

Making rangelands secure:

Past experience and future options

Working Document Version 1.0

Fiona Flintan
for the International Land Coalition

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Edited by David Wilson

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Preface

Significant progress has been made over the past decade or so in the development of policy and legislation that support the recognition of customary rights to land, with important legal rulings in Tanzania, Uganda, Mozambique, South Sudan, and South Africa. At the same time, the strengthening of communities' traditional rights to use resources has progressed through community forest reserves and community conservation areas.

However, many commons remain highly vulnerable, with land being removed by governments for national parks and large tracts appropriated for commercial agricultural investment on a regular basis (Alden Wily 2011). In particular this is true of the rangelands, where external interest in land for agriculture, and in its resources for other commercial ventures such as tourism, has grown. Even the most progressive policies and legislation still fail to provide adequate protection to many rangeland users and, most commonly, to the poorest and least powerful. At the same time, customary institutions that would have provided adequate protection in the past have been weakened due to both internal and external influences.

This is the situation faced by many members of the International Land Coalition (ILC) working with rural communities who are highly vulnerable to land and resource appropriation and loss.

In an attempt to address this, in October 2010 ILC brought a group of its members together in Addis Ababa to develop a learning initiative that will explore this topic through 2011–2012.¹ The aim of this initiative is to identify ways in which the security of customary land users over their common property resources (including land) can be strengthened. In particular, it will focus on multi-use landscapes or territories such as rangelands, where the vulnerability of land and resource users is particularly high.

As a first step in the development of the learning initiative, this scoping paper explores past and present experiences of land and resource tenure in rangelands (predominantly in Africa, where the bulk of the rangelands are located). It discusses the limitations of many of the tools and systems used to date, and identifies alternatives that have potential for providing greater security of tenure to rangeland users in the future. The further exploration of these alternatives will be the task of those taking part in the learning initiative over the next year.

1 ILC members met as part of the ILRI Addis Ababa Share Fair in October 2010. At this meeting the main objective and goals for the learning initiative were identified. The primary objective is to improve understanding on how rangelands can be better protected for local rangeland users, including pastoralists; and how such security can better contribute to development processes under the influence of increasing and new challenges. Secondary learning goals were identified as: (i) To better understand different tenure types and governance systems that have had a positive impact towards securing tenure for rangeland users and their development processes; and how best these can be adapted to and incorporated into local/national contexts; (ii) To better understand how (current/improved) legislation and mechanisms for securing rights to resources for rangeland users can be implemented by exchanging experiences with those working with and for rangeland users and with/between the rangeland users themselves; (iii) To explore the challenges faced by rangeland users in securing rights to resources and identify how better we can work together to overcome these; (iv) To build the capacity of ILC members and partners to play a greater role in processes, mechanisms and activities for securing rangelands for rangeland users.

Table of contents

Glossary of terms	9
Acronyms	12
1 Rangelands, governance, and change	
The characteristics of rangelands and rangeland users	13
Customary land use and tenure systems	15
External interventions in “the commons”	17
Making rangelands secure?	18
2 Land use planning and tenure in rangelands	
A new approach	21
Improved policy and regional integration	21
“Improved” land tenure interventions	22
Increased role of rangeland users in decision-making processes	29
Limitations of these initiatives and approaches	31
Where to next?	36
3 Approaches and Processes: Multi-land use planning and securing of resources in rangelands	
Formalising tenure at a more appropriate scale: the rangeland, landscape, “territory”, or “domain”	38
Key characteristics of these approaches	42
4 Tools: Strengthening tenure systems	
“New” tools for strengthening tenure	50
5 Structures: Multi-level institutions for the rangelands	
Institutions for the different layers of tenure regimes	55
Governance in practice: some key principles	62
6 Other important issues	
Capacity building	67
Lobbying, advocacy, and social movements	68
Gender	70
7 Conclusions	
Key points	73
On to the learning initiative	76
Appendix 1: “Rangeland” (territory, landscape, domain) approaches for land use planning and formalising customary access and tenure in rangelands	88

Boxes

Box 1.1: Why group ranches failed	17
Box 2.1: Experiences from Benin and Niger	23
Box 2.2: Experience from Tanzania	26
Box 2.2: Customary heads as government functionaries	29
Box 2.2: Undermined livelihoods, resource access rights, and conflict in Darfur	34
Box 3.1: Indigenous protected areas in Australia	38
Box 3.2: Community-based pasture management (CBPM) in Afghanistan	40
Box 3.3: Maasai land classification systems	43
Box 3.4: Incorporating local rights in Mozambique	45
Box 4.1: Security and insecurity	49
Box 4.2: Delimitation of community lands in Mozambique	50
Box 4.3: Rights under Communal Area Conservancies, Namibia	53
Box 5.1: Key characteristics of institutions for governing multi-use rangelands	57
Box 5.2: The critical question for governance	58
Box 5.3: Building new institutions in Iran	59
Box 5.4: The Central Land Council in Australia	60
Box 5.5: Land Commissions in West Africa	62
Box 5.6: The difference of “accountability”	64
Box 6.1: Lobbying and direct action for change in northern Tanzania	68
Box 6.2: Identifying individuals who can lobby/support marginalised groups	70
Box 6.3: Protecting women’s land rights in Mozambique	71

Figures

Figure 2.1: Map of land holdings and migration routes in Dan Saga district, Niger	24
Figure 2.2: An example of village land use planning in Tanzania	27
Figure 2.2: Formal steps in the land use planning process in Tanzania	28
Figure 3.1: Key steps in participatory rangeland management (PRM)	39
Figure 7.1: Landscape/territory/rangeland/domain: under authority of land board, co-management group, community/customary institution, or other	74

Glossary of terms

A **cadastral survey** is an official mapping process that identifies and records the physical boundaries of parcels of land.

Commons are defined as lands that rural communities possess and use collectively in accordance with community-derived norms. These norms are variously referred to as customary or indigenous tenure regimes. Two distinctions are drawn to help clarify their nature. First, a distinction is drawn between open access common pool resources and commons, the former being better defined as unowned and unbounded resources available for public use. In contrast, commons are discrete land areas, of which a known community is acknowledged locally as the owner. Second, a distinction is drawn between communal lands and commons. The former refers to whole customary domains and may include both parcels of land over which individual and family possession is established and collectively owned lands – the commons (Alden Wily 2011).

Common property is characterised by the following elements: overarching ritual and cosmological relations with traditional lands; community “rights” of control over land disposal (sometimes delegated to traditional leaders); kinship or territory-based criteria for land access; community-based restrictions on dealings in land with outsiders; and principles of reversion of unused land to community control (Fitzpatrick 2005: 454).

Community is understood as a human group sharing a territory and involved in different but related aspects of livelihoods – such as managing natural resources, producing knowledge and culture, and developing productive technologies and practices. Communities are by no means

homogenous, and harbour complex socio-political relations, with diverging and sometimes conflicting views, needs, and expectations. Yet they have major common concerns, which in healthy situations lead towards various forms of collaboration and cohesion (Borrini-Feyerabend et al. 2004).

Co-management describes a partnership by which two or more relevant social actors collectively negotiate, agree upon, guarantee, and implement a fair share of management functions, benefits, and responsibilities for a particular territory, area, or set of natural resources (Borrini-Feyerabend et al. 2004).

Customary institutions are the structures and “rules” that provide order to the lives of rangeland users and are particular to a group and its identity. Customary institutions are many and influence if not control what people do, how, when, and with whom – from birth through marriage and family to death (and even afterwards through memory of and respect for ancestors). Customary institutions govern all aspects of social, cultural, economic, and political lives. They are regulatory systems of both formal laws and informal conventions and behavioural norms, which may include, for example, women’s community support systems i.e. they are more than male-dominated village decision-making bodies.

Customary land rights are where current access to land is linked with social norms and networks, and where local powers play an important role in land rights regulation and conflict resolution (Lavigne-Delville 2010).

Customary rangeland management refers to the traditional institutions, processes, and activities that land users have used (and

continue to use) to control access to, manage, and protect rangeland resources. Customary rights to land and resources are often more flexible and dynamic than statutory systems, and better suit the variability of the rangeland ecosystem, allowing for adaptation to climatic changes and the need for overlapping and “fuzzy” access arrangements over common property built upon group reciprocity rather than individual gain.

Formalising rights refers to processes of identifying interests, adjudicating them, and registering them. Registration can include titling, an exercise in which rights to clearly defined land units vested in clearly defined individual or group “owners” are documented and stored in public registries as authoritative documents, but it need not. Rather, it can be the simple writing down of land transactions in the presence of the recognised local authority or the maintenance of land registers to track tenure changes.

Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land (for convenience, “land” is used here to include other natural resources such as water and trees). Land tenure is an institution, i.e. rules invented by societies to regulate behaviour. Rules of tenure define how property rights to land are allocated within societies. They define how access is granted, the rights to use, control, and transfer land, and associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions (FAO 2002).

A **livelihood** comprises the capabilities, assets (including both material and social resources), and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stresses and shocks and maintain or

enhance its capabilities and assets both now and in the future, while not undermining the natural resource base (Carney 1998).

Pastoralism is a collective livestock-based land use and livelihoods system of which a central feature is the tracking and utilisation of resources across a rangeland that experiences low and variable rainfall. Pastoralists may increasingly today be involved in other social, political, and economic activities, but livestock retains both economic and cultural significance for them.

Rangelands are ecosystems dominated by grasses, grasslike plants, forbs, and shrubs. Rangelands result through a complex interplay of factors: climate, available nutrients and water, fire, herbivores (livestock or wild ungulates), and human impact. Rangelands tend to occur in dryland areas with low and highly variable rainfall and often contain a patchwork of resources that include not only grasslands but also forests, wetlands, and mineral sources.

Recording is simply a process of writing down or mapping different aspects of a piece of land, including the boundary, ownership, and/or transaction information or details of customary groups and local institutions. There are different types of land records. Social and physical mapping records this information without trying to fit any of it into formal legal categories or attributing legal status to the records. It is also possible to record other information about land, such as lease agreements. Land records may be stored by customary owners and local government or by local traditional land arbiters as a statement that all parties accept the process and the boundaries. Access to some land records may be restricted to certain people (AusAid 2008).

Registration is the formal recording of land tenure arrangements. While registration can

include titling (see below), it does not have to. Registration can include maps and records as well as land registers kept by village chiefs to track tenure changes (Lavigne-Delville et al. 2002; Meinzen-Dick and Mwangi 2008). The key is that statutory (parliamentary approved) status is given to the records (Alden Wily 2005a), resulting in greater tenure security (indefeasibility of title) than recording (AusAid 2008).

Sound governance is based on the application of principles, such as legitimacy and voice (through broad participation and consensus-based decisions), transparency and accountability, performance (including responsiveness to stakeholders, effectiveness, and efficiency), fairness (equity and the rule of law), and direction (including strategic vision

and the capacity to respond to unique historical, cultural, and social complexities) (Institute on Governance 2002).

A **territory** is a defined area (including land and waters), considered to be a “possession” of a person, organisation, institution, state, or country sub-division. A territory is likely to have a defining impact on the identity of the individual or group, often with ancestral and cultural roots.

Titling is an exercise in which rights to clearly defined land units vested in clearly defined individual or group “owners” are documented and stored in public registries as authoritative documents, with statutory status.

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Photos: Fiona Flintan and Michael Taylor

Acronyms

BFFS	Belgian Fund for Food Security	IPA	Indigenous protected area
CBNRM	Community-based natural resource management	IUCN	International Union for Conservation of Nature
CBPM	Community-based pasture management	JFM	Joint forest management
CBRM	Community-based rangeland management	LUP	Land use planning
CCA	Community conservation area	MBOSCUDA	Mbororo Social and Cultural Development Association
CDP	Community development plan	NGO	Non-governmental organisation
CLA	Customary land area or community land area	NRM	Natural resource management
CLB	Communal land boards	NRT	Northern Rangelands Trust
COMESA	Common Market for Eastern and Southern Africa	PAFID	Philippine Association for Intercultural Development
CSO	Civil society organisation	PFM	Participatory forest management
DUAT	Direito de uso e Aproveitamento de Terra	PRM	Participatory rangeland management
ECOPAS	Ecosystèmes Protégés en Afrique Soudano-Sahélienne	PFR	Plan foncier rural
ECOWAS	Economic Community of West African States	PLUP	Participatory land use planning
FAO	Food and Agriculture Organisation	PNTD	Participatory and negotiated territorial development
FEMACT	Feminist Activist Coalition	REDD	Reducing Emissions from Deforestation and Degradation
GDP	Gross domestic product	REFLECT	Regenerated Freirean Literacy through Empowering Community Techniques
GHA	Greater Horn of Africa	SA PPLPP	South Asia Pro-Poor Livestock Policy Programme
GIS	Geographical information system	UCRT	Ujamaa Community Resource Team
ICARDA	International Center for Agricultural Research in Dry Areas	UN	United Nations
ICCA	Indigenous community conservation area	UNDP	United Nations Development Programme
IDRC	International Development Research Centre	USD	United States dollar
IFAD	International Fund for Agricultural Development	VLUP	Village land use planning
IIED	International Institute for Environment and Development	WISP	World Initiative for Sustainable Pastoralism
ILC	International Land Coalition	WPCD	Wajir Peace and Development Committee
ILO	International Labour Organization		
ILRI	International Livestock Research Institute		

Rangelands, governance, and change

The characteristics of rangelands and rangeland users

Rangelands constitute some 35 million sq km of the Earth's surface area, with the majority of that in developing countries and some 65% (almost 22 million sq km) in tropical Africa (Rass 2006). An estimated 50 million pastoralists and up to 200 million agro-pastoralists live across the continent (IIED and SOS Sahel 2010).² There are also a large number of other users who depend on the rangelands for their livelihoods, including hunter-gatherers, tappers of gums and resins, medicinal plant collectors, honey producers, and charcoal makers. Many pastoralists carry out these tasks too in order to supplement their livestock-centred livelihoods.

The majority of rangelands in Africa are found within dryland areas that receive less than 1,000mm of rainfall per year in less than six months of a year – the remaining months being relatively or absolutely dry (Mortimore 1998). Much rainfall is lost through evaporation and flash flooding, which also affect “plant-available moisture”. As a result, arid/semi-arid rangelands produce forage that can be highly variable in both time and location. In order to make use of the whole rangeland, including the seemingly

less productive areas, pastoralists require access to key resources on both a regular and irregular basis.³ In the dry season in particular, access is required to dry-season grazing areas where permanent water is available. This also allows the “resting” of wet-season grazing areas and prevents the build-up of disease-carrying parasites.

Pastoralism utilises patchy resources effectively, through seasonal and responsive movements of livestock (Nori 2007). Livestock are carefully bred to exploit the unpredictable environment in which they live: animals that can find the most nutritious grasses available are considered more valuable. Essential characteristics include the capacity to travel great distances and to cope well with little water and high temperatures (Krätli 2008). Mobility and flexibility are critical. Successful production also relies on the right herd mix, including type of animal species and sex/age of animals (IIED and SOS Sahel 2010; Niamir-Fuller 2005). This avoids over-exploitation of resources and land degradation, working with the positive aspects of these mainly “disequilibrium”⁴ environments, and

2 The exact number of pastoralists is difficult to establish due to definition issues, the lack of inclusion of pastoralists in census data, and the fact that some pastoralists have two nationalities (common in the Sahel).

3 Such areas are called “key-sites” (Niamir-Fuller 2005) or “rangeland productivity hotspots” (Flintan and Cullis 2010). They are also likely to be the “hot spot” areas described by Tanner et al. (2009) as being the land/resources that private investors want.

4 Disequilibrium environments are driven by abiotic factors such as rainfall, so can be highly variable and unpredictable in nature. They tend to jump from one stable state to another, rather than follow any clear linear trajectory of progression to a particular vegetative state. Concepts such as “carrying capacity” of livestock to vegetation have little relevance in such environments.

helps to reduce vulnerability to risks. Severe climatic events can change normal use and movement in rangelands and, in turn, the rules and regulations controlling their access and use.

Not all areas are limited by water: there are pockets of wetlands in Africa such as the Fadamas of northern Nigeria, the inner Niger Delta in Mali, the Tana Delta in Kenya, and river flood plains or margins of lakes elsewhere. These offer valuable dry-season grazing, flood recession or irrigated farming, and opportunities for further diversifying livelihoods.

As pressures to find alternative livelihoods have increased and support provided by NGOs and government has grown, many pastoralists, and in particular women, are establishing small business enterprises. These include petty trading, the collection and sale of gums and resins (some of which are highly valuable⁵), the manufacture of products from non-timber forest products such as aloe species or honey, and handicrafts. Indeed, drylands present enormous opportunities for people, ecosystems, and development (IUCN 2009).

Today across Africa a range of pastoral production systems exists, differing by scale and regularity of movement. These range from highly nomadic pastoral systems found in northern Mauritania and Namibia to transhumant pastoral systems such as the Nilotic tribes of East Africa, the Berber of the High Atlas, and herders in Morocco and Ethiopia, to agro-pastoral systems such as the settled populations in Zimbabwe who send their livestock short distances to pasture.

5 In southeast Ethiopia the average annual cash income generated per household from sales of gums and resins has been estimated at USD 80. This contributes 33% of annual household subsistence costs. Between 1996 and 2003, Ethiopia exported 16,019 tonnes of gum resins per year, worth USD 20.5 million. The price of these products would be greatly improved if grading, collection, and storage methods were improved (IUCN 2009).

Many move across altitudinal zones (lowland/highland) (Ethiopia: Flintan et al. 2008; Lesotho: Turner 2009; Afghanistan: Alden Wily 2008a) and across ecological zones (savanna/forest) (Guinea: Fairhead and Leach 1996). They also have strong economic and social linkages with urban areas and provide benefits well beyond the local area.

These systems have developed in response to local environmental conditions of topography, soils, rainfall patterns, and forage species, as well as policy issues that either support or restrict mobility. Pastoralists in Mauritania, for example, have to move more than those in East Africa as they live in very arid, sandy environments where population densities are low and markets are concentrated in the south of the country (Ced Hesse, personal communication 2011).

Pastoralism not only feeds the millions of people who live in these areas (and those that are linked to them) but also makes significant contributions to national, regional, and international food security, national and regional economies, biodiversity, and the environment (COMESA 2009; SOS Sahel and IIED 2009; Binot et al. 2009; Nori 2007; Rass 2006; Niamir-Fuller 2005).⁶ It is predicted that in Africa growth in

6 Pastoralism in the greater Horn of Africa (GHA) contributes to more than 23% of livestock production in the COMESA region and more than 10% the continent's livestock production. Besides providing meat, milk, blood, hides, and skin, pastoralism is the only form of employment in arid and semi-arid areas (COMESA 2009). Livestock is an important foreign currency earner for most of the countries in the GHA: for example, in Ethiopia and Uganda it accounts for 10% and 8% respectively of currency earnings. Other indirect economic contributions include tourism (e.g. in Kenya this accounts for 12% of total GDP and in Uganda 9%) and improvement and sustainable management of the environment. In fact, such figures are likely to be much higher: GDP is based on official statistics and thus ignores non-registered transactions such as unofficial cross-border trading. In Eastern Africa, unofficial trade has been estimated at USD 105 million per year, 100 times greater than the average annual official livestock export trade between 1993 and 2000 (Little 2007). In West Africa, the pastoral sector contributes 10–20% of total GDP in Mauritania,

the consumption and production of meat and milk will far exceed that of other developing regions. This “livestock revolution” presents major opportunities for livestock-driven poverty reduction if facilitating conditions are supported – in particular, in African rangelands (COMESA 2009).

It is often argued by policy-makers that modern-day ranching is a more productive system than traditional livestock management. However, research studies carried out in Ethiopia, Kenya, Botswana, and Zimbabwe comparing the productivity of ranching with pastoralism all came to the same conclusion: pastoralism gives a greater return per hectare (between 150% and 188%) than ranching, whether measured in terms of meat production, generating energy (calories), or providing cash. And whereas commercial cattle ranching tends to specialise in only one product – meat – pastoralism provides a diverse range of outputs including milk, blood, manure, and traction (IIED and SOS Sahel 2010). Further, pastoralists are poor people compared with ranchers not because of low productivity, but because their numbers per unit area are high. Pastoralists try to optimise the number of people supported per unit area, while ranchers aim for optimum economic returns per unit of livestock (usually only in terms of meat). Pastoralism amongst the Boran in Kenya/Ethiopia directly supports six to seven people per sq km of rangeland, while ranches in Kenya support no more than 0.5 people and Australian ranches 0.002 people per sq km (Nori 2007).

Pastoralism is also good for the environment,

Mali, Niger, and Chad and there is active trade, with Sahelian countries (e.g. Burkina Faso, Mali, Niger) in the arid and semi-arid parts of the region exporting livestock to humid coastal countries (e.g. Côte d'Ivoire, Ghana, Nigeria) (ALive 2007). Further opportunities, such as “payments for environmental services” from e.g. carbon sequestration, offer even greater sources of revenue.

encouraging biodiversity and preventing the invasion of unpalatable plants, with many areas now considered as “grazing-dependent” (Niamir-Fuller 2005). The rangelands of eastern and southern Africa shelter the greatest diversity of large mammals found anywhere. By enabling the maintenance of wildlife habitats outside state-protected areas, pastoralist land management practices provide important ecological services, estimated as being worth more than USD 80 million annually, at the macro-economic level in northern Tanzania (Nelson, unpublished paper in Roe et al. 2009). The average floral richness of savanna areas (c. 1,750 species) is not far below that of rainforest (c. 2,020 species) (Menaut 1983). Rangelands can be used sustainably if their ecosystems remain intact. They are most productive when most biodiverse, assuming they are put to a variety of uses (Blench and Sommer 1999).

Customary land use and tenure systems

In the past, pastoralists had access to vast tracts of rangeland that were managed through customary institutions at different levels and for different resources. The sound management of rangelands was, and in some cases still is, promoted through norms of inclusion (and to a lesser extent exclusion) designed for pastoral activity. In Borana, Ethiopia, for example, these norms are called *seera marraa bisanii* – “the law of grass and water”. Resources are managed as common property with access derived in the first instance through being a member “of the group” (Cousins 2007).

