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**New actors and land
acquisition around
Lake Bazèga,
Burkina Faso**

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Translated from the French by Lou Leask.

About the author

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1. Introduction

The term “*foncier*” is understood to include land, other natural resources such as water, forests and wildlife, and the interaction between individuals and groups as they appropriate and use these resources (CILSS, Club du Sahel, PNGT, 1993). This definition covers a wide range of perceptions, from donors and those in power to actors involved in rural development and rural people themselves, which all centre on the fact that land is a means of production and investment. Rightly or wrongly, the insecurity supposedly associated with customary tenure of rural lands has long been seen as a factor limiting investment and the modernisation of agriculture, as well as a justification for introducing private ownership into land legislation in many Sahelian countries.

This process can be seen in recent developments in land policy in Burkina Faso: after the Revolution, with the nationalisation of land and formal removal of customary powers over land management in 1984;¹ with the institution of private ownership titles and provisional measures giving customary authorities the opportunity to manage undeveloped areas of public land again in 1991; and finally, with the agrarian and land reform of 1996 that cancelled the provisional measures and through its enforcement order introduced the *procès verbal de palabre*,² which allowed negotiated customary land rights to be transformed into administrative rights (rights of ownership).

The *procès verbal de palabre* is a tool that can be used to reinforce the appropriation of undeveloped rural lands, especially fertile wetlands, by a new type of farmer known as the ‘new actor’. Supported by government policy and charged with modernising agriculture through agribusiness,³ these new actors are mainly active or retired officials from the public and private sectors, commercial managers, salesmen and politicians from large

1. The aim of the 1984 agrarian and land reform was not to introduce private ownership into rural areas, as in the subsequent revisions of 1991 and 1996. Rather, the intention was to reorganise production and opportunities for access to land, even though the accompanying measures were sometimes disastrous for the local authorities: “Concerns such as land issues, the unprofitable price of agricultural produce and popular participation were taken into account in 1984/1985 with the promulgation of the Agrarian and Land Reform Law (RAF), which affirmed state ownership of all public lands. In addition to its objective of promoting rural activities, the RAF also aimed to break the power of the customary chiefs and allow larger numbers of rural people access to farmland” (Ouédraogo M., 2002, p. 4).

2. Written minutes of a discussion held in the presence of a government official.

3. In Chapter 1 of the terms and conditions covering land in Bagré (Order No. 98-033/MEE/MA/MEF/MATS, 1998), agribusiness or agro-industry is defined as being “all agricultural use whose objectives go beyond subsistence farming. In the case of agro-industry, farmers could be steered towards integrated activities (production, processing, conservation, supply, commercialisation)”.

urban centres, or the very few country people that have made money rearing livestock or through their business activities.

By making these new actors (with all their financial and social networks) key players in rural land relations, the government can strategically avoid the kind of direct engagement with customary land management rules that proved so controversial in the past. This latest encounter between modern and customary land regimes is an opportunity to re-establish a rapport between the town and the country, between urban and rural citizens, between modern and traditional agriculture. We decided to observe this process around Lake Bazèga in central southern Burkina Faso, where private operators have cultivated orchards for several decades.

We had two major objectives. The first was to highlight the different ways that actors use legal and customary arrangements in land transactions, focusing on the content of these transactions and the steps taken to secure or validate them. The second objective was to show, through case studies of conflict, the strengths and weaknesses of the various options, the roles played by the different decision-making bodies and, above all, the strategies adopted by the actors involved.

The field surveys and documentary research were undertaken between May and September 2003, in Ouagadougou and Bazèga province. The surveys covered as broad a cross-section of the public as possible, from new actors, administrative and technical officials to customary chiefs and local people. We tackled a range of themes related to our objectives, mainly through interviews and taped discussions, generating around 30 useful hours of tape and 600 pages of transcripts. These themes were partly defined as a function of the guides provided during the study on '*L'évolution des transactions foncières au Burkina Faso*' (for a summary of these guides see Mathieu P. *et al.*, 2000).

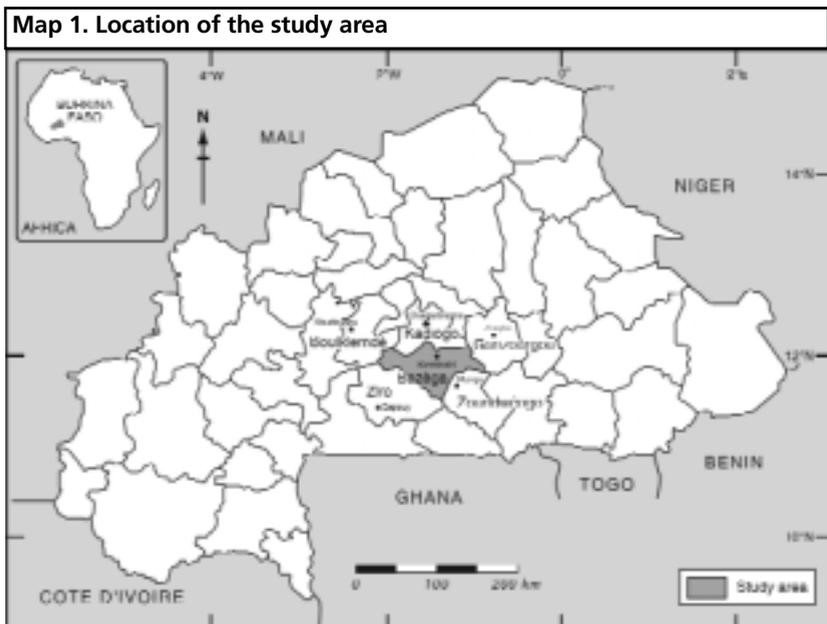
Most of the information and analysis related to the first objective is presented in this paper, which is a synthesis of three earlier reports: the findings of an exploratory survey, a progress report and an interim report. The first two sections below provide the political, land and economic data for the province and for Lake Bazèga and surrounding villages. Section 4 then describes the manner in which different actors on both sides of the lake acquire agricultural land, while Section 5 examines the possibilities that land legislation currently offers new actors to obtain title deeds, and describes present formalisation practices in the study area. The final section reflects on the conditions under which local land practices may be recognised, and considers the configuration and responsibilities of the new community emerging from this interaction between the town and the country.

2. The study area

2.1 Administrative, physical and socio-economic data

The province of Bazèga is situated in central southern Burkina Faso, some 45 km south of Ouagadougou on *Route Nationale* 5. It consists of seven administrative departments, including Gaongo, Kombissiri (which also contains the province's principal town) and Toécé, where the lake studied in this report is located. This is a densely populated province, averaging 40.24 p/km (INSD, 2000), compared with the national average of 38.1 p/km.

Bazèga shares a natural boundary with the province of Ganzourgou – the River Nakambé. Rainfall here is reasonably good, averaging 806.26 mm over 52.8 days of the year (rainfall data on Toécé, 1998-2003), and there are numerous watercourses in the vicinity, including the River Bazèga from which the province takes its name. Most run from north to south, feeding the many dams built over the last 50 years or so, such as



Nagbangré (1962), Pindéga (1952), Koubri (probably constructed in the 1970s) and Bazèga (1962), which is commonly known as 'Lake Bazèga'.

These agricultural assets explain the presence of established immigrant communities in the province, most originating from the over-populated regions of the country's central peneplain. Their different agricultural interests are reflected in the three main reception areas for incoming communities described below.

First, to the south of the province, is the **Gaongho** area. Renowned for its plentiful cotton and watermelons, this area is also known as the grain store of Bazèga. In addition to the main departmental town of Gaongho, it includes the villages of Wardogo, Voosé and Mazoara, which is close to the pastoral lands bordering the province of Zoundwéogo. These are old villages where the customary chiefs of Gaongho installed migrants one or two generations ago, and it was here that the conquest of agricultural land began, with new satellite villages (or farming hamlets) leading the agricultural incursion into the remaining forest reserves. These intense migratory flows even extended into pastoral areas, increasing demand for natural resources and significantly diminishing the natural resource base, reducing woodlands in the area from 98,000 ha in 1953 to 12,000 ha in 1990 (Zabsonré, 1998, p. 50).

