop and a regional conference, additional applied research, and a regional unit, associated with CILSS, to support decentralization activities in interested Sahelian states should be organized.

National Workshop and Regional Conference

A national workshop should be organized in Bamako in late 1991. This workshop should deal with decentralized management and governance of RNR, the land tenure question, and the links with between the two. This will provide a first opportunity to present the results of Club/CILSS applied research in Mali.

An international conference should be organized in the second half of 1992 in a Sahelian country. The conference objectives will be to disseminate among representatives of Sahelian producers and governments, and those of NGOs and donors, results of the Club/CILSS studies on decentralization of public service provision, RNR management and governance, and land tenure that will have been completed by then in several CILSS countries in addition to Mali. The conference should provide a format for some fifty individuals to examine and critique the studies, compare information about situations in the countries or agencies they represent, and explore avenues for promoting institutional changes at local and supra-local levels that will facilitate more effective governance of renewables and more satisfactory provision of public services.

A successful conference will require identification of participants, including representatives of the growing Sahelian free press, determination of format, organizers, speakers and discussion group leaders. Funding will have to be secured promptly and logistics arranged by early 1992 at the latest.

Additional Applied Research

A continuing program of action research should be organized and pursued in CILSS countries on effective approaches to public service provision at the local and intermediate levels, and to RNR management and governance as well as to local technical innovations. Each study should be organized to cast light on the ways alternative institutional designs at local, supra-local and national levels could be expected to either enhance or obstruct renewables management and governance, and public service provision capacities. This applied research orientation is especially timely and relevant since the institutional prescriptions derived from the general post-independence model of African socialism have come under intense scrutiny, especially since 1989. Many CILSS country citizens and officials, as in Mali, are now searching with increasing urgency for institutional alternatives. A series of Cluò/CILSS studies could help enhance the sophistication of reflections on governance issues.

Public Services

Three themes of investigation and planned intervention offer the greatest prospects for significant improvement in service delivery:

- analyzing local fiscal and parafiscal systems for financing public services and local government operation;
- assessing alternative models of organization for service delivery, including community-based services, mixed systems, and private sector contracting; and
- investigating municipal organization and finance, emphasizing municipal fiscal policy, revenue mobilization, and options for providing municipal services.

Applied research should be undertaken on each of the three themes. In addition, in-country training should be envisaged for local, particularly elected government officials, to enable them to more effectively carry out their public roles.

Renewable Natural Resources

Three recommendations concern RNR:

- Technical research should be devised to support local efforts to heighten production system efficiency, where such efforts exist.
- Institutions can be viewed as instruments that facilitate people's efforts to solve their problems. Local institutions should form the starting point of efforts to preserve and enhance RNR. Sahelian governments can make a strong contribution, as can donor-financed projects and NGO operations, by reinforcing the positive aspects of local institutions. Efforts should be made to reduce costs to local people of organizing to manage RNR by (a) revising existing legislation; (b) creating enabling legislation to authorize creation of special jurisdictions to manage RNR and authorize local communities to tax themselves to support their RNR management and governance efforts; (c) encourage state agency efforts to work with and strengthen existing local RNR management institutions; and (d) strengthen the role of local judicial and conflict resolution mechanisms in processing RNR disputes.
- Investigate further, through applied research, ways to improve the role of local institutions in RNR governance and management, focusing on (a) rule-making, conflict adjudication and resource mobilization in both historical and contemporary cases and (b) analysis of

whether RNR management and governance institutions reflect the economic attributes of the RNP they are designed to manage.

Readers interested in more detail on the summary recommendations presented in this section are urged to consult Volume II, Chapter VII concerning public services, and Volume III, Chapter VIII concerning RNR management and governance.

Regional Unit to Support Local Governance Initiatives

A Regional Unit to Support Local Governance Initiatives (Cellule Régionale pour le Développement des Initiatives sur des Bases Locales, "CREDIBLE"), attached to CILSS, should be created for three reasons. First, CILSS cadres as well as much of the leadership in CILSS countries recognize the urgency of these issues and know that national and international contexts are evolving rapidly. CILSS countries, as many other African states, may be on the threshold of major constitutional changes. CILSS and country leaders realize that the capacity to respond constructively to the need for institutional change will have a strong impact on the future viability of existing regimes. To do so they and their fellow Sahelian citizens need access to reliable information about available institutional options and their probable consequences. Second, governance questions are constitutional questions. Sahelians, including rural producers, should play an increasingly important role in addressing such issues because they have to live with the consequences of institutional—constitutional, political and judicial—choices. Third, such a unit would provide CILSS and the Club a privileged, though not exclusive, avenue for funneling input into on-going institutional debates.

A regional unit attached to CILSS headquarters in Ouagadougou, staffed by four Sahelians of demonstrated capability and backed by two expatriate experts, would provide a regional forum to address institutional issues. The unit should be mandated to move on four fronts:

- framing of institutional research questions, design and implementation of studies, analysis of results and examination of related policy issues;
- organization of training programs both in CILSS countries and externally, for Sahelian institutional analysts and leaders from local, supra-local and national levels of society;
- translation of relevant materials from English into French and vice-versa, and into Sahelian local languages, and support for CILSS country efforts along these lines;
- organization of meetings, workshops and conferences on Sahelian institutional issues, and dissemination of results on a continuous basis, including distribution to local, regional and national governments and the press.

The list of applied research topics noted above is by no means exhaustive. Neither is the set of policy issues raised by the constitutional and development questions already on the Sahelian stage or in the wings. The need will grow for an on-going flow of reliable information on governance options available to Sahelian societies. As institutional experiments are undertaken at various levels within CILSS countries, the demand for and benefits from accurate analysis and reporting of outcomes and their implications will fully justify the costs of funding creation and operation of such center.

It is important for all concerned—Sahelian citizens, Sahelian officials, donors, NGOs, CILSS and Club du Sahel staffs—to seize the opportunity for creative dialogue about new forms of governance, while avoiding the temptation to assume that either improved public hierarchies or market arrange-

ments alone can offer a sufficient solution to the sorts of issues posed in this report. Reality is far more complex. Mixed systems that:

- recognize the governance problems inherent in the nature of different types of renewable resources and public services;
- are designed to build on existing local, working institutional capital; and
- are designed, with and by Sahelians, to enhance the capability of producers and citizens to participate in decisions that affect their life chances

should be the ultimate objective of such a dialogue.

Appendix A: Study of Formal Organizational Capacities of Local Collectivities in Mali

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Acronyms, Abbreviations, and Terms

fraction nomade

conseil de circonscription

chef de circonscription

commandant de cercle

CDF

pastoral group

council of an administrative jurisdiction

chief officer of an administrative jurisdiction

chief officer the *cercle* (sub-regional geopolitical unit)

Code d'orianial et foncier (National domain and land tenure code)

I. Organization of Public Services

To enable local communities to solve their own problems, Malian public authorities have granted them rights to organize and mobilize human, financial, and material resources and to exercise rights over renewable resources. Numerous legal texts exist on this subject, analysis of which reveals the limits within which these communal organizations must operate.

A. Legal Texts Concerning the Formal Capacities of Local Communities to Organize

The texts may be grouped in two classes: legal texts concerning cooperative entities and non-governmental organizations (NGOs), and those covering administrative and territorial organizational matters.

1. Legislation Governing NGOs and Cooperative Entities

Inventories of the legal texts covering cooperative entities and the regulations governing NGOs follow.

Legal Texts Covering Cooperative Entities

Legal texts covering cooperative entities include basically:

- Interministerial Order (arrêté interministériel) No. 1378/MA-MCRE-MI (March 27, 1985) which provides for the establishment, make up, responsibilities, and operating mode of the ad hoc technical committees in charge of implementing the village *ton* system;
- Public Law No. 88/62/AN-RM (June 10, 1988) governing the cooperative movement in the Malian Republic;
- Decree No. 203/PG-RM (July 14, 1988) providing for implementation of Law No. 88/62/AN-RM of June 10, 1988, governing the cooperative movement; and
- Public Law No. 88/62/AN-RM (June 10, 1988) concerning cooperatives, village *tons*, and village associations.

Cooperatives may be established in a variety of sectors, including agriculture, fishing, savings and consumer associations, housing, education, citizenship and moral training, etc.¹

According to the provisions of Article 53 of Public Law 88-62/AN-RM of June 10, 1988, "The village *ton* is an instrument for action aimed at promoting the interests of the village community or those of the pastoral group. It is a local development enterprise that is to be fashioned in light of the interests of both the individual and the group.

It constitutes the local operational framework for managing the economic, social, and cultural development of the village or pastoral group territory. It must identify with the collective and individual

¹ See Article 15 of Public Law No. 88-62-RM of June 10, 1988, governing the cooperative movement in the Republic of Mali.

interests of its members, and it relies on the voluntary commitment of each member to participate in its planning, decision making, implementation, and monitoring activities."

