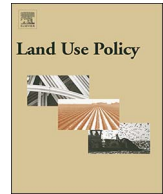


Contents lists available at [ScienceDirect](#)

Land Use Policy

journal homepage: www.elsevier.com/locate/landusepol

Open access and the sovereign commons: A political ecology of pastoral land tenure

Roy Behnke

University College London, United Kingdom

ARTICLE INFO

Keywords:

Common property
Pastoralism
Land tenure
Ideal free distribution
Open access

ABSTRACT

Conventional common property theory does not accurately depict the institutional arrangements that characterize many indigenous pastoral tenure systems in Africa and Asia, nor does it explain why these systems break down when exposed to markets and centralized government control. These theoretical anomalies are caused in large measure by the distinctive ways pastoralists regulate access to resources. The erratic and extensive nature of rangeland resources favours free movement to exploit fluctuations in resource availability and this promotes a degree of open access. In ungoverned or weakly governed areas, access is also regulated by political competition between sovereign territorial groups. External government control renders redundant the internal solidarity of these groups, which fragment rather than becoming officially sanctioned common property regimes. Market exposure exacerbates this process. The development of class interests and private property marks the emergence in these societies of the economy as a distinct sphere of social organization. Grounded in classical economic theory that presumes the prior existence of the economy, common property theory is ill equipped to comprehend this transition.

It is precisely their manifold marginality that enables rangelands to defy and disrupt social forces that elsewhere seem so powerful, and thereby to illuminate core tendencies, contradictions, and limitations in modern ways of knowing, using, and governing land and people

[Nathan Sayre, 2017:2](#)

1. Introduction

The concept of 'property' is one of the intellectual and ideological mainstays of capitalism, which makes it difficult to critically examine the idea ([Verdery and Humphrey, 2004](#); [Hann, 1998](#)). What is needed is the sociological equivalent of an Archimedean point, a position independent of current thinking ([Turton, 1992](#)). Indigenous pastoral land tenure systems, which engage in property relationships that are distinct from those prevalent in most other contemporary societies, provide such an opportunity, but only if these systems are not forced into theoretical frameworks that obscure their significance.

According to conventional common property theory, common property is exclusive property for a group and is consistent with restrained rates of resource exploitation ([Ciriacy-Wantrup and Bishop, 1975](#); [Bromley, 1989](#); [Ostrom, 2009](#); [Eggertsson, 2003](#)). In contrast, open access is the absence of property and promotes resource

overexploitation. Ecological theories provide a counterweight to these assumptions. A degree of open access is a recurrent feature of many indigenous pastoral land tenure systems ([Behnke et al., 2016](#); [Fernandez-Gimenez 2002](#); [Turner, 1999, 2011](#); [Moritz et al., 2014](#)). If this empirical observation sits uneasily with economic concepts of property, it makes sense in terms of ecological models of animal population distributions relative to scarce resources. These models predict that the freedom of movement implicit in open access will result in the optimal distribution of resource consumers (such as livestock and the humans who depend on them) relative to available resources (such as food and water) and thereby support larger populations than would otherwise be possible ([Fretwell and Lucas 1970](#)).

The ecological perspective is useful because it helps us to understand property relations in areas where resource consumers value the size of the communities that a site supports, in preference to the surpluses that can be extracted from it. While these attitudes may be of limited utility in a commercial setting, they can be expected to exist and remain intact in rural areas where communities must defend their resources from their neighbours, or where environmental risks and the uncertainties of daily life induce individuals to temper immediate gain in the interests of longer term security based on kinship and community. An appreciation of the cultural values and demographic consequences of these inclusive property systems is fundamental to an understanding of the diverse ways that people occupy, possess and use

E-mail address: roy_behnke@msn.com.

<https://doi.org/10.1016/j.landusepol.2018.02.054>

Received 11 May 2017; Received in revised form 21 February 2018; Accepted 27 February 2018
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Table 1
Common property versus sovereign pastoral property.

	Common property	Sovereign pastoral commons
External political conditions	Administered and condoned by the state	State antagonistic, ineffectual, or absent
Resources	Small size, well-defined boundaries and stably productive	Extensive area, contested boundaries, erratically productive
Ownership groups	Small size, clearly defined membership	Secondary users, networks of relationships, contested membership
Internal organization	Rule-based internal regulation	Access by negotiation, coercion, competition and strategic preemption

natural resources.

Table 1 presents the analytical challenge posed by pastoral tenure systems. Although indigenous pastoral tenure systems in Africa and Asia are routinely characterized as common property regimes, theories of common property do not in fact depict the institutional arrangements that characterize many of these systems.

