

Rules of the range Natural resources management in Kenya–Ethiopia border areas

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Key messages

- The management of pastoral mobility is key to the management of livestock, of the rangeland and of community relations in the Horn of Africa. Agencies working with pastoralism cannot look at any one of these issues in isolation, or through purely technical or sectoral lenses. They need to understand the livelihood system institutionally: who makes decisions about access to the range, and how these decisions are enforced.
- One of the causes of conflict and rangeland degradation is the erosion of these institutions, which have been undermined by the lack of recognition of pastoral land rights by states in the Horn. Addressing the symptoms without analysing their causes has led to disappointing progress.
- Development actors have been involved in creating new institutions, such as peace committees, which are taking decision-making power away from customary institutions. Development actors have a responsibility to understand how these changes affect power relations between pastoralists and the state, between different pastoralist communities and internally within the communities involved.

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Pastoral areas in the Horn of Africa are frequently seen as a region of poverty and constant crisis, where repeated rain failures leave millions of people dependent on food aid. The long-term erosion of pastoralists' resilience is ascribed to various causes: a degraded range, the loss of key grazing lands, increasing population pressure and conflict. But pastoralism is also a modern industry, bringing in hundreds of millions of dollars each year from a thriving international trade, creating an increasingly commercialised livestock-owning class coexisting with an ever poorer majority. This presents a dual challenge. How can this vital economic sector be supported, at the same time as supporting the majority of pastoralists to remain independent, with resilient livelihoods?

For three years, the Humanitarian Policy Group (HPG) at the Overseas Development Institute (ODI) has been working with CARE International's RREAD programme in Ethiopia and Kenya, studying the resilience of pastoral livelihoods and the impact of interventions to

support them.¹ HPG's latest research, which focuses on cross-border mobility, has led to the conclusion that development actors (both states and their partners) have tried to find technical solutions to problems, but have largely ignored the institutional aspects of rangeland management.² While dealing with institutions is difficult they cannot be ignored; by asking questions about the management of the rangeland, institutions can be understood – and policies and interventions can be designed which take them appropriately into account.

The limitations of technical approaches

Most approaches to 'natural resource management' in pastoral areas have been technical: technical problems are identified

¹ Outputs of this work are available at <http://www.odi.org.uk/resources/search.asp?database=resources&theme=1059>.

² Sara Pavanello and Simon Levine, *Rules of the Range: Natural Resources Management in Kenya–Ethiopia Border Areas*, HPG Working Paper (London: ODI, 2011).

(conflict or a degrading range, for instance) and a technical solution provided, usually some mix of assets (such as tools for rangeland reclamation, seeds, cash or food for work) and training (in rangeland reclamation, soil and water conservation, frameworks for peace agreements). Such interventions can bring benefits, especially in the short term, but the approach has important limitations in sustainability, scale and relevance. Status quos exist for a reason, and if this underlying reason is not changed problems tend to recur. Reseeding grazing land with leguminous crops will have very short-term benefits if the reason why these species disappeared is not tackled. Likewise, if the underlying reasons for conflict over resources are left unaddressed conflicts tend to reoccur within a few years of any peace agreement. Providing tools and cash for work to control invasive species like *prosoyis* which are destroying the rangeland in Kenya and Ethiopia can help clear one or two hundred hectares, but millions more have been made unusable.

Any intervention that touches on rangeland management and livestock mobility inevitably engages with issues of rights and power, even if this is not the intention. The central importance of the rangeland, and the water and pasture resources which it provides to livestock-keepers, has long been recognised, but it has usually been treated as a natural resource, a common property freely available for all with livestock. The goals of policy and interventions have been to protect and improve the availability of water or pasture resources on the assumption that whatever resources are available can be accessed by all. Over the last decades, however, the distinction between *availability* and access has transformed thinking on food security, as in other sectors. But what can an ‘access lens’ add to an understanding of the rangeland and pastoral livelihoods?

Land rights: the missing link

Land management depends upon the power to say who can use the land, in what ways and when. Such powers are an important part of land rights. Different forms of land rights evolve with different land use patterns. Settled farming usually depends on dividing the land and giving rights over each piece to different families. (This may or may not involve ownership.) The rangeland is used by many different communities, but having exclusive rights over only a part of the rangeland cannot work – livestock need to be moved seasonally, often over long distances. The whole range must be managed as a single resource, but at the same time different communities have their own territory. Systems have developed for each community to negotiate rights to move into others’ territory at certain times to find what they need. Because the needs

are mutual, requests cannot be lightly refused, but equally a free for all must be avoided.

