

Chapter 13

Land Tenure Reform in Tajikistan: Implications for Land Stewardship and Social Sustainability: A Case Study

Nargis Halimova

Abstract This chapter is a brief overview of the implications of land reform for tenure and use of pastureland in Tajikistan. It starts by describing the land tenure system, the modes of the land use rights prevailing on agricultural land, and the appraisal of land tenure security. Further, the analysis focuses on the increasing privatization of land threatening the use of common pastureland on which villagers's have long relied. The social and ecological impacts of the changed tenure system as a result of land reform after the 1990s and its consequence for transhumance in the absence of proper modes of tenure and institutional arrangements are discussed. The current trend of land legislation reform is outlined.

Land reform is likely to have adverse social and environmental impacts, unless carefully redesigned to meet the needs of small stockholders. The plight of rural landless livestock holders is highlighted, and the relevance of communal tenure arrangement is stressed. Conclusions and recommendations are made toward a sustainable land policy, which can ensure a balance between the economic benefits and socioeconomic and ecological principles of sustainable land use.

Keywords Land tenure system and modes • Land use rights • Dehkan farms • Common tenure • The social and ecological impacts • Elites • Legislation • Privatization

Key Points

- Land tenure has been singled out as the most important issue concerning the sustainability of farming on the rangelands of Tajikistan and may be throughout Central Asia. Appropriate land policies, therefore, are crucial to ensuring economic sur-

N. Halimova (✉)
GITEC Consulting GMBH, Cologne, Germany
e-mail: halimova.nargis@gmail.com

vival, for decreasing land-related conflicts and putting communities on a steady course of sustainable development. The current tenure system is inappropriate both for environment and social sustainability and development; when the tenure of the significant part of the pastureland is concentrated in few large private farms for lifetime-inheritable use right and majority small livestock holders are excluded, development of a sustainable and inclusive land policy is a challenge.

- The government of Tajikistan initiated the land reform program in the early 1990s to promote privatization and national economy. The programs were mainly targeted privatization of land, but the importance of securing tenure over communal common property was disregarded. There are many flaws and gaps in the legislation governing land, and the government is working through these problems to improving the situation. Much remains to be done to improve the present inequity in land allocation and remove the perverse incentives that contribute to accelerated land degradation and impose severe limitations on the adoption of better land stewardship.
- From the reforms of the 1990s emerged the current land tenure system in Tajikistan, which to a certain extent could be beneficial for a smaller group of people regarding the arable (cultivation) land. However, it has failed greatly to ensure the social and environmental pillars of sustainable land policy. If not carefully designed, any reform in any country adversely affects access of rural poor to the land and challenges the efforts of governments and development partners to alleviate poverty. Mortgages and “sale at despair” conventionally are the main causes of rural landlessness in many countries of the world if the reforms tend merely to favor privatization and commercialization. Creation of a land market alone cannot secure land (or user rights) for a majority of the small farmers. The poor households may face many difficulties to participate in the land market such as lack of access to information, lack of money, and unequal market power. This can easily lead to consolidation of land in the hands of a few elite groups, further land speculation, and a higher proportion of landless rural poor.
- The rapid increase in the number of landless stockholders is an emerging challenge for rural development. Securing of land tenure by the poor is conventionally counted important for rural poverty alleviation. However, in Tajikistan, the current trend is merely increasing private land tenure that greatly diminishes the area available for common grazing and tramples the rights of households who formerly used it. This has had an adverse impact on the livelihoods of many rural householders, which have smaller herds but no land shares in any farm. Though during the land reforms of the 1990s, the majority of households had at least one member who should have received an individual land share from the dissolved *kolkhozes*, many have missed out due to the socioeconomic issues and legal gaps.
- There are many social, environmental, and land tenure factors that make it difficult for land users in Tajikistan to undertake land restoration. Poverty and harsh rental rates imposed by landlords who often acquired the previously common-use pasturelands by questionable means and the shrinking resource base (pasture for their livestock) are a fact of life for many of the 75% of people who live in rural Tajikistan. In a country with major rural poor population, the land tenure

reforms should include some safeguards to protect these categories. Unless carefully written, the reforms can threaten poor householders' access and tenure to land as unintended consequences.

1 Introduction

1.1 *Land Tenure: The Why and the Wherefore*

Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups and state, with respect to land, that is, it is rules invented by societies to regulate behavior and define how property rights to land are to be allocated within societies. Land tenure rules define how the access is granted; rights to use, control, and transfer land; as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what land for how long and under what conditions. Land tenure includes a bundle of rights, historically established and applied in different countries in variety of modes, such as private or state ownership, common tenure, private use rights, perpetual or fixed-term use right, leasehold, and primary or secondary users.

The land tenure system can be formal in a statutory system or informal in a customary system. In statutory system, the rights of the user are formally recognized by the state and supported by the title deed or formal lease. In customary systems, the tenure is enshrined by the communal and customary structures. The secured land tenure refers to clear and accessible legal, institutional, and social mechanisms ensuring the land user's continuous access to the given plot and access to clear legal procedures on transferability of land rights. The secured land tenure depends on the country-specific context. It can be secured in both statutory and customary tenure systems if the mechanisms are clear and accessible to the land users and their absence, conversely, makes the tenure insecure in either system.

Tajikistan's land tenure system belongs to statutory system (see below). The state has exclusive ownership of land, and the private individuals and entities can have use rights. Tajikistan legislation includes the pastureland in the category of "agricultural land." This is different from the situation that prevails in other Central Asian countries where pasturelands (rangelands) are a separate category (Robinson, Chap. 11). The pastureland is divided according to season of use, with more than half the area as summer pastures (Strong, Chap. 10). It is estimated that tenure to about 68% of pastureland is granted to entities in the form of private *dehkan* farms (51.4%), cooperatives, and joint stock companies. However, paradoxically, based on statistics, over 90% of livestock in the country are owned by individual households (Kurbanova, Chap. 7).

The development partners (SIDA, CIDA, USAID, IFAD, and WB) recognize that land tenure by the poor is important for rural development and poverty alleviation in developing countries. The common property is the only asset of the poor due to the limited opportunities to take part in the land market and compete with the

better-off people in acquiring the land. Although the importance of common property as secured land tenure for most people in developing countries is widely recognized, it still receives relatively little attention in land policy reforms, including those undertaken in Tajikistan. For many years policy-makers were convinced by the arguments put forward in the now-classic “tragedy of the commons” (Garrett Hardin 1968) that common-use resources were doomed to overexploitation, whereas privatization of property leads to more sustainable use. However, many modern scholars argue that this is not always true. In her researches on the analysis of economic governance, Nobel winner Elinor Ostrom demonstrated how the common possession and use of resources such as forests, fisheries, oil fields, and pastures can be more successful by people who use them, than by government or privatization (Ostrom, 1990).