Tenure systems have developed in response

to ecological and social dynamics. They secure control over the key resources required for times of scarcity (such as dry-season water points and grazing/forage) while maximising access under conditions of plenty (such as wet-season grazing commons) (Ced Hesse, personal communication 2011). They reduce the need for exclusion mechanisms and maximise benefits for the group and thus the individual as part of that group. When such benefits diminish, however, there is more incentive to challenge the group and to seek individual rewards.

Regulating laws and institutions tend to work first and foremost on the basis of territory or domain under which a hierarchy of nested, overlapping bundles of rights for different sets of users exist, and often for the same resource (Ethiopia: Boku Tache and Irwin 2003; West Africa: Hesse and Thébaud 2006; Mongolia: Fernandez-Gimenez 2006; global: Fuys et al. 2008, Nori 2007, Niamir-Fuller 2005). These rights can be grouped as:

- Use rights, such as the right to access the resource (for example, to move livestock across land), withdraw from a resource (tap gums and resins), or exploit a resource for economic benefit;
- Control or decision-making rights, such as the right to manage (dig a well), or exclusion (prevent others from accessing the well);
- Transfer, sale, or alienation rights, such as renting pasture, or selling firewood or charcoal, or producing honey – becoming increasingly common as resources are commoditised (see below).

Customary institutions and tenure regimes (such as those that control grazing across a “dheeda” – a traditional grazing unit – in Boran areas in Kenya and Ethiopia) govern the different overlapping layers of rights to “tenure niches” (Maxwell and

Wiebe 1998), such as for a water source or a tree (e.g. Ekwar, Turkana: Barrow 1990). Land and/or resources are held “in trust” for use by the group (and other permitted “outside” users). They are not “owned” (in the formal sense of the word). Due to their high connectivity, it is impossible to focus on and, for example, change one part of the territory, domain, or system without affecting the rest.

“Land” is a political space where different groups of actors negotiate, conflict and/or reach agreement over access, and use and manage physical land and its resources. Through negotiations and reciprocity required for resource sharing, the use and management of rangeland resources play a key role in the development of social capital and of a strong social fabric among rangeland communities (Cotula 2006).

In Borana, for example, words such as “we” and “our” feature predominantly in Boran conversations, expressing the philosophy of collective resource ownership (Ethiopia/Kenya: Boku Tache and Irwin 2003). This is key to ensuring access to resources in an unpredictable environment. Even the poorest members of rural communities, such as those without land or too little land to live on (the “land poor”), share the customary ownership of these estates with other, richer members of the community. This may be their only real “property” (Alden Wily 2005a).

External interventions in “the commons”

Until the early 1900s, “the commons” and customary systems of land use were allowed to develop with little external interference. However, as interest in Africa as a source of natural resources and labour grew, so too did this type of interest, in particular focusing on the vast and seemingly “empty” or “undeveloped” rangelands.

Kenya, for example, saw the imposition of colonial policy and law in its rangelands. Beginning with the Maasai treaties of 1904 and 1911, and continuing through colonial regimes

such as the Kenya Land and East Africa Royal Commissions, “unoccupied” Maasai lands were appropriated, native reservations were created, and grazing and development schemes divided up the rangelands into ranches, later becoming individualised. The outcomes were a shrunken resource base that proved inadequate to sustain Maasai systems of production and an increased sense of land insecurity (Mwangi 2005) (see Box 1.1). In Botswana, a similar approach was applied, with similar outcomes: those who were too poor or too weak to legitimise their claim to what had been common pool resources were excluded from the privatisation processes (Taylor 2007).

Across the Sahel in West Africa, land was nationalised and customary institutions were disempowered. This led to the wholesale appropriation of all common land and its transfer

Box 1.1: Why group ranches failed

In the early 1960/1970s the Kenyan Group (Representatives) Act created exclusive land ownership and rights among groups of Maasai residing within an identified area. A land title was issued to each group, formalising its collective rights to the land. These “group ranches” aimed to privatise Maasai land (albeit collectively) and reduce further encroachment and appropriation. However, in practice the lands were systematically grabbed, gifted, or sold and over time many Maasai (and in particular the less powerful and the poor) have lost access and control.

Despite this, the new independent government continued the privatisation process and in the early 1980s began calling for sub-division. By this time, Maasai group ranch members also supported sub-division, due to increasing population pressure; the notion that development and progress could best proceed with individual ownership; problems of differential access to and exploitation of group resources; immigration of outsiders and the intrusion of their cattle onto communally held lands; and the popular idea that the “vacant” group-held lands should be made available to settlers from other overpopulated areas of the country. Besides these factors, group decision-making was breaking down: it was more difficult to enforce traditional livestock numbers and settlement patterns.

The process of allocating parcels of land from the previously held collective unit was exclusionary and unequal. Poorer herders with little influence were assigned smaller parcels relative to wealthier ones or to those with direct connections to the management committee. Youth and women were excluded from the ranch committees’ decision-making processes, and their rights to the collective holdings were subordinated to the group members’ need to maximise the size of their individual landholdings. Community identity and membership were replaced by inheritance rights as the chief factor in land claims. When youth tried to protest these changes, their concerns were ignored by elders, the committees, the courts, and politicians. Women had already been excluded, as only male household heads were allowed to be members of the new group ranches when they were formed in the 1960s (Mwangi 2005).

to the public domain under government-controlled management (Hesse and Trench 2000). In the Niger Delta, for example, the French colonial government totally undermined the customary system for regulating the resource access of Dina pastoralists. The land tenure and development policies of a succession of post-independence governments have exacerbated this situation. The proliferation of state institutions involved in one way or another in allocating access to resources, often without reference to one other, has further weakened the powers of the customary institutions including the jowro. The cumulative effect of these measures has been the gradual opening up of the Delta's resources to outsiders, without any assurance that their numbers and modes of production are effectively regulated either by the state or by customary authorities (Moorehead 1998).

Individual land titles were seen as a requirement for economic development, based on the belief that private title is necessary for investments in land in order to improve productivity and for using land as collateral for loans. The powerful influence of Hardin's paper "The Tragedy of the Commons" (1968) led to a misreading of common property regimes and encouraged the overriding of customary tenure systems.

Indeed, legislation across Africa has not only failed to recognise pastoral land use but has also given priority land-use rights to agricultural production (West Africa: Hesse and Thébaud 2006). Mobility has been seen as a problem to be eliminated, not a trump card to be strengthened (Niamir-Fuller 2005). Individualisation has been promoted, rather than collective property rights strengthened.

However, despite the drive by governments to formalise tenure systems, and in particular through individualisation of property, in many

pastoral areas customary tenure systems, including common property, have remained resilient. Not only did governments fail to govern these areas, but also local communities failed to give government schemes and tenure legitimacy, preferring to remain governed by customary practices (Alden Wily 2011). In many situations, this has resulted in the development of a dualism of tenure where legislation and regulations say one thing and practice shows another. Unfortunately, as rangeland areas become more valuable and are increasingly targeted by national governments for development and investment, customary practice is easily overridden and lands and resources are lost.

Making rangelands secure?

Today, still, little has been done to address the insecurities that pastoralists and other rangeland users face. Droughts seem to be occurring more frequently and pastoralists' ability to overcome them has been reduced (Horn/East Africa: Flintan 2011b). Per capita ownership of livestock has declined significantly, so that for many pastoralist families it is now below the minimum subsistence level (Rass 2006). Inappropriate land tenure policies and strategies of the past have been highlighted as a root cause of the food insecurity and poverty found in the rangelands today (Sudan: Shazali and Ahmed 1999; East Africa: Cullis and Watson 2004, Odhiambo 2006).

Decentralised management of natural resources in the Sahel has gained greater backing from international and regional conventions. Central governments are verbally supporting local

participation by reforming legislation and passing new laws to allow a greater involvement of civil society in the management of natural resources. However, in practice little has changed and little power has been effectively passed down (Hesse and Trench 2000). And although development agencies, governments, and NGOs have increased their focus on pastoral areas and budgets for “developing” these areas, the fundamental root causes of rangeland users’ insecurities, such as a lack of rights to resources and land, fail to be addressed.

The premise underlying this paper is that, despite the challenges, land policy reform can be undertaken and/or existing enabling land policy can be implemented in a manner that recognises and, where thought necessary, formalises customary land and resource tenure systems in the rangelands. In general, local people are still the most effective land managers of natural resources, as their livelihoods depend upon them.

This paper strives to take into account the diversity of needs of all rangeland users. It provides an overview of different tools and systems available to land reformists, practitioners, and communities that can be used to better protect the rights of rangeland users. It concludes by proposing key elements of a strategy that can be used to improve land use planning and land/resource tenure formalisation processes and results. The elements of this strategy need further exploration in local contexts, and this will form an important part of the ILC learning initiative that will take place over the next year.





2

Land use planning and tenure in rangelands

A new approach

Identifying how customary tenure can be appropriately formalised, and in particular tenure that provides for the needs of rangeland users, poses significant challenges for lawyers and policy-makers. Tanner et al. (2009) suggest three key areas of concern:

1. How to incorporate the many different local land management systems within a single land management framework that is not top-heavy and too cumbersome to use;
2. How to devise a system that can adequately record dynamic and shifting patterns of land use that incorporate a range of de facto private, individualised customary rights and areas of common use, such as forests and grazing land;
3. How to establish a technical approach that is cost-effective yet still accurate enough to establish borders and other features on official maps.

Once such a system is devised, it then needs to be implemented. This requires new roles and responsibilities, attitudes, and ways of working for and with the state, customary institutions, and other actors, as well as new relationships that may be challenging to build.

This section highlights some of the land use planning and tenure formalisation tools and processes that are being developed and implemented in Africa's rangelands. Though

these tools and processes are certainly an improvement on past land use planning and tenure interventions, there is still much room for further improvement. This is discussed in the latter part of the section.

Improved policy and regional integration

The pace of policy and land reform in many countries in Africa has been considerable in recent years. In West Africa, the governments of Benin, Burkina Faso, Guinea, Mali, Mauritania, Niger, and Cameroon have all passed specific laws to protect pastoral land and to facilitate livestock mobility, both within countries and across borders (Nori 2007; IUCN 2011). Pastoral codes or charters have been developed (Hesse and Trench 2000). In Mauritania, the code is uncompromising on this issue, stipulating that "pastoral mobility is protected under all circumstances and can only be limited temporarily and for reasons of the safety of animals and crops, and this in accordance with the provisions of the law" (Hesse and Thébaud 2006).

In East Africa and the Horn, governments have recognised the rights of rangeland users such as pastoralists in their constitutions, policies, and legislation. In Uganda, for example, the constitution now provides assurance that customary property rights have equivalent legal

force with statutory entitlements. Ministries have been created that deal specifically with livestock and pastoral areas, including Kenya's new Ministry for the Development of Northern Kenya and Other Arid Lands and the Ministry of Livestock Development and Fisheries in Tanzania. In Ethiopia, regional governments are now designing policies and legislation for resource tenure in pastoral areas based upon rights given to land users not to be dispossessed from their communal grazing lands (under the Constitution and the 2005 Rural Land Administration and Use Proclamation No. 456/2005).

The need for mobility across borders to sustain productive rangeland systems is also being recognised, including across national borders. In West Africa, the Economic Community of West African States (ECOWAS) has led the way, supporting an institutional framework to facilitate cross-border livestock mobility. The ECOWAS International Transhumance Certificate provides for cross-border movements between the 15 member states and the facilitation of trans-border agreements. In theory, herders can obtain these certificates from their local authorities without great difficulty: the challenge is to make them work. The Common Market for Eastern and Southern Africa (COMESA) also has an initiative aimed at improving livestock trade in its region: there are plans to introduce a livestock "green card" to ease cross-border movement modelled on the ECOWAS cattle certificate (IIED and SOS Sahel 2010; Binot et al. 2009).

“Improved” land tenure interventions

As more enabling policies and legislation have been produced, different types of intervention have been developed that have attempted to increase the security of rangeland users, with varying degrees of success. These include:

1. Consolidation of rural laws and regulations;
2. Registration of customary individual or family/lineage “collective” landholdings;
3. Regulation and registration of seasonal movements, protection of grazing areas and livestock corridors, and development of pastoral zones, water points, and cattle posts;
4. Formalisation of locally developed agreements for resource sharing; and
5. Recognition and formalisation of common property tenure.

1. Consolidation of rural laws and regulations

Since colonial times, governments have seen the variability in drylands and customary institutions that manage them as a constraint, and they have tried to overcome this perceived constraint by bringing order and stability to pastoral environments and systems. In Niger, the Code Rural attempted to clarify what were perceived to be a mass of contradictory rules regulating land tenure at the local level. The basic principle was not to introduce new tenure rules, but to formalise customary laws and give them the same legal status as statutory laws (Hesse and Trench 2000). The same principle was applied to Sharia and animist laws.

However, these processes ignored the complexities and changing nature of customary

land rights in Niger and failed to accommodate the diversity, variability, imprecision, and flexibility of local rules, which are difficult (if not impossible) to capture on paper (Cousins 2002; Hesse and Trench 2000). As a result, Lund (1998) concludes that the implementation of the Code, although designed to enhance clarity, certainty, and institutional order, has in fact had the opposite effect: increased unpredictability, increased institutional incoherence, and a greater state presence but with ever decreasing legitimacy. This has led to a number of conflicts at the local level as people have sought to register their (final) claims to land.

2. Registration of customary individual or family/lineage “collective” landholdings

The majority of land tenure interventions in the rangelands have focused on the strengthening of individual or family “collective” parcels of land in and around settlements for livestock holding or agriculture (see, for example, Tunisia: Ngaido and McCarthy 2005; Niger: Issa and Maroussa 2010; Benin: Lavigne-Delville 2010, Mongbo 2010; Uganda: Fuys et al. 2008). Based on customary individual holdings, land registration is usually accompanied by a cadastral survey – an official mapping process that identifies and records the physical boundaries of each land parcel. In general, such systems are not able

to cope with complexities of overlapping and interlocking rights, or of secondary rights.

In West Africa, governments have experimented with approaches that include the granting of rights to villages to manage their own territories (*gestion de terroirs villageois*). PFRs (*plans fonciers ruraux* or rural land use plans) are being produced in and around villages in Côte d’Ivoire, Guinea, Benin, Niger, and Burkina Faso, amongst others, following similar processes. Existing parcels of rights are identified and demarcated through surveys in the presence of rights holders and their neighbours. These can be drawn on an orthophoto (aerial photographs geometrically corrected to a uniform scale) and/or detailed through cadastral mapping. The rights-holder and his/her neighbours verify and sign the survey record (*procès-verbal*) (Lavigne-Delville 2010).

However, though such methods provide communities with greater control to manage their lands, the government establishes the laws and regulations under a national framework, and not with the communities themselves (Ced Hesse, personal communication 2011). Again this compromises the relevance of the laws at the community level, restricting flexibility and the incorporation of local norms and practices.

Where rights to a piece of farmland are held collectively, a recorded “administrator” manages

Box 2.1: Experiences from Benin

In Benin, the 2007 law on rural land allows a “land certificate” to be provided for registered plots. To date these have been allocated only for individual or collective farm holdings and not for pastoral purposes i.e. common property. Land certificates can be sold or used as collateral. However, the state does not grant them any authenticity, as opposed to land titles. On request, land certificates can be transformed into land titles through a process known as *immatriculation*. A land administration body is set up for these certificates, coupling village-level committees for the formalisation of land transfers and public services at commune or district level for issuing new certificates and updating land information. The same maps are used for both land certification and land titling (Lavigne-Delville 2010; Mongbo 2010).

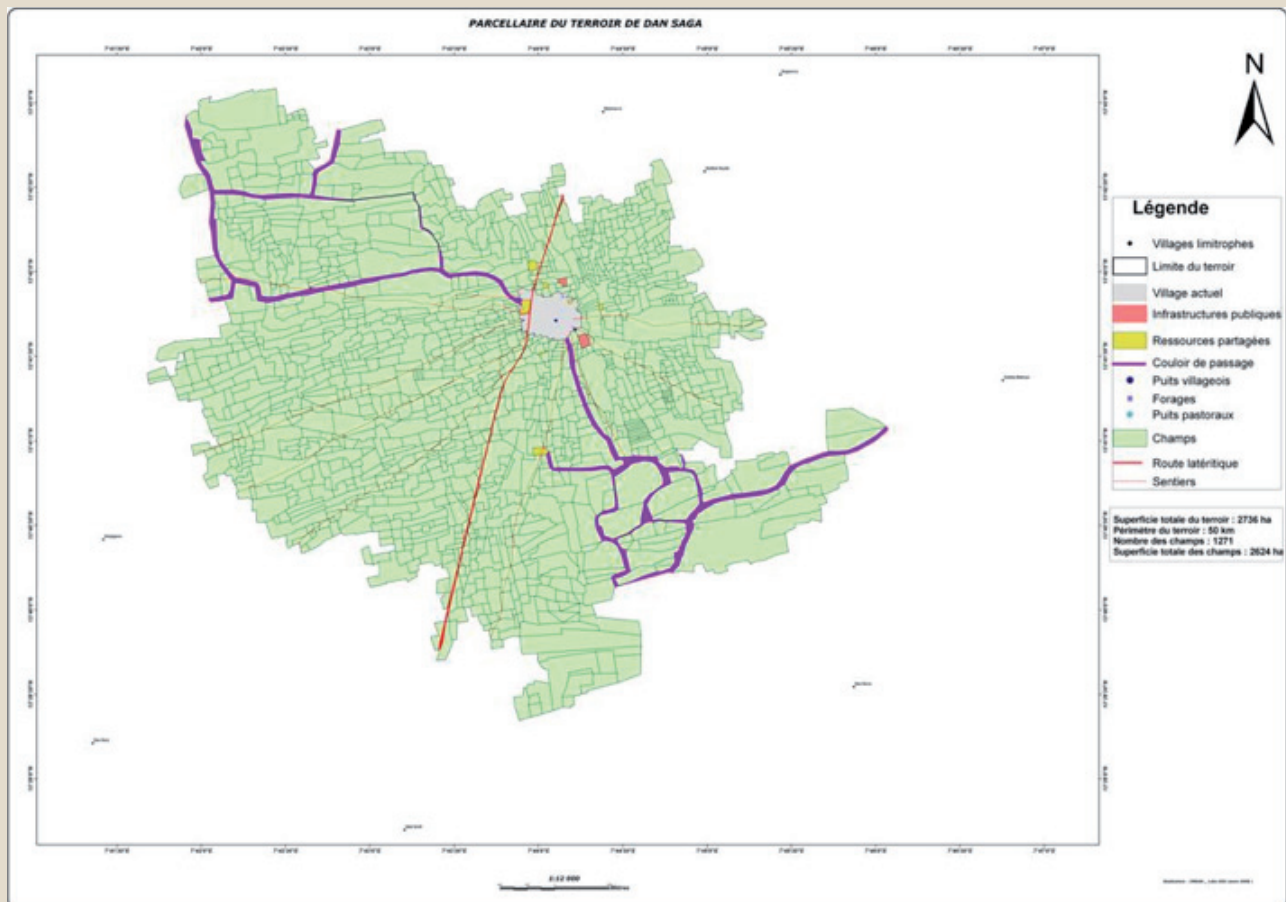
the parcel in the name of the family group that owns it. During initial surveys, the decision as to which rights are recorded is left to the local stakeholders on a case-by-case basis. In theory, rights to natural resources and rights delegated to third parties can also be recorded. In pilot sites in Benin, the average parcel size varies from a few hectares to several dozen. Individualised rights or the rights of extended families or lineage groups are recorded, with internal distribution of rights among rights-holders being managed within the group (Lavigne-Delville 2010; Mongbo 2010) (see Box 2.1).

Though this process does allow for the registration of secondary rights, such as the use of a plot for grazing by a visiting pastoralist, experience to date has shown that these tend to be marginalised.

And although it does provide for families or kinship groups to hold a parcel of land together, it does not provide protection for common land. In fact, by pushing forward the registration of plots of farmland, the PFR process may become responsible for the grabbing and registering, and ultimately the removal, of common lands including rangelands (Mongbo 2010).

In Niger, ILC, with funding from the Belgian Fund for Food Security (BFFS), has been collaborating with civil society and government organisations to pilot such a land registering process in order to improve good practice. The pilot has registered household land parcels, which could be used for agriculture or livestock rearing. In Dan Saga district, 1,271 landholdings have been detailed; this includes information about the

Figure 2.1: Map of land holdings and migration routes in Dan Saga district, Niger



ethnic group and sex of the landholder, the type of land use, and how the land was acquired (Issa and Maroussa 2010). As land holdings have been registered, livestock migration routes (*couloir de passage*) to seasonal grazing areas have also been identified, demarcated, and detailed on the village plans (see Figure 2.1).

3. Regulation and registration of seasonal movements, protection of grazing areas and livestock corridors, and development of pastoral zones, water points, and cattle posts

Attempts have been made in some countries to reserve grazing areas through formal processes. In Niger, for example, a 1961 law established a boundary protecting the pastoral zone in the north from the burgeoning agricultural population in the south. However, the law has been poorly enforced, there is little coordinated effort to manage the pastoral lands, and agriculturalists have increasingly encroached into the area, resulting in conflicts and degradation of resources (Snorek 2011). Other examples, including “grazing reserves” in Nigeria and *perimetres pastoraux* in Burkina Faso, with different rules of management and access, have also failed to protect pastoral resources adequately. Not least, this is due to their imposed nature rather than building upon customary practices.

In Syria and Jordan, too, pastoral communities are said to contribute little to the management of the grazing reserves set up there, which are usually fenced. As a result, the main collective action of community members has been to hinder state licensing policies. This has led to conflicts between local and non-local herd owners. The approach has also been widely criticised because of the high costs of fencing and guarding reserves and the lack of community

participation in improving and managing them (Ngaido and McCarthy 2005).

