SAFEGUARDING PASTORAL LAND USE RIGHTS IN ETHIOPIA

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1. Introduction

This paper reviews pastoral land tenure and customary pastoral land governance in Ethiopia and argues:

- Regional laws do not provide secure land use rights for pastoralists, particularly in regional states other than Afar and Somali
- Authority of customary institutions that administered and managed rangelands and their natural resources have been weakened by introduction of decentralized local government structures
- Specific laws need to be enacted to safeguard the constitutional land use rights of pastoralists
- Pastoralists’ customary land governance institutions need to be empowered and strengthened
- Arrangements need to be made for collaboration between pastoralists’ customary institutions and the local government to improve livelihoods of pastoralists
- Awareness creation among policy and decision makers on the nature of pastoral livestock production and pastoral livelihoods will foster such collaboration

Finally, the paper discusses efforts being made on a pilot scale to secure pastoral land use rights and to empower and strengthen customary land governance of rangeland & its natural resources
2. Pastoralists’ Tenure Insecurity

The major sources of land pastoralists’ tenure insecurity: alienation of pastoral lands & land-based conflicts:

2.1 alienation of pastoral lands to:
- State and private irrigated plantation agriculture (sugarcane, cotton, fruits & vegetables)
- Dryland farming (encroachment from highland small scale farmers and commercial farmers)
- Wildlife parks/sanctuaries

- Kereyu and Afar pastoralists are the most affected since the 1950s
  - estimated loss of grazing land of Kereyu & Afar pastoralists is >232,000 ha & still counting [(Ayalew, 2001), (Kebede et al, 2014)]
- Borana & Guji pastoralists have lost about 60,000 ha [(Elias & Abdi) (personal communication 2014)]
2. Pastoralists’ Tenure Insecurity

Key dry season grazing areas such as riverine and wetland areas have been encroached upon and alienated, shrinking pastoralists’ grazing resources and denying them livestock corridors to access critical dry season watering points.

100 ha of dry season grazing land taken out of pastoral production makes 500 ha of wet season grazing unproductive. So the loss is >5 times in terms of loss of productivity.

No one should oppose development of riverine areas to their best use.

But such development should make the pastoralists who are dispossessed of their landholdings beneficiaries of the development to avoid and minimize its adverse effects on their livelihoods.
2. Pastoralists’ Tenure Insecurity

There are instances where compensation was not paid at all and when it was paid it was captured by the elites without trickling down to the average pastoralists.

Dispossessed pastoralists can be made to benefit in various ways, e.g.

- converting the value of their holdings into shares of the estates so that dispossessed pastoralists will have continuous streams of annual income
- implementing for them an outgrower scheme
- spate irrigation of rangelands to produce additional fodder
- community-based eco-tourism can be introduced in case of national parks
2. Pastoralists’ Tenure Insecurity

2.2 Resource-based Inter-Ethnic Conflict.

Alienation of land, population pressure and climate change are squeezing pastoral groups into shrinking landscape fomenting not only inter-ethnic conflict but also degrading the pasture resources due to overstocking.

Conflicts are common among ethnic groups often resulting in loss of human lives:

- Issa Somalis vs Afar vs Kereyu
- Issa Somalis vs Borana
- Issa Somalis vs Guji
- Argoba vs Afar
- Argoba vs Kereyu
- Guji vs Borana
3. Pastoral Land Tenure and Customary Pastoral Land Governance

3.1 The customary system

- Pastoral lands have been considered state lands, but administered and managed by customary institutions.
- Variation from ethnic group to ethnic group:
  - Among the Afar & Somali: landholding is Clan and sub-clan based; Clan leadership is hereditary.
  - Among the Oromo ethnic groups (Borana, Guji and Kereyu): Landholding is agro-ecology based; Customary leadership chosen democratically to serve for 8 years.

In both cases, access to rangeland resources by others outside the group is allowed through negotiation and reciprocal agreement with the primary users.
3. Pastoral Land Tenure and Customary Pastoral Land Governance

3.2 The Current Administrative System has weakened Customary Governance of pastoral land

- Military government introduced Pastoral Associations (PAs) in 1975

- At present, state governments have established mid and lower kebele (PA) level government structures, with legislative and judicial organs, including in pastoral areas where previously customary governance structures were the only authority on managing rangelands and their resources.

- Customary authorities administered a set of rules and regulations for the proper management of these resources and fined transgressors accordingly. Local administrators are now given these functions.

- This has severely undermined the powers of the customary institutions adjudicatory powers. Individuals who violate customary rules of communal lands and natural resources like cutting trees, making charcoal and inappropriate use of water and grazing are not bound to appear before customary authorities or may refuse to abide by their decisions.

- Although the functions of administering and managing the rangelands and their natural resources have been taken by local governments, they do not have sufficient staff on the ground nor the knowledge to carry out this function effectively. This encourages violation of the customary rules and regulations by creating a vacuum of authority on the ground. At times decisions of the customary leaders are reversed by local administrators (Little P.D., Behnke R, McPeak J., Gebru G. 2010 a).
3. Pastoral Land Tenure and Customary Pastoral Land Governance

3.2 The Current Administrative System has weakened Customary Governance of pastoral land

Local government authorities alienate pastoral land without due consultation and/or compensation despite constitutional provisions. Protests against such actions by the customary authorities are met with belligerent replies such as “this is government land and government has the power to allocate land to anyone”, “this is a government decision and it is final” etc. (Elias E. and Abdi F., 2010).