In some developed countries, it is believed that outright land ownership is psychologically necessary before some farmers will make long-term investments and raise their interest to conserve the soil through crop rotations. However, currently, many authors argue for common property or comanagement solutions and reject individualized tenure options (Banks 2003; Fernandez-Gimenez 2002). Particularly in Tajikistan, a country with scarce land resource, where 93% of its land territory are mountains; population of 7.73 million (2011) (of this 40% children below 14 years old), 46.7% living in poverty (2009). About 75% of total population living in rural area depend on livestock breeding for livelihoods; and other environmental factors prevail. Private ownership of pastureland in Tajikistan would fail the test of inclusive and sustainable land policy. Though over 50% of pastureland in Tajikistan is in private tenure (by primary land users), the prevalence of farmer owner–operators is rare. Rather, the pastures are mostly used by informal tenant farmers, who lack incentives for soil conservation.

This assessment is made by the analysis of existing land relations and institutions which enshrine them and their social, economic, and environmental consequences. A review of land tenure problems emerging from land reform (how they affected the poor’s access and environment); national laws and government programs; studies of other projects; formal land records; field visits and consultations with the farmers on their perspectives (including constraints in use of land and interviews concerned officials. Consideration of anecdotal evidence also formed the opinions and conclusions presented here particularly the lack of proper land registration and cadastre system to make the formal land records readable.

2 Land Reform in Tajikistan: The Story So Far

2.1 First Steps and Basic Principles

The term “land reform” has a variety of meanings. It may involve the restoration of land rights to previous owners, a process known as land restitution. This occurred in countries in transition when former private rights in land were restored. Land reform

may involve the redistribution of land rights from one sector to another, for example, by taking land from the state or from individual owners of large estates and giving it to people who have no land. The impact on the land may be preplanned, but it may also result from property tax reforms that alter the value of land and in consequence its use (Land Administration Guidelines: UN 1996).

Development partners assisted Tajikistan to undertake the land reform in the early 1990s in order to promote privatization and market economy. However, the reform was not well designed, and earlier versions of the law fostered a situation where there was a clear and severe imbalance between the key pillars of sustainability, in particular the social and environmental sustainability. The programs were merely biased toward privatization, but the importance of securing tenure over communal common property was disregarded. The programs of international donors (including the World Bank) pushed the government for “privatization” of land. However, as we see the consequence now, these programs had ignored the social and environmental principles of sustainable land policy.

Though the law does not admit private ownership of land as such in legal terms, *de facto* the tenure of most pasturelands are acquired by a few elite groups, and access of pastures by the majority of rural residents is shrinking. The new landlords (i.e., the primary land users who received the Land Use Certificate, as a document proving the legal title to the land parcel, hereinafter “Land Certificate”) are entitled to arbitrarily decide whether to lease out pastures to landless villagers and at what rent, based on the principle of “freedom of contract” in a market economy. Thus, the programs of international donors funded ostensibly to alleviate poverty and increase the livelihood of the poor in fact may result to depriving them of the access to the natural assets, such as pastureland, that they had used under common property regimes.

The design of the land reform programs did not ensure the balance between the key principles of sustainability (see below). The reform was rushed with a lack of proper mechanisms to ensure the equal participation of all groups. The area of pastureland available for communities and households with smaller herds has shrunk or in many cases became unavailable for communities despite the fact that about 75% of Tajikistan population lives in rural area and depends on subsistence agriculture for livelihoods. The reform led to a loss of access to pastures historically used by local village-based peoples. It also affected adversely the mobility of livestock due to lack of access to the water source, right of way through fragmented parcels, economic inability, or reluctance of some new landlords to take the livestock to the remote areas. The significant part of pastureland has been granted to those elite groups who are either high-ranking government officials or connected to this group. The practices of short-term leases are imposed by new landlords (primary land users (see below)). By their actions in denying access to grazing land in an agrarian economy where few other sources of income are available, there is the imposition of a system that is almost feudal. Most of the natural resources are concentrated in the hands of a few elites, while other land users are overexploited or eliminated.

3 The Tajikistan Land Tenure System

All land in Tajikistan is owned by the state. The Land Code allows the lease, mortgage, and inheritance of user rights, but not their sale.

3.1 *The Land Tenure Modes*

From the reforms of the 1990s the following forms of land tenure emerged (land use rights) that can be provided to individuals and entities:

- “Lifetime-inheritable use rights”
- “Perpetual use rights”
- “Fixed-term use rights”
- “Lease”

Those holding the first three of the aforementioned forms of tenure are the “primary land users.” They get land title upon such registration in the State Committee on Land Management, Geodesy, and Cartography (SCLMGC) and receive a Land Certificate for a given land parcel. Those who lease the land are the “secondary land users” (Land Code, 2009).

3.1.1 How the Agricultural Land Was Granted

Agricultural land was granted to individuals and entities mainly through the following processes:

Liquidation of kolkhozes – distribution of land shares to its members: The kolkhoz land was distributed to its members for lifetime-inheritable use right in equal shares. These could be from 0.10 ha to few hectares depending on population density and land scarcity in each region. The small size of individual land shares and lack of technical and economic capacities include factors that made the farm members to pool their shares and establish joint dehkan farms. The size of individual land share is defined but cannot be demarcated and all farmland is used jointly. The law provides right to any farm member to leave the farm and establish or own a family farm. In this case, the land surveyors of local land committees shall define the most suitable plot for partition and demarcate the land share of individuals leaving the joint farm.

Random allocation of pastureland from state reserve based on individual application: The decision about the land allocation is taken by the district chairman. It is based on proof of livestock population by the applicant (i.e., as many livestock population the applicant has, as many pastures may receive). The pastures in large estates were granted to private individuals/entities. The process lacked procedures to make the land distribution open and public. This led to the socially unfair and

asymmetric distribution of common resource pastures. Only a small group of people with financial and political advantages could prove such imbalanced criteria and have access to the process. Often, those who received pastureland in this manner have also formed dehkan farms.

Random distribution of land for personal supplemental plots: At national level, about 44,000 ha, of which 25,815 ha was irrigable, were granted to 409,000 rural households as supplemental plots per 0.15 (arable) or 0.5 ha (rainfed) based on Presidential Decrees in 1995 and 1997. A total of 75,000 ha was meant to be distributed; hence, it is known locally as “presidential land.” The aim was food security, so included is a provision that the land could be taken back if unused for the approved purpose. Due to this noncompliance or incomplete distribution, the above-estimated distributed area is much lower than provided for by the decrees. The decrees do not specify the modes of tenure, but in practice, the tenure is for lifetime-inheritable use right. The distribution process was random and lacked any defined criteria.

4 Land Tenure Security: A Critical Appraisal

Individuals or entities received pastures under the fixed-term use right, lifetime-inheritable use rights or leasehold. The issues affecting the security of these tenure modes for arable and pastureland will be discussed in the following paragraphs in the context of key conventional indicators of secured land tenure:

- *Continued access* – long-term use
- *Protection* – available and accessible clear mechanisms of tenure protection when jeopardized
- *The transferability* – available and accessible clear mechanisms, freed from authorities’ interference

4.1 *The Lifetime-Inheritable Land Use Right*

This appears to be the most secure; nevertheless the tenure is jeopardized by the legislative gaps that disregard the socioeconomic conditions experienced by the legitimate land right holders. One of the critical gaps is the undeveloped legal procedure for inheritance of land rights, which is theoretically allowed by the Land Code. The Civil Code regulates the inheritance and requires certain legal procedures to follow in defining the legitimate inheritor and requires notarization for inheritor’s right to be established for the given private property. Since the land is state owned, and as such is not provided as immovable property in the Civil Code, its procedures on inheritance and notarization are inapplicable for transfer of land use rights.

