



## **Accès aux ressources: la dynamique du régime foncier en Gallure (Sardaigne, Italie)**

*Les systèmes de régime foncier ont toujours joué un rôle important dans le développement économique et social. Dans le cas de la Sardaigne, les pratiques de propriété commune se sont avérées un élément clé de la gestion locale des terres agricoles. Des lois relatives à la privatisation des terres ont été promulguées en 1836, puis en 1971, et aujourd'hui, la privatisation des ressources publiques ou communes est à nouveau encouragée en tant qu'outil favorisant le développement social. Toutefois, les dispositifs de privatisation des terres n'ont jamais totalement abouti en Sardaigne et n'ont pas entraîné le développement économique et la stabilité sociale attendus.*

*Les pratiques de propriété commune ont perduré jusqu'à aujourd'hui, principalement sous des formes hybrides complémentaires des régimes fonciers privés, en tant que moyens de contrôle des ressources naturelles par les communautés afin d'accroître la productivité économique locale. Par ces pratiques, la population tente de renforcer ses avantages par rapport aux économies externes, de résoudre des problèmes liés aux conflits relatifs à l'utilisation des terres, et de promouvoir la stabilité sociale et l'accès aux ressources locales. Une approche institutionnelle de l'analyse du régime foncier nous aide à comprendre comment les ressources locales peuvent avoir des utilisations et des fonctions multiples, et pourquoi les ressources naturelles ne sont pas un capital qu'il faut accroître mais plutôt un patrimoine qu'il faut protéger et transmettre, sous une forme utile, aux générations futures.*

## **Acceso a los recursos: la dinámica del régimen de tenencia de tierras en Gallura (Cerdeña, Italia)**

*Los sistemas de régimen de tenencia de tierras han desempeñado siempre un papel importante en el desarrollo económico y social. En el caso de Cerdeña, la práctica de los bienes raíces en común ha sido un elemento clave en la gestión local de las tierras agrícolas. En 1836, y de nuevo en 1971, se impusieron leyes de privatización de las tierras, y actualmente se está volviendo a fomentar la privatización de recursos públicos o comunes como herramienta para promover el desarrollo económico. Sin embargo, los sistemas de privatización de tierras nunca han sido completamente satisfactorios en Cerdeña, y no han traído el desarrollo económico y la estabilidad social esperados.*

*La práctica de propiedad de los bienes raíces en común se ha mantenido hasta el presente, sobre todo con carácter complementario e híbrido, junto con regímenes de propiedad privada, como forma de control que las comunidades ejercen sobre los recursos naturales para aumentar la productividad económica local. A través de estas prácticas, las personas intentan aumentar sus ventajas en relación con economías externas, resolver problemas derivados de pugnas en el uso del suelo, y promover la estabilidad social y el acceso a los recursos locales. Un planteamiento institucional del examen del régimen de tenencia de tierras nos ayuda a comprender cómo los recursos locales pueden tener múltiples usos y funciones, y cómo los recursos naturales no son un capital que se debe aumentar, sino un activo que se debe preservar y transmitir de una forma que sea útil para las generaciones futuras.*

# Access to resources: the dynamics of land tenure in Gallura (Sardinia, Italy)

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*Land tenure systems have always played an important role in economic and social development. In the case of Sardinia, common property practices have been a key element in local agricultural land management. Land privatization laws were imposed in 1836 and again in 1971, and today, once again, privatization of public or common resources is being encouraged as a tool for promoting economic development. Land privatization schemes have never been fully successful in Sardinia, however, and have not brought the expected economic development and social stability.*

*Common property practices have continued to the present, mostly in complementary, hybrid form with private property regimes, as a form of control that communities assert over natural resources to increase local economic productivity. Through these practices, people attempt to enhance their advantages in relation to external economies, resolve problems arising from competing land uses, and promote social stability and access to local resources. An institutional approach to examining land tenure helps us to understand how local resources can have multiple uses and functions, and how natural resources are not capital to be increased, but an asset to be preserved and transmitted in a useful form to future generations.*

## INTRODUCTION

The important role that land tenure issues have always played in economic and social development in the Italian autonomous island region of Sardinia continues to this day. For over two hundred years the customary local regulation of land use within common property regimes has shaped development trends and, especially in the subregion of Gallura, common property uses have promoted social stability by preventing tensions among different land users, particularly shepherds and farmers. Land privatization laws imposed in 1836 to support economic and social development on the island dramatically changed land-use patterns, with varying outcomes in different Sardinian subregions. These outcomes had one common element: they did not bring economic development and social stability.

