

BRIEFING NOTES

to improve our understanding and ability to ask the right questions and take effective action on land matters in West Africa

“Land Tenure & Development” Technical Committee

Access to pastoral resources in agricultural regions of West Africa

by Alexis Gonin¹, May 2021

Many pastoralists are finding it increasingly difficult to access pastoral resources in the Sudanian savannahs of West Africa as more and more pastures are put under cultivation. When pressure on land increases they move to the remaining areas where grazing is still abundant – a strategy that works for the time being, but which may not be sustainable in the long term given the pace of land clearance for agricultural activities. This situation raises a question that is explored in this paper: why are pastoralists unable to protect pastures in these regions from agricultural expansion?

Agricultural pressure on livestock rearing

● Livestock rearing is a relatively recent activity in Sudanian zones

While there is a long history of livestock rearing in the Sahel, it remained a marginal activity in Sudanian zones for many years. More favourable rainfall in this geographic area (ranging from 400 mm in the north to 1,200 mm in the south) made it much more conducive to agriculture, which is still the main activity by far. Livestock rearing did not really feature in Sudanian regions until the 1970s when Sahelian pastoralists started extending their transhumance routes and travelling further south, and farmers in Sudanian zones began to invest the income from cotton production in herds of small and large ruminants. The advent of mixed farming is part of the more general development of livestock rearing in Sudanian areas.

Livestock breeders in these regions include farmers who rear livestock as a secondary activity (farmer-breeders) and pastoralists with a sideline in agricultural activities (sometimes called agro-pastoralists). Each has distinct livestock-rearing practices: farmer-breeders tend to keep their herds local, staying within their home

and neighbouring territories, while agro-pastoralists send young herders off with their animals on north-south transhumance that can extend over several hundred kilometres and last for several months. However, the differences between the two groups are diminishing as more and more farmer-breeders go on longer seasonal transhumance and many agro-pastoralists switch to more sedentary systems.

● Specific forms of access to pastoral resources in Sudanian zones

Sudanian zones have a shorter hot dry season than Sahelian areas, and usually contain enough surface water for herds to be watered without too much difficulty for most of the year. Access to wells does not necessarily entail access to surrounding pastures, and does not play the same key role in access to pastoral resources as it does in the Sahel.

Access to pastoral resources in Sudanian savannahs is regulated by a wide variety of arrangements that differ according to the type of resource, the season and the locality. For example, access to crop residues is usu-

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ally based on informal agreements between individual herders and farmers. These exchanges of fodder for manure were historically agreed through manure contracts, which could be combined with exchanges of milk for grain. Arrangements differed from village to village and plot to plot, with certain fields being completely open, others requiring prior authorisation, and some involving donations in cash or kind.

As they follow their transhumance routes, farmer-breeders and agro-pastoralists usually seek the protection of a local host who acts as a mediator if a conflict arises. However, this person does not act as a land manager, as land chiefs may do for agricultural migrants. Access to pastoral resources in Sudanian areas differs from access in the Sahel as it is not explicitly regulated by the administrative authorities, village authorities, or groups of local herders who delegate management rights. Unlike farmers who wish to clear a field in the bush, local and transhumant herders do not usually have to explicitly request access to pastures or surface watering points, let alone follow a customary procedure. However, herders who want to stay in the area do have to go through a cus-

tomary procedure if they want to set up a homestead and grow crops – so the same person may have to follow different procedures in order to access agricultural and pastoral resources.

● Pressure on Sudanese transhumance routes is hindering mobility

Pastoral resources are now subject to increasing competition from non-pastoral uses. Pastures are shrinking in many Sudanese areas due to agricultural clearance and, to a lesser extent, urbanisation, while transhumance routes are increasingly encroached upon by fields. In addition to this, livestock numbers are rising more sharply in West Africa than anywhere else on the continent: according to the FAO, the cattle population increased by 250% between 1974 and 2014, while the number of sheep almost quadrupled over the same period. In regions with the highest levels of agricultural and agro-pastoral activities, pressure on pastoral resources is testing local arrangements such as free grazing. Loss of access to pastures and watering points and the obstruction of transhumance routes at the local level weaken mobility at the regional level.

Many herders respond to these difficulties by migrating or sending their young people and herds to areas where there is less pressure on land, often further south. But with cultivated areas also expanding quickly in these regions (particularly in cashew pioneer fronts), herders often find it no easier to access pastoral resources along these new transhumance routes.

Reduced access to pastoral resources

● Why have rights of access to pastoral resources become an issue?

Why are herders unable to prevent the spaces where they pasture their livestock from being cultivated, and why do they find themselves having to migrate or shift their transhumance routes to the remaining areas where pressure on land is less intense? The answer may partly lie in the particular way that pastoral resources are accessed in Sudanian areas.

For a long time, the savannah in these areas was sparsely populated and agricultural activities were restricted to the outskirts of villages. There were vast expanses of bush where herders



No one has the right to prevent the herder in this picture from watering his animals, but nor does anyone have a duty to respect pastoral use of the well. The herder is free to water his animals, but this freedom can be challenged. This is what happened with the neighbouring well seen at the bottom right of the next photograph, which was previously used for pastoral purposes but was then enclosed and is now used to water market gardens. The women working in these gardens had no duty to respect the pastoral use of the well and now have an exclusive right to use it, while herders now have a duty not to draw water from it.

