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Assessment of the impacts of pastoral policies in Niger:

Niger's experience in terms of national legislation enforcement for pastoralists' mobility
and cattle circulation rights

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List of Acronyms

AREN : Association for the Revitalization of Pastoralism in Niger

WISP : World Initiative for Sustainable Pastoralism

IUCN : World Conservation of Nature

POCR : Orientation Principles of the Rural Code

ECOWAS : Economic Community of West African States

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1. Summary

Niger's experience in terms of pastoralists' mobility and cattle circulation rights is a model and may be presented through an overview of some key relevant laws. This overview reveals that the policies boil down to a few strong principles, which are:

- recognition of a zone dedicated essentially to pastoralism;
- recognition of the multi-functional nature of the resource areas dedicated to maintaining livestock/agriculture integration;
- affirmation of the principle of willingness to secure the land tenure bases of rural productions;
- existence of a legal system for rural hydraulics, taking into consideration pastoralists' needs;
- Niger's contribution to the sub-region's recognition of the need for and usefulness of mobility (international transhumance) in the ECOWAS zone.

Asserting these principles has assured pastoralists recognition of their activity, their way of life, and their specific rights across an important portion of the national territory.

However, a survey conducted amongst pastoralists in the Dallol region, near the capital city, also indicates that in the study area, the enforcement of texts is not beneficial to pastoralists and that in a context of a strong demographic growth, recognition of their rights is made more difficult by the rush for land tenure.

As a result, in addition to analyzing the laws, we also present the socio-cultural and economic background, which somehow determined the adoption of the laws concerned and/or make their enforcement difficult, thus reducing or annihilating their expected impacts outright.

Though certain legislative changes involve strong risks for them, pastoralists essentially request that the current legislation be enforced strictly and fairly. As a result of the loss of consideration for their way of life and the lack of recognition of their contribution to the development of pastoral areas, they are asking for the States Generals on pastoralism to be convened to allow them to contribute to the Pastoral Code in preparation.

2 . The context

Niger is located in a Sahel-Sahara zone. Considered as the engine of the country's economic growth, the rural sector receives the bulk of investments. Niger draws more than 20% of its GDP from the livestock subsector, the major part of this relying on transhumance.

Soon after independence, Niger's government took some measures to defend the rights of transhumant pastoralists and their ability to exercise this activity. In 1961, a law was passed to set the northern boundary of the agricultural zone, beyond which agricultural farming was strictly forbidden. In 1987, the State recognized the multi-functional nature of pastoral spaces by granting pastoralists the rights to circulate and graze their cattle in agricultural zones at the end of the harvests. In 1993, the provisions of the Rural Code recognized all Niger people an equal right in terms of access to natural resources.

However, since the big draughts of the 70s and 80s, the level of degradation of Niger's environment has been accelerated. The combined pressure of the recurrent droughts and a strong demographic growth on the country's national resources has considerably eaten into its

production potential, thus regularly exposing populations to food precariousness. A recent multidisciplinary study (CRESA, 2006) however reveals that in certain densely populated regions, by resorting to the existing legal frame and with the support of land development projects, some communities have been able to preserve the balance between agricultural and pastoral activities, to increase their agricultural production, and preserve their environment.

This is not the case with the Dallol region, near the capital city, Niamey. In the fossil valleys, oriented north-south and used for transhumance (see the grey zone on the following map), we may rather note a rapid increase of human and animal pressure on natural resources; and this tends to jeopardize the durability of agro-pastoral production modes through a saturation of the lands, increase of uncultivated and indurate lands, absence of fallow land, the shrinking of forest lands, and loss of biological diversity. In turn, these have led to multiple conflicts bearing on land tenure and space management.

Being convinced that their legitimacy has legal bases, pastoralists deem that the legislation and its enforcement are no longer able to confer them clear and well-preserved rights for the exercise of their activity, while the progress made in terms rights favours the practice of agricultural farming.

