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## Fighting over crumbs? Small valleys in West Africa as a new locus of land claims

Mayke Kaag

### Introduction: Small valleys in West Africa

*Senegal, January 2003.*

*It is already two months into the dry season and the fields have turned into brown and grey. In the small valley stretching out along the village, however, everything is still green and fresh. Looking at it from the plateau, it resembles an ancient Italian landscape painting: Dispersed over the valley, people, men and women, old and young, are weeding their small plots, taking water from the small bore holes they have made here and there, while others are sitting in the shadow of a tree, enjoying the view of their green gardens. It makes a peaceful and harmonious picture, one of calm prosperity. In this chapter it will, however, become clear that the agricultural activities in the valley are not only a sign of prosperity but also tell a tale of poverty and marginalization. Furthermore, it will be shown that behind the apparent peace hides an ongoing history of competing land claims.*

All over Africa can be found small valleys, such as the *dambos* in central and eastern Africa, the *vlei* in Zimbabwe, the *fadama* in Nigeria, and the *boli* in Sierra Leone. From a geological perspective, a distinction can be made between different types in this kind of landscape, based on form, soil hydrology and so on. However, as this chapter is not concerned with techni-

cal aspects, I will use 'small valleys' as a generic term to indicate shallow grassy depressions found in the headwater zones of drainage systems that are inundated annually for at least some days and that have hydromorphic soils. This corresponds closely to what Zeppenfeld and Vlaar (1990) call *bas-fonds* in French.

Until now, small valleys in Africa and their uses have received only scant attention from researchers and policy-makers. While the droughts of the 1970s and 1980s reinforced interest in agriculture and livestock keeping, most attention has been directed to problems such as the low productivity of the main cereal crops, the decline in world market prices for main cash crops like peanuts and cotton, and overgrazing. Most often, large-scale solutions have been proposed, for example large-scale irrigation works or mechanization. From this perspective, small valleys evidently do not have much to offer, for they are small (mostly varying in width from a few metres to over one kilometre) and are not suitable for mechanized agriculture and large-scale exploitation. However, taken together the area they cover is substantial. In Zimbabwe, for instance, it is estimated that there are 1.3 million hectares of *vleis* (Whitlow 1989); Turner (1986) estimates that on average, *dambos* occupy two per cent to thirty per cent of the total land area with an average of ten per cent over extensive areas. Furthermore, they have specific interesting characteristics: Many small valleys are very well suited for small-scale agricultural and horticultural uses utilizing superficial water sources, meaning that their use is not restricted to the rainy season only. Further, because the areas cultivated are most often not very large, their exploitation can be rather intensive and adapted to the characteristics of the different parts. Small valleys are also important for cattle keeping. At the start of the dry season, the cattle can feed themselves from the leftovers of the harvest that remain in the fields. But at the end of the dry season and at the beginning of the rainy season, herding in small valleys may be important to overcome fodder shortages. One of the main problems is that small valleys generally are very susceptible to water erosion. They may also dry up and lose their capacity to retain water. (Turner 1986: 343-6).

The limited literature that is available on small valleys in Africa is mostly composed of articles on their geomorphology and more or less technical works on their agricultural possibilities and the best ways to put them into use (Raunet 1984; 1985; Vernier and Hamasselbe 1988; Berton 1988; Whitlow 1989). Lavigne Delville, Bouju and Le Roy (2000) stand out in combining a focus on improved management of small valleys through irrigation schemes with a perspective on land tenure issues. Bell and Hotchkiss (1991) should also be mentioned, as theirs is one of the few studies that analyse the use of small valleys in the context of people's livelihood strategies. Apart from these publications, there are a number of reports and studies, for example by agricultural services or students, that not have been

made available on a large scale.<sup>1</sup> Among them there are a few that examine the use of small valleys in their local context and that pay some attention to diverse historical developments that have had an influence on the use of these valleys. Most studies, however, fail to pay attention to farmers' strategies and only point to economic and demographic factors explaining the use made of small valleys. The effect is that the use of valleys is depicted merely as part of a unilinear process of agricultural development, fuelled by economy and demography only, while the interaction between people's agency and longer term processes in the use of these valleys remains hidden from view. This is a pity, as small valleys constitute a particularly fascinating study subject in this respect.

