



Sticky Issues to be addressed in the Policy & Institutional Cross-border Resources Sharing Frameworks

Uganda and Kenya

Compiled by
Hon. David Pulkol Bwangamoe
and Research Team

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Policy & Institutional Framework Sticky issues:

1. There is limited knowledge of the law. People do not know how to seek justice or redress when they cross borders - this includes the pastoralists, institutions, e.g., immigration, administrators - parish chiefs, CAOs, etc, security agencies relating to these matters;
2. There is a lack of clarity between the engagement of government institutions with pastoralists, as well as the engagement of government institutions with government institutions; who do you engage?
3. There is no formal process of entry for pastoralists migrating across borders.
4. The problem of the prosecution of crimes and the punishment of offenders across borders. The pastoralists do not have access to diplomatic representation in Uganda and Kenya. (Diplomacy may apply, but the laws have to take precedence >> Prerogative of mercy, etc, can be applied if the prosecution processes have been undertaken;)
5. The international frameworks do not create an obligation for member states to implement these... More like principles of engagement... No legal obligations and no pathways to ratification

Mapping of Resources Sticky issues:

- There is pressure on existing resources on the Ugandan side of the border. The services gap is more glaring on the Kenyan side.
- How can social services on the Ugandan side of the border be better developed to handle pressure? For example, on health services?
- The issue of equitable investment in water, pastures, and natural resources in Uganda and Kenya, e.g., natural resources protection and rehabilitation;
- Local agreements and arrangements for grazing exist within local communities through practices such as Etamam. How can these practices be better suited to the formal practices of the two states?
- Facilitation of cross-border livestock vaccination, disease surveillance, and monitoring of transboundary diseases. Kenya/Uganda need to recognise and invest in 'one health' for mobile populations. Interventions so far are not regular and not well funded.
- Negotiation for resources at the political level should be inclusive of local governments/leadership.

Conflict Management Sticky Issues:

1. The role and space for communities to engage in conflict resolution, in ways that give power to pastoralists to advance their ways of managing conflicts, disempowerment, organised systems in the kraals, and acknowledging the kraal associations as part of the structure of leadership in this agreement. (ALOMAR/ADAKAR). The need for recognition, motivation, empowerment, and given EFFECT!
2. Dialogue is not taking place within the communities in ways that foster conflict management. The governments are not supporting local authorities financially to support conflict management at the community level. This should include support to local structures such as peace committees.
3. Perceptions of unequal treatment by Kenyan pastoralists/representatives in Uganda...I have provided a clause on equity and representation for the vulnerable (it may be a Kenyan, a Ugandan, a woman, a Disabled child, etc)/ **Fair and just treatment, establishing simple pathways to resolving grievances.**

4. Support the implementation of resolutions at the local levels that are in keeping with the spirit of the national constitutions and respective laws.
5. Migrating pastoralists will still have to engage with local communities, respective local authorities to access grazing areas despite this agreement...
6. Post-conflict resolutions for management of conflict, i.e., the Nabilatuk and Moruitit resolutions//international are popular amongst pastoralists but often considered unfit within formal state practices and laws. How can these ADR practices be encouraged, codified and supported by the different governments?
7. How to deal with cases of sexual violence, gender-based violence in the corridors, especially related to violations against women, girls, and children.
8. The involvement of youth and women in the management of conflict. This may come into conflict with management committees that should be representative. Can the participation of women in conflict management be made mandatory?
9. Issues with adherence to 'peace accords' - the relevant institutions to support and provide an enabling framework for their review and implementation. This includes how to incentivise the maintenance of these accords. Further, the celebrations for these agreements should be supported by the states.

Security Sticky Issues

1. In the process of negotiating a cross-border resource sharing agreement, there are several sticky issues that need to be considered. One such issue is the flow of illegal firearms, which is a security concern that needs to be addressed through a disarmament protocol. Harmonizing disarmament activities in pastoralist communities in Kenya and Uganda and concurrently undertaking disarmament operations against armed members of the communities would be a step towards ensuring that illegal firearms are dealt with. Any firearms recovered or confiscated from Turkana, Karamojong, and Pokot must be destroyed.
2. Another issue is the need to develop security infrastructure, such as roads and telecommunications services, to make it easy to respond to security threats. In addition, there is a need to regulate and manage entry and exit through designated points, with proper registration of individuals and their livestock numbers and species.
3. Distance from Nairobi and Kenya is another challenge, which may require measures such as the deployment of the Kenya Defense Forces (KDF) at select border points to strengthen joint operations of security forces.
4. Civil-military cooperation should also be strengthened to ensure effective management of security challenges.
5. Recovery of stolen livestock is another issue that needs to be addressed. There is a need to strengthen liaison and work on a bilateral mechanism for the collaboration of the Uganda People's Defence Forces (UPDF) and KDF to recover stolen livestock, including when crossing international borders. Sharing intelligence and other information is also crucial to address security challenges.

