

**REPORT OF THE VISIT OF EUROPEAN MEMBERS OF
PARLIAMENT TO KENYA**

RECONCILE, FEBRUARY 2016

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1. Introduction

Towards realizing the CELEP objectives to create a more targeted engagement with the European Parliament and to have pastoralism clearly understood in the Parliament, specific activities were prioritized in CELEP's 2016 action plan during the annual meeting in late 2015. Amongst other actions, hosting of the Members of the European Parliament (MEPs) in Kenya was an activity that RECONCILE was to facilitate. The meeting with the MEPs in the RECONCILE offices in Nakuru on 10 February 2016 was exceptionally important because of two main factors: firstly, the focus was to understand Arid and Semi-arid Lands (ASALs) away from the traditional ASAL areas (Nakuru county is not classified as ASALs); secondly, it was led by the chair of the Development Committee of EU Parliament, Ms Linda McAvan. The meeting was well attended both by members of CELEP and the International Land Coalition (ILC) members; in total, 57 people were hosted at the RECONCILE offices.

2. Planning and meeting process

The coordination for planning and hosting the meeting was divided into two parts. One part was facilitated by the Coalition of European Lobbies for Eastern African Pastoralism (CELEP) Focal Point in Europe in VSF in communication with the EU's Directorate of External Policies together with administrator of the Development Committee. The other part was handled in Kenya by RECONCILE, the CELEP Focal Point in Eastern Africa, working with the ILC members such as Kenya Land Alliance (KLA), National ASAL Stakeholders' Forum and the National Drought Management Authority NDMA to host the MEPs in Nakuru. The support from the Rangelands Initiative, a programme of ILC, was key in ensuring that the members of both ILC and CELEP were mobilized. This input was critical especially after convening a meeting in Uganda on 20 October 2015 for ILC members to meet the both the focal points and members of CELEP and the MEPs, who were on a similar mission in Uganda. This also provided an opportunity for the Rangelands Initiative to enhance its visibility within the EU circles but also in the CELEP membership.

3. Participants

While planning, it was expected that there would be a maximum of 40 participants. The first cluster was drawn from the CELEP Kenya partners (Terra Nuova, AgriProFocus, Practical Action, Dryland Learning and Capacity Building Initiative (DLCI), Concern Worldwide, Pastoral Development Network of Kenya (PDNK), Kenya Livestock Marketing Council (KLMC) etc). At least three key members – namely PDNK, Terra Nuova and KLMC – were amongst the primary CELEP team represented in the meeting and made valuable contributions. The CELEP Googlegroup was also represented by at least two members. RECONCILE was host and also presented a couple of positions. Also involved were the Co-coordinators from ILC and International Livestock Research Institute (ILRI) of the Rangelands Initiative. ILC members were central in the meeting and therefore constituted another cluster with members such as the Ogiek Peoples Development Programme (OPDP), KLA, MACOFA, and OXFAM among others.

Another cluster different from the membership/network organizations were the members of the EU team. There were two levels: one from the European Parliament led by the Chair of the Development Committee Linda McAvan, four MEPs plus technical staff from the Directorate of External Policies. The second level was the EU Kenya Deputy Head of Delegation Bruno Pozzi. Kenyan Governments representatives from both county and national level were present.

The National Land Commission and National Drought Management Authority were well represented and made valuable inputs especially on the aspects of the current interventions at the policy level and how they trickle down to the counties. Also present was Mr Omemo Suji, a representative of Tufts University. The last group was made up of actors in ASAL and other areas, pastoralist organizations and Indigenous Groups organizations from Baringo, Naivasha, Narok, and people from other ecosystems of Mau Forest.

