

ISSUE BRIEF

NIGERIA: SOME LAND TENURE INSECURITY ISSUES IN HAYIN ADE AND WURO BAPPATE

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Key messages

- On paper, Nigeria's Land Use Act of 1978 provides a framework for streamlining land tenure and protecting rights, but it also vests control over land allocation and management to the governors of states and to local governments. Variation in implementation as interpreted by Local Government Authorities (LGAs) has led to an inconsistent system in which abuses to land tenure security are rife.
- Interviewees in Hayin Ade (Kaduna State) and Wuro Alhaji Idrisa Bappate (Taraba State) are experiencing land tenure insecurity but the contributing factors are different, reflecting how local contexts are embedded within the broader system of land rights.
- Illegal artisanal mining presents a number of significant challenges to pastoralists and agropastoralists in Wuro Alhaji Idrisa Bappate. Landowners experienced violence and property destruction when their plots were invaded by illegal miners in 2017. Ongoing degradation of rangelands due to erosion around abandoned mines and livestock falling into such mines continue to damage livestock-based livelihoods. Interviewees also expressed fear that the miners might return.
- In Hayin Ade, 85% of long-established pastoralists and agropastoralists have land purchase agreements; the remainder rent plots on an annual basis. Attempted land grabs and extortion are becoming more common, due to rising land prices. Land tenure insecurity is causing tremendous economic stress for households; those battling evictions or extortion are uncertain whether to plant crops.
- Pastoralists and agropastoralists in both communities are not sufficiently aware of their rights regarding land tenure, or to compensation. SPARC partner FUDECO has initiated rights education and supports members in resolving disputes where possible using alternative dispute resolution methods. In a few instances, it is providing legal services.
- When working with pastoral and agropastoral communities, development actors need to be aware of land tenure security issues. Promotion of livelihood programmes for some groups without considering such tenure-insecurity dynamics can undermine the effectiveness of programmes, risk inflaming existing tensions and contribute to further marginalisation.



Research participants in Hayin Ade.
Photo credit: Maryam Yusuf Bayero

About this report

This report is the second in a series highlighting issues facing pastoralists and agropastoralists in two settlements in Nigeria: Hayin Ade in Kaduna State and Wuro Alhaji Idrisa Bappate in Taraba State.

The Fulbe Development and Cultural Organization (FUDECO), in collaboration with SPARC, is seeking to improve understanding of the challenges deemed most critical by interviewees in their own words, how these challenges are impacting their lives and livelihoods, what coping and adaptive strategies they currently employ and what additional assistance they would like in order to improve their futures. The report [Livelihoods, conflict and mediation: Nigeria](#) presents an overview of the research (Opitz-Stapleton et al., 2022). With each successive report, a different issue will be highlighted, to add nuance to narratives around pastoral and agropastoral challenges from the perspectives of those living with such challenges, including critically interrogating those who present potentially over-simplified views on farmer-herder conflicts and underlying conflict drivers.

1. Introduction

Land tenure security can be defined as the expectation that a landholder can use their land or property for a specified period of time (Locke et al., 2021) and that such rights to land and the natural resources upon it are recognised by others and protected (USAID, n.d.a). Many of the households in the two settlements have transitioned from pastoralism to agropastoralism, growing crops for subsistence (and some for sale) and raising livestock. Livestock herds spend the dry season pastured in the settlements and are moved to pasture elsewhere during the rainy season. Tenure security is an important capacity for such agropastoral households to draw on – not only to deal with shocks, but also to support livelihoods and enable further economic development. When land tenure security is not assured, this can impact the economic well-being and food security of households, as well as contributing to localised conflict, as described in the first report (Opitz-Stapleton et al., 2022).