From our interviews with pastoralists, it appears that, as a whole, they feel that pastoralism is marginalized, which contrasts with the important position it holds in the national economy, especially in the economy of the Dallol region.

3. The methodology

In 2006, IUCN conducted an analysis of the legislation and practices bearing on conflict management in the Dallol region of Niger, and then initiated consultations between agricultural and livestock farmers. Held in different localities of the agricultural and pastoral zones and at different scales, the consultations helped to generate a better understanding of the origins of conflicts as well as the current practices and the role of rights and institutions in their resolution. The recommendations derived from these are used in the present document.

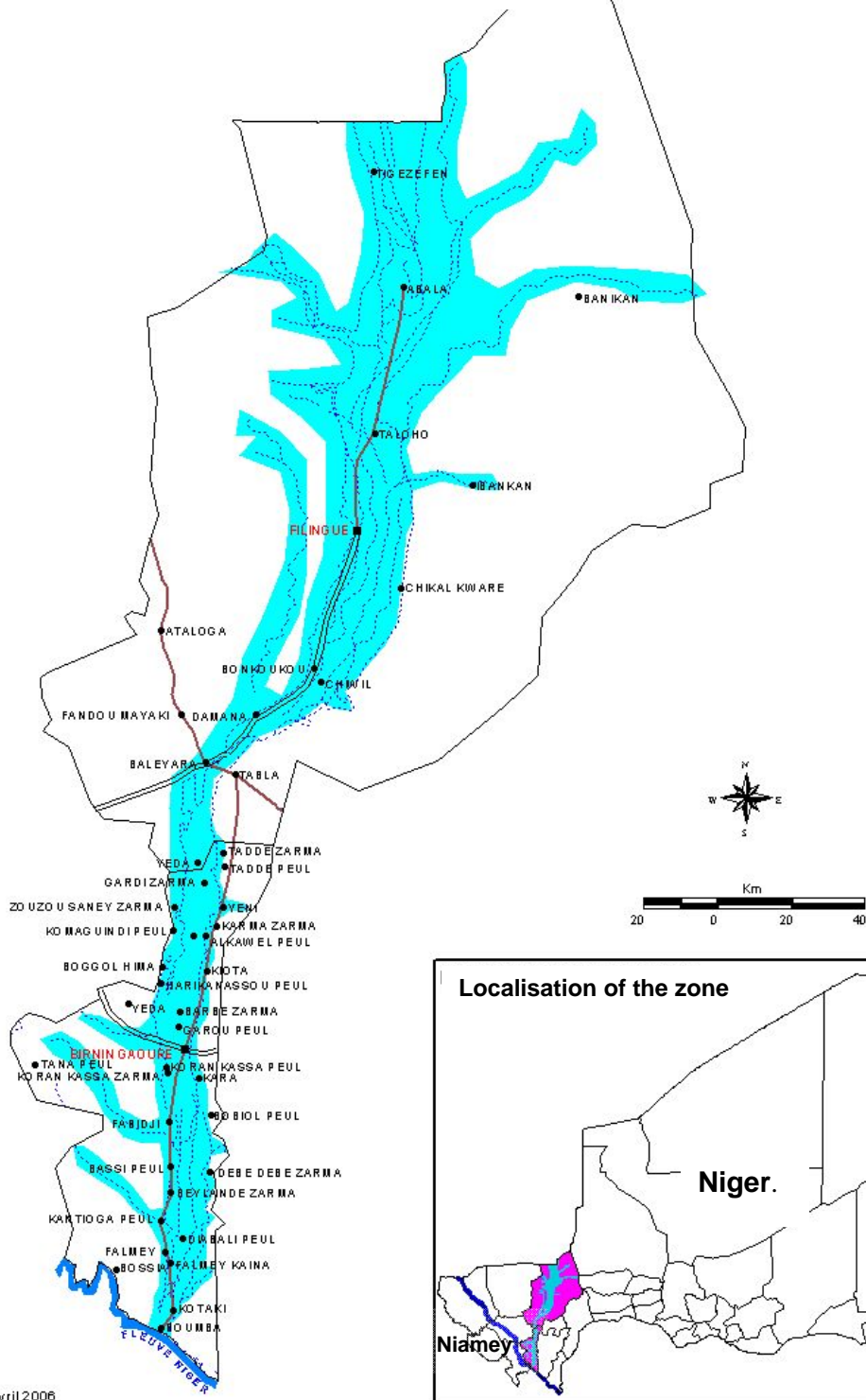
As part of this study, an additional desk research helped to identify the key texts dedicated to framing up pastoralism in Niger. A field survey was also conducted to collect the feelings and life experiences of pastoralists themselves. To do this, we convened meetings in three localities of the pastoral zone of the District of Filingué, namely:

