

Regional workshop on Community-Based Organizations legal framework

Médenine (Tunisia), May 27-30, 2007

Workshop report

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1. background and objectives

In the dry areas of WANA rural livelihoods are based on agropastoral systems of production in which small ruminants (sheep and goats) represent the principal economic output. These systems are also in transition and vary both within and between countries, from nomadic or semi-nomadic rangeland based systems to mixed crop-livestock smallholder systems, with considerable interaction between the two. Governments are seeking new alternative approaches to address land degradation and poverty issues in the dry areas. Participatory approaches that aim at empowering the poor has provided leverage and brought in new avenues to promote sustainable resource use practices and livelihood strategies.

Experience in the WANA region shows that higher participation sought through development projects, in absence of representative organizations all too often provides additional opportunities to rural elites to capture the bulk of NRM expected benefits. Devolution of NRM generally implies that a sub-set of stakeholders is given exclusive rights of use at the expense of other stakeholders without formal agreement or compensation. Apart from the weak legal basis of such solutions, it is rarely the case that the really poor get their fair share from these arrangements. Devolution of NRM is carried out in the name of empowering the people through increased access to resources but the question is who is empowered in practice: the rural poor or the elites? (El Harizi, 2006). The challenge of equitable and sustainable use of natural resources is not primarily question of technical management, but a matter of governance. This is not to say that management considerations are irrelevant, but that appropriate managerial solutions and their related institutional arrangements must be identified and negotiated under the rules of an appropriate governance structure. A number of conditions should be part of any such governance structure, including:

- A demonstrated political commitment to democratic representation of the local population and to downward public accountability;
- The application of the principle of subsidiary in defining the distribution of discretionary powers between various government levels;
- Secure property rights;
- A long-term financial support for the development of an adequate local administration capacities;

Local organizational capacity is another area of overlapping with traditional participatory approaches and methods as it refers to the ability of people to cooperate, organize themselves, mobilize resources, and to voice their concerns and interests

Institutions refer to both formal and informal norms, rules, procedures and processes that define the way in which individuals should inter-relate and act. As such, institutions do not necessarily have to occur within some structure, or to be bounded units with physically defined characteristics in time and space.

Organization refers to a group, association, office, agency, company or firm as a structure of recognized and accepted roles or positions that are ordered in some relationship to each other in order to achieve a specific goal (s).

The function of institutions is to satisfy collective interests. Institutions are commonly defined as the rules established by a society, the bodies constituted to enforce them and the agencies or actors playing a role in the "social game" (Dermot Shields 2002). Institutions thus include a wide and diversified range of social phenomena such as the constitution of a country, local rules for natural resource management, the parliament, a microfinance institution, a farmer's organization, informal codes of conduct, social norms, marriage, an electricity company, or any combination of these in the form of a network of institutions.

The lack of success with conventional management approaches explains the growing interest in Community-Based natural resources management (CBNRM). Given the emphasis in CBNRM on institutions (the term “institution” is used both in the sense of cultural rules and values, and in the sense of societal structures and organizations) and collective management, local community-based management approaches are at the center.

Some challenging issues need to be addressed: What role for CBO in NRM? Why we need laws and regulations as enabling tools in community-based management?

Local institutions/CBOs play several important roles in NRM:

- Provide a basis for collective action
- Contribute to social capital formation, or the capacity to work together
- Define roles, functions; enforce rules, sanctions, and rewards for compliance.
- Organize for negotiation and consensus building.
- Promote site-specific technical innovation.
- Contribute to micro-policy making
- Manage stakeholder participation in NRM planning
- Conduct participatory impact monitoring
- Catalyze institutional design.

Community-based management needs State Law to:

- Mediate the relationship between community-based systems and outsiders
- State out the limits of State power
- Provide basic protections against the abuse of local power
- Provide basic guidelines for protection of environmental interests

There is need for “Legal regimes that allow local community-based institutions to define, preside over and redefine the rules of resource use” (Lynch 1998).

The substance of law is also important because there is a need for greater security and flexibility of rights. Local people need the right to participate meaningfully in the management of resources on which they depend

Objectives

Based partly on the challenges raised during the preparation of the community development plans of agropastoral communities in Algeria, Jordan, Libya, Morocco, Syria, and Tunisia, participants will discuss some concerns and questions to move the CBNRM agenda forward: (i) What is our experience with support to CBNRM; (ii) What issues have emerged from these experiences; (iii) What lessons have we learned; and (iv) How should the various stakeholders position themselves and organize to promote this agenda?