FIGURE 1 : MAP OF RESEARCH SITES



Source: SPARC

Local land tenure security issues in Nigeria are mediated by national legislation, as interpreted by state and local governments. As touched upon in the first report in this series, the Land Use Act 1978 (LUA78) is the seminal Nigerian law regulating land allocation, registration of land titles and management of land. The law vests control over land in urban areas with the governor of the state, while vesting authority for land administration outside urban areas with the local governments (Government of Nigeria, 1978). Before this, rural dwellers secured land usage rights, often generationally passed down, through a patchwork of customary land tenure practices (USAID, 2016), which pre-dated and were then reinforced by colonial systems. The Act attempted to provide a unifying and simplified framework for land tenure, and replaced the customary practices.

Under the Act, the Local Government Authorities (LGAs) may grant customary occupancy rights to individuals or organisations, with customary occupancy not to exceed 500 hectares for agricultural land or 5,000 hectares for grazing land (Government of Nigeria, 1978). Customary occupancy rights may be exercised on an annual rental basis or for longer periods of time via contracts; an annual tax must be paid and the holder may not transfer any portion of the rights without approval of the governor (USAID, 2016). Statutory occupancy rights to occupy, develop and use land for stated purposes are granted for a period up to, but not exceeding, 99 years. Individuals or organisations may be issued a Certificate of Occupancy once the terms of the legal mortgage agreement have been settled (LUA78, Section 9). Statutory rights can be approved only by the governor of a particular state; those with agreements must petition the governor for a certificate. The process to petition is time-consuming and costly, with charges estimated at 22% or more of the land value (USAID, 2016).

The federal, state and local authorities have the right to revoke the customary occupancy (those land rights without a Certificate of Occupancy) when deemed in the public interest, but may not revoke statutory occupancy rights (LUA78, Section 6). Public interests have been deemed to include uses such as mineral mining or oil pipelines. The federal government retains exclusive authority over mineral resources; state governments and LGAs must obtain a licence from the federal government in order to designate lands for prospecting and mining (Ahmed and Oruonye, 2018). Those with customary rights who have their land claimed by the LGAs or the state government are entitled to compensation (*ibid.*). Additionally, federal economic policy can influence land use and competition, by promoting particular economic activities over others. As we describe, enforcement of the laws and how policies are enacted differs in our two study locations, contributing to land tenure insecurity in context-specific ways.

Pastoral and agropastoral communities are concerned with challenges that hinder their socioeconomic development. Interviews from 2021 and 2022 present the most pressing issues as: land tenure insecurity, insufficient water and land for livestock, pastoral movement bans and various forms of conflict. On paper, the Land Use Act appears to provide a framework for streamlining land tenure and protecting rights, but variations in its implementation as interpreted by LGAs and state governments has led to an inconsistent system in which abuses to tenure security are rife. While there are similarities between Hayin Ade and Wuro Bappate in terms of some issues faced, such as around land tenure insecurity and disputes between those with farms and those with livestock, how these issues play out is highly context specific and must be situated within state and LGA land governance. This report focuses on one aspect of land tenure insecurity distinct to Hayin Ade, and another to Wuro Bappate. Despite land tenure insecurity challenges, individuals and community-based organisations like FUDECO are taking actions to redress imbalances and improve pastoral resilience.

2. Mining in Wuro Alhaji Idrisa Bappate

The Ardonate of Alhaji Idrisa Bappate – shortened to Wuro Bappate in this report – is situated in Sardauna LGA, Taraba State. The Ardonate consists of 12 settlements, established more than 40 years ago. The major groups living in Wuro Bappate are Fulbe (agropastoralists), Mambila (farmers) and Kaka (farmers). Interviewees largely live in homogenous settlements, mostly inhabited by those affiliated with Fulbe clans. However, in some settlements, Mambila and Kaka tribes also have farms and homes. For more information about Wuro Bappate, please see the first report in this series (Opitz-Stapleton et al., 2022).