Members of the village *ton* determine the *ton*'s goal based on the development objectives of the community. This goal includes:

- increasing the output and productivity of *ton* members working in various sectors by helping them procure production inputs individually or collectively;
- organizing the gathering, packaging, storing, processing, and marketing of various goods produced by the villagers or members of the *pastoral group*;
- acting for the members, individually or collectively, in procuring the basic products, materials, and appliances needed to achieve their objectives;
- organizing joint work programs to benefit the community; and
- mobilizing the savings or credit necessary for production and consumption.²

Working with qualified entities, the village *tons* participate in various development projects and enterprises in many diverse fields, particularly food self-sufficiency, water management, drought control, anti-desertification efforts, and social progress.³

The provisions of Article 59 of Public Law No. 88-62/AN-RM of June 10, 1988, state, "The village associations are organizations of a pre-cooperative and transitory nature; their ultimate goal is to be transformed into village *tons*. They form the primary nucleus of the cooperative movement in rural environments; they are designed to make local people aware of the economic aspects of their problems, to train them in the principles and methods of cooperation, and to develop their self confidence by undertaking one or several concrete tasks."

The basic difference between cooperatives, village *tons*, and village associations is that cooperatives and village *tons* are legal entities and village associations are not. However, public authorities give formal recognition to the existence of village associations as communal organizations capable of entering into any activity consistent with their legal status (see Article 59, subparagraph 3 of Public Law No. 88-62/AN-RM of June 10, 1988, governing the cooperative movement in the Republic of Mali).

In contrast to conventional cooperatives found in both urban and rural settings, village associations and village *tons* are specifically rural forms of communal organization. They draw upon the traditional framework of rural society to create communal organizations capable of encouraging development.

All cooperative entities are obligated, under penalty of dissolution, to respect their declared purpose clearly defined in their by-laws. Though they cannot enter into activities not included in their by-

² See Article 54, subparagraph 1 of Public Law No. 88-62/AN-RM of June 10, 1988, governing the cooperative movement in the Republic of Mali.

³ Ibid.

laws, their formal capacities as autonomous organizations recognized by legislative and regulatory statutes are considerable. These characteristics of cooperative entities apply to NGOs as well.

Nongovernmental Organizations

The statutory system under which NGOs operate in Mali is defined by two main legal texts. They are:

- Ordinance No. 41/PCG of March 28, 1959, concerning associations; and
- the General Agreement of February 28, 1988, between the Government of Mali and foreign NGOs.

The Malian NGOs are governed by Ordinance No. 41/PCG of March 28, 1959, concerning associations. They must be approved by the Ministry of Interior and Local Development. The approval charter incorporates all necessary information on NGOs, namely, the name, acronym, date of registration, purpose, headquarters address, and site of operation in Mali.

To operate in Mali, foreign NGOs must also be granted approval by the Ministry of Interior and Local Development, and they must sign the General Agreement of February 28 between the Government of Mali and foreign NGOs.

Chapter I of the General Agreement states, "The NGO agrees, in conformity with the policy of economic and social development of the Republic of Mali to engage in concrete actions....The areas and means of operation will be specified and defined with guidance from either the Development Committee or technical departments to ensure consistency with existing development programs." Foreign NGOs are strictly bound to adhere to their commitments to Mali. In particular, they must achieve the objectives for which they have been established and must limit their activities to their declared purpose.

Foreign NGOs that violate this rule or that do not comply with the annual agreement renewal requirement are dissolved by the Minister of Interior.

The work of cooperative entities and NGOs can be facilitated substantially through the assistance of territorial administrators, because these administrative authorities can strongly influence local people.

Malian public authorities have achieved a level of decentralization within territorial and administrative organizations.

2. Territorial and Administrative Organization

Many legal texts exist governing territorial and administrative organization, including:

- Public Law No. 66-9/AN-RM of March 2, 1966, establishing a municipal code in the Republic of Mali;
- Ordinance No. 30/CMLN of July 16, 1973, defining the status of the municipal staff;
- Ordinance No. 77-44/CMLN of July 12, 1978, establishing a territorial reorganization in Mali;
- Ordinance No. 77-45/CMLN of July 12, 1977, establishing the administrative jurisdictions and territorial communities of the Republic of Mali;

- Ordinance No. 78-32/CMLN of August 18, 1978, creating the District of Bamako;
- Decree No. 247/PGRM of August 18, 1978, stating the budgetary schedule for communes;
- Ordinance No. 79-78/CMLN of June 28, 1979, creating consistent communal taxation; and
- Decree No. 193/PGRM of August 10, 1981, defining the specific terms of reference for the operations of the development committees.

According to Article 4, Ordinance 77-44/CLMN, which establishes a territorial and administrative re-organization in the Republic of Mali, the commune is simultaneously an administrative jurisdiction under the state and a decentralized community with the characteristics of a legal corporate body endowed with financial autonomy, while the District of Bamako is a decentralized community subject to a special code of regulation.

Under the terms of Article 34, Public Law No. 66-9/AN-RM of March 2, 1966, which establishes the Municipal Code, the municipal council deals with communal business through debate. Theoretically, it has jurisdiction over everything concerning communal interests. For example, it votes on the communal budget and decides whether to accept gifts and legacies donated to the commune and communal institutions. It also considers lawsuits the commune may initiate. By definition, the formal autonomy of communes is substantial, as is that of the District of Bamako.

Under the terms of Article 8, Ordinance No. 78-32/CMLN of August 18, 1978, which establishes a code of regulations for the District of Bamako, the district council has decision-making authority in all matters pertaining to the district. Its areas of jurisdiction include street and road maintenance, local police, public lighting, public water supply, public transportation, and public markets.

To foster development, Malian authorities organized and institutionalized local people's participation in matters of interest to them through special entities called *Conseils de circonscription* (administrative jurisdiction councils). The long-term objective is to create a truly decentralized system by elevating the *arrondissements* to the status of rural communes. Through elected representatives on the *Conseils de circonscription*, local people have decision-making power in areas previously governed solely by the *Chefs de circonscription* (chief administrative officers).⁴

To encourage local people's participation in managing public affairs, it was decided that the advice of these councils must be requested in matters over which government authorities have final decision-making authority.⁵

Through legal texts on administrative and territorial organization, local entities with legal rights and financial autonomy have been instituted, and local populations have been granted the legal right and decision-making power to act in matters concerning them.

⁴ See "Réforme administrative de la participation au développement" issued by the General Secretariat of the Presidency of the Republic, p. 3.

⁵ Ibid, p. 31.

However, numerous constraints have prevented local communities from fully exercising their formal, legal capacity to organize.

B. Legal Limits Imposed on the Activities of Communal Organizations

Legal limits exist at the levels of both cooperative entities and the decentralized organizations and participatory agencies established by legal and regulatory texts.

1. Cooperative Entities

The following discussion deals primarily with the difficulties encountered by village associations and village *tons*.

Village associations confront serious problems. Their lack of legal status imposes limitations on their capacity for action. For example, they cannot take out loans by contracting directly with banking institutions.

In addition, technical teams organized by village associations (including teams responsible for delimiting operational areas, conducting statistical surveys, for animal pest control, for marketing, and first aid teams, etc.) face tremendous difficulties in accomplishing their tasks.

Many factors are involved including: the improper behavior of some technical team members, rivalries between families and between neighborhoods, individualistic attitudes among peasant farmers, a poor sense of discipline in the populations, inadequate understanding of the tasks assigned to the technical teams, and a lack of the necessary material and financial resources.

Besides difficulties facing local technical teams, there are management problems, such as poor maintenance of the village associations' records. Another factor impeding development of village associations is the weakness of support services (state agencies). Village associations' capacity to manage themselves is reduced by illiteracy, a condition which impedes the success of actions undertaken.

Village *tons* have many problems as well. Among the most significant are:

- the poor performance of ad hoc commissions in charge of establishing and encouraging village tons,
- the overt intrusion in village *ton* internal matters by some administrative authorities,
- a lack of support from members,
- lack of information,
- failure to convene statutorily required meetings,
- members' lack of information about by-laws and statutes,
- bad management,
- the difficulty of procuring various products,
- the lack of financial resources, and
- the lack of appropriate skills.

Because of these constraints, village *tons* find it difficult to use the formal capacities they have been granted to their full advantage.

2. Decentralized Organizations

Decentralized organizations face many types of difficulties, including legal, financial, and operational problems.