Historically, in Sardinia, common property definitions and land uses have adapted to ever-changing legal and regulatory regimes. Local users have found ways to preserve local, grassroots flexibility in using and sharing land resources as part of their efforts to shape a sustainable, mixed local economy and to promote social stability among diverse, potentially competitive, land users (Fara, 1975).

Historical and present-day examples of rural, especially agricultural, land-use practice in Sardinia, with particular reference to Gallura, reveal a practice in which private and common ownership form a hybrid pattern that poses interesting challenges to current privatization theories.

During the most recent phase of economic globalization, under prevailing global neo-liberal development policies, the privatization of public or common resources



has been encouraged as a way to promote economic development more effectively (Dicken, 2003), or what Hernan de Soto has called the creation of live capital from dead capital (De Soto, 2000). In Sardinia, increased privatization is encouraged by both the Italian central and Sardinian regional governments, in response to pressures from private, especially corporate, investors, particularly in the island's rapidly growing, mostly foreign-owned, tourism sector.

The Sardinian case offers new knowledge about social conflicts over access to and control of resources, as well as over development in the broader sense. In fact, both the dynamism of property regimes and the ways in which different societies regulate land management mirror local and regional social relations, providing a precious insight into the situated knowledge that informs economic and social development both at the local and national levels.

The rural economy has shifted towards what is called an *economia dei consumi*, or consumer economy, and rural and peasant society has been slowly transformed into what Weingrod and Morin (1971) have called a "post-peasant society". Agricultural economic systems have become exchange systems in which the farmers and shepherds consume part of their production and exchange the rest on the national or international markets. For the owners of larger parcels of land, those exchanges continue to be very important in an economy that is still based upon agricultural production, mostly limited to cheese, meat, wines and grain. The revenues of farmers and shepherds normally depend on the returns from larger-scale wholesalers and distributors and are not always sufficient to meet the needs of local families. In the case of small landowners, they frequently end up selling their properties to corporations and developers, often foreign-based, that have transformed entire stretches of the Sardinian coastline through the construction of exclusive lodges and villages aimed at advancing the tourism

sector, increasing their profits and ensuring their penetration in the local and national markets. The new owners usually contribute little to the Sardinian regional economy, but repatriate their profits to the mainland or beyond.

### **ADAPTING THE SARDINIAN COMMONS TO PRIVATIZATION SCHEMES: HISTORICAL ANTECEDENTS**

Enclosures laws were first documented in England in the fifteenth century and peaked by the seventeenth century, when peasant opponents were demonized as primitives (Kingston-Mann, 1999). During the eighteenth and nineteenth centuries, the laws spread across Europe and finally reached Sardinia in 1820, when King Carlo Alberto instituted a private property system for land, supposedly to combat older feudal common property uses and economic underdevelopment (Gemelli, 1776; Iacini, 1885; Della Marmora, 1839).

Before King Carlo Alberto's decree, the *Regio Editto*, Sardinian territory (totalling 24 090 km<sup>2</sup>) was divided into feudal, communal and private estates. Feudal territories were owned by the *feudatario* (noble lord), who received taxes from rural tenants for use of these lands as pasture for livestock. Villagers also used these lands for the collection of fuelwood for their household needs, as well as other products that grew freely in the forests, such as fruits and wild edible plants. These uses were accepted as an unwritten law and the *feudal* lands, specifically those located far from the village, gradually became associated with "communal lands" as people gradually acquired the right to use them without the payment of a rent, while the *feudatario* maintained ownership and control of his property. The other type of communal land was termed "free" and fell within the jurisdiction and control of the *Comune* (a political entity similar to a municipal government), with use rights granted to all citizens of the town or village, who were called "communists". Private lands were very limited both in number and in geographical extent when compared with

these first two types. Private lands also fell into two categories: “open” or “closed”. Only the closed lands were considered completely private, and only the private owner had the right to use the land. In the “open” category, which accounted for the large majority of private lands, the owner was required under customary law to cede communal access by offering land for agricultural use, especially pasture for livestock, to citizens of the local *Comune*.

However, the *Regio Editto* “introduced in Sardinia a new order of things”, even while it “... lacked the conditions that justified and promoted the new imposed order”, wrote Silla Lissia (1903), a Gallurese physician and politician. Lissia and others discovered that common property had not, in fact, disappeared, but that “... the old communist right survives over the private right and, above all, there remains the right of access to the *feudo* [the extended portion of land, once owned by the *feudatario*]” (Lissia 1903: 126).

