



# Regional Pastoral Livelihoods Resilience Project (RPLRP)



## Policies and Proclamations Relevant to Pastoral Areas Land Management for Ethiopia, Kenya and Uganda

Review Report | December 2016







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IGAD Centre for Pastoral Areas and Livestock Development (ICPALD)



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## Executive Summary

Arid and semi-arid lands, generally characterized by harsh climate change conditions and the ever-increasing need for human survival, have significantly contributed to rapid land degradation in pastoral areas. The management of rangelands for sustainable development remains one of the major challenges facing researchers, policy makers and development practitioners in Africa. Ethiopia, Kenya and Uganda are not exceptional to these challenges.

This report reviews a series of pastoral rangeland management policies, proclamations and strategies, in the three (3) countries of Ethiopia, Kenya and Uganda to identify impediments to, and policy gaps in sustainable land management, and then makes recommendations. The study entirely relied on a desk review of available documents from each country studied, and this was complemented with literature and the researcher's experiences.

Pastoral areas in Ethiopia, Kenya and Uganda are generally characterized by variable and harsh climatic conditions. The people's livelihoods are dominantly reliant on livestock production but also supplemented by crop farming and other non-farm activities. Communal grazing, livestock mobility and selective feeding are critical for the people's survival. Land access and use are governed largely by customary laws and institutions.

Besides livestock, the areas are also endowed with natural resources such as wildlife, forests, wild products, minerals, and medicinal plants upon which the people depend. The pastoral communities have huge opportunities to be exploited for their development and transformation. They have immense capital of social cohesion, indigenous knowledge about their environment and customary rules for natural resources management and conflict resolutions (particularly for rangeland and water resources). It is often argued that pastoralism and mobile livestock herding are perhaps the most efficient ways of using resources in drylands and marginalised areas where crop farming cannot easily be sustained.

The pastoral communities contribute enormously to the national economy. About 10 million people in Kenya and Ethiopia, and 6.6 million in Uganda, are pastoralists or live in pastoral areas. The land mass of the pastoral areas cover as large as 80 percent in Kenya, 60 percent in Ethiopia, and 44 percent in Uganda, and support a livestock population of 60 percent, 40 percent and 80 percent respectively. The contribution to national economy through supply of meat and milk, export earnings and tourism is considerable. It is argued that given IGAD region's strategic proximity to the Arab countries which have huge demand for livestock and livestock products, pastoralism is the cheapest mode of livestock production. These pastoralists do have the highest comparative advantage in production and livestock trade than any other economic activities. They also have increasingly integrated their practice with the mainstream national economy. However, climate change, frequent drought and land degradation are the universal challenges

facing the pastoralists, which have resulted in dwindling herd size and productivity, and increasing conflicts. Shrinking rangelands due to expansion of protected areas, large-scale irrigated crop farming, and encroachment by invasive plant species, are acute problems. The problem is also aggravated by limited support for technologies and limited investments in infrastructure. Consequently, while there are plenty of resources in the pastoral areas, and though they significantly contribute to the national economy, the highest levels of human poverty and food insecurity in the study countries is recorded in pastoral areas. That means that poverty in pastoral communities has paradoxically co-existed with a wealth of natural resources and biodiversity. This should draw the attention of policy makers and development practitioners. Key findings of the review of pastoral areas land management policy are as follows:

**1. Uganda:** The Constitution of 1995 (Article 237) vests land in the citizens. It provides for land tenure systems under which land can be owned as customary tenure, freehold, Mailo, or leasehold. The Uganda National Land Policy (2013) and the Rangeland Management Policy (2014) are the latest most relevant policies that deal with issues to do with pastoral communities. Both underline that the State shall exercise the power of public regulation of land use in the interest of socio-economic welfare and development. Strategic approaches and measures to be taken to correct the weaknesses and failures in the earlier policies and land Acts are integrated into these documents. The land policy document harmonizes the diverse views on historical land injustices; land management and land use; and contemporary land issues. It protects the right of the citizens to own land. The policy affirms that the land rights of pastoral communities will be guaranteed and protected by the State, among others, by ensuring that pastoral lands are held, owned and controlled by designated pastoral communities as a common property under customary tenure. The broad objective of the Rangeland Management and Development Policy (2014) is 'to contribute to the national goal of wealth creation through sustainable investments, proper management and conservation of rangeland resources for the benefit of all'. It aims to break away from disappointing past legacy, and to stimulate economic growth by improving productivity levels in pastoral and agro-pastoral systems, ensuring food security, and promoting sustainable use and management of rangeland resources.

Interestingly, this policy has also strongly considered the role of traditional pastoral land management system and the need for capacity building. In addition, the policy noted the need to develop a strategy for the land use plan (spatial distribution of animals, establishing the livestock corridor) and conservation, and development issues using improved technologies and indigenous local practices. However, most policies relevant to pastoral land management are just recently developed, hence the practical implementation of the policies is yet to be seen.

**2. Ethiopia:** The Ethiopian Constitution, 1995 (Article 40) has established a non-flexible land policy. It states that the right of ownership of rural and urban land as well as of all natural resources is exclusively vested in the State and the peoples of Ethiopia and shall not be subjected to sale or any form of collateralization. Thus, there is threat to land tenure security under which the



holder of land may lose the holding right. Most prominent threats include displacement because of private investment and eviction on account of the need to use the land for public purposes. According to the Proclamation No. 455/2005, a *woreda* or an urban administration shall, upon payment in advance of compensation, have the power to expropriate rural or urban landholdings for public use.

In Ethiopia, the problem of displacement has mostly affected communal lands belonging to agro-pastoralists, and open access grazing areas located both in high and lowlands. The other vulnerable groups are farmers and pastoralists located in the vicinity of urban areas who are often victimized due to urban expansion or the construction of new settlements. The Federal and the Regional Governments try to address the issue of tenure security through the issuance of holding certificates. The question is how such a certificate is applied to communal rangelands belonging to pastoralists. The next question is whether compensation has ever been paid to pastoralists and semi pastoralists. Many scholars argue that Ethiopia in general and pastoral communities in particular, have no guarantee of secure land use rights for an unlimited period, and thus land may remain vulnerable to further degradation due to lack of incentive resulting from lack of ownership.

The general policy statement of the Federal Government in the short and medium term is to reduce pastoralist mobility, and in the long-term to sedentarise pastoralists, which is contrary to the customary rangeland management system. The land use proclamations of the regional governments is, in most cases, a direct copy of the Federal Policy and fails to contextualize pastoral issues. The relevance of soil and water conservation measures for slopes (30 percent or above) is underlined. Possible loss of land use rights if individuals do not properly manage the land, or cause damage to the land, is underlined by land management rules. However, how this could be applied to communal pastoral lands remains unclear. In this regard, there is also no specified institution responsible for the implementation and monitoring of the policies and proclamations to determine how effective they are. Presently there are a lot of pastoral land management activities on the ground which are mainly project-based, and which the traditional customary system seems to totally ignore in Ethiopia.

**3. Kenya:** Pastoral development as an important agenda was only recently recognized and boldly included in the Kenya Vision 2030, the country's long-term development blueprint. The Vision 2030 acknowledges special circumstances of marginalized pastoral communities, and places a premium on reducing poverty and inequality, and re-balancing regional development. A Vision, 2030 for Northern and other Arid Lands was also developed in 2011 to complement and deepen the national blueprint with specific focus on pastoral communities. A holistic and sustainable management of land and natural resources across the ASALs is clearly supported in the policy. Other aspects called for in the policy include: integrating traditional systems of natural resource management, recognizing the role of traditional institutions in dispute resolution, increasing institutional capacity for arid lands research, and extending and ensuring that the needs of pastoral land use and customary institutions are fully taken into account in all legislation and institutions.

Similar to the other countries, pastoralists in Kenya practice a communal land ownership system based on traditional customary rights. Due to increasing human population and government intervention, the problem of encroachment into pastoral rangelands is continuously and increasingly getting documented.

4. In general, so far there is no well-defined and specific institutional arrangement in place to implement the land policies and proclamations for pastoral communities in the countries under review. In most documents reviewed, the issue of institutional arrangements is suspended and will be defined in land management regulations, which are yet to be formulated. In almost all cases, clan leaders continue to administrate the land though they are gradually having less power to do this. The government land use policies and customary practices for pastoral rangeland management are neither complementary nor independently strong, and they just co-exist in a state of general confusion. As a result, there is increased land degradation based on immense challenges and policy gaps that call for immediate intervention of both the national governments and development partners. Recommendations are forwarded in the areas of bridging policy gaps and initiating development interventions.

## Introduction

Pastoralism is a natural resource-based subsistence pattern in which people make their living by keeping herds of animals in a communal or free-range land system. It involves mobility to track seasonally available natural pastures. Pastoralists can be broadly classified as agro-pastoralists and pure pastoralists (trans-humants). Agro-pastoralists are largely sedentary, combining livestock and crop production. The trans-humants are those who maintain a homebase and a satellite herd in search for water and pasture depending on the harshness of the environment and as need arises. Both types of pastoral systems exist in the drylands, and the pastoralists often engage similar opportunistic strategies to address constraints imposed by the risky environment that they share. The herds of agro-pastoralists are often smaller than those in pure pastoral systems, possibly because their owners no longer solely rely on livestock and depend on a finite grazing area around their village which can be reached within a day.

Land is an important factor of production because it provides the foundation for all activities such as agriculture, water, settlement, tourism, wildlife, forestry and infrastructure. Land issues are important to the social, economic and political development of a nation. The term rangeland is used in a broad sense to cover natural grassland, bush land and wood land. Pastoralism entirely depends on the productivity of these rangelands. In East Africa, rangelands form what has been called the 'cattle corridor'. Rangelands are normally used for grazing by domestic animals and wildlife. Wildlife mainly supports the tourism industry and is found in the game reserves and national parks. In the region under review, pastoralism and wildlife go hand in hand. Therefore, the improvement of rangeland management is fundamental for improved livestock and game production.

However, the naturally harsh climatic conditions (i.e. high temperatures, low and highly variable rainfall regimes, low density vegetation cover, and fragile soil), the ever increasing human need for survival compounded by climate change, have significantly contributed to rangeland degradation. The management of rangelands for sustainable development remains one of the major challenges facing researchers, policy makers and development agencies in Africa. Ethiopia, Kenya and Uganda are not exceptional to these challenges. Governments, both in pre and post-colonial periods, have invested heavily in rangelands with particular emphasis on developing pastoralism, but have in most cases failed to achieve sustainable resource use. Much of the problem stems from the ecological and climatic characteristics of rangelands, coupled with inadequate policy and institutional supports and biased development policies towards crop farming. In Ethiopia, Kenya, and Uganda, there has been a cumulative effect of socio-economic dynamics and a series of policies introduced that largely assume settlement and crop production as the best strategies to improve the quality of life for pastoralists. This paper reviews a series of pastoral rangeland management policies and strategies in the three countries.

Land management can be defined as a knowledge-based procedure that helps integrate land, water, biodiversity and environmental management to meet rising food demands while sustaining ecosystem services and livelihoods. It often involves preserving and enhancing the productive capabilities of land and actions to stop and reverse degradation. There is a general consensus that it is far less expensive to prevent land degradation via the application of good management based on both cultural and scientific knowledge, than to rehabilitate degraded land.

Property rights to land resources have been found to play a fundamental role at the nexus of resource management, and environmental management and poverty reduction. The land property rights (ownership, usufruct) held by people represent key household and community assets that may provide income opportunities, ensure access to essential household subsistence needs, and insure against livelihood risk. In pastoral communities, households tend to rely heavily on customary or informal rights. It is unlikely that sustainable land management can be achieved in the absence of explicit attention to secured land rights in these areas.

Arid and semi-arid lands (ASALs) constitute 66 percent of land cover in the IGAD region. In these areas, pastoralists and semi-pastoral economies predominate. ASALs support 80 percent of the livestock population in the region and 30 percent of the 200 million people who live in the region.

However, erosive downpours accompanied by flooding and intermittent droughts have tended to accelerate soil exhaustion and land cover losses in the ASALs. Interestingly, the weakening of traditional institutions that govern land management has aggravated the situation. Currently, grazing regimes are poorly regulated; settlements sprawl in more productive areas, which has led to rapid land use conversion. This calls for urgent intervention for sustainable land management without compromising the social, economic, and environmental benefits of the land.

## 1.2 Objective and Scope of the Assignment

The general objective of the review was to assess the current land management policies, proclamations, regulations, directives and other similar documents in pastoral areas, and to identify impediments to sustainable land management, as well as provide gap analysis. More specifically, the review process aimed at the following key issues:

1. Reviewing national and sub-national land management policies, proclamations, rules, regulations, Acts and directives related to different types of land management and the role of national and sub-national States;
2. Assessing legal provisions in pastoral land management related policies regarding farm practices, and environmental protection;

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<sup>1</sup>A livestock trader from Dubluk area in the Borena Zone of Ethiopia informed this study that transportation cost (estimated at about US\$600 per truck) is the most important cost incurred in transporting animals to Adamaa and Mojojo (Central Ethiopia).

3. Examining problems and opportunities in pastoral land management, environmental maintenance, and the provision of goods and services;
4. Undertaking a policy gap analysis; and
5. Recommending policy and development interventions.

### 1.3 Methodological Approach

The study entirely relied on desk review of available documents, literature/studies, and experiences from other countries. Specifically, the following documents were thoroughly reviewed:


- » National and regional policies, proclamations, rules and regulations, Acts and directives related to pastoral and agro-pastoral land management;
- » The roles of national and regional States in agro-pastoral land management;
- » Legal provisions in pastoral land management related to farm practices, rangeland management, environmental protection and livestock management; and
- » Mechanisms for conflict resolution.

The review process went through the following issues in line with the objectives of the study.

