

KYRGYZSTAN AND TAJIKISTAN: ENDLESS BORDER CONFLICTS

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Abstract*

The growing scarcity of natural resources has gained political and social importance in a global context. Specifically, in trans-boundary Kyrgyzstan and Tajikistan scarcity of pastures and water has led to interethnic tensions. A high dependence on water and pasture resources in the border regions plays an important role for this conflict and has motivated violent outbreaks between Tajik and Kyrgyz border communities.

Despite policies aimed at enhancing pasture and water management by establishing new institutions after the end of the Soviet Union, multiple conflicts among ethnic communities over pasture and water resources continue to exist. A lack of institutional arrangements leads to unequal pasture and water access and use in the border region of Kyrgyzstan and Tajikistan. This endangers the peaceful co-existence of different ethnic groups in the region as well as sustainable pasture and water use.

This paper looks at the reasons for natural resource conflicts in the Kyrgyz-Tajik border areas where the water and pasture grounds in particular were previously accessed as common property.

Introduction

Following the collapse of the Soviet Union, the independent Central Asian states, among them Kyrgyzstan and Tajikistan, were established and have retained the borders demarcated in the 1920s under Josef Stalin's rule. The breakup of the Soviet Union in early 1991 resulted in significant political and socio-economic changes for both the independent Kyrgyzstan and Tajikistan. During border delineation some difficulties were encountered because the borders between the member republics drawn in Soviet times had a symbolic character. Kyrgyz and Tajik communities had common property rights to access and use natural resources under the system of land tenure based on property rights backed up by Soviet state authorities. Today, and as a result of vague border lines, disputes over border demarcation are the main

issue between Kyrgyzstan and Tajikistan. The disputes are causing multiple conflicts over access and use of natural resources as water for irrigation purposes and pasture grounds for grazing animals.

Resource access and use clashes between Kyrgyz and Tajik border communities took place in 2004, 2005, 2008, 2011, 2014 and 2015. During these years more than 70 incidents in the border areas were reported by local media. Some incidents were even awarded titles as "Apricot war"¹ (2004) when several apricot trees were planted on the disputed area by Tajik farmers, where then Kyrgyz inhabitants disputed and removed all those trees. Another incident was called "Ketmen war"² (2014) when the border communities were fighting using garden tools, stones and burned animal shelters.

Often Kyrgyz and Tajik border communities block each other's roads or block water during the irrigation period, which raises the potential for violent conflicts between the communities. In a conflict that took place in 2014, about 1000 local civilians were involved, including many young people. These conflicts are usually regulated by regular army units from both countries and heavy weapons might be used at any time.

Despite a wide range of activities held by NGOs, donors and other organisations in the border areas aimed at preventing conflicts, tensions on the Kyrgyz-Tajik border have not been mitigated or resolved so far.

This paper looks at the reasons of natural resource conflicts in the Kyrgyz-Tajik border areas which result in deterioration of peaceful coexistence between the border communities.

* This is a slightly revised version of a paper that has first been published in *L'Europe en formation* 385 (2018): 121-130.

1 „Apricot War on the Kyrgyz-Tajik Border” [Russian: “Абрикосовая» война на кыргызско-таджикской границе – Abrikosovays voina na kyrgyzsko-tajikskoi granitse”], Akipress news, March 9, 2004.

2 Bichsel, Christine. *Conflict Transformation in Central Asia: Irrigation disputes in the Ferghana Valley*. London and New York: Routledge, Central Asian Studies Series, 2009.

Border demarcation and delimitation disputes

Kyrgyzstan and Tajikistan share 971 kilometres of border territory of which about 471 kilometres remain disputable.³ For more than 20 years the issue of demarcation and delimitation of the Kyrgyz – Tajik border territories has been ongoing. Many official bilateral meetings were held and in 2000, the Kyrgyz state commission on border issues⁴ and Tajik state commission of demarcation and delimitation of state borders⁵ started to work actively. However, from the first days of collaboration the members of the commission could not agree on the normative and legal aspects of the issue. The main problem is that the two republics are using two different geopolitical maps: Tajikistan operates with maps from 1924-1939 and the Kyrgyz Republic with a map from 1958-1959.

