

LAND TENURE AND THE GRASSROOTS' CONCERN IN BAMAKO – BETWEEN SOCIAL EMBEDDEDNESS AND POLITICAL ALIENATION

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Abstract: The question of the practice of urban land in Bamako is the subject of a crucial (in-)security, which is based both on bureaucratic imbroglio and on an epistemological difference of regularisations of access to the ground through national, regional, municipal institutions and the grassroots. To put an end to the illegal occupation of urban land by the population in need of housing, the state and its representatives have undertaken urban redevelopment measures. Land speculation is taking hold where the State's intervention capacities do not seem capable to control demographic pressure. Households have been and continue to be evicted by the authorities for projects deemed as "urban redevelopment" or "public utility." Some citizens have regrouped in Associations that have set themselves the task of combating abuses by the state.

Keywords: *Land tenure, Bamako, displacement, land rights, state, neo-traditional tenure.*

Introduction¹

Land dispute is a social dynamic that generally dominates the everyday life of African societies. It is the focus of intensive interactions between several actors such as individuals, households, associations, municipalities, government, state, local and international investors, etc. This article aims to describe how land, as such an important resource, constitutes an object that is culturally embedded,² yet

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2 In the sense of Karl Polanyi (1985 [1944]).

meanwhile it is in the political process of being alienated. The Malian societies are not an exception to this dynamic dilemma. The questions that then follow are: (1) how do we approach the empirical dynamics of land tenure in Bamako? And (2) to what extent can land be considered a matter of the “common” (Ostrom 1990: 7; Le Roy 2016: 605)? Especially in Bamako, urban land litigation is an extremely crucial concern for both the state and for society, as the majority of the population is concerned for housing reasons (availability) and the state for its institutions to carry out their political and economic purposes. The dimension of cultural embeddedness relies on the fact that Bamako has been urbanised since the early 1970s by groups of people who migrate from rural areas with their cultural norms, regulations and perspectives on land as a collective resource and only as usufruct accessible that were either like those in Bamako or easily adaptable to them at that time. The endogenous form of accessing land is the form of appropriation (Le Roy 2011: 18), which is different from the form of ownership and property as institutionalised by the colonial and post-colonial state. The urban sprawl in Bamako came across the process of state building (see Figure 1). The Republic of Mali was only ten years old and the capital city was exponentially expanding so that the state could not control the settlements. The area in question for this research is called “Sabalibougou Est” and the “Bande des 140m” in particular.³ In 2002, around three hundred households were forcedly evicted by the municipal administration, although a Supreme Court’s decision in favour of the evicted people remains to be executed since 1994. In this part of Bamako migrants from various villages settled in the 1970s. It was under the local chieftancy of Hamidou Dembélé and his brother (*sotigiw*). These two brothers claim to be the first settlers in Sabalibougou. However, they found the Zoumana Diakité of the neighbouring area Baco Djicoroni there, who is also a *sotigi*. The *sotigi* is a first settler of an area (*le premier à défricher une place*) but he holds this nomination with all attributes and rights from the *dugukolotigi* who, in this case, are the Traoré of the neighbourhood Kalaban Koro. The brothers Traoré as *dugukolotigi* delegate the land policies and the rights to the settlement of Baco Djicoroni to Diakité and of Sabalibougou to Dembélé. Dembélé gave access to settlement to newcomers needing plots for habitations and agriculture.

3 The latter part of the name refers to the width of the area in question, which is 140m.

Given the plurality of actors in the management of land, we find in the current research an imbroglio of rules and regulations around the same stake (land). The stake is accentuated according to the multiplication of the actors in need of the land and the regulations of management. Demographic pressure in Bamako is causing rapid urbanisation and a growing need for urban space (Meillassoux 1968; 2014: 21). Consequently, the control of this issue represents an enormous potential for conflict that is either latent or even violent and lasts several decades. Among the modes of access to land, which are attributed to state institutions or agencies, communities, associations, co-ordinations, groups, and even individuals, we distinguish between the public tenure of land and the customary tenure of land. Therefore, the intention is not to dichotomise but to show that these claims for actors of access to land are interwoven and interdependent.⁴ The aim of this article is to empirically show and describe the everyday struggle of the actors of the grassroot level vis-à-vis the actors of the state's institutions. The first group relies on neo-traditional norms of land tenure; the state agencies on the land code. De facto, the diligence of each actor to balance the tended situation is uncontestedly remarkable (Doumbia 2018: 111). In 2009, the Malian government organised a congress on "Les états généraux du foncier" to discuss with all actors in order to have a clear idea of what can be done to get out of the impasse. Some members of the association of the evicted families use the disorder in the sector to claim the plot they never had. Practically, the association can easily be influenced by other adherents who just want to use it for political or other purposes. In that sense, referring to Lund and Benjaminsen (2003), the issue of urban land tenure is an imbroglio of a pluralistic dimension (see Fig. 1).

