REMARGINALISING KENYAN PASTORALISTS: THE HIDDEN CURSE OF NATIONAL GROWTH AND DEVELOPMENT

Othieno Nyanjom
Kenya Institute for Public Policy Research and Analysis

ABSTRACT Multidimensional poverty persists in Kenya, especially among its pastoralist communities of the arid and semi arid lands (ASALs). This results from the failure of successive independence governments to decisively mitigate the ASAL's agro-ecological adversities, because these governments have hitherto considered the areas to be incidental to core national interests. The country's long-term development blue-print, Kenya Vision 2030, also pays scant attention to the ASALs, undermining the new constitution's aspiration for democratic, participatory governance that secures people's basic rights and equitable development, with special attention to marginalized communities, such as pastoralists. Prior to Kenya's recent discovery of viable stocks of natural resources, the country was co-operating internationally on the development of the Lamu Port South Sudan Ethiopia Transport (LAPSSET) corridor incorporating a rail, highway, oil pipeline and refinery network, to which have been added airports and resort cities—all sited in the pastoralist ASAL regions. Constitutional devolution encourages Kenya's 47 autonomous counties to plan and implement their respective development priorities. Meanwhile, the government has undertaken little or no consultation with the host ASAL communities over the grandiose LAPSSET project and the impending mining activities which are consequently likely to swamp the host counties' priorities, likely exacerbating their marginalization. This paper highlights the risks LAPSSET and the impending mining activities pose to the ASAL pastoralists and underscores the need for constitutionally mandated consultations over national development initiatives.

Key Words: Kenya; Pastoralists; Marginalization; LAPSSET; Natural resources.

INTRODUCTION

While other parts of Kenya have undergone great socio-economic transformation since independence in 1963, northern Kenya and most other arid lands have remained largely untouched by modernization. These arid and semi-arid lands (ASAL) have the country's worst human welfare indicators, seemingly stranded in the pastoralist, and often nomadic, livelihoods of their forefathers.(1) The failure of the colonial and successive independence governments to mitigate these regions' harsh agro-ecological environments has consigned their inhabitants almost exclusively to livestock-based livelihoods. Yet, the marginalisation of ASAL regions has also meant that their livestock remains primarily a socio-cultural rather than economic asset, since the regions—denied appropriate social and physical infrastructure investments—have remained largely outside the market economy. ASAL regions are characterized by extensive land degradation, which is often blamed on a pastoralist 'tragedy of the commons' for which privatization has traditionally been seen as a solution (Hardin, 1968). But these regions' lack of an obvious economic potential hitherto has driven their persisting marginalization, perpetuating pastoral livelihoods. However, Kenya's recent launch of a transnational physical infrastructure project and its recent discovery of vast mineral resources exclusively in ASAL regions have focused investments in them, which are anticipated to bring modernity and markets. The concern of this paper is that, in the absence of an initial transformation in socio-economic values among ASAL communities, they will not be able to participate in the modernising changes that result from the infrastructure and mineral extraction investments. Instead, the anticipated changes might possibly result in the further marginalization of the pastoralist communities, enhancing the scope for pastoralist conflict over their resources, especially pasture, which the proposed projects will diminish.

Fifty years into independence, the country's long term development blueprint, Kenya Vision 2030 launched in 2008, aspires for a middle income status (Republic of Kenya, 2007a).(2) Yet, as the Vision contemplates metropolises for other parts of the country, its specific flagship projects for the ASAL regions—establishment of Livestock Disease Free Zones and regional abattoirs—reinforce the centrality of pastoralism in their economies, which is unlikely to deliver middle-income status. Kenya's constitutional 2010 move to equitably funded, autonomous devolved county governments offers ASAL counties an opportunity to drive their own development priorities (Republic of Kenya, 2010).(3) However, the development gap between them and the rest of the country is very great, calling for great sensitivity in national government undertakings that might affect the home-grown development of county governments only established in March 2013.(4) The national government has launched the construction of communications infrastructure linking coastal town Lamu through various ASAL counties to neighbouring countries, dubbed the Lamu Port Southern Sudan Ethiopia Corridor Project (LAPSSET), and has also initiated activities designed to exploit large stocks of recently discovered ASAL-based minerals. These initiatives extensively involving neighbouring governments and international private investors, pose new challenges over the optimal development strategies for the new counties, especially in the fragile ASAL regions. Since the infrastructure and mineral exploitation developments are imperative, how can they be undertaken in a way that does not enhance the marginalisation of the ASAL people and their livelihoods? At the very least, since some intra-pastoralist conflicts relate to contest over diminishing resources—pasture and water, what has the national government done to minimise the risk of conflict that the alienation of land for the transnational infrastructure and minerals might occasion on these communities?

Kenya's ASAL counties have the country's poorest human welfare indicators. For example, the former North Eastern Province's (NEP) Human Development Index (HDI) stands at 0.417 compared to the national average of 0.562 and Central Province's 0.624 (UNDP, 2010).(5) These HDI disparities reflect the development deficit faced by ASAL regions in which, for example, the value of oil discoveries are estimated to be 70% of Kenya's financial year (FY) 2013/14 national budget. Disgruntlement has for example, already emerged over the management of the anticipated benefits of the oil of Turkana County which Cummings (2013) estimates to have 50,000 small arms in civilian hands. The development circumstances of the counties along the entire LAPSSET corridor are no different from those of NEP. With the ideas of the 'oil curse' and 'resource curse' in mind (Ross, 2013), this paper seeks to raise concerns over some issues attention to which might minimise the likely pastoralist resource conflicts among ASAL communities, and between them and the national government, from the construction of the trans-national infrastructure and exploitation of the reported mineral wealth. The failure to address such issues is likely to enhance the maginalisation of ASAL peoples.

The next section of the paper provides a framework for understanding the role of pastoralism in ASAL livelihoods as well as its potential for Kenyan growth and development. The following section summarises the development status of the ASAL counties while the section after that addresses the prospects for change in the region. A further section undertakes a discussion of the issues raised hitherto, with conclusions being drawn in the last section.

UNDERDEVELOPMENT AND THE BENEFITS OF PASTORALISM

With Amartya Sen's thinking in mind, development improves all facets of people's lives, by enhancing their capacities to exploit their potentials, which enable them to enhance their entitlements. Development expands social, political and economic freedoms and choices, in a social continuum from the individual through the family and household, to the society, country and globe. Thus, arguably, one cannot justly enjoy available freedoms and choices at higher levels of aggregation—such as the country—without first enjoying the same at lower levels of aggregation, such as the family. One's personality is therefore critical to wanting and seeking (good) freedoms and choices, and determines whether or not one will demand 'development' from higher authorities, such as Kenya's national or county governments.

But, because some individuals and communities have weak characteristics, and because the *raison d'etre* of the tax-collecting (democratic) state is the welfare of all its citizens, the state is obliged to 'energise' lethargic individuals to seek freedoms and choices. This the state can do through basic and civic education, as well as the provision of the services that enhance the scope for its citizens' freedoms and choices, such as security and infrastructure. That some citizens might still not exploit availed freedoms and choices is not an excuse for the state to renege on its obligations. Thus, because the state knows that immunisation is beneficial to the individual, society and nation, it must ensure its conduct. When a state continuously taxes its citizens (of a particular group or region), but does not sustainably remit commensurate services, then that state under-develops those citizens and/or regions.

Pastoralism is associated with a ‘tragedy of the commons’ in which individualism prevails over the common good with respect to common pool resources, which are consequently degraded and eventually destroyed (Hardin, 1968). However, such an outlook seems fatalistic, in assuming that pastoralist communities do not look out for the future. De Young (1999) for example, early argued that such tragedy is not inevitable as pastoralists are capable of self-organised restraint, failing which external agents can constrain their conduct. Further, the World Initiative for Sustainable Pastoralism (WISP) sees ranching as an antidote to pastoralist environmental destruction (GEF et al., 2007), with sedentisation—modernization; urbanization—also being seen as further solutions (Kreutzmann, 2013). Yet, in contrast to the ‘tragedy,’ Kreutzmann (2013) warns of a ‘drama of the commons’ associated with radical, abrupt transformation of Chinese livelihoods from pasture to agriculture during the ‘Great Leap Forward’ of 1958–1959 that resulted in the loss of 45 million (mn) lives. Such a drama involves a contest between the state and common property rights holders over ‘the degrees of freedom of movement and usufruct rights’ which become threatened by privatization, thereby disrupting the original owners’ livelihoods.

