

*Full length paper*

**DISENTANGLING CONFLICTS IN PASTORALISM: GENESIS, ARBITRATION AND INSTITUTIONS**

**KUENGA NAMGAY\***

Department of Livestock, Ministry of Agriculture and Forests, Thimphu, Bhutan.

\*Author for correspondence: kuengadruk@gmail.com

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**ABSTRACT:** Increasing human population and reduced resource availability is expected to result in conflicts owing to the vicious cycle of irrational resource use and management. Worldwide, mobile herders are caught in conflicts brought about by changing policies, shifting user rights and climate change. This study explored different types of conflicts mobile herders in Bhutan face, existing arbitration forums and changes being experienced, against the backdrop of new land law that sought to nationalize grazing areas. Research information was collected through qualitative in-depth interview with 33 informants and seven focus group discussions with mobile herders, residents downstream living adjacent to herders' grazing areas and government agents. Results revealed mobile herders face various types of conflicts but not necessarily lead to neo-Malthusian and Hardinian situation. Old traditional institutional arrangements and formal government structures are being rendered defunct by new legislations, causing confusion and varied interpretations. With the new land law now under implementation and having nationalized all grazing areas, how these conflicts transform and impact the mobile herders is yet to be seen. Much of the conflicts are brought on to the mobile herders, owing to their way of life and new policies, and not of their making. Consistent policy interpretation and sustained tenurial rights will reduce conflicts herders face. Prior participatory consultation and information sharing with the constituents would enhance understanding and ownership of such policy changes and reduce conflict.

**Keywords:** conflict, grazing, land legislation, land tenure, pastoralism, rangeland, rights.

## **1. INTRODUCTION**

The increasing human population and shrinking resource size and availability, lead to conflicts in accessing these resources. As productive resources such as land and water become scarcer, conflicts between mobile pastoralists and sedentary farmers escalate (Dixon et al. 2001). The growth in human population and equivalent reduction in human-animal ratio amongst pastoral societies is most apparent in Greater Horn of Africa than anywhere else (Sandford 2006). Conflicts also result from land grabs, either state sponsored or through corporate capture, with vague tenure arrangements (Hall et al. 2011).

Reports on conflicts affecting mobile pastoralists are largely on African pastoralists (Moritz 2006; Blench 2017) and Mongolian pastoralists (Boone et al. 2008; Mearns 1993, 2004). The narratives often evoke neo-Malthusian and neo-Hardinian models of population growth and the vicious cycle of irrational and unsustainable resource management (Milligan & Binns 2007). The discussions on these models dominate the political and public policy making discourse in the developing world.

It is important to note that crisis situations, conflicts, and weakening of indigenous customary institutions are not uniform. Spatial and temporal heterogeneity within regions and states also needs to be considered (Milligan & Binns 2007; Moritz et al. 2009).

In Bhutan, the environmental policies take pride in following a middle path approach, balancing conservation objectives with livelihood and wellbeing of the people (RGoB 1998). However, with more than 51% of land under some form of protection and changing policies on resource access for extensive pastoral practices, some conflicts are inevitable. Moreover, conflicts with the residents living adjacent to herders' grazing areas were reported in 2009 by some mobile herders from Ura Village in Bumthang district. It was also reported later in the Bhutanese mainstream media about such conflicts from other districts, particularly after the enactment of Land Act of Bhutan 2007.

### **1.1 Conflicts in pastoralism**

Moritz (2006) in a review on conflicts notes, Africa has transformed, 'from an abundance to scarcity of land in

one century'. Over the years, increasing imbalances in humans, livestock and the environment has resulted in inequality and impoverishment of pastoralists (Sandford 2006). Consequently, pastoral conflicts in Africa take a whole new level, often involving arms, on the grounds of ethnicity, religion, and culture in addition to the normal herder-farmer and herder-herder conflicts (Moritz 2006). The rise in human population and trade, means more demand for meat and milk, but with taking over of fertile river bed areas by croppers and government's policy of adopting ranching system for these traditional nomadic pastoralists means more conflict (Blench 2017).

Similarly, in Mongolia pastoral populations have increased after the collectivised system ended in 1990. Many former technical and urban cadres, rendered redundant by the decollectivisation, took up pastoral trade. High numbers of new entrants in pastoral systems reduced overall grazing resource availability and caused tension. In 1995, more than 40% of these Mongolian pastoralists owned less than 50 head of livestock per household (Boone, et al., 2008; Mearns, 1993, 2004). However, Milligan and Binns (2007) contends contrary to the dominant discourse on the herder-farmer conflicts, symbiosis between them does exist in many places and local resource management rules are being adhered to. The authors further note myopic focus on natural resource degradation and management, donor influence, lack of reliable research and statistics constrained by funds, and lack of space for pastoralists to articulate their needs, impedes formulating evidence-based policies (Milligan & Binns 2007).

Similarly, Moritz et al. (2009) have argued that despite similar if not greater increases in human population in West Africa than Greater Horn of Africa, pastoralism is not necessarily in crisis. They have shown how West African pastoralists have used different strategies such as integration and intensification; movement to the sub humid zone; and extensification to cope with pressures on their pastoral systems.

