

Factors that threaten or sustain the commons: an example from the Samburu of Northern Kenya

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## Introduction

Pastoral commons in Northern Kenya have proven resilient despite repeated predictions of their demise. Extensive livestock production in Kenya and other parts of Africa has often been characterized as anachronistic, outdated, primitive and not conducive to modern ways of life. Governments, dating back to colonial times, have made concerted efforts to alter pastoral systems. In Kenya, these included colonial era policies that moved pastoral groups into particular areas (e.g. Maasai reserves), demarcated boundaries among ethnic groups, and limited movement across these boundaries. In some areas, such as Samburu, the colonial government created grazing schemes that limited livestock numbers and mandated rotational grazing (Lesorogol 2008). Following independence, many of these policies continued albeit there was less restriction on movement and greater provision of social services such as education and health that had been minimal during the colonial era. Successive governments have, however, encouraged pastoralists to reduce their mobility, settle and, if at all possible, adopt cultivation. In particular, settlement is often viewed as an important prerequisite to modernization and the provision of services. Despite this history, pastoralism continues in Northern Kenya, though not without change. Drawing on sixteen years of field research among Samburu pastoralists, this paper discusses factors that contribute to the robust nature of pastoralism as well as the current threats to the system.

Much of the author's research has focused on processes of institutional change, specifically privatization of the commons. Privatizing the commons ought to be one of the main threats to the system, because it changes the fundamental rules about access to and use of land from shared to individual. We find, however, that livestock continue to access grazing and water on private parcels, particularly during times of stress such as drought. Several reasons for this continuation are discussed below and help to explain why pastoralism continues in spite of pressures for change. First is the salience of local norms supporting the idea that it is morally wrong to deny livestock access to critical resources for survival such as pasture. Second, the ability of wealthier herders to continue to move their livestock to pastures (on communal and private land) by negotiating access using social networks, paying for pasture on private ranches, and purchasing supplemental feed during droughts. Third, most Samburu people continue to feel a shared identity as pastoralists, including those who engage in non-livestock based activities to supplement their livelihoods. Pastoralism continues to be central to culture and highly valued. Fourth, livestock remains a good investment for many people demonstrated by the fact that many individuals who have succeeded outside the livestock sector continue to invest their gains in livestock, thus supporting the continuation of the pastoral system.

There are also a number of pressures on the commons that threaten its future viability, primarily by limiting mobility and access to resources. We observe in some areas increased enforcement of boundaries by private land owners and group ranches. In some group ranches, individuals are fencing larger and larger areas around their homesteads, creating de facto private land claims. There is currently rapid growth in formation of community-based wildlife conservancies that limit livestock access to large areas of pasture and institute new grazing rules with implications for livestock mobility. Human population growth, increasing sedentization and growth of towns and settlements reshape the landscape for herding. A number of grazing areas are not used due to insecurity and attack from neighboring groups. Many Samburu herders have moved into neighboring Laikipia County where land tenure is very insecure; the outcome of tenure disputes in that “safety valve” region will affect the pastoral system. Finally, a number of younger, more educated Samburu appear to be less committed to pastoralism as a way of life. Their livelihood and land use choices going forward will affect the continued viability of the pastoral commons. These factors reveal the complex mix of formal and informal institutional factors, economic drivers, and changing preferences that will influence the future of the pastoral commons.

#### Factors Supporting Continuation of Pastoralism

Access to grazing land and key resources such as water, salt and dry season forage (pasture and/or forest) are critical ingredients for success in a pastoral economy. Samburu pastoralism is similar to many extensive pastoral systems in that land has historically been managed as a commons in which anyone considered a member of the community was able to access land for grazing and living (e.g. building a house, either temporary or semi-permanent). Samburu County (20,000 square kilometers in north central Kenya; population of approximately 220,000, predominantly ethnic Samburu) has been the primary grazing area for Samburu herders, although they have and continue to venture beyond its boundaries during dry seasons and droughts, the latest of which, in 2016 and 2017, found herders moving as far as the foothills of Mount Kenya over 200 km to the southeast (See Map 1). During the colonial period, all the land in current Samburu County was declared Crown Land and was under the control of the colonial government. The government instituted grazing schemes on Lorroki plateau, the highland region of southwest Samburu, aiming to control the numbers of cattle on the plateau, which was perceived by colonial administrators as over-grazed. Samburu elders bitterly opposed these schemes, which in practice resulted in degradation of the lowland areas as people moved their excess

livestock from the highlands to the lowlands to comply with the schemes and avoid fines or imprisonment. The grazing schemes were ultimately abandoned in 1961, prior to independence in 1963.