During the meetings of the members of commission on the issue of demarcation and delimitation, the Tajik members repeatedly proposed the option to delimit the disputed territories in half, while Kyrgyz members proposed to draw the line of the state border by its actual use following the Agreement on the Establishment of the Commonwealth of Independent States (CIS 1991), the Almaty Declaration (1991) and the Moscow Convention (1994) on independence, inviolability and territorial integrity.⁶

Since the authorities could not agree on the use of corresponding documents, the Tajik and Kyrgyz members avowed the disputed territories neutral. This will last until mutual decisions have been found. This issue is still being studied by the Kyrgyz and Tajik commission today. In the context of this paper, it is important to understand the background for the regulation

of pasture management which requires looking at the historical and legal framework.

The historical background

Historically, Kyrgyz inhabitants were nomads and travelled between seasonal pastures at different altitudes for grazing at different times of the year.⁷ Their livestock was always the main source of their household income, as a Kyrgyz proverb says: “May God first grant children, and after them many livestock.”⁸ Unlike their Kyrgyz neighbours Tajik inhabitants had a sedentary way of life and kept small numbers of livestock of about one or two cows and three to four small animals for dairy products, mostly at their households.

With the formation of the Soviet Union, the Soviet regime forced the sedentarization of the rural Kyrgyz and Tajik population. Their livestock were redistributed to collective farms (kolkhozy) and state farms (sovkhozy). At the time, Kyrgyz and Tajik farmers worked for state and collective farms.⁹ During this period, the number of livestock increased since it was the main object of the Soviet regime and the pastures were the main source for livestock forage. Since the Tajik livestock in the border region has limited rangelands, the Tajik SSR depended on the pasture resources located in the Kyrgyz territory. This pasture sharing was based on agreements between Kyrgyz and Tajik kolkhozes. The pasture management was under Soviet state control.

With the demise of the Soviet Union, the collective and state farms were dissolved, and the pasture management agreements became invalid. Both Kyrgyzstan and Tajikistan became independent states and dramatic changes have occurred on the legislative side of the pasture management systems.

3 “Razakov: Work on Demarcation Borders Continues”, Radio Azattyk, July 19, 2017, <https://rus.azattyk.org/a/28625066.html>.

4 Russian: Правительственная комиссия по пограничным вопросам Кыргызской Республики -Pravitelstvennaya kommissia po prigranichnym voprosam Kyrgyzskoi Respubliki.

5 Russian: Правительственная комиссия по делимитации и демаркации госграницы Республики Таджикистан - Pravitelstvennaya komisija po delimitatsii i demarkatsii gosgranitsy Respubliki Tajikistan.

6 Kuliev, Ilhom, “Where should the Tajik-Kyrgyz border pass”, *Media group Tajikistan – Asia Plus*, January 16, 2014, <https://news.tj/news/tajikistan/security/20140116/gde-dolzha-proiti-tadzhiksko-kyrgyzskaya-granitsa>.

7 Undeland, Asyl, *Kyrgyz Livestock Study: Pasture Management and Use* (without place of publication, 2005): 12, https://landportal.org/sites/default/files/kyrgyz_livestock_pasture_management_and_use.pdf.

8 Kyrgyz: “Астынды Бала бассын, артынды Мал бассын” - „Astyndy bala bassyn, artyndy mal bassyn”.

9 Lim, Michelle, “Laws, Institutions and Transboundary Pasture Management in the High Pamir and Pamir-Alai Mountain Ecosystem of Central Asia”, 8/1 *Law, Environment and Development Journal* (2012): 46.

Pasture Reforms in Kyrgyzstan

The first attempt to regulate pasture management was the Land Code of the Kyrgyz Republic¹⁰ which was adopted in 1999. Under the Kyrgyz Land Code, about 78% of agricultural land was transferred to private ownership. However, all types of pastures are owned exclusively by the state. According to the Kyrgyz Land Code, pastures were categorised in three types: as remote (otgonnye), intensive (intensivnye), and village-adjacent (priselnye). Each type of pastures was under various government entities (oblast- province; rayon-district; Ayil Aimak – village level administrative unit) involved in pasture management. For instance, remote pastures (used in summer time) were under province state administration responsibility, intensive pastures (used in spring and autumn) were under district state administration; and village-adjacent (used in winter time) were under the village level administrative unit.

