



# State-Sanctioned Land Grabs in Isiolo County

By Halkano Boru



Cabinet Secretary Farida Karoney's [Legal Notice No. 150](#) of 27 August 2019 on the adjudication of community land in Isiolo is a cynical move to legalise the grabbing of prime grazing land belonging to pastoralist communities. The order goes against the spirit of the 2010 Constitution and opens the door to more land grabbing.

Pastoralist groups have since independence borne the brunt of discriminatory land laws that do not place pastoralism as a means of livelihood on the same footing as agriculture, for instance. Land laws passed under the 2010 Constitution, and subsequent legislation, while imperfect, have attempted to address some of these baked-in historical disparities.

## Community Land Act

The primary legislation governing land in Kenya is the country's Community Land Act that was passed in 2016, and the regulations that came into effect in 2018. The Act stipulates that community land in pastoral territories is available to those communities for livestock grazing. The Act also clarifies that registered communities "may reserve special-purpose areas, including farming areas, settlement areas, community conservation areas, access and rights of way, cultural and religious sites, urban development, or any other purpose as may be determined by the community."

Communally held land is lawful property and laws similar to the Community Land Act of 2016 apply in Mali, Liberia, Malawi, and in Tanzania where 60 per cent of the land is community land. The

Community Land Act may not be the best fit for the pastoralist model of land use and may disempower weaker groups. Still, it does safeguard community land better and enables direct compensation to the group.

However, the Ministry of Lands has yet to carry out public awareness campaigns to sensitise the communities concerned about the need to register their land. There are no equipped offices on the ground and nor has the ministry sent in registrars to undertake the process. Yet community land continues to be expropriated by public institutions and private individuals in complete contravention of the law and in the total absence of consultations with the local community. A trifecta of unengaged elites, a ministry unwilling to involve the community and wildlife conservancies with competing interests have combined to push pastoralists off their land.

### **Customary land management**

The dominant narrative is that pastoralism and pastoralists are the source of land degradation and wildlife decimation. That pastoralists have been pushed off their land to make way for wildlife conservancies and to force changes in land use and management is not part of this narrative that is pushed by the state and other powerful interests.

One of the proposals advanced to diffuse the tensions between wildlife conservation and pastoralism is for the local pastoral communities to form [community conservancies](#) in partnership with wildlife conservation groups. The claim is that this approach ensures that the land remains in the possession of the community and that it also benefits directly from wildlife conservation activities, with the money raised through conservation tourism returning to the community thus creating a virtuous cycle. However, in practice, things never work this way. Because of the power imbalance, the community is excluded from the decision making process which is exercised top-down by the conservation groups.

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An elder from the Borana community stressed the importance of coexisting with wildlife and explained that pastoralists move strategically, avoiding disrupting wildlife corridors and changing migration routes if necessary in order to avoid conflict. The community's grazing patterns and habits have been passed down through the generations from time immemorial; wildlife is left to drink from their wells in the night-time and to graze on their pastures unencumbered. They show great respect and deference to local wildlife by naming their children and their locations after the wild animals and the tree species that are found there.

The Borana pastoralists of Isiolo have established the *Dhedha*, a customary institution that manages the common pool of resources and ensures that the community uses the rangelands sustainably. The *Dhedha* system provides directives on where to graze during the wet season, the mid-season, and the dry season to avoid pressure on the rangelands. Reciprocal resource agreements are also a common feature of the pastoralist traditions. These govern the use of shared resources, making one community's resources available to a neighbouring community, particularly during times of drought or hardship.

### **Wildlife conservancies**

According to the Wildlife Conservation and Management Act, 2013, a "wildlife conservancy" is "Land set aside by an individual landowner, corporate body, group of owners or a community for

purposes of wildlife conservation following the provisions of this Act". Following the enactment of the Act, wildlife conservation is now a recognised form of land use. In Isiolo County, the land is held communally in trust for the people by the county government and access is governed by complex sets of "[overlapping rights that are continuously contested and re-negotiated.](#)"

### **Pastoralist protests**

Pastoral leaders asked the government in a public statement to address land management problems and called for the legal recognition of their local institutions and the community laws governing biodiversity conservation.

On 2 May 2019, Isiolo residents held [protests](#) demanding that the County Assembly ban the Northern Rangelands Trust (NRT) from undertaking conservation activities in Isiolo County and calling for the cancellation of all existing land deals between the Isiolo County Council and the NRT. The making of these land deals sidelined the traditional resource governance structures that were in place well before conservancies were created. The residents also asked the government to address the [alleged extrajudicial killings](#) of community members by the NRT in the name of conservation.

### **Disengaged elites**

The elites who dominate policy forums in Nairobi do not understand the consequences suffered by the pastoral communities or they overlook pastoralists because they feel that pastoralism is not sustainable. They do not understand that sedentarising pastoralism will disenfranchise the communities living in northern Kenya and create an unending resource conflict.

There should be a balance between maintaining the already existing livelihoods and implementing megaprojects such as the Lamu Port-South Sudan-Ethiopia-Transport ([Lapsset](#)) project in the rangelands. Instead, policymakers are placing themselves strategically to benefit from the projects rather than protecting pastoralism.

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Land adjudication is the megaphone that is heralding the dismantling of the pastoralist way of life and wildlife conservation is a ploy to sedentarise pastoralists. Both have a common characteristic — securitisation and territoriality. And both will use armed force to enforce illegal land adjudication notices to ring-fence the land, locking out the lawful owners/community.

However, sedentarisation will affect everyone because the livestock market system is highly dependent on pastoralism. The pastoral livestock sector is worth over US\$800 million and provides more than 80 per cent of the meat consumed in the country. Disrupting pastoralism will lead to an increase in the price of meat and meat products.

### **A new conservation model?**

Conservation in modern Africa is founded on a neo-colonial premise, one that is centred on conquest and land acquisition by the elites and promoted by a high-value, market-based conservation model that is often supported by "aid" programmes.

Conservation in northern Kenya is not just about wildlife and its protection; it is part of a much [larger political drama](#). Appointments to the boards of organisations such as the Kenya Wildlife

Service and the NRT can be [highly political](#). Leaders of conservation organisations sit on various influential global boards, where power can extend well beyond the borders of a single conservancy, influencing development policy agendas, and aid and charity funding.

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It is becoming increasingly difficult for pastoral communities to cope with new challenges such as mass internal/transboundary migration, political marginalisation, megaprojects (e.g. LAPSSET) and *de facto* land privatisation. Compounding these issues are the general inefficiencies of the government in implementing existing policies and the persisting practice of imposing development with insufficient prior consultation with local communities and their leadership structures.

Pastoral communities are calling for the enactment of laws governing private wildlife conservation to protect community lands throughout Isiolo County. Therefore, a new conservation model must successfully incorporate traditional indigenous land governance strategies and bring into full effect the legal protections for pastoralists through collaborations between INGOs, conservancy organisations, national governments, county governments, and local engagement. Community-based organisations, advocacy groups, elders, women, and — mainly — [youth](#) groups must be central to such an initiative.

The recent protests in Isiolo and the [violent conflicts](#) over land rights on Kenya's wildlife conservancies in Laikipia County in 2016-2017 are a manifestation that pastoralists want a seat at the table — and to be heard.

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