The colonisation of these forest reserves was facilitated by customary chiefdoms along various parts of the provincial border exploiting administrative changes in the zone. In 1987 a ministerial order attached the village of Mazoara to the department of Béré in the neighbouring province of Zoundwéogo. This allowed migrants that had settled there to free themselves from the political (and, to a certain extent, land) tutelage of the chiefdoms of Gaongho. When the order was subsequently repealed by a ministerial decision in 1996, Mazoara was reattached to Gaongho and thus to the province of Bazèga – although the people of Mazoara still prefer to deal with the prefecture in Beré. It seems that it is not only migrants in Mazoara who benefit from these administrative shifts, but also local customary chiefdoms: Zabsonré reports that the simple assignment or (rare) sale of land is overseen by the chiefs of Gaongho and Rassamkandé (*op. cit.*), while the secretary-general of the province, Armand Ouattara, claims that fees are paid on land allocations.⁴ There are about fifty new actors in this area.

4. Interview held on 15 May 2003.

More recently, on 19 April 2004, the Minister of territorial administration and decentralisation and the high commissioners of the two provinces concerned went on a joint mission to Mazoara in an attempt to ease tensions arising over a land claim. As far as we know, however, no major decision was taken at the time.

The second stopping-off point for new actors in the province is **Koubri**, an area about 30 km from Ouagadougou. Its location makes it attractive to new actors, although land here has become increasingly expensive and, “with its proximity to Ouagadougou, much of the farmland in Koubri is occupied by city dwellers, thereby reducing the farmland available to local villagers” (Bagré *et al.*, 2003, p. 53; our translation). The land dynamic here dates back to the installation of Koubri monastery in the 1970s.⁵ Most of the farms recently established by the numerous new actors in this area are devoted to agro-pastoral production, although a fish farm was set up on one holding in 2003.

Finally, we come to the third reception area, around **Lake Bazèga** in the department of Toécé. Here too, most of the many new actors come from Ouagadougou. Over the last thirty years this area has specialised in fruit production on huge estates dotted around the lake. Zoungrana describes the general context of land relations around the lake thus: “None of the local actors or entrepreneurs using the water resources here have any real ability to manage the land. The former lack the financial and technical means to make the best use of water in a Sahelian context, while the latter have no direct access to land. Their strategy has been first to ascertain who controls the land, and then develop opportunities to negotiate with local residents” (1994, p. 21; our translation). To determine the exact content of these relations, we decided to focus the study on this zone, whose characteristics are described below.

2.2 Political and land data

In *moosé* lands, political or social powers are distinct from authority over land tenure and land. The two forms of power are held by different personalities but cover more or less the same area, depending on local history. This holds true for access to agricultural land in the study area.

5. One of the activities undertaken in the monastery is milk production.

Political control

The *moaga* political system operating in central Burkina Faso is very hierarchical, consisting of four central powers (*Dimdemba*), each with its own *soolem* or political territory. Central power in Ouagadougou is held by the *Mogho naaba*, whose political territory includes the province of Bazèga. He delegates control to one of his ministers, the *Gounga naaba*,⁶ who appoints 33 customary chiefs in his *soolem*. Twelve of these are *Rimbiissi* or persons assimilated into the group, not directly descended from a branch of the lineage group ruling in Ouagadougou, and whose territories have been elevated to colonial cantons. Each *Rimbiga* in turn appoints chiefs of *tinkoanksé* to head groups that are significant either in terms of their size or their political weight. The public administration seems to echo this customary practice, each year elevating *tinkoanksé* into new administrative villages.

To our knowledge there are eight *Rimbiissi* in the administrative province of Bazèga: in Koubri, Dououlougou, Saponé, Gan-ongo, Guirgo, Toécé, Toudou and Tuili (the latter has birthrights over all the *Rimbiissi* in the territory managed by the *Gounga naaba*). The old village groupings are Pawamtoré, Zangoego and Sincenné, which used to belong to the canton of Toécé, and Koyoundou and Montemtinga. In the administrative department of Toécé there are five 'main chiefdoms' covering unequal political territories (see Map 2). The largest of these are the chiefdoms of Toudou and Toécé, then Sincenné, and finally the smallest chiefdoms of Pawamtoré and Zangoego. It should be noted that some of the territory of the chiefdom of Sincenné close to the lake is additional land that was given by the chief of Toudou about three generations ago (interview with the chief of Toudou, Toudou, 21 September 2003). Lands around the lake thus come under three areas of customary control.

The *moaga* political system is extremely old (dating back to around the XVI century), very hierarchical and covers a particular area at each level.⁷ Going on what we were told by a leading customary official in the province, it looks as though this system still holds force in terms of its influence over people and, indirectly, over their assets. "If the *Mogho*

6. The *soolem* of the *Gounga naaba* includes both of the present administrative provinces of Bazèga and Zoundwéogo (Interview with the *Gounga naaba* Tanga et al, Ouagadougou, 09 September 2003).

7. Although it was hard to find the *mooré* equivalent of terms for the territory covered by certain levels of the political hierarchy (all known as *soolem*), we were able to make some approximations by comparing these customary entities with the colonial administrative boundaries, which generally respected the hierarchy of the *moaga* political system.

negotiates with the landowner... and won't be refused... I have to follow this procedure too" (interview with the *Gounga naaba* of Tanga, Ougadougou, 09 September 2003; our translation).

Control over land

The shores of the lake are controlled by two chiefdoms: the right bank by the chiefdom of Sincenné, and the left bank by that of Toécé. Although their power bases are over twenty kilometres away, they secured control of these shores by sending their princes to live there some two or three centuries ago. When they arrived they found the ruins of ancient dwellings that were probably left by the first settlers, the *ninisi*. Over time some of the villages or farming hamlets they established as outposts closest to the River Bazèga also disappeared, as their inhabitants fell prey to attacks by wild animals or water-borne diseases, particularly river blindness.⁹

The settler princes brought in specialists to tend the earth shrines, mindful of the fact that they were subordinate to higher authorities despite their noble birth. Each sacrificing village controlled the land opening onto the lake. On the right bank, the villages of Dayassomnoré, Tibin and Koupèla are controlled by the chief of Sincenné (see Map 3). On the left bank, controlled by the chief of Toécé, are Toyoko, Valanvaaré, Namsigui and Kosonbalgué. Control of these last four villages is known respectively as *Bazég-nifou*, *Piinraogo*, *Koug-raogo* and *Tibin-nifou*.

Farmland and customary land rights

The different types of land rights operating in the study area are closely linked to historic modes of tenure. Each village holding lands around Lake Bazèga conforms to the model of 'village society' described by Paul Pélissier (1995, p. 21). They have three different types of land:

- A central area, the *karaaga*¹⁰ or *kien-kien-ooko*, which is continuously cultivated and divided into permanent units of production;
- A peripheral area made up of temporary clearings, old fallow¹¹ and land reserves, known as the *wéog-kassenga*;

9. Zoungrana suggests a correlation between low population density and the prevalence of this affliction until recent times: "Current levels of river blindness in certain villages, such as Yougoudri on the right bank of the River Bazèga and upstream of Lilbouré, suggest that it may be a factor in the low levels of occupation around the lake" (1988, p. 200; our translation).

10. Plural: *karaasé*; referring to the red sorghum (*karaaga*) most often grown in this area.

11. Land belonging to members of the lineage group who have disappeared leaving no eligible successor (no descendants) is transferred into this category.

Map 3. Distribution of land held by different chiefdoms around Lake Bazèga



- An intermediate unit known as the *wéo-bila*,¹² which is shared between different lineage groups in the village.

The villages with land management powers are located between 200 m and 1500 m from the shores of the lake. None had any previous settlement sites, apart from Valanvaaré (see Map 3). Because of their proximity to the lake, each village has only one *karaaga* and one *wéo-bila* between it and the lake, while on the landward side, each has three agricultural units, including the *wéog-kassenga*.

These three agricultural units correspond with three interdependent categories of land rights, which were originally based on land clearance. The chief or eldest member of the lineage group, or *buudu*, has **management rights**, first occupancy rights or, to use Pélissier's expression (*op. cit.*), rights of the first person to clear the land over all the agricultural units. This right is exercised less often over the *karaaga* and *wéo-bila*, and is mainly enforced during disputes over succession in the family belonging to the *buudu*. In the *wéo-kassenga*, however, the eldest member of the lineage group or *buudu-kasma* regularly intervenes in the allocation of new lands, either to members of the lineage group or to outsiders. Holding the right to exclude or the power to authorise or deny members of the lineage group access to family land assets on the one hand, and the possible right to dispose of the land on the other, the eldest may be seen as the 'owner' of lineage lands. In reality, however, he is merely the guarantor/manager of a collectively appropriated space.