- » Assessed national and sub-national (county or region) policies, proclamations, rules and regulations, Acts and directives related to pastoral and agro-pastoral land management (specifically those concerning private land, public land, communal land, forest areas, protected areas, routes, etc);
- » Assessed the roles of national and sub-national States in pastoral and agro-pastoral land management;
- » Assessed legal provisions in pastoral land management related to farm practices, environmental protection, control of invasive species, control of overgrazing, management of livestock as well as mechanisms to control violations of land management practices and dispute resolution;
- » Explored policy implications for individual and group land access, rights, and management in the pastoral areas; and
- » Examined the problems and opportunities associated with different types of land uses (e.g. from the perspective of employment creation, food and feed security, maintaining the environment and providing goods and services).

### 1.4 Limitations of the Study

The study was entirely dependent on the review of documents provided by the client and on information resources available on the Internet. This made it possible to miss more important and up-to-date policy and proclamation documents. In addition, there was little opportunity to access and discuss with key informants, and thereby acquire primary data to confirm and verify information obtained from secondary sources. Restricted by the Terms of Reference (ToR) of this



assignment, the consultant was also limited to exploring information and to documenting the extent to which the elements of the pastoral land management policies, proclamation, regulations, etc, are effectively implemented. Nevertheless, comments were collected from the client and a validation workshop, and these were carefully included.

The author noticed that there has been confusion between land-use policy and land policy. In this document, we understand that land policy is a broader concept, touching mainly on tenure/ownership and that it may include aspects of law. A land-use policy is concerned with the way land and natural resources are used and managed, and issues of ownership/tenure are secondary. In this report therefore, Land Use means ‘the social and economic purposes for which land as well as water is managed’. This study concentrated on the review of the land use policy and briefly described the general aspect of the land policy. The economic and social implications of both policies are exceedingly interlinked.

In this chapter, key features of rangelands potential and the socio-economic contribution of pastoralism to the livelihoods of the people in the communities and to the nations as a whole is included.

## 2.1 Key Features of Rangelands

Agro-ecologically, pastoralists are often located in arid and semi-arid ecosystems. As an economic activity, pastoralism takes advantage of rangeland environments, which are characterized by low and erratic rainfall patterns coupled with high evaporation rates. Key resources such as feed nutrients and water for livestock are available in short-lived and largely unpredictable concentrations. Water availability is a pre-condition for improving livelihoods and for making use of the natural resource base. Crucial aspects of pastoralists are noted below:

- (i) Pastoralism is the interaction of people, animals and the environment. Because of variable and harsh conditions, strategic mobility of livestock and selective feeding are critical for survival, and for the enhancement of ecosystems resilience.
- (ii) Communal access to resources is governed by customary laws and institutions. They have developed flexible resource management systems, to be implemented by the communal land management institutions. Interestingly, the system establishes non-exclusive entitlements to water resources (i.e. everybody has a right to access water in the particular community).
- (iii) Livestock, wildlife, forests, pasture, minerals, and medicinal plants are all critical resources upon which the people of the pastoral areas depend. Access to, and control over, these resources is differentiated by gender and age, with women and youth playing key roles in natural resource management, but with control over most resources primarily in the hands of older men.
- (iv) Land degradation is increasingly becoming a critical policy and development challenge. Complex factors such as ever growing human population, climate change, as well as land insecurity and haphazard planning and development interventions, have contributed significantly to land degradation in pastoral areas. The traditional customary institutions are gradually weakened due to over-emphasis and imposition of government systems on the one hand, and lack of considerations or negligence of the customary system on the other.
- (v) While there are still plenty of varied resources as mentioned in (iii) above, and even though they share significant contribution to the national economy, today, the highest level of human poverty is recorded in pastoral areas. That means, poverty in the pastoral community has paradoxically co-existed with a wealth of natural resources and biodiversity. This reality should draw the attention of policy makers and development practitioners.



## 2.2 Opportunities and Comparative Advantage of Pastoralism

While the challenges facing the region are evident, the potential of pastoralism is significant.

**1. Indigenous Knowledge and Customary Rules:** Existing indigenous knowledge of rangeland management is a capital and pastoralists have successfully managed climate variability for centuries. They have developed coping mechanisms to adapt to the harsh ecology such as mobility, possessing large herds of livestock, herd diversification and splitting, and focused mutual assistance systems. They have rich indigenous knowledge and customary rules for sustainable rangeland management and conflict resolution. Nevertheless, it should be noted that such knowledge and customary rules are not uniform across the pastoral areas and today, due to government intervention, some traditional institutions are not functioning well on the ground.

**2. Efficient Resource Use:** Pastoralists are producing meat and milk cheaply on land that is otherwise hard to exploit. Pastoralism is most often an adaptation to semi-arid climatic conditions, in which farming cannot easily be sustained. Thus, it is argued that pastoralism is perhaps the most efficient way of using resources in drylands and marginal areas. This, in essence, makes the best use of biodiversity in harsh conditions through exploiting different ecological and landscape niches in different seasons (wet and dry), with different species of livestock (cattle, camels, goats, sheep and donkeys).

**3. Strategic Position for Livestock Trade:** The region's geographical location makes it well-positioned to benefit from surplus capital in the Gulf, one of the fastest growing parts of the world. Pastoralism has more comparative advantage in arid and semi-arid areas than any other livelihood.

**4. Domestic Trade:** The economies of the lowlands and highlands are complementary and increasingly integrated. There is already significant movement of capital between highland and lowland pastoralists, which is set to grow. With increase in income and urbanization, the highlanders will create more demand for meat and livestock products that increase economic opportunity for the pastoralists.

**5. Tourism:** Most protected areas such as game reserves and national parks are found in the arid and semi-arid lands (ASALs). This gives the region a comparative advantage in tourism. Tourism is Kenya's highest foreign exchange earner and contributes approximately 12 percent to Kenya's GDP. Pastoralism, conservation and bio-diversity are closely inter-linked with more than 70 percent of Kenya's wildlife is found outside protected areas on land occupied by pastoralists. With right incentives, research shows that wildlife numbers and diversity can be higher in areas adjacent to national parks than within the parks themselves.

**6. Natural Wealth:** Most rangelands in the three countries considered under the study have commercial deposits of oil and natural gas (like in the north and east of Kenya). Other natural resources include sand and gravel for construction, a wide range of precious minerals, soda ash, gum, resins, and medicinal plants. Drylands' soils and vegetation store carbon, suggesting that the pastoral rangelands have the potential to generate payments for environmental services such as carbon sequestration. Rangelands in which pastoralists live are also rich in cultural and traditional heritage, flora and fauna diversity, valuable minerals, water, energy resources (solar and wind),

and tapped and untapped tourist attractions. However, there is little reliable and quantitative data to prove this.

**7. Social Cohesion:** Social networks in the pastoral areas are comparatively strong, and provide important safety nets in highly vulnerable environments. They may also be a factor in the region's generally low level of crime.

- » However, pastoralist communities are often unable to harness the immense resources of their land, besides enormous livestock potential, due to internal and external pressures related to land tenure and use, and thus, development in these areas has been the lowest compared with the rest of the country.

## 2.3 Contribution of Pastoralism to Livelihoods and National Economies

### 2.3.1 Uganda: Contribution of Pastoralism

Uganda's rangelands cover about 84,000 km<sup>2</sup> (43 percent) of the country's total land area, and are concentrated in the 'Cattle Corridor' stretching from the Tanzanian border districts to the north east borders with Kenya and South Sudan, with additional patches scattered elsewhere outside the corridor. Uganda's rangelands contain a population of 6.6 million people (Kisamba-Mugerwa, 2001). As noted in the Draft Policy of Rangeland Management (January 2014), for centuries, Uganda's rangelands are mainly utilized and managed by pastoralists under a common property system.

According to Uganda's Ministry of Agriculture, rangelands are vital to the national economy because they have major resources such as wildlife, minerals, livestock, forestry, fodder and water. As noted by Kisamba-Mugerwa (2001), the Cattle Corridor holds 80 percent of the national herd, 90 percent of cattle, and 85 percent of milk, while 95 percent of beef consumed comes from animals in the rangelands. This production level makes Uganda almost self-sufficient in meat, a position similar to that of the food crop production sub-sector. Besides livestock pastures, water resources and crops, the rangelands have other valuable assets such as wildlife, woodlands, medicinal plants, minerals, honey, bush meat, scenic landscapes and water shades.

The livestock sub-sector contributes about 8 percent of the country's GDP, of which 80 percent is produced by small herders' with only 10 percent earnings from commercial ranches (Draft Rangeland Management Policy, 2014). Uganda's pastoralists keep large herds of cattle on rangelands accounting for 55 percent of the national livestock population. These large cattle herds are, however, more important for social and cultural reasons than for commercial purposes. The traditional breeds kept by pastoralists are low milk producers, but are economically important for beef production. Pastoralists also keep herds of goats and sheep, which have an untapped export potential to the Middle East. Hides and skins coming from pastoralist areas have for long been an important foreign exchange for Uganda's economy.

### 2.3.2 Ethiopia: Contribution of Pastoralism

Ethiopia's pastoralist community consists of about 10 million people and occupies 61 percent of the total land mass of the nation (1.1 million km<sup>2</sup>). Ethiopian pastoralists live in seven (7) National Regional States. Somali, Afar and Oromo pastoralists are the majority in their States and constitute 87 percent of the total pastoralist population, and those in SNNPR, Benishangul-Gumuz, Dire Dewa and Gambella make up the remainder.

They raise a large proportion of the national herd, estimated at 42 percent of the cattle, 7 percent of the goats, 25 percent of the sheep, 20 percent of the equines and all of the camels. All live animals and meat exports are exclusively from pastoral sources. In addition, over 70 percent of the wildlife parks and sanctuaries are found in pastoralist areas. These areas contribute significantly to the national economy roughly estimated at 12 percent of the GDP, but no economic data is available.

### 2.3.3 Kenya: Contribution of Pastoralism

Kenya has a landmass of 582,650 km<sup>2</sup>. The savannah and grassland eco-systems collectively referred to as arid and semi-arid lands (pastoral rangeland) constitute about 80 percent of the land mass. This area supports more than 10 million people (over 25 percent of the human population), 60 percent of the country's livestock, and is home to 85 percent of the total wildlife population. The rangelands are home to most wildlife species. In 2014, the number of wildlife was estimated at 9,812,000. This is the main tourist product that supports Kenya's tourism industry, in addition to enhancing the ecological system. The net contribution of the rangeland to the national GDP is estimated at 13 percent.

**Table 1: Comparative Contribution of Pastoralism to the Economy**

Indicators	Uganda	Ethiopia	Kenya
Human population (mln)	6.6	10	10
Land mass (%)	44	61	80
National herd (%)	55	42	60
Beef (%)	95	Na	80
Milk (%)	85	Na	Na
GDP (%)	8	12	13

Source: Collected from different documents;

Na = information not available

## 2.4 Socio-economic Dynamics in Pastoralism

Social dynamics and ecological changes across the rangelands of Ethiopia, Kenya and Uganda are generally similar, and have implications in rangeland management. Most important issues are as follows:

- (i) New land uses have been developed and existing ones transformed such as:
  - » The conversion of grazing land into cropland using irrigation, particularly in the semi-arid to sub-humid areas of Uganda, and along river banks in Ethiopia;
  - » Gradual transformation of communal land into private and individual ownership through crop farming, private investment and government protected areas. Land management has also evolved from primarily communal management by clans to private individual management and government management system; and
  - » A significant reduction in size of many unprotected woodlands and forests.
  
- (ii) Socio-economic transformation includes:
  - » Increased move from pure pastoralism to agro-pastoralism and to sedenterisation (those who do not have large livestock herds are the first to settle) due to changing lifestyles and land tenure, and adoption of crop production in marginal areas;
  - » Increased development of infrastructure (road and water supply points) and basic service facilities (school, human and animal health clinics);
  - » Increased participation of pastoral communities in alternative income generating activities (such as petty trade, sales of firewood, charcoal, hand crafts, etc); and
  - » Growing market participation of pastoralists (that is, tendency for commercializing their livestock).

## 2.5 Universal Challenges with Pastoralism

Rangeland management in particular poses more challenges than classical, specialized or conventional mixed farming systems. This is attributed to high vulnerability of the pastoral system due to the fragile agro-ecology of the rangelands. The system is also heavily embedded in strong cultural and historic values. The challenges common to pastoralism and rangeland management are all inter-related and similar across the countries considered in the study. These are briefly described as follows:

**1) Poverty and Food Insecurity:** The pastoralists have the lowest development indicators and the highest incidence of poverty in all the three countries due to lack of government attention. There is also absence of coherent land policy and insufficient public development support. The livelihood of pastoralists is increasingly becoming vulnerable due to food insecurity and increased poverty.

**2) Climatic Change and Drought:** Climate change is both a cause and a direct consequence of rangeland degradation. Nearly all pastoralist areas suffer from inadequate, erratic and unevenly distributed rainfall.

**3) Escalation of desertification and land degradation:** These include natural hazards (such as drought, floods) and human activities (deforestation, overgrazing, poor farming practices on marginal and fragile lands) and worsening soil erosion. Increase in both human and livestock populations is placing pressure on the rangelands resulting in intensive degradation especially at watering points, along livestock paths and on hilltops. Land degradation and climate change have posed risks to the lives of people living in pastoral communities (Zake et al., 1997).

**4) Shrinking rangelands (grazing communal land):** - Grazing area is shrinking at an increasing rate (mainly due to large-scale State and commercial farming, wildlife parks and ranches), while the remaining part supports increasing livestock population without improved pasture productivity. This results in pasture degradation with quantitative change in vegetation (biomass) cover; and qualitatively in terms of replacement of high value grass species by unpalatable poor quality grass species and thorny shrubs. Indigenous coping strategies have declined.

**5) Encroachment by alien invasive species:** These changes in soil and vegetation cover facilitate invasion by foreign species and bush. Increased bush encroachment has been observed throughout pastoral areas.

