

Governance and institutional change in relation to commons

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Kyrgyz Republic is a small mountainous country located in northeastern Central Asia. It neighbors Kazakhstan to the north, Uzbekistan to the west, Tajikstan to the southwest and China to the southeast. It has population of about 5 million people with majority Kyrgyz ethnic. The country's land area is about 200,000 square km, with almost 90 percent of which at elevations above 1,500 meters (above sea level). More than 50 percent of the land consists of rangelands and forests, all of which are State owned. With the exception of arable farm land which is in private ownership, all other land is in state ownership and managed by different agencies and tiers of government authorities. This fragmented management, poor governance in state bodies at all levels in administration of use of natural resources, led to high level of corruption in access to the major resources in the Kyrgyz Republic.

The legislative basis and institutional responsibilities concerning natural resources management In Kyrgyzstan are confusing, and legal provisions are often disregarded because they contradict customary law and indigenous traditions. Local systems and practices for managing common resources are weakened or undermined by the state and/or powerful private interests. Under the dual pressures of market forces and of elite capture promoted by poor governance, tenure arrangements are increasingly shifting from common property towards private tenure of the few, with the rights of the poor protected neither in legislation nor in practice. Responsibilities of various stakeholder agencies overlap, particularly at the interface between elected local self-governments and the lower tiers of the central administration.

The major reforms undergoing in the country on natural resources management are focused on review of management responsibilities in a way that would support poverty alleviation, facilitate economic growth and ensure sustainable use of rangeland resources.

The Rural Development Fund (RDF) – local research NGO, is currently engaged in participatory research on institutional roles, legislative framework and resource use patterns in three rural municipalities. This research emphasizes need for decentralization of management responsibilities to the local level with specific recommendations on how to increase citizenry involvement into decision making process through establishment of community based management committees.

The Kyrgyz Republic is a small mountainous country. Total area of the republic is 200 000 km² (4.2 % - forest, 4.4 % - water, 54.9 % agricultural land, 36.4 % - other land); population - 5 100 000 people and more than half of the population lives in rural areas. In different districts the climate ranges from sharp continental to coast climate due to significant irregularities of relief and availability of big lake Issyk Kul. Rainfall is comparatively rare. Summer is hot and dry. Winter temperature, especially in the mountains and river basins is low and reaches to 20°C, -30°C. Thaw is not rare in midwinter. Average monthly temperature in July is from +25°C to +37°C

in Ferghana Valley, and at the same time at a height of 3600 m the temperature does not exceed +4°C.

According to an official statistics unemployment in the country is rather high. According to official data in 2006 it reached 10%, last year it was a little lower – 9.7%; and poverty level in the country constitutes about 40%. People have to seek job outside the country, going for employment in other CIS countries and further.

The main income of the population in rural area of the Kyrgyz Republic is generated from livestock breeding and crop farming. In 2007 agriculture constituted 29% GDP of the Kyrgyz Republic.

Natural resources of the Kyrgyz Republic are of global cultural, traditional and economic value. Protection and sustainable utilization of nature resources is a critical task for Kyrgyzstan economy and culture since they are vitally important part of traditional practice of land use and serve as a source of income, natural food products, medicals for local community members and national economy.

The Role of State Structures on Managing Natural Resources

The following central state structures take the responsibility for protection and use of natural resources in the Kyrgyz Republic:

- KR *Jogorku Kenesh* (Parliament);
- KR Government;
- The KR Ministry of Agriculture, Water Resources and Processing Industry;
- The KR Ministry of Economy and Finance;
- State Agency on Environmental Protection and Forestry (SAEPF)
- State Agency on Geology and Mineral Resources
- State Agency on Registration of Right to Real Estate;
- Local (Oblast, Rayon) National Administrations;
- Local Self-Government Bodies.

The *Jogorku Kenesh* competence includes determination of main targets of public policy, legal frames on regulating relations in agriculture, adoption of laws, approval of national programs, establishment of legal status, legal regime, land tax rates depending on land category and location.