But while Hardin (1968) had meant privatisation among the owners of the commons, privatization can involve outsiders, as conceptualized by the ‘drama,’ meaning the original owners end up with less than their original commons. Thus, Kreutzmann (2013) proposes a ‘drama of responsibility’ requiring a better understanding by prospective reformers of the dialectics of rural livelihoods, such as pastoralism. Rather than the blanket dismissal of such pastoralist livelihoods as being anachronistic, and therefore needing modernization, it is the historical neglect of pastoralists and their marginal lands that causes them to be adjudged ‘niches of evasion’ of government, which are consequently adept in the ‘art of not being governed.’ In actual fact, however, it is the government’s weak penetration in such marginal lands that drives the ‘evasion’ of governance. This is the context of Cummings’ (2013) concern with development-induced conflict resulting from incongruous interventions.

In a broad review of (mobile) pastoralism, GEF et al. (2007) disapproves a perception of the livelihood as being archaic and economically irrational, arguing that instead, it is the most viable use for drylands. The review emphasizes the need to view pastoralism in a wholesome manner in order to exploit its full potential, noting also that the practice of subsuming pastoralism under the agriculture sector squeezes out the former in terms of prioritisation. Fig. 1 provides an evaluation framework that takes account of pastoralism’s multiple direct and indirect, measured and unmeasured values, some of which are likely overlooked by the typically blinkered approaches that undervalue the livelihood. But WISP emphasizes the need for good data with which to show for example, that pastoralism is two to 10 times more productive than ranching in similar environments. It notes for example, that Australia’s more appropriate pastoralist policies provide it with 16% and 30% more energy and protein per hectare respectively than is the case in Ethiopia.

Besides distinguishing pastoralism from agriculture and viewing its potential

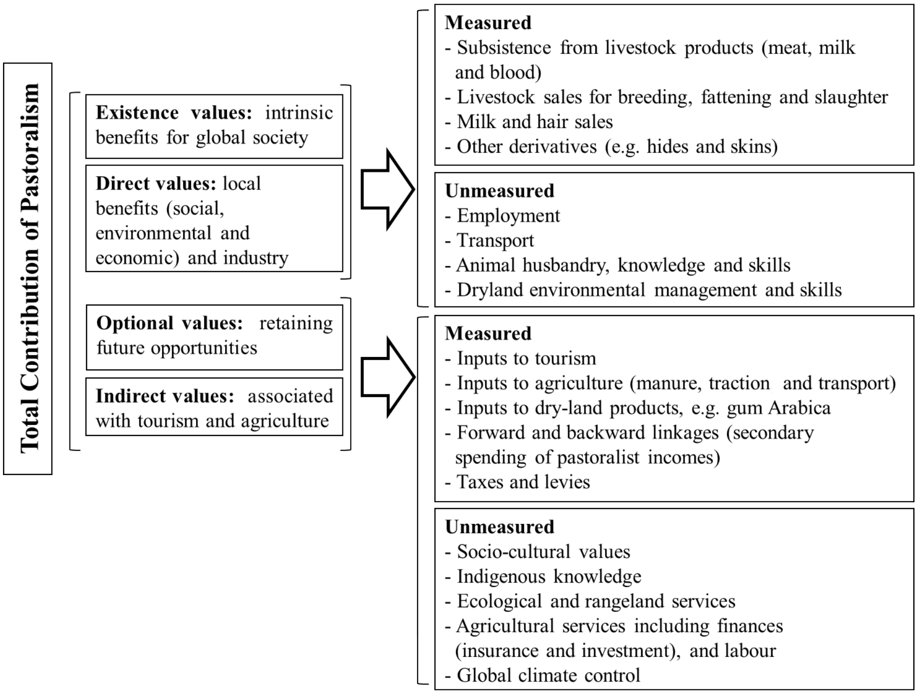

Fig. 1. Evaluating the total socio-economic benefits of pastoralism
Source: adapted from Hesse & MacGregor (2006), reported in GEF et al. (2007).

returns in the wholesome context of Fig. 1, GEF et al. (2007) emphasise the need to uplift the pastoralist livelihood by removing obstacles to its pursuit, rather than replacing it with some other livelihood activity. Angelei (2013) has listed some policy and institutional 'pre-conditions' that might cushion pastoralists against livelihoods disaster in the wake of external investments (see APPENDIX). Angelei is joined by KNCHR (2012), Nunow (2012), Sena (2012) and Bwanaadi (2013) in arguing for more transparent and accountable processes involving hosting communities in developing the frameworks within which such alternative livelihood activities are identified and developed. As Elmi (2013) argues, there is a need to "respond to pastoralism in its own terms." Nonetheless, as with all other sectors of an economy, pastoralism does not operate in a vacuum, meaning it is necessary to pay attention to its linkages to other sectors, such as health, education and of course, water. It is the failure over the years to invest in such sectoral linkages, which places pastoralists at a disadvantage when new investments arise, such as LAPSSET and the newly discovered minerals.

In concluding this analytical framework, it is useful to quote WISP at some length:

> … pastoralism is the extensive production of livestock in rangeland environments (that) adapt(s) to extremes, in terms of climatic seasonality, risk and uncertainty, and it provides an efficient way of managing the sparse vegetation and relatively low fertility of dryland soils. (It is) among the most sustainable production systems in the drylands and one of the few production systems that is genuinely compatible with 'formal' nature conservation ... (P)olicies have frequently failed pastoralists by guiding governments to invest public resources … disproportionately in non-pastoralist areas, or to otherwise favour non-pastoralist land practices in the rangelands over pastoralism … Where land degradation is seen in pastoral lands, it is frequently associated with constraints to pastoral mobility, and these constraints have often been imposed through unsupportive policies. (T)hen it is reasonable to suppose that supportive policies that enable pastoralism will lead to environmental improvements, or at least will arrest degradation (GEF et al., 2007).

PASTORALISTS AND THEIR SOCIO-ECONOMIC STATUS

The only British—indeed, Europeans—who lived in northern Kenya during colonialism, were the administrators and small numbers of Christian missionaries in a largely Muslim environment. In keeping with the pastoralist tradition, these northern lands connecting Kenya to the encroaching Sahel have always been the site of much cattle-rustling and attendant conflict. Dubbed the Northern-Frontier District during colonialism into early independence, the region—highlighted in Fig. 2—was closed off to the rest of the country, access being dependent on the grant of a travel permit by the local administrator, the District Commissioner. The early 1960s Shifta War of the secession of north-eastern Kenya to Somalia did not encourage integration of the region by the independence government (see Ringquist, 2011).(6) Additionally, the strong Islamic influence in much of the region was an alienating factor in a predominantly Christian country. The resulting marginalisation of northern Kenya was such that it only got its first cabinet minister and indeed, presidential visit in the 1980s, two decades into independence.(7) Inadequately exposed to the market economy despite accounting for 50% of the country's livestock valued at 10% of national Gross Domestic Product (GDP), Kenyan ASAL communities have persisted with their pastoralist livelihoods, holding exceedingly large stocks of animals, whose sale is never a priority despite the ravage of perennial droughts.(8) In the context of a hitherto weak national political will to develop the region, the difficult social and geo-climatic conditions also undermine service delivery: qualified service providers born in ASAL regions prefer working elsewhere in Kenya, while the

