

**STATE THEORY AND PRACTICE IN FRANCOPHONE AFRICA:  
FRENCH ROOTS AND PERSPECTIVES**

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# STATE THEORY AND PRACTICE IN FRANCOPHONE AFRICA: FRENCH ROOTS AND PERSPECTIVES

## A. INTRODUCTION

A common institutional design for political structures is found practically everywhere in francophone areas of Africa, from Madagascar to Mali, Guinea to Cameroon. It features a single-centered state whose officials exhibit strong tendencies towards centralization and resistance to authorizing self governance for local communities. That the same basic design should persist, despite poor performance and significant critiques, thirty-five years after independence in some fifteen countries suggests not only a common tradition of institutional practice, but strong common intellectual roots. This is indeed the case. Moreover, since the ideas underlying state practices do affect people's lives and life chances, it is important that practitioners in the area understand of the general implications of those ideas.

This chapter sets four objectives: identify the assumptions underlying the French tradition of state design; review briefly the record in francophone Africa of state design and structures, and how it relates to the original French model; examine the country of Mali as a context within which this common design functions, using the governance and management of renewable resources to illustrate the argument; and explore whether other options might be more apt to facilitate efforts of African citizens of these states to solve some or all of their problems by themselves.

Indispensable as a starting point is a review of several key French treatises on state design, notably Jean Jacques Rousseau's *The Social Contract* and Alexis de Tocqueville's *The Old Regime and the French Revolution*. The discussion also refers to Jean Bodin's sixteenth century work on sovereignty, at the beginning of the era of the modern state, and to Sieyès contributions, produced at the beginning of the French revolution, to the institutional design of the French state model.<sup>1</sup>

Works by contemporary scholars reveal tendencies pre-dating independence to strengthen executive, i.e., state, control over society in each country to be liberated from French colonialism (Cf., e.g., Wunsch and Olowu: 4-6; Zolberg: annex on Ivorian constitution; Gellar: 132). Independence political elites quickly discovered how these institutional arrangements could be made to serve their self interest, which of course reinforced the model despite its clear drawbacks for the broader population.

In Mali, the pattern found in other African francophone countries is repeated with great consistency. The basic assumptions prevail, though they were often exaggerated during the socialist regime that initially took the country to independence (1958-60). little changed under the subsequent military and then the single-party regime dominated by the same soldier. Not surprisingly under the

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<sup>1</sup>The French state model, based on the experience of the French revolution, "The unitary, indivisible state, representing the general interest" which implies "bureaucracy and hierarchy" in order to achieve rationalization and standardization (Crozier: 48) has been subjected to much critical reflection in France since the events of 1968. Themes ranging from the role of the state as a provider of public services to the desirability of greater autonomy for local governments to the evolving position of the state in a Europe tending towards political union are being carefully scrutinized. Recommendations derived from these reflections diverge more sharply from the old model of the French republic state than do the tentative redesigns of formal institutional arrangements found in post-1989 francophone African states. See the very solid and interesting collection of articles on these issues edited by Lenoir and Lesoume.

contemporary regime, now more accurately styled (Third) *Republic*, the same patterns persist. The section on Mali also outlines major features of a society that each of the four regimes has sought to dominate. This treatment notes briefly the complementarities that unite people as well as the fact of differences separating them and potentially pitting them one against another.

The final section proposes an alternative approach to the problem of institutional design and development in Mali (and in Africa in general). This approach is federalist in character and adopts the concept of *subsidiarity* as a leading criterion for judging the value of existing institutions and institutional innovations. Here the most important analytic works include de Tocqueville's *Old Regime and the French Revolution*, Millon-Delsol's *L'Etat subsidiaire*, and Michalon's *Quel Etat pour l'Afrique?*

## B. ASSUMPTIONS UNDERLYING FRENCH STATE DESIGN

Four separate strands of thought and practice underlie the concept of the state and its goals and practices in French political theory. The first derives from the efforts of the sixteenth-century political philosopher, Jean Bodin, who initially defined the concept of state sovereignty (Colas: 210-14; Hayward: 4). The second is the centralizing tradition of divine right monarchies (Tocqueville, 1955: 18-20). The third current of thought was provided by Rousseau when he propounded the concepts of the social contract and the *general will* (Rousseau: 17-21, 35-38), which may be understood as the mechanism by which the public good is defined. Drawing on Hobbes' concept of the essential equality of all men in a (hypothetical) state of nature (Hobbes: 94-95), Rousseau sought to shift the basis for the state and sovereignty from the divine right of monarchs to that of popular consent. The fourth intellectual current stems from Sieyes, who accepted Rousseau's arguments about human equality, and about sovereignty as essentially indivisible, but rejected Rousseau's strong warning that sovereignty was inalienable and could not be delegated and so laid the groundwork for parliamentary and then imperial sovereignty in the French revolutionary period.

These four theoretical positions intertwined tightly during the course of the French Revolution, reinforcing one another to produce a concept of a political system based on two entities: the citizen and the state (Allen: 5-6). This framework makes very little provision for any intermediate institutions and indeed is suspicious of, or even hostile to them, unless tightly controlled by the state administrative apparatus. It sharply undermines support for autonomous community, local and regional governments. It dovetails nicely with the concept of the welfare state, imported more or less at independence along with theories about forced economic development, to most francophone countries.

These ideas influenced in varying degrees the design of state constitutions and institutions both before and after independence in francophone African countries. In general, centralized institutions have persisted since full independence in 1960, through all the vicissitudes of single party, no party, military dictatorship and now multi-party regimes, to strongly shape the form and the performance of governments in francophone countries. This is true despite decentralization programs in several countries in the group.

Understanding the theory upon which these centralized structures are based will help those interested in supporting political reforms in the area to better understand the nature of their task. In general, regimes in francophone countries have to date given very little satisfaction as political

structures for problem solving and, despite recent constitutional revisions, still afford little promise of improvement.<sup>2</sup>

### 1. *Bodin*

Bodin contributed the concept of **sovereignty** to French political thought. Developed at the time of the French religious wars between Catholics and Huguenots (1568-98) in an effort to reassert secular state authority over warring religious factions, Bodin's views on sovereignty drew from the Roman concept of *imperium*. The latter referred:

[in the Roman republican period]...to the supreme power of the citizens; in the consular period to the authority conferred on the emperor by the senate representing the citizens; whilst in the imperial period it had described *the omnipotence and omnicompetence of the emperor, who was above the law* (Hayward: 4) (my italics).

Bodin emphasized the role of the state as "a perpetual and absolute power" and asserted that "the only constraint on the sovereign was his ability to limit his own sovereignty." The implication was that sovereignty must be a unitary force ("one and indivisible"), incapable of being subdivided (Hayward: 4). Bodin provides multiple examples to explain this point, all of them emphasizing that no delegation of part or all of his power to an agent such as a lieutenant, viceroy, general or regent could ever impair the sovereign's ability to reclaim that power whenever he wished (Colas: 212-14). Bodin's concept of sovereignty specifically undergirds a theory of power as unlimited and unconstrained. Self-governance for communities composing the state was, by implication, rejected, as such bodies might be expected to try to check the sovereign's desires and actions.

