

Solutions to securing mobility by securing the commons The WISP Land Rights Study – first results

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Abstract: This paper presents the first results of a WISP knowledge management project on Pastoralist's organisation to defend and secure their land rights. The project encompassed the development of 23 case studies from 18 different countries describing positive examples how pastoralist's organisations succeeded to defend and secure their land rights. The global analyses of these cases studies aims to describe the common characteristics of pastoral land tenure and related concepts of property rights and to identify factors of success for defending and asserting pastoralist's right to their land.

The paper is divided into three major parts. The first part gives a general introduction to the theme and describes the method of the study, defines concepts and terminology applied by the study and explains the rationale for investment and protection of pastoralist's land rights. The specifics of pastoral land tenure arrangements are presented and discussed and the related challenges to defending pastoral land are brought out. The second part gives an exemplary selection of abstracts of some of the case studies. In the following commonalities and differences of the situation and the characteristics of land rights and land tenure are discussed. The third part has its focus on the process of getting organized to defend and assert land rights and it describes the steps and methods taken to reach to successful results.

Keywords:

Pastoralism, Rangelands, Organisations, land tenure, property regimes

First Part: Introduction and general background

Background:

Pastoralism is practiced in over 100 countries worldwide with estimates of total numbers of pastoralists ranging between 100- 200 million (Rass 2006). Pastoral systems are highly heterogeneous, but they have one outstanding commonality: mobility of livestock as an adaptive tool to the ecological conditions they reside in. In the arid and semi-arid regions as well as the mountain regions livestock mobility is the foundation of their pastoral system because it enables their livestock to graze the diffuse and scattered vegetation of the regions' rangelands, or to take refuge to more favourable sites during droughts.

Over centuries pastoralists have developed highly complex systems of customary resource management to enable them to manage the heterogeneity of their resource

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base. A key feature is the management of extensive areas of rangelands in a mosaic of co-existing and overlapping private and common resources mediated and reinterpreted by local political systems (Niamir-Fuller 1999).

With increasing competition over natural resources pastoral land is exposed to the danger of encroachment by other competing user groups (mostly crop farming) and loss of land due to the enforcement of exclusive forms of conservation³. The challenge is how to secure pastoral land through enforcement of a formal legal system, which is more often based on rather rigid and inflexible interpretation, when the management of pastoral lands require flexible arrangements and continuous negotiation. Due to the high variety of existing systems, it is not possible to develop a blueprint for an integrated and well adapted land tenure legislation. However, it should be possible to find some general rules that apply to the process of elaborating such an integrated system. Since in flexible land tenure arrangements negotiation and mediation of pastoralists groups are most likely to be a key feature, those general rules would build on the importance to include pastoralist's organisation in the process of elaborating, changing, and implementing land tenure legislation.

Taking these challenges into consideration the goal of the WISP study is twofold: On the one hand it aims to analyse the different types and concepts of property characterising pastoralist land tenure, on the other hand it describes successful processes to secure weak or unregistered land rights, to look for similarities and divergences in these processes and, if possible, to find common elements and factors of success that might be of general importance.

Methods and Objectives of the Study

The World Initiative for Sustainable Pastoralism (WISP) is an advocacy and capacity building project that seeks a greater recognition of the importance of sustainable pastoral development for both poverty reduction and environmental management. As with other WISP "Knowledge Management" projects, this project is primarily implemented by country partners and coordinated by WISP. Knowledge Management implies more than just a study: it is about capturing knowledge and making good use of it to influence decisions and to precipitate change. Knowledge Management therefore implies advocacy and policy dialogue, based on strong factual arguments and experiences.

The outcomes of this study are two distinct products. On the one hand the study analyses commonalities and differences of various land tenure arrangements of pastoralists all over the world with a specific focus on the role pastoralists' organisations and institutions play in them. This will be presented in a global report. On the other hand factors of success, methods, processes on how pastoralists succeed in getting organized for securing and asserting their rights to land are described and systematically put forward in a resource guide aiming to support pastoralists organisations and actors working with pastoralists to secure their rights.

³ Although with the promotion of the category V model of IUCN protected areas collaborative management and integration of pastoralism and wildlife has been put up higher on the agenda of conservationists, exclusive models of protected areas are still prevailing.

For this purpose partners from 18 different countries⁴ covering countries in Africa, Asia, Europe, and Latin America, have been contracted to prepare case studies describing how pastoralists' organisations succeeded to assert their land rights. The case studies allow for a comparative analysis of problems and difficulties pastoralists are confronted with, and of solutions found.

For the analysis of the studies two main approaches have been identified: On the one hand, the entry point are the various land tenure arrangements and transformation processes such as privatization of common property, return to common property arrangements and arrangements of combined exclusive and communal property. On the other hand, processes and procedures to secure land tenure and access to resources are described. This approach covers both, the processes within the communities but also those resulting from the cooperation or confrontation with outside stakeholders. A particular focus is laid on the recognition of customary rights and their integration into formal legal bodies.

Concepts, Terminology and Rationale

This study looks at pastoralist's right to access and manage land and to use the resources they need for their production system. There is a wide range of definitions and terms to describe pastoralists and pastoralism. This paper gives a short definition how WISP conceptualizes pastoralism and which terms are used to refer to this. This definition is followed by an outline explaining the rationale for protecting the pastoral production system. The terms land tenure, property and the related concepts are complex and multidimensional terms that might have different meanings in different disciplines. Therefore, it is defined how these terms are used in this study. Thereafter, the specifics of pastoralist's land tenure that are deemed important in the context of this study are pointed out.

Definition and Concept of pastoralism

In a very broad sense, pastoralism can be defined as a livestock production system making extensive use of pastureland. Pastoralism has been practiced in different parts of the world for thousands of years. Pastoralism is found in many variations throughout the world, from the Asian Steppe to the Andean regions of South America and from the mountainous regions of Western Europe to the African Savannah. Composition of herds, management practices, social organization and all other aspects of pastoralism vary between areas and between social groups.

Pastoralism is practiced on an estimated 25 percent of the world's land area, provides 10 percent of global meat production, and supports an estimated 200 million pastoral households and many more mixed agro-pastoral households (FAO 2001). Pastoralists manage herds of nearly a billion camelids, cattle, sheep and goats, in addition to yaks, horses, reindeer and other ungulates (FAO 2001).

In adaptation to particular environmental and economic niches Pastoralists tend different animal species: camels are used in the driest areas, goats where shrubs and trees dominate, sheep on mountain or dry pastures too rugged for cattle, while

⁴ Argentina, Bulgaria, Burkina Faso, Cameroun (2), China, Ethiopia, France, India (2), Kazakhstan, Kenya (2), Kyrgyzstan (2), Morocco (2), Nepal, Niger, Pakistan, Scotland, Switzerland and Uganda

cattle predominate in areas where open savannas provide decent grass cover and adequate water.

Although pastoral systems around the world share many characteristics, they also have important differences and there is no clear consensus on the definition. It has shown to be useful to use a wide description of pastoralism according to its most characteristic features instead of setting up a tied definition.