**6) Poor livestock productivity:** This is due to low feed and water supply, the prevalence of trans-boundary animal and zoonotic diseases, erratic and unpredictable weather conditions.

**7) Conflict:** Resource and land related conflicts ranging from simple misunderstandings to livestock rustling and kidnapping - are now common. Small disputes escalate quickly and result in deaths and displacement of whole communities. They also create conflict between the wider community and owners of individual enclosures. Conflicts confine pastoralists to specific areas, leading to the overuse of nearby resources, which in turn causes rangeland degradation.

This scenario has intensified land degradation resulting in losses to the productive potential of the rangeland. It in turn leads to frequent famine, lower household incomes, increased pastoral migration both within the countries and to the neighboring countries, and increased social unrest in affected areas, particularly in the North and northeast of Uganda, northern Kenya and among ethnic clans in southeast Ethiopia.

**Table 2: Summary of Key Features, Challenges and Pastoralism Opportunities in the Development Context**

Key Features	Universal Challenges	Opportunities
Located in arid and semi- arid	Climatic change and drought	Indigenous knowledge and customary rules
Feed and water are critical resources	Escalation of desertification and land degradation	Comparative advantage of resource use
Common access to resources	Encroachment by invasive species & increasing crop farming	Strategic position for livestock trade
Customary laws /institutions	Shrinking rangelands	Endowed with natural wealth
Mobility is a livelihood style	Poor productivity & food insecurity	Social cohesion
Conflicts and social unrest		

The United Nations Summit (2015) of the 2030 Agenda for Sustainable Development underscored the fact that socio-economic development will depend on the sustainable management of our planet's natural resources. The document highlights the UN's determination to conserve and sustainably use natural resources such as freshwater, forests and drylands and to protect biodiversity, ecosystems and wildlife, tackle water scarcity, strengthen cooperation against desertification, reduce land degradation and drought, and to promote resilience and disaster risk reduction. In this regard, it is noteworthy mentioning some of the UN-Sustainable Development Goals such as:

- » **Goal 6:** Ensure availability and sustainable management of water and sanitation for all;
- » **Goal 13:** Take urgent action to combat climate change and its impacts;
- » **Goal 15:** Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, halt and reverse land degradation, and halt biodiversity loss.

The AU Policy Framework (2010) for Pastoralists underlines principles that are of great significance for pastoral land management. These include freedom of mobility, inclusion of pastoralists in the process of policy and legislative reform, recognition of the economic contribution of pastoralists to development, and acknowledgment of the importance of indigenous institutions to land management. The principles for policy framework related to land management and land tenure are considered here.

### 3.1 Salient Features of Land Polices

The central issue for land policies and proclamations lies in defining land tenure systems. A review of land policies and proclamations as well as constitutions of the nations under consideration shows that governments have given more concern to land tenure arrangements than land management issues in general. To ensure sustainable development, there are certain principles that land policies/proclamation should follow. The African Union (2010) proposed a policy framework for appropriate strategies and effective implementation of land polices (see Table 3 below).

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<sup>6</sup> See Annex 2.

<sup>7</sup> Though, the provisions of the proclamation, regulations and rules have no special privileges in favor of or sanctioning against live animal trade originating from pastoral and agro-pastoral areas.

Table 3: African Union Land Policy Framework

Appropriate Strategies for Land Policy Development	Steps for Effective Land Policy Implementation
<p><b>Clarifying roles in land policy development:</b> Emerging best practices suggest that the development of appropriate land policies require that the interests and roles of all stakeholders in the land sector and, in particular, indigenous institutions, and the land using public and civil society organizations be first clarified and taken on board before the process is launched. Adequate preparation must be made on the major issues to be addressed in the policy for informed consultation with the land using public.</p> <p><b>Recognizing the role of indigenous institutions:</b> Recognize the legitimacy of, and improve on, the role and operation of indigenous structures, institutions and land rights regimes and provide a necessary interface between them and State-led systems of land management and administrations.</p> <p><b>Engaging with civil society organizations:</b> Land policy development should recognize and adequately provide for a deep engagement with civil society organizations (CSOs).</p> <p><b>Building capacity for land policy development:</b> Comprehensively restructure institutions for land administration so as to achieve decentralized, transparent, efficient and cost-effective delivery of land services in a manner which meets customer requirements that are financially self-sustaining, as well as ensuring availability of financial and human resources for reforms implementation.</p> <p><b>Communicating land policy development:</b> Effective and robust communication through a variety of channels including newspapers, television messages, radio broadcasts and newsletters is critical in the development of land policies.</p> <p><b>Providing anchorage for further policy development in land-related sectors and sub-sectors:</b> The status of land resources is an important determinant of the health and vitality of sectors and sub-sectors which depend on them for productivity. Among these are agriculture, livestock, energy, minerals, water, wildlife, forestry and human settlements.</p>	<p>Design realistic and achievable implementation strategies.</p> <p>Prepare an action plan that must involve realistic programming and sequencing, proper costing, accurate assessment of financial and technological needs, along with capacity building and mobilization of resources required for the short, medium, and long term implementation of key components of the policy.</p> <p>Ensure mobilization of political commitment by the governing elite.</p> <p>Maintain continuous public engagement, ownership and acceptance of the main elements of the policy through decentralized structures</p> <p>Identify those components of the policy, which must be legislated and prepare instruments, structures and procedures for the management of those components.</p> <p>Domesticate relevant, regional, and international commitments and factor them into legislation and institutional design.</p> <p>Respond to new policy challenges caused by both internal and external factors that will continue to impact on the land sector. Governments to put in place realistic timeframes for the review, revision and replacement of current policies.</p>

Source: Africa Union, 2010 and United Nations, 2015

In addition to the AU's framework mentioned, rangeland polices and land use plans should take into account:

- » Local people participation in planning and implementation involving all beneficiary stakeholders who have recognized status and rights in rangeland and economic activities.
- » Community-driven initiatives for training in formal and technical skills to advance rangeland development and conservation.
- » Gender concerns for equitable access to land by men and women to motivate sound rangeland production systems, and to promote people's welfare.
- » The policy needs to be cognizant of and protect, the knowledge and culture of the indigenous people to reverse land degradation.
- » Effective regulations for land use and administration that need to be in place to improve the livelihoods of pastoralists and agro-pastoralists, and to strengthen their institutions through motivation, support and investment in physical and social infrastructure to enhance incomes and contribute to the economy.
- » Land as the central factor to leveraging other productive sectors. The policy should promote a multi-sectoral and inter-disciplinary approach to achieve sustained productive rangeland management and harmonize with other policies that address issues pertinent to rangelands development and conservation.
- » The policy needs to manage conflicts and promote shared co-existence between people, flora and fauna, taking into account transparency and accountability with all responsible stakeholders.

### 3.2 Salient Features of Land Tenure Systems

In pastoral areas, land management has not been given adequate policy attention in all countries under review. Instead, national policies focus on land tenure systems, and more specifically on farmland that is clearly demarcated and where improvements are easily discernible. This could be because of two reasons. First, the movement of pastoralists and their herds in search of water and pasture over a common range might be thought to be unproductive. Second, an examination of the laws governing land administration reveals that communal land tenure has been gradually transformed by development policies to private ownership in favor of the market economy.

Land tenure is defined as the manner and conditions under which land is held and used. Resource tenure characterizes the relationship of individuals to one another, while the bundle of rights indicates the individuals' freedom of resource use and thus the management style of the resource. The basic issues addressed are rights to access and use the land, security of tenure and equity in granting of access rights.

There are three ways of classifying land tenure regimes:

- (i) in terms of legal regime - in which land tenure can be categorized as statutory (formal) or customary (informal);



- (ii) in terms of who is using the land, say private, public or government; and
- (iii) in terms of the quantum of rights held, that is, whether owned for perpetuity or leased for a certain period.

In practice, these sorts of land tenure systems do exist in a combination of two or more. For instance, there is no clear distinction between public land and customary land; thus, customary rangelands are often abused and thus pastoralists often lack exclusive rights to full ownership. Consequently, it always remains confusing in policy formulation and land administration, and in turn becomes a source of conflict, insecurity and inefficient use of the resource.

Whatever land tenure system that exists depending on the social, cultural, and political economy of a particular country, the land tenure should follow certain principles to ensure sustainable and equitable rural and urban development. Such principles should form a land tenure system that encourages good land management in order to ensure food security and socio-economic development of a country. The principles regarding land tenure systems should:

1. Guarantee access to and security of the land for the long-run and allow for flexible use;
2. Ensure equitable access in the distribution of land resources and eliminate discrimination in ownership and transmission of land resources;
3. Develop and evolve in response to competing social, economic and political demands, rather than policies that focus on simple replacement;
4. Protect, preserve, and conserve land and other natural resources for future generations; and
5. Facilitate planning, provision of basic services and infrastructure, land development and enforcement of land regulation.

# 04

## Review of Pastoral Land Management Policies and Proclamations

Rangeland management is science-based and should take into account at least five major principles or variables:

- (i) stocking rate or grazing intensity;
- (ii) kinds and classes of animals;
- (iii) timing of grazing;
- (iv) spatial distribution; and
- (v) conservation and development of the rangeland resources (water, feed, soil and vegetation).

Transforming the pastoral production system was the aim of earlier development efforts that came together with an unsuccessful mix of antagonistic development policies dating back to colonial times when pro-sedentarisation policies favored agricultural production over pastoralism. Pastoralists are often encouraged to settle - attracted by the provision of services like health centers, schools, central markets and water sources. However, there has been limited involvement of stakeholders in the use of rangelands, issue management, responsibilities, as well as inadequate support services and infrastructure.

### 4.1 Uganda: Pastoral Land Management Policies and Proclamations

In Uganda, it is noted that almost all the policy documents emphasize on land tenure (although not effective even in that regard), and little addresses any of the five science-based principles mentioned above on how to manage rangelands for sustainable pastoral development.

#### 4.1.1 Policies Related to Rangeland Management and Pastoralism

There are several development policies and strategies formulated and enacted in Uganda. National legislation most relevant to rangeland management and pastoralism are included in the following sections.

##### 4.1.1.1 The Constitution of Uganda, 1995

The Uganda Constitution governs all policies and proclamations to-date. Article 237 vests land in Ugandans. It provides for land tenure systems under which land can be owned under customary tenure, freehold, Mailo or leasehold. To ensure that holders secure adequate interest in land, the Constitution provides that holders of customary land should get certificates of ownership. Apart from customary land ownership in Uganda, all the other three tenure systems require land titles. The government or local government, as determined by law holds in trust and protects for the people natural lakes, rivers, wetlands, forest and game reserves, national parks and any land to

be reserved for ecological and tourism purposes for the common good of all citizens. The 1995 National Constitution (article 242/245) endows the State with power to limit undesirable land use in the interest of public welfare, and/or orderly development, without revoking ownership, interest or right.

However, the State failed to exercise this power and responsibility in public interest through ineffective enforcement of laws and regulations on land use, physical planning, environmental and natural resource protection. In stead, it extended this power to local government without adequate guidelines.

#### 4.1.1.2 The Land Act, 1998

This Act provides land management institutions for rangelands including communal land associations that enable customary owners to acquire certificates of ownership and manage their land sustainably. The Act, in consonance with the Constitution rests all land in Uganda in the people. It, however, enables Central or Local Governments to acquire land in accordance with the provisions of the Constitution for purposes intended to benefit all the people of Uganda. Similarly, the Uganda Forestry Policy (2001) provides the framework for the sustainable management of Uganda's forests, woodlands and trees. The policy recognizes the need for wider rangeland types of ownership, access, and management of forest resources.

The Uganda National Land Policy, 2013 and Rangeland Management Policy, 2014 are the latest and most relevant policies for pastoralist communities. The policies emphasize the role of the State in exercising power in the regulation of public land use in the interest of socio-economic welfare and development. Strategic approaches and measures to be taken to correct the weaknesses and failures in the earlier policies and land Acts are clearly put in the document. However, the practical implementation of these policies is yet to be seen.

#### 4.1.1.3 The Uganda National Land Policy, 2013

The Uganda National Land Policy, 2013 harmonizes the diverse views on historical land injustices; land management and land use; and contemporary land issues. It protects the right of the citizens to own land, which should be optimally utilized. The policy guarantees the protection of land rights of pastoral communities by the State by ensuring that pastoral lands are held, owned and controlled by designated pastoral communities as common property under customary tenure. On the other hand, the National Agriculture Policy, 2013 acknowledges the existence of multiple and contradictory land tenure systems in the previous regime, often leading to land fragmentation, land degradation, and insecurity of tenure, and offers that no policy document explores how land tenure policies can be corrected. However, the same policy document is totally silent about the land tenure and rangeland management in general.

Further, the National Land Policy Statement, 2013 indicates that the government shall maintain multiple tenure systems as enshrined in the 1995 Constitution. It also underlines the role of the State in clarifying the nature of property rights under designated tenure regimes, to remove uncertainties and allow for evolution in response to changes in social structure, technologies of land use, and market demands. Relevant policy statements are described below:

Regional Pastoral Livelihood Resilience Project

**(i) Overall Land Policy statement:**

- » The State will categorize land as “private land, public land and government land”. The policy statements state that the “State shall recognize customary tenure in its own form to be at par (the same level) with other tenure systems”, and
- » It shall establish a land registry system for registration of land rights under “customary tenure”.
- » The use and management of land under all tenure systems shall be subject to the regulatory power of the State to ensure compliance with physical planning standards, and regulations, guidelines for orderly development.
- » Strategies to be followed and measures to be taken are properly included in the document.

**(ii) Land Rights of the Pastoral Communities**

The Ugandan Land Policy, 2013 felt the necessity to protect pastoral land rights, while underscoring that this could not be at the expense of non-pastoral communities. The policy statement is described in the following Figure 1.

