

# PASTORALISM AND LAND ACCESS ISSUES IN AFRICA



## Introduction

Pastoralist livestock production depends on access to pastures and trees, on which livestock feed, as well as access to water. Therefore, in a pastoralist context access to land means access to these natural resources. When this access is hindered there are direct negative impacts on livestock production and health, with related impacts on pastoralists' livelihoods and nutrition.

This briefing paper analyzes the major pastoralism and land access issues in Africa and complements *Pastoralism in Africa: A Primer*.<sup>1</sup> The paper is divided into five parts. Following this introduction, part two provides a brief background to pastoralism and land in Africa. Part three sets out the policy and practical challenges that pastoralists face in their quest for secure access to land. Part four highlights some policy and institutional innovations that have been introduced to secure pastoralists' access to land in Africa. Part five presents key conclusions and recommendations.

<sup>1</sup> Hesse and Catley, 2023.

## Pastoralism and land in Africa: background and context

Pastoralism is an extensive livestock production system that is practiced in the vast arid and semi-arid lands of Africa. Due to the extreme climatic variability in these landscapes, the survival and sustainability of the production system depends on pastoralists having secure access to large areas of land, some of it permanently, and some seasonally. Periodic movement to access pastures, water, and other strategic resources is a defining feature of pastoral land tenure and relations, and shapes pastoralists' interactions with the state, public policy, and other land users.

The communal land tenure system that supports pastoralism is collective and defined by flexibility that enables negotiation of seasonal access to strategic resources in different locations by different pastoralists at different times in response to the dictates of climate and weather. Historically, the imperative of mobility created tensions between pastoralists and the state in Africa, as it was perceived to work against the needs of the state to control and track populations.<sup>2</sup> Africa is replete with stories of violence meted out against pastoralists by the state in an effort to subdue and control them.<sup>3</sup> In both colonial and post-colonial Africa, states have viewed pastoralism and communal land tenure systems as antithetical to development,<sup>4</sup> and endeavored to transform and modernize them.<sup>5</sup>

As discussed in the briefing paper on conflict in pastoralist areas, some conflicts are associated with competing access to natural resources between pastoralists or between pastoralist and crop farmers, which historically, were prevented or managed by local institutions.<sup>6</sup>

In most African countries, pastoral land use has historically been at a disadvantage relative to competing land uses in the policy arena, because pastoralists tend to be minorities relative to other populations groups, and national development and land management policies tend to be biased against pastoralism as a land use. Most African policymakers associate pastoralism with backwardness, while associating crop agriculture and industrialization with progress and modernization.

The policy bias against pastoralism is due in part to the fact pastoralism is not simply a system of mobile livestock production, but a complex cultural and socio-economic institution touching on diverse aspects of the lives of those who practice it. Thus, the traditional norms and institutional arrangements that govern pastoralism are also responsible for communal identity, governance, and economy as well as ecology.<sup>7</sup> This reality has complicated the interaction between pastoralism and policy since colonial times. Because the traditional institutions that governed pastoralism were also political institutions, they had to be subdued and their roles and functions taken over by colonial institutions in the process of colonization. This assault on traditional pastoral institutions is a major cause of the insecurity that characterizes pastoral land tenure in Africa today. The state institutions that colonial governments introduced in place of traditional institutions proved unequal to the task of effective management of pastoral land rights, resulting in a governance gap for pastoral land rights that has undermined the capacity of pastoralists to manage existing and emerging challenges to their land rights.

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2 Scott, 1998.

3 Onyango, 2010; Salih, 1990.

4 Catley et al., 2013.

5 Bruce and Migot-Adholla, 1994.

6 Richards, 2024.

7 Niamir-Fuller, 1999.

## Priority challenges to securing access to land by pastoralists

The challenges to secure access to land by pastoralists are many and varied. In this section, we highlight just three: policy, legal, and institutional disincentives; competing demands on rangelands and range resources; and limitations of mobility within and across national borders. The three factors are further exacerbated by population growth, conflict, and climate change.

### **Policy, legal, and institutional disincentives**

Policies, laws, and institutions constitute a major challenge to secure access to land by pastoralists in Africa. As they form the basis for decision-making and programming by governments and development partners, policies play a critical role in shaping the interactions between pastoralism and other land uses. Yet, in most of Sub-Saharan Africa, policies are largely inappropriate for governance of pastoral land rights, as they do not recognize the inherent and normal climatic variability of pastoralist areas or pastoralism as a land use system, and nor do they secure communal land rights.