Policies of land adjudication and privatization had begun in some parts of Kenya prior to independence, particularly through the Swynnerton Plan of 1954 that established freehold title as the norm for the country. Pastoral areas, however, were treated differently by the Plan, which recommended a continuation of the grazing schemes and intensification of production for market (Lesorogol, 2008: 44). After independence, the concept of the “group ranch” was designated as a way to give title deeds to groups of resident households in pastoral areas. Group ranch registration occurred first among some of the Maasai in southern Kenya and, by the early 1970s, was extended to parts of Samburu, particularly on the Lorroki plateau, considered to have more potential for commercial livestock production.

These policies, however, were poorly communicated—if at all—to Samburu communities who had no concept of land ownership. Samburu political leaders at the time encouraged men (it was almost exclusively male heads of households who were registered) to register for the group ranches as a way of maintaining their rights to the land. These leaders warned that if they did not join the groups, their land might be taken away by other ethnic groups (Lanyasunya 1990). In fact, all the land had already been legally taken away first by the British colonial regime and then, post-

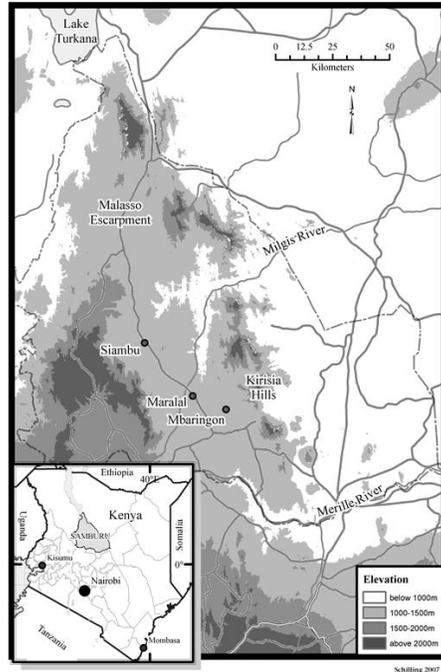


Figure 1: Map of Kenya and Samburu County

independence, when it became Trust Land held by the local government (the County Council) on behalf of the population. In the event, many men did register as members of group ranches. At the same time, a small number of men made individual claims for private parcels—a provision of the law that the vast majority of people knew nothing about. I discuss this process in detail elsewhere (Lesorogol 2008) but the upshot was that in virtually all adjudication sections, a number of group ranches were created with hundreds of registered households while a small number of private ranches (usually 4-5) were also granted to those who made individual claims. In Siambu, the case that I have studied extensively, 37 individuals made claims for private land during adjudication; a higher number than in any other case I know of. What differentiates this case is that other community members found out about these claims and opposed them. A conflict ensued over several years between those making individual claims and those wanting to retain the group model. In the end, a compromise solution was reached that allocated an equal sized parcel of 23 acres to each registered household, nullified the individual claims, and set aside a less desirable area as a group ranch in which all individual owners were also members. The outcome in Siambu may be unique in Kenya, although there are some other cases in Maasai areas where group ranches were subsequently sub-divided based on equal shares of members. In many Maasai cases, though, these sub-divisions have led to very unequal holdings and often to court cases challenging the basis of sub-division (Galaty 1997).