The undeveloped land lease market impedes leasing land parcel/shares or transferring it to family members by individual absentee land right holders who cannot cultivate the land personally due the wide range of socioeconomic issues such as:

- Continuous labor migration abroad
- Translocation to another village (particular for females at marriage)
- Death, illness, and disability
- Motherhood and lack of facilities in rural area for the children's daycare,
- Lack of awareness about their own land rights or land shares in newly formed farms
- Undeveloped legal procedure and limited resources/empowerment to enforce one's land rights

The further fragmentation of farms formed from the former *kolkhozes/sovkhazes* is a continuous process. Many rural residents who, due to the mentioned socioeconomic issues, were absent at the moment of the subsequent farm fragmentation lost their land shares with no possibility to regain it. The land shares that they would have otherwise been entitled to have ceased to exist and been redistributed to the existing farms or to more privileged groups. Thus, many legitimate rural residents lost land tenure due to lack of possibility to transfer it to the family or lease it out (Kurbanova Chap. 7).

The land cadastre and land title registration system is sporadic and undeveloped that also jeopardize the tenure security. The registration procedure is far from the "single window," expensive, and time-consuming, which delays issuance of Land Certificate for the farmers, reportedly sometimes for months and years. This often creates conflicts between the land users and also with the local officials since the rights to use land commence upon the state registration and issuance of Land Certificate. The farmers need to cultivate land while their application for registration is processed. Often officials responsible for processing applications, due to corrupt interests, are not interested in facilitating the preparation of land within 25 days¹ but artificially delay the process.

The cases about the discrepancies between the actual physical boundaries of the parcel and the prepared maps for it were also revealed. Registration is based on a "first-come-first-served" principle. Particularly in the light of the issues discussed above, care should be taken to avoid the situation that when registering the rights of an individual served first, it does not preclude the legitimate land rights of others (see Box 13.1).

The legal gaps, unavailability, and inaccessibility of legal procedures to enforce and protect the land rights challenge the tenure of users. The norms of the Land

¹ As provided by rules on the procedure of surveying, registration, and issuance of the certificate for the land use right and the document for the individual land share and the replacement and the repeal of the certificate for the land use right and the document for the individual land share approved by the Resolution of the Government of the Republic of Tajikistan, July 2, 2009, № 374 (author's unofficial translation).

Box 13.1 The Pitfalls of a First-Come-First-Served System: An Example from Vardaht raion

During the author's visit in Vahdat district for a meeting with the farmers and officers of the District Land Committee in June 2011, it was found that a woman's land share/plot of 0.3 ha in irrigated land close to her house and adjacent to her neighbor's land plot has been registered and mapped to the Land Certificate of the neighbor. She had received this land plot from the dissolved kolkhoz and has been using it for many years but had not yet registered. She had been raising the issue with the officers of the District Land Committee who admitted the error but had no capacity to return it, instead offered another plot that is found unattractive by the woman. Now she can do little if anything to return her legitimate right to her land plot since the neighbor has secured the state registration and received the Land Certificate covering her plot too. An approach toward a more systematic registration system and modernized cadastre technologies would minimize such risks.

Code about protection of land tenure often are underdeveloped. For instance, Article 50 envisages a role to the local land committees to restore the violated rights of legitimate land users:

Article 50. Restoration of violated land rights

A violated right should be restored in the following cases:

- (a) The local land committee invalidates an act in non-compliance with the legislation and that infringes upon the land rights and interests of land users protected by the law.
- (b) Unauthorized occupation of the land plot.
- (c) In other cases provided for by the laws and other legal and normative acts of the Republic of Tajikistan.

The district chairman endorses acts, that is, decision on allocation to or withdrawal of land right of individuals or entities. The local land committee having a twofold subordination, both to the Republican Land Committee and to the district government, actually more to the latter, is not in position to "invalidate" any "non-compliance" decision of district chairman. There is little, if any, it can do to protect or restore the violated rights of land users. The protection provisions of the Land Code, particularly the point (a) of Article 50, are unenforceable and fail to reduce the vulnerability of land use rights. The point (b) *unauthorized occupation of the land plot*, of mentioned article, is more confusing. It is actually written as if the land committee can restore the rights even for unauthorized occupation, thereby quasi motivates unauthorized occupation. Moreover, the claims about infringement of land rights are reviewed according to civil law by court.

To reduce the farm tax burden, there are cases when rural residents by different means are excluded from the farm's register (often female and poor members).

Another critical issue affecting the legitimate land rights of rural residents is lack of awareness about own land rights and/or limited capacity to enforce them. Many shareholders have misperceptions about their position in the farm even though their names are registered in the farm's Land Certificate. They refer to farm chairperson as the landowner rather than as co-shareholder. They are charged high lease fees for the use of own land shares in the farm and are treated like lessees and workforce. "*Shahodatnomai sahmi zamin*" – appendix document to the farm's Land Certificate that verifies the farm member's share often – is not delivered to them intentionally to keep the members uninformed. The farm chairperson should be elected by the general meeting of shareholders, but normally this process is bypassed or the outcome is a foregone conclusion involving district officials.

4.2 The Fixed-Term Land Use Right

This tenure mode is split into a short term (up to 3 years) and long term (from 3 to 20 years). Based on anecdotal evidence, an insignificant portion of pastureland is granted for fixed-term use right. The farmers have concerns that about every 10 years they have to overcome the burden of "paper work" to renew their tenure though they have Land Certificate and even fear of risk that their application for renewal of tenure may be rejected. The law provisions are not explicit about the tenure period. Land Certificate indicates the tenure is given for long term, but does not provide specific number of years (period) during which the long-term tenure is valid. The Land Code defines "long term" as "from three to twenty years." Neither the Land Certificate nor the Land Code provides the specific period of tenure validity. It is believed that the legislature has provided such a provision to reserve the state's right to these lands for implementation of policies and possible redistribution. On the other hand, lack of specific period of tenure creates grounds to challenge tenure any time from the year four, corruption incentives, especially in the case of any replacements in high-rank official of district administration as experienced by farmers. Many farmers lack confidence if their tenure will be renewed or not. The legal gaps and broad powers of government authorities affect the confidence and motivation of both primary land users and tenants for sustainable land use but encourage maximizing the profits in the short term by overexploitation of land. Individuals and enterprises that grasped vast areas of pastures by shrinking the tenure of the poor villagers actually use its insignificant part, if any, for grazing own livestock but lease it out to villagers. Often, these leasing practices are negligent and do not comply with capacity of pastures.

