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An Ethnography of Urban Land Holding and Housing in Bamako, Mali

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Abstract

The city of Bamako, the Malian capital has witnessed demographic change and spatial sprawl of its urban environment over the last 20 years. The population changes led to the emergence of the so-called “squatter settlements” due to the government’s inability to provide for the housing needs of the teeming mass of urban residents. Rather, the state and the local government attempted to regulate the “squatter settlement” phenomenon through bureaucratic policies and urban renewal projects. Yet, the challenge of managing urban land holding and the processes in the provision of housing space in Bamako remain problematic, conflictual and very often violent given the different claims of entitlement to the land. The aim of this paper is twofold: it first describes the chronology of the evolution of the land tenure system and second, from the legal anthropological perspective, provides a description and interpretation of the attitudes and the emical perceptions of actors (protagonists) involved in the policy and processes of urban land tenure in Bamako. Based on empirical case study in Bamako, the paper explores the dynamic factors that have shaped the processes of landholding and management from the last century to the present. The global influences on local structures and the commoditization of land that leads to the discussion of usufruct and appropriation of property are discussed.

Keywords: squatter settlements, slums, urban land holding

Introduction

This paper treats the issue of urban land management in relation to the politics of housing, renewal and rehabilitation plans as well as the displacement, compensations and conflict regulations in Bamako. The capital city of the Western Africa Republic of Mali witnessed a great demographic and spatial sprawl of the urban area during the last two decades. Some so-called “squatter settlements” emerged due to the fact that the government is economically unable to address the ever increasing problem of housing and therefore tries to regulate it through bureaucratic policies and urban renewal projects. These attempts have been made against a backlash of the competing struggle and interests between residents and the state which has aptly been captured by researchers as follows:

The problematic of managing urban land holding and the processes of housing space provision in Bamako often contains 'lots of ink' but also and sometimes 'blood flows' in Bamako (Hesseling, Djiré & Oomen, 2005).

This paper has two aims: first, it briefly describes the chronology of the evolution of the land tenure system. Second, it focuses on the legal anthropological perspective to provide a thick description and interpretation of the attitudes and the emical perceptions of actors and protagonists who are involved in the policy and process of urban land tenure and management in Bamako. This discussion is based on an empirical case study in Bamako and the emphasis is to understand the factors of innovation and permanence that characterize the process but more so their dynamics from the last century to the present.

An intriguing question about the land holding and tenure in Bamako is: *Why is the issue of urban land management loaded with violence?* While the issue about land holding and violence is very complex and not easily explicable, a critical view points to the fact that the core of land tenure in urban areas of Bamako is about power, violence, legitimacy and jurisprudences. There is a high degree of violence due to the plurality of actors and actors' perceptions of the tenure systems which informs the competing narratives about ownership and the right to occupy specific places in the city. The essence of this paper is to empirically show that there is an urgent need to rethink, reshape and reorganize the institutional rules in the management of the land tenure system.

"Le foncier est un fait social total" is an important argument by Marcel Mauss⁶² which has influenced many scholars on land ownership, tenure and the social relations around it. Seen as a total social fact, Étienne Le Roy elaborates further by arguing that land holding in general is the common denominator of all social relations existing between individuals.⁶³ Therefore land management, according to Le

⁶² For a detailed discussion on this concept see Etienne Le Roy's (1997) work on La sécurité foncière dans un contexte africain de marchandisation imparfaite de la terre.