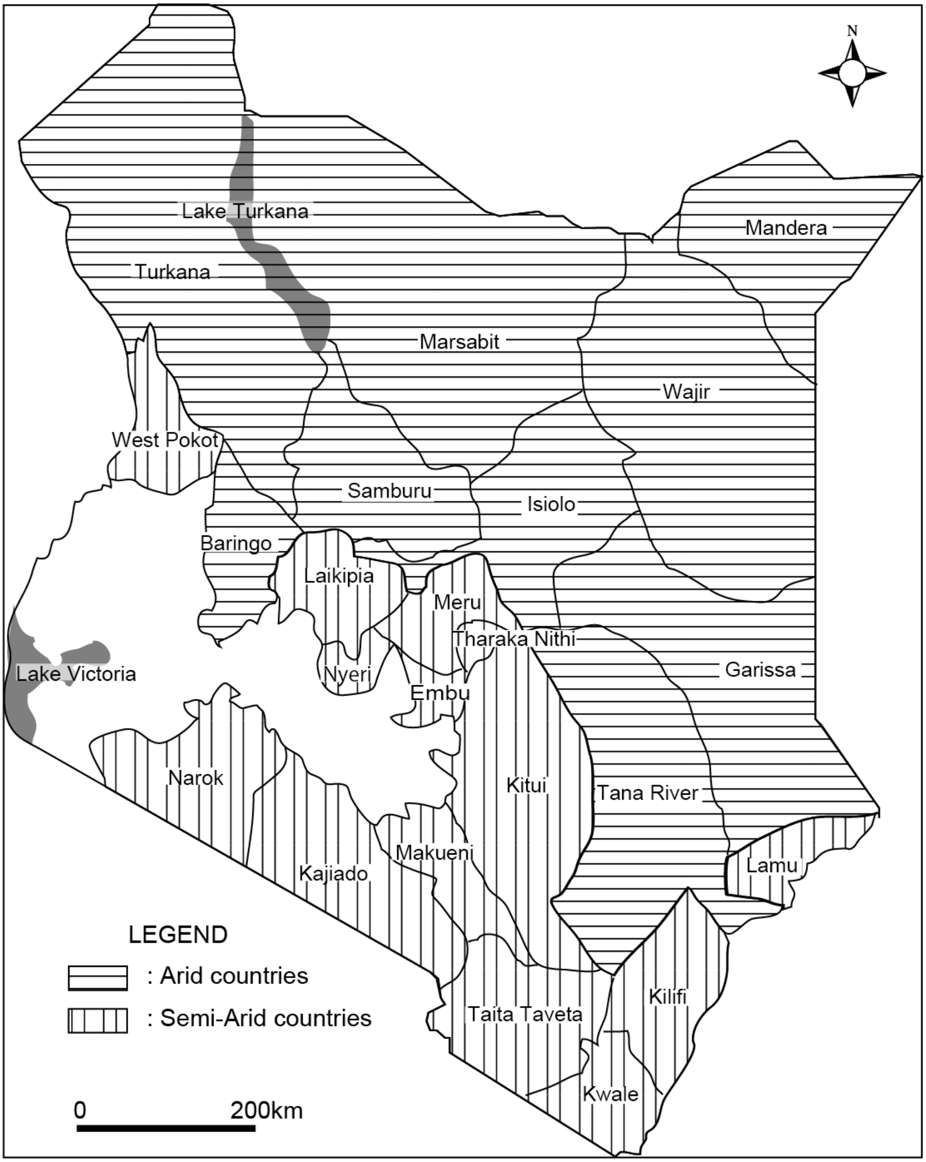

Fig. 2. Distinguishing Kenya's ASAL Counties
Source: Modified from Kenya Rural Development Programme (2014).
Note: The arid counties include Baringo, Garissa, Isiolo, Mandera, Marsabit, Samburu, Tana River, Turkana, Wajir. The semi-arid ones are Embu, Kajiado, Kilifi, Kitui, Kwale, Laikipia, Lamu, Makueni, Meru, Narok, Nyeri, Taita Taveta, Tharaka Nithi and West Pokot.

harsh socio-economic conditions deter qualified “Down Kenyans”[9] from working in the region, despite the inducement of the ‘hardship allowance.’[10]

Kenya’s development continues to be largely shaped in many ways by the country’s colonial heritage. The territory’s attraction to the British lay in the geo-political desire to control the source of the River Nile. This led to the construction of the Kenya-Uganda railway line whose economic viability would be based on the emerging settler agriculture economy. Thus, colonial investments in social and physical infrastructure were restricted entirely to the parts of the country astride the railway line occupied by the European settlers, dubbed the ‘White Highlands.’ For the rest of Kenya outside the Highlands—the ASAL regions apart, investment was denied intentionally to create ‘native reserves’ which interacted with the more developed parts of the country only through the sale of African labour induced through enforced taxation (Tarus, 2005). However, this sale of labour largely excluded ASAL Kenyans, partly because they did not have the basic formal education with which to for example, do colonial clerical work while their nomadic pastoralist livelihoods did not pre-dispose them for the unskilled manual work that other Kenyans did on settler farms and in corporations, such as railways and harbours.

Thus, while colonialism had penetrated and transformed the values of many other Kenyans, its weak attention to ASAL communities meant that Kenya acceded into independence a trifurcated entity that distinguished the ASAL regions from the former White Highlands and the rest of the non-ASAL parts of the country. This tiered development has been perpetuated in the 50 years of independence through extensive public spending inequalities (Bigsten, 1984; Kiringai, 2006), which have undermined the opening up of development opportunities for politically ‘incorrect’ regions.[11] Thus while national human poverty index fell by seven points to 29.1 between 2005 and 2009, it rose five points to 51.3 for arid counties (Fitzgibbon, 2012).

The ASAL regions account for 80% of the Kenyan land area, but only 25% of the country’s population, its pastoralist people keeping cattle, sheep, goats, camels and donkeys (Centre for Governance and Development, n.d). They account for 50% of Kenya’s total livestock population, amounting to some 1.6 mn tropical animal units which provide 90% of the regions’ employment and 50% of their household incomes. At the national level, livestock’s importance is reflected in its 10% share of GDP, 42% share of agriculture GDP, and 50% share of the national agriculture labour force. The ASAL regions have been characterized by a four-year cycle of major droughts, whose intensification is suggested by the three instances in the last 10 years, i.e., 2006, 2009 and 2011 (Fitzgibbon, 2012).

The regions are also characterized by widespread livestock theft, animal diseases, conflicts over the animals and their diminishing pastures and water, and a poor exposure to markets for their livestock. Table 1 shows ethnic militia to have been the most prominent instigators of conflict in Kenya between 1997 and 2011, the two major provincial homes of ASAL counties—Rift Valley and North Eastern—accounting for more than 40% of all conflicts.[12] These conditions breed ‘environmental refugees’ and/or ‘pastoralist drop-outs’ who are consequently

Table1. Instigators and regional distribution of Kenyan conflicts, 1997–2011

Instigator	Numbers	Province	Numbers
Al Shabab and related terrorists	29	Central	173
Civilians, protestors and rioters	869	Coast	242
Ethnic militia	881	Eastern	260
Unidentified groups	29	Nairobi	630
		North-Eastern	214
		Nyanza	213
		Rift Valley	904
		Western	119

Source: ACLED (2014).

forced into casual work, or into food aid dependence (Myers, 2002; IOM, 2010).

Interestingly, the ASAL regions have consistently voted for the government of the day, as reflected in Throup & Hornsby's (1998) analysis of voting patterns in successive Kenyan general elections to 2002. While in 2007, they voted marginally for the opposition, they returned to the government side in 2013. The ASAL constituencies consistently voted for former President Moi's repressive Kenya African National Union party regime (1978–2002); and his own Baringo home county remains a typical ASAL county alongside others, with hardly any substantive scheme successfully completed to specifically secure pastoralist livelihoods against the vagaries of nature.(13) In contrast, successive independence regimes borrowed internationally for coffee and tea, financing road building, crop development and related activities in areas conducting mixed farming. When such farmers experienced crop disasters, their loans were often written off; yet, the destruction of pastoralist herds by perennial droughts has never received any government attention, such as in re-stocking.

While 41.2% of NEP's men have no education at all, and 78.4% of their women cannot read, the respective national averages are 4.1% and 14.2% (KNBS & ICF Macro, 2010). Further, NEP's health facility-based delivery of children stands at 17.3% compared to a national average of 42.6%. But a most graphic illustration of regional development disparities is the options for the disposal of human faeces, a composite indicator of household welfare attributes, such as wealth, cultural enlightenment, access to piped water, quality of housing, and level of urbanization, among others. Based on the Kenya Integrated Household Survey (KIHBS) 2005/06 data (Republic of Kenya, 2007b), Fig. 3 contrasts only the shares of county households that use a toilet connected to the main sewer (flush toilet) with that which relieves itself in the bush. The 18 ASAL counties arranged together in the figure have very high shares of households using the bush. Only three of them have a main sewer connection rate of more than 20%, with the shares of households using the bush rising above 95% for 12 counties. The picture for the 29 non-ASAL counties is more fluid with eight counties respectively having a bush and sewer rates of over 80%. Flush toilets in ASAL counties are likely mainly found in the residences of government officers rather