The Fulbe inhabiting the Ardonate have a mixture of land tenure: customary land claims through inheritance from parents or grandparents and through long-term leasing permits with the LGA and for which they pay an annual fee. The most severe breach of land tenure rights, illegal mineral mining without the consent of landowners or renters, occurred in 2016–2017; its impacts are still being felt today.

As discussed in the first report in this series, the Mambila Plateau has significant mineral and gemstone deposits. Much of the mining throughout Taraba was (and is, though no longer in the study area) conducted by small-scale, artisanal miners who lack mining licences as required under the Minerals and Mining Act 2007 (Ahmed and Oruonye, 2016; 2018). Interviewees indicated that miners illegally accessed their land without prior consent. Some miners trespassed and began mining on areas not immediately visible to the owner/renter. Two interviewees



reported that they had been threatened by the miners with violence if they did not allow access to their land for mining. Interview responses indicate that the miners seem to be a mix of local Mambila farmers (who have diversified into mining) and speculators from outside the area. This corresponds with an earlier assessment that mining sites in Sardauna LGA tend to attract speculator miners from other parts of Nigeria, and sometimes foreigners, in addition to local people (Ahmed and Oruonye, 2016).

The widespread, small-scale mining activities across Sardauna LGA in Taraba State were a significant driver of the Mambila Plateau Massacre in 2017 (Deji and Shumo, 2021; Okafor, 2021). According to two interviewees, contention between local communities and the miners was the genesis of what was broadly referred to in the interviews as the 'last crisis'. In June 2017, more than 700 Fulbe civilians were killed, properties destroyed and countless left with injuries (Higazi and Hassan, 2022; Deji and Shumo, 2021; Okafor, 2021). The exact identities of the perpetrators are unclear; some accuse state-sponsored militias (Higazi and Hassan, 2022), while other interviewees believe that some neighbouring Mambila farmers were responsible.

Households throughout the Ardonate are still dealing with the physical, psychological and economic impacts of the massacre. Those households who lost property and had livestock killed appear not to have recovered economically. Women especially undertake caring for those injured in the attacks; this burden is increased when women become the primary income-earners and/or must also care for children orphaned by the attack (interviewees and Agbu et al., 2021).

'It has affected us seriously, where they invaded our settlement, looted and burnt our houses, and killed our cattle and amputated my four fingers. I now live from hand to mouth, every member of our family was

affected, my neighbours were not spared either; their belongings were destroyed, other settlements were also affected.' (Male interviewee)

'They attacked us, injured and destroyed our properties ... They injured my husband, he is still lying down, and we do everything for him. He provides nothing to the family.' (Female interviewee)

'I am battling with seven orphans (six females and one male). Their father was permanently wounded during the crisis, and their mother died as a result of childbirth. Life indeed is very terrible.' (Female interviewee)

Following the 2017 Massacre, interviewees indicated that the local government intervened and closed down many of the artisanal mines. Mining activities were reported to have ceased in Wuro Biri Hassan, Wuro Bobbo Lamu, Wuro Alhaji Njobdi Tashi and Wuro Ali Ja'e. Even where mining operations have ceased, some interviewees spoke of continuing to feel unsafe and were concerned that tensions might escalate again, particularly with Mambila farmers.

The small-scale, artisanal miners also lacked knowledge of environmental protection and remediation (Ahmed and Oruonye, 2018). The environmental impacts on pastoral and agropastoral livelihoods continue long after a mine is closed. Seven interviewees spoke of losing livestock into 'death traps', as cattle and sheep fall into open, abandoned mines. Others spoke of grasslands being degraded due to soil erosion from the mines. Another mining-related environmental issue raised by interviewees was the pollution of streams and drinking water sources for people and livestock. The direct and legacy impacts of mining on the agropastoralists and pastoralists interviewed in Wuro Bappate cannot be overemphasised. The legacy of the small-scale mines is contributing to fears for livestock safety and damaging livelihoods, even if the mines are not in operation.

