

**From Communal to Private:  
Dynamics of a Changing Land Tenure System  
in Chepareria, West Pokot County, Kenya**

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## ***Abstract***

*In the context of the ongoing land use change in pastoral areas in East Africa, new developments and dynamics imply various shifts in pastoralist livelihoods and land management. Previous research has engaged in a polarised debate of private versus communal tenure. Based on a political ecology perspective, this study uncovers dynamics within the shift from communal to private land by analysing a changing land tenure system and its perceived impacts on pastoralism and livelihoods. It focuses on Chepareria Division in West Pokot County, Kenya, that has witnessed a process of land privatisation of communal land for the last 30 years. It will give an insight into structures of agency, access, property, power and authority within a politicised environment and how land tenure affects dynamics in society and the other way round. This enables a discussion about social and environmental issues which arise and inform potential long-term developments relevant for further research in the field.*

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# 1. FROM COMMUNAL TO PRIVATE

## 1.1. Introduction

Chepareria Division in West Pokot County, Kenya, is located in a climatically arid and semi-arid area and inhabited by the traditionally nomadic pastoralists, the Pokot. For the last 30 years, there has been an ongoing process of privatisation and the enclosing of communal grazing land. Along with land enclosures go changes in land use, livestock management, livelihoods and infrastructure.

At the beginning of these processes, the Pokot resisted the implementation of enclosures and the creation of boundaries, as they argued they were dependent on shared grazing areas and water for their livestock for survival due to difficult environmental conditions. Therefore, there was a partial retention of traditional land ownership and distribution patterns among the Pokot that undermined governmental policies about land tenure (Nangulu 2001, 71).

Today, one can identify developments towards privatisation of open access communal land, mainly manifested through the establishment of enclosures for grazing of animals as well as for crops. However, some land is still managed collectively, providing open access grazing land for the Chepareria community (Wernersson 2013).

These changes should be understood within a broader context of transformations in land use and land tenure in Kenya and East Africa. In previous literature, globalisation is identified as a process that underlies drivers that lead to land use change and influences their impact as it removes regional barriers, weakens national connections, and intensifies and improves interdependency among people and between nations (Lambin et al 2003, 221). New developments and dynamics, based on demographic, climatic, market, technological, political and socio-economic changes, in pastoral areas imply various shifts in pastoralist livelihoods and land management (CAPRI 2005). Exemplifying this, nomadic pastoralism seems to be developing towards sedentary agro-pastoralism and land property rights regimes, following a trend of privatisation of communal land (Beyene 2009; Woodhouse 2003).

There is an ongoing academic debate about how to understand ongoing changes in land tenure systems in pastoral areas (Catley et al 2013, 11). Various literature addressing the privatisation of communal land raise issues about land tenure, such as multiple interests and rights on the same parcel of land (Bromley 2008, 24; Wily 2008, 44) and tenure security (Bromley 2008, 21; Pinckney & Kimuyu 1994, 3). There are strong polarised arguments about how tenure security can be achieved, as some argue for individual ownership while others emphasise the importance of group ownership (Obeng-Odoom 2011, 162). Both forms of tenure can have numerous implications on social and environmental sustainability outcomes. Arguments for individual ownership often associate pastoralism in arid and semi-arid land in Africa that traditionally operates on communal land with unsustainable land management (Bromley 2008, 24). Tenure security and therefore individual tenure should imply a reduced risk of expropriation and a resulting trend towards long-term sustainable land management (Deininger & Feder 2009, 236). A common argument is that formalisation of titles can imply political and economic legitimisation for people and that they in turn value their property and handle it in a different way than a temporary settler would do. This has the potential to lead towards better land conservation (Bromley 2008, 21-22; Lambin et al 2003, 219-220).

Looking at different forms of ownership in terms of agricultural investment and productivity, Bromley criticises the individual tenure approach as he argues that when there is tenure

security, even without a formal title, people's behaviour on their property does not differ from people who possess a title. The difference is an economic one because individuals holding a title are also eligible to receive bank credits. Moreover, formalisation of land property rights can lead to new insecurities, such as an increase in land transaction costs or inadvertently triggering conflicts when customary practices are ignored, especially in a society where access to land determines livelihoods (Bromley 2008, 22-24).

Arguments for communal tenure state that formalised tenure often eliminates or weakens communal land rights and can therefore have negative impacts on pastoralist land and seasonal access to land for pastoralists (Deininger & Feder 2009, 241; Flintan 2011, 1). Changes in land tenure, such as the loss of control over or ownership of land through privatisation and sale can have negative impacts on pastoral society and give rise to poverty, insecurity, landlessness and vulnerability to draughts (Veit 2011, 7; Flintan 2011, 4; Zaal & Dietz 1999, 195). Furthermore, sub-division and fragmentation of land, increasing private enclosures and settlement on pasture land hinder pastoralists' mobility (Mureithi & Opiyo 2010, 6-7, 11). The more communal ranch land is disappearing, the more the process of subdividing the land to private enclosures speeding up. These processes are argued to harm pastoralist society and livelihoods (Flintan 2011, 6). In Eastern Africa, people who are still practising pastoralism are often forced to migrate to adjacent areas due to the privatisation and fencing of land for crop cultivation and consequent lack of open access communal land for pasture (Greiner et al 2013, 1485).

Similarly, there is an emphasis on the important role of commons for poor people and that continuing insecurity of tenure has most impact on them (Wily 2008, 46-47). In the case of Kenya, commons are argued to remain in a legal limbo state as they are unregistered and only indirectly understood as customary property. They are held by governments whose authority prevents reorganisation to community tenure (Wily 2008, 49).

This academic debate that is dominated by arguments for or against communal and individual land tenure is lacking much needed attention to the dynamics entailed by the change from communal to private land. My research focuses on changes in land tenure in the context of privatisation of communal pastoral land in the arid and semi-arid Division of Chepareria, West Pokot County, Kenya. I analyse a changing land property rights regime from a political ecology perspective, which allows for a discussion about those dynamics and contributes to the gap in previous research. My study builds upon the results of an exploratory study on land use change in Chepareria conducted by a student of my department, Julia Wernersson (Wernersson 2013). Both of our studies contribute to the broader research context of the Triple L research initiative.

## **1.2. Problem, Aim and Relevance**

The specific purpose of this study is to uncover dynamics within the change from communal to private land by analysing a changing land tenure system.

Examining processes that re-shape existing land use and land property regimes implies a need to move beyond the debate as to whether formalisation of individual tenure, or common property, contribute to sustainable management of pastoralist land. Rather, such processes demand a deeper understanding of the factors that create new dynamics in the context of pastoralist land use. Hence, there is a requirement for deeper knowledge about local land use change and transformations of existing land management and property rights regimes. Based on the findings of Wernersson (2013) and in the context of ongoing land use change in

pastoral areas, the present situation regarding land tenure in relation to the enclosing of grazing- and cropland is unclear. This case study, conducted in Chepareria Division, West Pokot, Kenya, should contribute to the knowledge gap about factors that create new dynamics in pastoralist land use change through an example of a changing land tenure system in land privatisation processes in pastoral areas.

The outcomes of this study contribute, in general, to an understanding about how social processes relate to land and environment and how they inform each other. It will give an insight how land tenure affects dynamics in society and the other way round. Furthermore, by considering how residents perceive those dynamics affecting their livelihood enables a discussion about social and environmental issues arising that inform potential long-term developments relevant for further research in the field.

In order to address the interaction between a changing land tenure system and societal and environmental dynamics I will pose following research questions:

1. How does the changing land tenure system work in practice?
  - a) What modes of land tenure exist in Chepareria and how are they related to each other?
  - b) What are the roles, functions and meanings of communal land in the changing tenure system?
  - c) What are the conditions for people's land tenure in the context of increasing privatisation of land?
  
2. How do people perceive impacts of the changing land tenure system on pastoralism and their livelihoods?

The first research question about land tenure modes addresses land registrations, regulations, authorities and institutions involved in the changing property rights regime. By enquiring the roles, functions and meanings of open access communal land I will draw the focus away from the discussion about either private or communal ownership. Instead, I interrogate whether there is still communally managed land left that serves certain purposes. Those two questions further interrelate with and enable me to consider conditions for people's land tenure in the context of increasing land privatisation. This encompasses a discussion about access to land, eligibility to own land and forms of landlessness.

Incorporating and contextualising all issues from the previous questions leads to the overarching question of how residents themselves perceive dynamics of change in terms of privatisation of land and a changing land tenure regime. It will enable a discussion about what impacts on pastoralist livelihoods, what problems, challenges or advantages residents of Chepareria experience and what future developments they expect.

## **2. BACKGROUND**

This section covers a background on pastoralism as well as literature and previous research of land tenure change and impacts on livelihoods in Kenya and East Africa. As I have previously illustrated in the introduction, and which becomes apparent here, previous research raises issues related to pro and contra arguments regarding individual or communal tenure in a pastoralist context.

Moreover, in order to define key terms, as well as to clarify and contextualise my study, I also discuss different forms of land registration and tenure in Kenya.

## **2.1. Background and Previous Research**

### *2.1.1. Land Privatisation and Pastoralism*

Pastoral land in West Pokot, Kenya, has been managed communally with certain regulations regarding access and use of resources. Despite the changing situation in the West Pokot area, pastoralism still plays an important role. Even though their livelihoods depend on various activities for income, no longer on merely pastoralism, people describe themselves as pastoralists and there are still strong interactions between semi-nomadic pastoralists and settled people in towns (De Vries 2007, 26, 32, 134).

Pastoralists in general are livestock-herding people and their livelihood builds upon their livestock and its products. Therefore, livestock plays a central role and shapes the culture and identity of pastoralists even when they are not depending on livestock per se for survival anymore. Some pastoralists also engage in farming which is then defined as agro-pastoralism (Lesogorol 2008, 309, 314; Mureithi & Opiyo 2010, 1, 4, 5). There is a direct connection between pastoralism and territory, as livelihoods depend on the availability of territorially determined resources. This connection also prompts pastoralist's mobility as the seasonal availability of resources for their livestock changes and as a result they have a flexible notion of spatiality and territorial boundaries (de Vries 2007, 25). Private land appropriation can be seen as a new way of being within communal territories, but at the same time being part of an important process of social change within a context of liberalisation and globalisation (Benmoussa 2013).

Discussions regarding the process of land privatisation in pastoralist areas trigger questions about the future of traditional pastoralism. In general, fear that there would eventually be no land left leads to increasing competition over private land and people fence as much land as possible (Gebre 2009, 285). In some parts of East Africa, there are areas where the majority of land has already been privatised. In those areas, pastoralists who had been excluded from or were left without land during the uncontrolled privatisation of communal land were settled in various trading centres by development interventions. As they were not able to adapt to the new sedentary system they were seen as increasingly dysfunctional in economies of the modern state (Anderson 1999, 245). In the future, the trend of land privatisation might spread to more areas and, at the end of this process there will be no communal land left (Gebre 2009, 286, 294) which implies that it could no longer be used for pastoral purposes (Gebre 2009, 287).

At present, land privatisation in other parts of East Africa is giving rise to new forms of pastoralism and new arrangements in herd managements, such as informal and contractual arrangements among people about who are migrating with animals (Gebre 2009, 291, 293, 295). Due to the privatisation and fencing of land and consequent lack of communal land for pasture, people are often forced to migrate to adjacent areas (Greiner et al 2013, 1485) where there is remaining communal land for pastoral use.

### *2.1.2. Reasons and Drivers for Land Privatisation*

In pastoralist systems there are fundamental changes in land tenure as developments from communal land management towards commoditisation and privatisation of land and further

sub-division and sales of titles arise (Anderson 1999, 244). Various literatures provide different reasons for this process and suggest different drivers in different East African contexts. During colonial times, individual title deeds were given, in the beginning as an experiment, to demonstrate the potential benefits of enclosures and individual ownership. As a reaction, because they feared exclusion, the process of herders spontaneously enclosing land started (Anderson 1999, 244). In the context of pastoral commoditisation in Kenya, land can become a commodity when access to adequate land to perform pastoralist lifestyle decreases or is restricted (Zaal & Dietz 1999, 170-172; Gebre 2009, 284). People engage in the process of land privatisation due to land insecurities and increased competition over resources in order to establish a private grazing reserve, to cultivate crops or pasture, or lease land to other pastoralists (Flintan 2011, 6). Other drivers identified for privatisation of land and consequent sedentarisation of pastoralists are population growth and environmental degradation. Frequent droughts, insecurity and disputes over grazing rights can further disrupt nomadic pastoral lifestyle and force people to settle (Mureithi & Opiyo 2010, 1, 4, 5). Furthermore, increasing primary school enrolment of children can make people settle more permanently as traditionally, children used to herd the animals but are no longer available for this task (Greiner et al 2013, 1485).