More specifically, in this chapter it will be argued that small valleys are particularly interesting in terms of emerging dynamics of claiming control over land. Many of them have only recently been taken into agricultural use. As they do not usually constitute part of the agricultural land traditionally controlled by local families and will often be used for purposes other than traditional crops and agricultural activities, they are being subjected to new strategies of land claims. People invent new ways of claiming control over land in such valleys by combining old and new rules, by building new alliances or by revitalizing old ones, and by referring to different authorities. These authorities, customary rulers and state agents alike, have to position themselves in this dynamic in a way that offers them chances to enhance their power, but that also often puts their legitimacy to the test.<sup>2</sup>

I will investigate these emergent dynamics of claiming control over land with the case of a small valley in southern central Senegal. In addition to analysing the strategies of the users of the valley, I will pay particular attention to the role of different authorities, especially the village chiefs as traditional power holders, and the rural council which is the state representative at the local level. At the end of the 1980s and the beginning of the 1990s in a couple of years the valley was cleared and put under cultivation by local farmers. This can be considered an anarchistic act, as nobody asked permission from the rural council, the administrative body in charge of land allocation. The rural council, however, certainly had an influence on the clearing process – but so did the village chiefs. Furthermore, women, who according to local custom have no rights over land, started to claim rights in the valley on the basis of this same customary law. Cattle-holders who saw their customary rights in the valley being violated turned to the rural council, which tried to settle their claim by evasion, a strategy that is often associated

<sup>1</sup> Zeppenfeldt and Vlaar (1990) offer a synthesis of a number of these studies.

<sup>2</sup> It follows that I consider power as a means used by actors in order to act and to adopt a position; but power at the same time sets the baseline and the margins for actions and the positions of actors, in the sense that it is an expression of larger processes and phenomena.

in particular with customary authorities and conflict settlement (Cf. Berry 1993; Mathieu 1996; Lund 1998).

The case shows that the dynamics of claiming land can fruitfully be studied in areas that constitute a new locus of land claims, as it reveals how old rules are reinvented and how new ones develop in the interaction between land users and authorities, against the background of ecological, economic and political change. I will argue, however, that the importance of what happens in the valley is not restricted to this small area alone. Studying the dynamics of claiming land in the valley may enhance our understanding of land claiming dynamics and social transformations in (local) society at large. For land claiming practices and strategies may be considered as an expression of people's livelihood strategies. Studying land claims may thus offer a means for obtaining an insight into these strategies. Moreover, many authors have stressed the fact that land tenure in Africa is strongly embedded in social, political, and economic relationships and processes (Bassett and Crummey 1993; Berry 1989; 1993; 2001; Blundo 1996; Hesselings 1992; Juul and Lund 2002). Consequently, studying land claims and how these are pursued means gaining a better idea of these relationships. New claims and new strategies for pursuing these claims may be an indication of how relations are changing, not only between groups of people in society, but also between different authorities, because with traditional village authorities and decentralized state representatives both claiming a say in land matters, often nothing less than the (re)definition of their respective competencies and areas of control is what is at stake.

### Case: The clearing of a valley in southern central Senegal

#### *Context: A brief history of land tenure and agrarian change*

My case concerns the rural community of Kaymor in southern central Senegal, some twenty km north of the Gambian border in the department of Nioro du Rip. Here, between the end of the 1980s and the mid 1990s, a small valley, stretching between a couple of villages in the community that always had been bush and was only in use as a cattle path, was taken into agricultural use. Elsewhere (Kaag 2001), I have discussed in greater detail how the valley became attractive to the inhabitants of Kaymor as land for farming by the coincidence of economic, ecological and political processes.<sup>3</sup> In this

<sup>3</sup> The history of this small valley and its interlinkages with larger processes of economic, ecological, political and social change in the area constituted the main focus of my Ph.D. research. The fieldwork data used in this chapter were collected during field research from October 1995–November 1996, September–November 1998, and during a short visit paid to the research area in January 2003.

chapter, I will instead focus on the process of clearing and the way in which land claims were asserted in this process. But for a good understanding of these dynamics and the importance of the valley, I think it is useful to outline firstly local land tenure arrangements and national land law and the developments that contributed to the valley being taken into cultivation.

According to the customary rule, land belongs to those families that have cleared it. Underlying this system is the basic territorial rule that is the right of the founding family of a village or clan, normally represented by the village chief. Land inheritance is based on the patrilineal transmission of rights. In former days it was the eldest male, most often a younger brother of the deceased, who was the first inheritor. Only when there were no male representatives of one generation left were rights transmitted to the next generation. This system has been transformed by the increased influence of Islamic law (Venema 1978), and nowadays rights are transmitted from a father to his sons. Women traditionally are not allowed to inherit land. This is justified by the fact that upon their marriage they normally leave their family home.

Apart from these hereditary rights, several forms of temporary rights to land developed. Firstly, a family could lend a piece of land for a period of time that was limited but not agreed beforehand. The one who received the plot was not obliged to pay. This situation occurred when a family had more land than it could cultivate at a certain moment. The practice was called *dink*. Another form was called *dogal*. In this case, the duration of the loan was clearly determined beforehand, most often one year, and some form of payment was implied. Apart from these practices, land is also distributed within the family. The land that is distributed each year by the head of the family or household to his dependents (the women in the family, the children who have reached the age of being able to till a plot themselves, and other adults who form part of the household) is given in *abal* (Venema 1978).

