

Land Deals in Kenya: The Genesis of Land Deals in Kenya and its Implication on Pastoral Livelihoods – A Case Study of Laikipia District, 2011

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ABSTRACT

In Laikipia the key dynamics centre on absentee land, much of this being land that was divvied out to Kikuyu by Kenyatta after independence. Much of this land (particularly north of the 600mm rainfall band) is not viable for cultivation. However, it was used by the Kikuyu title-holders as collateral to acquire loans with the Agricultural Development Corporation and others. Maasai, Samburu and Pokot herders have been grazing this land since the 1970s. Now, former commercial ranch managers are setting up as brokers and are identifying the title holders of the absentee lands to convince them to consolidate their holdings and sell, as there is a new rush for land by foreign diplomats, aid workers, and even some Zimbabwean white farmers. The buyers of these consolidated plots are now fencing, which has created tensions understandably with the Maasai and other herders who have been using this land for a generation.

I. Background

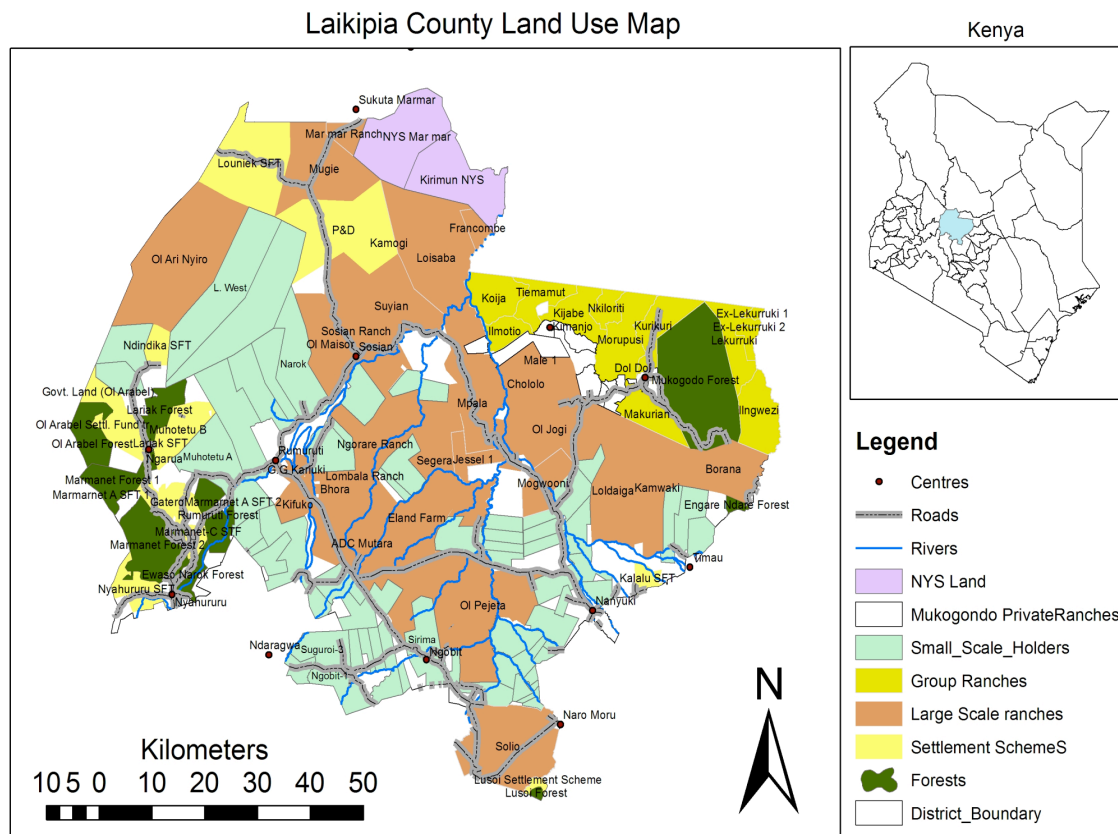
In recent years there have been significant changes in the pattern of land ownership in Laikipia. These changes are set against a background of profound inequalities in land ownership and control. 40.3 % of land in Laikipia is controlled by 48 individuals. Contemporary changes in land ownership are not leading to better livelihood outcomes for Maasai pastoralists, who inhabited the Laikipia Plateau before treaties with Britain in the early 20th century which resulted in most Maasai moving to make way for the creation of large commercial ranches for white settlers. After independence the large commercial ranches were retained as part of the colonial government and Kenyatta administration agreement. However there were those settlers who opted to leave or sold their land to the Kenyatta administration. The Kenyatta administration in return settled Kikuyu's from central province in these lands in the name of land buying companies. These people in essence did not settle in these lands but instead used it as collateral for accessing bank loans. The other portion of land was later to be divided into group ranches to settle pastoralists (Maasai) under the World Bank rangeland development programme. The remaining bit of land was registered as government land or outspans. This land use arrangement was maintained upto late 90s when agitation for reforms under a new constitution began. Since then there has emerged a new pattern of land ownership and land use with these initial patterns either changing hands or its initial investment plans altered. During the same period a lot of the government land (outspans) have been grabbed by senior government officials, politicians and military officers. Over the same time, some Maasai elites have also acquired large land holdings. However, most Maasai continue to live on group ranches in Mukogodo, the northeastern frontier of Laikipia bordering Samburu land where no changes in either the land ownership or land use arrangement has been witnessed. A few pastoralists have however moved out due to population pressure or increasing aridity in the group ranches to buy land or settle as squatters in the small holder farms that were divided by the Kenyatta regime to the kikuyu community.

