


Pastoralist land rights in the face of political, economic & institutional change





Pastoralist land tenure & land rights

"COCO" LAPSSET

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Land tenure & climate change

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Drylands Transform

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- UU
- UoN
- Makerere Univ.
- SGS
- Linnaeus Univ.
- IGAD
- ICRAF
- **Funded by Formas**

The historical context

- post-colonial and post-independence neglect and marginalization of pastoralist communities
- Pastoralism treated as an anachronistic way of life
- pastoralism seen as causing/contributing to environmental degradation
- In Kenya, land alienation and fragmentation has continuously disrupted the viability of pastoralist livelihoods

“Both areas are large and poorly watered and are occupied by pastoral nomads; their inhabitants are backward and generally speaking, the districts are uneconomical. On account of their remoteness, their climate and their backward population, they present many problems which are entirely different from those in the other native areas of the colony”

Northern Province Annual Report 1947

The new spotlight on drylands

- Land investments
 - *Infrastructure*
 - *Energy (dams, windpower, oil, geothermal development etc.)*
 - *Minerals*
 - *Wildlife conservancies & tourism*
 - *Land intensification*
- State expansion
 - *The aspiration to bring 'unruly', pastoralist 'frontier' regions into the fold of the nation state*
- Dryland restoration

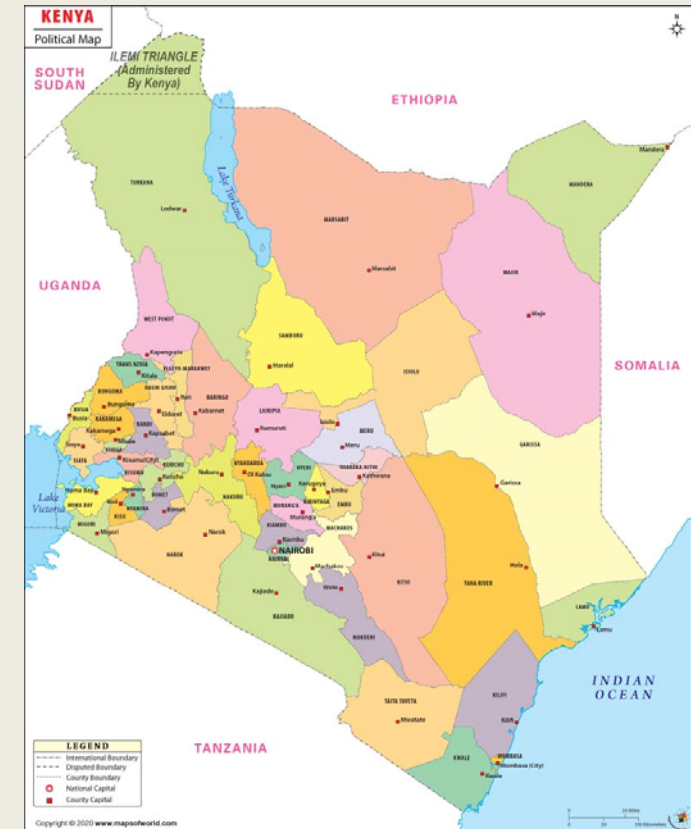


The new governance landscape for pastoralist land rights

- Rush for pastoralist land
- Devolved national state power through 47 elected county governments (the 2010 constitution)
- Land reform

Devolution

- ambition to break persistent regional and ethnic imbalances in distribution of financial resources and political influence
- increased flow of public resources to dryland counties
- positive influence on democratic participation and influence
- Tensions between national and county governments
- New configurations of political and economic relations of land



Land reform

- The 2010 Constitution (and the 2012 Land Act)
- The 2013 Wildlife Conservation and Management Act
- The 2016 Community Land Act
- The 2018 Land Value Index Laws
- The 2019 Community Land Act Regulations