3. Land price increases in Hayin Ade

Hayin Ade consists of 12 affiliate settlements spread between the Kubau and Ikara LGAs in Kaduna State. The area had been a dry-season grazing and watering area for pastoralists (largely of Fulbe ethnicity), with neighbouring farming settlements belonging predominantly to farmers of Hausa and Maguzawa ethnic groups. About 45 to 50 years ago, some of the pastoralists approached the Kuraye ward head (of Hausa ethnicity) for permission to construct settlements and farms, but not specifically for grazing. The initial settlers rented their land from local leaders, paying either an annual fee or a portion of their produce. However, at that time, there was sufficient space to support grazing areas and farming, with the majority of

settled pastoralists transitioning to agropastoralism. For more information about Hayin Ade, please see the first report in this series (Opitz-Stapleton et al., 2022).

Nearly 85% of the long-established pastoralists have purchased land, but do not have full Certificates of Occupancy. Interviewees¹ described the process for purchasing land in Hayin Ade as involving surveying and negotiations between the seller and buyer on the plot size, price and other conditions. The final decision to grant a land purchase agreement rests with the village and district head. The agreement is then signed by a witness, the district heads, the buyer and the seller. Such land purchase agreements confer ownership rights under Nigerian law. The agreements can be used to apply for a full Certificate of Occupancy, through a process of land rights regularisation in Kaduna State. Those without agreements are renters, paying an annual fee to the LGA.

Land tenure insecurity is increasing for both renters and those with agreements, and is partially related to increasing land prices in recent years. Perspectives on the causes of the land price increases vary, but the causes are likely multifactorial. At policy level, a federally increased focus on national food self-sufficiency and boosting agricultural production, as outlined in the Agriculture Promotion Policy 2016–2020 and the previous 2011–2016 Agricultural Transformation Agenda, placed (and continue to place) an emphasis on converting land to agricultural use, and encourage private sector involvement in, and transformation of, agriculture (FMARD, 2017). Some interviewees cited national agriculture policy priorities as contributing to land price increases.

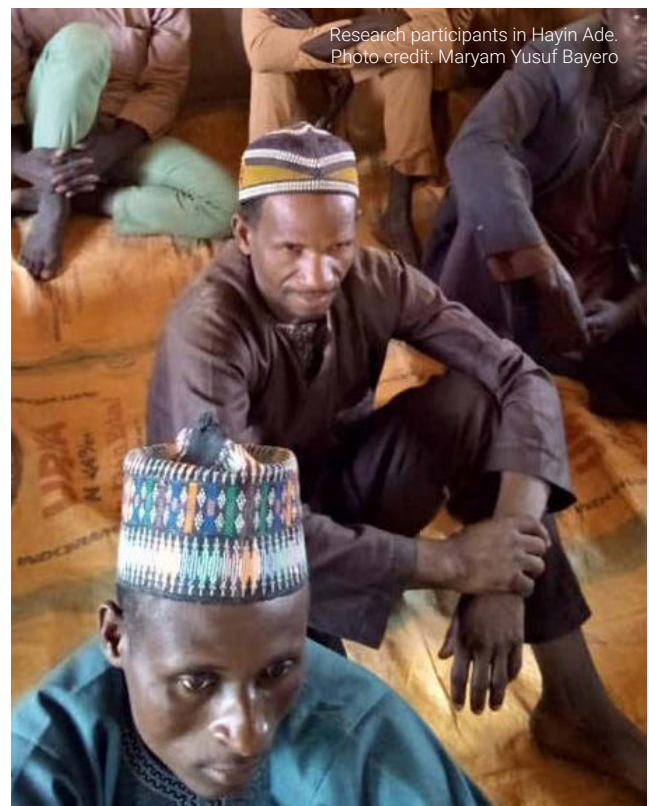
Many interviewees perceived that the increases were related to population growth and a subsequent reduction in land availability. Some of the population growth may be correlated with violent conflict in other LGAs of Kaduna State, such as Giwa and Birnin-Gwari. Other interviewees noted that there is often a population increase during the wet season (approximately March to September in northern Nigeria), associated with migrants renting land for farming; this further decreases the availability of remaining rental plots and is pricing out long-established renters in the settlement. Land price increases also seem to be linked to general price increases as a result of inflation, and potentially speculation capitalising on inflation. A few interviewees noted that urban and political elites (including some local community leaders), some with familial ties in the area, were also involved in land speculation and were perceived to be behind some of the land grabs.

