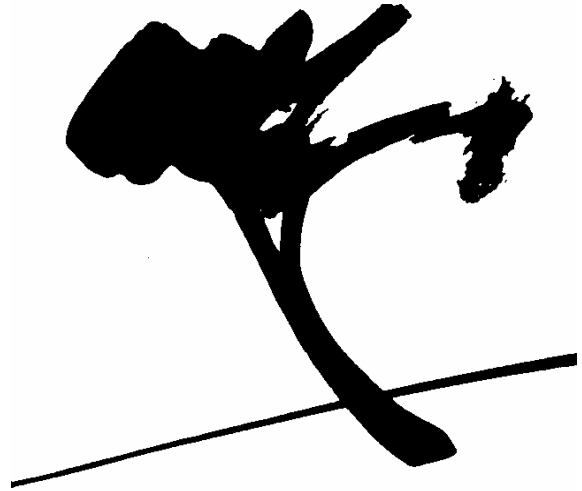


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**Land Tenure Security:
Shared Management of Common Property Sylvo-pastoral
Resources in Niger**

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1.0 General Introduction:

The Subject....

This article attempts to present a practical as well as theoretical overview of the current land tenure situation in Niger, West Africa. It also describes some of the realities and impacts of translating such political reforms into meaningful action in the field.

The tenure of common property sylvo-pastoral resources is discussed in particular because of the strategic role these resources play in multiple rural production systems and their vulnerability in the face of currently accelerating trends towards privatisation through agricultural expansion and/or appropriation. In the discussion, reference is made to a number of practical experiences of common property resource management in the Niger; the analysis of which helps illustrate the complex socio-political environment in which shared management takes place. In doing so, the article raises a number of (what we believe from our experience to be) important elements in securing the access of marginalised groups to land and the natural resources on which they depend as well as the types of issues that may confront local management structures in reality. The article further suggests that the creation of an 'enabling environment' for effective, decentralised and equitable local management principally requires social investment to help ensure the long-term viability of collaborative 'local' management through inclusive processes and appropriate social communication strategies.

About the CRAC-GRN....

The CRAC-GRN¹, has worked in Niger since 1988 on a number natural resource management action-research orientated interventions² focussing on aspects such as land tenure; negotiation & conflict management; pastoral/agro-pastoral production systems; equitable inclusion, social communication and lobbying. Each intervention has been designed to facilitate indigenous processes of collective decision-making: accompanying the actors concerned in experimenting, learning through experience and testing new approaches to their natural resource management challenges. The organisation actively promotes inclusion and legitimate representation in collaborative decision-making processes, a fact which has enabled it to establish very close and frank relations with all the stakeholder groups concerned, including the Nigerien Government, (particularly the Ministries of the Environment and Livestock Production, the Land Tenure Commission and the High Commission for Administrative Reform and Decentralisation) and Civil Society Organisations (NGO's, Associations etc...).

As a result, all interventions with which the CRAC-GRN is associated are the consequence of extensive, collaborative processes in which realities from the field and perceived need for change at the level of the rural population and the government are reflected. This, combined with the fact that the organisation is active in a number of key regional and national NRM-Pastoral networks means that the CRAC-GRN is in a favourable position to facilitate the analysis of key questions and develop, in a concerted way, cutting-edge interventions which help the actors themselves clear new paths towards equitable and inclusive decentralised natural resource management.

This article is presented in two distinct parts: the first, presents a rapid overview of land tenure context in Niger and the second, treats the subject of 'common property resources' and their future management within that context. The information presented is based on observations made and practical experience gained by the authors throughout twelve years of working on this issue with a multitude of actors and from a range of perspectives.

¹ Known up until 2003 as « SOS Sahel GB in Niger »

² The Oral History Project OHP (1988) ; The Agro-Forestry Project West Mirriah PAFOM (1989) ; the Takiéta Joint Forest Management Project TJFMP (1995-2000); The Project for the Promotion of Rational Management of Planted Trees Zinder PAPA Z (2001-2004). The Forestry Learning Group (2005-2008) The project for supporting collaborative management of Sylvo-Pastoral Resources PAGCRSP (2001 – 2008); The National Project for the Promotion of Rational Management of Planted Trees PIGEPAN (2006-2010).

PART I: Niger Land Tenure Context

2.0 Introduction to Niger

Niger is landlocked and covers 1,267,000 Km² which can be divided into four main agro-ecological bands: the Agricultural Zone in the south, followed by the semi-arid/arid Agro-Pastoral and Pastoral Zones up to the fringes of the Sahara Desert in the north. Niger is by vocation pastoral territory and there is a great deal of seasonal movement between the 'Pastoral Zone' in the north, through the 'Agro-pastoral/intermediary zone' and the 'Agricultural Zone' in the South as well as across the international frontiers with Nigeria, Chad, Cameroon and Burkina Faso.

The population according to a 2001 census is estimated at 11,060,291. It is 85% rurally based and increasing at a rate of 3.3% per year meaning that the population has more than doubled in the past 24 years. The population is for the majority concentrated in the southern agricultural and agro-pastoral zones; practicing either predominantly subsistence cereal production in combination with some livestock keeping and opportunistic cash crops when conditions permit or pastoral livestock production of camels, cattle, sheep and goats.

The natural resource base is typically sahelian with highly unpredictable climatic conditions. This renders local production systems particularly fragile with food deficits being the norm even in the more humid south. The pressure on available agricultural land is high and for the moment (given the low input agricultural practices) the tendency is for low productivity to be compensated by agricultural extension towards the north into even less ecologically appropriate areas, better suited to extensive pastoral production. Relations between the two main production systems, agriculture and livestock production are by nature complementary even if areas of synergy between sectors in the past have begun to disappear and conflicts become more frequent and violent as competition for resources becomes greater.

Land tenure context:

Niger is classified as the poorest country in the world³. Following a long and difficult period of political instability characterised by alternating military and democratic regimes, the country is presently in a recovery phase both politically and economically. The present government was democratically elected in 1999 (and for a second mandate in 2004) and functions according to the governance principle of the separation of legislative, judiciary and executive powers.

Global democratic trends and the Niger's own political experience in recent years have combined to produce a system in which there are increasing 'opportunities' for democratic participation in legislative reform making. Since its independence in 1960 there have been several notable examples where Niger has produced extremely radical and innovative policies and legislation. Two such examples are the major land tenure reforms embodied in the Rural Code and the process of administrative Decentralisation. Both reforms have their roots in the post-colonial period and the democratic euphoria of the 1970's and 80's and have individually and collectively had a major impact on how the Niger functions today, particularly in the rural areas.

The two reforms are very complementary and share many of the same fundamental principles in terms of popular participation and the promotion of subsidiarity in local governance decision-making. However, while the Rural Code has been in existence as a political reality in the field since the early 1990's, it was only in June 2004 that municipal elections were held and the Decentralisation process became part of the picture. Therefore, while the articulation between the two reforms is theoretically strong, it is only now being put to the test: an enlightening experience of working through the process of inevitable contradictions, grey areas and the search for practical harmony in the field.

³ Classified 177 out of 177 according to UNDP report 2005

For the purposes of this article, the principle accent is placed on the Rural Code, though allusion will be necessarily made to the process of Decentralisation from time to time particularly in relation to future perspectives.

3.0 The Rural Code

3.1 Introduction.

Given the almost purely agricultural base for the national economy, land tenure security in one form or another has been a regular preoccupation for the various Nigerien governments (military and democratic) since post independence. However, though successive governments posed particular legislative/verbal acts with impact on land tenure (establishment of a Northern Agricultural Limit⁴ and Kountché's verbal declaration of 1974⁵), it wasn't until after a National Conference in 1991 that the brand new strategic policy on land tenure was finally adopted in the form of a text known as the Orientation Principles of the Rural Code⁶ (POCR).

The POCR is an innovative piece of legislation born out of a series of collaborative regional and national workshops (from the mid 1980's to 1993) during which rural development in Niger was systematically and collectively reviewed by the major technical sectors concerned and new more realistic, concerted and integrated policies were drawn up for the future. The text was adopted in 1993 a time of exceptional political overture and engagement, a fact reflected in the spirit and contents of the POCR.