The Law on the National Domain of 1964 made virtually all rural land state property, which in turn is given in usufruct to the farmers. In practice, the families that already cultivated the land are allowed to continue as before, although under the ultimate supervision of the state. Only when land is not exploited sufficiently can it be taken away and allotted to another. In addition, one can claim rights to a piece of land when one has cultivated it for more than three years. This means that local land rules are recognized, although within the limits set by national law: Families can claim rights to their land as long as they continue to till it, but fallow periods of more than a few years as well as longer term lease contracts such as *dink* may create problems, in that the rural council or the temporary tenant may claim the land on the basis of national legislation. An additional problem in this respect is the fact that the criteria of 'putting into use' (*mise en valeur*) are not well defined (Traore 1991).

The Law on the National Domain implied a total revision of the Senegalese administrative infrastructure with the creation of rural communities consisting of a number of adjacent villages. The administration of these new entities is in the hands of a rural council, made up of elected locals with a five-year mandate. Its tasks are the application of the Law on the National Domain by allocating and re-allocating land, and the execution of modest development projects. The council has its own budget, supplied mainly from the taxes of the rural population.<sup>4</sup> This does not prevent the village chief from continuing to play an important role at village level. However, his position inevitably changes with the introduction of a new layer of administration. In the following, we will see that both authorities had an important part in the clearing of the valley that constitutes this chapter's case-study. But before broaching this topic, I will outline the developments that contributed to the fact that at the end of the 1980s the local population became interested in the valley as farming land.

Some 100 years ago, peanuts were introduced into the area as a cash crop by the French colonial power, in addition to crops such as millet and sorghum that had already been cultivated for centuries as a food crop. The millet was cultivated in the vicinity of the village. On the higher plateau, farmers started to practise a rotation of millet and peanuts. At that time, the valley was still virgin, densely wooded bush; the soil was more or less like a swamp, because of its poor situation. Women used to collect fruits and other bush products around its edges, and men hunted game. During the dry season, the valley was used as a watering place for cattle and as a cattle-track, but during the rainy season it was too damp and too densely wooded. In that time, the farmers were not yet interested in the valley as an agricultural area, because there was still farming land in abundance, and because the priority of most farmers was peanuts. This crop needs relatively sandy and dry soils; the moist and clayey soil of the valley is too heavy for growing peanuts.

But times changed. The population increased. From the 1950s onwards, the government promoted the use of animal traction and chemical fertilizer. This was intended to bring about an intensification of agriculture, so that the farmers would not increase their area under cultivation, but instead could get

<sup>4</sup> The installation of the rural communities administered by a rural council from 1972 onwards was the first phase in the Senegalese decentralization process. The second step was taken in 1990, when the president of the rural council was given greater authority to the detriment of higher levels of administration, in particular with respect to budgetary matters. The third stage was set in motion in 1996, when some competencies that previously had been the domain of the central state were delegated to the rural communities, which were given greater responsibilities in several areas such as health care, education and natural resource management.

a higher production from their present fields (cf. Benoît-Cattin 1986). It turned out, however, that while the farmers did adopt these innovations, they frequently used them to increase their area under cultivation (Yung 1992). This had to do with the fact that from the 1970s onwards economic and climatic circumstances became progressively more insecure. Prices for peanuts went down and there were years of severe drought. In this situation of insecurity, extending the areas under cultivation instead of trying to achieve as high as possible a production on a small piece of land was a rational strategy.

The extension of the areas under cultivation contributed to an increasing scarcity of agricultural lands. At the same time, the fertility of the soils declined as a consequence of the cultivation of one sole crop and the absence of rotation (mono cropping), and because of the fact that the fields were no longer left fallow but were cultivated every year. In this way, the soil did not have the time to recover. Erosion had always been a problem, but got worse over time. Because most vegetation cover had been removed for agriculture, no plants were left to protect the soil from the rains and the wind. In the 1970s, periods of drought aggravated the situation. Many of the problems, however, could still be eased by the use of fertilizer. The farmers could obtain fertilizer on credit, from the co-operatives that were set up by the government. During times of food shortage, the state also offered food free.

In the framework of a structural adjustment program, however, the state retreated from assistance to the agricultural sector in the mid-eighties, having as a consequence that the farmers could no longer obtain seed and fertilizer on credit (Freud *et al.* 1997). This made it less attractive for them to keep growing peanuts, also because the prices for peanuts continued to decline (Duruflé 1994). Instead, they began to focus on food crops such as millet and maize and to diversify as much as possible to spread the risks of bad harvests and of low prices on the market. People got interested in new crops like melons and vegetables as sources of income.