The management of natural resources is thus inseparable from the management of relationships between pastoralist clans and ethnic groups. These relationships depend on rules that maintain and restore collaboration and provide a framework for managing conflict over pastoralists’ divided-but-shared resource base. This link between rangeland management and social relations has often been seen negatively in terms of conflict caused by ‘competition over scarce resources’. The solution has been to reduce scarcity by increasing resources (e.g. digging more wells) or reducing competition (e.g. restricting movement, promoting alternative livelihoods). It has not been understood that conflict is a symptom of a failure to *manage* scarcity, rather than a symptom of scarcity itself. Unsurprisingly, such solutions have often made things worse.

Assets and institutions

There are always rules, formal or informal, which determine how people access resources and opportunities. These rules, and the ways in which they are enforced, constitute ‘institutions’: from the institutions of the state (laws, policies, courts of law), through organised committees following written constitutions, to unwritten and informal rules of culture and locally accepted figures of authority. The way institutions function is one reason why people are denied assets which they ought to enjoy (land rights, water from irrigation systems). In the case of the rangeland, though, institutions are of even greater importance because of pastoralism’s most defining feature as a production system – mobility.

Pastoralists move their herds in seasonal patterns, according to the conditions of each year, in order to locate what their animals need, including the right kinds of pasture, water and salt licks. It is sometimes less obvious that pastoralists move their livestock in order to manage the rangeland: they strive to maintain the right balance of species in the best possible condition over the long term through careful control of grazing pressure and the timing of grazing. The rangeland is thus not simply a natural resource – it is a managed resource. The difference is not merely semantic: managed resources need to have rules, and thus people who make rules, and people who can enforce them. Without such institutions there can be no management, only a free for all, described most famously by the phrase ‘the tragedy of the commons’. If decision-making on mobility and reciprocal access is not technically sound and well respected, the consequences will be poor livestock productivity, a degraded rangeland and frequent conflict. The key to solving these three

commonly identified problems rests first of all with maintaining the right institutional framework on the range, one that allows pastoralists to move widely, and to manage that mobility. Increasing inequality can also be seen as the outcome of weak institutions and a broken social contract, where the powerful set their own rules and the rest can no longer rely on socially responsible institutions to protect their access to assets.

In most pastoral communities, rules are set by groups of elders who constitute customary authorities. They have to ensure the long-term health of the range at the same time as allowing livestock-keepers to meet their immediate needs. This must be done in a way that maintains harmonious reciprocal relations, but without automatically acquiescing in any request or intrusion. They must also ensure that their own community members can access others' territory, but are respectful of others' rights (e.g. going through the proper channels). However, the scale of change in the rangelands means that this cannot be done simply by following tradition. Patterns of mobility depend on the conditions of pasture and water (but weather patterns are changing, as are ownership patterns in water resources); on opportunities (but mobility and land availability are being squeezed by settlement, conflict, invasive species, national laws and government policies); and on economic opportunities (and the penetration of the international market into pastoralism over the last decade has been very extensive). New rules must constantly be developed. In addition to these generic objectives, the culture of each community will determine its own expectations regarding the duties of customary authorities towards their own members, for instance the degree to which individualism is encouraged, or the obligations of care towards the poor. Much less is known about these questions in different communities.

Is there an institutional problem?

There is increasing evidence that part of the threat to the success of pastoralism comes from weak institutions of land rights and rangeland management. This problem stems from the absence of land rights granted by state law and state policy, which is limiting pastoralists' ability to manage their rangeland productively. Customary institutions cannot deliver on their mandate because they do not have the powers to do so. The management of the rangelands is no longer solely the domain of elders and customary institutions. Their authority has been progressively challenged for many years, both from within and without. Governments have systematically ignored not only their authority, but the very idea that their communities have land rights. In Ethiopia, rangelands are considered 'free lands' by the Constitution, and land can be given to private interests at any time. In Kenya, lands were

held 'in trust' by local authorities, which in practice ignored the legal duties of trustees and showed little concern for the interests of pastoralists. Although the new Constitution gives greater recognition of community rights, it makes no mention of the role of community institutions in managing those rights. Even those trying to 'help' pastoralists, both local authorities and non-governmental agencies, have usually disregarded customary authorities and overridden institutional arrangements of sharing, undermining still further the elders' authority. The tragedy is not simply that customary authorities have been undermined and their decision-making taken away, it is that nothing else has been put in its place. There is much evidence that, in the absence of any powers of enforcement, customary authorities are losing influence even over their own communities, as commercial priorities become stronger. Elders in many communities can no longer control younger herders and have even become dependent on them.

The old, the new or a third way?