**Land Rights of Pastoral Communities**

Policy Statement: “Land rights of the pastoral communities will be guaranteed and protected by the State.” The document includes the following strategic measures:

- » Ensure that pastoral lands are held, owned and controlled by designated pastoral communities as common property under customary tenure.
- » Develop particular projects for adaptation and reclamation of pastoral lands for sustainable productivity and improved livelihoods of communities;
- » Protect pastoral land from indiscriminate appropriation by individual or corporate institutions under the guise of investment;
- » Promote the establishment of communal land associations and the use of communal land management schemes among pastoral communities;
- » Establish efficient mechanisms for the speedy resolution of conflict over pastoral resources in pastoral and sedentary communities;
- » Consider land swapping, resettlement, or compensation for pastoral communities displaced by government from their ancestral lands.
- » Furthermore, government shall:
  - » Prescribe clear principles for the ownership, control, and management of pastoral lands in a policy by the Ministry of Livestock;
  - » Prescribe clear principles for voluntary resettlement with the approval of local governments;

- » Maintain an equitable balance in land use for pasture, agriculture, energy, industry and wildlife protection through agro-ecological zoning;
- » Establish mechanisms for flexible and negotiable cross-border access to pastoral resources among clans, lineages and communities for their mutual benefit

Figure 1: Uganda policy statement on land rights of pastoral communities

### (iii) Land Rights of Women and Children

Under the customary land tenure, where pastoralists are dominant, Ugandan women are generally unable to own or inherit land due to restrictive practices which override statutory laws that recognize and enforce women's land rights. There are attempts to redress this situation by outlawing discriminatory cultures, customs, and practices in land ownership, occupation, and use, and removal of the requirement for spousal consent in transactions for family land that is held in trust. Thus, the Uganda Land Policy, 2013, underscores that:

- » Government shall by legislation, protect the rights to inheritance and ownership of land for women and children;
- » Government shall ensure that both men and women enjoy equal rights to land before marriage, after marriage, and at succession, without discrimination

Strategic approaches include:

- » Producing guidelines and procedures under customary land law for allocation and distribution of land complying with principles of equality and natural justice
- » Enhancing education and sensitization of the public on discrimination against women and children with respect to access, use, and ownership of land;
- » Restoring the power of traditional leaders in matters of land administration
- » Ensuring that the head of families is held to account on his/her fiduciary duties over family land held in trust

#### 4.1.1.4 Rangeland Management Policy Statements, 2014

The broad objective of the Rangeland Management and Development Policy, 2014 is 'to contribute to the national goal of wealth creation through sustainable investments, proper management, and conservation of rangeland resources for the benefit of all'. It aims at breaking away from disappointing past legacy, and stimulating economic growth by improving productivity levels in pastoral and agro-pastoral systems, ensuring food security, and promoting sustainable use and management of rangeland resources. Interestingly, this policy has also considered a strategy with regard to land use plan (spatial distribution of animals - establishing the livestock corridor) and conservation, and development issues using improved technologies and indigenous local practices. Monitoring the number of grazing animals to establish and regulate correct carrying capacity of the rangelands is also included as a strategic intervention in the policy. It is noteworthy mentioning that this policy documents is the latest and therefore all policy statements within it reflect the government's promise to improve the rangeland and pastoral system. This policy has included policy statements with clearly explained rationalities and intervention strategies. The policy statements are described in the following Box III:

##### **Rangeland Management Policy Statements, 2014**

- » Government shall put in place deliberate efforts and interventions to encourage rangeland users to adopt rangeland management best practices that sustain soil fertility and high crop and livestock productivity, while protecting the rangeland ecosystems.
- » Government shall strengthen governance structures that support pastoralism, agro-pastoralism, gender inclusiveness, and other stakeholder concerns.
- » Rangeland animal feed and watering resources shall be improved, and plant and animal biodiversity preserved through sustainable management and use practices
- » Government shall give priority to the provision of adequate and appropriate infrastructure for promoting market access for rangeland products as well as social services delivery.
- » Government shall increase the level of support for research, training and advisory service delivery programs that enhance effectiveness, efficiency, and profitability
- » Rangeland communities shall be empowered to adopt range management, pastoral practices, and strategies that increase resilience to impacts of climate variability and change.
- » Government shall commit to compliance with international conventions climate change management.
- » Mechanisms to support Government and communities to sustainably use rangeland wildlife resources to increase revenue collections while promoting collaborative co-existence and livelihoods shall be established
- » Pastoralism and agro-pastoralism land use systems shall be protected and improved where they provide the highest use value (comparative advantage).

- » The sources of conflict in the rangelands shall be identified, analysed, and appropriately addressed by the State through public and private sector partnerships
- » Government shall develop a system to provide leadership, training, research, management capabilities, and investment promotion in rangeland resources monitoring and evaluation.
- » The State through public and private sector partnership shall enact a pastoral code to provide general principles and rules to govern pastoral activities in Uganda.

Figure 2: Uganda rangeland management policy statements, 2014

### 4.1.2 Land Tenure in Uganda

The Constitution (1995) and Land Act (Cap 227) provide that land in Uganda may be classified in only four (4) tenure categories; namely, customary, private (freehold), mailo and leasehold tenure. The incident of these tenure regimes (other than leasehold) is defined in terms of generalities that establish no particular frontier. The Land Act (227) also leaves little room for transitional or progressive adaptation of responses to, among other things, changing demands exerted by population growth, technological development, and rapid urbanization. The 1995 Constitution and the Land Act (227) attempted to correct the customary tenure, but were criticized for destabilizing and undermining its progressive evolution.

In general, the new National Land Policy (2013) and the Rangeland Management Policy (2014) as well the other legislations failed to clearly classify the land tenure in terms of the manner and purpose of the land use for which such land is held whether as private, government, or public. The result is likely the growth and expansion of informal land rights regimes. In Uganda, land can be held under one of the four (4) land tenure systems, each tenure system having its own socio-economic implications on the resource management.

**(i) Customary Tenure:** This is the most common tenure system throughout the pastoral and non-pastoral areas in Uganda. Under this tenure system, land is a common resource and it is held, used and disposed of following customary regulations of the concerned community. The system has in-built capability of excluding non-members. It has adequate rules for allocating the resource among the members, managing conflict resolution and guaranteeing the security of tenure to its members. Its main advantage is its equitable distribution of rights as well as the fact that there is no landless class. Customary land tenure varies from one ethnic group to another. However, it ensures common access land to all through inheritance, and to settlement on any unclaimed land with the approval of the head of the ethnic group in the area and other community members. Rangelands under customary tenure are regulated under various regimes:

- » Centrally controlled under central authority of chiefs hierarchy;
- » Diffused through an egalitarian set-up under a Council of Elders; and

- » Minimal government with limited power of rule and enforcement through loosely-knit and changing coalitions.

Pastoralists almost universally move their herds around in response to the vagaries of climate and a variety of other constraints, to make the best use of grazing and water resources. To facilitate this form of foraging, they operate systems of common land tenure. In the policy document, the criticism against “customary” tenure essentially lies in the following:

- » Insecurity of tenure because when land is collectively owned, it cannot be used for collateral purposes, therefore, it is impossible to acquire loans from the bank, and this offers limited incentives to the land user to invest in land improvement technologies;
- » Collectively owned land is subject to misuse through irrational husbandry techniques such as shifting cultivation or over-grazing, which is uneconomical (the tragedy of the commons);
- » It impedes the advance of the land market; and
- » It discriminates against women.
- » Furthermore, this land tenure system is regarded as weak in dispute resolution and mediation compared to statutory systems; it denies opportunity for greater and deeper transformation; it is disparaged and sabotaged in preference to other forms of registered tenure; it denies opportunity for progressive evolution.

**(ii) Open Access:** There are areas in Uganda where “open access” is practiced on a large scale where pastoralists move their livestock with impunity and respect no boundaries or Local Authority. However, uncontrolled livestock movement creates the following management problems:

- » Difficulties in disease control so disease spreads through the unmarked trek routes.
- » Difficulties in planning and implementing development programmes such as: construction of watering points; infrastructure development such as markets and trekking routes to market centres; control of stocking rates to avoid land resource degradation; and the design of optimum resource allocation among multiple users and uses within the ecosystem.

**(iii) Private (freehold):** There has been a high level of individualization of the communal pastoral land throughout the entire corridor. This move has been spearheaded by multiple land users who have settled on previous pastoral land and who practice crop production and livestock keeping (ranching). Consequently, there has been a reduction in the available communally owned grazing land., This has displaced some pastoralists and resulted in conflict with the encroachers.

Yet, individual tenure is strongly advocated for, because it is believed primarily to offer security of tenure and incentive to invest in better agricultural and husbandry techniques. Second, it offers the opportunity to the owner to acquire loans from banks as individualized land serves as collateral. However, the virtues of “individual” tenure have not been tested empirically in the pastoral areas regarding rangeland management.



**(iv) Land as State Property:** Land managed as State property comprises delineated parcels of land which are gazetted and set aside for special purposes and entrusted to special agencies. In Uganda, these areas include national forest reserves, national parks, game reserves, wildlife sanctuaries and community wildlife areas. Such State land tenure system exists in the cattle corridor of the pastoralists and is sprinkled with several small lots of protected forests. This creates management problems for the pastoralists, forestry, and wildlife authorities.

## 4.2 Ethiopia: Pastoral Land Management Policies and Proclamations

Different from the previous two regimes, the current government in Ethiopia has attempted to incorporate pastoral development in its five year national development plans (2000-2004 and 2005-2009). Both the Federal Democratic Republic of Ethiopia (FDRE) and the Regional Governments have issued policies and legislations concerning pastoralists and agro-pastoralists.

### 4.2.1 Laws and Policies of the Federal Government

In Ethiopia, there are series of policies and proclamations formulated by the Federal Government and adapted by the Regional States over the last twenty (20) years. The most relevant to the subject matter under discussion are assessed in this section.

#### 4.2.1.1 The FDRE Constitution (1995, Article 40)

The above-mentioned Constitution establishes a non-flexible land policy in Ethiopia. It states that the “right of ownership of rural land and urban land as well as of all natural resources is exclusively vested in the State and the peoples of Ethiopia. Land is a common property of the nations, nationalities and peoples of Ethiopia and shall not be subject to sale or to other means of transfer”. Interestingly, the Constitution also recognizes the right of peasants to obtain land without payment and the protection against eviction from their possession. Pastoralists have the right to free land for grazing and cultivation and the right not to be displaced from their own land. In sub-article (6), it states that the Government shall ensure the right of private investors to the use of land on the basis of payment arrangements established by law. In the case of expropriation of private property for public purposes, it is stipulated under Article (8) that payment in advance of compensation commensurate to the value of the property shall be made.

#### 4.2.1.2 Federal Government Policies (RDPS Paper 2001, SDRP (2003) and PASDEP (2005)

In addition to this Proclamation, the Federal Government also passed policies in relation to pastoralists at different times. It is not laid out in one clear document or law but is rather dealt with in different papers and strategy documents. The Rural Development Policies and Strategies (RDPS) paper of 2001, though focused on crop cultivation, contains policies on pastoralist development. The short and medium term strategies also focus on reducing pastoralist mobility. In

the long-term, the strategy aims to sedentarise pastoralists by developing irrigation, implementing settlement programmes, and changing their way of life. The RDPS underscores the need to prevent natural resource degradation through consultation with pastoralists with regard the location of water points. It recommends that rangeland management and conservation be based on traditional management systems as a way of improving water availability. It also recommends that a wide range of other activities be made in cooperation with pastoralists' clan leaders and elected representatives. This is in contrast to the strategy in the highlands, where land use policies conform to the highland way of life.

On the other hand, the overarching Sustainable Development and Poverty Reduction Program (SDPRP, 2003) recognizes the lack of clarity and strategy for pastoralists' development and states that it leads to frequent and destructive conflicts and tribal disputes. Instead, the programme puts forward the following strategies for working with pastoralists.

- » Mobile pastoralists should be sedentarised on a voluntary basis, reliable river courses should be selected for sedentarisation based on capacity to support irrigation, and they should be linked through roads and other communication lines;
- » Settled or semi-settled pastoralists should be encouraged to stay settled through improved water supply, pasture and social services;
- » Mobile social services, including health and education should be provided as a united package for those that continue to be mobile.

A number of initiatives that started under the SDPRP were deepened and strengthened under the Plan for Accelerated and Sustained Development to End Poverty (PASDEP). Among the main elements are water development and environmental protection and management.

#### 4.2.1.3 Federal Rural Land Administration and Land Use Proclamations

According to the Proclamation on the Expropriation of Land for Public Uses and Payment of Compensation (455/2005), a woreda or an urban administration shall, upon advance payment of compensation have the power to expropriate rural or urban landholdings for public purpose where it believes that it should be used for a better development project to be carried out by public entities, private investors, cooperative societies or other organs, or where such expropriation has been decided by the appropriate higher regional or Federal Government organ for the same purpose (Article 1). Article (2) mentions that this is also applicable to land lease holding if it is required for development works to be undertaken by the Government.

Under the 1995 Constitution, the Proclamation (456/2005) has relaxed possible land transfer. While prohibiting land sale and collateralization, the Proclamation permits limited land leasing (rental arrangements) and inheritance rights to be exercised, and also limited forced land redistribution only to irrigation development. This Proclamation was enacted for the purpose of ensuring tenure security; strengthening property rights of farmers; sustainably conserving and developing natural resources; establishing a land data base and an efficient land administration in the country. The Proclamation mandated the Regional Government for improvements to the land administration system, implementation of land-use planning, and compensation for expropriated lands.

## 4.2.2 Policies and Legislations of Regional Governments

Based on the Federal Proclamation No. 456/2005 cited above, the Regional States issued policies and legislations concerning pastoralists and agro-pastoralists. In this study, policies and legislations of Afar, Somali, Oromia, Benishangul-Gumuz and the SNNP (the Southern Nations, Nationalities and Peoples of Ethiopia) were reviewed. The other Regional States have not prepared a policy document in relation to pastoralists or in connection with farmers. Oromia, SNNP and Benishangul-Gumuz embarked upon enacting proclamations without having to prepare a policy document, wherein scanty provisions concerning pastoralists and agro-pastoralists are inserted. Unlike in the Afar and Somali Regional States where more than 92 percent of the populations depend on pastoralism and agro-pastoralism, in the other Regional States, livelihood depends on farming as well, and the number of people who earn their living through farming is quite significant.

