

The World Bank
Legal Department / Africa Region

Mauritania: Technology Fosters Tradition (TFT)
An Initiative funded by Norway

CONCEPT NOTE

June 2002

OVERVIEW

The objective of this Initiative – Technology Fosters Tradition (TFT) – is to document the totality of natural resource property- and use rights in a given locality in eastern Mauritania (to be identified), through the beneficiaries themselves. The Initiative would empower the beneficiaries to adopt their resource use rights as the “law” governing their area, and observe over about three years whether the participants actually abide by these mutually agreed upon rules. The chosen locality would cover both sedentary and migratory land use.

It is assumed that consensus among the target beneficiaries will lead to a confirmation of all existing use rights, and that this represents the best option of land use through striking a balance between short-term economic return and long-term environmental sustainability. The Initiative would explore the existing situation in depth, providing a “best practice example” for the initial steps of any project under the World Bank’s community-driven development approach.

The Initiative would not provide investments. As the population expects tangible returns for its participation, such investments would be provided through a partnership with projects implemented by the World Bank and the *German Gesellschaft für Technische Zusammenarbeit* (GTZ) in the target area. Furthermore, the Global Legal Information Network (GLIN) and, through it, the US National Aeronautic and Space Administration (NASA) is also participating.

The Initiative is called “Technology Fosters Tradition” because modern technological tools, such as computerized maps, GIS, combination of geographic data and text, and dissemination of data via the Internet, would help to: (1) elicit the specific traditional knowledge applicable to the chosen locality, (2) provide constant visible feed-back of the map depicting the rights to the population and (3) monitor and track the actual observance of the traditional knowledge, transformed into rights, by the local beneficiaries. Availability of the data to everybody at all times is assumed to facilitate these developments. Changes in the environment, if any, would be detected by remote sensing and made public.

CONTEXT

Changes in land use, increase of incidents of conflict

Over the last 25 years the isohyet for 400-millimeter precipitation has moved approximately 40 kilometer southwards in the Sahel. This is partly responsible for the increase in desertification in the east of Mauritania. As a consequence rain fed agriculture is no longer possible in many places. However, local agricultural farmers, encouraged by the Government and donors, continue to plant north of this benchmark isohyet. This creates conflicts between pastoralists and agriculturalists as well as amongst pastoralists.

Mauritania’s traditional social organization has undergone drastic changes over the last 25 years, as large numbers of the rural population have migrated to urban areas, notably Nouakchott, because of the increasing desertification. At the same time, members of Negro-African ethnic groups from the south, propelled by demographic pressure, have to some extent filled the void, leading to a new ethnic

mix in some areas. Pastoral grazing resource areas further south for use during the *transhumance* have been otherwise appropriated and shut off to itinerant herders.

The Government program in support of the rural population emphasizes irrigated agriculture, which accordingly receives most funding. Rain fed agriculture ranks a distant second. Livestock has received veterinarian services in the recent past, but, even though considered an important sector in the overall drive for poverty reduction, has not received much support.

The rural economy: Livestock, an undervalued asset

The livestock sub-sector does not provide for large-scale employment. This may be one reason why the Government concentrates on supporting irrigated agriculture. At the same time, the nomadic practice of livestock raising represents core values of Mauritanian culture. Its demise would have a profound negative impact for society, beyond mere economic loss.

Whereas the statistical evidence for agricultural production in irrigated agriculture is precise, it becomes less reliable in the case of rain fed agriculture, and involves pure estimate for pastoralism. Therefore, comparisons are difficult to make. However, anecdotal evidence would seem to indicate that the overall value invested in livestock is about double the value of all crops. The economic assessment of the value of nomadic livestock is rendered more difficult by two characteristics of this sub-sector: (1) the extent of the trade in camels, cows, sheep and goats across the international borders is unknown, and (2) herds are sometimes kept for purposes of status only, and not for economic reasons.

Traditional knowledge: Under-appreciated in modern legislation

The Mauritania legal system is the result of three distinct sources of law which overlap and are not always coherent: (1) the traditional customary rules and regulations, (2) the Sharia Islamic law system (*rite Malekite*, which is one of the four schools in Islamic law), and (3) the French civil law system. All three sources of law coexist, but neither is professionally implemented. This leads to a general disrespect of legal rules, the Kadi and the judiciary, and it fosters corruption (judgment shopping).

Since 1968, Mauritania has tried to harmonize the civil law and the Islamic legal rules. In the last decade, this work was assisted by World Bank funding. Despite considerable efforts, it has not yet led to any tangible results in practice.