In Bhutan, the national parks provide incentives such as corrugated aluminum sheets, electric cookers and a few exotic crossbred cattle to compensate for the restrictions imposed on pastoralists' access to forest resources for roofing materials, firewood, and traditional extensive system of grazing local cattle in forest *tsamdros*. However, such incentives do not meet local people's needs, while restrictions on the locals' access to the natural resources are many and sanctions often punitive (RGoB 1995). This creates resentment and risks retaliatory actions, such as poisoning wild animals or poaching which, again risks stricter penalties (RGoB 1999; Rinzin et al. 2009; Wang et al. 2006; Wangchuk 2004). Such policies and conflicts together have caused loss or weakening of traditional resource management institutions.

## 1.2 Pastoral conflict in Bhutan

The study reported here is an excerpt out of a broader PhD project on transhumant agro-pastoralism in Bhutan. One of the issues that prompted this study at the conceptual stage and later emerged strongly during the in-depth interviews in 2010 was, the conflict between the mobile herders from northern Bhutan with the residents downstream, living adjacent to winter *tsamdros* (grazing areas). It appeared though some conflicts existed earlier, however, the magnitude and frequency has increased with the enactment of the new land law (Land Act of Bhutan 2007).

This paper, therefore, attempts to understand the nature of conflicts, its causes and how such conflicts were resolved in context of modernization and new legislations replacing local traditional/indigenous institutions.

## 2. MATERIALS AND METHODS

The results reported here are based on the qualitative data collected from six pastoralist villages in western region, two pastoralist villages in central east, and 2 resident villages in the south, Kungkha in Chhukha district in the south and Brokser in Mongar district, in the east.

A qualitative in-depth interview with 33 informants involving 24 herders, six government employees, and three non-government informants, collected information on different types of conflicts that existed between mobile herders from northern Bhutan and residents living downstream adjacent-to or along the migratory routes. This was later probed further and triangulated with seven focus groups discussion with mobile herders, downstream residents and government agents.

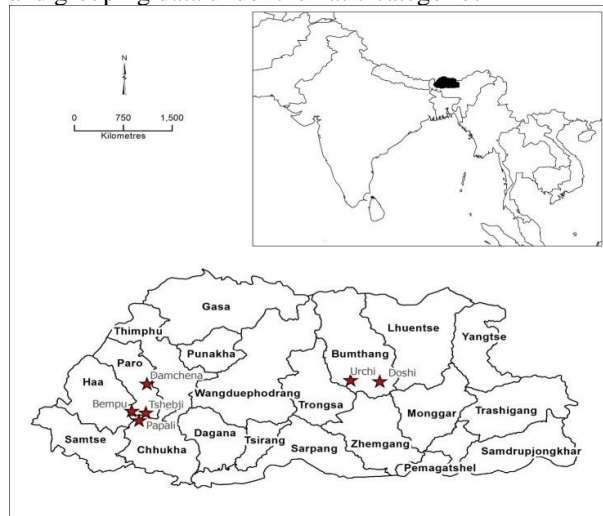
In-depth interviews in 2010 in six villages, namely, Papali, Bempu, Tshebji, and Damchena in the western region, and Urchi and Doshi in the central east region in Bhutan (Figure 1), confirmed the report of such conflicts brought to Ministry of Agriculture and Forests' notice in 2009 by herders in Ura, Bumthang. These villages were selected as majority of people in these villages relied heavily on their cattle raised through mobile herding.

This was followed up in 2011 with focus group discussions with mobile pastoralists in Tshebji village in west, Doshi and Urchi Village in central east, and downstream villages of Brokser in east, and Kungkha in west south. Another focus group discussion was held with livestock development personnel in Lhuentse district, in the east where Doshi herds migrate to (Figure 2).

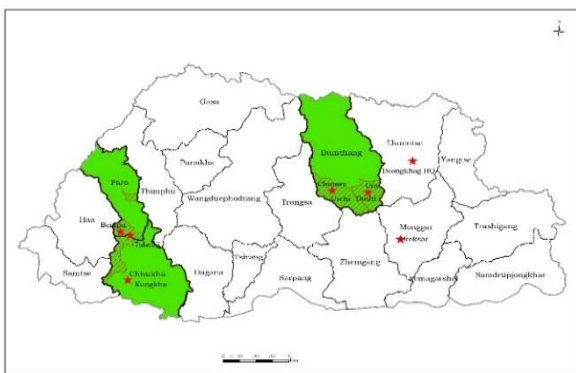
Purposive sampling was done to select key informants who had extensive knowledge on mobile herding and issues surrounding it. A few informants, initially selected based on their local knowledge, helped to gather more informants through the snow-balling technique (Noy 2008). The nine agency informants possessed substantial knowledge on livestock development and conservation policies in Bhutan.

In-depth interviews with open-ended questions took place at key informants' residences in the local language *Dzongkha* (Tong et al. 2007). The in-depth interviews were audio recorded, and later transcribed into English using MS Word.

In-depth interviews were analyzed manually, coding and grouping data under thematic categories



**Figure 1:** Bhutan in a regional context with the six study sites



**Figure 2:** Focus group discussion areas

and sub-categories. An inductive cross-interview analysis allowed patterns, themes and categories to emerge out of the data that helped draw conclusions on interview questions (Patton 1990).

### 3. RESULTS

#### 3.1 Understanding upstream-downstream resource access conflicts

During the in-depth interviews in 2010, conflicts between Doshi herders and downstream residents in Lhuentse district concerning access over *tsamdros* resources emerged. This type of inter-district resource use conflicts appears to be chronic but reportedly got reignited as a result of the new land law-Land Act of Bhutan 2007.