The POCR was conceived as an umbrella text setting out, as the name suggests, the major orientations for coherent land tenure development. It was viewed as a process aimed at introducing order and promoting coherence in the legislative framework which had become a confusing and complex mass of superimposed modern, customary and religious land tenure practices. Specifically the process aimed to secure the rights and socio-economic production base of the rural population through a system involving clear guiding principles, coherent and coordinated sectorial texts and the introduction of appropriate institutional supports for the effective application of that legislation. Together, these three elements: the Principles; the Legislative Framework and the Institutional provisions, constitute the innovation and power of the POCR in Nigerien land tenure reform.

3.2 The Rural Code: the theory

3.2.1 The Principles:

The Rural Code as a reform embodies a number of fundamental principles which are echoed in the POCR and the practices and procedures defined for its application. Some of these principles are outlined below:

Particularity of Land as a resource.

Land is viewed as a national heritage and as being just as important socio-culturally as it is technically for the population. For this reason, it was felt that policies need to be able to take into account the variable socio-economic and cultural characteristics of land use. This means that the legislation must have the flexibility to determine the broad lines of land and resource use as well as the appropriate regulations and procedures permitting local arrangements to be made according to the specificities of each area.

Participation:

⁴ Law 61 005 of 26th May 1961

⁵ "From the moment of this declaration, any field already exoloited in one way or another by a given person, stays and becomes the property of that person, regardless of the way in which he acquired the possibility of using it."

⁶ The Rural Code 93 015 of 2nd March 1993 according to its first article "fixes the legal framework for agricultural, forestry and pastoral activities in a perspective of properly managing the territory, protecting the environment and promoting human development. It ensures the security of rural operators by recognizing their rights and promoting development through the rational organisation of all rural communities...."

The active participation of all actors concerned in the process of local land tenure decision-making is promoted as being a democratic right and the most effective way of ensuring appropriate decision-making. The institutional framework of the Rural Code goes to great lengths to ensure that representative⁷ 'platforms' for the discussion and consensual treatment of the diversity of rural interests are created at different levels. The opportunity for the legitimate representation of different socio-economic sensibilities within these structures is explicitly dealt with so that evolution can take place to include new actors, taking into consideration gender issues and minority group inclusion. By putting a particular accent on inclusion, the aim is to develop a sense of collective 'ownership' and active contribution to the process of natural resource management.

Building on existing systems:

While aiming to introduce new land tenure practices and procedures promoting greater order and harmony, the Rural Code has based itself on existing traditional regulations and arrangements; recognising existing verbal and/or written land tenure rights; taking into account the customary role played by traditional chiefs in reconciling differences/conflicts; explicitly recognising traditional collective user rights for pastoral resources and priority user rights for pastoral 'home areas' ('terroirs d'attache'). As the customary guardian of traditional social organisation, values and practices, special effort has been made to ensure that the traditional chiefs have a particular place within the land tenure structures.

Integration and Multi-disciplinary:

Natural resource management and land tenure are recognised as being multi-disciplinary subjects which need concerted input and consensual decision-making by several different ministries and institutions in order to define pertinent and effective solutions. The POCR sets out the main guidelines and principles governing the elaboration of individual sectorial texts with a view to promoting harmony, avoiding contradiction in the contents of the texts and their application in the field. All the government services/ministries concerned with rural development are represented within the Permanent Office⁸ (SP CNCR) of the Rural Code.

Process:

Land tenure reform is seen as being an essentially long term iterative and participatory process in which all stakeholders have a role to play in promoting appropriate legislative and institutional changes according to evolving conditions. Flexibility is built into the process so as to ensure its continued evolution and pertinence over time: periodic review/revision, incorporation or articulation with new policies and parallel reforms; developing more participatory processes for the elaboration of new legislation etc

Communication and Subsidiarity:

The process is based on and inspired by the experiences and preoccupations faced by the rural population and the institutions concerned in the field. The institutional provisions made encourage subsidiarity and greater effectiveness in local decision-making but also facilitate the two way circulation of information from one level to another so that policy-making at higher levels is better informed and the field is more informed concerning new policies. This means that new dispositions can take into account existing local practices and consider how to progressively change them if necessary, rather than simply trying to suppress them with legislation.

3.2.2 The Legislative Framework:

The POCR as the legislative text embodying land tenure reform in Niger is the home grown Nigerien product of open, multi-sectorial collaboration and reflection. The same quality of collaboration and coordination was previewed to continue beyond the conceptual, into the application phase.

⁷ The composition of the different elements of the Rural Code Structure vary according to the level, but aim to be as open as possible. COFODEPs (Departmental land Tenure Commissions) for example, unite the administrative authorities, customary chiefs, technical services, civil society organisations, representatives of local producers (agricultural, pastoral, other) and socio-economic groups such as women and youth.

⁸ Secrétariat Permanent du Comité National du Code Rural.

Institutionally, the SP/CNCR is considered as the coordinating body within which all the government ministries responsible for the development of sectorial policies and legislation find themselves united: a neutral territory in which technical cross exchange and harmonisation can take place. The result is that the principles and procedures of the POCR 'umbrella' text are rendered 'operational' through a diversity of specific 'complementary' texts (e.g. water and forestry legislation), which are individually in harmony with the big principles but also in harmony with each other: contradictions and/or legal vacuums having been ironed out through the process of exchange. The complementary texts are often subsequently rendered operational by specific 'Textes d'Application (application texts). The 'umbrella' formation also ensures the more supple adaptation of the legislative framework as a result of changing conditions: modifications to one complementary text having potential knock-on effects on others.

3.2.3 The Institutional Framework:

The POCR also laid down the basis for the institutional framework necessary for the application and subsequent development of the Rural Code, with the idea that the process should remain dynamic and capable of changing in response to local specificities and evolutions in the overall context. Important points concerning the institutional framework, which impact on the quality of the application of the Rural Code include those related to:

The structure:

- represents the Code Rural through distinct units at each level (each with its own composition and terms of reference);
- is essentially hierarchical (See diagram below): one level being responsible for the creation, support and monitoring of those below it;
- brings the Code Rural in close proximity to the rural population: potentially accessible at community level;
- promotes subsidiarity and local empowerment in decision-making concerning land tenure and general natural resource management;
- facilitates two way communication/information exchange from the community to national deciders and vice versa. (influencing legislation from the base and ensuring that legislation is pertinent).

And...

The composition:

- varies from one level to another according to the appropriate level of inclusion for different actors;
- ensures the possibility of including all the different potential sensibilities concerned⁹;
- gives a particular parastatal status from the regions downwards;
- encourages the rural population to feel that they are not only concerned by the process but that it belongs to them and serves their needs.

3.2.4 How the System Functions.

Within the institutional and legislative framework of the Code Rural, the concept of promoting land tenure security is taken from a number of angles:

- Individual rights in terms of access to and/or ownership of land /resources;
- 'Public' or 'common property' /shared resources.

The POCR lays down the principles and concepts for greater security for both types of land and natural resources.

The texts state that existing traditional tenure rights and arrangements, whether written or verbal, are recognised, though once the Land Tenure Commission has been installed at a particular level it becomes

⁹ The most complex example of this is the COFODEP or Departmental Land Tenure commission which is composed not only of the technical services but also administrative authorities, customary chiefs, civil society organisations and representatives of rural producers (farmers, pastoralists fishermen, Rural fuel wood markets and minority groups such as women and youth).

the authority for land distribution and management and new alternative roles are assigned to the traditional authorities, who previously had those privileges.