### 2. *Centralization*

The kingdom of France, whose leaders ruled on a theory of divine right from the 16th through the 17th and most of the 18th centuries, became increasingly centralized. Its sovereigns created a polity in which all subjects were subordinated to and controlled by royal power. Louis XIV was perhaps the greatest centralizer in a long tradition beginning with Philip Le Bel (1285-1314) (Miquel: 105-08).

A brief discussion of the process of centralization in France will show how dominant this mode of exercising political power eventually became. In the fourteenth century French nobles resided on their estates which they governed with the cooperation of vassals, many of whom were commoners (Tocqueville, 1955: 84-86). But after the same wars of religion that inspired Bodin, the victor, Henri IV, set about reducing the French nobility to dependence on the royal court (Miquel: 173-85).

Cardinals and kings advisors Richelieu and Mazarin continued Henri IV's policies. Local autonomy was gradually undermined by the exercise of royal prerogatives and eventually, under Louis XIV (1661-1715), by the strengthening of the *intendant* system (already operational under Henri IV in 1600) (Miquel: 181). Thirty men, of non-noble origins and under the control of the comptroller-general, governed the thirty French provinces. French nobles by then spent most of their time at the king's court, and played almost no role in provincial governance (Tocqueville, 1955: 35-37). Intendants handled all administrative business in their districts and orchestrated all public works

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<sup>2</sup>In this they differ little from the similarly highly centralized institutions introduced in Anglophone parts of Africa (Wunsch, 1990a: 23-42).

(Tocqueville, 1955: 38-41). These practices, and the institutions that underlay them, persisted after the Revolution; only the name of the key official changed, from intendant to prefect (Tocqueville, 1955: 61-62).

Extensive centralization led to extreme dependence of all persons and all places on the central government. In consequence, extensive delays occurred in dealing with local problems as every detail had to be approved by central administrators before action could be initiated. The practice of administrative *tutelle* (tutelage or oversight) of all activities undertaken by subordinate jurisdictions, which has become a defining characteristic of government operations in French-tradition African states, finds its origin in these 17th century French institutional arrangements.

Official discouragement of autonomous citizen participation in activities to solve public problems is characteristic of contemporary francophone African countries. While in recent times it has met with considerable resistance from non-governmental organizations and international donors, as well as from some courageous African politicians and other public figures, the underlying orientation continues little abated in elite circles.<sup>3</sup>

### 3. Rousseau

The French political philosopher Jean-Jacques Rousseau built on the tradition of political theory leading from Bodin to Hobbes. In the mid-17th century, just after Charles the First of England lost his head to the Puritan rebels, casting doubt on divine right as a justification for state authority, Hobbes substituted the idea of a covenant arrived at among men in a (hypothetical) state of nature as a basis for state power and sovereignty. To create such a covenant, each man would transfer all his power and strength to an artificial creation, referred to by Hobbes as *Leviathan* or the state. In Hobbes' theory, the sovereign head of that institution, whether a single person, or several or many individuals operating in an assembly, would then have the physical power to enforce rules and agreements among all members of the Commonwealth so created (Hobbes: 131-32). In Hobbes' vision of the state, men were all subject to the commands of the sovereign and, if necessary, to his coercion to ensure that they honored their contracts and obeyed his orders as dutiful and obedient subjects.

Rousseau challenged Hobbes' argument, not on the point of the indivisibility of the sovereign's power, that is, his sovereignty, but rather the terms on which the sovereign power was to be constituted, and who was to exercise it. In Rousseau's pithy formulation, the problem to be resolved was that "Man is born free, but is everywhere in bondage" (to the sovereign and his state apparatus) (Rousseau: 2). To remedy this result, which he saw as an unacceptably high price to pay for peace, Rousseau proposed an alternative method of constituting states.

Instead of all men submitting to a single sovereign, thus obtaining peace and security *in principle* at the price of subjection, they could achieve the same end by all agreeing to associate themselves jointly to institute a state. The resulting agreement, the "social contract," would be based

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<sup>3</sup>"Elite" refers here to individuals who have been educated in francophone primary and secondary school systems, and have often received additional training in advanced technical or university establishments.

\**In principle* is a necessary qualification because nothing guarantees that the sovereign will not utilize his power to exploit his subjects. The performance of state officials in francophone Africa since independence, as well as in China, Russia, and many Latin American countries during the 1960s and 1970s, to mention but the most obvious examples, tends strongly to confirm this as a real danger, with serious negative consequences for human welfare.

on a mutual surrender of the rights of each associate to every other one, rather than all surrendering their power to a single sovereign of which they were not a part and over whose actions they could, by binding agreement, exercise no control. From a methodological point of view, what was necessary was to invent:

...a method of associating...which will defend and protect, with all the collective might, the person and property of each associate, and in virtue of which each associate, *though he becomes a member of the group, nevertheless obeys only himself*, and remains free as before (Rousseau: 18; my italics).

Rousseau proposed that this new state should exercise its sovereignty in a very specific manner. He argued that only the union of all citizens could make laws and this only, in the case of each law, through an act of *general will* (see below). Law making was, for Rousseau, the definition of the exercise of sovereignty (33-34). All laws resulting from this process would be, again by definition, general in both their expression of the will of all, and in their objects as well (Rousseau: 53). The capacity to make laws, as distinct from the power to apply them, *could not be alienated* (Rousseau: 34).

Each law, under Rousseau's formulation, is an act of sovereignty. It is also:

...a lawful agreement, because based on the social contract. It is an *equitable* agreement, because everybody is a party to it. It is a *profitable* agreement, because it can have no object other than the general welfare. And it is a binding agreement, because it is backed up by collective force and supreme authority (Rousseau: 45; my italics).

These attributes of every law arise from the process by which the sovereign association creates the law. As Oakerson notes, laws for Rousseau are explicitly *not* the commands of a separate sovereign à la Hobbes, imposed upon a subject people. Instead, they constitute "the conditions of civil association" under the terms of the social contract (Oakerson: 25). They express the terms on which people wish, by mutual agreement, to live with each other.

The process of arriving at laws as expressions of the *general will* is carefully considered (Rousseau: 38-39). Rousseau stipulates that a law results when major differences of opinion among the associated members of the sovereign cancel each other out, leaving smaller differences from which, after discussion, a common position accepted by all emerges as the general will or, in other words, a law.

Certain conditions must be met for a sovereign to produce a law. They include adequate information, full public deliberation and "a configuration of interests among citizens characterized by numerous small differences" (Oakerson: 29). If the sovereign assembly is to will only the good of all its members, it must avoid, or weed out, partial or individual wills (that is, individuals' or groups' desires for public policy outcomes). It is thus much easier to arrive at the general will on a topic if divisions among the people are few and slight. The following passage on this question has significant implications as a justification for certain policies followed by many French-tradition African states:

Given a sufficiently well-informed people in the act of deliberating, the general will would always issue from the numerous small difference of opinion among them, which is to say deliberation would always take place to good purpose, if the citizens *did not take counsel with one another outside the assembly*. Where, however, blocs are formed, i.e., lesser associations at the expense of the broader one, the will of each of these associations

comes to be general with respect to its members and particular with respect to the state...the differences become less numerous than before, and produce a less general result than before...[because what prevails is not the general, but a particular point of view, that is, the public policy desired by the strongest association].