⁶³ As Le Roy puts it (in French): Le foncier (F) est un rapport social (S) ayant la terre ou le territoire (T) comme assise et enjeu et où les variables économiques (E), juridiques (J), et techniques d'aménagement de la nature (A) sont pondérées par le facteur politique (P) aux différentes échelles locales (l), nationale (n) et internationale (i). See

Roy, is a social relation having land/ territory as the principal and common denominator whereas economic, legal and technical variables are balanced with the political factor that is somehow raised to the local, national and international powers. The social relation around land and its entanglement with economic and power issues is used in this study as an entry point to the legal anthropological perspective. Again, the diversity of agencies and actors who are involved in the management and holding of urban land in Bamako leads in a special way, it is believed, to the concept of semi autonomous social fields (Sally Falk Moore, 1978). And within this complex dynamic of social interaction, the conflict is latent in diverse ways.⁶⁴

Problematic of the System of Land Tenure

This section provides a brief history of the capital city of Mali where the fieldwork was conducted. Bamako almost appears to be a mega city nowadays. Like other capital cities in Africa, the population of Bamako has more than doubled since the 1970s. The Malian capital traces its origin to 1640 on the left side bank of the Niger River. By the end of the 19th Century, Bamako had become first the provincial capital of the colonial French Sudan (Soudan français) before it became the economic and administrative capital. It finally gained the status of the capital city of the Republic of Mali in 1960. Although relatively small before colonial rule, compared with other settlements, the rise in the population of Bamako began when the city became both the administrative and economic center for the colonial administration. As, a booming center for trade and commerce, the city attracted migrants from within Mali and neighbouring West African countries (see Meillassoux, 1965). Subsequently, as of 2012, the city had grown to include 2.5 Million inhabitants and stretches out over 267km² of land surface (Mairie du district de Bamako, 2001). Under the strong pressure from population growth, the city authority's policy of providing space for residential buildings and urban housing has faced serious challenges. The city administration undertook measures to renew, rehabilitate and restructure parts of the capital, including Sabalibougou,⁶⁵ where a specific social phenomenon of housing had emerged. This phenomenon is called variously by state and city

Etienne Le Roy (1997) on La sécurité foncière dans un contexte africain de marchandisation imparfaite de la terre.

⁶⁴ See Henry Hagen and Rusen Keles (2004)

⁶⁵ The study area

authorities as “Slum”, “illegal housing”, and “Squatting”.⁶⁶ At the grassroots level people call it in the Bamanan language *Sonsoribugu* which translates literally as the area where people squat – as *sonsonori* means squat.

Before the advent of colonial domination, which introduced the state system in the administration and management of land, the land tenure regime was organized and institutionalized by the local communities or groups of individuals⁶⁷ 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 either in rural or urban areas.

Historically, 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. Therefore the proclamation of the code Faidherbe on March 11, 1865 stated that only the regular (individual) ownership title is recognized. This legislation excluded customary (communal) ownership of land which is the pre-colonial arrangement of land management for the population instead of what was mentioned in the Code Civil Français (see Diawara, 2002 p. 77). Subsequently, the “Afrique Occidentale Française (AOF)” introduced the matriculation as an obligatory document of individual ownership since July 24, 1906 (see Rochegude, 1982 p. 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*⁶⁸ (translated roughly as federal or national land code), the “Etatization” (i.e. nationalization) attempt to fully monopolize the management of urban land holding is yet to be achieved. The first article of the law in the national (federal) 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.⁶⁹

⁶⁶ Quartier spontané

⁶⁷ Kassibo (1998); Oomen and Djiré (2005).

⁶⁸ Code domanial et Foncier, 1986

⁶⁹ Translated from the code domanial et foncier by the author

Thus far, references to and reliance on the housing provision policy for addressing the housing needs of the urban residents has not been very helpful since the state and city authorities could not catch up with the demographic pressure. The migration flow from rural to urban areas, especially to Bamako (which was informed by French colonial legacy of centralization of the state), has created a shortage of organized housing for residents. Given the problems associated with the housing system and its management, I employ a mix of existing scholarly works including the theory of James Scott. The phenomenon of city planning is seen by Scott as “social engineering” which is conditioned by the processes of legibility and simplification of the society. Concrete case studies are described by Scott to explain *“How certain schemes to improve the human condition have failed”* such as “the compulsory villagization in Tanzania” and “the construction of Brasilia, Brazil’s capital city. Social engineering is a measure of city planning in the sense of developing and renewing it that combines four elements in the implementation. The administrative order of the nature and the society is the first necessity. The second is the high modernist ideology with a belief in science and industrialization; the third element is the existence of an authoritarian state for the implementation and last but not least, the existence of a subordinated civil society that has no plans to control and defend another point of view.