In the context of this research the state serves as a protagonist actor, while associations and unions of "dispossessed individuals," those who have been expropriated from their plots, are the antagonistic actors of the state in the management of land.

The master land code of Mali (*code domanial et foncier 1986*) is based on the French colonial code that stipulates: "les terres vacantes et sans maitres appartiennent à l'État" (see also Diawara 2012: 77), which evolves around the principle of alienation. Under this code the "state owns all land in the country," meaning that the state may claim

4 Here I thank my peer-reviewers for their enriching comments and suggestions.

property rights, an advantage that may be used as an instrument of political domination over the population. Such power leads to the commodification (Klute and Fernandes 2011: 3) –the entitlement and privatisation of land.

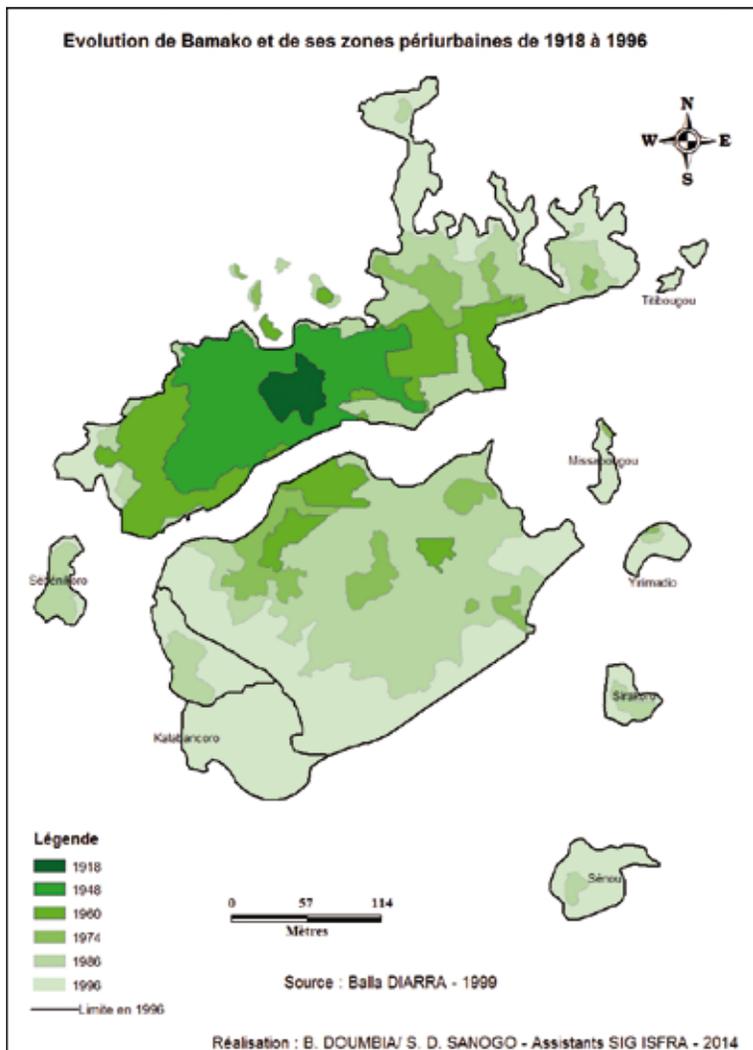


Figure 1: Spatial expansion of Bamako

It is important to mention that before the advent of colonial domination, which introduced the French model of administration and relegated the management of land to the state, the land tenure regime was organised and institutionalised by local communities or groups of individuals living and sharing together the same resources, identities, perceptions of life and nature, religion and, in short, cultures in the Malian context. Given this de facto social arrangement, it is obvious that the tenure system varied from one local community to another. As stated, the current tenure system with the state as regulator of the matriculation draws its origin from the colonial regime. The techniques of matriculation for land holding under the colonial administration guaranteed only individual property rights. The proclamation of code Faidherbe on 11 March 1865 states that only a regular (individual) ownership title is to be recognised. This legislation excluded customary (communal) appropriation of land, which was the pre-colonial arrangement of land management for the population.⁵ Subsequently, the *Afrique Occidentale Française* (AOF)⁶ introduced the matriculation as a compulsory document of individual ownership on 24 July 1906 (RocheGude 1982: 145), despite the persistence of customary regulations based on the communal ownership of land. Although the urban land and housing situation increased within the colonial and post-colonial system of state intervention, which operates with the *Code domanial et foncier* (translated roughly as “national land code”), the “Etatisation” (i.e. nationalisation) attempt to fully monopolise the management of urban land holding is yet to be achieved. The first article of the law in the national land code states: “All estates that are matriculated in the register, all estates not yet matriculated as well as vacant and non-owner estates are properties of the State” (*Code domanial et foncier* 1986).

The hypothesis of this article is that the processes of accessing and holding land, as described above, are so different that they lead to latent and/or violent conflicts whenever a struggle of power occurs (see also Oomen and Hesselings 2005: 8). There is an anterior epistemological misunderstanding that makes the issue even more complex. The objective is to describe this phenomenon with empirical data that were ethnographically collected in Bamako during one year of

5 Instead of what was mentioned in the *Code Civil Français* (see Diawara 2002: 77).

6 French West Africa was a federation of eight colonial territories of France in West Africa from 1895 to 1960.