- Abala
- Ekrafane
- Ezza : Here, pastoralists from both Ezza and Sanam (capital of the rural commune bearing the same name) were convened.
- Balléyara, a locality in the agro-pastoral zone, was replaced by Taïba. Unfortunately, we faced the same difficulties as those that made us substitute Balléyara with Taïba. A crowd of agricultural farmers showed up, and their main concern was to secure their farms located inside the pastoral enclave, even in case a pastoral code was to be adopted in Niger

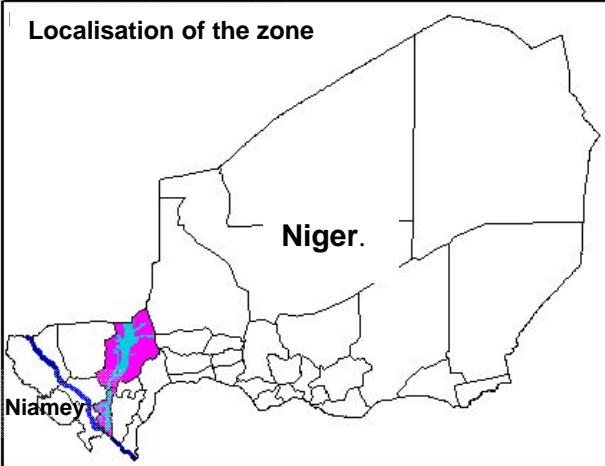
In the first instance, we formed focus groups to conduct general conversations with participant pastoralists. This helped us to identify opinion leaders with whom we conducted an in-depth investigation later on.

We also met with the head of the administrative post of Abala (covering the communes of Abala and Sanam), some town councillors, and some of the rare livestock technical agents.

Map of the Dallols – Filingue Birni Gaoure.



Avril 2006



4. The outcomes of the study

Based on this national legal frame, which has a regional scope, for a long time, pastoralists felt that they enjoyed some rights, that were enough to guarantee their activity nationwide and promote the territories they used.

4.1 The key texts with a clear impact on pastoralism in Niger

a) Identifying a pastoral dedicated zone: the 25 May 1961 law setting the northern agricultural farming boundaries in Niger

The 1961 law pushed up northward the pastoral zone created under the colonial period in 1954. However, this law remains motivated by the same logic of securing the pastoral land tenure, seen as supporting an economic activity that is important for the country, but also as supporting a culture and ways of life that deserve respect.

In this pastoral zone, livestock farming was meant to be a key and life structuring activity. In the pastoral zone, the laws only tolerate, on the one hand, traditional oasis farming, and on the other, gardening by pastoralists; gardening being necessary to help them face the numerous and recurrent droughts which may decimate their cattle.

b) Recognition of the multi-functional nature of resource spaces: 18 June 1987 decree N° 87-077 regulating the circulation of cattle in agricultural zones

This decree recognizes pastoralists the right to access the southern zone where agriculture constitutes a structuring activity. As a result, soon after the gathering of crops (around December or January, depending on the regions), all harvested rain-fed farms become pastoral spaces open to everybody. This is also valid for fallow lands and all non-cultivated spaces accessible to animals without causing damages.