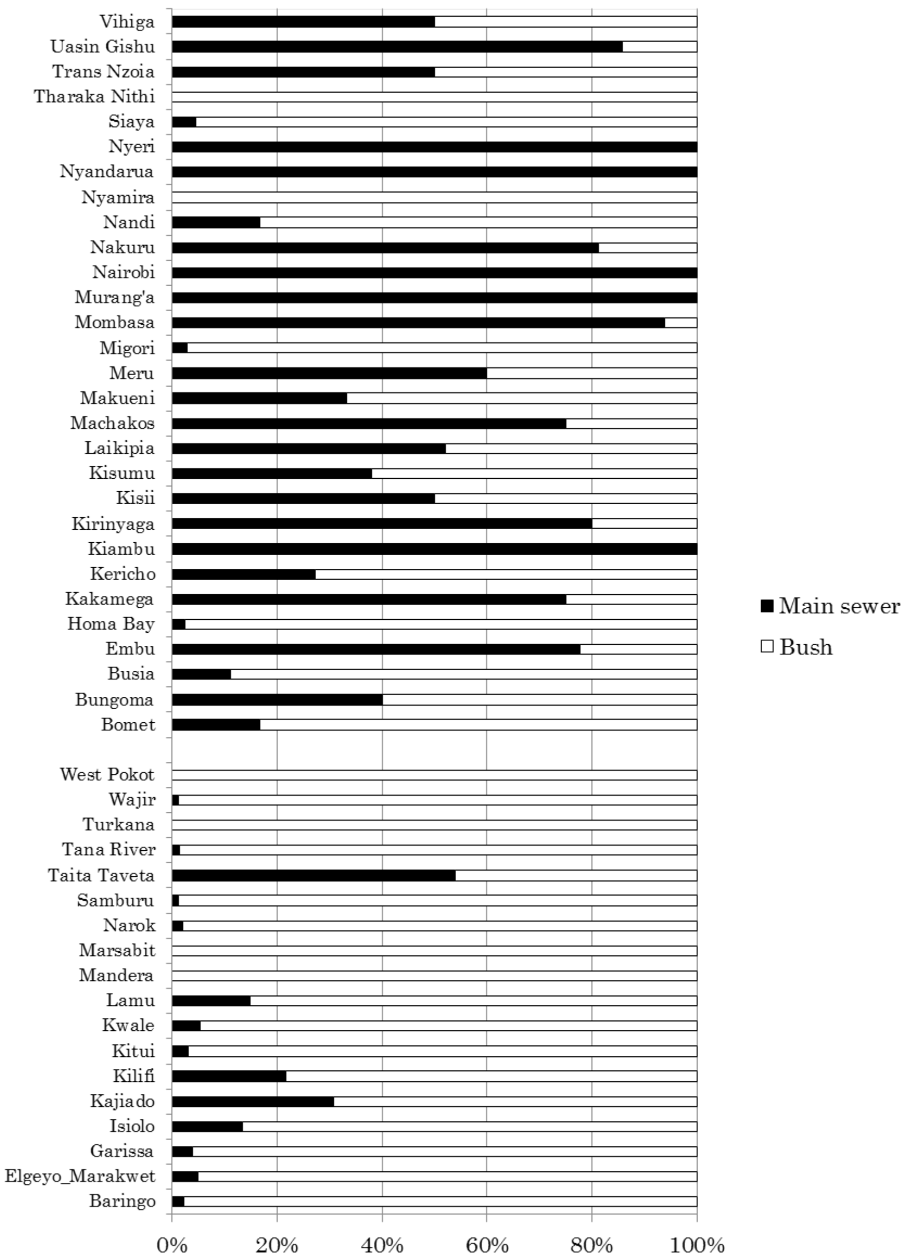

Fig. 3. Disposal of human waste across counties, 2005/06
Source: Republic of Kenya (2007b).

than those of the indigenous populations.

A major reason behind the low development attainments of the ASAL regions, especially the arid areas, is the erratic dissemination of development information due to the weak ability to station qualified service delivery officers there on a sustained basis. As the education figures mentioned above showed, ASAL regions have low education attainments; but even their own educated people often do not like to remain and work there. The practice of posting qualified Down Kenyans to the region on disciplinary grounds generally demoralizes staff and service delivery. The resulting high turnover of government officers in ASAL regions undermines institution-building for systemic change (Elmi, 2013). An emerging under-developing trend of the last decade has been the appointment of high achievers from ASAL counties to key national offices, ostensibly in mitigation of historical marginalization. However, this practice offers little substantive scope for affirmative action for ASAL areas: most such professionals thrive on business in non-ASAL parts of the country.(14)

Under the foregoing circumstances, champions of grand investments, such as LAPSSET, argue that such would provide avenues out of pastoralism, poverty and marginalization for ASAL populations. The first of two important questions arising from the foregoing assumption is: do ASAL populations wish to abandon pastoralism, or do they merely want its capacity enhanced to more fully exploit the potential suggested by Fig. 1? The second, and with Shell's conflict with the Ogoni people of Nigeria in mind (Okome, 2000; Osha, 2007), is whether the design of initiatives, such as LAPSSET, incorporate 'dramas of responsibility' (Kreutzmann, 2013) that involve a rationalization through which to carry the pastoralists along with the modernisation, especially in light of Kenya's new devolved government framework? Bwanaadi (2013) likens LAPSSET to a tsunami that will eventually radically—and adversely—affect the livelihoods of the following communities of hunter-gatherers, fisher-folk, cultivators or pastoralists: Bajuni, Sanye, Aweer—also known as the Boni, Orma, Rendille, Samburu, Borana, Wardei, Pokomo, El Molo, Kore, Maasai, Ariaal, Gabbra, Dassanech, Turkana and Meru. Even Bwanaadi's concern alone points to the need to re-think mega-investments in ASAL counties.

LAPSSET AND THE PROSPECTS FOR ASAL CHANGE

The general concern of this paper is on the scope of Kenyan ASAL pastoralists for coping with the impacts of the impending infrastructure and mining investments. However, this section focuses largely on LAPSSET because it covers multiple issues in varied arenas that could adversely affect pastoralist livelihoods if not rolled out with consideration. Thus, this section first summarises the LAPSSET project before turning to its policy and implementation contexts.

I. LAPSSET Corridor Project

Originally contemplated in 1975, the LAPSSET project was shelved for being too expensive. However, the inefficiencies and limited expansion possibilities of Mombasa harbour (Copeland & Kvelland, 2013: 3) and the consequent likely loss of land-locked eastern and central Africa business to Tanzania's Dar es Salaam harbour and an expanded Tanga port, kept the idea of a Lamu port alive. Estimated to eventually raise national GDP by 3%, and create employment, amongst other benefits, the idea was incorporated as a flagship project of Kenya Vision 2030. In 2010, Japan Port Consultants undertook a nine-month feasibility study of the port component. However, a much expanded undertaking covering the multiple sites shown in Fig. 4 was eventually launched in 2012, its management being bestowed upon the LAPSSET Development Authority established in April 2013. At the design stage, the project was costed at 23 billion (bn) USD; but this cost had risen to about 29 bn USD by 2013. The 32-berth Lamu port will cost 5.3 bn USD while the 1,300 km oil pipeline has been costed at 3.7 bn USD. Other components are the 1,620 km railway line (8.1 bn USD), the 1,720 km highway (1,080 bn USD), three airports (560 mn USD), and the resort cities (680 mn USD) in Isiolo, Lamu and Lokichogio. Besides the Kenya-focused airports and resort cities, the infrastructure is designed to improve connections with Ethiopia, South Sudan and other countries in the region.

The most remarkable aspect of LAPSSET is that work is underway yet neither an environment impact assessment (EIA) nor a social impact assessment (SIA) has been completed (KNCHR, 2012; Nunow, 2012).[15] This is contrary to the provisions of Kenya's National Environment Management and Co-ordination Act (Republic of Kenya, 1999) whose section 42 (1) mandates the written authority of the Director-General of the National Environment Management Agency (NEMA) based on an EIA imperative in order to "erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, lake or wetland; (or) excavate, drill, tunnel or disturb the river, lake or wetland." Additionally, the communities likely to be affected by the project complain of weak or non-existent consultations, reports from Lamu alleging irregular speculative land allocations involving "surveyors, Physical Planning Officers, Lamu County Council Chairmen, Members of Parliament, Chiefs, the District Commissioners and the Commissioner of Lands (Nunow, 2012: 14)."

The host communities mostly welcome the project, but lament the weak consultation and secrecy surrounding its implementation, which violates constitutional demands for openness and participation (Nunow, 2012; Sena, 2012). Construction of the Lamu port's initial three berths is underway on Manda Island, with a revised 2018 completion date, by which time the county's population of 110,000 based on the 2009 Kenya national census will have risen to an estimated 1.3 mn. The site of the port is some 10 kms away from Lamu's United Nations Education Scientific and Cultural Organisation (UNESCO) World Heritage Site, and will eventually occupy some 1,000 acres that have hitherto been the fish

