Challenges to community land registration A case study of the minority Turkana community in Isiolo, Kenya

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A case study of the minority Turkana community in Isiolo, Kenya

Figure 1: Gated land, Isiolo County, 2023, Dian Hulsebosch

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Contents

Introduction

When first arriving in Isiolo town, I was met with the same sentence multiple times while looking to gather more of an understanding of the current status quo of the Turkana community in the city. "Turkanas in town? They are afraid of the light." "Oh no, they are afraid of the light." "People say that they are afraid of the light."[1] These people highlighted that it was meant in jest and that the Turkana were not afraid of the light. However, this sparked an interest, and when further questioned, I was informed of the reasoning that whenever an area of town that was predominantly Turkana was connected to the electricity network, the Turkana would move out of that area. This was the case in the area known as Checheleshi B, highlighted by Elliot in 2016 as the predominant area of living in town for the Turkana community. I knew something similar had happened when I asked about the place.

Thinking about it that same evening, the connection to the electricity network was a visible representation of a general development that made the land more valuable, so it was more profitable to sell the land to others in the expanding city—making the community settling further outside and remaining out of town. From this status quo, I realised that to be able to research the Turkana community; I had to move the scope of my research outside, not just to town, and to follow the community to the surrounding villages.

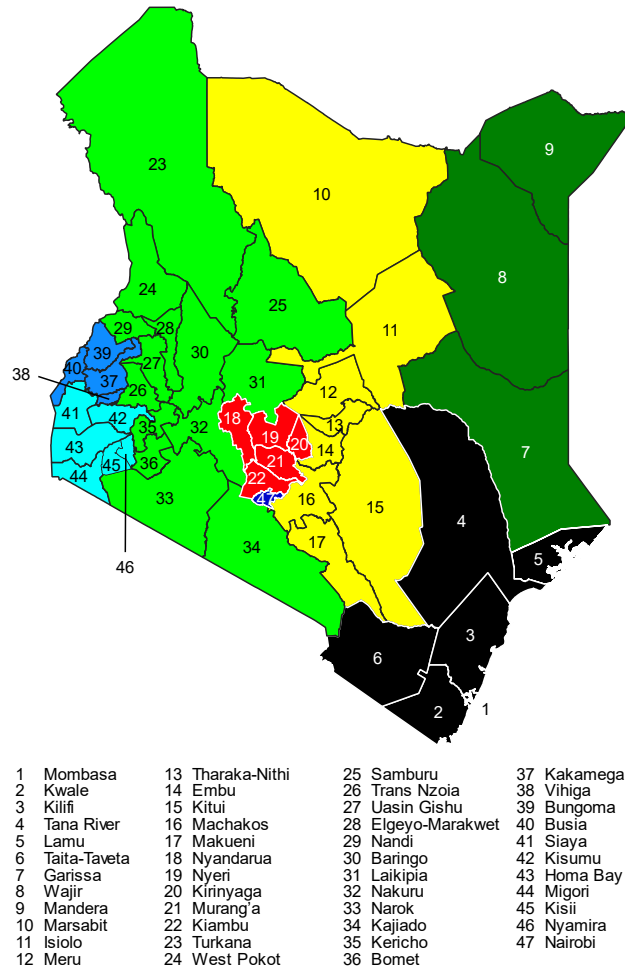
[1] Field notes 5-2-2023, afternoon.

Figure 2: Kenya counties map labelled with names. Isiolo County can be found as county 11. Source: Wikimedia Commons.