Over time the increase in land changing hands or the land use pattern among the bigger commercial ranches or the small holder farmers has led to a huge rush for land in Laikipia. New patterns of land use are emerging and differential land ownership is becoming more rapid than previous years.

This study examines the main types of land deals in Laikipia over the recent past. The aim is to understand the different category of land deals, who are the key domestic and international actors involved and in what ways are these land deals linked to other investments. It is important to understand in what ways are the outcomes of the changing land ownership impacting on the livelihoods of the different groups and who stands to benefit from these changes and who losses.

II. Land Tenure Regimes within Laikipia District

Below is a map of Laikipia district showing the different land use options. These land use options also define the tenure regimes that exist within Laikipia



The history of land in Laikipia district is unique and represents a multiplicity of diversity in the land use options compared to any other district in Kenya. Each tenure regime represents a unique type of production system that is totally different from the other depending on the different categories. Though there are some that try to bridge some semblance with their neighbours most of the different regimes have different user arrangements and are guided by the land use system adopted by members of the same category. However the different land regimes are defined by the following tenure arrangements

1. Large scale ranches

There are 48 large scale ranches representing 40.3% of the total land area in laikipia. They occupy huge tracts of land with Laikipia ranching having 92,555.21 acres followed by Olpajeta, then Colcheccio currently Loisaba 62,092.97 and Oljogi 54,048.65 being the biggest of the 48 ranches. The smallest of all is Andrecaple with 416.45 acres. Most of these ranches were acquired during the colonial time and legislation governing their ownership borrowed from the colonial law into the

independent Kenyan constitution under the land transfer agreement between the colonial government and the Kenyatta regime. It is important to point out here that during the Maasai land campaign of 2004 agitating for the government to address historical injustices on land based on the Anglo-Maasai British agreements of 1904-11, it was realised that some of these ranches have no legal documents.

2. Large scale farms

Large scale farms are 23 and represent 1.48% of Laikipia district. These are farms held by individuals mostly from central province who got them during the time Kenyatta was subdividing the land after independence or by land buying companies that opted not to sub-divide them but use the land collectively as collateral for accessing bank loans. Such farms belonging to land buying companies include Suguroi(4,526.50 acres) and Murera(1385.81 acres). Farms held by individuals include Rware-3(1089.10) held by President Kibaki's family, Mathenge(1817.64) held by a former provincial commissioner in the Kenyatta and Moi regimes and Mohammed(1091.59) held by a former chief of general staff of the arms forces of Kenya. Some of these farms are also still in the hands of descendants' of colonial ancestry such as Jennings (2123.02), George (1969.87) and John C. Cardoville (1077.02).