4.3 The Lease Right

Legislation allows short-term and long-term (up to 20 years) lease of land. The rural householders and smaller-scale dehkan farms lease pastures from the large landlords, state reserve, and forest land. The leases typically are informal for 1 year with

possible annual renewal, lack regulations and safeguards for protection of pastures and tenants from exploitative practices, and make tenure rights of lessees weak. The landlords (primary land users) pay annual tax in average about five somoni/ha (about US\$ 1 as of September 2011) but charge the lease rate per livestock head/season. In some areas, 20–25 somoni are charged per cow/month (about US\$ 6). Often number of grazing cows exceeds the capacity of pastures, and actually no one controls the compliance. The landlords even collect high income from leasing, lack interest to invest for improvement of pastures, but seek to maximize the profit in short term. The landless villagers are concerned that large holdings of pastures by private entities have only land speculation purpose – lease it out to the needy villagers who lack other sources of livelihoods.

To lease the pasture from another district for moving the livestock based on seasonal needs (transhumance), the farmers need not only negotiation with the landlord but also approval of hosting district government. The approval process lacks transparency and clear procedures, which discourages the livestock mobility. The present system simply encourages exploitation and impedes the social and environmentally sustainable development. The state granted tenure of pastures to private individuals and entities at the price of diminishing the common use but with the expectations that the new “owners” will take care of the land, but due to mentioned factors, this is not happening. The benefits expected therefore from changing common land use regime to the private use right cannot be realized.

4.4 Pastureland Area and Tenure Facts

Of approximately 4.7 million ha of agricultural land, about 82% (3.9 million ha) are pastures, 15% (0.7 million ha) arable land, 2% (109, 671 ha) of perennial forage, and 0.5% (21 264 ha) are grasslands. Of 3.9 ha of pastureland, about 51% (2.0 million ha) are summer pastures, 18% (707, 476 ha) winter pastures, 18% (691, 837 ha) spring–autumn pastures, and 11% (434, 496 ha) round-year pastures. Only 2% (70 839 ha) of total pastureland are provided with a reliable water source.

- **Possession of Pastureland by Entity Forms**
At the end of 2010, in the country, more than 51% (about 2.0 million ha) of pastureland were allocated to the farms for lifetime-inheritable use right. About 11% is retained in state reserve fund, 9% in the forest fund, and about 2.5% in state agricultural enterprises and under the jamoats authority. However, data about the area of pastureland retained under the jamoats authorities, which could be offered to the villagers as common resource, is unavailable (such data is not collected or stored). Almost all the state farms are liquidated, and only about 1.7% of the land is still in the collective farms.
- **Possession of Pastureland by Small and Large Farms**
In order to develop future policy reforms, we should have clear picture about the percentages of pastures granted under the different tenure modes. Regrettably,

the present statistics provides only general data. It is also impossible to analyze the existing data to identify information on interesting parameters, including determining the area of pastures granted in large tracts to private farms since the land information and administration system is primitive. The data patterns, collection, and storage require improvements and computerization that would allow data processing. The digitized cadastral system would present a clear picture about the land tenure situation. The gap with unavailability of formal data was filled up by discussions with relevant officials and farmers that concludes a significant proportion of pastures in the country are granted to private holdings typically in large estates of 500 ha and above.

- **Possession of Pastures Under Different Tenure Modes**

The formal data about the percentage of pasture granted under different tenure modes, such as lease, lifetime-inheritable use right, and fixed-term use right, is also unavailable. According to informal estimations, about 68% was apparently granted for lifetime-inheritable use right to the private dehkan farms and other enterprises. By the end of 2010, based on formal data over 51% of pastureland were granted to dehkan farms. This means at least over half of the pastures are granted for lifetime-inheritable land use right since under the law, the dehkan farms receive land under this tenure mode.

5 The Current Tenure System Versus the Key Pillars of Sustainable Land Policy

In development of land policy, a balance between the following pillars of sustainable land policy should be ensured:

1. Efficiency and promotion of economic development
2. Equity and social justice
3. Protection of the environment and promotion of sustainable land use

The reforms of the 1990s have created current land tenure system, which to a certain extent could achieve the first pillar for a smaller group of people who cultivate arable land. According to statistics, some fragmented private farms increased crop production. However, it has failed greatly regarding the pastureland and two latter pillars of sustainable land policy. If not carefully designed, any reform in any country adversely affects access of rural poor to the land and challenges the efforts of the government and development partners to poverty alleviation. Mortgages and “sale at despair” conventionally are the main causes of rural landlessness in many countries of the world if the reforms tend merely to favor privatization. Creation of a land market alone cannot secure land access for a majority of small farmers. The poor households may face many difficulties to participate in the land market (lack of access to information and money, unequal market power, and so on). This can easily lead to consolidation of land in the hands of a few elite groups, contribute to land speculation, and to a higher proportion of landless rural poor.

The analysis points to the fact that land reform process so far has resulted in the random and socially asymmetric allocation of pastureland. Many rural households have no land shares either for pastureland or for arable land. The reforms focused merely on privatization leading to socially uneven distribution of important common resource such as pastures. As a result, the rights of rural households owning smaller herds and their access to their traditional grazing lands are being eroded. They can only rely on an annual and informal lease from the primary land users who now control large areas often of formerly communal pastures. Rent practices are neither environmentally sustainable nor socially justified. In addition to environmental impacts, such a system makes the rich richer, but most of the rural poor become poorer.

The transhumance system that utilizes pasturelands on a seasonal basis by altitudinal migration of flocks and herds is essential for sustainable use of pastures in Tajikistan. Historically it was applied before and during the Soviet time. The farms of one oblast were assigned pastures to use in another oblast. The state farms and *kolkhozes* had higher livestock inventories and, correspondingly, were assigned larger areas of pastures. These allocations of pastures between the oblasts were reviewed in 1993 and 2003. Yet the transhumance principle has been reserved. The farms of one oblast preserved the seasonal pastures in another oblast. For this purpose, 53,088 ha of land were allocated for herds' drove and resting area. However, based on consultations, the most part of it is inaccessible as these areas also were "privatized" as individual estates; facilities are poor and destroyed by floods and landslips.

The undertaken land reform had negative impacts to the transhumance system. First, often the tenure status of the pastureland in the hosting oblast has changed. Only few farms emerged after partitioning of large Soviet farm could preserve the *kolkhozes'* pasturelands in another oblast. Now accessing the seasonal pastures beyond their own farm and oblast depends on negotiation with hosting district authorities and heads of the respective host farms who have tenure, which in current system is accessible only to the large private stockholders who have the "influence" and the technical infrastructure to facilitate long-distance livestock movement. Such challenges discourage the transhumance particularly by the owners of smaller herds. Nevertheless, transhumance is still run by large livestock owners who have economic resources and are in a position to negotiate the access in hosting oblast. However, that constitutes a relatively minor proportion of total livestock inventories, and solutions must be found particularly to help the smaller livestock owners that jointly are the largest owner of livestock in the country.