Proposed interventions for the MOU from the Security Group

Both the Governments of Kenya and Uganda commit themselves to undertake the following:

1. Create a mechanism of enforcing orderly migration of pastoral communities that entail the establishment of properly gazetted entry/exit points in the transhumance corridors, manned by Immigration/civil administration and Security personnel of both countries, to streamline the registration and management of members of the pastoral communities and their livestock upon entry and exist into or from either country.
2. Enhance cross-border security coordination and sharing of intelligence on activities of pastoral communities. This should encompass the constitution of security teams to carry out coordinated patrols in the transhumance corridors, deployment of security forces in strategic areas along the common border, operationalisation of Joint Defence Committee and its sub-structures as well as creation of an Intelligence Fusion Unit and increased utilisation of the Military Liaison Officers already active on the ground.
3. Promote community-based approaches aimed at conflict-resolution and fostering peace and co-existence among pastoral communities, as well as identifying and profiling criminal networks hiding among the respective communities. This will ultimately curtail cattle rustling and boost livestock recovery operations. Such approaches should include the support of efficient grassroots peace and cattle recovery mechanisms, including the “Nabilatuk” Resolution of 2013, “Moruitit” Resolution of 2015, and the Lokiriyama Peace Accord between Turkana and Matheniko communities, which were proven effective in curbing rustling in Karamoja Sub-region.
4. Give the mandate to security forces to enforce the locally designed approaches, such as Nabilatuk and Moruitit Resolutions in southern and northern Karamoja, respectively, to recover the raided animals.
5. Prioritise the legal jurisdiction of Partner States and ensure that members of the pastoral communities are sensitised to the laws of the respective countries to achieve compliance and fairness during times of enforcement.
6. Urge the local leadership to fully support the agreement and pledge to institute necessary and deterrent action against those found to act contrary to or sabotage the agreement.
7. Both states earmark resources to support coordinated and consistent disarmament efforts to enhance cross-border harmony.
8. Invest in social service delivery, more especially in support of a member state bearing the heavier burden of hosting the pastoral communities. Such services should include health centres and drugs, schools, water points, permanent security roads and rolling out of immunisation/vaccination programmes, among others.
9. Invest in modern border surveillance technology, including early warning systems and robust electronic livestock tracking systems for easier identification of animals in the event of rustling incidents.
10. Avail resources for youth livelihood projects and skilling to dissuade them from the culture of rustling and encourage them to embrace legitimate alternative income-generating activities.

11. The local authorities, in liaison with elders of host pastoral communities to designate grazing areas for migrant pastoral communities to protect the rights of host communities and other resources such as conservation reserves and farmlands which have been encroached upon in the past.

Environment Management & Sustainability Sticky Issues

1. Promote sustainable exploitation of biodiversity within the area covered by the resource sharing agreement, while minimising negative impacts on the environment and local communities.
2. Address human-environment conflicts through a collaborative approach between government agencies and local communities.
3. Enhance government understanding of and support for pastoralist inter-communal pasture/water user agreements.
4. Mitigate the issue of depletion of resources in protected areas resulting from the resource sharing arrangements through appropriate monitoring efforts, dialogue, and sanctions under existing laws.
5. Ensure engagement with communities on the necessary regulation of access to, and proper maintenance of, water facilities for wildlife and local communities.
6. Address the environmental and other natural resources issues that may arise during the execution of this agreement.
7. Human-wildlife conflicts compound problems related to the management of protected areas. Furthermore, there's issues related to the expansion of conservation areas into community grazing lands.
7. Take measures to prevent and manage the introduction of invasive species, such as masenge and prosopis juliflora, which may have negative impacts on the environment and local biodiversity within the resource sharing area.

“The states shall take measures to protect the environment, land and natural resources in consultation with pastoralists; and shall design measures related to land uses in consultation with pastoralists”

Communication and coordination Sticky Issues:

1. The agreement should be communicated at all levels, debated, and passed at the local government level. The community must participate, and the agreement should reach far and wide.
2. The states commit funding to actualise and operationalise this agreement. Implementation of these principles cannot be realised without funding.
3. Organisation at the local level: kraal, parish, sub-county, and county level to engage pastoralists;
4. Engage the ministers of the East African Community of both communities to take it to the EAC;
5. Translation of the agreement to local dialects and reach through appropriate media
6. Increasing telecommunications infrastructure to ease early warning and response...

7. Establish radio possibilities to increase access to media and content to support the implementation of this agreement.
8. Establish, strengthen, and finance civil-military cooperation at sub--county and district level
9. Consider the participation of pastoralists in the sub-county and district security committee
10. Recognise the kraal as a governance structure (a security coordination structure?)

Enabling Environment for the Cross-Border Resources Sharing Agreement

Sticky issues

1. The role of UWA/NFA/KWS in supporting the implementation of the agreement...
2. The role of the police, ASTU, UPDF, KDF, security organisations (ESO, ISO, GSU, etc) as a critical part of the conflict and security complexes...
3. Taxation, customs, immigration, and agricultural ministries
4. Ministries of trade
5. Ministries of EAC Affairs, AU, IGAD, internal affairs, and foreign affairs
6. District Local Governments and County Governments