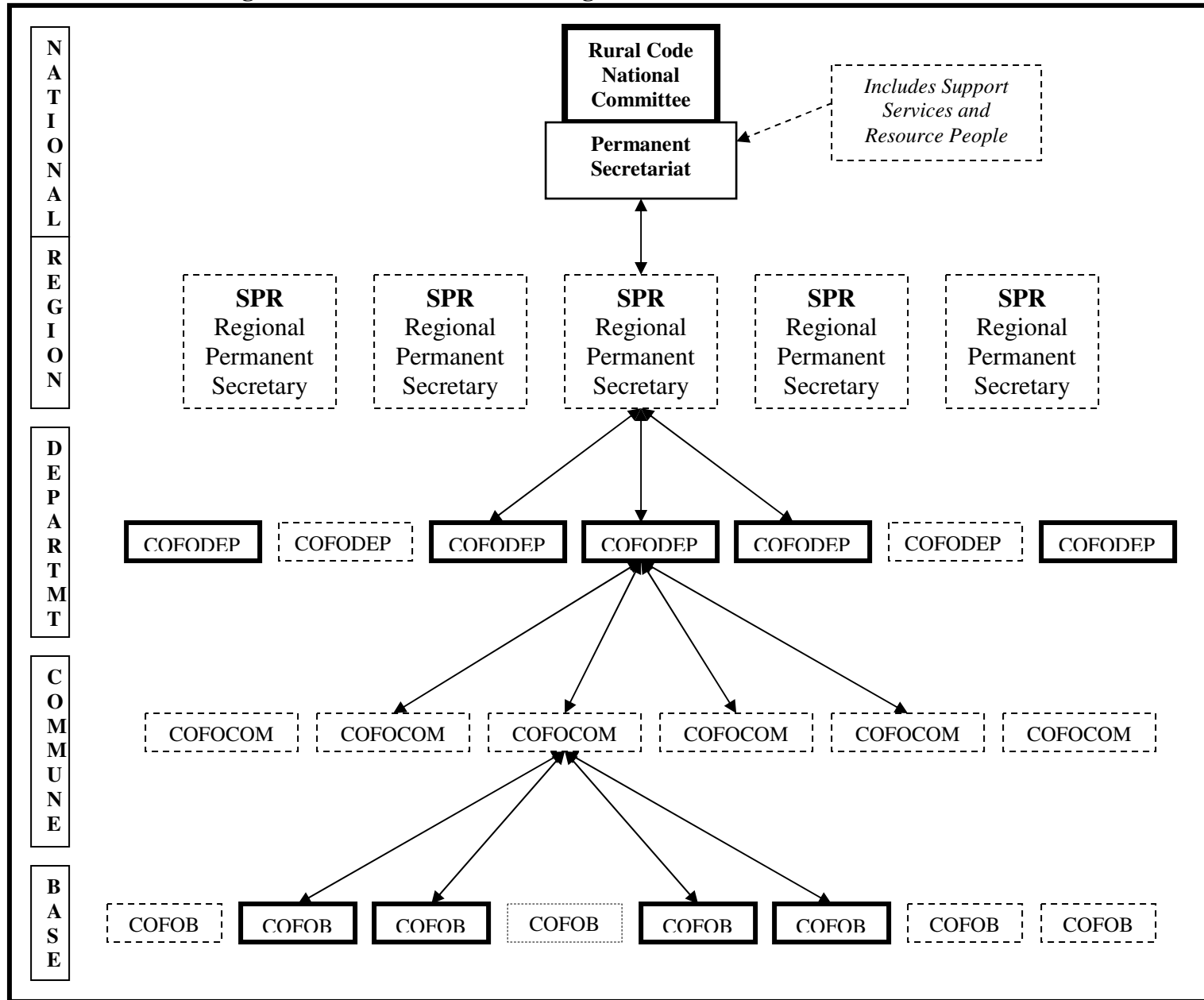
In order to take into account the diversity and dynamics of land use and related tenure issues, the accent is placed on the written word; the systematic inscription and compilation of information in a 'document' known as the 'dossier rural' (rural file) from village through to departmental level. The dossier rural is composed of all the tenure information legally recorded in the field: from the existence of loan arrangements or property of individual fields, through to common property areas (forestry, pastoral and agricultural reserve areas) to forestry reserves and other land tenure domains both public and under particular state 'management'¹⁰.

The need for clarity is such that the system provides for a whole range of tenure security scenarios: ranging from the simple and easily accessible such as witnessed certificates of locally recognised property rights, loans, sale etc to the more complicated and demanding land tenure acts such as private title deeds to land, depending on the degree of tenure security required.

While certificates and other proof of tenure arrangements can, in the spirit of subsidiarity, be issued at community level through the COFOBs (Village Based Land Tenure Commissions), all the information from the field is relayed upwards through the traditional chiefs to the next level and is inscribed in the dossier rural. The contents of several 'rural dossiers' are compiled and contribute to the Regional Schema d'Amenagement Foncier (Regional Land Management Plan).

¹⁰ Such as forest reserves, irrigation schemes etc

Diagram of the Institutional Arrangements Previewed¹¹ for the Rural Code



¹¹ The elements of the structure outlined in black are those which currently exist (May 2006). The combination of black and dotted outlines means that some of these structures are in place but not the full national coverage. Institutions in dots are previewed but not yet created/functional. COFO = Land Tenure Commission DEP = Departmental, COM = Commune, COFOB = Village/Tribe

3.2.5 Pertinence:

Given its objectives, principles, structure and the legislative dispositions, the concept of the Code Rural as an evolving process responds very directly to the needs of the rural population in Niger, through a combination of proximity, availability of different tenure options and potentially simplified procedures. It reinforces the control and involvement of local communities in the management and policing of the natural resources on which they depend. The pertinence, quality and applicability of legislation are catered for through the circulation of information and a broad policy of inclusion at different levels.

Though the POOCR has a notable agricultural accent, collective rights to manage shared resources are also recognised thus ensuring that both scenarios exist and can be legislated for, even if the details and modalities for the latter are left for the complementary and associated application texts to define.

3.3 *The Rural Code: Theory into Practice*

The Rural Code has been in operation since the adoption of POOCR in 1993: a period of about 13 years. However, despite the encouraging debut, apparently appropriate dispositions and the desperate need in the land tenure reform in field, the results to date have not been quite as expected, either in terms of the Codes application or its results/impacts on land tenure security. Analysis suggests that while the theory doesn't seem particularly difficult to understand, certain necessary factors have not been in place to facilitate the process. Nevertheless the process has started and though there may be teething problems there is no need to turn back.

3.3.1 The Situation Today

Legislation:

The theory of collaboration and harmonisation between ministries drawing up the complementary texts has not yet become reality. Certain texts were in fact drawn up and adopted by the National Assembly even before the POOCR. Others have taken several years to elaborate (Forestry Code) and certain fundamental texts don't yet exist (Pastoral Code). The principle of broad inter-ministerial collaboration is regarded as a voluntary option rather than the rule and consequently the degree of adherence to the POOCR principles is extremely variable. The overall effect is that the general principles of the Rural Code are formally applicable but the actual details of what can be secured and how, vary between different texts and are not yet sufficiently operational to provide the tenure security initially hoped for. Also, the strategies adopted for and degree of participatory input from the field into new 'complementary texts' varies widely as do the definitions of key concepts and terminology used to describe different resources¹².

Institutional framework:

While the setting up of the Code Rural institutional framework was clearly going to be a fairly long process, in reality it has taken much longer than imagined to put the structure necessary for the application of the Code Rural in place. Though a handful of Land Tenure Commissions were created fairly early after 1993, several years passed during which little evolution occurred and then all of a sudden a large number of structures were simultaneously created within the space of a couple of years. The result is that up until recently, the Code Rural has been on the horizon but in many instances it has neither been present nor a 'felt force' in the field. The national coverage has up until very recently been best described as scattered in distinct pockets. This has had a major though unintended impact on land tenure to date.

Functionality:

The sudden recent rush to create a large number of structures at once means that the SP/CNCRs capacity to provide conceptual, technical and capacity building support to the new land tenure commissions has been sorely stretched. The result is that while quantitatively the presence of the Code Rural at certain levels has increased, the level of functionality of these young institutions remains to be seen. Even for the older more established land tenure commissions at departmental level (COFODEPs¹³), internal organisation remains a major challenge and there is extraordinarily little in the way of training and support tools available to aid them. Consequently, each land tenure commission at whatever level, is left more or less to its own devices concerning what to do and how. Necessity being the mother of invention certain institutions advance and

¹² For instance, a field according to the new Forestry Law of June 2004 is an 'agro-forestry park' and any non agricultural vegetal resource falls under forestry jurisdiction.