It was in the context of these changes that the valley became attractive as an agricultural area, because in the valley there was still virgin land that was indeed fertile, did not need any chemical fertilizer and was well suited for cultivating crops such as maize, rice and vegetables for the sake of diversification. Besides, in the valley the soil used to stay moist for a long time after the rainy season had ended, while because of the climatic changes of the last thirty years it had lost most of its swampy character.

#### *The clearing process*

The coincidence of macro-economic, political and ecological processes described above constitutes the background for the massive clearance of the valley. The exact process and pace of clearing, however, are to a large extent the product of local political and social developments. It is precisely by means of a study of this process that much can be learned about the theme of

customary authority versus decentralized state authority, as we will see in the following. The process of clearing can be divided into two phases. The first, in which clearing is still sparse, is to be considered as the preamble to the second phase that can be characterised as 'the great rush'.

The first phase started in about 1977 and went on until 1989. The village chief of Kaymor, the main village of the rural community, was the first to clear in order to start a garden. He had been a combatant in the Second World War and after that had served as a policeman in many parts of Senegal, before returning to Kaymor to succeed his brother as village chief. He had seen gardening in other parts of Senegal and thought that the soil of the valley would be very suitable for this. He recounts that in the beginning the people in the village thought that it was just the odd idea of a former combatant, but when they saw that the garden was doing very well, they became interested as well. One year later, a big trader, politician and the deputy of the imam of the grand mosque at the time,<sup>5</sup> followed the village chief's example. But after that clearing occurred only sporadically until the end of the 1980s. One of the reasons for this was that the rural council claimed that the valley was intended to be a cattle path. Another reason was that until the mid 1980s, before the New Agricultural Policy that was part of the Structural Adjustment Programme, most farmers were still very much involved in peanut growing, and the soil of the valley was not very suitable for this.

In Passy Kaymor, a small village situated on the other side of the valley, clearing also started in this period. Here too it was someone who had travelled a lot and at the same time belonged to the village elite as a member of one of the oldest families of the village who started to clear a plot. He judged that the valley was very suitable for cultivating rice, as he had seen in the Casamance in southern Senegal.

It is evident that the local initiators are local notables. They have sufficient room to do as they please, and they have the courage to pursue their goals without bothering too much about the ideas of others. We will see below that people who have a more marginal position in society, such as immigrants, people of low birth and adherents of the opposition party, only start clearing when they are 'backed' by similar actions of people who have a more secure position in local society.

In addition to these local initiatives, during this period some interventions by non-locals also contributed to a start of clearing the valley. Two women's groups, one in Passy Kaymor and one in another village, started gardening in the valley under the guidance of some outsiders, a Peace Corps volunteer and later on a French priest setting up development activities in the zone. Gardening can be considered a new activity in this area. Women were used to growing vegetables such as okra, hibiscus and peppers behind their huts.

<sup>5</sup> He was appointed imam in 1987.

They used these for the sauce when it was their turn to prepare the meal. Off-season gardening, however, which is the case here, is something very different. Not only were new species introduced, such as lettuce, carrots and cabbage, but also new techniques, such as growing in beds and the use of chemical products for fighting plant diseases. These all were easily adopted, however. As someone remarked: 'It is not so difficult to teach an agriculturalist to practise agriculture'.

Let us consider the role of the rural council, as it has as a major task the allotment of rights to land that has not yet been put to use. In fact, the village chief and the deputy imam in Kaymor had not asked for an allocation. However, they had done this later on at the beginning of the 1980s when the sub-prefect had promised to finance a well in their gardens but for this demanded that their rights to the plots be officially recorded. The women's groups had also ultimately asked for an official allocation at the instance of their donors. The rural council had approved of these demands. At the same time, however, it had also warned against further clearing of the valley. Certainly during the period 1986-1990, when more farmers showed an intention to clear in the valley, the council officially stated that the valley was intended as a cattle path and should not be put to agricultural use. This was frequently repeated after the Friday prayers at the Kaymor mosque. These warnings appear to have had an effect, as massive clearings did not take place during this period.

The rural council was able to enforce its view, as during this period the councillors acted firmly as an unity. Their unity was based on their all being local notables and all members of one political party, the *Parti Socialiste* that was the ruling party at the national level.