### *2.1.3. Sedentarisation and Livelihood Diversification*

As pastoralists have started privatising their communal land, various scholars discuss questions about its impact on their livelihoods, including sedentarisation, and the future of communally managed land. The previous exploratory study in Chepareria reveals findings about the process of fencing and the resulting enclosures and its impact on the number of livestock. In short, the number of animal grazing are adapted to the size of the enclosures. This process implies fewer cattle and a decrease in livestock wandering around in the area which also results in less movement of people with their livestock (Wernersson 2013, 38). These findings give an idea about changing livelihoods in the context of changing land use in West Pokot.

In the general discussions about pastoral land privatisation in East Africa, the shift in land tenure triggers questions about whether processes and dynamics of privatisation of land cause sedentarisation of pastoralists, or if the privatisation of land and changing land property regimes are processes arising from a pastoralist trend towards sedentarisation. Some authors suggest that transformations to private land lead to changes in traditional pastoralism towards sedentarisation and further require a deeper understanding of this process (Lesogorol 2008, 309-310; de Vries 2007, 25; Greiner et al 2013, 1484). In comparison, Gebre (2009) describes a process of decreasing mobility of pastoralists and a sedentariness that has increased the meaning of land ownership and territoriality (Gebre 2009, 284).

The ongoing process of livelihood diversification among pastoralists in East Africa implies that they employ different means of subsistence such as engagement in agro-pastoralism or earnings through wage labouring (Lesogorol 2008, 314; Moritz et al 2011, 290). This leads to a debate about costs and benefits in relation to pastoralist livelihoods. On the one hand, livelihood diversification can generate increased wealth among people and a reduced livestock husbandry that both result in a decrease of risks and less need for insurances. On the other hand, sustainability of livelihood diversification can be questioned as it interferes with the pastoralist lifestyle and could have negative impacts and increase risks. Integration into the market economy, as an example, can provide an additional source of income and diversify

livelihoods but at the same time market fluctuations, especially in combination with natural risks associated with pastoralism can pose serious problems for people. The market value of livestock can undermine social and cultural pastoralist values as people would rather sell their livestock than invest in social exchange networks. Also, increasing economic differentiation in pastoral societies often, but not necessarily, leads to a decline in the moral economy of social exchange networks (Moritz et al 2011, 290-291; Zaal & Dietz 1999, 180, 195; Catley et al 2013, 14).

#### *2.1.4. Challenges and Pastoral Risk Management*

The agro-pastoral Pokot represent a “vertical society” whose livelihoods and organisation of society as a whole is constituted geographically, by different agro-ecological zones from dry lowlands to moist highlands (Zaal & Dietz 1999, 175). Bio-geophysical conditions can have a big impact on transitions towards agriculture as highlands are more favourable for cultivation than lower areas. Consequently, this also leads to processes of socioeconomic differentiation and new conflict potentials due to new crop cultivation practices that shape land tenure systems and livelihoods (Greiner et al 2013, 1488). Socially and economically, Pokot society faces various challenges, such as violent conflicts with neighbouring tribes including cattle raiding, climate variability ranging from severe droughts to heavy rainfalls, or rangeland fragmentation (Greiner et al 2013, 1484) through increased privatisation of land. Present changes in pastoral societies give rise to new values and practices with a focus on monetary profit and individualistic attitudes that oppose the traditional egalitarian culture, customary safety nets and livestock redistribution practices of pastoralists that inter alia harms their ability to sustain themselves during draughts (Flintan 2011, 1, 7; Catley et al 2013, 19).

Pastoralists employ social risk management strategies to minimize risks and effects of environmental hazards. Those strategies are herd maximisation, mobility, diversification and exchange and include individual action as well as cooperative social practices (Moritz et al 2011, 287). As an example, many pastoralists traditionally migrate their herds to areas with better pasture, which is their main strategy to deal with draughts. Herd mobility requires correspondent land tenure and regulation of land use regulations in order to allow access to and use of resources. Pastoralism is argued to be less prone to droughts than sedentary lifestyle in arid and semi-arid lands (Mureithi, Opiyo 2010, 5). In relation to draught management and economic differentiation as discussed before, people from different socioeconomic strata employ different strategies for how to deal with environmental hazards (Moritz et al 2011, 290).

#### *2.1.5. Land Commoditisation*

As I have already touched upon before, in East Africa, commoditisation of land follows from processes of privatisation and sedentarisation. The commoditisation of land involves investment in fencing to prevent trespassing of animals and to preserve private pasture, unless payment for use of pasture is demanded. It also has impacts on production and consumption that further triggers a higher level of commoditisation of labour (Zaal & Dietz 1999, 170-172).

The new phenomenon of rising land markets shows that land in the eyes of the residents is now increasingly seen a valuable commodity (Gebre 2009, 288). Within land markets, people often employ contractual agreements about sale, rent or inheritance of land that are not officially sanctioned by law (Gebre 2009, 293). Where land is considered state and not

individual property, in some areas, people secretly engage in the selling of land. More common however is renting of land (Gebre 2009, 288, 290, 295). On individually owned land, the Kenyan government supports and encourages the growing land rental market as it argues that it can provide access to land for people without means (Jin & Jayne 2013, 248).

There is a lack of research into land rental markets in Africa, about motives for why people engage in renting or leasing land and consequences of it. In their quantitative study, Jin and Jayne (2013) conclude that land sales as well as rental markets improve efficiency in terms of production and equity regarding income disparities and poverty. Strengthening land tenure, enforcing land registration and reducing land conflicts would have a constructive impact on land rental markets and consequently on livelihoods (Jin & Jayne 2013, 246, 259, 260, 268). Their argument can be criticised with aspects from literature I have presented before as biogeophysical conditions and social and economic challenges connected to privatisation processes can trigger socioeconomic differentiation and have impacts on livelihoods (Greiner et al 2013; Flintan 2011; Catley et al 2013). Those conditions also determine people's capacities in the context of land commoditisation and in their participation in land sales or rental markets. It can therefore be questioned whether an emphasis on land registration and the strengthening of tenure would improve land markets and have positive consequences for livelihoods or reducing poverty.

### *2.1.6. Pastoralism and Politics*

Previous research in the context of privatisation of pastoralist land is lacking an attention towards how state actions on land influence the tenure system, how people react to this and how their responses become visible in the change of the land tenure system (Gebre 2009, 284). In the beginning, the Pokot resisted the privatisation of land and maintained their traditional land tenure (Nangulu 2001, 71). In a broader sense, establishment of land administration institutions in Kenya with the purpose of replacing traditional actors can at best create a parallel system as the strength of traditional authorities can compete with the modern system (Deininger & Feder 2009, 240; Pinckney & Kimuyu 1994). Even after government land tenure reforms and government entitlements, community elders in many cases in Kenya continue to control the allocation of land. Such indigenous land tenure regimes are argued to have the potential to provide security regarding the ownership of land for residents (Pinckney & Kimuyu 1994, 3) as they legitimise certain forms of tenure, not acknowledged by a modern system but by the communities where they operate in. On the contrary, there are assumptions that pastoral communities can also adjust to changing land tenure regimes and that there are possibilities to benefit from them when they provide greater flexibility and economic diversification (Lesogorol 2008, 329). Indigenous tenure regimes are seen to tend to transform towards individualised land tenure which implies that indigenous systems might disappear when a government introduces new land tenure policies (Pinckney & Kimuyu 1994, 3).

In a broader pastoralist context, pastoralist areas are out of reach for many state or development initiative actions. As examples, there is strong undermining of state authority through insurrection or retention against policies, low payment of taxes or contributions to the national budget while at the same time there is a big demand for services or welfare. Pastoralist societies are argued to refuse to be governed as, to a certain extent, physically, culturally, economically and politically they operate outside state authority (Catley et al 2013, 12). In a global system, pastoral areas are seen as a threat to ideas of politics, security and

commerce of industrialised countries due to their characteristic of being ungovernable (Catley et al 2013, 13).

## **2.2. Land Administration in Kenya**

Moving away from a background on pastoral land privatisation, I will now try to provide insights into the context within which it takes place, through an account of the historical and political aspects regarding land as well as present forms of national land registrations in Kenya. This will further enable a deeper understanding of this study and create a basis for the interpretation of my results, especially with regard to the distinction between private and communal tenure and connected land use.

### *2.2.1. Land Registration in Kenya*

Lengoiboni et al (2009) give a good overview of differences between land registrations in Kenya in general and the context of pastoralist lands in particular. To begin with, there is statutory and customary tenure. Statutory tenure includes individual land where people possess their individual title deeds, government land and provisions for group ownership of land in form of group ranches. Group ranches are defined as a large piece of land that is registered and owned privately by a certain group of people (Lengoiboni et al 2009, 580). It is “a livestock production system or enterprise where a group of people jointly hold freehold title to land (theoretically on an equal basis), maintain agreed stocking levels, and herd their individually-owned livestock collectively.” (Veit 2011, 4) In the pastoralist context people employ communal land use and livestock movement within the boundaries of their group ranch. Government land is established for preserving biodiversity and wildlife and can be regulated in a more flexible way and therefore also provide access to resources such as water. According to the Kenyan legislation, when land is under private tenure, owners do not have to respect other people’s interest in access to their land, such as in the case of establishment of private land on pastoralist’s migration routes (Lengoiboni et al 2009, 580, 586). Customary tenure applies on trust lands where there is no individual or group adjudication of land but is occupied by pastoralists and managed according to their traditional communal practices (Lengoiboni et al 2009, 580; Veit 2011, 5). Pastoralist land tenure can range from individual tenure, group ranches or trust land (Lengoiboni et al 2009, 580).

### *2.2.2. History of Land Registration in Pastoral Areas*

Historically, traditional socio-economic and spatial units in Africa were interrupted through newly defined state borders established during the colonial period, which in turn had great impacts on social and economic dynamics. For pastoralists, those developments often implied a restriction to their traditional migration routes when they interfered with new state borders (Catley et al 2013, 3). Border control and border consolidation was on the policy agenda of both, colonial and post-colonial times. Also, a new state was associated with modernity, progress, security and stability which, in a context of land use and land tenure, implied sedentary crop-farming and culture. This idea constituted a big contrast to pastoralist livelihoods and it became apparent that so called development initiatives evolved towards civilising missions regarding settlement projects, irrigation schemes, road building and provision of “modern” services (Catley et al 2013, 11).

Trust land was established during colonial times for Kenya's ethnic communities who could manage it according to their customary law practices (Harbeson 2012, 25). After Kenya's independence in 1963, land consolidation issues were on top of the government agenda to achieve political stability in rural areas, settle the landless and support food production and cash crops (Nangulu 2001, 69). Trust land today is shifted under the authority of county councils but still on behalf of the communities (Harbeson 2012, 25; Veit 2011, 5). Trust land can be registered as private when following national registration laws, including that only the president has the power to allocate it. Consequently, during the legislative period of Kenyatta and Moi, the first two presidents after Kenya's independence, there was an extensive amount of illegal land allocation that led to conflicts, ethnic tensions and land tenure related violence, emanating from the Rift Valley that also accommodates the Pokot (Harbeson 2012, 25, 26). Moreover, the government established group ranches on former trust land as a tool to organise development of pastoral areas. The head of a household had to register on a group ranch title deed and the community members elected a group ranch committee as legal trustees and to manage ranch affairs (Veit 2011, 5). Group ranches were expected to bring improvements through increasing productivity of pastoralist land, improve earning capacity of pastoralists, prevent landlessness of pastoralists, especially in the context of land allocation to individuals, prevent land degradation caused by overstocking on communal land, and allow a modern production system of livestock husbandry while preserving traditional customs. Also, through an allocation of people to a certain area, group ranches were expected to bring sedentariness among pastoralists, raise awareness about scarcity and value of land, and trigger investments by the residents required to improve the land (Veit 2011, 4). Though, the establishment of group ranches failed to achieve those objectives as they turned out to be no ecologically viable units. In some cases, they did not provide enough water or pasture for the residents and their livestock. Other cases show that livestock quotas on group ranches were exceeded which led to degradation of land. Consequently, pastoralists left group ranches in search for water or pasture, conflicts over pasture were increasing, or people started sub-dividing group ranches (Veit 2011, 5, 6).

