



Sustainable pastoralism and land-use change in the East African drylands

Photo: Turkana youth herding their camels to water, and for whom livestock mobility is paramount for their livelihoods; Terra Nuova in East Africa, ©Nico Marziali.

POLICY BRIEF

We, the Coalition of European Lobbies for eastern African pastoralism, believe that pastoralism is essential for sustainable long-term economic, social and environmental development of Eastern Africa's drylands. Current processes of land-use change are threatening pastoralism through expansion of arable farming into dryland areas, national parks and other protected areas, tourism and extraction of mineral resources such as oil. Therefore, we urge that strategic land areas for pastoralists should be identified and protected, multiple use of land should be enabled through appropriate land use planning and statutory tenure, and impact assessments carried out for all investments based on the Principle of Free, Prior and Informed Consent.

Land-related features of pastoralism

Unplanned and inappropriate land-use changes in dryland areas are jeopardising pastoral production systems often ignoring the economic, social and environmental value of pastoralism. Pastoralism is the source of income and subsistence for many people; makes significant contributions to the GDP of Eastern African countries; supports social and cultural norms, values and institutions; and, thanks to livestock mobility, makes optimal use of scarce and dispersed natural resources (Ayantunde et al. 2011). Livestock mobility and multiple use of land resources are required for sustainable pastoralism:

- Livestock mobility makes best use of natural resources that are highly variable in spatial and temporal distribution, including in times of drought.
- Communal and multiple use of land increases the efficiency of

usage and land productivity and outputs. Different user groups may have primary, secondary, tertiary etc rights working as a "nested hierarchy" of rights, in order to use the same land area, e.g. for grazing, browsing, water collection, gathering of non-timber forest products, cultural purposes, cut-and-carry grasses, and in some circumstances agriculture at the same or at different times of the year, either according to customs, local bylaws and/or negotiated between the users.

Usually customary institutions manage these features, though in some places these may have weakened because of various factors and/or customary institutions have evolved into multi-stakeholder platforms in order to include new land and resource users. Customary institutions are not static; they evolve over time. Men and women, young and old have different roles within these institutions, and these

roles are equally important for the continuation of pastoral livelihoods.

Trends in land-use change

The features at the core of pastoralism are threatened by trends that rapidly change the landscape and therefore the use of natural resources, particularly when poor and/or inappropriate planning has taken place:

- **Small-scale arable farming** has been expanding in the drylands in recent decades. For example, 25% of the dry-season grazing land of the Afar Region of Ethiopia was under cultivation in 2007, a fivefold increase since 1986 (Tsegaye *et al.* 2010). Small-scale arable farming is not only expanding through people coming in from outside pastoral areas; many pastoralists have also started to cultivate on a small scale. Drivers for cultivation in drylands are an increase in population density, immigration of people, droughts, diversification of livelihoods and sedentarisation of pastoralists. However these crops often fail due to lack and unpredictable rainfall, disease or pests common to these areas such as locusts.
- **Large-scale commercial agriculture schemes** for food or biofuel crops are resulting in the appropriation of large tracts of land. In the Tana River Delta of Kenya, for example,

proposed land deals include the appropriation of 250,000 ha (Arale Nunow 2013). These are led by national governments and international or national companies and funds. There are few studies providing the costs and benefits of such schemes, and those that have been carried out suggest there are greater costs than benefits.

- The establishment of **private area enclosures or exclosures** for ranching or private drought reserves have been a growing trend in the rangelands as land users including pastoralists increasingly try to protect the land and resources that remain. This is also driven by an increasing inequity in livestock distribution with wealthier pastoralists often driving privatisation processes. The increase in private water points is also part of this privatisation process.
- **Conservation.** State-protected areas, private conservation and land annexation for carbon offset markets and REDD+ (Reducing Emissions from Deforestation and Forest Degradation) have all lead to further annexing and/or changes of land use of rangelands. For example, in the Karamoja region of Uganda, 53% of the land is under some form of conservation (National Land Policy 2013). In Tanzania, 40% of land is estimated to be under some form of environmental protection. Facilitated by the Wildlife Conservation Act that enables prohibition of grazing in Game



A big herd in Hurri Hills, northern Kenya ©Petra Dilthey, ethno e-empowerment (eem.org)



A groom and his best man in Laisamis, northern Kenya, in front of their village preparing their wedding during rainy season ©Petra Dilthey, ethno e-empowerment (eeem.org)

Controlled Areas, the Tanzanian Government evicted Maasai from about 200 homesteads in 2009 (Benjaminsen & Bryceson 2012). In 2017, there was another surge in land evictions in Maasai areas ostensibly to make space for conservation.

