



# CELEP policy note on pastoralists' land rights

## Introduction

**For pastoralists to operate productively and sustainably, appropriate land-tenure rights are needed to support mobility, flexibility in access and non-exclusive use of land.** Land-tenure systems help people use the land peacefully and effectively for their livelihoods. In the case of people whose livelihood is based on pastoralism, an appropriate land-tenure system must enable their ways of using the land and making it productive.

**The health of both rangelands and pastoralism depends on their mutually beneficial relationship. Rangelands and pastoralism have evolved together as one system.** Rangelands evolved as a mutually beneficial relationship between plants and animals. Pastoral systems thrive by using livestock to mimic and refine the ecological role played by wild herbivores, often alongside wild herbivores.

**The distribution of grazing resources on rangelands can be highly variable in space and time.** Where and when grazing resources become available changes from one year to the next due to variability in rainfall. Pastoralists specialise in using these short-lived and often unpredictable concentrations of opportunities driven by climate variability. This is done by moving livestock where and when opportunities arise.

**Pastoralists' mobility is key to both the sustainable use of rangelands and the economic productivity of pastoral systems and related value chains.** By interacting with biodiversity and climate variability, and following the rains, mobility allows pastoralists to make the most of brief periods when high-quality pasture is available in different areas. This ensures their herds graze on the best pasture for longer than would be possible if they stayed in one place. Mobile pastoralists achieve the dual goals of maximising animal nutrition and avoiding overgrazing, as both are integral to selecting the most nutritious forage in rangelands where nutrients are unevenly distributed. Mobility also reduces pastoralists' exposure to the frequency of localised dry spells.

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Written by Mark Moritz, Flora Vern and Saverio Krätli, acknowledging comments from Jonathan Davies, Fiona Flintan, Natasha Maru, Jarso Mokku, Anita Sharma & Ann Waters-Bayer; a version of this note is being prepared by the Working Group on Land Rights in the Global Alliance for the International Year of Rangelands and Pastoralists (IYRP) in 2026.

## Challenges

**Formal land-tenure systems have failed to recognise customary rights, particularly those that support temporary use by mobile herders. These rights are necessary for efficiently accessing resources in unpredictably variable environments.** Rangelands used by pastoralists since time immemorial have often been regarded as *terra nullius*: unclaimed land a state is free to take and allocate for whatever purposes.

**Pastoralists everywhere are losing access to essential grazing areas due to various reasons presented as beneficial to the public or the environment.** These reasons include economic development, conservation efforts, irrigated crop-farming in dry-season grazing areas and initiatives like the Green Transition, which involves enclosing land for wind farms and solar panels. These changes in land use and fragmentation of rangelands, deterrents to mobility as well as challenges related to crossing administrative and international borders, are making it harder for pastoralists to access traditional grazing lands and follow their migration itineraries.

**Because the values from pastoralism are poorly captured in official data, or appreciated, pastoralists are often disadvantaged in policymaking and planning processes.** Mechanisms to evaluate and recognise the economic and ecological benefits that pastoralism brings, particularly concerning land use, are often missing or inadequate.

## Shifting the perspective

**Productivity and ecological sustainability in pastoralism can go hand in hand.** Pastoralists' productivity is based on making sustainable use of nature's unpredictable variability (rather than on using fossil fuel to create artificially stable conditions); their ability to do this is an important global asset for sustainable food production in the face of climate change.

**Pastoralism adds value to the land, but this contribution is rarely recognised.** Globally, pastoralism provides critical ecosystem services, landscape functionality, water management and biodiversity conservation. Pastoralism also plays an important role in food security, food safety and nutrition, while manure from herds and flocks is again essential to the sustainability of crop agriculture (for example in sub-Saharan Africa and South Asia). Pastoralism is unique in turning non-arable land into agricultural land without reducing its ecological integrity. Environmental and dryland archaeologists have detected the beneficial effect of pastoralism on soil and vegetation over millennia.

**Mobility and flexibility of access are critical for sustainable and productive pastoral systems.** Mobility, from daily grazing itineraries to long-distance migrations, means that pastoralism's characteristic forms of land use are transient, unobtrusive and not exclusive of other uses.