In their preambles, these legislations emphasize the need to strengthen the right of pastoralists, agro-pastoralists and farmers; create a sense of ownership; ensure equal rights of women and the disabled; create a conducive atmosphere for investment; establish a system of rural land administration that promotes the conservation and management of natural resources in which the present use does not compromise the development endeavors of future generations; and establish a database system for different types of land holdings.

In general, it was noted that policies, proclamations, and regulations of the Regional Governments are an exact replica of those of the Federal Government. None of them has attempted to contextualize the Federal policies/proclamations to the socio-economic and agro-ecological conditions of their respective Regional States. Thus, the effort to formulate regional land related policies/proclamations adds little value to the agro-pastoral development agendas. The regional policies and proclamations are briefly reviewed below:

### **(i) Rural Land Administration and Proclamation of Ethiopian Somali Region (128/2013)**

The Proclamation 128/2013 re-emphasizes that the ownership of the right to use the rural land is exclusively confirmed in the Constitution of Federal Democratic Republic of Ethiopia. The contention of the Somali Regional Government to establish a land administration system and legal framework is to “defeat the traditional clan-based communal land tenure system and to incentivize investment with the assumption that it hinders natural resource management and conservation”. To the reviewer, this statement understates the knowledge and role of traditional land management. On the contrary, Article 7 underscores that land dispute among pastoralists should be settled under the customary dispute settlement system, and the government is to provide assistance to strengthen the system.

The proclamation claims, as indicated in Article (5/1), to guarantee the rural land-use rights of pastoralists by ensuring that all men and women pastoralists have a right to access grazing land and use it for unlimited time.

Concerning land use management, the Regional Government also promised to provide necessary assistance to strengthen natural resource protection and conservation systems (the detail to be explained in the regulation to be formulated). While the land use plan is yet to be developed, the

proclamation (Article 19/2) asserts equitable water use for the upper and lower riparian. It also underlines in Article 19/3, "Rural land where soil and water conservation measures have been undertaken, a system of free grazing shall be prohibited, and a system of cut and carry feeding shall be introduced." It also points out the importance of soil and water conservation for a slope less than 30 percent; imperative use of bench tracing for slope 30 percent to 60 percent for crop production; and that any land with slope of greater than 60 percent shall not be used for farming but for tree planting and forage production. According to the proclamation Article 18/2 and 18/3, individuals will lose their land if mishandled and exposed to land degradation and deterioration and the damage cannot be remedied by imposing a penalty (the detail to be included in the regulation yet to come).

However, Article (5/3) underscores that communal grazing land that has been used, should be delineated. As it is it seems to limit free mobility of the pastoralists. Furthermore, the article reveals the power of the government to transfer communal land into private use as deemed necessary (Article 5/9). It goes to explain that individuals can lose use rights if the land is to be used for higher public purposes (Article 18/1).

In general, while the concern for better land management is noticeable in the proclamation, little recognition is given to the customary land management system. There is also no guarantee that protects the right of the pastoral communities to use communal as well as individual lands.

## **(ii) Afar Regional Government's Policies and Legislations**

Unlike the other Regional States, the Afar Regional Government prepared a policy document regarding land use and administration. The Regional Government started to enact land use and management policy in 2008. This policy was revised and another policy document was prepared in June 2011. Following these policy documents, the government passed Land Use and Management Proclamation No 49/2009. In order to implement this proclamation, successive legislations were enacted: the Afar Environmental Protection and Land Use Regulation No 4/2003 and a directive to implement the proclamation and Regulation. In this respect, the attempt made by the region enables one to have a better picture of the matter.

Three basic reasons were assumed as to why the policy document is required:

- (a) the customary rural land use and management is not compatible with the government policy and the former is unduly perceived to be prevailing i.e. it is found out to be an obstacle for investment;
- (b) there happened frequent conflict between farm land and grazing land as well as between domestic animals and wild animals for grazing; and
- (c) the weakening of customary land use and management of the resulting problems of land degradation and spread of animal diseases.

The policy document also laid down the principles that have to be followed with regard to land use and management. These are:

- (a) ensuring the participation of the community in land use plan and implementation;
- (b) every land user has the obligation to properly use and conserve the land. The holder is also guaranteed the right not to be displaced from the land;
- (c) rural land remains to be the property of the State and the people and is not subjected to sale;
- (d) women have equal rights with men in relation to the decision regarding land use;
- (e) pastoralists and agro-pastoralists are guaranteed the right to have access to rural land; and
- (f) in the event of eviction for public purpose, the holder has the right to get compensation for the property invested on the land. As far as the objectives are concerned, the following seven points are identified in the policy document:
  - » Ensuring respect of the rights and obligations of pastoralists, agro-pastoralists, investors and other holders;
  - » Resolving conflicts related to land use;
  - » Ensuring sustainable use of land based on scientific study;
  - » Preparing a data base regarding land and properties on land and regularly updating the same;
  - » After conducting a detailed study of customary land use and administration, identifying the strong sides and building on them;
  - » Establishing a government organ responsible for land use and administration; and
  - » Creating awareness concerning this policy.

One of the special features of the Afar Land Use and Administration Policy is that it clearly lays down the long run vision as far as pastoralists are concerned. Similar to the Somali case, the need for soil and water conservation measures (such as through terracing and tree planting) is mentioned in Article 20. Having mentioned the benefit of mobility in maintaining the eco-system and recurrent drought that made this method unreliable, it states that in the long run pastoralists are supposed to settle, on voluntary basis, along rivers where social services are to be provided (in line with the Federal Proclamation No 456/2005).

In Afar, rural land is administered mainly by clan leaders who make use of the land for communal grazing, while in limited areas it is administered by the government and by individuals.

Even though the approach followed is interesting and unique, the document lacks clarity and is at times contradictory. Furthermore, the direction put forward by the policy document and the subsequent legislations seem to be difficult to implement.

### **(iii) SNNP Proclamation No 110/2007**

The first land use and management law that was enacted by the SNNP Regional Government was Proclamation No 53/2003, which was later amended by Proclamation No 110/2007 that is currently enforced. The Proclamation focuses mainly on peasants; provisions concerning pastoralists and agro-pastoralists are scattered, implying that the proclamation lacks focus on pastoralists' land issues.

#### **(iv) Oromia Proclamation No 130/2007**

The Oromia National Regional State enacted the first Land Use and Administration Law in 2002 under Proclamation No 56/2002. This Proclamation has been continuously amended in 2003, 2005 and 2007. The current legislation in force is Proclamation No130/2007. The Proclamation focuses on farmers and a few provisions concerning pastoralists and agro-pastoralists.

#### **(v) Proclamation of Benishangul-Gumuz No 85/2010**

In this Regional State, the government passed Proclamation No 85/2010 in relation to land use and management. As in the other Regional States, many of the provisions of this proclamation are a copy of legislations from the other Regional States. This law does not mention pastoralists or agro-pastoralists. Only provisions relating to communal holding are mentioned, but it is not clear whether they address the issue of land use and management in pastoral and agro-pastoral areas.

Even though it is stated in the Proclamations of Oromia, SNNP and Benishangul-Gumuz that Regulations shall be issued for the implementation of the proclamations, no regulation has been passed. As the details of some important issues are left to be taken care of in the regulation, these proclamations do not give a complete picture of land use and management issues of pastoralist and agro-pastoralists in these regions.

### 4.2.3 The Growth and Transformation Plan (GTP) (2010-2015)

The Growth and Transformation Plan (GTP), which ran over the period 2010/11-2014/15 emphasized economic transformation from subsistence livelihoods to modernized industrial systems. Regarding the agricultural sector, GTP identified strategic interventions in three cluster areas namely:

- i) small-scale farmers in adequate moisture areas;
- ii) pastoralists; and
- iii) private investors.

Concerning pastoral development, high priority was given to the development of water (for humans and animals) and infrastructure. Improving animal breeds, veterinary services, marketing systems and promoting voluntary resettlement in areas convenient to irrigation development.

### 4.2.4 Land Tenure in Ethiopia

In Ethiopia, land tenure refers to the extent of the land use right only, as the ownership of all land in the country is vested in the government. There are three types of land tenure systems in pastoralist areas of Ethiopia: State, private, and communal. Private land holding refers to land held by small-scale farmers (agro-pastoralists) and investors. It involves the right to exclude others but it does not involve the right to sell land as this right is prohibited by the FDRE Constitution. The State holding includes national parks and reserves, forests, lakes, rivers or land used for the provision of basic services such as education, health, etc. Finally, communal land holding

portrays the dominant kind of holding in pastoralist community where land is communally used for grazing, woodlots, and other purposes.

There are some specifications and restrictions with regards to access to land, land transfer, and land renting or using as collateral:

- (i) Access to land: As the replica of the Federal policy, in the Regional States considered, pastoralists, agro-pastoralists and farmers who are above eighteen (18) years of age can access rural land freely and indefinitely. The right of the rural community to access rural land for grazing, religious or ritual purposes, water points and other social services is also respected. Furthermore, women are guaranteed equal rights with men in using, administering, and having access to rural land.
- (ii) Transfer through inheritance, gift or donation: In the case of Oromia, any peasant, pastoralist, or semi-pastoralist has the right to transfer his land use right to his family members who have no other source of income and whose livelihood depends on it, or to his landless children as a gift. The laws of the SNNP and Afar, however, do not make distinction between whether a family member earns his/her living from agriculture or not, to qualify for entitlement to donation. A key question here is how to determine the kind of land use right pastoralists bequeath to their heirs since land is a common property of the community."
- (iii) Transfer through renting: Private holders, any peasant, pastoralist or semi pastoralist has the right to rent out his/her land to those who apply traditional farming or for those who use mechanized farming. There are certain limitations imposed by the law in this regard that slightly vary across Regional States, thus:
  - (a) Prohibition from renting out more than half of one's holding, and
  - (b) The duration of the land renting agreement varies from as short as three years to as long as 25 years depending on the nature of the renter (traditional farmer or mechanized) and type of crop to be planted (annual or perennial). If the renters are mechanized farmers (investors) and plant the land with perennial crops, the duration is longer than it is for traditional farmers. . Each region has its own specific duration for each of the above categories. A unique arrangement is noted in Afar Regional State where a similar right is recognized except that the restrictions imposed are more stringent. Pastoralists have the right to rent out their land only when there are compelling circumstances (but not clearly defined). Furthermore, it is not allowed to rent out more than half of the land one possesses. Finally, the law has fixed the duration of the contract depending on whether the holder plants annual crops or perennial crops, or whether the holder is agro-pastoralist or an investor.
- (iv) Land or assets on land as collateral: In Regional States like SNNP and Oromia, the right of using land or assets on land as a collateral is exclusively reserved for investors. This right is not given to private and communal small holders.

#### 4.2.5 Land Certification and Compensation

There are different threats to land tenure security under which the land holder may lose the holding right. Most prominent ones are displacement because of private investment and eviction on account of the need to use the land for public purposes. It is clearly spelt in the laws of the

different States that investors have the right to access rural land. If land is to be given to investors, particularly for agricultural purposes, it is likely that the best fertile lands or rangelands are given over to investors which push pastoralists to degraded and marginal lands. Similarly, the rural land use right could be terminated if that land is required for more important public use. As far as Oromia is concerned, what constitutes important public purposes is not clearly defined in the proclamation. Whatever its definition might be in accordance with the laws, any individual or organ that has lost land holding for public uses has the right to get compensation for his lost property and benefits. On the other hand, the EPRDF Constitution underlines that any farmer, agro-pastoralists or private investors and others would be compensated for any causes of displacement (Article 40 (7) & (8)). This is further supported by Proclamation 455/2005. In Article (3) and (8), it states that the base and amount of compensation is the property situated on the land and for the permanent improvement the holder made to such land, determined on the basis of replacement cost. For the rural land holders, displacement compensation of the land shall be equivalent to 10 times the average income secured from that land during the preceding five (5) years. There is nothing mentioned about the communal resources of pastoral communities.

Under the 1995 Constitution, the Proclamation (456/2005) has relaxed possible land transfer. While prohibiting sale and collateralization, the proclamation permits limited land leasing (rental arrangements) and inheritance rights to be exercised and limited forced land redistribution to only irrigation development. This proclamation was enacted for the purpose of ensuring tenure security; strengthening property rights of farmers; sustainably conserving and developing natural resources; establishing a land data base; and establishing efficient land administration in the country. The proclamation mandated the Regional Government to carry out improvements to the land administration system, to implement land-use planning, and to give compensation for expropriated lands.

The Federal and the Regional Governments try to address the issue of tenure security through the issuance of holding certificates. For instance, Article 15 of the Proclamation of Oromia and provisions in the legislations of the different States give stipulations on registration and certification. Before issuing a certificate of holding, the size of rural lands under the holdings of private, communities, government and non-government organizations is to be measured and data including the current holder, its boundaries, the rights and obligations of the holder, land use, and fertility status and potentials are to be measured. Registration also includes the lease arrangements made regarding the land. After measuring and registering the necessary data, a holding certificate describing the size of holding, use and coverage, fertility status and boundary, and also the right and obligation of the holder, is issued to the holder whether the holder is an individual, community, investor, social or government institution. In the case of a common holding of a husband and wife, a joint-certificate is provided, specifying both their names. For the communal lands held in a district or Kebele, the holding certificate is to be prepared in the name of the community that will use the land jointly.

In Ethiopia, the problem of displacement mostly affected communal lands of agro-pastoralists and open access grazing areas located both in the high and lowlands. The other vulnerable groups are farmers and pastoralists located in urban areas who are often victimized due to urban expansion or new settlements.



