

# PAPER N°5 : THE RURAL CODE AND THE PASTORALIST ISSUE

Niger is a pastoral country. However, despite its crucial economic, social and cultural impact, pastoralism remains a very uncertain activity, and Niger's successive governments didn't invest much in it (1% of the national budget in 2009, versus 35% for farming activities). Though from 1993 the Rural Code has produced a number of rules and regulations in order to protect and revitalize pastoralism, it was also often accused of favoring crop farmers over livestock producers. Is that true? Do the May 2010 ordinance on pastoralism and the many sector-specific rules and regulations included in the Rural Code really create the basic conditions needed to safeguard Nigerien pastoralism?

## PASTORALISM : A MULTI-SIDED ACTIVITY AND A KEY COMPONENT OF NIGERIEN ECONOMICS

Niger's livestock production sector represents about 11% of the National GDP and 35% of the agricultural GDP. Livestock is the second most important export item after uranium, and accounts for 70% of agricultural exports. North of the isohyet 350mm that defines the limit for farming, animal husbandry is most of the time the main source of income and food. But it also contributes to the livelihood of agro-pastoralists living south of this line. Overall, more than a million people work full time in livestock farming, and a majority of crop farmers supplement their activities with animal husbandry.

Different types of stockbreeding activities exist in Niger, ranging from sedentary breeding to transhumant pastoralism. However, the circulation of livestock and extensive pasturing are in most cases the best way to develop pastoral zones and to safeguard cattle. Overall, about 75% of livestock production activities are nomadic and transhumant, whether at the national level or cross-border. Climate variability, the availability and quality of pastureland, as well as sanitary and economic pressures, often threaten pastoral activities.

In the pastoral zone, permanent pastureland represents about 60 million hectares. Water is the key element for survival and development, and is essential for the growth of natural pastureland and to maintain livestock. Most of hydric resources rest in natural surface ponds. Since the 50's, cement wells and deep drillings - in some cases equipped with pumps - were built to complete a network of traditional watering places and artesian wells. In theory, it is possible to meet the needs of the national



A traditional watering place in a pastoral area

livestock population. However, the distribution of water is very irregular, and in some places such irregularity linked with unequal capacities to produce fodder crops makes things very difficult. Moreover, hydraulic works were often poorly engineered and poorly used, which led to the deterioration of pastoral routes. In the agropastoral zone, cattle watering is practiced at watering points located close to the villages where transhumant livestock dwells during the dry season.

Successive drought periods from the 1970's deeply transformed Nigerien pastoralism. Many animals didn't survive the long 1969 to 1974 drought (50% of bovine livestock, 36% of ovines, and 27% of caprines died). The pastoral zone lost more cattle units, especially bovines, than the agricultural zone. The proportion of livestock population dwelling in the south increased, leading to more disputes especially about damage caused by animals in the fields. In 1981, most livestock producers had restored their flocks (up to 80% on average for bovines, and 110% for smaller ruminants).

The great 1984 drought pushed most livestock farmers into leaving the pastoral zone and moving 150km to 250km south, and prompted major changes in the pastoral society. Migrations towards cities increased massively, while the agricultural frontier pushed beyond the northern limit for cultivation, but also encroached over pastoral enclaves and transhumance routes located in the southern zone. A massive transfer of ownership in the bovine sector also transformed the pastoral society. Traders, local officials and city dwellers bought livestock units from the dispossessed livestock producers who were left to being simple herders. Nowadays around Tahoua, Maradi and Agadez, about 60% of the animals do not

belong to the herders that keep them. Following this huge crisis, the national policy for livestock production defined some key objectives : to renovate the pastoral zone, to increase its productivity, to guarantee that stock and crop production activities complement each other, to maintain the purchasing power of herders and the breeding capacity of the stock. However, the share of national budget allocated to animal husbandry remains very little (1% in 2009), and stockbreeders face more and more pressures. The population growth and the extension of tilled land, subsequently narrowing pastoral lands, complicate pastoral mobility, weaken the whole sector and multiply tensions between farmers and herders.



A watering place accessible for all

## WHY WAS IT NECESSARY TO COMPLETE THE RURAL CODE WITH A SECTOR-SPECIFIC TEXT ON PASTORALISM ?

The Rural Code established various standards in order to safeguard and support pastoralism in Niger. The northern limit for cultivation set by the 1961 law defined two distinct ownership systems for Niger. South of the limit for cultivation, agricultural land is subjected to the private ownership system. North of the limit, land dedicated to animal husbandry is considered State land and herders enjoy collective use rights to access it. Although the law was often criticized by livestock producers (who consider that the State favors crop farmers by granting them access to private property, while leaving them to their precarious situation), the rights that apply within the pastoral zone help safeguarding the mobility of cattle, and Nigerien pastoralism in general.

Besides, the demarcation and protection of pastoral enclaves, of corridors for cattle and of enclosed grazing areas within the agricultural zone also help a lot for the preservation of pastoralism. Since its inception, the Rural Code promoted the preservation of these areas where, like in the pastoral zone, herders are entitled to collective use rights that allow them to move their livestock in search of water and pastureland. Regarding access to water for herders and their cattle, the Rural Code also provides for useful devices that can help preserving pastoralism. Water found on the national territory is actually considered a State resource, and all Nigeriens are entitled to access it. Consequently, transhumant stockbreeders must be granted access to watering places, no matter in which zone they are located.