In other words, despite the introduction of privatization schemes mainly at the national or provincial levels, common property practices continued to be preserved in hybrid forms, coexisting with private property. Both the *Comune* and the rural bourgeoisie had few sources of wealth, because of the lack of large-scale commerce, industry and services to sustain local economies. As a result, many of the older communal practices persisted because they were necessary for local economic survival within fragile economies based solely on agriculture.

### THE CASE OF THE STAZZI IN GALLURA

An interesting development of these communal practices is the *stazzi* found in the subregion of Gallura. This rural land-use pattern, comprising agricultural homesteads surrounded by attached agricultural and pastoral land, first emerged in the nineteenth century, continued into the twentieth century, and still exists today (Le Lannou, 1979). By as early as the 1830s, *stazzi* had become highly efficient farms in which the equilibrium between the private property and common

use was respected and had adapted itself to the region’s land tenure practices. There is evidence that such stability and complementarity lasted well into the mid-twentieth century, if not later.

Beyond the *stazzo*’s own lands, interspersed among the homesteads, there were also open fields and forested land belonging to larger private estates called *cussorgia*. *Stazzi* owners exercised common use of this land as supplementary pasture for their livestock, according the exact same rules that regulated the old common property system, which had been abolished by King Carlo Alberto in 1820. Moreover, during harvesting or other seasonal events, *stazzi* inhabitants provided reciprocal help to each other, and this reciprocity, called *manialia*, was the common form of compensating one another for labour exchange.

The *stazzo* combines pastoral and agricultural practices in a complementary rather than competitive manner, within the same managed land-use pattern, and is unique within Italy. Its presence is the result of Gallura’s adaptation to the system that rural peasants had organized to ensure their survival by developing means for resolving conflicts between farmers and shepherds. This pattern was started by farmers in different Sardinian subregions, who decided to organize – by adapting older customary practices – a rigorous “communitarian agriculture system” (Maiore and Mossa, 1993: 9). The rural land surrounding villages and small towns was supervised (under “common surveillance”) by a rotating committee of farmers led by a community representative. This grassroots surveillance was known as *scolca*, and there were benefits from complying with it. Those who agreed to the common farming practices, and coordinated use of the land with others, gained the community’s overall support and protection. Thus, land-use conflicts could be resolved between the parties concerned at the local level under village authority.

The system was so successful that it was incorporated into the regulation of

the agricultural production of the four *Giudicati* (equivalent to a province) into which Sardinia was divided before its incorporation into Italy.

The most important historical and legal document about the rules regulating life in the *Giudicati* is the *Carta de Logu* written by Judge Eleonora D'Arborea. From this, we learn: "the sheep's flocks may not enter in the pastureland reserved for the animals used to help farmers in their work. They also cannot enter in the areas where wheat has been sowed ... [and the ones] that are found in such areas will be killed" (Mameli De Mannelli, 1805). This excerpt shows the rigour and detail of the regulation of agricultural production and of land management in general. It also shows clearly how the rural landscape was strongly dominated by the "collective property of the land" and by a system of locally controlled rotating cultivation.

The borders of the land considered as being under the control of the village community were never clearly defined. How far they extended changed according to the extent of the community's activities and of others' community forests and cultivated lands. This system was organized with the main objective of defending farmers against the "invasion" of shepherds, and proved successful in avoiding major crises between the two groups, working perfectly for almost a thousand years. The nomadic transhumance that characterized the shepherds' movements, and to some extent still does, was acknowledged and regulated by rules set by the community on a periodic basis and implemented after a meeting and a vote.

#### **LAWS AND REGULATIONS: HISTORICAL DEVELOPMENT AND RECENT TRENDS**

The *Regio Editto*, which imposed the enclosures in 1836, and the 1971 *Legge De Marzi-Cipolla*, a joint agreement by the two main Italian political parties of the time – the Communists and the Christian Democrats – attempted to modernize the rural sector and the so-called archaic laws that regulated the relationship between

owners and tenants and introduced the most important and radical changes in the ownership and management of rural land. In both cases, the authorities wanted to define clear rules in a world whose customary rules they did not know and could not understand. The objectives of the 1971 *Legge De Marzi-Cipolla* was extremely broad: its aims included regulation of dairy and cheese production, promoting the association of breeders and shepherds and establishing cooperative marketing and distribution of dairy products. The final goals were to eradicate the problems caused by tensions between shepherds and other land users and to end the nomadism of the shepherds and their isolation from the communities in whose lands they pastured their flocks of sheep. However, the peasants' reaction to that law was the same they showed to the 1821 *Regio Editto*: strong resistance.