This was going to change at the end of the 1980s, when factionalism sprang up in the community.<sup>6</sup> Factionalism has always been a characteristic of Senegalese politics and often took the form of rivalry between two factions within the PS, mainly concerning access to the resources available at the national level. A strong vertical political organization was thus constructed, linking the local to the national, a logic from which the newly created rural councils could not escape (see, for example, Blundo 1998). In the rural community of Kaymor, however, the political family was rather homogeneous and tied to only one politician at the national level. Here, factionalism only became a reality at the end of the 1980s as a result of the 'parachuting' of national politicians in search of clients. The rural council became divided into two factions, each having relations with a different PS politician at a higher level. This fact contributed strongly to the second phase of clearing the valley. As the rural council no longer acted as an unity, it could no longer prevent farmers from clearing. As a result, during this phase

<sup>6</sup> See for a more extensive treatment of the appearance of factionalism in Kaymor and its effects on politics and social life, Kaag 2001; Kaag and Venema 2002.

(1990-1996) massive clearing occurred, until in 1996 virtually all of the valley had been taken into agricultural use. By this time, the valley had been transformed in a patchwork of small plots, claimed by a diverse range of local inhabitants: Autochthonous people, migrants, family heads, younger people, women, people from high and low birth, rich and poor people. None of these late clearers had permission from the rural council. The rural council still claimed that the valley was a cattle path and should not be cultivated. The factionalism that had taken hold of the rural council had, however, seriously weakened its position vis-à-vis the local population. The farmers profited from this situation and could pursue their own goal of having a plot in the valley without fear of being punished.

#### *Claiming land*

A more detailed examination reveals that land claims were advanced in different ways and with reference to different rules and authorities. A distinction can be made between the individual level, referring to the claims made by the different farmers to a piece of land, and the communal level, at which level farmers and cattle holders contested each other's land claims. After an analysis of the practices of making claims on both levels, the observations made will then be screened with attention to the role of rules and authorities.

#### *The individual level: Claiming plots*

In 1995/1996, I investigated all plots in that part of the valley that was adjacent to the villages of Kaymor and Passy Kaymor. I found that out of the 54 plots, 37 belonged to men, fifteen to women and two to women's groups. Most plots were 0.25 to 0.5 ha. Most people practised one or more forms of diversification: Diversification of crops, diversification of plots, or diversification of activities. For some of them, their plot in the valley meant a diversification of the totality of their plots or of their activities; in addition, most people practised a diversification of their crops and/or varieties in the valley. Rice, millet, maize and melons were popular among the men, while the women often grew rice, maize and vegetables.

This diversification was partly on purpose, in a deliberate attempt to spread risks: When one crop or one variety did not produce well, there were always the others that might do well. But the diversity is also an expression of a lack of means. The people sow the seeds they have at their disposal; when the seeds of one variety are not available to them at a certain moment, they are obliged to adapt their plans and strategies. Added to this is the fact that farming in the valley is a rather risky affair: Often, for instance, one loses one's first sowing because of water erosion or water that remains stagnant in the field. It can be concluded that cultivating in the valley requires much flexibility and adaptation, and a great deal of hard work, but

that it also offers the farmers the opportunity to be flexible and to adapt to changing circumstances.

Apart from the village chief and the imam in Kaymor and the women's group of Passy Kaymor, no one had an official allocation from the rural council, but they claimed that their plot was theirs because they had cleared the land. At the end of the 1990s the lending of plots started to occur, but remained relatively rare. Despite the illegal status of their plots, people invested much in them, for instance by planting trees, building fences, and combating water erosion by setting up ridges of stones.

The land claims laid by diverse women are particularly interesting. While in Wolof society women traditionally do not control land and were only given a plot of land each year by their husband to cultivate peanuts, this practice became less common in the course of the 1970s and 1980s with the growing scarcity of land and seed for sowing. This meant that progressively more women came to be without a piece of land to cultivate. When the great rush to the valley set in, some women eagerly seized the opportunity and also started to clear a plot in the valley. Some of them told me that they had done the heavy work of removing the tree trunks with their own hands. And because they had cleared it themselves, they claimed that the land was theirs, and that it would still be theirs when they were dead. There were also some women who had paid others to do the clearing; they considered themselves as the proprietor of their plot as well.

It seemed that the men did not have problems with this 'hijacking' of the customary rule that whoever clears a piece of land may consider himself as the owner of the land. A woman told me that her husband had even recommended that she clear a plot for herself, when she asked to be allowed to use a part of his parcel. As long as the men had no additional costs or work, they were in favour of their women clearing a plot. Another benefit is of course that the women's production from their plot contributes to the overall food security of the family. It must be said, however, that not all women who cultivate a plot in the valley have cleared their piece of land themselves. Some women have a part of their husband's plot to cultivate vegetables, or they use a piece of land on the basis of a kind of *dogal* agreement.