Thus, the main objectives of the workshop are:

1. Emphasis the importance of local formal and informal institutions in natural resources management.
2. Stress the importance of legal basis of local formal and informal institutions and rules of their functioning.
3. Review of current formal and informal local institutions’ legal framework in the Mashreq and Maghreb countries and underling their strength and limitations.
4. Develop a research plan of work to assess the performances of current local institutions/CBOs in charge of natural resources management in the Mashreq and the Maghreb.

Expected Outputs

1. Participants are aware of the importance of local institutions’ framework in natural resources management.
2. Trends to improve legal framework regulating local institutions/CBOs are discussed and proposed to M&M countries decision makers.
3. Research workplan to assess local institutions /CBOs performances is developed.

2. Participants

Twenty participants from Algeria, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and ICARDA attended the workshop.

3. Summary of presentations

The workshop included 4 sessions:

- During the first session, three invited papers were presented by Dr Richard Thomas, Dr Céline Dutilly-Diane and Mr. Youssef Saadani.
- The second session was dedicated to the review of current CBOs in the seven countries present at the workshop.
- The third session discussed the legislation related to CBOs in the seven countries
- The fourth session discussed the elements needed to develop the research workplan to be implemented in selected countries.
- Finally a field visit was done to Tataouine region to discuss with PRODESUD project and selected GDAs on achievements in the field of local development and development of local institutions.

The following tables summarize the state of the knowledge of forces and weaknesses of the main CBOs present in the areas covered by M&M III project. The tables are present by CBO type, namely informal, Cooperatives, Associations, GDA, and rural communes. The criteria used are the mandate, representativity, functioning, capability, access to resources, institutional encroachment, and financial aspects.

Informal CBOs

Aspects	Forces	Weakness
1. Mandates (NRM)	<ul style="list-style-type: none"> - Access to information - Continuity in action - Oriented & targeted interventions - Represents the community - Wide range of intervention 	<ul style="list-style-type: none"> - Submitted to Government orientation - Poor monitoring - Limited attributions - Not recognized - Not capable to fulfill all community members - Focusing on individual interests
2. Representativity	<ul style="list-style-type: none"> - Represents all people (wide representativity) - Selected representativity - Representativity by sub-group - Homogeneity 	<ul style="list-style-type: none"> - Not representing all community fractions - Women not represented - Contested by minorities - Exclusion of some community categories
3. Functioning	<ul style="list-style-type: none"> - Simple & flexible - Direct management - Reactivity - Tasks distribution - Priority setting of tasks and mandates 	<ul style="list-style-type: none"> - Lack on self monitoring and control - Decisions concerns community members only - Not transparent for outsiders - Bad distribution of tasks
4. Capability	<ul style="list-style-type: none"> - Able to solve community problems - Capable to negotiate with other actors - Good knowledge of problems - Capable to respond to wide range of concerns - Mobilizing capacity - Strong capacity of organization and negotiation - Suggest & implement projects - Capable to understand rules and traditions - Good knowledge of the environment - Level of education 	<ul style="list-style-type: none"> - Not aware of the common interest - Considering individual interests - Poor monitoring/follow up - Poor autonomy - Slow decision process to some respond to some problems
5. Access to resources	<ul style="list-style-type: none"> - Easy and direct access to resources - Access to information - Land ownership 	<ul style="list-style-type: none"> - Limited access to certain resources - Heavy administrative procedures - Resources Overuse - State ownership of resources
6. Institutional encroachment	-	<ul style="list-style-type: none"> - Absent - Lack of exchange with other actors - Disorganized institutional encroachment
7. Financial	<ul style="list-style-type: none"> - Self financing (self reliance) - Revolving funds - No constraints of funds use 	<ul style="list-style-type: none"> - Insufficient funds - Poor awareness of available funding opportunities - Lack of guarantee to credits