Kyrgyz Republic Government is responsible for development and implementation of the state policy on protection of natural resources for development and implementation of various state programs for support of the policy, for coordination of activities of the ministries, agencies and other organizations related to the management of natural resources, and establishment of the procedures for use of natural resources; decisions making on organizing and completion of work of state specialized enterprises, institutions and organizations; organization of a system of overall continuous monitoring; responsibility for performance of obligations under international agreements.

The Ministry of Agriculture, Water Resources and Processing Industry (MAWRPI) is a state body of executive power carrying out functions on developing public policy in agro industrial complex including land and agrarian reform, livestock breeding,

veterinary, fish-breeding, plant growing, plant quarantine, melioration, soil fertility, agricultural land use, regulating market on agricultural raw and food products, food, alcohol and processing industry.

The State Agency on Environmental Protection and Forestry at the Kyrgyz Republic Government (SAEPF) is a state body of executive power conducting common policy on environment protection, biodiversity protection, nature's efficient use, development of forestry and hunting, and country ecological security.

The State Agency on Geology and Mineral Resources at the Kyrgyz Republic Government (SAGMR) is an authorized state body on management and developing mineral resource industry.

The State Agency on Registration of Right to Real Estate at the Kyrgyz Republic Government (Gosregister) is a structure of national administration coordinating state uniform system on registration of the right to real estate, conducting common policy on regulating land relations, development of real estate market, carrying out registration of the right to real estate and providing state protection of registered rights to real estate as well as topographic-geodesic and cartographic works in the Kyrgyz Republic.

Local Self-Government on protection of natural environment shall perform implementation of national policy, develop and implement national programs at the local level.

Some state structures directly connected with natural resource protection and utilization have in their competence incompatible functions, for example, the State Agency on Environmental Protection and Forestry is engaged in conducting hunting and forestry, and it also provides public control over environment protection and natural resource use. This causes conflict in the state structure functions.

Resources

More than half of the population lives in rural areas and poverty level is higher in rural settlements rather than in the cities. It should be pointed out that Kyrgyzstan natural resources for many rural residents serve mainly as a social welfare and are used by them for their satisfaction of daily needs.

The resources of natural environment: air, water, land, plant and animal life, forest, minerals in accordance with the Kyrgyz Republic legislation predominantly except for arable land transferred to private ownership are state property and are transferred to the ministries, administrative agencies and their structures on the sites for operative management.

For natural resource use in the territory of the Kyrgyz Republic a special permission from appropriate state structures is required, for example, for water use – from MAWRPI, minerals – SAGMR, forests – SAEPF, etc.

Pasture

Pasture and forests cover more part of the Kyrgyz Republic area – up to 49%. For comparison: agricultural lands occupy only 7% of country area and are located mainly in valleys and foothills.

Structure of Land Covering		
Land use	Area (mln ha)	% of total area
Pasture	9,18	45
Arable land	1,37	7
Forest area with forest covering	0,85	4
Forest area without forest covering	2,13	12
Others	6,32	32
Total	19,850	100

Source: National Statistics Committee, Kyrgyz Republic.

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Pastures occupy 45% of the country area (89 000 km²) and they are characterized under seasons: 1) spring-autumn pasture 2) summer pasture 3) winter pasture.

Distribution of Pasture Area		
Pasture types (under seasons)	Area, 1000 ha	Area, %
Spring-autumn pasture	2697	30
Summer pasture	3889	43
Winter pasture	2285	25
Hayfield	219	2
Total	9090	100

Source: National Statistics Committee, Kyrgyz Republic.

Pastures under the state property are divided into three types of management: 1) village 2) intensively used pasture 3) distant-pasture. Each type of these pastures is managed by different state structures: 1) village – *selskaya uprava*, 2) intensively used pasture – *rayon national administration*, 3) distant-pasture – *oblast national administration*.