¹³ Established in the pre-decentralisation 'arrondissements', now known as Departments

have gained experience, in some respects all the more valuable for being varied. However, for the majority the total immersion method if not accompanied by some minimum support soon turns to 'sink or swim' and many are currently floundering through no fault of their own.

The situation described above is neither irreparable nor a complete disaster but it has had an enormous impact on an already stretched/destabilised land tenure situation. It therefore seems worth rapidly looking at some of the reasons behind why this is the case and how different factors have contributed to the current situation. Evidently some factors are difficult to control/alter but others would be easy enough to improve, with correspondingly substantial impact on tenure security.

3.3.2 Some contributory factors

A Changing Political Context:

The Rural Code was conceived and the POCR adopted during a period of profound constructive (all be it fairly technical) analysis and strategic planning for the future. The principles and democratic collaborative spirit of the text reflected the era's fresh vision of governance and recognition of the fundamental role of tenure security for rural development. Soon after the adoption of the POCR, the multi-party democratic process got underway and since then the context has become progressively more 'Political'. After a very short period of time, land tenure as an issue began to be pushed to the sidelines of the political agenda with the effect that it received neither the rigorous attention (moral obligation for ministries to collaborate etc) nor the means it required. The current situation is that while the SP/CNCR continues to actively pursue the process, relations with the composite ministries are at best variable, bordering on the 'distinctly uncooperative'.

Actors and their behaviour:

The Traditional Chiefs in Niger are extremely powerful and well connected and have enjoyed a particular status in modern government in the past. Officially 'disadvantaged' by the introduction of land tenure reform, they have been strategically included in both the new Land Tenure and Decentralisation structures as 'resource people': largely in an effort to 'contain' their potential resistance by 'association', though official reasoning stresses the value of traditional social knowledge. The result is that while apparently 'participating', many chiefs (for a number of reasons) are actually quietly sabotaging the institutions, either by continuing old systems of land distribution and social control in parallel with the new or by exercising political muscle to lobby and block disadvantageous decisions and texts in the making.

Donors and Projects have become increasingly keen to support the land tenure process; filling the vacuum left by the state. However, comprehension varies amongst these organisations as to the 'what, why and how' of best supporting the SP/CNCR. Donors and projects notoriously follow their own agendas and often have particularly limited, 'territorial' and quantitative vision and not necessarily adequate approaches¹⁴. While there are always exceptions, in a large number of cases land tenure commissions are 'created' and too often left without even a minimum of support or training. Where training occurs it tends to be restrained to commented readings of legislative text: which given the composition of the land tenure commissions, the scale and the socio-organisational role they are called to play is clearly inadequate. More dangerous still is the type of 'support' (financial) aimed at 'helping' the structure carry out its physical mandate in the field (resource delimitation, creation of other sub-commissions) without first having ensured that it has the organisational capacity and information/intellectual capacity to ensure its own functionality and the definition of its strategic approach in the field. In such cases the risks of 'damage' to credibility and resources is very real and inadvertent conflict-creation is not unheard of.

The SP/CNCR has an enormously difficult but important role to play in coordinating the Code Rural process: not made any easier by the factors described above. However, over and above the lack of means, there is a certain lack of follow-through and vision concerning:

- **Coordination and Conjugating efforts.** Extraordinarily few supports of any kind have been produced or basic trainings/training outlines organised to harmonise the accompaniment of the new structures (the process, its installation in the field and the development of functional capacity). The opportunity to coordinate with the numerous donors and projects in orientating their support towards quality rather than quantity of the process; towards a common vision of Code Rural development has not been seized and as a result these 'partners' do what they want/can according to their own understanding without necessarily any real reference to the SP/CNCR

¹⁴ May even replace the Land tenure commission in some instances, rather than support it to do its job.

- **Communication and Circulation of Information:** The institutional framework proposed, is based on the possibility of institutional learning and informed decision-making through proximity to the field and communication. However, there has been very little in the way of communication, information sharing and capitalising of experiences. There have been few occasions created within the CNCR to bring different commissions at the same or different levels together to share preoccupations and experiences and reflect together on the numerous 'grey areas' of their mandate. The fact that institutional learning is not at all evident has enormous impact on the quality of the process now and in the future.

3.3.3 The Results/Impacts

The Code Rural, despite being a well conceived process and apparently progressing slowly but surely (at least on paper), is in reality rather more flimsy than it looks. The promised order and security in an otherwise disorganised and insecure tenure system is as yet, far from being adequately operational even if it is 'official'. This has had and will continue to have, an enormous impact on how land tenure policy and practice is perceived and reacted to in the field.

The mere suggestion of the Code Rural over 10 years ago was enough to accelerate the anticipation by certain more informed and powerful actors concerning the conversion of land of ambiguous 'common or public' status into 'private' fields for personal use or financial gain. An already strong tendency towards agricultural expansion at the expense of common property resources was in fact reinforced: a process of effective 'privatisation' of the space which has not slowed down since, even with the adoption of the POCR.

While the Code Rural is still potentially a highly effective tool in controlling this trend, the process is in need of some serious attention, conjugated efforts and hard reflection in order to render it fully operational. In its present state there is more of an illusion of control than anything else and the result in the field is in the majority of cases, total confusion. Currently agriculturalists and pastoralist alike are looking towards establishing private property rights in whatever way possible so as to secure themselves for the future, even though 'privatisation' of the space is suicide for the latter's system of production. In the confused situation, the dispositions already previewed in the Rural Code (POCR) such as common rights to shared resources such as pasture areas etc, 'terroir d'attache' etc all look rather too vague. After all, priority access means others have rights too and who knows who those 'partners' might turn out to be and what power they might have over you.

While those in advantageous positions anticipate and profit from ambiguity in the system, the less fortunate have to develop a number of different defence strategies to buffer themselves in the future. Such strategies involve individual alliance building with power-holders, federation with others in similar situations or increased conservatism and moves towards exclusion of others (fencing etc). In the agro-pastoral zone, the public or shared resources are on the front line of assault and given current trends, are in urgent need of attention in order to secure their continued existence. However, even in the pastoral zone the same tendency is to be found either through de facto 'privatisation' of the space through investment and control of water resources by communities and individuals (which has been happening for some time) or the flagrant issuing of title deeds by the land tenure commissions to large tracts of land in the name of private individuals¹⁵.

In the field, the official or unofficial 'privatisation' of public/common property resources is therefore either an opportunistic ploy or self-defence strategy. Recently, however, it has also resurfaced as an official political strategy within the government; ranching and other methods of 'parcelling-up' the pastoral zone for private individuals being yet again put on the agenda. Despite all the efforts it seems that the politicians don't want to hear about land tenure anymore.... Even the SP/CNCRs concerted attempts to promote rationalised land use and ensure pastoral inclusion through the definition of the Pastoral Code¹⁶ have been thwarted.

However, more worrying still is the fact that the government is not alone in thinking that 'privatisation' (for whatever purpose) is the answer, particularly for remaining common property land. The concept has somehow found an echo in development circles and latest theories. According to certain, in order to effectively manage common property natural resources they need to be privatised. This means converting the common resources into the more or less exclusive property to an individual or particular group. This is

¹⁵ Vogt & Vogt 2005 « Wells and their spells »

¹⁶ Processus d'élaboration des textes relatifs au Pastoralisme.

an extrapolation of a simplistic 'individual ownership = investment model'; which might work to some extent for fields, but spells disaster for common property resources. The simple privatisation of common property resources avoids the question of why they are valuable (what function they serve); who the users of these resources are, what they use them for and what might be presently be preventing their management.

Unfortunately the case for shared rather than private ownership/management of common resources has been to some extent, further corroded by the relatively weak results shown by 'participatory' natural resource management initiatives over the past 20 years.

Part II. Securing Common Property Resources: Niger Case Studies.