All villages situated along the valley have one or more women's groups, informally or more formally organized associations that engage in different activities, such as running a millet mill or tilling a collective field. As mentioned earlier, the women's group of Passy Kaymor was one of the first to start a garden in the valley with the help of a French priest. At his urging, they asked for an official allocation of the plot they cultivated. Some other women's groups that started to work with external donors in the course of years did the same. Other women's groups received a plot from someone in the village. The women's group of Kaymor, for instance, received a plot on loan from the husband of the chairwoman of the group. But when because of tensions within the group the women did not become very productive and he



wanted to cultivate melons on the plot himself, he started to cultivate the plot again himself. The women were left empty-handed.

Within the gardens of the women's groups, different methods of organization are found. Some groups do all the work in the garden collectively, and share the money after the produce has been sold. In other cases, the women each have their own individual bed with vegetables. They can claim a share because of their membership of the women's group.

In 1996 a large project for the communal management of natural resources (PCGRN – *Projet Communautaire de Gestion des Ressources Naturelles*), financed by USAID, was started in the community. The project's policy was only to work with groups that had officially registered and that had a piece of land that was officially allotted by the rural council.

Conflicts between the farmers over land in the valley started to present themselves as the valley was taken into agricultural use more and more. Some cases were reported of farmers who tried to claim other people's land in the valley by simply enlarging their area under cultivation, or by moving the signs of demarcation between the plots. These conflicts could still be settled without interference; some conflicts continued to exist, but went on without direct clashes.

#### *The communal level: Competition between agriculture and animal husbandry*

The valley had always been used as a cattle path to lead the cattle to the watering places and from the one grazing area to another. The progressive clearing of the valley increasingly caused problems for the passage of the animals, and cases were reported of animals that caused damage to the plants when entering a plot in the valley. Most farmers took this for granted and tried to protect their crops with fences, keeping watch at times when the herds were expected to pass. Their modest attitude was inspired by their having no permission for clearing from the rural council. They claimed, however, to have a right to cultivate in the valley because, they said, the agricultural possibilities of this part of the community's territory are much more important than the activities of the cattle holders.

The cattle holders, for their part, were not so demanding either; they only wanted to have some space for their animals to pass. In fact, most cattle holders are also agriculturalists, and thus there was no clash between two opposing social groups. What frustrated them, however, was the fact that they felt that their problems were not being taken seriously and that animal husbandry was being marginalized in favour of agriculture. When the valley was progressively taken into use for agricultural purposes, the cattle holders in the community decided to take action and asked the rural council to officially delineate a cattle path in the valley. This was granted and the cattle holders collected the money that was necessary to have the officials of the rural extension service delineate the circuit. But the rains came before

anything had happened, and when the cattle holders asked the rural council for an explanation, the president answered that they had to wait another year because it would be a pity to destroy the seedlings. Due to the continued pressure by the cattle holders, the following year the case was again considered by the rural council, and after lengthy deliberation it was decided that a cattle circuit of fifty m would be delineated. Such a circuit is called a *parcours d'arrangement*. This is a rather informal arrangement between farmers and cattle holders in which the rural council plays the role of arbiter. As well as this kind of circuit, there is the more official circuit that has a width of 100 m. But for this form, a more official procedure has to be followed, with the approval of the prefect and so on, and delineation by the rural extension service.<sup>7</sup>

It can be concluded that the council first tried to let go, and after that tried to solve the matter by fixing a *parcours d'arrangement*, in view of the delicacy of the affair. With this arrangement, they also wanted to preclude the interference of higher levels of the administration and to keep the affair local. This solution, however, did not prove to be a real solution. First of all, it appeared that the farmers did not adhere to the decision taken; they moved the marking pegs or they sowed within the limits of the circuit. Secondly, a cattle path of 50 m is simply too narrow for allowing the animals to pass without causing damage to the crops, if the fields are not well fenced.

#### *Rules and authorities*

When considering the above with an account of the different rules and authorities playing a role, it can be concluded that at the individual level farmers base their claims merely on customary rules and avoid the rural council. At the communal level, the rural council is indeed consulted by the cattle holders. Its strategy is, however, not so much to give more clarity and to fix claims to land, but to evade clear measures and to invent temporary solutions that will not offend anybody too much. This is certainly not the attitude expected by those outside intervening agencies that encourage people to settle claims to land at the office of the rural council in order to be able to invest in a secure way! It shows that it is wrong to differentiate rigidly between customary and national law, and between customary and state authorities. State authorities may pursue strategies that are normally associated with customary tenure, and vice versa (cf. Nijenhuis 2003). In addition, it is wrong to assume that when people base themselves on customary law, as a consequence national rules and state authorities do not play any role whatsoever. We have already seen that the strength of the rural council indeed played a role in people's decisions to clear a plot in the valley. In fact, with respect to the current dynamics of land tenure in Kaymor, the

<sup>7</sup> Source: interview with the *sous-préfet* and minutes of rural council meetings, archives of the *sous-préfecture*, Médina Sabakh.



working of customary law and national law, as well as the role of customary authorities and the rural council, can no longer be understood in isolation from one another. This is also illustrated by the following.