The head of the farm or household (*yir-soaba* or *zak-soaba*) has **rights of use** over the *karaasé* and *wéo-bi*. All heads of farm claiming a shared common ancestor (*yaaba*), and thus belonging to the same *buudu*, form sub-groups or 'lineage segments' known as *penna*.¹³ Each sub-group has a pool of land, rights to which are based on the fact that they were previously farmed by the grandfather, or even better, by the great-grandfather. These transmissible rights of use are in fact permanent and inalienable, making their holders 'landowners' with the possible option of assigning land to third parties.

12. Plural: *wéo-bi*.

13. Singular: *peendé*. With regard to land, the *peendé* consists of all male descendants of a member of the *buudu*. Retracing the genealogy back through the male descendants logically leads back to the common ancestor of the *buudu*.

Finally, there are **derived rights** acquired from holders of rights of use, which correspond to temporary rights of use or cultivation. These delegated rights exist in all three farming units described above, but are most common in the *wéo-bila*, particularly in the form of loans of reserved land to lower-ranking members of the lineage group, such as younger brothers and women, as well as to incomers seeking land. However, the social and land clauses accompanying these rights (observing village customs and banning the planting of trees or sinking of wells) underline their provisional nature and the dependent status of the beneficiaries.

The different rights described above indicate that the customary land system establishes access to land for indigenous individuals and, in certain conditions, for incomers. The introduction of the plantation economy around Lake Bazèga is certainly the greatest factor influencing current changes to customary modes of access to land.

3. Developments and actors around Lake Bazèga

3.1 Changing developments and fortunes

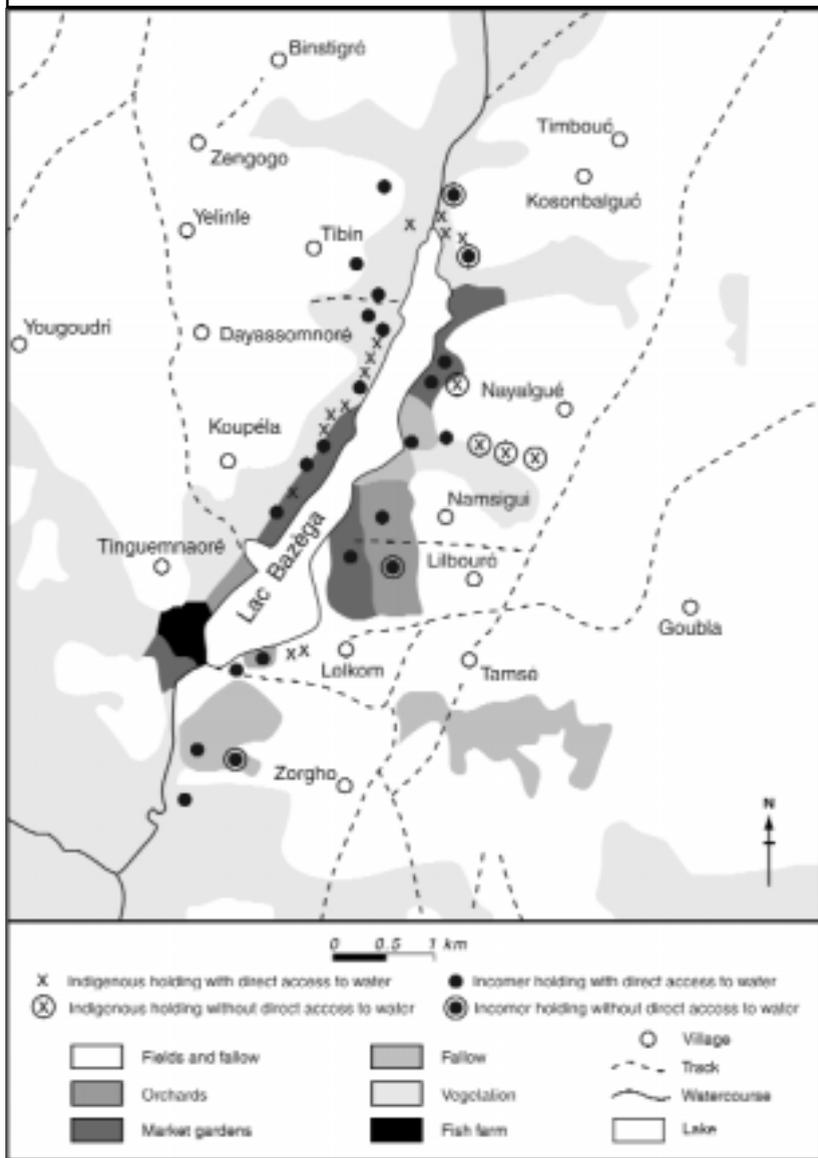
The study site is made up of four components centred around a 5.3 million m reservoir that was completed in 1963 (see Map 4). First, downstream from the lake, is a 23-pond fish farm that is currently being refurbished by the PDRDP, a project for decentralised participatory rural development. Beyond the fish farm lies the second component, a natural forest classified in 1996. The third component, old fruit orchards and market gardens, lies halfway along the left bank upstream from the dam. The fruit orchards are farmed by the national fruit company FLEXFASO, while the market gardens to the west of the orchards are farmed by the Adventist market gardening training centre, CAFORMA, and those to the north by UCOBAM, the union of Burkinabé farming and market gardening co-operatives. The fourth component, made up of farmlands belonging to individuals, is divided between the right bank and the rest of the left bank.

By the end of the 1980s the expansion of these holdings (particularly the farmlands¹⁴) had made Lake Bazèga one of the main sources of fruit and market garden produce for Ouagadougou. Farm labourers were hired (Lingani, 1992, p. 48) to tend the citrus, papaya and banana plantations and grow tomatoes, onions, aubergines, potatoes and green beans in the market gardens. Employees on the seed farm were recruited from villages within a 20 km radius of the lake, and organised into a co-operative where each member was allocated a plot of between 300 m and 2,050 m. Lingani's report on the activities of the seed farm between 1990 and 1991 shows that net incomes per growing season ranged from 13,990 francs CFA to 275,000 francs CFA. Half of these co-operative workers were generating an annual income of between 50,000 francs CFA and 100,000 francs CFA, and were thus earning good money.¹⁵

14. We cannot illustrate this growth here due to lack of statistics.

15. Recent studies from the national Institute for Statistics and Demography revealed that in 1994 the annual earnings of 44.5% of the population of Burkina placed them below the poverty level of 41,099 francs CFA, and that this rate rose to 45.3% in 1998, when the poverty level was set at 72,690 francs CFA.

Map 4. Developments around Lake Bazèga



It is worth noting that the three large farms whose success inspired so many private actors have since run into serious difficulties. CAFORMA scaled down its activities in 1998 and now only cultivates around a tenth of its land; while FLEXFASO and UCOBAM respectively suspended activities in 1996 and 1998, and the FLEXFASO holding in Bazèga was sold off to an individual who has been unable to restart operations.¹⁶ Large areas of much-coveted land around the lake are thus tied up but left unused.

3.2 Actors and land use dynamics around the lake

The establishment of farms around the lake can be broken down into three main periods. The first, from 1970 to 1984, began with the arrival of three agricultural organisations on the left bank: UCOBAM, FLEXFASO and CAFORMA, whose respective holdings amounted to 20 ha, 45 ha and 52 ha. The next to come were individuals from Ouagadougou, some of them former managers of these organisations. This was the first wave of 'new actors', who set up holdings of between 10 ha and 15 ha on the left bank of the lake.

The second period, from 1985 to 1993, was relatively quiet. A few external actors established holdings of under 10 ha, and the first family farms appeared on the left bank as indigenous inhabitants inspired by the success of the first new actors started growing fruit and market garden produce on smallholdings no larger than 1.25 ha. This period also saw the beginning of the colonisation of the right bank in 1993.

The third period lasts from 1994 until the present day. Most of the many new actors coming in after 1995/1996 set themselves up on the right bank, as land on the other side of the lake became much harder to obtain. A survey conducted in January 2001 found that an additional 400 ha had been taken over by new actors (taking into account the holdings of the large agricultural organisations); today this figure has risen to at least 500 ha. As a result, the more recently established farms are located over 500 m from the lake on the left bank, and 200 m on the right bank. Most of these farms were installed on what was left of the woodlands that surrounded the lake until 1984.

16. At the national level, UCOBAM and FLEXFASO were dissolved in 2004 and replaced with a new agricultural organisation, The Burkina Fruit and Vegetable Company (SOBFEL). This is a joint equity venture, with 20% of its capital coming from the State and the remainder from private subscribers (internet edition of *L'Observateur Paalga*, no. 6237, 29 September 2004).