Traditionally all pastures were used in a vertical transhumance pattern, when in summer the flocks were grazed on natural high mountainous pastures; in spring and autumn – on mid mountainous pastures; and in winter – on sub mountainous pastures in valleys. This system during Soviet Union was supported by the collective and state farms. Collective farm managers took care of herds taking them up to the remote pastures in trucks.

At the present time this vertical seasonal transhumance is not functioning and local communities intensively use pastures around settlements which led to vast pasture degradation. The main reasons of using closely located pastures are poverty of rural

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people and lack of funds for mobility, including for fuel for cars and tents; destroyed pasture infrastructure such as roads, bridges, electricity and loss of traditional knowledge on pasture management and use.

But the major reason for low use of intensive and remote pastures is in institutional set up and poor governance in relevant institutions, when farmers have to go all the way to district or even regional government for obtaining lease rights to pasture plots. Often they have to go there more than once and use informal means to expedite registration of their lease rights. This also leads to numerous conflicts between resources users.

Our research showed that there are many cases when someone leases pasture plot around irrigation system or near water source and doesn't let other people to use these resources or pass his leased territory. Since these leases are awarded at the district or regional government level not in transparent way; they often cause tensions between community members and difficult to revoke.

It should be pointed out that concerning rangeland secondary resource, i.e. those resources, which are available on pasture area such as herbs, minerals, wild animals, rivers, tourist attractions have no legal framework for regulating their use and it leads to massive over exploitation of many resources and mainly not by local communities but by external users.

Forest

The Kyrgyz Republic forests are rather diverse and rich with valuable varieties. Forests occupy 4.2% of country area (850 000 ha land). The State Forest Fund has a total area of 3.2 mln ha. There are forests which are under jurisdiction of the local government, state forestry enterprises and other state structures.

Types of Forests under Management of the Department of Developing Forest Ecosystems		
Types of forests and main kinds of trees:	ha	%
Coniferous forest (<i>the main kinds – juniper, fir and pine-trees</i>)	280 000	37
Broad-leaved (<i>the main kinds – maple, birch, poplar and ash-tree</i>)	49 000	6
Nut-fruit (<i>the main kinds – walnut, pistachio-tree, apple-tree</i>)	98 000	13
Bushes	340 000	44
Total	767 000	100

Source: National Statistics Committee, Kyrgyz Republic.

Forest timber and non timber resources are sources of food and income for local communities; for own consumption or sale there are 600 kinds of wild plant including 200 types of herb growing in Kyrgyz forests. Local residents and forest workers collect herbs for sale at local market and for companies which are engaged in processing and trading medicinal herbs.

Lately the number of illegal cutting of trees has increased among the local communities for heating and cooking purposes because of high cost for coal, lack of electricity and other types of fuel. Subsequently such an attitude to forest resources caused degradation, erosion of soil, and led to undesirable consequences for local population and nature in the whole.

Hunting

There are 83 types of mammals in the Kyrgyz Republic, 336 types of birds, about 40 types of fish and 30 types of reptile and amphibian, some of them are endangered species and listed in the Red Book. More than 100 types of wild animals and birds are the objects for hunting and constitute State Hunting Fund of the republic.

During hundred years hunting has been the crucial part of the rural livelihood in the Kyrgyz Republic; even today the hunters use trained birds of prey, local hunting dog breeds (*taigans*) for hunting. However, a grown interest to legal and illegal hunting of external to the community hunters and local hunters led to destroy of many population of local wild nature. There is a lot of information in mass media and reports on such poaching of rural residents on their traditional hunting sites, which became private reserves for business men and officials.

Legislation and Institutional Management

According to the existing legislation the Kyrgyz Republic natural resources: land, its minerals, airspace, water, forests, plant and animal life, other natural resources are the property of the Kyrgyz Republic and are used as a basis of life and activity of Kyrgyz people and are under special protection of the government. Land and other natural resources also can be under private, municipal, and other forms of ownership. The state is in the position when on the one hand it is responsible for protection of environment – natural resources “for future generation”, and on the other hand, it should support poverty alleviation of its citizen. These dual purposes of the state sometimes conflict and decisions are made for one against another.