When looking at the process of the great rush to the valley, it appears that this process went into top gear earlier in Passy Kaymor (1990) than in Kaymor (1993). Because the villages were comparable in terms of land scarcity, there have to be other reasons. A clue can be found in the relative importance of the rural council in both villages. Kaymor is the chief village of the rural community. The headquarters of the rural council is in Kaymor and four of the 32 councillors are from Kaymor. Passy Kaymor, by contrast, has no councillors among its population. This makes it plausible that the inhabitants of Passy Kaymor were less influenced by the warnings of the rural council than the people from Kaymor.

The picture becomes all the more interesting when the roles played by the village chiefs are included in the analysis as well. It is remarkable that in Passy Kaymor the son of the village chief prepared the big rush by clearing a piece of land in the valley in 1989. In the following years others followed his example. The village chief of Passy Kaymor was a cattle-holder himself and was strongly opposed to clearing the valley for agricultural use. The clearing by his son served as a justification for others who formerly had been held back by the village chief's authority.

By contrast the village chief of Kaymor, who, as we have seen, had his garden in the valley from a very early stage, played a stimulating role with regard to the agricultural use of the valley in his own village. Inhabitants of Kaymor told me that they had gone to the village chief because they were in need of land, and that he had replied that the valley was there and that they could clear and cultivate over there, on condition that they built a good fence at the same time. But it is clear that the village chief of Kaymor, more than his colleague in Passy Kaymor, had to reckon with the rural council. This coincidence meant that the process of massive clearing manifested itself at a slower pace in the chief village of the rural community.

Apart from showing that the positions and actions of the village chief and the rural council cannot be comprehended in isolation from each other, this analysis also illustrates that land claiming dynamics can often better be understood in terms of people's actions and power relationships than in terms of competing jurisdictions. Taking competing jurisdictions as the entry point for an analysis of land conflict may easily lead to a static picture of opposing judicial systems. Starting from people's actions offers the opportunity to see the dynamic of the 'social working of law' (Hesseling 1994). People interpret the circumstances they are in (including the sets of rules with which they have to reckon) and react to them, using the rules available to them. In this process, rules may change. This implies that jurisdictions should not be considered as given, but as moulded in the interplay between land users and authorities. Jurisdictions indeed play a part in the dynamics of

claiming land, although not as a determining reality, but as a means in the hands of people.

Such a perspective opens up the possibility for a more layered analysis than would be possible from the perspective of a jurisdiction. Hence we have seen that local people pursuing a claim in the valley reported to those authorities and rules that most suited their interest, that is, in their particular situation and as they perceived it. The authorities, the village heads and the rural council (and within the rural council, also the different councillors) may also want to use the situation for their own sake, although also bounded by the situation and the power relationships they find themselves in. The rural council avoids clear solutions and tries open-ended measures in order not to lose (possible) clients, as they depend on them for their re-election. The village chiefs try to push their own agenda, that is, they want the valley to be used as they perceive best. In the meantime, they also know that more is at stake: The result of the claiming process will also reflect and further influence their positions of power. The power struggles between the different parties are, however, not pursued very openly and directly. Cultural codes that stress the importance of not defying another's dignity and of defending one's own also influence the claiming process and contribute to the fact that rivalries are often not played out very openly.<sup>8</sup>

### Claiming land in the valley as a reflection of social dynamics in local society at large

As I suggested in the introduction, what is happening in the valley is interesting in its own right, but its importance is not restricted to this small area alone.

Firstly, the very clearance of the valley points to increasing land scarcity, scarcity of fertilizer and other inputs that is linked to the retreat of the State from the agricultural sector, and, in this context, to changing livelihood strategies of farmers. Peanuts are no longer the dominant focus, and farmers increasingly try to diversify their crops. Having a plot in the valley allows them to diversify and to be flexible, and this is part of a deliberate strategy of spreading risks, but on the other hand it is also a reflection of many farmers' precarious situation.