field work. Moreover, I shall emphasize the important roles and actions of the grassroots actors (Sabalibougou) who are particularly concerned with as well as constitute the counter power to the state's policy of land tenure – – they are, however, not the state's opponent. The notion of the common comes into the debate of “decommodification” of land. Based on Ostrom's reflections on the common stating that “the actors or stakeholders are able to avoid the tragedy of the common (Hardin, 1978: 1243) without requiring a top-down regulation, at least if certain conditions are met” (Ostrom 1990: 6), Étienne Le Roy observes and explains, in the context of land tenure in Africa, the revolution of the common (Le Roy 2015: 3; 2016: 605).

“When we settled, there was no state here...”

Sabalibougou's residents (282 households according to the list of the Association des habitants de Sabalibougou Est), especially those of “Bande des 140m”⁷ (foot note explaining), have been evicted by force and whilst the area has been radically cleared off by the municipal council of “Commune V” of Bamako. Subsequently, the residents have come together as one organised association that continues to call for the rights and concerns of the displaced. In the framework of parcelling the land and area improvement, the municipal council of the “Commune V” of Bamako cleared off the “Bande des 140m” with a bulldozer destroying the lower-income housing in 2002. The displaced persons were not passive observers; they responded by founding the “Association des habitants de Sabalibougou Est” and fight for the resettlement and reinstatement of their rights as enshrined in the 1994 ruling of the Supreme Court of Mali. The Association incriminates the municipal council of the “Commune V” to have attacked them despite their right to stay on the land as issued with the Supreme Court decision No. 80 of June 1994. The parcelling / allotting of Sabalibougou in the “Commune V” of Bamako is part of a general government project of rehabilitation. Since 1987 it has been legally planned that the eastern and western parts of Sabalibougou would be zones of resettlement. The parcelling and improvement of the western area of Sabalibougou took place without any serious problems; however, the inhabitants of the eastern part of Sabalibougou

7 The “Bande des 140m” is the litigious area au Sabalibougou in Bamako that serves as the field for the case study.

opposed the project which led to the founding of the association. The resistance of the expropriated members to the renewal plans of the municipal administration is legitimised through the Supreme Court's decision, which, according to the residents of Sabalibougou-Est, was not executed properly. Per the above stated decision No. 80 of the Supreme Court: "The rehabilitation of 'Sabalibougou Est' is a legal requirement. However, it does not necessarily mean a systematic breaking/demolition of all existing houses in the area. The Plan of rehabilitation of 1987 foresees the opening up of roads and the structural improvement of the area which is necessary for the people." Thus, the Court requested the municipal authorities to redo the operation according to the plan and include the affected persons in the implementation of the project.⁸

"Nature abhors vacuum," meaning that a vacant place in a periurban area of the city with rapid growing demography, is applicable to the situation, as the state's rehabilitation plan of 1987 took several years before implementation occurred. Migrants coming from rural areas to Bamako settled with the agreement of the local customary authority of the "Chef de quartier" and/or with those who were exploiting the soil for agricultural purposes, in response to the state's absence in the period when people needed housing. After the decision of 1994, the saying "nature abhors vacuum" turned to the grassroots' favour. The "Bande des 140m" is the litigious space from which the members of the association have been evicted since 2002.

