

# From open access to a regime of mixed common- and private property: Indigenous appropriation and regulation of the fodder tree *Euphorbia stenoclada* in southwest Madagascar

Goetter, Johanna<sup>1\*</sup> and Neudert, Regina<sup>2</sup>

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## ABSTRACT

This paper examines the processes of indigenous privatization and concurrent regulation of the important fodder tree *samata* (*Euphorbia stenoclada*) among the Tanalana people of southwest Madagascar from a long-term perspective. Using case study material from 20 villages in the coastal region of the Mahafaly Plateau, a framework for institutional change is applied to explore the drivers and relevant factors shaping the processes of appropriation and regulation. While private property rights on the resource have become widely socially accepted, the creation of institutions regulating the appropriation is hampered by strong bargaining power on the side of the appropriators paired with a lack of power and collective action by local communities and the locals' ideology on the legitimation of resource appropriation which is shaped by an historical background of few institutional restrictions. Stressing the interplay of ideology and bargaining power in the context-specific constellation of actors, this paper contributes to the understanding of property rights transformation and institutional change in self-organized, traditional societies.

**Keywords:** Institutional change, common-pool resources, property rights, privatization, community-based management

## INTRODUCTION

Privatization and enclosure of common pastoral resources is a widespread phenomenon of institutional change in African rangelands (Ensminger 1997). It is not only state actions triggering the privatization of pastoral resources (Bogale, Hagedorn, and Korf 2009; Getachew 2001; Kamara, Swallow, and Kirk 2004), but often local pastoral communities themselves (Ensminger 1997). Research on cases of locally induced rangeland enclosure has mainly focused on the drivers of institutional change, emphasizing the role of population pressure, agricultural expansion, immigration, commercialization, infrastructural development and technological change (Ensminger 1997, 1996; Lesorogol 2008, 2003; Behnke 2008; Kamara, Swallow, and Kirk 2004; Woodhouse, Bernstein, and Hulme 2000; Beyene 2011; Desta and Coppock 2004; Haller 2010; Cleaver 2002; Bollig 2006). To date, little empirical work has been done on the reactions inside local communities, the trajectories

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<sup>1</sup> Chair of Environmental Economics, Brandenburg University of Technology Cottbus-Senftenberg, Erich-Weinert-Straße 1, 03046 Cottbus, Germany. goetter@b-tu.de

<sup>2</sup> Chair of Landscape Economics, University of Greifswald, Soldmannstr. 15, 17487, Greifswald, Germany. neudert@uni-greifswald.de

and dynamics of indigenous privatization of pastoral resources. The few detailed studies that do exist suggest that privatization is strongly shaped by the constellation of bargaining power of local actors, their individual incentives for privatizing resources, and dynamic feedback loops between the external and internal factors (Lesorogol 2003; Kamara, Swallow, and Kirk 2004; Ensminger 1992).

The present case study contributes to the literature on the dynamics of institutional change by analysing the case of indigenous privatization of the important fodder tree *samata* (*Euphorbia stenoclada*) among the Tanalana people of the Mahafaly Plateau area in south-western Madagascar. This spontaneous step-by-step appropriation by livestock owners was followed by local attempts to regulate the privatization. Although natural resource management in rural Madagascar is said to be well governed by local institutions such as community rules and ancestral taboos in (Jones, Andriamarovololona, and Hockley 2008; Andriamarovololona and Jones 2012), the new institutional regime for the appropriation of *samata* heavily lacks implementation and enforcement and is by many locals perceived as a failed attempt. The paper investigates which dynamics turned the collectively owned resource into a mainly privately owned good and asks why the local communities have been struggling so much to craft, implement and enforce the new property rights. The framework provided by Ensminger (1992) for analysing institutional change is used to study how the processes of appropriation and regulation attempts are driven by the interplay of actors, community organization, bargaining power, and ideology.