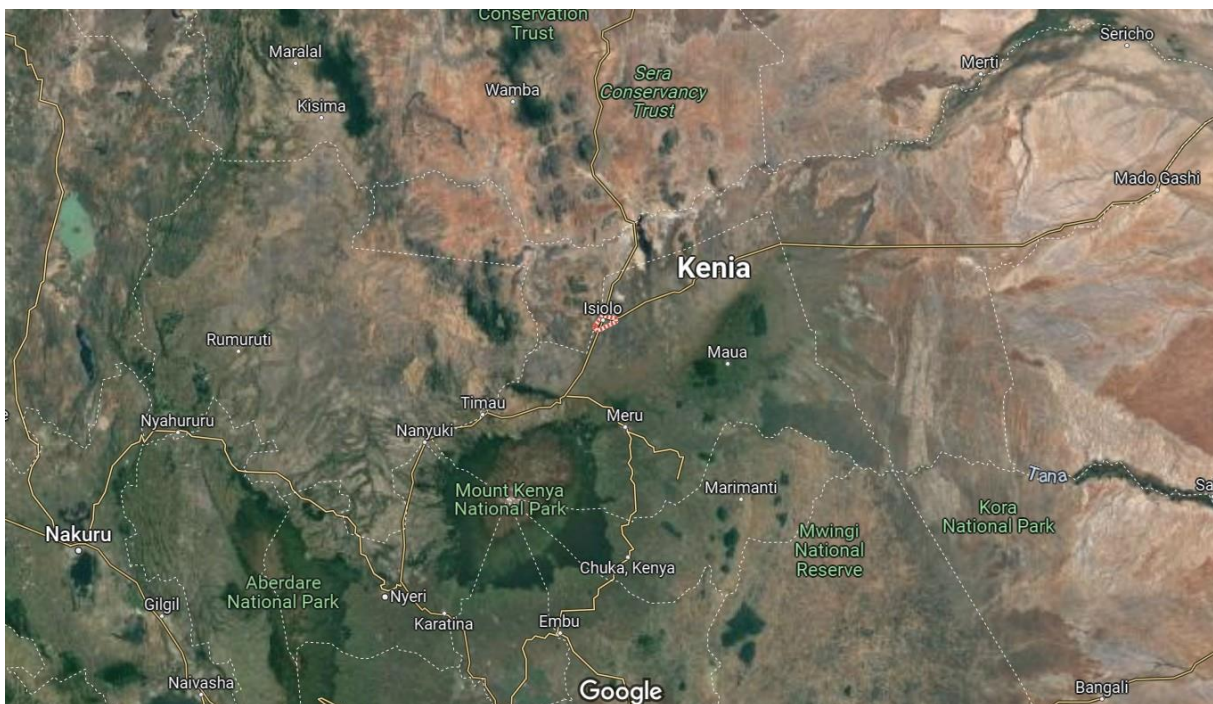|			
1 Mombasa	13 Tharaka-Nithi	25 Samburu	37 Kakamega
2 Kwale	14 Embu	26 Trans Nzoia	38 Vihiga
3 Kilifi	15 Kitui	27 Uasin Gishu	39 Bungoma
4 Tana River	16 Machakos	28 Elgeyo-Marakwet	40 Busia
5 Lamu	17 Makueni	29 Nandi	41 Siaya
6 Taita-Taveta	18 Nyandarua	30 Baringo	42 Kisumu
7 Garissa	19 Nyeri	31 Laikipia	43 Homa Bay
8 Wajir	20 Kirinyaga	32 Nakuru	44 Migori
9 Mandera	21 Murang'a	33 Narok	45 Kisii
10 Marsabit	22 Kiambu	34 Kajiado	46 Nyamira
11 Isiolo	23 Turkana	35 Kericho	47 Nairobi
12 Meru	24 West Pokot	36 Bomet	

Figure 3: Satellite screenshot from Google Maps 2023. To locate Isiolo town and to showcase terrain.

Isiolo town is situated at what was long understood to be the edge of Kenya. The town was located at the end of the privatised south of Central and Southern Kenya and the communally focused North. Isiolo town is now located in Isiolo County, which comprises two constituencies that divide the county into Isiolo North and Isiolo South. Isiolo is a sub-county within Isiolo North, with the town and the surrounding areas subdivided into administrative wards. This thesis focuses on Isiolo town (which is also divided into wards but will be spoken about as 'town' in the general sense) and the two wards that house a Turkana majority community: Ngaremara Ward to the north of town and Burat Ward to the southwest of town. Historically, the north of Kenya has been marginalised and seen as an area with low economic potential (Elliot, 2016), which has not been spared. The town is ethnically diverse, with different communities such as the pastoralist Borana, Samburu, Somali, Turkana and the agriculturalist Meru (Mkutu et al., 2021). The town and surrounding region have seen conflicts surrounding land settlement over the years, a scarcity in the town as pastoralist communities migrated there for work and resources. These issues of land conflicts have been heightening since the 2000s because the Kenyan government labelled the north as a new alternative economic zone, focusing on trade, conservation and oil. With the development plan Kenya Vision 2030 putting the arid and semi-arid lands (primarily found in the north of the country) at the centre of new economic development, Isiolo County has become more visible and attractive for investment and development. Isiolo town has been described as a frontier town and a gateway to the north. Within Kenya Vision 2030, the Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Corridor project is a significant infrastructure project that is planned to run through Isiolo and aims to develop economic prosperity in the north of the country (Mkutu, 2022; Elliot, 2016).