Interviewees in the villages of Shararriya, Sarkin Dengi, Kuraye, Hayin Ade, Mirga, Fedaram, Tashan Gamji,

Mangawa and Unguwan Chiroma reported that price increases are threatening their tenure and economic security. Renters are being asked to pay more on an annual basis; those who cannot afford the increased costs face eviction. Farmland that was once rented at an annual rate of 30,000 to 50,000 Naira is now 60,000 to 100,000 Naira. The purchase price for a plot around a hectare in size is now over 1 million Naira.

These price increases are encouraging land grabs and extortion, and eroding trust within the settlements. Landowners are being approached by those who originally sold them land, or by village heads, and are being asked to pay more for the land they have already purchased regardless of having purchase agreements. Interviewees reported being told that the agreement documents they received when purchasing the land were invalid and that either some or all of their land claim would be re-sold to cover price increases if they did not pay an additional premium. Those contesting the agreements are claiming the original sale to be void due to 'not all of the seller[s] family taking part in the selling agreement' or 'the buying of those days was not correct'.

Of those interviewed, more than half expressed concern around being asked to pay more in rent or for land to which they already held agreements. Of the 60 interviewees with agreements, 9 had been asked to pay more. The uncertainty around land tenure security is



Research participants in Hayin Ade. Photo credit: Maryam Yusuf Bayero

¹ Few female interviewees understood the process for purchasing a plot of land. Male interviewees outlined the process. This lack of knowledge indicates that many women are being excluded from land-tenureship decisions within the household, and could face additional levels of land insecurity, particularly in female-headed households.

having household economic repercussions and could potentially contribute to food insecurity. Renters facing eviction indicated that they were not going to plant crops during the wet season, for fear of lost capital and labour costs should they be evicted after planting. However, they were also unsure what other options they would pursue to earn an income. Similarly, some landowners disputing additional payment claims had taken their cases to court and were also uncertain about whether they should plant.

‘For those in court about their land, they may not farm this coming planting season because courts take a long time to conclude cases.’ (Male interviewee)

Traditional dispute resolution mechanisms involving village heads do not seem to be adequate in adjudicating the land price increase claims in some of the settlements. Some interviewees in Mangawa settlement reported that the village heads had reduced their plot size and sold much of their land without consulting them. In Sarrayia settlement, the village head is demanding additional money for purchased lands on the basis of land value increases. There is a perceived element of ethnic tension to these disputes, as the village and district heads are of Hausa ethnicity, while those facing land tenure disputes are of different ethnicities. Village heads seem to have a varying role in these disputes, with six interviewees claiming that their heads had been involved in the process of unjustly seizing people’s land. Other interviewees retained confidence in village leadership and had reported their land dispute cases to their respective village heads. For 17 out of 60 interviewees, however, traditional dispute resolution mechanisms had proven insufficient. These individuals had taken their cases to the local government council or court.

After several attempts to resolve these cases of extortion, FUDECO filed legal proceedings on behalf of the pastoralists in Ikara, headquarters of Kubau LGA (to which Hayin Ade belongs). However, the judge was perceived to be biased in the favour of land grabs. As a result of the bias, FUDECO was able to move the case to Kaduna, where it is ongoing. FUDECO has filed another case of land grab by a political elite, which has not been assigned a hearing date.