Why such a violent eviction process despite the Supreme Court's decision number 80?

The argument of the municipal council is that the residents of the area are squatters (*sonsohibugu*⁹) because they possess no land entitlement – a document that certifies that they have the right of usufruct. The inhabitants view themselves as legal, as the state was not present to act in their time of needs. In addition, it is stated in article 34 of the "*code domanial et foncier*" that "toutes les terres detenues en vertu du droits coutumiers sont confirmées," meaning that all land held through customary regulations are to be confirmed."

8 Paraphrased and translated from the decision by the researcher.

9 The bamana word for squatter (*sonso*) and settlement (*bugu*).

The general secretary of the municipal council, Magassouba, answered to our question about the displacement: “In 1994 a national urbanisation program named ‘Programme special sauvons notre quartier’ was led by the governor Madame Sy Kadiatou Sow. The program was funded by the World Bank and aimed to clear ‘slums’ and to improve and design the main entry roads of the capital city. Thanks to the decentralisation policy the governor of Bamako derogates the urban management project to the six municipal areas that compose the capital city. In this framework, the displacement is legal. There is a plan for relocation of the displaced persons to Kabala, which is a suburb 15km to Bamako. They refused and continue to read their court decision.”

In 2007, the governor of Bamako’s district visited the association’s members’ weekly assembly in the area of the “Bande des 140m.” He brought the message of Mali’s president Amadou Toumani Touré, which asked the association to accept to give the government the permission to build the “Maison de la femme et des enfants” (the house of the woman and children) on a part of the litigious area. This house was a gift to the government of Mali by the Chinese government. The message of the president stated that after the opening of this house, the rest of the area would be parcelled out and those evicted in 2002 would be resettled.

The house officially opened on 8 March 2010. I asked whether there was a document like an administrative letter signed by the president or the governor. There was not. I was present at the assembly in question. The governor came in uniform with his delegation. The president’s message was oral but it is interpreted by the members of the association as a promise that is still not fulfilled.

“There is a coalition of civil servants and state institutions against us”

“Does the quest for a monopoly of land tenure of the state exclude these citizens?” Famory Kamissoko, my main interviewee and president of the association,¹⁰ is one of the persons affected by the rehabilitation

10 So, to use the jargon of the field researchers. Personally, I prefer to use the terms “teacher” and “instructor” because he masters the domain to every single detail.

project. He sees himself as a victim of the project and is the president and one of the founders of the “Association of the Inhabitant of Sabalibougou Est.” “This is a legally registered association that has the objective to be resettled with their right to stay on the ‘Bande des 140m’” (Interview with Kamissoko, 2013). The forced eviction from the area affected about 282 low income households, as was pointed out by Kamissoko in the interview. It should be noted that more people could have been affected given that a Malian household is not the average size of households in Western countries. In Bamako, a household has around 25 to 30 persons. It is possible to find three generations living in a house, either permanently or temporary. This is especially true when some members commute between the household in a town and another village. As stated above, migration inflames the life in Bamako. In pursuing their agenda, the members of the association act on their understanding of the causes and conditions of the implementation of the rehabilitation project by the municipal government. The clearing-off took place in 2002, as the first of several steps, following a municipal decision and technical support. The municipal office of the “Commune V” made an announcement via radio to notify and warn the households that the decision had been reached to clear the area. Subsequently, this decision was executed although most of the residents of the area refused to move out of their homes, which would result in their demolition. Against the backdrop of the judicial decision No. 80 of 1994 from the Supreme Court, the residents had not taken the municipal decision of the “Commune V” seriously. The demolition operation created enormous material, physical, mental and socio-economic damages for these displaced persons. It is interesting to note that, despite the resources and their ability to use force, the municipal government has not been able to prevent the displaced residents from continuing to access their plots of land and earn some form of living from them. This highlights the limits of state power as well as promotes questions about the functioning of formal institutions and the state’s capacity. Kassim Sangaré, a former lorry driver, is one of the affected persons and also a member of the association. He argues that: “Since the clearing-off in 2002 I have lost my home, I lost everything: I have no family life. My family has been dislocated between friends and relatives. But I’m still here struggling for my rehabilitation by the respective authorities” (see Fig. 2).