The legislation governing pasture management, “Regulations on the Procedures for Providing Pastures for Lease and Use” was established in 2002. These regulations stated that pasture use is based on territorial leases. The lease could be obtained from the before mentioned three levels of administration. According to the regulations, communal authorities could lease out the pastures or manage them as common property. It also provided individual pasture leases. Leases of pastures are to be provided for a period of five years and extended up to 10 years. The pastures on the forested area were under the control of the State Agency for Environment and Forestry (leskhoz). According to the Forestry Code, farmers can rent parcel of grazing land from forestry enterprises (leskhoz) as well.

The next reform was made in 2009, when the new Pasture Law was passed by the Kyrgyz Parliament. The Pasture Law introduced a system of community-based pasture resource management, where access to pastures is to be managed by local user groups. Under the new law, the local community formed Pasture Users’ Unions (PUU) which would represent the interests of livestock owners and other users

of pastures. According to the Pasture Law, all administrative authority over pastures was given to Pasture Committees (executive body of PUU) at the community (Ayil Aimak) level. In turn, PUU and pasture users elect the Pasture Committee who is the decision making authority on pasture management. The former lease system has been replaced by a pasture ticket (per-animal fee) system under this law.¹¹

Land reform in Tajikistan

In comparison to Kyrgyzstan, Tajikistan does not have particular legislation devoted to the management of pastures. One reason for that is that the civil war in Tajikistan from 1992 to 1997 hindered agrarian reforms. However, in 1997 the Land Code of Tajikistan was adopted which subjects all lands used for agriculture to the rules for farming land. In the Code, pastures are considered farming land.¹² All land in Tajikistan remains in exclusive state ownership and cannot be privatised.

In 2002, the new “Law on Dehkan Farms” was adopted. It provided every citizen the right to establish an independent dehkan farm which allows a land share of each member of an agricultural organization or land from the state land fund to be granted for permanent heritable use. This enables the privatization of pastures by individual farmers (dehkan) as pastures are considered agricultural land under the Land Code from 1997.¹³

The pasture legislation in Tajikistan is still under development. Jamoats (rural municipalities) are responsible for pasture management but their function in it is not clearly determined.¹⁴

10 “Land Code of the Kyrgyz Republic” (Russian: Земельный кодекс Кыргызской Республики от 2 июня 1999 года № 46 – Zemelnyi codex Kyrgyzskoi Respubliki of June 2, 1999, No. 46) Ministry of Justice of the Kyrgyz Republic.

11 Isaeva, Aiganysh, and Shigaeva, Jyldyz, “Soviet Legacy in the Operation of Pasture Governance Institutions in Present-Day Kyrgyzstan”, *Journal of Alpine Research (Revue de géographie alpine)* 1 (2017): 4, <https://journals.openedition.org/rga/3631>.

12 Lim, Michelle, “Laws, Institutions and Transboundary Pasture Management in the High Pamir and Pamir-Alai Mountain Ecosystem of Central Asia”, *8/1 Law, Environment and Development Journal* (2012): 50.

13 Lim, Michelle, “Laws, Institutions and Transboundary Pasture Management in the High Pamir and Pamir-Alai Mountain Ecosystem of Central Asia”, *8/1 Law, Environment and Development Journal* (2012): 53.

14 Ibraimova, Aliya et al, “Conflicts Over Pasture Resources and Ways Forward,” Camp Alatau report, 2015: 21, <https://drive.google.com/file/d/1hvw-lhpoL9y1fxx6wLnWvI3ZTbnsbTG/view>.

Legal Framework Limitations and Challenges of Pasture Management

While the new Kyrgyz pasture law grants pasture usage rights to all Kyrgyz residents, it prohibits foreign nationals to use them for grazing and prohibits the lease to foreign nationals if there are no intergovernmental agreements.¹⁵ This limitation of the Kyrgyz Pasture Law affected Tajik pasture users since no proper law and no international agreement concerning the border pasture management sector between the two neighbouring countries has been established until today. No regulation, neither in Kyrgyzstan, nor in Tajikistan, which clarifies management, use and access to pastures in the Tajik-Kyrgyz border region has been issued since then. Hence, pasture use and access for the Tajik community turned out to be complicated, while Tajik residents in the Kyrgyz border region lack any right to legally access grazing land in Kyrgyzstan.