Probing further during focus group discussions in 2011, it was revealed that not only did the new land law escalate existing conflicts, but there existed other types of conflicts in other areas that migratory herders experienced with local residents. During the course of the in-depth interviews and focus groups three types of conflicts were uncovered – conflict over access to *tsamdros* resources, conflict over traditional route right of way, and conflict of mobile herders' cattle straying into local residents' crops.

#### 3.1.1 Conflicts associated with access to *tsamdros*

This type of conflict is experienced by mobile herders with local residents over access to *tsamdros* in the south. The issue seems to have recurred many times in the past and has in some places been instigated or heightened by the Land Act of Bhutan, 2007. This type of conflict was present in south-western *tsamdros*, central-south *tsamdros* and central-east *tsamdros*.

It was first reported in Ura gewog, during the researcher's visit to Bumthang in April 2009. The herders reported, owing to the provisions reflected in the Land Act of Bhutan 2007; provision to lease *tsamdros* only to the residents domiciled in that particular district, the locals have repeatedly grazed migratory herders' *tsamdros* before the herders arrived. Reportedly, when confronted by mobile herders from Shingkar Village of Ura gewog, the locals retaliated, citing reasons that the new land law provides *tsamdros* to the local residents.

The same issue emerged again during the in-depth interviews with the herder key informants in 2010 in Doshi. Although this type of conflict does not appear to be uniform, the herder key informants during interviews indicated such conflicts were not a new phenomenon. One elderly herder reported that such issues have always been there since Zhabdrung's time (17<sup>th</sup> century). Historically, herders from Bumthang district particularly from Ura gewog had conflicts with the residents of Lhuentse and Mongar districts.

The focus group discussions in 2011 also revealed such conflicts occurred in Brokser where the local residents complained of unequal access to resources. Bumthang herders denied Brokser residents access to *tsamdros* located near Brokser village. Bumthang herders would even injure and cause harm to animals belonging to locals if cattle strayed into those *tsamdros*.

Mobile herders from Bempu, Tshebbji, and Urchi were also informed by residents living in the south adjacent to their *tsamdros*, of their interest to access the *tsamdros* resources, as per the provisions of the new Land Act. This was an indication for potential conflict in future. Conflicts seemed inevitable then when the LA 2007 implementation did not take a definite position. Details on how unclear legislation is causing new conflicts rather than providing solutions are provided under the section on causes of conflicts.

### 3.1.2 Conflicts over the traditional migration routes

The second type of conflict is the blocking of mobile herders' traditional routes used for migration, by local residents, fencing it off and making paddocks for their sedentarised herd. This type of conflict was mentioned during focus group discussions in Doshi and during the researcher's visit to Sengoren-route, Mongar and Lhuentse. While Doshi herders complained that Sengor residents have fenced off their traditional routes of migration, Sengor herders alleged Ura herders had destroyed their fences and paddocks. Details on how such episodes occurred are detailed in the succeeding sections.

### 3.1.3 Conflicts caused by migratory cattle straying into local residents' crops

The third type of conflict is caused by migratory cattle straying into the local residents' fields. The participants from Tshebji reported their cattle straying into others' crops. In cases where the conflict could not be resolved in the villages, it was referred to Phuntsholing *Drungkhag* (sub-district) court. One elderly herder from Tshebji, however, asserts this type of conflict is a thing of the past and do not occur now.

However, participants in Kungkha indicated that the problem of Jabana and Geling herds straying into their crops still exist. Cattle from these herds stray into their maize fields, cardamom orchards, vegetable gardens and destroyed other plants such as Napier, Ficus saplings, and other planting materials including the ones supplied through Sustainable Land Management Project (SLMP). Participants in Kungkha also reported, some of the Jabana herders started leaving behind the general herd (dry cows, young stock and old animals) and took back only milking cows and oxen (used for ploughing the fields) when they migrate back to their villages in spring. Jababs seemingly owing to shortage of family labour, are not in position to manage larger herds. The local residents reported this is becoming a real menace in summer as these stray cattle damaged their crops.

## 3.2 Factors causing conflicts

Although the new land legislation is often criticized by many mobile herders as the main contributor to inter-district conflicts, either directly or implied, there are other reasons that are important in understanding the conflicts. These factors that contribute to the contentious resource access issues are discussed in the following sections.

### 3.2.1 Development interventions by government agencies that overlooked local institutions caused inter-community conflict

There is evidence from Doshi and Sengor to suggest that government agencies promoting intervention programs such as subsidising improved pasture seeds, exotic crossbred cattle, and supplying fencing materials to fence and develop modern style paddocks, may have been

ignorant or have deliberately overlooked local institutional arrangements. This had resulted in unintended inter-community conflict amongst the Sengor locals and Ura mobile herders.

The focus group participants in Doshi indicated how one such intervention by a development agency supplying barbed wire fencing materials to fence the paddocks, blocked their traditional migratory route at Sengor. During a focus group discussion, a male participant in his thirties from Doshi said:

*"... it appears very likely that we will again have some conflict soon. The Sengorpas have fenced with barbed wire on our traditional migratory route and left only the highway. Sengor is traditionally our camping area. They said the fence was supplied by the Park ... for generations it has been our tradition to spend a night there and it's our traditional route. Nobody says anything ..."*

That has not only caused them inconvenience, but has created dispute with Sengor herders with whom they have traditionally had mutual respect based on their traditional rights and customs.