Some greater success has been achieved in protecting migration routes. In Niger, the registering of land has provided some protection of livestock migration routes through more sedentarised communities. A similar process, using a combination of participatory and cadastre mapping in Cameroon, is described in IUCN 2011. The corresponding rights and duties are documented in a resolution that is signed by all stakeholders. This includes the obligation to keep pathways free from agricultural production, and the creation of surveillance committees to control its implementation.

Physical signs or poles may be used to demarcate livestock corridors, but their merits are a matter of debate: though they might be expensive, supporters argue that such physical markers act as a visible reminder of pastoralist land rights and increase their security in the eyes of other land users. It has proved to be essential that basic services are provided along these routes, including water and grazing areas for resting. There is some disagreement amongst supporters as to whether management responsibility for them should lie principally with the users or with the government. Those who argue for the state holding responsibility suggest that this is more likely to avoid abuse by more powerful members in the community, which could lead to the breakdown of reciprocal relations between users (IIED and SOS Sahel 2010).

Other examples include schemes for providing licences and permits for moving livestock along defined routes (Tanzania: Maria Mashingo, personal communication 2010; Mongolia: Fernandez-Gimenez 2002) and to access grazing areas at certain times of the year (Burkina Faso: Hesse and Thébaud 2006; Cameroon: WISP and

ILC forthcoming; Syria and Jordan: Ngaido and McCarthy 2005; Lesotho: Turner 2009). However, opinion suggests that often these are perceived more as control mechanisms rather than as part of an integrated rangeland management approach.

4. Formalisation of locally developed agreements for resource sharing

Locally negotiated agreements or “conventions locales” between land users, through a process of stakeholder consultation and dialogue, are also becoming popular in West Africa (e.g. in Mali, Niger). Rules and regulations may include bushfire surveillance brigades, the marking out of livestock routes, fixing periods for harvesting wild fruits or for entering grazing lands, identifying quotas for resource use (fuel wood/timber), and protection of regenerating forests. Such measures are generally developed between cooperating groups and are not expensive in terms of financial investments, often being based on customary practices. However, if carried out properly, they can be time-consuming and need commitment and investment in reaching consensus through long negotiation processes.

The local convention process can become more complex when competition over natural resources increases and conflicts have arisen, where diverse user groups are involved, and where those who do not reside permanently in the territory (e.g. urban-based or connected groups) also start using the resources.

Conventions locales are usually signed by local government authorities to ensure their legitimacy and conformity with national laws. For example, in Senegal such agreements have been mainstreamed into national forestry law. However, some suggest that their status in some countries remains unstable (Hillhorst 2008). Governments may also take a facilitating role, in particular when a situation may be complex (such as those involving several different government administrative areas – for example, livestock corridors).

5. Recognition and formalisation of common property tenure

Many national land laws are making customary land tenure a fully legal and equivalent route through which land rights may be owned and transacted, and in some cases explicitly inclusive

Box 2.2: Experience from Tanzania

Recently in Tanzania a number of acts have been passed that provide for the recognition and formalisation of village lands.¹ These acts cover both individual and common property land – the latter being managed under the authority of village councils. This legislation has conferred property rights on occupiers of customary land that are as secure as the property rights conferred on those holding land under granted (statutory) rights of occupancy (Adams and Turner undated). The Village Land Act requires villages to allocate lands between these individual and communal categories, zoning them for different purposes,² as well as designating some lands as areas set aside (akiba), which will be allocated to the individual or communal areas at a later time. The Village Land Act thus provides a relatively secure tenure framework for communal land uses such as grazing pastures and forests, as well as specific requirements for basic land use planning and zoning (UCRT 2010).

1 Namely the Village Land Act No 5 (1999), the Land Use Planning Act No 6 (2007), and the Grazing and Land Animal Feed Resources Act No 13 (2010).

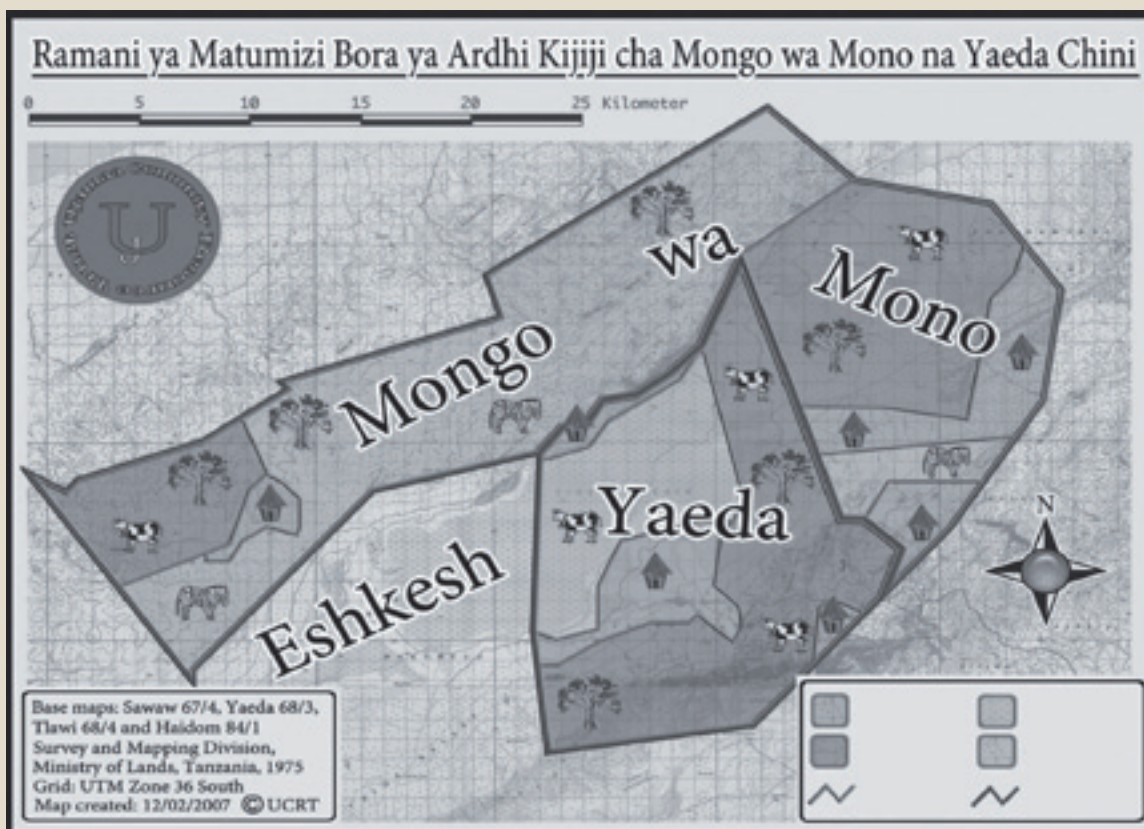
2 “Zoning” may mean different things to different people. Officials see it as a way of permanently demarcating or fencing off areas for exclusive use i.e. ordering complex landscapes into relatively simple and non-overlapping categories. Pastoralists tend to have a more flexible and integrated approach, reserving areas for particular use and managing them through conditions/rules of access, sometimes with physical demarcation occurring along a gradient of scarcity/importance (i.e. the more strategic/high-value an area is, the more likely there is to be a barrier of some sort) (UCRT 2010).

of properties that communities own and use in common (as in Tanzania, Ghana, Uganda, South Africa, Sudan, and Mozambique). Ten other countries have some less complete provision for security of local tenure of common properties (Benin, Namibia, Côte d'Ivoire, Botswana, Angola, Burkina Faso, Madagascar, Niger, Ethiopia, and Nigeria) (Alden Wily 2011). Many of these countries include substantial tracts of rangelands.

Despite this, however, the examples of governments formalising customary rights on communal land for common property resources are few: rather, they still focus on individual rights. Exceptions are Namibia (where to date the focus has been on land for agriculture and settlement: Meijs and Kapitango 2010) and Tanzania, where land used for grazing is included within village land use planning processes.

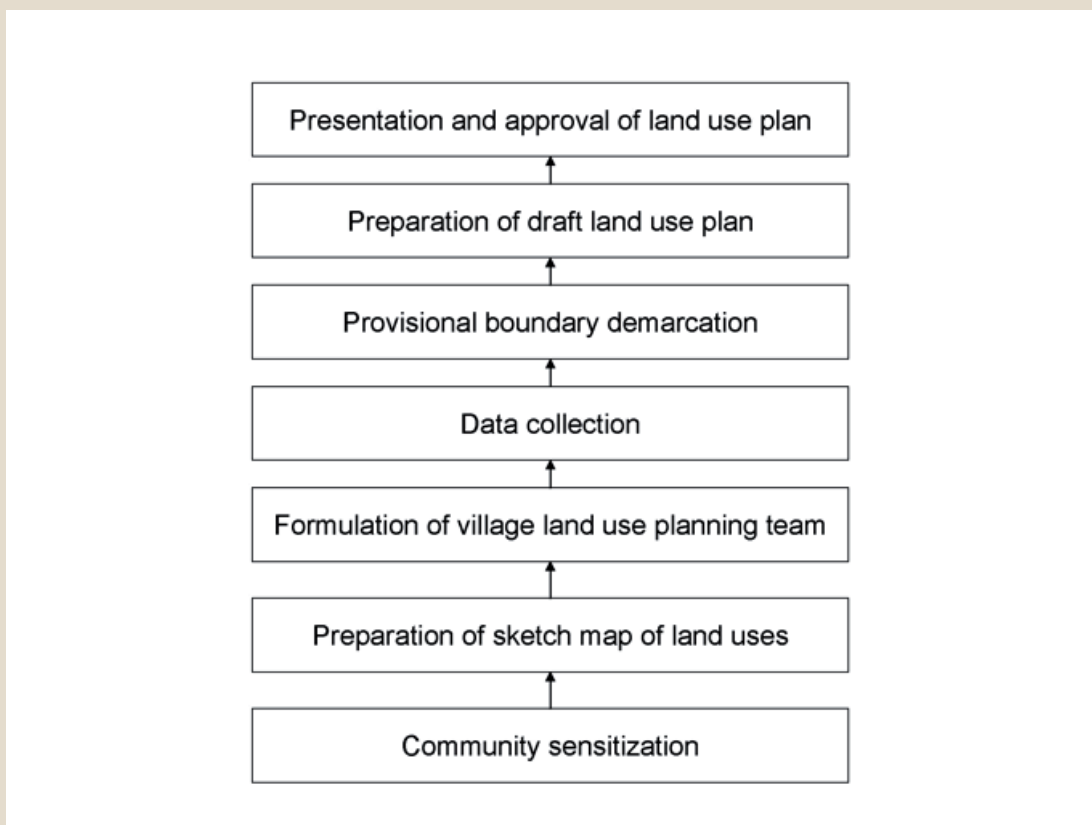
In Tanzania, the process of delimiting and formalising village lands is now being carried out across the country (albeit slowly). Approximately 600 villages (out of 12,000 in mainland Tanzania) have gone through the process. Of these, 266 include the protection of grazing land, amounting to a total of 1.4 million hectares (Mashingo 2010). Local by-laws provide the legal basis for the enforcement of plans. These are developed by the village assembly and the village council through community consultation. Capacity building of local governments, village councils, and local communities is an important part of NGO and government support in the process (this is discussed further later). Further details of the VLUP (village land use planning) process (summarised in Figure 2.2) can be found in UCRT (2010).

Figure 2.2: An example of village land use planning in Tanzania

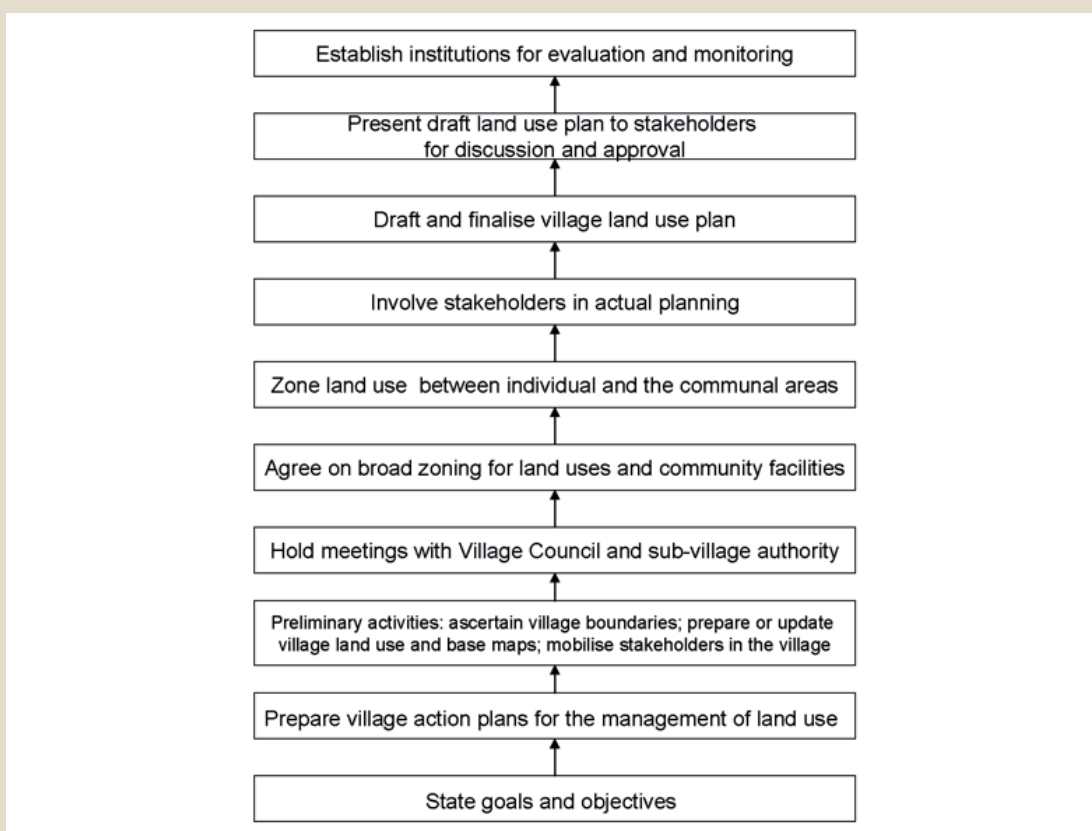


Translation for land use zones key:
 Makazi na Kilimo = residence and agriculture (dwelling symbol);
 Mifugo – livestock (cow symbol);
 Hifadhi na Mifugo = conservation and livestock (cow and tree symbols);
 Hifadhi na Matumizi ya Asili ya Wahadzabe = traditional conservation zone (zebra and tree symbols).

Figure 2.2: Formal steps in the land use planning process in Tanzania



(a) 1998 National Land Use Planning Commission guidelines



(b) Land Use Planning Act 2007

Source: UCRT 2010

Increased role of rangeland users in decision-making processes

Governments have also sought to strengthen the role of rangeland users within land- and resource-related decision-making processes. This has been through:

1. Integration of customary institutions into government structures;
2. Institutionalising traditional methods of conflict management;
3. Including rangeland users in government decision-making processes;
4. Establishing new “representative” groups or committees; and
5. Support for the development of cooperatives for rangeland management.

1. Integration of customary institutions into government structures

An unusual but not unheard of arrangement is the formal integration of customary institutions

into government or state structures – as found in Mongolia (Box 2.1). This sees customary leaders become government functionaries, albeit at the lowest level. Conflicts of interests have arisen as leaders inadequately represent community priorities whilst being part of government.

2. Institutionalising traditional methods of conflict management

A more common arrangement is one where local governments recognise and rely upon customary institutions to resolve local conflicts. Often such arrangements are supported and facilitated by development actors through, for example:

- The establishment of mixed land user committees, for example farmer-Fulani Dispute Resolution Committees in Nigeria (Mwangi and Dohrn 2006) or farmer-herder community dialogue platforms in Cameroon (Fon 2010);
- Paralegals who assist communities to understand and defend their rights, and to seek recourse within the courts (Tanzania: UCRT 2010; Cameroon: Fon 2010; Mali: IIED and SOS Sahel 2010);
- Mobile legal clinics and courts (Mali: IIED and SOS Sahel 2010);

Box 2.2: Customary heads as government functionaries

Bulgan Cum is a district in the province of Xovd, Republic of Mongolia, close to the Chinese border. The district “centre”, the town of Bulgan, serves as the point of contact between nomads and state structures. The district is divided into bag (or “brigades”), two of which comprise the town itself, while the rest carve up the nomads roughly along ethnic and clan lines. The bag are territorial units, in a sense, but the different lands need not be contiguous, as some of the nomads migrate far to their summer pastures, traversing territory belonging to other clans. The chiefs of the nomadic bag are elected by the community and migrate together with the rest. The bag is in this sense a mobile social unit, whose minimal administration (in addition to the bag chief, there is a forestry chief and a vet—all nomads) travels with it. Nevertheless, the bag chief is a member of the state structure, a government functionary – although at the lowest level – and he answers directly to the elected bosses in the district centre (Gil-White 2003).

- Development of community-based savings, credit, and insurance schemes to compensate herders for loss of livestock to wildlife (Nepal: Karky and Cushing 2002);
- Institutionalising peace and development committees that have been set up by pastoral women (Kenya: Birch and Shuria 2002); and
- Supporting peace forums (Horn of Africa/ East Africa: Nori et al. undated).

However, where governments and other actors completely withdraw from conflict resolution and where there is a lack of customary law and order (or customary law and order is unable to cope with increasing conflicts), some communities have been left highly vulnerable. In this situation they have little option other than to purchase weapons and ammunition to defend their animals, property, and families – as in Karamoja, Uganda where commercial raiding of livestock has increased dramatically (Stites et al. 2007).

3. Including rangeland users in government decision-making processes

In recent years a greater number of educated pastoralists (or at least people of pastoral descent), have taken up positions in government, including within national governments. There may also be specific ministries, such as the Ministry of Northern Kenya and other Arid Lands, or committees such as the Pastoralist Standing Committee in Ethiopia, that focus on pastoral areas and peoples. Decentralisation processes can aid the development of regional policies and laws that better reflect pastoral needs. However, they can also be co-opted by more powerful actors to further their own interests.

Pastoralists may also be invited by government to take part in decision-making bodies at local government levels. In Namibia, for example, Communal Land Boards (CLBs) and traditional authorities administer and allocate land rights on communal land. Customary leaders define customary rights, which are approved/ formalised by the CLB. CLBs undertake the allocation of leasehold rights. Currently, the registration process is focusing on land used for subsistence agriculture and settlement, but it also has potential for areas used for mobile livestock production (Meijs and Kapitango 2010).

Although many governments talk about a high level of “participation” and “inclusion” of communities, in reality this rarely occurs. Many members of local government have no experience of conducting participatory planning processes, and many of the tools that they are trained to use do not explicitly address issues of equity or the fact that rural communities are often highly differentiated. Local government may be dominated or highly influenced by local elites pursuing their own short-term political and economic agendas (Hesse and Thébaud 2006: 20). This can compromise the inclusion of the voice of pastoralists, which they should be representing.

4. Establishing new “representative” groups or committees

Alternatively, new associations, committees, or groups that include traditional leaders may be established in the processes of formalising customary land use. Examples include Communal Land Associations in Karamajong, Uganda, which are accorded rights to use and manage the resource base (Fuys et al 2008; IUCN 2011), and agro-pastoral Consultative Commissions in Cameroon and Niger (discussed in more detail in Section 5).

New organisations can also be set up to administer certain aspects of natural resource management or development, such as a community fund. These can act as a communication link between higher levels of authority and communities, presenting the concerns of communities to government and resolving conflicts between higher authorities and communities (e.g. Pastoralist Council, Ngorongoro, Tanzania: Kipuri and Sorensen 2008). However, it can often be difficult for these organisations to remain independent and it is likely that they will end up being more strongly linked with, and biased towards, one or other political party.

5. Support for development of cooperatives

Numerous projects have attempted to reorganise pastoralists into cooperatives, with the aims of improving rangeland resources, stimulating business development, and promoting collective action. But cooperatives have rarely been effective managers of rangelands. In theory, the state and local organisations could work together to create and enforce rules and investment activities, but in practice the costs of negotiating such rules have often been prohibitive (Ngaido and McCarthy 2005).

However, there are positive examples. In most West Asian countries, pastoral cooperatives have been involved in distributing subsidised animal feeds. In Jordan, new herder-driven cooperatives, which have management rights granted by the state over their traditional pastures, are getting better range productivity results than state-managed reserves, without the need for expensive fencing and guarding. This type of cooperative fosters collective action between members because members are certain to reap the benefits of their investments and control access to improved pastures. There

remain, however, concerns about potential conflicts between cooperative members and non-members. Sustainability is also proving to be a challenge: in the Sahel, for example, most of the cooperative arrangements for membership grazing on common pastures have broken down at the end of the project/programme periods (Ngaido and McCarthy 2005).

Limitations of these initiatives and approaches

Although these relatively new initiatives and approaches are a positive step towards the securing of rights to resources, including land for rangeland users, they fail to fully do so, being limited by a number of factors.

1. There has been a separation of land use planning from local development

Despite the rhetoric of participation, land use planning is still being carried out in a top-down, technocratic, sectoral, and “one size fits all” fashion. A key objective of much land use planning is to tidy up the perceived “messy” and “fuzzy” nature of customary tenure and property rights into a more technical and orderly system.

Many land use planning and land tenure interventions are not included in or built upon the long-term vision or strategies of land users. Rarely are the specific needs and dynamics of local users, their institutions (including levels of authority, perceptions, trust, access to information), behaviour, interests, or priorities considered. Likewise, external and internal factors that may influence the success of land use planning and its implementation, including

management of resources and the demand and supply of goods and services derived from the resource system, are not taken into account. Land use planning is seen as an end rather than a means. And governments rely on CSOs and NGOs to help communities react to land use planning rather than steer the process, and to adapt their livelihood systems to land use planning rather than the other way round.

As a result, not only might such interventions conflict with the different priorities of land users, but there is also less incentive for land users to invest in the enforcement of and to comply with new regulations or institutions, as they have little feeling of ownership or control over them: they are simply imposed.