3. Group ranches

There are 13 group ranches in Laikipia districts representing 7.45% of the total land area. All of them are found in the northern dry part of the district and are occupied by pastoralists who use them for communal grazing. However some of the group ranches such as Il-ngwesi, Kijabe, Lekuruki and Koija have wildlife conservancies and tourist lodges. In terms of tenure arrangement all group ranches have not been sub-divided and remain intact though faced by growing population pressure that is putting a strain on natural resources

4. Small holder farms

Small holder farms represent a total of 27.21% of the total land area in Laikipia and are 122 in number. These farms were initially large scale farms bought by groups of individuals who later sub-divide them into small holding of between 2 – 5 acres. These farms represent three categories of farmers. Those who bought and settled as a result of land pressure from their ancestral land or those who bought for speculative purposes in the hope that prices will rise so that they could sell them later. A third group are those who bought and used them as collateral for accessing bank loans. The first group majority of them still live in these farms doing subsistence rain fed agriculture. Most members of the two other groups represent the case of absentee landlords. These lands remain idle and unoccupied. However overtime while searching for pasture or water for their animals or due to population pressure in the group ranches pastoralists have moved to settle in these farms either as squatters or a few of them have bought them and have title deeds.

5. Government land

These are 36 pieces of land owned by the government representing 6.58% of the land area in the district. These lands are used for training by the military and national youth service. They are also used as livestock holding grounds by the ministry of livestock and veterinary services during quarantines or by the agricultural development corporation. Research institutions also used them for research purposes

6. Forest reserves

There are two categories of forest reserves. Disturbed forest reserves which are 4 representing 2.78% and intact forest reserves which are 8 representing 4.75% of the total land area. The disturbed forests are where government have allowed cultivation inside with an agreement with the

farmers that they will plant trees and integrate crops in them. Disturbed forests are also those found neighbouring farming communities and have exploited them for firewood or timber production. Intact forests are those where pastoralists graze their animals or those where conservation is taking place thus limited human activity is allowed or are under community or private management system.

Table giving a summary of the different tenure regimes existing in Laikipia District

Type of Tenure Regime	Total land area in Acres	Total in number	Percentage land occupied in the district
Large scale ranches	937,582.65	48	40.3%
Large scale farms	34,471.00	23	1.48%
Group ranches	173,441.26	13	7.45%
Small holder farms	633,069.79	122	27.21%
Disturbed forest reserves	64,739.45	4	2.78%
Intact forest reserves	110,693.02	8	4.75%
Government land (outspans)	153,121.18	36	6.58%
Others	?	?	9.45%

II. A. Research observation of the different tenure regimes

Some of the key observations coming out of the research process have given an indication on how land might be changing hands in Laikipia either with or without the knowledge of the ministry of lands. The large scale ranches from an outside perspective are consolidated and fenced as one unit each. However looking at the data from the Ministry of local government where these ranches pay land rates most of the farms are internally sub-divided into small units of varying acreage with each unit having a different land rate number. Out of the 48 large scale ranches 16 are internally subdivided with each unit having to pay land rate of varying amounts depending on their sizes. Oljogi farm has 10 pieces which is the highest number of small units followed by Olpajeta with 9 and Mpala farm with 7. According to discussions with the local government officials (though there were no records to validate the discussion) the reason for such parcelling of land were advanced from two fronts. One is that each of the parcels were owned by an independent individual who pays the land rate depending on the size of the parcel. The other argument is that this parcelling denies the local authority the consolidate land rate which is higher as opposed to when the land is divided into parcels. However one of the big challenges facing such an arrangement is lack of information from the Ministry of lands to back up the arguments. Discussions pointed out to the fact that many of the transactions are done at an individual level without necessarily involving the Ministry of lands. There were claims that some of the parcels within the bigger ranches have been sold to people of

