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CILSS  
Permanent Inter-State  
Committee for Drought  
Control in the Sahel



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CLUB DU SAHEL

# DECENTRALIZATION OF LAND TENURE AND DECENTRALIZATION IN THE SAHEL

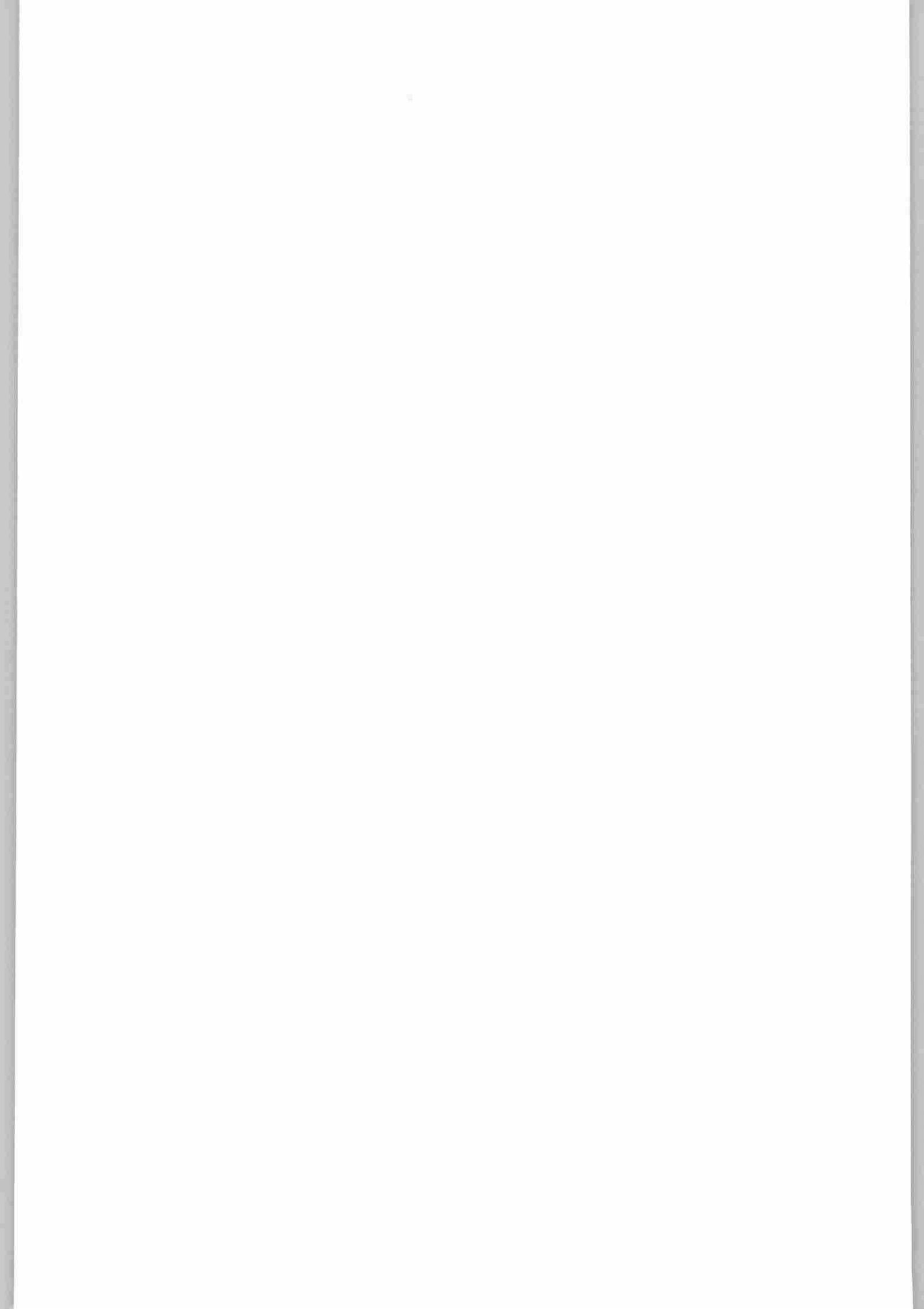
*Praia (Cape Verde)*



## Decentralization in the Sahel

◆ Summary ◆

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**CILSS – CLUB DU SAHEL**



## **DECENTRALIZATION IN THE SAHEL**

Summary of the Regional Synthesis

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## SUMMARY

### Introduction

Sahelian countries face many development problems. These problems were brought to worldwide attention by media coverage of the droughts of 1972-74 and 1984-85.