Instead, drawing inspiration from the “tragedy of the commons” thesis<sup>8</sup> and shaped by “a modernist ideology”<sup>9</sup> that seeks to transform supposedly irrational pastoralists into modern, economically productive livestock keepers,<sup>10</sup> the policies on administration of pastoral lands have invariably weakened rights of pastoralists through land privatization and titling, enclosures, and establishment of permanent settlements.<sup>11</sup> Such reforms have been implemented in ways that undermined pastoral systems, institutions, and processes of land governance and management, creating tenure insecurity and engendering land-related conflicts.

Even where policies have recognized pastoralism and communal land rights, this has not guaranteed security of pastoral land rights, as development policies favor competing land use systems. Experience with implementation of policies that recognize pastoral land rights in Ethiopia,<sup>12</sup> Niger,<sup>13</sup> Tanzania,<sup>14</sup> and Uganda<sup>15</sup> has demonstrated the limits of such policies in securing the land rights of pastoralists when pitted against claims of competing land users.<sup>16</sup> Notwithstanding the existence of such policies, rangelands are routinely appropriated for conversion to other land uses. In effect, the security of pastoral land rights is undermined by the underlying policy bias against pastoralism as a land use and in favor of competing land uses.

There are two major explanations for the policy bias against pastoralism in Africa. The first explanation is the knowledge gap among key policy actors about pastoralism and the drylands,<sup>17</sup> as a result of which policy decisions about the drylands and pastoralists’ land rights tend to be grounded on stereotypes that have no scientific basis.<sup>18</sup> The second explanation is the general weakness of pastoralists as a political constituency, their weak presence in the policy arena in most countries, and the resultant lack of leverage in policy discourses and in the design of land policies.

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8 Hardin, 1968.

9 Butler and Gates, 2012, 24.

10 Raikes, 1981.

11 Benjaminsen et al., 2009.

12 Rural Land Administration and Use Proclamation, 2005.

13 Pastoral Code, 2010.

14 The Village Land Act, 1999.

15 Land Act, 1998.

16 Regassa et al., 2019; UNOWAS, 2018.

17 Johnsen et al., 2019.

18 Odhiambo, 2014.

### **Competing demands on rangelands and range resources**

The drylands of Africa are the new frontier for development in the twenty-first century. For much of the twentieth century, many African countries perceived their drylands as marginal and low-production areas, with little prospect for adequate returns on investment. The most poignant expression of this reality is found in Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya, where the government asserted that,

*To make the economy as a whole grow as fast as possible, development money should be invested where it will yield the largest increase in net output. This approach will clearly favour the development of areas having abundant natural resources, good land and rainfall, transport and power facilities, and people receptive to and active in development.*

This perception of the drylands was a carryover from the colonial days, when these regions were separated from the rest of the country and closed, effectively separating pastoralists from the rest of their compatriots both physically and in economic, political, and socio-cultural terms. The separation served to entrench the “otherness” of the drylands in relation to the rest of the country that continues to shape their development and governance prospects to-date. As policies focused on so-called high-potential areas and marginalized the rangelands, the drylands remained underdeveloped as the rest of the country modernized. Policies of this nature can be found throughout the drylands of Africa.<sup>19</sup>

The twenty-first century has seen a significant shift in this perception of the drylands. A number of factors have contributed to this shift, including population growth in crop-producing communities in non-pastoralist areas, the decline of agricultural productivity in these areas, new technologies of production that make it possible to realize greater productivity of what were previously considered marginal lands, increased demand for animal-source protein by the expanding middle class both in Africa and abroad, and the potential of the drylands to contribute to addressing the climate crisis through ecosystem services, including carbon sequestration.<sup>20</sup>

While this new interest in the drylands is good for the resident pastoral communities, as it increases their stake in national development processes and enhances their leverage in staking their citizenship claims, it does not bode well for land rights and security of pastoral livelihoods. It increases the push for rangelands to be converted to other land uses, exposing communities to the risk of losing herding lands to private farms, settlements, and physical infrastructure developments.<sup>21</sup> In recent years, development of renewable energy projects has increased threats to pastoral land rights across the continent.<sup>22</sup> These risks are further exacerbated by population growth,<sup>23</sup> conflicts,<sup>24</sup> and climate change,<sup>25</sup> particularly in the way in which they constrain pastoralist mobility.<sup>26</sup>

### **Some policy and institutional innovations to secure pastoralists’ access to land in Africa**

Policy innovations to secure pastoralists’ land rights aim to address the constraints identified above, by recognizing pastoralism as a land use system and creating mechanisms for securing communal or collective land rights, including rights of transhumance. Policies to this effect have been adopted at regional, sub-regional, and national levels.