It is therefore noteworthy that because it sets limits to property rights as defined in the civil code, this text lays the foundations of the multi-functionality of resource spaces in Niger.

It also determines the rules for compensating victims of farm damages resulting from pastoralists enjoying their rights to mobility. Such compensation falls within the competence of civil responsibility, and favours reconciliation before traditional authorities, prior to going to court, if necessary, where the following principle must prevail: “repair the damage caused, all the damage caused, nothing but the damage caused.”

c) Assertion of the willingness to secure rural production land tenure bases: the Orientation Principles of the Rural Code (POCR): March 3, 1993 Ordinance N° 93-15

POCRs aim at securing all rural production bases (agriculture, fisheries, livestock, etc.) and stipulate that “**natural resources are part of the nation’s common heritage. All Niger’s populations may claim equal access to them.**” This principle is more political than legal in scope, and may serve as a basis for pastoralists to claim for more equality, justice, and equity in terms of access to natural resources.

Pastoralists also appreciated the fact that the PCRs place corridors and transhumance paths in the State’s public domain; this being, in principle, a source of more security for them.

d) Determining the legal status of rural hydraulics: March 2, 1993 law N° 93-14 bearing on the status of water, and modified by law N° 93-041

The texts regulating the water sector in Niger are designed to avoid hampering pastoralists' mobility. In principle, even private waters (ponds located on private lands, private wells) must be accessible to herds, provided the load capacity of the infrastructures allows for this. All the more so, access to waters in public domains cannot be forbidden to pastoralists. The rules on access to public service (water sector public service) must apply in this case.

e) Decision A/DEC.5/10/98 bearing on the regulation of transhumance between ECOWAS member states.

Niger's laws have contributed to the sub-region's recognition of the need for and usefulness of mobility at the regional level. Despite some reluctance, ECOWAS member states have taken the full measure of the vital need for transhumance among the member states. Provided they observe certain obligations applicable to them, pastoralists may move their cattle across borders. These obligations involve:

- respecting the entry points of the receiving countries;
- carrying health certificates;
- holding transhumance maps.

4.2 The impacts of these policies on the pastoral environment and pastoralists's accountability

a) Impacts of Niger's policies on the pastoral environment

A recent study by CRESA¹ shows that significant progress has been made over the last decades in certain zones of Niger supported by land development projects. The main conclusions reached are the following:

- *« In the areas covered by the study, at least 250 000 ha of highly degraded land have been rehabilitated »*
- In the study areas, the impact of conflicts on the management of agro-pastoral resources is minimal. All the conflicts mentioned by the populations are minor ones resulting from small farm damages, and were resolved locally. However, on other lands, which are still to be delimited, conflicts are taking place (karébangou). Both sedentary and transhumant populations were satisfied to see peace restored through the support of the projects. For the transhumant populations, securing transhumance axes has been the most important activity conducted by the projects.
- Both irrigated and flood recession farming surfaces have significantly increased; and this has been translated into a spectacular increase of vegetable production (both in terms of revenue and food);
- Since the ecological crises of the 70s and 80s, producers have begun to protect natural regeneration on their farmlands. This has resulted in production systems that are more complex and less vulnerable to drought. The scale of this phenomenon (at least 3

¹ CRESA, 2006, Impacts of investments in the management of natural resources (GRN) in Niger: synthesis report. Regional Center for Specialized Training in Agriculture (CRESA), Niamey, Niger, 58 p.

million ha are concerned) is unique in the Sahel and perhaps in the entire African continent. Niger has good reasons to be proud of these outcomes.

The same study has revealed that investments made in the management of natural resources by the government and its technical and financial partners, as well as by producers, have had impacts on several Millennium Development Goals, especially Goals 1 and 7. According to the perceptions of villagers having benefited from GNR, food security in households has improved since the beginning of the land development projects.