In fact, these elements lead to disaster, according to Scott, as implementing measures of city planning in terms of “social engineering” is about an arena within which state institutions, offices, administrations, city planners, investors, civil society organizations and other interested groups need the same resource. The state tries to make the nature and society legible and touchable through processes of simplifications and standardizations.

State simplifications such as maps, censuses, cadastral lists, and standard units of measurement represent techniques for grasping a large and complex reality (Scott, 1998 p. 77).

In the mid 1970s the former president of Tanzania Julius Nyerere implemented the Ideology of “Ujamaa village”. According to Scott this Ideology is “large scale social-engineering” (Scott, 1998 p. 223). This was somehow for the purpose of setting up a revolution and socialist oriented restructuring of the housing situation und employment

provisioning for the people. Moreover the implementation of the “large scale social-engineering” aimed to basically change people’s habits and perceptions. In the beginning people had massively participated in the project but later they all turned to reflect on their forced displacement. People were expropriated and their points of views and knowledge were not considered. The argument in this paper is theoretically based on the work of other scholars (e.g. Kassibo, 1998; Hesselings, Djiré & Oomen, 200; Le Roy, 1997, 2006) and uses findings from the empirical case study to diagnose the nature of plural management of urban lands in Bamako. It is, however, important to emphasize that writing about housing or house holding in the Malian context implies a particular tenure of the plot/ land. So when one speaks of land holding and tenure, they assume that the tenant and holder is the same and this is related to social rules, rights, orders and not the least, actors. In addition, the actors and individuals are very heterogeneous and migrated originally from elsewhere in the country to Bamako.

Research and Analytical Approach

This section focuses on the ethnographic approach that was applied in conducting the fieldwork in Bamako and the analysis of the findings. As already stated, urban land holding and housing in Bamako is conceptually and in our understanding, conflictual (latent or open) and very dynamic. Thus it is likely tautological to apply the “actor-centered-approach”.⁷⁰ This approach entails concentrating on different narratives of different individuals and actors regarding their degree of involvement, affections, and their identities to find out potential “basic narratives”.⁷¹ This concept is appropriate since the object of the research is related to governance and the political cultures which are current and mostly contested. In other words, the research on urban land management in Bamako requires a focus on narratives from the various actors who are involved in the process. The legal anthropological perspective is employed in this paper because of the need to properly situate the pluralistic logic of land management and dispute settlement in the Malian context. This approach thus marks a departure from the positivist-modern institution of jurisdiction which was introduced and implemented by the colonial state. The central question is “what is law?” That is to say, in a context where there co-exist multiple institutional rules, what

⁷⁰ Herz and Schwab-Trapp (1997)

⁷¹ Trutz von Trotha (2007).

could legitimately be considered as the law? The difference between ‘law’ and ‘custom’ elaborated in the classical works of Radcliffe-Brown (1952), and upon which much of the later discussions of legal anthropology (Maine, 1906⁷²; Bohannan, 1963; Gluckman, 1955) were based, traces its origins to the eighteenth century definition of “law as a contract” between individuals. The general consensus was a focus on societal arrangements for enforcing sanctions and not necessarily the form they take. Subsequently, the legal anthropology framework has sought deeper understandings to the dispute-order connection by exploring actors and institutions with authority to make norms that are legally binding and the social processes that mediate their persistence and change. This paper thus sets out, as its objective, to analyze the pre- and post-history of land dispute settlements within and beside the state (leviathan).⁷³ This includes the reflection on what kind of label could be given to custom vis-à-vis law in the positivist sense and the one most important in understanding urban land tenure. Moreover, the paper explores the influence of global challenges on local structures in Bamako in terms of commoditization of land that leads to the discussion of ‘*usufruct*’ i.e. land appropriation and property rights.