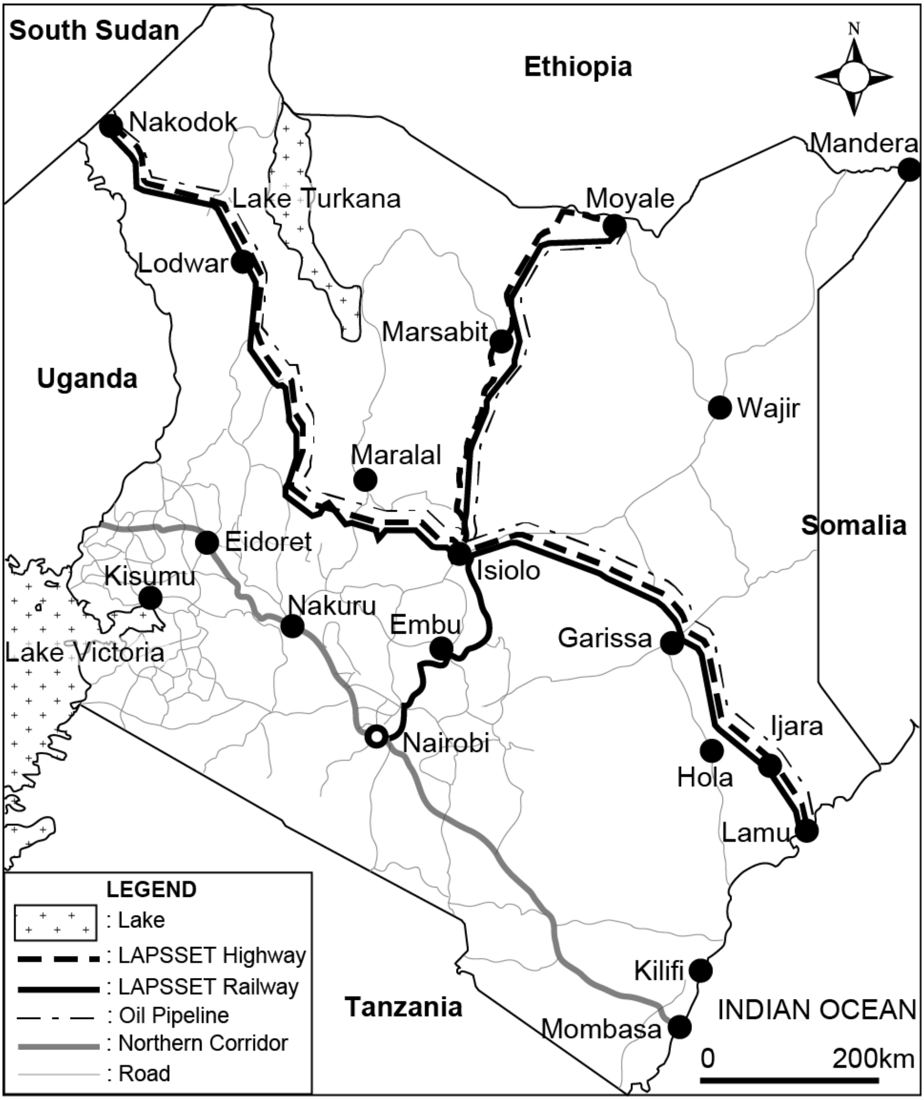

Fig. 4. The alignments of the LAPSSET network
Source: Modified from Wikimedia Commons (2013).

spawning and artisanal fishing grounds among the lush mangrove swamps which are critical for the livelihoods of the indigenous people, notably the Boni (Nunow, 2012; Sena, 2012). In turn, the Isiolo resort city has been allocated the 6,500 acre piece of land that had originally been set aside for a livestock holding ground for Kenya Vision 2030's flagship abattoir project. For the international airports, the spectre of Al Shabaab terrorism will result in extraordinary security arrangements which disrupt local livelihoods, as the facilities will be in parts of the country that have hitherto been easily accessible from Kenya's international border with Somalia. Finally, on the highways, pipelines and railway lines, since the intention is to align them side by side, Kenya's 60 meter standard international road and railway reserve should be an indicator of the extent of space required. Thus, the approximately 2,000 km length of these utilities will excise over 100 km^2 of prime pastoralist land since they will go through existing settlements which often reflect the sites of best supplies of water and pasture in ASAL counties.

II. The Context of LAPSSET Implementation

In 2008, the country launched its long-term development blueprint, Kenya Vision 2030 which is designed to deliver a middle income country status through five successive Medium Term Plans (MTP), starting with MTP 1 (2008–2012). The Vision is based on Political, Social and Economic Pillars, and is arguably driven extensively by south-east Asian development experiences. It consequently has an urban bias that has not allowed adequate substantive attention to rural, and especially ASAL, areas. However, the Vision's foundational principles include 'equity and wealth creation for the poor,' incorporating special attention for ASAL regions. Under infrastructure, the Vision anticipates that there will be no remote parts of the country by 2020, while also enhancing security for ASAL counties. For ASAL regions, it proposes to construct three resort cities, including the Isiolo one in the heartland of the arid lands, incorporating an airport to facilitate direct international access. An increase in livestock productivity will be attained by establishing four to five livestock Disease Free Zones with an eye to international markets and the exploitation of a variety of livestock products, such as are listed in Fig. 1. A Tana River Basin Agriculture Development Scheme incorporating irrigation will improve outputs, while a fertiliser plant and eco-tourism are envisaged. In the social sector, the ASAL regions should benefit from the construction of boarding primary schools (that distance children from domestic pastoralist chores) and education vouchers distributed in the poorest areas. Additionally, the Vision proposes improved health care access which will be attained through improved community health centres and an expanded National Health Insurance Scheme. The Vision also proposes to secure wildlife corridors, and to improve dams for more secure water supplies.

The year 2008 also saw the establishment of the first substantive ministry for ASAL regions, the Ministry of State for the Development of Northern Kenya and Other Arid Lands (NKOAL), based in the then Prime Minister's office.(16)

While acknowledging the many initiatives undertaken by successive governments to improve the lot of ASAL pastoralists, NKOAL lamented the inadequacies and inappropriateness of the policies that have hitherto been employed, which have often lacked nuance in focusing on equality rather than on equity (Elmi, 2013).[(17)] In recognition of the fact that "governments are organized around sectors, not people or regions," NKOAL decided "to help the rest of government meet its obligations in the (ASAL) region." The specific current ASAL-focused policies that NKOAL highlighted include: (i) National Policy for the Sustainable Development of Northern Kenya and other Arid Lands, (ii) Sessional Paper No. 8 of 2012 Vision 2030 Development Strategy for Northern Kenya and other Arid Lands, and (iii) Ending Drought Emergencies in Kenya: Medium-Term Plan. Elmi lists the institutions through which the ministry had proposed to work to include: (i) ASAL Cabinet Sub-Committee; (ii) ASAL Secretariat; (iii) ASAL Stakeholder Forum; (iv) National Drought Management Authority; (v) National Drought and Disaster Contingency Fund; (vi) Livestock Marketing Board; (vii) National Council on Nomadic Education; (viii) Northern Kenya Education Trust; and (ix) Northern Kenya Investment Fund. Elmi concludes that a major problem hitherto had been the lack of continuity in the patronage of good policies, a problem likely to persist since NKOAL was disbanded after the March 2013 elections.

In August 2010, Kenya promulgated a new constitution which resulted from a decade-long comprehensive review of its independence constitution, much mutilated to create Sihanya (2011)'s—'imperial presidency' that could for example, enforce Moi's biased management of public resources with impunity. Most significantly, the Constitution, 2010 provided for devolution to 47 autonomous county governments accorded equitable shares of "at least 15% of national revenue." This financing proviso was designed to end arbitrary budgetary allocations and disbursements by both the central government's Treasury to sector ministries, and the ministries in turn to sub-national levels, which partially led to the gross inequalities of Fig. 3. The Constitution distinguishes national government service delivery functions from those of the county governments, which provides the basis for deciding exactly what share of national revenues to keep at the national level, and what share to divide among the counties. The County Governments Act requires counties to produce integrated development plans against the backdrop of the national policy framework, on the basis of which to develop their respective annual budgets. For all national and county planning and budgeting activities, the Constitution mandates wide public consultations. Legislation allows counties to raise their own revenues to augment their equitable revenue shares assigned from the National Treasury.

Meanwhile, Kenya has at various points in the last five or so years announced the discoveries of extensive deposits of minerals exclusively in the ASAL counties. The initial oil deposits of Turkana are estimated at 250 mn barrels worth 30.2 mn USD. The more recent discovery of an aquifer in arid Turkana is even more striking in its potential ASAL and pastoralist impact for holding more than 900 times the country's current water assets, able to provide for the next 70 years.

Turkana has also set aside some 40,000 acres (162 km^2) for the Lake Turkana Wind Power Project incorporating an 800 mn USD windmill farm which will feed 300 megawatts into the national grid, while also improving the road network in the region.(18) In Mwingi county, the mining of a 400 mn ton-lode of coal should commence in 2014. Mwingi and Tharaka counties both have substantial iron ore deposits. Meanwhile, a Canadian firm has focused on titanium deposits in Kwale County, where an Australian firm is negotiating the mining of various rare minerals. As with LAPSSET and the windmill farm, these endeavours will involve the expropriation of land which presently provides the domain of pastoralism and subsistence agriculture.