Of the total 3.9 million ha of pastureland, about 68% are granted to private dehkan farms, cooperatives, and other enterprises, typically in large tracts. Many of these "owners" are reluctant to use their remote and seasonal pastures, so a large part of the forage biomass is underutilized. Based on statistics, it would appear that approximately 90% of the livestock in the country are owned by the householders with a low proportion owned by the dehkan and state farms. However, the statistics do not always reflect the real situation. Based on field consultations, the view was formed that in reality dehkan farms might own at least 30% of livestock. Dehkan farms may underreport the livestock population they own to avoid being levied taxes.

Two other factors are at work as follows: (i) the householders strive to increase the livestock numbers to improve their livelihoods and income and (ii) the demographic growth means that the number of households increases over time. In such a plight, the lack of proper tenure and institutional arrangements such as the herding institutions impedes access to pastures by rural households who are more in need for pastures to make livelihoods and who, collectively, are the owners of most livestock in the country.

The households who own the majority of livestock use the easily accessible pastures close to the villages. These pastures may also now belong to private holdings and dehkan farms that typically lease out these former common-use pasturelands for annual use by the communities. The livestock population grazing in the pastures close to the settlements normally exceeds greatly the capacity of resource (reportedly 10–12 sheep/goats). Moreover, grazing there occurs almost the year round, which does not let the grass recover. As a result, much land is now of low productivity and some former pastureland is infested with toxic plants or otherwise inedible plants.

6 Privatization: End of Commons and Beginnings of Major Landlessness

The rapid increase in the number of landlessness stockholders is an emerging challenge for rural development. It is conventionally accepted that the secured land tenure by the poor is important for rural poverty alleviation. However, in Tajikistan, the current trend is merely increasing private land tenure that greatly diminishes the area available for common grazing and trampling the rights of households who formerly used it. This has had an adverse impact on the livelihoods of many rural householders, particularly children's illnesses due to malnutrition (40% of total population are children below 14 years old), which have smaller herds but no land shares in any farm. Though during the land reforms of the 1990s the majority of households had at least one member who should have received an individual land share from the dissolved kolkhozes, many have missed out due to the socioeconomic issues and legal gaps discussed earlier (Kurbanova, Chap. 7).

The proportion of households with no land share also is increasing due to the demographic variables and great number of newly emerging families as children mature, marry, and start families of their own. As a result, the majority of the rural households have limited opportunity to access the pastures since the rights of the secondary users often are weak and unprotected particularly with the current widespread practice of offering informal leases, when it is agreed for 1 year, normally every year, and when rents are arbitrarily decided by the primary users who control large areas of pastureland. Moreover, the primary land users typically prefer leasing to the entities such as dehkan farms (as middleman), rather than dealing with individual households, even though most of livestock is owned by village-based householders (Box 13.2).

Box 13.2 Case Study: Emerging Landless Households and Communities

A mahalla chairperson during a group discussions raised concern about the conflictive situation his community faced recently. Reportedly, the pasture area that has been used by the community traditionally has been “privatized” formally by a private entrepreneur from Dushanbe city, who has undergone the formal state registration for the given land and received the Land Certificate. Now the villagers are denied access to the pasture – a community common grazing area, which they have been using traditionally. Moreover, there are about 100 households of this village where every household depend on livestock breeding for livelihoods, not one household has any land shares in any Dehkan Farm. There is also no alternative pasture land available that the given community could use.

*Mahalla – is an informal local self initiative body at the village level
Shafti Mijgon Village, Varzob District, June 2011*

7 Current Land Reform: A Critical Appraisal

The reform of the 1990s has drastically changed the land tenure system in Tajikistan. De jure the land is retained in state ownership, but the form of use right has been changed from the common to private. The balance was changed between public and common tenure in favor of the private use right. During 2008–2010, amendments were made to legislation to improve land tenure security focused on privatization and open land market. The Law “on State Registration of Immovable Property and Rights to It” (2008), the Law “on Mortgage” (2008), the Law “on Dehkan Farms” (2009) were enacted. The Land Code was amended (2009) including provisions on order of land acquisition for the state and public needs and rights for compensation based on market value and the concepts of inheritance and mortgage of land use rights. However, these provisions remain unimplemented as clear legal procedures for their enforcement remain undeveloped.

In 2011, a draft Law “on Amendments to the Land Code of the Republic of Tajikistan” was developed by the working group on land reform and submitted to the government. As the previous amendments, these (version of March 2011) merely approach the sale and mortgage of land but disregard the existing legal gaps impeding the transferability of land rights (undeveloped legal procedure for inheritance, notarizations of transfer of land rights required by legislation, and transferability of land shares of absentee land shareholders to family members).

It also lacks the social safeguards for small-scale farmers, the poverty stricken, or even farm members unaware of their own land rights. The “social safety net” that is briefly mentioned in Government Agriculture Reform Program (ARP) (April 2011) says about need for establishing a monitoring system on reform process for

“corrective measures.” But it fails to specify what of corrective measures and on what principles they will be based. It is critical to anchor the principles of each policy and reform from the onset and make it clear to everyone. The ARP considers “the need to conduct a study to identify the issues and recommendations on informal employment” as sufficient safeguards. This is rather a weak statement with no provision of specific safeguards to help the poor (majority of rural population), to retain the land tenure for their livelihoods, and to avoid land speculation by elites.

In a country with 75% rural poor population, 46.7% poor, 40% children below 14 years old, and lack of other income sources, the land tenure reforms should provide safeguards to protect these categories. Unless carefully written, the reforms can threaten poor householders’ access and tenure to land as unintended consequences. The mortgage and “distress sale” are key conventional reasons for the rural poor landlessness if reforms are biased toward privatization. The opening up of land market alone will not provide the majority of small farmers’ access to land but can easily result in land consolidation/speculation and consequently to landlessness of rural people. This can adversely affect rural households (in particular women), and the government and development partners’ efforts to alleviate the rural poverty will fail. It is important to safeguard against undue influence by small groups of powerful people who stand to gain most from the reforms. The drafted amendments to the Land Code are biased to privatization but pay no attention to securing the land tenure as common (communal) property which is an only secured asset of the poor (Ostrom 1990s). The legislative environment continues the trend toward privatization of land but disregards the importance of common resource pastures to meet the needs of villagers.

The land sale market is a component of many economies. But each country’s specific context, resource bases, historical patterns, and peoples’ income sources differ. Therefore, merely creation of land market and privatization of the common-use natural resource such as pasture is inappropriate in Tajikistan. The current reforms in neighboring countries (Mongolia, Kyrgyzstan, and China) retain the pastureland owned by the state and perpetual tenure given to the communities (Hannam, Chap. 17). Though those countries have accepted the private ownership for other land categories (residential and arable (cultivation) land), the pastureland retained as state property and tenure is granted to each community (Robinson, Chap. 11). If the mentioned amendments to the Land Code will be adopted to allow merely the land sale with no social safeguard mechanisms, this will result in the loss of land access and tenure by the poor who are majority in the rural areas of Tajikistan and further adversely affect their livelihoods.