- **Tourism.** Closely related to conservation is annexation of land to improve the potential for tourism. For many Eastern African countries, tourism can provide significant economic benefits – however this is often at the cost of other land users such as pastoralists. Land is claimed for infrastructure development and services, whilst tourism ventures in such conservation areas provide stronger arguments for the exclusion of people from these. For example, three large “resort cities” are planned in central/northern Kenya for tourism and economic opportunities (GoK 2008) but will also mean loss of more rangelands adding to the already escalating conflict between pastoralists, tourism operators and crop farmers in many areas.
- **Extraction and use of natural resources.** Increasing attention is being paid to drylands in order to explore possibilities of extracting oil, gas and minerals, as well as for establishing wind farms and thermal energy or hydropower. One example is Turkana County in Kenya,

where exploratory oil rigs and oil wells have been built. Traditional areas of grazing land have been fenced off by oil companies, investors and local land speculators (Johannes et al. 2014).

Negative impacts of current land-use changes

Although the drivers of these changes differ, they have the same or similar consequences. Direct consequences are reduced availability and greater fragmentation of grazing and browse areas and water resources in areas already under stress. The areas expropriated from the pastoral landscape are often the most fertile being those that can be irrigated along rivers etc, and which had before appropriation been crucial dry-season areas for grazing livestock and were essential for pastoral resilience against drought (Galaty 2011). In addition indirect side effects of these trends include:

- Increasing conflict and risk of conflict between different pastoralist communities and with other land users such as crop farmers.
- Increasing degradation of rangeland because of the higher pressure on a reducing space and disrupted traditional institutions of natural resource management.
- Disadvantages for specific groups, especially poorer pastoralists and women. Women play important roles in pastoral system. They tend

to be more negatively affected than men in situations of large-scale land deals (Daley & Pallas 2013) and tend to benefit less than men when land is privatised (Flintan 2010).

Causal factors of current land-use changes

Several factors are causing the above-mentioned trends and should be tackled in order to stop further breakdown of the economic, social and environmental values of pastoral systems:

- Perceptions that pastoralism is an inefficient form of land use and that rangelands are wastelands, as often assumed by development planners and policymakers;
- A lack of appropriate tenure security in rangelands leading to the privatisation and individualisation of land and vulnerability to externally driven land appropriation. This has driven a scramble for land and resources in some places in order to take them before others do. This has destabilised and weakened customary tenure systems that then find it challenging to maintain order and management over the resources that remain.
- A lack of knowledge of existing rights by pastoralists creates room for investors to acquire land without proper approval of the pastoralists concerned.

Recommendations and demand for action

Pastoralism is important for the economies and peoples of Eastern Africa, it is important for the national economies of the countries, and it is a sustainable use of drylands. In view of the above-mentioned trends, we demand attention to the following issues:

- In the support of strengthening land tenure and governance in Eastern Africa, a collaborative process to identify and appropriately protect strategic areas for pastoralists is of utmost importance. For the sustainability of pastoralism, it is essential that these strategic areas are accessible in times of need in the future. A key factor in governing these areas would be to legalise or formalise tenure according to a “nested hierarchical” and pluralistic tenure system (Flintan 2012). Such a system provides flexibility to control access and to use and manage those resources in complex dryland environments and pastoral systems.
- Pastoralists should have more access to courts and to the law in general and especially to laws related to land rights. The Ogiek’s case (see box) and the judgment of the African Court of Human and Peoples’ Rights can be considered an example for the future. International donors



Watering of camels in a laager in Laisamis area in the bush. ©Petra Dilthey, ethno e-empowerment (eeem.org).

should therefore increasingly support the African Governance Architecture (AGA) and in particular the African Court of Human and Peoples' Rights. Programmes and projects designed to make the public and above all the pastoralists' aware of the existence of these institutions will benefit pastoralists (land) rights. Strengthening AGA will also help to implement the African Union Policy Framework on Pastoralism in Africa. In addition, capacity building in pastoralist communities is needed so that they can communicate effectively their

issues and demands to regional and national government bodies.