European origin some coming from Zimbabwe while others are retiring people from Europe who wanted to settle in Kenya thus finding their way to Laikipia through their social network. The only evidence that could back up such claim is the rapid emergence of palatial private residence in some of the parcels within these ranches. This points out to the fact that there is an increase in the population of the white settler community within the big ranches. The other school of thoughts indicates that the private residences are actually tourist destinations of high class nature but built without government knowledge. Tourist pay for their fees in Europe and just come to occupy the premises as residence thus the owners avoid taxation. Again this cannot be fully verified as Laikipia Wildlife Forum as indicated later in this research has given a majority of the tourist destinations in Laikipia in its website thus one may not classify the private residences as tourist destinations.

The large scale farms on the other hand are rapidly being acquired by big multinationals for horticulture purposes. Those particularly near permanent water sources have been taken over by the multinational companies which immediately turn them into horticulture farms where they grow crops that are exported to the European market. Among these farms include Naromoru Farm, Murungai and Murera

Looking at the small holder farms all of them were initially parcelled into small holdings and occupied by farmers settled by former president Kenyatta or used as collateral to access bank loans thus remaining as absentee lands where pastoralists have settled over time as squatters. However over recent years there has emerged a group of former ranch managers of the large scale ranches who are acting as brokers between the owners of these farms and willing buyers mostly of European origin. They collude with the Ministry of lands officials to consolidate these small parcels into large holdings and sell them to white people. One of the research findings indicate that the buyers might not be aware of the complexity of such dealings as they buy the land only to come later to realise that there are people living there thus finding it difficult to move or evict them. Case examples where such practices are being undertaken include Ethi (4742.18), East Laikipia (12152.06) and Kimugandura (10139.14). This scenario is a potential source of conflict. In 2008 pastoralists invaded part of the kimugandura ranch that was fenced and brought down the fence protesting at the acquisition and fencing of an important water source. They later went to court claiming ownership of the land as some of them have lived there since 1980 more than 12 years that the Kenyan law gives one to stay in a place then claim the right of ownership. The case is still pending in court.

Group ranches have not been affected by the process of land changing hands. All of them are intact and occupied by pastoralists who do grazing communally using traditional grazing management. However a majority of the group ranches have limited ground cover due to intensive grazing and the increasing frequency of drought/limited rainfall that does not allow them to regenerate to full potential.

Government land was among the earliest lands to be grabbed in Laikipia. Only 5 out of the 36 government outspans have not been grabbed and are managed by government parastatals such as the Agricultural Finance Corporation(ADC) or the military like the National Youth Service(NYS). These include ADC Mutara(60,874.54), Makurian Holding Ground(854.64), Kimanjo Holding Ground(1027.42) Kirimon NYS(39884.78) and NYS Mar mar(43880.45). These lands have been grabbed by senior government officials, politicians and the military personnels. Others have been

grabbed by managers of large scale ranches in places where the outspans neighbour large scale ranches. Most of these lands have also changed hands since they were acquired by individuals.

The final category of land in Laikipia are forest reserves. This can be categorised into two. Disturbed and intact forest reserves. Disturbed forests are those that have lost their vegetative cover mostly due to human activity or settlement. These include Marmanet forest where the Moi regime allocated land to people who supported the establishment at the time and Ewaso Narok, Rumuruti and Lariak forests that have been depleted due to human activities. When the Kibaki administration took over in 2002 there has been constant threats of eviction to people living in the Marmanet forest as a result of exploitation of the forest and reduced water levels in the rivers whose sources are from this forest.

Intact forests are those where human activities are going on but have not impacted negatively on the forest. Most of these forests are used for herding where livestock are driven into the forest during the day and out in the evening except Mukogodo forest where pastoralists live inside. Many of the intact forests are either occupied by pastoralists or conservation group such as Lewa wildlife conservancy. The management of the forest is also under communities or conservation groups jointly with communities with the Kenya forest service playing an oversight role.