The delinking of land use planning from development has also contributed to sectoral divisions within governments. A plethora of sectoral laws on forestry, water, land, and the environment are designed and implemented by different line ministries, all of which have a bearing on rangeland management. This creates misunderstandings, competition, and conflict between government institutions, the effects of which are felt most acutely by local people.

2. Limited role of land users in decision-making processes

Under the schemes and initiatives described above, land users tend to be given only a limited role in planning, management, and investment decisions and an even smaller role in deciding on the evolution of property rights. Even where citizens are invited to participate, insufficient attention is paid to creating the conditions for this to happen effectively. Often such citizens lack the necessary knowledge, skills and capacity to effectively voice their concerns and influence decision-making processes.

“Not only is the process rather mechanical and driven by central concerns with very short deadlines, but citizens themselves lack the skills to debate the issues and provide alternative policy options backed by strong arguments. Furthermore, even if citizens are able to provide strong evidence-based arguments, these are not necessarily sufficient to ensure appropriate policies.”
(Mali and Niger: Hesse and Thébaud 2006: 19)

As a result, policies and implementation fail to reflect land users priorities. They also fail to provide land users with the authority or power they require to carry out effective rangeland management. Often users do not have the right to reallocate common land to alternative activities such as cropping or reserves, so limiting their ability to respond to changes in local conditions. Land use conflicts have been fostered and collective action has broken down. Often rangeland degradation has followed. Where communities do play a greater role (such as in Tanzania) concerns are raised about the capacity of local groups to enforce rules governing use and access of resources, particularly in relation to more powerful actors (Tanzania: UCRT 2010).

Too often, participatory processes are used by development projects to seek community endorsement for the activities for which they have funding. Tools are needed that allow “participation for empowerment” (Hesse and Trench 2000).

3. Abuse, corruption, and loss of credibility of government authorities

Though governments may support decentralisation of authority on paper, in reality this rarely happens. Rather, deconcentration tends to be the result of extending responsibilities to lower levels of government without devolving power and providing needed financial and human resources and guidelines. Where decentralisation does occur, it is no guarantee of good governance (Hesse and Trench 2000). Land committees or associations dominated by civil servants and with token representation of land users are likely to be biased and prone to corruption, such as imposing illicit taxes for livestock passage, charging fees for using public water points (West Africa: Cotula 2006), or demanding bribes to allow pastoralists to graze on village lands (Tanzania: UCRT 2010).

Such inefficiency on the part of public institutions (a gap that is partially filled by CSOs and NGOs) creates obstacles to the realisation of development objectives and reduces the credibility of public administration in the eyes of civil society and, in turn, its potential positive impacts (FAO 2005).

Formalisation and registration processes often prove unfair and inequitable, being open to manipulation, corruption, and exclusion by those with more power, particularly if land users are not physically present (Lavigne-Delville 2010; Ngaido and McCarthy 2005). In many cases, people with previous customary claims (primary and secondary) to resources have been dispossessed and/or denied future access, without compensation.

4. Systems restrict mobility and adaptation to crisis or change, so increasing vulnerability

Land tenure systems that have supported the registration of individual land holdings have promoted sedentarisation and fragmentation of the rangeland and have encouraged the growth of agro-pastoralism and/or agriculture (Flintan 2011b). The impacts of this individualisation and privatisation of the rangelands have in general proved to be negative for the majority of rangeland users: socially, economically, and environmentally increasing their vulnerability and their ability to overcome the impacts of drought and predicted climate change (Mwangi and Dohrn 2006; Flintan 2011b).

Protection has not been provided to secondary or tertiary users of land and resources, and in many cases their rights have been completely lost. Even within the more progressive policies (such as in Tanzania), livestock mobility is restricted through an increase in fences, enclosures, and conflicting boundaries, and the further removal of land for uses such as fodder and crop production. Land tenure policies tend to demand occupation and cultivation of land to ensure "ownership" or long-term use: this makes it difficult for pastoralists to be absent from the land for long periods of time and to practise their migrations.

As a result, in times of crisis and change, such as drought, pastoralists are prevented from moving to use alternative resources, and this has greatly increased their vulnerability and the likelihood of greater livestock (asset) loss (Uganda: Kisamba-Mugerwa et al. 2006; West Africa: Hesse and Thébaud 2006). In addition, loopholes combined with poor and unjust procedures still leave the commons more vulnerable than land for settlement or farming to appropriation by governments (Alden Wily 2011). Increasingly,

commercial investors focus on these commons as the overall amount of “available” or “free” land and resources decreases. As their value increases, so too does demand for them.

These changes have also had an impact on social systems and institutions. As individual values have increased, collective action and reciprocity have diminished. Customary institutions and practices have broken down. Consequently, pastoralist households are even more vulnerable to drought and other crises (Ngaido and McCarthy 2005). Hunter-gatherer communities who depend upon cooperating with one another for their survival are facing similar problems (Borrini-Feyerabend et al. 2004).

5. Increased conflicts

Conflicts have increased, triggered by increased competition over a reduced resource base, amongst other factors (Africa: Nori et al. undated; East Africa: Ngaido and McCarthy 2005; Sudan: Pantuliano et al. 2009; Afghanistan and Sudan: Alden Wily 2009, 2010 (see Box 2.2). As Liz Alden Wily (2008b: 10) suggests:

“If we cast our eyes around the 71 conflicts in the world today, we see that not only are the majority of these conflicts intra-state affairs (85%) but that two-thirds are driven by contested claims to land. Mostly this is a territorial sense and often has some roots in unjust treatment of customary occupation as legal tenure.”

Areas of high value (such as those with high agricultural potential, minerals or wildlife conservation value) (Mwangi and Dohrn 2006) or “rangeland productivity hotspots” (e.g. dry-season grazing areas such as wetlands) (Flintan and Cullis 2010) may be the most sought after and contested areas. As such it is not necessarily resource scarcity that causes conflict, but also competition over resource-rich areas (Lind and Sturman 2002).

There are a greater number of conflicts over boundaries of individual holders than within communal property systems, though individualisation does tend to reduce ownership disputes (Uganda: Kisamba-Mugerwa et al. 2006). Further, conflicts continue in many areas despite the implementation of land use planning that recognises common property: local by-laws and land use plans are ignored or contravened. In Loliondo, Tanzania, for example, violent clashes between different land users

Box 2.2: Undermined livelihoods, resource access rights, and conflict in Darfur

Land and resource access in pastoral areas is a critical element in understanding the 2004–2005 crisis in Darfur, which displaced an estimated 2 million people and killed another 70,000. Reform of land rights in the 1970s to encourage agricultural export production undermined livelihoods by creating structural land scarcities. Environmental degradation, reduced availability of resources, and the limited use of southern Sudanese pastures due to war forced nomadic herder communities into farming areas, which led to conflict with settled agrarian groups. The region also suffered several cycles of drought, which reduced the size of herds and destroyed crops, accelerating migration from rural areas to urban centres. Government response was inadequate both to longer-term concerns and to the increasing crisis, offering few benefits to farmers and herders. The explosive combination of diminishing livelihoods, governance failures, and continued conflict elsewhere in the country helped to stoke violence (Egemi and Pantuliano 2004 in Nori et al. undated).

have taken place on a regular basis despite the fact that land use plans were drawn up in the villages involved ten years ago. The conflicts are blamed on inappropriate and non-inclusive land use planning processes that have failed to fully address the core problems in the area. This highlights the need for a) an inclusive and consensus-building land use planning process; and b) the importance of ongoing engagement with political and policy processes if local planning initiatives are to have their intended impact (Tanzania: UCRT 2010; Baha et al. 2008).

6. Increased rangeland degradation leading to loss of productivity

A common argument amongst supporters of individual land titling is that it will result in increased investments in land conservation measures and will improve productivity. A report by Flintan (2011a) for ILC disputes this assumption and suggests that the situation is much more complex than previously suggested. The individualisation processes that followed the setting up of group ranches in Kenya, for example, clearly show negative impacts on pastoralists and pastoral systems and in particular on poorer members of pastoral society. In many cases, the resulting competition for resources and a breakdown of customary institutions has led to rangeland degradation and a loss of livestock productivity, if not complete loss during droughts as mobility has been restricted (Flintan 2011b).

Indeed, many of the constraints listed above have led to rangeland degradation, as additional pressures have been placed on the now smaller pool of resources. Further, a reduction in collective action has reduced the likelihood of community stewardship and there are fewer incentives for members to manage their resources effectively

or to make long-term investments. Competing claims between pastoral communities and states have created situations of confusion and open access, leading many pastoralists to challenge both state and traditional range management rules and activities and, in some cases, to appropriate common lands (East Africa: Ngaido and McCarthy 2005; Namibia: Atkinson et al. 2006)

Interventions that have taken place have concentrated on resident populations (such as the *gestion de terroir* described above) and have failed to develop resource tenures systems that fulfil the needs of more mobile people.

Evidence from Afghanistan, where a community pasture management programme is being promoted, shows that recognition of community rights is the single most important trigger to a community taking action to regulate its resource (Alden Wily 2008b). Indeed, in Tanzania the completion of participatory land use planning has been directly linked to improvements in the natural resources base, including a recovery of local wildlife populations in hunter-gatherer and pastoral lands (UCRT 2010). Yet this is not the case throughout the country; for example, where priorities for conservation exist over local community development (as in conservation areas such as Ngorongoro), the marginalisation of customary institutions and local communities has led directly to a) increased environmental degradation and wild animal loss; and b) increased poverty (Ngorongoro Crater, Tanzania: Kipuri and Sorensen 2008).

7. Tenure pluralism without clear guidance, frameworks, or protection

As a result of the different interventions that have taken place in rangelands, a situation of tenure pluralism now exists where customary and statutory land tenure systems for the same resource overlap. Potentially there may be other systems too, where rights have been established through NGOs, conservation authorities, and the like.

This has led to contradictory rules and competing authorities providing de jure or de facto rights to the same land and resources. Through this “legal pluralism”, the neat distinction between the different tenure systems has been considerably blurred. “Customary” systems have changed and statutory systems usually operate with considerable possibilities for negotiation or even rejection.

As a result, resource users tend to gain access to natural resources through a blend of customary and statutory arrangements and institutions and/or choose the institutional channel that is most likely to favour their cause (“forum shopping”), though typically actors prefer one or the other (Cotula 2006). This can be advantageous to some parties, but others – and in particular the less powerful – are likely to be marginalised. There can be competition between arbitration bodies, leading to conflicts and land grabbing (Lavigne-Delville 2010). The situation is not sustainable and does not provide the majority of rangeland users with sufficient protection over the resources that they require for their livelihoods.

With a very few exceptions, customary land tenure systems are not offered the same security and protection by the government as statutory systems, and until this changes they will always be more vulnerable. Indeed, the large number of incidences of land evictions, appropriations, and other losses or conflicts found within the rangelands today is evidence of this.

Where to next?

It is generally agreed that, as a matter of urgency, pastoralists and other rangeland users need greater protection and security for their lands and resources, supported by effective legal measures (Sayer 2009; Niamir-Fuller 2005; Mwangi and Dohrn 2006). How best this can be achieved is still unclear. However, what is clear is that policy-makers’ attention should focus on ways to enhance the security and effectiveness of property rights under the pluralistic arrangements that currently exist (Adams and Turner 2005). As such, the benefits of different land tenure regimes should be considered for different land uses and needs of land users, and the most appropriate should be provided with the same level of security and protection. The following three sections consider how this might be better supported.

3

Approaches and Processes: Multi-land use planning and securing of resources in rangelands

It has become clear that, though progress has indeed been made in land use planning and the recognition of customary tenure (and more rarely its formalisation) is taking place, there are still fundamental gaps and failings of the systems and approaches being implemented and, in many cases, the policies and regulations supporting them.

Such failings tend to be in two key areas:

1. In the development of land use and tenure systems that provide for an understanding of, accounting for, and protection of the complexities (spatial, temporal, institutional) of customary common property systems, particularly those that exist in multi-use landscapes such as rangelands, where local development and livelihoods rely on the tracking of rangeland resources across a domain or territory; and
2. In the establishment of an effective governance system that recognises and accounts for different power relations, capacities, and needs/interests, and that provides local users with appropriate tools and mechanisms for protecting their resources and land from more powerful stakeholders.

How then can these constraints and challenges be overcome? How can the many different local land management and rights systems be incorporated within a framework that is not top-heavy and too cumbersome or costly to use? Does it require a new system, approach, or indeed way of thinking to be developed, or can the answer be found in better implementation of and building on the opportunities of tenure and land use systems that already exist? How can “sound governance” be achieved?

This section and the one following look at the key features required for more appropriate land and resource tenure policy and practice in rangelands. “New”, “alternative”, and/or “improved” approaches and processes are described here; tools used in these processes are described in the following section; and the issues of governance and structure are discussed in Section 5.

Formalising tenure at a more appropriate scale: the rangeland, landscape, “territory”, or “domain”

It is generally agreed that in order to secure rights to rangeland resources and to maintain necessary mobility, initiatives must work at the appropriate scale and according to the logic of the rangeland (and, for example, the pastoral) system. Land use problems do not exist in isolation and are strongly influenced by internal and external forces. “Thinking big” and working at scale can help to overcome this. It requires a systems approach that takes into account the fact that changing one part will impact on other parts, as well as the system as a whole. A number of approaches have been developed with these points in mind; a comparative summary of them is provided in Appendix 1.

1. Rangeland co-management

The concept of “co-management” and the power sharing involved are discussed extensively in Borrini-Feyerabend et al. (2004). Co-management provides a clear framework and process that encourage the central participation of local communities, power sharing between stakeholders and institutions, and the development of more appropriate mechanisms for managing resources (including rights, roles, responsibilities, and revenues).

This approach has increasingly been promoted within community-based natural resource management, where conservation organisations have for many years advocated a “landscape” approach to land use planning and resource management⁷ (Sayer 2009 and see, for example, WWF and IUCN’s “Landscape Approach” – WWF/IUCN 2002). Most recently, this has developed into support for Indigenous and Community Conserved Areas (ICCAs; in Australia called IPAs); see, for example, PAFID 2010, <http://www.iccaforum.org>, or special edition of Parks, Volume 16, 2008; also Box 3.1).

⁷ A landscape can be defined as “a contiguous area, intermediate in size between an ‘ecoregion’ and a ‘site’, with a specific set of ecological, cultural and socioeconomic characteristics distinct from its neighbours”. It is important to emphasise that it is the set that is distinctive, not any single characteristic (Maginnis et al. 2004: 331).

Box 3.1: Indigenous protected areas in Australia

In the mid-1990s the Australian government launched a programme to support indigenous landholders to voluntarily declare and manage their land as indigenous protected areas (IPAs). IPAs can be established as formal conservation agreements under state or territory legislation, or under Indigenous Law. Aboriginal land-owners have a variety of legal mechanisms to control activities on their land, including local by-laws and privacy laws. The process of establishing an IPA is entirely voluntary, and Aboriginal people can choose the level of government involvement, the level of visitor access (if any), and the extent of development to meet their needs. In return for government assistance, the Aboriginal owners of IPAs are required to develop a management plan and to make a commitment to manage their land (and/or waters and resources) with the goal of conserving its biodiversity values. There are now over 20 IPAs across Australia. Further details are available on: <http://www.deh.gov.au/indigenous.ipa> (Borrini-Feyerabend et al. 2004; Smyth 2001).

Increasingly, this approach is being developed in rangelands, including in Kenya (Okello et al. 2003; Bassi 2008) and Iran (Borrini-Feyerabend et al. 2004). In Mongolia, provisions such as pastoralist group leases (discussed in more detail below) are being developed within discussions around a greater process of co-management.

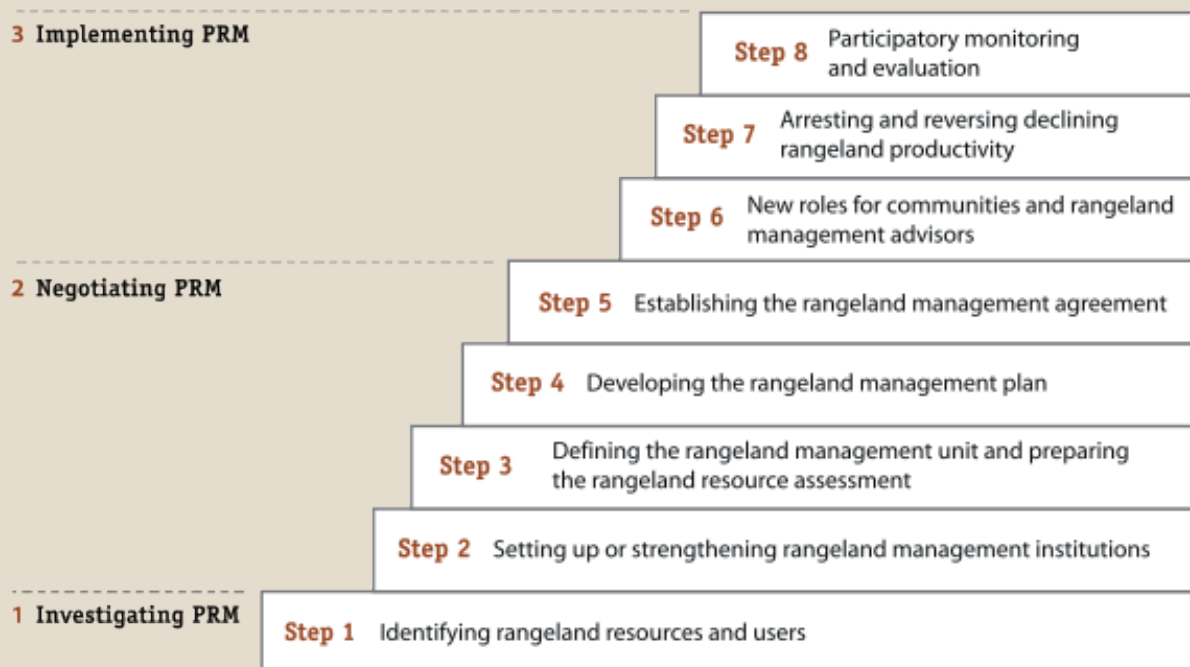
Many CCAs include forests, which are being managed by local communities. Programmes such as joint forest management (JFM) or participatory forest management (PFM) have provided the structure for a formalisation of customary rights to many forests and the development of better management systems. Examples of PFM and JFM can be found across the world. Many of these forests border or are part of rangelands and dryland landscapes. Amongst others, examples can be found in Niger (Amadou et al. 2003), Ethiopia (Boku Tache and Irwin 2003),

and India (Mitul 2011; Banikanta and Birendra Kumar 2011). Important lessons can be learned from the development of CCAs, JFM, and PFM, including the lack of power sharing conceded by more powerful actors to local communities within what generally remains predominantly a top-down approach. In addition, continued problems with enforcement of local by-laws and regulations due to a lack of empowerment of communities and legal sanctions (Ben Irwin, personal communication 2011 and others).

2. Participatory rangeland management/community-based pasture management

Indeed, looking to the lessons learnt from PFM in Ethiopia in particular, where this has been accepted as a useful process for better management of community forests, a process

Figure 3.1: Key steps in participatory rangeland management (PRM)



of “participatory rangeland management” or PRM has been developed. It has been suggested that applying the same principles of forest management to the rangelands as a whole (i.e. beyond solely forests) may be the right step forward to securing rights to resources for rangeland users. As a result, Save the Children USA and FAO, with the support of a national Natural Resource Management (NRM) Technical Working Group, developed a set of Introductory Guidelines to the approach in 2010 (Flintan and Cullis 2010), and these are now being developed for piloting. Formalisation is provided through a rangeland management agreement between community and local government and the development of by-laws.

In Afghanistan a similar approach is already being piloted. Called “community-based pasture management” (CBPM), it focuses specifically on the owner-management of pastures within rangelands, including making clear distinctions between private, community, and public pastures (see Box 3.2). Supported by recent policies and legislation, FAO has been working with communities since 2006 to explore options for community-based management. This has included developing a process of CBPM, guidelines for which are found in Alden Wily 2008a and which are summarised in Appendix 1. Similar attempts include the introduction of “managed resource areas” and grazing associations in Lesotho (Turner 2009).

3. Community development planning

Increasingly, it is being recognised that the management of rangeland resources needs to be embedded within development strategies and local community planning processes. This is particularly relevant for communities who depend to a high degree on rangeland resources for their livelihoods. In addition, local and national governments need to work in a more integrated and holistic way, in order to avoid conflicting policies being developed by different departments and negative impacts occurring in one part of a rangeland system resulting from actions/processes carried out in another (as discussed in Section 2).

This thinking has formed the basis of a push for the development of “community development plans” linked to the management of natural resources (which often commences with their mapping – see below). In the Maghreb countries of northern Africa, ICARDA and IFAD have taken this process one step further and have developed a process and a manual to guide the development of community development plans in the region (Nefzaoui et al. 2007). The process, as with many of the approaches described here, works through a process of learning, planning, institutional development, and implementation (see Appendix 1).

Box 3.2: Community-based pasture management (CBPM) in Afghanistan

In Afghanistan FAO has been supporting the development of CBPM. The founding strategy of the initiative is to use CBPM as the trigger for systematically resolving inter-community disputes among settled communities regarding ownership and control of local pastures. With assistance from a local NGO, Solidarities, the project has worked with around 70 communities in three districts and has brought around 100,000 hectares of “community pastures” under working community management, while reducing the number of conflicts over access to resources. The results of the project encouraged the government to restart rural land registration along lines similar to community-based registration, including communal pastoral assets (Alden Wily 2008a).

4. Participatory and negotiated territorial development

Participatory and negotiated territorial development (PNTD) is a process developed by FAO (2002; Hatcher 2009), which results “in concrete answers to the challenges of improving trust among social actors, strengthening social cohesion and promoting a systemic territorial development” through:

- Building credibility between public and private actors;
- Strengthening social cohesion to improve local resource use and management through a territorial approach;
- Conceiving the territory as an arena for dialogue and negotiation (for more details, see Appendix 1).

Dialogue and negotiation form the central component of the process. It is seen as an empowering approach, fostering bottom-up decision-making and collaboration between different actors, built on trust and the finding of common ground and workable solutions.