Since the Ségou Conference in Mali in May 1989, the CILSS and the Club du Sahel have made great efforts on decentralization. The two organizations are rapidly described below.

The CILSS, the Permanent Inter-State Committee for Drought Control in the Sahel, was established by Sahelian States in 1973 during a major drought. It currently has nine member States:

- Burkina Faso
- Cape Verde
- Chad
- Gambia
- Guinea Bissau
- Mali
- Mauritania
- Niger
- Senegal.

Its mandate is to organize activities to strengthen the ability of the people of the Sahel to overcome difficulties created by recurrent droughts.

These activities cover the environment, market organization, public services like primary education and public health, relations between Sahelian and coastal countries, and the reform of institutional structures in CILSS countries.

The Club du Sahel was founded in 1976 by donor agencies running aid programs in the Sahel and has been working in tandem with the CILSS to strengthen the ability of Sahelian people to counter the effects of drought.

The Club focuses on gathering better data on target problems and facilitating problem-solving. The teams of the Club and the CILSS work in tandem on studies carried out in this framework. To publicize the findings of the surveys and improve their quality, the two organizations hold workshops and conferences.

Since the Ségou Conference, the CILSS and the Club have been carrying out studies on decentralization in the sub-region. They have conducted studies in Burkina Faso, Cape Verde, Chad, Mali, Niger and Senegal. The topics include decentralized self-governance of renewable natural resources and provision of public services.

Study reports have been discussed in workshops.

These studies and meetings have produced a more accurate inventory of problems in Sahelian countries. These include deplorable living conditions, particularly in rural areas and for the unemployed, women, young people, some ethnic groups, etc., ethnic violence, poor public services, lack of infrastructure, etc.

States and local communities have limited resources to deal with these problems, and the institutions responsible for managing resources and settling disputes do not function correctly.

Problems are proliferating and getting worse; but resources are scarce and poorly managed.

### **Decentralization<sup>1</sup>: An Efficient Method for Problem-Solving**

The conference in Praia, Cape Verde, in June 1994, will discuss methods of controlling problems by making better use of what countries already have and mobilizing other resources.

Decentralization is a method of management that could help to solve difficult situations with a broad range of social players, including the State.

What then is decentralization and how can it be implemented?

To obtain a clear idea of decentralization, its relevance, and how to implement it, we must adopt a pragmatic approach.

The guiding principle is that the most efficient approach should also be adopted to solve the problems of a country, community or group. First, what are the fundamental problems of that country, community or group? Once this question is answered, other questions follow and it becomes easier to find clearer answers to them. For example, who or what is posing a given problem? Who is affected by the problem and how? What is the scale of the problem, still with reference to the group, the community and the country, and taking into account factors such as watersheds? Once there is a clear idea of the existing situation, solutions can be identified and ways of implementing them discussed.

Often, the solution results from negotiations among different social players including State representatives. Its implementation calls for the combination of major changes in the internal running of communities, regulation of relations among communities and the behavior of State representatives. While many agents of technical and administrative services behave in a way that adversely affects their fellow citizens, they themselves are citizens like the others. The solution to a problem should end abuses and injustices and therefore take into account the claims of the employees of these services.

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<sup>1</sup> The main form of decentralization discussed in this report is *devolution*, i.e., the permanent transfer of power and authority from a higher-level government to a lower-level government. The French term *décentralisation* expresses the same concept.

Once the features of a problem have been identified and the principles underlying problem-solving have been laid down, implementation strategy can be defined.

Is decentralization a valid method? Decentralization involves providing communities with the material, legal and political means to solve problems, make and enforce rules, and manage the resources for solving those problems.

Decentralization cannot be considered a perfect method of solving problems since the solutions proposed may not be right. However, decentralization does identify problems and allow efficient implementation of solutions. This method of examining and solving problems is no novelty. It may be new to the present generation because, throughout the 20th century, the opposite approach has been adopted in most CILSS countries. Under the colonial and post-colonial regimes, formal and often executive power was concentrated in the hands of a small elite. While some used their power to promote the general well-being, most used it to safeguard their own privileges or abused it to the point of undermining the general welfare of society.

This document examines three major factors that should be taken into account when transferring authority to lower-level institutions and communities.