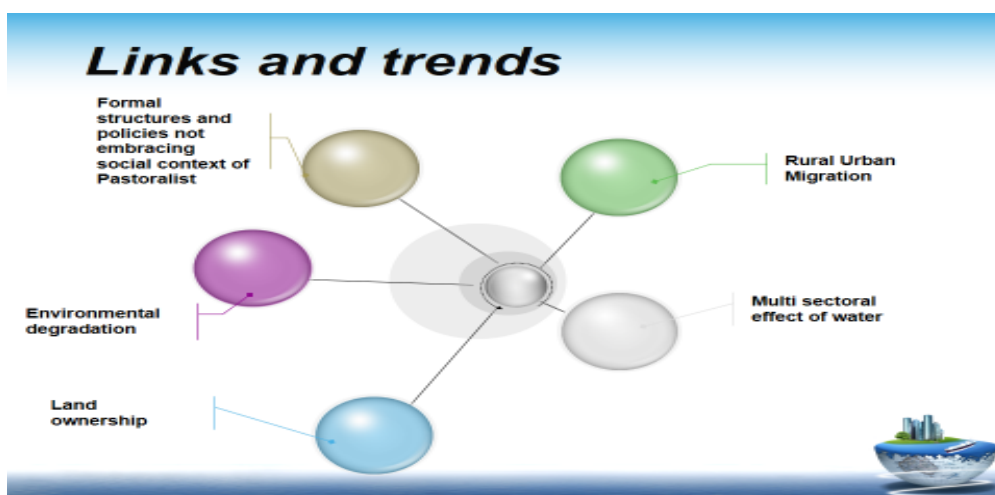
4. The discussions

The discussions were anchored on pastoralism from the perspectives of land issues, governance systems, livelihoods and water resources. These issues were discussed on the basis of presentations made by different persons including Mr Odenda Lumumba, Mr Ken Otieno, Dr Marcel Rutten and people from KEWASNET.

5. Water governance

The presentation was made in a summarized form by Joseph Kasere of KEWASNET to present the status of water governance in the ASALs on Kenya and the implications for pastoralism in three main pillars:

- 1) The strategies for managing and using the water determine acceptability or rejection of water projects in the pastoral areas.
- 2) The traditional water governance structures often are working at cross-purposes with the formal structures such as the water resource users association.
- 3) Land tenure systems in the pastoral areas: most of the ASALs are under a common property system and therefore projects including waterpoints, when considered outside the premise of the customary areas of waterpoints, run the risk of being captured by elites. The figure below summarizes the points.



6. Land governance

This presentation by Mr Odenda Lumumba overarched three dimensions that are separate but inter-related and core to the MEPs' visit to Kenya. As such, the presentation looked at the land governance framework from the perspectives of defining land governance and how it relates to livelihoods as well as political governance. This brought forward the need to look at two aspects: firstly, it takes a reform of land administration institutions to foster good governance of land, natural resources and processes of land use change; and secondly, land governance is about processes by which decisions regarding access to and use of land are made and implemented and the way conflicting interests in land are resolved and reconciled. This was directly speaking to the necessary ideas that the EU in its intervention/contribution to land reforms and development take cognizance of the nexus between land governance and access and use of land-based resources with different and competing interests.

It also defined the other aspects of the socio-economic and social rights that are often left out in making decisions on projects and programmes, with much premium given to political governance. The presentation concluded this component by observing that land governance is a techno-legal, procedural and political exercise. As such, the process of allocation and enjoyment of land rights cannot be separated from the civil, political and human rights of the citizenry, but it is dependent on the political, administrative and professional will to ensure fair treatment and equal opportunities to all.

7. Pastoralism

This was a component that the discussant/presenter Mr. Lumumba looked at in helping link to the purpose of the visit, which was largely defined by the need to understand the ASALs of Kenya and define the connection with the work of CELEP and its members. Many notions have been built around pastoralism and pastoralists. These draw largely from the different perceptions that have evolved with the system. Many definitions will continue emerging but the standard information about pastoralists and pastoralism should and is defined by the livelihood system and practice. Pastoralism is a form of land use with a long tradition, well-adapted to the challenges of maintaining sustainable and productive livelihoods in drylands.

The presentation summarized the issues in the following points:

- Pastoralism is about protecting grasslands & pastoral ecosystems
- These ecosystems support a huge number of livestock & wildlife resources, which significantly contribute to the economy
- Pastoralism is threatened by climate change, competing land uses ranging from large-scale agriculture, extractive industry, mega-projects & corridor development.
- Investment model so far adopted amounts to development by dispossession/displacement
- Protection of pastoral ecosystem require land governance that addresses tenure security, role of pastoral communities in management of the pastoral ecosystem, guarantee of equal access to pastoral resources by women, establishment of cross-boundary disputes & improvement of technologies of resource use