### *2.2.3. Kenya's New Constitution*

Kenya's new constitution, ratified in 2010, for the first time involves a democratisation of land tenure. It shifts the power over land from the president to the democratically elected national government and the newly established county governments, incorporates the National Land Policy Secretariat in the Ministry of Lands as well as formulating clear land tenure guidelines (Harbeson 2012, 16, 29; Boone 2012, 90). Those guidelines include that land should be managed in an "equitable, efficient, productive and sustainable" manner that implies "equitable access to land, security of land rights, sustainable and productive land management, transparent and effective land administration, sound conservation of ecologically sensitive areas, elimination of gender discrimination and encouragement of local land dispute resolution mechanisms." (Harbeson 2012, 18) In contrast to policies towards land and individual title deeds, the new constitution supports protection of communal land rights (Boone 2012, 91). The new land policy also recommends the termination of group ranches (Boone 2012, 92).

It remains questionable how the newly implemented constitution including new land management guidelines will work in future and what impact it will have on the present situation regarding land tenure.

### **3. THEORY: POLITICAL ECOLOGY**

Previous research and literature about land privatisation in pastoral areas addresses issues regarding private or communal tenure in pastoral areas. Those issues seem to be embedded in human and environmental processes that inform each other. As the objective of this study is to uncover dynamics within a shift from communal to private land that can be understood as an outcome of human-environment interactions, it poses questions regarding a changing tenure system and interrelated processes between land use change and society. Hence, I employ a political ecology approach as a theoretical entry point for this study. It implies linking social and environmental processes and dynamics in the context of the privatisation of communal land. How human impacts, such as establishing private land enclosures, shape the physical environment -that used to be open communal land. Social and environmental processes in turn inform a changing land tenure regime in society, a dynamic of the human-environment interaction that further affects other processes in environment and society.

#### **3.1. Land Tenure in Political Ecology**

People's behaviour and actions in relation to natural resources lead to change. In the context of land, this behaviour and actions can be referred to as land use. Land use physically manifests itself in land cover while land cover can in turn influence land use. Land cover changes can also be associated with environmental changes (Maro 2011, 1, 9) which are understood as "any alteration to the environment or to an environmental system" (Park & Allaby 2013). A political ecology approach therefore suggests, at a very general level, that land use change is related to environmental as well as social change and enables an analysis of the process of a changing land tenure system in Chepareria as an outcome of a human-environment interaction.

In the context of ongoing land use change it is important to take into account feedback that can accentuate or amplify the speed, intensity or mode of change. It can also originate human mitigating forces through institutional actions that dampen, change or counteract drivers for change or their impacts. This can be direct regulations of access to land resources, market adjustments or informal social regulations that could be constituted by shared norms and values that directly impact shared land management practices (Lambin et al 2003, 217). One form of feedback that has an impact on land use change is a changing land tenure system that also includes institutional actions as access to land is regulated through different tenure regimes and informal social regulations. The shift from communal to private land rights, tenure, holdings and titles is an example of transformations of resource access governing institutions that has an impact on or causes land use change (Lambin et al 2003, 225). Land tenure, therefore, is one among many different dynamics arising from human-environment interactions.

#### **3.2. Nature and Society**

As scientists perceived a lack of political dimensions in environmental research, political ecology emphasises the political ideas of environment and the humans' relationship to and within that environment (Stott & Sullivan 2000, 2). Researchers employed a rather neo-Marxist basis of analysis, which was later on replaced by a broader more complex understanding of how power relations mediate human-environment interactions. Politics and ecology are seen as interconnected, which implies that environmental or ecological dynamics

are studied in the context of a politicised natural and social environment (Bryant 1998, 81, 82). Linking social and environmental processes enables an understanding of how human impacts shape the physical environment and the other way around (Bryant 1998, 83).

Since the 1990s, the relevance of political ecology in environmental social sciences has increased and become one of the most prominent theoretical approaches in the study of human-environment interactions and relations (Nygren & Rikoon 2008, 767). Previous stances in political ecology were primarily focused on political dimensions of environmental change rather than taking into account the biophysical dimensions and the active role of nature. As a result, those stances are criticised as lacking an explanation of human-environment interactions. More recent takes on political ecology emphasise and incorporate the analysis of a combination of ecological conditions, socio-political relations and cultural practices in order to understand human-environment relations (Nygren & Rikoon 2008, 768), acknowledging that there are no clear delineations but rather diffused boundaries between nature and society (Nygren & Rikoon 2008, 769). However, for the inquiry of human-environment interactions there must be certain, even if artificial, distinctions between nature and society, especially regarding the abilities to reflect upon circumstances and consciously change the way of interaction (Nygren & Rikoon 2008, 772). A closer study of the complex human-environment relations during environmental change adds to the inquiry of human-environment interaction and its socio-political causes and consequences where environments can be seen as spatial spheres in which ecological processes, socio-cultural actors and political economic forces interact. This further enables a discussion about the mutually constituted dimensions of materiality and imagination in the context of environmental change (Nygren & Rikoon 2008, 773), which refers to the linkage between actual transformations in the physical landscape and social perceptions of this environment (Nygren & Rikoon 2008, 774).

Applying this theoretical discussion in the context of a changing land tenure regime in a process of land use change or the privatisation of communal land serves an inquiry of socio-political causes and consequences within this process. It suggests an understanding of the new and biophysical manifested changes in and on land as the spatial spheres in which ecological processes, socio-cultural actors and political economic forces meet, inform each other and become visible.

### **3.3. Political Ecology in Third World Contexts**

Relevant in the context of this study is a strand of political ecology that focuses on Third World contexts. It addresses the specific politicised environment in the Third World and the question of power relations in terms of environmental control and contestation that takes place there. This requires taking into account colonial history and the incorporation of Third World peoples and environment into a global system of capitalist production dominated by First World discourses, which subsequently has various impacts on Third World livelihoods. Social and economic inequalities are embedded in a politicised environment which triggers questions about marginality and vulnerability of the poor in the context of social environmental dynamics (Bryant 1998, 85). Privatisation of former pastoralist communal land can be linked to a First World discourse that operates through an incorporation of Third World people and environment into a global system of capitalist production.

In the Third World context, dynamics of globalisation or “modern development” of indigenous people is often associated with disruption of livelihoods and degradation of local environments arguing that they are dominated and disadvantaged by developments outside their control (Bryant 1998, 86; Scholte 2005, 16). This argument can be linked to the

polarised debate about the desirability of either private or communal land. Accordingly, modern development or the privatisation of communal land and the involved changing land tenure system could be associated with a disruption of Pokot livelihoods with negative outcomes. Such argumentation depicts people as passive subjects and neglects their potential for agency. In contrast, I apply a strong emphasis on agency of people and the way they shape their environment (Batterbury 2001, 438-439). In this study I do not take negative outcomes and disruptions of people's livelihoods in relation to ongoing changes for granted. I understand people as agents who shape and react to changes in human-environment dynamics. While there is strong emphasis on people's agency, political ecology also suggests to considering nature's agency. Understanding nature as an actor per se implies to recognise that it can pose various environmental delimitations to human use of it (Nygren & Rikoon 2008, 772). Such an understanding, in my case, demands considerations about the prevalent semi-arid and arid conditions in Chepareria and whether they have impacts on modes of land tenure, people's conditions for land tenure, or livelihoods. It further seems important to question whether biophysical conditions contribute to shaping socio-economic inequalities. Linking the power of human and biophysical agency and integrating biophysical processes and social relations enable considerations about social and environmental dynamics arising from those interactions (Batterbury 2001, 439). This approach is very useful to employ in my case as it allows for an analysis of social and environmental dynamics within the context of privatisation of land, acknowledging people's and nature's active roles in the privatisation process and its outcomes on social and ecological relations. I will therefore employ the aspect of agency as one part of my theoretical framework in order to interpret my results.

### **3.4. Local and Global**

Wolf emphasises the need to see local life in an interaction with man-made environment (Wolf 1972, 202). The theoretical approach of political ecology in this study serves as a tool to analyse environmental actions of local resource users that are linked to a broader set of socio-political and economic conditions and historical changes. Applying this approach helps to analyse the multiple actors and their interests involved by examining space-time relations as well as to analyse how local cultural and ecological issues are informed by and shape global policies and discourses by enquiring multi-scale processes of articulation (Nygren & Rikoon 2008, 769; Bryant 1998, 81; Batterbury 2001, 439). Moreover, on a local level, political ecology acknowledges that communities are not a homogenous group but constituted through multiple actors with various ways of natural resource use and different access to control and power. Hence, there is an emphasis on heterogeneity and trans-locality as linkages between local resource users and wider institutional arrangements are highlighted (Nygren & Rikoon 2008, 770) and which I find essential to take into account when discussing findings of this case study.

Tenure regimes result in heterogeneous patterns of change of different land covers. Economic, technological, biophysical and climatic factors contribute to shape these patterns. Livelihood diversification, which is interesting to apply in my case, can be analysed as an effect of the change and in the context of the evolving human and natural landscape as the result of a true combination of processes and decisions (Batterbury 2001, 441). The political ecology approach enables me to look at driving forces for a changing land tenure system and explain the landscape features like privatisation and fencing of land as a result of different processes. The power of human agency manifests itself in the way how and why people engage in the

privatisation of land. Actions of land users can be studied in terms of the changing land tenure system and demonstrate how those actions influence outcomes at local, regional and national levels and how this links to broader global processes of privatisation, individualisation and commoditisation (Bryant 1998, 85).

### **3.5. Access and Property- Power and Authority**

Understanding human environment interactions and dynamics within a politicised environment demands for an investigation of its structures in terms of power and authority. Political ecology addresses specific politicised environments in the Third World and the question of power relations in terms of environmental control and contestation that takes place there (Bryant 1998, 85). Land tenure systems include institutional actions as different tenure regimes and informal social regulations determine access to land. Transformations from communal to private land tenure constitute a shift in resource access governing institutions that have an impact on or cause land use change (Lambin et al 2003, 225). For an analysis of the changing tenure system in Chepareria, I therefore incorporate an approach into the political ecology perspective on this study that helps to shed light on the relationship between access and property and power and authority over natural resources in post-colonial countries (Sikor & Lund 2009).

People aim to secure their access rights to natural resources by achieving recognition of their property as legitimate by a politico legal institution. Simultaneously, this process legitimises and recognises the authority of that specific institution. This constitutes the relationship between property and authority, as property is only interpreted as such when it is sanctioned by a socially legitimised institution, which is in turn only recognised when the institution's interpretation of social norms, such as property rights, is respected (Sikor & Lund 2009, 1). The concept of property is part of a wider discussion about access to resources, as well as authority is part of a wider discussion about power. Attention should also be drawn to two interconnected "grey zones", namely the relation between what people have access to and their actual legitimate property rights, and powerful groups or institutions that take political decisions about the distribution of resources and whose decisions are actually legitimised (Sikor & Lund 2009, 2). These powerful groups or institutions are not necessarily state affiliated and in turn, post-colonial states often do not command clear institutional structures (Sikor & Lund 2009, 9). In order to investigate society's organisation and structure in terms of competition over its resources there is a need to analyse the distribution of wealth how socio-economic inequalities are created as well as the legitimisation, inclusion, exclusion, violence of processes that have various impacts on polities. The focus should lie on organising practices of resource distribution that are constituted by different dynamics in society (Sikor & Lund 2009, 2). Understanding organisational practices of land distribution as embedded in the changing land tenure system, by looking at modes of land tenure in Chepareria, the role of communal land and people's conditions for land tenure should reveal how wealth in a broad sense is distributed. Asking about perceived impacts on livelihoods enables a discussion what or how those processes have an impact on polities.

Issues of access and property are linked to questions about power and authority. In the context of land, people attempt to turn their access rights into legal property in order to actualise their claims (Sikor & Lund 2009, 2).

Property can be understood as legitimate claims sanctioned by the state or another politico-legal authority. In the post-colonial context property relations often manifest in multiple ways

which is why it is more useful to analyse such structures in terms of access that includes the fact that people can also benefit from resources even though they do not have command over legitimised property. Also, legitimate property of resources does not necessarily imply that people have access to or have the means to benefit from them. Technology, capital, markets, labour, identity, knowledge and social relations also contribute to people's conditions about access and benefit to and from resources. Hence, the distribution of access and property among social actors can occur in different ways (Sikor & Lund 2009, 4-6). People who benefit from the privatisation of land are mostly those who have good social networks, financial means, or property of land. Poor people face various problems and challenges due to loss of access to common resources and increasing competition over them. This also gives rise to new vulnerable groups who do not have the command over means that benefitting people do (Flintan 2011, 6-7).