Two descriptive features are used to classify pastoral systems a.) the dependency on herbivorous livestock to generate food and income, and b.) the form of mobility of livestock .

Dependency on herbivorous livestock

The dependency on herbivorous livestock as a source of food production stems from the circumstance that in the rangelands agricultural farming is often not feasible and sustainable and thus herbivores remain the best means of transforming pasture and browse forage into food. Pastoral production systems are often defined as production systems which obtain more than 50 percent of its total gross income (i.e. including the value of own produce consumed within the household) from livestock rearing on unimproved pastures. Production systems which obtain more than 25 percent but less than 50 percent of their gross incomes from livestock on grazing land and more than 50 percent from cropping activities are defined as agro-pastoral (Swift 1988). This definition of pastoralism in the strict categorization as a production system, does not take into consideration the many destitute herders who rely on alternative income generating activities to supplement household income. Taking this into consideration the livelihood framework⁵ looks beyond the mode of production at all the capabilities, assets and activities required for a means of living. The income received from mobile livestock rearing is not set into relation of its total gross income but set into relation with the agricultural income to distinguish between pastoral and agro-pastoral livelihoods (Rass 2006).

Mobility

Mobility is often regarded as a defining feature of pastoral systems, whereas it should be rather treated as a descriptive feature to classify different pastoral systems. Mobile pastoralism is indeed the greatest subset of pastoralism. The central management strategy of mobile pastoralism is herd mobility mostly on common property. The term mobile pastoralism is mainly used to differentiate traditional extensive pastoral livestock systems from "ranching" systems, which are considered as an extensive livestock system in which land ownership is more individualized and livestock mobility (other than paddock grazing) is not a deliberate management strategy. However, these definitions are not universally applied, and ranching systems in the United States and Australia often have elements of communal land ownership and managed seasonal migration.

Mobile pastoralism is an adaptation to extremes, in terms of climatic seasonality, risk and uncertainty, and it provides an efficient way of managing the sparse vegetation

⁵ The livelihood framework views people as operating in a context of vulnerability. Within this context, they have access to certain assets or poverty reducing factors. These gain their meaning and value through the prevailing social, institutional and organizational environment that influences the livelihood strategies designed to meet own livelihood objectives. Most people's livelihoods can be characterised by a predominant activity, which is then supplemented by several other, less dominant, activities (Chambers and Conway, 1992).

and relatively low fertility of dryland⁶ soils. In hot dryland countries, for example in Africa and West Asia, the low level of rainfall and the high degree of inter-annual variation makes crop cultivation unreliable and favours pastoralism (Little 1996). Cold highland regions are similarly suited to livestock production, as in the case of the cold steppe of Central Asia and Western China, or the South American Andes, where temperatures frequently drop below -30°C and where severe droughts and catastrophic snow storms occur with regularity.

There are many types and degrees of pastoral mobility. The degree of mobility is determined by the distance and the frequency of herd movement. The type of mobility is classified by the regularity of the movement. Another important distinction to be made is whether only the herder or the entire household move together with the herd in search of pastures. In some pastoral communities, mobility of the household is essential since the system depends on significant household labor inputs, as in the case of many dairy systems. However, other pastoralists are finding that there are ways to combine the economic and environmental benefits of livestock mobility with the social and economic benefits of maintaining a fixed homestead.

The following two general distinctions are often made:

- Transhumant Pastoralism is highly regular, following a seasonal pattern, using clearly demarcated corridors between well-defined pasture areas that have been fixed for centuries. Transhumant pastoralists have often a permanent homestead, where the older members and the younger children remain throughout the whole year. The so-called “vertical movement” is the specific form of transhumance occurring in mountain regions. In fact, different types of, or reasons for, transhumance can be found, including movements towards resources (e.g. water, pasture and salt), movements away from risks (e.g. seasonal diseases or flooding) and movement for economic motives (such as to seek milk markets).
- Nomadic Pastoralism is characterized by high mobility and often irregular movement of people and livestock. In general nomadic pastoralists follow established migration routes they have developed balancing their knowledge of pasture, rainfall, disease, market access, national boundaries and political situations. However, erratic rainfall and dynamic external conditions require a certain flexibility, which often leads nomadic pastoralists to follow different migration routes.

Rationale for protection of pastoral production systems

The underlying rationale why pastoralist’s access to land needs to be protected and their management structures need to be supported, is based on the argument that mobile pastoralism is the only sustainable land use form of the rangelands. Although it has been shown that mobile pastoralism is the most effective adaptation to the variability of productive inputs (pasture and rainfall), pastoralist’s rights to natural resources and their related management and land tenure arrangements are increasingly undermined by encroachment of competing users and/or the promotion of sedentarization of pastoralists.

⁶ Pastoralism is not practiced exclusively in the drylands, but also in other pasture systems such as mountain ecosystems. Mountain systems display many similarities with the drylands. Between them, highland and dryland regions account for the majority of pastoral lands

The reduction of mobility and settlement of pastoralists are still promoted in many countries as part of a modernisation process, despite the fact that extensive grazing frequently is the only means to produce (high-value) agricultural products under the eco-climatic conditions of the drylands⁷, and that mobile pastoral production systems are more productive per unit of land than ranching systems (Scoones 1994 b; Bremann and de Wit 1983). This is based on profound misunderstanding of the effectiveness of mobile pastoral productions systems.

Another misunderstanding stems back from the discussion around the causes of desertification and degradation in the rangelands: According to the Millennium Ecosystem Assessment⁸, between 10 and 20% of the drylands are degraded. This degradation is often misinterpreted to be the outcome of overgrazing, and pastoralist's livestock are frequently used as a convenient scapegoat for many other causes of land degradation. However, while land degradation may be evident around permanent settlements and water points, where livestock mobility is reduced, it is much less in open rangelands where mobility is unrestricted and where systems of communal governance are intact (Niamir-Fuller 1999). Where mobility continues unhampered, it has resulted in biodiversity conservation and sustainable land management.

Furthermore, planners are often tempted to convert the rich patches of the heterogeneous rangelands to farming, since they are suitable for cultivation. Such rich patch areas of vegetation and water are critical for the effective functioning of the wider pastoral system, and their loss can compromise the integrity of the system, which can have ramifications for the wider environment and economy. The full opportunity cost of removing such resource pockets from the pastoral system often remains poorly understood and very often comparisons justifying the conversion of rich patch resources for pastoralists to cultivated farmland does only compare productivity of the rich patch when it should take into account the use of the rich patch for the larger pastoral system in the surrounding area (e.g. during dry seasons and drought).

As rangelands are often remote and have a low population density, they serve as natural habitat or areas of retreat for wildlife and provide a distinct flora and fauna. Therefore rangeland areas have often been chosen for protection (Toutain 2002). Many conservationists have justified annexing pastoral territories and excluding pastoralists in order to conserve wildlife (Prins 1992). However, while in the past, the general view was that wildlife conservation and livestock keeping are incompatible forms of land use and should be kept apart, there is now broad consensus that pastoralists may actually contribute to the protection of wildlife (Boyd *et al.* 1999) and it is increasingly getting recognized that the environments that are so coveted by conservationists are often found to have been created over centuries of management by pastoralists. Pastoralists have modified their rangelands through the use of fire and intensive grazing to promote the growth of palatable grasses and reduce the encroachment of bushes. Such strategies can create conditions favourable for wildlife, a fact supported by the presence of higher diversities and

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⁸ www.millenniumassessment.org/

populations of wildlife in some pastoral areas adjacent to national parks, than in the parks themselves (ILRI 2006; Gichohi et al. 1996).