A number of outcomes of land adjudication have tended to support the continued viability of extensive livestock production. Livestock management on group ranches has not changed dramatically from earlier times. That is, elders still play a role in regulating access to pastures, primarily by limiting use of dry season reserves during rainy seasons, while individual households manage their own livestock. On the whole, borders of group ranches are not enforced meaning that members of group ranches can normally move on and off group ranch land at will. As in the past, those who are migrating for pasture need to seek permission from residents to establish cattle camps and access grazing resources, which is routinely granted. These forms of land use and livestock management on group ranches are a far cry from what development planners originally envisaged, which was collective management of livestock for commercial sale and joint investments in modern ranch infrastructure (Kimani and Pickard 1998, Mwangi 2007).

While group ranches have not resulted in the planned commercialization of pastoral livestock production on a large scale (though individuals certainly do sell livestock and some are livestock traders), the group ranch titles do appear to have been protective of land rights for the communities, at least in Samburu. Land on group ranches cannot be sold or leased out without approval of over sixty percent of members, which is very difficult to achieve. Government—local or national-- has not attempted to assert control over or expropriate group ranch land, either. Community land is recognized in the new 2010 Constitution, which could bode well for maintaining collective rights over land. Of course, much depends on how effectively the new Land Law is implemented and the integrity of the new Land Commission. Thus, land adjudication that at first blush appears to threaten the integrity of extensive pastoralism, in this context, appears to have supported the system to the extent that pastoralists' access to pasture has been legally protected through the group ranch title and the difficulty of converting group ranch land to other uses.

What about those areas that have privatized, such as Siambu? For most scholars studying pastoralist systems, privatization of land is the death knell of extensive livestock production since it potentially removes the options for mobility and access to large tracts of land required to survive droughts. My studies of the outcomes of privatization in Siambu, however, show otherwise (Lesorogol 2003, 2008, 2010). Pastoralism has continued in this “privatized commons”, but it has also changed. In Siambu, each registered household (total of 240) received approximately 23 acres of land and also became registered members of the group ranch, Porokwai. It is important to note that the private land is far more desirable than the group ranch. The privatized area is situated on a plain with good land for grazing or cultivation,

abundant water and significant forested riverine areas. It is adjacent to a government forest reserve that is poorly policed, meaning that herders can herd on the forest land with little risk of arrest. The group ranch, in contrast, is located on a much drier, rocky escarpment that falls more than 1000 feet from the plateau to the Rift Valley floor. At the bottom are settlements of neighboring Pokot with whom the Samburu are in periodic conflict. While most people in Siambu initially opposed privatization in the late 1980s, within a decade, almost all of them expressed favorable attitudes toward private land ownership. These were mostly expressed in an idiom of autonomy—they had more independence over land use and were not bound by the decisions of others (e.g. the elders). These sentiments seem odd in a culture that values collective decision making and action. However, if viewed from the perspective of livestock management, one can see that private land has become in some ways analogous to livestock, over which households have always had a high degree of autonomy.

People have used their new control over land in different ways. Some have sold land, but contrary to the fears and predictions of anthropologists, most have not. By analyzing Land Control Board records and through my own survey, I calculated that about three percent of the privatized land area was sold in the first decade after privatization. Furthermore, the trend of sales was downward over time (Lesorogol 2008). There are several reasons for this. Samburu County is far from major land markets, there is little information about it available, production risks are relatively high, and the area is perceived as being dangerous. Indeed, most land buyers are local people, not outsiders. In addition, there are local norms against land sales. I have argued that these norms probably emerged as a result of the long conflict in the community over privatization that heightened peoples' understanding of the value of land when they were at risk of losing it (Lesorogol 2008). Finally, there is an active market for land leases for wheat and barley production (mostly sold to Kenya Breweries) and, to less extent, maize. Approximately one third of households lease out part of their land to commercial growers on an annual basis. This option may be more desirable than selling since it guarantees regular income over time while enabling the family to continue living on the land and using it for other activities. Given relatively low land prices in the area, leasing is an attractive option.