The following section argues that contrary to one strain of current resource management thinking, the privatisation of common property resources is an inappropriate solution to a badly diagnosed problem; the results of which will have a drastic effect, in Niger at least, on pastoral livestock production (as well on a multitude of other users), one of the best adapted land use systems in the Sahel,

The information presented is drawn from on-going practical experiences of common property resource management at 5 sylvo-pastoral sites in the agro-pastoral zone of Zinder Region, Niger.

Takieta Forest Reserve:

Takiéta Forest Reserve is typically 'Sahelian' with annual rainfall between 250-400mm which is highly variable in time and space. Covering an area of 6,720ha, the Forest Reserve represents the largest non-cultivated area in the Zinder region and is regarded by both resident and non-resident users as an important de facto 'common' sylvo-pastoral resource in a zone otherwise entirely occupied by fields.

Created in the 1950's and theoretically owned, managed and protected by the State, the reserve became progressively subject to uncontrolled and destructive exploitation by local people and outsiders, with unchecked and rapidly expanding agricultural clearance taking place both at the boundaries of the forest and in the forest itself. In addition, pressure on the rapidly dwindling and degraded pastoral resources within the reserve was increasing as sedentary populations diversified into livestock production (which brought them into increased competition with transhumant pastoral groups). This de facto common property resource (through absence of management /presence of the state) was also threatened by an influential local 'de-reservation lobby' aiming to privatise the land for individual profit.

Moa, Mairemi, Kup Kup and Mai Salka Sylvo-pastoral Resources (PAGCRSP)

The PAGCRSP or Collaborative Management of Sylvo-pastoral Resources Support Project has been working since January 2001 on the problem of the management of common property sylvo-pastoral resources in the agro-pastoral Zone of Zinder Region. The intervention is the logical follow-on from Takiéta. However, unlike Takiéta and the problem of Reserved Forests, the Sylvo-pastoral areas are spread out across the zone and their land tenure status is ambiguous. Due to this ambiguity, they are a lot more vulnerable and seriously menaced by the extension of the agricultural front.

With the arrival of Decentralisation and the adoption of the new Forestry Code, the opportunity will soon be available for local communities/communes to legally manage their own common property resources. The PAGCRSP intervenes at a decisive moment in this new process and has the intention of informing and contributing to its orientation in order to ensure the security of the common property resources and its diversity of users.

It is a research-action project working with the different actors concerned in a number of common property sylvo-pastoral resources with a view to capitalising the experiences gained and using them to better inform and influence the national policy debate. In addition the intention is to promote a framework in which the direct and indirect actors involved can reflect together on how to institutionalise the lessons learned throughout the experience of the process of shared management of common property sylvo-pastoral resources in the decentralised context.

It argues that NRM in general, and management of common property resources in particular, is a social rather than technical issue and that it is the recognition of this fact that enables this important question to be sustainably tackled by the stakeholders themselves in the newly decentralised context.

4.0 Introduction.

When one hears about the systematic conversion of common property resources into fields and other forms of their de facto or legal privatisation, this is a sad reality of the terrain. However, when development experts and land use planners talk about privatisation as a management option for common property resources they are not talking about *good* management they're talking about *ease* of management and/or political expediency.

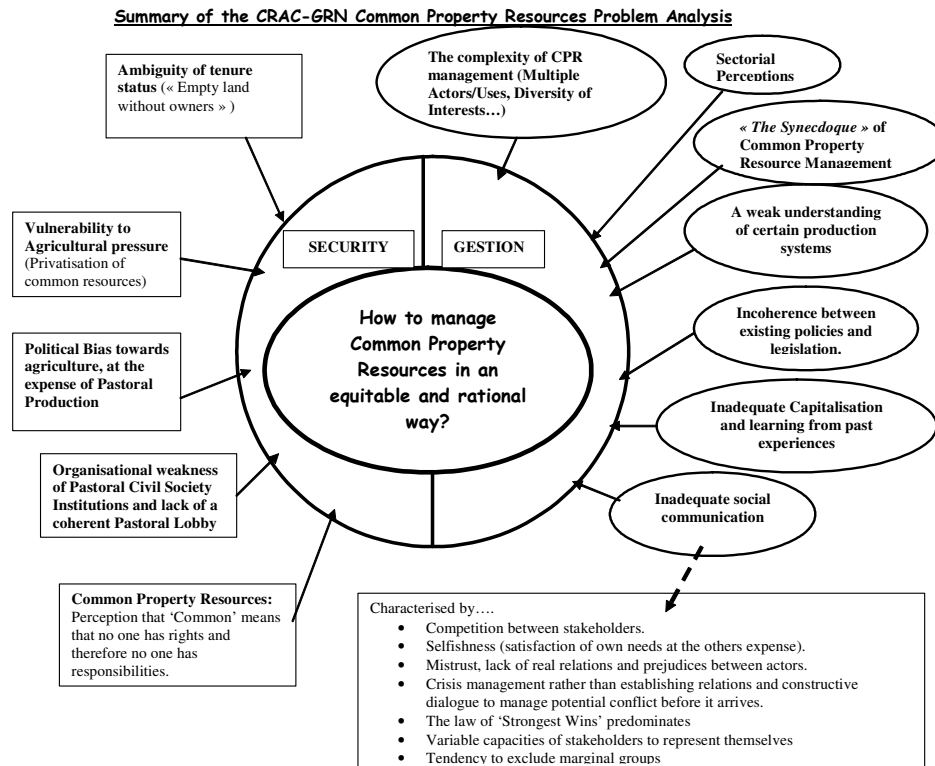
Common property resources simultaneously perform a number of vital functions in a complex of different production systems. It is exactly this complexity and the logical need for any future management to take into account these 'multiple uses' (and therefore multiple users) that puts planners off: it's all imagined to be too complicated!

In the mid 90's the CRAC-GRN, in response to the land tenure confusion and manoeuvring discussed in Part I and the then *anticipated* arrival of the Decentralisation process, was given the opportunity to explore the question of the future of common property resources in Niger to see what, if anything, could be done and what the perspectives and preoccupations of the local users themselves were: Could the current trend

change in order to secure these important resources for the future? Or were these resources important enough to the users to provoke a reaction and change current trends?

4.1 Analysis of the situation:

The diagram below summarises our analysis of the problem of common property resource management in Niger, recognising both the socio-organisational as well as the politico-legislative aspects that might be involved.



4.2 Defining an Appropriate Strategy

In attempting to define its strategy in the mid 1990's, the CRAC-GRN team profited from the experiences of a substantial number of 'participatory' NRM experiences from Niger and elsewhere, analysing the approaches taken and what had happened afterwards. Three major observations were made which for the majority are still valid today:

1. That the results of the majority of 'participatory' natural resource management initiatives to date were not very conclusive/convincing, leading to much disillusionment amongst donors and others ;
2. There was a strong tendency to view the management as a purely technical operation, even if the population was 'associated';
3. The approaches adopted were not conducive to getting/allowing 'local managers' to manage in the 'post intervention' phase.

Clearly, despite the rhetoric of participation, the practice was lagging behind. However, there still seemed to be hope that if stakeholders were put at the heart of the decision-making process and the complex management of common property resources addressed from a socio-organisation point of view then more interesting results and experience could be gained.

4.3 Defining the Guiding Principles

From the teams own collective experience and the analysis described above, a number of key guiding principles have been adopted, based on the belief that:

'....the different interest groups dependant on natural resources (particularly common property resources) should be at the centre of the decision-making process concerning their future. It's for the stakeholders to discuss, negotiate and make decisions together leading to sustainable management. In order to be able to best accompany this process, external 'facilitating' bodies, such as the CRAC-GRN, need to have strong working principles and values within which the actors are free to reflect, negotiate, organise themselves and make informed decisions.'

The principles retained in formulating the approach are that the sustainable management of common property resources takes place in a wider **local socio-economic context**: its objectives and modalities being defined by and reflecting the needs, interests and preoccupations of all the different users. Therefore, we should consider ourselves as only temporary **facilitators**, accompanying long term **autonomous local processes** for which the individuals, communities and institutions themselves need to feel **collectively responsible** and where existing **local knowledge and capacities are valorised and reinforced** through the experience. Process 'ownership' means that the resulting systems have the flexibility to be adapted to respond to changing circumstances.