If, then, we are to have a clear declaration of the general will, *we must see to it (a) that there are no partial societies within the state, so that (b) each citizen forms his own opinions...*

*Where partial societies exist already, they should be made numerous and prevented from becoming unequal in size*<sup>5</sup> (Rousseau: 40; author's italics).

These observations lead Rousseau to various observations on the appropriate size of states, if they are to be able to legislate in a manner that produces laws based on the general will. He notes that Rome, whose last census enumerated a population of "400,000 arms-bearing citizens," nonetheless succeeded in convening sovereign assemblies, *without using representatives*, at least weekly (Rousseau: 141). Book Four of *The Social Contract* provides a good deal of detail about the methods Romans employed to operate these assemblies. They depended in great part on a pronounced sense of patriotism, and a willingness to place the *res publica* above private interests. Where assembly in person is not possible—because of the extreme size of a state—Rousseau rejects the possibility of governing a people in accord with the principles of the social contract if they rely entirely on representatives to express their wishes (Rousseau: 146-49). **It is possible for representatives to prepare and propose laws, but they must be approved by the populace if they are to have the legitimacy of a product of the general will** (Oakerson: 27, esp. Fn. 11)

In the final analysis, Rousseau believed that small states provide the most propitious framework within which to operate systems of governance based on the *general will*:

My view, all things considered, is this: **only if the city is very small can the sovereign possibly retain, in our day, the powers that belong to it.** If the city is very small, however, it will be conquered? Not at all. I shall show later how it is possible to combine the external power of a numerous people with the simple polity and good order of a tiny state (Rousseau: 152; my emphasis).

Rousseau made an essential contribution to French political theory in demonstrating the feasibility of a form of sovereignty alternative to that proposed by Hobbes. But his contribution was subsequently modified, during the French Revolution, as only certain parts of his theory were incorporated into the political theory of the French Republic. Others, particularly his proposals concerning the methodology of law making and the importance of the small size of a polity to the feasibility of its citizens achieving a general will, which he considered key to the success of the social contract as an approach to constituting order in human society, were rejected or overlooked.

His comments on the importance of avoiding or diluting the impact of partial or particular interests in efforts to formulate laws for a country, by suppressing associations or ensuring that none would become too large and powerful if they already existed, were however incorporated into the evolving body of French political theory. They lay the foundation for a pervasive suspicion, in

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<sup>5</sup>Translators emphasis removed; emphasis added.

contemporary state and political circles, of autonomous groupings.<sup>6</sup> Clearly Rousseau is not responsible for this, especially since his advice concerned the creation of self-governing states, rather than those based on a ruler-ruled dichotomy. Yet his position on this point coincided fully with royal practices in seeking to control associations. The suspicion of and hostility to associations that are not "domesticated" by state officials continues today in France, and is a hallmark of state governance in francophone African states.

#### 4. Sieyes

Sieyes played a key role in introducing parts of Rousseau's theory into the political practice of the French Revolution. He found in Rousseau's argument in *The Social Contract* justification for a new, revolutionary French polity based on the assumption of human equality. But Sieyes was dealing with a polity many times the geographic size of Rousseau's Geneva Canton and much larger in terms of population. It was physically impossible for all Frenchmen to assemble to approve the new constitution(s). Furthermore, Sieyes rejected Rousseau's approach to law-making. He did not trust a system based on direct democracy, fearing that the poor and uneducated would overwhelm it: *Plus la democratie est brute, plus elle s'approche du despotisme. Elle s'avance vers la liberte en devenant representation* ("The more democracy is direct, the closer it comes to despotism. Democracy moves in the direction of liberty by adopting representation as a system.") (Colas: 390). Instead, Sieyes advocated a political system organized on the basis of representation, both to the constituent assembly and to the parliamentary governments which followed. On Rousseau's theory, this eliminated any real possibility of a democratic republic based on the consent of all concerned, since the practice of referenda was not simultaneously applied. Instead, the French continued to function in a system based on ruler/ruled relationships. It was merely the ruler that changed, from Louis XVI to the Assembly (Hayward: 5). In this regard the French people, by Rousseau's lights, were no different from the English, of whom he wrote:

The English people thinks itself free, but is badly mistaken. It is free only during parliamentary elections: once the members of Parliament have been elected it lapses back into slavery, and becomes as nothing (Rousseau: 149).

What Sieyes did retain from Rousseau was Bodin's and Rousseau's insistence on sovereignty as an indivisible, inalienable force. At the beginning of the Revolution, sovereignty was vested in the French Parliament on a motion introduced by Sieyes (Hayward: 5). The Jacobins, the centralizing faction within the Assembly, insisted on eliminating any regional assemblies which would, had the Girondiste program been adopted, have retained some autonomy as well as their local institutions.<sup>7</sup>

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<sup>6</sup>Mark Kesselmann indicates that, as of 1960, very few autonomous non-governmental groups existed in France, but reports possibly substantial increases since then (Kesselmann: 55-56).

<sup>7</sup>For an insightful discussion of French federalist tendencies during the first few years of the federalist period, and the extent to which the highly complex realities of that movement were subsequently converted, by Republican historians, into total rejection of federalism as a threat to the revolution, see Citron: 258-60). The thesis and tone of this work is aptly revealed in the dedication. In a riposte to the formalistic "Nos ancetres, les Gaulois.." consecrated by French historians of the Third Republic, Citron dedicates her work to "My grandchildren, Coline, Johan, Gregoire, Paul, Clara, in memory of their Bearnais, Bigourdans, Flemish, Norman, Gascon, "Portuguese" Jewish, Alsatian Jewish, Parisian Jewish, Ile de France [Parisian region] "French", Bretons, Romansch Swiss, German Swiss and Dutch ancestors."



Local autonomy was interpreted by the Jacobins as a threat to the sovereignty of the Assembly. This position, and its practical implication, were clearly stated in Article 3 of the "Declaration of the Rights of Man and of the Citizen."<sup>8</sup>

The source of all sovereignty lies essentially in the Nation. No corporate body, no individual may exercise any authority that does not expressly emanate from it.

When Napoleon Bonaparte replaced the Assembly in 1799 as the effective political head of France, the concept of sovereignty as indivisible and inalienable remained unchanged. It was merely exercised by a committee of one. And that one was equally committed to eliminating local autonomy (Hayward: 6). While these positions are entirely comprehensible in the evolving political context of the French Revolution, threatened not only by enemies without but by revolts within, some by the Girondistes articulating a federal program (Miquel: 274-80<sup>9</sup>), they reinforced the monarchical resistance to local autonomy.