Photos by A. Gonin, 2017, Poykoro, Burkina Faso.

could pasture their animals; access to these resources was not an issue and was not discussed. However, access to these spaces, which local customary and lineage authorities regard as village land reserves, started to become an issue when they were cleared for cultivation, and herds were effectively excluded from using them during the growing season.

● Freedom of access to pastoral resources

The concept of a right can be empirically understood (as it is here) as a 'socially authorised action' that does not cause discontent and which could, if necessary, be defended before the authorities; or as a set of prerogatives that the law or well-established custom recognises as held by an individual. Whichever way one looks at it, herders do not benefit from grazing rights in the bush. Their practices are tolerated, but there are no oral agreements, customary ceremonies, texts or regulations that give them a right to pasture their livestock in the bush, or water them at surface water points.

If fields are damaged or conflicts arise over a herder's use of the bush, the herder's host can argue why the local authorities should tolerate their activities, but cannot do so on the basis that the herder has grazing rights in the strict sense.

● A relational approach to rights of access

In order to understand why pastoralists are unable to defend the integrity of the bush and its pastoral use in agricultural regions of Sudanian West Africa, it is helpful to consider rights from a relational perspective (see box below) rather than focusing on the individ-

ual and their prerogatives. This enables us to understand how the issue of access plays out between a herder on the one hand, and farmers, other herders, and local land authorities on the other.

Therefore, according to the Hohfeldian approach, herders have freedoms to access bush and surface watering points, not rights. So while no one can exclude herders from the bush, no one has a duty to limit their own right to clear land or maintain grazing to ensure that there is enough pasture for herders to use.

● Advantages and disadvantages of freedom of access

When pastoral resources are abundant, these freedoms give herders great spatial fluidity and facilitate mobility at both the local and regional levels. They do not need to negotiate rights to use pastures in the different

places they visit, but when pressure on land increases, these freedoms do not allow them to defend pastoral use of the bush before any authority.

This is why herders rarely contest the cultivation of pastures, and why they are unsuccessful when they do try to argue their case. It also explains why pastoralists' preferred strategy is to migrate or extend transhumance when pastures become scarce in a particular region.

Ensuring access to pastoral resources and protecting mobility

● Mobility is crucial

Local and regional mobility is the key-stone of pastoralism, linking Sahelian and Sudanese areas and supporting the livelihoods of tens of millions of pastoralists across West Africa. Fodder and water resources can be used

THE RELATIONAL APPROACH TO RIGHTS, A THEORETICAL CLARIFICATION WITH IMPORTANT PRACTICAL CONSEQUENCES

A right is legally defined as an action that is authorised by a legitimate institution. However, the American jurist W.N. Hohfeld argues that this approach leads to certain arrangements being mischaracterised as rights. In an article written in 1913, he distinguished a claim-right from a freedom or privilege.

According to the relational approach, a herder only has a **right** (claim-right) to graze in the bush if other herders and farmers have a **duty** to let his animals graze there, in which case they cannot do anything that would prevent the herder from exercising his right to graze (such as clearing the bush). If farmers do not respect the duties that prohibit them from taking certain actions, herders can ask the authorities to enforce their rights.

But if no such duty exists, the herder does not have a right of access in the strict sense. Hohfeld felt that it is more accurate to talk about **freedoms** (or privileges). No one forbids or prevents the herder from grazing; there is free access in the sense that he does not have to ask for permission, but no one has any obligation towards him, and he has no recourse if other people's actions prevent his animals from grazing. To speak of 'rights' in both cases is to mix things that are very different in practice.

wherever they are found, depending on the season and variations in annual rainfall. Furthermore, production costs are much lower and mobile herds perform better than sedentary or stabled livestock.

As dwindling pastures and the closure of transhumance routes threaten the mobility of both transhumant pastoralists and local farmer-breeders, what can be done to ensure that certain spaces remain uncultivated, even in the agricultural regions of Sudanian zones?

● Negotiating rights rather than freedoms

In light of Hohfeld's approach, it can be concluded that while freedom of access has many advantages for pastoral mobility when land is abundant, it does not allow herders to defend the integrity of pastures when pressure on land increases. One way of keeping rangelands in agricultural areas

FOR FURTHER INFORMATION ON THIS TOPIC, SEE:

- >> Gonin A., Filoche G., Lavigne Delville P., 2019. *Dynamics of Access to Pastoral Resources in a Farming Area (Western Burkina Faso): Unveiling Rights in Open Access Regimes*. International Journal of the Commons 13, 1049–1061. <https://doi.org/10.5334/ijc.950>.
- >> Gonin A., 2018. *Des pâturages en partage. Territoires du pastoralisme en Afrique de l'Ouest*. Revue Internationale des Etudes du Développement 1, 33–52.
- >> Hohfeld W. N., 1913. *Some fundamental legal conceptions as applied in judicial reasoning*. Yale Law Journal, 23, 1, 16 59.
- >> Rangé C., Lavigne Delville P., 2019. 'Commons' or authorized open access ? *Multi-use governance on the shores of Lake Chad (Cameroon)*. Etudes rurales 20–41.
- >> Thébaud B. et al., 2018. *10 key findings on livestock mobility in West Africa – A reality check*. Acting for Life, Cirad, NCG, 17 p.

open could be to guarantee access through a system of rights and corresponding duties (claim-rights). This perspective opens up new avenues for reflection on pastoral lands. In terms of public policy, it will entail support-

ing negotiations on the different types of space concerned, defining the content of the rights to be recognised, and legitimising the authorities that are likely to establish and guarantee these rights. ●

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