

Pasture-related Legislation and Socio-ecological Challenges in Kyrgyzstan

Andrei Dörre

Freie Universität Berlin, Institute of Geographical Sciences, Centre for Development Studies,
Germany

Contact email: adoerre@zedat.fu-berlin.de

**Paper prepared for presentation at the “Regional Economic Cooperation in Central Asia: Agricultural
Production and Trade (ReCCA)” conference**

November 24 to 26, 2014
Halle (Saale), Germany

Copyright 2014 by the author. All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies. The papers present authors' own results and IAMO is not responsible for any errors contained in the data or analysis.

Abstract

Kyrgyzstan's grasslands have an economic importance as well as crucial ecological meanings. The hypothesis to be explored here is that formal institutions, especially top-down-initiated legal rules implemented since 1991, are decisively contributing to the formation of socio-ecological pasture-related challenges. It is misleading to explain these problems through the neo-Malthusian argument that a growing population necessarily leads to overexploitation and degradation of natural resources. The causes are much more complex. Utilization practices applied by the actors can be understood as results of the interplay of economic necessities, weak legal institutions, legal uncertainty and a related lack of reliable planning opportunities. In this way, inappropriate and unstable legal arrangements are stimulating the processes of socioeconomic stratification and disintegration of the society as well as those of pasture degradation. Based on findings obtained during field studies in Kyrgyzstan's south-western walnut-fruit forest region, this paper advocates for the principles of an integrated sustainable development of Kyrgyzstan's agricultural sector. Management responsibilities, access and utilization rights need to be matched to the specifics of local contexts and legitimized through participatory approaches. Including the local population in the institution-building process can make a decisive contribution to social development by balancing different interests.

Keywords: Pastoralism, Political Ecology, Post-socialist transition Socio-ecological challenges, Legislation, Kyrgyzstan

1 Introduction and Research Questions

The grasslands in Kyrgyzstan have a crucial economic importance from the macroeconomic national level down to the level of local households as supplier of natural animal fodder, as well as crucial ecological meanings such as for water and nutrient cycling, filtration, and soil formation. In spite of the vast expanse of pasture lands and the reduction of livestock numbers in the 1990s, the scope and diversity of pasture-related socio-ecological challenges have increased remarkably, and have come to endanger the continued provision of these services (WILSON 1997: 62–63; UNDELAND 2005: 22). Degradation leads to a growing shortage of grassland, and pasture-related conflicts jeopardize the country's social integrity.

The hypothesis to be explored is that formal institutions, especially top-down-initiated legal rules, are decisively contributing to the formation of socio-ecological pasture-related challenges. These problems can be understood as resulting from struggles between interest-driven actors with differing levels of power, the interplay of economic necessities, structural legal uncertainties, and the related lack of reliable planning opportunities. The central question, in this context, is how legal arrangements are stimulating the processes of socioeconomic stratification and disintegration of the society as well as those of pasture degradation.

2 Data and Methods

The presentation is based on insights gained during field studies between 2007 and 2013, in which different research methods were applied. Pasture-related legal sources were reviewed with critical consideration of changes that were made to the most central

contents and passages regarding ownership, management responsibilities, and allocation practices. Expert interviews were conducted to explore the research object, i.e., to learn about the basic characteristics, relations, and dimensions of pasture-related socio-ecological challenges. Additionally, observations and mappings of pasture utilization as well as guided interviews with pasture users were conducted. The guidelines included questions regarding individual entitlements, perceptions and assessments of the legislation in general and its effectiveness and implications in situ, as well as individual usage practices. The aim was to compare the legal provisions with the reality on the ground.

The research area is located on the northern edge of the Fergana Basin on the south-facing slopes of the Tian Shan's Fergana Range within the district of Bazar Korgon, Jalalabad Province. Mountain pastures at elevations between 1,800 and 3,500 m form a vegetation zone above extensive walnut-fruit forests that are a peculiarity in the otherwise sparsely wooded country. Over 50,000 people live within the forests and their surroundings. Their living depends considerably on local land and forest resources (SCHMIDT 2005: 93, 99–101; SCHMIDT and DOERRE 2011: 2; DÖRRE and BORCHARDT 2012: 314–316). Another unique characteristic of the study region is the existence of different legal land categories that are important for the management and the allocation of grassland areas.