The mentioned amendments on principal issues refer to government resolutions not yet drafted/enacted. For instance, they mention necessity of establishing key principles for prevention of monopolistic activity in land market but fail to provide what these principles are. Article 17 (2) point 2 mentions that there should be *restrictions* in marketing of land use rights for the land of special and natural conservation areas (e.g., forest fund, the land reserved for water conservation, cultural heritages, natural reserves, national defense and security, industry, communication, and transport). But it fails to provide the meaning and “boundaries” of such restrictions to ensure its common understanding, that is, what transactions are allowed or

disallowed with these land categories? The secured land tenure requires fixing key principles in law and making rules clear to everyone. The law provisions should be explicit and clear, and the text of law should be written as it is meant to avoid the ambiguity in its interpretation and implementation.

The drafted amendments to the Land Code introduce new concept – *ownership of land use right* by private individuals/entities (though the land as such, based on Constitution, is exclusively owned by state) to allow the land sale and mortgage. Many local legal scholars including the representatives from the Ministry of Justice of Tajikistan are skeptical about compatibility of this new proposed concept – “ownership of land use right” with other legal concepts in legislation of Tajikistan (and the legal system of the region). Like the previous amendments, the proposed ones try to approach the specific articles of the Land Code, which will challenge implementation. But a comprehensive approach of all provisions or drafting of new Land Code would be advisable to ensure harmony with all legislation of Tajikistan.

If land reform merely focuses on privatization, it will meet a failure. Clear safeguards should be established to protect the poor farmers from the “despair sale” and mortgage. The safeguards and principles should be fixed in the law, not resolutions, since the latter are often subject to influence of powerful private interests.

8 Two Key Aspects of Sustainable Land Management

8.1 Sustainable Land Policy

In lack of policy and special law on pasture management, during the recent reforms, the laws designed for arable (cultivation) land have been chaotically applied in granting tenure to pastureland. Such a policy and law remains undeveloped still. The *Program for Improvement and Effective Use of Pastures in the Republic of Tajikistan for 2009–2015* cannot serve as policy. It just provides schedule for cultivation of some pastures to prevent degradation using government funds. Though it fails to specify the selection principles of pastures to be improved by the government funds, for instance, is it only the state pastures or the private pasture estates that are eligible for state funding? The opinions that the large pasture estates in fact belong to some of high-rank officials and the lack of pasture selection principles/criteria may suggest conflict of interest in use of government funds for pasture improvements. The program does not discuss any policy and principles, neither the tenure nor the institutional arrangements in its management of pastures.

Undeveloped policies and regulations lead to unsustainable and impoverishing use of forest land and products as the Soviet Forest Code fails to meet the modern political and socioeconomic changes. Forest land that also can be leased as pastures by individuals and entities is retained in management of state forest agencies under the Committee on Environment and Nature Protection. Lack of an appropriate taxation system and informal short-term leases and lack of proper institutions to control the compliances resulted in impoverishment of forests. The procedures of

leasing the forest land, the roles and functions of local and national forest agency in relation to the tenants, lacks clarity. GIZ assisted drafting a new Forest Code that was approved by the parliament in 2011.

8.2 Land Cadastre and Unified Registration System

The cadastre is an information system consisting of two parts: maps or plans showing the size and location of all land parcels and text records that describe the attributes of the land. It is distinguished from a land registration system in that the latter is exclusively about legal titles. A system for recording land titles, land values, land use, and other land-related data is an indispensable tool for a market economy and sustainable management of land resources. All industrialized nations with a market economy maintain some sort of land register system that fulfills the above requirements (UN Land Administration Guidelines 1996). An effective land cadastre and administration system provides security not only for landowners but also for all partners, national and international investors, banks and traders, and governments. It is also an instrument for development of national land policy and mechanisms to support national economy.

Tajikistan is still to establish such a system, while almost all republics of former Soviet Union have it. The registration functions in Tajikistan still are shared by different agencies (SCLMGC, Inter-Districts Bureau of Technical Inventory (MBTA), Ministry of Justice (MOJ), and jamoats). The different agencies hold registers without coordination and unified centralized database. This creates an indispensability to keep and support parallel registration systems and information storage. Further, the ways of keeping records need improvement since in each agency, the numbers and indexes on immovable property are run differently. The MOJ register of mortgages is based on the names of the parties, the MBTI records are based on the address of the property, and the SCLMGC's records are based on a land plot identifier. The registers are paper based and the public has no access to the system. The existing manual systems frequently limit the opportunities for implementing optimal solutions. There is no computerized network to connect all registers in the country and support running the registration in "online" mode. The laws on land lease and land valuation still are based on Soviet economy principles and obviously cannot meet today's changes.

One of priority tasks for effective land administration in the country is establishment of unified agency for registration of all forms of immovable property and rights to it. This requires combining the functions and registers of different agencies currently running registration separately into one body, which would be more efficient and streamlined.

Countries in transition are recommended to investigate the possibility of implementing integrated land information systems, where the formal registration of legal information as well as technical information is supervised, controlled, and operated by one public authority, and not split between two or more ministries and authorities.

This does not exclude distributed solutions with practical activities being undertaken in regional or local offices (UN Land Administration Guidelines 1996).

Unified registration system shall be provided with modern information technology and staff capacity building accordingly. Introducing a new land administration system, including the implementation of formal land information registers, is a huge and time-consuming process. The reforms of legal framework, organizational structure, financial mechanisms, and technical issues are closely interconnected, while the first three are more complex to solve than technical issues.

SIDA was active in establishing such a system in Tajikistan (2005–2010) and assisted in preparing the Law on Registration of Immovable Property and Rights to It (2008), provided with principles of unified registration system and “single window,” base steps for setting unified registration agency, human resources development plan, and registration module for the entire country trialed in pilot districts (Tursunzade and Hissar). In 2010, SIDA’s focus on Central Asian region was diverted, and the undertaken milestones on establishment of modern cadastre and land information system in Tajikistan stagnated.

9 Conclusions

Neither the private nor common tenure appears secured in the country due to absence of policy with clear forms of tenure over pastureland. *De jure*, the land is exclusively owned by the state, but the practice and use rights of the primary land users are common with the private property regime rather than the state/public. They can act as landowners and exclude communities in use of pastures and may make arbitrary decisions about leasing pastures with monopolized fees though prior to reform these pastures are traditionally being used by the communities. At the same time, the existing restrictions in sale of land use rights are uncommon for a private property regime. The Land Code was drafted in the middle of the 1990s (enacted in 1997), when the legislators were more influenced by the soviet land tenure principles and found it hard to decide in favor of an open land market. As a result, the Land Code and related legislation lack explicit provisions to assume the land has *de facto* become private property or is still public. In trying to improve the security of land tenure as a private property, Tajikistan should at the same time accommodate the needs of landless households and the growing number of landless livestock owners and ensure their continuing access to pastures.

