

The people of the clouds in search of their rights: First experience with application of the Mauritanian Pastoral Code

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1. Introduction

Mobile pastoralists in Mauritania, “the people of the clouds,” operate the largely mobile livestock production systems which produce up to 80% of rural GDP of Mauritania. These systems have a proven record of long-term sustainability both in economic and ecological terms, and are the best-adapted systems for the arid and semi-arid lands conditions of the country, characterised by highly variable rainfall patterns. Mobile livestock production systems are one of the best performing sectors of the Mauritanian economy, using little external input and making a balanced use of natural resources. Over the last 30 years, following two major droughts, an increase in human population and within an economic, administrative, political and worst, legal framework which discourages mobility, much of Mauritania’s population, formerly mostly mobile, have chosen a sedentary style of life.

Despite this change in residence, the livestock production system has stayed largely mobile. However, it is becoming obvious that without support, mobile livestock production has a bleak future. The immediate threat arises from inappropriate (occidental) law, which in 1983 formally abolished traditional tribal and village land rights and assigned common-property rangelands to the nation. This favours the alienation of productive pastoral lands by anarchic sedentarisation, land use change (e.g. for highly subsidised non-productive cropping) and individual and collective appropriation thus fragmentising pastoral zones. These changes threatened the most basic conditions for the functioning of pastoralism in Mauritania: the right to free movement, free access to pastoral resources, the existence of large, contiguous grazing grounds, and the principle of reciprocity.

Recognising the potential of mobile livestock production systems and the threat thereto, the Mauritanian Government, assisted by German Technical Assistance (GTZ) elaborated, the law of the “Pastoral Code” in a long process involving representatives of all stakeholders (Ould Khtour 2000).

This paper outlines some basic elements of the “Pastoral Code” and presents a first-hand experience with its application.

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2. The Pastoral Code

The Law “Pastoral Code,” formalising customary and Islamic law, was adopted in the year 2000. It protects and gives a secure status to the common pastoral use of and access to rangelands and pastoral resources (water, pasture, salt pans); regulates management duties, rights and procedures; and provides for conflict management (Ould Khtour D. 2000a).

The Code recognises mobile pastoralism as sound and sustainable use of rangelands and, implicitly, recognizes regular pastoral use of any land with a status similar to that of land under crop cultivation. Thus, any land use change must be agreed upon by the customary land-users, be they local or in regular transit. The common lands can no longer be appropriated by collective or private entities without consent of the customary land-users. In addition, major investments undertaken on pastoral lands are subject to a formal impact assessment, to be validated by socio-professional organisations representing the pastoralists (Government of the Islamic Republic of Mauritania 2000).

The Pastoral Code applies the principle of subsidiarity, under which customary land users are recognised as the managers and decision makers for the rangelands. Conflict management is also delegated to the lowest possible level. The rights and duties of socio-professional organisations figure prominently in the provisions of the Code.

The role of Government institutions, from communities upwards, is limited to that of facilitator. Government should only interfere in rangeland management in the case of ecological or social threat, as custodians of the law, or mediate when land users and their representative organisations are not able to reach agreement. Government may in particular formalise and protect consensual land-management arrangements (so called Local Codes) elaborated and agreed upon by the land-users themselves (Government of the Islamic Republic of Mauritania 2002).

3. Does the Pastoral Code work?

Although a large-scale information campaign has only just begun, we can respond partly in the affirmative, since the Code formalises customary and Islamic law. This is the management system already followed by most ordinary pastoralists, who still make most of the decisions concerning the use of pastoral resources.

In contrast, while most government officials are aware of the law, they may neither master nor apply it. Mauritania has a history of non-appropriate legislation and an extremely weak legal and administrative system, largely non-operational. Legal texts are circulating in very limited numbers, if at all, and are thus barely known. For most people, including government officials, modern law is simply irrelevant, and even forgotten.

In general, the administration only applies a law upon publication of the “application decree” detailing its implementation. The elaboration and adoption of such a decree may take years, if it is produced at all. GTZ again aided the Mauritanian government

in speeding this process via the same participatory procedure, which has already given proof with the Pastoral Code itself.

Currently in development are promotion, information, and training materials and modules using poems and traditional musicians (griots), communication styles familiar to rural Mauritians and pastoralists. The material targets in particular the land-users themselves, their representative organisations and the lowest levels of the administration, in particular the hitherto much-neglected mayors of the rural communities.

The GTZ-supported natural resource management project “GIRNEM,” working in the East of Mauritania, is currently testing the application of the Code in zones strategic both for pastoralism and rangeland bio-diversity, such as wetlands, which are the most sought for multiple use, and thus endangered. Urgent action is needed, as government and other donors’ activities tend to alienate the wetlands from pastoral use by fencing these areas for crop production.

4. Not as bleak as usual, but not without problems

As outlined above, applying a law at all in the Mauritanian context is a challenging endeavour. However, the instigators of the law, not least the pastoral organisations that fought for it for years, are confident that this law will be better applied than other legal texts. This confidence is based on initially enthusiastic responses from the pastoralists concerned, who are now seeing, for the first time since colonisation, official respect and recognition of their methods of livestock production and their way of life.

However, Mauritanian society has changed; and individualistic interests have gained importance in resource use. Thus in the application of the Code traditional mechanisms of social coercion will be reactivated to reinforce rangelands management decisions reached by consensus. The problem lawmakers face is that traditional structures are no longer recognised by the government, and thus existing hierarchies, conventions, and agreements cannot figure in a law. The socio-professional organisations of the pastoralists, although very outspoken at the national lobbying level, are extremely weak locally. All inquiries to the GTZ-sponsored projects so far have found that the pastoralists favour traditional chiefs as their true representatives. The GIRNEM project works within both official legislation and traditional practice, on the one hand working to strengthen the socio-professional organisations, and on the other, including traditional decision-makers as “resource persons” to be consulted.

Another major challenge in the context of a strongly hierarchical and caste-divided society like Mauritania is how to include people with no formal voice: women, former slaves, tributary people, etc. (To resolve this dilemma, the GIRNEM project elicits each group’s views and interests separately, then mediates a compromise.) Most importantly, mobile pastoralists, who comprise the majority of pastoral land-users, but reside only temporarily in a given area, must be integrated in the decision making process. This could be effected either by scheduling meetings according to their movements, or by a system of representation.

5. Conclusion

With the Pastoral Code, Mauritania has courageously pioneered the recognition of mobile pastoralism and the rights of customary land users. The instigators and supporters of the Code are confident that the pastoralists will put all their weight behind requesting and applying the law. Thus the people of the clouds have taken an important step allowing them to lead their livestock in a more assured future.

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