This scenario supposes a number of desirable preconditions as far as the individuals, communities and institutions are concerned. These include:

- **Equity & Inclusion**: The equitable, legitimate and responsible (informed) representation of all stakeholders (particularly marginalised groups);
- **« Persuasion by inclusion »** : Persuading all the actors concerned, both enthusiastic and reticent, to participate throughout the process by ensuring information is available to them
- **Knowing and exercising one's rights**: Everyone needs to know and understand their NRM rights and be empowered through exercising them;
- **Social Communication**: Flexibility and permanent dialogue (collaboration and negotiation) between actors are required in order to make decisions, critically question on-going processes and change tack as a result;

In addition, the facilitator needs to understand that while there may be information to share, there are no preconceived solutions to promote: that the facilitator is just another 'learner'.

4.4 Translating Principles into a Strategic Approach

Given that the results of apparently 'participatory' natural resource management projects are often rather inconclusive and that there is still a strong lack of conviction in certain quarters concerning the capacity of local people to rationally manage at all, let alone collectively we decided to adopt an alternative approach. This can be summarised as follows:

- Promote **Inclusive Processes** in which all groups have a legitimate place at the negotiation table and the weakest groups have the capacity building support necessary to better make their voices heard.
- Recognise that management is a **long term process of evolution** in which external organisations are only temporary partners and should not be active in decision-making.
- Be sincere in the **belief in and respect for peoples rights/capacities** to decide for themselves in an informed way throughout the management process;
- **Invest the time necessary** to facilitate the emergence and establishment of strong locally driven processes: giving people time to reflect and make informed decisions.
- Understand that **facilitating (not 'manipulating')** means **refraining from directing** or controlling the process. It recognises the importance of being neutral and supporting the creation of a framework where actors themselves can negotiate; where nothing is preconceived and everything is discovered collectively.
- Aim that all actions and activities **reinforce the sense of independent local capacity to manage** by starting with what people together know, their joint analysis of a situation and options open to them. Stress should be on **learning by experience** where mistakes as well as successes can be positive learning experiences as long as they are analysed and action taken.

5.0 Organisational Process followed

5.1 The Challenges and Strategies Adopted to face them

From the outset there were a number of preoccupations concerning the quality of the socio-organisational process to be facilitated; particularly relating to the capacity of all stakeholder groups to:

1. Analyse and, where necessary, challenge traditional concepts and behaviour relating to resource management;
2. Actively participate in decision-making processes;
3. Define new roles and inclusive/representative structures compatible with their management objectives;
4. Reinforce dynamic social communication systems for information exchange, collaboration and negotiation

Thus, fundamental aspects such as the equitable representation of stakeholders and the creation of a neutral environment conducive to collaboration and negotiation between these stakeholders were priorities. These preoccupations and some of the practical strategies adopted are summarised below:

CHALLENGES	STRATEGIES ADOPTED
1. How to fully involve all social groups (particularly Nomads/transhumants and women) in the process of collaboration and negotiation for the joint management of common resources?	<ul style="list-style-type: none"> ☞ Promotion of good systems of social communication ☞ Groups recognising and giving value to existing local practices and capacities and then learning how they might reinforce them and innovate; ☞ Make the actors fully responsible in the process (self-selection, auto-analysis, decision-making and negotiation) ☞ Building up self confidence through first analysing what one wants/needs, how to have it and knowledge of rights and responsibilities ; ☞ Defining and making an informed choice about new and existing communication channels adapted to the needs of mobile [pastoral] groups.
2. How to ensure that other stronger actors perceive the need for inclusion and equity amongst the different stakeholders; when certain actors fear losing power and others fear being exposed as weak?	<ul style="list-style-type: none"> ☞ Raise the perceived status of the « weakest » in the eyes of the « strongest » by means of information/direct contact/communication and training; ☞ Self-confidence and capacity building for weaker groups and at the same time reason with the stronger groups (better understanding of the situation in all its complexity, the rights and stakes for other groups); ☞ Look for mechanisms helping to establish and maintain a power balance between groups during negotiations ☞ Lobby for the common good rather than for one or another of the groups involved ☞ Bring stronger groups to the understanding that the exchange of ideas and collective decision-making doesn't affect their perceived power or credibility; rather that it improves their status in the eyes of others including the less powerful. ☞ Ensure that each stakeholder group has the opportunity to analyse its situations, better identify its needs and interests but also those of others in order to be able to discuss and negotiate with them ☞ Follow a process of collective learning by doing through which the stakeholders are encouraged to discover the advantages of collaborating ; ☞ Avoid confusion between the terms 'equity' et 'equality' (promote the idea that collaboration and negotiation between actors doesn't necessarily reflect on their respective social status. ☞ Pay attention to the effective and efficient representation of each group (avoid superficial representation for 'the form', by ensuring that each group has the necessary information to enable it to judge the stakes and the role that should be played in the process; ☞ Bring others to understand the interest in having other groups well represented.
3. How to create a culture conducive to discussion, negotiation et collective decision-making?	<ul style="list-style-type: none"> ☞ Individual reflection is a prerequisite to better understanding the stakes and the context and being able to negotiate; ☞ Create a neutral environment or framework (either physical or virtual), defined in a consensual manner; ☞ The internal rules and methodology for conducting meetings/discussions are defined consensually, clearly understood and applied for everyone. ☞ Ensure that the discussion process is/will always be regularly informed concerning the evolution of the legislative context. ☞ React in a way that promotes collective learning by doing and help put in place mechanisms that ensure the flexibility of the system and the possibility of changing direction and decisions when necessary. ☞ Promote a freer vision of land-use or the concept of « action space » rather than a narrow geographical fix.

	☞ Help stakeholders to recognise and valorise existing experience and then modify/build new systems on them.
4. How to guarantee the durability of the local dynamic created, through the qualities of legitimacy and legality?	☞ Ensure that during the process all actions and decisions are taken in a legitimate way ☞ Give priority to aspects related to legitimacy in order to reinforce the sense of collective responsibility (ownership et accountability) before necessarily looking for legality; ☞ Ensure that the system is flexible enough to allow the opportunities offered by changes in the context (new or modified legislation, new partnerships etc...) to be exploited. ☞ Encourage the establishment of a strong system of social communication (circulation of information, maintaining good collaborative relations) ☞ Keep the system flexible, capable of questioning itself and evolving in order to be able to adapt to new elements in the context (ability to respond to opportunities, to change the orientation according to new information or developments)

5.2 Major Steps

The evolution of the different processes towards management at each of the 5 sites studied varied. The details though interesting are too voluminous to be treated in this article. However, the main elements from each can be summarized in a number of stages: not necessarily chronological steps but rather like a wall, where good foundation bricks prepare for and support subsequent layers. Some of the 'steps' are closely linked to the approach adopted while others are the result of the internal dynamics of the process.

Preparatory Phase	Organisational Phase	Management Phase
Ensuring Peoples access to information; Expressed local need to manage; Individual reflection on Stakes; Recognition of others and their needs; Deciding how to represent oneself in the process;	Collective analysis→Engaging the process; Understand resource & dynamics; Defining collective management: <ul style="list-style-type: none"> • Vision/Principles • Modalities • Organisation Communication	Creation of a legitimate structure; Preparations LMS: <ul style="list-style-type: none"> • Internal organisation • Communal Management • Communication/Alliances Define/validate Management Doc Formalising the LMS ; Formalising rights to manage; Management/AGAs ¹⁷ →Evolution

For greater detail see annexes

5.3 Some Results...

5.3.1 Kou Tayani Association after almost 7 years of Autonomy.

The Association Kou Tayani created to manage the Forest Reserve of Takiéta has been completely autonomous since mid-1999. The consultative process amongst stakeholders had 'started' with the first major workshop in early 1997. By November 1998 the elected LMS delegates were united for the first time and approximately 15 months later the LMS had become a functional and legally recognised 'Association' of local stakeholders sharing the collective aim of rational management of the resource for the benefit of all the users groups, with its own internal rules and regulations and a locally defined and sanctioned management plan for the resource, regarded as legitimate by both the user groups that created it and the State.