Some agro-livestock farmers are very optimistic on the potential advantages drawn from these investments under GRN. Especially, they appreciate the development made on degraded lands and the delimitation of passage corridors, which, for herds and local herdsman, have led to improvements in the conditions of their movements. These have become shorter, and access to grazing areas now allows the cattle to feed themselves appropriately. The development of passage corridors, ligneous fodder plantation, and the seeding of reclaimed grazing areas have had direct impacts on the environment and herds, but also on pastoralists and their families in terms of the way they move their animals towards grasslands and organize their work.”

As a result, without actually referring to this, CRESA’s study indirectly testifies to the relevance of the current legislative frame in Niger, in terms of how it supports agro-livestock farmers and pastoralists through establishing dialogue between land stakeholders and implementing big land development projects.

b) The vision of pastoralists in the study area

As part of the present study, and in the absence of a land development project, pastoralists in the Dallol zone have a completely different vision:

1) They see **farmers settling in the pastoral zone with impunity**. Their settlement significantly contributes to the degradation of natural resources.

To protect their crops in pastoral zones, farmers fell down the few thorn plants (grazed by the cattle in times of food shortage) as a way of keeping their farms away from cattle intrusion. Thus, land clearance for farming purposes and the felling of trees to build fences lead to the destruction of pastoral zones, which become bare and are made vulnerable to all forms of erosion.

One other negative impact of Niger’s policies (especially, hydraulics related one) has to do with the concentration of water points in certain zones; which has led to overgrazing around these water points.

Designating the spaces not used in a visible manner for farming as **vacant and ownerless has made the pastoral environment fragile by opening it to all sorts of abuses** (systematic gathering of straw, even inside camps, thus leaving soils bare over long months, anarchic clearing for the purpose of land delimitation). As a result, pastoralists obviously feel deprived of their rights on pastoral lands.

This race toward settlement has led to a serious degradation of the pastoral environment (often irreversibly so), through clearing rich pastoral valleys and lowlands for agricultural farming purpose, while they are generally used as refuge zones for animals during lean periods.

2) **Pastoralists also deem that some provisions of the POCRs may become sources of insecurity of pastoralism**

This is the case with **the notion of attachment lands**, which they see as the beginning of a move toward establishing exclusive ownership rights. This comprises the risk of laying the foundation for a privative and progressive parcelling out of the entire pastoral space, thus making any form of mobility, pastoralism and traditional livestock farming in the Sahel impossible.

As a result, 100% of respondents refuse to grant individual pastoralists land ownership rights because this would be the prelude to the end of mobility necessary for livestock farming in the Sahel, so they feel.

For pastoralists, the POCRs make pastoral land a commodity like any other, thus destroying the last social and cultural defences that placed pastoral lands beyond mercantile considerations. **Pastoralists can observe that since the mid-90s the rush toward land delimitation has become more visible.**

3) Pastoralists can also see that the rights grant to them by the law are scorned through lack of consideration for their way of living and lack of recognition of their own rules of natural resource management.

As a result, a number of the rules established to regulate access to water points, access to pastoral zones after harvests, or else transhumance at the West African regional level, are an excuse for multiple abuses against them. As much as they appreciate the desire to regulate cattle movement and health and conflict resolution, they are concerned by the inflation of administrative paperwork and discriminatory practices coming from technical services (customs, livestock, police, etc.).

« All this is meant to transform us into sedentary populations and agricultural farmers. It is only for this ultimate objective that life is being made impossible for us. Yet we're not asking for anything but to be left alone" said one leader met at Ezza.

Authorizations to dig water points are granted without consulting pastoralists. Because these authorizations are paid for, the local authorities (Prefects, mayors, heads of associations, etc.) involved in the process tend to issue them at will. None of the technical norms in terms of mesh size is observed, and pastoral environment suffers as a result of this.

Concerning conflicts, civil responsibilities are frequently shunned, and pastoralists regularly find themselves facing more severe penal jurisdictions.