First, the by-laws for the District of Bamako and the communities are seriously inadequate. And second, ministerial departments fail to respect the legal powers devolved to the District of Bamako and interfere in district affairs. For example, as part of implementation of the second urban project for Bamako, an ordinance of the Ministry of Interior and Local Development established the District of Bamako financial directorate (the district's tax collection office) and the Bamako Technical Cell. This ordinance constitutes a violation of Ordinance No. 79-9 of January 19, 1979, in which the basic principles for the establishment of public services are defined. According to this ordinance, no ministerial department has jurisdiction to establish public services. The ministry ordinance also violates Ordinance No. 78-32 which grants the District of Bamako special status and which, in Article 20, states that the council of the District of Bamako has full authority to decide whether to create its own services and legally recognized entities. Additional problems arise because the respective jurisdictions of the District of Bamako and the ministerial departments are not always clearly defined and often overlap.

This excessive control over the communes considerably reduces their autonomy as granted by Public Law No. 66-9/AN-RM of March 2, 1966, which established the Municipal Code. Later, this control was increased substantially by numerous legal texts including:

- Decree No. 203/PG-RM of November 8, 1977, which defines the requirements for appointment and the responsibilities of the leaders of administrative districts and village and pastoral group chiefs; and
- Decree No. 31/PRM of January 31, 1980, which defines the requirements for appointment and the responsibilities of the administrative authorities of the District of Bamako.

In these legal texts, control over local communes is assigned to various administrative authorities, and the Ministry of Interior normally has jurisdiction. The regional governors, the governor of the District of Bamako, and the *commandants de cercle* exercise a true tutelage over the local communities.⁶

Substantially diminished by the tutelary actions of a large number of administrative authorities at different levels, the autonomy of local communes has become symbolic, particularly considering their placement under the control of the Union Démocratique du Peuple Malien (UDPM), the only constitutionally established party in Mali and the only party with true power. Party supremacy over all other state institutions entails strict control over communities. It is common knowledge that to be

⁶ See "La question communale dans le développement socio-économique du Mali - cas de la commune de San. Bilan et perspectives" (The communal issue in the context of the socio-economic development of Mali - the case of the San community. Assessment and outlook), Elie Kamate, end of studies dissertation for the ENA, Public Administration, Bamako 1987, p. 5.

elected mayor or councilman one must be nominated by the party which has a monopoly on the vote.

The District of Bamako and local communes are hindered by scarce financial resources in their attempts to fulfill their functions as decentralized communities. This scarcity is due to low revenues from the road maintenance and garbage disposal tax, the low recovery rate in tax collection, and the lack of state subsidies. Because communal budgets are primarily operating budgets, they cannot finance major works such as maintaining roads or constructing buildings, markets, or health clinics.

Because of a notorious lack of skills among staff members, most of whom are trained on the job, communes are incapable of proper self-management. This observation is explained in the main by the fact that most commune personnel are hired with low levels of skills, which is clearly an important factor in the weak performance of many communes.

If the capacities of decentralized communities are in practice very restricted, those of participatory organizations are not any better.

3. Administrative Jurisdiction Councils

The weight of tradition, inadequate understanding of councils' powers by their elected members, and lack of appropriate skills substantially limit the capacities of the administrative jurisdiction councils and make it difficult for them to fulfil their role. At the village level, to take but one example, councils under the present regulations are to discuss village affairs and give their opinions when consulted by administrative authorities. In practice, with the decision-making power belonging traditionally to the village chief, instead of carrying out their mandate, the councils prefer to follow decisions of the village chief in areas where they are legally entitled to speak and vote.

Some councils take the same attitude towards administrative authorities. They continue to believe that the latter have decision-making power in every area, including those assigned by law to the councils.

A lack of information makes their situation even more complicated. In fact council members, uninformed about their role, are incapable of defending their area of competence. Even if they were properly informed, which in present circumstances is purely hypothetical, another important obstacle would remain: participatory agencies are not accustomed to taking administrative authorities to court to invalidate authorities' decisions made while intervening in areas that lie within the councils' jurisdiction.

These agencies find a major handicap in the absence of the sort of knowledge indispensable for managing the communities they head. Lacking the proper skills, they cannot perform their missions. The illiteracy of most of their members makes it even harder for them.

This mediocre situation is only exacerbated by a fear of administrative authorities. Whether justified or not, some members of district councils still believe they will face reprisals from administrative authorities if they exercise powers in their areas of jurisdiction, particularly if those areas were previously controlled by administrative authorities. This belief is prevalent because for three-quarters of a century Mali has been administered through a system of command and control in which public agents made all decisions even in matters directly affecting local populations.

In addition, in spite of the endorsement by the Malian public powers of a pro-development stance on the part of the administration, many Malian officials have maintained, whether consciously or unconsciously, a command and control style. This style contributes to the fears of district council members and may explain their timidity.

Clearly, a large gap exists between the formal, legal areas of jurisdiction local communities have been granted and their ability to organize. No measures have been implemented to engender their autonomy. The institutions have been created, but not the conditions promoting their proper operation. Significant progress will remain unattainable if this mistake is not corrected.

II. Management and Governance of Natural Resources

In matters of management and governance of renewable natural resources, local communities ought to enjoy rights according them unambiguous control over these resources. These rights must be of a full and sufficient nature; that is evident since no initiative starting from the local level can truly achieve its goal unless the people at that level work at it with their own means and resources, those which belong to them or over which they have sufficient rights and prerogatives.

Land, waters, and forests are three natural resources on which all initiatives of local community development rest. Therefore, it is clearly important to consider the legal authority allocated to local communities to manage these resources. Two legal codes apply:

- the National Domain and Land Tenure Code established by Public Law No. 86-91/AN-RM of July 12, 1986--the most significant code; and
- the Forest Code established by Public Law No. 86-42/AN-RM of January 30, 1986.

The macro-analysis of these texts shows that in the areas of national domain, land tenure, forests, and waters, the terms of Malian legislation have a strong centralizing impact with regard to both management requirements and the appropriation process. This centralizing bias might be attributable to the fact that land, waters, and forests are the most precious assets of a state with an essentially agro-pastoral economy which has suffered through two decades of drought. But there is no doubt that such centralization has disadvantages, such as restricting the action of local collectivities.

It is important to review all the legal texts concerning the management of natural resources and to highlight their main characteristics before considering the actual opportunities local communities have.

A. Inventory of Laws Concerning Natural Resource Management: A Centralizing Focus

Following is an analysis of the National Domain and Land Tenure Code, the most important text, and an analysis of the Forest Code.

1. National Domain and Land Tenure Code

This code defines the legal system governing land and waters. The state has quasi-sovereignty over these resources and exercises unshared rights, though it is not always able to use or even manage them. These nearly absolute rights often clash with the interests of non-statal systems, decentralized collectivities, and local communities.

The Legal Status of Land

The system is premised on the principle that all lands belong to the state except those registered in private ownership. No other entity can declare itself an owner unless it has secured a land title. This rule is outlined in Article 37 which declares, "the following are part of the real estate privately owned by the state:

- a) lands covered by a land title established in or transferred to the name of the state; and
- b) unregistered lands, including:
 - vacant lands or lands without owners over which there exist no use rights nor rights of disposal according to the written law or to the customary land law, and
 - lands over which there exist collective or individual customary land rights of usufruct or sale."

Analysis of this code reveals that all lands are included in the private domain of the state except those registered to a private owner. Thus the state not only owns lands registered in its name, but also all lands not registered in the name of private persons. Because the land registration procedure required to secure a land title is not well known among Malian people, the state's rights over lands are significant.

This legal arrangement prompted a specialist of domanial and land tenure issues in Mali to state, "The Malian State is thus, from now on, the owner according to the law of a vast private estate encompassing all lands in Malian except those registered in the name of private persons." The domain of the state even includes the lands over which individual and collective customary rights are being exercised.

The Legal Status of Water

The state has become increasingly demanding with regard to the governance of waters. It claims an absolute right over waters of whatever kind. Any other type of ownership, whether private or by collectivities, is impossible. No legal entity but the state can claim firm and stable rights over water. Water has been declared public property, and the relevant regulations concerning the natural public domain are in Article 7, which states, "The natural public domain comprises the natural sites as defined by law. These include:

- a) navigable and floatable streams according to the limits set by the maximum water level within banks, short of flood stage, and including an easement zone extending 25 meters from these limits on each bank and around islands;
- b) springs and streams that are neither navigable nor floatable according to the limits set by the maximum water level within banks, short of flood stage;
- c) lakes and ponds according to the limits set by the maximum water level, short of flood stage, with an easement zone extending 25 meters from these limits on the outer banks and all island shores; and
- d) all underground waters whatever their source, nature, or depth."

All waters are included--streams, springs, lakes, ponds, and groundwaters.

2. The Forest Code

The issue of forest conservation has been among the major problems facing political authorities during recent years. Decades of drought have initiated discussion of the issues raised by a redefinition of the state's forestry policy. A pattern of regular discussions and meetings has been established, seminars have been held, and joint missions with outside partners have taken place, including:

- a joint mission of the Swiss Confederation and the Ministry of Natural Resources and Livestock prepared a report in March 1987 following studies on forest monitoring; and
- the Ministry of Natural Resources and Livestock organized a national seminar on forestry issues March 16 to 18, 1988, in Bamako.