A credible and effective legal system, which guarantees social peace, and is the foundation of any society, depends on the voluntary adherence of the citizens. The citizens will only respect a legal system that reflects their traditional values. A legal reform, which is needed in Mauritania in view of the fast-changing society from a tribal context towards the modern state, would have to build on the traditional values that are shared by the majority of society. In order to do so, these values first have to be recognized, defined and evaluated. This work has, so far, not been done. It can only be done with active participation of the population, through articulation of their governance system.

An example of such work is the “*Code Pastoral*”, enacted in Mauritania in 2001. The Code was initiated and prepared by GTZ staff working on GIRNEM, the GTZ project that the TFT will collaborate with (see below). It was discussed at

length with the local population and Islamic scholars. It is a good example for lawmaking in several ways: (1) its language follows a natural flow, and is immediately understood, and (2) the objectives pursued and the values protected are spelt out in the first paragraphs. The entire law is short and explicitly embodies both traditional and Sharia regulations. A conflict resolution mechanism built into the law provides for the official judiciary only as the third and last resort (the first level is the parties supported by their respective elders, and the second is local administrative mediation). This law was greeted by Parliament with approval. It may be considered a model to be used for reforming the older laws pertaining to the environment (for example land use, forests and water).

The TFT will facilitate implementation of the Code in its target area, and emulate the drafting methodology for its own work.

Natural resource management, conflicts, and governance

The broader context for natural resource management and conflict management lies with the rule of the state and the quality of governance. The resolution of conflicts is closely linked to development strategies and management of natural resources, and peace and stability are understood to be necessary preconditions for development.

The World Bank's 2000 study "Can Africa claim the 21st Century" establishes four broad pillars of support to Africa's development, one of which is reducing conflict and improving governance. Reduction of conflicts is especially targeted in the TFT. Whether on the local or the regional level, conflicts in Africa represent a serious problem (about 2 percent of per capita GDP are lost annually due to conflicts, according to World Bank data). The other pillars, which also are being targeted to one extent or another, are: investing in people, increasing economic competitiveness and diversification, and improving aid effectiveness while reducing aid dependencies.

Due to the declining attention to traditional values in Mauritania, together with the diminishing authority of the tribal hierarchic structure, destructive environmental behavior increases. The modern administration cannot curtail such misuse, because of competing interests and lack of oversight. As indicated, the existing conflict-avoidance or conflict solving institutions is discredited. A new approach is required.

The technological challenge

New technology will have to be utilized to make a program of documenting traditional land use knowledge effective and transparent for the beneficiaries. Towards this end, information on existing land use rights will be made graphically available both on paper and in digital form, the latter to be based on GIS. Graphical representation is intended to support the adherence of the local population to the identified land use patterns, which will be established based on information they themselves provide.

Mastering the modern technology necessary for continuous follow-up will need focused and special training of selected members of the local communities. The perceived affinity of the local people in the area where the TFT will operate to modern Information and Communication Technology (ICT), as witnessed by the

boom of expansion of cellular telephones and Internet services in Mauritania, will assist in achieving results.

Land management and poverty reduction

The documentation of traditional land use practices and patterns, and its graphical representation, is aimed at reinforcing the adherence to land use rights. They will be recorded in the local language(s) and translated into French. The respect of these rights by the local and the central administration will be observed by the TFT and the projects with which it collaborates (see below). The transparency of the governing land use rights in the identified area, and the adherence of the local population and the administration to these rules, is expected to contribute to limiting the amount of conflicts, and to increased success in mediating conflicts.

Transparency of the land-use rights will also clarify access to land use and therewith provide a data source for gender studies. While TFT does not focus on women's property rights *per se*, it provides material for further socio-legal work in this area.

Relevant past and present interventions

The World Bank has been involved in the pastoral sector in Mauritania since the late 1980s. The projects supported by the World Bank include the First and the Second Livestock Projects (Cr. 0273 and Cr. 1658), and the Rainfed Natural Resource Management Project (RNRMP/PGRMP, Cr. 2965). The RNRMP/PGRMP will close in March 2003, and a follow-on project, the Community-Based Rural Development Project (CBRDP/PDRC), is under preparation.

The GTZ has been active in the rural sector in eastern Mauritania (the two Hodhs, where the TFT will operate), since many years. The relevant GTZ project is "Gestion Integral de Resource Naturelle En Mauritanie" (GIRNEM).