While coming from a different scientific viewpoint, similar to the ideas of access and property, a distinction between possession or use of land and ownership as a social fact and social idea can be found. The former refers to an empirical phenomenon, such as the use of agricultural land, but cannot be directly linked to ownership. The latter, ownership as a social idea, implies that there needs to be a broader understanding and agreement of ownership as a concept. Ownership as a reasoned circumstance also requires some empirical evidence to distinguish between the fact of ownership and the fact of possession, a legal instrument accepted by the respective authority such as a title on land (Bromley 2008, 21).

The theoretical framework for this study, informed by political ecology, consists of the aspect of people's and nature's agency and a focus on the relationship between access and property, and power and authority. To investigate human-environment interactions that in turn inform a changing land tenure system, and in order to answer my research questions a certain methodology is demanded that I elaborate in the next chapter.

## **4. METHODOLOGY**

### **4.1. Epistemology, Ontology and Data Collection Method**

In this case study (see Bryman 2012, 66-72) I analyse the changing land tenure system in Chepareria, West Pokot County, Kenya, posing research questions about how it works in practice and how residents make sense of this phenomenon and perceive impacts to their livelihoods (see Miller & Glassner 2011, 145). This is a qualitative study with semi-structured interviewing as my data collection method (see Bryman 2012, 469). Analysing and uncovering dynamics within the change from communal to private land and contextualising those dynamics as interactions of society and environment, methodologically, my research questions can be addressed through the locals' takes on the situation obtained through interviews. Moreover, enquiring about a complex changing tenure system implies acquiring knowledge from residents in the study area. I identify them as key informants who are able to make sense to structures of agency, access and property, power and authority within the changing tenure system. I chose to conduct semi-structured interviews as I specifically wanted to address changes of and in relation to the tenure system. More ethnographic approaches or unstructured interviews would have given me broader information regarding changes in land management and society in Chepareria, though not in such a detailed way as I

could ask in semi-structured interviews. Strictly structured interviews would have prevented a flexible approach to my data collection and hindered me being able to adequately react to people's responses or to new unexpected findings. At the same time, with semi-structured interviews I could address certain aspects in different ecological zones and areas with different administration that allows for a comparison of conditions and perceptions in those different areas while being able to dwell on individual perceptions. Political ecology theory is based on certain epistemological and ontological considerations applied in this study and lends further weight to the chosen methodology in this study. Those considerations differ from other studies on land use change as many prefer to employ positivist stances. Epistemologically, I understand the researcher's accounts of the social world as constructions, interpreting subjective meanings of social action (Bryman 2012, 33-34) that applies to the interpretation of dynamics in relation to the privatisation of communal land. Hence, this study comprises constructionist ontology as I focus on social phenomena created by social interaction that are in a constant change, or more specifically the political construction of a changing land tenure regime. I set an emphasis on the interviewees' point of view, what they see as relevant and important and how they frame and understand issues and events (Bryman 2012, 469-471) to address my research questions and also delve further into the idea of agency in political ecology theory.

## **4.2. Study Area**

My study contributes to the multidisciplinary Triple L (Land, Livestock and Livelihood Dynamics in Dryland Systems) research initiative that operates in various Divisions in West Pokot County, Kenya. I chose the Division of Chepareria as findings of the Triple L initiative as well as my fellow student's explorative study (Nyberg et al 2013; Wernersson 2013) reveal ongoing and more extensive transformations from communal to private land there compared to other Divisions in West Pokot County. This allows me to get a better insight into the changing land tenure system and its impact on society than conducting research in areas with prevalent communal land. For this purpose I conducted interviews with residents from the six different locations of Chepareria Division as during the explorative stage of my fieldwork I found that there are different tenure systems in different locations. I will further elaborate on how I conducted this study.

## **4.3. Stages of Conducting my Research**

### *4.3.1. Step I- Literature Review*

Before going to the field, I prepared a literature review addressing various issues regarding pastoralism, privatisation of communal land and land tenure in Kenya and other countries of East Africa.

### *4.3.2. Step II- General Information from Vi Agroforestry in Kitale*

I arrived in Kenya on 7<sup>th</sup> February 2014 for a total stay of six weeks together with a fellow student of my Master's Programme who was also going to do her fieldwork on a different issue in this area. We went to the town of Kitale in Trans Nzoia, the neighbouring county to West Pokot where we met staff of the NGO Vi Agroforestry at their office. As this NGO has been working in West Pokot and in Chepareria and co-operates with Triple L, they could brief us about the general situation there and help us with practical issues such as transportation and

accommodation in the field. They also provided a translator from Chepareria who had many valuable contacts that enabled me to find interview partners for my study. He translated most of my interviews as people in West Pokot mostly speak their own Pokot language.

#### *4.3.3. Step III- First impressions in Chepareria*

Shortly after our arrival in Kitale we went to Chepareria for the first time. We accompanied two students for two days who conducted interviews in the context of the Triple L research initiative, addressing general questions about changes in land, livestock and livelihoods. We attended three group and two key informant interviews in different areas in Chepareria. During those interviews we were merely listeners. Information from those interviews illustrated general developments and dynamics in relation to land privatisation in Chepareria as well as respective people's perceptions and associations.

On the third day, our translator hired motorbike taxis, or Bodabodas, and took us to different locations within Chepareria. The purpose was to give us a geographical idea about Chepareria, different climatic conditions comparing upper and lower parts or visible material manifestations of land privatisation processes, such as different types in fencing, land sizes or land cover.

#### *4.3.4. Step IV- Elaboration of interview guide*

Back in Kitale, I elaborated an interview guide for semi-structured interviewing with the obtained information from my first visit in Chepareria. It also allowed me to consider potential groups of informants to acquire their views from that would help me to answer my research questions. I identified people from different ages and genders, from different locations in Chepareria under different tenure regimes, from different levels of political authority from village elders, assistant-chiefs, chiefs, to ministry representatives, farmers and people who do or do not own land.

#### *4.3.5. Step V- Interviewing and Transcribing*

The second time I went to Chepareria I started conducting interviews with the help of my translator. He arranged meetings with respondents on their farms in different locations or in Chepareria town where he accompanied me and translated the interviews when necessary. Before every interview, I presented myself and the topic of my study. With permission of every respondent I audio-recorded and took notes during all interviews. I reassured my respondents that I would not reveal their names in my study. With my laptop and working space based in Kitale, I went to Chepareria six times where I stayed between three and five days to conduct and audio-record interviews. In Kitale I transcribed all the audio-recorded interviews and interview notes before going back in the field. By distancing from the study site it was easier to reflect upon the information I had obtained. I became aware of information gaps or aspects arising in the responses from the interview questions which enabled me to change or adjust my interview guide (see Bryman 2012, 482-484).

At the end of my fieldwork I had conducted 48 interviews with 33 men and 15 women. Their age ranged between 18 to 80 years with an average of 48 years. The respondents comprise residents from all six locations and residents under all different tenure regimes present in Chepareria, 22 from Kipkomo, Ywalateke and two sub-locations from Senetwo under individual title deeds, 14 from Senetwo, Chepkopegh, Pserum and Chesra under group ranch

title deeds and 9 under trust land in Shalpogh. 10 of them were location-, and assistant- chiefs, village-, and community elders, while the others mainly engage in agro-pastoralism or farming. I further interviewed two representatives of the local ministry and one representative of a local NGO concerned with pastoralist development. Regarding land ownership, 17 of my respondents do not formally own land.

This sampling of my interviewees with my research goal in mind allows for a discussion of similarities and differences among interviewees within as well as between different areas under different land tenure regimes and climatic conditions. More importantly, my interviewees address issues that are relevant in order to answer my research questions (see Bryman 2012, 417, 418). Regarding language, I could conduct 13 interviews in English while my translator enabled communication in Pokot with the majority of respondents.

#### *4.3.6. Step VI- Analysis*

I followed Cresswell's (2002) suggestions for qualitative data analysis. As a first step I have already written and organised my interview transcriptions during my stays in Kitale. The second step was to read through the transcripts to get an overview of what people were saying, their ideas and depth, credibility and quality of the information. After that, in order to organise the data, the third step was coding the material. I reviewed the transcripts and gave labels to component parts that seemed to be of potential theoretical significance (see Bryman 2012, 568). I was looking at themes that often arose during the interviews and how they can be derived to broader concepts for this study. With my findings in mind I identified political ecology as the theoretical lens that offers a perspective on the specific phenomenon of my study, the changing land tenure system in Chepareria and people's perceptions of its impact on their livelihoods. The theory should enable a situated understanding rather than draw generalisations from my case (see Willis 2007, 190). Moreover, studying issues related to social change in a broad sense draws attention to the role of human agency (McLeod & Thomson 2009, 3) within them. By analysing a politicised environment and its structures of agency, power and authority and access and property, I structured the interviewees' responses according to theory. This enabled further interpretations to get my results, to answer my research questions and to draw my conclusions.

#### **4.4. Limitations**

In relation to my epistemological considerations, there are access limitations to certain information used for my study. They are dependent on knowledge the researcher brings to the process of investigation (Valsiner 2000, 106). In my case study, I was not familiar with the study area before I went there. Pokot society and traditions, language and their way of living could be misunderstood in verbal and nonverbal communication as well as a challenge for interpretation of my findings. Ontologically, access limitations can further occur in how respondents perceive my role as a researcher. I am not a member of Pokot society which makes me an outsider which determines what kind of information respondents are willing to share (Valsiner 2000, 106). As Chepareria Division comprises a big area where most of it is not accessible without a vehicle and few people speak English I was not able to personally identify my interview partners. I did get an insight into society and life in Chepareria during my overnight stays in a guest house in Chepareria Town when I was not in the field with my translator. When I bought fruits at the market or when I had dinner at a small restaurant people approached me because they were curious about the purpose of my stay. I could

engage in informal talks to gain impressions that increased my familiarity with the study environment. For interviews I relied on my translator who I explained what types of respondents I needed and he arranged appointments with interviewees. He also translated the majority of my interviews between Pokot and English and one has to consider that certain aspects of how I addressed my interview questions as well as how respondents shaped their narratives might have been “lost in translation”. The strong involvement of my translator and dependency on him to identify and translate interviews can constitute a weakness of this study. However, the involvement of my translator might also constitute a potential strength of this study as he might have identified important respondents and made sense to their narratives through his translations that I could have otherwise not interpreted the same way. Moreover, ontologically, people might have been willing to share more information to an outsider when a member of their community is the mediating person.

Another limitation of this study is that I could not interview as many women as men. It was difficult to find women who had time to be interviewed as they are very busy working on their farms or selling their agricultural products on the markets. Also, it seemed that most of them were less comfortable than men about being interviewed and speaking to us.

Moreover, it was difficult to identify people who did not own land, as people explained that it is a cultural taboo to approach people about their landlessness. Fortunately, interviewees revealed their personal tenure situations that enabled considerations about access to and property of land.

As this is a single case study in the context of communal land privatisation in pastoral areas in East Africa, my findings are not generalizable but rather illustrate developments, processes and dynamics in this specific study area. Nevertheless, this case constitutes an example of how global issues inform dynamics on a local level, how people react to them and how this in turn speaks back to local, national and global outcomes.

## **5. RESULTS (EMPIRICAL SECTION)**

### **5.1. Background to Chepareria**

Before presenting my findings, I will give a short background on Chepareria Division in West Pokot County in order to contextualise my results. The information about administrative institutions, population, forms of land registration and biophysical conditions I gathered through an interview with a local Ministry representative in Chepareria as well as through interviews, informal conversations with residents and personal observations.

The Division is located in West Pokot County, Pokot South Sub-County and covers an area of 495km<sup>2</sup>. Administratively, it is divided into six locations- Kipkomo, Senetwo, Ywalateke, Chepkopegh, Pserum and Shalpogh- with a total of 14 sub-locations. In 2009, the population comprised a number of 41 563 people with an annual growth rate of 2,803%. Climatically, the upper part of Chepareria, which includes the locations Kipkomo, Ywalateke and two sub-locations of Senetwo, receives significantly more rain than the lower part with the other sub-locations of Senetwo, Chepkopegh, Pserum and Shalpogh (Interview 25).