The fundamental question for many scholars, development practitioners, and politicians is how possessing a land certificate can guarantee the holder, individual or community, safety from eviction. Or how could it guarantee the community fair compensation in the event of eviction. Similarly, how compensation is determined in a communally-held land and who gets it. The next question is whether such compensation has ever been paid to pastoralists and semi-pastoralists. In conclusion, it is not possible to categorically state whether the issuance of holding certificate leads to reliable protection against eviction or entitles the holder to fair compensation. In pastoral areas where communal holding is the norm, it is not clear whether compensation has ever been paid upon eviction.

## 4.3 Kenyan: Pastoral Land Management Policies and Proclamations

### 4.3.1 Most Relevant Policies and Strategies

In this section, policies, proclamations and development strategies of Kenya relating to rangeland management and pastoralists are selectively reviewed and discussed.

#### 4.3.1.1 Kenya Vision 2030

Formulated in 2007, the Kenya Vision 2030 has been launched as a long-term development blueprint for the country. The vision of this strategy is: 'A globally competitive and prosperous country with a high quality of life by 2030. It aims to transform Kenya into a newly industrializing, middle income country in providing a high quality of life to all its citizens in a clean and secure environment'. The Kenya Vision 2030 is anchored on the following three pillars: Economic, Social and Political. Kenya Vision 2030 has identified four (4) major challenges that continue to face the agricultural sector:

- (i) low agricultural productivity (yield);
- (ii) under-utilization of land for agriculture;
- (iii) inefficient markets; and
- (iv) low value addition.

The Kenya Vision 2030 particularly emphasizes that land in the high and medium-potential areas as well as in arid and semi-arid lands (ASALs) remains under-exploited for agricultural production which encourages expansion of farming into pastoral areas. However, regarding the ASALs, the notion that farming might worsen soil erosion (which is already fragile), and limit mobility of pastoralists is highly criticized and this aggravates land degradation. Yet, Kenya Vision 2030 acknowledges the special circumstances of marginalized pastoral communities, and places a premium on reducing poverty, inequality, and re-balancing regional development.

#### 4.3.1.2 Agricultural Sector Development Strategy (ASDS), 2010-2020

The Agricultural Sector Development Strategy (ASDS) was needed to position the agricultural sector as the key driver for delivering the 10 per cent annual economic growth rate envisaged under the economic pillar of Kenya Vision 2030. The overriding goal of the ASDS is to achieve a progressive reduction in unemployment, poverty and food insecurity in Kenya. The strategy outlines the agricultural policies, institutional reforms, programmes and projects that the government will implement in the short and long term to achieve this goal. It is anchored on two (2) strategic thrusts namely:

- (i) increasing productivity, commercialization and competitiveness of agricultural commodities and enterprises; and
- (ii) developing and managing key factors of production, particularly land.

ASDS recognizes many challenges that the ASALs in Kenya are facing, including: the effects of an ever-changing climate, the threat of insecurity, and the legacy of past underdevelopment evident in the high inequality in human wellbeing between those in the ASALs and those in the rest of Kenya. Accordingly, in line with the Kenya Vision 2030, the ASDS underlines the following interventions to be implemented:

- » Formulating and implementing appropriate policy and legal frameworks;
- » Investing in targeted ASAL development programmes;
- » Increasing the area under cultivation;
- » Diversifying income sources for pastoral communities;
- » Implementing the Kenya Vision 2030 ASAL development flagship projects; and
- » Improving Management of environment and natural resources;

So it can be concluded that most of the statements in the ASDS are government promises. It is also arguable whether increasing the area under crop cultivation is a sustainable development approach in the fragile pastoral areas as it aggravates land degradation.

#### 4.3.1.3 Integrated National Land Use Guidelines (INLU), In 2011

The National Environment Management Authority (NEMA) developed the Integrated National Land Use Guidelines (INLUG) with the objectives of resolving land-use conflicts, preventing and mitigating land degradation, promoting sustainable land management and managing natural and anthropogenic disasters. The INLUGs are anchored on the following principles:

- » Efficiency, equity and acceptability, public participation in land management, and redistribution of land to reduce inequality or alternatively to and attack poverty;
- » Sustainability (Sustainable land use is that which meets the needs of the present generation while at the same time conserving resources for future generations);
- » Conflict Resolution (harmonization of resource use-conservation and utilization and promotion of compatibility).

The most relevant guidelines for the rangelands of the pastoral communities are the following:

- » Guidelines on management of invasive alien species: prevention, early detection, rapid response, control and eradication.
- » Guidelines on the preservation of agricultural and pastoral lands: -It is also envisaged that these guidelines will aid in the preservation of rangelands to ensure proper utilization during the wet and dry seasons.
- » Land-use guidelines on protection of rangelands (livestock rearing areas).

The following are important issues in the guidelines:

- » Delineating rangelands according to agro-ecological zones e.g. rainfall, altitude.
- » Keeping the most appropriate species and breeds for each ecological zone.
- » Ensuring that stocking levels are within the carrying capacity for each ecological zone- (Ha/ livestock unit).
- » Ensuring that the site, distribution, and density of water points are done in consultation with relevant stakeholders after doing an environmental impact assessment (EIA).
- » Rehabilitating degraded rangelands with appropriate technology e.g. re-seeding and soil conservation, among others.
- » Promoting harmonious co-existence between livestock and wildlife (e.g., avoid fencing off migratory corridors and buffer zones).
- » Encouraging rotational grazing (wet season and dry season grazing areas) through regulated grazing procedures developed by committees.
- » Developing conflict resolution mechanism by forming natural resource committees and ensuring adequate facilitation.
- » Inventorizing, mapping and registering community-grazing areas.
- » Legal Implications of the guidelines: As stated in the INLUG, the implication is that the government must consider national land use guidelines, promote their implementation and assess their impact on land use. On the effects pertaining to guiding land use and its planning, the INLUG would provide a viable bottom-up harmonization strategy, which will inform the enactment, review and/or amendment or repeal of regulations, standards and laws.
- » Land Use Planning: The implementation of the INLUG will be promoted by means of land use planning and the means available to government. In planning at the regional and municipal level, the guidelines will be made concrete, and will take into consideration the specific features of different areas.

#### 4.3.1.4 Kenya Vision 2030 Development Strategy for Northern and other Arid Lands

This strategy document was produced in 2011 to complement and deepen the Kenya Vision 2030 by explaining how its goals will be realized in the specific context of Northern Kenya and the country's arid and semi-arid lands. It recognizes key challenges including:

- (i) the effects of an ever-changing climate;
- (ii) the threat of insecurity;
- (iii) the legacy of past under-development; and
- (iv) evidence in the high levels of inequality in human well-being between those in the arid lands and those in the rest of Kenya.

These challenges must be addressed if the region is to realize its potential. Key statements of the Kenya Vision 2030 for the Northern Kenya and other arid lands are summarized in Figure 3 below:

#### **Kenya Vision 2030 Statement for Northern Kenya, 2011**

Holistic and sustainable management of land and natural resources across the ASALs  
Policy, legal and institutional reforms:

- » Integrate traditional systems of natural resource management in all policies affecting the natural resource base;
- » Recognize in law the role of traditional institutions in dispute resolution;
- » Use the Environmental Management and Coordination Act (ECMA) to give more emphasis to ASAL-specific issues;
- » Increase institutional capacity and funding for arid lands research and extension;
- » Ensure that the needs of pastoral land users and customary institutions are fully taken into account in all legislation and institutions pertaining to the National Land Commission;
- » Establish land registries in arid counties and provide title deeds to urban dwellers;
- » Encourage dry land farming close to settlements or in riverine/low-lying areas for local food security;
- » Ensure that effective conflict management and negotiation mechanisms between different resource users are in place.

#### **Intervention Strategies**

- » Respect the authority of customary systems of natural resource management that promote sound environmental practices, and enforce their decisions;
- » Promote environmental education and awareness and intensify environmental conservation efforts, particularly in light of the likely impact of climate change;
- » Strengthen environmental planning and management;
- » Enhance the direct benefits to communities from natural resources and from income generated from the natural resource base, including tourism, mining, and biodiversity and wildlife conservation.

Vision Statement: Science, technology and innovation is harnessed for development

- » Identify, document, promote and protect indigenous knowledge and technologies;
- » Strengthen institutional capacities in science, technology and innovation for the development of the region;
- » Mobilize resources to support scientific and technological development

Figure 3: Kenya Vision 2030 Statement for Northern Kenya, 2011

#### 4.3.1.5 Other Related Policies (2012, 2015)

(i) National Agricultural Research System Policy, 2012 - it noted that the current research efforts need to reorganize and focus on nationally-agreed research priorities. The re-defined research agenda should give priority to:

- » Arid lands and rangeland management, water resources management, climate change mitigation and adaptation, market access and development, biotechnology, genetic resources, value addition, and technology delivery and adoption;
- » Issues at the interface between livestock and wildlife management;
- » Sustainable use and conservation of natural resources (land, forest, flora and fauna) as well as diversification and intensification of production that can spur economic growth and wealth creation, in particular within the segment of poor producers.

(ii) National Policy for the Sustainable Development of Northern Kenya and other Arid Lands, Sessional Paper No. 8, 2012

The document underscores that to ensure sound land and natural resource management in the ASALs, the government will:

- » Reinforce the authority of traditional natural resource management systems that promote sound environmental practices;
- » Protect and promote indigenous knowledge and practice; promote environmental education and awareness; and intensify environmental conservation efforts;
- » Protect and increase forest cover, riverine vegetation and critical water catchment areas in the ASALs, including special ecosystems such as Mts. Marsabit and Kulal;
- » Eradicate undesirable invasive species such as prosopis;
- » Promote low-maintenance water technologies; with an emphasis on water-harvesting which (given likely climate change impacts) can deal with both abundance and scarcity; and
- » Ensure that the interests of pastoralists, particularly pastoralist women, are adequately and appropriately addressed in new land legislation and institutions.

- » Agro-pastoralism and marginal farming are critical to the livelihoods of communities in semi-arid areas in particular. In arid areas, farming will be carried out in a manner that complements mobile pastoralism. The potential to increase both rain-fed and irrigated crop production is constrained by inadequate extension services and production technologies, limited access to affordable credit (particularly given the high investment required for irrigation), and poor post-harvest management and storage facilities.

(iii) In 2015, the Ministry of Agriculture, Livestock and Fisheries drafted a Veterinary Policy. The key objective of this policy is to reserve land for development of animal resources and maximize on suitable enterprises through appropriate land use systems. The policy statements are :

- » Ensure that animal owners maximize on suitable enterprises through appropriate land use systems;
- » Provide for rehabilitation of degraded lands and promote suitable animal production systems for specific agro-ecological zones with animal health and welfare considerations; and
- » Prioritize protection of land set aside for veterinary services.

#### 4.3.1.6 Kenya Community Land Act, No 27, 2016

The most recent development in Kenya is the formulation of the Community Land Act No 27 of 2016. According to Article 16 of this Act, the registration of a community as the proprietor of the land vests that community as the absolute owner of that land, together with all rights and privileges belonging thereto. The law ensures that the registered community can dispose or otherwise alienate the community land if it is supported by at least two thirds of the registered adult members of the community. On the contrary, as per Article 5(4) the State may compulsorily acquire community land for public purpose upon prompt payment of just compensation. This provision is confusing on the right of the community over community.

The Act underlines, that community land in pastoral areas should be available for use by members of the community for the grazing of their livestock, subject to the kind and number of livestock, the grazing rotation, the grazing plan, and the right of the community to utilize the portion of the land in accordance with the Act. Any person who is not a member of the registered community may be granted a grazing right by the community where that community accepts his /her application. In the case where any registered member fails to abide by the conditions referred to in the Act, the grazing right of the individual may be withdrawn by the community.

However, the implication of registration is that the mobility of pastoral community is curtailed as the community is expected to live within the confines of the registered boundary. This legal stance is in sharp contrast to the AU Policy Framework for Pastoralists which supports the free mobility of pastoralists, even beyond national boundaries.

According to the Land Act, the responsibility of administration of community land is entrusted to a Land Management Committee, a group comprising between seven to fifteen (7-15) members elected by the Community Assembly. The committee has the responsibility to run the day-to-day activities of the community, manage and administer registered land, coordinate the development

of community land, and prescribe rules and regulations to be ratified by the Community Assembly. In this regard, how the land should be managed, and what roles government should play on the ground are not clearly spelt out. The capacity of the committee to properly implement land management issues such as reclamation/rehabilitation of degraded lands, or improvement of the productivity of the land, remains questionable unless strongly supported by the government.

### 4.3.2 Land Tenure in Kenya

The land tenure system of Kenya can broadly be described in three categories: communal, government and privately owned land. The communal land ownership system is based on traditional customary rights, and all individuals born in that community have a right to use but not sell the land. This type of land tenure is most popular in the pastoral areas of Kenya. In this area, increasing human population has prompted encroachment into the pastoral rangelands as well as led to continuous land subdivision into uneconomic units that are unsuitable for animal enterprises. Reduced land areas restrict animal movements in search of pastures thus contributing to degradation, soil erosion, and siltation of waterways and recurrent flooding.

Government trust land such as buildings, forests, research and national parks is land held by ministries, state corporations or other public institutions for public use. Privately owned lands are registered; the owner holds the title under a freehold or leasehold system. The owner of such land can use it as collateral to access credit from financing institutions. Private ownership of land has encouraged investment and long-term improvements or development on farms to create a secure market for land.