Such resistance had the same root in both historical periods: the state's ignorance of the complex rules and of the importance of the *usi civici* (civic uses) and of the *proprieta' collettive* (collective property) in rural Sardinia. *Usi civici* refer to the rights of specific uses of lands owned by public or private juridical persons. Examples are the right to hunt or fish, or to herd cattle. *Proprieta' collettive* refer to rural areas owned or managed by a specific juridical person, which can also be a public administrative entity, and used by the collectivity according to rules traditionally fixed at the local level. As several Italian scholars have stressed, the legislature's interventions in different historical periods, and especially in recent times (Costato, 2004: 23), have exhibited a clear lack of comprehension of the difference between collective use and civic use, and an incapacity to understand the local origins and beneficial economic functions of such regulations (Nervi, 2001: 53; Corradini, 2001: 129).

#### **PRIVATIZATION AND LAND FRAGMENTATION**

According to Weingrod and Morin (1971), the main structural problem in Sardinian

land tenure is the extreme fragmentation of the land, which was an outcome of the 1821 *Regio Editto* that first mandated rural land privatization. As the Table demonstrates, in 1964, 60 percent of landholdings were between 1 ha and 5 ha in size, and 25 percent were smaller than 1 ha. This extreme fragmentation was caused by enforced privatization and an inheritance regime that, to this day, gives equal ownership rights to all descendants. Historically in Sardinia, unlike elsewhere in Italy, feudalism did not lead to the emergence of an aristocratic landowning class. All local villagers continued to own a portion of land for the family's needs and used in common most of the village's pastureland and forests, according to the rules of the *scolca*, mentioned above. Even so, the requirement that property be privately owned by individuals meant that holdings became more and more divided into increasingly smaller parcels.

The equal access to resources that was previously ensured by common property practices was thus undermined by privatization, and at the same time the excessive fragmentation of property did not allow the national and regional rural development plans that came later – such as the *Piano di Rinascita* of the 1950s and 1960s – to gain momentum. In other words, the effects of privatization actually impeded later economic development and growth. Nevertheless, the efficient functioning of the rural land-use system was largely preserved through the retention of common property practices.

#### Land parcel ownership in Sardinia by size in 1964

Number of hectares	Percentage
0–1	25
1–3	25
3–5	10
5–10	13
10–25	13
26–50	6
Over 50	6
<b>Total</b>	<b>98</b>

Note: Total does not add up to 100 owing to rounding.

Source: Istituto Italiano di Statistica, n.d., p. 879.

## CONCLUSIONS

The fundamental role of the elements of communality and locality in fostering local social equality and stability were not understood by the state. In the case of Sardinia, and specifically Gallura, the social and economic problems that followed the application of the new laws and regulations stemmed from the unwillingness of local communities to eliminate all civic uses and, therefore, to *modernize*.

Paradoxically, the key elements in the older management practices of civic uses are considered to be very *modern* by current Italian scholars in rural studies, who study them through an *approccio istituzionalista* (institutional approach). This is because peasants are able to adapt these practices flexibly and creatively according to the different places and times in which they are needed. According to Pietro Nervi (2001), for example, key elements of globality, participation of the population, guarantees of the land's juridical rights, and of the rules that regulate communal uses, can all be understood only if we make room not only for “multiple uses” of each resource by different users, but also for the existence of “multiple functions” that each resource can have. That is, rather than assuming that such multiple uses are simply backward, even ignorant, survivals from the past, it should be recognized that they can represent an effective innovation expressed by the complementarity between traditional and new goals, and between people and their environment.

The historical, social and economic dimensions of land tenure practices are deeply rooted in the uniqueness of each local geographical area. Of course, there are commonalities among the many common property practices that can be found throughout Europe and beyond (Sikor and Sturgeon, 2004; Singer, 2000). Each society, however, presents different variations of properties, shaped and legitimized by local regulations and understandings, as well as by national and international laws (von Benda-Beckmann, von Benda-Beckmann and Wiber, 2006). Knowledge of these



variations is essential to understanding the local roots of each experience. Common property practices persist, fundamentally, because of their effectiveness in ensuring access to resources at the local level.

Joseph Singer's (2000) statement that "Property is a form of power, and the distribution of power is a political problem of the highest order" highlights the crucial functions of the political dimension of property – the exercise and distribution of power. Close consideration of the Sardinian case and of the power dynamics that have regulated land tenure regimes and access to resources invites reflection on the value of solutions rooted in the specificity of each experience. Of course, this insight underscores what all local solutions demonstrate so well: that natural resources are not capital to be increased (Nervi, 2001) but an asset to be preserved and transmitted in a useful form to future generations.

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