8. Conclusion of the presentation

Land use change: the case of Kajiado, based on a longitudinal study by Dr Marcel Rutten. A number of factors have defined the changes. This ongoing study, started in 1986, gave a 30 years history of what has happened in the southern rangelands in the last century. Land subdivisions and sales have foremost defined the current land status of Kajiado. Urbanization, especially the Kitengela Township, which is also part of the Nairobi metropolis, and large-scale commercial farming have also created another problem: drying of water sources

The following are ten key reflections presented from the African Studies Centre (ASC) - Leiden study:

1. Land grabbing is an old phenomenon – white settlers, British Soda Ash Company, Kenyan government/international wildlife organizations, local Maasai elite, national elite, international entrepreneurs.
2. The subdivision of group ranches turned land into a commodity; fears by opponents that subdivision of group ranches would result in massive land sales seem to be becoming reality.
3. Access and control over grazing land (mobility) is less assured due to fencing and land taken out of pastoralism. With land losing its communal tenure and becoming individually owned, paying for pasture, hay, maize stems etc is on the rise
4. Ecotourism initiatives (1990s) take out more dry-season grazing land but, besides some jobs, are mostly beneficial to the tour operator and to a small local elite only.
5. Maasai society moves towards a more permanent arrangement of poor and rich members: class formation.
6. Water grabbing: entrepreneurs mine natural resources, notably water, to make a quick fortune; too many (international) stakeholders benefit.
7. In Kajiado (Isenya) rainfall has increased and temperatures have risen. These two climatic characteristics have offset each other. So not so much meteorological but hydrological droughts are challenging food security.
8. Maasai are adapting by embracing some new albeit costly or labour-demanding strategies (hay, cactus, *unga*, flower stems)
9. Some of these adaptations are based on destructive practices such as charcoal burning and sand harvesting.
10. Local Maasai protests are on the rise: protest letters, court cases, blocking of roads, invasion of farms, burning of lodges.

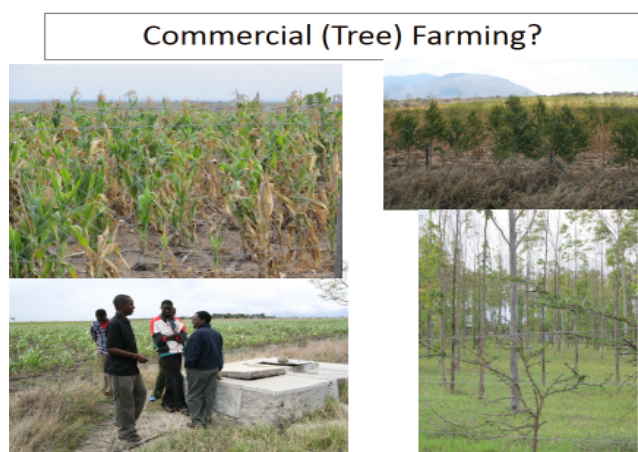


Figure 1: Flower farming

Some reflections

What is next for the pastoral land in Kajiado and the broader ASALs of Kenya?

This is a question of law and policy existence and compliance with the same. It is at the same time a question of managing the individual rights of owning their land as well as the collective ownership and rights by the pastoralists of Kajiado and beyond and how pastoralism as a system remains viable in practice or seen to be viable. The constitution of Kenya 2010 (Art. 63) provides for the enactment of a community land law which is a bill in Parliament but it also prohibits any transaction on unregistered community lands till such a time that the law is in place. In the meantime, a moratorium was also issued in 2013 by the Minister for Lands putting caveat on any transactions in community land.

Despite the caveat, the County has nonetheless experienced a systematic land subdivision, which has transformed it from rangelands to commercial hub for both floriculture and real estate business. This is also in part been defined by the proximity to Nairobi making part of the county a metropolis town.

What are the implications in terms of lessons learnt from the different interventions in the past and what is next for the future?

History is replete with lessons in Kajiado County. It presents the case of some of the success group ranches in the southern rangelands, such as the Olkiramatian group ranch managed both by traditional and formal arrangements, partnership with the government institutions, such as the KWS that helps the community in the management and protection of the wildlife and promoting the ecotourism business. Similarly, the Kenya Forest Service supports in conservation and management of the forest, which also serves as reserve area for grazing in dry seasons. The community also work with the Water Resource Users Association to conserve and manage waterpoints and or sustainable irrigations by use of canals.