Finally, there is the potential for various forms of land tenure insecurity to trigger violent conflict in the future. This potential is exacerbated by the presence of two different vigilante groups in the area – the Yan Sakai and the Yan-Kato Da Gora. A few interviewees mentioned that one or the other vigilante group is sometimes present at such disputes as an intimidation method, and that people accept the new land pricing deals under duress.

‘Seizure of land will develop into a serious conflict between them and us if care is not taken.’ (Female interviewee)

4. Addressing land tenure insecurity: a role for mediation and rights education

Land tenure insecurity in the two case studies is driven by a number of factors, including decreasing trust in dispute resolution mechanisms and in elected officials to uphold existing legal frameworks. Another common issue raised by the majority of interviewees was their ignorance of their rights regarding land tenure and land purchase agreements. Those in Wuro Bappate whose land had been damaged by illegal mining were unaware of their compensation rights. Interviewees requested education about land tenure (among other rights topics), in order to adequately and legally defend themselves against tenure disputes.

The desire for education as a means of securing land tenure and other rights was not only for adults, but for future generations. Interviewees believe that childhood education will help their children with livelihood and income diversification, to know their rights due to improved literacy and to be better able to secure land tenure. FUDECO has made childhood education one of its priorities. The organisation has set up 10 schools in three states in the last two years. It starts with visiting the community and assessing general issues and challenges. If a school already exists within the vicinity of the community, then FUDECO seeks to uncover the barriers or factors as to why the pastoralists and agropastoralists are not enrolling their children, or why children are not attending class. In some cases, a Nomadic School exists on paper but not in practice, and FUDECO then approaches the National Commission for Nomadic Education and local education authorities to revive and build classrooms for the schools. In other cases, FUDECO provides learning materials or discusses ideas with the communities on how to improve existing schools.

In Kaduna State, FUDECO built and furnished a school for the Hayin Ade settlement before the SPARC research started. While a Nomadic Primary School did exist in the community, it was a mud-built structure with insufficient capacity to accommodate the expanding number of children from across the settlement, and only a single teacher. FUDECO constructed a new building of three classrooms, capable of accommodating 150 pupils, with members’ contributions and provided desks. The Kaduna State Chapter of FUDECO also paid several advocacy visits to the Kaduna State Universal Education Commission to employ and deploy additional teachers to the school. FUDECO officials advocated to the National Commission for Nomadic Education to support the school with learning aids, including books and additional furniture. None of these efforts have yet borne fruit, but FUDECO chapter officials are following up and hope that more teachers will be deployed to the school soon. The school is serving many students across the community. In Gashaka LGA of Taraba State, FUDECO has set up five

schools in collaboration with the Nomadic Education Commission and some charitable groups; nearly 1,000 pupils are now enrolled. The Alhaji Haruna Nomadic School recently received a new building.

Beyond educating the next generations, there are programmes underway to support land agreement and tenure rights through dispute resolution. FUDECO supports members in resolving disputes where possible using alternative dispute resolution. This approach is enshrined in Nigerian law (Arbitration and Conciliation Act, 2004) and aims to resolve disputes amicably without resorting to litigation. Ideally, it is initiated before matters go to court. The methods used vary depending on the circumstances but generally may include negotiation, mediation, conciliation and arbitration – singly or in combination. In many cases, the organisation does not actually formally file an application to carry out a resolution; the parties in dispute are approached separately and then together and the issues are discussed and an agreement reached. Such an informal approach is preferred because it is less expensive (or free in many cases), less cumbersome, more sustainable and quicker.

FUDECO has helped to resolve a number of land tenure disputes (and others, including on human rights abuses, extortion and conflicts between herders and farmers) in Nasarawa and Taraba States. In Gashaka LGA, Taraba

State, for example, the organisation resolved a total of 306 disputes in 2021 and 2022, using alternative dispute resolution methods. Some of these cases were already in courts. The cases were spread across 11 jurisdictions, with a larger proportion (200 cases) with the police. FUDECO also facilitated the purchase of 241 land plots by pastoralists in the area.