First, the features of the problem should be examined, the institutions to handle the problem identified and the knowledge required to deal with it efficiently defined.

Second, the types of policies and mechanisms for the transfer of power to citizens must be examined.

Third, one must examine the ways in which citizens can exercise more control over the use of power.

In addition, this document deals with crucial questions concerning the future of decentralization in CILSS countries, especially the question of minority groups and how their rights can be safeguarded.

Examples from Sahelian countries underscore the following major findings:

- Complexity is not an insuperable obstacle to decentralization. This method can be applied to a complex resource like a forest, which generates several products and meets the needs of people whose interests may be opposed (farmers, transhumant herders, woodcutters, wood sellers). It can be difficult to develop a form of management that safeguards the interests of all parties, but it is possible if the rights and responsibilities of each are defined clearly and by common consent.
- Scarce resources prompt people to find new and original solutions. People often lack resources to implement the solutions that are proposed to them. Communities are thus compelled either to do nothing, leaving the problem unsolved, or to find new solutions they can afford. They therefore innovate and this ability to innovate grows in line with the general level of awareness of the problem. The same applies to other resources and many public services.

Decentralization is not limited to the management of natural resources and public services. It can also be applied to more complex issues such as the protection of the rights of disadvantaged communities. These communities may be in the majority, but one major challenge of decentralization is how to safeguard the rights of disadvantaged minority groups.

Scarcity of resources sparks off conflicts not only between the State and communities but often within communities. These conflicts undermine peaceful coexistence and upset balances, especially when some communities use the State machinery to ensure that their cause wins. Socio-economic demands soon turn into claims for the recognition of cultural identity or even political autonomy, bringing to the fore the problem of protecting disadvantaged communities (national minorities, disadvantaged social groups).

Regrettably, this type of conflict has been frequent in the Sahel this decade. It includes the Tuareg problem in Mali and Niger, the conflict between "white" communities (Arabs, Arab-Berbers) and Black African communities (Hal Poulars, Soninkes, Wolofs) in Mauritania, the Casamance problem in Senegal and a civil war for over 25 years in Chad.

Increasingly the States emphasize the socio-economic aspect of this type of conflict, and much less the political or cultural (ethnic) aspects. This does not imply that the latter aspects have been ignored. But political and ethnic solutions cannot be found until urgent economic problems have been tackled and governments have made a commitment to dealing with longer-term problems, for this reinforces the idea of establishing or re-establishing equity among communities.

### **Principles, Resources, Aims for Efficient and Sustainable Problem-Solving**

Most problems to be solved call for changes in human behavior following a change of mentality by both officials and the general public. If new behavior patterns emerge, it is easier to set up the institutions needed to make problem-solving more efficient.

An institution may take just a few days to establish. One example is an economic interest grouping, which brings together a limited number of people. It may take years to establish an institution, however, as when members of a community gradually develop institutions to handle their own, often complex problems.

Local institutions of self-governance are the fruits of efforts made by people to lay down rules that enable them to address problems. A rule or an institution that is suited to local conditions may, once established, operate for a long time. But when conditions change (like the onset of drought, establishment of a new NGO with new opportunities, essential to change the rules and the institution. Rules and institutions can prompt individuals to adopt desirable behavior (selective cutting of fuelwood and protected regeneration) and discourage undesirable activities (like indiscriminate wood-cutting).

The challenges are therefore considerable and the procedures for laying down rules and establishing institutions are complex. Priority must be given to pragmatic approaches based on analysis of the problem, the communities concerned, and the resources that can be mobilized to solve the problem.

However, pragmatism does not mean unfettered empiricism. The approach that we are proposing is based on a few fundamental principles which can help define a decentralization policy.

Before discussing principles, resources and aims, relations between communities and the State authorities should be examined, because conflicts between these two groups of actors are an everyday experience.

In their endeavor to meet basic needs, communities develop activities on a area of land, which they occupy and organize in particular manner.

Similarly, to "administer people and property", States have established local jurisdictions (or *circonscriptions*) for politico-administrative management.

The way people divide up land to pursue their productive activities often does not correspond to the divisions made by political authorities, whose primary concern is administrative management.

This discrepancy, which dates back to the pre-colonial era in some societies, was clearly accentuated after the colonial conquest and has assumed the dimensions of an open conflict between people's development-based socio-economic thinking and the authorities' domination-based politico-administrative thinking.