Although the right institutional framework is needed to permit sound rangeland and conflict management, there is no set form that this framework must take. Do customary authorities still have a role to play or has their time past? There are reasons for arguing that they are still relevant, if only because the bureaucracies of state administrations have never taken on their role and cannot be expected to have either the knowledge or the implementation capacity to do so in the future. However, customary institutions are only part of the picture. The state claims legitimate authority across the whole of its territory (including pastoral areas) over many spheres, from governing mobility (national borders, security) to economic planning and investment in infrastructure. If states want to see a prosperous pastoral sector, they have to find some way of harmonising their authority with the authority of customary institutions. This will require difficult compromises over a general vision for pastoralist development.

Recently, some external actors working on peace-building along the Kenya–Ethiopia border have tried to bring together the knowledge and standing of customary authorities with the legal and administrative capacity of the state authority to tackle problems of conflict. Elders have expressed interest in these cross-border committees, because they recognise their need to share power with the state and their inability to enforce their decisions against the will of the state. Local state administration has also found benefit in these committees, because without the customary authorities (whom they do not know) they cannot mobilise communities. By sharing decision-making in these 'modern structures', the hope is that a new and more cooperative way forward can be found.

It is noteworthy that these committees were created as a solution to conflict, and not as the answer to any institutional problems. The full import of their actions was not well understood by actors on the ground. One committee, for example, started to take decisions about cross-border livestock movements, and pastoralists on both sides of the border believed that they now shared the pasture and water resources with each other, and had no further need to negotiate access. This was in effect creating a single cross-border territory, with the land rights held by the committee members rather than the elders of each community.

There may be much that is positive in these committees, but they have the potential to erode still further the authority of customary institutions. Many questions remain: who the committee members are; which interests from the pastoral communities are represented; how to ensure they are responsive and accountable to the needs of their communities; the balance of power within the committee; and what will happen when discussions go beyond balancing one community's rights with another's and turn instead to balancing the rights of pastoralists and the outside investors who covet their dry season grazing lands for 'investment' or settlement. (The question of women's involvement in resource control is a separate dimension: it may well not matter whether decision-making is with customary, state or the new institutions.) How will pastoralist committee members and the representatives of the local state administration be able to agree when central government policy so often favours the private interests of those who wish to enclose the rangeland? These questions have received little attention by those creating committees. Currently, these peace committees have no legal status, no legal authority over land and no legal right to use coercion to enforce their rules. The void in law and policy for dealing with all the questions above needs to be recognised.

The institutional dimensions of rangeland management are sometimes neglected because agencies struggle to engage with what is seen as an intangible abstract too complex to be analysed. A practical approach to understanding institutions could use rangeland management and livestock mobility as an entry point. Questions about who the users of a particular rangeland are, who is allowed to use it and whose permission must be asked, when permission can be refused, what the rules for using land are, who sets them and how these are enforced (or not): all these questions can give a detailed institutional map, and, more importantly, an institutional lens to analyse problems and assess the role of policy and interventions in improving people's lives. Comprehensive guidelines for understanding

rangeland management have been drawn up. This methodology needs to be seen not simply as a technical approach to improving rangeland management but as an entry point to understanding power, rules and institutions, which should be the basis of any intervention in pastoral areas. Control of invasive species can only be achieved at scale by changing the ways communities and their institutions take responsibility for managing their own lands – and only if they are given the powers to do so. Water resources can only be planned and managed in ways that support, rather than undermine, grazing patterns if they fit coherently into an institutional system that can take – and enforce – decisions about mobility and access to grazing. Conflict resolution can only be sustainable if mobility is managed in ways that ensure reciprocity within respect for the rights of others. This cannot be achieved if institutions are not enabled to fulfil those roles.

Implications

The first step is to recognise that pastoralists manage land, i.e. that the rangeland is a managed resource, not simply a natural resource. This recognition should prompt actors seeking to intervene in the rangelands to find out how the land is managed, for instance through rights mapping, and how decisions are taken. Change cannot be achieved without a thorough diagnosis that explains the status quo. Understanding a problem must also, therefore, include an analysis of why decisions are made as they are, and the actions that follow from them – in other words, an analysis of power relations and competing interests. Since rangeland management, and hence land rights, are key to all sectors, all interventions must be based on maps of the land that show the institutions of land rights. These must extend beyond the intervention area. The decision to work with existing institutions or establish new ones must be taken cautiously and according to an analysis of the issues outlined above. Whichever course is decided, agencies must monitor how rights and power relations change as a result, and must be able to react accordingly.

The 'big picture' for the development of pastoral areas is highly contested across the region, and no development actor can escape being a player in this struggle. Development actors cannot simply see their interventions as a vehicle for achieving their particular objectives, but must see how their interventions affect the broader development of the area, and the implications for 'development', resilience, mobility, rights and power relations. In order to be able to take responsibility for their actions, as they should, development actors need to be aware of these wider impacts.