Secondly, the form that the clearing process took points to social dynamics at work in local society and offers a view of local social relationships and how they are changing over time. Thus we have seen that the valley offers the have-nots the opportunity to possess a piece of land. Immigrants and

<sup>8</sup> Unfortunately, this chapter does not offer scope to elaborate further on this aspect. I therefore refer to Kaag (1999), which deals with the influence of cultural codes on trust and co-operation in the area of research.

people of low birth can, however, only start clearing when others have paved the way. What is interesting is that there are no open conflicts between locals and immigrants concerning land in the valley – in fact nobody is denied land in the valley because he is a stranger. As in fact there is a situation of illegality, all farmers making a claim feel that they cannot push too far to the detriment of others. Another contributing factor is the fact that recent migrants do not constitute a large group in the community and are not felt as a collective threat to the autochthonous community – which, certainly in the chief village of Kaymor, is constituted for a large part of migrants who came some generations ago.

Also for the women, the valley constitutes a chance for them to gain control over land. Some women profit from the situation and clear a plot for themselves, and following local custom, clearing means that the plot belongs to them. This could be considered a real revolution, as in Wolof society women traditionally are not allowed to claim land. How is this change made possible? It seems that the position of women in this respect changes when, by the coincidence of different processes, at a certain moment this is also advantageous to the men. There is a shortage of land – if the women have their own plots, the men are no longer obliged to provide a plot for their wives. There is a shortage of seed – if the women grow crops other than peanuts, their husbands are freed from the obligation to provide them with seed. In addition, the women's plots contribute to diversification within the household and in so doing help the family to face the insecurity of the food supply that is never far off. One could further argue that this access to land according to customary rule that the women have gained does not have much value, as this apparently goes together with a shift of importance away from customary rules to national legislation, to a large extent stimulated by external interventions. Finally, in fact few women have seized the opportunity to clear a plot for themselves; the others have not done so because they are not used to it, because they fear the hard work, or because they are deterred by their husbands who fear that the women will neglect their other duties. Therefore the revolution should rather be considered as an essential opening for eventual further and more specific changes. In this respect, the power that is displayed by several women's groups on the basis of their profitable garden is more real. The garden of the women's group in Passy Kaymor, for instance, benefits the entire village, but also means that the women are a force to be reckoned with because of their economic importance, but also because they are organized around a common goal. Thus, in certain respects, the position of women remains unchanged: They only get chances when the men are not interested or when they see a profit for themselves in including women. In other respects, however, the power relations between the sexes seem to be changing structurally, albeit slowly. This happens through individual women seizing the opportunities that they find, through economically successful women's groups, but also through women

participating in the rural council or in projects such as the USAID-project mentioned earlier (for a more extensive treatment of these issues, see Kaag 2001).

Finally, the case of the valley also offers food for thought concerning the shifting importance of rules and authorities. While most agricultural land is still solidly in the hands of the families that claimed it under customary rules, land in the valley becomes an area of contestation, in which claims are made on the basis of both customary and national rules and arrangements, but also of the alleged importance of the activities undertaken. Local rules till now have sufficed to make people feel secure about their rights to land, at least at the level of the plots. A sign is that they invest in their plots by planting trees, building fences and so on. National legislation is applied mainly when outside interventions demand this. It is likely, however, that its importance is going to increase because donor interventions at the level of the rural communities are very much on the increase, stimulated by the decentralization policy of the Senegalese government.

## Conclusion

The case illustrates the importance of small valleys for people in West Africa in the current economic, political and ecological context. Most rural areas in West Africa have experienced increasing ecological problems and climatic variability, the effects of structural adjustment measures, and unstable and low producer prices for their commercial crops. In this situation of insecurity, small valleys offer opportunities for diversification and for having a harvest with few material requirements. The increased use of small valleys for agriculture may thus be seen as a deliberate strategy of diversification, as well as the expression of the precarious situation of many West African farmers today.

While the background of clearing small valleys may be quite similar in many West African cases, the exact process of opening up these valleys and the actors and land claiming dynamics involved may differ, depending on specific local conditions, such as farming preferences, social relations, political dynamics, and relations with the 'outside world'.

The case illustrates that often a sharp distinction between a customary and legal realm cannot be made. State authorities may pursue strategies that are normally associated with customary tenure, and vice versa. In addition, it is wrong to assume that when people base themselves on customary law, national rules and authorities do not play a role in their thoughts and actions. Claiming rights to land is increasingly taking place at the crossroads of customary and national law. We have seen, for instance, that the very exis-

tence of plural jurisdiction makes people hesitant to press their claims too forcefully.

It is probable that the increasing interference of projects and donors at the local level that is promoted by current decentralization policy in Senegal, but also in other West African countries, will lead to a growing importance of national legislation at the local level. It is, however, not at all certain what form and content this will take in practice, as this to a large degree depends on the norms, goals and strategies of the different actors and on the power relations between them. The rural council may for instance continue to avoid clear-cut solutions in a context marked by factionalism and by local norms of not offending others in a direct way. Competing jurisdictions play a part in the dynamics of claiming land, although not as a determining reality, but as a means in the hands of people.

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