The approximate location¹⁷ of the 44 holdings shown on Map 4 clearly reveals that indigenous actors are outnumbered by incomers, who were the first to strategically occupy land with direct access to water on both sides of the lake. In fact, 23 incomers have direct access to water for irrigation, compared with 13 indigenous farmers. On the left bank, which has been farmed for longer, eight actors have indirect access to water, and have to cross someone else's holding to get to it. Half of them are indigenous farmers that ceded their land closest to the water to incomers, and now have to pay dearly to irrigate their crops. Other indigenous actors find themselves in the unfortunate situation of having lost land close to the water because they lacked the means of clearing and putting it to productive use. They have ended up with dry and often quite degraded land further from the water that they cannot afford to irrigate, while those closer to the lake are able to water their fields and earn additional income from their irrigated crops.

Indigenous owners				Incomer owners			
Direct access to water		Indirect access to water		Direct access to water		Indirect access to water	
Right bank	Left bank	Right bank	Left bank	Right bank	Left bank	Right bank	Left bank
8	5	0	4	12	11	0	4
13		4		23		4	
17				27			

When the farms established since 1970 are grouped into three categories according to their size (see Table 2), it can be seen that the rate of productive use diminishes as farm size increases. Some large farms, such as the UCOBAM and FLEXFASO holdings, have not been put to productive use for several years because the actors concerned have ceased all farming activities.

17. This was done without GPS because the mapping system selected for the study is not georeferenced. However, interviews with these farmers (who have close knowledge of the relative location of their respective properties and their complex boundaries) enabled us to achieve the precision desired.

Table 2. Estimated number of farms and their distribution			
Farm size	Total number of farms	Number of indigenous farmers	Level of productive use
Small 1 to 2.5 ha	41	17	90%
Medium 2.5 ha to 6 ha	17	5	80%
Large + 6 ha	11	0	50%
Total/Average	69	22	73%

Source: restitution of 26 September 2003.

Competition for land around Lake Bazèga began some time ago, accelerating from 1994 onwards as the economic opportunities offered by fruit production and market gardening became apparent. Indigenous actors who own land but often lack the means to put it to productive use have had to compete with well-resourced incomers (predominantly civil servants and merchants from Ouagadougou) whose means of production include motor pumps. The holdings on old fallow lands acquired by these new actors roughly reveal the network of smaller land units belonging to the *peendé*, which may be acquired in various ways.

4. Forms of access to land around the lake

The three main forms of access identified are outlined below (see Table 3).

Form of access		Average size/period	Modalities	Crops grown	Irrigation system
Gift		10 ha to 15 ha; +20 ha 1970-1984	– Involving the village chief – Rituals: local millet beer, cockerel... – Social participation	Market gardening, then trees	– Powerful motor pumps – Concealed irrigation networks
Contract sharing land capital	Type I	1 ha to 3 ha	Gifts of water for irrigation and inputs	Trees: short or long cycle	Small external irrigation network, dependent
	Type II	1997-1998	Gift of motor pump & inputs		Light irrigation network, independent
Purchase		3 ha 2000	– Involving local intermediaries – Cash payment	– Maize – Planned orchards	Possibly powerful motor pump

4.1 Gifts

The first new actors arriving in the area between 1970 and 1984 were given land, often in fairly large holdings of 10 ha to 15 ha. Working through an intermediary or ‘negotiator’ (the nephew of a villager, or a local dignitary such as a customary official or member of the technical or administrative services), each new actor presented their project in terms of its potential for local development, by creating employment, for example. Some were accepted despite the landowner’s objections, as when the chief of Toécé used his “superior administrative right” to intervene on behalf of incomers.¹⁸ These actors gave landowners only the propitiatory sacrifices

18. In rural areas, Jean-Pierre Jacob (2004: 10) describes the subordination of private rights to ‘superior rights’ held and enforced by earth priests or political chiefs.

(a goat or cockerel, cola or local millet beer) required to satisfy their ancestors and ensure the success of the proposed farm.

In the beginning the land obtained was densely wooded. Part of it was progressively cleared while the market gardens were established, but these were soon reduced or abandoned in favour of orchards as new species of fruit trees were introduced around the lake, along with irrigation systems using powerful motor pumps and concealed networks of PVC tubing. The fields were worked by young indigenous piece workers, not necessarily members of the landowning family, overseen by a foreman who either worked for relatives of the new actor in the village, or, in one case, was himself a relative of the new actor who had moved into the village.

4.2 Contracts 'sharing land capital'

The transactions involving 'shared land capital' in Bazèga are very similar to the *abugnon* and *abusan* models identified in the plantation regions of eastern Ghana and central-western Côte d'Ivoire (Lavigne Delville *et al.*, 2001, pp. 86-88). They differ in that there are two variants where the benefits to the taker are fixed at the outset of the relationship.

In the first and earlier variation, the landowner gives the taker half or a third of his fallow land beside the lake. Once the assigned portion has been cleared, the taker plants around the edges of his plot to mark out its boundaries, and is then free to grow whatever he wants on it, including perennial fruit trees. In return for this land he irrigates the remaining portion of the assignor's holding, providing both water and the irrigation system (hosing), as well as seeds or plants, fertiliser and the maintenance required for this plot to flourish. The duration of the contract depends on the type of crop grown: five to six years for citrus fruits such as oranges or grapefruit, and one to three years for banana or papaya plantations. At the end of this period the taker owns the portion of land that he has been using (1 to 3 hectares, depending on the situation), and can start procedures to formalise his ownership rights, as outlined below. This type of contract was often chosen by emerging new actors, i.e. rural people from villages some way from the lake who were starting to make money from livestock rearing or petty commerce, and wanted to branch out into irrigated farming.

Landowners started enforcing this type of contract, which is generally known as '*le comptant*' or 'spot' contract, more rigorously around 1997-1998, demanding immediate settlement after it emerged that a number of takers were failing to keep their side of the bargain. It has now fallen out of favour, and is rarely found in the seasonal wetlands around Toudou and Nobilin in the Lake Bazèga area, or further afield around the Kidimtamsé dam in the neighbouring province of Zoundwéogo.

The second variation differs from the first in one respect: instead of providing the landowner with water, the taker buys him a new motor pump and the hosing needed to install the irrigation system. All obligations to the assignor are thus fulfilled, and the taker is free to put his portion of land to productive use and take steps to formalise his land rights. In some cases, however, the taker also provides the assignor with various inputs (plants, fertiliser, maintenance, etc.), and instead of agreeing to a minimal investment of 500,000 to 700,000 francs CFA, may end up spending up to 2,000,000 francs CFA to acquire the land. Local intermediaries play very important role in this type of transaction, unlike the first variation, as the parties involved usually know very little or nothing of each other before the contract.

4.3 Purchases

It proved very difficult to find hard evidence of this type of transaction. We were told of several cases of presumed sales, but were only able to verify one instance where the intermediaries concerned were willing to show us the document sanctioning the transaction. In July 2000 someone from Ougadougou made a single payment of 500,000 francs FCA to acquire around 3 ha of land on the right bank of the lake. We also heard of one new actor who tried to resell a holding he had staked out on the left bank, but failed to find a taker despite advertising in the national press.

It should be noted that other types of arrangement exist alongside these main forms of access to land, although they do not lead to the acquisition of definitive rights. These arrangements include loaning several ares¹⁹ of land to indigenous locals for dry season market gardening, and, over the last five years, new actors renting unused portions of their land to companies that produce seeds.

19. 1 are = 100 m².

The pattern of these forms of access to land varies around the lake. On the whole, gifts seem to be most common, accounting for 6 out of 10 transactions, followed by sharecropping contracts (3 out of 10 transfers) and purchase (1 out of 10 transactions).

These types of transaction transferring land to new actors were mainly oral, making the rights acquired precarious and open to contest. This has prompted a number of actors to seek to 'normalise' or 'regularise' their situation.

5. Formalisation of land rights

Before presenting the types of formalisation observed in the study zone, we will review the underlying politico-land context in which irrigated agriculture has been managed in Burkina Faso.

5.1 Land legislation favouring private agricultural actors

Natural resource management is an essential element of national agricultural policies, and one that has proved highly problematic since the first years of independence. The preferred tool for government intervention is the law in its various formulations. Burkina Faso had three versions of national land law between July 1960 and May 1996: the Agrarian and Land Reform of August 1984 (RAF 84), which was first revised in June 1991 (RAF 91) and then again in May 1996 (RAF 96), followed by an enforcement order for the RAF 96 formulated in February 1997 (the 97 Order).