The inevitable clashes became more pronounced as natural and financial resources became scarcer. Local reactions have ranged from passive resistance to explicit demands or even violence, as many countries discovered in the late 1980s and the early 1990s.

Clearly, these demands have rarely involved calls for new administrative divisions that are better suited to the needs of farming systems. However, many communities have explicitly demanded that decision-making structures and mechanisms for management and control be redefined and that there should be a total change in the behavior of State technical and administrative officials.

In Senegal, Burkina Faso, and Mali remarkable progress has been made in this respect. Progress is significant where the communities' farming systems operate mainly within the national territory. In these cases, the communities' demands receive a favorable response and no major resistance from officials concerned about deconcentration of State services.

However, the same demands assume a different dimension in the eyes of administrators whenever they are put forward by populations whose farming systems straddle two or more States. These particularly involve communities practicing extensive agriculture and rearing transhumant livestock. Cross-border exchanges in such cases involve not only products (in cash or in kind) but also labor migration and especially land, as well as natural resources generally. Sensitive problems arise connected with State frontiers and how to manage border areas.

Disputes inevitably arise between States anxious to preserve their "territorial integrity" within borders inherited from colonial rule -- repeatedly affirmed as inviolable by the Organization of African Unity (OAU) -- and communities which, faced with scarce resources, can only survive with the production systems they know and control, by operating over an area of land as wide as it was during the pre-colonial and colonial eras.

## **1. Principles of Efficient and Sustainable Problem-Solving**

This section deals with four institutional principles forming the basis for efficient and sustainable solution of problems of renewable resource management and provision of public services. They are:

- legitimacy of community structures in decision-making;
- promotion of multiple recourse for citizens;
- "subsidiarity" and its implications;
- citizens' rights to establish new jurisdictions (local communities, trade groups, management groups, etc.).

### *1.1 Legitimacy of Community Structures in Decision-Making*

Institutions exist to guide or channel behavior. They are composed of rules. One basic Sahelian institution concerned with the use of resources and dating back to the pre-colonial era, for example, has two basic rules: 1) livestock are not allowed into farm lands before harvesting is over; 2) rangelands must not be farmed. These two rules are laid down to counter two extreme cases which can spark off conflicts: herders wishing to prepare their herds to survive the dry season may be tempted to let their animals "stray" onto fields where millet, sorghum and peanuts have been spread out to dry. They thus yield to the temptation to steal the fruits of the labor of peasant farmers. Similarly, the latter are strongly tempted to sow crops on livestock transhumance tracks which are well fertilized lands. If such temptations are not restrained, conflicts will be inevitable. On the other hand, overcoming those temptations encourages efforts to cultivate and to facilitate livestock transhumance movement within farming areas.

Other rules have been made over time to ensure compliance with the two basic rules. These apply in the post-harvest period, when farmlands legally become freely accessible resources, and cover procedures for settling disputes and assessing damage and compensation.

This example demonstrates that if people are to handle their problems, they must be able to take collective decisions to fix rules and enforce them. Otherwise, cattle will stray into unharvested fields and farmers will cultivate transhumant tracks, thereby undermining the ability to coordinate productive activity. In these cases, the communities suffer in two ways: they have to settle disputes and they stand to lose agricultural and pastoral production if they fail.

When situations change, rules often need to be changed if they are to remain effective. If a transhumance track runs through bushland and the bushland is cleared and farmed, it can be difficult for herders to control their animals. Where space is available, the operational rule defining the location of the transhumance track can be amended to re-route the track and avoid needless conflicts.

Rules do not enforce themselves. Verbal or written rules are simply covenants among people, stipulating what is acceptable behavior in a given situation. One should expect that the incentives for counter-productive behavior, which prompted the enactment of rules, will continue to exist. There is a strong and persistent temptation to fell the nearest tree when one needs a beam for roofing. Rule infractions may persist unless penalties are meted out as a deterrent.

Penalties may be formal (e.g., fines or imprisonment) as provided by law. They may be informal and social: refusal to collaborate with neighbors who disobey local rules. The certainty that the penalties will be imposed often matters more than the severity of the penalty. If a villager knows that failing to take part in collective tasks will mean receiving no support in times of need, he or she will do their best to turn up.

The imposition of penalties is neither automatic nor spontaneous: somebody must decide to impose the penalty for breaking a rule, for example by refusing to participate in work organized by the defaulter. When people are caught breaking a rule, a punishment must be imposed or the rule will be viewed as ineffective and will cease to govern behavior.