The focus on Isiolo town as a development city has been heightening the land resource issues and driving scarcity. Elliot (2016) highlights that questions of ownership become more critical as more people attempt to lay claims to land in and surrounding the town. The clash between communal and private land ownership understanding has led to conflicts and local communities accusing the government of exclusion in the developments (Mkutu, 2022) and putting them at risk of losing their land due to unclear legislation.

Issues on land ownership can be seen throughout Kenya, starting from the colonial period and exacerbated in the 1990s and the introduction of Kenyan multipartyism. The government has initiated constitutional and land policy reforms to curb these territorial conflicts. The goal was to abolish old colonial systems and to create recognition for community

land ownership. The 2010 Constitution of Kenya created a legal framework for communities to claim ownership, thus leading the country to draft a Community Land Act (CLA) (2016) to define the rights and institutional framework of community land governance (Di Matteo, 2022). The CLA recognises the property rights of communities as being lawful ownership rather than rights of occupation and making use of government or public lands. The act aims to provide land security for Kenyans, but the years since the act's implementation have shown that this has only been the case for some communities. The act is riddled with legal loopholes due to too open-ended formulations and missing mechanisms to reclaim wrongfully acquired land. This puts those communities at risk of being negatively impacted by the CLA, especially minorities. Local and national government officials make overlapping ownership claims to land and attempt to define it as public land rather than community land, putting people at risk of losing their land. Besides this, after the implementation of the CLA, the political attention on it disappeared, and not much pressure was put on creating actual social change (Wily, 2018).

Concerning the case of community land registration, Isiolo town in Isiolo County is an interesting case study as more research has yet to be done on the topic, and the town is at the centre of multiple colliding projects and interests. Besides this, due to Isiolo's historically marginalised role in the country, the land is mainly in the hands of the government as they have ownership of the previously so-called trust land. The communities can now gain ownership of the land they have been living on.[2] Research on Isiolo town has mainly been done in anticipation of new projects and land legislation such as the CLA. However, more research needs to be done on community land registration and the challenges people face. Especially now, as research is being produced on CLA and its effectiveness, it is essential to reflect on the community land registration issues in and around the town. This research explores the situation in Isiolo town and its surroundings and the problems that a minority community is faced with concerning community land registration. To explore this topic, the main question will be answered in this research: What challenges does a minority community such as the Turkana face when working to gain community land registration in and around Isiolo, Kenya?

Turkana community

The Turkana community in Isiolo town is a traditionally pastoralist community originally hailing from northwestern Kenya, now known as Turkana County. The community established itself in Isiolo for the first time in the 1920s and 1930s after colonial military and agricultural

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[2] Interview with Isiolo Deputy County Commissioner, 22-2-2023.

schemes, intending to 'civilise' the community by promoting sedentarisation. By 1958, the colonial government pushed the community out of Isiolo town and the district back to a pastoralist livelihood outside the city. Due to this repatriation and forced return to pastoralism, which they had slowly started leaving behind, the community's economic position weakened. The Shifta War from 1963 to 1967, where the northeast of Kenya saw the population agitated to join Somalia, influenced the pre-war ethnic balance of communities. Creating new spaces for Somali immigrants in Isiolo and Turkana returned to the town. The Turkana returned to Isiolo because of continuous droughts that affected them economically and made them unable to survive on pastoralist livestock alone. They settled in the majority along the northeastern edge of the town, where they could live a semi-pastoralist life. The Turkana worked as herders for the Somali settlers and in public projects for the local government to earn a living besides pastoralist practices (Broch-Due, 2000; Mkutu et al., 2022). While being a majority in Turkana County, the Turkana community is a minority community in Isiolo County and Isiolo town. The Borana and Somali communities hold political and economic power in the town and the county, which leads to tensions on topics such as land ownership and puts the Turkana at the vulnerability to land adjudications (Elliot, 2016). Since the last elections in September 2023, the Turkana of Isiolo County has been able to elect community members into seats of power in the Isiolo County Government, leading to a possible new balance in representation.[3]

[3] Field notes, 23-3-2023, 13.00. Interview with Borana and Turkana political activists.

