Spatial land use planning and communal land tenure reforms in pastoral areas: the Experiences of Kenya

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Abstract

Background
This paper analyzes the state of land use planning for rangelands and the inconsistencies and in policy and planning strategies and its implications for communal land use and tenure in Kenya. It proposes a framework to manage the dichotomy in land reforms and land use planning in a manner that yields sustainable livelihoods for the pastoralists. The main questions answered in this paper are; (1) what are the indicators of land use change and what is the emerging spatial structure of the rangelands, (2) what are the shortcomings and deficiencies of the land management choices prevailing in Kenya and the East Africa/Horn of Africa region more generally, and what are the roles of rangeland communities, (3) how does the new spatial structure impact on the pastoralists livelihoods anchored on the principle of maintaining “the commons” and, (4) what is the appropriate policy framework that can integrate the different planning options to achieve spatial stability in rangelands and community land use management for sustainable pastoral livelihoods.

Key considerations and methods
The domain of this paper is in the analysis of spatial planning for rangelands, land use change, land reforms and rangeland livelihoods. It looks at the implications of new policy frameworks/legislation for future management and planning in pastoral areas. In terms of methodology, a qualitative, exploratory approach is adopted. It draws from the recent experiences of the Government of Kenya, namely the National Land Commission, in developing a County Spatial Planning process for the country with specific attention to rangelands. It combines content analysis of spatial plans, policy and documents pertinent to land use change, planning and livelihoods. These are complemented by personal interviews, observations and focused discussions with various stakeholders’ namely pastoralists, land agencies and institutions charged with spatial planning, among others.
The DPSIR (Driving force – Pressure – State – Impact - Response) framework is used for describing the interactions between rangeland communities and institutions, and the land use/tenure change. The model has been previously applied mainly to environmental problems but has since become popular among researchers and policymakers as a conceptual framework for structuring and communicating policy research.

The study draws experiences from three clusters of counties\(^1\) providing a geographical representation of the rangelands with case study sites chosen to reflect different types of rangeland contexts including one, where communal land use is still dominant, two in a transition areas where land use change has moderately taken place, and three in mixed-crop area where significant land use change has occurred.

**Land use change and policy dialogue in Kenya**

Land use change/trends/pattern within the rangelands has increasingly become a matter of focus for policy makers and planners as rangelands become the nexus for future development in Kenya. Rangelands occupy 80% of the land mass in Kenya and host 14 million people. 12.6 million Practicing pastoralism and 1.4 million practicing dry-land farming (GOK, 2013). However, less than 12% of the region has had spatial planning preceding development. Of the 13 rangeland (arid) counties spatial planning has been initiated in three while, only two have integrated urban development plans prepared for their county headquarters. This has resulted in unregulated development leading to rangeland loss and fragmentation. Sedentarization is occurring at an annual rate of 2.4% in the central rangeland counties of Garissa, Wajir Isiolo Tana River and Mandera, and with this comes individualization of critical rangeland resources contributing to increased competition over resource use, land degradation etc. In Wajir County for example, there are now over 75 water points managed by non-customary groups, and they charge for use, thus making accessibility expensive and inequitable. These trends have highlighted the urgency for improved and different levels of land use planning and land use policy, which can better rationalize land use and support all livelihoods including pastoralism.

\(^1\) **Cluster 1:** Turkana, West Pokot and Elgeyo Marakwet; **Cluster 2:** Garissa; Wajir; Mandera and Tana River; **Cluster 3:** Isiolo, Marsabit; and Samburu
Government of Kenya actions to address land challenges

The national government has prepared and published three instruments that will help the management of all processes of land use and development management across the country including in rangelands. These are (1) a County Spatial Planning (CSP) framework, which is to guide high-level (i.e. county) land use planning, (2) a Community Land Act (CLA) (2016) that confers the planning and land use management rights to registered community groups and allocates management rights of unregistered community lands to county governments; and (3) the county land management boards (CLMB) and regulations, which will devolve land management to the counties away from the previous centralized system.

The paradigm shift in legal, policy and practice of land use and land management.

These instruments presents a paradigm shift in the planning and previously preferred land use framework for rangelands. Through the CLA 2016, a shift from techno-centric administration to communal participatory processes planning and management is supported (Art. 19 of CLA 2016). Communities are empowered to plan the development, management and use of the communal land and resources, though the law still requires approval for such use by county governments. The law also mandates the community to reserve special purpose areas including — settlement areas; urban development; or any other purpose as may be determined by the community such as special grazing areas.

Kenya has also developed a County Spatial Plan (CSP) Guidelines to harmonize planning. The CSP framework is composed of guidelines on land use category descriptions, planning processes, a reflection of the community’s vision of its future self, and is intended to guide responsive planning promoting public health, safety and general welfare by providing efficiency and economy in the process of growth. Benefits of the the County Spatial Plans includes: (1) a spatial structure depicting the vision of each county and prescribing land use zonation and land development standards; (2) preconditions for integrating under-developed and marginalized areas to bring them to the level generally enjoyed by the rest of the county; (3) guidelines for land use management system; i.e. control, regulate land use and land use changes through zoning schemes and performance standards; (4) framework for public and private land development and infrastructure investment; (5) areas where strategic intervention is required; and (6) an implementation
framework which indicates programs and projects for the development of land, areas for priority spending and a capital investment framework.

Decentralization of land administration was envisaged in the National Land Policy (2009) as a shift from the old practices. As such, the County Land Management Boards (CLMBs) were created by Section 18 of the National Land Commission (NLC) Act 2012. CLMBs are directly impacting on the devolution of land governance and specifically in the land management in counties. Part of its key achievements has been in resolving land disputes across the country by promoting traditional dispute resolution mechanisms and resolving historical land injustices. This has filled a vacuum created by previous inaccessibility of formal justice systems by rangeland communities. The NLC has subsequently developed guidelines to direct CLMBs in the processing of development applications and management of public land. These guidelines will now be used by the Commission secretariat at the counties to inform land management.

**Implications of the CSP and CLMBs for pastoral areas**

With the CSP and CLMBs in place, the county governments and indeed rangeland communities are now obliged to carry out more systematic and integrated land use planning, and management of rangeland resources. Together with the provisions of the CLA 2016, rangeland communities will now be consulted and be part of the process to plan their future and decide the framework of the management of their land based resources. Further, for any resources of national interest harnessed for national development goals, the communities will be entitled to a structured benefit sharing of these.

**Conclusions**

The results of this study adds to the body of knowledge on land use change management for the rangelands, and is useful to policy makers, planners and development managers not only in Kenya and East/Horn of Africa but also beyond. The experiences described here show that through a multi-stakeholder process land use planning and land tenure challenges in pastoral areas can be simultaneously addressed. The challenge now is to put this theory into practice, including having a monitoring and evaluation mechanism to track progress.