In other cases, FUDECO writes letters to authorities or facilitates meetings between affected parties and authorities to resolve the challenges. With the help of FUDECO members who are lawyers, the organisation also tries to engage those who are challenging the land tenure security of renters, or those with established claims, through dialogue to seek resolution. Where these measures have failed, the organisation has taken cases to court on behalf of pastoralists. For example, in Kaduna State, a member of the State House of Assembly had been working with some local police officers to displace an agropastoral community. After several attempts to get the member to negotiate with the communities, FUDECO filed a restraining motion in court; the case is ongoing. In Bauchi State, FUDECO has taken up a case that has been ongoing for 35 years to the Appeal Court, in which a pastoralist community established for decades was facing eviction. The case was successfully resolved with a final ruling in favour of the pastoralist community.



Research participants in Hayin Ade.
Photo credit: Maryam Yusuf Bayero

There are ongoing cases in relation to land extortion in Hayin Ade; FUDECO has assisted the parties in moving the cases to court in Kaduna after being denied fair hearing at the Ikara court. It is hoped that these cases will act as a deterrent to land extortion by normalising a legal justice route through which extortion is court-adjudicated and parties know that they will be answerable. Land tenure insecurity cases are highly prevalent among pastoral communities in various Nigerian states, but will require more investigation due to differences in land policy and practice between states.

5. Implications for development programming

SPARC, as an action research programme to provide evidence to development aid policies and interventions, is examining land tenure security and how policy framing and implementation can influence the resilience of agropastoralists and pastoralists in the face of protracted crises (Flintan et al., 2021). Land tenure and conflict between farmers and herders is much more complex than competition for natural resources or on ethno-religious lines alone, although it does encompass these factors.

To date, pastoral and agropastoral communities have been left behind in some parts of Nigeria, particularly the northern zones. For instance, many lack national registration papers, have limited access to education and reduced access to health care (NPC, 2019). In addition to being left behind, pastoral and agropastoral communities in Nigeria are frequently cast in a negative light in popular media and public narratives (Ekpo and Tobi, 2020; Ogunlade et al., 2020; Gever, 2019).

Being left behind in socioeconomic development limits resilience to current shocks and stresses, including climate extremes, and does not build capacities to manage future challenges or take advantage of emerging economic opportunities in Nigeria or the region. Narratives also offer little insight into either the complexities facing pastoralists and agropastoralists or wider debates around the origins and ongoing drivers of farmer–herder conflicts and potential peace-building mechanisms. They also can serve to limit entry points for policy and disaster risk management, climate adaptation and development programmes to support pastoral and agropastoral resilience by not reflecting issues of priority on the ground, such as land tenure insecurity.

Land tenure insecurity is another manifestation of socioeconomic and political marginalisation, and is not adequately captured in popular narratives. As noted by various development actors and in agendas such as the Sustainable Development Goals, ‘clear, secure and negotiable rights to land and resources are fundamental to long-term economic growth and development’ (USAID, n.d.b). When working with pastoral and agropastoral communities, development actors need to be aware of land tenure security dynamics and how these influence everything from natural resource use to agricultural and livestock value chains, to some conflict dynamics. Promotion of livelihood development programmes for some groups without being cognisant of such tenure insecurity dynamics can risk inflaming existing tensions and contribute to the further marginalisation of groups being left behind.

Acknowledgements

This research would not have been possible without the candour and openness of the interviewees and communities who are participating in the research. Nor would it have been possible without the support of the FUDECO chapters in Kaduna and Taraba States. The authors would like to thank Fiona Flintan and Anna Locke for their review and insights on an earlier draft of this paper. We also thank Rajeshree Sisodia, Zoë Windle and Nina Behrman for their assistance in the production of this report.

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Funded by



This material has been funded by UK aid from the UK government; however the views expressed do not necessarily reflect the UK government's official policies.