Legal basis of the Kyrgyz Republic on natural resources contains more than 150 acts - a whole system of integrated codes and laws adopted by the Parliament, Government, and the President's decrees. As a rule, preparation of codes and laws is done by the ministries and administrative agencies; the projects are agreed with the Government members, approved by the Parliament, presented to the Parliament, after its approval they are signed by the President and enter into force. There is no participation in this process of local people and civil society.

Contradictions between traditional, local systems of land use and state laws are clearly could be seen in regards to forests and hunting. Such situation occurs when state structures – appropriate ministries and agencies interested in receiving funds from the resources and located in the republican capital issue a permission and dispose natural resources of the area without local communities' opinion.

Such practice leads to degradation, decrease of number, disappearance of some kinds of natural resources and consequently conflict situation occurs, when

local residents not receiving profit from natural resources see with grievance how other people (non local residents) develop minerals, cut down forest, shoot off animals and receive great profit from this, and take a decision: either to prevent this (close access, close road, make strikes, etc.) or they themselves use natural resources illegally and unsustainably (cut out, shoot off, etc.).

Public policy and legislative basis regulating such relations does not reflect the interests of all population and poorly directed to their protection. In view of the high level of a corruption in the state services, it is often happens that state officials make unjust allocation of rights to use of natural resources and their decision-making is often made in the interests of rich layers of population or certain government officials. It causes problem that well-connected and rich people have better access to the resources (receive permission), while local people and especially poor and vulnerable have limited if any access to these natural resources.

State and/or powerful private interests hinder development of community based systems of managing common resources. Under double pressing – market relations and capture of pasture resources by elite in the conditions of poor management – land use practice moves from collaborative use to private use by a group of people; and the rights of the poor are protected neither by law nor in a formal practice.

Participatory Research

The RDF has conducted a participatory research on management of natural resources. This research has been supported by the World Bank Trust Fund for Environmentally and Socially Sustainable Development (TFESSD). The research objective was to evaluate pasture resource utilization *de jure* and *de facto* and to develop recommendations on conceptual and institutional changes targeted at maximizing of economic profit, social equality and efficient use of pasture resources.

In particular, it is supposed to identify parallel and competitive use of pasture resources and develop mechanisms on protecting the rights of different users, especially poor and vulnerable members of local communities. The emphasis of the proposed changes in legal sphere will be laid on traditional users' right protection and strengthening the role of rural communities in natural resource management. Evaluation and recommendation will be mostly related to traditional kinds of pasture resource management preceding Soviet period and re appearing in our time.

Pasture use is a critical component of rural life and in our time it threatens to become a growing source of conflicts for various groups of population for using these resources and for better access to them. The conflicts occurring due to parallel and competitive pasture resource use are deepened with imperfection of regulating system and contradiction between legitimate state control and actual corrupt and in transparent management. More than 50% of land resources are composed of pastures and forests and belong to the government. Except for arable land all agricultural land is managed by different structures and levels of power. Coordination between them is week and duplication of responsibilities often takes place, in particular, between elected local self-government bodies and low level national administration.

Legal basis and institutional responsibilities in natural resource management (NRM) does not bear clear feature, and legal norms are not often followed since they do not take into account a usual right and local traditions. For example, Pasture Law is not observed since it does not take into account a traditional practice of flock grazing, when people prefer joint right to pasture use. State and/or authoritative private interests hinder in developing local systems and management practice with common resources.

Pilot Sites for Research

RDF has selected three rural communities in Osh, Talas and Chui regions as pilots for research (besides use of pasture for flock grazing, water resources, herb collection and beekeeping, they have hunting and forest reserves and/or natural sites for tourists' activities). These rural communities are located in different regions of the country and significantly differ in geographic and climatic conditions that indicate to variety or lack of some kinds of natural resources. Since these communities are located at bordering districts with neighbor countries, they

accordingly have different traditional management methods control of nature resources and conflict resolution.