The ranch presents a good system that has defined decision-making processes and has also managed the subdivision pressure and thus still remains intact. For the future interventions, RECONCILE through its land rights programme and the Rangelands Initiative programme which has hosted and facilitated various sessions through learning visits and study tours through the Learning Route methodology plans to work with the National Land Commission

to pilot the County Spatial Plan and the community land law to demonstrate the transition from one legal regime to the other. This is an open process still and the partners planning this shall reflect back on the various steps in order to define a concrete plan.

The other set of work that brings in the CELEP network is the geographical study that is being led by ten Cocoon Initiative Kenya Programme of Leiden University (ASC) and Southern Kenya University – Kitui (SEKU) in the county. Many conversations and reflections on this within the advocacy work of CELEP at the EU level and Rangelands Initiative at the Global ILC level have been going on. This process has been largely defined by the court case between the group ranch and the private investor at Nguruman.

27/11/2014 Group Ranch land to be auctioned once again?



Land-use planning as a tool to manage development as well as local and external investment is an important process. The NLC and other partners have recognized the need to have the conversation on finalization of the LUP policy and guidelines in order to guide the transition of centralized land administration to a devolved structure, as defined by the constitution and the land policy. The Rangelands Initiative Programme in 2015 convened a sharing session that brought different stakeholders together to reflect on the importance of rangelands in Kenya. They recognised that, in order to make the rangelands more secure, participatory planning is critical. Therefore, dialogue towards this end is important even with the EU to prioritize supporting land governance within the ASALs and to pilot initiatives with cases such as the Kajiado one, which – in the process – will secure the remaining community lands in the southern rangelands.

Investments in the ASALs: how this impacts on livelihoods positively, negatively or both?

As demonstrated, large-scale investments in Kajiado, just like in other ASALs, is the new trend through housing projects, irrigated agriculture (open and greenhouse), oil and gas extraction etc. The benefits and how such benefits change lives is what defines how good or bad the investments are. The different business models that are inclusive will enable local people to grow holistically and will also reduce potential conflicts. The examples of Kajiado are largely based on land sales to either locals or foreigners who have not taken into consideration the livelihood system in Kajiado. An analysis and example of the flower companies and the case of soda ash show communities as losers, especially because water sources are lost and polluted. Maasai also complain about the many immigrant workers, which affect local culture and reduce security in the area. A minority welcome the immigrants for improvements in transport and as a market for livestock produce, notably milk.

Investments also by their own nature define a particular system that often undermines the traditional system of operation. For instance, fencing off some of the commons such as the

livestock corridors, wildlife migratory routes, introduction of non-indigenous breeds or species of livestock, trees, crops etc and also the use of chemicals, possible unintended introduction of invasive species of any kind.

9. Conflict management

Conflict in the ASALs is often generated over issues of access to and control of resources. This became an issue of concern to most MEPs because:

- Often the rules of the game change when it comes to investments; often, governments sanction them without thorough due diligence.
- Absence of goodwill and without support from the government to make certain choices. ASALs remain an important aspect of any development, but they remain a centre of attraction of conflict at the same time because of the tenure regime, which is largely communal and whose protection has been very weak on account of overlaps in but more often lack of implementation of laws and policies.

Some areas that CELEP will need to take action or follow up on;

- Follow-up in Brussels: largely conversations on livelihoods, land rights, investments tied to large-scale land acquisition in the pastoral areas.
- More reflection on the conflict issues emerging from the ASALs that are resulting from investment, land administration and management among others.
- Linking the issues to last year's MEP visit to Uganda and clustering similar issues for global campaign.
- ***Investment discourse in the ASALs.*** This is one area where all this converges. A conversation around that with Norbert and Lind would be good. Need for investing in a process that supports a structured engagement with investments in the region. Guidelines or advocacy tools. Also, thinking through on a tracking framework in terms of compliance. How to track compliance with this (combination of tools: African Union Policy Framework on Pastoralism, African Union Framework on Land, guidelines on land etc) CELEP action plan activity 1 and 2.
Develop these guidelines. Structured follow-up on engagements.
 - Define issues that can be developed into a possible resolution in the European Parliament: more resources etc.
 - Stronger partnership and engagement with the MEPs.
 - Structural funding to explore how best CELEP and its partners could benefit from the EU partnership.