The accumulated experience of these projects constitutes an essential knowledge base for the TFT. This is particularly true because both donors designed their projects specifically to be holistic and community-driven, in order to take the cultural, social, and economic realities of the selected area into consideration before selecting specific interventions. It is possible, however, that in the process of operationalizing this approach the focus has shifted to individual investments, and that the holistic aspect of natural resource management (NRM) has been pushed in the background. The TFT will take up the initial project concepts of both these donors in its chosen area of operation in order to complement their findings.

ISSUES

The key issues faced by Mauritanian agricultural and rural economic systems are the following:

- a) The rural-to-urban migration,
- b) Pastoralism provides high returns and is the only feasible form of land use in large areas of the country, yet receives low priority compared with rain fed and irrigated agriculture,
- c) Desertification (man-induced and through the southward movement of the 400 millimeter isohyet) and deterioration of wet lands and marginal areas,

- d) Demographic pressure leads to unsustainable land-use activities and in- and out- migration,
- e) Traditional communal property rights' systems are in flux,
- f) There is a lack of traditional institutions for mediating conflicts over natural resources within and across ethnic groups, and between traditional institutions and the administration, and
- g) Legislation is ill adapted to local particularities (exception: *Code Pastoral* and new legislation pertaining to oases).

OBJECTIVES OF THE TFT

Overall objectives

- a) Ecologically and economically sustainable natural resource management, and
- b) Reduction in the level of conflict among the target population.

Value added for beneficiaries

- a) Clarification of existing property- and use-rights,
- b) Graphical visibility of property – and use rights – for all, including beneficiaries, administration, and outsiders,
- c) Empowerment to safeguard and enforce property- and use-rights, and
- d) Facilitation to obtain tangible investment support from participating donor projects due to clarification of rights.

Value added for the Government

- a) Potentially higher income from livestock taxes,
- b) Higher and more sustainable return on marginal lands, and optimal utilization of the various agro-ecological zones,
- c) Reduction of conflicts, and
- d) Protection of natural resources, the environment (incl. biodiversity protection), and nomadic culture.

Value added for the World Bank and GTZ

The project will provide more clarity regarding:

- a) The importance of pastoralism in the rural economy of a Sahelian country,
- b) The importance of traditional knowledge in traditional/local natural resource management, and
- c) The relevance of embedding traditional values in the content of regulations and laws, of respecting tradition in form and concept when writing regulations and laws in order to assure adherence.

CONTENT

The work would, in the proposed pilot phase, address the following:

- a) An area assessment to: (1) assess and evaluate various ecological, ethnic and livelihood/subsistence practice zones in the country and their relationships to each other, and (2) identify suitable localities in the southeast of the country to test the design of the Initiative in a limited number of villages and areas (Pilot areas),

- b) Identification of suitable partners (preferably local) to work with the local population in the Pilot area(s),
- c) Identification of local land use patterns based on traditional property- and use rights, through interviews with the local population,
- d) Securing administrative support (*hakim* and *wali*) to enable local communities to practice these traditional land use patterns (even if formally in contradiction to the present national law),
- e) Codification of these traditional property- and use rights in the local languages, explaining the respective notions in all applicable languages (including a dictionary of terms),
- f) Translation of the data into Arabic and French,
- g) Establishment of a rural registry based on the land-use pattern identified under (c) above,
- h) Supporting existing relevant traditional institutions, and establishing new co-management institutions among representatives of right holders and the public sector, based on said regulations ((c) above), and
- i) Registration of said regulations ((c) above) on a central digitized GIS centered map and the Internet (GLIN).

MONITORING AND EVALUATION

In order to assess the performance of the Initiative, criteria or indicators need to be established and monitored on a regular basis. These indicators will measure formal and substantive issues. The formal indicators will pertain to methodology (tools), while the substantive indicators will pertain to the results achieved in changing and reinforcing behavior. The indicators can also be classified in terms of their focus on measuring change in the short-term and the long-term.

A preliminary set of indicators would include the following:

- a) Reproduction of land use patterns on maps,
- b) Consensus among the local population regarding the land use patterns described,
- c) Recording of rights in the local languages,
- d) Establishment of a classification of rights, from 'strong' (akin to ownership) to 'weak' (akin to lease),
- e) Establishment of a lexicon providing equivalent terms of the various indigenous rights in all relevant languages,
- f) Monitoring environmental change by means of remote sensing,
- g) Observing the degree to which the established rules are being followed by the local population,
- h) Extent to which the administration honors the agreement to uphold the local rules,
- i) Number of conflicts being adjudicated following the traditional rules,
- j) Extent to which the local population defends these rules against intruders (that is, local people not included in the initial assessment of land use patterns),
- k) Compilation of assessed land rights into a rural registry, and
- l) Extent to which the local population emulates and implements the approach in other localities.