### 3.2.2 Conflict arising from the location of Tsamdros

All the focus group discussions highlighted that the conflicts arising due to migratory cattle straying into local residents' crops or locals grazing herders' *tsamdros* is inevitable and had much to do with the evolution of some villages in the south. Dovan village in Sarpang district, where Urchi herds migrate to, Dolepchen village in Chhuka district, where Tshebji herds go, Kungkha village in Chhukha, where some Jabana herds go, and Brokser village in Mongar district, where some Bumthang herds go, were all carved out of former *tsamdros*. These villages were *tsamdros* of the migratory herds prior to settlement of today's residents. The residents cleared the forest and started settling in those existing *tsamdros* to what locals today call their village. Kungkha, Dolepchen, and Dovan *tsamdros* were cleared and villages formed in later part of the 1960s and early 1970s. The focus group participants in Bempu and Kungkha indicated that until 1971 the *tsamdros* right holders of the then *tsamdros* collected lease fees from the new settlers. These settlers were mostly ethnic Nepalese settling in those *tsamdros* and cultivating maize. Participants in Kungkha revealed the following, thus supporting the view of the herders from Bempu, Tshebji and Urchi:

*"The reason why such conflicts occur is because our village [Kungkha] was a tsamdros before our parents and grandparents started settling down. They leased part of these tsamdros ... cleared and grew crops for which they paid lease fees in kind called TanamPathi ..."*

*In 1971 the government surveyed the area, asked the tsamdros owners to collect the price of the land and whatever land we farmed thus far was paid for and registered in our name. Our parents paid @Nu. 75/acre. The rest of the areas surrounding new villages continued as tsamdros of migratory herders to this day ...."*

In 1971 the government allowed the new settlers to register those areas they have cleared and farmed in their name, with payment to erstwhile rights holders, at the existing market rate of Nu. 75 per acre.

A similar story emerged for Brokser village (Figure 3) but for different purposes and by a different ethnic group. Brokser village had also been a *tsamdros* of migratory herds coming from Bumthang. Some 40 years ago a woman named Abi Choden bought some *tsamdros* land in Brokser. Abi hails from a village called Jaigon, which in those days was far away and difficult to send children to school in Mongar. Abi settled in Brokser and sent her children to school in Mongar.

Abi Choden was 102 years old when the researcher conducted focus group discussions in August 2011. Brokser then had 21 households, all related to Abi Choden. Owing to the ecology of the village being part of the *tsamdros*, situated adjacent to or at the heart of a *tsamdros*, conflicts of cattle straying into crops and local animals grazing in these *tsamdros* is inevitable.



**Figure 3:** Brokser Village, surrounded by *Tsamdros*, created by Abi Choden

### 3.2.3 No available *tsamdros* despite a declining migration trend

In spite of a significant overall decline (31%) in households practicing migration between 1990 and 2010 in the study areas (Namgay et al. 2014), there are no *tsamdros* in the south left unused. Logically one would expect many *tsamdros* in south to be lying idle since migratory herds have declined in number. This situation, tantamount to a disconnect between logic (expecting idle *tsamdros*) and empirical situation (virtually nonexistence of unused *tsamdros*), beckons explanation and is presented in what follows.

Focus group participants suggested there are no

empty *tsamdros*, despite the decline in the number of migratory herds. When a mobile herder stops transhumance movement, the *tsamdros* user right is given to their family members, friends and networks from within the herder communities who still migrate, to use it. Those household with recently established herds, from their own community, were also permitted to graze in these *tsamdros* through some informal arrangements but not residents in the south.

Some *tsamdros* of former herders from Tshebji and Bempu continue to be grazed by their relatives, because there was no expansion in *tsamdros* areas and all siblings that separated and established their own families in the villages continued to camp in the same *tsamdros* that belonged to their parents in winter. The herders that have stopped migrating send their animals with their friends and relatives that still practice migration and allow them to use the *tsamdros*.

During a focus group in Tshebji, when asked if some of the *tsamdros* remained empty after some herders stopped migration, a female herder in her late thirties said:

*"No, there is no vacant tsamdros or allowed to be used by anybody not related. All tsamdros continue to be used. It works like this, even if I stopped migration, if a far relative of mine still does it, I would send my oxen and dry cows with them and allow them to use that Tsamdros."*

Among the Urchi and Doshi mobile herder households, many *tsamdros* in the south are held in common with local institutions for assigning *tsamdros* for each herd in winter. Local institutions have successfully assigned herds to graze in a particular *tsamdros* for a certain season (for details on these arrangements refer to Ura 1992). Similar to herders in Tshebji and Bempu, Doshi herders are also organised in such a way that the incumbent migratory herders and the newly established migratory herds take with them the cattle of herders that have ceased migration. This way *tsamdros* that belonged to the retired herders continue to be used by herds that still migrate thereby excluding the locals. This is a deliberate exclusion strategy to deny local residents access to those *tsamdros*. During a focus group in Doshi, a male herder in his early forties said:

*"Well even if some stopped migration others have started a new herd. There is a new herd with over 60 animals and another 2 herds from the other village ... Because we own [only usufruct right] the tsamdros, held in common amongst Uraps [people of Ura], the new comers request the community and ...being from our own village, we allow them but not the residents down there ..."*

Arrangements among herders are made to ensure the continuity of *tsamdros* in the south and keep away the locals. They use many justifications such as local residents from warmer areas can grow different crops continually throughout the year, as opposed to herders being in high altitudes where choice of crops is limited with short growing season. Some herders also tend to use their usufructory rights almost as a private property rights to keep away the locals and deny giving rights to locals to graze in those *tsamdros*.