All of this is against a background of the burgeoning rural population who are dependent on livestock as the key source of livelihoods. It is advisable to establish and develop the communal tenure of pastures throughout Tajikistan that accommodates not only the private economic individual interests but also the social and environmental variability and needs of growing small landless livestock owners–householders. These are the key factors that retained the pastures as communal property rather than as private property in the neighboring countries (Kyrgyzstan, China, and Mongolia) in recent reforms (Robinson, Chap. 11 and Hannam, Chap 17). Securing the tenure through privatization of natural common resources is not always

the best solution for rural development; it benefits elite groups who can influence the process or have capacity to exploit it. In other words, securing the land tenure for *the right people* has to be paramount. However, the proposed amendments to the Land Code tended to strengthen the position of these landlords at the expense of all others.

Theoretically, Tajikistan could have a blend of tenure arrangements and coexistence of private tenure and communal common tenure (to accommodate the ecological and social variability through spread of wealth to majority, along with private economic benefits). The proposed allocation of very remote and inaccessible pastures to potential investors for long term (25 year) lease, even if based on clearly developed criteria and procedures is problematic. Who should build and pay for the required infrastructure (water points, roads, bridges)? However, in practice, ensuring a proper allocation process is unfeasible due to wide corruption and lack of transparency and clear principle of such pastureland allocations.

Still a large proportion of the pastureland in Tajikistan is under fixed-term use right that can be granted to communities for communal tenure, upon expiration of fixed-term use. The advantages include (1) every household (former or new) within the given community can access pastures subject to compliance of developed regulations, (2) avoiding high costs involved in private property regime such as land surveying, registration of individual titles, and excluding access through policies, fences, etc. Conversely, the management and stewardship of common property can be more efficient due to lower registration and exclusion costs that can be shared by a community. Unlike the private property regime, the risk to jeopardize the rights of others during land right registration based “on first-come-first-served” principle is avoided.

There are many studies and examples supporting the advantages of community tenure principle. In summer 2011 during meetings, the herders in Norin Oblast of Kyrgyzstan were asked about their perceptions of previous system (prior to Kyrgyzstan Pasture Law (2009), elite groups obtained long-term tenure for vast area of pastures and subleased to communities) and the current (state owns pastures but grants the tenure to communities as common resource to be managed by pasture users’ groups). The herders and the local specialists in every community we met emphasized the advantages of the current system, and some are highlighted below:

- The pastures’ ecological conditions improving due to users’ group management and planning, compared to overgrazed conditions they had before.
- The social cohesion between the herders improved since now every community is granted certain pastures to use and care about. Before, they competed for lease of best pastures from the individual landlords.
- The pastureland speculation by the powerful elites is eliminated who used to charge herders/communities high rates, which increased the social tensions and insecurity.
- While full privatization of the land appeared to be successful in Western countries, it is not feasible in Tajikistan, where:
 - Livestock requires mobility in order to balance the variability of the available fodder particularly in different seasons.

- Limited land resource but minimum of about 75% of total population depends on agriculture and livestock breeding with lack of other sources of income.
- Socioeconomic variables focusing on private economic interest should not, however, obscure the crucial role of land tenure and land policy for equity and social balance as well as environmentally sustainable development.

10 Recommendations

The current tenure system is inappropriate both for environment and social sustainability. A land reform is needed that would make a balance and ensure the sustainable and inclusive land policy. Though the significant part of the pastureland is concentrated in few entities for lifetime-inheritable use right, a “soft” land reform toward a more sustainable, inclusive, and even spread of pasture tenure can be achieved through a well-designed taxation. Tax can be applied to achieve a wide range of policy objectives; it is an instrument for sustainable land policy and socially desirable land tenure in many countries. Progressive land taxes would be a good instrument to avoid hurting the vulnerable households but discourage the large landowners from keeping tenure of large pasture estates just for speculative informal leases to landless households and often makes these pastures underutilized. It would promote impetus in land use right market, increased state revenues from sale dues, and spread tenure to a wider public and the farmers–operators. The land taxes however must be carefully designed to avoid adverse impacts to the poor and vulnerable households; otherwise, this category will be forced to sell land use rights to avoid high tax payments.

Progressive taxes for pastureland would target the landlords that have lifelong inheritable tenure for large area of pastureland but sit on informal leases. Their tenure purpose is more speculative – leasing to major landless rural residents. This category of landlords would be forced to return the pastureland (or part thereof) to the state voluntarily, which can then be redistributed to each jamoat to create communal pastures for all residents of the given jamoat. The following are priority recommendations to consider in development of a strategy for the long-term sustainability of the rangelands in Tajikistan. The following recommendations are made and elaborated below:

- *Policy and Pasture Law*

The current insufficiently regulated and spontaneous tenure arrangement cannot remain unattended. The pasture tenure granted randomly and subsequent practices do not permit socioeconomic and environmental sustainability. Lack of clear policy will cause the situation to deteriorate. Policy and pasture law provides principles of sustainable and inclusive land policy. These along with economic growth, cater for social and environmental sustainability. Clear and specific regulations on tenure and stewardship provided in a specific pasture law are required soon to avoid the threats from environmental degradation and social stratification. Only within appropriate tenure and institutional settings can proper

land stewardship and sustainability be possible. The process of pasture law drafting however should be more open to public debate. Closer cooperation and coordination with the different stakeholders must be ensured to benefit from their contribution and address the concerns of every party.

- *Redistribution of Pastures for Communal Tenure*

The government should put efforts into making pastureland available for communities to improve the livelihoods of rural population. Development organizations and many scholars and researchers argue for common property solutions and reject individualized tenure options. Common property in developing countries also bears an insurance function especially for the poor in case other income sources fail. Common-use pasture should not be confused with open-access resource. In common pasture the access is granted only to those living in the geographic boundaries of the given community, not to outsiders. The land available for the community pasture tenure can include the recovery of pasturelands currently under fixed-term use right and lifetime-inheritable use right. It should be based on principles:

- The ownership of pastures retained by state and perpetual tenure granted to community as common resource on *kishlak* or *jamoat* level.
- The community common pasture is not an open pasture – it cannot be used by the outsiders it is reserved for those living in the given community.
- The community is granted perpetual tenure to pastures and it cannot be sold or challenged by any state body except in case of state needs provided for in law.
- No individual, family, or group land share should apply in community common pastures.

These are critical principles to accommodate the social and environmental variability and avoid the continuous registration of individual rights as well as conflicts. It ensures that all people living in community have equal and continuous access to the common pasture and are safeguarded from losing the equal access right. The tenure should be granted/registered to the given community (*jamoat*) but not to any individual/entity names. The families newly migrated/emerged in the community should have immediate equal tenure as long as they live in the given community. The pastures formerly being used by a community should be reallocated to given community, and minimum area of community pasture shall be defined by the technical experts based on local factors, physical landscape, land accessibility and availability, social and environmental variability, and so on.