Terminology land tenure and property rights

The term land tenure originally was used to describe the relationship between tenant and proprietor of land. Land tenure systems regulate the terms and conditions on which natural resources are held (*by the proprietor*) and used (*by the tenant*) (Bruce, 1986). The concept of land tenure is thus closely linked to the concept of property: Property is not only ownership of an object such as land, but understood more broadly as a right to a benefit stream that is only as secure as the duty of all others to respect the conditions that protect that stream (Bromley and Cernea 1989). Property thus describes a triadic social relation regulating how benefit streams are shared between right holders and duty bearers.

Bromley D. & Cernea M. (1989) distinguish between state property, private property and common property regimes as mutually exclusive property regimes with various tenure systems. This is opposed to open access regimes, which are not subject to tenure rules at all, since they have no defined property regime.

Von Benda-Beckmann et al (2006) point out that property is by no means an absolute right to all aspect of land use. The scope of the property rights is adapted to the social needs and the political decisions; in defining the balance between the private rights and the public good. Property may play different roles; there are manifold variations of property in different societies. They point out that many contemporary states have a plurality of property ideologies and legal institutions, often rooted in different sources of legitimacy, including local or traditional law, the official legal system of the state, international and transnational law, and religious legal orders. They advocate that property as a concept, needs to be approached afresh, in order to capture the different roles that it may play, as well as the complexities and manifold variations of property in different societies.

The ancient “bundle of rights” metaphor might help to illustrate this fact. There are a bundle of rights, related to land use and the claim to its benefits which need to be regulated in tenure systems. Schlager and Ostrom (1992) differentiate between the right of access and withdrawal (*often by tenant*) and management, exclusion and alienation (*often held by proprietor*). Those rights are bundled in tenure systems aggregated by resource type, resource use, season of use, and nature and strength of rights and duties (Cousins 2000).

Specifics of pastoralist land tenure

The complexities and manifold variations of the concept “property”, and their close relation to perception of land, land use, productivity as well as the close links of property to social, economic and ecological processes and land tenure arrangements are particularly obvious in pastoralist land tenure. This shall be more specified in the following.

The nature of pastoral range management and land tenure systems: Patchy resources and complex systems of flexible overlapping right

The distinction of common, private and state property is often misunderstood as a set of mutually exclusive property regimes with rigid boundaries, regulating access

and use of confined areas of land by one specific user or user group. However, this simplistic approach cannot be applied to the very complex pastoral land tenure arrangements without losing out essential elements of their resource management system. The “bundle of rights” analogy applies to these situations.

Over centuries pastoralists have developed very elaborated systems of customary resource management to enable them to manage the heterogeneity of their resource base, and a key feature is the management of extensive areas of rangelands in a mosaic of co-existing and overlapping private and common resources mediated and reinterpreted by local political systems (Niamir-Fuller 1999). So the property and use rights are characterised by a high degree of complexity: There are mosaics of diverse and dynamic sets of mechanisms regulating access to resources within and between groups. Several types of rights may coexist. Overlapping claims over resources, shifting assertions of rights and continuous contestation and negotiation of access rules dominate tenure arrangements (ILC 2007: 11; compare also Aredo, 2004).

Common property regimes are an important element of the various land tenure arrangements of pastoral land. It is constituted that common property regimes in pastoral lands are a special form of common property regimes because they are prevalent around patchy resources held in other more exclusive property regimes and furthermore have rather flexible, fuzzy boundaries, which are less clearly defined than suggested by the design principles for long-enduring common property resources (Ostrom 1990)⁹.

It is argued that land tenure arrangements on pastoral lands require flexible arrangements combining elements of common and private resource use. This is underlined by the economic, ecological and social imperative of rangeland management.

Economic Imperative:

The evolutionary theory of Property Rights (Boserup 1963) suggests that pasture land only remains a common pool resource as long as the costs of excluding others are higher than the benefits afforded by the control of it or as long as the value of the land is lower than the cost of protecting it from other users. This theory, however, is highly contested because it suggests that the equation will eventually end in the privatization of common pool resources since with population growth and increasing scarcity of natural resources the value of land is rising. The opponents of this view argue that while the transaction costs of policing (Demsetz 1967) the exclusion of other users might be a considerable economic factor for leaving pasture as common pool resources, the ecological imperative of how to best make use of the rangelands seems to be weighing much more.

Ecological Imperative:

⁹ Ostrom sets up the following design principles for long-enduring common property institutions: clearly defend boundaries, congruence between appropriation rules, collective choice arrangements, monitoring, graduated sanctions, conflict resolution mechanisms, minimal recognition of rights to organize, nested enterprises (Ostrom 1990).

It is argued that given the high dependence of the pastoralists from their ecological surroundings, the systems of property are shaped by the agro-ecological (geographic, climatic) conditions in the given area and characterised by a high degree of complexity. Pasture land is a very heterogeneous resource base with a variety of patches (Aredo 2004) of different quality and use. This heterogeneous resource base furthermore is highly temporal variable in response to erratic rainfalls.

The mobile herding of livestock has proven to be the best form of land use of the highly variable and heterogeneous pastoral lands in the arid and the semi-arid regions as well as the mountain regions because it enables the livestock to graze the diffuse and scattered vegetation of the regions' rangelands, or to take refuge to more favourable sites during droughts. The mobility of pastoral herds requires access to wide areas of heterogeneous pasture and asks for flexible arrangements concerning the right to use the natural resources of the pasture lands.

In response to those needs different resource tenure systems need to co-exist in a complex set of overlapping rights with fuzzy boundaries that are continuously contested and renegotiated in various flexible arrangements. Negotiation over various types of resources, for example, can be arranged in different "priorities of use rights" mediating between the requirements of resource inclusivity and exclusivity (Niamir 1997) managing valuable key resources such as water holes, dry season grazing areas, salt lick areas under more exclusive tenure regimes of the user group with first priority of use right, whereas the surrounding grazing land remains a common pool resource of primary and secondary users groups under state or common property regimes.

Social Imperative:

The recognition of uncertainty of pastoral livelihoods (Scoones 1996) has introduced the argument that common pool resources under communal or state property regimes act as a hedge against risks. Pastoralist's life is characterised by multidimensional insecurities and risks such as social insecurity, shifting availability of resources (climate), insecurity of land tenure; resource conflicts and risk of exposure to armed conflicts. These insecurities can best be managed in common property regimes with flexible boundaries and managed under institutions of reciprocity, negotiation and mediation. Reciprocity and negotiation are not only vital institutions for the conservation and allocation of resources but have also enabled societies to withstand the extreme pressures of both their environment and their competitors. These institutions are fundamental to pastoralist risk management and are integral to the social safety nets and shared claims over productive assets that characterise pastoralist systems, where there is often an overlap between institutions for social support and those for resource management (McGahey et al. 2008).