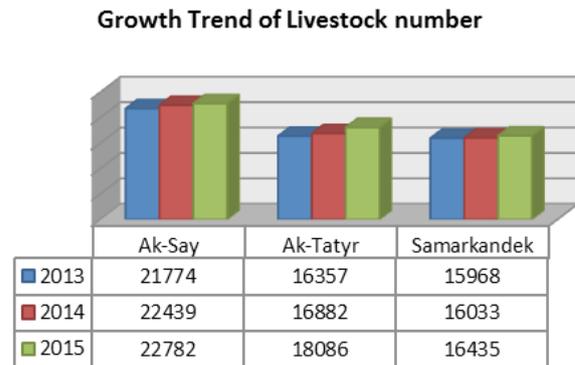
This legal limitation on the one hand, and the absence of the official border delimitation and demarcation in south Kyrgyzstan and Tajikistan on the other hand, seem to lead to unequal pasture access. This leads to multiple conflicts among these border communities and endangers regional peaceful co-existence of different ethnic groups in the region but also sustainable pasture use.

Pasture resources are getting scarcer every year due to population increases among both border communities as well as limited productivity caused by climatic conditions of the rangelands. However, livestock production is a fundamental component of the economies of Kyrgyzstan and Tajikistan, and mountain pastures remain an important natural resource as they are the major and cheapest source for forage in both countries. According to statistical data, the population in border territories is increasing by 10-15% every year.

Since many people invest in livestock the number of livestock is increasing as well. In border areas such as Ak-Say, Ak-Tatyr and Samarkandek, municipalities of the Batken

district, which are located in the border area with Tajik Vorukh municipality, the number of livestock increased by 30-35% in the beginning of 2016.¹⁶ Consequently, there is an increasing demand for pasture use every year.

Table 1: Growth of de facto livestock numbers in Ak-Say, Ak-Tatyr and Samarkandek village districts.



Statistic data source: State Statistic Department of Batken Rayon 2015

“Scarcity” can also be understood in a legal sense in terms of the absence of official border delimitation and demarcation in south Kyrgyzstan—as it was already mentioned above—and the lack of international agreements which creates a situation where the border communities are uncertain about the framework to access and use pasture resources.

Access and use of pasture in conflict dynamics

The conflicts on pasture resources in the border areas mainly arise when Tajik herders let their livestock graze on pastures belonging to Kyrgyz territory. Since there are no pastures on the territory of Tajikistan in the border region available, Tajik rural communities directly depend on Kyrgyz pasture resources. Since the pastures are not enough for Kyrgyz pasture users, and referring to current Kyrgyz Pasture Law that prohibits foreign herders the grazing on Kyrgyz pastures, the Kyrgyz Pasture

¹⁵ “Pasture Law of the Kyrgyz Republic of 26 January 2009 No. 30” [Russian: Закон Кыргызской Республики от 26 января 2009 года № 30 - Закон Кыргызской Республики от 26 января 2009 года no. 30], Ministry of Justice of the Kyrgyz Republic, <http://cbd.minjust.gov.kg/act/view/ru-ru/202594>.

¹⁶ The author is conducting her PhD research in these communities. This statistic data was taken during field work in 2016.

Committees chase Tajik herders grazing on the pastures in Kyrgyz territory away whenever they see them. However, Tajik pastoral communities do not think of themselves as foreigners on these pastures, since these resources were used by their ancestors during the times of the Soviet Union. In addition, Tajik pastoral communities believe that parts of these border grazing areas belong to Tajikistan. This assumption is understandable, because Kyrgyz and Tajik border communities are lacking information on where the disputed areas are located.

Similar conflicts arise between the Kyrgyz Pasture Committee and Kyrgyz herders who provide grazing services for Tajik livestock. The continuing conflicts on pasture access and use in the border areas encourage informal arrangements between Kyrgyz service providers and Tajik livestock owners, since many of them avoid disputes by paying Kyrgyz herders to graze their animals. The service providers usually own only small numbers of livestock and are fully dependent on the income from herding. The provision they earn through the informal herding service for Tajik livestock owners is very profitable because Tajiks are charged twice as much as Kyrgyz livestock owners. Kyrgyz herders and Tajik livestock owners arrange the service conditions individually. The arrangements usually are made orally and there are no written documents.