In Tajikistan context, the communal pastures are the best approach also due to extended and perpetual male migration abroad, but women, children, and elders remained back home. It is not feasible to expect every shareholder to participate in farm management decisions and review progress reports, in current approach that includes individual land shareholding. Many of these shareholders will never be able to manage their farm shares properly despite the continuous trainings or awareness-raising activities. However, they always need access to pastures and therefore need more simple regulations than those based on legal and business

concepts of share and shareholding. Tajikistan may consider the Kyrgyz experience where the state exclusively retains the ownership of pastures and grants tenure to communities as a common resource. In Tajikistan, unlike in Kyrgyzstan, the past reforms have seen the greater part of the pasturelands granted as “lifetime-inheritable use right” to individuals/private farms. This approach is still feasible for Tajikistan; the state can regain the pastures through the progressive taxation from the individual tenure (of lifetime inheritable) and redistribute these lands to the communities for common perpetual use rights.

- *Progressive Taxation for Pastureland Tenure*

The current pastureland tax is extremely low (less than US\$1/ha/year) though the landlords’ revenues made from lease to residents and sale of other livestock products are very high. For example, the cost of meat (with bones) is 30 somoni (about US\$ 7, as of October 2011) and has rising tendency. The tax in effect should be the state’s rental charge for the land. The current extremely low pastureland tax rate set in 2006 remains unchanged despite of changes of many factors, including significant raising prices of livestock products. The taxes should be increased and spent also for pasture improvement, building infrastructure to make them accessible. A progressive taxation policy will encourage greater reallocation of land as being just a “landlord” collecting rent will be less profitable. Larger landlords would thus be encouraged to:

- Become a farmer owner–operator and use more distant pastures; the state will collect more taxes from sale of animal products produced by these farms.
- Return the surplus pasture to the state, which can be reallocated to jamoats for community common use by the rural households through the pasture users’ groups.

Progressive tax will be important and can be done based on area of landholding. At the lower end, the smaller land area, there should be lower flat tax so that the poor are protected, and at the higher range, you can take the tax all the way up to 50%. A series of increments would be defined, and each increment would attract a higher tax level. Tax rates for some increments could be trebled. Such tax should be applicable only to land. It is recommended not to impose any taxes on buildings and assets of the farms, such as machinery to encourage investments for mechanization.

- *Institutional Reform and Decentralization for Local Management of Pastures*

The state institutions authorized to monitor compliance in use of pastures are technically and financially weak. The alternative community institutions have never been in Tajikistan at least since the beginning of Soviet system. The communities and pasture users are not involved in pasture management. The management of natural resources by those who use it has been demonstrated to be more effective than by the state or private institutions (Ostrom 1990). The institutional reforms with decentralized authorities that would increase the pasture users’ involvement in management and planning of pastures would be appropriate to develop in Tajikistan.

Option A: Pasture Planning and Management by Jamoat Officials

Its advantages include easier and quicker setup with minimum capacity-building activities since the jamoat structures are already in place. Jamoat has a well-established structure that addresses different community issues and supports implementation of governmental and nongovernmental programs in communities. However, the jamoat administration has many other tasks, and community pasture management would be a burden.

Option B: Pasture Planning and Management by Community-Based Organizations—User Groups

The advantage is that the community involvement in management of resource will be established which is proved to be the most effective measure in governing the natural resources by those who actually use it (Hua, Chap 14). All stakeholders can be part of such community groups including local officials for assistance in the preparation of participatory pasture use plans, defining pasture user fees and other regulations. The challenge is that, though in the longer term it would be a sustainable approach, at the onset it requires much institutional and capacity-building support.

Acknowledgements The work reported here was generated during the ADB/GEF Rural Development project and the author was engaged as a consultant by a consortium of GITEC Consult GMBH/Donaev Management Consulting under the direction and guidance of the PMU in Dushanbe. I am indebted to the efforts of my erstwhile colleagues for their inputs into aspects of this work.

References and Further Reading

- Banks T (1997) Pastoral land tenure reform and resource management in northern Xinjiang: a new institutional economics perspective: Nomadic peoples, v. 1
- Banks T (2003) Property rights reform in rangeland China: dilemmas on the road to the household ranch. *World Dev* 31(12):2129–2142
- Banks TC, Richard PL, Zhaoli Y (2003) Community-based grassland management in Western China. *Mountain Res Dev* 23(2):132–140
- Fernandez-Gimenez ME (2002) Spatial and social boundaries and the paradox of pastoral land tenure: a case study from post socialist Mongolia. *Human Ecol* 30(1):49–78
- Fernandez-Gimenez ME, Allen-Diaz B (1999) Testing a non-equilibrium model of rangeland vegetation dynamics in Mongolia. *J Appl Ecol* 36:871–885
- Fernandez-Gimenez ME, Batbuyan B (2004) Law and disorder: local implementation of Mongolia's land law. *Dev Change* 35(1):141–165
- GRM (2008) Kyrgyz Republic: a study of the impact of land reform on agriculture, poverty reduction, and environment, ADB TA 4408/Project Number: 38079
- Hannam I (2012) International perspectives on legislative and administrative reforms as an aid to better land stewardship in Central Asia. In: Squires V (ed) *Rangeland stewardship in Central Asia*. Springer, Dordrecht, pp 407–430 (Chapter 17, this volume)
- IFAD (2008) *Improving access to land and tenure security: policy*. IFAD, Rome, 2008
- Kurbanova B (2012) Constraints and barriers to better land stewardship: analysis of PRAs in Tajikistan. In: Squires V (ed) *Rangeland stewardship in Central Asia*. Springer, Dordrecht, pp 129–164 (Chapter 7, this volume)

- Land Administration Guidelines (1996) With special reference to countries in transition: United Nations, New York and Geneva
- Neudert R (2010) The paradox of pastoral land tenure: are solutions with individualized tenure possible? – A case study from Azerbaijan. Greifswald University
- Ostrom E (1990) *Governing the commons: the evolution of institutions for collective action*. Cambridge University Press, Cambridge/New York
- Ostrom E (2007) Collective action theory. In: Boix C, Stokes S (eds) *The Oxford handbook of comparative politics*. Oxford University Press, Oxford
- Ostrom E (2009) A general framework for analyzing sustainability of social-ecological systems science, v. 325
- Ostrom E, Gardner R, Walker J (1994) *Rules, games and common pool resources*. University of Michigan Press, Ann Arbor
- Oxfam (2009) *Reaching tipping point: climate change and poverty in Tajikistan*. Oxfam International, Dushanbe, 22 p
- Robinson S et al (2012) Pastoral tenure in Central Asia: theme and variation in the five former Soviet republics. In: Squires V (ed) *Rangeland stewardship in Central Asia*. Springer, Dordrecht, pp 239–275 (Chapter 11, this volume)
- Soule M (2000) Land tenure and the adoption of conservation practices. *Am J Agric Econ* 82:993
- Squires V (2012) Better land stewardship: an economic and environmental imperative if there is to be sustainable development. In: Squires V (ed) *Rangeland stewardship in Central Asia*. Springer, Dordrecht, pp 31–50 (Chapter 2, this volume)
- Taylor J (2006) Rangeland policy, privatization and new ecology in Inner Mongolia. Presented at “Survival of the commons: mounting challenges and new realities,” the Eleventh Conference of the International Association for the Study of Common Property, Bali, Indonesia
- USAID Land Reform Project (2011) Dushanbe, Annual Report February