## *1.2 Promotion of Multiple Recourse for Citizens*

Why should citizens have multiple recourse? The idea is to strengthen public jurisdictions at several levels so that their authorities can respond more efficiently and more equitably to the wishes of citizens and propose better solutions to their problems. Decentralized decision-making strengthens the ability of citizens to solve problems by devolving decision-making authority to the local communities. This will increase citizens' ability to:

- solve problems by themselves or with others;
- hold accountable all those working officially as their agents: elected politicians, civil servants and technical experts employed by national, regional and local bodies;
- protect themselves against abuses of power by the authorities.

The question of which bodies or institutions citizens can turn to when necessary has only been under discussion for the last five years, following the process of democratization which seems to have affected all CILSS countries, albeit to varying degrees.

It is all too easy to list instances in Sahelian cities and villages where citizens' rights have not been respected. Violations have been more flagrant in rural areas: rights are poorly defined by State representatives and in some cases the law as announced by one official is contested by others. This cacophony of interpretations of the so-called modern law has

compounded the legal tussle resulting from the overlap of local laws (customary law, traditional law) and national law (State law, modern law).

### *1.3 Subsidiarity and Its Implications*

Although the term may sound scholarly, subsidiarity is based on everyday realities in Sahelian communities. This principle governs relations between the institutions established by communities to help solve their problems. It may be summed up in these terms: an institution or a jurisdiction intervenes in a problem only when lower-level jurisdictions have proven incapable of coping with it alone, or when the decision concerns a sector that is beyond the scope of competence of these lower-level jurisdictions.

For example, a Village Association in Mali does not intervene in a case which can be settled by a specific producer group. Unless the decision taken or action anticipated affects the lives of other producers in the village, the Village Association does not intervene. In many Sahelian communities in the past, the village council did not intervene in the activities of working groups and youth associations except where they exceeded their authority or created problems for other members of the community.

These habits have died out in many countries or are restricted to the village level. In recent years, however, the debate on decentralization in Sahelian countries has focused on effective decentralization of power to grass-roots structures and the rejection of misplaced intervention by higher-level structures.

### *1.4 Citizens' Rights to Establish New Jurisdictions*

- 1) The fact that citizens are vested with authority over the new jurisdictions will encourage people to solve collectively problems which cannot be solved through private activities or voluntary efforts. People who live with problems may well have valuable insight into how to address them. In any case, they are likely to have a better understanding of the problems in their community than administrators or technical experts who have no in-depth knowledge of the local context. By drawing on citizens' knowledge of their local context, innovations that could pave the way for solutions can be encouraged.
- 2) The fact that citizens have the authority to set up new jurisdictions will help to reduce pressure on central administrations and governments to solve all problems. Once citizens have this ability, an official from the central administration can legitimately suggest that they find collective solutions to common problems that cannot be solved by a voluntary group or through individual or private activities. Such a change would, in a sense, make the administrator an advisor who offers his opinion to the local communities, rather than an official with responsibility for all activities in his circonscription.

- 3) The fact that citizens have the opportunity to experiment with new forms of self-governance will most likely make them more realistic about what can and cannot be achieved through collective action. Failed experiments are as important as successes. When people are authorized to develop their own institutions, their sense of commitment also develops, as does their desire to contribute to the success of the undertaking. To overcome the problems confronting Sahelian communities and turn decentralization to good account, it is important to develop this type of local initiative.

## **2. Resources for Efficient and Sustainable Problem-Solving**

### *2.1 Local Legitimacy and Ability to Mobilize Resources*

Resources are needed for making policies, implementing policies and settling disputes arising from them. The same applies to investments made to protect reforested lands and infrastructure investments such as maintenance of farm-to-market roads, waste management, etc.

The resources needed may take the form of manpower, materials or cash. Some communities are so well organized that resource mobilization poses no problem. The burden is fairly shared and nobody shirks their responsibilities.

Other groups are less organized and some individuals are tempted to exploit the efforts of others -- for example, by refusing to contribute to the maintenance of school buildings while their children continue to use the facilities. When a substantial number of individuals in a group benefit from an activity without bearing the costs, other members of the group generally conclude that they have made a poor investment. Hence the resources required to continue can no longer be mobilized and the activity abruptly ends.