Pouya and Legoupil (1993, pp. 146-147) highlighted two key points in their comparison of the 1984 and 1991 versions: the main innovations introduced by the 1991 RAF, and the opportunities it offered for access to irrigated farming. In comparing the 1991 and 1996 versions to bring the analysis up to date, we note that two benefits have been retained. The first is the opening up of irrigated farming to natural or legal persons in public or private law: Article 191 of the 1997 Order allows them to benefit from irrigated state lands, and Article 68 of the same order authorises them to develop such land themselves.

The second benefit is access to ownership by obtaining **title deeds** or land title. The 1996 RAF proposes six types of land title, four of which may relate to rural lands: the **land allocation certificate** (*arrêté d'affectation*) specifically issued to the public services (Article 54);²⁰ the **occupancy permit** (*permis d'occuper*), an insecure and revocable deed of possession (Article 56); the permanent and permanently alienable **land use permit**

20. We will see later that under current practice in the State Property Department in Bazèga, the equivalent of the land allocation certificate for private natural or legal persons is the **land attribution certificate** (*arrêté d'attribution*).

(*permis d'exploiter*) (Article 58); and the **short- or long-term lease** (*bail de courte ou longue durée*) (Article 59), which may be transformed into a land use permit (Article 69).

The application of the 1996 RAF thus opens up opportunities to develop two different types of irrigated farming on private land and on state lands.

In the first case, private operators may be allocated an undeveloped portion of public land by the authorities (this applies to both natural and legal entities). Once it has been registered in their name,²¹ beneficiaries can develop the land, covering the costs and managing it privately. Private developers are characterised by the title of possession they choose – the preferred forms seem to be land use permits or long-term leases, due to their long duration and alienability. Faure (1995) noted that seven private agricultural organisations surveyed in 1995 held a total of 546 ha of developed land in the area.²² She reported that the cost of developing a private holding is half that of developing public lands, with an initial investment of about 75 million francs CFA (before devaluation) for 25 ha of land, and a budget of around 30 million francs CFA per growing season to grow green beans on this amount of land (*op. cit.*, p. 9). She specifies that the most of the people promoting this type of irrigation have a background in engineering.

The second type of development relates to public lands developed by the State and registered in its name. Under the terms and conditions of a specific technical and financial procedure, portions of public developments may be assigned to particular actors – be they agricultural entrepreneurs, associations or co-operative groups. Faure sees this procedure as part of a drive to privatise public developments (*op. cit.*); privatisation that is already under way, since individuals are permitted to exploit and obtain title deeds to plots of land on public developments under the terms and conditions laid down on 31 December 1997.²³ Joint orders were issued setting out specific conditions for the Sourou and upper Mouhoun valleys and irrigated developments in Bagré, with Article

21. Article 455 of Order 97 sets out the steps in this process: delimitation, registration on the Land Register, official publication.

22. Including FLEXFASO, which was in the process of being privatised at the time. Faure's sources reported that it had three developed landholdings amounting to 36 ha in other provinces of the country, in addition to the one in Bazèga.

23. Order No. 97-598/PRES/PM/MEE/AGRI, regarding the terms and conditions for managing large developments, i.e. irrigated farms covering more than 200 ha.

11 of the conditions for Bagré offering private actors **long-term leases** (joint order No. 98-033/MEE/MA/MEF/MATS of June 1998). This is the only title deed on offer, with a fixed duration of at least 25 years, renewable for further 25-year periods but not exceeding a total of 99 years. The same article also states that this lease may be transformed into a **land use permit**. Finally, Article 17 of the joint order allows for the land acquired to be transferred.

These two main types of development suggest that under certain conditions, the current RAF will open the way for the development of private irrigation in Burkina Faso. This poses the major question of how each category of actor will be able to afford to access and exploit the land, given the taxes on land use and the cost of enrolment and registration, not to mention water.

Two major trends are foreseeable with regard to state lands. The first is a growing preference for long-term leases or land use permits, as with private lands, as potential land users demand greater security of tenure. The second relates to the possibility of extending individual or collective properties within a plot by buying land, given the favourable conditions created by the presumed surety value of long-term leases and land use permits.²⁴ The objectives set out in the terms and conditions of 31 December 1997 aim to do precisely this, extend properties in order to develop **agri-business** on holdings of over 10 hectares. Farms falling short of this minimum size could achieve and even exceed it by progressive land consolidation (Zampou, 1998).

Both types of development are found around Lake Bazèga. The lands held by UCOBAM and the national company FLEXFASO prior to its takeover by an individual fall into the category of state enterprise, while the holdings developed by new actors, mostly from Ouagadougou, can be classified as private developments. These new actors use various means to secure and formalise their land rights; and in the practices developed by the administrative and technical services, new actors, customary authorities, indigenous landholders, etc., we can see how national land legislation has been interpreted at the local level.

24. Strictly speaking, however, this only applies to the land use permits prescribed by Article 61 of the 1996 RAF. And we speak of their "presumed value" because none of the actors we came across have been able to use land use permits as a bank guarantee, as Faure noted earlier with the 1991 RAF (*op. cit.*, p.11).

5.2 Different means of formalising land rights

The various rights acquired over portions of land around Lake Bazèga are formalised in different ways, depending on whether the actor concerned chooses to go through the State or the prefecture, to use 'informal' channels, or to rely on the unofficial '*petits papiers*'. These means of formalisation were identified during the course of interviews, and have developed over time as the various actors have tried to secure tenure over their newly acquired land.

State formalisation procedures

The 'state formalisation' procedures described here reflect the way that the enforcement order for the 1996 RAF (Order 97) has been interpreted by the state property and land registry office in Bazèga, which has been processing applications for land titles since it opened in 1993.

Main stages of the process

The four major stages outlined below cover each successive step taken by new actors seeking authorisation to move on to the next level of administrative formalisation. Once they have been given the go-ahead, they can proceed in their own time.

- *Procès verbal de palabre (PVP)*

The first document land applicants need to obtain from the administration is a PVP – minutes of a discussion held in the presence of a government official. The terms of the enforcement order state that this requires the prior agreement of the customary rights holders or "*superficiaires*".²⁵ Securing their consent may be the most difficult part of this stage of the process, depending on the previous arrangement between the assignor and taker. Agreement can be obtained the same day in the case of sales or gifts, but it may take several growing seasons to settle other forms of arrangement.

Once consent has been obtained, the beneficiary requests a PVP from the state property department responsible for processing the application. The prefect²⁶ can only issue this document after a meeting has been held on the land in question, attended by representatives of the technical and administrative services (state property department, prefec-

25. A term used by the RAF to denote genuine holders of land rights

26. PVPs for land in rural areas are issued by prefects, and by the mayor for land in urban or peri-urban areas.

ture, departments of agriculture, livestock rearing and environment²⁷), as well as the applicant and land owners, who bring their own witnesses along with them. At the end of the visit all participants sign the PVP, some agreeing to assign the land in question and others as witnesses to the transaction. However, landowners rarely reveal the true nature of the arrangement in their declaration on the PVP, especially when it involves a sale. These administrative procedures are supposed to take one or two weeks but may actually take several months, although applicants can use their 'influence' to accelerate the process.²⁸

- *Attribution order*

Once they have obtained a PVP, the next step is to file the land application at the state property department in Kombissiri. This should include a completed pre-printed form²⁹, the PVP, plans (site map, *boundary* or *sketch plan*³⁰, land use plan) and a proposal specifying the nature, cost and projected returns of the intended land use. The state property department responsible for processing the application also has to gather the views of partner services on a particular file or situation. This is a bureaucratic procedure done by post, following the hierarchy of the services concerned. In our case, it involves getting at least three sets of comments on each element of the application from the centre for urban development in Ouagadougou and the provincial technical services (agriculture, livestock rearing, environment).

If they all come back in favour of the application, the state property department draws up a draft attribution order and sends it on to the prefect or mayor, as required, for final approval. They usually follow the previous judgement, and sign the attribution order for the applicant. If the applicant is an institution under public law, the minister responsible for public lands issues a land allocation certificate.

- *Land use permit*

This is a crucial stage in the process of formalising rural land rights in

27. The presence of representatives of the last three services is determined by the proposed use of the plot. However, none of the PVPs that we came across record a member of the livestock rearing or environmental services being present. They become involved in the next stage.

28. Depending on their position (as high-ranking civil servant, politician, merchant, etc.). In addition to this, the applicant may also pay the travel costs of officials who need to attend the PV session on the plot in question.

29. Specifying the type of possession title sought by the applicant, which on this form is limited to either a land use permit or a lease.