### **3.2.4 Contradictory claims of rights over *tsamdros* and possible ignorance by development personnel of the existence of such conflicts**

The focus group discussions with development agency personnel in Lhuentse and informal conversations with some agency personnel in Mongar indicated a lack of awareness of herder conflicts and disputes. One livestock extension personnel in Lhuentse reported that a Lhuentse herder claimed that Bumthaps and Lhuentse herders had equal rights over the *tsamdros*. The *tsamdros* in Lhuentse used to be grazed at the same time occupying different sites. This claim, however, was dismissed by the Doshi herders.

The development agency personnel in both Mongar and Lhuentse districts similarly indicated being unaware of the conflicts, saying it had not been brought to their attention. While the herders reported the Ura-Kurtoe conflict as chronic and had required central authority's intervention in the past, because local authorities were ineffective, the agency personnel appeared ignorant of the conflicts. These agency personnel are also unaware of the issue of migratory herders from Ura confronting herders in Sengor. When asked if the district livestock personnel have come across such conflicts, one district livestock personnel said: *"No, so far we haven't had any issues brought here for settlement."*

### **3.2.5 Unclear legislation responsible for some conflicts**

The focus groups discussions revealed that number of inter-district disputes either on-going or newly developing or escalating in seriousness have been the result of uncertainty in the law and a lack of enforcement by authorities.

The focus group participants in Doshi believed the conflicts had escalated between the Ura herders and some of the Lhuentse local residents. The participants are of the view, although some occasional disputes existed in the past, but it largely remained benign. Locals have always respected the existing policies and judgements passed down through generation of our monarchs, that has given rights to Bumthaps to graze. With new land law giving rights to locals in contrast to previous laws, the locals have now become bolder and started grazing Urap's *tsamdros*. The Doshi participants highlighted, a recent incident where altercations had occurred between an old

herder couple from Ura and a group of young locals from Lhuentse, in a *tsamdros*, over grazing accessibility. This dispute was said to have become serious and almost led to physical assault. The focus group participants indicated that the case has been referred to local authorities but the locals do not heed the restrictions and continue to graze their *tsamdros*:

*"... It's been 4 years [indicating effect of the Land Act 2007] they have been grazing our tsamdros in our absence. Earlier by 5<sup>th</sup> month [June] it is Ridam [forest closure] and their animals cannot even step into our tsamdros. We have asked them repeatedly not to graze but they don't listen .... They say they have heard over radio that they can use it or some survey people told them ...as per law they have the right ...."*

In another instance Bempu, Tshebji and Urchi participants mentioned that locals downstream have indicated to them of interest to get access to those *tsamdros*. A male herder in his fifties during a focus group in Bempu said:

*"It is only now that they informally indicate that there is a government order that people from different District are not allowed to graze in other districts. We tell them that such orders have never been relayed to us but rather we were told by the newly elected government in 2008 that traditional system can continue as it used to be in the past."*

In Urchi the focus group participants said the *tsamdros* in their locality which had exclusive rights with certain families have now become a common property as a result of the new Land Law, and no one could now exclude the other.

In the study areas and in eastern Bhutan as informed by one agency key informant, new land legislation was either not explained to the herders or grossly distorted in interpretation by individuals, resulting in more confusion and uneasiness among the mobile herders as well as local residents.

The data indicated that while herders despite making strong claims to *tsamdros* are also unsure what the final decision will be regarding mobile herding and the locals in Brokser are even more concerned. For example, focus group participants in Brokser mentioned, the local authorities told them the government was going to take over even the smaller grazing areas they had access to and they will have to pay an annual fee of Nu 1000 per acre if they wished to lease it back.

When asked what they understood about the provisions on accessing *tsamdros* in relation to the new land law, a male resident in his early fifties from Brokser said:

*"We are also ... confused hearing issues like the government is going to close the tsamdros. We do not know what to do. But if such an opportunity is granted to us to utilise some of the tsamdros around our village, we of course have aspirations to rear more cattle ... we feel that an amount of Nu. 1000 per acre is very expensive for a simple farmer given the income from animals is not substantial. I wish people here are given access to tsamdros around our village without having to pay lease fees."*

However, the researcher crosschecked with the land lease rules. The amount of Nu 1000 mentioned relates to the lease of annual fee per acre for leasing government reserved forest (GRF) land for commercial agriculture and not for *tsamdros*. Even this amount has been reduced to Nu 640. The lease fees for *tsamdros* is much lesser.

In all the study areas the provisions of the new land law were not explained well to local people and in places like Chumey *gewog* where some information was relayed, it was with no clear mechanisms on how to lease *tsamdros* and GRF land for pasture development and what the process entailed.