Following Agrawal (2001) Ostrom (1990), Wade (1989) and Baland and Platteau (1996), the second column in Table 1 – labelled ‘common property’ – summarizes the case study literature on the ‘design principles’ that facilitate the operation of effective common property regimes. The third column in Table 1 – labelled ‘sovereign pastoral commons’ – summarizes the institutional arrangements exhibited by a large number of pastoral tenure and territorial systems that are described in the ethnographic literature and will be reviewed in this paper.

According to Table 1, indigenous pastoral tenure systems are not common property regimes or, at the very least, are unlikely to be effective ones.

In many respects, the pastoral systems of land holding depicted in Table 1 are mirror images of the version of collective ownership envisioned in mainstream common property theory and documented in numerous case studies of enduring common property systems. Rows 1 and 2 of the table characterize the external political and natural environmental conditions that sustain sovereign pastoral property systems. The bottom two rows in the table depict the institutional arrangements that typify these tenure systems.

- As depicted in row 1 of the table, differences begin with the role of the state in regulating property ownership. Within the common property paradigm ‘As the ultimate guarantor of property rights arrangements, the role of the state ... is central to the functioning of common property institutions’ (Agrawal, 2003: 250); or more simply, property rights are ‘a claim to a benefit stream that the state will agree to protect’ (Bromley, 1991: 2). In contrast, the defining feature of sovereign pastoral territorial and tenure systems is their marginality from or explicit antagonism to external authority. These are collective property systems that exist or try to exist outside the ambit of state power. In these property systems, community viability is paramount because it is the sovereign community that secures the property rights of its members, not some outside administrative or legal authority, and without a viable community there are no individual rights.
- The distinctive nature of these tenure systems is also related to the kinds of natural environments in which they are found (row 2, Table 1). Extensive pastoral production systems typically emerge where natural resources are low in value per unit area and erratically productive – at extreme latitudes, high altitudes or in semi-arid regions. In their attempt to match feed demand to feed supplies, migratory herds physically track ephemeral resource concentrations. The environmental characteristics of pastoral natural resources therefore militate against the ownership of the small, clearly demarcated territories that are characteristic of stable common property regimes (Agrawal, 2001)
- In conjunction with environmental instability, the autonomous status of land-owning groups promotes territorial ambiguity by exposing geographical boundaries to external challenges, or by eroding social boundaries as allies are recruited from outside to

bolster a group’s strength. Boundaries and identities are often vague, insecure or simply ‘on the move’, calling into question a basic premise underpinning common property theory – the existence of clearly defined property-owning groups and property rights (row 3, Table 1).

- Under these conditions, rule-based management of natural resources by the commoners who own them – seen by common property theorists as the *sine qua non* of sustainable resource use – gives way to calculations of expediency. Networks of social relations, negotiated access, and political or military competition replace administrative regulation as the mechanism controlling rates of resource exploitation (row 4).

Ethnographers have described the anomalous aspects of pastoral resource control and territoriality for individual societies, but the fact that these anomalies recur so commonly suggests that we are witnessing a widespread phenomenon and that we should seek some general explanations for it. In this analysis I will argue that sovereign pastoral tenure systems are sustained both by their political autonomy and by the volatile natural environments in which they operate. These conditions support the creation of tenure systems that regulate and promote a degree of open access. This open access is not indicative of the absence of property, but of distinctive kinds of property relationships that are not predicated on exclusion. Sovereign pastoral tenure thereby questions the universality of classical economic concepts of ownership and resource stewardship that rest on the ability of owners to exclude non-owners. Initially formulated by Ricardo (1821), these concepts still underpin common property theory and limit the capacity of these theories to comprehend a wide range of indigenous and historically important systems of land management.

2. Environments that encourage open access

In areas where resources are heterogeneous and asynchronous in the timing of their productivity, there exist biological incentives for livestock managers to match livestock populations to resource abundance. Under these conditions, environmental modelling, experimentation, and field studies confirm that free access to resources supports larger animal populations and can improve the health, reproduction and survival of both wild and domesticated ungulates. These results are summarized below.

2.1. Modelling and experimentation

Environmental modelling provides evidence of the impact of constrained movement on animal performance. In these experiments, a realistically modelled grazing environment provided a constant backdrop for alternative scenarios in which livestock moved freely to access temporary sources of forage, or, alternatively, were confined to smaller areas with fewer foraging options. At a South African study site, a 300 km² parcel was conceptually subdivided into fenced 10 km² parcels, which produced an estimated 19% decline in cattle numbers (Boone and Hobbs, 2004). At a second study site in Kenya, researchers examined the impact of conceptually subdividing three Maasai group ranches into 1 km² or 10 km² parcels. In one group ranch, fragmentation led to the ranch area supporting 25% fewer cattle when divided

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