Figure 2: The shed of Sangaré, 2014 (photo by the author)

Mr. Sangaré spent his days on his initial plot where his straw shed, the jar, the toilet and the tree still hold their positions in his demolished compound. The straw shed has been conventionally pushed aside 50m, this was because the installation of infrastructures for running water started in 2016. His family members visit him regularly. Continuing to hold on to his plot of land Mr. Sangaré makes mudbricks there to sell. The shed¹¹ of Mr. Sangaré is the weekly meeting point of the association. The Malian flag waves on top, signalling that they are not in direct opposition with the state. Since the demolition of the area, the forced displaced persons meet every Sunday evening in front of Sangaré's shed regardless of weather conditions. The heads of displaced households are automatically present at every weekly meeting. These meetings are often male-dominated as the women usually take responsibility for the children. They too are free to partake

11 This part of the ethnography has been published in Doumbia, L. 2015. "An Ethnography of Urban Land Holding and Housing in Bamako, Mali." In: *Actors, Institutions and Change: Perspectives on Africa (BIGSASworks)* 2015(13): 81-101. Online : <https://epub.uni-bayreuth.de/2044/>.

in the meetings, if circumstances allow. Interestingly, the “Bande des 140m” was razed down by the municipal government because it did not look well-structured and wealthy. The area, according to the municipal authority, is informally settled but it is still used by many people to generate income. For instance, Sangaré makes bricks and sells them to other developers; his wife gathers gravel from the area and sells that to builders. There are people who make straw walls to sell; others work as mechanics in an automobile garage. Thus, economically, the place is very informally exploited. As the residents attest to, they are aware of the litigious character of the “Bande des 140m,” but since they do not have any secure economic insurance they will have to do anything possible to stay on the land in order to be able to cater for their families. The “Association des Habitants de Sabalibougou-Est” (ASHE) is a founding member of an umbrella coordination called “Union des Associations et Coordinations pour la Défense des Droits de Déminis” (UACDDDD), which covers all associations that claim their lawful right in the country. There is another coordination, called “Coordination des association pour le développement de la commune V,” to which ASHE adheres to, as well as to many worldwide networks such as No Vox, Attac, Amnesty International, etc.

Referring back to what Kamissoko said, “Unity is strength” (“united we stand”) this is “especially [true] when you have a common concern, [as] it is easier for the Malian state officials to deal with a group of persons than with single individuals” (interviews with Kamissoko 2013). At the weekly meetings of the association, several strategies are devised such as: the inclusion of reports of the members which provide useful information for the people, different solutions, professional help, writing letters to be sent to the government official such as the governor or mayor of the city, the President of the Republic, the interior minister, the minister of justice, the advocates, etc. While there is no meeting during the week, some members frequently gather under the shed and discuss other issues. What is important to note is that they usually act as some kind of watch dog over the area; once they see “foreign” people visiting the area with members of the municipal government, they confront them by blatantly saying: “The “Bande des 140m” is not for sale!” The activities and strategies of the displaced residents signalise that they are highly determined to hold on to their claim of ownership over the land until their rights are reinstated. By contrast, members of the municipal government

especially, the elected mayor and the municipal council as well as the general secretary of the municipality, who is a civil administrative servant, recognise neither the claims nor struggles of the association. Not even the judicial decision received from the Supreme Court is recognised. The municipal government rather relies on the fact that the forced displaced persons do not have the “Titre Foncier” to justify their claim to the land that they got their plots legally through state rules and regulations. Accordingly, the municipal authority sees the residents as squatters, who must move out to another peripheral zone.

The title deed known in Mali as “Titre Foncier” is considered by the land legislation of Mali as the incontestable evidence of property. The matriculation is a priori essentially included into property. This legal framework is the working tool of the state and its representatives because it guarantees the intangibility and the regularity of the issued “Titre Foncier,” “lettre d’attribution” or/and “Permis d’occuper.” Intangible means untouchable. In other words, the legal framework of land management in Mali prohibits the so-called “lotissements coutumiers,” because only the state controls the matriculation (Rondeau 2000; 2006: 4). Given the claims over ownership of land tenure in urban Bamako and the different norms governing entitlement to land, it seems imperative (Djiré 2006: 3) to reorganise the system of land tenure and it must include individuals because as Moore states: “The law (in the sense of state-enforceable law) is only one of a number of factors that affect the decisions people make, the actions they take and the relationships they have” (Moore 2000: 78).