## 4.4 Institutional Arrangements

Particularly for Kenya and Uganda, there is no well-defined organizational structure in place to implement the land policies and proclamations in pastoral communities. In almost all cases, the clan leaders continue to administrate the land though they are gradually getting weaker and weaker. In most documents reviewed (e.g. the Ethiopian cases), the issue of institutional arrangement is suspended in the documents, assuming that it will be defined in land management regulations, which is yet to be formulated. Still in many other cases, it is hard to identify which institution will be specifically responsible. . The Ministry of Agriculture and Natural Resources and the Bureau of Pastoral Development often appear as the owner and implementer of the land policy/proclamations. At the same time, investment agencies, local administrators, and the politicians are also heavily involved in implementation. In Ethiopia, practical observation shows that Land Committees, formed from different sectors at Regional and woreda levels, are responsible for land issues including land administration (dispute resolution, expropriation for investment, etc.), but not land management.

Whatever is the strength of the government and that of the pastoralist, the two institutions collaborate to apply the rules and regulations. The clan leaders continue to administer and manage land, although they are losing the power to do so. The clan leaders have defined mobility as a strategy of rangeland management and occasionally clearing invasive species. The government structure largely concentrates on the sedentarisation process (in Ethiopia) and developing basic

infrastructure and service facilities.

In conclusion, while every institution has interest to use land, lack of defined institutional arrangement for the land management is an acute problem. Moreover, government structures lack adequate staffing, logistics and facilities. This could be one of the most important causes of limited concern for the proper formulation and implementation of the land management policies/proclamations. The ultimate result is that land degradation and deterioration of its productivity in the pastoral community is currently increasing.



While governments are attempting to introduce and implement their policies, proclamations and rules/guidelines in pastoral rangeland management, customary rules and regulations are also in place but are not reinforcing each other. While sedenterisation and commercial farming are the central focus of the government's strategy, mobility with large livestock number is the most preferred option for pastoralists, given the ecological conditions at hand. Practical experiences show that the latter is often found to be more pertinent and effective than the former, at least to-date.

Traditional institutions in pastoralist communities have accumulated centuries of experience and knowledge about resource management. Traditional management of pastoralist rangelands depends on careful and wise use of community knowledge. Almost exclusively, older men make decisions that affect everyone else in society and they govern in traditional institutions. They set rules and regulations that forbid inappropriate practices and attempt to ensure that rangeland resources are used and maintained properly. They also arbitrate disputes. The leadership negotiates with neighboring groups on the use of water and pasture and allocates range and water resources. Their key strategy is managing mobility; they decide if, when and where the community should move. The main consideration is availability of pasture and water.

The question of whether a group of people is “truly conservationist” requires paying attention to complex set of historical and cultural factors—the broader question being the relationship between ideology and adaptation. Pastoralists employ a range of strategies that have enabled them to survive for centuries. In rangeland management, they tend to focus on three principles namely:

- (i) kind and class of animal;
- (ii) timing of grazing; and
- (iii) spatial distribution.

However, as a principle, stocking rate or grazing intensity is not considered by pastoralists as they need number of the livestock for social prestige rather than for economic value. They keep a diversity of herds to cope with drought, as well as large and small ruminants. They graze their herds on different rangeland areas, taking into account the carrying capacity and suitability for the animals to browse or feed. That is, pastoralists practice herd splitting and ranging in different locations to ensure the availability of good pasture and water. The timing of grazing and spatial distribution of the animals depends on the opportunity for mobility, knowledge of and access to

the resources (particularly water and feed).

Pastoralist communities are commonly credited with practicing a conservation ethic. There are numerous detailed observations of herdsman following grazing regimes, observing stocking regulations, and maintaining institutional land use practices that seem to protect grasslands from overuse. Mobility and flexibility are the key strategic actions, which in turn, require large spatial extent for grazing management, and favour heterogeneous environments. Mobility, together with the use of diverse species to harvest diverse habitats, enhances the efficiency of forage harvest, and conversion into livestock products. Mobility can also be viewed as a risk avoidance strategy, when moving is undertaken to escape environmental, political, or economic conditions that threaten the well-being of herds or people.

Environmental regulations based on traditional customs and sanctioned by community institutions are more likely to be respected than those imposed by external authorities, even where the regulations themselves are very similar. For example, in some pastoral communities, local lakes are treated as sacred, restricting fishing and waste deposition. The beliefs of pastoralists that gods dwell in particular natural resources such as lakes, trees and in certain animals, is equivalent to seeing intrinsic value in the environment. Some wetlands are protected for their role in performance of cultural rites such as male circumcision ceremonies.

# 06 Problems and Policy Gaps

## 6.1 Problems and Policy Challenges

Pastoral communities and rangeland management have faced several natural, social and economic problems. The main challenges include the following:

- (i) Loss of land from the nomadic pastoral system due to increased farming: Pastoral land and forests are being lost to small-scale crop farming, commercial agriculture and horticulture. This adds pressure to the remaining range ecosystem, areas of decreases pastoralism and rangeland mobility. Cropped land is also declining in productivity due to poor farming practices and overuse. Conflicts between pastoralists and agriculturalists or registered land owners are therefore common.
- (ii) Governance: Traditional institutions are good at enforcing rules for sustainable use of rangelands especially when they are clearly recognized as the beneficiaries. Formal governance structures, on the other hand, tend to weaken or overlook customary institutions and their capacity to manage resources and conflicts. Key elements of pastoral rangeland management such as mobility, diversification of herds, splitting, timing of grazing and spatial distribution, are not adequately appreciated by the policies and proclamations of the governments under consideration.
- (iii) Unreliable climatic conditions: Frequent climatic shocks, mainly unreliable rainfall and scarce water supplies, negatively affect rangeland livestock and crop production, and increase conflicts over access to, and use of, limited water and grazing resources. Rangelands are periodically vulnerable to prolonged droughts with widespread consequences of land resources degradation. The frequency and severity of drought has increased in recent years. Coupled with overstocking and the degraded environment, this has had a devastating effect on pasture regeneration and on the livelihoods of pastoral communities. Natural seed banks in the soil have depleted to the extent that even with adequate rainfall, little grass or other palatable vegetative material regenerates.
- (iv) A continuous problem of conflicts: During periods of extreme drought, there is widespread migration of livestock to areas with better pastures and water, which results in conflicts over use of pastures and water resources, and in environmental degradation. This problem has been increasing with the aggravating problem of climate change, and scarcity of water and pasture.
- (v) Pastoral over-reliance on livestock: Many tend to build up large livestock herds as a source of prestige and/or strategy to mitigate shocks. Such practice undoubtedly causes over-grazing and range degradation.
- (vi) Lack of appropriate technologies: For a long time, research and extension services pertinent to pastoral development are missing or weak. Thus, though the pastoral rangelands are

subjected to external socio-economic interventions and increasingly vulnerable to climate change, little technology is available to apply in tackling the challenges.

- (vii) Limited appropriate investments: Private and public investments in the development of pastoral areas remain comparatively low. With limited access to external markets, pastoral areas experience high costs in doing business. They also lack opportunities for income diversification, and therefore, poverty levels in the region remain high.

## 6.2 Policy Gaps in Pastoral Land Management

Until the last one-and-a-half decades, the pastoral development question had not been properly addressed. From the review of policy documents, the Ethiopian government seems quicker in recognizing pastoral communities (as of early 1990s). Indeed, much is linked with political interests. The formulation of policies and legislations concerning land use and management in pastoralist areas is, however, a recent attempt for Ethiopia, Kenya and Uganda. Yet, there are fundamental gaps in contextualizing policies and legislations to the pastoralist way of life, as outlined below:-

1. Today, the government is pursuing the Plan for Modernization of Agriculture, that is grounded in the ideology of transforming agriculture largely from subsistence to commercializing. However, it has the following weaknesses as far as pastoralism is concerned:
  - (i) Development through the privatization paradigm and focus on agricultural production. Governments seem to be more interested in following the privatization and market-based economic policy – than in promoting crop production and ranching. However, the privatization path constrains mobility on which traditional pastoralism is based, and if the trend continues, movements may become restricted in the future, perhaps to the extent of full sedentarisation.
  - (ii) The range of policies pursued by successive governments has had a tendency to neglect the mobility of pastoralists as a rangeland management strategy, and instead envisage rapid socio-economic transformation policies based on sedentarisation. However, it is often argued that complete sedentarisation is hardly the basis for a stable livelihood in the fragile ecology (arid and semi-arid areas) of pastoralism, and may become even a source of conflict, both within the cattle corridor and with neighbouring districts.
  - (iii) Undermining customary practices: The process of statutory laws and policies also undermines the common property regime by promoting individualization and subdivision of communal land, and this regime is what previously enabled pastoralists to properly manage and utilize the rangelands.
  - (iv) Focusing on infrastructure development: While development programmes focus on improving infrastructure such as roads, and basic services (schools, water and health facilities), focus on rangeland management is often low or negligible (e.g. Ugandan Rangeland Policy, 2014).
  - (v) Establishing protected areas for forest reserves, games and national parks: Protected areas and biosphere reserves are viewed in the great majority of local communities as outside

imports and cultural impositions from which they seldom benefit. Conservation strategies have also focused on wildlife preservation without taking into account the needs of other forms of land use (particularly in Uganda and Kenya). The incidence of costs and benefits of biodiversity conservation and sustainable use is seldom shared in a fair and responsible manner. Protected areas are especially dedicated to the protection and maintenance of biological diversity and this fact overlooks the costs and benefits to the pastoralists. The challenge is to get all parties to agree on common paths in which capacities are tapped, responsibilities shared, and everyone is expected to receive some benefits (and bear some costs) for conservation and sustainable use of biodiversity.

2. Pastoral development policies have focused more on water improvement and livestock health facilities and less on pastoral land use and rangeland management. The interface between pastoralism and the broader natural resources sector is not taken into account for a holistic co-existence of pastoralism and the environment. For pastoralists, the basic principle of natural resource management is rationalizing opportunistic behaviour and mobility. However, most livestock policies are biased towards intensive husbandry and ranch development for commercial purposes.
3. Perhaps except in Ethiopia, the Local Governments responsible for implementation of sector plans, based on local priorities, have not seen value in empowering pastoralists in the marginalized category. There is lack of an integrated approach in development projects. Loss of indigenous technical knowledge and introduction of new institutions without recognizing and considering existing ones has not only resulted in mistrust between the State and the pastoralists, but in impoverishment of the latter.
4. Within pastoralist communities there is no gender disparity regarding access to communal natural resources, but the control of these resources is determined by local customs, which are dominated by men. Women should be empowered to manage rangelands and control resources through proper land administration systems.
5. In Ethiopia, even though each Regional State is expected to issue policies and legislations based on the realities of the region, they often copy the provision other federal policies. Many of the provisions also lack clarity and are at times inconsistent. All policies from the Regional States give little focus to pastoral contexts. Afar Regional State attempted to develop land use and management policies, proclamations, regulations and directives, and the other Regional States have only formulated proclamations.
6. Land tenure insecurity: A review of the Ethiopian land policies and proclamations portrays inconsistency. The fact that pastoralists communally use land makes the matter more complex. The Federal Proclamation No. 456/2005 also clearly states that communal lands can be converted to private lands as it still strives to balance two conflicting interests, the tenure security of pastoralists and right of individuals to access rural land. As long as the government is in favour of private investors and crop production, land certification does not guarantee that pastoralists have secure communal land tenure. Even if compensation is paid, the only option available to pastoralists is to concentrate on already degraded and marginal lands.
7. Policy implementation challenges: If land certification is to be effective in rangelands as per the laws and proclamations of Ethiopia, a pastoral community has no right to use land that

is outside the delineated area specified in the certificate. This means that the mobility of pastoralists is restricted, which is contradictory and unrealistic with regards to their way of life. Moreover, inadequate resource allocation for staffing, logistics and facilities constrain government institutions to implement the policies and proclamations in the pastoral areas.

8. A related issue is whether the issuance of holding certificate could guarantee conservation of land (like the case in Ethiopia). However, there is also the problem of 'the tragedy of the commons'. This may call for limiting stocking rate, which is a challenging issue with pastoralists. Thus, mere possession of a certificate does not guarantee the conservation of the range lands.
9. Lack of knowledge as to why the pastoral system continues to exist in the history of modern economic development: A study of the policies and proclamations reviewed reveals that policy makers miss a theoretical and practical basis for why pastoralism continues to exist in advanced economies in Asia, Australia, Latin America and Europe. This reflects the need to share experiences in policy design for pastoral development in the countries considered.
10. The existence of two rules, the pastoral customary and government rules makes the matter more complex. In pastoral areas, land use and management has been under customary rules for centuries. Because of this, it is logical to say that customary rules have more acceptance and force in these areas. Therefore, a big challenge could be conflicts that may arise between customary and government rules. Designing complementary policies/proclamations and supporting the pastoralists' customary ways of rangeland conservation strategies would help instead of heavily sticking to formal government regulations.

The primary policy challenge is how to manage the pastoral rangelands to enhance the social and economic contribution of pastoralism. Despite its significant contribution to the livelihood of millions of people and the national economy, for many years, the pastoral sector had not been seriously considered in the policy agenda of the governments. However, the attention of governments for the pastoral economy has changed recently. In this section, a review of related documents for Ethiopia, Kenya and Uganda is concluded. The following are key conclusions common to all countries considered (unless specified), drawn from the review works.

## **(i) Implementation lag in policies and proclamations**

Although pastoral land use and management policies and proclamations emerging, their practical implementation lags behind. Critical elements such as legislations, directives and guidelines are missing if the policies and proclamations are to be enforced. . The other basic reasons include lack of political commitment, inadequate resource allocation and absence of monitoring and evaluation. Thus, the management of pastoral rangelands to enhance the socio-economic contribution of pastoralism has yet to be properly addressed.