Challenges to securing mobility and flexible land tenure arrangements

Current trends of population growth, globalisation and the related commercialization and market liberalisation have led to intensification of resource use and production and an increasing competition over the ever decreasing natural resources. Pastoral land is thus exposed to the danger of encroachment by other competing user groups (mostly crop farming) and loss of land due to the enforcement of exclusive forms of

conservation¹⁰. This process of alienation of pastoral land has for a long time been supported by misleading perceptions of pastoral land. This is very often accompanied by the privatization of former communal land and the emergence of markets for land. The trend of privatization of common pool resources leads to a break down of institutions managing the use of common property regimes, so that the remaining lands under common property regimes gradually transform to open access systems.

The process of alienation of pastoral lands and the process of privatization of communal land processes create the main challenge to securing mobility and flexible land tenure arrangements. The main challenge is to identify and enforce arrangements that are flexible and leave space for internal negotiation and mediation, but at the same time set up boundaries protecting the resources from alienation.

Since it is difficult to codify flexible arrangements in formal law it is also difficult to defend them through formal legal processes. Due to the high variety of existing systems, it is not possible to develop a blueprint for an integrated and well adapted land tenure legislation. However, it should be possible to find some general rules that apply to the process of getting there. It is certain that land tenure systems need to leave space for flexible community based management at the local level. Pastoralist's organisations and their institutions thus need to be at the centre of any attempt to secure pastoral land. Since in flexible land tenure arrangements negotiation and mediation of pastoralists groups are most likely to be a key feature, those general rules would build on the importance to include pastoralist's organisation in the process of changing and elaborating land tenure legislation.

It becomes clear that, even if there is a political will to embark on a land reform, this may be a "good deal more time-consuming, expensive, difficult, and contentious than originally envisaged" (Wily, 2001). It is no way out of the complexity to create an abstract, and maybe logical legal construction that is far away from the practice at grassroot level (as has for instance been the case in the Kyrgyz pastures legislation). The establishment of one piece of legislation or one decision - as for instance the pastoral codes, might be a valuable first step and, if integrating a broad range of stakeholders in the process, promote recognition of pastoralists and public discussion of the issues (cp Wily) – but these codes as a rule are formulated in a general way, and are in need to be concretised in subordinate legal regulations, and then implemented by competent institutions – processes that are in need of political will, and economic, technical, and know-how capacities.

¹⁰ Although with the promotion of the category V model of IUCN protected areas collaborative management and integration of pastoralism and wildlife has been put up higher on the agenda of conservationists, exclusive models of protected areas are still prevailing.¹¹ The case studies will be published on the Website of WISP, accessible under www.iucn.org/wisp

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Second Part: Securing pastoralists land rights – Analysis of Commonalities and Differences of the Case studies

In the following first, some abstracts of selected case studies are presented. They are meant to illustrate some of the specifics given above, and serve as an exemplary background description for the following analysis. The analysis presented here has to be understood as a documentation of the work in progress of the study. This means that not all the aspects are yet covered and the analysis is not yet completed. The 23 case studies provide a rich base for a more profound analysis, since each case study describes a very specific situation. None the less, at this point in time, some general patterns can be discerned and some general aspects can be outlined. As the problems affecting pastoralist communities and their livelihoods are amply described, this aspect is only taken into account in the sense of a background to the success stories.

Case Studies: Examples in short abstracts

From private rights to commonage in Northern Tibet

EXPERIENCES OF INGENIOUS RANGELAND CO-MANAGEMENT IN NORTHERN TIBET, CHINA (YAN ZHAOLI, PHD, ICIMOD)

In China, from the democracy revolution to the late 1970s, rangeland production was managed collectively by communal production units. This was also true for pastoralists in Tibet; they were organized to work in task specific groups. With the reforms in the late 1970ies, a land right reform took place, first in agricultural land, that was distributed to farming families on a „Contract and Responsibility System“. After the success of this system, it was extended to pastoral areas. Initially only Livestock became private property; rangeland remained for communal use and was left without proper administration as an open access resource and consequently degraded. Realizing the lack of management, rangelands were allocated to individual households on a contractual lease basis. However, this system was not equally successful as the contract responsibility system. Coming from highly specialized task units of the former collective systems, most of the herders lacked experience in managing various types of livestock and the entire related production process. Consequently, a lot of livestock got lost in natural disasters or unfair trades. With their livestock, families lost their only means to secure their livelihoods in the far away areas.

To alleviate poverty, local decision-makers then introduced systems of collective resource management in spite of the official policy that encouraged privatization. One is the United Pastoral Production System (UPPS). In the UPPS, individual

households pool their livestock, labour force and legally contracted rangeland to pursue collective production and marketing. The households contribute labour (60% of the share), and 40% other resources, mainly livestock and rangeland. Details are regulated by contracts; each family is free to join or withdraw at any time. Members of the UPPS are poor households who join forces, but also rich farmers who lack workforce to look after their animals.

There are other models, where the livestock and land remains in private property, but people share labour inputs and market their livestock products together. Rangeland, even if allocated individually, remains in common use, with yearly payments according to amount of livestock and rangelands.

Making use of existing law in Cameroun

L'EXPÉRIENCE DU CAMEROUN DANS LA PLAINE D'INONDATION DU FLEUVE LOGONE, PROVINCE DE L'EXTRÊME NORD (SAIDOU KARI AND MOUHAMAN ARABI ; CARPA, CAMEROUN).

Due to population increase and decreasing soil fertility, there is intense competition between sedentary farmer, fishermen and pastoralists over the resources of the alluvial plains of northern Cameroun. In the dry season the alluvial plains of northern Cameroun are utilized by pastoralists from different provenances (Cameroun itself and neighbouring countries) who access the zone on four passageways. These passageways get increasingly blocked by farmers' fields and canals digged by fisher men.

In Cameroun there exist various legal instruments: the rural area can be organized in agricultural zones and pastoral zones and passageways. Furthermore, there is a decree fixing the modalities for solving agro-pastoral disputes.

On this basis, development organisations have initiated and developed a multi-stakeholder, consensual process to make use of these legal instruments in order to secure the pastoralist's rights. The steps to recognize the pastoral zones were: sensibilisation and information, palabres, participative delimitation of the different zones (agricultural, fisheries, pastoral), geographical delimitation of pasture zones; creation of surveillance committees. The results were confirmed by several resolutions.. In the case of infringements, the pastoralists addressed the development organisation which in turn gave them support in initiating the conflict resolution process according to the legal reglementation. The infringements were regularly redressed in an official procedure by the competent authorities.

In a second step, with the aid of a development organisation, a procedure for "entry to the pastures" was developed to minimise the frequent conflicts resulting from blocked passageways or trespassing of herds over farmers' fields and fishers' canals. It consists of three meetings of the chiefs of the villages and of the pastoralists. In the first meeting, before the entry into the grasslands, obstructions of the pathways detected by the scouts are discussed and the problem is regulated by the village chief responsible for the area. The other meetings take place during the presence in the pastures, and the last one before the pastoralists are leaving the area.