Currently, land in Chepareria is registered under three different regimes: there is statutory tenure in the upper areas and respectively Kipkomo, Ywalateke, and two sub-locations of Senetwo, come with individual title deeds for the residents. Also, the lower part with Chepkopegh, Pserum (except for Chesra sub-location) and the other sub-locations of Senetwo

are under statutory tenure, namely under one group ranch title deed. The sub-location Chesra in Pserum is under its own group ranch title deed. Moreover, there is some government land in the lower part of Chepareria which some parts people can access for grazing and use the two established water dams on that land. The location of Shalpogh is still registered under customary tenure as trust land.

Some respondents think, that due to biophysical conditions in terms of rainfall the upper and more fertile part of Chepareria is registered under individual title deeds, while the lower and dryer parts are still registered under group ranch title deeds and trust land (Interview 23, 42). When analysing my findings I will consider climatic circumstances as well as different forms of land registrations within Chepareria, following the stance of political ecology to take into account biophysical conditions and socio-political relations to understand human-environment relations (Nygren & Rikoon 2008, 768) and consider nature as an actor per se as there are various environmental delimitations to human use of it (Nygren & Rikoon 2008, 772). Considering those semi-arid and arid areas in Chepareria and existing variety in tenure, with the help of theory and data from semi-structured interviews, this allows for a comparison among those areas and whether the mentioned differences have different impacts on respective residents.

## **5.2. Agency**

Here, I present findings regarding socio- political causes and consequences of privatisation processes through the political ecological lens of human- environment interactions. Agency should reveal how people shape and react to changes in environment and the tenure system and at the same time how nature as an actor per se poses various environmental delimitations to the human use of it.

### *5.2.1. Privatisation Processes*

Historically, people started the process of dividing the open access communal land into private land in the area around Chepareria town. It is situated in the upper part of Chepareria which used to be an agricultural demonstration land during colonialism and people were cultivating there. The lower parts were used for grazing and pasture. All my respondents agree on that the process of demarcation of land was initiated by people in the upper parts. This local practice then spread to the whole region from the upper parts to the lower parts. My respondents differ a lot when recalling the dates when people started this process, hence I avoid mentioning any specific years or numbers in this context. Though, respondents from upper areas mention earlier year dates than respondents from lower areas about when they began sub-dividing the communal land. This reveals a trend that people sub-divided land in the upper part and people in the lower parts of Chepareria slowly adopted this practice and engaged in establishing private land enclosures. Moreover, people in upper areas have all enclosed their land with wood or wire fencing. On a national level, people in those areas acquired formal registration of their private land and possess individual title deeds. On the group ranches people have sub-divided and fenced the land but, compared to the individual title deed area, they rather employ live-fencing with cactuses or thorn bushes. Residents on the trust land have sub-divided their land but many are still in process of demarcating and fencing their private land. It seems that fencing technology is well established in areas with individual title deeds, while in the lower parts on group ranches and trust land, fencing techniques are still relatively new and not fully incorporated in practice yet. Those differences

in fencing can also give evidence of the sub-division process and reveal differences in different locations, showing how people shape the physical environment by enclosing private land.

### *5.2.2. Incentives for Privatisation*

Interviewees named several drivers for why people started sub-dividing the communal land into private enclosed land. Some respondents from the upper area say that incentives to demarcate land was already given during colonial times from the Ministry of Agriculture under the colonisers from the 1950s when people were taught to sub-divide their land and to establish small holder farms and cultivate.

People from all different areas mention that due to population increase there were more conflicts about and competition over land, pasture and resources on the communally managed land. To counteract these developments, people decided to sub-divide the land among families and clans.

Another incentive for privatising the communal land was created when people were migrating with their animals from the upper area to the highlands of neighbouring Divisions of Chepareria, or later from the lower parts of Chepareria to the upper area. They found that other people had started demarcating private land and there, they were not allowed to graze their animals anymore. People reacted to those changes in their environment and spread that information when they migrated back to lower areas. This and the fact that people from other areas migrated to Chepareria and started demarcating land, pastoralists feared they would be left without land if they did not demarcate land for themselves. Respondents from the lower areas mentioned that people from the upper areas came to graze their animals during wet season. When they left, pasture was destroyed, which is why people grazing their animals in this area demarcated the land to prevent other people from entering.

In the lower areas, interviewees say that people lost many animals due to migration. Therefore, they preferred to settle on sub-divided land that could be managed and preserved privately.

### *5.2.3. Land Institutions and Registrations in Chepareria*

After dividing the land, people employed ownership agreements. In areas commanding over individual title deeds today, people handed those agreements to the Ministry of Lands and residents were given cards with a number for their parcel. The Ministry later processed those numbers into official individual title deeds.

On group ranches, as land is officially registered under communal group ranch title deeds, people established their own institution to administrate the internally sub-divided land. The institutions of group ranch committees are involved in land measurement and handing out ownership agreements for people's private land. Those ownership agreements are not acknowledged by a legal institution on a county or state level as land is officially registered under group ranch title deeds. Group ranch residents are currently in negotiations with county and state institutions to disestablish the group ranch but have their private land registered with individual title deeds. Prior to handing out title deeds ministry surveyors would measure and map private land on group ranches which residents have to financially compensate for.

Similar to the group ranches, on trust land in Shalpogh people introduced a location land committee to regulate the demarcation process as it is, like the group ranch committee, involved in measuring people's private land and issuing agreements for land adjudication.

400-500 people have demarcated land up to today while others are still in the demarcation process. People divided all land among each other but many have not set up any forms of fencing yet due to fees that have to be paid to involve the location land committee. According to a respondent, the ministry agreed on registering the land under individual title deeds when there will be 500 people who have officially demarcated their private land through the location land committee. For now, the land is registered by the state with the purpose of communal and pastoral use of it.

Nevertheless, residents on group ranches and trust land with informal ownership agreements demand and expect to be issued individual title deeds in near future. The main advantage my respondents perceive from commanding over a title deed and which involves economic issues on national and global levels is the eligibility for bank loans for additional financial support. One respondent mentioned, though, that bank loans pose economical risks because in many cases recipients spend the money without the ability to return the loan. In that case, respective land is impounded by the creditor bank (Interview 13).

One respondent from the trust land anticipates an early issuing of individual title deeds as the county government is the holder of the trust land. It cannot obtain any revenues from this form of land registration. Therefore, the area will probably be soon issued individual title deeds that allow for land taxation (Interview 10).

Agency of people today becomes visible especially in areas where they do not have command over individual title deeds. As people's privately enclosed land is not officially recognised by any state related institution, they established their own institutions to administrate their land. Furthermore, people put pressure on regional and national institutions as they demand for official formalisation of their tenure which in turn would imply outcomes on county and state level, namely tax revenues from title holders.

#### *5.2.4. Local Response to Global Issues*

It becomes clear that people's actions respond to global issues of privatisation, individualisation and commodification as people are informed by them and establish their own local forms of organisation. My respondents reveal perceptions not only about how people shape their environments through privatisation of communal land and inform a new tenure system, but also about various outcomes of their engagement on their lives. Engaging in privatisation of land led to people diversifying their livelihoods.

According to my respondents, Cheparerians employ new and different means of subsistence, such as farming or selling their products on markets. They appreciate the freedom to decide themselves how to manage their private land in order to sustain their family. They have command over improved technologies for farming to earn more benefits. A common concern, though, is the shrinking land sizes along with an increase in land prices that interviewees explain as due to population increase and the continuous sub-division of land. When land plot sizes get too small this might even lead to zero grazing of the animals (Interview 7). Some respondents expect increasing conflicts connected to shrinking land sizes. They anticipate people reacting to those developments by moving to town or areas with greater land availability.

An environmental delimitation to human use becomes visible in restricted space and resources on private land. In order not to exploit their land, in all areas, people have reduced the numbers of their livestock and replaced it with improved animal breeds. As counting animals

is believed to result in facing misfortune in Pokot culture, it was not possible to get the specific number of livestock a family owns.

Infrastructure in Chepareria has improved substantially, especially in upper areas, with hospitals, schools, modern housing, a better road and transportation system. In upper areas people have access to pumped water to their homesteads while access to water still remains a problem for people from lower areas in Chepareria. There, respondents state that they still have to walk long distances to fetch water from rivers, which has become more difficult due to the boundaries of privatised land that blockade their migration routes. Prevalent biophysical conditions in dryer parts of Chepareria combined with how people shaped this environment through privatisation of land poses challenges for the residents and triggers alternative strategies to adapt to those changes.

Changes towards sedentary livelihood, enables children's consistent school attendance whilst the value of education has subsequently increased. School fees are very expensive but many interviewees think that education will enable their children to gain future employment through which families can sustain in better ways. Other respondents in comparison think that despite education there will be no places for employment. In connection to higher school attendance through sedentarisation on private land, residents perceive a decreasing practice of traditional ceremonies, among them female genital mutilation and early marriages. As a consequence of children in traditional marriageable age nowadays attending schools, people do not practice those traditions anymore. Also, the number of wives a man marries is decreasing as shrinking land sizes and an increase in living expenses decreases men's economic capacity to support more wives. One respondent explains that the dowry for girls rises according to their education level (Interview 6). Higher school attendance in the context of migration further leads to a change in who is migrating with animals in case there is not enough pasture to sustain dry season. People employ new patterns of migration. Formerly, sons of the family used to migrate but as they attend school nowadays, the head of the family migrates himself or finds another person to migrate with his animals. In those cases persons are sometimes compensated with money or food (Interview 10). Sometimes, several families arrange migration together and men take turns to herd all the animals.

To employ different means of subsistence and supplement their income from farming residents established a dairy and meat market. The meat market even has significance on a national level as products are sold to Nairobi. In general, more people integrate into the market economy and engage in wage labour, either through working on farms or running small businesses in town.

A few, especially older, respondents state that they would still prefer communal land management over the newly established private ownership and changes in livelihoods that came with it.

After having presented causes and perceived consequences of the land privatisation processes in Chepareria from human-environment interactions and the newly shaped tenure system I now move into presenting findings that reveal dynamics within the changing tenure system.

### **5.3. Access and Property**

I will now illustrate interviewees' responses that reveal dynamics of residents' access and property to land within the changing tenure system in Chepareria. I will also draw attention to

interconnected “grey zones” or the relation between what people have access to and their actual legitimate property rights (see Sikor & Lund 2009).

### *5.3.1. Inheritance of Land*

In the whole of Chepareria, inheriting of land is the most common way of how people acquire land property. Usually, fathers sub-divide their land according to the number of their sons and pass it on to them. For being eligible to inherit land a son must be over 18 years old, married and/or start a family as in those situations he cannot stay on his parent’s homestead any longer.

To illustrate exceptions to the general practice of inheriting land, one respondent states, that even when he got married his father did not sub-divide a piece of land for him because he previously had to sell some land to cover children’s school fees. Therefore, my respondent had to buy land for himself (Interview 35). A group of people who are not eligible to inherit land are sons whose mother was not married to their father or was married to another man. They cannot inherit land of their stepfathers and have to purchase their own land (Interview 34).

Women are generally excluded from the land tenure system and cannot inherit land. According to Pokot traditions, women are not eligible to own land as they get access to land when they marry and move on the husband’s land. Three respondents, one man and two women, from Kipkomo in the upper area around Chepareria town, argue that customs are slowly changing and that some people also pass on land to their daughters (Interview 12, 24, 41). Two women from the upper part, one was working as a teacher, bought land with her husband and issued a title deed under her name, one was a farmer, who thought that women will be empowered in future, will work, formally own land and get more independent from men (Interview 41, 45). In comparison, women from other areas doubt that women will ever inherit or being able to buy land (Interview 36, 37, 46, 47).

Some respondents mention exceptions for women to be eligible to inherit land. When there are solely daughters in the family the land will be passed on to them. As men usually have two or more wives such cases are not very common, though. One female respondent explains that even if one wife gave birth to solely daughters, sons of another other wife will inherit land (Interview 45). Widows can inherit land from their husbands. In individual title deed areas a widow can change the deed to her name, consequently legally own land and later sub-divide and pass it on to her sons. There are cases, though, when sons directly inherit land after the death of their father. The mother stays on the remaining piece of land with the last born son (Interview 46). When a woman is not married or gets divorced, which implies no access to land through a husband, in some cases her family provides a piece of land. In such cases there might be conflicts among siblings, such as brothers not accepting their sister to inherit land. To avoid such conflicts, sometimes, the family can rent or buy a piece of land for the daughter.