Another factor that fuels the conflict occurs when Kyrgyz border guards confiscate livestock of Tajik herders grazing on the Kyrgyz pastures. In order to release their livestock, Tajik herders have to pay a fee to border guards. This procedure is not written in the Kyrgyz Pasture Law from 2009 and is considered illegal.

Water conflicts

When collective and state farms were dissolved, many small scale peasant farms were created in Kyrgyzstan and Tajikistan. The use of water resources increased among farmers. However, farmers in the border regions suffer from a lack of water during irrigation periods, which leads to constant conflict between border communities.

Kyrgyzstan and Tajikistan share about 40 channels. Some of these channels rise in Kyrgyzstan and flow to Tajikistan and vice versa. Many Kyrgyz farmers complain that Tajiks living upstream of the river use too much water and less remains for Kyrgyz farmers living downstream. In turn, Tajik communities that are downstream complain about too little water arriving in their territories. This conflict arises every year during the irrigation period from April to June.¹⁷

Further, water resources often serve as an instrument to put pressure on each other among the Tajik and Kyrgyz communities. Whenever there are other conflicts at the border territories, the communities block water canals to each other which causes new tensions and escalates the situation.

One reason for the conflicts around natural resources in the border area is population growth. Another reason is poor infrastructure. The current water infrastructure on the Kyrgyz – Tajik border has fallen into decay. This is due to the fact that some of the hydraulic facilities are in a transboundary area which lacks both the Tajik and Kyrgyz state's attention. Neither of these countries want to invest in reparations since there is no special organisation, no agreement and law on that issue. As a result, a lot of water is unavailable for agricultural use.¹⁸

Water resources in the Kyrgyz – Tajik border regions are managed by the state, province and district levels. However, despite of existing institutions, many water conflicts remain due to a lack of precise mechanisms of transboundary water management.

17 International Crisis Group (ICG), "Central Asia: Border Disputes and Conflict Potential", ICG Asia Report 33 (2002): 7, <https://www.crisisgroup.org/europe-central-asia/central-asia/tajikistan/central-asia-border-disputes-and-conflict-potential>.

18 Toktomushev, Kemel, "Promoting Social Cohesion and Conflict Mitigation: Understanding Conflict in Cross – Border Areas of Kyrgyzstan and Tajikistan," University of Central Asia, Graduate School of Development, Institute of Public Policy and Administration, Working Paper no. 40 (2017): 9, https://www.ucentralasia.org/Content/Downloads/UCA-IPPA-WP-40-PromotionCrossBorderSocialCohesion_Eng.pdf.

Conclusion

Conflicts result in the deterioration of various forms of assets – social, financial and natural ones which constitute the wealth of the Kyrgyz - Tajik border agro-pastoral households.

Today's border situation leads to distrust, contempt and unrest between the border communities. Many people get tired with continuing conflicts and have started to move to other regions and big cities in order to find a quiet and peaceful life.

Several institutional changes made after the Kyrgyz and Tajik independence in the agricultural sector that were supposed to provide sustainable resource management seem to fail in regulating water and pasture sectors in border regions. For more than 20 years the pasture and water use conflicts have remained.

Despite widespread conflicts in the pastoral areas, effective conflict management strategies have not been incorporated in policy documents concerning agro-pastoral areas.

In order to manage the current situation in border areas, two actions are strongly recommended:

1. Interventions by both countries' governments are needed to strengthen institutions in both sectors and to increase capacity building in resource management, promote effective inter-ministerial coordination and improve independent monitoring systems. It is also necessary to improve governance in both sectors which includes the clarification of roles and responsibilities, transparency in decision making on sustainable pasture and water management, transparency in the use of revenues collected from grazing fees and taxes and stronger involvement of local users and stakeholders.

2. Both communities depend on the same water and pasture resources. Therefore, an intergovernmental agreement is needed to be signed between these two countries that will help to define property rights to access and use water and pasture resources.

Many experts see the solution of the conflict issues between Kyrgyzstan and Tajikistan in border demarcation. However, the

demarcation and delimitation of borders can be a complicated, troublesome and also an aggressive process when taking into account the location of houses in a chessboard form of border communities. Hence, when trying to find solutions to the conflicts the state members and decision-making bodies of both countries should take the interests of the local citizens into account.

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