30. A simple sketch showing the boundaries (which often follow tree lines) of the plot in question.

Bazèga. After applicants have been issued with an attribution order, the state property department notifies them of any land registration fees and land use taxes falling due. Once these have been paid, the next step is to get the provincial land use commission to come and inspect the plot and, if satisfied with what has been invested so far, issue a land use permit. In some of the cases we came across in Kombissiri, the state property department advised applicants to go for a land use permit rather than a lease, because of the permanent nature of the rights accorded by this title.

However, it is impossible to obtain land use permits at the moment because this commission has not worked in Bazèga province since the opening of provincial state property department.

- *Delimitation*

Delimitation is the last stage in the process of formalising (and giving some concrete form to) land rights. Once beneficiaries have been issued with a land use permit and have the certificates proving that the relevant land use taxes have been paid,³¹ they can ask the state cadastral service or an approved private agency³² to carry out this final task. It involves marking out the land, producing a written record of these boundaries (*PV de bornage*) and drawing up a ground plan of the holding, which is co-signed by the agency and the administration. This stage is known as the demarcation (*bornage-morcellement*) of portions of public lands on behalf of an individual, who can then place the rights acquired on public record.

Very few actors actually get to this stage, where their land rights are given concrete form in a legal process. Most stop at the sketch plan used in their application for the attribution order, which is no more than a simple act of delimitation well before the point at which a land use permit can be issued. Such delimitation is often followed by early placement of boundary markers, although theoretically this demarcation should only be done once a land use permit has been obtained. Many agencies do this “for practical reasons” as soon as their clients’ applications have been lodged, while guarding against possible challenges from landowners or the state property department. They do

31. Ouédraogo, Florentin, Director of Brigade Topo, Ouagadougou, 30 August 2003.

32. These private land surveyors are based in large towns: there are two in Bobo-Dioulasso and a dozen in Ouagadougou, including Brigade Topo, which was one of the first agencies set up in August 1977.

this by ensuring that customary rights holders are present at the delimitation, avoiding areas near large towns likely to be affected by impending plans to parcel off and sell public lands to urban developers, ensuring that the proposed use of the land in question (agriculture, livestock rearing, school, etc.) is compatible with life in the rural or urban locality – in short, by determining whether the land in question is located in a ‘safe’ area. However, sketch plans and markers are sometimes presented as proof of rights by new actors claiming land on the basis of PVPs issued by the prefecture, rather than those emanating from the state property department.

State formalisation procedures in Bazèga province

Public lands in Bazèga province are managed by the departments for state property and land registration (SDPF) in Kadiogo III (Ouagadougou) and, since 1993, in Bazèga. A total of 19 actors have applied to these two departments to have their rights to some 357.41 hectares of land formalised; while the department of Toécé, where Lake Bazèga is located, dealt with 5 applications regarding 141.25 hectares of land. It is worth noting that the actors concerned are at different stages of the formalisation process: of the 19 individuals surveyed in the province, 9 hold a PVP, 6 have an attribution order and one has a land allocation certificate, while 3 have lodged an application for a land use permit.

These figures on agricultural land holdings formalised through state procedures do not reflect the real situation in the province. According to our estimates there are over 100 new actors in the province, the great majority of whom use other ways of formalising their rights. Like other agencies in the rest of the territory, the state property department in Kombissiri wants to know why there is so little interest in state formalisation procedures, which they see as the only way of getting “complete”, or full rights. One explanation could be the amount of time and money involved in the state procedure compared with the other processes.

Formalisation through the prefecture

New actors seeking to set up a farm can also formalise their rights through one of the prefectures in the province. At the end of this procedure, the applicant receives a document signed by the prefect certifying that discussions were held on the site in question several days beforehand. No officials from the state property department are present at this

discussion, which is usually attended by a representative of the prefect, an agricultural extension agent, the landowner, the applicant and their respective witnesses. Each participant receives a certified copy of the document recording this meeting.

Documents issued by the prefecture as part of this process can be grouped into two categories. The first consists of documents entitled *Procès verbal tenant lieu de contrat*. These give the location of the land assigned, if only by referring to nearby fields, roads or neighbourhoods, and also specify the relationship between the customary owner and the beneficiary. The land may be a 'gift' given in return for investment in a similar-sized plot nearby, in which case the amount involved and duration of the contract is specified (shared land capital contract, as in specimen PVP in Appendix 2); or a 'gift' given in return for a specified amount of 'financial assistance' (amounting to a sale, as in specimen PVP shown in Appendix 3, where the money was paid several days after the meeting and the land then marked out).

The second category of documents, known as *Procès verbal de palabre*, are used to 'assert' rights over land that has usually already been demarcated. An example of this type of PVP provided by the department of Doulogou is shown in Appendix 1.

Other prefectures in the province began issuing these formalisation papers in 1997 or 1998, but they were not seen in the department of Toécé until several years later.³³ This type of PVP is used more around Lake Bazèga than those issued by the state property department, and would be accepted by surveyors' offices handling new actors' applications for demarcation. The SDPF, however, will not accept such documents in applications for an attribution order (having rejected the Doulogou PVP mentioned in the previous paragraph).

Unofficial contracts

In this informal procedure it is the actors concerned who lead the process and produce their own unofficial contracts: hand-written *petits papiers* (see Koné *et al.*, 1999, pp. 58-62, regarding *petits papiers* in the forested

33. They were introduced by the prefect who was in office from 2000 until July 2002. However, his successor has different views on how local land practices should be managed, and decided to stop issuing prefectural PVPs because of tensions around Lake Bazèga (conflicts over land in Dayassomnoré and Lilbouré, which will be discussed later).

areas of Côte d'Ivoire). In most cases, this type of 'guarantee' is requested by the person seeking land, and dealt with by the intermediary for the transaction. The PV assigning land that we came across (see Appendix 4) provides information about the time and place it was established, the location and surface area of the land to be assigned, the agreement of the landowners, their signatures and those of the applicant and his witnesses.

Informal PVs have certainly been around for longer than the PVs produced by the other two formalisation procedures, and are probably used as much as prefectural PVs even though they are not certified by any administrative authority. As private agreements they theoretically have some legal validity under civil law (GRAF, GRET, IIED, 2002, p. 81), but their admissibility remains problematic, particularly with regard to land.³⁴ Because of this they are not recognised by the prefecture in Toécé – reflecting an attitude that raises further questions about the formalisation of different land practices in the area.

As we have seen, the state, prefectural and unofficial formalisation procedures result in three different types of PV, which will subsequently be referred to as the state PV (*procès-verbal domaniale*), the prefectural PV (*procès-verbal préfectoral*) and the informal PV (*procès-verbal informel*). Although the three procedures share a common purpose in that they provide a basic document establishing land ties between a new actor and a landowner, they are based on different, or even opposing principles, and differ in terms of content and validity. Furthermore, our analysis of attitudes to the different types of PV indicates that the sources from which they emanate are in competition with each other.

5.3 Divided local practices

The three formalisation procedures described above involve three main sets of actors to varying degrees: local actors (landowners, new actors and their witnesses), the state property department and the prefecture. They are all supposed to be involved in the same formalisation procedure, but have ended up following different practices, producing their own PVs, knowing little about the other procedures and ultimately competing for power (see Box 1).

34. Opinion is divided on this point. For example, Chauveau (2003, p.9) notes "the positive development of local use of written documents (with no legal value) between partners engaged in transactions or land contracts (renting, pawning, etc.)" in areas covered by Benin's rural land plan.

Box 1. Cases of “competition for power” between actors in formalisation procedures

This power play can be seen in the battle over use of the term ‘technical services’, commonly used to denote the agricultural, livestock rearing and environmental services. When the SDPF approached the PGRN (now the PDRP) regarding funding for its project to harmonise the public lands register for the town of Kombissiri, officials from the potential donor agency rejected the application on the grounds that it was not a ‘technical service’ (interview/Ouedraogo Nonguiyalguéré, Kombissiri, 26 July 2003). In another, more recent example in 2002, the state property department expressed reservations about the fact that its central office (The Central Office of Cadastral and Land Affairs, DAFCO) had not been invited to a provincial meeting on the pilot study for the village land management commissions (CVGTs). The meeting was postponed, and when it eventually took place, with a team of DACFO land officers in attendance, they failed properly to address important questions such as whether they should continue with the PVPs prescribed by the RAF (*state PVPs*) or give the CVGTs the power to issue a document when they were going to allocate land (*ibid.*). It has not been easy to harmonise land management, and there have been numerous disagreements between the public services concerned.