Though the preparatory work by the project and initial round of collaboration had involved a serious investment of time and effort, the resulting structure once created lost very little time in organising itself and producing encouraging results. The Association was in communication with and answerable to the base and recognised as an actor in dialogue with the local and national authorities. It was treated with curiosity by outsiders, with pride by the communities involved and was tolerated but feared¹⁸ by certain groups within the local socio-political environment. The exclusive rights to manage the forest reserve in a non-exclusive were conferred to the association by Prefectorial Decree in 2000 and were laid out in an agreed management document. The experience was used as a case study in the formulation of the new

¹⁷ AGA = Annual General Assembly.

¹⁸ It was feared by local 'leaders' as they were unaccustomed and felt uncomfortable with large scale collaborative and therefore powerful initiatives from the base which up to this point in time had not occurred.

Forestry Code, which now includes clear dispositions for shared management of common resources, including Forest Reserves.

Since then, much has happened: general assemblies have come and gone, delegates have changed, elections have taken place, there have been problems and successes and a great deal of learning. The members have continued to hold regular meetings, make decisions, plan, budget and carry out numerous activities (such as local seedling production, planting, pasture improvement, soil and water conservation work) in the area in collaboration with the local population which regularly mobilised itself behind the association on a purely voluntary basis. Development of the resource in terms of honey production, fishing and the creation of rural fuel-wood lots also took place. In short, the local stakeholders through their association have carried out more effective and serious management activities in six years than the Forest Department has since the forest was reserved in the 1940's. Some of these are shown in the box below.

With the arrival of the decentralisation process, the association is in contact with the municipal councils of the two communes concerned by the forest reserve. The fact that the structure had already anticipated decentralisation by taking into account the future existence of the communes means that dispositions concerning the organisation of the management and the sharing of benefits within the communes have been taken. This combined with the fact that the association has local legitimacy and formal status means that there have been very few problems for the structure to integrate itself into the new administrative set up.

Box 1 : A summary of some of the work carried out by Kou Tayani in six years						
	2001	2002	2003	2004	2005	Comments
Meetings	Over 75	Over 100	Over 90	Over 100	Over 100	An estimate made by extrapolation
Micro-catchments	5,876	1,654	2,848	2,637	2,818	All Micro-catchments are built on a voluntary basis
Trees Planted	14,776	33,529	23,706	14,000	6,675	In 2002 and 2003 many trees were provided by the presidents' special development programme in addition to the seedlings produced
Seedlings Produced	20,000	10,000	17,000	15,000	8,720	All seedlings produced in surrounding villages for the Association. In 2004 one thousand seedlings were distributed free of charge to surrounding villages
Honey Production	Training	20 litres	35 litres	72 litres	36 litres	Most honey is used for publicity purposes
Production of fish	2,046 Kg	4,342 Kg	3,758 Kg .	12,500 Kg	7,370 Kg	Restocking took place in 2002
Rehabilitated Forest	50 hectares	80 hectares	60 hectares	55 hectares	30 hectares	Selected areas of degraded forest are rehabilitated on a yearly basis. This involves reseedling, planting (where necessary) of trees and selective weeding
Fuel-Wood Produced in stacked cubic metres	1,825 M ³	2,228M ³	824 M ³	1,138 M ³	883 M ³	Wood is cut from a selected area each year on a rotational basis and a certain number of branches of an agreed maximum diameter are selected from each tree.
Source: Direct observations, reports and discussions with members of the Association						

Note : the above activities are a mix of new initiatives (honey/fish/fuelwood production, meetings and forest rehabilitation) since 2000 and more classic activities (Seedling production, Tree planting and Microcatchments) introduced by the forestry services since the 1960's.

5.3.2 The Sylvo-Pastoral Sites (PAGCRSP)

The local management structures at the 4 sylvo-pastoral sites of Moa, Mairemi, Mai Salka and Kup Kup are currently at the stage of having their formal status recognized and of putting into action certain aspects of their management plans related to resource improvement (reseedling, planting, soil and water conservation), while awaiting formal management rights. Each structure has developed positive working relations with the administrative actors in its surrounding environment: the Mayors and commune representatives, authorities, technical services and traditional chiefs as well as other civil society partners. The process of establishment has been long but the Associations are now completely autonomous and visibly confident in the organisation of the physical management of their resources. It is much too early to draw much in the way of lessons concerning how each of the resources will be technically improved by local management. However, what can be said with some assurance is that because of the collaborative nature and quality of the process their future as common property is secured through the mobilisation and agreement of all the direct and indirect actors concerned and dispositions previewed in the rural code: the decentralized management of common property natural resources in practice!

7.0 Lessons Learned

7.1 *Lessons from the field*

The experience and therefore lessons to be learned from Kou Tayani are obviously more substantial than those from the PAGCRSP; the latter having learned from the hard experience of the former. However, many aspects and difficulties are liable to be common to both. This section attempts to resume the essential.

Lessons related to the internal organisation of the structure:

- Shared management of common property resources is primarily an organisational challenge: one needs to prepare oneself for that;
- Bringing multiple actors to work together and reconcile different objectives is not easy but its not necessarily that difficult either: what is needed is a coherent and inclusive approach;
- Bringing actors together in informed debate is an extremely powerful tool and facilitates the creation of a more balanced terrain for decision-making;
- Even the most prudent or least convinced actors can change their perceptions concerning local management; there are no definitive 'positions'
- The question of equitable, legitimate and responsible representation of different groups is absolutely fundamental: dispositions need to be taken at the beginning but there must also be flexibility to change delegates as necessary ;
- Local structures need to build their own moral, technical, conceptual and financial support networks.
- Feedback mechanisms and the organisational flexibility to respond to them need to be built into the system so that local grievances/suggestions can be treated correctly in time.
- The importance of subsidiarity in decision-making within the structure: means that problems can be solved more effectively and efficiently.
- Avoiding an accumulation of roles and benefits within the structure is also important. The LMS must adopt integration and benefit sharing strategies which avoid accusations of working for their own benefit.
- The role played by delegates is a key one, monitoring effectiveness and providing support is necessary both from the institutions side and that of the particular group he/she represents.
- No one is above the law: the pressure between different groups, the existence of clear control and sanction safe-guards and mechanisms are essential.
- Credibility is easily damaged even by false information; it follows that transparent systems and good communication are essential.

Lessons related to the external environment:

- Direct and indirect benefit sharing by stakeholders should be an integral component of the management system
- Institutions need to build up and maintain their own support network
- Local organisations need to be strong and confident enough to defend their rights as well as the interests of those they represent.
- Knowing who you are, what your role is and that you have popular support gives the strength and confidence necessary to defend yourself from being bullied or coerced.
- Local institutions need to have mechanisms that help them avoid abuse by influential people (even supposed allies). These include having good procedures and using them and always asking for second opinions.
- It is important for organisations to know their partners and recognise that they too have weaknesses. Money can be useful in supporting local initiatives but it can also very easily distract from real objectives.

7.2 *Lessons Concerning the Approach.*

This section draws out some of the broader lessons learnt from the experiences in the field in the form of 'aspects to be considered' for facilitating processes or creating favourable environments for shared management of common property resources.

Social Communication

Inclusive processes and effective social communication create the foundations for good governance. They take time to establish but are prerequisites to facilitating the resolution of potentially conflictual situations inherent in shared management of common property resources. Social communication ensures the

circulation of information and creates the culture of transparency necessary for maintaining constructive relations between actors. Combined with inclusion it enables different groups to express themselves so that the diverse socio-political realities can be better taken into account for more efficient and appropriate decision-making. Inclusion in decision-making sometimes means collective risk taking and making mistakes. However, so long as the flexibility to adapt is built into the management system people can take control of their own development knowing that there are no set answers to problems; rather a process of learning from experience.