### *5.3.2. Landlessness*

Besides women, there are other groups in Chepareria who do not have land property. Some people remained landless during and after the privatisation process because they did not realise the importance and value of private land or they were not in the area during that time, as examples when they were working on big farms somewhere else (Interview 2), or were migrating with their animals. When they returned to Chepareria they found all the land

demarcated and privatised. Landless people nowadays often live and work on other people's farms and buy land if they have enough money.

One respondent does not own land at the moment because his father who owned land died, his mother left the children behind, and people grabbed the land. He is now processing with his siblings at court to claim their legitimate share of land. Such cases occur frequently when the head of the family dies. He lives in Chepareria town with his wife and children and works with building and painting houses (Interview 14).

Another respondent sold all his land to come up for his alcohol addiction when he was younger. Today, he lives with his nephew and his nephew's family on their land (Interview 40).

A third respondent lives with her mother on land with some relatives. They moved there after her mother divorced and escaped from her husband. Her mother is trying to earn money as she intends to buy her own land at some point in future (Interview 38).

Discussing certain groups of people in Chepareria, despite the fact that they are excluded from the tenure system or do not command over legitimised property for different reasons, all but one respondent (Interview 14) have access to land through societal organising practises of land access and can benefit from land.

### *5.3.3. Access Through Land Market*

Since residents of Chepareria own private land, whether they command over official, individual title deeds or informal ownership agreements, they are also engaging in selling, buying and renting of land. This constitutes new ways of how people can acquire access to or property of land. According to some respondents, private ownership and the accompanied selling, buying and renting of land was not part of Pokot culture. This is a new phenomenon that came along with the change from communally to privately owned land.

People sell parts of their land to earn money to cover school or medical fees, to purchase food during draughts or famine, when they have few animals or, in few cases, to come up for drug addictions. Some people sell all their land in order to purchase land in another, often more fertile, area or to settle in town and start a business. Understandably, only people whose name is on an individual title deed or an informal agreement can sell their land. As an exception, people cannot sell their land when they have a bank loan on their title deed (Interview 13).

People buy, especially where land is more fertile, to expand their land for cultivation or pasture, or as a form of investment to resell it when there is demand for money. As an example, when school fees need to be covered. People also buy land when they are landless or to move to a parcel of land to, or within, Chepareria.

People rent land when their own land is either not big or fertile enough for cultivation or pasture, such as for cultivation of maize for sale, or for sustaining their livestock. People rent out land to come up for school or medical fees or to purchase food or drugs for animals. In areas with title deeds, respondents mentioned that some people rent out their land to sustain themselves through financial means rather than to cultivate for subsistence.

Prices for land are significantly higher in the upper areas with individual title deeds than in the lower parts of Chepareria. While respondents named land prices up to 400 000 Kshl per acre around Kipkomo, the maximum price in the lower parts is 100 000 Kshl per acre. Prices vary depending on fertility of land and proximity to good infrastructure, such as roads, schools or hospitals. The same principle applies to prices for renting land. For cultivation, rent is usually cheaper than grazing as people cultivate for a shorter time and the same parcel can

be rented out for grazing afterwards (Interview 6). People from the lower and dryer parts of Chepareria often rent land in the upper, more fertile parts but also within their own areas. As people usually employ oral informal agreements for renting of land, payment does not necessarily involve money but there are also forms of livestock trade (Interview 8).

People's estimation about the intensity of people's participation in the land market reveals a trend of residents in title deed areas engaging more in selling, buying and renting of land than residents of the group ranches or trust land.

As long as people have command over the required financial means there are no obstacles for them to engage in the land market. This applies even for women but there are only a small number who have the necessary financial means to participate in the land market. Most of them live around Chepareria town and earn money through employment or other kinds of business. Women buy land or engage in renting of land for cultivation when they do not have a husband through whom they have access to land. In upper areas, there are a number of women initiatives and self-help groups who rent land for cultivation, sometimes to sell their products on the market and in some cases to save that money to purchase land in future.

#### *5.3.4. Implications for Pastoral Migration*

Access to land through the land rental market further shapes dynamics in pastoralist migration patterns. In general people have settled on their privately owned land and pastoralism is not practiced anymore. People possess fewer animals due to limited space on their private land. They manage their land in a way that they can preserve enough crops and pasture to sustain them through the dry season without having to migrate somewhere else. Formerly, people used to migrate to other areas on the communal land when pasture was grazed in one place. The majority of the respondents perceive sedentarisation as very positive as the migration of animals used to be very dangerous, for herders as well as for animals.

However, when people do not preserve enough pasture, have too small land for proportionately too many animals and cannot sustain themselves through the dry season, they have to migrate their animals to have access to pasture. As all land in Chepareria is subdivided and privatised there is no communal land available. Instead, there is a new way of dealing with this situation. People migrate with their herds to upper and more fertile areas in Chepareria, the highlands of West Pokot or the neighbouring county of Trans Nzoia where they rent land for pasture.

Considering this new pattern of environmental risk management in terms of economic differentiation, people from different socioeconomic strata employ different strategies how they deal with environmental hazards. People who do not have enough financial means or capital to rent land have to migrate their herds further distances over the boarder to remaining communal land in Uganda. The number of people who have to migrate depends on the intensity of the dry season. During severe draughts, when the preserved resources are not sufficient for people and animals, many respondents would migrate to communal land in Uganda.

#### *5.3.5. Private and Communal Tenure Practices*

Furthermore, my findings reveal another dynamic in organising practices of land access and property in connection to private land tenure in Chepareria. In general, trespassing on private land is not allowed. In some areas though, not depending on upper or lower areas of Chepareria, neighbours agree to graze their animals communally on people's lands during dry

season or after harvesting to eat maize stems. This seems to be more practised on group ranches and trust land as people in upper areas have put up more stable and higher fences where animals cannot cross, compared to the live-fencing techniques in the group ranch and trust land areas. Moreover, one respondent in Chepkopegh mentioned two remaining villages in the whole location where people have sub-divided and privatised the land but, due to lack of knowledge or neglect, the land is not demarcated or fenced and all villagers have access and practice communal grazing. Similarly, on the trust land in Shalpogh some land has not been demarcated yet. It was sub-divided for clans but some are still involved in boundary conflicts with their neighbours. As soon as their disputes are solved, they will demarcate or fence the land. Until then community members can ask for permission for access to graze their animals there.

Another exception, where there is still open access land for residents in Chepareria, is the Nasukuta Livestock Improvement Center in Chepkopegh. It is registered as government land and owned by the Ministry with the purpose of training farmers about improved livestock breeds and livestock keeping. It covers an area of 3000 acres and parts of it are fenced with wire-fences, other parts are enclosed with live-fences as there is a lack of funding for more fencing material. As a result, 500 acres of the ministry farm are open for the community to access and graze their animals. In addition, there are two water dams established where people can water their animals. As soon as there is more funding, though, the whole government land will be fenced and inaccessible for the community (Interview 3). Only four of my respondents mentioned its existence as remaining open land in Chepareria. As it is situated in the lower dryer parts, this land does not seem to have much capacity or significance for communal pasture.

## **5.4. Power and Authority**

In order to understand people's access to and property of land, this has to be related to questions of power and authority. Access and property have to be sanctioned by a politico legal institution that in turn requires recognition of its authority (Sikor & Lund 2009, 1). Power and authority are embedded in previously mentioned "grey zones" as powerful groups or institutions are not necessarily state related but can take politically legitimised decisions about the distribution of land. Moreover, post-colonial states often do not have command over clear institutional structures that have the capacity to regulate access and property to land (Sikor & Lund 2009, 2, 9).

### *5.4.1. Political Institutions*

During the sub-division and privatisation processes, in all different areas, community elders were the authorities to divide land for the residents. For enclosing a parcel of communal land, people had to inform community elders who first decided whether this person or family had the ability to manage private land. When they agreed, the people requesting private land had to provide a feast for the elders who then measured and demarcated a certain piece of land in accordance with neighbouring families.

Elders are usually assigned by their respective community or village based on criteria such as trustworthiness, respectfulness and responsibility. They are a non-state related authority but their task is to mediate between village members and higher state related authorities, such as assistant chiefs or chiefs.

Assistant chiefs operate on sub-location levels. People have to apply for this position and are chosen by the Division Commission. To be eligible for this position people require a minimum age of 35 years, good performance during their education and origin in the respective sub-location. Chiefs manage and decide on location level and are supported by assistant chiefs from sub-locations. They have to fulfil the same requirements as assistant chiefs and apply at the Division Commission. Superior to chiefs on the next level is Division Officers. With Kenya's new constitution in 2010 came a new administrative structure of the country into counties and sub-counties with respective county and sub-county governments. The new constitution and the national government encourage a shift from male dominance and promote and advocate more women in state related positions.

Besides village elders my findings reveal another remaining powerful institution present in the changing land tenure system. According to Kenya's new constitution, every person is eligible to inherit and own land. It promotes inclusion of women and other marginalised groups regarding rights to land ownership. All respondents seem to be aware and informed about the constitutional regulations. At the same time, what respondents refer to as Pokot traditions turns out to be a powerful institution, legitimised by Cheparerians. Few people state that Pokot traditions or this institution are slowly changing but findings indicate its enduring dominance, such as the exclusion of certain people from the tenure system. One respondent from a group ranch explicitly states that he is aware of regulations in the new constitution but according to traditions women are not eligible for land heritage but get access to land through marriage. That is why he will not pass land on to his daughters (Interview 17).

#### *5.4.2. Land Administration in Chepareria*

The authority of elders has continued even after the privatisation of all the land in Chepareria. Elders constitute the political link between residents and state authorities. When inheriting land, to be issued an individual title deed in the respective areas, sons additionally require an official ID. On group ranches and trust land, people sign informal ownership agreements, involving village elders and witnesses, to legitimise the heritage.

In the process of buying land in areas with individual title deeds people involve elders and neighbours as witnesses. They sign an agreement that contains the number of the title deed which seller, buyer and chief each get a copy of. It depends on the buyer if he wants to further process a title deed on his name through the Land Control Board at the ministry in Chepareria (Interview 13). Surveyors from the ministry would then measure the land and after completion and transmission of certain forms to the ministry in Nairobi the buyer is issued a title deed on his name. For this process people have to come up for certain handling fees. On group ranches, people usually involve elders, chiefs and neighbours, who together measure the land and sign an ownership agreement. At the Land Control Board the buyer can then register as a member of the group ranch title deed. On the trust land, the selling process demands the presence of witnesses, as well as representatives of the Location Land Committee whose authority is non-state related and members are decided by the community. A buying agreement is signed, handling fees are paid to the Location Land Committee and a copy of the agreement is handed to the chief's office.

Renting land usually requires some informal agreements between two parties who sometimes involve witnesses or written agreements.

Dynamics in the land market reveal a co-existence and co-operation of non-state and state related institutions and authorities. Even though the Ministry of Lands issued individual title

deeds for upper areas in Chepareria, village and community elders who were the central authority during the land dividing process remain. They still have important functions in the context of the newly developed land market. Moreover, where land is still registered as group ranches or trust land people established respective institutions, such as the Group Ranch or Location Land Committees with the purpose of organising informal privatisation of land.

### *5.4.3. Conflicts*

In terms of awareness about land regulations, registrations and conflicts related to the changing land tenure system, village elders again remain the central authority who people address as advisors or to solve conflicts. Most of the interviewees perceive decreasing conflicts as there were more struggles over communal land than on privately owned land. Nevertheless, there are new conflicts about privately owned land arising, such as boundary conflicts, conflicts about trespassing of animals, or internal family disputes when sons are fighting about what piece of land to inherit. With land commodification and the land market come conflicts. As examples, when someone sells land which then increases in value over time. In some cases the seller's children return and claim the land or demand more money. Other cases involve fraud in land selling processes when the seller of a piece of land turns out to not be the legitimate owner or the size of the sold land is smaller than previously agreed on. Some land conflicts also involve state related institutions. As an example, one respondent is processing at court against a person who claimed some of his land by bribing a responsible in the Ministry of Lands. This person issued an individual title deed on my respondent's land who now tries to reclaim his property (Interview 6).

## **6. ANALYSIS AND DISCUSSION**

Returning to my research questions, I will now analyse my interviewees' responses I conducted with semi-structured interviews with my theoretical framework about agency, the relationships between access and property and power and authority, informed by political ecology. This enables me to uncover dynamics of and in connection to the changing land tenure system in Chepareria.