Pastoral livestock production continues to be viable in Siambu, because very few owners have fenced their parcels and most allow their neighbors to graze their livestock on their land as long as they don't destroy crops. These trends signal the continued salience of livestock production—and the associated pastoral identity-- for almost all families in Siambu. While there is considerable stratification in livestock holdings across households (e.g. in the 2010 Siambu survey, the richest 20% of households owned 51%

of the livestock while the poorest 20% only owned 3%), most families still own at least a few livestock and at times need to graze them beyond the borders of their own parcels. Thus, it is in their interest to maintain a degree of openness in pasture access. In addition, Samburu norms regarding allowing livestock access to pasture persist, even alongside new norms that dictate that livestock should not eat crops (or their owners will be fined). Such norms are heightened during periods of stress, most recently during the 2008-09 drought. During that time, many Siambu people moved their own livestock away from the plateau in search of pasture while at times also allowing people from other parts of the district to bring their livestock to graze on their private parcels. It was evident that even vociferous defenders of individual rights understood that reciprocity and access were necessary during drought (Lesorogol and Boone 2016).

Competing and contradictory norms about land use co-exist in Siambu and different norms become more salient at different times. When there is plenty of grass and crops (which more people have begun to grow following privatization) are healthy, talk turns to enclosure, fencing, individual autonomy and protecting one's own land. During drought, collective norms become more prominent and individual rights more subordinated to group survival needs (Lesorogol and Boone 2016). Siambu residents are also fortunate because they represent an island of private land within a sea of more accessible pastures. The government forest and Porokwai remain important "safety valves" for grazing and, through their social networks, they are able to access pastures in neighboring group ranches as well. Occupying the highest elevation part of Samburu County, drought is least severe here and livestock production can be complemented by growing maize, beans, potatoes, and vegetables.

The persistence of social norms and practices that support pastoralism even in the privatized area of Siambu indicates the continued relevance of the pastoral system and way of life among most Samburu people, even if there are changes in particular practices. Another indicator is investment in livestock. Observations and discussions reveal that Samburu people continue to invest in livestock. For example, people who have made money in other ways, for example in business, often invest their profits in livestock. They may pursue livestock trading as an additional business enterprise or simply keep herds as part of their asset portfolio. Given that Kenyan banks pay little if any interest while livestock reproduce and grow in numbers, livestock are a good investment. During dry seasons and droughts, wealthier owners are able to hire sufficient herding labor to move herds to pastures, purchase supplementary feed, or rent pasture for short term use. These strategies enable them to protect their investment. In the worst case, they can also sell their livestock and save the cash for reinvestment after the drought. Of

course, these kinds of strategies depart from traditional reliance on mobility and natural pasture within the ethnic group's orbit, and relatively few herders have the resources to successfully follow these practices. Certainly, some poorer pastoralists or those who have lost all their livestock, are becoming hired herders for wealthier owners, a trend that is found in other pastoralist societies but is still relatively new among Samburu. More common in the past was poorer herders attaching themselves to better-off kin or friends and gradually (re)building their herd by accumulating stock through gifts or in exchange for assisting the relative or friend with various tasks including but not limited to herding. The strategies of wealthier herders, although they signal social stratification, also may help sustain the pastoral system as they continue to use land extensively through traditional and new means.

### Threats to Pastoralism

The paragraphs above show a variety of factors that tend to support the continuation of pastoral livelihoods and common land use among Samburu pastoralists. There are also a number of threats to this sustainability that are discussed below.

It was noted above that access to pasture in group ranches and even on privatized land continued in large part due to persistent social norms that place moral pressure on land owners to grant access and the fact that most households still need to access pasture beyond their own group or private land. In the last few years, however, some group ranches have begun to challenge the right of non-members to settle semi-permanently on group ranch land. There have been isolated cases of non-member's houses being destroyed and they have been ordered to move off the group land. Another recent phenomenon is people putting up fences around their settlements in an apparent bid at staking informal land claims. These are not traditional fences to enclose livestock or even cultivated fields (of which there are some); instead these are fences around grass. These fences may be a way of preserving pasture in the face of increasing grazing pressure as population has risen and access to grazing is under stress both from drought and insecurity caused by conflict with neighboring groups. People may also be fencing in anticipation of sub-division of the group ranch in which case they could make a claim to that particular parcel. The prospect of sub-division seems remote in most cases, since group ranches have great difficulty in mustering the quorum of members to hold the meetings required to make such a decision. Further, the sub-division process is lengthy and costly and would likely lead to internal conflicts in the community. I know of only one community that has completed sub-division and that process took well over a decade. Thus, it may be more likely that the growth in fencing constitutes informal efforts at de facto privatization. In some communities, elders have challenged the right of individuals to fence or

have set limits on the kind of land that can be fenced (e.g. one acre of cultivated land or a small area for calves). In spite of such efforts, though, fences are becoming more common, particularly on the group ranches on Lorroki plateau. Restricting access to grazing in this way forces more livestock onto smaller pastures and can lead to localized over-grazing.