The prefecture in Toécé refuses to recognise private agreements drawn up by local actors or include them in any prefectural formalisation initiatives because representatives of the prefecture are not party to discussions determining how the land is assigned. In the meantime the prefectures in the province, including the one in Toécé, resent the state property department and land registration service in Kombissiri because the latter deems prefectural PVPs to be just as ‘invalid’ as the informal PVPs. It justifies this legalistic stance on the grounds that these documents do not conform to the instructions set out in the RAF, stating that an official from the state property department should be involved (see Box 2). For their part, local actors have established a continuum between the three types of PVP, progressing from the informal to the prefectural PVP, which they see as ‘semi-administrative’, and then to the state PVP. Progression from one type or level of formalisation to another is achieved in a consensual manner, and can take several growing seasons or even years, as the socio-economic links between the new actor and the assignor become more firmly established.

However, in situations of conflict new actors may use their influence to unilaterally drive this progress forward. In an unusual case in Lilbouré on the left bank of Lake Bazèga, a state PVP was issued in March 2001 reviewing a gift of land made in 1958, and superseding a prefectural PVP

established in September 2000 in favour of the new actor. Both documents were contested by the 'rights holders' to this land (who had naturally not signed these PVPs), who claimed that they had not given so much land.

Box 2. Prefectoral and informal agreements dismissed by the SDPF

"The prefecture has authorised PVPs that the state property department knows nothing about, and the administration can't contest them because it had nothing to do with them. We ask for PVPs that conform to the terms of the RAF enforcement order (Article 184) and show the agreement of the *superficiaries*. It says that the state property department is supposed to lead this discussion, and that the document should then be signed by the local authority. If a PVP doesn't fulfil these conditions then its value is restricted. It's valid between the actors and the administration that approved it, but a judge wouldn't take it into account if there were a problem because it doesn't conform to the regulations (...).

In reality there are several types of agreement, depending on what people want, and some are written down.³⁵ This is purely between the actors themselves. The administration can't interfere in such cases because wasn't involved when the agreement was drawn up...and that's why I say that if there's a problem and the judge has to lay down the law, they're outside the law." (our translation).

Source: interview with Ouédraogo Nonguiyalguéré, Director of Bazèga SDPF, Kombissiri, 26 July 2003.

These different kinds of formalisation offer new actors various levels of security according to their circumstances, need or even current financial status. Situations change, particularly where land is concerned, as there is often much at stake in old land concessions. The problems arise when they need to shift to a 'higher' level of security (from informal to prefectoral formalisation, or from prefectoral to state formalisation, for example), when the formalising authorities' mutual ignorance seems to constitute a form of insecurity in itself.

We believe that this not only reflects the difficulty the authorities are having in harmonising the norms of land management, but also highlights the need to consider recognising and validating local land practices.

35. These are informal PVPs.

6. Analysis and perspectives

Over the last few decades the presence of new actors in agriculture has triggered and reinforced change in rural areas. This section considers two key questions related to their presence. The first concerns the conditions for making land practices more secure, and the second considers the new rural community that is taking shape.

6.1 Towards recognition of local land practices?

There are many ways of securing local land practices and land rights. African land policies generally follow three main routes: the legislative, the technical and the contractual options (Ouédraogo H., 2002, pp. 82-90). The first is concerned with the modalities and techniques of taking local practices and rights into account in national land legislation. The second, technical option involves clarifying the content and status of local rights in order to register them and issue title deeds (as with rural land plans). The third, contractual option, whose ultimate aim is to liberalise national land policies, now has the advantage of complementing initiatives taken by local actors in their land transactions.

The situation in Lake Bazèga – and many other undeveloped areas of wetland invaded by new actors – reflects a disjointed national land policy wavering between the legislative and the contractual options. The 1996 RAF aimed to confer a modicum of legitimacy on the removal of customary land rights by introducing the PVP at the outset of the state formalisation procedure. However, it is unlikely that this objective will be achieved if the state property department maintains its legalistic stance and continues its systematic rejection of prefectoral and informal procedures. The legitimacy of any product of formalisation depends on the conduct (or context) of the procedure chosen by the actors. At this level, all three formalisation procedures stand to gain from creating the conditions for equitable power relations between actors; not least the state procedure, where the *superficiaires* selected to sign the PVPs are not always unanimously agreed by the land rights holders.

This is why we believe that it is not only necessary to research the forms of access to land when considering the importance of context in formalisation procedures, but also to analyse the accompanying strategies employed by actors. This approach will enable us to further inform public decision-makers, and help reduce the risks of “forcing local land practices and local land rights into pre-established categories” (*ibid.*, p. 88), as well as increasing their potential legitimacy. Better still, “recognition of local land rights should not only be envisaged in terms of individual ownership. It should extend to recognition of the ownership of community rights and the recognition and protection of simple rights of use” (*ibid.*, p. 90). This outlook, and the attendant benefits of genuine agricultural development and social harmony, can only be achieved within the framework of permanent negotiation between the various protagonists in the new rural community emerging in our villages.

6.2 Rural citizenship issues

As the number of new actors drawn into rural areas by fairly liberal land policy has grown, so too has the incidence of contested transactions and the risk of social discord. The last few years have also seen a resurgence of the question of rural citizenship, as the codes regulating rural life and relations between indigenous and incoming communities have been reviewed and reinterpreted.

As city dwellers have gone back to the land, the criteria for including “useful outsiders” in farming have changed.³⁶ In the past, incomers seeking land to support themselves were accommodated through the derived rights authorised by customary land tenure systems. These rights, which were initially temporary and insecure, could subsequently be reinforced provided the beneficiary observed their land and social clauses (by not planting trees, digging wells, having sexual relations in the bush, stealing or committing adultery with women from the village). In addition to creating social harmony in the village, an important underlying social aim of these clauses was to create the conditions for retaining and transferring land within the clan.

36. Jacob used this term (2004: 9) when referring to incomer communities previously received by the founding lineage groups of the village (blacksmiths, Fulani herders or farmers, who were welcomed for the particular expertise each group brought to the village). Nowadays, new actors may be introduced as useful incomers by customary chiefs seeking to present their schemes as village projects (economic investment, temporary employment, etc.).

These social aims have been undermined with each public intervention purging customary rights in developed areas, which have particularly affected the retention and transfer of 'common village assets'. However, the underlying codes of good conduct have proved effective in regulating the 'indigenous frontier'. This is why they were revived in the 1980s and 1990s, inspiring the village land management committees when the rules regulating land tenure in developed areas were drawn up. In addition to the clauses noted above,³⁷ the historic terms and conditions (Ouédraogo S., 2003, p. 48)³⁸ defined by local committees in AVV developments in Ganzourgou in central eastern Burkina Faso in April 1989 prohibited fetishism and included various practical obligations such as crop rotation, the use of organic fertilisers, construction of stone lines and direct productive use of the plot by the beneficiary. Failure to respect these conditions would lead to the plot being withdrawn. Another major condition was that the beneficiary had to live permanently in the village concerned.

In the irrigated lands of Mogtédou, in the same province, the land management rules defined from 1987 onwards are practically the same as those highlighted by Dialla (2002, p. 76). The terms and conditions covering large irrigated developments in Sourou state that "In order to qualify for land allocation, candidates (...) must be of good moral standing, and must commit themselves to living on the site and becoming involved in community structures; finally, they should themselves undertake all work on the land allocated, and accept the various arrangements set out in the terms and conditions" (Order 97; our translation).

New actors regularly flout these rules nowadays, and many are noticeable for their prolonged absence from the villages where their huge farm enterprises are located. Local views on such behaviour vary. The main concern of two officials from the association of farmers working on irrigated land around Lake Bazèga was that few new actors participate in village development activities (preparatory meetings for various projects, meetings of their producer associations, seeking financial and technical support, organising major village events, etc.). Most of the indigenous

37. Apart from the ban on planting, as each settler was allocated land by the authorities and permitted to undertake agro-forestry activities in order to maintain its fertility.

38. These old rain-fed developments by the Autorité des Vallées des Voltas are excellent examples of migration areas; and the terms and conditions created by the authorities can be considered as a minimum agreement between the indigenous and incoming communities.

population feel that the only reason new actors come on a regular basis is to sample their “wealth” (farm produce) before returning to town. Clearly, this is perceived as a new form of dispossession.