### **6.1. The Changing Land Tenure System in Chepareria**

#### *6.1.1. Complex Modes of Land Tenure*

Regarding existing modes of land tenure in Chepareria, interviews with residents shed light on a complex tenure system that can be explained with help of the concepts of agency, access and property as well as power and authority.

Officially, land is registered under different statutory and customary tenure with individual title deeds, group ranches, trust land and government land. Prevalent tenure practices on officially registered group ranches and trust land differ from their initial purpose of group ownership or communal management as land is internally sub- divided into private land. While the upper areas are privatised and hold individual title deeds, residents of the group ranches and trust land have sub-divided those areas into privately enclosed land and people employ informal contractual agreements to secure their properties. On group ranches residents are registered under group ranch title deeds that officially confirm legitimate access to the

whole group ranch land. However, as people have sub-divided and privatised group ranches with informal ownership agreements people are not allowed to trespass private properties. The same conditions apply on trust land which is officially registered to allow for traditional communal tenure practices. On group ranches and trust land, people expect and anticipate to be issued official individual title deeds, not because of reasons for increased tenure security but for economic reasons, namely to be eligible for bank loans. Confirming arguments I have presented regarding tenure security (see Bromley 2008, 22-24), it seems that informal agreements about land property are sufficient to make people feel secure about their tenure.

My findings regarding modes of land tenure further reveal hybrid tenure practices in Chepareria. On the one hand, all land is privatised and people have settled on their private properties. On the other hand, in many areas, neighbours agree to open up their private land after harvest and during dry season to use it as communal land for grazing their animals. Therefore, private land use prevails for cultivation while people employ communal use for pasture. Additionally, communal land use is still practiced in a few areas where people are negotiating over boundaries of their private land, or where people have not fenced their private properties. These hybrid tenure practices further imply that privatisation of land does not necessarily imply individualisation. Talking about the process of the shift from communal to private land in general, while other studies describe this process as individualisation (see for example Anderson 1999; Wernersson 2013; Benmoussa 2013; Pinckney & Kimuyu 1994), I suggest employing the term privatisation. One could apply the term individualisation when identifying the trend towards formal individual ownership of land through individual title deeds or through individual contractual agreements. Within a deeper analysis of the dynamics of access and property in a changing tenure system from open/communal to enclosed/private in relation to theory (Sikor & Lund 2009; Bromley 2008), privatisation seems to be a more appropriate term, though. It encompasses different modes of land tenure that apply to the present situation in Chepareria, illustrating that privatisation of land does not solely condition individualisation but that certain people have access to a certain parcel of land.

Along with the privatisation of land come its commodification and my findings reveal the new phenomenon of a vibrant land market in Chepareria. This land market constitutes a new possibility to acquire access to or proprietary over land through rent or purchase. My findings further contribute to a perceived lack of research about people's motives for arising land rental markets in East Africa (see Jin & Jayne 2013).

Authority of village or community elders remains in the changing land tenure system what confirms findings from the previous exploratory study in Chepareria and arguments in literature about the continuity of traditional authorities even after land tenure reforms or government entitlements (see Wernersson 2013, 54; Pinckney & Kimuyu 1994). Their role is to mediate between people and state related institutions and they had an important function in sub-dividing the land during the privatisation processes of communal land. Today, they are contact persons for questions about land or land disputes and are strongly involved in land heritage, purchase, sales and rent procedures. It becomes evident that a land property regime shift does not necessarily condition a shift in power or authority.

### *6.1.2. The Role of Communal Land*

By addressing the role of communal land and its meaning as perceived by people regarding a changing land tenure system in Chepareria it seems that open access communal land in the Division has completely disappeared and is replaced by privately enclosed land. Even group

ranches and trust land, registered under communal tenure with the purpose to serve communal land use among the residents, have been internally sub-divided into private properties of clans and families.

An exception constitutes parts of the comparably small government land of Nasukuta. It provides remaining open access land for residents but it does not seem to be of high significance to them as it is located in the lower dryer parts of Chepareria and will be fenced in near future.

My findings about hybrid tenure practices, though, indicate remaining function, role and meaning of communal land use for people. Neighbours and communities in different areas agree on opening up their private land to use it communally after harvest for their livestock's pasture.

Access to open communal land still plays an important role for economically poor people during dry season and for communities in general during severe draughts. When people cannot sustain themselves on their private land or on neighbours' opened land for communal pasture, and do not have command over financial means to rent land for pasture, as there is no open access land in Chepareria, respondents state that people migrate their herds to remaining open access communal land in Uganda. In times of severe draught the majority of people would apply this pastoralist environmental risk strategy and migrate to Uganda.

Regarding my research question, I conclude that despite the fact that all land is sub-divided in Chepareria and most of it is fenced in different ways, communal forms of land use remain in hybrid tenure practices when neighbours agree on opening their land for communal pasture after harvesting their crops. Furthermore, by identifying the important role of open access land for economically poor people and for the majority of Cheparerians during draughts, enclosed private and open communal land should be perceived as co-existing within a complex tenure system. Despite the fact that there is no open access communal land left in Chepareria, with the exception of Nasukuta, enclosed, private and open, communal forms of land have different functions, roles and meanings for people. Even people who own private land, under certain circumstances, still migrate to adjacent areas for pasture on communal open access land.

### *6.1.3. Conditions in a Politicised Environment*

Findings about modes of land tenure and the role of communal land interrelate with and enable us to consider conditions for people's land tenure in the context of increasing land privatisation. Remaining authority of Pokot traditions in combination with land privatisation marginalises certain groups of people. Women and children born outside marriage are not eligible to inherit land. The land market constitutes a possibility to acquire access to or property of land for landless people but based on their economic capacity. Women, as an example, barely have the financial means to purchase or rent land. When people do not have command over property the majority still has access to land through societal organisational practices. Women usually have access to land through marriage, their families or in some cases women's initiatives that rent land as a cooperative. The same applies for other landless people who can stay on their relatives' land or people who live and work on someone else's land. Social and economic inequalities are embedded within this politicised environment of land privatisation and determine who has access to what kind of land. People who possess individual title deeds and live in upper areas of Chepareria enjoy various privileges compared to people with property in lower areas. They have economic advantages regarding their

eligibility for bank loans. Infrastructure is significantly better and prices for land vary depending on fertility and situation to good infrastructure. Biophysical conditions further contribute to the shaping of socio-economic inequalities. Looking at climatically different conditions in Chepareria, people who own property in lower, dryer areas face certain disadvantages compared to people living in upper, more fertile areas. Upper areas receive more rain and established water pipes to their homesteads, while lower areas face water scarcity. They still have to walk long distances to fetch water in rivers which has become more difficult due to the boundaries of privatised land that blockade their migration routes. During dry season it is easier for people in fertile areas to sustain themselves on their privately managed land while people in lower areas often have to rent land or migrate to communal land for pasture.

Those dynamics regarding distribution of land indicate continuance and reproduction of social- economic inequalities and give insight to how land tenure affects dynamics in society and the other way round.

## **6.2. Perceived Dynamics of Change**

Incorporating and contextualising previously mentioned dynamics enables a discussion about how residents themselves perceive dynamics of change in terms of a changing land tenure regime. The respondents reveal impacts on pastoralism and livelihood, what problems, challenges or advantages residents of Chepareria experience and what future developments they expect.

In general, people say they have settled on their private land and appreciate the freedom to decide how to manage it in order to sustain their family, supported by improved technologies. They are concerned about shrinking land sizes, though, which they explain due to population increase and the continuous sub-division of private land. Here, I want to question whether shrinking land sizes are solely due to population increase or whether increasing commodification of land and accompanied sub-divisions for rent or sale are contributing to this process? Some respondents expect increasing conflicts connected to shrinking land sizes and anticipate people moving to town or areas with greater land availability. At present however, respondents perceive a general decrease of conflicts in Chepareria, despite new disputes in the context of private land arising.

The interviewees further perceive a strong connection between privatisation of land and sedentarisation. Here, I refer to the discussion I have presented in the background to this study about whether privatisation of land leads to changes in traditional pastoralism towards sedentarisation (Lesogorol 2008, 309-310; de Vries 2007, 25; Greiner et al 2013, 1484) or whether decreasing mobility of pastoralists and a sedentariness increases the meaning of land ownership and territoriality (Gebre 2009, 284). After discussing drivers for land privatisation in Chepareria, it remains unclear whether land privatisation induced or is a result of sedentarisation.

However, people perceive great improvements in infrastructure in Chepareria triggered by their sedentarisation. Moreover, sedentarisation enables children to frequent school attendance and is perceived to contribute to an increasing value of education among people. This in turn has an impact on decreasing practices of traditional ceremonies, among them female genital mutilation or early marriages. Men marry fewer wives due to increasing living expenses, such as school or hospital fees. More people are engaging in wage labour to supplement their income from subsistence farming.

Regarding pastoralism, despite a supposed trend towards sedentarisation, people still employ pastoral migration when they cannot sustain dry season or severe draughts. Consequently, privatisation of pastoralist land does not condition complete sedentarisation. In Chepareria, migration to communal land did not completely vanish and there are new patterns of migration through the land rental market from private to private land. New patterns further arise around the person who is migrating with the herd. As sons of the family attend school, the head of the family has to migrate himself or find another person that has to be compensated with money or food, to migrate with his animals. Sometimes, several families arrange migration together and men take turns for herding all the animals.

It becomes evident that people make sense to livelihood diversification as an effect of the changing tenure system. People's agency and decisions combined with prevalent biophysical conditions give rise to processes that result in a changing human and natural landscape.

## **7. CONCLUSION**

Regarding the gap in previous research and its focus on either private or communal tenure, this study uncovers dynamics within the change from communal to private land. Informed by a political ecology approach, the concepts of agency, access and property, power and authority give an insight how land tenure affects dynamics in society and the other way round. People in Chepareria evolved a complex tenure system with different regulations about access and property informed by traditional institutions that further affects livelihoods and patterns in pastoralism. On a local level, a focus on human-environment interactions in this study suggests that nature as an actor contributes to shaping conditions for people's land tenure and socio-economic inequalities. In the context of access to and property of land, the relationship to farmers' power and authority regarding decision making on private land remains unclear and could be subject for further research. On a national level, analysing how residents perceive dynamics embedded in a changing tenure system and how they affect their livelihoods sheds light on various social and environmental issues arising that inform potential long-term developments and policies relevant for further research in the field. It remains questionable if or how Kenya's new constitution will have an impact on the tenure system in Chepareria. Residents of group ranches and trust land anticipate to soon have access to formalised tenure. This is demanding for an inquiry of dynamics about a physical, cultural, economic and political incorporation of Pokot people into state authority. As an example, implications of taxation of formalised land on people's economic capacity. In turn, as pastoral societies are characterised to resist state authority, further research could question what a formalisation of pastoralist land would mean for the nation state. On a global level, as findings reveal that formalisation of land is mainly associated by respondents with eligibility for bank loans, dynamics arising from people's incorporation in capitalist market structures constitute a further subject of inquiry.

I conclude that local actions are informed by and contribute to global discourses as dynamics in Chepareria comprise trends of privatisation, individualisation and commoditisation. At the same time I uncovered dynamics that show that privatisation does not imply individualisation, or complete sedentarisation. Also, a regime shift does not condition a shift in power and authority. Rather, human agency gives rise to hybrid forms of private and communal, sedentarisation and mobility, state and traditional authorities and institutions.