DISCUSSION

The general position with regard to the implementation of LAPSSET and other infrastructure and mineral-based projects is one of qualified support—even by the communities likely to be affected adversely, in the full knowledge that they are by a government which has compulsory acquisition rights, amongst other means of pushing such projects through. The weakness of ASAL communities is captured by Nunow's (2012: 12) characterization of the hunter-gatherer Awer who will lose their forests to modernisation, as:

> (People who have) no concept of ownership of property (with men only having) a bow, an arrow, an axe, a knife, some poison for hunting, and a calabash or honey bag … (while the women) own a basket, beads, a comb and some locally produced utensils. So backward in terms of development is the area that the residents still hide in bushes when strangers approach.

The position of host communities and environmental campaigners is further captured in the non-governmental organization (NGO) Save Lamu's statement which hints at Kreutzmann's (2013) drama of the commons:

> Although we agree that Kenya as a country and East Africa as a whole will stand to benefit from the (Lamu) port, we are in doubt that economic development on the one hand, and the ecological, social, cultural and economic destruction of the Lamu archipelago and its indigenous communities on the other, is a reasonable 'trade-off.'(19)

But development interventions, such as LAPSSET, do not only pose the obvious direct threat to host communities; they also risk undermining Kenya's young experiment in fiscal decentralization. Legislation requires county governments to produce widely consulted integrated county development plans and subsequent annual budgets, which must be done with scarce human and financial resources and in many instances, poor data on baseline development conditions at sub-county levels.[20] The equitable share of national revenue is vastly inadequate for county needs, with the FY 2013/14 allocations to the five core LAPSSET counties—Lamu; Tana River; Garissa; Isiolo; and Turkana—ranging from Isiolo's 2.4 bn Ksh to Turkana's 7.9 bn Ksh, their total allocations being 20 bn Ksh (Commission on Revenue Allocation, 2013: vii–ix). That aggregate allocation pales in comparison to LAPSSET outlays, its highways budget alone amounting to 92.9 bn Ksh while the rail budget amounts to 694.9 bn Ksh. These comparative figures suggest that even the most ideal participatory county plans and budgets will be hard pressed to survive against the well-funded national priorities, relegating county priorities to the periphery.

The data in previous sections have illustrated the significance of pastoralism not only directly to the livelihoods of a substantial 25% of the Kenyan population, but also to the country's GDP. Pastoralism could be doing much more had successive independence governments made some basic investments in the ASAL parts of the country, as suggested by WISP. Indeed, in a Vision 2030 contracted report on employment creation, Wambugu et al. (2011: 70–71) used a social accounting matrix to illustrate how the livestock sub-sector would yield the highest additional overall and female employment in response to a standard stimulus across 50 sectors of the Kenyan economy.[21] Instead, successive governments have primarily focused on the Kenya that lies only so many kilometers on either side of the Kenya-Uganda railway line—away from the pastoralists and their livestock. The resulting marginalisation of the ASAL areas has not only retarded their growth and development, but has also led to disproportionate loss of life and livelihoods as the regions' indigenous peoples struggle for survival, as illustrated by the violence data of Table 1. These people's 'niches of evasion' have encouraged 'the art of not being governed,' as characterized by Kreutzmann (2013). This results in perennial livestock rustling in fulfilment of cultural obligations—such as the need for morans coming of age to prove themselves before prospective brides. But it also provides a means of aggrandizement by individuals paying mere lip service to such cultural values. Such essentially criminal activity is enabled by the weak presence of judicial institutions, which deters victims from seeking official intervention because judicial processes are expensive financially and in terms of time taken up with repeat court visits.[22] However, criminality is also encouraged by the extensive proliferation of small arms, with Cummings' (2013) estimated 50,000 guns in Turkana county translating to a gun per 20 in the population, or one for every three males aged 20 to 60.

Pastoralism involves great assets amidst great poverty because pastoralist livestock are often aesthetic rather than commercial assets. Indeed, Kenya's poorest 10 counties based on KIHBS data are all in the ASAL areas, with head count poverty rates ranging from 66% in Kilifi to 93% in Turkana.[23] ASAL areas experience extensive livestock losses around the perennial droughts, such as the reported 45% loss of the 85,000 animals affected by the 2011 drought. In mitigation of droughts, the government often tries to deliver water to widely distributed pans and undertakes veterinary interventions, with limited success.

In turn, non-government stakeholders also intervene with initiatives, such as the livestock off-take programmes which buy the animals before they succumb to the loss of pasture and water.

Government policies and practices have failed to offer alternative livelihoods with which transform pastoralists. This perpetuates the stocking of large herds designed to ensure that at least some animals will survive drought deaths, securing against abject poverty. Thus the pastoralists' tragedy of the commons is fuelled by nature and government neglect. For example, Johnson & Wambile (2011) adjudged the 17-year, 223.9 mn USD Kenya/World Bank-sponsored Arid Lands Resource Management Project (ALRMP) a modest success. Yet, a joint World Bank/Kenya government audit concluded that 45% of the World Bank's 166.7 mn USD contribution to the project had been misappropriated, resulting in the government refunding the same amount to the bank, while at the same time failing to prosecute the suspected fraudsters (AFRICOG, 2013). Among cash crop farmers, however, the government not only provides development and operational capital to farmers, but also writes off of loans and other losses in the face of crop failures. For pastoralists, it has taken a private initiative to acquire some security over livestock, in the form of the Index-Based Livestock Insurance sponsored by the International Livestock Research Institute (ILRI) and Kenyan-owned Equity Bank and UAP Provincial Insurance Co. Ltd., compensating anticipated livestock losses.(24)

These realities call for a diversification of ASAL livelihoods such as might be realized to secure households through the difficult drought years. Yet it is precisely because of ASAL marginalization that such diversification requires careful policies and strategies. As Elmi (2013) observes, various policy initiatives to bring ASAL counties into the market economy have failed for weak targeting and the lack of continuity in reform champions. The Norwegian investment of some 152 mn USD in a Turkana fish-processing plant since the 1980s failed to provide livelihoods security because—a Kenya/Norway diplomatic tiff aside—the top-down approach of the project ignored the high premium placed on pastoralism in the area (Cocks, 2006). The lack of access to markets for the fish project and for Turkana in general—quite significantly contributed to by the lack of a substantive communications network to attract middlemen into the region—undermined pressure on ASAL households to espouse market values, which could have been the basis for transforming livestock into commercial assets. Additionally, weak markets access continues to undermine exploitation of the varied livestock products, such as are listed in Fig. 1. The underlying politics of privatization and exposure to the market require careful attention because of their potentially differentiated impacts within affected communities: Lesorogol (2003) for example, illustrates how reforms might be welcomed by the less poor pastoralists who might already have alternative livelihoods, in contrast to exclusively pastoralist households which might be more conservative due to insecurity.

In its conceptualisation, Kenya Vision 2030 has had an inordinate urban focus, such as in the early focus on the Nairobi Urban Metropolitan Authority.(25) For the ASAL counties, the Vision proposed many general interventions which would also be undertaken in other parts of the country, such as its Political Pillar's promotion of national cohesion. Under the Social Pillar, ASAL counties would get a number of schools and education vouchers while access to health care is also improved, which is significant for appreciating the non-livestock linkages in pastoralism. Such are the equalizing policies lamented by Elmi (2013) that lack the nuance necessary for delivering equity.

However, it is the Economic Pillar that best illustrates the Vision's weak and potentially exploitative commitment to ASAL counties, through the weak prioritisation of ASAL interventions compared to those that benefit non-ASAL areas. At the end of the Vision's first five-year development plan, MTP I, the government had yet to complete the first of the five mini-abattoirs that constitute the ASAL flagship projects; yet work is underway for Isiolo Resort City whose expropriation of a proposed abattoir's livestock holding ground, provoked a 2011 conflict between the Samburu and Merille herders contesting the remaining pastoralist area. During the same period, however, the government had completed the 45 km, 300 mn USD, eight-lane Thika Super Highway, underscoring the urban bias in development investments.

That no EIA or SIA has been completed for LAPSSET underscores the drama of irresponsibility that threatens pastoralist livelihoods, especially when the varied benefits of Fig. 1 are considered. NGO Save Lamu which has sued the government over the manner of LAPSSET's implementation, has expressed apprehension over the long-term effects of disrupting pastoralist and hunter-gatherer livelihoods, including their identities, orientation and lifestyles, noting the need for adequate advanced attention to land tenure and conflict management. For example, the port's destruction of the eco-system immediately threatens the livelihoods of 90% of Lamu county's 110,000 people; yet at the project's launch, the President ordered the initial re-skilling of a mere 1,000 youths for work in the port.