These criticisms seem to represent two strands of local feeling. First, villagers want to spread their common assets (mainly land) and undertake development activities that will benefit the village as a whole before the new actors move in. Then they want to encourage new actors who profit from local land resources to compensate for what they have taken by bringing development projects into the village. These feelings represent a certain ‘intellectual evolution’ that could be helpful to current decentralisation policies, which aim to encourage participation and make local communities responsible for local development actions. In this context new actors need to change their behaviour and share the new village responsibilities generated by decentralisation, despite their contentious residential status.

Some new actors in Bazèga are trying to behave like ‘good citizens’ and respond to village concerns – acting in their own interests, of course, as part of their strategy to facilitate or reinforce the formalisation of acquired customary rights. Others remain on the margins, and are thus liable to the slightest counterclaim against their farmlands.

It is worth noting that rural codes may also be used against members or sections of the local community when land is at stake. In the village of Dayasomnoré, on the right bank of Lake Bazèga, a second- or third-generation immigrant accused by indigenous locals of “witchcraft, selling off land beside the lake and claiming customary rights” (our translation) was chased off his land with all 95 other members of his clan, and their homes and fruit plantation wrecked. A Forestry Department agent reported that some 6,000 plants worth around 9 million francs CFA were destroyed in this incident.³⁹

39. The national police intervened the following day (see *Sidwaya*, No. 4301, of 11 July 2001). Our research suggests that the reinterpretation of codes of village life was a significant factor in this conflict.

7. Conclusion

We hope that this study will contribute to understanding of the land situation around Lake Bazèga, which is causing concern among both local actors and the administrative authorities in the province. We found that there are different modes of access to land under customary rights: gifts, 'contracts with shared land capital' and recognised or presumed sales. Actors then have three options for formalising the rights thus acquired, through state, prefectural or informal procedures. Each system has its own strengths and weaknesses, and each offers a degree of security. However, mutual ignorance or even competition between the different systems could itself constitute an additional factor of insecurity.

The case of Bazèga is representative of the profound, countrywide changes currently affecting irrigation projects from the 1960s, 1970s and 1980s. These developments were originally designed for social objectives: to ensure food security for local populations by protecting certain crops from climatic hazards. The progressive pursuit of economic objectives and introduction of commercial crops, particularly orchards, undoubtedly generated a land and commercial dynamic, but has also caused major concern since the state withdrawal from management activities at the end of the 1980s. This brings us to the burning question posed by Legoupil: "should change be encouraged provided it is transparent, in accordance with the laws and allows for the progressive reduction of state interventions and subsidies?" (1994, *op. cit.*).

A good decade or so later, we can now report that state withdrawal is an accomplished fact, and that the authorities have clearly signalled their wish to promote private irrigation in Burkina Faso. These two factors have contributed to the difficulties experienced by rural populations, particularly those living in the vicinity of undeveloped wetlands. The first has led to local people being under-resourced (because there is no agricultural credit) and thus predisposed to assign their land to other parties, in the 'best case' only retaining a small portion of it for themselves. Thus, as with rainfed agriculture, the small size of family farms can be presented as the reason why irrigated agriculture does not work at the village level. The second factor compounds the plight of local people by allowing new

actors to obtain title deeds for the land they have acquired. It seems to us that securing rights of use should be encouraged as a fair compromise between these two very dissimilar categories of actor, and that the growing resistance signalled by contested gifts and sales of land across the country, or partial freezing of agricultural holdings for which attribution orders have been issued, etc., need be taken very seriously.

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Appendix

Appendix 1



Ministère de la République
BURKINA FASO
200, Faso

Ouagadougou, le 14/01/98

PROCES VERBAL DE PALABRE

Pour la constatation des droits pouvant exister sur le terrain rural de 148ha 22a 96ca sis hors concession à SILLIMBA dans le département de DOULOUGOU demandé par Monsieur O H D pour son propre compte à l'effet d'y planter des arbres et de pratiquer l'élevage et l'agriculture.

L'An mille neuf cent quatre vingt six huit et le second 14 Janvier s'est tenu la palabre pour la constatation des droits pouvant exister sur le terrain rural de 148ha 22a 96ca sis à SILLIMBA dans le département de DOULOUGOU demandé par Monsieur O H D de nationalité Burkinabé à l'effet d'y planter des arbres et de pratiquer l'élevage et l'agriculture.

ETAIENT PRESENTS :

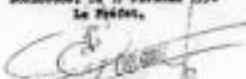
- G	B	Propriétaire coutumier
- G	T	Propriétaire coutumier
- O	D	Demandeur

Après avoir parcouru tout le périmètre du terrain la palabre suivante a été tenue :

Monsieur B Propriétaire Coutumier : C'est vrai le terrain en question a été demandé par M. O H D. Mais ce terrain appartient dans sa décision le terrain appartient dans à Monsieur O H D.

Monsieur T Propriétaire Coutumier : Cela est vrai et tout le monde le sait ici. C'est pourquoi la famille nous a convoqué à cet effet.

Monsieur O H D Demandeur : Je remercie les propriétaires coutumiers pour tout ce qu'ils ont fait. Nous constituons à présent une et une seule famille. En fin de quoi est dressé le présent procès verbal pour servir et valoir ce que de droit.

Pour Copie Certifiée Conforme à l'Original qui sera à 400 présentée au Juge.
BOULOUGOU, le 17 FÉVRIER 1998
Le Juge,

Darius KAPFEN
Secrétaire Administratif.

G _____ B _____

H _____ T _____

O _____ H _____ D _____



Cette copie ne peut être utilisée par un tiers à des fins de revendication.

Appendix 2

PROCESO GENERAL DE TRAMITACIÓN DE DOCUMENTOS	VARIABLES DE PROCESO	TERMINOS
<p>Proceso General de Tramitación de Documentos</p> <p>El presente proceso tiene como objetivo garantizar la correcta gestión de los documentos que ingresan a la institución, desde su recepción hasta su archivo o disposición final.</p> <p>Este proceso se aplica a todos los documentos que ingresan a la institución, independientemente de su origen o destino.</p> <p>El proceso se divide en las siguientes etapas:</p> <ol style="list-style-type: none"> Recepción de documentos. Clasificación de documentos. Registro de documentos. Archivado de documentos. Extracción de documentos. Disposición final de documentos. <p>Este proceso es de carácter operativo y se ejecuta de manera continua.</p> <p>El proceso es de carácter operativo y se ejecuta de manera continua.</p>	<p>Recepción de documentos</p> <p>Clasificación de documentos</p> <p>Registro de documentos</p> <p>Archivado de documentos</p> <p>Extracción de documentos</p> <p>Disposición final de documentos</p>	<p>Recepción de documentos</p> <p>Clasificación de documentos</p> <p>Registro de documentos</p> <p>Archivado de documentos</p> <p>Extracción de documentos</p> <p>Disposición final de documentos</p>

Appendix 3

Apprentissage	Apprentissage	Apprentissage	Apprentissage
<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>	<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>	<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>	<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>
<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>	<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>	<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>	<p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p> <p>Apprentissage de l'agriculture</p> <p>Apprentissage de l'élevage</p> <p>Apprentissage de l'artisanat</p> <p>Apprentissage de l'enseignement</p>

Appendix 4

PROCES-VERBAL D'ATTRIBUTION DE TERRE SITE BAZEWA - FUNJINI PARC

A la demande de Monsieur O. O. A. M. demandeur d'un terrain en loti au chef de Namakou d'une superficie d'environ 4 ha en face du jardin de l'UCOBAM pour l'installation d'une ferme de légumes et de moules dans le cadre d'un élevage

- Pour la construction d'une maison d'habitation
- L'installation d'un jardin fruitier

Le chef de Tsoché Ndey Kongo a déposé sur le site un envoyé par témoins pour cette demande. L'accord

- de Monsieur X
- de Monsieur Y.
- de Monsieur Z

Les personnes témoins étaient

- Monsieur K. H. fils du chef de Tsoché
- Monsieur G. S.

En fin de quoi les parties susdites ont signé l'acte d'attribution

Comme suit :

- O. O. A. M.
- Chef de Tsoché
- G. T.
- K. H. (témoins)
- D.
- N. S.
- N. T.

Bazéwa, le 31/07/1997

Préparé et enregistré par l'UCOBAM Bazéwa

Le chef de Tsoché Ndey Kongo a enregistré son acte de 1997 sur le site de Bazéwa

Toutefois, plusieurs personnes ont signé au lieu du chef de Tsoché

Ce document original n'est pas soumis sur le projet technique de lotissement de cases et signatures en parties

Le signataire ou pour leur compte par un tiers d'une façon irrégulière

(Page 1-1)



Promoting better and more sustainable livelihoods for people in Africa's drylands – that is the objective of IIED's Drylands Programme.

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