Before these documents were prepared, the forestry policy was the subject of several papers prepared by administrative entities across the nation. In June 1982, the Ministry of Rural Development published a report entitled "National Forestry Policy," and in October 1985 a "National Plan for Desertification Control" was developed. These documents from political authorities preceded the adoption of a new Forest Code under the provisions of Public Law No. 86-42/AN-RM of January 30, 1986. But the limitations of this code were noted, shortly after its issuance, in the report by the joint mission of the Swiss Confederation and Mali.

Recommendations were presented during the national seminar on forestry issues of March 1988 to change the legal system governing forests and create a stronger sense of responsibility among rural communities. Because these recommendations and reports have not yet been acted upon, criticism directed at the existing legislation is still valid. The Forest Code has not changed at all despite these problems.

The centrally oriented approach characterizing land resources management is equally present in forest resources management. Like its land domain, the state's forest domain is exclusive. It is supposed to include the quasi-totality of all forests and leaves only residual ownership in the hands of decentralized institutions. State ownership is defined in Article 15 which states, "the forest domain owned by the state includes:

- a) the classified forest domain constituted by the classified forests, areas under reforestation, and conservation areas covered by classification legislation;" and
- b) the protected forest domain that has not been included in classification legislation.

Thus, the classified domain is the domain comprised of areas that have been delimited, at least on paper. Characteristics of classified forest domain include inalienability of the land except if it has been previously declassified (Article 26), the prohibition on any land clearing (Articles 7, 13, and 33) and restrictions over the rights of users (Articles 34 to 36). The classified domain is a forest space where monitoring and enforcement measures are more restrictive than in other forest spaces.

The protected forest domain includes all natural forest areas that have not been subjected to a special process of delimitation (Articles 1:6 and 15:2). The borders of protected forest domains move with agricultural land, because land that has lain fallow for five years automatically reverts to forest domain (Article 6). In these areas users are at liberty to harvest forest products.

The vague definition of the "protected domain" gives the government excessive opportunities for classification. The law is written in such imprecise language that, in practice, the administration has

been able to include orchards in protected domain and expel agriculturists. With present legislation, it is quite possible to extend the classified forests over privately planted woodlots or tilled land creating significant insecurity for nonstatal entities managing forest resources.

B. The Stability of Local Collectivities' Rights: Legal Possibilities for Local Natural Resources Management by Local Communities and Institutions

1. Management of State Domain and Land Resources

Land Rights

Property Rights

Despite the sovereign right of the state over lands, local collectivities may have a residual property right over local lands under conditions stated specifically by law. If all the conditions are met, local collectivities and institutions may have private domain with the absolute rights of an owner.

The three articles covering property rights are Articles 135, 136 and 137 of the National Domain and Land Tenure Code (CDF). Article 135 acknowledges the rights of decentralized collectivities to own a private domain. Article 136 states the conditions under which they may have property rights-- "such a domain may only include those lands covered by a land title established in or transferred to their name after:

- the conveyance by the state of an unbuilt, undeveloped piece of land registered in its name, freely or against payment;
- acquisition by gratuitous title or by onerous title of any registered land; or
- transformation of a rural concession immediately after the granted land has been reclaimed.

The property right of collectivities is a derived right, unlike the right of the state. A collectivity or institution may access ownership only through the state as a principal in the transaction or from another person holding a land title. A land title is the only means of access to property rights open to local collectivities in matters of domain and real estate. Thus, their rights are extremely restrictive.

The fact that lands are local does not in itself establish a right, and even reclamation is not a sufficient reason to grant a right to the claimer.

Other Rights Local Collectivities May Have

If local collectivities have no property rights (if they do not hold a title to the land), their only resort is the state's management system and its restrictive conditions. Local collectivities may have:

- a right of rural concession conveyed by the state as the owner, over local lands. A right of concession implies the right, granted by a public power as the assigner, to a person referred to as the concession holder to temporary use of a piece of land to cultivate it under conditions defined in the act of concession and accompanying specification. Rural concessions may apply to any land fit for agriculture, animal husbandry, or forestry located outside urban centers in accordance with officially approved land management planification;

- a right to rent through a 99-year lease, a lease-purchase agreement, or any other type of legally recognized rental; and
- a land assignment. Article 106 clearly states, "lands belonging to the private domain of the state, registered to or transferred in the state's name, may be assigned to a public service or to a local decentralized collectivity for the needs of one or the other, provided the land has not been zoned for industrial use. Land assignments are temporary."

Customary Rights

Local communities which belong to decentralized institutions may have either individual or collective rights over lands. Collective customary rights may provide leverage in support of activities that are truly local in origin through the intervention of cooperatives or village *tons*. However, this implies that these rights have been legally recognized and are fairly stable and substantial. Regarding the recognition of customary rights:

- customary rights are recognized by the National Domain and Land Tenure Code; Article 127, subparagraph 2 of the code states "the exercise of customary rights is hereby confirmed..." a formal recognition; and
- regarding the stability of customary rights, immediately after the state recognized customary rights it rushed to impose limits on such recognition. These limits are defined in the same article--Article 127, subparagraph 2-- which states, "the exercise of customary rights is confirmed inasmuch as the state has no need for the lands over which these rights are being exercised." In other words, these rights exist only when not in conflict with the interests of the state.

This limit exists because the corollary of Article 137 merges customary rights under the umbrella of the state's private domain. Therefore, collective and individual customary rights will not confer a property right. They only confer usufructory rights and, as a consequence, these rights are essentially precarious. In analyzing this type of legal system, specialists of land tenure issues speak of "rural insecurity" concerning the legal status of land.

The instability of customary rights inhibits local initiatives. In the future, it is imperative that village communities have exclusive access to the natural resources of their land and be actively involvement in its management.

Theoretically, the rural community is offered the opportunity to convert its customary rights into property rights. First, members become holders of concessions from the state. Then, they work toward owning a land title. In practice, it is a cumbersome procedure subject to administrative procrastination. It is also time consuming, costly, and largely ignored by a poorly informed rural community. It is, therefore, not likely to succeed. In addition, farmers will feel frustrated when obliged to convert their traditional rights, now considered inferior, into written laws of which they are unaware.

Whatever the case, these codes pose problems. The latest statistics from the land registers since the National Domain Code was promulgated show that land titles are a good deal for city people and for people of a certain class. As the legislation stands, the rural community will progressively be reduced to a salaried workforce--a class of farm laborers who will never have access to land owner-

ship. For now, they remain passive partners in development politics.

	Businessmen and others	Civil servants	Farmers
1986	11	19	0
1987	31	22	3
1988	25	24	0

Water Rights

Following is a discussion of the rights granted to local decentralized collectivities concerning water management.

Property Rights

As discussed, the property rights concerning waters belong exclusively to the state. All types of waters are included in the public domain, and, therefore, local communities and decentralized collectivities cannot claim ownership of ponds, rivers, or springs.

It is impossible to circumvent this legal system given existing legislation. Because waters are considered a part of the natural public domain and are, therefore, inalienable, there is no possibility of transfer.

Legal possibilities allowing management would be great if at least some of the waters were part of the state's private domain. They would then become transferable. However, there is always the possibility of a declassification process to facilitate management (Article 15 and subsequent articles, CDF).

Other Rights

In considering what legal possibilities are left for local collectivities, one has only to refer to the management methods generally applied to resources in the public domain. Usually, the problem is dealt with through the possibility, for the state, of transferring management responsibility to a territorial institution or granting authorizations of occupancy.

1) Transfer of management is defined in Article 18 which states, "For reasons pertaining to the general interest or of public utility, the state may transfer the management of part of its estate in the public domain to a decentralized local institution which will then assume responsibility for its conservation...." The provision clearly states that the decentralized institution is in charge only of management; it does not have the kind of firmly established right that would allow disposition of the property.

⁷ The above figures are drawn from the register for deeds and titles of the Department of Domains of Bamako.

2) Regarding authorizations of occupancy, Article 21 CDF states that it is possible for a legal entity outside of the state system, such as a local collectivity, to be granted an authorization of occupancy. The provision concludes by emphasizing the extreme instability of such authorizations since they are subject at any time to revocation without indemnization for a reason deemed in the public interest.

3) Regarding customary rights over water, because the state does not recognize any legal title over water, whether of individuals or collectivities, customary rights can only relate to the different uses of this water--how it is exploited. The modes of exploitation are numerous and diverse ranging from small-scale fishing to fish farming, and from ordinary wells to irrigation.

Fishing, Navigation, and Drawing Rights

What are the concrete legal possibilities granted local communities in matters of water utilization? The fishing code confers a right of use. Concerning exploitation by local communities of water resources through navigation and fishing, Article 22 clearly states, "the rights of use are those according to which individuals, corporate entities, or collectivities appropriate the waters or their products temporarily or permanently to satisfy their individual or collective needs. Such an appropriation cannot, in any circumstance, be the object of a business transaction...."