Another potential threat to the sustainability of the pastoral system is the growth of protected areas for wildlife. Currently, there is a major push to form community-based conservancies (CBC) in Africa and specifically in Northern Kenya (Western et al. 2015). In Samburu County, this initiative is led by a number of parties including the newly formed County government and conservation organizations such as the Northern Rangelands Trust (NRT) and Conservation International. Those promoting conservancies present them as a win-win-win proposition in which wildlife and plant biodiversity are conserved for the global community and to mitigate climate change, the state earns revenue from tourism, and communities gain benefits from improved security, tourism and related enterprises (Northern Rangelands Trust 2017, Conservation International 2017). On the other hand, CBCs involve significant changes to land use including zonation restricting livestock movement and access, new local governance structures, and growing influence by powerful actors such as government and donors. All of this is occurring in a context of increasing reach of markets and a neoliberal policy environment (Igoe and Brockington 2007). The outcomes of such changes in resource tenure and access are uncertain and likely to be unevenly distributed (Cliggett 2014). Evidence on the performance of conservancies in Samburu County and similar areas is mixed. Some studies identify benefits to communities from conservancies (Lamer et al. 2014), but others argue that direct benefits are limited (Homewood et al. 2009, 2012) or describe negative consequences of conservancies or protected areas such as impoverishment (Igoe and Croucher 2007) or conflict (Conservation Development Center 2009).

CBCs are a subset of community-based natural resource management (CBNRM) approaches wherein local communities decide to designate all or part of their land for biodiversity conservation, especially to protect wildlife, but also to conserve larger landscapes and their associated natural resources.

Fundamentally, CBCs constitute a novel set of property rights and relations. CBCs have different legal formulations in different countries. In Kenya the legal status of CBCs is somewhat murky given changes in the Constitution in 2010 and subsequent land laws that redefine categories of land, including a new designation for “community land” (Nelson 2012, Republic of Kenya 2016). In Samburu County, recent CBCs have been set up within and across existing group ranches (which, as we have shown above, have a specific legal standing), but some have simultaneously been established as non-profit companies and

there is also a newly formed “umbrella body” envisioned to play a coordinating role across multiple CBCs (NRT; personal communication). Understanding the rights and responsibilities of various actors, groups and individuals in the CBCs, and how the CBC interfaces with pre-existing property and governance institutions, is critical, since those factors will be influential in how CBCs function.

CBCs purportedly benefit wildlife, herders, the state, and the environment. By establishing a new form of governance over shared land, CBCs create new commons over and above pre-existing land tenure regimes. Their promoters claim to engage communities in forming and governing CBCs including aspects such as deciding on land use rules, eco-tourism and income generating enterprises, and improved security. Yet, little is known about the details of these processes or how new rules actually affect land use, cooperative social networks, or the well-being of herding families. CBCs might improve the social and ecological resilience of pastoralism in Samburu County, but it might also threaten it by restricting livestock access to pasture and increasing conflicts among CBC members and between CBCs and neighboring pastoral communities (e.g., if CBC members move their livestock out of CBCs onto neighboring land to avoid the limitations of land use zonation within the CBC). Thus, the net impact of CBCs on pastoral land use and production remains to be fully researched and understood.