Facilitation

The effect of an outside agency's approach to 'Shared Management' on the subsequent success or failure of that initiative has already been evoked: the more prescriptive, technical or directive, the less likelihood of success. 'Participation' and 'reinforcing management capacities' start from the moment of problem analysis and, particularly in the case of common property resources, continues through a permanent process of negotiation between stakeholders. The role of the 'facilitator' should be to accompany an autonomous process; to facilitate without piloting, driving or manipulating. This means:

- believing in and respecting the peoples capacity to bring about constructive change together.
- being ready to pose the necessary questions and promote analysis/reflection
- allowing time for collective reflection, discussion and decision-making and 'ownership' of the process;

Often projects are too concerned with 'finding the solution' and then deciding how to 'sell' it to the stakeholders. Accepting that only the stakeholders themselves can define what will work for them in their context is a starting point. Accordingly, what a project knows or understands is not as important as what people know and the quality of the analysis they are capable of carrying out. In addition, from experience it seems important not to distance the management institution from the local reality: for example, too much money and 'support' can be a distraction rather than a facilitating agent: a little support/money well placed is more effective than 'throwing the package' all at once!

Time

If the facilitator is not willing or able to invest the time necessary to allow people to control the decision-making process it is better not to start! The process will take the time it takes: but time invested at the beginning will facilitate the process later on and lead to real sustainable local development.

Actors and Partners

If the inclusion of actors is real and sincerely done, even the most negative or reluctant will nearly always voluntarily go with the process, even if it is against some of their immediate to long term personal interests (persuasion by inclusion and popular demand).

The local legitimacy of decision-making processes, management structures and rules and regulations are more important than their legality.

People are only human! Therefore :

- The behaviour and attitude of actors change with their perception of the stakes at a given time.
- Contradictory behaviour by certain actors is to be expected given the complexity of the socio-political environment and the multiple spheres of influence in which they operate.
- Institutions ('stakeholder' or 'partner') taking part in shared management processes and the people who represent them, often have their own weaknesses which can impact negatively on the process.
- Capitalising and institutionalising the results of collective decision-making is important in linking the 'Words to the Act' with certain actors.

Management Structures/Organisations

Outsiders are very badly placed to understand the subtle power relations that exist between actors and the safe guards that need to be built into the system. Existing, modified or new institutions are all possible: the actors themselves are best placed to collectively decide which option is most appropriate for the particular shared management context. Preconceived structures/forms of organisation should not be imposed. It is important that the definition of the shared management structure/institution is the result of an inclusive, informed and collective reflection and discussion process, not the starting point.

7.3 Securing Access to Common Property Resources.

So what does all that mean for securing access to Common Property resources?

The practical experiences of Takiéta and PAGCRSP suggest four particular points:

- ***People want and are ready to work together to reverse the privatisation trend concerning the common property sylvo-pastoral resources in the agro-pastoral area. They just need an opportunity to be able to do this properly along with the guarantees that the land will remain as a common property resource. To date the PAGCRSP and Takiéta seem to have been able to sufficiently ensure this so people are engaged in the processes*** *Local demand for action, collective analysis of situation; no hidden 'incentives' other than management of the resource, pride at having arrived at shared management through own decision-making process.*
- ***Security in the case of common property resources does not necessarily having private 'ownership'.*** *Clearly security is needed in terms of continued existence and access to the resource but just as important is access to and influence in the forums of decision-making concerning the management of the resource.*
- ***New Actors. New Mandates. New Visions:*** *The communes are taking stock of the natural resources available and are putting the question of security of common property resources on the agenda because of the importance of the role they play (and not just from a pastoral perspective). Encouraged by experiences from Takiéta and PAGCRSP to work with actors on securing and managing other sylvo-pastoral sites The communes have the potential authority to treat such questions but the NRM consultative forums provide moral and technical support.*
- ***The Feasibility and Efficacy of Shared Management:*** *The experiences of Takiéta and the PAGCRSP sites though by no means 'perfect' or to be considered as management 'models', have demonstrated that shared management is a feasible local option: capable of being organised at local level without 'outside' support.*

The experiences mentioned were facilitated by projects with an action-research mandate. But now that the concrete experiences exist people can analyse and learn from them and make their own systems. What is needed though, at least in the beginning, is some sort of 'neutral catalyst' or 'facilitating forum' which can legitimately bring people together. An eventual review of the legislation would also be interesting in order to refine the dispositions in place.

8.0 Conclusions and Perspectives

Ensuring the future existence of common property resources in the current context means creating a forum where the diversity of users can make their voices heard. Equally, ensuring equitable access of these users to the resources requires that they be equitably represented in the process of decision-making. This suggests that the details of land security and negotiation should be worked out locally. However, given power-play and other 'local' factors there is a need to build safe-guards into the system. The definition and modalities of application of these safe-guards is normally part of the legislative framework.

Ideally the legislative framework can help ensure the security of the common property resources through:

- The definition of principles and values to be taken into account when searching solutions (equity, collaboration, negotiation)
- Guaranteeing the principle of subsidiarity: flexibility to negotiate the details of rules and procedures at the appropriate level, according to local specificities;
- Guaranteeing the recognition of the status of Common property resources as part of the public domain of the state and national heritage;
- Searching greater coherence between sectorial texts

In fact this is what the existing legislative framework promotes. Despite some major difficulties in its application at the moment, it is relatively favourable for securing common property resources:

The Orientation Principles of the Code Rural (POCR) introduce and render 'official', the concepts of shared user rights and responsibilities of common property resources as well as the need for the land tenure framework to take into account the diversity of needs of different producers and their security. Certain terms are vague and require clarification ('terroir d'attache' and 'mise en valeur') in order to further secure pastoral tenure. However, the exploration of such concepts from a pastoral perspective is previewed as part of the process already underway for the elaboration of the Pastoral Code: one of Code Rural complementary texts.

The Forestry Code, (another complementary text to the Code Rural) and its application texts clearly makes provision for the shared management of common property resources through: local management arrangements known as 'rural concessions'; the capacity for the state to devolve management rights to the

communes and the capacity of the communes to make rural concessions to 'local groups'. The opening for shared management has been created and now it is for the actors 'in the field' to give these concepts some depth of meaning and the processes and procedures some form. However, just as simple decentralisation is not necessarily enough to ensure good governance; the fact of issuing 'rural concessions' to 'local groups' will not necessarily ensure good management and the continued existence of common property resources in the future. It is the identification, formalization and application of guiding principles concerning equity in processes of consultation, decision-making and management that will make the difference. The question will be how to guarantee the respect of principles such as equitable inclusion in practice in order to ensure that 'rural concessions' don't just become another formal or strategic way of 'privatizing' resources by certain groups at the expense of others.

Decentralisation

The process of Decentralisation is, both in theory and practice, complementary to the Rural Code and moves towards rational land management and good governance of natural resources. As with all legislative processes, the texts are not enough in themselves to ensure good governance but they create the opening and need practical reflection in order to ensure that the potential is realised in the application through quality processes respecting certain key principles. Land tenure confusion in the field is already being positively influenced by decentralisation. The Mayors and communes are in one way or another starting to take the question of GRN in hand: posing pertinent questions about rights and responsibilities, procedures and relations that up until now have been taboo. The Communes have rights and responsibilities, many of which need clarification, since the texts are full of contradictions. However, contradictions and vacuums can and will be practically 'ironed out' in the field. There is a new opportunity to finally deal with certain important aspects which up until now have been taboo: the 'hidden' face of land tenure and governance.

Things are changing for the better. However, a vital question for common property resources seems to be:

Given the difficulties in putting into place and rendering land tenure commissions functional and the similar difficulties being experienced by the new communes, can everything change fast enough and properly?

Donors and Projects

Authorities within the Code Rural structure, as well as the supporting donors and agencies really need to step back and think responsibly and collectively about what should be done for improving the situation in the field for the future. While everyone has a role to play, the coordination should come from within the CNCR as the 'pilot' and the support agencies should think creatively and responsibly about the approaches they are taking at the moment. The current situation is unfortunately largely based on 'playing the numbers game' and ill conceived 'flag-waving opportunities'. These are development anomalies that the Niger can no longer afford to support.

Annexe: **Presentation of Principle Steps of Shared Management Process** (indicative)