Strengthening local institutions

SUPPORTING PASTORAL CUSTOMARY INSTITUTIONS TO IMPROVE GRASSLAND PRODUCTIVITY AND PRACTICE IN SOUTHERN ETHIOPIA. SOLOMON WAKGARI, ADRIAN CULLIS, SAVE THE CHILDREN/US

In Ethiopia, government involvement in land administration and frequent changes in the land use policies had a profound impact on pastoral areas. In particular it led to the erosion of customary rangeland systems and institutions.

The grasslands of southern Ethiopia have been historically managed by pastoral elders who meet together under convenient shade trees to discuss and manage livestock movements and agree watering regimes. Central to these discussions are strategies to maximise milk production, whilst also giving due consideration to minimizing threats from livestock disease and possible theft from livestock raids. In response to the erratic rainfall and variable grassland productivity, the elders use seasonal livestock mobility as a key livestock productivity strategy. The elders meetings may continue over a period of several days, with participants making detailed contributions based on extensive knowledge of the local grasslands.

The rise of modern nation states in the Greater Horn of Africa region has had a profound impact on the lives of pastoralists, on pastoral production systems and on the management of the region's extensive grassland ecosystems. In general, administrators have – albeit inadvertently – failed to appreciate the elders decision-making role and their considerable knowledge of indigenous grassland management systems. Perhaps as a result, development efforts in the pastoral areas of southern Ethiopia have not performed as well as might have been expected.

The described program – the Pastoral Livelihood Initiative – took this into account; it introduced new approaches, working with customary institutions and organising its works around three pillars of pastoralism – grasslands, livestock and institutions/people. It developed a method to map grassland and grassland management systems (community action planning) to help pastoralists analyse and prioritise natural resource management problems.

In Liiban discussions with Borana, Guji; and Arsi elders confirmed that the appropriate mapping unit was the *madda* or the area of grazing that surrounded a group of dry season *eelas* (wells) and that the appropriate group of elders to carry out the mapping was known locally as the *jaarsa madda* (or *madda* elders council).

It was soon learned that, in addition to identifying natural resources management problems, that the approach was generating discussion around conflict both at the household and intra and inter-ethnic levels. As a result of the mapping the elders decided to meet together more regularly to discuss rangeland management issues.

Lobbying for recognition of traditional (indigenous) land- rights

VAN GUJJARS AND THEIR LAND RIGHTS. P.VIVEKANANDAN, SEVA, INDIA

The forest area Tarai Bhabar in Northern India has provided the basic resources for the livelihoods of the Van Gujjars, a pastoralist group who are said to have migrated here from Northwest India about 300 years ago. In 1983, the forest department enclosed a forest area in Northern India (Tarai, Bhabar) for notification of a National Park (Rajaji National Park). It evicted the nomadic (transhumant) population of the VanGujjars and proposed a resettlement (1991, 1998, 2007). A part of the families

resisted resettlement and continued to live in the area. They were frequently issued with official notice for eviction.

In December 2006 the Indian Parliament passed an Act “The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006” (with effect on 1 Jan 2008). This act has been the result of efforts of NGOs to ensure the economic, social and cultural rights of Tribal communities and forest dwellers. The act is recognizing traditional forest grazing rights for pastoralists.

In order to stop eviction of families, the Van Gujjars Pastoralists Association filed a petition during 2006 at the competent High Court. The court verdict stated that the claim of the petitioner society is required to be considered afresh by the concerned authorities in the context of the provision of the Recognition of Forest Rights Act. However, 4 month’s time was allowed to the Forest Department to state their position. In the meantime the Forest Range Office issued a new notice to Van Gujjars to vacate the forest areas within a month period or to face severe action.

After this development the Van Gujjars – more than 800, a lot of them previously even had not left their forest and had no idea where to rest and what to eat .. – attended a meeting organized by NGOs at Haridwar. Later they assembled before the state Government Secretariat at Dehandrun and demanded their forest grazing rights. The Chief secretary of Uttarkhand State, and the Forest Secretary officially invited representatives of Gujjar communities for discussion and also to find out an amicable solution (State of Nov 2007).

Protesting against discrimination, for justice and equity

PASTORAL PEOPLES MOVEMENT – LEADERSHIP, POWER, PROFIT & POLITICS OF LAND RIGHTS. A CASE STUDY OF TRADITIONAL PASOTRALIST SOCIETY OF GUJARAT, WESTERN INDIA”. LALJI DESAI & MARAG TEAM, MARAG, INDIA

In Gujarat (W. India) 10% of the population are pastoralists. They are confronted with steadily decreasing grasslands; therefore they are forced to migrate even outside the state.

In social evolutionary thinking, the nomadic lifestyle has traditionally been treated as less civilized, less productive and more degrading than a settled lifestyle. This cultural bias is having bearing to many cultural manifestations. Due to cultural stereotyping migratory lifestyle, pastoralists are ignored in various policy level decisions. Non-participation and ignorance of their due rights and status in the Indian state have seriously marginalized these communities. This has also led to degeneration of their customary land use rights who are undermined by the government policies. Pastoralists were not acknowledged as farmers by the government officials; this meant, they did not have any legal title, and therefore they did not have the right to own land. The customary usage of resources, be it forest area, common land or water resources, since not being recognized, have led to pastoralists not being considered as stakeholders in their own land. i.e. they are not perceived as stakeholders in questions regarding land rights and rights to resources. This has disturbed their migratory routes as well. , Pastoral people are shifting to other occupations, as common property resources (CPRs) are not available for grazing and animal rearing, i.e., the CPRs available in the villages are very less in area and hence, it cannot be used by the Maldharis for grazing purpose. Besides the loss of grasslands the pastoralists face unfair and unjust treatment in various

instances and consequences of a general anti-pastoralist policy. For instance, This lead to the creation of a pastoralist organisation, - a state level alliance for mass movement of the pastoral communities of Gujarat. It is a movement created by the pastoralist communities of the state to take a stand for their rights and empowerment/development. It successfully advocated for pastoralists rights. It conducted innumerable trainings to sensitize the people and succeeded in increasing the confidence and strength of pastoralists.

Making a legal case to resolve insecurity of tenure

PASTORAL ISSUES AND LAND RIGHTS IN DISTRICT CHITRAL, NORTHERN PAKISTAN.(SYED MAHMOOD NASIR AND AZIZ ALI).

Chitral, an isolated province in north-western Pakistan had a feudal land management system up to 1969 when Chitral accessed to the State of Pakistan. During the feudal period the Gujars, a pastoral caste of the Indian Sub-Continent had been invited by the Mehtars (the reigning feudal family) of Chitral, to make use of the pastures not fully used by the locals. Over time they have adopted a sedentary or transhumant mode of life. For the use of the land belonging to the Mehtars, they had paid rent.

Following the integration of Chitral into Pakistan, land rights had to be reorganized. As this is a lengthy process that has not yet taken place for the pasturelands the district remains in transition form the customary law to state law. In absence of land settlement the people continue to practice the traditional grazing and ownership patterns. The tradition is that all pastures are jointly managed by the residents of the nearest hamlets, while many pastures were owned by the former princes. Disputes over land have to be decided on a case by case basis by the courts.