Growing population on a fixed or shrinking land base constitutes another threat to the sustainability of pastoralism here. Although earlier ecological theories blaming pastoralism for desertification have largely been debunked in favor of the view that pastoral societies make the best use of patchy and diverse resources (Scoones 1994), there must still be limits beyond which additional human and livestock pressure will result in land overuse and degradation. Population growth continues in Kenya as a whole and in Samburu County, although rates have reduced from highs of over 4% in the 1980s-90s down to about 2.6% annually currently. Livestock numbers fluctuate widely according to weather conditions and land available for grazing is limited by ethnic and political boundaries, conflict with neighboring groups, and limits on households’ ability to move herds to pasture within or beyond Samburu County. With increases in education and employment outside the pastoral sector, some Samburu are exiting the pastoral economy. However, unemployment is significant in the country as a whole and limits this exit option.

Related to the issue of growing population on the same land resource, is the challenge of expanding access to pasture outside Samburu County. The current drought (2016-17) illustrates this problem well. As short rains failed in October-November of 2016, many Samburu herders moved south into Laikipia County to seek pasture. Laikipia has a very complex and uncertain land tenure situation. As the northern

edge of white settlement during colonial times, white settlers purchased/leased large tracts of land for cattle ranching. Some of those ranches still exist today either owned by the descendants of the settlers or new owners, Kenyan or foreign. Many of these large ranches now engage more in eco-tourism than in commercial cattle ranching. Alongside these ranches are a few group ranches owned by local Maasai groups (remnants from the Maasai who were moved out of the area and to reserves in the south following the Masai agreements of 1904 and 1911). Third, is land that was formerly government owned but was allocated (and/or sold) through somewhat unclear processes to local people including small-scale Kikuyu farmers, Samburu and Pokot pastoralists. Many small farm plots are not actively managed and appear to be held by absentee land owners. Some Samburu herders have settled more or less permanently in Laikipia since the early 2000s; some with land allocation letters and some without. Many others visit Laikipia seasonally to access pastures, mostly passing through the formerly government owned land. In some cases, herders rent pasture from the large ranches on a short term basis. Others illegally graze in the large ranches or on the small-holder plots that are not actively used. All of these dynamics, plus political dimensions, contribute to periodic conflict over land in Laikipia as different groups vie for access to land. This is particularly problematic during a drought such as the current one. In this case, violent clashes and killings have led the government to intervene primarily by evicting pastoralist groups from the area. If the land tenure situation in Laikipia could be resolved, it might play a role as a dry season reserve for some pastoralists, but at this point the level of conflict may outweigh the benefits. The fact that so many herders decided to travel to Laikipia in 2016 in spite of the high risk of conflict indicates the severity of land pressure during droughts in Samburu County.

Finally, processes of sedenterization and the spread of formal education may threaten the future of pastoralism in this region. As noted above, sedenterization has been promoted as a strategy to enable people to more easily access education, health services and markets. Towns are growing around the County and attracting more people. Even in this predominantly rural County, herding households are less mobile than they used to be, partly due to land adjudication and partly due to the attractions of being closer to towns and services. To some extent, this trend may enable younger people to seek alternatives to pastoralism and exit the pastoral economy, relieving some resource pressure. Local employment opportunities remain quite limited, however. On the other hand, reduced mobility may negatively impact pastoral production as herds are not moved to the best available pastures and local land degradation and associated productivity losses ensue. Remaining mobile requires resources, particularly herding labor and expertise. As more children attend school for longer, these skills are increasingly lost and family labor gives way to hired herders who may not possess the same dedication

to the herd as the owners' own family normally does. An important element of the pastoral way of life is identification as a pastoralist and seeing this as a preferred way of life, worth the rigors involved. When this sense of identification is lost, the sustainability of the system will be at risk.

## Conclusion

This paper has outlined a number of factors that continue to sustain pastoral production in Samburu County even in the face of the growth of institutions regulating access to land including group ranches, private land, CBCs and growth of towns and settlements. Pro-pastoral social norms and identity, the continued relevance of the livestock economy, and new patterns of herding (e.g. hired labor, purchased inputs) appear to sustain pastoral production. On the other hand, those same institutional changes, growing population, and continued conflict in "safety valve" pasture lands threaten continued extensive livestock production. What the future will bring is uncertain and more research is needed to understand the implications of new institutional forms such as CBCs and informal privatization through fencing.

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