The “territory” is believed to be a more appropriate unit to deal with land issues as it offers a better view of social-political and ecological functionings, enables vertical and horizontal integration, facilitates the development of synergies while taking into account linkages with other levels, and helps to revitalise/involve formerly marginalised areas. It provides a space for different actors with conflicting interests to negotiate their positions, interests, and needs.

The social territorial agreement which results from the process can include (among other things), conflict resolution, a territorial development plan, the delimitation of territorial boundaries taking into account customary

rights, or new land tenure laws. The agreement reached as a result of the negotiation process should define all the prerequisites (e.g. human, physical, social, and financial resources), the instruments, and the roles and responsibilities required for its implementation.

In Angola, components of PTND were used with FAO’s “participatory land delimitation” approach to support the delimitation and formalisation of San customary rights to 1,389 hectares of their land (Cenerini 2008). PTND components have also been used extensively in Latin America. However, the complete process is yet to be fully tested and used.

5. Communal domains or customary land areas

Liz Alden Wily (2005a) also highlights territory, or more specifically “communal domains”, as a unit where customary tenure exists but requires strengthening and formalisation of rights. The first step is defining and/or clarifying a customary domain wherein customary law thereafter definitively and legally applies. This provides better but not foolproof blanket protection to the diverse range of individual and shared rights that exist within that domain. Integral to this process must be the establishment of the institutional basis for the regulation of customary rights within the domain (discussed in more detail in Sections 4 and 5).

With these critical foundations in place, attention should then turn to the common properties within those domains which remain at most risk of loss to their shareholders. Transparent and accountable mechanisms through which community-derived rights are identified, secured, sustained, regulated, and managed need to be developed. This is likely to be through customary laws and institutions, but statutory provision is

also needed, for example to establish county-/ district-level registers of customary domains, to recognise customary land interests as private property rights, and to recognise community-derived/elected land administration bodies as the legal local land authorities. Rights then need to be formally recorded and legally entrenched (through registration). The process needs to be completely accessible and simple for mass uptake and benefit i.e. beyond or in addition to cadastral-based registration systems (Alden Wily 2005a).

This approach has been modified for Sudan and Afghanistan. In Sudan the process results in a "Customary Land Area" (CLA), which could be based on a village or set of villages, or a tribal area. A Community Land Council is elected by the community to manage the area and, for example, negotiate access for secondary users such as nomads. Detailed guidelines have been developed (Alden Wily 2005b).

Key characteristics of these approaches

Though these different approaches vary in name and details, they also have a number of similar underlying foundation blocks and key characteristics. These include the following:

1. Understanding/learning and/or identifying problems through land users

The first step in all the above approaches is understanding and learning about the customary and other tenure systems that exist, and how they function. This will include understanding how these have changed over time and why.

A rangeland is likely to both include government administrative units (such as villages) and also be part of them (such as districts or regions). It is likely that statutory tenure systems will exist in and around villages where individual or (in the case of Tanzania) customary rights have already been formalised. Non-formalised customary systems over resource access, use, and "ownership" will also exist. Boundaries across a rangeland are likely to be open and fuzzy, with people, livestock, and wild animals moving within the outer borders and beyond into neighbouring rangelands. Though such boundaries may be challenging to identify, if a particular land/resource area is to be protected then the boundary of the area will need to be defined. Thus ways to do this will have to be identified with rangeland users.

Land can be categorised in different ways, including by altitude; by types of resource e.g. water, grassland, minerals; by types of vegetation; by use e.g. wet-season grazing; by

distance from a settlement; by management; or by a combination of these reflected in the socio-geographical distribution of people and their livelihood/social systems (based on different land and resource use) (see, for example, Guitton et al. 2008). The Maasai in Tanzania classify land according to different criteria, which have important implications for rangeland management (see Box 3.3). Different actors will be involved with different areas of land and resource types. All these complexities and their dynamics will need to be understood and defined before decisions can be made as to what tenure and rights need to be strengthened, where, and for whom.

It is likely that through the process of defining resources and existing tenure systems, problems and challenges in terms of access, management, and “ownership” will also be identified. Identification of problems can be made more structured through targeted activities, such as using participatory rural appraisal (PRA) tools, or may arise through general discussion. These problems and challenges will be a central influence on defining ways forward, including solutions.

Mapping

A valuable tool in this learning stage has proved to be community resource (and other) mapping. Community maps in particular have the ability (if facilitated and drawn well) to highlight not only resource distribution and access/property regimes, but also the dynamics and complexities of resource use and management and the movement of resources across a rangeland.

Rangeland resource mapping converts information that many rangeland users hold only in their minds into written form. It can be used for initiating discussions, for negotiation, management, or tenure securing processes. The mapping process itself can prove empowering and can increase the “ownership” that communities have over tenure processes (Nicaragua, Philippines, Madagascar: Di Gessa 2008; Ethiopia: Rowley and Mulugeta Terfa 2008; Flintan 2010).

Community mapping is being increasingly accepted when defining landholdings within statutory tenure processes, including in Madagascar (HARDI 2010), the Philippines (PAFID 2010), Kyrgyzstan (IUCN 2011), Cameroon (WISP and ILC forthcoming), Tanzania (UCRT 2010), and Mozambique (see Box 3.4). There are also attempts to map larger territories or rangelands that provide

Box 3.3: Maasai land classification systems

In northern Tanzania, Maasai herders classify seasonally grazed landscapes using socio-cultural folk systems, soils, topography and vegetation, management knowledge, and seasons of grazing. Herders characterise grazing lands as degradable (orpora) or non-degradable (orkojita) with reference to soils (ngulupo) and vegetation type. This categorisation is used for regulating seasonal grazing across diverse landscapes. According to herders, degradation occurs in the Selela landscapes when traditional grazing systems are altered by crop cultivation. The disappearance of key forage species and an increase in species less desired by livestock are used as indicators of degradation. The overall effect of land degradation is inferred from a decline in livestock productivity. The evidence suggests that descriptions of landscape degradation in terms of loss of grazing value for a particular livestock species might be more relevant than a general statement about rangeland degradation associated with pastoral land use. According to these findings, land use planners could incorporate herder knowledge with scientific methods to test the impact of management and promote community participation in rangeland monitoring (Oba and Kaitira 2006).

a fuller picture of resource use, management, etc. One example has been the work of SOS Sahel Ethiopia and Save the Children USA, which facilitated the mapping of traditional grazing units, or dheeda, with Borana pastoralists living in the southern part of Ethiopia. Documented in Boku Tache's report (2009), the process covered two dheeda and 55 villages across five districts. The maps were highly detailed and showed the extent of encroachment by settlements and crop farming, also used in Tanzania as the cover photo illustrates.

Increasingly, too, geographical information system (GIS) technology is being used to digitise community maps, including mobility routes and multi-use rangeland systems (see examples in Flintan 2010 showing the digitisation of Borana dheeda maps) and to show the different layers of production and social values of communities across a landscape (Tanzania: Fagerholm and Kayhko 2009). Such systems have also been used to increase understanding of the factors and forces influencing rangeland use and to identify options for land/resource tenure and land/resource use planning and management (Kenya: Mulianga 2009). Some organisations have also explored the use of high-resolution satellite images (e.g. 1: 25,000 scale) as the starting point for discussions on resources and land use. Communities' interpretation of natural cartography has been shown to be consistent, accurate, and time-saving, and people can easily relate their local knowledge to the satellite images on paper (Ethiopia: Flintan 2010). Finally, 3D modelling can be a useful and more "realistic" alternative to mapping flat on paper and has been used successfully for community landscape and watershed planning and management (Di Gessa 2008; DENR 2000).

In all cases, communities should be able to have "ownership" over their map and control its access

and use. It should be remembered that maps are a powerful document that can be used to disadvantage indigenous groups, as well as benefit them (Harris and Hazen 2006).

Formalised "community consultations"

In some countries, such as Mozambique, legislation and instruments are in place that oblige investors to determine if the land being requested is "free from occupation" (see Box 3.4). However, loopholes in the law still leave commons vulnerable (Alden Wily 2011).

Examples have also been provided in Section 3 from West Africa, where land users are being included in delimitations of land parcels and/or provided with a certificate for land registration as individuals or groups but given freedom (at least in theory) to decide what level of rights they record (individual, family, group of heirs).

2. Developing a shared vision

A second common component of the territorial/rangeland approaches summarised above is that of establishing a vision that is shared by all stakeholders. Without this, it is unlikely that a process of collective access will be fully achieved and conflicts between land users will be avoided. This shared vision should be part and parcel of a broader vision of social transformation and development. Land use planning and issues of tenure and property rights should be embedded within and/or linked with wider development processes from the start. Where there are multiple users of land and resources and different interest groups with different rural agendas, the process can become complicated, though not unfeasible. Care will need to be taken in deciding who should be involved in these processes, which should be as inclusive as possible.

“Scenario planning” has proved to be a useful way of engaging with stakeholders, sharing understanding, exploring potential change, and defining a common vision to meet development needs, as well as achieving environmental management and protection (Sayer 2009). SOS Sahel International UK and IIED have supported governments in Kenya and Niger to work with communities to define their needs and have suggested alternative scenarios in relation to social development, including mobility and education. The results have formed the basis of land use and development and education policies and strategies in the regions. The experiences showed that the process was particularly useful for planning in a context of “uncertainty” and so highly suitable for rangeland communities. Guidelines to this effect have been produced (SOS Sahel/IIED 2009; Cavanna and Abkula 2009).

Visual representations can offer a better route to communication and understanding than mere description – “a picture paints a thousand words”. Community maps can be developed to illustrate the desired outcomes or a vision for

the future (as used in Uganda: Boedhihartono and Barrow 2008). 3D geographical visualisation tools (Petit et al. 2006) and modelling packages such as STELLA, SIMULE, or VENSIM (purchasable over the Internet) can also be used. An example from Indonesia describes the use of STELLA to explore different future scenarios and their implications for forest cover and for local communities’ incomes from oil palm investment and REDD (Indonesia: Sandker et al. 2008). The understanding of such media by local communities should not be underestimated.

Such processes can be time-consuming, however, and it is necessary to balance the constraints of deadlines and time pressures with the needs and paces of different stakeholders. The agenda should not be an end but a means to achieve a collectively defined desired outcome.

3. Negotiating and building consensus

For many of the approaches described above, the most important stage of any change in land tenure and use is the period of negotiation and consensus building. Again, these can end up

Box 3.4: Incorporating local rights in Mozambique

In Mozambique, the 1997 Land Law contains an innovative and now almost universally applied instrument for ensuring that local rights are not overlooked in the new DUAT (land use and benefit right in its Portuguese acronym) processes. The “community consultation” required by law obliges an investor to determine if the land being requested is “free from occupation”. The consultation is attended and directed by local government officers, who must then issue a statement as to whether the request can proceed or not. If the land is occupied – and in reality most land is occupied – the consultation must then determine the conditions through which local people will cede their rights (if they want to), or share them in some way. While local rights do not need to be registered, in situations where demand for land and resources is rising, it is a good idea to give them stronger protection through some form of mapping and cadastral process. This helps to show where rights exist before the investors arrive. A Technical Annex to the Land Law Regulations was developed by the Interministerial Commission on the basis of 21 pilot exercises in community delimitation. This is a form of participatory rural appraisal which produces a series of participatory maps and, finally, an officially recognised map that is recorded in the official cadastral database. Once land is recorded, the local community is then free to consult with outsiders over access to it and to make agreements with them over the resources that they want to use (Tanner et al. 2009).

being long, protracted processes of discussions between different stakeholders, but reaching agreement at an early stage will provide a stronger foundation for later implementation. It is likely that such processes will require external facilitation, mediation, and arbitration.

Negotiations will be required between different stakeholders to reach agreement over how resources are/will be accessed and managed, who has access and when, how, and where, etc. Trade-offs are likely to be necessary. Special attention will need to be given to ensuring that groups who are normally marginalised from decision-making processes are provided with opportunities to fully take part. This may include women, youth, hunter-gatherers, and those with lower status in the community. Societies more directly dependent on natural resources are likely to be happier to spend more time negotiating their access and management.

There is a need to think of objectives and trade-offs in a way that minimises conflict; allows negotiation to focus on essentials; and allows for innovative approaches and solutions. Some important insights are contained in the literature on conflict management (Fisher et al. 2000). It is suggested that parties in negotiations should not argue over positions but rather should focus on interests, and the definition of the problem behind the interest is said to constitute a precondition for an analysis of the stakeholder's margin of flexibility (FAO 2002).

Though "consensus" should be aimed for, it should be understood in its broader term and does not have to result in a sense of total satisfaction achieved by everyone involved. Reaching consensus is likely to be more difficult in larger multi-use landscapes with a greater number of different stakeholder groups, many of whom are mobile or secondary/tertiary users

and not easily identifiable. Though it is unlikely that all stakeholders will ever completely agree to the same vision, common ground needs to be found – and usually can be. A basic principle is to seek scenarios where all can win more and lose less. Throughout all these processes, skilled and unbiased facilitation will be required.

A useful framework for consensus building is the Consensus Framework Methodology based upon alternative dispute resolution (Brown 2000). Other useful tools that have been used to facilitate decision-making processes where a large number of different stakeholders with different knowledge sets and different ways of reaching decisions (including non-linear) exist include Participatory Landscape/Lifescape Appraisal (Mali: Crane undated), Participatory Multi-Criteria Analysis (see, for example, Salgado et al. 2006 for use in an evaluation of water governance alternatives), and Multiple Criteria Decision Support (Finland: Kangas et al. 2005; Iran: Babie-Kafaky et al. 2009). Many of these generate and/or use models or computer software packages to sort and evaluate large volumes of data generated.

4. Implementation, including adaptive management

A fourth common feature to these approaches is the emphasis on developing realistic ways of implementation, which may involve capacity building, changing roles and responsibilities, and the seeking out of new information and knowledge to deal with new challenges and problems. Monitoring and evaluation are also vital to good implementation, which should include mechanisms for reflection and learning and the feeding of results back into action.

Having clarity on the overall goal of an intervention is essential, but it is a mistake to

lock in too early to a specific pathway to that goal. Rangelands and the aspirations of those who have a stake in them are constantly evolving and changing. Many of the processes, activities, and institutions may be new to different stakeholders and will require “learning by doing”. There can be no fixed target or endpoint and stakeholders need to be constantly experimenting, listening, learning, and adapting. Muddling through provides a better conceptual basis for engagement than detailed design (Sayer 2009). And at the very least, a process of adaptive management (see, for example: <http://www.eeeee.net/watershed.htm>) should form the basis of implementation methodologies.





4

Tools: Strengthening tenure systems

There are different tools that can be used for strengthening tenure. In order to reach the consensus and agreement described above, discussions and questions will need to focus on whether formalisation is necessary and, if so, in what form. Is titling the only answer, or can security be found in other types of tenure? Are there provisions in the law that allow for collective ownership of common land and shared resource utilisation? If so, can this overlap with individual private tenure arrangements? Or is new legislation required? Which sets of rights require formal recognition? And how can this be achieved? The question of institutions and governance will also need to be considered, and is the subject of the following section.

“Security” and “insecurity” mean different things to different land users in a broad range of settings, and/or for different resources at different times and scales. However, Liz Alden Wily (2005a) argues:

“Whether we like it or not, this means registration. We cannot escape the reality that each and every common property estate must be defined, its customary owners known and institutional representation established in order for the owners to hold onto that property and reap future benefits from it. If this is not undertaken we are merely sustaining the past and present in which some millions of hectares of invaluable property on this continent are annually lost to the majority rural poor.”

So how then do we move forward? Above, the importance of scale has been highlighted, and that of developing a system or approach that gives recognition to territory, landscape, domain, or rangeland and its importance for many users and in particular pastoralists. Within (or beneath) this larger area or layer, different tenure options or tools for gaining tenure security can be developed and protected through various statutory and/or customary arrangements for different sets of rights. Some of these may already be protected by statutory law, including individual landholdings

Box 4.1: Security and insecurity

Informality is not equal to insecurity, and conflicts over land are frequently related to failures in arbitration systems more than to informality (Lavigne-Delville 2010). It has been shown that in many cases customary rights can provide greater perceived security than formal or statutory rights. Security is not dependent upon land titling (Platteau 1996) and there are a large number of factors that also influence the level of rights that a land user or “owner” may hold, including wealth, education, marital status, sense of “belonging”, relations with previous owners or with other landowners, and degree of investment in the land (Flintan 2011a).

and, in the case of Tanzania, common village lands. Others may require recognition and/or formalisation/registration either through already existing legislation or through the design of new measures. Of prime importance are those “hot spot” areas that are vital for rangeland users and also a priority for investors.

“New” tools for strengthening tenure

As suggested above, different sets of rights will exist within or beneath the landscape or rangeland layer. Ways to protect and/or formalise these different sets of rights include:

1. Delimitation of community land;
2. Rangeland management agreements across villages or other units;
3. Group leases;
4. Protection of “tenure niches”;
5. Other tools.

1. Delimitation of community land

Delimitation of community land is a process that shows the extent of and proves the existence of community-held land. FAO has developed a process called “participatory land delimitation” (FAO 2002; Hatcher 2009) and in Mozambique the process has been incorporated into legislation. This delimitation provides an extra layer of protection to the already formally recognised and community-held land or DUAT. Formally placing a line around the local community and transferring it to an official map also proves the many hundreds or even thousands of local rights that exist within its borders (see Box 4.2).

The process could go one step further and obtain a title document; however, this is a costly process and involves demarcation (detailed surveying and placing of cement markers round the registered limits of the DUAT). It is also possible to provide titles for individual plots of land within a DUAT (with the agreement of the community etc., as in Angola). For the majority of communities in Mozambique, the Delimitation Certificate provides enough security of tenure, for the time being at least, and under Mozambican law should provide enough

Box 4.2: Delimitation of community lands in Mozambique

Delimitation of community-held lands is being carried out in Mozambique as part of the process of providing communities/ individuals with land rights through a DUAT (land use and benefit right). This is a relatively quick and cost-effective technique: the state only has to survey and register the overarching unit. The process has been incorporated into the Mozambican Land Law. A “Certificate of Delimitation” is produced that details the limits of a given community DUAT; these are described in the accompanying maps and forms. The certificate confirms a given community as the land and resource management entity responsible for the resources within its borders, including conflict resolution. All land belongs to the state and cannot be bought or sold.

Delimitation is legally mandatory under the Land Law Regulations and it must be carried out using participatory techniques involving the whole community and its neighbours, otherwise the process is flawed and legally invalid. The Annex to the Delimitation Certificate provides forms that are signed by community representatives and other key actors, to show that each step has been correctly undertaken. These steps are described in Tanner et al. (2009).

formalised proof of rights to occupy. The costs of registering a DUAT covering roughly 10,000 households and delimitation amount to USD 10,000 including NGO salaries – without these, the cost could be brought down to USD 5,000–6,000. It is estimated that the costs of delimiting one plot of 2–10 hectares would be USD 400 (Tanner et al. 2009).

Some restrictions or clauses may be included in the registration. These might:

- Prohibit a customary group from selling its land except to another customary group or the state;
- Allow a customary group to enter into long-term leases with outsiders or individual members of the customary group;
- Prevent customary groups from sub-dividing their land into individual parcels that can be sold, except in a few circumstances.

However, it is rare to find examples of customary land sales being allowed, although there are some examples in the Asia-Pacific region. Even in these countries there are restrictions on the type and eligibility of purchasers of customary land. Customary groups have shown very little interest in permanently cutting ties to their land by selling it, so there seems little reason to allow it, particularly if provisions exist for long-term leases, which if properly supported by the state provide sufficient tenure security for people to borrow money, invest, and develop customary land (AusAid 2008).

2. Rangeland management agreements across villages or other units

The fragmentation of rangelands is reaching a critical point, with access to resources being

blocked and resources being divided up and privatised. The negative impacts of this are slowly being recognised and efforts are being made to a) re-join fragmented areas; and b) prevent any more fragmentation happening.

In Kenya, for example, many group and individual ranches (described in Section 1) are reconsolidating, with owners taking down fences and working together to jointly manage livestock and wildlife (Mwangi and Ostrom 2009). Organisations such as the Northern Rangelands Trust, African Wildlife Foundation, and Laikipia Wildlife Forum are supporting ranch owners in this process and acting as coordinators and facilitators of the agreements. However, it seems likely that these organisations have a greater concern for wildlife and creating larger areas for animals to roam rather than for encouraging a return to more mobile livestock herding.⁸

The experience of Tanzania and its village land use planning that provides rights to villages to use their land as common property has been described earlier in this paper. This system has been criticised for delimiting land into set zones, with boundaries that may restrict mobility for pastoralists and other rangeland users, so removing the flexibility required for many rangeland livelihood systems. However, what has received less recognition, and as such has rarely been implemented to date, is the fact that legislation in Tanzania also provides for inter-village agreements that can result in mechanisms to allow for the sharing of resources and movement across village boundaries. As such, if several villages in one territory or rangeland

⁸ Indeed, “whistle-blowing” suggests that the NRT has been pushing the establishment of conservancies without due attention to local communities, particularly pastoralists, and their needs and priorities. As a result, pastoralists have lost further access to grazing land and other resources. In some areas the further establishment of conservancies has been halted (MID-P 2010).

can plan and work together, it is possible that traditional land use systems that cross village boundaries, and might mean movement from one part of a territory or rangeland to another, can be accommodated.

Lessons from West Africa and the agreements that have been developed under conventions locales have stressed the importance of formalising and providing legal backing to these agreements (see Section 2). The legislation in Tanzania provides a framework for this to occur.

3. Group leases

In some parts of the world, including in Central Asia and in Europe, leases for land and resources are provided to pastoralist groups. These can be combined with private individual ownership of key point resources (or “tenure niches” – see below). In places as diverse as the western United States, parts of the Andes, Switzerland, and Wales, access to corporately managed summer mountain pastures is reserved for those who own adjacent private agricultural land at lower altitudes. It is suggested that such combinations of corporate/group and private land appropriation have applications in many other places.