Whatever the regulation in force, the interviews revealed that 50% of respondents believe that access to water is very problematic and restricts mobility for the following reasons:

- Total lack of water points in certain grazing areas ;
- Barring access to certain water points, including public ones, for pastoralists
- Discrimination and racketeering around public water points, both in Mali and Niger;
- Excessive monetization of water points;
- Vegetable gardening around ponds, operated with the State's financial support, obstructs the passageways of animals. For pastoralists, this is clearly one of many examples illustrating the fact that the State sides with agricultural farmers, to their detriment.

5. Recommendations

Without clearly stating this, the pastoralists surveyed are simply claiming for the enforcement of the Rule of Law, as presented earlier.

Current Niger's policies do not make pastoralists accountable in the management of their environment. Through the notion of attachment lands and priority usage rights, the POGRs have awkwardly tried to grant control rights over natural resources to groups (families, tribes, clans, etc.) more or less lastingly settled on specific sites. But pastoralists were very quick to see this as an attempt to parcel out (privatization) the grazing lands, and this will eventually lead to conflicts and the eradication of transhumance.

1) Full respect of the pastoral zone as determined by the law.

For all respondents, land tenure security is not real for pastoralists in Niger, or at least in their zone. Consequently, they are all claiming full respect of the layout of the pastoral zone, which they all know perfectly well. One pastoralist met at Ezza meant nothing else but this when he was saying the following: *“We have been tracked by the farms all the way from Sokoto. Now we are no longer ready to continue the movement, because we no longer have anywhere to go.”*

2) **Recognizing pastoralists their real rights regarding their environment.** For this, the following recommendations may be made to them:

- **Recognize pastoral spaces as being part and parcel of the public domain of the State or local government**, and make them inalienable, imprescriptible, and non transferable.
- **Grant pastoralists and their customary leaders rights attached with duties, on their grazing lands**, which may cover one or several communes, districts, and regions ;
- **Recognize the same legal scope to all forms of land exploitation** (agriculture, livestock);
- **Promote pastoralists's customary practices in terms of grazing land management;**
- Take into consideration pastoralists's complaints regarding transgressions against their environment (clearance, abusive tree felling, early fire burning, etc.). This is not the case today, and the reason put forward is that pastoral space is open to everybody;

3) **Convene the States General on pastoral practices in Niger, prior to finalizing and adopting the pastoral code (in progress), and then organize annual pastoral days.**

This States General would particularly help design a global vision on traditional practices, which confers pastoralists the responsibilities they are asking for; the Code must be able to draw inspiration from these responsibilities;

The States general will also help create and reinforce a « pastoralist » network (national and international associations, intellectuals, etc.) which would defend pastoralists's interests at different levels (scientifically, culturally, historically, etc.).

ANNEX—Traditional values and practices likely to help managing natural resources rationally

« A nation cannot be built without respecting its cultural rights, and a true democracy cannot be instituted without taking into account cultural diversity. Any sentiment, which transforms identity affirmation into an exclusion of others, leads to shattering tolerance, its foundation; tolerance, that is, recognition of the other's equal dignity. Also, respect for and promotion of, cultural rights accelerate democratic consciousness.» El Makrini

In our investigation area, the pastoralists we met are exclusively Fulani people. That is why the values and cultures referred to here are those of this group of pastoralists. The examples and analyses here provided do not pretend in any manner to be exhaustive; they remain essentially indicative.

A. Traditional values: the Fulani way or else “Pullaku”.

Pullaku is the Fulani way of being. It is a whole life philosophy according to which, for instance, man is not defined simply in terms of the reason he is endowed with, but rather in terms of his capacity to feel shame. This requires that one observe the rules of discipline and indicates the founding values of Fulani identity. Up to the present, this socio-cultural value continues to determine and shape behaviour in certain Fulani societies.

Man, according to the Fulani ethos, is therefore a person ontologically made to feel shame. In his daily life, man is structured to feel shame, and this allows him to behave appropriately, depending on his status, sex, age, and marital situation, before his peers, in-laws, etc.