Customary leaders who continue to request remedy are labelled as rebellious and anti-development and threatened with punitive measures befitting troublemakers.

Alienation of pastoral land can be stopped effectively only through legislation that recognizes them as owners of their land use rights that are exercised through their representatives who are empowered & strengthened to do so.
4. Safeguarding Land Use Rights of Pastoralists through Legislation

Two projects implemented by GoE and financed by USAID (LAND & PRIME) have teamed up to assist the Oromia and Afar regional states in safeguarding pastoral land use rights by formalizing them within the legislative framework.

The task is easier in the case of Afar and Somali regional states because the legal frameworks for formally recognizing pastoral land holding rights already exist. The remaining task is to issue regulations that:

- clearly state the functions and powers of customary rangelands management institutions as the holders and executors of the landholding rights of the pastoral communities they represent;
- make their composition more inclusive (e.g. coopting women & the youth into the customary governance system)
- make them transparent and accountable both to their constituents and the government
- Provide guiding principles for developing bylaws for the administration and management of the pastoral lands under a customary institution with clearly defined roles, functions and operations
4. Safeguarding Land Use Rights of Pastoralists through Legislation

The case of Oromia regional state is more complex. Whereas the fundamental legislation that formalizes landholding rights for settled farmers exists as provided in the federal constitution, formalization of landholding rights of pastoralists has not been legislated in Oromia, SNNP, Beneshangul Gumuz and Gambella regional states.

The pastoral land administration and use regulation for these regions needs to first provide for full recognition of pastoral land holding rights in the same manner as for farmers.

It should further recognize the customary rangelands management institutions as the holders and executors of the landholding rights of the pastoral communities they represent and empower and regulate their functions and operations as well as those of the local administration and sector offices.

The regulations should also stipulate expropriation, valuation and compensation procedures. How the compensation is to be paid and to whom.

The LAND project is assisting regional governments in drafting these regulations.
5.3 Demarcation & Certification of Pastoral Community Land Holdings

- Google Earth and LandSat maps are used to identify specific grazing units with primary use rights of specific groups of pastoralists.

- The boundaries of these grazing units are agreed upon by representatives of users of adjoining grazing units and demarcated on these maps by the zonal experts of Bureau of Rural Lands and Environmental Protection and verified.

- Following this, the current use of land is marked on the map with participation of representatives of the users of the grazing unit. The maps show all natural and manmade physical features as well as where and what area of land is being used for purposes other than communal grazing, i.e. farmlands, ranches, towns, etc.

- The verified maps are digitized and final versions displayed at strategic locations for at least one month to give opportunity for objections from members of the stakeholders, which will be addressed before finalizing the boundary demarcation. The agreed upon map demarcating the boundaries will be signed by the representatives of the adjoining grazing units and used as the basis for issuing the landholding certificates to the pastoral land holding groups. The original certificate will be given to the customary institution representing the landholders and copies kept at the zonal, woreda and regional rural land offices.
5.3 Preparation of Rangeland Management Plan

Demarcation The maps produced for demarcation and certification of the landholdings of the grazing units and other secondary information will be used to prepare a rangelands development and management plan in a participatory manner with users of the rangelands so that the process is not top-down but also incorporates indigenous knowledge of the potential and drawbacks of the natural resource and takes into account the management strategies of pastoralists.

The representatives of the grazing units and the leaders of the customary institutions are given training and actively participate in both the planning and implementation phase.
5.4 Strengthening of Customary Institutions and Capacity Building of Regional and Local Rural Land Offices

- Participatory development of bylaws for governing the grazing unit and implementation of the rangeland management plan
- Training of members of the customary institutions on the bylaws and on running their offices and finances
- Training leaders of the customary institutions on negotiating with investors who may lease their lands
- Training regional and zonal office staff in GIS and Remote sensing and mapping technology
- Training regional and zonal office staff in land registration and data management
- Training regional and zonal office staff and members of the customary land governance institutions in participatory land use planning, range management planning and implementation
6. Challenges and Opportunities

6.1 Challenges

- Local governments may not be willing to lose power & allow conferring full land holding rights to pastoralists as it has been done to farmers in accordance with the federal constitution? Will they be committed to implement it?

- Regional governments may not agree to curtail the pervasive powers of local administrators in pastoral land administration and management

- At what level should land holding rights be conferred on pastoralists? Grazing unit boundaries are not congruent with any of the administrative boundaries of woredas and kebeles. Reconciling this dichotomy and resolving the issue will require careful consideration, consultation and out of the box thinking

- The elite interested in acquiring pastoral land for commercial farming may lobby against enacting the new regulation

- GoE’s pastoralist resettlement policy
6.2 Opportunities

- Land Administration and Use Directorate of the Ministry of Agriculture (LAUD/MOA),
- Oromia Bureau of Rural Lands & Environmental Protection;
- Afar Environment Protection, Rural Land Administration and Use Agency; and
- leaders of the Boran and Guji and Afar customary pastoral land administration and management institutions are very keen to give the process their best efforts and are cooperating proactively.
The End
Thank You