UNDP’s Global Drylands Imperative (2003) suggests that group leases can provide greater protection, flexibility, and autonomy for customary tenure systems. Leases can be provided to well-defined, usually kin-based (though they could be area-based) associations of herders, who negotiate among themselves stocking rates, rules, responsibilities, and management objectives. The state retains overall ownership of the resource, while granting long (50-year) renewable leases to pastoralist groups under well-defined conditions as to the quality of use and providing an accepted

legal framework to settle disputes that cannot be resolved by the herders themselves. The group or association would obtain exclusive use rights over the pasture within its domain and would organise, monitor, and enforce pasture use among its members. Leases with a set of ecological benchmarks and periodic reviews eliminate the problem of group ranches, which drift towards sub-division and privatisation (as described earlier).

In Namibia, group leases have been provided through the conservancy programme, allowing residents of communal lands to form a local organisation, defined by a governing constitution, membership, and land area, and to apply to the government for user rights over the wildlife it contains. Since the late 1990s, the number of conservancies has increased rapidly to around 50. They now cover more than 14% of the country, are home to more than 200,000 people, and earn between USD 2.5 million and USD 3.1 million per annum. Key wildlife resources have recovered and illegal use of wildlife has fallen (Roe et al. 2009; Holden et al. 2008). Many of these conservancies cover areas inhabited by pastoralists and have large stocks of wildlife, which provide revenues from tourism and sports hunting. How easy it is to replicate the conservancy approach is debatable, however, as Namibia offers a particular set of enabling policy and legislative factors (including lack of corruption and willingness to allow communities rights to wildlife) that do not exist in the majority of other African countries. However, even here security of rights is not entirely assured (see Box 4.3).

Leasing to other stakeholders

When customary groups have clear tenure over their lands, then there should also be provisions for them to formally lease them to particular members or outsiders to use and so derive an

income from them. This is common practice in many customary lands in the Asia-Pacific region, where it is now common for land required by government to be leased rather than through voluntary purchase or compulsory acquisition. Leases can include terms and conditions to allow customary landowners to retain certain controls over the land for the term of the lease (AusAid 2008).

However, it is unlikely to be good practice to leave dealings in customary land in the hands of an unregulated market. Customary landowners are often not equipped to engage in such dealings in the same way as outside investors, especially foreign investors. They can lack knowledge and information as a result of limited educational opportunities, inexperience in doing business in the formal economy, and poor access to business

support services. Bad deals can cause conflict within the group as well as lead to land conflicts that have the potential to undermine the attraction of a country as a place to invest. It may be in the interests of all stakeholders therefore to ensure that members of customary groups do not enter into land deals that could cause tension or conflict.

The principle of **“free, prior, and informed consent”** has been developed as a benchmark in international and domestic law to protect customary groups in dealings with outsiders, including governments. In international law the principle is used in relation to the relocation of customary groups, the use of cultural and traditional knowledge, projects on customary land, or the introduction of new legislation concerning a customary group (ILO 2005).

Box 4.3: Rights under Communal Area Conservancies, Namibia

Clear legal rights to use and manage resources are given to community institutions in Namibia, avoiding regional government structures and the need for such structures to further devolve authority. Rather than being defined by artificial administrative units, which potentially force together people who would not normally cooperate, communities define themselves, enabling the development of cohesive social management units with incentives for individuals to cooperate.

The rights given to communities over wildlife are relatively strong. In the case of tourism, concessionary rights automatically go to a conservancy on registration by the Ministry of Tourism. Communities carry on their normal economic activities within a conservancy, and essentially wildlife and tourism become additional forms of land use. Many conservancies zone areas of land specifically for wildlife and tourism and, by the consent of members, settlement is either forbidden or discouraged in these areas.

The conservancy policy and legislation are flexible, with communities able to shape their conservancy according to local social and ecological conditions, and to choose their committees in a manner consistent with their own cultural norms. Communities have a stronger socio-political voice, through their recognition as democratically elected and locally accountable institutions.

However, communities face challenges with respect to security of tenure and control of access to resources. The current system of “open access” to communal land in Namibia, without giving secure and exclusive land tenure to a particular community, is a threat to the conservancy approach. Some protection for conservancies is provided in the Communal Land Reform Act of 2002. Land Boards, which were created under the Act, may not allocate communal land for leasehold in a conservancy if this is contrary to the management plan of the conservancy, and conservancies are represented on Land Boards. However, the Act does not provide sufficient group tenure for conservancies to exclude people from land set aside for wildlife and tourism (Holden et al. 2008).

4. Protection of tenure “niches”

As described in Section 2, customary institutions protect tenure “niches”, which could be specific individual camping sites, winter barns and animal shelters as found in central Asia, or water points, hayfields/enclosures, or trees found elsewhere. Traditionally these resources would have been controlled and secured through customary common property regimes. However, today this is becoming increasingly difficult to achieve due to an increase in individualisation and privatisation, greater competition over resources between people and livestock with growing populations and reduced access, and the introduction of new regimes such as government- or NGO-supported water points that demand water user groups and new rules and regulations.

However, the value of customary regimes is being recognised, and not least in proving more capable of supporting the different needs of resource users and in preventing conflicts. In southeastern Ethiopia, complex forest institutions exist for different tenure niches within the moist forest areas found there, including the determining of user blocks of forest (called ‘kobo’) and overlapping rights to use specific trees for beehives. NGOs are working with local governments in the area to formalise these arrangements as part of PFM agreements. In Australia, mechanisms exist whereby beekeepers can apply for a licence to place beehives on pastoral lands held by a group or individual as a leasehold, which, subject to a successful outcome, will be registered with the Department of Conservation and Land Management (<http://www.naturebase.net>).

5. Other tools

In addition, there are a number of other sources of property and/or access rights that might exist, including international treaties and laws, religious laws and practices, project (or donor) rules e.g. within projects, and organisational laws such as those made by user groups (Meinzen-Dick et al. 2005). In the past, these rules and regulations have been very much imposed, but it is slowly being recognised that usually “communities know best” and therefore these would be more effective if based on, if not actually designed by, rangeland users i.e. communities.

In some rangelands, forests and woodlands are already afforded protection as community forest reserves, under PFM (participatory forest management), for example. This can provide useful security whilst protection of the whole rangeland is being negotiated. Where forests and woodlands are not under such protection, it is an important option for communities to consider. It is likely also to double the potential compensation value of the area – as a community rangeland and as a protected forest area – should government or other parties persist in co-opting it (Alden Wily 2005a).

5

Structures: Multi-level institutions for the rangelands

In Section 4, alternatives and options for rangeland land use planning, management, and tenure at different scales and for different layers were suggested. But there is also a clear need for a functioning institutional entity or set of entities through which common (and individual) property owners may protect, control, regulate, receive, deliver, and use resources and distribute benefits (Alden Wily 2005a).

In multi-use landscapes such as rangelands, it is suggested that this can be achieved by working through a **“nested” governance system** accounting for different spatial scales, authorities, and functions and incorporating the overlapping and overlaying rights described above (Marshall 2008; Cash et al. 2006; Gibson et al. 2000 in Mwangi and Ostrom 2009; Niamir-Fuller 2005; Cousins 2007).⁹

To date, identifying and maintaining such a governance system across the different layers and scales of customary and statutory tenure regimes in rangelands has proved very challenging. Though many resources tenure regimes (customary or other) exist, they have often been unable to enforce regulations or protect the resources from encroachment. The first step in any discussions or decisions about governance systems will be to fully understand those that already exist as part of the understanding/learning phase of the

9 For a discussion on the notion of “nesting”, see Marshall (2008), who explores what can be learned from nested community-based governance systems for Australian ecologies that are very large but composed of meaningful units at multiple spatial scales.

processes described in Section 3. Tools such as “appreciative inquiry” have been found useful in this regard, particularly at a multi-user landscape scale.¹⁰

Institutions for the different layers of tenure regimes

This section explores alternatives and options for the types of institution (sets of regulations/rules, organisations, groups, etc.) that might be appropriate for the different layers of a “nested”, “hierarchical” governance system. In addition, it highlights key factors that appear important for the success of institutional development and good governance.

1. The rangeland, territory, domain, or landscape layer

It has been suggested previously that the largest and most encompassing layer of a “nested hierarchy of tenure regime” is the whole rangeland, territory, domain, or landscape/watershed. The appropriate institution for

10 “Appreciative inquiry” is about the co-evolutionary search for the best in people, their organisations, and the relevant world around them. In its broadest sense, it involves systematic discovery of what gives “life” to a living system when it is most alive, most effective, and most constructively capable in economic, ecological, and human terms. See: <http://appreciativeinquiry.case.edu/intro/whatisai.cfm>

governing this area could take a number of forms; some key characteristics are provided in Box 5.1.

There are risks in using the rangeland or landscape concept as a justification for centralised planning and in attempting to control the ways in which objectives are balanced. But as Fisher et al. (2005: 92) declare: “We are arguing for negotiated landscapes, not planned landscapes” – where the lower institutional layers of nested governance systems are provided with relative space, autonomy, and power to control and develop their resources as they see fit.

Government institutions

Some argue that government institutions are the most appropriate bodies for governing common pool/property resources (for example, in Ngaido and McCarthy 2005). Indeed, government assistance can be useful where cooperation between stakeholders is weak; the group of stakeholders is large with diverse interests; local institutions lack capacity; and where there are groups that are clearly discriminated against. In addition, any organisation (in particular one responsible for valuable resources) will need to be protected from co-option and manipulation by elites (Fernandez-Gimenez 2002).

Governments can improve the economic incentives for collective action and the participation of community members in the management of the commons. A state can give technical assistance to local groups attempting to improve and intensify resource management, encourage knowledge transfer and the dissemination of information, and play an active role in the transfer of basic skills. A state can also encourage income diversification and seek the involvement of the private sector, as well as provide security and the guarantee of

minimum livelihood protection for multi-use landscape users. This may include the design of contingency plans and the creation of safety nets in the case of droughts. If the government does not have the resources to carry out all these tasks, they can be contracted out to NGOs or private sector actors (Nicholson 2009).

Higher levels of government can facilitate the assembly of rangeland users in organisational meetings, provide information that helps identify the problem and possible solutions, and legitimise and help enforce agreements reached by local users. National governments can at times, however, hinder local self-organisation by defending rights that lead to over-use or maintaining that the state has ultimate control over resources without actually monitoring and enforcing existing regulations (Ostrom et al. 1999).

The close regulation of tenure systems by government may not be required, and legal frameworks can focus on procedural rather than substantive law. Procedural law would “specify the framework within which interested parties could legitimately put forward claims to resources, the administrative/legal institutions which should process claims, the criteria for choosing between opposing claims, and enforcement procedures” (Cousins 2002).

Flexibility can be maintained by the legal recognition and development of appropriate legal language. This entails developing local administrative and judicial institutions to manage common property that recognise temporary rights of usage, establish – through local dialogue and participation – the principles and guidelines for judging claims, create the means and procedures for enforcing rules, and develop appropriate conflict resolution mechanisms that fill gaps left by disintegrating

customary systems and inappropriate Western systems (Niamir-Fuller 2005).

Customary institutions (and land or pasture councils)

Others argue that it should be customary institutions which manage rangelands. They are better able to work out mutually beneficial arrangements for land users (particularly where traditional and local). They are closer to the communities who are directly deriving benefits from common resources and thus in a better position to influence their behaviour and provide a platform for voicing their opinions (West Africa: Williams 1998). Internally enforced contracts tend to be stronger than those enforced by outsiders (Swallow and Bromley 1992). Communities

have greater trust in institutions that they have some control or influence over. They tend to be more flexible, cost-effective, inclusive, and able to promote a more holistic approach (Marshall 2008).

Indeed, in many pastoral areas customary institutions still provide the most appropriate and capable governance structures, and in particular in places where the state apparatus does not exist or is in retreat. However, this does not mean that authority should simply be assigned to local users without ascertaining the range of uses and diversity of interests, or that customary governance institutions should be uncritically resurrected. First, it is vital to understand the current strengths and weaknesses of customary institutions, and how they may have changed;

Box 5.1: Key characteristics of institutions for governing multi-use rangelands

The key characteristics of institutions to govern multi-use landscapes/territories such as rangelands include being able to:

1. Accommodate different interests and include diverse individuals and groups (Fisher et al. 2005) with strong leadership and highly motivated leaders (Namibia: Atkinson et al. 2006; Tanzania: Kipuri and Sorensen 2008);
2. Instill a high level of ownership amongst stakeholders over management, decision-making, and benefit distribution (Namibia: Atkinson et al. 2006);
3. Enable meaningful negotiations between individuals and groups of stakeholders with diverse and competing interests and different levels of power to reduce/resolve conflicts (Fisher et al. 2005; Mwangi and Dohrn 2006), and avoid discrimination;
4. Support agreement and cooperation between land users, and collective actions (including willingness to invest) for shared and common goals/visions (see Section 4) (Namibia: Kirk et al. 2010; India: SA PPLPP 2009);
5. Make and enforce rules (discussed in more detail below) (Ostrom et al. 1999; Fratkin and Mearns 2003), including taking action if a community member transgresses an agreement (Namibia: Atkinson et al. 2006);
6. Manage resources through common property regimes (the key characteristics required for this are described in e.g. Ostrom 1994), including the authority to grant use rights (sometimes temporary) to secondary and tertiary users (Niamir-Fuller 2005), though there may be a need for individual rights to exist e.g. around urban areas;
7. Track and adapt to change (temporary or permanent, sudden- or slow-onset) in socio-political and environmental contexts requiring flexibility and diversity in design (Ngaido and McCarthy 2005);
8. Most importantly, institutions (customary or other) should be provided with legal recognition, status, and protection with clearly defined agreements and responsibilities and ability to enforce by-laws etc. (UNDP 2003; Botswana and Namibia: Atkinson et al. 2006; Acre, Brazil: Pires 2010; Tanzania: Kipuri and Sorensen 2008). The legitimacy to do so by all land users needs to be provided to allow them to function effectively.

how they can be best strengthened, adapted, or indeed replaced in order to deal with modern day influences; and how they can fit with other sets of institutions or the priorities of other stakeholders.

Legitimacy and accountability are not necessarily linked – traditional community decision-making institutions are often most legitimate in the eyes of local communities, but rarely have formal systems to ensure accountability and representation, for example with respect to women. Customary institutions may be inefficient, difficult to apply to modern administrative purposes, and extremely hierarchical or undemocratic. They may have been captured by elites or outsiders, would not perform in the public interest if given new powers, and might result in conflicts or inefficient utilisation of resources (UNDP 2003; Williams 1998).

Indeed, in Kyrgyzstan, it is suggested that too much trust in “traditions” by national and foreign policy-makers has meant the giving (back) of rangeland decision-making power to “traditional” grazing associations, without any discussion as to how this should be carried out or how issues of mobility will be addressed. This is threatening the sustainability of both the institutions and the rangeland (Jacquesson 2010).

As a result, it may be better to create new institutions to resolve problems of representation

and democratic principles, rather than ask a customary institution to change too much and to become weaker in the process.

Liz Alden Wily (2005a, 2005b) argues that ideally “customary domains” should be governed by elected or at least partially elected community Land or Pasture Councils (Alden Wily 2005a, 2005b, 2008b) charged by the community with the oversight and regulation of customary rights within the domains. This would also allow root title to be vested in these bodies as trustees on behalf of the owning community membership. In Iran, for example, pastoralists have developed a Council for Sustainable Livelihoods, a “new” autonomous organisation built upon traditional patterns (see Box 5.3). Alternatively, in participatory rangeland management (PRM), it is suggested that the governing body should be the relevant customary institution (assuming it still exists and holds appropriate authority/power) with the members of the group being the legitimised “owners” and/or managers of the land.

Co-management organisations

Experience from landscape approaches based on CBNRM and CCAs suggests a co-management organisation made up of different stakeholders, including local communities, government, conservation and development agencies/NGOs,

Box 5.2: The critical question for governance

The critical question for pastoral governance concerns the relationship between the formal institutions of the state – laws, government departments, local administrations – and the informal and partly traditional rules and social structures of pastoralists. Pastoral areas are unique in that customary authorities and traditional rules still dominate large areas of decision-making, having proved resilient and persistent. Formal government authority has struck an uneasy compromise with customary authority, and overlaps in its functions. But jurisdictions are ill-defined. Effective pastoral governance needs to be a mix, varying with local circumstances, of formal and informal institutions and rules, and this mix should move towards greater involvement and responsibility for strengthened informal institutions. The role of formal government should be to provide a framework within which customary local institutions and rules regulate everyday economic and political affairs. Often the state needs to encourage greater participation and democracy within local decision-making (UNDP 2003).

commercial actors such as tour operators, etc. The different stakeholders can provide different input and roles including decision-making, advisory, or executive, with responsibility for interpreting and implementing decisions within a broad framework provided by others. Preferably the members of the committee are elected, particularly those representing the community: it is unlikely to be able to have a totally elected membership from all the different stakeholder groups, however.

In Mongolia, Maria Fernandez-Gimenez (2002) discusses the opportunities of co-management regimes for the rangeland areas found there. She notes that the size and scope of territorial jurisdiction and the appropriate social scale for a rangeland co-management institution are crucial decisions, as is the inclusion of the multiplicity of distinct and overlapping or nested resources. Broader institutions (such as resident groups) can provide a valuable coordinating function as well as potentially serving as a dispute resolution mechanism of first resort for the management regimes nested within. They

can provide a means for herders to help define resource use rules, while empowering local government to enforce them, and enhancing the legitimacy of government actions through herder participation in decision-making. Co-management institutions also have the potential to perform additional functions, such as development of transportation or livestock marketing cooperatives.

Advisory councils or groups

There may also be a role for an advisory group at rangeland or landscape level. This could be linked to regional or local government (see Box 5.4) or be made up of a group of more technical experts for wildlife or rangeland management. Such a council or group can play an important role as an independent source of information and guidance for stakeholders, and in particular for local communities whose understanding of certain systems, legislation, or practices is low.

Box 5.3: Building new institutions in Iran

The Kuhi – one of about 20 sub-tribes of the Shish Bayli tribe of the Qashqai nomadic pastoralists of Iran – are currently engaged in participatory action research about their own sustainable livelihoods and the conservation of biodiversity in their landscape. This action research refers to a resource management unit comprising their summering and wintering grounds and their associated migration routes in between. As part of this, the Kuhi have held several workshops, and their first concern was to involve the whole community. One of the major problems identified was the breakdown of the traditional organisational strength of the tribes. They analysed their governance situation in some depth and decided to recreate their autonomous organisation, building upon traditional patterns but ensuring that these would be able to respond to modern challenges, including notions of participatory democracy. Extended negotiations led to the establishment of the Council for Sustainable Livelihoods of the Kuhi Migratory Pastoralists and its associated Community Investment Fund, which is now pursuing initiatives in each of the five categories of problems/needs identified by the sub-tribe. Such initiatives include support to animal raising, marketing and quality control for highly priced gabbeh rugs produced by women, health-care access, capturing of solar energy for various uses, access to legal support, and access to educational books and videos. The initiative that excited them the most, however, was the restoring of natural resources to their common property care and control (Feyerabend et al. 2004).

2. The village or district layer (based on government administrative boundaries)

The minimalist approach

A minimalist approach (Fitzpatrick 2005; Tanner et al. 2009) would simply state that “customary rights to land are recognised”. Certain areas would then be described in land registry maps as “customary land”. There would be no attempt to define which groups held what customary land, and no legal intrusion into areas governed by customary law. Customary authorities would determine all issues (internal and external) in a “tenurial shell” utilising customary processes. The only involvement of the state would be in establishing and enforcing the external boundaries of customary land. This approach provides flexibility inside the boundaries and opportunities for customary rights to evolve over time. It avoids difficult questions about state intervention, but provides communities with opportunities to control encroachment.

Examples can be found within forest management groups, where the boundaries have been demarcated and internal issues are regulated by the extent of conservation plans. Another minimalist example is found in Mozambique, with the demarcation of customary areas into DUATs (see Box 4.2).

However, under such an approach communities must bear all the costs of making, monitoring, and enforcing rules regarding rangeland management and they may not have the technical expertise. One solution is to enter into contractual arrangements for improving their resources. Under such contracts, as in central Tunisia and Morocco, state institutions, generally forest services, are entrusted with the responsibility for improving and managing the resource. After the improvement of the resource, rights-holders purchase grazing or cutting licences, and the revenues generated are used to pay off improvement costs. Theoretically, these ranges will revert to communities once improvement costs are recovered; in practice, however, such transfers have often not taken place (Ngaido and McCarthy 2005).

Working through government structures: Village Councils and Assemblies

In Tanzania, the two main organs of village government are the Village Assembly and the Village Council. Both of these play a central role in the village land use planning process. The Village Assembly comprises all the adults resident in a village; the Village Council is the main executive body of the community and is elected by the Village Assembly every five years. The Village Council must receive approval from the Village

Box 5.4: The Central Land Council in Australia

The Central Land Council (CLC) is one of four Aboriginal land councils in the Northern Territory established under the Aboriginal Land Rights (NT) Act 1976. Its mandate is to provide advisory and support services; it does not have the authority to do business on behalf of landowners. Instead, decision-making authority lies with land trusts, which act independently of the CLC. These trusts are managed by the landowners, and decisions on land dealings are made on the principle of informed consent among the owners. It is the role of the CLC to ensure that landowners are fully aware of the consequences of any land use agreement and of the options available to them. Experts can be called upon to assist with expressing the needs and wishes of Aboriginal people; assisting them to make traditional land claims; consulting with them about any proposed use of land; and assisting them to carry out commercial activities (AusAid 2008).

Assembly for many key decisions involving the use of resources. The further approval of the elected District Council must also be received for village by-laws. As much as possible, the whole village is involved in the development of village land use plans, which are approved and ratified by the Village Assembly and Council and the District Council. Once approval has been obtained, the villagers begin implementing the plans, demarcating the different land use zones with paint to mark certain landmarks (UCRT 2010).

Though legislation encourages Village Councils to work together on village land use planning, to date there have been few examples of this, particularly in the interests of developing cross-boundary inter-village agreements for use of resources.