When asked if the herders have heard about possibilities of leasing GRF land for pasture development, participants in Urchi said,

*"... The Tshogpa told us about the possibility with government approval but nobody applied so far, we do not know the procedures yet."*

A *Tshogpa* (village representative) during a focus group in Brokser said the authorities told them that Bumthang herders had the priority to *tsamdros* around Brokser locality even if the government leased it back after nationalisation:

*"When we asked if we can get access to some of the Bumthap tsamdros around our village, our local authorities told us that we can get only if those Bumthaps [previous right holders] do not lease it back for themselves. In case they [Bumthaps] wish to lease it back, they have stronger say over us."*

The information collected from mobile herder communities and downstream locals demonstrates that while the legislation has not been properly understood both by local authorities and communities, little information that was relayed by the authorities to communities was incomplete with no understanding of the mechanisms for leasing GRF land.

### **3.3 Strategies and institutional arrangements used to avoid further conflicts**

Tshebji herders in a focus group reported that because the conflicts have been recurring in the past, some locals have adapted and adjusted their cropping seasons to avoid conflicts. While residents have started fencing the fields paying special attention to critical entry points for the animals, others have completely abandoned winter cropping. The Tshebji focus group herder participants said they also tie their animals and help the local erect fences at critical entry points to their fields. A male participant in his late fifties from Tshebji said:

*"... they stopped certain crops and fenced others properly and we too take care of our animals strictly – we both have realised the inconveniences caused to us both in the event of cattle destroying crops."*

The Kungkha residents hope to avoid conflicts in the future through mutual respect and want the *Jababs* take back all of their animals in summer and look after their cattle well in winter. The focus group participants in Kungkha said they needed to co-exist and respect each other's way of life. When asked how they think such disputes with migratory herds coming from *Jabana* could be resolved in future, a male resident in his forties responded by saying:

*"We don't ask them to stop migrating or rearing cattle, it is their traditional practice and lifestyle and we need to co-exist. We just wish they do it as it used to be done in the past and take back their cattle in summer and come only in winter and pay more attention to their animals. As long as they take responsibility to take care of their animals, we should not have any problem."*

Although certain disputes continue as a result of migratory animals straying into the crops of the local residents, it appears the latter are tolerant as long as the herders respect their local institutional arrangements to compensate and take responsibility for after their animals.

#### **3.3.1 Conflicts at local level are handled by local institutions**

It emerged from the focus group discussions that local institutional arrangements existed either for allocating resources within a village or for settling minor disputes within the village. However, the jurisdiction and effectiveness of such institutions appear to be limited to their village and subject to parties' agreement with the decision passed by the local institution.

Focus group participants in Doshi, Kungkha, and Tshebji indicated how and when such conflicts were either settled within the *gewog* (local government for group of villages) or brought to the court to settle their

case. Tshelj herders and Kungkha residents said that some of the cases of mobile herders' cattle straying into local crop fields have been settled amicably within the village through the *Thoksup* (village crop administrator). Similarly, a local mechanism existed to allocate *tsamdros* among herders in Ura to graze in their common pastures, and a system amongst Tshelj herders to use *tsamdros* together for joint right holding. However, Tshelj herders indicated that sometimes when the parties do not agree with the decision of local *Thoksup* then it has to be referred to judicial court.

### 3.3.2 Conflicts at a larger scale require higher level intervention

When confronted with disputes or conflicts involving parties from different district jurisdictions or when parties fail to respect the decision of the local institutions, these cases need intervention either from district administration office or district court.

Herders in Bempu, Doshi, Urchi and local residents in Brokser indicated that conflicts over *tsamdros* resource use in the past have sought district administration and judicial court intervention, sometimes reaching the high court in Thimphu. An elderly focus group participant in Bempu said:

*"When we put up the case in Drungkhag court [sub-district court] in Phuntsholing, they [Chimups] argued that in the past they too have contributed butter and meat tax to the government. However, the court passed the verdict in our favour because we had the registration in our names. Since then they never grazed and we did not have formal issues with them."*

Once the court or district administration intervenes, the parties must respect the verdict and restrict resource appropriation within the boundaries set by the verdict. However, herders indicated that the Land Act of Bhutan 2007 has and is fueling more conflicts and causing social disharmony among mobile herders and residents downstream living adjacent to *tsamdros*.

For example, an elderly Doshi herder with a substantial herd size, indicated an ongoing case with the downstream residents over access to *tsamdros*, as being exacerbated by the new land law. His *tsamdros* was reportedly grazed by downstream residents for which he had sought clarification from the *district* administration. His application was reportedly forwarded to the Ministry of Home & Cultural Affairs (MoHCA), following which a '*status quo*' has been issued by MoHCA as per the old land law (Land Act of Bhutan 1979). The *status quo* allows for herders to continue migrating and utilise the *tsamdros* in the south in winter as they have done for hundreds of years until further notice.

During the interview with the herder in Doshi in 2010 he explained that the encroachers did not stop even after the *status quo* had been issued. One herder reported his pasture was again being grazed and he is expecting further conflicts next season:

*"... the residents have grazed .... about half of our tsamdros ... prior to our arrival and we had a conflict ... they have grazed even this year... Now ... they are saying, as per legislation Bumthaps are not supposed to migrate down and they can graze in those tsamdros."*

While these herders faced with increased conflicts are relying on the *status quo* issued by the government as a temporary measure, rest of the herders and downstream residents appeared confused because of the uncertain nature of the new land law.