III. The Emerging Land Deals – Case Examples

As already indicated earlier in this report, land deals have been on the rise in Laikipia since 1990. The deals involve various stakeholders including big commercial ranchers (most of them a generation of the colonial ancestry), politician with the three independent Kenya presidents owning land in Laikipia, senior government official, military officers and pastoralists elites who are part of the government and have played a role in appropriating land for themselves at the expense of their communities

An observation by the research team indicates that some of these deals are being done in a secret maners as no documentation is available at the lands offices yet other data such as from the local government offices shows parceling of land into smaller units. However looking from the outside the ranches are fenced as one unit. Most of the big ranches have representation at the district land board but only attend the board meetings when they have a particular agenda they want to influence. Its argued that most of the deals are done through private arrangements by signing Memorandum of Understanding between the different parties without having to go through the legal and procedural processes as some of the deals involve people coming from Zimbabwe running away from the land and governance turmoil in the country. The other group are retiring people from western countries who are settling in Kenya or want to develop holiday residences while a third group is driven by an investment agenda mostly tourism.

Large scale farm deals mainly involve large multinational companies doing horticulture, wheat farming and high quality beef cattle ranching. Among the multinational companies include homegrown, Batian, Vita cress and AAK which mainly grow products for the European market.

Recently there has also emerged a group of former ranch managers who are acting as brokers working closely with land officials to consolidate small holder farms of absentee landlords then later they look for the owners and link them to individuals or companies that buy the land as consolidated

units. However this has since proved controversial as most of these lands are occupied by pastoralists living as squatters. Pastoralists in some instances have challenged this move and the new owners of the land have found themselves unable to occupy the land. Cases of such deals include Ethi farm, East Laikipia farmers and Kimugandura where pastoralists have refused to move and instead went to court to challenge the legality of the move.

The table below gives examples of land that has changed hands recently with Laikipia

Large scale ranches		
Ranch	Acreage	Comments
Kimokandora Ranch	7,142.86	Formerly owned by Mugambi and sold to white Zimbabweans who visit it over weekends
Loisaba Ranch	62,092.97	Formerly owned by an Italian now by an American but leased to Wilderness Guardian Company
Mugie Limited	43,985.95	Formerly owned by Kenya's first African chief justice (Kitili Mwendwa) but have changed hands 3 times since 1980 with the current owners being the Kenyatta family
OI Jogi Limited	54,048.65	Changed hands twice since 1980 and divided into 10 pieces currently owned by a French American who bought from an Italian
Ole Naisho	29,005.08	Formely Kamwaki 1963 owned by a Dane, sold to the Delamere family; divided to 2 pieces
OI Pejeta Ranching CO	88,923.79	Changed hands six times since 1963. Owners included Lord Delamere, Onassis, later Adnan Kashoggi, Tiny Rowland's Lonrho, Daniel Arap Moi then currently BCP. Divided to 9 pieces
Samburu Limited	24,000	Formely of Munene Kairo (Mwai Kibaki's trusted aide) and now Offbeat Safaris
Segera Ranch	21,442	Formerly owned by Philip Valentine and now owner is an American investor (Puma Company). Divided into 4 pieces

IV. Land deals and their link to investment

Several arguments have been advanced regarding the rationale behind the rapid land deals emerging in Laikipia. Some suggest that this is as a response to the land reform agenda which was part of the clamour for the new constitution. Others have pointed out the quest by some communities to address historical injustices based on the skewed land arrangement in Laikipia where some have more than enough while communities are struggling to make ends meet out of small parcels. However despite these arguments one clear thing is that investment emerges as one

of the principle reasons why land is changing hands at such a rapid rate. A major investment is in the tourism and wildlife conservation sector. This is exemplified by some of the statements from various websites marketing the tourism industry In Laikipia like this one from Laikipia wildlife forum.