Meanwhile, Kenyan impact assessments typically do not go into a nuanced assessment of the possible effects of projects on host communities, and certainly not to the extent implied by Fig. 1's framework. These EIA issues also apply to the recently discovered natural resources that could have disruptive influences, whether positive or negative (Okome, 2000; Osha, 2007; Kilonzo, 2012; Omondi, 2013; Ross, 2013; Yamoah, 2013). The Kwale titanium project's 2001 EIA merely regretted the displacement of residents (Coastal and Environment Services, 2000), but did not explore the related costs of losses and resettlement; and Abuodha & Hayombe (2006) specifically noted that the Canadian investor's public documents conceal information on the mining's radio-active stockpiling.

But the even more fundamental problem with Kenyan EIA's is a governance one. In a review of the Thika Super Highway's EIA, a project undertaken by the very same Chinese companies which are likely to undertake components of LAPSSET, Barczewski (2013: 2) concludes that:

> While the country's legislation is fairly comprehensive … designed to protect all of the varying ecosystems and covering important sectors like

> environmental impact assessments and waste, implementation faces a number of very serious problems. The National Environmental Management Authority (NEMA) has primary responsibility for implementing environmental safeguards… (and) many actors have responsibilities including civil society, private consulting firms, development banks which finance infrastructure and other government actors including local government and the court system. (But), the system suffers from inadequate funding, corruption, a lack of engagement with important community stakeholders, gaps or duplications of regulations, and a misunderstanding by society at-large of the benefits of a sustainable project. These serious issues result in little oversight of development projects with potentially huge environmental impacts.

Turning to the recent mineral discoveries that are seen by many to pose disruptive influences—positive and negative—to ASAL counties, it is useful to note that their exploitation will not always directly affect pastoralists. For example, Kwale's mineral deposits are in its south-eastern highlands of the Digo and Kamba people while the county's Duruma pastoralists occupy the western plateau. Yet, in the emerging context of county governments, activities in segments of counties will have more direct impacts on other parts of the counties than would have been the case under the previous centralized national government because of the focus of all planning and budgeting at the county level. For pastoralists, however, the appropriation of trust land for the exploitation of these minerals is going to diminish grazing areas in ways that can enhance conflict among them. As was established by the Waki inquiry into the 2007/08 post-election violence, grievances among ordinary Kenyans are vented against each other rather than their being directed at better-off Kenyans or the government (Republic of Kenya, 2008). Thus, as pasture is lost to the miners, traditional migration routes to alternative pastures and watering sources will be cut off, likely generating new conflicts among pastoralists, a threat that could have been mitigated by the effective implementation of a substantive EIA. In this respect, the Turkana windmill project is different: it notes the risk to people and livestock during the installation of the windmills, necessitating closing off the area, but it provides for a return of pastoralists to the grazing lands of the project area once the project is operational, besides also providing employment for unskilled labour in maintaining the project's secondary roads.

Additionally, projects such as LAPSSET further reflect a government that prioritises national and international benefits over those for host communities. This attitude is the reason for Friends of Turkana's concern with a participatory development of the project design (Angelei, 2013). In the case of Turkana oil, for example, even as the government develops the imperative legislative and institutional frameworks for its exploration, the government in mid-2013 "shared out" some 46 oil blocks to visiting Nigerian industrialists who have been promised some more in the future (Owuor, 2013). Given Nigeria's mismanagement of its own oil reserves, it is unclear that its involvement in Turkana will help Kenya avoid the tragedies of the Ogoni of Nigeria (Okome, 2000; Osha, 2007). Additionally, there is some concern with the fact that a non-Turkana cabinet minister was able to acquire trust land held by the local authority on behalf of its people, which he sold to the British Tullow Oil which subsequently discovered oil reserves therein. Such initiatives without consultation breed conflict akin to that which Tullow Oil's operations has elicited: local parliamentarians led a blockage of operations until Tullow Oil conceded to demands for training, employment and procurement privileges, while also doubling its corporate social responsibility budget to 3.95 mn USD per annum (Omondi, 2013). Of Kitui's Mui Basin coal, the local people reportedly only discovered on a visit to the Chinese investor, Fenxi Industry Company, that 30% of the concession had been granted to a company owned by two Kenyans who do not even come from the coal-bearing region, even as the local people were negotiating a Benefits Sharing Agreement with the government (Kilonzo, 2012).

These resource-based problems arise partially because of ambiguity over land ownership, especially in marginal areas, the result of 50 independence years of dithering over land management frameworks. This has provided an opportunity for political patronage over land, such as through the creation of settlement schemes ostensibly for the landless, but in actual fact, for rewarding political allegiance. LAPSSET and the mineral discoveries have triggered hyper activity in the lands department. Land activity for projects in Isiolo triggered 2011–2012 inter-ethnic clashes which have resulted in the loss of lives, displacement and the loss of property while also disrupting education (see IRIN, 2012). In Lamu, a land market has materialized overnight, with companies like Lamu Port Agency and Lamu Prime Land and Plots Agency offering diverse pieces for sale with ready title deeds.(26) Since the President only gave land titles to indigenous Lamu people in October 2013 (Sharrif, 2013), the burgeoning land market would confirm Nunow's (2012: 14) allegation of complicity of "surveyors, Physical Planning Officers, Lamu County Council Chairmen, Members of Parliament, Chiefs, the District Commissioners and the Commissioner of Lands" in irregular land allocations. The consequent likelihood is that indigenous Lamu people who have not been socialized into land market dealings will find themselves landless either because they have missed out on the presidential allocation of title deeds, or they will receive titles but sell their land through ignorance of the finality of the transaction (Kazungu et al., 2013). At the same time, such people are most likely to be excluded from, or be on the margins of, the socio-economic activities surrounding LAPSSET, notwithstanding knee-jerk measures such as the 're-skilling of 1,000 youths' ordered by the President.

The mere fact that project area populations will grow astronomically—Lamu's being projected to rise from 101,000 to 1.3 mn people—is itself sufficient reason for the concerns of Nunow (2012) and NGO Save Lamu, amongst many other observers, with socio-cultural marginalisation: the cultural values of the lowly, overwhelmingly Muslim Lamu people will stand no chance against an influx of better educated, wealthier, non-Muslim multitudes attracted by the resort cities, international airports and related investments. Thus while Article 44 (1) of the

Constitution secures the right to language and cultural life of one's choice, the indigenous people of such project sites will soon find their values subjugated by newly arrived ones, to the detriment of Kenyan diversity. The same risk is faced by Isiolo town's 20,000-odd population and Turkana's Eliye Springs when their international airports and resort cities are eventually operational.

However, an even more important marginalization of the indigenous populations of the LAPSSET counties lies in the risk of political exclusion. While the 2009 national census officials doubted Turkana's 855,000 population return, the figure stood after a court ruling. Thus, while the influx of people into the county might change localised electoral politics around the Eliye Springs resort city and the Ngamia I and other oil drilling sites, this change might not affect the whole county's political landscape. In the cases of the lesser populated counties like Isiolo and Lamu, each with just over 100,000 people, the population influx is likely to affect the scope of the indigenous people electing their own at both the local and national levels. As a result of the historical preferential land allocations to ethnic Kikuyus in Lake Kenyatta, Hindi/Magogoni and Witu Settlement Schemes, the ethnic group has finally elected one of its own to the National Assembly (Babo, 2013). With population figures such as are projected for the two counties, it is likely that more senior political positions, such as the Governor and Senator, will be out of reach of indigenous politicians, curtailing the indigenous people's national profile.

CONCLUSIONS

The emerging picture from the foregoing discussion is that the Kenya government is not convinced that pastoralism is a sustainable livelihood which policy should nurture, protect and enable. National socio-economic policies will bring benefits to ASAL pastoralists in an incidental manner, an approach that is squarely to blame for their marginalization over the last 50 years of independent Kenya. Thus, current national development approaches behave as if a one-size-fits-all is efficacious; yet, the need for an emphasis on equity is evident, as emphasized by Elmi (2013), to arrive at policies and strategies that recognize the peculiar circumstances of pastoralists. The net effect of weakly targeted policies and strategies is under-development, milking whatever can come out of pastoralist areas, such as the hiring of their best brains for national service, while giving little or nothing in return. Indeed, given the emerging comparative wealth of the ASALs, the rate of their underdevelopment will increase as even new relations with them do not show a change in attitude to both the people and regions. This is because national policy, planning and strategies have failed to appreciate the multiple measured and unmeasured, direct and indirect benefits of pastoralism (GEF et al., 2007), which underestimates the losses incurred by pastoralists when the government fails them (AFRICOG, 2013).