Sieyès' first doctrine of parliamentary sovereignty had a corollary: *deputies represented the nation, and not their constituents*. Since the revolutionary period, whenever the Assembly rather than a Bonapartiste leader has dominated the French polity, this doctrine has held sway (Hayward: 5, 10). In consequence, the idea of constituent service is somewhat attenuated in French-tradition political systems, as it poses at least a vague threat to national unity. Elected representatives are of course expected to seek services for their constituents from the national government,<sup>10</sup> but they are identified by their constituents as part of the state apparatus (Kesselmann: 80-81).

Four political concepts have been examined here:

- Bodin's idea of sovereignty;
- the royal centralizing practices, subsequently pursued with ever greater effect by the various stages of the French Revolution, the Napoleonic Empire and the regimes that succeeded them;
- Rousseau's radically democratic idea of sovereignty, with its parallel emphasis on conditions necessary to ensure that laws really express the general will; these conditions include small size of the polity and a concern to eliminate sub-national groups or, if that is impossible, to prevent any from becoming dominant within the polity; and
- Sieyès' influence in substituting a system of political representation in revolutionary France for Rousseau's idea of sovereignty within small polities, coupled with the assertion that sovereignty inhered first in the national parliament and later, in the dictator.

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<sup>8</sup>Adopted by the National Assembly during the French Revolution on August 26, 1789, and reaffirmed by the constitution of 1958.

<sup>9</sup>Much of the west of France, from the Pyrenees to Normandy, revolted against the terror and domination emanating from Paris.

<sup>10</sup>Jacques Chaban-Delmas, mayor of Bordeaux for decades and at one point head of the National Assembly, illustrated an extreme commitment to constituency service during an electoral campaign when he informed a crowd of voters that "'Bordeaux needs thirty billion [*ancien*] francs to build homes. I must find these billions and not in the pockets of Bordeaux residents.'" Aubin, quoted in Kesselman: 51, fn. 8.

Together these four strands of political thought and practice establish the fundamentals of political theory for those African regimes fashioned on the French model. Sieyès' final location of sovereignty in the person of the dictator has been far more popular in both the colonial regime—where legislatures were introduced only during the last decade before independence—and in the independence regimes. From 1960 through the next three decades African executives systematically reduced legislative influence to negligible levels. This approach only changed somewhat with the wave of national conferences (constitutional conventions) that followed the end of Communism in Eastern Europe and the former Soviet Union. Even in the aftermath of the new, assertedly democratic constitutions, old patterns of behavior and governance practices persist, rather than having been weeded out. This is hardly surprising, as the elites who run the new system are largely (self-)recruited from among those who ran the earlier, more authoritarian regimes.

As we shall later see, French political theory has been quite durable in francophone African countries because it meshes tightly with the individual interests of those who staff state administrative and technical bureaucracies. Those who engage in these countries in development activities intended to be both sustainable and to encourage over time more responsive, transparent and "user-" or "citizen-friendly" political systems, need a clear understanding of these state-based constraints on action. They will be far better prepared to provide effective assistance if they have some appreciation of the political theory that underlies these systems, and the implications of the practices that flow from that theory for the feasibility of various development activities. They will also be better able to help lay the institutional groundwork for more durable and dynamic economic systems.

## C. FRANCOPHONE AFRICAN STATES: THE INFLUENCE OF FRENCH THEORY

### *1. Background*

Most francophone African countries contain at least several different ethnic groups. Some of these groups share a political past of empires that spanned the West African savannah and sahel regions from the Atlantic Ocean to Agadez in the Nigerian Sahara during the period from the tenth to the sixteenth centuries. Others, during the same period and later, created smaller kingdoms, some of which—the Hausa and Mossi states in particular—provided very durable and resistant to domination by outsiders. Still others have a tradition of stateless societies. The groups in any single contemporary francophone country are not likely to share a common set of values, nor are their members likely to value the state above their own ethnic group. Inter-group differences on many subjects hardly meet Rousseau's criterion of "numerous small differences." The difficulties of arriving at consensus on a single public good valid for all are very considerable. These politico-ethnic differences are compounded by environmental and economic disparities.

These countries also contain numerous and distinctive environmental sub-regions. In the West African bloc of francophone countries environmental regions reflect rainfall gradients that increase gradually from 250 mm annually on the edge of the Sahara Desert south to 2,000 mm+ as one nears the Bight of Benin. In more northerly, arid areas, pastoralism has been the traditionally dominant production system, although it is now under pressure from agriculturalists who have invaded zones formerly occupied exclusively by pastoralists. Further south mixed farming systems of various sorts prevail. Near the coast of the Bight of Benin one finds numerous plantations designed to produce cash crops for export.

Ethnic groups are to some extent associated with specific production systems, e.g., many members of the Fulbe, Twareg and their associated ex-serf groups, the Rimalbé' and the Bugage, still

rely heavily on pastoralism for their subsistence. The Bozo are a fishing people, Dogon, Hausa, Zarma, Serer, Halpoular, Mossi, etc., are dryland peasant farmers whose staple grains are millet and sorghum, Baoulé and other more southern groups engage in production of tree crops and various tubers in the more humid zones towards the coast. Pastoralists and farmers have, in times past, cooperated with each other on a regular basis, although their relationships were sometimes disrupted by warfare and slave-raiding.

In consequence of these differences, ethnic groups in the Sahelian francophone countries, as well as in other francophone areas of Africa, have quite distinctive perspectives on many issues. What one group might consider a public good ("our group controls the executive," "farmers are to be prohibited from cultivating remaining bush lands that pastoralists use as corridors for their herds during annual migrations north and south") may well concisely define a public bad for other groups. In any case, the members of these groups cannot realistically be considered to share common values on all issues, although they certainly share them on some.<sup>11</sup>

## 2. *Strategies to Create Nation States*

These inter-group differences were in fact widely recognized before, during and after the colonial period. Governments in most of these countries, like those in most other parts of Africa, have proclaimed throughout the thirty-five years since independence a commitment to forging new nation states (Wunsch and Olowu; Zolberg) as a strategy for overcoming such differences and simultaneously achieving development. However, in a significant departure from the European pattern, these regimes sought to use the state to speed up the process of creating the nation, rather than allowing the latter to form first by natural processes and then subsequently developing a state<sup>12</sup> (Leopold Sedar Senghor, ex-president of Senegal quoted by Michalon: 18; see also 65). All these states are fully committed to preserving their frontiers, established by the European powers in the rush to colonize Africa after the Conference of Berlin laid the ground rules for partition in 1884-85, despite the fact that many ethnic groups are now split by national borders (Michalon: 68).

In their efforts to create new nations—with policy advice and financial and technical support furnished in abundance by donor countries and particularly France—regimes in francophone countries strove to centralize control over their polities. The publicly announced goal was to create new citizens, all equal in status and all obedient to the rulers of the new state apparatus. The model envisaged a population unified in its struggle to achieve development by implementing a state-prepared plan for economic development. To this end, state officials sought to wean their populations from ethnic identifications and commitments to kinship, caste and community groups. But the result

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<sup>11</sup>This argument is not meant to suggest that intra-group differences do not exist. But because of shared traditions, lifestyles, production systems and the like, it is often easier to deal with conflict in those settings.