Association

Aspects	Forces	Weakness	Priorities
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1. Mandates (NRM)	- Intervention in NRM	- Major natural resources are under the umbrella of state or traditional organizations.	1
2. Representativity	- Global and voluntary	- Do not represent the majority of the community	1
3. Functioning	- Organized - Prioritized - Freedom of action	- Lack of transparencies - Individuality	2 1
4. Capability	- Strong mobilization - Power to constitute - Power in negotiation and communication - Power to implement projects - Power of backstopping	- Poor awareness of associative work. - Poor communication - Individualism in decision making	2
5. Access to resources		- Lack of law related to the right to access to resources.	1
6. Institutional encroachment	- Lack of hierarchy - Easy communication with outside actors - Easy cooperation with other local organizations.	- Conflict of interest with governmental institutions - Politization	2
7. Financial	- Freedom of investment - Incentives and external financial support.	- Lack of internal financial auditing. - Lack of transparency.	1

Cooperatives

Aspects/ Domains	Forces (+)	Weakness (-)
1. Mandate (NRM)	- Organization of working members - Providing members of inputs - Organization of business activity	- Serve the members only - Non independence in decisions
2. Representativity	- Homogeneity - Official representativeness	- Do not represent all community
3. Functioning (Working mechanisms)	- By law and interior system regime - Board - Community control - Distribution of responsibilities among members - Workplans & reports	- Complicated for particular society - Limited to the control
4. Capability	- Able to solve community problems - Capable to negotiate with official parts	
5. Access to resources	- Good knowledge of micro environment - Easy access to resources - Access to information	- Not aware of the common interest - Resources overuse
6. Institutional encroachment	- Link between local members and outside actors - Union cooperatives - National and international communication	- Some difficulties for international communication
7. Financial	- Various sources of funding - No serious constraints for funding	

CBO type: Communes

Aspects/ Domains	Forces (+)	Weakness (-)
1. Mandate (NRM)	<ul style="list-style-type: none"> - Very large - Autonomy in decision making 	<ul style="list-style-type: none"> - Legal framework does not include NRM aspect - Mandate limited in time (problem of continuity)
2. Representativity	<ul style="list-style-type: none"> - Represent all community members (no exclusion) 	<ul style="list-style-type: none"> - Minority groups are not represented (women, youngsters)
3. Functioning (Working mechanisms)	<ul style="list-style-type: none"> - Skill in management - Well backstopped 	<ul style="list-style-type: none"> - Lack of real decentralization - Top down development program (prepared by the administration) - Lack of operational plan
4. Capability	<ul style="list-style-type: none"> - Availability of means to intervene 	<ul style="list-style-type: none"> - Limited autonomy for decision making (control at higher scale)
5. Access to resources	<ul style="list-style-type: none"> - Access to resources included by its mandate 	<ul style="list-style-type: none"> - Limited space
6. Institutional encroachment	<ul style="list-style-type: none"> - Institutional encroachment included in the legal framework - Existing linkages with other institutions 	<ul style="list-style-type: none"> - Lack of complementarities with other institutions
7. Financial	<ul style="list-style-type: none"> - Self funding sources 	Limited, fluctuating according to the communities

CBO type: GDA

Aspect/ domain	Strength	Weaknesses
Mandate (NRM)	<ul style="list-style-type: none"> - Diversification of activities in particular in regards to NRM - Contributed to the CDP development - Official partner to the development project in the region - Are represented in the regional development council - Funds seeking 	<ul style="list-style-type: none"> - Not allowed to pursue business activities - Overlapping of mandate with other local institutions (management council) - Competition with other local institutions
Representativity	<ul style="list-style-type: none"> - Members selected by consensus or by election - Renewal of 1/3 of members every years which leads to a large representativity 	<ul style="list-style-type: none"> - Social representativity limited by the fact that the board includes 6 members maximum.
Functioning	<ul style="list-style-type: none"> - GDA status and functioning is legally predefined which facilitate its efficiency - GDA can call for meeting as often as it is judged necessary 	<ul style="list-style-type: none"> - Competition with other local institutions creating sometimes some antagonisms - Legislative texts are missing : GDA should be able to create sector structure to facilitate the management - Land tenure problem affects the GDA functioning
Capability	<ul style="list-style-type: none"> - Good knowledge of their territory - Have the trust of their members - Are able to mobilize the population - Based on voluntary work for collective interest 	<ul style="list-style-type: none"> - Low communication skills and 'animation' of the various GDA's groups (participatory approach?) - Lack of financial support and appropriate backstopping
Access to resources	<ul style="list-style-type: none"> - Concerted access to collective resources 	<ul style="list-style-type: none"> - Current land tenure limits access of GDA to resources
Institutional encroachment	<ul style="list-style-type: none"> - Legislation allows GDA to be official partners of all actors intervening in their territory - The diversification of GDAs' activities allow them to built large networks with regional institutions 	<ul style="list-style-type: none"> - GDA not recognized by regional authorities as it is a relatively new institution
Financial	<ul style="list-style-type: none"> - Are able to receive funds from NGOs 	<ul style="list-style-type: none"> - No financial support for functioning - Financial issues minimized GDA's autonomy - GDA's members rarely contribute to funding