This means that the concept of “semi-autonomous social fields” cannot be ignored in a discussion of the issues of urban land management and housing in Bamako. This concept helps to describe the existence of legal pluralism as a process that is incorporated within social interactions. It is the art of analysing how to understand a social field and how to identify complex norms that can be generated in the field as well as the way they can be implemented. Legal anthropology attempts to identify forms of governance in societies especially bearing conscientiously in mind that governance exists only in the plural (von Trotha 2006: 31). It is beyond doubt that there are multiple forms of governance and no culture or society can pretend to be or have the ideal. Using the neologism of “*Juridi-cité*,” Le Roy posits that the

management of land and especially urban land holding/use must be better understood and reshaped by interested actors.

The Case Study: “Bande des 140m”

The “Bande des 140m,” which, as we have seen, has an area width of 140m, is located in the eastern part of Sabalibougou on the right side of the ECOWAS Avenue, when coming from the international airport Modibo Kéita (see Fig. 3). The ECOWAS Avenue is one of the most important avenues of Bamako because it crosses the capital city from the Presidential Palace on the left bank of the Niger River to the International Airport Modibo Kéita on its right bank and vice versa. Given its strategic location, Sabalibougou became the area with the highest population density at the end of the 1980s. The area became populated initially as a suburb and somewhat not “officially” belonging to Bamako, as Bamako was founded on the left bank of the Niger River. Despite this, Sabalibougou’s present location in the inner city makes the remaining plots of land in that area rather very expensive. Due to its location, Sabalibougou “Bande des 140m” has become the most attractive place for investors (politicians, traders, banks, NGOs, etc.).

These agencies, the government and the municipalities on the one hand, view the land (i.e. the plots in the area) more as a commodity in terms of capital investment for profit (see Klute and Fernandes 2011). On the other hand, some of the inhabitants (both individuals and households) often perceive the area as their basic place of existence. These competing notions about the utility of urban land holding among the different actors reflect the general debate about space in urban studies.

An important argument in this line of thought is set out by Henry Lefebvre (Lefebvre 1974: 23)¹². In his seminal work on the “right to the city,” Lefebvre posits that the state’s construct of urban space, conceived around abstract dimensions such as size, width, area, location, could be empowered to participate in the production and use of the urban space in which people live and which they shape. His work continues to influence contemporary critical thinking about the uses of urban space. Consequentially, this view is qualitatively different from

12 Henry Lefebvre was a French philosopher and sociologist who among others wrote on how the urban working class lived in Paris during the 1960s.

how residents construct it. Inhabitants, on their part, construct urban space based on its social utility, i.e. a space to live. Lefebvre argues that the state's abstract conception of urban space and its uses are starkly different from how residents actually use it. The state's abstract conception and planning is often influenced and promoted by real estate development, which results in conflicts between residents and the state as their visions of the space differ. To ensure that residents do not surrender their citizenship rights to the pressure applied by the state, Lefebvre emphasise the agency that citizens have and could employ. He highlights their central role to influence the decisions of the municipal administration as well as their right to physically occupy, live in, and shape the central areas of the city.

This participation and shaping of the urban space by residents in the current case study is mostly driven by the competing narratives about the institutional rules that govern ownership and the right to stay on the land. The topic around urban land holding and the multiple institutional rules governing it, especially in sub-Saharan Africa, is still important to researchers. Indeed, the phenomenon has been studied in Guinea Bissau (Klute and Fernandes 2011: 4) and similar fieldwork has been conducted in Addis Ababa.¹³ Basically, the commoditisation of land refers to Karl Polanyi's view of the economy. Polanyi employed and promoted a substantialist system of economy. This theory states that transactions are determined by values of "give-and-take" (i.e., reciprocity). The transactions of specific commodities that are characterised by Polanyi as "fictive" are the following: land/ground, work and money. The substantialist market system is self-regulated and embedded in the economic social environment, which emphasises a regulation that is not only exclusively economic (Polanyi [1985]1944: 3–4), but rather embedded in socio-cultural domains. The empirical findings of the current case study are discussed in the following section.

13 For a detailed discussion, see Doumbia, L. 2013. *Addis Abeba, eine echte "Neue Blume"?* Eine anthropologische Kritik am Masterplan und an den Prozessen der Stadtplanung von Addis Abeba. Saarbrücken: AV Akademikerverlag.

