

Building on Customary Institutions for Effective Rangeland Governance in Northern Kenya

Pastoral livelihoods in northern Kenya depend on governance systems capable of managing highly variable grazing and water resources across seasons. Although policy reforms have sought to strengthen community participation and natural resource governance, they have often done so by creating new institutions alongside existing customary governance systems rather than building on them (Table 1). Empirical evidence from Marsabit County shows that strengthening rangeland governance requires recognising and building on these existing customary institutions rather than creating parallel structures.

KEY MESSAGES

- ❖ **Customary governance systems remain the primary, legitimate foundation of rangeland management in arid and semi-arid lands:**
In environments where grazing resources vary sharply by season, customary governance regulates access to ensure reliable availability over time. Rules are locally adapted, widely understood, and enforced through social mechanisms that communities recognise as legitimate, with elders’ forums continuing to hold central authority even as policy interventions have layered multiple parallel institutions on top of them.
- ❖ **Despite growing recognition of customary governance, meaningful integration remains limited:**
Policy interventions and development projects that overlook customary institutions or create parallel structures alongside them generate dissonance that fragments coordination and erodes the authority of customary governance.
- ❖ **Effective policy must build on, not replace, what already works:**
Sustainable resource management in pastoral areas depends on policies and interventions that recognise, support, and work within customary governance frameworks rather than layering over or substituting them.



Governance gap

Kenya’s legal and policy environment has made genuine efforts to devolve natural resource governance and increase community participation. Yet the mechanisms used to implement these efforts tend to undermine the customary institutions they are meant to complement. The pattern is consistent across multiple legislative domains.

Several reforms have added a layer of state-recognised actors without recognition of and building upon the existing customary authority (Table 1). The result is governance fragmentation, where resources that were customarily managed and used holistically now fall under different governance systems, by multiple entities with overlapping mandates and competing legitimacy.

The key gap is therefore that governance lacks meaningful ways to build on customary authorities in planning and decision-making and instead bypasses the systems that manage local resources, rather than leveraging them.

Table 1: Policy reforms creating parallel governance structures

Legislation	Formal structure introduced	Existing customary institution	Observed effect on customary authority
Environmental Management and Coordination Act - 1999 (Latest revision 2022)	Community Environment Management Committees (EMCs)*	Elders' forum, customary grazing monitors	Overlaps with elder-led grazing monitoring functions, particularly on dry-season reserves
Kenya Water Act - 2016, (replacing Water Act 2002)	Water Resource User Associations (WRUAs); Community-level Water Management Committees (WMCs)*	Elders' forum, water managers, well owners, borehole operators	Does not recognise and duplicates elder-led governance in operation for generations
Community Land Act - 2016	Community Land Management Committees	Elders' forum	Introduces overlapping land-management authority
Forest Conservation and Management Act - 2016	Community Forest Associations	Elders' forum	Adds formal structures to customary dryland forest governance

* EMCs and community-level WMCs are not necessarily statutory committees created by these Acts. EMCs emerged at community level to address environmental management, while the Kenya Water Act provides for WRUAs, which may take the form of WMCs locally. Such committees are often registered as self-help groups and consist of community members, formalised to facilitate engagement with government agencies and NGOs.

Why customary governance matters

Pastoralists’ detailed intergenerational knowledge guides strategic resource use

Borana and Rendille pastoralists distinguish over 100 grazing units and hold detailed intergenerational knowledge of soils, vegetation, seasonal suitability and water access. Recognising this knowledge in planning is essential for governance systems that are adaptive and responsive to changing conditions.

Actors and responsibilities in governance

Pastoral resource governance involves different actors with complementary roles in managing pasture and water resources.

Community elders provide leadership by coordinating seasonal grazing decisions, negotiating access to pasture and water, resolving conflicts, enforcing customary rules, and overseeing compliance. The overarching customary governing bodies and elders’ forums are locally specific, including the *Jars dedha* among the Borana, *Eween* among the Rendille, *Yaa* among the Garba, and *Lpayiani* among the Samburu.

Environmental Management Committees monitor dry-season grazing reserves.

WMC, well owners, borehole operators and water managers are responsible for day-to-day management of water resources.

Herders use resources under agreed rules and contribute to governance by reporting changing conditions or violations. **Herders in transit** negotiate access with host communities.