<sup>12</sup>This characterization of the history of the formation of most major European nations, especially France and England, seriously underestimates the role of the state in creating European nations. To be convinced of this one has but to review the struggles among Normans, Anglo-Saxons, Welsh, Scots and Irish, or the expansion and contraction of France from the middle ages to Louis XIV, and then again during the French Revolution, as revolts and resistance to domination at the hands of the state centered on Paris swept through the south, east and west of the country. These uprisings were often based on ethnic differences as well as on religious and linguistic disputes (Protestant Huguenots v. Catholics, southerners speaking *langue d'oc* v. northerners speaking *langue d'oïl*, and regions such as Alsace Lorraine, the Pyrenees, Aquitaine or Normandy in the east, southwest and west, linked historical experience with other countries (German principalities, Catalonia, England) (Miquel: 88-134, 156-202; Rosanvallon: 69).

of these policies has been that "in many of the states of francophone Africa especially, ethnic rivalries are sharper now than at independence" (Michalon: 29; my translation).

These states commonly adopted two techniques to achieve centralization and homogenization of the population. The national government, using the inherited French theory of indivisible, inalienable sovereignty, incorporated in French legal codes imported during the colonial era, specified that no organization had any legal standing until and unless it was recognized by the state.

The background of this position is to be found in the upheaval of the French revolutionary period. When the nobility

The standard approach of most francophone states has been to discourage existing indigenous and non-indigenous organizations from seeking recognition by either escalating the transactions costs of achieving recognition or prohibiting such units outright (Michalon: 48-50). In the Western Sahel until at least the mid-1980s, Niger, Mali and most other francophone countries, with the exception of Upper Volta and the partial exception of Senegal, strongly discouraged autonomous organizations. Upper Volta permitted a vibrant NGO sector from independence until the early 1980s. Then the coup d'état by Thomas Sankara and his supporters changed the situation. The country was renamed Burkina Faso and, among other policy modifications, NGOs were more tightly controlled. Senegal favored a controlled approach, but gradually loosened constraints (Gorse, Gazzo and Thomson: x, 36-37, 39-40, 53).

Administrative systems in most francophone countries, typically centralized in the Ministry of Interior or its equivalent, recognized de facto communities only to control the selection of leaders, conduct censuses, collect taxes and occasionally to dispatch government technicians to launch a development project or *gendarmes* to deal with a breach of the peace. Communities were not granted any official autonomy to deal with their own affairs. Instead, inhabitants were considered passive material requiring "sensitizing," "animation" and "mobilization" in order to accomplish anything

Communities were rarely if ever accorded recognition as autonomous local jurisdictions. At most—as in Senegal, or as is now proposed in Mali—villages are grouped into rural *communes* and the ten to 50 communities in each *commune* are to choose representatives to these local governments.

In consequence, governments now confront the problem of controlling groups, communities and societies, many of which existed before imposition of colonial rule and continue to exist and function today, though in modified form. For the most part, contemporary francophone African states resist recognizing these social and political groupings because to do so would be to recognize ethnic and social divisions which they are committed to eliminating. Instead, most governments from independence to the wave of national conferences in the late 1980s relied on a strategy of creating their own networks of bureaucratically-controlled organizations with exclusive mandates to handle all sorts of problems (provision of health and education services, agricultural extension, etc.).

Second, they have all greatly expanded national administrative systems created during the colonial era and transferred for the most part intact at independence to the new governing elites. These systems were designed to carry out four basic tasks: maintenance of law and order; mobilization of fiscal resources; provision of public services; and promotion of development activities.

In fact, politicians, particularly presidents, used these new bureaucracies as structures within which to build political machines. In many countries, including Mali, students who progressed to a

certain level—usually a high school diploma plus some technical schooling—within the national education system were guaranteed government employment. Personnel costs soon outstripped operating budgets and indeed, most government technicians and administrators cannot do their jobs properly whatever their intentions because they lack the material means to carry out many of their tasks.

### 3. *Institutional Designs of Francophone African States*

All of the African regimes based on the French model—fifteen plus scattered throughout Africa—though differing in details, share a number of common institutional characteristics. Of these, the most salient is a single-center political system and its corollary within political elite circles, resistance to local self-governance. Following French political tradition, power in these polities has always been concentrated at the national center. The locus of power at that level initially—in theory at least—was the national assembly. But, whether legislatures enjoyed any autonomy initially or not, power was soon concentrated in the executive (civil or military as the case might be), once the one-party states were officially legalized and then replaced by military dictatorships.

No sub-national autonomous political units existed in these systems. Most provided, during the era of civilian rule, for election of deputies to the national assembly. But these officials were considered to be representatives of the nation, following French practice, rather than representatives of their local constituencies. Many francophone countries had some form of tightly controlled representation to lower-level councils, and most had at least a few municipal governments. But these sub-national units depended for budgetary resources almost exclusively on state transfers. Their room for legislative initiative was tightly circumscribed. Most were governed in an authoritarian mode that neither sought nor permitted popular participation.

Following the collapse of the Soviet Union and a series of regime changes in many African countries, most francophone African countries (e.g., Madagascar, Mali, Niger [until the coup in late January 1996], Burkina Faso, Ivory Coast, Senegal) now have constitutions modeled on that of the French Fifth Republic, which provides for a mixed executive system. In these regimes, an elected president continues to exercise very extensive and relatively uncontrolled power. Among other things he nominates prime ministers to form governments that present the bulk of bills for approval as legislation to the national assembly. As has been the case since independence in 1960 under earlier regimes, in contemporary African systems based on the French model, the executive typically continues to exercise far more real power than the legislature. In fact, most of these countries have exceedingly weak parliaments.

Another important characteristic of these polities is an extensive administrative system that excels, not at positive achievements, but at dampening or preventing local initiative. The administration remains, in fact, the locus of much political decision making. Administrators continue to think and to refer to those who live in their jurisdictions as *nos administris* ("our administrees"). The latter are seen as subject to direction by formally educated administrative and technical elites rather than capable of functioning as citizens with some capacity for and interest in self-government and to whom elites might in some sense be accountable.

In francophone African states personnel budgets often consume 90% or more of available funds while operating budgets, at 10% or less of expenditures, cannot provide civil servants and technicians with the materials and support they need to accomplish their assigned tasks (Club du Sahel:). France has often covered a substantial part of civil servant salary bills in these countries (see, e.g., Gabas

and: Club "foreign assistance" Miles: 50). Investment budgets derive almost exclusively from foreign assistance and loans provided by multinational banks.

In some francophone African countries—Benin, Mali, Senegal, as well as Madagascar—awareness is beginning to dawn of the value of sub-national jurisdictions capable of addressing some problems without a priori state oversight. Yet this generally takes the form of grudging acceptance rather than any clear commitment to the idea of subsidiarity in its contemporary incarnation. A regime based on the principle of subsidiarity would involve nested sets of autonomous local and sub-national governance units organized so that the smallest unit capable of dealing with a problem would do so without assistance or interference from the state or other overlapping jurisdictions. Whenever a unit could not handle a problem by itself, it could then call on overlapping units for assistance with the expectation that help would be provided as far as feasible (Millon-Delsol: 218).