Additionally, one needs to review the foregoing discussion in the context of Kreutzmann's (2013) multiple 'commons' and 'dramas.' As argued above, there is a tragedy of the commons (Hardin, 1968), but blame has hitherto been misplaced. The advance of climate change seems inexorable and is definitely not within the means of Kenyan pastoralists alone to curb. In turn, the government has failed to secure opportunities for pastoralists, such as were provided by ALRMP which could have enabled more secure and possibly diversified pastoralist livelihoods (Johnson & Wambile, 2011; AFRICOG, 2013). Thus, the tragedy is not of the pastoralists' making, but that of nature and a disinterested government. This results in a drama of the commons in which the pastoralists live in Kreutzmann's niches of evasion of governance, debilitated by and dying of poor access to multiple social services, and indulging in destructive livestock rustling and other facets of the law of the jungle. Yet, most of these adversities are manageable through a drama of responsibility that consults and understands what policy and strategy options are viable for which parts of the ASALs.

These concerns need to carry into the in-coming ASAL era dominated by the extraction of vast natural resource assets by a government that has transformational might. Besides being mere citizens, ASAL populations and areas lag in development attainments undermining their scope for quick transformation, meaning there is a need for preparing them for the new context. While all parts of Kenya struggle to live up to the opportunities of self-prioritisation provided by the new constitution, human and financial resource-constrained ASAL areas find themselves confronted by the gargantuan resources of projects such as LAPSSET and the mining intentions, that are championed by a national government that has shown its preference for its own and international objectives over county-level and grassroots initiatives. The net effect of the juxtaposition of these inequalities is that ASAL pastoralists are likely to be marginalized at a greater rate than before since that which is extracted from their midst will be comparatively greater than before. The additional tragedy of the context is that where the pastoralist might hitherto have had a political voice, however small, the influx of non-pastoral Kenyans into their counties will take away the ability of pastoralists to even elect their own into leadership positions. Painted into over-populated pastoral corners, the likely outcome is an enhancement in conflict among pastoralists, and some likely conflict against outsiders.

The ways of avoiding the impending catastrophe among the pastoralists are well discussed in the foregoing pages. Additionally, article 10 (2) of the Kenyan Constitution presents the national values and principles of governance, which include:

(a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
(b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
(c) good governance, integrity, transparency and accountability; and
(d) sustainable development.

Chapter 4 of the Constitution presents an elaborate Bill of Rights which re-visits these values and principles in some detail. Article 19 (3) declares that: "The rights and fundamental freedoms in the Bill of Rights—(a) belong to each individual and are not granted by the State." Notwithstanding the anticipated economic, social and diplomatic benefits of exploiting Kenya's new-found natural resources, attention to these very foundations of the country's Constitution would contribute significantly to the sustainable exploitation of those resources that enriches the country without disenfranchising the pastoralist communities. Dialogue with the pastoralists is a constitutional imperative upon which to build Kenya's bridge to Vision 2030's middle-income status.

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NOTES

(1) In 2008, Kenya created a substantive Ministry of Northern Kenya and Other Arid Lands to focus attention on the development of these backwaters covering the 24 ASAL counties—eight arid ones and 16 semi-arid ones shown in Fig. 2. However, the ministry's docket was re-allocated in the government re-organisation in the wake of the March 2013 general elections.

(2) For details of the Vision and its performance to date, go to Kenya Vision 2030 (2011).

(3) Chapters 11 and 12 of the Constitution, 2010 respectively provide for the administration and public financial management of the country's 47 counties, mandating their respective home-grown development plans and the autonomous budgetary resources for implementation.

(4) The Constitution of Kenya, 2010 provides for a National Government which is "distinct from, and inter-dependent with 47 county governments, with which the National Government shall conduct mutual relations on the basis of consultation and cooperation."

(5) Of counties on Fig. 2, NEP includes Garissa, Mandera and Wajir, while Central Province includes Kiambu, Muranga, Nyeri and Kirinyaga.

(6) On the 1961 eve of Somalia's independence, the British conducted a plebiscite among Kenyan Somalis, who opted for a (re-)union with their Somalia motherland. The British dismissal of this desire laid the basis for militia activity resulting in the Shifta War.

(7) Kenyan presidential visits are important because they offer local leaders an opportunity to list development grievances which might receive prompt magnanimous attention.

(8) The 2011 drought is estimated to have killed 48% of the region's 850,000 drought-affected animals.

(9) This is the cynical label that northern ASAL people have given to the rest of the country, underscoring the development divide.

(10) Public officers in the ASALs are paid an allowance equivalent to 5% of their basic pay

for working in such ‘hardship areas.’

(11) SID (2006) has extensive discussions of regional sectoral inequalities in the country. Former President Moi (1978–2002) often declared: “Siasa mbaya, maisha mbaya!”—literally, ‘bad politics leads to poor welfare,’ meaning that regions that opposed his presidency would get no development resources.

(12) ACLED is based on media reports of conflict incidences of any nature. Given the weak socio-economic diversity of the two provinces, the majority of the conflicts are likely to be over pastoral issues.

(13) For example, there has been no prosecution for the 4 mn USD loss in the community-based, World Bank-funded Arid Lands Resource Management Project (1996–2010) designed to mitigate the effects of ASAL drought and poverty (AFRICOG, 2013).

(14) For example, the appointment of an ASAL lawyer to head the national electoral commission since 2008, provides little immediate opportunity for the kind of affirmative actions that ASALs need, even it provides a long term role model for ASAL youths.

(15) No EIA has been undertaken as at May 2014.

(16) The resolution of the dispute leading to the 2007/08 post-election violence created a power-sharing arrangement between a President and Prime Minister, the latter office becoming moribund with the accession of a new government in March 2013.

(17) Elmi has been an ASAL parliamentarian for 10 years and was appointed to head NKOAL.

(18) See Lake Turkana Wind Power (2012).

(19) See Save Lamu (2011).

(20) Hitherto, for example, the authoritative Demographic and Health Surveys have provided provincial estimates which aggregate data for several counties, while the UNDP’s HDI has reported at the district level.

(21) They show that a Ksh one bn (approx. 11.6 mn USD) stimulus would yield 239 mn and 218 mn jobs respectively in the ‘beef/goat’ and ‘other livestock’ sub-sectors, compared to 150 mn, 158 mn and 177 mn in the ‘coffee,’ ‘maize’ and ‘tea’ sub-sectors respectively.

(22) Until the 2010 opening of the Garissa High Court, the nearest one for a Mandera county litigant was 800 km away in Nyeri, on very poor roads with poor public transport. A single day’s attendance translated into a one week round trip.

(23) As in many countries, Kenyan poverty rates are based on household consumption or expenditure rather than incomes or assets (see Lipton & Ravallion, 1995). Thus, the low actual and/or estimated consumption or expenditure of ASAL households adjudges them poor despite their large animal herds.

(24) Some operational details are available at Index Based Livestock Insurance (n.d.).

(25) Launched in 2007, the Authority had provided an umbrella of 12 local authorities distributed across the counties bordering Nairobi. However, the Constitution’s provision of autonomous counties made the Authority untenable as the local authorities ‘returned’ to their respective counties.

(26) See respectively, Lamu Port Agency (2011) and Lamu Prime Lands and Plots Agency (2012).

APPENDIX

OIL GOVERNANCE: FRIENDS OF TURKANA PERSPECTIVE

In order to safeguard societal interests, the following need to be put in place before oil production begins:

- The proposed Freedom of Information Act should be passed and must guarantee unconditional public access to information, including on revenues, investments and contracts.
- A mechanism for benefit-sharing between the national government and county government be spelled out upon the installation of our County governments.
- The need for a regulatory environment that fosters transparency concerning all revenues and in negotiation and award of contracts;
- Lobby for Kenya to be a member of the Extractive Industry Transparency Initiative (EITI).
- Detailed written commitment in addressing environmental impacts that may accrue from oil drilling activities in the area.
- Because Oil drips' occurs during production process and transportation, there is the need for the government to also develop a National Oil Spill Contingency Plan to complement any other existing environmental mitigation plans.
- All information regarding developments in the oil sector including environmental conservation strategies, Production Sharing Agreements (PSAs), revenue sharing and production should be accessible and well elaborated.
- The importance of balancing petroleum production with conservation of the different exploration areas' unique biodiversities, and wider environmental wellbeing;
- Ensuring other sectors of the economy will withstand fluctuating petroleum prices;
- Enforcing high standards of corporate responsibility and compliance on the part of investing companies;
- Ensuring that the anticipation of wealth from Turkana's oil does not intensify land insecurity, ethnic/sectarian competition and other conflicts;
- Halt any lease/allocation of any land within Turkana county till structures are put in place to monitor any lease of land.
- Building public participation and capacity to understand the new sector.

Source: Angelei (2013).

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Author's Name and Address: Othieno Nyanjom, *Research Associate, Kenya Institute for Public Policy Research and Analysis, 2nd Floor Bishops Garden Towers, Bishops Road P.O. Box 56445-00200, Nairobi, Kenya*.
E-mail: othieno_n [at] yahoo.co.uk