## DISCUSSION

The study revealed the dynamics of conflicts mobile herders face at their winter grazing areas and along the migratory routes. It showed the local institutional arrangements existed to resolve the issues traditionally though at times it warranted authorities' interventions. It indicated when the policies are clear with firm legislation, it is easier for local authorities to resolve local conflicts as there is a basis to relate their judgement. It is when new legislation in contradiction with previous understanding and in contrast to local traditional systems is formed, it makes everyone confused. Moreover, when these policies are not informed well to those who are potentially affected, people are confused and make their own interpretations to suit their desire. The authorities too, in absence of clarity in the legislation, are confused. It also showed, how when the government development workers are ignorant of local traditional arrangements, their development interventions instead of being beneficial yield unintended negative effects.

The results also suggested conflicts are partly because mobile herders deploy different strategies to exclude the locals from accessing *tsamdros*. Herders do that because with the uncertainty of implementation of the new Land Law, there is hope, the law could be repealed someday. Problems leading to conflicts are not always self-evident. As much as it is material, it is also perception based. Therefore, prior to suggesting policy solutions, it is important to engage stakeholders to understand the perception of each stakeholder on the same issue (Adams et al. 2003). Genuine participatory process, conducted exhaustively in a transparent manner, will enhance understanding of main problems leading to these conflicts.

Government policies and interventions that fail to recognize traditional institutions that have successfully managed common local resources sustainably, often



impose ban or restrict pastoral way of life. Such policies also favor sedentary systems that is causing conflict with pastoralists over resource (land, fodder, and water) and passage access (Chakrabarti 2011; Greenough 2007).

Today, pastoralists are faced with conflicts either directly with government policies or with farmers because of the interventions promoted through these policies (Chakrabarti 2011; Blench 2017). It is evident, most of the conflicts the mobile herder face, whether it is in Africa or Mongolia or Sikkim in India or Bhutan, they have little contribution. It is often brought to them and they end up at the receiving end. The grazing areas in Africa are encroached by agriculturists and conservationist with government policy supporting them and yet herders are blamed (Blench 2017). Mobile herders in Mongolia face competition from mining giants but miners have state and donor support, while pastoralists face degradation of environment and their livelihood (Byambajav 2012; Upton 2012).

This supports similar findings by Chakrabarti (2011) in the Sikkim State of India where government policy aimed to completely halt mobile yak herding system in contrast to their traditional way of governing the commons. Policies restrict traditional way of life before identifying and implementing interventions that make a meaningful contribution to herders' livelihood (Chakrabarti 2011).

It is necessary to understand and respect local institutional arrangements while implementing development interventions lest some communities are adversely affected in the name of development elsewhere. When locals are consulted and facilitated well through genuine participatory process, a workable solution is possible. Additionally, a proper management plan, strong community by-laws, an opportunity for learning processes and strong involvement of local stakeholders are found to be important components in managing such conflicts (Wangchuk et al. 2006).

When there is lack of clarity of legislation or policy, it ignites conflicts and defeats the intended purpose of the very legislation, to bring peace and order in the society. The old system of village representatives, now members of parliament, going back to their constituencies and explaining to subjects the new laws enacted and resolutions of the parliamentary sessions is crucial (Namgay et al. 2017). With the Land Act of Bhutan 2007 being implemented as it is, while writing this paper, it is yet to be seen what implications it will result in livelihood and wellbeing of the mobile herders. Nationalization of *tsamdros* has now been completed. However, accessing *tsamdros* on lease, as was foreseen in the new land law, has not happened yet.

While previous rights have ceased with the new legislation, herders are unsure of how the new leasing scheme would play out. Meanwhile, some herders continue to hang on to the previous rights while others are

too eager to make new claims. The result is more conflicts, often getting violent and requiring police intervention. On October 31, 2015 *Kuensel*, Bhutan's national print media reported police in Sakteng sub-district in Trashigang district, investigating a case on herder conflicts which involved physical feud and caused injury (Tshering 2015).

#### 4. CONCLUSION

Rising population and shrinking resource sizes does not always result in neo-Malthusian situation and lead to conflicts in pastoral societies. Adhering to age old, sustained, local institutional arrangements and participatory involvement of stakeholders, result in amicable solutions. When these are ignored during development process or creation of new legislation, it creates confusion and brews conflict. It also indicates in absence of clarity in rules, people would use all sorts of tactics and intimidation to hang on to the resources while others jump at the opportunity to counteract and grab it. While exact impact on herders' livelihood is yet to be established, with the nationalization of *tsamdro* under process, it will help to reinstate old system of MPs visiting constituencies and briefing the subjects on new legislations and resolutions. More importantly, it would help if MPs consult their constituents and village elders thoroughly prior to coming up with discussion on policies or new laws in the parliament. As a good fence makes good neighbors, it would be necessary to clearly demarcate the pasture boundaries once leasing starts with support for fencing materials. This will ensure sustainable pasture management while maintaining harmony in the pastoral society.