4. Summary of discussions

Internal governance/management/ performance of CBOs

- Impact/outcome: are the POs contributing to inequity within group, increased gap with members / no members?
- Notion of territorialisation: definition of a territory for mandate of CBOs? Size?
- Funding sources of CBOs:
 - o Can CBOs develop / be maintained without financial support?

Local institutional / CBOs network for sustainable development in communities

- How to put effective local environmental governance in action?

- How all organizations can complement each others to achieve the best results:
 - o Formal / informal institutions? Tribal rules solve some problem than the official laws are not able to solve Embedded informal within formal.
 - o Role of rural commune in local governance? Case of Morocco and Algeria where the communes are a mixed body of CBOs/administrative unit as the members are elected.
- Communities with 'low predispositions'? Can we explain it? Can we influence it? How to take them into account while scaling up the approach?

External links

- Need partnership between government and local organization: creation of 'boundary organization' 'span organizations'.
- Link of cooperatives to export markets / market opportunities / niches
- Could a 'Union of GDA' facilitate communication and negotiating power with higher authorities and coordination among GDA as the number of GDA increases?

Institutional / enabling environment for successful local institutions

- Does the legal framework have a positive or negative impact on the functioning of local organizations?
 - o Number of members in the board: current legislation allows 3-6 members, while to insure representativity of all extended families (sub-groups) of the communities in the region this number should be increased.
 - o Funding: subsidies as other association (sportive)? Benefit generating activities?

5. Field visit

The field visit covered to main tasks:

- Meeting PRODESUD staff and CRDA of Tataouine
- Meeting with GDA representatives in Guermassa

CRDA Meeting

Meeting in the regional commissariat of agricultural development. Presentation of PRODESUD project (Project of rangeland and agricultural development and promotion of local initiatives in the governorate of Tataouine) by its coordinator, M. Ali Bouaicha. Presentation organized around 3 main themes:

- i. The project approach: basically the project is promoting 2 types of action: i) heavy investment in the region (infrastructures as roads, water points) that is done in consultation with local authorities and community representatives, and government departments, ii) Local development including natural resources management at the community level (socio-territorial units) where activities are negotiated with communities and developed through community development plans.
- ii. The management of rangelands:
 - o 3 property regimes in the region: private, state domain (state property and management) and collective. Collective includes 3 types: an 'open access' type of collective where rangelands are accessible to the region flocks (Dhahar), common (tribal) resources (collective rangelands with well-defined boundaries and membership) and a undefined collective where rangelands are shared between different groups of the region (Ouara). The use of these rangelands located in the **Eastern corner of the region is conflictual and MSP could be an appropriated approach** to tackle this issue.
 - o Since May 2005: Special government procedures were introduced as a pilot in order to compensate GDA for protecting the rangelands. A financial support of 10DT/ha/year for the duration of the protection (+/- 3 years) is allocated to GDA in forms of local public goods (infrastructures). **This is the premise of payment for environmental services (PES) in the region** and it would be interesting to assess this new mechanism.
- iii. Creation of 24 Community based organizations (GDA in particular): an introductory study of local organizations has been done during the elaboration of CDP according to the methodology developed by M&M support team to the project. Following discussion focused on the degree of autonomy of the GDA in their decision making process and contracting with other organizations/NGOs.

Meeting with GDA representatives in Guermassa

The meeting included a presentation of achievements of GDA Guermassa as a sample of newly created CBO, and an open discussion with selected GDAs' presidents.

It appears that GDA are promising CBOs and are still facing some constraints.