Laikipia is widely accredited as Kenya’s premier safari destination with ideals and practices that are at the forefront of conservation tourism. The combination of abundant wildlife and exceptional scenic beauty provides the basis for Laikipia’s unique and high quality tourism. Here, wildlife is free to roam between ranches, conservancies and community lands into Kenya’s northern rangelands

Quotation courtesy of Laikipia Wildlife Forum publication

Laikipia has the highest number of wildlife in Kenya outside protected areas. Most of the ranches

Laikipia has some of Africa’s most luxurious safari lodges and camps, and the district also hosts the highest number of community-owned lodges in Kenya

Laikipia offers the freedom and space for visitors to walk, ride, cycle and camp amongst a great diversity of wildlife and wild landscapes, against the dramatic backdrop of Mount Kenya. A sense of belonging through engagement with Maasai guides, hosts and local people, is something that visitors take home with them

Quotation courtesy of Laikipia Wildlife Forum publication

have been turned overtime into wildlife sanctuaries. Group ranches have also been converted into community wildlife conservation trusts. Laikipia equally has the highest number of tourist facilities compared to any other county in the interior of the country. Some of the lodges are classified as world class most

luxurious. The table below shows the different types of tourist facilities and their number in Laikipia District

Type of Tourist Facility	Number
Day Visits Conservancies	5
Lodges	14
Ranch Houses	10
Tented Camps	11
Hotels	3

Camping Sites	1
Wild Camping	8
Adventure Safaris	10
Air Charter (Nanyuki Airstrip)	1
Booking Safaris	6

Other investments include horticulture farming being practiced in large scale farms, wheat farming cattle ranching and the dairy industry. Some of the big ranches and large scale farms have also developed research foundations or conservation trust where they receive funding from individuals or institutions with an interest in conserving wildlife species particularly endangered species like the African black rhino, wild-dogs, gray zebra and other species. These farms include Lewa wildlife conservancy, Olpajeta, Chololo ranch under the Leakey Foundation (1999), Mpala research centre as well as Mpala Wildlife foundation. Others are partnering with neighbouring group ranches to initiate joint conservation projects and investing in community lodges. They establish community conservation groups and go out sourcing for donor funding to implement the projects. Other projects implemented besides conservation include community based healthcare outreach programmes, curio shops trade and tree nurseries.

The consolidated small scale farms are investing on developing private residences for people from western countries who come during their holidays and do not have to put up in hotels or lodges. Others are developing horticulture, wildlife conservation and pasture bulking for sale to ranches with livestock during the dry season

A new emergence in land investment which is developing among large scale ranches is the use of those ranches for British Army training/drill exercises. Initially only Lewa and Mpala farms were used for military exercises but of late other farms like Oljogi, Oldaiga, Ole Naisho and Olpajeta have come to include military training/drill exercises in their farms. However there is no data on this new form of land use in terms of return to investment or how much they pay for using such lands.

V. Impact of land deals on other livelihood groups - initial observation

Land deals are coming to compound an already existing multiplicity of problems related to access use and management of scarce resources in Laikipia district. Laikipia compared to neighbouring districts is a buffer zone that receives moderate rainfall and does not suffer severe droughts except in those exceptional cases like 2009. Over time many pastoralists have moved from Baringo, Samburu and Isiolo districts to settle in Laikipia in search of water and pasture for their livestock. On the other hand land pressure in central province is forcing subsistent farmers to move and settle in Laikipia doing marginal rain fed agriculture sometimes integrating it with small herds of sheep, goats and cattle. This has led to competition for space and resources coupled with increasing frequency of drought and aridity as witnessed in recent years.

With the emergence of the rapid increase in land deals more competition is being witnessed in resource sharing and access. There is an increase in land pressure due to limited access leading to increase in levels of vulnerability among farmers & pastoralists. The small holder land consolidation process being undertaken by former land managers who are broking for individual buyers is reducing the total land available for pastoralists and farmers as they have to move in certain instances to look for alternative space. This has meant that with slight changes in the weather pattern these groups suffer heavy losses of livestock and crop failure as they have limited options to adjust to leading to a general increase in vulnerability among these groups.