A notification of 1975 by the government delineates the properties of the Mehtar and those of the State. Under this notification all waste-lands above the water channels (i.e. the pastureland used by the Gujars) was declared as State property. Whereas the local sedentary residents were granted their customary rights to use (the state forests) by the forest department, in the case of the Gujars and the pasturelands, no such rights were claimed or admitted.

With the merger of Chitral with Pakistan, the Gujar stopped paying rent to the Mehtars. This led the Mehtar to resort to the court. He claimed that this particular land was his personal property and not that of the State and therefore he must be given property rights. The Gujars response was that under the 1975 notification all waste-lands located above the water channels were declared as state property and Mehtar does not any longer have control over this land. This led to a 20 year's struggle before the courts. The Gujars were able to contest the case because they had organized in two organizations, mainly to this end. "A common Gujari language, brotherhood that has roots in the Indian caste system and a system of marriages within the clan keeps the Gujar spirit of cooperation alive till this time. It is this spirit, combined with common economic interest that helped the affected Gujars to organize and contribute funds for contesting the court case" (p. 15).

At the end, both parties, fed up with huge court expenses and prolonged duration decided to reach an out of court settlement. The Mehtar gave away his claim of ownership in favour of the Gujars, whereas they agreed to pay him an amount of Rs 1.1. million (?) as compensation to the court expenses.

Democratic grass-root organization for the management of rangelands

PASTORALIST ORGANISATION FOR RESOURCE RIGHTS IN NORTHERN NEPAL; DONG SHIKUI

The management of the rangeland by the centuries-old traditional community organizations is described by Dong Shikui as follows:

“There are basically two sets of local organizations, community committees at community level and civil associations at group level. A community committee is normally made of 11 or 12 people elected by all community members, and acts as the leader, decision-maker and representative for the whole community. Civil associations are self-identified groups of households with common interests or having the same resource pools (e.g., livestock, vegetables, crops and forest). In most cases, a sub-committee is established under the community committee for each association, whose representatives are elected as members (5-7 people) of the sub-committee. Both men and women normally serve in these local organizations for rangeland management, but women usually make decisions about pastureland management practices as men are usually away most of the year for trading or laboring purposes. Divorced women or widows have the same rights as the men in decision-making in rangeland management strategies at the community level. These grass-root organizations have more social content and functions compared to external administrative and political organizations.

Usually, the community committee is responsible for major decision-making for all community members at the community level and the sub-committees like livestock committee etc. can make decisions for specific affairs within self-organized groups. The committees control and regulate access to pasturelands and fodder resources through enforcement of well defined and mutually agreed upon rights and rules, backed by various social controls and sanctions. In this way, the committee can promote relatively equitable access to the resources for all members of the community, including poorer and socio-politically weaker individuals. They also enforce primary rules and regulations concerning rangeland resource use regarding when and how long the livestock are grazed, and when and where hay may be cut for winter feed. Under the umbrella of sub-committees, there are some civil associations comprised by self-recognized farmer individuals. The association of users, such as yak/chaury association can establish rotational grazing rules, regulate herd movement and make other decisions specific to rangeland resource use through negotiation and discussion. According to the agreement among all association members, livestock are rotationally grazed on pasturelands (summer, winter or transitional pastures) by a group of 3-5 households on a regular basis. With the support from the community committee, the association can well manage their transhumant grazing system and mitigate conflicts arising over rangeland use within the same group or among different groups in a community. The coordination and cooperation among the different associations of users, such as a livestock association, crop association, forestry association and lodging (tourism) association in the same community can ensure the integrated use of different resources related to rangeland management. The conflicts over access rights to the grazing pastures arising within different communities can be mostly mitigated through their committees' dialogue, while involvement of district authority or legal institutions are needed in reducing some community-community conflicts over rangeland resource sharing.”

Case Studies: Situation analysis outlining general patterns

Perceptions of pastoralists and their land use

is submitted, that in this legislation process, the perception of pastoralists and their land use by the society, policymakers and underlying political theories strongly influences decisions.

The case studies reveal different patterns of assessment. On the one hand the assessment of pastoralists and their land use forms seems to be influenced by the forms of movement and use made of the land, resulting from the ecological and climatic conditions. Examples are transhumant versus erratic systems of movement; or integrated crop livestock systems vs. heterogeneous pastoral lands (pasture only).

On the other hand the attitude vis-à-vis mobile livestock-keepers/pastoralists seem to be influenced by more philosophically founded political approaches of the decision-makers. This shall be exemplified in the following by looking at the various perceptions in different political regimes while at the same time taking into consideration their ecological environments.

The influence of the European philosophy

According to Gilbert (2007 p. 685 ff.) in many European colonies, the assessment of mobile herders were strongly influenced by the theories developed on the basis of the Kantian argument that the only way towards perpetual peace was to establish a proper agricultural society by the different philosophers and political scientists of the 18th century. Accordingly, the “cultivation test”, the “agricultural argument” promoted of these theories promoted the view that only cultivation of land can be regarded as “proper” occupation, and only agriculture can be regarded as a basis of a real land tenure system. Ownership could only be based on the definite occupancy of land, and agriculture was the only means to define the terms of occupation.

As a result, nomadic peoples were legally non-existent and excluded from ownership (see also case study Pakistan). The territories inhabited and used by them were considered to belong to no-one, to be *terra nullius* and to be open for conquest and occupation by states (See also Benda-Beckmann, 2006; Wily, 2001).

This has influenced the later development in the decolonization process: Pastoral lands in many former colonies became state property and the state regarding it as wasteland randomly privatized parts of the land to investors. In many parts of the world pasture land is still considered “Wasteland” (in India, as described in the case study, there are the categories of barren & uncultivable land and cultivable wasteland), that is open for investment by other users who are still - despite all evidence against it - regarded as more valuable (see also Benda-Beckmann; Willy). According to Gilbert (2007) nomads were regarded by the colonial powers as even more backward than other so-called “savages”. Legally, they were labelled as “criminal” and seen as a danger to society. It appears that British colonial legacy has been inherited by the Indian and later Pakistan Forest Service that controls all state forest and grazing lands. As a result of which the nomadic tribes did not receive a fair treatment in land tenure rights (see case study Pakistan).

The influence of the collective system in the former Soviet Republics.

In the former Soviet Republics pastoral production of the population in the mountain and steppe regions of Central Asia was perceived with a less negative connotation.

The population in the mountain and steppe regions traditionally were nomadic livestock-breeders. But colonisation beginning in the late 19th century, and later the restructuring of the production processes according to the communist plan economy profoundly changed the production system. Colonisers occupied the grasslands in the valleys - formerly used as winter pastures by the mobile herders - for sedentary agriculture. Later, the technological approaches of the soviet system (irrigation; fertilisation) allowed changing from livestock to crop production in parts of the rangelands.

Pasture land was transferred to state property; collectives of pastoral production being the subject of central state management. In this system based on the division of labour, some fragments of the traditional forms of land use could be pursued only by the shepherds of the collective entities.