## METHODS AND THEORETICAL FRAMEWORK

The qualitative case study is based on in-depth open and semi-structured interviews (N=111) in 20 villages of the study region in 2011 and 2013. Interviewees included villagers using and not using *samata* themselves, traditional clan authorities and municipality heads. They were asked about the mode of using *samata*, their knowledge and perception of former and current property rights, and the privatization and regulation processes.

The applied framework for institutional change provided by Ensminger (1992) considers the interaction between external drivers of changes in relative prices, the internal dynamics of institutional change, as well as the impact on distributional effects and the behaviour of individuals.

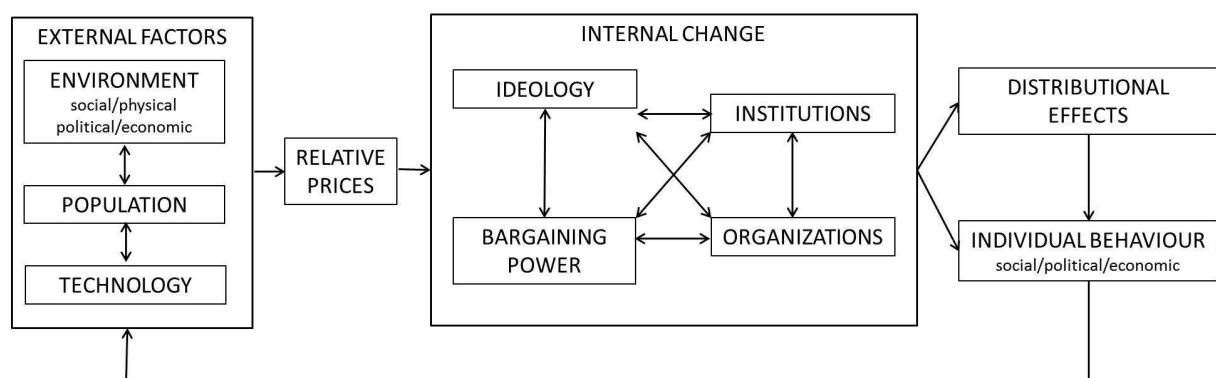


Figure 1: Model of institutional change by Ensminger (1992:10)

External drivers influencing relative prices may be changes in the social and physical (ecological) environment, the population, technology (Ensminger 1992), and the political or economic environment (Haller 2010). Ensminger emphasizes that changes in relative prices (Demsetz 1967; Libecap 1989; North and Thomas 1973) do not directly lead to a shift in the

institutional setting, but only via changes in the interplay of ideology, bargaining power, institutions and the user's organization. Ideology is understood as the people's values, mental models, and ideals that "determine people's goals and shape their choices" (Ensminger 1992, 5). Bargaining power is the ability "to get something one wants from others" (Ensminger 1992, 7), arising from a social position, economic wealth, or the ability to influence the ideology of others (see also Knight (1992)). Ensminger (1992) adopts North's (1990) understanding of organizations and institutions. Organization is the body in which the actors organize themselves in order to achieve certain common purposes or objectives and act collectively. Institutions are defined as formal rules (such as property rights a community has agreed on), informal constraints such as social norms, and their corresponding enforcement mechanisms including self-imposed standards of behaviour.

## STUDY AREA

The Mahafaly Plateau region is situated in southwest Madagascar in the dry forest ecoregion south of Toliara. The study area covers the coastal plain between the villages of Soalara in the north and Vohombe in the south and is administratively divided into three communes: Soalara, Itampolo, and Beheloke. The next smallest and also lowest administrative unit is the municipality (*fokontany*) usually covering a village and its surrounding hamlets. The coastal plain is mainly inhabited by the agro-pastoral Tanalana people, and Vezo fishermen (Battistini 1964). The Tanalana people carry out subsistence farming and raise livestock. Especially raising of zebu-cattle is highly influenced by a strong climatic seasonality and a low supply of fodder due to the sandy soils and low precipitation rates (300-350mm/year, UPDR 2003) in the coastal plain. Open grazing is only possible for around two months of the year. From the end of November on, the cattle herds leave the coastal plain and spend the next four to six months on transhumance on the neighbouring plateau. The rest of the year, the cattle are fed mainly on *samata* trees (*Euphorbia stenoclada* Baill) (see Figure 2).