From the Suburban to Town Centre: Sabalibougou

Bamako is, as the capital and largest city, divided into six (6) administrative communes (i.e. municipal administrative entities). This classification was informed by the so-called decentralization program which has constitutionally been implemented since 1992. The case study areas, Sabalibougou is one of seven (7) *quartiers* within the administrative jurisdiction of commune V as presented in Table 1. Commune V is one of the border communes of Bamako because to its north there is the Niger River and to the south is the zone of the International Airport. The rural commune of Kalaban Coura is located south-west to Commune V while to the east, we have the commune IV and again the River Niger.⁷⁴

⁷² See Sir Henry Sumner Maine’s 1861 book: *Ancient Law, its connection with the early history of society and its relation to modern ideas.*

⁷³ Spittler (1980); Klute (2011).

⁷⁴ Plan de développement économique social et culturel de la commune V – Période : 2005-2009, KGM, Août 2004, Bamako - Mali

Table 1:
Areas in the Commune V of Bamako by Population

No.	Quartiers	Population Male	Population Female	Total
1	Badalabougou SEMA I	10,480	13.195	23.675
2	Daoudabougou	25.003	26.140	51.143
3	Quartier Mali	7.785	8.171	15.956
4	Torokorobougou	7.106	6.836	13.942
5	Kalaban Coura	28.843	30.038	58.881
6	Baco-Djicoroni	18.208	18.750	36.958
7	Sabalibougou	25.165	24.027	49.192
Total		122.617	127.110	249.727

Source: Plan de développement économique social et culturel de la commune V (2004).