**To promote resilient and sustainable pastoral systems, and peaceful coexistence, it is important to recognise and support customary institutions, like the duty of inclusion.** The duty of inclusion must take priority over rights of exclusion. Customary land-tenure systems support mobility and flexibility through collective, inclusive and overlapping rights. Pastoralists' sustainable access to land, including by women and for cultivation, has been possible through customary institutions that prioritise community livelihood and the need of living together. These institutions also play a key role in preventing or managing conflicts among different stakeholders.

## Calls to action

CELEP calls for seven priority actions to meet the challenges facing Eastern African pastoralists' use of rangelands, which would equally apply to pastoralists in many other parts of the world:

- 1. Guarantee in the law pastoralists' right of access to land for their livelihoods.** In order to make a living from the often unpredictable spatial and temporal variability of pastoral resources, and to manage them, producers in pastoral systems need land rights that allow for correspondingly variable access in time and space. Guaranteeing pastoralists access to grazing opportunities, sufficient grazing reserves, and water for their animals within and across national borders, is necessary for the resilience of people in pastoral systems, the sustainable use of the rangelands, and the economic viability of vast regions and essential value chains.
- 2. Protect mobility as a right fundamental to the livelihood of pastoralists.** Flexible access to key pastoral resources where and when they become available is essential to sustainable pastoralism. Pastoral mobility should be acknowledged as a fundamental right attached to the way pastoralists use the land and inseparable from their right to livelihood. This should include facilitating the development of infrastructure and institutions that support mobility, and of agreements with public authority and other users, allowing pastoralists to move across land and water, as well as borders, whether international or domestic.
- 3. Expand legal frameworks to represent the full spectrum of pastoralists' land rights.** Move beyond the representation of land as an object of appropriation and trade, and include its legal representation as a space for livelihood. Building on existing customary systems, an expanded legal framework should recognise the possibility of shared, multifunctional, non-exclusive and transient land-use by different communities at different times of the year, and the possibility of having use rights or management rights on land that belongs to other people or to the state. The framework should allow for securing and registering these kinds of communal rights in ways that offer the same level of protection as ownership, especially against expropriation or with respect to other rights-holders on the same land. Even in a system where ownership of communal land can be secured, there is still a need for land rights functional to mobility, such as secure rights of use and access.

**4. Identify, acknowledge, and register pastoralists' customary land rights that have been overlooked during the various stages of land-tenure formalisation.** The formalisation and transformation of land tenure into a market-driven system have failed to capture and give legal weight to pastoralists' customary rights to land. The formalisation of land tenure may have been imposed by foreign powers against indigenous peoples or by internal land reforms. Regardless, the dismissal of pastoralist land rights, whether in the past or present, is an injustice that needs to be addressed. Today, these rights need to be identified, acknowledged and registered through the expanded legal framework described above.

**5. Recognise pastoralism as a form of land development.** The crucial role pastoralism plays, in terms of ecosystem services and maintaining/regenerating landscape functionality, is rarely recognised in the law or in planning. In most countries, legal and policy definitions of agricultural land development focus exclusively on crop farming. We call for this oversight to be corrected. The value pastoralists add to the land they use, in terms of landscape functionality, ecosystem services, and economic productivity, should be acknowledged and incorporated within national economic planning. Pastoralism should be recognised, through legislation, as a legitimate form of productive land use and development on the same basis as crop farming.

**6. Prevent (limit or regulate) further conversion of pastoralist lands to other uses that exclude pastoralism.** Pass legislation to protect pastoral rangelands against conversion to uses that are incompatible with pastoralism, whether by public bodies, private owners or communities. Introduce regulations to ensure that conversion of pastoral rangelands for public utility purposes preserves pastoralists' access for grazing, water and passage as much as possible. Ensure that pastoralist communities whose livelihood depends on accessing or using the land are informed of land-use conversion plans and can successfully prevent any conversion to uses that are incompatible with their livelihoods.

**7. Involve pastoralist communities in all processes in which they are stakeholders.** Integrate pastoralists' participation in planning at all relevant levels – local, regional, national and international. Take their expert knowledge of the land into account in order to identify the ways in which it should be used – and at which times – to secure the existence of pastoral systems that can be both economically successful and ecologically sustainable.