The article enumerates these rights of use, namely bottom water exploitation, navigation, watering and crossing livestock, and other withdrawals such as rights to draw from wells. Thus, while Article 22 of the Fishing Code grants quasi-exclusive rights to local collectivities in fishing, navigation, and watering livestock, it is under the condition that these rights be used solely for individual and collective needs, not commercial purposes. In practice, village *tons*, village associations, and cooperatives may exploit local waters exclusively as long as the water is not used for commercial purposes.

Fishing is not considered covered by usufructory rights when it takes place in protected fishing zones, except for rights of subsistence fishing granted to populations living adjacent to surface waters (Article 23 of the Fishing Code).

When local communities wish to organize for large-scale fishing or really profitable navigation, they must deal with the state--the sole owner of fishing rights (Article 27 of the Fishing Code). The state may concede these rights freely or against payment. Such a right, by concession, is more substantial because a license is issued.

2. Forest Resources Management

Forest resources management is neglected as much by the state as by rural communities. Even the Forest Code does not establish a true management system, it merely establishes a network of enforcement measures. For a long time, forest resources management was assumed to occur through natural regeneration.

As discussed, it is necessary to restore the exclusive access of villagers to the natural resources on their land. Village communities must take responsibility for the environmental management of village land. What rights have been allocated to local institutions for the administration and management of forest resources?

The forest code grants collectivities and individuals the right to have the perimeters "that they did re-forest" (Article 51 and 52) recognized as their own forest domain and registered in their name. Article 51:

"draws the boundary of the forest domain of communities and individuals as well as the delimitations of sacred woods and sites protected for socio-religious reasons by the collectivities.

"These perimeters are brought to the attention of the proper administrative authority which will establish the exact boundaries and have them registered in the name of the interested collectivity or individual."

In practice, the interpretation given to this process of registration is the same as in land legislation, plus all the financial costs. The result has been a complete lack of interest in this opportunity--a carry-over from preceding legislation and has been offered for about 20 years.

In fact, the protection of woodstocks rests solely with the state domain organized according to a pattern inherited from French colonial law. This pattern breaks woodstocks into two domains--the classified and the protected.

Decentralized institutions, left with little room to manage as owners and limited means to manage, are reduced to adapting to the state's ways, processes, and requirements as they apply to the state's domain. These stringent requirements and processes have the following two characteristics.

1) The state has only provided for enforcement measures to protect its woodstock; protection against overexploitation is organized in direct and indirect ways. Direct ways include the regulation of rights of use and required harvesting permits. Regulation is carried out through a process involving an enumeration of the rights of use and a definition of the requirements applying to these rights to protect growth from damages and exclude certain species or zones from rights of access. The harvesting permit or exploitation permit for products other than wood is required whenever "exploitation...for commercial or industrial use" is done, as well as for cutting all protected woodstock for any use (Article 37:42). There is a fee for obtaining a harvesting permit. If the permit is for cutting trees belonging to private individuals, it is free (Article 46).

2) There are no additional formulas to manage the state's domain, such as a diversification including concessions for public service or other forms of contracts. For example, nothing has been done to organize village participation or the involvement of all decentralized institutions. The problem is how to develop legal formulas that would enable agriculturists to take an active interest in forestry. For example:

- in the protected domain, the state could develop management agreements for natural spaces whereby agriculturists, through the use of management plans, would have decision-making power over their land; and
- in the classified domain, the state could expand forestry concessions or leasing arrangements.

These suggestions could be easily incorporated into new rules because they are consistent with the existing Forest Code. But the code would have change to increase the participation of decentralized

collectivities by making them the true owners of the forestry resources on their land, at least within limits corresponding to their exploitation capacity, instead of leaving them, as they are now, restricted by the code's structures.

The 1986 code is very close, in its inspiration, to the 1968 code, and the latter does not vary very much from the 1935 decree establishing a forestry system in French Western Africa. Therefore, it is not surprising that enforcement action takes precedence over management and participation efforts by local communities.

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Appendix B: Workshop on Club/CILSS Decentralization in Mali Study: Summary of Conclusions and Recommendations

A. Introduction

The workshop on CLUB/CILSS Mali decentralization activities took place in Paris March 6-8, 1991. Workshop discussions led to four conclusions:

- the GRM is moving rapidly to create a legislative framework designed to allow greater local initiative in problem-solving, as part of an on-going commitment to decentralize government structures;
- the decentralization team case studies reviewed at the workshop indicate both rural and urban people can promote their own development, and indeed in many places they have taken the initiative to solve local problems without waiting for GRM guidance or approval;
- the Government is seeking ways to support greater local involvement in development, but is unclear about how best to achieve this end; and
- the Government desires technical assistance with these problems.

The workshop focused on four major issues:

- critical review of the reports and suggestions for improvements;
- follow-on applied research activities to clarify decentralization possibilities and obstacles in Mali and other CILSS countries;
- related activities strengthening institutionalized capacities to support decentralization efforts in CILSS countries; and
- a proposed calendar for these follow-on activities.

Fifteen persons, listed in Appendix 1, participated in the workshop. Of these, five were field study team members, three represented the Club, one person CILSS, and two persons the Government of the Republic Mali. One person each attended from CIRAD and the Indiana University Workshop, and two from L'OEIL. Three consultants working on parallel issues sat in on some sessions.

This report contains five more sections, the first four keyed to the major issues just noted and the fifth providing conclusions.

B. Critical Review and Proposed Improvements

Workshop participants found the reports useful concerning local peoples' capacities to organize, finance and participate in their own development, and potentially very useful given rapid evolution of the GRM's decentralization policies, with several reservations as noted below:

- the reports richly illustrate effective ways to provide public services, manage renewable natural resources (RNR), and mobilize, control and expend funds for these purposes;
- in their present form, the reports could be strengthened by adding material on amounts of resources mobilized for different purposes and, where possible, quantitative budgets for local production systems that give a sense of local resources mobilization potential;
- the research framework used to guide field investigations and analyze information appears clearly in the renewable natural resources report, but not in the public services organization report; and
- the style in the renewable natural resources report is uneven.

Suggested improvements include the following:

- the third volume which will summarize the first two volumes should:
- contain a five-page introductory executive summary (synthèse) that succinctly presents conclusions and recommendations;
- introduce the research framework used in the studies;
- contain a lexicon of terms concerning decentralization and governance;
- include the juridical analysis of conditions concerning collective organization in Mali at the moment;
- case materials in the two reports should be revised as far as possible to reflect the working hypotheses (noted at the end of this section) concerning local organization derived from studies undertaken at the Indiana University Workshop;
- after being rewritten to reflect as much as possible the institutional analysis and design framework (public services organization) and to smooth out stylistic features (renewable natural resources), the French version of the final draft will be edited for style by several workshop participants; and
- maps should be introduced indicating the location of the various research sites.

The working hypotheses, mentioned above, highlight factors that tend to improve the chances of sustainable development and problem solving at local levels. They focus on four analytically separate areas: (1) conditions at the community level, (2) conditions at the national level, (3) characteristics of the goods or services being provided and (4) the rules used to govern provision and production processes. Each is described in Annex 1. , below.

C. Follow-on Applied Research and Training Activities

Decentralization study team members identified several areas where problems can be expected to arise in Mali as GRM power-sharing initiatives continue. Since these same problems are likely to occur in other CILSS states that adopt measures to promote more participation of citizens in development activities and sustainable problem-solving at non-central levels, the research themes are of broad relevance for CILSS countries. This section summarizes applied research propositions and related activities in three areas: (1) RNR governance and management; (2) organization of public serv-

ices provision and production; and (3) institutional arrangements that can enhance the technical sustainability of rural production systems within a context of increasing decentralization.