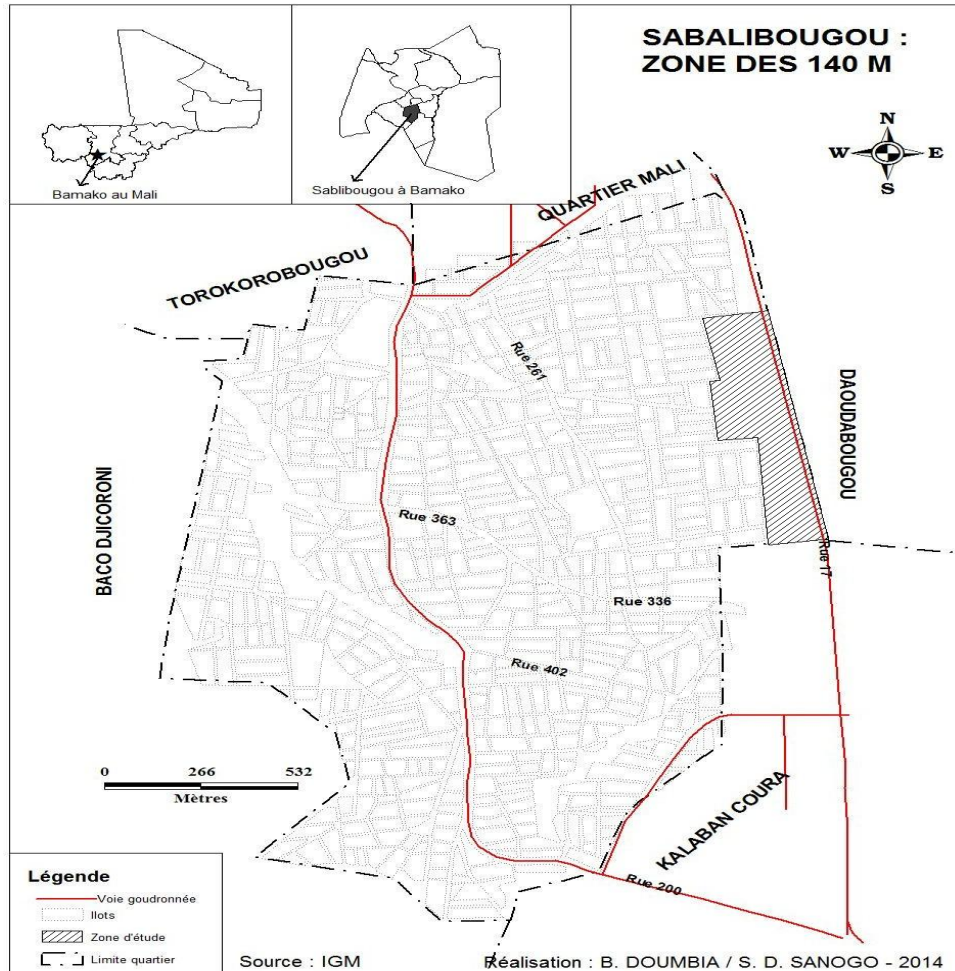
Area Description

The “La Bande des 140m”⁷⁵ is located in the eastern part of Sabalibougou on the west side of the ECOWAS Avenue (see Figure 1). This 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 River Niger to the International Airport on the right bank of the Niger river and vice versa. Given the strategic location, Sabalibougou became the area with the highest population density at the end of the 1980s. The area became populated initially as suburb and somewhat not ‘officially’ belonging to Bamako but its present location in the inner city makes the plots of land over there rather very expensive. Due to its location, Sabalibougou “la 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 making⁷⁶. On the other hand, some of the inhabitants (both individuals and households) most of often perceive the area as their basic place of existence.

⁷⁵ 140 meters is the total size of the area in question.

⁷⁶ See Georg Klute & Raul M. Fernandes (2011).

Figure 1: Map of Bamako showing the Case Study Area “La Bande des 140m”



These competing notions about the utility of urban land holding among the different actors also reflect the general debate about space in urban studies. An important argument in this line of thought is set out by Henry Lefebvre (1991).⁷⁷ In his seminal work on the ‘right to the city’, Lefebvre posits that the state’s construct of urban space is conceived around abstract dimensions – size, width, area, location,

⁷⁷ Henry Lefebvre, a French philosopher wrote on how urban working class in Paris in the 1960s could be empowered to participate in the production and use of the urban space in which they lived and shaped. His work influenced the contemporary critical thinking about the uses of urban space.

etc and thus qualitatively different from how residents' construct it. Inhabitants, on their part, construct urban space based on its social utility i.e. a space to live. Lefebvre argued that the state's abstract conception of urban space and its uses was starkly different from the uses to which residents' put it. The state's abstract conception and planning was often influenced and promoted by real estate development which resulted in conflicts between residents and the state. To ensure that residents did not surrender their citizenship rights to the pressure from the state, Lefebvre therefore pointed out the agency citizens have and could employ. He highlighted 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 holding and the multiple institutional rules governing it especially in sub-Saharan Africa is still interesting to researchers. Indeed, the phenomenon has been studied in Guinea Bissau (see Klute & Fernandes, 2011) and a similar fieldwork has been conducted in Addis Ababa.⁷⁸ Basically the commoditization of land refers to Karl Polanyi. The reference to Polanyi is important in the sense that he employed and promoted the substantialistic system of economy. This theory refers to transactions that are determined by values of 'give-and-take' (i.e. reciprocity). The transactions of specific commodities that are characterized by Polanyi as "fictive" are the following: land/ ground, work and money. The substantialistic market system is embedded in the economic social environment which emphasizes a regulation that is not only exclusively economic (Polanyi, 1983 p. 111) but rather embedded in socio-cultural domains. Empirical findings from the current case study are discussed in the next section.

Litigation - Ethnography

The issue of land management in Sabalibougou Est, also called "La Bande des 140m" has endured for more than 20 years. An association of inhabitants of the area keeps struggling for their rights.

⁷⁸ 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.

In the framework of parceling 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 houses of low-income inhabitants in 2002. The displaced persons were however not passive observers; they subsequently founded an Association namely “Association des habitants de Sabalibougou Est” and claim for the resettlement and reinstatement of their right 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 issued by the Supreme Court with decision No. 80 of June, 1994. The parceling / allotting of Sabalibougou in the Commune V of Bamako is part of a general governmental project of rehabilitation. Since 1987 it has been legally planned that the eastern and western parts of Sabalibougou would be zones of resettlement. The parceling and improvement of the western area of Sabalibougou took place without any serious problems. But the inhabitants of the eastern part of Sabalibougou opposed the Project which led to the founding of the association.