- Multiple stakeholders need to work together to implement the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security" (VGGT) and in particular the "Technical Guide No. 6 on Improving Governance of Pastoral Lands" through programmes on strengthening land tenure and governance.

The land case of the Ogiek people in Kenya

The Ogiek people (ca 30,000) are one of Africa's last remaining groups of forest dwellers (Claridge 2017). They have lived in Kenya's Mau Forest since time immemorial, and depend on the forest for their survival through honey gathering, beekeeping, collecting wild fruits and roots, and hunting.

For years, the Ogiek people were arbitrary evicted from their ancestral land by the Government of Kenya (GoK), without consultation or compensation, thus ignoring the Ogiek's rights to their traditional land as recognised by the Kenyan Constitution and international law. The GoK allocated land to third parties and allowed substantial commercial logging, without sharing the benefits with the Ogiek. Over the last 50 years, the Ogiek consistently raised objections to these evictions but to no avail.

In October 2009, the GoK, through the Kenya Forestry Service, issued a 30-day eviction notice to the Ogiek, who lodged a case against the GoK before the African Commission of Human and Peoples' Rights ("the Commission"), assisted by CELEP member Minority Rights Group International, Ogiek People's Development Programme and the Centre for Minority Rights Development in Kenya. In November, the Commission requested the GoK not to implement the eviction notice, but the Ogiek people remained in an uncertain situation. In 2012, the Commission referred the case to the African Court of Human and Peoples' Rights ("the Court"). In March 2013, the Court ordered that the GoK restrict land transactions in the Mau Forest until the final decision in the case. However, harassment and intimidation of the Ogiek continued, including a violent eviction of about 1000 Ogiek in March 2016.

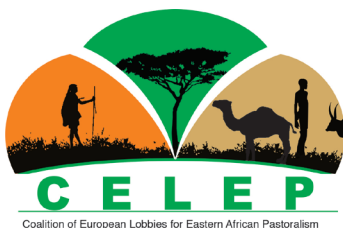
The Court then proceeded to judgment. On 26 May 2017, it issued a ruling that the evictions of the Ogiek from the Mau Forest contradicted the African Charter on Human and People's Rights (HPR) in general and specifically Articles 14 (right to property), 2 (non-discrimination) and 8 (free practice of religion). It interpreted the African Charter on HPR in light of Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples, recognising indigenous peoples' rights to own, use, develop and control the lands, territories and resources they traditionally own. The Court's landmark judgment is a momentous achievement that offers hope to other indigenous and rural communities in Africa, including pastoralists:

- The Court firmly adopted **the concept of indigenous peoples' rights related to communal property rights over ancestral land, rights to culture and religion and the right to enjoy freely their natural resources**. This sends a clear message to African governments that indigenous peoples and their rights to land and natural resources must be recognised.
- The Court made a clear ruling on the **role of indigenous peoples in conservation**. It confirmed that the Ogiek could not be held responsible for the depletion of the Mau Forest, and that this could not justify denial of access to their land to exercise their right to culture. This ruling is highly relevant for all rural communities with customary rights to land and natural resources, including pastoralists seeking recognition of their access to and control over pasture and water.

The Ogiek now await a Court ruling on reparations. In late 2017, the GoK set up a task force to implement the ruling, but did not consult the Ogiek. The task force has no Ogiek representatives. Local and international "watchdogs" must monitor this process closely.

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About CELEP

The Coalition of European Lobbies for Eastern African Pastoralism (CELEP) is an informal advocacy coalition of European organisations, groups and experts working in partnership with pastoralist organisations, groups, and experts in Eastern Africa. They collaborate to encourage their governments in Europe and Africa and the EU to explicitly recognise and support pastoralism and pastoralists in the drylands of Eastern Africa. For more information, contact the CELEP focal point Koen Van Troos at k.vantroos@vsf-belgium.org or the regional focal point Ken Otieno at kenotieno@reconcile-ea.org.

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