OUTCOME

The outcome will be a body of traditional knowledge pertaining to local management of natural resources, in particular rangelands. This body of knowledge will be available in print form (in Arabic, French, and all relevant local languages), as well as via the Internet.

The TFT web site, at www.cbnrm.net/web/tft/, itself an outcome of the project, will carry updated and detailed information about the process of implementing the Initiative.

RELEVANCE

The TFT Initiative aims to prove that traditional land use rights still exist, serve to regulate access to scarce resources, are adhered to and avoid conflict once the local population is empowered and permitted to do so. It will give an overview of access to resources by gender. Furthermore, it will gather data to measure whether such traditional land regulations are well adapted to the environment and yield an optimal result in terms of productivity and sustainable management. In the affirmative, TFT should reform law making in Mauritania in the environment sector, by: (1) drawing the population into the process, (2) encouraging the development of differential legislation for different biomes/ecosystems, and (3) modernizing the drafting language in order that it becomes comprehensible for all beneficiaries.

If the TFT proves successful, its underlying assumptions, approach and methodology should be adopted by all donors involved in the rural sector in Mauritania, with the participating World Bank and GTZ projects acting as sponsors and catalysts. The TFT would strengthen the community-driven development approach that the World Bank now mainstreams. These projects will, in turn, become more effective through increased participation, generating higher economic return, thereby reducing poverty among the rural population.

THE FUTURE

In the course of implementation, the Initiative will consider the possibility and feasibility of replicating and scaling up the approach. More specifically, if proven successful, it would be appropriate to extend the approach to cover other ecosystems / biomes and beneficiary communities in Mauritania.

The situation in Mauritania, which prompts the relevance and usefulness of the TFT approach, is found also in other Sahelian countries. Accordingly, the TFT will emphasize dissemination of its results, as well as communication with relevant parties in these countries.

TASK TEAM AND STAFFING

The task team is made up of: Hans Werner Wabnitz (Sr. Counsel, LEGAF, World Bank; Task Team Leader TTL, hwabnitz@worldbank.org), Amadou Oumar Ba (Agricultural Specialist, World Bank Nouakchott Office; TTL, aba1@worldbank.org), Lars T. Soeftestad (Lead Consultant; Manager, Supras

Consult; Co-TTL, isoefftestad@supras.biz), and Thomas Sommerhalter (Project manager, GIRNEM, GTZ, Aioun al Atrouss; thomas@gtz.mr).

Short-term consultants, both local and international, will be hired to perform specific tasks and deliver specific services throughout the project.

An international-national Technical Advisory Team as well as a Policy Evaluation Committee will be appointed. The Technical Advisory Team would be consulted on a regular basis regarding adequacy of methodology and interpretation of findings. The Policy Evaluation Committee would be the liaison body to the national level, and would facilitate the mainstreaming of the processes used into law.

QUALITY ASSURANCE

The proposed initiative will benefit from comments by World Bank and GTZ staff, as well as by external peer reviewers (to be selected), on strategic relevance, scope of work, timeliness, internal quality, likely impact, and clarity of presentation.

TIME TABLE

The assumptions underlying this timetable is that the Initiative will start in July 2002 and go on for a total of three years:

1. Identification and Concept Review: November 2001
2. Presentation, Funding, and Government Accord: June - October 2002
3. Pilot locality identification, discussions with World Bank and GTZ project staff: Spring 2003
4. Revised Concept Note (following peer reviewer input): June 2003
5. Data collection: Fall - winter 2003
6. Training and capacity building: Winter - summer 2004
7. Consolidation, comparison, integration, process-building: 2004 - 2005

BUDGET

The total budget is USD 184.500,-.

Table 1 summarizes the task budget. The budget does not include contributions from the GTZ and the World Bank projects.

Table 1 – Mauritania: Technology Fosters Tradition, Budget

	FY02	FY03	FY04
Consultants, intl.	40.300	10.000	40.000
Consultants, local	15.000	10.000	15.000
Workshops	12.000		
Training	7.500	12.000	5.000
Land use registry and technical tools	5.500	7.200	5.000
Totals	80.300	39.200	65.000