Kashkasu rural municipality in Osh region is located on the border with Tajikistan and China and is a highly mountainous area of the Kyrgyz Republic (2800 m



above sea level). This municipality (*aiyl okmotu* or AO) consists of six villages and its population number is about 6 000 people. In Kashkasu AO there are 85 735 ha of pastures including 26 989 ha near village pastures and 58 746 ha of middle level pastures. Late spring – end of April beginning of May and early cold – end of September beginning of October make very short vegetation period, and land cropping is risky. Livestock and rangeland use are the major activities and sources of income there.

Kokoirok rural municipality in Chui region is located in Kokoirok valley, which is about 150 km far from Bishkek, the capital of the country. Kokoirok AO includes three villages and there is a National Park (specially protected area) in the valley area. Population number is about 4 100 people. Total pasture area is 24 901 ha.

Aknazarov municipality is in Talas region and it includes five villages with population about 6 500 people. Total pasture area of this AO is 39 000 ha; 9 600 ha – near village pastures; 29 400 ha – distant and intensive pastures.

The Project main activity:

- a) *Detailed review and analysis of acting legislation* regulating pasture use including identification of the available problems in legislation and in its use on the sites as well. The objective was to review existing legislation and see if there could be specific recommendations made on changes in legislation and public policy with the account of traditional peoples' knowledge and common pool resources use and management.
- b) *Rapid institutional assessment* of the main participants involved in policy development and pasture management. A special attention was paid to local self-government bodies' roles and their strengthening.
- c) *Conduction of meetings-discussions* of research outcomes and preliminary recommendations in all surveyed communities – for identification of their opinion and attitude to them in order to consider them on designing final report on research.
- d) *Outcome dissemination.* The main outcomes and recommendations will be presented to all stakeholders (ministries, Jogorku Kenesh, NGO, organizations of civil society, local self-government bodies, communities and pasture users) at the workshops, through publications and short film/video films. The research outcomes will also be useful for the World Bank future projects and other donors engaged in pasture and forest resources in Kyrgyzstan.

Research Methods

On implementing the project the qualitative methods of analysis were used: joint assessment of a village natural resources, discussions in focus groups under the leadership of community researchers, case studies of conflicts around natural resources, and their resolution. Innovation of this field research is that RDF with the support from local elderly respected people selected people to conduct actual research to identify needs of different users of resources, and possible forms of use and mechanisms of dispute solution.

Field research, document study and interviews were completed during six months, and processing and analysis took another two months. Reflection meetings-discussions in communities were conducted during two weeks for collecting feedback of local community members and their suggestions for the analysis.

Process

Social, economic, and geographic conditions in selected three communities were studied before the actual field work. The adult representatives of local communities as well as high school students formed a community research group. Preference was given to more educated and active people, since most number of population has secondary education or uneducated at all. After selection they were trained on how to conduct field research, how to collect information and on basic principles of common pool resources management. Simultaneously the international experts along with the RDF experts conducted legislative and institutional assessment of the national level natural resources management. After the information is processed and analyzed, the certain recommendations will be

provided for presenting them for adoption of amendments in existing legislations in order to raise involvement of local communities into natural resource management.

Conclusions

State policy of the Kyrgyz Republic on protection and efficient use of natural resources is based on the norms of the Main Law of the Kyrgyz Republic – Constitution adopted by the referendum on October 23, 2007 and some other legislative and legal acts. It should be pointed out that Kyrgyzstan currently has a unique opportunity to review, adapt to international standards and harmonize its legislation and consequently policy aimed at sustainable, equitable and efficient use of natural resources.

At the present time the state structures, the responsibilities of which were elaboration and implementation of unified public policy on protection and efficient use of natural resources, do not involve opinion and interests of users. It doesn't reflect how ordinary citizens feel, how implementing policy impact their traditions, conditions and daily life, what they consider acceptable, and what issues require corrections and completion. Such an active involvement of communities in policy formulation would enable the state structures to elaborate effective policy, which the citizens would really support, and, which would lead to protection of environment and alleviation of rural poverty.

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