1. Renewable Natural Resources Governance and Management

1. The cases in the RNR volume are illustrative, though not representative, of RNR management and governance conditions throughout Mali. The range of problems that rural people encounter in trying to manage RNR and stabilize their environments is quite broad. To clarify the diversity of these problems, comparative studies should be organized of major RNR such as pastures, watersheds and soils, woodstocks, fisheries, etc. Cases in each study should be stratified by successful, average and unsuccessful examples to permit a detailed comparison of relationships under different conditions among the following factors: (1) nature or attributes of particular resources; (2) technologies used in their exploitation; (3) rules systems at the local, intermediate and national levels that affect RNR governance and management costs; and (4) characteristics of the community involved in governing a particular resource [cf. Annex III, A. 2].
2. A study should be undertaken of the possibility of using pre-colonial or contemporary informal jurisdictions as frameworks for RNRM and governance [cf. Annex III, A. 3]. [IMRAD, a Malien consulting firm, and ARD are conducting a study along these lines in Mali now with funding from an American NGO.]
3. To identify the extent and limits of local capacity to finance RNR activities, an applied research study of local resource mobilization potential and methods of mobilizing cash, material and labor resources should be undertaken in a stratified sample of villages [cf Annex III, A. 4].
4. If a new constitution is adopted and further decentralization becomes possible, a study of new possibilities for financing RNRM activities under the new set of Malien constitutional rules and implementing legislation should be conducted. This activity might be combined with the preceding one [cf Annex III, A. 5].
5. A study of the impact of the public economy in Mali (state, donor, lender and NGO financing of RNRM activities) should be conducted to determine the impact of various financing formulae in encouraging or discouraging local effort in the sector [cf Annex III, A. 6].
6. A series of training activities should be developed for NGO staffs to improve their understanding of the impact of rules systems and institutional arrangements at various governmental levels on the capacity of local people to manage renewable natural resources. A comparable series of training activities should be prepared for GRM officials and technical agents involved with renewable natural resources management and governance [cf. Annex III, A. 7].
7. An institutional analysis of agricultural extension options should be undertaken to determine how extension organizations might be structured so that they would be more user demand-driven. This would ensure that technical recommendations concerning RNRM practices reflect producers' assessments of the real possibilities [cf. Annex III, A. 8 and C. 3].
8. A small number of Malians should be selected immediately for training in institutional analysis and design, and in local public finance systems.

2. Organization of Public Services Provision and Production

1. Comparative studies of local efforts to mobilize resources, including materials and labor as well as cash, should be undertaken as rapidly as possible in ten sites per service, in a stratified sample of successful, unsuccessful and average villages [cf. Annex III, B. 1].
2. Fiscal and parafiscal systems for financing public services and local government operations should be analyzed. Research would assess the efficiency, effectiveness, equity and administrative capacity of tax and fee systems. The following organization of research is suggested: (1) assessment and collection; (2) revenue and expenditure management; and (3) programming and budgeting [cf. Annex III, B. 2].
3. If the enabling legislation concerning decentralized capacity to provide and produce services proposed under the last regime is approved, passed into law and publicized, comparative studies should be undertaken in multiple sites around the country to:
 - evaluate the impact of the law on the behavior of public officials and local communities, beginning with collection of base line data, followed by intermittent monitoring;
 - develop training materials, as an integral product of these studies, that reflect local experiences, problems, and approaches to solutions found in various parts of the country; and
 - provide training for local government officials at the special district, village, *arrondissement* and *cercle* levels based on these materials.
4. Initiate a long-term study of the public economy within Mali to identify the impact of diverse financing arrangements on the efforts of local communities to mobilize resources to finance or co-finance their own development activities.
5. Select and send a limited number of Malians for long-term training in institutional analysis and design and in public finance issues.

3. Support Activities to Strengthen Rural Production Systems

Institutional innovations, while necessary, do not exhaust possibilities for strengthening the robustness and power of Malien and Sahelian rural production systems. Several ancillary activities could increase the efficiency of production systems appreciably.

1. The cases reveal a lack of farmer participation in the adaptive research process for improved production practices in both rainfed and irrigated areas. With appropriate training, local farmers could learn to evaluate local, farmer-generated agricultural technology innovations, e. g. , labor-saving devices, as well as externally-introduced changes that might require modification.
2. Training should be provided on a selective basis to improve farmer participation in adaptive research, in the following areas: (1) farmer-funded commodity research; (2) training curricula for village-level evaluators of new agricultural technology; (3) farmer-responsive extension personnel; (4) improving farmer skills in financial analysis of agricultural innovations; (5) increasing producer participation in commodity processing; and (6) soil conservation activities.

4. General Studies

1. In a second CILSS country, e. g. , Cape Verde, undertake a study to begin creating a basis for comparative analysis of potentials for improving local capacity to undertake sustainable RNR management and governance, and public services provisioning activities.
2. In Mali, examine several pre-colonial political units to assess their potential, by comparison with contemporary GRM administrative subdivisions, to facilitate local peoples' efforts to solve problems they face in RNR management, public service provision and production system strengthening.

D. Related Activities

1. The Club and CILSS should create a unit, the "Cellule régionale d'élaboration décentralisée d'institutions aux bases locales" (CREDIBLE), attached to CILSS that will serve as a technical support and information center for decentralization activities within CILSS states. CREDIBLE should be staffed by a combination of international and Sahelian consultants. A total of some six individuals (four Sahelians and two international technicians) should constitute the team.

They would play two essential roles:

- support efforts by CILSS governments to redesign government institutions with the goal of decentralizing, where appropriate, authority to provide services and manage RNR; and
- help design and monitor studies of decentralization, service provision, renewable resources management and governance problems and land tenure issues; provide a clearing house for information produced by these studies, and circulate information to interested parties in CILSS states, including governments, PVOs, donors and lenders.

2. The Club and CILSS should consider supporting creation of a new unit within the Malien Government that would provide technical assistance to the new government as it undertakes the process of reorganizing political, administrative and judicial institutions in the light of recent political events. The unit should be supervised by a committee on decentralization, chaired by the president, including Ministers of Interior, Defense, Justice, Finance, Plan, and relevant technical ministries, but not the full cabinet. The agenda should be organized by Ministry of Interior.

3. The clientele of this unit would include GRM personnel, and local government, user groups and NGO staffs. In addition to the Malian staff, two international technical assistants should be assigned to the unit to provide in-country assistance with the institutional analysis and redesign process. The unit would also provide a link with the proposed CILSS regional decentralization unit, CREDIBLE.

4. The results of the Mali decentralization studies should become the focus of a national conference, to be organized in Mali once the new constitution and new government are in place and able to devote attention to these fundamental issues.

5. A regional conference should be organized to present the results of the Malien decentralization studies, as well as others concerning land tenure in the Sahel, to CILSS members states, representatives of local user groups, NGOs, donors and lenders. This

conference should be scheduled during the first half of 1992 at a Sahelian state site to be selected.

E. Proposed Calendar of Activities

1. The studies should be revised and edited in final draft by mid-September 1991. They should then be immediately distributed to the Club, CILSS, the GRM and to other interested parties, e. g. , Sahelian state governments and NGOs.
2. A meeting with Club donors to decide on future activities should be scheduled for the fall of 1991.
3. The follow-on study, in Cape Verde, should be initiated in September 1991 or as soon thereafter as a team can be mobilized.
4. A meeting will be organized at the Club with interested members of the donor ad hoc decentralization advisory group to allow them to comment on the Mali decentralization report and to comment on the recommendations contained in this report.

F. Conclusions

The March 1991 meeting in Paris of participants in the Mali decentralization studies, Club, CILSS and GRM representatives, and several university and research groups involved with decentralization activities in the Sahel produced a number of recommendations to strengthen those reports, as well as suggestions for follow-on applied research and institutional strengthening activities at the regional and CILSS country levels. Events in Mali since that meeting have initiated a regime reform process, including the creation of a new constitution, introduction of a multi-party system and open elections promised for January 1992. In light of these changes, decentralization activities in Mali have been placed on hold for the moment.

In other Sahelian countries, notably Cape Verde and Chad, changes are continuing apace and interest in exploring institutional designs that will permit a more efficient distribution of power and authority at various levels throughout the society remains high. The Club's April meeting on land tenure resulted in a very clear perception of the links between land tenure and decentralization issues. These will be pursued in greater detail through planned future applied research activities in the region.

Annex 1: Working Hypotheses

The following hypotheses were derived from discussion at the workshop of the case studies and comparing the findings of these cases with others related to common pool resources and local public goods.

Local, sustainable, self-reliance (local democracy) is more likely to occur and be effective in a community where:

- c1 the local economic base is such that individuals produce some surplus above basic maintenance needs;
- c2 local residents have a relatively long-term time perspective -- both in terms of family attachments and tenurial relationships in the local area;
- c3 conflicts based on diversities of interest (such as wealth, ethnicity, types of activities, or power) are of manageable dimensions;
- c4 long-term commitments can be made in a credible manner;
- c5 community residents have prior experience with successfully organizing for community action in at least one realm of activity;
- c6 transaction costs to create new rules and monitor and sanction these are relatively low;
- c7 the size of community is relatively small; or complex, multi-tiered institutional arrangements have already been developed that enable people to cope with larger scale as well as smaller scale problems.

Located in a country where:

- n1 self-organization is not perceived as threatening by national authorities;
- n2 formal rules authorize a diversity of local enterprises and activities (or, because of Hypothesis n1, local residents have de facto powers);
- n3 fair, effective conflict resolution mechanisms are provided by larger-scale units, or local mechanisms that meet these criteria are allowed to operate;
- n4 local public and private enterprises are allowed to make their own mistakes and learn from them.

