

FOCUS ON LAND IN AFRICA BRIEF

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Mali



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Lesson 4:

Tenure Insecurity in Urban Mali

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INTRODUCTION

In Mali, many of the urban poor face tenure insecurity which leaves them vulnerable to expropriation, landlessness and poverty. This insecurity is perpetuated by two distinct but interrelated issues. First, a scarcity of affordable land in urban areas forces the poor to illegally squat on public land or to enter into informal land use agreements with traditional authorities on the urban periphery. Second, land formalization processes are expensive and accessible to only a few, leaving many of the poor vulnerable to government expropriation. These issues – aided by corruption, cronyism in land allocation and opaque and expensive land registration processes – have fueled tenure insecurity for the majority of the urban poor in Mali.

PROFITS OF URBANIZATION

Urban growth can create jobs and strengthen civil engagement in government, including opportunities for women. But urbanization can also contribute to drastic income inequality and land tenure insecurity among the urban poor in informal settlements. In Mali, urbanization has not been accompanied by reduced poverty and informal settlements are expanding.

While Mali remains largely rural, urbanization is an increasing trend. The urban population constitutes 33% of the total population, but urban population growth (1.98% per annum) outstrips rural population growth (1.33% per annum). UN-HABITAT projects that by 2030, 47% of the population will be residing in urban areas. Much of this growth is concentrated in the southern provinces of Mali and particularly in Bamako, the capital city. Bamako, which currently has over 1 million inhabitants, is growing at a rate of 4.4% per annum and is among the ten fastest growing cities in the world.

Urbanization has been driven by rural-urban migration, population growth, and increasing economic opportunities in urban areas. Migrants are pushed to urban areas during periods of drought. Farmers and herders who have found their livelihoods negatively affected by drought seasonally or permanently migrate south in search of employment alternatives. As a result, the south of the country is now home to approximately 60% of Mali's urban population.

Migrants are also pulled to urban areas by perceived opportunities for earning higher wages, demand for labor, and better social services. In Mali, urban job opportunities in the informal sector and the services sector – particularly in commercial, retail, and personal services – have attracted migrants. However, the perception of urban opportunities exceeds actual supply. One survey found that in Bamako, 71% of male migrants found work within a year of migrating, while 21% of female migrants found work within a year.

In Bamako, the impact of unplanned urbanization on urban and peri-urban land tenure security, as well as quality of life, has been largely negative. Though Mali's high rate of urbanization reflects the country's growing economic dynamism, rapid population growth has stressed already inadequate basic services, increased pollution and congestion



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Urbanization has been driven by rural-urban migration, population growth, and increasing economic opportunities in urban areas.

in the city center, and contributed to the expansion of informal settlements. Growing informal settlements in the outskirts are characterized by lower land values and allow the poor to bypass the land administration system and deal with traditional authorities. Yet, settlements often lack access to basic services and most inhabitants live below the poverty line.

LEGAL FRAMEWORK GOVERNING LAND

Urban and peri-urban land in Mali is governed by a patchwork of statutory and customary laws. In areas with low market pressure on land (i.e. land is relatively remote with little market activity), customary land laws tend to govern access to and use of land. When market



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pressure on land increases (i.e. when land is accessible from high population areas and market activity), statutory laws begin to be applied. These laws are often in contradiction to customary tenure arrangements. In areas with high market pressure on land, access to and use of land is largely governed in accordance with statutory laws.

In Mali, access to land is regulated by the Code Domaniale et Foncier (CDF) and the Loi d'Orientation Agricole (LOA). These laws govern leases and land titles. The CDF and the LOA also recognize customary land rights for unregistered lands under conditions fixed in the CDF. However, customary rights must be approved by government authorities and land tenure insecurity for those holding land under customary tenure is increasing in areas with high market pressure.

Under the decentralization laws, the central Government may transfer land to a municipal government if the municipality proposes a justifiable use for the land, such as for the provision of public services. The municipality can then allocate the plots of land, but the Public Lands Administration must approve these allocations. Specific rules for land management then need to be spelled out in by-laws. However, municipalities often lack the qualifications needed to effectively manage the land under their jurisdiction.

According to the CDF, the Government of Mali reserves the right to expropriate land in the public interest, which includes the development of public works and the creation of infrastructure. In peri-urban areas, municipalities primarily expropriate land to develop residential areas. The municipalities are required to pay landowners for expropriated property. In practice, however, very little is done to compensate those whose lands and derivative rights are expropriated and those holding land under customary tenure arrangements may be disenfranchised.