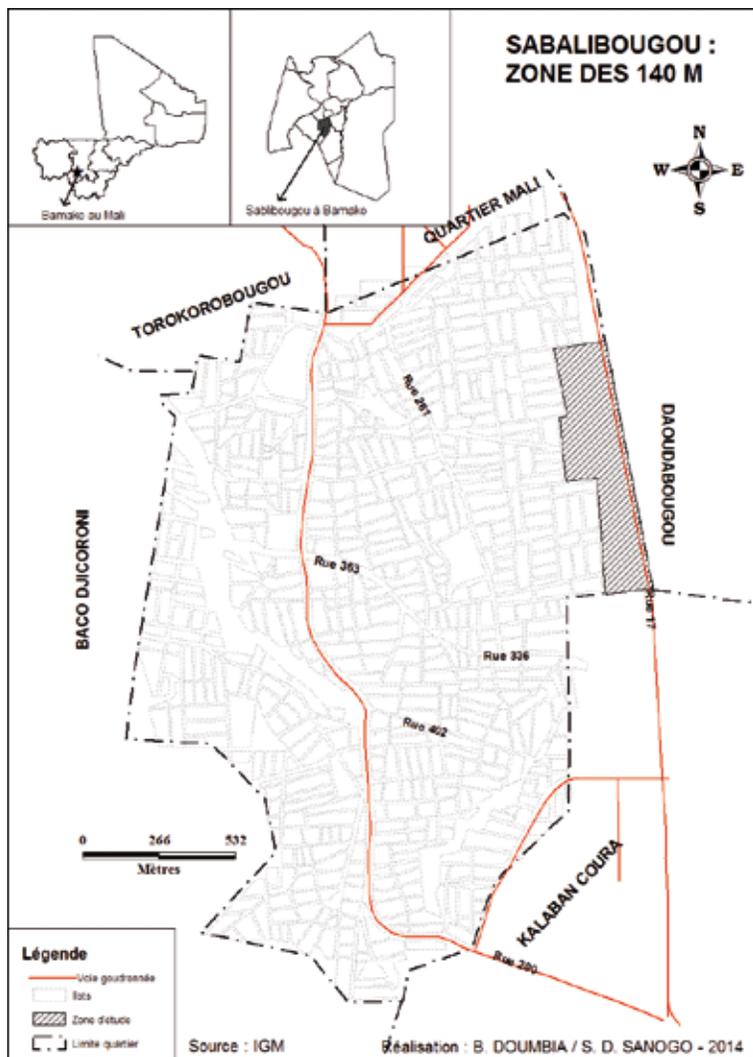


Figure 3: Study area – Bande des 140m (map by the author)

Bargaining¹⁴ Powers and the Political Alienation of Land

Is land politically and administratively alienable although this stake is supposed to be socially and culturally embedded? It is empirically an object of constant bargaining between urban actors.

The case study “Bande des 140m” has seen many years of litigation between competing institutional rules and their actors, which all lay claims to who has the right to the land. The intriguing question is: Why is it loaded with violence? As stated in the previous sections, a challenging factor (an obstacle) is the matter of state organisation. It is obvious that there is a legal framework for land tenure regulations in Mali, namely the “Code Domaniale et Foncier” (1986) and its amended version of 2000, which are real aspects of political and administrative alienation. Simultaneously, one could notice a deficit of capacities in the implementation of this legislation. As we know, people have societal habits and the ability to organise and be organised in the framework of rights and regulations they identify for themselves and treat as law (Tamanaha 1963: 313). This framework of rights that individuals, put together, more often than not becomes a social force for resisting the power of the state (see also Lentz, 2013: 5) perceived as *Leviathan* (Spittler 1980: 1). On the one hand, the inhabitants of the “Bande des 140m” are, in their understanding, not illegal squatters because they received their plots around the 1970s from traditional land owners of Kalaban Coro and Sabalibougou. This occurred when the capital city had administratively not stretched out over Sabalibougou. Therefore, at that time Sabalibougou was an urban village or, at most, an immediate suburb of Bamako. On the other hand, the municipal administration evicted the inhabitants of the “Bande des 140m” relying on their legislation and regulations of their urban planning and renewal programs. In addition, the conflict between the judicial decision of the Supreme Court and the municipal decision of the “Commune V” deprived the forced displaced persons, who have been struggling to hold on to their claims to the land for over twenty years, their rights to be rehabilitated.

