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Participatory Lawmaking - the Example of the Mauritanian Herder's Code

Herding is a traditional life- and survival form for the Mauritanian ruling Arabo/Berber class. Today also livestock procures 75% of agricultural value added. Herding defines the culture and values of the nomad, and thus the core of the Mauritanian society.

Herding in the Sahel depends on free movement towards to grasslands – which shift with the shifting rains. Access to water – permanent and temporary lakes and wells- is crucial. Farming is complementary, but fencing is deadly for herding. The existing colonial and post-colonial legislation on agriculture and land tenure favors farming and fencing. To remedy this situation, a group of herders, assisted by German development support (GtZ) set out in 1997 to draft a regulation of grazing rights, in conjunction with *shari'a* scholars (The Islamic law is the ultimate source of law in Mauritania).

The ensuing herder's code (passed in 2000) is characterized by these three principles:

- (1) statement of its policy principles (free access) up front;
- (2) reliance on known traditional (and shari'a) rules and principles, which enables the text to be short and succinct; and
- (3) self-executory regulations which make the recourse to state tribunals in case of conflict a "last resort".

The code has been passed with a large majority in parliament, its implementation however is still hampered by the mistaken belief of the administration that all laws require implementation decrees in order to be applied. A planned (and GtZ assisted) communication and publication campaign aims at spreading knowledge of the code among the parties affected and thereby breathe life into the code's concept. A subsequent effort is needed to reform all old laws contrary to the herder's code principles.