The remedy is to ensure that the authority to mobilize resources is transferred to the local bodies whenever they are authorized to govern themselves. This will make it easier for communities to deal with individual members equitably.

### *2.2 An Efficient System of Citizen Information and Training*

There is unanimous agreement on the need for an efficient system of information and training to enable communities to understand and control the development process.

However, few people fully recognize the financial and political implications of such a system. The cost of rural community information and training systems is substantial.

For the sake of efficiency and even cost reduction, these systems should use national languages. A system could begin with the languages most widely spoken in the country and then progressively add minority languages.

The ideal would be to develop, alongside a literacy program, a system of citizen information using radio and television as well as magazines, newspapers, brochures, publications, etc. People should always be consulted on content to avoid what has happened

in many countries, where users are alienated by poor handling of some types of information (e.g., political analysis of their own experiences). Experience has shown that development policy issues, considered among the most complex, can be understood by rural people if the analysis is clear and in a language they understand. Good quality information is expensive to produce as it requires journalists with good communication skills. And target users can rarely afford to pay for the information. Once an information system has been developed, it is possible to work with informed local people to set up a training system that is tailored to the needs they themselves have identified.

The other potential obstacle to such an approach is political. It is no secret that information and training are pillars of power. The freedom of the press and unhindered access to training (in human rights and how to defend them, for example) are recent achievements in many Sahelian countries. Even two years ago, the "rural press" (in local languages) was not allowed to discuss political issues in some countries. Some donor agencies have often supported newspapers on the condition that political issues will not be raised. This has given rise to a generation of insipid journals that are more like newsletters for extension agents than organs for informing citizens.

It is pointless to pretend that these issues do not exist and that the implications of citizen information and training are not important. A choice must be made between refusing to support such systems and providing real support with full acceptance of the consequences.

### **3. The Aims of Sustainable Problem-Solving**

The ultimate aim of problem-solving in the Sahel, where inter-community conflicts are becoming more common, is to improve living conditions and establish an atmosphere of peaceful co-existence among communities.

#### *3.1 Improving Living Conditions*

Sahelian populations have experienced many problems and tragedies over the past twenty years.

It is to heal the wounds inflicted by these tragedies and prevent their recurrence that there has been fresh debate recently about the governance of people and property. This objective should underlie all discussions on decentralization as one means of solving the problems connected with resource management.

The many problems experienced by Sahelians relate to basic needs, i.e., food, shelter, clothing, and also education, health and freedom. Improving living conditions amounts to solving these problems more effectively, for the benefit of all and in an equitable fashion.

However general and complex it may be, there is nothing abstract about this objective. A decentralization exercise that does not lead to the improvement of the general living standards of the community (especially the most disadvantaged), is certainly not worth the effort.

### 3.2 *Promoting Peaceful Co-Existence among Communities*

It was not until independence that this issue began to assume alarming proportions. Inter-community conflicts have always existed, but they have proliferated as a result of population increase, scarcity of resources and some State policies. The Sahel has had so many trouble spots in recent times that some observers even deny that Sahelian peoples can live in harmony.

The point is that for peaceful co-existence to be established (or restored), not only must new wealth be created, but resources and wealth must also be shared equitably.

### 3.3 *Fostering Equity in Local Decision-Making*

For conflict-solving procedures to be effective, they must be seen by all as objective and transparent. If a decision is considered unjust, then the aggrieved party and all those who share the same views will simply resort to their illegal practices as soon as possible -- unless officials of the rule-enforcing institutions have the authority to back up their decisions.

For decentralization policies to succeed, people must be willing to participate in enforcing rules that they or their representatives in local jurisdictions have developed. This support for rule systems is observed where people feel that the rules reflect their own values and their sense of justice. If there is no widespread feeling that the authorities are acting legitimately, citizens lose their interest in efforts to solve problems (joint provision of public service, management of renewable resources).

The history of the Sahel is unfortunately full of cases where arbitrariness has been the rule. Many rural people consider that this arbitrariness applies first to access to resources: capital (access to equipment and input credits) but most especially land (currently the main constraint on agro-pastoral activities in the Sahel).

Sahelian peoples have demonstrated their determination to turn a new page in their history. Over the past five years, they have taken vigorous measures to introduce systems in which the Sahel's resources can be more equitably and efficiently managed.

The CILSS and the Club du Sahel hope that the Praia Conference will be a milestone in the achievement of this objective.

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