#### **D. MALI: GOVERNMENTAL INSTITUTIONS AND THE GOVERNANCE AND MANAGEMENT OF RENEWABLE NATURAL RESOURCES<sup>13</sup>**

Mali was governed by a military dictatorship under Moussa Traore from 1968-91. A quarter of the way through that period, in 1974, a new constitution was adopted. Some trappings of a civilian regime were introduced in the form of a single-party state, but the practice of democratic centralism persisted (Kante et al: 5) and the polity remained heavily dominated by the executive. The president, his wife and their supporters systematically developed a system of corruption in order to maintain the dependency of lower-level governmental officials, and the population in general, on the military dictatorship (Coulibaly).

##### *1. Institutional Arrangements of the Third Republic*

In the immediate aftermath of bloody efforts to suppress student protests in March 1991, a coup d'état toppled the Traore regime. The military government of transition organized a national conference the following summer. In this constitutional convention, attended by some 2,000 people, a draft constitution for the Third Republic was prepared with the assistance of several French advisors. That draft was approved in a referendum January 12, 1992 (Kante et al.: 7-8).

The main institutional features of the new regime, which features the traditional tri-partite division of powers, include the following:

- a split executive consisting of an elected president and a prime minister who is appointed by the president without approval by the legislature
- a single-chamber national legislature
- a High Council of Territorial Collectivities (somewhat comparable to a senate)
- an Economic, Social and Cultural Council

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<sup>13</sup>I am heavily indebted for much of the material in this section to the team of researchers associated with Mamadou Kante who produced the report cited as *Kante et al.* for the African Democracy/Governance Project financed by the Sustainable Development Office, Africa Bureau, United States Agency for International Development.

- a judiciary branch comprising three courts: the Supreme Court (criminal and civil justice, administrative law), the Constitutional Court (a priori determination of constitutionality of laws, as well election probity and any conflicts arising therefrom), and the High Court of Justice (impeachments) (Kante et al.: 11, 15-17).
- a commitment to decentralization that envisages several levels of local government enjoying some autonomy but still subject to oversight by personnel of national ministries, most notably the Ministry of Territorial Administration and the Ministry of Finance (Anon).

These institutions provide for considerable separation of powers as a means of buffering citizens against abuses of official power. The constitution can only be changed by a two-thirds vote of the national assembly, followed by popular approval expressed through a national referendum.

## 2. *The Third Republic's Institutional Design: Weaknesses*

At least two weaknesses of significance for the themes of this paper can be identified in this set of institutional arrangements. Only party-slated candidates can run for national office. Independent candidacies are precluded (Kante: 28). Second, the framework for self-governance is quite weak. The constitution does not really guarantee communities authority to govern themselves (Kante: 52-68).

Party dominance of the process of slating candidates introduces a dangerous bias into the present Malian political system. As politicians' chances to run for office—and for re-election—are immediately contingent on party approval rather than support from ordinary citizens, they are more beholden to the former than the latter. While many see constituency service as a major role of elected politicians, their thinking may change if the current trend to single party domination of the national assembly continues. Allowing independents to present their candidacies would weaken the parties' monopoly. Politicians might be expected to demonstrate even greater commitment to pursuing the interests of their constituents rather than supporting those of the elites who dominate an increasingly closed system.

The current arrangement derives from the constitutional decision to ensure a working-majority in the National Assembly by providing for a winner-take-all rule in elections to that body (as opposed to the rule of proportional representation adopted for in elections to sub-national legislative bodies) (Kante: 22). The majority party, which now controls the presidency, may well soon have the opportunity to dominate the assembly as well since the opposition is currently disorganized and essentially leaderless.<sup>14</sup> Clearly this threatens the end of the open public realm in Mali, and repetition of the kind of costly, inefficient single-party or no party politics that have plagued Mali, and much of Africa for most of the last 35 years (V. Ostrom, 1990). While this outcome may not occur immediately, it is certainly foreseeable.<sup>15</sup>

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<sup>14</sup>In Burkina Faso, just south of Mali, the elected president recently succeeded in co-opting all ten opposition parties, eliminating all resistance to his rule (Personal communication, Chéibane Coulibaly, February 11, 1996).

<sup>15</sup>The French government, initially opposed to the January 1996 coup d'état in Niger, has more recently expressed concern about the impact of cutting off its aid to Niger. If the French break ranks with other donors' decision to cut off aid, the coup can be expected to succeed. The French are likely to pursue this line despite the Organization of African Unity's condemnation of the Niger *coup* because they want minimize their costs in preventing widespread breakdown of order in francophone areas of Africa.

Failure to provide any constitutional guarantees for self-government at the community level also threatens local problem solving capacity. While decentralization legislation has been approved<sup>16</sup> and does offer some improvements over the rules affecting community and local governance under Moussa Traore's Second Republic regime, it does not provide an effective framework to support communities' efforts to solve their own problems.

The Second Republic system of local governance was based exclusively on administrative hierarchy and control: Seven cities had the status of municipal *communes*; the rest of the country was organized in 218 *arrondissements*, the equivalent of rural counties. These units had next to no budgetary autonomy until the late 1980s (Kante: 55). Rural people had little opportunity to organize, except when a parastatal or project depended on locals to participate for effective implementation of the activity.

The new system of local government specifies that villages, typically 20 to 25, will be grouped "on the basis of affinity." Each such set will be designated a *commune*. These units, of which more than 500 are to be created, will be headed by elected officials, chosen through a system of indirect election by villagers. Each village will send at least one representative to the commune council. Council members will then elect a mayor and executive council (Kante: 59).

Criticisms of the system vary widely, depending on the observer's position. Administrators strongly dislike the loss of power it implies for them. Others, who favor decentralization, complain about the top-down manner in which Mali's decentralization program has been formulated. Still others focus on the extent to which proposed *communes* will: lack power to make rules applicable to anyone within their jurisdictions; be subjected to oversight by officials named from the parallel administrative hierarchy; and be the sole type of jurisdiction legally authorized at the local level, whereas they argue that communities need a variety of jurisdictions, including special districts, with authority to organize activities and channel behavior, if they are to confront their problems in productive and efficient ways (Kante: 59-61).

One of the critical weaknesses of the decentralization legislation is the extreme dependence of *communes* on weak sources of revenue specified in the implementation texts. While *communes* are to have access to the proceeds of some 60-70 forms of taxes and fees, none is expected to produce much revenue. Thus these local government units will continue to depend for most of their operating and investment budgets on the central government. The least one can say is that this arrangement is not designed to encourage much local initiative.

To illustrate these issues, we turn now to a specific sectoral problem, the governance and management of renewable natural resources. While the arguments address the RNR sector, they are generally valid for most types of public services, including health, education, water supply, hygiene and road maintenance.