Women shape livestock and resource use around the homestead through decisions on fodder collection, feeding, milking, and the management and marketing of milk.

Chiefs and ward administrators facilitate communication with government institutions.



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Findings draw on participatory fieldwork with Borana and Rendille communities in Marsabit County, including participatory mapping, net-maps, interviews, and discussions with elders and herders

Rather than operating independently, these actors fulfil complementary roles within a coordinated governance system, with community elders providing the legitimacy and overall direction for collective resource management.

The policy challenge is therefore not the absence of governance structures, but the failure to recognise and build upon this existing division of roles and the coordinating authority of customary institutions.

Customary rules govern access to water and grazing across the seasonal cycle

Water and grazing access are managed together, with rules being enforced as conditions change through the year. During the wet season, households rely on temporary water sources such as ponds, while semi-permanent and permanent sources remain closed; at the same time, dry-season grazing reserves (locally referred to as *mazingira*) stay off-limits, conserving pasture for the months ahead. As conditions dry out, elders authorise access to these reserves, and boreholes come into use, at which point Water Management Committees set watering schedules, and elders enforce the order in which households draw water, sequencing access to reduce congestion and disputes. Throughout, areas around permanent settlements remain reserved exclusively for young herds, milk animals, and weak or sick livestock, and outsiders must obtain elders' permission before entering any territory. Further rules govern trough use to prevent contamination and assign clean-up duties and maintenance-fee contributions. Monitoring ensures compliance at every stage, and development interventions that bypass elders' authorisation, whether over a water point or a grazing reserve, disrupt the same underlying system communities depend on through the seasonal cycle. These customary actors and the rules they enforce deserve the same policy recognition as a formally constituted water or land management body.

Customary governance enables flexible, real-time, adaptive management

During drought periods, pastoral communities demonstrate strong values of sharing and reciprocity with neighbouring communities. Rather than outright refusal or unrestricted access, elders establish conditions and guidance on where to graze and water. These oral agreements, negotiated under a tree without written documentation, ensure resource sharing so no community is left behind. This accommodative capacity is an asset that policy reforms should safeguard and build upon in changing rangeland governance landscape.



What exists in the northern Kenyan rangelands is not a governance vacuum – it is a functioning customary institutional architecture

Strong enforcement mechanism and sanctions

Rule violations trigger progressive responses: verbal warnings, enforced migrations, confiscation of livestock, or monetary fines. For instance, *‘offenders face penalty through confiscation of their healthiest, fattest goat for elders to feast upon as a warning to others considering rule breaking,’* as a Rendille elder explains. Continued defiance results in exclusion from water access, and ultimately social exclusion – a penalty that carries social weight beyond its material value. This graduated enforcement system demonstrates institutional maturity. Legitimacy, compliance, and accountability are already present; what is missing is formal recognition.

Policy recommendations

Given the enduring centrality of customary governance and its potential to strengthen ecological and social outcomes, the success of rangeland governance in northern Kenya hinges on policy actors moving beyond rhetoric to meaningfully include customary institutions in formal frameworks. This requires a shift towards approaches that recognise, support, and work with existing local institutions and knowledge.

The following recommendations are directed to actors best placed to act on them, including county governments, national ministries (livestock, lands, environment, water) and development partners.

Build on existing customary governance structures

Community elders’ forums already perform a range of governance functions. Direct all investment and capacity support to existing customary structures, rather than creating parallel structures that duplicate their functions and compete for legitimacy.

Embed local knowledge into policy design

Pastoralists hold detailed, generation-tested knowledge of grazing areas, seasonal suitability, and water management. Policy and legislative frameworks for rangeland governance should create formal space for the co-production of knowledge with communities to inform planning – not as consultation, but as co-authors.

Legally recognise roles of customary decision-making authority

Community elders’ forums currently regulate dry-season reserve access, enforce sanctions, and negotiate cross-border resource sharing – functions that formal institutions are ill-equipped to replicate. Relevant policies and legislation should be developed or amended to formally recognise and protect this authority.

Develop context-specific interventions

Contextual analysis must precede any institutional interventions. Even Rendille and Borana governance structures differed significantly; thus one-size-fits-all approaches create confusion and undermine both customary and state authority.

Provide sustained financial and political backing

Political leaders must publicly legitimise customary governance systems and ensure that financial support reaches community structures directly and transparently, rather than being absorbed by parallel intermediary bodies.

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