As a regulating principle underlying all social attitudes among the Fulani, for whom behaviour axiology is predominant, the feeling of *gacce* is that which allows man to behave morally and to differ from the animal. This is the dominant feeling in the social universe of Fulani people. (See *Abdoulaye Sow, University of Nouakchott, Mauritania*).

Gacce is a key value because the individual's capacity to feel honor, dignity, and self-control is proportionate to the level of *gacce* he embodies.

This aspect of civilization and culture is endorsed by 80% of pastoralists as being the solution to a peaceful management of both society and the conditions of its reproduction, that is, the environment and therefore natural resources. This would be efficient for managing pastoralists' quality of life sustainably because **Garsos** have always lead pastoralists, in the manner of veterinarians, environmentalists, biodiversity experts, by choosing and determining the itinerary and cycles of transhumance, based on all the parameters mentioned above. **Garsos** are entrusted with huge powers to punish failures to comply with Pullaku (modesty, solidarity, etc.). One form of punishment particularly feared by any Fulani is known as “JIGA”. Jiga is a process of ostracism against a person found guilty for transgressing the rules of Pullaku (no one talks to him, when he arrives in a given public place everyone departs, his wife cannot plate her hair, he cannot sell his goods, etc.). Overall, etymologically, the culprit becomes a rotting corpse (Jiga) shunned by everybody. The punishment can only be lifted if the culprit asks for forgiveness before the entire community.

This cultural practice may be more efficient in enforcing the rules of collective management of natural resources; that is, more efficient than the punishments of foresters or whatever state agent.

The collective equivalent of JIGA is *DANGOL*, which may apply to a group, a whole community or institution. This may for instance consist in organizing a boycott of the livestock markets of municipalities that are particularly hostile to pastoralists. Thus, when a given town or institution falls under Dangol pullaku, no Fulani will go to it.

For Fulani people, this is a peaceful and communal tool for the defence of their interests.

B. Traditional practices.

1. The need to maintain biodiversity.

Some respondents mentioned some traditional practices, which may help protect faunal biodiversity in the pastoral zones. Endangered tree species may be protected by conferring them a special status; some fragile herbal species may be fed on only at specific periods, and with a control over the grazing intensity.

2. There is a need to avoid camping at strategic points for grazing, to allow for a more sustainable use of the resources.

According to the pastoralists' tradition, such mechanisms exist for a rational management of resources. For instance, in the rainy season a good pastoralist must not camp near water points used during the dry season. Such a pastoralist is expected to endeavor to use the most remote resources, when this is possible. In so doing, he contributes to build the grazing strategic reserve for the dry season. If promoted, this practice would help address the legitimate concern of those who are claiming property rights for the owners of the attachment lands.

The true pastoralist is the one who behaves rationally along his rangeland, by proceeding from the periphery to the heart of the best pasturelands. He will never camp in the middle of these rangelands. However, all these regulations are disappearing, and so there is a need to create the conditions necessary for their renewal, argue some pastoralists met at Abala, Ezza, and Ekrafrane.

3. Traditional practices in terms of securing lost animals: an alternative to impounding animals.

Impounding is in principle conceived as a public rural police service aimed at securing lost animals. However, in practice, municipalities tend to make of it a fund mobilization and racketeering tool against pastoralists. The animals impounded generally die of hunger and thirst. The only concern of the officers of impounding services is to see the deadline, by which they can sell the livestock, expire (15 days for small ruminants and 01 month for big ones).

To remedy this, pastoralists have proposed an alternative solution to impounding their animals; and this consists in better respecting animals' rights. **The idea is to make pastoralists' local leaders (Garsos, Rugas, pastoral organizations) more responsible for the custody of their livestock; which would avoid the animals being sequestered.** If necessary, municipalities may sign conventions with these proven traditional actors, from times immemorial, specialized in securing lost animals.