Landowning groups or land trusts

If customary groups are to reach a point of negotiating access and sale of lands and to enter into legally secure transactions with outsiders, e.g. investors, then they may need to create a legal identity for themselves as a landowning group or as individual members of a landowning group (called "group incorporation" by Fitzpatrick 2005). How the group does this could be left to local structures, and some argue that incorporation should make as little change as possible to internal customary processes. A corporate structure could also allow for certain constitutional provisions, particularly relating to fairness of decision-making and distribution of benefits, to be made mandatory; and in this sense it goes at least some way to helping prevent internal abuses of power (Fitzpatrick, 2005: 460; Tanner et al. 2009).

Alternatively, the community could elect community members to a trust, which would be the body that would represent it in land-related

issues. Every trust is unique and will reflect the terms of agreement between the trustee(s) and the beneficiaries (the landowners), as well as the common law or relevant legislation (if any exists). Outsider investors can transact with the trustee(s) with full confidence that they are dealing with the legal owner(s) of the land. An example of land trusts in Africa can be found in Botswana, developed through a project working with the Ministry of Environment, Wildlife and Tourism (Taylor 2007). An alternative is where the state identifies key figures to represent the customary groups and who "hold legal title on behalf of their customary group" (the "agency" method, according to Fitzpatrick 2005).

Trusts tend to be flexible because they are created by agreement between beneficiaries – the customary landowners. However, they can also be open to abuse of power by the trustees and/or other interested stakeholders. An alternative is the "registration of individual customary landowners", which sounds good in theory but can result in inaccurate details on landowners and their customary systems, and fragmented landownership (AusAid 2008).

Land boards or commissions

The final option is to create land boards or commissions, state bodies that administer and manage community lands, with some local representation of customary authority included in the board. This model is found in Botswana, where the Land Boards allocate and manage rights, including to outsiders, "on trust for the benefit and advantage of the tribesmen of that area and for the purpose of promoting economic and social development of all the peoples of Botswana". Their primary duties are to allocate land within their jurisdiction, adjudicate disputes, implement policies for land use and planning, and collect leasehold rents.

The Botswana boards have evolved over time and each now consists of five elected members (Fitzpatrick 2005; Tanner et al. 2009).

However, problems remain, including potential exploitation and inappropriate state intervention. In Botswana this system has been used to deny rights to indigenous groups such as the Basarwa (San or Bushmen), ironically on the basis of the assertion that other “customary” rights apply in the area. Another criticism has been that Land Board decisions have tended to favour elite groups, particularly large cattle owners (Quan 2000 in Fitzpatrick 2005). In West Africa, pastoral representation in such commissions is low (see Box 5.5). Further problems include the promotion of individual rights over leaseholds, the destruction of collective norms and values, the ever-present problems of institutional capacity, and information gaps on land holdings, transactions etc. that risk infringements of customary rights.

Governance in practice: some key principles

Decentralisation and subsidiarity

Within any governance system, it is vital that power and authority to make decisions about, manage, and protect land and resources are delegated (through supporting policy and legislation) to the most appropriate and effective (efficient and accountable) institution or set of institutions (Sayer 2009; UNDP 2003; Namibia and Botswana: Atkinson et al. 2006).

Genuinely devolved and negotiated decision-making is essential for empowering people to manage resources (Fisher et al. 2005) and to take into account the multiple functions and heterogeneity of users of rangeland resources. The involvement of local levels is particularly important in order to capture the range of rights and issues (Mwangi and Dohrn 2006). If agreement can be reached between

Box 5.5: Land Commissions in West Africa

In Cameroon, a Consultative Commission is responsible at the level of district or arondissement for delimiting agricultural and pastoral zones, for defining the use of mixed zones, and for the control and litigation of agro-pastoral conflicts. The composition of the commission is prescribed by decree, and one member must be a pastoralist or a leader of pastoralists (IUCN 2011).

In Niger, the Land Code prescribes the creation of commissions foncières (land-use commissions) at all levels (regions, communes, villages) and a by-law defines their composition. However, these tend to be unelected bodies composed largely of civil servants (who are rarely aware of the complexity of pastoral systems) and, though they tend to include all professional associations, they are likely to have only one pastoral representative, usually chosen by the village authorities. These boards have the power to withdraw access to pastoral land if they consider it is not being put to good use. In one example, community representatives were chosen by village authorities rather than by communities. In reaction to this, some villages complained to the Secretary Permanent of the Rural Land Code and successfully defended the right to be represented by representatives chosen by themselves. Today the criterion for the selection of pastoralist commission members is that the delegating organisation really represents pastoralist interests (IUCN 2011; Hesse and Thébaud 2006).

stakeholders at this stage, then all are more likely to comply (Dietz et al. 2003).

Where local initiatives already exist, they need to be linked or embedded in larger institutional processes of decentralisation. For example, the “local conventions” in West Africa should be part and parcel of bigger land use planning processes. The decentralisation of land use plans (schémas d’aménagement de territoire) to local governments, for example, can enable this (Hilhorst 2008).

The devolution of power also needs to be accompanied by appropriate and adequate resources to function. This has not happened in Niger, where the functioning of commission members is hampered by lack of economic resources and competencies. Without adequate control, this leaves the system open to abuse and corruption (IUCN, 2011). Indeed, as long as formal survey and mapping, official supervision of adjudication, computerisation of records, and state-like bureaucratic procedures are required, costs and user fees are too high to encourage genuine devolution of land administration to the grassroots. Once simple models of community-based land administration are developed, tested, and adapted, they can be relatively easy to replicate at scale. Madagascar, Ethiopia, Benin, and Tanzania offer useful lessons (Alden Wily 2011).

Systems for rural land administration are slowly but surely being decentralised to more local levels and in some cases with fully devolved powers. Thus far, most of this reaches down only to county, district, cercle, or similar levels, which are remote from the numerous communities where land relations are in practice framed, organised, and sustained. A review of CBNRM processes in Africa concluded that, despite the rhetoric, few communities have been provided

with formal authority over lands and resources; conflicts and imbalances continue between local groups and more powerful actors; local governance institutions are not downwardly accountable to the community and benefits are disproportionately captured by local elites, with some conflicts between the development of locally accountable governance and traditional authorities (Roe et al. 2009).

The experience so far in rangeland management indicates a similar pattern where authority for decisions and tenure over land and resources have failed to be secured at the local level and for the primary land users and traditional managers – pastoralists and hunter-gatherers.

In Tanzania, for example, Village Councils vary in their ability to enforce laws and to oversee them. Collective provisions rely on the accountability of local institutions to pursue the community’s shared interests (see Box 5.6). And “for pastoralists and hunter-gatherers, the accountability of village governance institutions is often the key difference between whether or not local resources are secured and protected, or sold off and lost forever” (UCRT 2010).

As such, decentralisation in itself is insufficient, as it does not resolve the problems of authority, representation, conflicts of interest, etc. at the local level. For these reasons, decentralisation requires central government to take responsibility for providing the broad framework and principles underlying tenure, and for ensuring the transparency and accountability of local structures (Cousins 2002).

Power-sharing

Understanding and working with power relations is vital, no matter what type of institution exists or is established. Even in relatively benign political circumstances, such as in Uganda or Tanzania,

governments can be slow to relinquish power and, for example, retain control over dealings with investors. As described previously, many land users do in fact already have written rights to their land and resources within constitutions and legislation. However, they may lack the power of knowledge about such rights and/or the means to hold governments accountable for them. Despite this, there are increasingly examples of judicial action being taken – for example, the Karadje land-grabbing case in Niger (IUCN, 2011).

Legitimacy and accountability are not necessarily linked – traditional institutions are often most legitimate in the eyes of local communities, but rarely have formal systems been developed to ensure accountability and representation, for example with respect to women. New institutions may prove to be more democratic, but may not hold the power of group cohesion.

Communities are not bounded, homogeneous entities, but socially differentiated and diverse. Gender, caste, wealth, age, origins, and other aspects of social identity divide and cut across so-called community boundaries. Power is a feature of social relations, and demands negotiations. Institutions have multiple roles: for example, marriage and kinship exchange networks facilitate many other things besides mediating access to land. They are also dynamic, changing over time as social actors alter their behaviour to suit new social, political, or

ecological circumstances (Mearns et al. 1997; Amazon floodplains: de Castro undated). The social heterogeneity of the user group may affect collective action if there are distinct levels of authority, perception, trust, access to information, level of control, and reciprocity.

Ben Cousins (2007) suggests that one way of overcoming the “customs versus rights” polarity is to vest land rights in individuals rather than in groups or institutions, and to make socially legitimate existing occupation and use, or de facto rights, the primary basis for legal recognition. These claims may or may not be justified by reference to “custom”. Rights-holders would be entitled to define collectively the precise content of their rights and choose, by majority vote, the representatives who will administer their land rights (e.g. by keeping records, enforcing rules, and mediating disputes). Accountability of these representatives would be downwards to group members, not upwards to the state. Gender equality would be a requirement before legal recognition of rights could occur. This would not be based on individual titling, which has been so problematic in Africa, but rather a form of statutory right that is legally secure but also qualified by the rights of others within a range of nested social units, from the family through user groups to villages and other larger communities with shared rights to a range of common property resources.

Box 5.6: The difference of “accountability”

In Ololosokwan, a village in Tanzania where land use planning has been carried out, the Village Assembly is very active. In 2003 it demanded an audit of the Village Council’s use of tourism receipts, and then in 2007 it voted to discharge from office the entire Village Council and to re-elect a new one, due to allegations of corruption. Arshu village now posts information outside the village government office on how tourism revenues are used as one mechanism designed to encourage transparency. In some villages, however, communal revenues are not being used transparently and may be primarily benefiting individual village leaders (UCRT 2010).

Effective management and implementation

It is not only about the allocation of rights (the substance) but also about the rules and mechanisms for regulating access and use among multiple interests (Sayer 2009). This can rarely be achieved without social agreement on rules and regulations and how they are enforced. They need to be generated at the local level in order to fit with local needs. The development of by-laws can provide formal legitimacy to local rules and regulations.

Within management, special attention needs to be paid to conflict prevention and resolution, including identifying areas of potential conflict or hotspots (Uganda: Kisamba-Mugerwa et al. 2006; Dietz et al. 2003; Tanner et al. 2009); the sharing of costs between users and the distribution of revenues and benefits (Ngaido 2005; Binot et al. 2009); and monitoring and evaluation, which should be based upon the original visions, scenarios, and aims/objectives and should provide opportunities for shared learning with (and not around) local populations and other stakeholders at different levels of the landscape, on an ongoing basis (IUCN 2009; Fisher et al. 2005; Chitakira and Torquebiau 2010).

Communities are likely to find it difficult to

bear all the costs of making, monitoring, and enforcing rules and they may not have the technical expertise. To avoid the need for fencing, for example, collective tenure arrangements will rely on livestock producers working together to monitor and enforce boundaries to ensure exclusion of non-members (when necessary) (Nicholson 2009). However, as evidence from Afghanistan shows, when greater protection of rights is gained and conflicts with other users resolved, "local communities show an extraordinary level of commitment and action to community-based conservation management – including many sacrifices such as reducing livestock numbers, open grazing areas and the amount of forage ... collected..." (Alden Wily 2008b).

If users have some initial trust in others to keep promises, low-cost methods of regulating, monitoring, and sanctioning can be devised (Ostrom et al. 1999: 281). In rangelands where users move around to use resources, this can be a more difficult task. "Grazing management by cattle" should be avoided; rather grazing needs to be included as part of an integrated management of the whole rangeland controlled by the appropriate institutions (East Africa: Oba 2005 in Taylor 2007; Botswana: Atkinson et al. 2006).



6

Other important issues

Experience has shown that simply recognising and formalising land users' rights is not enough to ensure security to those rights. Land users require the ability to organise, and have rules and sanctions; to negotiate and defend their rights as "equals" (men and women); to advocate and lobby for change; and to develop and diversify their livelihoods through entrepreneurship, innovation, investments, and competitively entering the market (Tanzania: UCRT 2010; Namibia: Atkinson et al. 2006; Morocco and Niger: Ngaido 2005). This section will consider three important areas that require special attention and support: capacity building; advocacy, lobbying, and social movements; and gender.

Capacity building

Decentralisation can work for pastoral and agro-pastoral communities. But if they are to benefit, local communities have to appropriate the process and build their capacities to influence local government decision-making processes, particularly over land and other natural resources. To do this, they need a thorough understanding of the key legal provisions within decentralisation, pastoral, and other sectoral laws. More importantly, they have to understand the issues at stake, develop the capacities to hold local government to account over the manner in which local affairs are managed, and articulate a vision for rangelands in a manner that can be understood and accepted by policy-makers (Hesse and Thébaud 2006; Nori 2007).

In Cameroon, a local NGO, MBOSCUDA (Mbororo Social and Cultural Association of Cameroon) has used REFLECT¹¹ approaches to provide both men and women with opportunities to learn about their rights, laws, legislation, etc. (Fon 2010). In Tanzania, civic education on land rights, etc. and the building of capacity of local communities to defend those rights is an important part of support programmes in village land use planning facilitation (UCRT 2010).

Capacities also have to be built at other levels and among other actors. Critically, policy-makers and local government officials need to better understand the dynamics of pastoral environments, the complex but essential role that social and political networks play in the management of natural resources, and the central place of pastoralism as a viable system and major contributor to national economies, particularly in a context of increasing climatic uncertainty.

Weakened institutions need to be strengthened or the capacities of new institutions built up, allowing them to negotiate access for members in times of need and to develop reciprocal arrangements and manage resources. They need to be able to find common ground for divergent interests and perspectives, and to develop an agreed vision and goals. In addition, the mediation/resolution of conflicts, enforcement of regulations and agreements, and appropriation of sanctions will be important for continuing security

¹¹ Regenerated Freirean Literacy through Empowering Community Techniques.

and sustainable land/resource management (Morocco and Niger: Ngaido 2005; Mali: Crane undated; India: Lahiri 2010; Namibia: Atkinson et al. 2006). Institutions must have the capacity to monitor the effectiveness of their programmes, learn from their experiences, manage their knowledge, and adapt their programmes on the basis of this continued learning (Sayer et al. 2008; Ngorongoro, Tanzania: Kipuri and Sorensen 2008).

Land managers may also need to develop new skills such as dealing with invasive species and restoring degraded rangelands or woodlands. Capacity building can be integrated with participatory experiments on technical innovations, so that farmers and herders in the community not only address their natural resource management problems more effectively but are able to develop the social networks, institutional structures, and social problem-solving skills that enable them to address the broader sociopolitical aspects found in natural resource management (Mali: Crane undated).

Lobbying, advocacy, and social movements

Lobbying and advocacy have proved to be important tools for raising the profile of issues related to land tenure security and its infringements, gaining support from external parties, and raising necessary funds. If the profile of issues and organisations is increased, and a critical mass supports them, then it makes it more difficult for national and local governments to ignore them. The identification of allies in high places and the building of supporting networks can be important in this.

In Cameroon, customary land rights have been asserted through an award of the court that judged the appropriation of land customarily used by pastoralists as illegitimate (IUCN, 2011). It has also been demonstrated how community action, including that undertaken in alliance with supportive organisations, expands access even where legal frameworks are not supportive of collective rights (Fuys et al. 2008). An example

Box 6.1: Lobbying and direct action for change in northern Tanzania

In mid-2009, a Tanzania police field unit evicted pastoralists from a hunting block in Loliondo district that was allocated to a commercial company, Ortello Business Cooperation. Eight villages were burned down and the inhabitants chased off the land: over 200 Maasai bomas (fenced area including huts) were said to have been burned; women were raped; more than 3,000 people were left homeless, without food and other social basic needs; and more than 50,000 cattle were left without grazing and water. CSOs and NGOs are well established and networked in Tanzania and are given a relatively large amount of political space to advocate for land rights and lobby for positive change. On hearing of the incident in Loliondo, a number of these organisations and networks came together with representatives from the media and carried out a detailed investigation of the incident (FEMACT 2009). The incident was reported in the international press and in 2010 400 Maasai women made a formal protest by handing in their government party membership cards.

These are among the many activities in which communities, CSOs, and NGOs have been involved in northern Tanzania that have played a role in changing legislation, contesting and winning land rights, and turning challenges and threats to livelihoods to their advantage. A detailed description of these activities is provided in Nelson (2009).

is the establishment of the Pastoral Code in Mauritania, Niger, and Mali (Nori 2007).

Increasingly, pastoralists and other traditional land users are mobilising themselves to take action to defend their rights and to advocate for positive change (see Box 6.1). This might take the form of a core group of educated locals advocating or defending rights (often in response to encroachments on their land); the creation of a decentralised organisation, with regional and/or local sub-organisations that mobilise concerned livestock keepers and build solidarity and capacity in order to gain political influence; national networks; or the establishment of (self)-help organisations, which then formally register themselves as NGOs or cooperatives (IUCN, 2011; West Africa: Hesse and Thébaud 2006).

Pastoral associations can have a dual role. They can link local representative groups, through regions, to a national lobbying structure. They can also facilitate and educate people at grassroots level about the processes of democracy, especially the importance of voting and transparency about policies and investments (UNDP 2003: 22). In the Sahel, however, although pastoral civil society groups are beginning to occupy a prominent place on the development scene and are commanding an increasing proportion of development aid, they remain relatively weak:

“They lack the skills to articulate and defend the interests of their members, have difficulty in establishing a common front with each other or forging strong institutional links with other groups, and have limited financial resources and management skills. Almost exclusively established by an educated elite ... many organisations do not have a strong rural constituency and have weak links with customary pastoral authorities. By using many of these organisations as conduits for the implementation of rural service delivery, well-meaning northern donors and NGOs have to a certain extent diverted the attention of pastoral associations away from the need to address their internal institutional weaknesses (e.g. accountability, representation) and strengthen their lobbying and advocacy skills.”
(Hesse and Thebaud 2006)

Sometimes it may prove too politically sensitive to lobby and advocate for pastoral rights at the local level, i.e. where organisations and individuals are well known. As a result, pastoral organisations and/or NGOs may have greater influence and effect outside the area, and often work through an umbrella organisation to avoid being singled out (Northern Tanzania: Kipuri and Sorensen 2008). Influencing the policy environment requires long-term commitment and resources, involving different stages with different people. Alliances between organisations at national and international levels can have a far greater impact than can individuals. However, where governments are not open to pressure from civil society, quiet lobbying using personal contacts can be more effective, if limited in terms of representation and accountability (IIED 2002).

At national level, recent experience with pastoral lobby groups composed of elected

members of parliament from pastoral areas (for example, in Ethiopia and Kenya) is very promising. Significantly, some of these lobby groups encourage MPs from non-pastoral areas to join, so the lobby becomes one in favour of representation and development of marginal areas and not just a special interest group for pastoralists. Individuals may also agree to lobby for pastoralist causes in parliament (see Box 6.2).

Gender

Sensitivity to gender issues needs to be maintained throughout activities and processes related to land and resources. As explained in Section 5, communities are not homogeneous entities but are divided by social relations, including gender. This is reflected in the different ways that men and women use resources, their access rights, and their perceptions of tenure and resource security. Women and men have different needs and different types of assets at their disposal for meeting (or not meeting) those needs. As a result, their priorities for change will also be different.

Customary institutions tend to be dominated (at least, in public decision-making) by men. As a result, women's views, needs, priorities, and knowledge have often been missed, with interventions failing to give them adequate

attention. Under most customary tenure systems, women indirectly benefit by rights to land and resources being received through their husbands and other male relations, as a member of the clan or group. When formalisation of customary tenure systems has taken place, women's rights are often ignored, resulting in only men gaining from the formalisation process, and in some cases women losing out (a clear example of this are the losses incurred by women in the development of group ranches in Kenya – see, for example, Meinzen-Dick and Mwangi 2007; other examples can be found in Leonard and Toulmin 2000; Morocco: Steinmann 1998; Sudan: Larsen and Hassan 2003).

As a result, in many cases women are in a better position being outside such customary systems. And today many customary leaders are supporting more gender-equitable practices. A sticking point for many land reformists is that customary systems need to be changed in order that women can inherit land. This may be true, but then it is usually the case that not even men inherit land but rather the "right to access and use land". And where practices of virilocal marriage (i.e. the wife moving to the husband's area) are common, such inheritance rules make more sense if common property assets are to be protected.

This is not to say that women should not have more secure rights to access, use, and "own" resources, including land, but rather change

Box 6.2: Identifying individuals who can lobby/support marginalised groups

An example of this is the elaboration of the Recognition of Forest Rights Act in India: in the passing of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, a member of parliament belonging to a tribal community played an important role as the chairman of the Joint Parliamentary Committee. He was eager to address the issues of forest grazing by livestock keepers. Although many members of the committee objected, he was able to convince others about the role of livestock keepers in society, and ultimately the issue of grazing rights was included in the final bill (IUCN 2011).

needs to be carried out in a pragmatic and informed manner, taking into account the full reasons for customary practices, and the trade-offs required if change occurs. Lessons from Mozambique confirm this (see Box 6.3).

Pastoral women in particular are said to face a “double marginalisation”: as pastoralists and as women (Kipuri and Ridgewell 2008). Privatisation of rangeland resources has encouraged the spread of fencing and has increased concentration around population centres: as a result, access to areas where women can gather wild plants and wood for fuel, food, fibre, medicine, and other purposes has become

increasingly difficult (Namibia: Sullivan and Rohde 2002). Spending more time seeking fuel or other plant resources, or having to find the money to purchase fuel or water, means restructuring domestic activities by spending more time on producing items that can be sold to finance alternative purchases. Having to rely on husbands to provide cash for such items also reduces women’s control over resource access.