This impasse critically questions the bureaucratic functioning of different state organs in Mali (Doumbia 2018), which prompts the question: How coherent are the legislative, judicial and the executive

¹⁴ Cf. Spittler 1980: 10.

organs? The evicted people of the “Bande des 140m” wonder: What is the significance of the decisions and regulations made and taken by the state? They sometimes claim to be treated as second-class citizens by the contemporary Republic of Mali because they are being systematically excluded. This discussion raises the question of legal pluralism, which begins with different actors’ notions of appropriation/properties, legitimising authorities of use and management of conflict. Having understood how these persons came to settle in Sabalibougou in the 1970s, we can infer that their access to the plots of land was conditioned by the type of social entry the actors possessed. This factor is essential to note in order not to reify the concept of land law or land regulation. The nature of social relations that exists between the actors is determinant in terms of the access to land rather than the laws and regulations *per se*. The term household that was used in the discussion as a statistical unit to describe the case of litigation of the “Bande des 140m” was observed in the field. Nonetheless, it showed the plurality and the heterogeneity within the association itself. However, because the diversity is much more complex, it became necessary to analyse narratives within the households to understand the issues in more detail. It is interesting to observe how the individuals, the associations, the different offices of the municipality and the public interact. Besides the state’s existing norms and regulations, the individuals through their struggles in their associations and coordination contribute massively to the improvement and reshaping of land management. Thus, despite the state’s claim and classification of the inhabitants as “squatters,” “slums-dwellers,” and “illegal occupants,” the latter can show that they are not passive but rather active players in managing and shaping the urban space.

Conclusion

The bottom line of the discussion leads us to conclude that the social practice of custom, which is a source of law in this context, deals with a different notion of “property” than the state’s perspective – namely “appropriation.” However, the question arises: Are the usufructuaries the depositaries, against the state that takes possession *per se* of all rights of ownership of the land? Does this endogenous or even customary form deserve to be codified and considered in the practice of urban land with the aim of involving as many citizens as possible?

How far could we analyse the debate on *commons* (Hardin, 1986: 1243; Ostrom, 1990: 6; Le Roy, 2015; 2016: 605) as an alternative to the private ownership oriented policy of land tenure? The customary perception of land is based on the inalienability of the latter. This means that the access to land is regulated by the notion of appropriation, which is focused by the “revolution of the common.” The access to land was regulated with the sense of collective, common resource, then came the era of the commodification of this resource, but the notion of common and the endogenous form of access and use now emerge and resist neo-traditional norms (see Klute and Fernandes 2011: 8).

The interpretation of the field data and particularly the competing plural points of view of the heterogeneous actors showcase the participation of the grassroots in the policy of their everyday concerns. The reasons of the association’s resilience are: (a) The Supreme Court’s decision number 80 of 1994; (b) the article 34 of the land code about the confirmation of the customary regulations of land access; and (c) the presidential promise brought to the associations by the governor of Bamako’s district in 2007. In this scope the theory of the “anthropology of democracy” (Paley, 2002: 469), such as the concept of “heterarchy” (Klute et al. 2011: 6), describes the politics of urban land practice in Bamako and can be applied to this case. Moreover, the results of this research exemplify that there is a great deal of empirical research on the state and society to be done in order to capture the everyday interweavement of parastatal organisations, groups or individuals and the state per se which is permanently “at work” (Bierschenk and Olivier de Sardan 2014: 5).

While the state claims to be the guarantor, enforcer and owner of the land in administrative texts, populations are continuously being expropriated and displaced by state services for “development” reasons. Subsequently, they challenge and contest enforcement policy texts and do not even identify themselves with the land code. This situation leads to a multifaceted and multidimensional field of speculation that justifies the use of the term *imbroglio* of regulations and actions in the management of land in Bamako. People’s efforts to secure land leave different traces on social science research in Africa.

“The centrality of land [...] in people’s livelihoods has also meant that such resources [land] have enjoyed the keen attention of the

state – whether colonial or independent, central or local. Right to land [...] not only determines control over economic sources of livelihood but, for states and governments have also meant political control over African populations” (Benjaminsen and Lund 2003: 1).

Access to land is still the major concern of African societies. While phenomena such as “globalisation” and “hegemonic discourses” attract the attention of researchers, there is a need to accentuate the quest for actors on the ground. These people are more politicised than ever before (ibid.). It is crucial to study the capacity for action of individuals or groups of individuals who act in such a context. A cross-section of the Malian people is not considered in the governance texts of the Malian state. Most of them identify with local customary tenure standards or local land rights (Kassibo 1997: 6). Therefore, so far they are satisfied, they accept the state’s regulation. In cases of litigations, the grassroots use every source of social norms to hold their position: local customary norms, national state norms (decentralisation), or even international norms. This is called “forum shopping” in legal anthropology (von Benda-Beckmann 1981: 117). The present study is a contribution to the theme of legal pluralism (Griffiths 1986: 2), which refers to the fact that several social norms have the right to coexist in society.

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