Attributes of goods and services which enhance the likelihood that local organization and activities are effective include the following:

- g1 the cost of excluding potential, individual beneficiaries is relatively low and groups of beneficiaries can clearly be identified and excluded from participation in consumption;
- g2 the scale of effects of the target good or service is primarily local;
- g3 the net value of the target good or service is apparent to beneficiaries;
- g4 the technology needed to produce the target good or service is within the competence of local individuals either independently or with external advice;

g5 time and place information is particularly important for making decisions about actions to be taken.

Questions related to rules-in-use for provision and production of specific small-scale RNRs or public goods/services that affect performance include the following:

- r1 Do the expected beneficiaries of the good or service roughly correspond to those who determine its character and finance its provision?
- r2 Are rules that specify required contributions perceived as fair by beneficiaries? By external efficiency and/or equity criteria?
- r3 For subtractive goods (private or common pool goods) - are rules specifying how much of the good or service an individual or household may use perceived as fair by beneficiaries; by external efficiency and/or equity criteria? What is the relationship between r2 and r3?
- r4 Do procedural rules increase the level of reliable information ("transparency") about the activities of officials and citizens so that most participants learn about errors, about corrupt practices, about commitments being kept or broken, etc. ?
- r5 Are rules monitored and sanctioned locally in a manner perceived to be fair?
- r6 Do rules specify relatively secure use rights? Rights to transfer ownership?

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Annex III: Applied Research Themes for Club/CILSS Follow-On Work Renewables Management, Production System Strengthening and Public Service Provision and Production

This annex presents a series of applied research activities relevant to the improving, in Mali and other Sahelian countries, RNR governance and management, public service provision and production, and production system efficiencies. The elements under each theme are listed at the head of each major subsection.

A. Renewable Natural Resources

The following six applied research activities will, if completed, provide information indispensable to designing more effective RNR governance and management activities in Mali as well as in other Sahelian states. The operational activities will help translate applied research findings into practice. The applied research activities include (1) comparative research in a second CILSS country; (2) multi-year, in-depth comparative analysis of institutional problems in RNR governance and management; (3) examination of the possibilities of using alternative political units for RNR governance and management; (4) local financing of RNR management; (5) financing RNR management under new constitutional rules (this activity could be combined with the preceding one); and (6) applied research on the grants economy for RNR operations. The two associated operational activities include (7) an NGO training program in institutional analysis and design; and (8) institutional design for user-friendly agricultural extension services.

1. Comparative Study of RNR Governance in Another CILSS Country

A comparative study comparable to that in Mali should be undertaken in another CILSS country (e.g. , Niger or Cape Verde) in order to begin to get a better sense of the range of cases and the difficulties and advantages associated with each:

- the study should repeat the Mali decentralization study orientations, suitably adopted to conditions in the second country;
- focus should again be on public service provision and organization, and renewable resources governance and management.

2. Comparative Analyses of Selected Sets of RNR Cases to Identify Elements of Effective Governance and Management Strategies

This proposal outlines a research project relevant to the effort to improve management and governance of renewable natural resources in Mali as well as in other Sahelian countries. The elements that should be addressed in the research are listed below:

- analysis of ten case studies per RNR (woodstocks, pastures, fisheries, watersheds, soils), each stratified by successful, adequate and unsuccessful efforts to resolve institutional problems involved in managing resources, with special attention to the relationship between local efforts and GRM enabling and eventual home rule legislation;

- creation of a specifically adapted research protocol, based on the Indiana University Workshop Common Pool Resource data base coding forms but streamlined, as the starting point of a field and teaching instrument that will be useful for collecting data, focusing researchers', decision makers' and resource users' attention on the major points of institutional strength and weakness;
- integration into this protocol, or incorporation in a separate one, of detail on (a) provisioning decision arrangements; (b) amount of resources mobilized; (c) methods of mobilization; (d) allocation (e) monitoring of expenditures;
- establishment of base-line data through a detailed study completed at each of the study sites during the initial field work;
- monitoring of sites every six to twelve months for five years to establish a multichronic series of studies on results of local efforts to solve problems; as part of an action research program, through dialogue with local people involved and affected by these decisions, make suggestions about ways to improve inadequate or ill-adapted rules and institutions at the margin, and then monitor the results; and
- highlighting of the institutional problems (negotiating agreements, resolving disputes, shirking, free-riding, time and place information, corruption, etc.) that any resource management and governance operation must overcome.

This research should be carried out by an initial team of two expatriates and two Malians, with the Malians responsible for recruiting other locals, training them in the institutional analysis and design (IAD) approach and methodologies, and carrying forward the research with annual return visits by the expatriates.

Funding under this research project should provide for an initial year of study at the Indiana Workshop for the two senior Malians expected to be involved subsequently in the activity.

Field activities should be supported by a consortium of theorist and practitioners, e. g. , the Indiana Workshop, Syracuse University's public finance section, L'OEIL, etc.

The research team should develop from the interim monitoring reports a series of documents to show how greater reliance could be placed on (a) local efforts to manage resources; (b) a realistic, pragmatic division of labor and complementarity among local private associations, special and general purpose districts, and GRM technical services; (c) the need for adapted agricultural and RNR technical advice to enhance, over time, the sustainability of local production systems; and (d) the capacities for Sahelians to function as effective extension agents.

3. Alternative Political Units for RNR Governance and Management

IMRAD, a Malien consulting firm, and ARD will analyze cases where earlier political units (cantons, pre-colonial states, etc.) might provide, by drawing on existing local institutions that local people accept and support, better frameworks for organizing activities for resource mobilization, governance and management decisions, enforcement, etc.

4. Local Financing of RNR Management

A study research team will collect information on local RNR governance and management budgets. As part of this study, the nature of provisioning decisions concerning financing activities, resource mobilization techniques and amounts, and allocation and control of expenditures will be highlighted. This study should produce information in a short period of time on the relative effective and potential contributions of local communities in the sites examined, to finance part or in some cases all of certain development services.

- This activity should lead to development of appropriately adapted research instruments permitting local collectivities and councils at the *arrondissement* and *cercle* levels to grasp more clearly what they can commit themselves to by way of matching grants and loans to finance development activities.
- This study should analyze local, informal public finance arrangements to begin identifying the strengths and weaknesses of local systems, particularly where cash resources are used.
- The relevance for policy making would be substantial in the sense that local people would have considerably more information with which to inform their discussions and decisions about development activities, local public budgets, etc. ; the same information would assist GRM, donor, lender and NGO agencies to elaborate appropriate assistance programs that build in an incremental manner on existing local capacities to overcome current obstacles to greater levels of local auto- or contributory financing.

5. Financing RNR Management under New Constitutional Rules

An analysis should be undertaken of public goods provisioning decisions and production operations in the context of the proposed new Malien enabling legislation promoting home rule, to identify the impacts of rules, including public financing rules, on the quality of services for different services in different environmental and cultural areas:

- train senior Malien team members in the IAD approach;
- choose sites, depending on what the government and donors, lenders and ONGs are doing to compare the same public services across environments variable in terms of (a) distance from capital (Kidale and Kayes v. Koulikoro); (b) terrain; (c) ethnic groups;
- elaborate a protocol that reflects IAD approach and encourages a learning approach on part of both team members and locals, in terms of improving the research instrument over time;
- formulate these activities as action/research, in which team members and local people gradually identify and try to remedy technical, economic, financial, legal and political obstacles by adapting institutional arrangements over time;
- program this activity initially over a period of three years, with a team composed of two expatriates and two senior Malians;
- prepare a series of reports, starting with a baseline investigation that allocates ten days per site, with the two senior team members (one Malien, one expatriate) assisted by up to three junior people;

- develop a newsletter in French and several local languages to disseminate information about the results; and
- prepare a series of training materials that can be introduced broadly throughout the society, e. g. , the Ecole National d'Administration, Travaux Publics, Education, Santé, Agriculture, Elevage et Environnement, CCA-ONG, etc.

6. Applied Research on Grants Economy for RNR Operations

An applied research project should be developed to examine operation of the Malien grants economy (pure and matching grants) concerning renewable natural resources. Investigations should include GRM, donor, lender and ONG assistance. The purpose of the research will be to measure impacts in different structures of decision-making arrangements. Eventually an evaluation instrument should be created that RNR owners and producers can use to structure assistance to support local efforts. The goal over time should be to create incentives that encourage people to finance and control their own activities. L'OEIL/ARD/SU might well function in combination on this activity, which would have the following characteristics:

- duration: two years
- methodology: initially retrospective analysis of selected cases where data are available in sufficient detail to examine consequences of granting approaches, followed by work on current grants and apparent reactions to them.