19 Azarya, 1996.

20 Bikilaa et al., 2016.

21 FAO, 2016; Abbink et al., 2014.

22 Waters-Bayer and Wario, 2022.

23 Cleaver and Schreiber, 1992.

24 Nassef et al., 2023.

25 Akinyetun and Ogunbodede, 2023.

26 McGuirk and Nunn, 2021.



The *Policy Framework for Pastoralism in Africa* adopted by the African Union (AU) in 2011 provides “a platform for mobilizing and coordinating political commitment to pastoral development in Africa.” It proposes strategies for, among other things, building on and improving pastoralists’ indigenous rights to land; and acknowledging the legitimate rights of pastoralists to pastoral lands by recognizing, securing, and protecting communal land ownership. This framework reinforces and complements the *Framework and Guidelines on Land Policy in Africa*<sup>27</sup> adopted by the AU Assembly of Heads of State and Government in July 2009 to provide a basis for strengthening pastoral land rights in Africa.

At the sub-regional level, the Economic Community of West African States (ECOWAS) and the Intergovernmental Authority on Development (IGAD) are actively involved in promoting livestock development and pastoralism. IGAD implements a regional land governance program that supports domestication of the two AU frameworks to strengthen land rights, including for pastoralists. Both regional economic communities have adopted protocols to facilitate and regulate pastoralists’ cross-border mobility.<sup>28</sup> At the national level, a number of countries, among them Ethiopia,<sup>29</sup> Kenya,<sup>30</sup> and Uganda<sup>31</sup> in East Africa, and Niger<sup>32</sup> and Mali<sup>33</sup> in West Africa, have adopted policy and legal frameworks that recognize and secure pastoral land rights.

27 African Union, 2011.

28 ECOWAS decision on the regulation of transhumance between Member States, 1998; IGAD Protocol on Transhumance, 2020.

29 The Constitution of the Federal Democratic Republic of Ethiopia; Rural Land Administration and Land Use Proclamation.

30 Constitution of Kenya, 2010; National Land Policy, 2009; National Policy for Sustainable Development of Northern Kenya and other Arid Lands, 2012; Vision 2030 Development Strategy for Northern Kenya and other Arid Lands, 2012; Community Land Act, 2016.

31 Constitution of the Republic of Uganda; Land Act 1998; National Land Policy, 2013.

32 Rural Code (Principes d’Orientation du Code Rural), 1993; Pastoral Code, 2010.

33 Land Tenure Code, 2000; Pastoral Charter, 2001; Presidential Decree on Transhumance, 2010.

Key innovations in these policies include recognition of customary institutions and indigenous knowledge as the basis of land governance and rangelands management; legal recognition of communal land tenure and establishment of mechanisms for recognition, management, and securing of communal land rights; and acknowledgement of the critical role of mobility in sustainable management of rangelands. The overall effect of these innovations is to formalize communal land tenure and place it at par with other land tenure systems. The impact of these reforms on security of pastoral land rights remains mixed, with key challenges experienced in their implementation. Major constraints in this regard include the failure by governments to enact regulations, establish and capacitate institutions, and provide appropriate funding and resources.<sup>34</sup>

## Conclusions and recommendations

This briefing note analyzes the major pastoralism and land access issues in Africa, including policy developments and trends that impact pastoral livelihoods, as well as promising or proven approaches to securing land access for pastoralists in the continent. It concludes that significant progress has been made over the past three decades in articulating policies favorable to the practice of pastoralism and the security of pastoral land rights. However, despite these positive developments, threats to pastoral land rights persist, due largely to the failure of governments to invest in full implementation of the policies.

The briefing note recommends implementation of the following measures for the benefits of the policy and institutional reforms to be realized and pastoralists land rights to be secured:

1. Establish and implement peer review and monitoring mechanisms to track progress in domestication of the *Policy Framework for Pastoralism* and *Framework and Guidelines on Land Policy* with regards to securing of pastoral land rights.
2. Provide technical, material, and institutional support to governments and other actors to ensure domestication of the imperatives of the two frameworks into national policy and institutional arrangements for securing pastoral land rights.
3. Support and work with civil society organizations at national level to create awareness about the two frameworks and strengthen advocacy for domestication of their imperatives into national policies.
4. Support capacity building and training for customary institutions on the new policy frameworks and their roles.
5. Conduct research on key characteristics of customary land tenure and traditional knowledge on rangelands management.

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