### 3. *RNRGM: Difficulties and Uncertainties*

Most renewable natural resources—pastures, forests, wildlife, fisheries, soils on watersheds and the like—occur in various different scales (Thomson, 1991: 8-9). Some are tiny—a micro-watershed encompassing a hectare or two. Others are huge—a forest of covering many square miles. Managers of such resources require fine-grained local time and place knowledge if they are to be manage

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<sup>16</sup>Personal communication, Chéibane Coulibaly, April, 1995.



effectively. That kind of management requires a high degree of autonomous local governance of resources (E. Ostrom: 1991: *passim*, esp. 88-102). It also supposes that communities be allowed to associate with each other to constitute new governance institutions capable of addressing RNRGM problems that exceed the capacity of individual units Thomson and Coulibaly, 1994: 30-32). It assumes, in addition, that smaller jurisdictions can call upon larger, overlapping ones for assistance when a problem requires more technical, material or fiscal means than they can mobilize.

In most Malian rural communities one finds abundant evidence of capacity to govern and manage renewables (Dennison et al.; Diallo; Thomson, 1993; Thomson and Sylla; Toure et al.; Vedeld). People in most ethnic groups normally take effective measures to preserve resources they value in their production systems when they believe those resources might be threatened by excessive demand.

Yet the forestry code under the first and second republics explicitly precluded communities from governing and managing local woodstocks, as the Malian state claimed these as its public property (Elbow and Rochegude: 35, Arts. 4-6, 51-52). The same holds for other renewables that have the characteristics of common pool resources, e.g., fisheries and wildlife. The assumption guiding this policy, at least when the forestry code was first imported in 1935 from France, was that people could not be trusted to govern and manage resources once demand exceeded supply, and so the state would have to take over responsibility for management. This policy exemplifies the idea of the state as the sole entity capable of articulating the *general will of the nation*, imposing that will to constrain all those partial and non-general wills or interests that threaten the general interest. The result, however, was to destroy local systems for the governance and management of Woodstock resources, some of them elaborated over centuries.

Watersheds, while regulated to an extent by the forestry code, but local people generally enjoy greater liberty to govern and manage these as they see fit.

In any case, the number of local organizations exercising governmental powers in most Malian rural communities is striking. The general purpose community government—usually the chief and a council of elders—is usually implicated, but so are many other organizations that function as de facto special district governments, e.g., they control fisheries, or woodstocks, or pastures. Among the Bambara, in addition to gender-based adult groups, it is not uncommon for children to organize *ton*—associations frequently designed to accomplish a specific goal, such as accumulating money to finance entertainment for village youth during the dry season. Members of these organizations self-organize and self-govern at a quite early age. They choose a leader who is responsible for negotiating with potential employers and with older village officials. They work to earn money and appoint a treasurer responsible for maintaining the accumulated wealth (funds or animals). They resolve disputes. Adult groups are organized to undertake projects, often quite sizeable in nature, and to deal with local problems.

Dogon villages likewise organize de facto special purpose jurisdictions, in addition to highly structured general purpose governments, often with the goal of governing environmental matters (Dennison et al., 42-70; Toure et al: 4-7, 18-21).

The new forestry code provides for forests to be controlled by subnational governments, i.e., the regions and the *communes* (République du Mali: Arts. 1-3, 51-53). Although the new code formally declares that priority in the exploitation of forest resources should be accorded to the "organizations located in proximity" to those woodstocks (Art. 56), no provision is made for communities to develop their own regulations for their own woodstocks. Nothing prevents a

*commune* council from authorizing such activity, but leaders of those governments will have every bit as much incentive as foresters to retain control of woodstocks: as those renewables become scarcer, their value increases. Proceeds from the sales of forest products can be used to augment resources available to local governments, or they can be collected as personal rents, as foresters have long done (Campbell). Furthermore, before products can be harvested, a management plan must be prepared by foresters and submitted to the government's council for approval before it becomes valid (République du Mali: Art. 54).

## E. INSTITUTIONAL ALTERNATIVES

The last point in this paper is to explore whether other institutional arrangements might be more apt to facilitate Africans' efforts to solve some or all of their problems, particularly resource governance and management problems, by themselves. Two alternatives can be envisaged, both tending to a greater equilibration between the authority retained by national state institutions and that devolved to local governments at several levels. The one is an extension of the decentralization policy that has already been ratified and may be implemented in the near future. The other, more radical in nature, would involve constitutional modifications to introduce some form of federalism as the basic structure of the Malian polity.

### 1. *Extending and Consolidating Decentralization*

The current decentralization policy, and the institutional arrangements through which it is to be implemented (cf. Section D, above), could provide much greater leeway for local initiative in dealing with RNRGM problems as well as public service issues. The key institutional change here would involve modifying existing legislation to recognize communities as political and juridical entities authorized to form their own autonomous community governments without terribly burdensome transactions costs imposed by state regulations (Michalon: 95). A major regional conference on land tenure and decentralization has recommended exactly this policy orientation (CILSS/Club du Sahel, 1994). An earlier conference on the same two themes held in Mali also recommended the communities be allowed to organize themselves as official units of governance (CILSS/Club du Sahel, 1991: 4, recommendations and conclusions 1-4).

Such a change would involve revising seven assumptions that appear to underlie the contemporary Malian system of governance:<sup>17</sup>

- (1) The belief that individuals who have not benefitted from formal French-language education are much less competent to govern their own affairs than the educated would have to be replaced by a general presumption of *popular competence*.<sup>18</sup>

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<sup>17</sup>These are treated in somewhat different manner in Thomson and Coulibaly, 1994: 25-36. E. Ostrom addresses many of these issues with specific reference to common pool resources as a series of conditions necessary if institutions established to deal with RNRGM problems are to be "long-enduring" (E. Ostrom: 88-101).

<sup>18</sup>Millon-Delsol notes that "since antiquity, despotisms are nothing other than the government of him-who-knows, better than the people themselves, the people's good, i.e., the possessor of objective good." Governments founded on the assumption of the near-omniscience of educated elites are really despotisms in the original sense of the word. The Greek term referred initially to the master of a household who "...governs the slaves, women and children, that is to say, those beings ignorant of the sense and content of their own well-

(2) The concept of a unique national public good, to be identified, articulated and defended by state officials interpreting the general will against the (purely selfish) personal and group interests found throughout the polity, would have to be replaced by an assumption of the existence of *multiple public goods*, variable in time, place and scale.

(3) Rather than depending on state officials—as representatives of the national public interest—to govern and manage renewables for sustainable use, community governments would have to be explicitly authorized to make rules concerning access to and use of renewable resources located on their lands, and to exercise police functions to enforce those rules.

(4) Were these three changes introduced, a fourth assumption concerning the necessity of central government oversight, or tutelage (*tutelle*), of all sub-national government activities, could then be sharply relaxed or even replaced by an assumption that *local initiatives were lawful* unless proven otherwise in court.

(5) Rather than being kept dependent on budgetary transfers from the national government (or from other overlapping jurisdictions), community governments would have to be authorized to *mobilize funds on a non-voluntary basis*, by passing appropriate fiscal regulations concerning non-trivial sources of financing.