Nevertheless, production of mobile livestock herds was recognized as one of the main fields of economy. Kyrgyzstan, for example was considered to be the wool-factory of the Soviet Union and pastures considered an important asset of the economy and of the state (Liechti, Biber-Klemm; see case study Kyrgyzstan).

This might be influenced by the fact that other uses are economically not sustainable, and that migration was also in historic times closer to a system of transhumance than to erratic movements.

Pastoralists as strangers on their lands vs. pastoralists integrated in the local communities

Mobile pastoralists are often considered as strangers, because they are “Peoples on the move” who don’t belong to the communities they are passing through on their migration route (For example see the case studies: the Mbororos in Cameroun that have arrived at a later stage than the other segments of the population; or the Gujjarat in Pakistan; or formerly the Karachastans in Bulgaria).

Their life with the animals requires them staying in the outskirts of the villages – so they have no or only little contact to the village population (case study India). This was also historically true: The Karachastans from the Balkan Peninsula were

constantly on the move and therefore in practice entirely isolated from society; there are no written testimonies about their origin (case study Bulgaria). Their way of life leads to difficulties to participate in the modern state and in many cases to marginalization. They are not integrated in the political system and are therefore not heard in the political processes. Thus, they are not considered in the community decisions regarding grazing land (case study India). The “tragedy of the commons” legend might have been reinforced by this marginalization. VanGujjars in India are considered to be a threat to wildlife in the State Forest Reserve; in Pakistan, goat herding is considered to be bad and unsustainable and to lead to erosion and to floods.

The situation was and is different in some cases of transhumant livestock keepers (Nepal, Switzerland, in part also Kyrgyzstan, but not in Pakistan), where the seasonal pastures (from winter, spring, to summer) are geographically relative closely linked, and the transhumant populations come from the same region (e.g. the same valley).

Privatization of common pool resources

The privatization of common pool resources to defined user groups (i.e. group ranch approach in Kenya) has been promoted in the past as good approach to protect pastoral lands from encroachment by foreign users and to encourage investment and sustainable use of the natural resources. The evolutionary model of property rights (Demsetz 1967) nourished the widespread believe, that a natural consequence of modernization is the transition from relatively imprecise community-based arrangements to well-defined often individualized rights which may be inherited and traded.

In the countries that change from a planned economy to a market economy the collective systems are dissolved. In many cases, former state property is privatised, and allocated to groups (i.e. cooperatives) or individual owners. Also grasslands are divided and allocated through individual access rights, either as private property as possible in Kazakhstan or in a contractual rental system as in China-Tibet; Kyrgyzstan, and Kazakhstan.

However, several case studies show that privatisation of rangelands and attempts to draw and enforce boundaries between individuals or user groups are ineffective in terms of resource management, because they lead to resource degradation due to constrains to mobility and may also exacerbate or create conflict due to a breakdown of former existing governance systems managing the resource use. Processes of re-commonage of formerly privatized common resources are observed in several places (i.e. case study in China and in Kenya).

Competition for resource use and biased political interventions

Increasing scarcity of resources, demographic increase, and changing policies and interests (in the globalized market) lead to pressure by different land uses that compete in the utilisation of the pastoral lands: Intensified agricultural production (e.g. irrigation and expansion of agricultural lands), urbanisation; exploitation of mineral resources; (Kenya, Uganda, Cameroun) on the one hand, and on the other hand creation of nature or hunting reserves (India, Pakistan) lead to resource

conflicts between farmers and pastoralists; (enclosures or blocking of passage ways, blocking of resource access (Cameroun, Burkina)); and/or conflicts with other uses: nature reserves (India).

In this context, public policies are important factors; as for instance in Pakistan, where the creation of community managed reserves for (lucrative) trophy hunting, contributes to the income of communities, but excludes the pastoralists and puts them in the position of (loosing) competitors not only in the political sense, but in the perception of the entire society. Resource conflicts (between herders) and problematic (development) interventions or policy decisions lead to unsustainable use and may weaken traditional institutions (Ethiopia; free access on common pastures near the villages in Kazakhstan).

Incomplete Legislation; no implementation or bad implementation of existing laws

In some cases land tenure legislation is incomplete and does not regulate access to pasture land. In other cases, even if legislation regulating access to land use of pastoral resources exists, it might be difficult for pastoralists to assert their rights. There might be a legislation in place that is not adapted to the real needs and the real situation of the pastoralists (Kyrgyzstan), or enacted legislation needs further steps for its implementation as for instance the creation of competent institutions. It might be that the means to this end are missing (Uganda) or that there is a lack of political will. There might also be bad or non-implementation of existing laws because of corruption and/or discrimination of pastoralists (India: Marag; Cameroun: Mbororo)

Insecurity through change and overlapping/competing institutions

Repeated land reforms and/or policy changes (Ethiopia, Kyrgyzstan, Pakistan) tend to increase the insecurity of pastoralists' position. Several layers of law may coexist, consisting of one layer of customary and one of formal state law. In particular where the implementation of formal law is weak, this creates insecurity and opportunities for abuse.

Lack of capacities and know-how to make use of existing laws

As a consequence of their mobile livelihoods, communication between pastoralists' groups and sedentary communities is often reduced to the minimum necessary and they are often not well informed about their rights. Since providing information to the remote and mobile pastoral communities requires adapted communication tools and special attention, pastoralists often lack access to the education and information necessary for being able to cope with legal rights and problems. They lack information on existing rights and options, the know-how to secure and assert these rights, and the confidence that this is possible (Cameroun Mbororo). This becomes particularly apparent in cases where bottom-up activities are needed to make use of existing legislation (Uganda: registration of land rights; Cameroun: making use of the conflict resolution decree).

Case Studies: Analysis of common aspects

The «property rights » aspect

Most of the case studies described some sort of „common property rights“. This means, the described problems and conflicts and the achieved successes concerned lands used by the pastoralists under a regime of commonage. Individual rights of pastoralists to their land, as was for instance the case in Kenya, Kazakhstan und China-Tibet were rather mentioned as being problematic, leading to degradation due to overuse (Kazakhstan, Kenya) or to impoverishment of the population due to management problems (Tibet-China).

In Kazakhstan, it is possible to buy pasture land as private property. However, the maximum size of the parcels is limited; given the average herd size, this makes sustainable use of pastures impossible, and initiatives for commonage of several private herders are undertaken by farmer driven rural advisory services.

The land used by the pastoralists are described to be “State”- land, used by the pastoralists without any formal legal title. In many cases conflicts arise because traditional use rights are not respected by non-pastoralists (the Cameroun Mbororo Case, the Cameroun pathway Case;) or by the State (Argentina, India, Pakistan). Pasture-lands are considered to be no-mans land, open-access resources (Cameroun), or wasteland that waits to be improved, made better use of.

The « legal » Aspect

A variety of situations/conditions regarding pasture legislation is described in the case studies:

Creation and implementation of laws

There are cases where peoples have successfully lobbied for a new legislation and subsequently its implementation – as is the case in the Indian VanGujjars study; there are also the various Pastoral Codes in the West African Countries.