Figure 2: Cattle eating chopped *Euphorbia stenoclada*

## RESULTS

While agricultural fields are the private belongings of households or extended families, the grazing zones are traditionally a resource of open access. In the distant past, private or common property rights on *samata* did not exist, but there was open access to all stocks. Today, private property rights to *samata* exist alongside open access rights to community areas. The private *samata* stocks are unequally distributed among the villagers. In the same village some people hold large private parcels which are more than sufficient to cover the demand of their herd, while others own only few private parcels or none at all. Many people depend on the purchase of *samata* and the use of the community areas which are often much more depleted than the private stocks.

The emergence of private property rights was driven by the cumulative behaviour of appropriating villagers. A formalization of these newly created private property rights was never forced by the appropriators, but only took place much later in the course of the regulation process. Appropriation of *samata* trees started 50 to 60 years ago, and accelerated 20 to 30 years ago, especially after 2000. It was fostered by the growing scarcity of

community stocks, unequal distribution of already existing private *samata* and the emergence of a *samata* market. In the beginning, appropriation was not banned by any community rule or ancestral taboo, but only restricted by social norms of ‘do not be selfish’ or ‘do not take more than you need’. Non-appropriating villagers were said not to have cared at first about the new individual claims as they did not perceive *samata* as a scarce good. Furthermore, private property rights were mostly accepted for a variety of ideological reasons.

Despite the initial laissez-faire attitude towards the new private property rights, over time many villagers started to feel uncomfortable with the accelerating appropriation. The widespread fencing of large parts of the communities’ grazing areas was increasingly perceived as unfair and selfish behaviour. This discontent did however not prevent many appropriators from fencing, who are said to be ‘strong’ people. This ‘strength’ is attributed to economic wealth, but also a personal indifference towards provoking conflicts and social gossip among the villagers.

Over the years, complaints by villagers to the municipality heads and the local traditional clan authorities triggered village meetings aiming at discussing the problem and agreeing on a solution in consensus. Many village communities created new community rules restricting appropriation by a consensus of the village community gathered in a meeting (only men actively take part). However, the necessary consensus was not reached everywhere. The earliest community meeting and rule creation took place in one municipality of the Beheloke commune in the mid-1990s. In most other villages, meetings aimed at regulating appropriation did not take place before 2010. For the Beheloke commune, the biggest step towards creating new rules was a meeting of all municipality heads held at the commune office in 2010. After a new regulation was created by the commune head, the municipalities convoked community meetings to spread and discuss the new rules. As a result, even communities that had still not decided on a regulation were forced to directly apply the regional rule (at least de jure), which prescribes that everybody is allowed to have a maximum of one hectare of private *samata*. Local regulations in municipalities of other communes also set a certain maximum size for an individual’s total holdings, or for the size of each parcel paired with a maximum number of parcels per person. Consequently, all holdings exceeding the permitted size have to be reduced or given up.

In most communities, the regulations for *samata* appropriation are far from being successfully implemented and enforced. The great majority of interviewees perceived the ongoing privatization as ‘bad’ and many even favoured a common property regime without any private property rights. At the same time, most interviewees showed resignation and did not believe that the regulation could ever ‘work out’. The interviewees related the reasons for the failure of implementation to the behaviour of all actors involved: Many interviewees perceived a lack of local sanctioning, although sanction rules and fines were often created. The municipality heads were said to remain passive towards the appropriators out of the same fear of vengeance by ‘strong’ people that caused villagers to not report illegal private holdings. It was also stated that the municipality heads were in general the wrong actors to successfully enforce or even create a binding regulation. The commune heads were also blamed for passivity, e.g. not reacting to the municipalities’ request for assistance in the enforcement. The villagers were accused for having agreed on the regulation, but afterwards continued appropriating.