3 Main Results and Discussion

After the dissolution of the USSR, all social spheres required new legislation. For pastures and other natural resources, a number of attempts were made to clarify the general legal guidelines for management, allocation, and utilization. The central, and so far valid, instruction adopted from the socialist era, is that contrary to the privatized arable land of former collective farms, pastures lasted exclusive state property (ZKRR 1991 art. 2; ZKRR 1999 art. 4 par. 2; ZKRR 2003 art. 4 par. 2; ZOP 2009 art. 3 par. 1). Regardless of this clear arrangement, discontinuities, ambiguities, and complicity are characteristic of Kyrgyzstan's pasture legislation (DÖRRE 2012: 133): According to the land code and a specific regulation, which was valid between 2002 and 2009, local authorities were responsible for managing pastures located close to settlements. Rayon (district) and oblast' (province) authorities were responsible for grasslands located in an 'average' and 'far' distance from settlements, respectively. Here, individual leases obtained via auctions were the legal norm (ZKRR 1999: art. 4.2, 13, 15, 17; PPPAIP 2002: par. 10, 15). The State Agency on Environment Protection and Forestry and local national forest enterprises (leskhozy) were responsible for pastures of the forest fund (PPPAIP 2002: par. 4, 7, 10, 15, 39). Participation of the local users in management and allocation procedures was not envisaged. In fact, due to the lack of resources, many management organizations were unable to execute their duties. Informal resource allocations and competing and ecologically harmful utilization practices became widespread. Against this background, the new law 'On pastures' (ZOP) was established in 2009. It banned pasture auctions and leasing. Instead of the administrations of the district and provincial levels being responsible for the management and the allocation of pastures located on communal land and land reserve territory, irrespective of their distance from settlements, local pasture user committees and authorities became responsible for them. However, the regulation is not applicable on forest fund pastures, where the State agency and the leskhozy remain responsible (ZOP 2009: art. 1, 4, 15). Therefore, different formal regulations exist in the study area, which influence the pasture management, allocation, and usage regimes (DÖRRE and BORCHARDT 2012: 316).

Kyrgyzstan's pasture-related legislation consists of norms that are characterized as top-down-initiated, external interventions which have caused several unintended effects at the local level. The failure of these codified regulations seems to be caused by the attempt to formulate generally valid legal frames for a country, which is distinguished by radical social transitions and at the same time is equipped with diverse, local-specific settings. The regulations rest upon certain untenable presumptions such as the existence of efficient institutions, empowered authorities, and secured participation of the resource users within decision making processes. However, it seems to be more useful to enable local actors to find local-specific solutions that serve the respective socio-economic and ecological situations. These specific local and regional resource management, allocation, and usage regulations should be legitimized through the participation of local people within the processes of decision-making and institution building. Such attempts can make a decisive contribution to the integrated and sustainable development of Kyrgyzstan's society in economic, social, and ecological terms by balancing initially opposing interests. The newest pasture law follows this approach by allocating pastures and delegating legal resource responsibilities to local communities.

4 Conclusions

To achieve the desired goal of an integrated and sustainable development of the whole society, the strategy should place more emphasis on capacity-building measures and financial support to empower the responsible local organizations and actors to fulfill their duties. A rather recent development and so far unsolved problem are the ongoing debates on the restructuring of Kyrgyzstan's forestry sector, and the extension of the spatial applicability of the new pasture law on forest fund lands. This measure would remarkably influence the pasture management practices on the ground.

5 References/Bibliography

DÖRRE A. (2012). Legal Arrangements and Pasture-Related Socio-ecological Challenges in Kyrgyzstan, in: Kreutzmann, H. (ed.): Pastoral practices in High Asia. Agency of 'development' effected by modernisation, resettlement and transformation. Dordrecht/ Heidelberg/ New York/ London, Springer, pp. 127-144.

DÖRRE. A., P. BORCHARDT (2012). Changing systems, changing effects: Pasture utilization in the course of the post-Soviet transition. Case studies from Southwestern Kyrgyzstan, Mountain Research and Development 32(3): 313-323.

PPPAIP Polozhenie 'O poryadke predostavleniya v arendu i ispol'zovaniya pastbishch' N 360. 4.6.2002 goda.

SCHMIDT, M. (2005). Utilisation and management changes in South Kyrgyzstan's mountain forests, Journal of Mountain Science 22(2): 91-104.

SCHMIDT, M., A. DOERRE (2011). Changing meanings of Kyrgyzstan's nut forests from colonial to post-Soviet times, Area 43(3): 288-296.

UNDELAND, A. (2005). Kyrgyz Livestock Study: Pasture Management and Use, Washington, DC, International Bank for Reconstruction and Development

WILSON, T. (1997). Livestock, pastures, and the environment in the Kyrgyz Republic, Central Asia, Mountain Research and Development 17(1): 57-68.

ZKKR Zemel'nyi kodeks Kyrgyzskoi respubliki N 123. 9 iyul' 2003 goda.

ZKKR Zemel'nyi kodeks Kyrgyzskoi respubliki N 45. 2 iyun' 1999 goda.

ZKRR Zemel'nyi kodeks Respubliki Kyrgyzstan N 574-XII. 19 aprel' 1991.

ZOP Zakon Kyrgyzskoi Respubliki 'O pastbishchakh' N 30. 26 yanvarya 2009 goda.