The resistance to the plans of the municipal government is partly due to the fact that the ruling of the court, according to the residents of Sabalibougou, was not applied properly. According to 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.⁷⁹

Actors and their Motivation to struggle for their Concerns

Famory Kamissoko is an affected person by the rehabilitation 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”.

⁷⁹ Translated by the researcher.

“This is a legally registered association that got the objective to be resettled with their right to stay on the ‘Bande des 140m’” (Interview with Kamissoko, 2013).

The ‘clearing-off’ of the area affected around 282 low income households, as was pointed out by Kamissoko in the interview.⁸⁰ But it should be noted that more people could have been affected given that a Malian household is not the nuclear type as those in Western countries. In Bamako, a household has more or less 25 to 30 persons. It is possible to find three generations living in a house either permanently or temporary especially when some members commute between the household in town and the other in the village. As stated above, migration inflames the life in Bamako.

In pursuing their agenda, the members of the association act based on their understanding of the causes and conditions of implementation of the rehabilitation project by the municipal government. The clearing-off took place in 2002 as the first of a number of steps following a municipal decision and technical support. The municipal government of the Commune V made an announcement via radio to notify and warn the households in the area of their decision to clear off their homes. Subsequently, this decision has been executed although most of the residents of the area had refused to move out of their homes for them to be destroyed. 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 has created enormous material, physical, mental and socio-economical damages for these forced displaced persons. It is interesting to know, however, that despite its resources and ability to use force, the municipal government has not been able to prevent the displaced residents from still accessing their plots of land and making some form of living out of it. These points not only to the limits of state power but also questions about the functioning of formal institutions.

Kassim Sangaré, a former lorry driver, is one of the affected persons and member of the association. He argues that:

Since the clearing-off in 2002 I 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

⁸⁰ Municipal office of Commune V.

struggling for my rehabilitation from the respective authorities.

Mr. Sangaré now spends his day on his initial plot where his straw shed, the jar and the tree still hold their positions in his demolished compound. His family members visit him regularly. He lays hold onto his plot and confections mud bricks there for sale.

The shed of Mr. Sangaré is the weekly meeting point of the association. Since the demolition of the area, the forced displaced persons meet every Sunday evening in front of Sangaré's shed regardless of the weather. The heads of displaced households are automatically at the weekly meeting. It is often male-dominated as the women often have to take care of the children. But when they are free, they too take part.

Interestingly, "la Bande des 140m" has been razed down by the municipal government because it does not look well structured and wealthy. The area, according to the municipal authority, is informally settled but it is still used by many of the people to generate income. For instance, Sangaré makes bricks and sells them to other developers; his wife gathers gravel from the area and sells to builders. There are people who make straw walls to sell; others work as mechanics in an automobile garage. Furthermore there is a big bus enterprise and a huge cattle and livestock market. Thus economically, the place is very informally exploited. As the residents attest to, they are aware of the litigious character of "la 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 member of an umbrella coordination called "Union des Associations et Coordinations pour la Défenses 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 déveleppement de la commune V" to which ASHE adhered as well as to many worldwide networks. Because, as Kamissoko said, "unity is strength" (that is to say "united we stand"). "Especially when you have a common concern it is easier for the Malian state officials to deal with a group of persons than with single individuals".

At the meeting of the association held weekly, several strategies are devised; they include reports of the members about what they gathered in terms of useful information for the people, different possible solutions, professional help, writing letters to be sent to the governor of the city, the mayor, 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 lie down under the shed and talk about other things. What is important here is that they usually act as some kind of watch dogs; once they see 'foreign' people visiting the area with members of the municipal government, they would confront them by blatantly saying: The "Bande des 140m" is not for sale! The activities and strategies of the displaced residents reveal that they are very determined to hold on to their claim of ownership to the land until their rights are reinstated.