7. NGO Training Program in Institutional Analysis and Design

A training program should be developed for local, national (and international) ONGs, with aim of enhancing their awareness of the importance of institutional diagnosis in creating sustainable activities, in large part by drawing on existing local competence. Such an activity would provide real gains for consumers of ONG services, for the ONGs themselves and for the donors who finance ONG activities:

- many ONG staff people struggle with difficult institutional problems without the benefit of an analytic framework to assist them in understanding how to work with local people to resolve those problems;
- many ONGs have programs in either RNR or in various public services;
- ONGs operating in Mali - local, national and international - should be canvassed via CCA-ONG for their interest in providing staff to take repeated short courses (a total of five, each lasting from two days to a week), structured around a problem-solving format, in which each participant (or ONG team) would bring a problem to the initial workshop for presentation, diagnosis and work on defining possible approaches to solution;
- at each successive training session, an additional element would be introduced in much greater detail to the course content, e. g. , what to look for in terms of local institutions' provisioning arrangements;
- staff trainees would then spend three months at their sites, or backstopping their field operations, gathering information about the problem using an IAD/PF modified framework;

- at two final sessions, trainees would first present their results in draft and then, following a group critique of their work, revise and present the final drafts.

8. Creating Agricultural Extension Services

Focused on User Concerns

An institutional analysis should be carried out leading to a proposal for the structure of an extension system that would really address the needs of local farmers in site specific situations. This analysis should integrate work done in other areas of the world, e. g. , Mexico and East Africa, on the problems of structuring extension systems so that they vest countervailing power in the hands of service consumers, rather than empowering only the producers of the service. Financing measures that incorporate fees for service or local collective funding of some part of service costs should be examined.

B. Public Services Research Themes

This section describes a series of applied research activities grouped under three different themes: (1-2) resource mobilization and management; (3) assessment of alternative models of service provision and production; and (4) special assistance and research on communal organization and finance.

The first subsection present activities in the area of resource mobilization and management: the first concerns current local strategies for resource mobilization and production of local goods and services; the second focuses on fiscal and parafiscal systems for public services and local government operations.

The case studies demonstrate that improvements in the quantity and quality of public services available to rural and urban residents will require strengthening resource mobilization and management capabilities at all levels -- within local communities, at the various administrative levels, within the service systems themselves through the efficient use of user fees and charges, and at the national level. Diverse strategies and practices exist to mobilize financial, material and labor resources at the sub-village, village, supra-village and local administrative levels. Similarly, management of these resources varies by level and by case within levels.

Two programs of action research can be proposed. The technical personnel assigned to conduct research would also be expected to serve on request as sources of technical information to local communities and administrative authorities.

1. Current Local Strategies for Resource Mobilization and Production of

Local Goods and Services

Research will focus on local (non-governmental) rules and practices for mobilizing and managing resources. Data should be collected for different types of services, including community-initiated and -managed services such as village literacy centers, health posts and maternities; multi-village shared services such as a local feeder roads; and state initiated and managed local public services such as primary schools and health centers. Special effort should be accorded to the calculation of monetary equivalencies of resource commitments, the nature and application of rules to prevent dysfunctional behavior such as shirking and free-riding, the mechanisms by which disputes about such rules are processed, and the effectiveness of practices used to manage resource contributions.

2. Fiscal and Parafiscal Systems for Public Services and Local Government Operations

Research will focus on assessing efficiency, effectiveness, equity and administrative capacity of tax and fee systems. Research should be organized on the following topics: (1) assessment and collection; (2) revenue and expenditure management; and (3) programming and budgeting.

3. Assessing Alternative Models of Service Provision and Production

Field findings demonstrate that Malien local communities are experimenting with organization and finance of public services. Such experimentation should be encouraged and carefully studied. Institutional innovations increasing local involvement in decisions determining the character and operation of services are clearly needed.

Research in this area will focus on the different forms of providing services including community initiated and managed services, services with mixed user/community and state management, and services that are organized and produced with little or no direct local involvement. It is recommended that health care and education be selected for analysis in both urban and rural environments and that public works (*voirie*) be selected in municipalities. A special review of the effectiveness of the model of assistance used by the FAEF program should be undertaken. Similarly, innovations such as the *magasin santé* program in the Mopti region should be assessed.

The present and potential roles for private sector production of services should be examined. Local communities may effectively ensure the availability of key services while economizing on scarce public funds by contracting with private sector operators.

The research program may be effectively coupled with information and training programs to support local management committees, village associations and local councils in the assessment of service needs and provision and production alternatives.

4. Assistance and Research on Communal Organization and Finance

The situation in the municipalities of Mali is critical. Resource mobilization is inadequate to meet even rudimentary service finance requirements and municipal governments have become little more than self-financing administrations devoid of any meaningful service function. This situation requires immediate attention in the form of technical assistance in revenue mobilization and management, public service organization, and operation. A clearly focussed program of data collection and analysis is also required to generate and support reform recommendations. The recent government decision to move forward with the transformation of rural *arrondissements* into decentralized rural communes makes such a program of assistance and research of even greater importance and value.

Research should be undertaken on ways to improve municipal financial performance. Detailed studies should be conducted on communal fiscal policy and on methods to improve revenue mobilization and management, budgeting and programming.

Attention should also be given to options in municipal service provision and production. Examination of the role of neighborhood wards (*quartiers*) in organizing, financing and producing services such as sanitation and education would be particularly appropriate and in keeping with recent government recommendations.

Case studies of means to improve revenue performance and service delivery should be sited in *arrondissements* that are likely to be candidates for decentralization. Research in this area will be of direct and immediate benefit to *arrondissement* popular institutions and authorities.

C. Strengthening Production Systems

The cases reveal a lack of farmer participation in the adaptive research process for improved production practices in both rainfed and irrigated areas. Some individual farmers have developed methods to improve specific cultural practices, most often to conserve scarce labor resources. Organizational and training activities should be initiated on a selective basis to improve farmer participation in adaptive research, in the following areas: (1) farmer-funded commodity research; (2) training curricula for village-level evaluators of new agricultural technology; (3) farmer-responsive extension personnel; (4) improving farmer skills in financial analysis of agricultural innovations; (5) increasing producer participation in commodity processing; and (6) soil conservation activities.

1. Farmer-Financed Commodity Research

A commodity-based adaptive research program should be developed at the regional or local level, funded by a farmer levy of a fixed percentage of marketed production. The allocation of these funds should be determined by farmer representatives and trained research personnel.

2. Training Curricula for Village-Level Evaluators of Technology

Test and develop training curricula for village-level para-professionals in adaptive research methods for the evaluation of farmer-generated technology and to screen externally introduced, improved technologies.

3. Farmer-Responsive Extension Personnel

Institutional analysis and design of organizational ways to make extension research personnel more responsive to client farmers should be conducted. Innovative approaches should include, e. g. :

- partial or even full salary and recurrent cost payments for local extension and research personnel by client farmers;
- contracts awarding extension research personnel a percentage of increases in output attributable to their efforts to disseminate more productive species, farming techniques, etc. ;
- innovative approaches to inputs acquisition, with agents working for client farmers on a percentage basis of the increase in farmer profits achieved by more efficient purchasing and distribution practices.

4. Improving Farmer Skills in Financial Analysis of Agricultural Innovations

Case studies indicate that existing village-level para-professionals (*agents techniques*) have poor skills in the evaluation of financial output from changes in cultural practices and differing crop mixes. As a part of the village-level literacy program, teaching materials in local languages should be developed to train villagers and their para-professionals in preparing partial financial budgets for farm management. Special emphasis should be placed on (a) returns to units of family or hired labor and (b) financial returns from changes in crop mixes of cash and subsistence crops.

5. Increasing Producer Participation In Commodity Processing

Case studies reveal strong villager interest in undertaking increased responsibility for selected aspects of commodity processing. The following training and action studies be carried out to build on this expression of local interest in value-added processing:

- an analysis should be undertaken to assess the most effective organizational structures for value-added activities;
- rapid market studies should be conducted at local, regional and national levels to provide information to be used in crop and product selection;
- develop training materials and programs to ensure sustainable incorporation of all value-added processing activities.

6. Soil Conservation Activities

Concerning soil conservation, the case studies reveal the need to plan and implement conservation activities within domains that are not fully congruent with existing political and administrative jurisdictions. This suggests the need to create special purpose districts that would allow for the coordination of local farmers' efforts to implement a comprehensive plan for soil conservation (see Proposal A. 3. , above).

Certain technical issues must be taken into account in deciding whether to encourage such activities, for instance:

- before considering whether to establish a soil conservation special district, technical studies will be required to identify the natural physical boundaries of the affected watershed, determine the nature and feasibility of technical interventions to reduce erosion and rehabilitate fields most affected by current erosion problems;
- a soil conservation district encompassing a multi-village area should be established on a pilot basis. The feasibility and probable efficacy of this strategy should be carefully assessed first from a technical perspective by well-informed local farmers and outside technical assistants with expertise in soil conservation engineering.
- particular attention should be given, in this assessment, to the efficiency of use of local, regional and national resources.