(6) Rather than any changes in governance arrangements being dependent on action in each case by the national legislature and administration, *citizens* would have to be authorized by appropriate enabling legislation to *form new jurisdictions* when the efficient and equitable governance of a given renewable resource (or provision of a public service) required it, conditional on conformity with simple regulations to protect the rights of minorities.

(7) Closely linked to and in fact sums up the other six is a last modification: the idea of *subsidiarity*. This concept would have to replace the basic presumptions underlying the welfare state.

The welfare assumes that equalizing conditions in a society takes priority over preserving liberty. Individual liberties, in other words, must be suppressed if their preservation threatens to impede equalization processes. The subsidiary state, on the other hand, views each human group as responsible for solving—and *at liberty to solve*—its own problems as it sees fit (Millon-Delsol: 198-99).

It also sees communities as authorized to receive assistance from overlapping jurisdictions once they have tried to cope with a problem and found that it exceeds their capacities. The final element in the concept of subsidiarity recognizes the legitimacy of state intervention when a problem specific to some local jurisdictions affects other jurisdictions, or when achievement of a more general public good demands it (Millon-Delsol: 201-04; see also Thomson and Coulibaly, 1994: 30). The concept of subsidiarity is neatly illustrated in its practical operation in Tocqueville's ten-page note on the

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being. He thus directs them, legitimately, towards a noble goal without their being conscious of it. By extension, despotism designates a government convinced of the immaturity of its subjects. It is convinced of this immaturity because it declares itself qualitatively superior. Because it knows the common good, and the people do not, or cannot learn. Here, politics is categorized as a part of the sciences, it is objective knowledge which is brought to the people from the outside, with the same clear conscience with which one would present a Pythagorean theorem. This knowledge is thus beyond criticism (Millon-Delsol: 177; my translations).

public policy of the "Pays d'Etat" in the pre-revolutionary south of France (Tocqueville, 1955: annex).

Let us assume for the moment that these modifications could be realized in formal terms. Let us make, for the moment, the strong assumption that these modifications could be subsequently anchored in Malian political practices and durably maintained in the face of temptations always present for those who, in a system of rule/ruler/ruled relationships, hold power over others, and thus have strong incentives to use their power to shape laws and to implement them in ways that redound to their personal advantage (V. Ostrom, 1990: 231-33). On these assumptions, it would be reasonable to predict that rural communities in Mali would, over time, both improve their performance in governing and managing renewable resources and in providing themselves with public services.

Elites would, however, still face strong temptations to undo this devolution of power and recentralize control in the national government so soon as the inevitable problems and failures (as well as successes) occurred when people begin to exercise their new authority. They could do so using simple legislative procedures. If—as is now the case—the legislative majority and the president are of the same party, such a shift should not pose insuperable problems over the next several years.

## *2. Federalism's Potential for Strengthening Community Control over RNRGM*

A more radical approach would involve reconstituting Mali as a federalized polity. While we can only speculate here about the form state subdivisions might take, it is clear that the current regions offer one possibility, and the major ethnic subdivisions another. Both would pose undeniable problems. Just as do international divisions of territory in the western Sahel, the boundaries of Mali's internal regions fail to take account of the north-south orientation of pastoral production systems (Thomson and Coulibaly: 23-25). Ethnic groups do not now live on mutually exclusive territories—many never did—and therefore difficulties concerning protection of minority rights within each state may arise. However, federalizing would only reduce the scale of the human rights issue, as minority rights pose an on-going problem in Mali today. Part of one group of pastoralists, the Twareg, have been in intermittent rebellion against the central government since before the coup d'etat that toppled the Traore regime. As part of their struggle for a larger degree of autonomy, the Twareg have more than once violated the human rights of other groups in the Fifth, Sixth and Seventh Regions. Nonetheless, federalization is politically possible and probably feasible.

What advantages might be derived from federalization? In the first place, such a change would require formal modification of the Third Republic's constitution. The change would stimulate a lively public debate, and would raise options that have not been addressed in the current discussion of decentralization. In formal terms it would lodge power more firmly in the constituent states, making it easier at that level for sub-national states to hold onto their autonomy.

If Mali were to be federalized on something approximating ethnic lines, and substantial legislative and fiscal powers were assigned to the states, it would reduce incentives for ambitious politicians to dominate the federal center, since there would be less by way of power and resources to capture there (Michalon: 130). Federalization should also have the effect of reducing ethnic tensions nationally: if the center does not figure as the sole center of power, then the representatives of one or another ethnic group winning important offices there would not automatically put all other groups on notice to be on their guard against possible tyranny. The threat of domination of some groups by others, at the national level, could be considerably reduced.

Federalization can be looked upon as the fullest realization of the principle of subsidiarity (Millon-Delsol: 217 ff). Although the federal government would have responsibility to provide assistance to jurisdictions, individuals and groups deserving of aid when feasible (i.e., when money and other resources suffice, which would clearly not always, or even often, be the case in Mali), it would confront real limits on its power to intervene. Most importantly, federalism would create new opportunities for local communities as well as local governments and regions to address problems on their own initiative. As Crozier notes, apropos of the French state in particular but of bureaucratic states in general,

[It] has succeeded, up to a certain point, in rationalizing [economic production and consumption], but for a long time now what is gained by regulating and standardizing pales beside the consequences for the polity that follow from the suffocation of initiative. *The problem of development, from now on, lies far more in the discovery and generation of resources than in the rationalization of their use* (Crozier: 51; my translation).

While Crozier in this passage is discussing the future of contemporary France, those familiar with *Democracy in America* may be struck by the echo, over nearly a century and three-quarters, of Tocqueville's observations about the energy he observed in American public affairs, despite the lack of administrative rationalization of those activities, compared to the uniform order and lack of energy observed in France. Two passages, closely linked, give the gist of those observations:

In America the power that conducts the administration is far less regular, less enlightened, and less skillful, but a hundredfold greater than in Europe. In no country in the world do the citizens make such exertions for the common weal (Tocqueville, 1945:1, 95).

...to my mind, the end of a good government is to ensure the welfare of a people, and not merely to establish order in the midst of its misery. I am therefore led to suppose that the prosperity of the American townships and the apparent confusion of their finances, the distress of the French communes and the perfection of their budget, may be attributable to the same cause. At any rate, I am suspicious of a good that is united with so many evils, and I am not averse to an evil that is compensated by so many benefits (Tocqueville, 1945:I, 95, fn. 50).

The two options sketched above do not constitute solutions, but merely options. They fit with certain elements of Malian RNRGM problems, and apply to most public service problems as well. Like any institutional arrangements they have inherent weaknesses and are vulnerable to manipulation—recentralization, in this case (cf. V. Ostrows: 237-40). They offer, however, starting points for reflection on the ways in which the current Malian system of government might be modified to enable Malian citizens to exercise greater control over their own lives and, over time, improve their lives in part by more effective governance and management of renewable natural resources vital to their survival.

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