In 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, recognize neither the claims nor struggles of the association and not even the judicial decision they received from the Supreme Court. 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 and that they must move out to another peripheral zone. The "Titre Foncier" is considered by the land legislation of Mali as the uncontestable evidence of property. The matriculation is a priori essentially incorporated in it.⁸¹ So this legal framework is obviously 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 absolutely 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 p. 4).

Given the claims over ownership of land tenure in urban Bamako and the different norms governing entitlement to land, it seems imperative

⁸¹ See Djiré (2006) Colloque international "les frontières de la question foncière – At the frontier of land issues.

to reorganize the system of land tenure and it has to 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 p. 78).

This means that the concept of “semi autonomous social fields” cannot be ignored in the discussion of the issues of urban land management and housing in Bamako. The concept helps to describe the existence of legal pluralism as a process that is incorporated within social interactions. It is the art of analyzing 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 plural (von Trotha, 2006 p. 31). It is beyond doubt that there are multiple forms of governance and no culture or society can pretend to be the ideal. Using the neologism of “Juridi-cité”, Le Roy thinks that the management of land and especially urban land holding/ use must be better understood and reshaped by interested actors.

Outcomes

The case study, Sabalibougou which is known as “la Bande des 140m” has seen many years of litigation between competing institutional rules and their actors all laying claims to who must and who must not stay on the land. The intriguing question is: why is it loaded with violence? As we see, there is a big challenge of state organization in the matter. It is obvious that there is a legal framework for the management of land tenure system in Mali which is the ‘Code Domanial et Foncier’. But at the same time, one could notice a deficit of capacities in the implementation of this legislation. As we know, naturally people have societal habits and the ability to organize and be organized in the framework of rights and regulations they identify for themselves and treat as law.⁸² This framework of rights that individuals put together tends to become a formidable force for resisting the force of the state.

On the one hand, the inhabitants of the “Bande des 140m” are, according to their understanding, no illegal squatters because they

⁸² See also Tanahama B., 1963

got their plots around the 1970s from traditional land owners of Kalaban Coro and Sabalibougou when the capital city had administratively not stretched out over Sabalibougou. Therefore, Sabalibougou was an urban village or, at most, an immediate suburb of Bamako at that time. On the other hand, the municipal executive incriminates the inhabitants of the “Bande des 140m” by standing behind 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 deprive 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. How coherent are the legislative, judicial and the executive organs? The forced displaced people of the “Bande des 140” tend to wonder what the decisions and regulations made and taken by the state are meant for. They sometimes claim not to be part of the contemporary Republic of Mali because they are being systematically excluded when they⁸³ hinted in the interviews in Bamanankan:

“Dugukolo ka kan ka di bEE ma Manden fo mògò min b’a fE k’a bila a jufa la ka taa n’a ye” meaning that every inhabitant of Manden (country/region of the Mande people) has the right of access to a plot of land except the individual who wants to take it away in his pocket.

“Feere fEn tE – jama jE don” it is not for sale – it is a patrimony.⁸⁴ However, if one is issued a “Titre Foncier” he is going to put it into his pocket forever whether they need it or not. Is that ownership or usufruct?”

This discussion thus far raises the question of legal pluralism which begins already with different notions of properties, legitimizing authorities of use and managements and conflicts. 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 is very important for us in order not to reify the concept of land law or land regulation. The nature of social relations existing between the actors is the de facto

⁸³ Association des Habitants de Sabalibougou Est (2013)

⁸⁴ Translated by the author

determinants of access to land than the laws and regulations per se⁸⁵. The term household that was used in the discussion as 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 analyze narratives within the households in order to understand the issues in more details. It is interesting to observe how the individuals, the associations, the different offices of the municipality and the public interact. Beside 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 are able to show that they are not passive but rather active players in managing and shaping the urban space.

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⁸⁵ Von Benda-Beckmann and von Benda-Beckmann (2004).

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