According to Wily, even if these Codes are very general and not yet implemented, the legislative process, the political discussions lead to a sensibilisation re pastorals issues and so to a change of the situation.

Different backgrounds may have lead to these options: indigenous peoples rights? Changes in the economic perception of pastoralist land use; and consequent integration into new land policies (Uganda, Ethiopia).

There are also cases where the assertion of rights in formal processes has failed or is not possible, as in the case of the Pakistany Gujjars, who do not succeed to secure land rights.

Kyrgyz pastoralist organisations are at present lobbying for a legislation that is more adapted to their needs and less administratively burdensome and easier to implement.

Integration

In many cases there exist two or even several layers of law – State law and policy, in part still influenced by colonialist rules, and customary law and customs. The background leading to this situation can be different: The state does not at all consider the pastoralists as stakeholders in questions regarding land use (India, MARAG), or the state does not take account of the customary claims and ways (Kyrgyzstan); or it actively fights these claims (VanGujar, India). There are cases where state policies and laws are not supportive to traditional institutions because these are considered to be outdated and the economic value is not taken account of.

However, there are positive examples of states seeking a way to provide formalisation of customary laws and legal title to customary tenants :

Uganda is striving for a land rights policy that facilitates the formalisation of customary laws. According to the Land Act (1998) Tenants under customary law can acquire land certificates. To this end they are to form Communal Land Associations.

In Ethiopia the strengthening of the traditional institutions facilitated their cooperation with the government officials. In Cameroun, cooperation between State and traditional institutions is integrated in the decree establishing the modalities for solution of agro-pastoral conflicts (Règlement fixant les modalités de règlement des litiges agropastoraux).

The Ethiopian and the Cameroun CARPA case study illustrate a successful integration of traditional and formal institutions. In the case of Ethiopia, the members of the districts Pastoral Development Office, i.e. the public administration, regularly attend the meetings of the traditional leaders. In Cameroun, both traditional leaders and the competent local authorities were involved in the conflict resolution process and further cooperate to implement the decisions taken.

Making use of existing rights and institutions

Even if laws regulating pastoralists' land rights exist, they may not be properly applied. This may be due to corruption of the governmental bodies, but also due to lacking information of the pastoralists about their rights and the legal possibilities they have. The Cameroun case regarding the delimitation and subsequent legalisation of the pathways for the entry of pastoralists in the dry-season grassland areas illustrates a process, where the decree to resolve agropastoralist conflicts has been instrumental to involve all stakeholders in the negotiation process. In the Indian case, mass protests forced the governments to admit unjust treatment of pastoralists and to apply the existing regulations in a pastoralists-friendly way.

In both cases however, information of the pastoralists about their rights and capacity building are crucial elements.

In three studies (Cameroun, Mbororo; Pakistan and India, van Gujjars), the pastoral communities seek justice before a court. In the case of the van Gujjars in India, the Van Gujjars Pastoralists Association filed court case; the Chitral Pakistani Gujjars had support from the Gujjars unions in other parts of the country. In the case of the Mbororo in Cameroun, a local (Mbororo) NGO actively supports the pastoralists psychologically and legally to defend their claims.

Third Part: Analyses of successful processes of pastoralist's organisation to assert their land use rights

The further analysis of the collected material will go more profoundly into the processes and the steps taken by pastoralist's organisations and present the specific methods and tools used by the pastoralists to secure and/or assert their land rights.

The learnings from the case studies, together with elements elaborated in a workshop with the partners of the study, and the criteria contained in the recommendation of this workshop will eventually be presented in a resource guide. The guide aims at supporting pastoralists' organisations and actors working with pastoralists to secure their rights.

The resource guide will focus on the two distinct processes of defending and asserting land rights, and the steps taken to reach a successful result.

In short those two processes (and the steps taken) can be outlined as follows:

- Awareness about the existing (formal) rights and the mechanisms to defend these rights. The case studies describe various means to this end: processes of mediation and negotiation; protest, the building of a legal case for litigation.
- Securing (customary) rights through a change of legislation, by integrating customary rights into the formal legislation. The case studies describe processes of
 - empowerment and capacity building for advocacy, participation in political processes, negotiation, protest.

○

The backbone of all actions is the establishment of necessary background capacities; empowerment and capacity building for advocacy, actions to get organized, the creation of awareness about existing rights or the options to influence or initiate legislative processes.

At this point the progress of the analysis allows to present some general conclusions and essential learnings resulting from the studies:

1. From the described studies it becomes clear that for the nomadic pastoralists in order to assert their rights, it is a crucial prerogative and condition, to become visible as equal, self-assured and self-reliant members of the society and to this end to get organized.

Lalji Desai, India

“A sustained movement to mobilize and unite masses on the issues facing Pastoralists is essential as generally, various pastoralist communities come together only on social and religious functions. But it was for the first time that these communities came together to fight for their rights”

2. The information about their rights, their ability to absorb this information and their capacity to assert and defend their rights with confidence must be strengthened:

Saidou Kari, Cameroun

« Le droit des pasteurs est souvent menacé par les autres utilisateurs des ressources et par les autorités. Les pasteurs sont également exposés à l'insécurité et ne peuvent se défendre devant les juridictions. Car, victimes de leurs traditions, ils sont marginalisés et ne disposent pas des capacités adéquates. Pour que les pasteurs puissent véritablement être à mesure de défendre leurs droits, il y a nécessité urgente d'œuvrer dans le sens de leur intégration dans la société tout en préservant leur traditions ancestrales. Ceci suppose à court terme l'information et la sensibilisation des éleveurs sur leurs droits et leurs devoirs d'une part, et sur les démarches à entreprendre auprès des juridictions pour se défendre d'autre part. A moyen terme, l'alphabétisation fonctionnelle des adultes et l'éducation formelle de leurs enfants sont à promouvoir » .

3. Organisation and leadership may be one essential element in this process.

Zhaoli Yan, Tibet-China

„Herders do have their own hundreds and thousands of traditions in managing rangeland and livestock. But in the new administrative system and the rapidly changing world, they too need to be organized to best discharge their intelligence and strength for sustainable development. In such case, the ability and commitment of lead body is another essential condition for a pastoral community“.

4. But it is essential to recognize the value of “the old ways” and to integrate their learnings into adapted concepts.

Dong Shikui, Nepal

Local farmers in northern Nepal have developed effective indigenous rangeland management systems that use effective grazing and conservation practices, well-organized local institutional arrangements and efficient traditional use rights and tenure systems that have evolved to promote sustainable development of rangeland resources. Indigenous management systems have their own unique weaknesses, but it needs to be emphasized that no other system can utilize the physical, climatic and vegetative variations inherent in Nepal as effectively. This is because local users have extensive knowledge about the exact local conditions and history of natural resource use in the area. The flexibility demonstrated by these management systems to change and adapt seems to be a major strength. Effective and appropriate strategies for developing rangeland resources in northern Nepal require a comprehensive understanding of indigenous rangeland management systems as they have been practiced by the local people over centuries. It must be stressed that rangeland management in mountainous areas of

Nepal will not be successful if the traditional knowledge of local farmers is ignored or overlooked.

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