As for the lack of enforcement the regulations is not a ‘rule-in-use’, many interviewees perceive it as invalid or not existing at all. Thus, they do not condemn others for ‘fencing as much as they can’. In villages with no areas left to appropriate, not owning much *samata* is perceived as a personal lack of far-sightedness or the ‘bad luck’ of ‘having come too late’.

## DISCUSSION

Unlike most other studies on indigenous resource privatization, the former property regime governing *samata* was not a complex system of common property rights (Ensminger and Rutten 1991) that lost its functioning over time, but a situation of unregulated open access. The described dynamics of *samata* privatization follow a typical pattern of first emerging conflicts over formerly abundant and only recently becoming scarce resources (Agrawal 2000; Agrawal and Goyal 2001), followed by the creation of new institutions to handle these conflicts (Knight 1992).

During the whole appropriation process, the appropriators have been ‘change agents’ able to create new individual property rights by fait accompli difficult to reverse afterwards. Similar to common property regimes, the new private property rights to *samata* were self-enforced by the action and expectations of the users themselves instead of formal agreements (Swallow and Bromley 1995). This was only possible because the villagers did in the beginning not care about the appropriation since it was not perceived as morally bad in the sense of breaking with ancestral taboos or social norms. Later on, the appropriators’ high ‘menace power resource’ (Theesfeld 2011) of being ‘strong people’ clearly helped them to enforce their claimed rights and hamper any attempts at regulation.

The governance structures of the Tanalana society rely heavily on community self-organization, while state administrative structures have only limited power. This implies a strong role of collective action among the villagers for triggering the establishment of the regulation, but more importantly the application of sanctions by the local authorities. However, the individual motivations of villagers for monitoring deviant behaviour and claiming sanctioning have not been high enough to put enough collective pressure on appropriators and local authorities. This created a power vacuum highly favourable for the appropriators. The low individual motivation is mainly caused by two factors:

(1) The villagers had created the new community rules for appropriation together in consensus, but there is still no collective acceptance of the new rules. Because of the absences of ancestral taboos or social norms condemning appropriation and the perceived invalidity of the new regulation not ‘in-use’, *samata* appropriation is at best perceived as a type of peccadillo, while private property rights on *samata* have been met with high social acceptance.

(2) The enforcement problem is also caused by the local historical context: The new regulation contradicts the villagers’ long-term habit of using *samata* in a laissez faire regime. On a broader scale, traditionally only certain aspects of life were highly restricted by ancestral taboos and rules, while many others were handled with leniency or (subliminal) social acceptance, such as cattle raiding (Drury and Oliver 1729 [1969]; Battistini 1964). Today, the Tanalana people are still said to “cherish freedom and stigmatize servitude” (Kaufmann 2014, 334), and do as a consequence dare to tell others how to behave.

## CONCLUSION

The case study shows a situation of a ‘race for property rights’ which at this stage involves nearly all people in the northern part of the study region. The only late and hesitant creation and low enforcement of the regulative institutions is caused by two factors: The historic background and culture of the local society and the constellation of actors.

The Tanalana society is traditionally governed by rigid ancestral rules and norms for certain social aspects, paired with a laissez-faire attitude for all other aspects. Thus, the people do not

easily align their behaviour to newly created rules that exceed or even contradict the ancestral rules and norms. Rules given by the community or state organs are only perceived as binding if they reach the status of 'rules-in-use'. As the appropriation of *samata*-trees did not violate any of these norms and customs, there is only a low individual motivation to comply with these rules or to assert the compliance of others.

The constellation of actors created a power vacuum which initially allowed the appropriators to create new private property rights as fait accompli and later to prevent the rules to become rules-in-use: The enforcement of the regulation needed significant collective action of villagers and engagement of official authorities. The local authorities, however, only act for enforcing the regulation if they are forced to do so by the villagers, but these were not motivated to act against the appropriators. Besides the constraints resulting from the historical cultural background, the Tanalana in general fear being involved in conflicts, especially with 'strong people' who do not care about having harmonious relationships. The race for regulation versus appropriation was therefore only de jure won, but de facto lost.

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