Achievements

- GDA are partners of the administration (PRODESUD project) through formal working agreements specifying activities to be implemented, responsibilities and funding, result of CDPS
- GDA are developing mechanisms of self-reliance as negotiating grants from GEF or other NGOs, developing website, email, etc.
- GDA are expressing some ambitions. They want to be part of the regional decision-making process, which can be better achieved if they get organized in a federation.

Constraints:

Discussion has led to three major constraints.

- GDA do not benefit of specific incentives from the project or other government sources to ensure its functioning. They benefit from PRODESUD of funds to implement agreed upon common activities. GDA members are not paid and work on voluntary basis. Therefore, they need to develop proper funding mechanisms to ensure the sustainability after the end of the project. The law of 2004 does not allow GDA to have a commercial activity. This law needs to be revised.
- The second request is to solve the problem of overlapping in mandates of GDA and the management councils (MC). MC are currently in charge of land tenure issues. Options include the merging of GDA and MC or the disappearance of MC from the point of view of the GDA present in the meeting.
- Allow the GDA to be part of the regional decision making process (institutional encroachment)
- Ease GDA internal working procedures as the number of GDA committee members, which is limited to 6 only.

6. Workplan and perspective

For feasibility reasons, the research will be conducted in 4 countries, Algeria, Jordan, Morocco, and Tunisia.

CBOs	Cooperative	Association	Commune	GDA	Informal
Algeria			X		X
Jordan	X	X			X
Morocco	X	X	X		X
Tunisia	X	X		X	X

Objective and activities	Implementation	Remarks
Objective: Assess CBOs performances in NRM and develop options for improvement		
1. Activity 1. Review of legal framework of each CBOs according to a set of criteria: mandate, territoriality, representativity, functioning, capability, access to resources, institutional encroachment, financial aspects, and eventual other specific issues.	NARS (M&M team and resource person)	TORs to be developed by Céline and Ali

2. Activity 2. Ground truthing through surveys of communities targeted by M&M III project and other communities in the region (agropastoral), and meetings with stakeholders. (data collection and analysis)	NARS	Tools to be developed by Céline and Ali
3. Activity 3. Comparative analysis between countries and CBO types	ICARDA (Céline, Ali)	
4. Activity 4. Final workshop	NARS + ICARDA + communities + decision makers	
5. Activity 5. Publication of the results: scientific reports, papers in national and international journals	M&M NARS, ICARDA scientist	

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Workshop program

Sunday 27 May	Arrival of participants and transfer to Djerba	
Monday 28 May		
08.30-12.00	Session 1: Local development and community-based organizations	
08.30-09.30	Opening	
09.30-10.00	<i>Facilitating multi-stakeholder processes (MSP) for NRM. A social learning perspective.</i>	Dr. Richard Thomas
10.00-10.20	Coffee break	
10.20-11.00	<i>Conditions for a successful local institutions</i>	Dr Céline Dutilly
11.00-11.30	<i>What is local development and why we need community-based organizations</i>	Mr. Youssef Saadani
11.30-12.00	Discussion	
12.00-18.00	Session 2: Review of current local institutions in charge of NRM in the Mashreq and the Maghreb (functioning, relation with other actors, mandates, etc.)	
12.00-12.30	Algeria	
12.30-13.00	Jordan	
13.00-14.30	Lunch	
14.30-15.00	Morocco	
15.00-15.30	Syria	
15.30-16.00	Tunisia	
16.00-16.30	Coffee break	
16.30-17.00	Lebanon	
17.00-18.00	Discussion	

**Tuesday 29
May** **Session 3. Review of current local institutions' legal framework in the Maghreb and the Mashreq**

08.30-09.00 Algeria

09.00-09.30 Jordan

09.30-10.00 Morocco

10.00-10.30 Syria

10.30-11.00 Coffee break

11.00-11.30 **Lebanon**

11.30-12.00 Tunisia

12.00-13.00 Discussion

13.00-14.30 Lunch

14.30-17.30 **Session 4: Development of proposal for improvement and research workplan**

With the support of facilitators the participants will discuss and develop

1. Laws and regulation domains to promote local institutions efficiency
2. Strengths, limitations, and proposals for improvement for each country
3. Research workplan

17.30-18.00 **Closing**

**Wednesday 30
May** Field visit to Tataouine (PRODESUD Project)

List of Participants

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