

PAPER N°6 : PROGRESS MADE BY THE RURAL CODE

Since its inception in 1993, the Rural Code in Niger has been designed as a never-ending process. The legal texts that make up the Rural Code, like the institutions which ensure its implementation, are constantly evolving. How far have we come today in implementing the Rural Code? Has its legal arm fostered significant progress in terms of rights? How effective is its institutional mechanism? Overall, what achievements can be attributed to the Rural Code in Niger?

A MORE COLLEGIAL AND PARTICIPATORY APPROACH TO THE GOVERNANCE OF LAND AND NATURAL RESOURCES

The Rural Code was designed as an open and participatory process. Long debates over the need for a land and agriculture policy in the country, which took place from the early 1980s to the adoption of the March 2, 1993 ordinance containing the Rural Code's guiding principles, contributed to the development of a product that is relatively consensual and easier to enact than bureaucratic texts imposed from top to bottom. The discussions were both horizontal and vertical. They were horizontal in the sense that all users of land and natural resources (farmers, herders, fishermen, etc.), including the most marginalized users (women, youth, nomads, etc.), were consulted about their needs and expectations. The debates were vertical to the extent that the views of these users were discussed at all levels, from village to county and then at regional and national levels. Efforts to improve the Rural Code today are the object of popular demand, perhaps even more so than during its initial implementation. Now better organized, Nigerien civil society is increasingly involved in improving the Rural Code and in developing new legislation for this sector.

Debates about the creation of the Rural Code started during an exceptional regime, established after the military coup of 1974 that sought to define an original path toward development for the country. The theory of "Development Society", put forth by those in power at the time, is based on three inclusive principles: consultation, dialogue, and participation. Since then, despite changing regimes and profound instability, the political will supporting a participatory and inclusive Rural Code has not changed. This determination can be seen in the make-up of land commissions (also known as Cofos in

French) which bring together leaders from the administrative and technical services, as well as resources users' representatives and traditional chiefs.



Meeting of the Ardol Aouel Cofob

Once the sole purveyors of use rights to land and natural resources, these traditional chiefs thus find themselves weakened by the Rural Code system. Cantons and grouping chiefs, as well as village or tribe chiefs, are included in the land commissions, but represent only one voice among others. In addition, the customary authorities traditionally administered justice in land matters. Today, they have more of a role to arbitrate, but may not settle disputes. Therefore, the management of land and natural resources is more collegial, and the Rural Code, as such, is part of a step towards greater justice, equity, and democracy. By contributing to the establishment of a space for dialogue at the local level through the land commissions, the Rural Code also carries out its duty to promote the rule of law in Nigerien villages.

WANT TO LEARN MORE?

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

For further analysis of the positive aspects of the Rural Code's development process, watch the testimony of Mr. Abdul Karim Mamalo in bonus #1: "Drafting the Rural Code : elements of context"

LESS VIOLENCE OVER LAND

Moreover, prevention and control efforts made by the various land commissions have reduced the number of land disputes and lessened violence. For land commissions, conflict prevention is perhaps the area in which

the most impressive results have been achieved. Efforts to raise awareness among agropastoral populations about the Rural Code's principles has brought about a better understanding of important issues, including those related to the preservation of common resources such as pastoral enclaves, ponds, and transhumance routes. In many regions, the land commissions have worked with villagers to identify and demarcate these shared resources.

WANT TO LEARN MORE?

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

For more information on marking out pastoral routes, watch the interview with Hassane Madougou as he explains in details the process of demarcating pastureland and corridors for cattle (11'21.)

Identifying and marking resources has prevented many conflicts between herders and farmers, especially conflicts related to tilled land encroaching upon land dedicated to stockbreeding, or damage caused by flocks in agricultural areas. Also, to some extent, awareness-raising efforts conducted by the land commissions have worked to reduce the encroachment of perennial fields onto the pastoral zone, despite the fact that the agricultural frontier has already pushed beyond the agricultural zone's northern boundary.

When conflicts do occur, the Cofos serve as regulators and can often curb situations of excessive violence that may turn fatal, as was still common until the 1990s. Indeed, in the event of conflict between farmers (e.g., about the boundaries or ownership of a field); between herders (e.g., about water access, well construction or overgrazing); or between farmers and herders (often about damaged fields or planting areas set aside as pastures), land commissions are capable of intervening to resolve the conflict through compromise. Serving as mediators, land commissions allow each party to calmly express grievances and requests, which limits the need to resort to violence. Only when the land commission fails to find an amicable solution between the parties, the affair is handed over to the justice system.

WANT TO LEARN MORE?

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

For more information about the various types of land tenure conflicts, watch bonus #4 : "Categories of land tenure conflicts in the pastoral zone". For examples of resolutions of land tenure conflicts, watch Bonus #5 : "Three examples of land conflict resolution".

A BENCHMARK TOOL FOR IMPLEMENTING NATIONAL POLICIES

Beyond this progress in the field, the Rural Code stands today as a tool for implementing national policies, which can be considered as one of its main achievements. That many different groups respect the principles of the Rural Code makes it a successful example of concerted policy.

In November 2003, Niger adopted a Rural Development Strategy (RDS), a benchmark for social and economic development in rural areas. The Rural Code has been designated as a tool to facilitate the implementation of 5 of the 14 programs within this strategy. For example, through its efforts for the local governance of natural resources, the RDS strengthens the Rural Code's guiding principles while promoting their practical implementation and advocates that land commissions continue to form and operate. Similarly, through its program to develop the pastoral zone and safeguard pastoral systems, the RDS asserts that private or institutional investment for pastureland development hinges on the application of the Rural Code's established principles regarding the pastoral zone.

At the same time, the Rural Code is often viewed as both an inspiration and a powerful tool for implementing decentralization policies. In Niger, decentralization began in 2004 and aims for new territorial and administrative organizations to better promote social and economic development. Unlike other countries in the sub region engaged in similar processes, Niger is able to draw from its experiment with the Rural Code as a first experience of decentralization in the specific field of land management. This groundbreaking experience can be a source of inspiration and serve as a benchmark for the implementation of decentralization policies. The Rural Code has already established 145 commune land commissions in a total of 265 existing communes : from early on, it has been engaged in a decentralized system of land management.