Land deals have also led to an increase in land use conflicts. Most of the land targeted for sale are small holder farms or large scale farms where there has been absentee landlords. Pastoralists or farmer have overtime occupied these lands and have to be moved or given notices of evictions whenever the land deals are entered into between the owners and buyers. This has led to conflicts as the squatter groups have often defied these directives. In certain cases the squatters have moved to court seeking legal redress as they have lived in these farms for more than twelve(12) years and the law gives lee way for one to lay claim of ownership of the land if they have lived in that piece of land over that period. There are also instances where pastoralists have pulled down fences erected on those farms and issued threats to the new occupants leading to more conflicts. Examples of such land where pastoralists have sort legal redress include Eland Down owned by former president Moi and sold to a group of American conservationists who sub-contracted it's management to African Wildlife Foundation and Kimugandura farm owned by a group of seven rich Kikuyus from central province who used the farm as collateral to access loans from the Agricultural Finance Corporation. This scenario is also related to the whole issue of consolidation of land that benefits a small group of individuals versus loss of land by a greater majority

The land deals have contributed to the inability to cope among pastoralists and farmers incase of normal rainfall failure. The reduction in the total amount of available land has led to reduced mobility. This in turn has led to loss of assets (livestock) thus any slight changes in the weather pattern means that pastoralists have to rely on relief food from government in order to survive the harsh conditions

This practice is equally blamed for over exploitation of natural resources in some areas and conservation in others. In areas particularly occupied by the agricultural community most of the natural resources (forest cover) have been exploited either for charcoal burning, firewood and timber production as people try different options to meet their household daily incomes. From the pastoralists areas sustained grazing of the range lands due to constrained mobility has led to limited or lack of space for the range to regenerate. This inturn has led to degradation of the land and emerging of unpalatable invasive species of plants like prosopis that render grazing areas unusable helping compound the whole issue of pasture access in few areas left for pastoralists to graze.

In areas where joint management of lands have been initiated such as the forest reserves conservation of resource is prioritised and the different user groups have developed natural resource use management plans. Also in the large scale ranches, large farms, consolidated small holder farms and some group ranches where resource use and management falls under few individuals conservation and use of resources is practised under intensive management. This has

ensured availability of resources even during times of stress. The negative aspect of availability and non availability of resources in one group of users versus the other is that it leads to conflict as those who do have will always tend to poach from those who have. A case example is where pastoralists do illegal grazing in the large scale ranches whenever there is scarcity in their areas. This leads to arrest and sometimes confiscation of livestock from pastoralist by government agencies in an attempt to protect the large scale ranches

Other emerging impacts of the land deals include pastoralist and farmers seeking alternative options to support their livelihoods like moving to Mt Kenya forest in search of pasture and water for their livestock despite the harsh climatic conditions or in the case of farmers practising intensive Irrigation or doing trade. Land deals have also seen the building of alliance between different user groups i.e. Joint conservation groups, user associations etc whose main aim is to conserve and use sustainably available resources as groups as opposed to individual exploitation which often leads to over exploitation.

VI. Emerging conclusions of the land deals

Its interesting to see how the different land deals are shaping land use options and how these options influence the economy of the different user groups in Laikipia. A continuation of these deals has drawn a number of preliminary conclusions from the research team which can be summarized as follows

- Many of the current land deals are being transacted at individual level without the ministry of lands official involvement leading to limited information availability at the district data base
- Failure by government to have a comprehensive land bank call for policy action on this matter
- The deals are a potential source of conflicts between the different groups i.e. there are already six cases in court related to land deals. These land cases translate to an increasing level of intolerance among the affected groups on these land deals which are done without their involvement
- These deals are leading to people beginning to agitate for land reforms under the new constitution. The new constitution has a clause that calls for the limitation of the amount of land one should be allowed to own.
- Consolidation of small holder farms under absentee land lords but occupied by pastoralist is leading to conflicts, land degradation and increase in vulnerability
- Consolidation of small holder farms is leading to pastoralists exploring options for survival and livelihood diversification