The sedentarisation of pastoralists has been directly linked to poorer nutrition (Sudan: Larsen and Hassan 2003). Sedentarisation also changes the roles that men and women play in pastoral livelihood systems (Flintan 2008). Often this will

Box 6.3: Protecting women’s land rights in Mozambique

In the case of Mozambique, women enjoy strong protection through the Constitution and the Land Law itself. In fact, the drafters of the Mozambican Land Law did listen to the concerns of the women’s lobby, inserting a key phrase in the article that says that rights are acquired by customary norms and practices: “so long as these do not contradict constitutional principles”. Other provisions can also be included in a legal framework that allows custom to work in favour of women. Thus, when the law recognises rights acquired through custom as being equivalent to the state DUAT (see Box 4.2), the rights that women acquire through marriage and by being members of customary groups are also DUATs. They are then subject to the full range of constitutional and other guarantees, like any other DUAT.

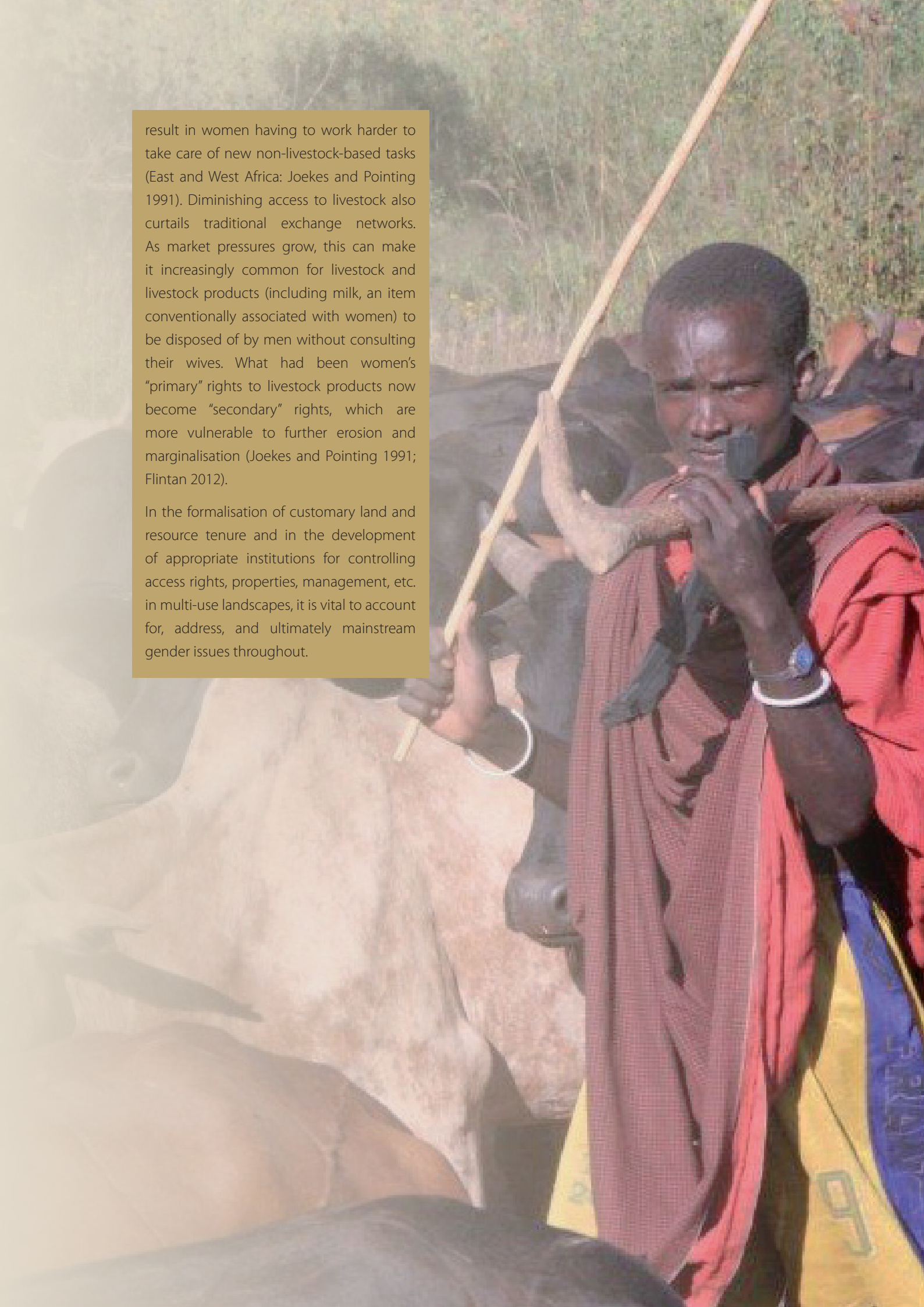
Other legal principles, such as co-titling, state that all community members – including women – have an equal say in how land management decisions are taken. This offers women the possibility to assert some control over rights and resources within the community and how they are managed. Like any other community member, a woman can also elect to take her DUAT out of community jurisdiction and ask the public land administration to register it in her individual name. The fact is, however, that many local leaders do not know about constitutional principles or the international conventions that protect women. And even if they did, they are unlikely to apply them in place of local norms.

Giving individual titles to women also raises questions about how best to use scarce land administration resources at a time when community resources as a whole are under threat from external pressures. Failing to protect the broad sweep of local rights within the single DUAT of a community, through delimitation, would leave all local land, not just that of local women, at serious risk of capture by other interest groups. Moreover, the Local Community model in the Land Law is intended to devolve certain aspects of land and natural resources management to local leaders, and this is to be welcomed in the overall context of decentralisation and establishing a more democratic system of governance and development planning. Taking away the devolved power of local (male) leaders is therefore not a solution.

Changing the attitudes of community “land administrators” and local conflict resolution specialists – chiefs, community court judges, even traditional healers – will protect women far more than individual titling programmes. The participatory approach built into the delimitation process offers many opportunities for doing this (Tanner et al. 2009).

result in women having to work harder to take care of new non-livestock-based tasks (East and West Africa: Joeke and Pointing 1991). Diminishing access to livestock also curtails traditional exchange networks. As market pressures grow, this can make it increasingly common for livestock and livestock products (including milk, an item conventionally associated with women) to be disposed of by men without consulting their wives. What had been women's "primary" rights to livestock products now become "secondary" rights, which are more vulnerable to further erosion and marginalisation (Joeke and Pointing 1991; Flintan 2012).

In the formalisation of customary land and resource tenure and in the development of appropriate institutions for controlling access rights, properties, management, etc. in multi-use landscapes, it is vital to account for, address, and ultimately mainstream gender issues throughout.



Key points

This paper has sought to draw out some of the lessons learnt from good and bad practice examples of recognising and formalising customary tenure. Though there might not be a “best practice model” for this (as Fitzpatrick 2005 suggests), there are many examples of different systems and components that provide a more participatory and ultimately empowering approach that has had some success in securing rights for rangeland users. Lessons from these suggest that the following points should be considered a priority in any further developments of processes and mechanisms to increase land and resource security in the rangelands:

1. First and foremost, governments must start upholding the rights that rangeland users already have (i.e. within constitutions and legislation), and be prepared to support the provision of future rights: until this occurs, no matter what type of tenure pastoralists and other rangeland users are governed by, they will always be vulnerable to loss of land and resources. Governments can be held accountable for such rights through administrative and court procedures, and political demonstrations to raise awareness of deficiencies. This has been a starting point for many of the successful land rights movements around the world. Some suggest that, despite the risks of such movements (including possible loss of life), they are necessary for creating a critical mass that has more power and can gain greater visibility of the issues and, ultimately, positive change. The AU/ECA/AfD Framework and Guidelines on Land Policy in Africa (2010) and the AU Policy Framework for Pastoralism in Africa (2010) offer some space for leverage and influence “from above”.
2. A “nested hierarchical” and pluralistic tenure system offers the greatest scope for addressing the needs that rangeland users have for accessing large geographical areas to access resources that vary in time and space (in particular in more dry and variable areas). It also provides flexibility for incorporating and recording the complexity of different overlapping dynamic and shifting rights systems that exist in order to control access and to use and manage those resources. An example of such a system (in a

Figure 7.1: Landscape/territory/rangeland/domain: under authority of land board, co-management group, community/customary institution, or other



Rangeland or landscape (domain, territory or other) where access to land and resources are governed by land board, co-management group, customary institution or other.

Village common grazing land or forest where access to land and resources are governed by village assembly, village council, community grazing association, customary institution or other

Individual land holdings managed by individual households. Lease or use rights may include agreements to allow access to secondary users.

Tenure 'niches' such as a tree or a well, which may exist on village land or individual holdings, for which access agreements would have been made. Governed by individual, resource water group, customary institution or other.

simplified form) is provided in Figure 7.1.

3. The development of such a system should be guided by a clear framework/process for tenure and institutional development, which indicates key stages/steps, tools/mechanisms, roles and responsibilities, and the required outputs, including customary and statutory structures and mechanisms for obtaining land/resource tenure security. The development of by-laws may be an important part of this. The system can learn/build on the systems described in Sections 4 and 5. It may be that in some cases such a system could be developed under current policy and legislation; in others a new legislative framework will be required.
4. Registration (though not necessarily titling) will be required for at least some of the tenure layers of such a nested hierarchy. It may be the case that customary institutions are strong enough to control and manage the more detailed tenure systems and niches within a territory or rangeland; however, the rights to that territory or rangeland itself need to be formally protected. As Liz Alden Wiley (2005a) suggests: "All it takes is for the law to declare, for example, that a fully-described and signed off boundary by all parties concerned is the primary legal evidence of the boundary, and one that has to be upheld by the courts." As such, an agreement does not have to detail every right to every individual, though it does rely upon the courts upholding the overall rights.
5. A practical starting point for many communities, and one that does not have to wait for facilitating policy and legislation, can be the mapping and defining of community resources, including boundaries, which will produce a visual inventory of what is more commonly held only in people's minds and transferred orally. This should be completed at a scale that reflects the territorial use of land and resources as well as the common properties found therein. Once this map and accompanying description have been produced, they can be used for a number of purposes, including the initiation of discussions and negotiations on land rights. Delimitation of the boundaries would be the next step in the process. These processes should first and foremost focus on the most vulnerable areas of land/resources: those areas of greatest importance to community livelihoods and/or to external interests – the "productivity hotspots" or "key-sites".
6. The building (or rebuilding) of appropriate and effective institutions that can be considered legitimate, accountable, and transparent is likely to be the most challenging and important part of developing a sound governance and tenure system. This will include addressing and working through different power relations at all levels; changing mindsets, values, and understandings; facilitating negotiations and reaching consensus; and developing mechanisms for protecting tenure that can and will be enforced. The building of effective institutions can be a long and extended process and the commitment of all stakeholders to invest in long-term positive change is crucial. It will require ongoing monitoring, checking, and redeveloping as power relations shift between old and new actors, and priorities change.
7. Supporting activities around the (re)building of institutions is of great importance and is likely to be a determining factor in the success of the tenure system(s). This includes capacity building of all actors, but particularly of local communities to better understand and defend their rights. This will also involve advocacy, lobbying, networking, and, if necessary, direct action and protest.

8. It is vital that the development of tenure systems and land use planning in rangelands is carried out as part of larger development processes at national (even cross-border) and local levels. Issues related to land and resources in the rangelands and the livelihoods that depend upon them cut across government sectoral departments. Such departments must work together on an integrated approach to rangeland development, of which securing rights to land and resources is one (but a very important) part.

9. International aid priorities and conditionality should focus on land tenure and administrative reform, including community-led administration systems. In particular, this should focus on those areas that are most at risk and likely to cause most damage to local livelihood systems. This would include much of the commons and, in particular, rangelands.

On to the learning initiative

This scoping paper has brought together much of the current thinking and suggestions about how to move forward concerns about formalising customary land and resource tenure in the rangelands. The critical importance of the issues raised is growing daily as rangelands and their resources continue to be degraded, destroyed, appropriated, and encroached upon. Alternatives and potential solutions have been suggested, based on experience and good practice in rangelands and other socio-ecological systems. The further exploration of these alternatives and solutions will form the basis of the learning initiative planned for ILC members and partners taking place in West and East Africa and the Horn of Africa over the coming year.

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Appendix 1: “Rangeland” (territory, landscape, domain) approaches for land use planning and formalising customary access and tenure in rangelands

Approach/organisation(s)	Rationale	Key steps	Key outcome(s)
<p>Participatory and Negotiated Territorial Development (PNTD) – FAO (FAO 2002; Hatcher, 2009)</p>	<p>Results in concrete answers to the challenges of improving trust and credibility among social actors; strengthening local cohesion to improve resource use and management; and promoting systemic territorial development and management through conceiving the territory as an arena for dialogue and negotiation.</p>	<p>Phase 1: Views: understanding the actors and the territory as a social product This process involves qualifying the territory and conducting an analysis of actors and institutions to understand the issues at stake and their causes and interdependencies. Using participatory tools and methods ensures that the process implementation is stimulating for social dialogue.</p> <ul style="list-style-type: none"> » Step 1: Rationale of the required intervention » Step 2: The actors of the territory » Step 3: Historical analysis » Step 4: Analysis of the territory <p>Phase 2: Horizons: dialogue and proposals Alternative scenarios are developed and an assessment of alternatives is carried out using such tools as Social Multiple Criteria Evaluation.</p> <ul style="list-style-type: none"> » Step 5: Outlining coherent and feasible proposals for territorial development » Step 6: Accompanying the participatory process and supporting social dialogue <p>Phase 3: Negotiation process: seeking consensus for the development of the territory</p> <ul style="list-style-type: none"> » Step 7: Articulating a continuous multi-level, multi-actor dialogue on territorial issues » Step 8: Negotiation at different levels and around various themes. 	<p>A Social Territorial Agreement can result in (among other things) conflict resolution, a territorial development plan, the delimitation of territorial boundaries taking into account customary rights, and/or a new land tenure law. The agreement reached as a result of the negotiation process should define all the prerequisites (e.g. human, physical, social, and financial resources), the instruments, and the roles and responsibilities required for the implementation of a Social Territorial Agreement.</p>

Approach/organisation(s)	Rationale	Key steps	Key outcome(s)
<p>Participatory Community Development Plan (CDP) – ICARDA, IFAD, Arab Fund for Economic and Social Development, IDRC (Ne'zaouli et al. 2007)</p>	<p>Provides socially inclusive community-led solutions to cope with desertification and land degradation in the Maghreb drylands and to improve the development and livelihoods of local communities.</p>	<p>Step 1: Community characterisation (learning phase)</p> <ul style="list-style-type: none"> » Preliminary tasks » Exploratory visit » Introduction of the project to the community » Development of community map » GPS plotting of community and toponymic district boundaries » Informal surveys and description of production systems » Survey of social, land tenure systems and uses » Entry of survey and GPS data » Data analysis » Development of the community “knowledge book” » Validation of the “knowledge book” by the community <p>Step 2: Participatory planning</p> <ul style="list-style-type: none"> » Validation of the “knowledge book” » Participatory diagnosis » Classification of problems » Recognition/validation of problems » Identification of solutions » Setting priorities » Preparation of the initial development plan » Drawing of the development vision map <p>Step 3: Promotion of local institutions/community-based organisations</p> <ul style="list-style-type: none"> » Inventory of existing local institutions » Analysis of the mandate and roles of each institution » Analysis of the decision-making process » Identification of improvements needed to the current decision-making process » Development of methodologies to formalise local institutions 	<p>A series of Community Development Plans and their implementation.</p>

Approach/organisation(s)	Rationale	Key steps	Key outcome(s)
<p>Participatory Rangeland Management (PRM)</p> <ul style="list-style-type: none"> - Save the Children US, FAO, NRM Technical Working Group Addis Ababa (Flintan and Cullis 2010) 	<p>A land use planning and management tool for pastoral areas that provides guidance to decision-makers in a) the inclusion of interests, positions, and needs of pastoralists specifically; and b) in developing a suitable and legitimising process of communal land and resource tenure that fits with priorities of pastoralists as well as government bodies.</p>	<p>Step 4: Participatory programming</p> <ul style="list-style-type: none"> » Feasibility studies for activities recorded in the initial development plan » Presentation, validation, and adoption of the adjusted activities of the initial development plan » Participatory programming of agreed upon activities » Synthesising and formatting the annual work plan » Discussion of the implementation procedures for the annual work plan <p>Step 5: Implementation of CDP and monitoring and evaluation</p> <p>Programme implementation meetings</p> <ul style="list-style-type: none"> » Monitoring the implementation agreement » Monitoring the CBO's performance » Assessment of impact indicators » Adjustment of the multi-annual development plan and preparation of the next annual budget plan. 	
		<p>Stage 1: Investigating PRM</p> <ul style="list-style-type: none"> » Step 1: Identifying rangeland resources and users <p>Stage 2: Negotiating PRM</p> <ul style="list-style-type: none"> » Step 2: Setting up or strengthening rangeland management institutions » Step 3: Defining the rangeland management unit and preparing the rangeland resource assessment » Step 4: Developing the rangeland management plan » Step 5: Establishing the rangeland management agreement <p>Stage 3: Implementing PRM</p> <ul style="list-style-type: none"> » Step 6: New roles for communities and rangeland management advisors » Step 7: Arresting and reversing declining rangeland management productivity » Step 8: Participatory monitoring and evaluation 	<p>The customary institution or community rangeland management group is legally enabled to oversee the sustainable management of the rangeland unit. This is enabled by and dependent upon a negotiated and documented, legally binding rangeland management agreement.</p>

Approach/organisation(s)	Rationale	Key steps	Key outcome(s)
<p>Community-Based Pasture or Rangeland Management (CBPM or CBRM)</p> <p>– FAO (Alden Wily 2008b)</p>	<p>A process to improve management of community and public pastures and to systematically resolve inter-community disputes among settled communities as to ownership and control of local pastures.</p>	<p>Stage 1: Getting prepared (more detailed steps provided in Alden Wily 2008b)</p> <p>Stage 2: Learning enough to begin</p> <p>Stage 3: Understanding the pasture</p> <p>Stage 4: Seeing the pasture itself</p> <p>Stage 5: Deciding what to do next</p> <p>Stage 6: Helping villagers set up the pasture management system</p> <p>Stage 7: Helping to resolve access and boundary conflicts</p> <p>Stage 8: On-site boundary agreement</p> <p>Stage 9: Laying the basis for monitoring</p> <p>Stage 10: Facilitating implementation</p> <p>Stage 11: Mapping the pastures</p> <p>Stage 12: Formalising custodianship</p> <p>Stage 13: Helping custodians deal with pressure</p> <p>Stage 14: Sharing experiences and moving forward</p>	<p>Areas of pasture and different types of pasture mapped. Pasture management system set up and functioning. Pasture Council established. Custodianship of “owner”-managed pastures legitimised – Letter of Custodianship.</p>
<p>Communal Domains</p> <p>(Alden Wily 2005a)</p>	<p>Formalisation of communal domains (or “territories”) is necessary in order to protect the different individual and common property regimes found within.</p>	<p>Stage 1: Committing to the approach</p> <p>Stage 2: Delimiting the Communal Domain by a representative Boundary Committee</p> <p>Stage 3: Securing support from seasonal rights-holders</p> <p>Stage 4: Establishing modern customary land management – Community Land Council (acting as trustee owner on behalf of community membership) and as formal Land Administrator responsible for land use planning and regulation of access and use</p> <p>Stage 5: Securing (or refining) policy and legal support, allowing registration of Communal Domains and Common Properties found within</p> <p>Stage 6: Registration of Communal Domains</p> <p>Stage 7: Simple land use planning and regulation e.g. zoning</p> <p>Stage 8: Restoring wrongly appropriated properties</p> <p>Stage 9: Formalising common properties</p> <p>Stage 10: Establishing community-based land dispute resolution mechanisms.</p>	<p>Register of “customary domains”, detailing registration of common rights over domain, as well as different tenure regimes found within. Community-derived/elected land administration body legalized.</p>

Approach/organisation(s)	Rationale	Key steps	Key outcome(s)
<p>Community Land Areas (CLAs) – USAID (Alden Wily 2005b)</p>	<p>For communities to identify their land areas for future registration as locally-owned land.</p>	<p>Stage 1: Mobilising the community</p> <ul style="list-style-type: none"> » Activity 1: Introducing the approach » Activity 2: Describing the Community Land Area » Activity 3: Appointing the Boundary Committee <p>Stage 2: Walking and agreeing the boundary</p> <ul style="list-style-type: none"> » Activity 1: Getting ready » Activity 2: Walking and agreeing the boundary » Activity 3: Recording the boundary description » Activity 4: Reporting back to the community » Activity 5: Preparing the record for mapping and registration <p>Stage 3: Formalisation of the Community Land Area</p> <ul style="list-style-type: none"> » Activity 1: Securing confirmation that the boundaries are agreed » Activity 2: Mapping the boundary of the CLA » Activity 3: Provisional registration of the CLA <p>Stage 4: Establishing the Community Land Council</p> <p>Stage 5: Land Use Planning in the CLA</p> <ul style="list-style-type: none"> » Activity 1: Understanding the CLA » Activity 2: Action planning <p>Stage 6: Managing nomad entry into CLAs</p> <p>Stage 7: Identifying non-customary land occupation</p>	<p>A formally delimited and recorded boundary around a CLA, mapped and registered based on village or tribal area. Boundary description and map registered by County Land Office. Establishment of a Community Land Council. Land use plan developed.</p>
<p>Rangeland Co-management e.g. CCAs (e.g. Borrini-Feyerabend et al. 2004)</p>	<p>Communities are the best managers of their resources and depend upon them for their livelihoods. Therefore they should be given the right to manage and use resources according to an approved management plan.</p>	<p>Step 1: Organising</p> <ul style="list-style-type: none"> » Developing a management partnership <p>Step 2: Negotiating and building consensus</p> <ul style="list-style-type: none"> » Developing a management agreement (including project contracts, letters of intent, local by-laws) and management plan (written or non-written including conditions enabling sound management, objectives, priorities, expected results, recognised relevant actors, functions, responsibilities, entitlements) <p>Step 3: Implementing</p> <ul style="list-style-type: none"> » Setting up one or more co-management organisations » Adaptive management <p>Step 4: Learning by doing.</p>	<p>A management partnership is defined between stakeholders. A management agreement and plan are developed.</p>



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Our Mission

A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

Our Vision

Secure and equitable access to and control over land reduces poverty and contributes to identity, dignity and inclusion.