When on their home grazing territory, stockbreeders - whether land owners or not - benefit from a priority use right. The Rural Code defines the home grazing territory as "the territorial unit set and observed by custom and/or legal texts on which pastoralists usually reside for a large part of the year. It is the territory to which they remain attached when they move (transhumance, migrations, etc.)". The concept of home grazing territory thus allows nomadic or transhumant herders to be attached to a land commission, and to voice their concerns to the Rural Code's institutions, but also, more globally, to fully participate into the pastoral zone's governance. For instance, no hydraulic works can be engaged without the agreement of the community attached to the territory involved.

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Watch the film "From conflict to consultation: The Rural Code experiment in Niger"

To learn more about the issue of water for stockbreeders, watch bonus #3 "Watering places, a key issue in the pastoral zone".

In spite of these legal and institutional tools that are supposed to help securing pastoralism, Nigerien stockbreeders have long criticized the Rural Code, and they've been calling since the beginning of the 1990's for the creation of a « Pastoral Code » that would defend their rights and customs. The Rural Code has been specially pointed at for not considering livestock farming as a form of land development as valuable as crop farming. Another grievance has to do with the statute of land in the pastoral zone which isn't clearly defined, according to breeders associations. It is true that the law on forestry is quite ambiguous. It specifies that "are considered forest all areas presenting a dense growth of trees, shrubs and other non-agricultural plants". According to this definition, the pastoral zone could therefore be considered as a forest, and subjected to the forestry system.

## PROGRESS INCLUDED IN THE LAW ON PASTORALISM, AND THE NEXT KEY STEPS

In May 2010, a sector-specific law on pastoralism was passed, adding up to the group of texts that constitutes the Rural Code. The drafting of this law was sparked by a popular demand stemming from pastoralist communities since the 1990's, and was a long and arduous process. According to the participatory approach traditionally used for drafting the Rural Code, debates were organized at various levels, with representatives of herders and local chiefs. A total of more than 100 workshops were organized in all regions of Niger, in order to define pastoral organizations' demands – that were often contradictory – in the most accurate way.

Although this process strengthened the pastoral civil society, and led to a better organization of pastoralist associations, it nevertheless ran up against many political barriers. The preliminary stage that consisted in drafting the terms of reference started in March 2004, but it was only in May 2009, after several years of rough discussions, that the bill could be presented to the National Assembly. Unfortunately, political unrest in the country put an end to the parliamentary debate, when the National Assembly was dissolved at the end of May. The law was therefore passed a year later, in May 2010, in the form of an ordinance that was signed by the head of the State of the transitional government.

In spite of the obvious disappointment brought by this democratic setback and shared by some political leaders and pastoral organizations that had actively participated in the drafting process, all agree that the content of the May 2010 ordinance is still a very positive move towards securing Nigerien pastoralism. This new sector-specific law, integrated in the group of legal texts that compose the Rural Code, reasserts a number of principles, dispels some of the ambiguities, and imposes new standards.

Among some of the principles that already existed in the Rural Code and are reasserted by the sector-specific law on pastoralism are the validity and immutability of the northern limit for cultivation, that is meant to protect the pastoral zone from the agricultural frontier's advance. Meanwhile, the right to pastoral mobility is very clearly established by article 3, that stipulates that "mobility is a fundamental right of herders and nomadic trans-

humant pastoralists" and that "this right is recognized and guaranteed by the State and local authorities<sup>(1)</sup>". Therefore, the State cannot grant private concessions in the pastoral zone when it might impede the mobility of pastoralists. Furthermore, the new law recognizes mobility as a rational and sustainable method for the exploitation of pastoral resources. Finally, the new law on pastoralism puts an end to the official ban for herders to pasture their animals in ranches and forest reserves, and allows their use as a refuge in crisis situations, when pastureland is scarce. Grazing rights (vaine pâture) are also recognized in the rural environment when fields are cleared after harvests. A system is actually established for the opening and closing of fields in the agricultural zone, transforming the agricultural zone into pastureland as soon as rain-fed harvests are finished. It is specified that no compensation can be claimed for any damage done to rain-fed agriculture fields, after the day defined for their opening. Early slash and burn is also forbidden in the fields. Finally, legal regulations have been established for hay and private livestock ponds.

### WANT TO LEARN MORE ?

Watch the film "From conflict to consultation: The Rural Code experiment in Niger"

To learn more about the May 2010 ordinance on pastoralism, you can watch bonus #2 : "The Law on pastoralism : a remarkable progress achieved by the Rural Code"

The May 2010 ordinance clearly reinforces the Rural Code in its ambition to secure pastoralism in Niger, and is a major legal breakthrough for pastoral communities. The next challenge will be to generalize the new standards established by this law, and to make sure that the Nigerien rural population understands their importance. It will also be necessary to strengthen existing institutions of the Rural Code so that they can implement and monitor the application of these standards. Finally, it will be an absolute necessity to find a way to stop the encroachment of cultivated lands over the pastoral zone, and guarantee decent livelihoods from their activities to farmers that migrate to the North under demographic pressure, because of the continuous shrinking of production units size, and the general process that brings more and more instability into the rural and agricultural society.

\* (1) Also, no concession can be granted in the public interest on a home grazing territory located within the pastoral zone, without fair compensation determined after conducting an assessment of the concession's impact on the pastoral system.