#### REFERENCES

- Adams WM, Brockington D, Dyson J & Vira B (2003). Managing tragedies: understanding conflict over common pool resources. *Science*, 302(5652):1915-1916.
- Blench R (2017). Pastoral conflict and supplying Nigeria with meat: how can the paradox be resolved? Field investigations on pastoralist-farmers crises areas and enhancement of MISEREOR's partners interventions in Nigeria, Phase 3, Project No. 131-004-1030 ZG, 131-010-1021 XG, 131-015-1030 ZG, 131-026-1019 ZG. EVALUATION N° 2166-Z1031-1158.
- Boone RB, Burnsilver SB, Worden JS, Galvin KA & Hobbs NT (2008). Large-Scale Movements of Large Herbivores Livestock following changes in seasonal forage supply. *Resource Ecology*, 187-206.
- Byambajav D (2012). Mobilizing against dispossession: Gold mining and a local resistance movement in Mongolia. *Journal of the Center for Northern Humanities*, 513-32.

- Chakrabarti A (2011). Transhumance, livelihood and sustainable development and conflict between formal institution and communal governance: An evaluative note on East Himalayan State of Sikkim, India. Paper presented at the International Conference on Social Science and Humanity, Singapore.
- Dixon JA, Gibbon DP & Gulliver A (2001). Farming systems and poverty: improving farmers' livelihoods in a changing world. Rome & Washington D. C.: FAO and World Bank.
- Greenough KM (2007). Development agents and nomadic agency: Four perspectives in the development "Market". *NAPA Bulletin*, 27(1):110-128. doi: 10.1525/napa.2007.27.1.110
- Hall D, Hirsch P & Li T (2011). Powers of exclusion: land dilemmas in Southeast Asia. Singapore: NUS Press.
- Mearns R (1993). Territoriality and land tenure among Mongolian pastoralists: variation, continuity and change. *Nomadic Peoples*, 33:(73-103).
- Mearns R (2004). Decentralisation, rural livelihoods and pasture-land management in post-socialist Mongolia. *European Journal of Development Research*, 16(1):133-152. doi: 10.1080/09578810410001688770
- Milligan S & Binns T (2007). Crisis in policy, policy in crisis: understanding environmental discourse and resource-use conflict in northern Nigeria. [Article]. *Geographical Journal*, 173(2):143-156. doi: 10.1111/j.1475-4959.2007.00231.x
- Moritz M (2006). Changing contexts and dynamics of herder-farmer conflicts across West Africa. *Canadian Journal of African Studies*, 40(1):1-28.
- Moritz M, Kyle BR, Nolan KC, Patrick S, Shaffer MF & Thampy G (2009). Too Many People and Too Few Livestock in West Africa? An Evaluation of Sandford's Thesis. *Journal of Development Studies*, 45(7), 1113-1133. doi: 10.1080/00220380902811058
- Namgay K, Millar J, Black R & Samdup T (2014). Changes in Transhumant Agro-pastoralism in Bhutan: A disappearing livelihood? *Human Ecology*. doi: 10.1007/s10745-014-9684-2
- Namgay K, Millar J and Black R (2017). Dynamics of grazing policy and its impact on migratory herders in Bhutan. *The Rangeland Journal*. 39(1): 97 – 104.
- Noy C (2008). Sampling Knowledge: The Hermeneutics of Snowball Sampling in Qualitative Research. *International Journal of Social Research Methodology*, 11(4): 327-344. doi: 10.1080/13645570701401305
- Patton MQ (1990). *Qualitative evaluation and research methods*: Sage Publications, Inc.
- RGoB (1995). *The Forest and Nature Conservation Act of Bhutan 1995*. Thimphu: Ministry of Agriculture and Forests, Royal Government of Bhutan.
- RGoB (1998). *The Middle Path: National Environment Strategy for Bhutan*. Thimphu: National Environment Commission, Royal Government of Bhutan.
- RGoB (1999). *Bhutan 2020: A Vision for Peace, Prosperity and Happiness*. Bangkok: Keen Publishing.
- Rinzin C, Vermeulen WJV, Wassen MJ & Glasbergen P (2009). *Nature Conservation and Human Well-Being in Bhutan: An Assessment of Local Community Perceptions*. *The Journal of Environment & Development*, 18(2): 177-202. doi: 10.1177/1070496509334294
- Sandford S (2006). Too many people, too few livestock: the crisis affecting pastoralists in the Greater Horn of Africa Future Agricultures Consortium debate. Brighton: Institute of Development Studies, University of Sussex.
- Tong A, Sainsbury P & Craig J (2007). Consolidated criteria for reporting qualitative research (COREQ): a 32-item checklist for interviews and focus groups. *International Journal for Quality in Health Care*, 19(6):349-357. doi: 10.1093/intqhc/mzm042
- Upton C (2012). Mining, resistance and pastoral livelihoods in contemporary Mongolia. In: *Change in Democratic Mongolia*. Pp. 221–248. doi:https://doi.org/10.1163/9789004231474\_012
- Wangchuk K, Dorji K and Lhendup U (2006). *Crushing the bone: Minimizing grazing conflicts in community Tsamdro. A case study from Dhur village, Choekhor Gewog, Bumthang*.
- Wang SW, Lassoie JP & Curtis PD (2006). Farmer attitudes towards conservation in Jigme Singye Wangchuck National Park, Bhutan. *Environmental Conservation*, 33(2), 148-156.
- Wangchuk T (2004). Predator-prey dynamics: The role of predators in the control of problem species. *Journal of Bhutan Studies*, 10:68-89.
- Wangdi T (2015, Oct 31). Police investigates tsamdro dispute. Kuensel. Retrieved from <http://www.kuenselonline.com/police-investigates-tsamdro-dispute/>