URBAN LAND SCARCITY AND TENURE INSECURITY

Those seeking urban and peri-urban land in Mali tend to acquire it through one of four paths. In the first, the poor squat illegally on urban land, where they risk eviction. In the second, the poor purchase use rights to land directly from customary authorities. These rights are rarely formalized and, even though they have paid for land use, the poor are left vulnerable to expropriation. In the third, urban elites purchase peri-urban land from traditional authorities for personal use or speculation, then parcelize and sell the land to middle and higher-income urban

residents. In the fourth, the government expropriates untitled urban or peri-urban land – often land held under customary tenure regimes – and allocates or auctions it to those that can afford it.

Aside from squatting, purchasing use rights to land from customary authorities is often the only avenue through which the poor can access land. Settlements derived from purchasing use rights on customary land make up the majority of informal settlements in urban and peri-urban Mali. Customary authorities may allocate use rights to land to the poor according to the laws of their community. However, these tenure arrangements are informal and, as a result, the land rights of the poor are insecure and vulnerable to expropriation by the municipal government.

Yet, even peri-urban land held under informal and insecure tenure arrangements is increasingly difficult for the poor to access. Middle and higher-income urban residents also seek land held by customary authorities for speculation and farming. Farmers that hold land under customary tenure regimes – and who do not have formal title to their land – may be forced or tempted to sell their land to urban residents or face expropriation by government authorities. Those that are knowledgeable about land formalization – primarily civil servants, urban dwellers, and actors within the central state – can insert

themselves profitably into the bureaucratic procedures and appropriate the benefit of these sales. Customary landholders and the poor continue to lose-out as they are pushed further and further from urban centers and markets.

When land is titled, it offers greater security of tenure and may only be expropriated under extraordinary conditions. Thus, titled land is of higher value and more expensive than untitled land. The process for obtaining and registering a title is long, expensive and complex. For many urban Malians, the costs – including official one-time fees and substantial bribes to land officials – are prohibitive. In order to obtain title to land purchased from customary authorities, the purchaser must first obtain a provisional title, which involves purchasing a sketch map and paying annual taxes. In order to convert a provisional title into a full title, the landholder must prove that they have made investments on the property. While official fees constitute only a small cost, unofficial costs can be as high as US \$3,000. As a result, only the wealthy are capable of acquiring formal title to their land, while many low-income households are left vulnerable to expropriation.

Opaque practices have handicapped land management and contributed to a

scarcity of affordable land in urban Mali. The municipal government produces plots of land for allocation by subdividing government land into lotissements (serviced subdivisions); however, the allocation of lotissements has been undermined by twenty years of cronyism and unlawful practices. Municipal authorities regularly allocate plots of land without the oversight of the Public Lands Administration and the central Government has preferred to allocate land to investors and those with enough money to lease or buy land. This has contributed to a shortage of residential land in urban areas, particularly in Bamako where, today, there are practically no reserves of public land available. In addition, many cannot afford the lotissements auctioned by the Government, which sold for between US \$5,550 and US \$11,000 in 2007. Such high prices leave the poor to settle for informal tenure arrangements on underserviced plots.

CONCLUSIONS

In urban Mali, insecure land tenure is borne disproportionately by the poor. High rates of rural-urban migration are leading to burgeoning informal settlements,

where most inhabitants lack the means to obtain legal title, even when they have purchased their land. The risk of expropriation contributes to the already dire situation faced by the urban poor and could potentially contribute to unrest unless tenure insecurity is addressed.

Urbanization will continue to affect Mali's largest cities. Without appropriate and effective laws and administration to govern urban land tenure, Mali's cities will likely witness further growth of informal settlements in peri-urban areas and increasing income inequality. In order to halt this trend and provide the urban poor with greater tenure security, consideration should be given to the following measures: 1) revise urban titling procedures or institute low cost alternatives for formalizing land rights to make legal tenure more affordable and accessible to migrants and the urban poor; 2) systematically grant formal tenure status for land holdings in peri-urban informal settlements; 3) institute narrow grounds for expropriation of urban residents that are firmly justified by public use; 4) increase transparency and oversight of land administration functions to reduce corruption and improper allocations; and 5) establish minimum quotas for allocating government land for low-income residential purposes.





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