2016 Community Land Act

- Historical break with colonial and post-colonial treatment of dryland commons
- Legal recognition of customary, community land rights
- Local legitimacy
- Stepping stone towards privatization
- Do not accommodate "*flexible and negotiated cross-boundary access to land and resources*" (Kameri-Mbote et al. 2013)
- Different national and county priorities
- Implementation problems and delays

Observed landrights dynamics

- Locally diverse land rights practices
- Dryland enclosures

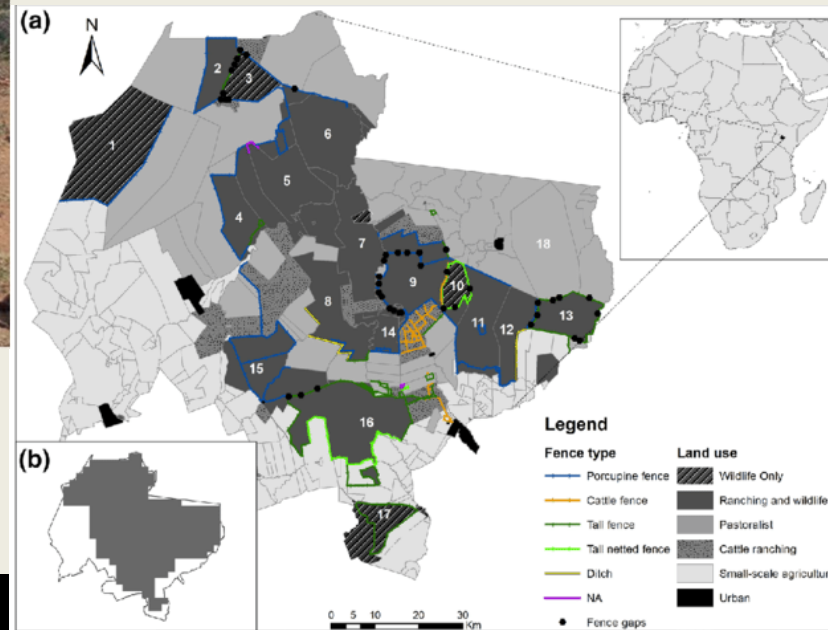
Land reform in a context of diverse land rights practices

Location	County	Formal ownership	Present land tenure practice
1	West Pokot	Private property	Private property
2	West Pokot	Group ranch	Dominated by privatization without formal recognition
3	West Pokot	Trust land	Community property without formal recognition, with some examples of privatization without formal recognition
4	Baringo	Group ranch	Community property used for nature conservation with formal recognition
5	Baringo	Trust land	Private property formally recognized by allotment letters
6	Baringo	Trust land	Dominated by privatization without formal recognition
7	Baringo	Trust land	Dominated by communal enclosures without formal recognition
8	Laikipia	Private property	Users lease land that is held as contested private property by absentee land owners
9	Laikipia	Private property	Contested private property held by absentee land owners
10	Laikipia	Trust land	Community property without formal recognition, with some examples of privatization that often lacks formal recognition
11	Laikipia	Public land	Mix of open access and privatization, both without formal recognition
12	Laikipia	Group ranch	Community property with formal recognition
13	Isiolo	Trust land	Community property without formal recognition, with rare examples of privatization that is formally recognized by plot numbers or allotment letters.
14	Turkana	Trust land	Community property without formal recognition

Dryland enclosures

- Sedentarization
- Commodification
- Privatization/parcelisation
- Inequality
- Increased or decreased tenure security?
- Improvement of pastures
- Increased productivity to meet increased demand for livestock products
- Restoration of degraded land (positive ecological effects)
- agro-pastoralist diversification

Dryland enclosures



Putting the Community Land Reform into use

- Using community land registration as a tool for privatization
- Using community land registration for conservation
- Using community registration to secure land rights



Does the community land reform effectively respond to dryland- and pastoralist needs?

Robinson & Flintan 2022

- ☐ It should provide security against illegitimate alienation and fragmentation of rangelands
- ☐ It should legitimize collective management
- ☐ It should allow for flexibility of access and management
- ☐ Coherent, cross-scale management and institutions are key