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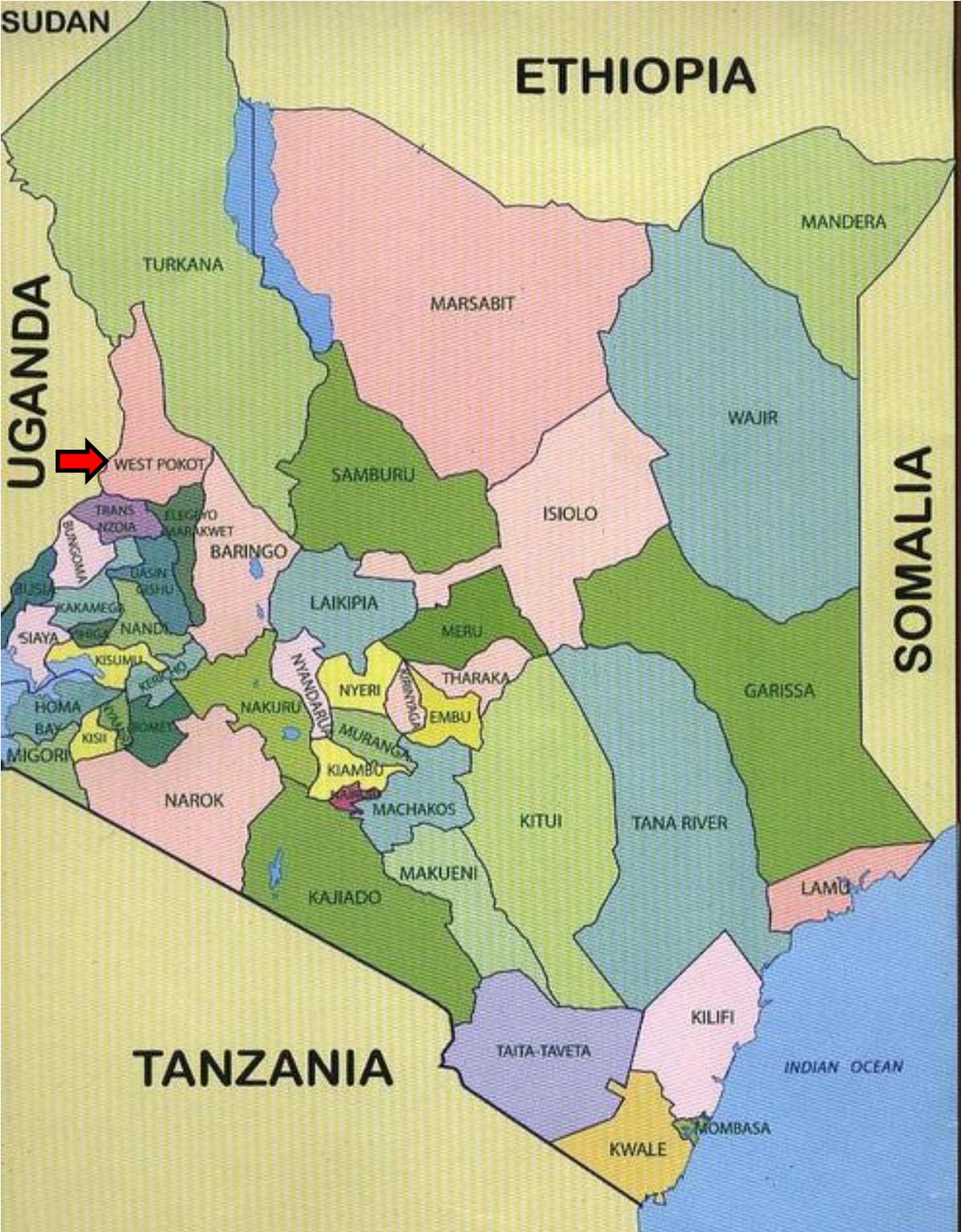
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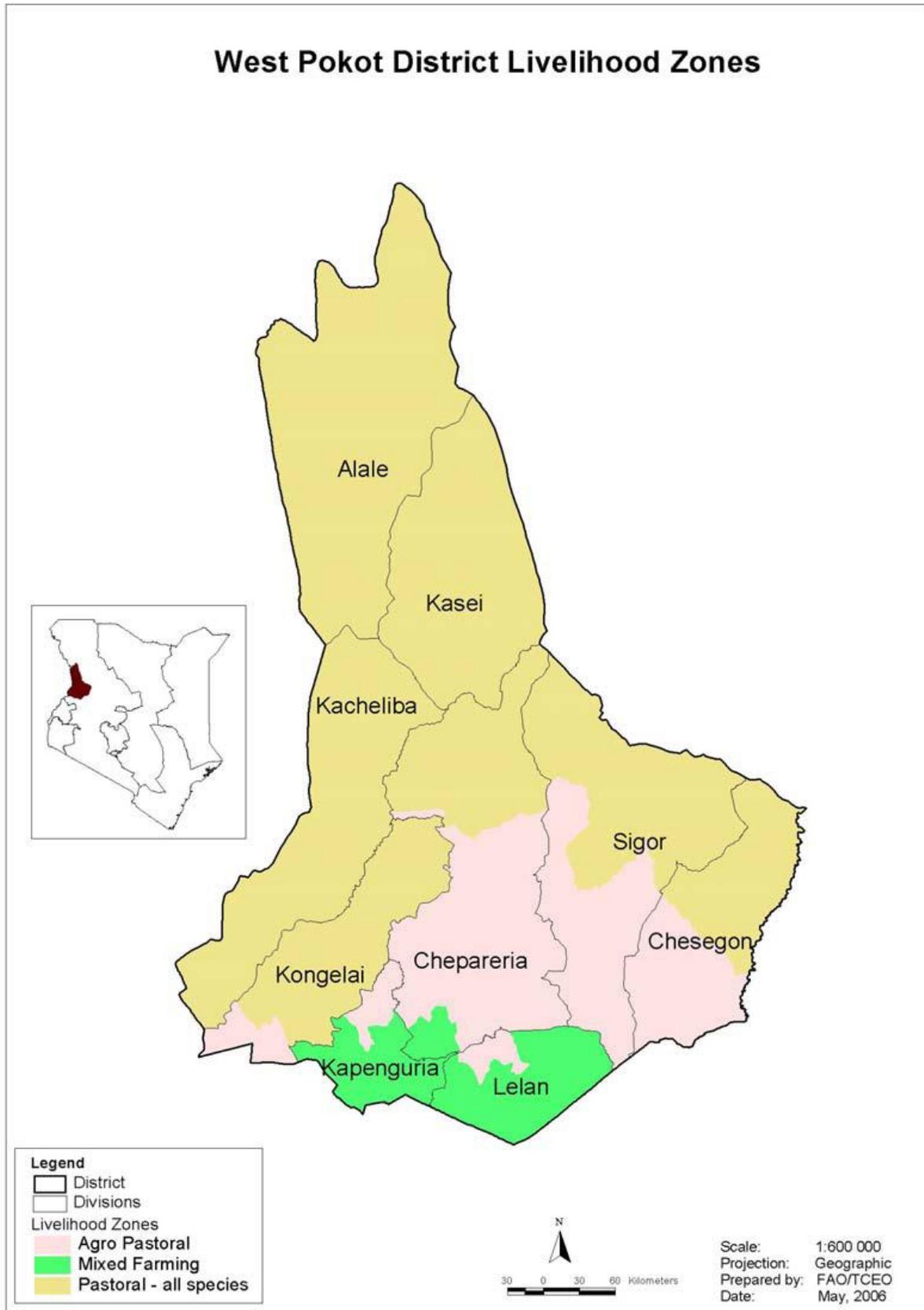
**Appendix**

**Map of Kenya**



*Source:* Government of the Republic of Kenya (2012): Vision 2030. Development of Northern Kenya and other Arid Lands. Ministry of State for Development of Northern Kenya and other Arid Lands.

## Map of West Pokot



Source: Food and Agricultural Organisation (2006)

## Map of Chepareria Division



Source: Krakow Cultural & Development Organisation (2012): Pokot South Constituency  
URL: <http://www.pokot.org/resources/maps/> [11-08-2014]

*Remark by the author:* Due to the ongoing administrative changes brought by Kenya's new constitution it was not possible to find an accurate map of Chepareria that shows all locations and sub-locations.

## List of Interviewees

Individual Title Deed

Group Ranch

Trust Land

Ministry/ NGO

Landless

	Location/ Sub-Location/ Village	Age	Profession	Gender (m/f)
1	Senetwo	75	Farmer	m
2	Senetwo	71	Farmer; Retired Ministry Employee	f
3	Chepkopegh/ Nasukuta Government Land	50	Manager of Government Land and Livestock Improvement Center	m
4	Senetwo	36	Farmer	m
5	Senetwo	38	Farmer	f
6	Senetwo	49	Farmer; Preacher	m
7	Senetwo	43	Farmer	m
8	Chepareria Town	45	PADO- Pastoralist Area Development Organisation	m
9	Senetwo	18	Primary School Teacher	f
10	Senetwo	37	Assistant Chief	m
11	Senetwo	27	Teacher	m
12	Kipkomo	64	Farmer; Owner of Kiosk	m
13	Kipkomo	57	Sub-location Elder	m
14	Kipkomo	45	Village Elder	m
15	Pserum	65	Farmer; Village Elder	m
16	Pserum	100	Farmer	f
17	Pserum	78	Farmer	m
18	Pserum	29	Farmer; Village Elder	m
19	Pserum	36	Farmer	m
20	Pserum	32	Farmer	f
21	Pserum	40	Farmer	f
22	Pserum	39	Farmer	m
23	Senetwo	43	Assistant Chief	m
24	Kipkomo	24	Restaurant Manager	f
25	Ministry Chepareria Division	60	Ministry Representative	m
26	Kipkomo	73	Farmer	m
27	Senetwo	45	Farmer	m
28	Senetwo	43	Farmer	m
29	Shalpogh	35	Chief	m
30	Shalpogh	65	Farmer	m
31	Shalpogh	58	Farmer	m
32	Shalpogh	47	Farmer	m
33	Shalpogh	60	Farmer; Village Elder	m

34	Shalpogh	35	Farmer	m
35	Shalpogh	29	Farmer	m
36	Shalpogh	30	Farmer	f
37	Shalpogh	30	Farmer	f
38	Ywalateke	20	Landless	f
39	Ywalateke	22	Farmer	f
40	Ywalateke	80	Landless	m
41	Ywalateke	40	Headmistress of Kangoria Primary School in Ywalateke	f
42	Ywalateke	35	Chief	m
43	Ywalateke	65	Farmer	m
44	Ywalateke	75	Farmer	m
45	Ywalateke	45	Farmer	f
46	Chepkopegh	40	Farmer	f
47	Chepkopegh	67	Farmer	f
48	Chepkopegh	45	Chief	m

## **Interview Guide**

I elaborated different interview guides depending on who I was going to interview. The interview questions differ in whether I interviewed farmers, elders/chiefs/ministry or NGO representatives, or landless people. When I knew I was interviewing a landless person I did not approach them about their landlessness directly as I learned this is a cultural taboo in Pokot society.

I employed an interview guide for each interview I conducted to address core questions or issues. To better dwell on my respondents' perceptions, in various cases, I employed further questions for deeper understanding or questions about other issues they were mentioning.

### Questions for Farmers:

1. Do you own land? If yes- how big is it?
2. How did you get the land? (Inherit/buy) Do you have an individual title deed?
  - a. Including inheritance process (what institutions involved etc)/ requirements for inheritance/ buying process (involved institutions etc)/ process and requirements for individual title deed.
3. Have you ever or do you rent/ rent out/ sell/ buy land?
  - a. If yes: Why? When? Where? Price? How does it work in practice (involved institutions/ agreements etc)?
  - b. How many people (in per cent) living in your area are engaging in rentig/ buying/ selling and why?
4. Who cannot own land (according to national law or traditions)?
5. How has the land tenure changed from when land was managed communally up to today?
  - a. Why and when did people start sub-dividing and demarcating land?
  - b. When were individual title deeds/ agreements (in group ranch, trust land) for legal ownership of land introduced?
6. Is there still communal/ open/ not privately owned land accessible for the community? In your area or in whole Chepareria?
7. Are all people aware about the present land tenure situation?
  - a. Where can people get information about it?
  - b. Are there any conflicts in connection to land ownership?
  - c. Who solves the conflicts?
8. What changes in the context of the changing land tenure system do you perceive in terms of livelihood/ pastoralism/ traditions?
9. What problems/ challenges/ positive developments/ future developments do you perceive in the context of the changing land tenure system?

### Questions for Elders/ Assistant-Chiefs/ Chiefs/ Representative of Local Ministry:

1. What are the current land tenure regulations in your sub-location/ location/ division?
2. How have they changed over time from when land was communally owned up to today?

3. Are people engaging in renting/ selling/ buying land? Why? How many (in per cent)? Processes/ agreements/ institutions involved/ etc?
4. Who cannot own land (according to law or community laws)?
5. Is there still communal/ open/ not privately owned land accessible for the community? In your area or in whole Chepareria?
6. Are all people aware about the present land tenure situation?
  - a. Where can people get information about it?
  - b. Are there any conflicts in connection to land ownership?
  - c. Who solves the conflicts?
7. What changes in the context of the changing land tenure system do you perceive in terms of pastoralism/ culture/ traditions?
8. What problems/ challenges/ positive developments/ future developments do you perceive in the context of the changing land tenure system?

Questions for Landless People:

I was asking them about their background, rather than directly approaching them why they do not own land. Eventually, they also told their stories why or how it came that they do not own land and if they still have access to land.