## **(ii) Duality of customary and statutory rules create mismatching problems**

Unlike in the other parts of the society, pastoralists are governed by dual rules and regulations, indigenous customary rules, and the government statutory rules. Unfortunately, these rules contradict each other with regard to land management for pastoralists. The indigenous pastoral resource management systems are commonly based on distinctive customary rules governing access to resources and control of resource use. They are not mere traditions but adaptive responses that have evolved over time, often based on kinship, social classes or other rights of access. It is argued that for centuries, pastoralism management retains rangeland and provides livestock production opportunities in unpredictable ecosystems without affecting conservation outcomes. Nevertheless, a common thread is the criticism that enormous environmental knowledge that indigenous populations exhibit cannot in itself guarantee that these societies avoid resource depletion over the long term, though such knowledge is, of course, of potentially immense value to resource managers.

A thorough review of the policy documents shows that many policies toward pastoralists have been shaped by fundamental misunderstandings of how pastoral systems work. Land administration and use policies and laws superficially address pastoral issues and are not sensitive to pastoralist traditional customs. Resettlement programmes are integral to the national economic and social

development. Settlement and cultivation has led to the transfer of communal lands to individuals or provided use rights, a practice previously unknown in pastoralist areas.

Contrary to the African Policy Framework, which supports free movement of pastoralists even beyond national boundaries, the national policies are in favour of sedentarisation, small-scale and commercial farming, ranches, and reserves for parks and games.

Today, customary rules are getting weaker while government policies and structure are not strong either. Consequently, the available rangeland is shrinking, and mobility is more restricted. Herds are now confined to smaller areas causing further degradation of fragile lands already constrained by droughts, soil erosion and general land degradation. It has now become common practice to settle in marginal and dry grazing areas, which hinders traditional rangeland management. Dry season grazing areas are particularly badly affected. In many ways, the rangeland management systems are coming under increasing pressure from competing forms of land use, successive and more frequent droughts.

In conclusion, experience shows that the traditional customary rules are more powerful and effective but are gradually weakened. Government policies and regulations are also not strong enough to protect pastoral lands from degradation.

### **(iii) Key activities competing for grazing land and aggravating land degradation**

Crop farming is increasing, be it internally-motivated or encouraged by the government, as partial fulfillment of household food security. Fuel wood and charcoal sales are becoming the top alternative income sources for the pastoral communities. Protecting wildlife for the benefit of biodiversity and tourism is the centre of government interest. However, these economic activities are strongly contributing to land degradation and require attention from policymakers.

### **(iv) Communal land security is not guaranteed**

Pastoralists usually retain rather vaguely defined rights of land access and use, as granted by the State in the most general terms, but the pre-eminent rights of the State to do as it pleases with pastoral lands is usually not in question. In Ethiopia, the national land tenure legislation arising from conditions within arable agriculture in the highlands is directly applied to the lowland pastoral rangelands. The Regional States also have not reformulated policies and proclamations/strategies in the context of pastoralism; instead, they just copied from that of the Federal Government without adding tangible values. With all the countries under review, pastoralists are not fully secured regarding the ownership and use of communal rangelands. It is not uncommon to observe that pastoralist communities have been subjected to dispossession and/or occupation by other private business actors and government agents.

Land certification is not making a difference, nor is compensation commensurate to the loss of land to other uses. For practical purposes, policies lack clarity or consistency and they are sometimes contradictory. Despite the governments' promises, pastoralism as a sector is generally vulnerable and its sustainability is threatened. For instance, conflicts are partly the result of confused land tenure systems and partly due to lack of resources (water and feed for the livestock).



#### **(v) Current pastoral land management is not adequate to mitigate land degradation**

Continuity and stability of land ownership is a crucial condition for sustainable development. Insecurity affects the perception, decision and management of land users. Tenure affects virtually all decisions concerning land use systems and agriculture based development, be it croplands, grazing lands, or forestlands. As stated above, there are no clear rules that give security to the pastoralists in rangelands who have used and cared for the land. Land use in pastoral societies was traditionally governed by a set of rules and institutions to avoid degradation through over use. However, because such customary rules and institutions are weakened, traditional land management system is not as effective as it was.

Indeed, government regulations raised some important issues regarding land rehabilitation and preservation, for example the fact that communities are responsible to properly manage their communal lands. However, the implementation seems unrealistic. In most cases, there is no guideline for that purpose, and technical support from the government is lacking. Implementation may also be questionable in terms of practicality, given the contradicting issues between the statutory and customary rules.

While most policies and proclamations are recently formulated, they will need to be applied and their effects observed and documented. So far, concern for proper implementation of these in all nations considered, and hence practical activities, are yet to be worked out. On the other hand, project-based rangeland management is a common intervention of the government and non-governmental organizations. Particularly, Ethiopia is heavily investing in basic services and natural resource management in pastoral areas, and a number of successes have been recorded. However, some of the project interventions are inevitably contradictory with the customary rangeland management practices; for instance, increasing restriction of free mobility of herds.

In conclusion, because of declining customary institutions and rules, and failure of government policies and regulations to understand the context of pastoralists, the problem of land degradation is progressively increasing. Socio-cultural dynamics of the pastoral communities and its impact on the rangelands and natural resource management system has not been well supported by empirical research. While, governments' attention to the development of infrastructure and basic services should be appreciated (but is still low), involvement in rangeland management issues is limited. As a result, there is continued land degradation, livestock productivity is dwindling, migration has increased and conflicts are persisting. Interestingly, Ugandan and Kenyan governments have recently recognized the need of building the capacity of and working with the pastoral customary institutions in rangeland management. This should be scaled-up, if pastoral land is to be saved from further degradation and to support sustainable development.

As a principle, policies related to pastoral land management should secure and protect the livelihoods and rights of pastoralists, ensure their socio-economic development, and also reinforce the contribution of pastoralism to community, national, and regional economies. While the problems and challenges are evident, the potential of the rangelands are still significant. Though some progress towards supportive policies for pastoralism is evident at national and regional levels, there is still a considerable need to improve pastoralism in terms of its economic and ecological rationale, and assure the rights of pastoralists to access their rangelands and pursue a livelihood of their choice.

What has been lacking is adequate attention to the region, a proper understanding of its needs and potential, and a deliberate political commitment to address all this. Cultural and historical aspects have to be taken into account when designing policies to revitalize rangelands and thereby the socio-economic life of pastoralists. There is need to examine policy and institutional options that promote accessibility (security of tenure), stability, and indigenous knowledge of rangeland management supported by adoption of improved technologies. Based on the review of national documents and literature, a policy framework and development interventions for pastoral land management are recommended below:

### 8.1 Proposed Pastoral Land Policy Framework

Pastoral lands have essential values to be carefully considered for all attempts to improve policy formulation and development interventions. These are briefly summarized as follows:

1. Appreciating pastoralism as a way of life, but not backward: Pastoralism as a way of life and as a production system should be fully internalized as major livelihood of millions of people on the globe adapted to harsh ecologies with well-organized social and cultural values. There should be attitude change with a view to discarding biased perceptions of pastoralism as an archaic livestock production system and that pastoralists' choice to pursue an obsolete traditional life style is self-inflicting. Implicit in this principle is the concept of supporting livestock-based development while simultaneously, improving basic services and relevant infrastructure based on their circumstances, and with their participation.
2. Mobility as a strategy for rangeland management: Mobility is the basis for efficient use and protection of rangelands, and it is key to appropriate adaptation to climate change and other trends. The study confirms that mobility remains the most important strategy of the rangelands' ecological management system, but several factors are putting this strategy under strain. Efforts must be placed towards the recognition of mobility as a strategy in pastoral areas and guaranteeing the possibility of the practice to continue within the confines of emerging developments. Therefore, policy reform should enable pastoral mobility across

internal administrative borders within States, and movements across national borders.

3. Pastoral comparative advantages: From the economic history of pastoralism, it should be acknowledged that pastoralism has significant comparative advantages over other economic activities in the rangelands. Pastoralists make use of scarce vegetation and water resources available in hostile and marginal arid and semi-arid lands to produce meat, milk and other animal products. The potential of pastoralism to contribute to the sustainability of rangelands covering large areas of arid and semi-arid lands, which are often not used for other economic activities, should be emphasized. If properly managed, pastoral lands will significantly contribute to regional and national economic development.
4. Strong commitment of government and development partners: Stakeholders involved in the pastoral policy development process, and development practitioners, should devise affirmative action for land management that will: (i) improve budgetary allocation to address development challenges of pastoral communities; (ii) deploy sufficient and qualified personnel, and (iii) institutionalize participatory monitoring and evaluation of the policy implementation.
5. Acknowledge the legitimacy of indigenous pastoral institutions: The national State and Local Authorities should recognize the important role of traditional pastoral leadership and structures in rangeland governance, including conflict resolution, management of land tenure and mobility, and facilitation of interactions between pastoralists and other interest groups such as crop farmers. Appropriation of pastoral lands, which is influenced by misperceptions regarding pastoral rangeland as non-productive or even vacant, should be thoughtfully reconsidered. National legislation needs to protect pastoral rangelands from being biased to favour private commercial ventures at the expense of massive pastoral communities.

## 8.2 Policy Attention to Improve Pastoral Land Management

Review of the policy documents highlight critical messages that, if taken into account, would significantly re-orient rangelands management and development policies in the countries under review.

1. Building indigenous knowledge and customary institutions of the pastoral community: First, re-visiting the historical and cultural rangeland management practices of the pastoralists is imperative. In the Western and Eastern modern economy, pastoralism continues to exist, which tells us that pastoralism as a livelihood is not backward but rather a system that best fits its agro-ecological circumstances. Therefore, policy makers and development practitioners in the country under consideration should share such experiences from the advanced world such as Australia, Latin America, Asia and Europe where pastoralism is still an important economic sector. Second, policies and proclamations should appreciate the indigenous knowledge of land management practices of pastoral communities, and there should be a clear policy framework designed to leverage the power of the pastoral traditional institutions, and create harmony with the formal government structure.
2. Establishing stronger communal land tenure security: Land tenure security is the most critical factor for rangeland management and pastoralism development. Many scholars argue for

communal customary land tenure systems, and governments should also increasingly recognize its relevance for the sustainable development of pastoral communities. Enhancing land tenure systems that build on and work with pastoral customary institutions and that respect and use pastoralist knowledge systems, will strengthen the national economy and reduce the susceptibility of pastoralists to drought and other environmental factors.

3. Community participation in monitoring and evaluation: The participation of pastoralist communities in the development, monitoring and evaluation of these policies will protect their way of life and ensure that interventions complement rather than substitute the good practices that already exist in their communities. Development interventions should first concentrate on serving the interests of pastoral community. All other motives for private sector or national development issues can be subsequently considered.
4. Community rangeland management: By creating an enabling policy environment, pastoralists can be the best custodians of dryland environments. The best way to achieve this is by decentralizing the management of pastoralist areas at the community level, leveraging the immense power of the traditional pastoralist institutions, and creating harmony with the formal government structure. Such management systems have been severely weakened in recent years but they still have a great deal to offer. There is no solution to the problems of land administration without them.
5. Land use planning: Land administration is not an end in itself. It has to be supported by integrated land use planning. The plan should identify the potential and current constraints and should provide a framework, taking into account the customary systems and conflicting interests of the government in rangeland management. The government should develop a comprehensive land use plan in consultation with community leaders to rationalize the evolving land use types and practices. This should cover all forms of land use including (settlement, farmlands, communal rangelands and wildlife parks) with a view to and minimizing depletion of communal rangelands. It should demarcate the rangeland for competitive uses such as grazing, ranching, crop production and protected/reserve areas, in order to minimize conflicting interests. Therefore, there is a need to work with communities to map communal grazing areas and acquire legal documentation (Communal Certificate of Ownership), and establish a negotiation forum with their neighbours to ease mobility.
6. Refining existing policy/proclamation documents and developing legislations/directives – urging for practical implementations: Many of the existing policies and proclamations lack clarity and are at times inconsistent. The most recent ones need to be refined. . Moreover, all countries under review, lack subsequent legislations, directives and guidelines to practically implement the pastoral land management policies and proclamations. Therefore, urgent and strong attention should be given to develop and finalize relevant legislations, directives/guidelines to render the policies/proclamations practical.

### 8.3 Proposed Development Interventions to Improve Pastoral Lands

In line with the above-mentioned policy recommendations, the following are proposed for development interventions:

1. Special focus should be on the development particularly of water and pasture, as rangeland management should be regional for peace and pastoral development. Developing market and animal health infrastructure and facilities should be complementary.
2. Focus should be on establishing programmes on land reclamation and soil erosion controlling: tree-planting considering drought tolerant species; and livelihood diversification to mitigate tree cutting and charcoal burning as an alternative income source. Restoration of overgrazed areas should be done through check dams, filling gullies and tree planting on bare ground.
3. Providing sufficient advisory services in the areas of improved rangeland management system and behavioral change towards improved and market-oriented animal husbandry, as well as providing support with good extension and training packages that are suited to rangeland environments. This strategy could be effectively adopted across the country.
4. Support should be given to the development of land use and administration policies, which guarantee communal land security and support pastoral mobility.
5. Strengthening the traditional institutions so that they can work with the government for the good of the nation
6. *Prosopis juliflora* and *Parthenium* are plagues affecting all pastoralist areas. –Research should be conducted on how to control and/or wisely use these invasive plants.
7. As far as the issue of sedentarisation is concerned, there should be balance between two conflicting interests: the tendency of pastoralists to relocate indefinitely vis-a-vis the policy of settlement . Given the worsening global climatic conditions and ever increasing land degradation, the argument that pastoralists should be allowed to relocate indefinitely may not be acceptable. At the same time, even though governments are advocating for settlement, there are no records of best success of pastoralist settlement that could serve as a benchmark. While a gradual process of voluntary settlement could be a guiding principle, a participatory appraisal in which pastoralists have the greatest voice, should be carried out to assess the degree of settlement that offers a solution to livelihood improvement and to natural resource preservation.
8. All the above recommendations being taken as preconditions, there should be a continuous peace dialogue and harmonization among clans within and across boundaries. Cultural approaches and customary rules should govern peace negotiations complemented by awareness creation on the importance of harmonization for modern and civilized society.

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## Annex: Policy Documents Reviewed by the Countries Considered

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