An interpretive framework for justice and land

Local values, customs and opinions highly influence community land registration but are also majorly affected by legislation and the people carrying out legislation. Therefore, the concept of a people-centred focus is essential in the development and results of changes to the law. The people-centred focus is a 'hot' topic in justice, with NGOs and national actors changing their approach from top-down development programmes to more inclusive development. With the people-centred approach, organisations aim to better access to justice for people. The United Nations (UN) has announced the focus on building trust between people and the institutions that serve them the main focus in this approach. They name the disconnect between people and government a vital reason for tensions, disputes and conflicts. The Justice Action Coalition highlights that countries do not deliver justice for all but mainly focus on the few (*Justice Action Coalition Action Plan - Pathfinders*, 2023).

Access to justice is part of Sustainable Development Goal 16 of the United Nations (UN) and is perceived as the basic principle for the rule of law (Rashid, 2019; and *Justice Action Coalition Action Plan - Pathfinders*, 2023). The topic has been discussed within policy since the early 20th century (Smith, 1919). Initially, the concept was used to conceptualise access as the problem that lower-status groups face. The focus was mainly on poor people during this period. The contemporary stance held by the UN still emphasises the financial equitability of access to justice. An important focus here is the creation and support of programmes that offer financial support to those who otherwise cannot afford the costs of legal aid and representation (Rashid, 2019). Another focus was on questioning justice in laws, making that the main framework in research access to justice was done by empirically documenting the laws' shortcomings. Classical access to justice focuses on the expansion of law in policy recommendations by promoting better affordability of lawyers, more welcoming courts, broader legal participation and new and better rights (Sandefur, 2009). Modern access to justice scholars focus on including people's experiences regarding justice. Of them, Currie (2009; and Sandefur, 2009) highlights the importance of mapping people's different experiences with justice, as many daily activities live in the grey areas of the law, creating new legal problems. Legal issues can be part of everyday life and have significant consequences, so this must be considered when reflecting on the law. Many people think of these problems as needing to be legal and go about finding solutions for them without the aid of courts or lawyers, creating further distance from these institutions. Due to this, people are also inclined to do nothing about

their problems, even if they recognise them as necessary (Sandefur, 2009; Currie, 2009; Earl, 2009; Sandefur, 2007). The main reasons for not resolving their problems are people's uncertainty about their rights as citizens and the belief that seeking a resolution is pointless or too time-consuming (Sandefur, 2009; Pleasance et al., 2006; Sandefur, 2007). Modern access to justice research reveals that due to the broad public experience with justice, it is not just lawmaking, such as classical access to justice argued, but justice also works as a social institution (Currie, 2009; Sandefur, 2009). Due to the social importance, people need to overcome the earlier mentioned problems, especially ''as a practical matter, individuals have only the legal rights of which they are aware and which they can hope to enforce or use'' (Daniels and Martin, 2009, p. 3; Sandefur, 2009). It is crucial to better people's procedural rights consciousness.

It must be noted that the book edited by Sandefur that is referenced here, while being an authority in the field, is primarily based on the North American legal context. While the research focuses on minorities, the specific cases and localities that drive the research differ from those of the research field in this study. However, the general theories and conclusions can still be of use and aid in creating a backbone for understanding the legal issues minorities face in the field. Following up on the research, the access to justice field aims to build up these universalities within the research and integrate with policy. Research by Albiston and Sandefur (2013) and Farrow (2014) explore these interests.

To research the topic of community land registrations in Isiolo, it is crucial to understand the discourses and status quo regarding land. First, it is necessary to recognise that land ownership is not just important because it is a commodity that can be sold. It is a resource with an inherent value beyond money that has its worth placed with those who use it. Murray Li recognises land as a resource as it is more difficult to own than other objects, and its use signifies it and who has access to use it. The worth of land is not just in the object but in what can be earned through cultivating it, developing it, lawmaking and exclusion (Murray Li, 2014). In the case of Kenya, land has long been a resource for economic development and societal standing, but with significant inequalities regarding access to the resource (Kamungi, 2009). These issues are said to have their source in Kenya's colonial period, as British colonial legislation greatly influenced land ownership and registration. This legislation was maintained after independence and had long after effects on Kenyan society, creating the need for new legislation in the changing context of the country, such as the Community Land Act.

Access to land and property rights is critical in Kenya. As the theory of access by Peluso and Ribot (2003) argues, understanding land is more than just understanding the claims of rights

surrounding it. It is also helpful to highlight the power relations surrounding the claims of rights. Those who control access to resources or those who have access to resources, such as land, hold the power of ownership. Understanding these dynamics of access helps to understand why people and institutions still benefit from resources even if they do not have any rights (Ribot and Peluso, 2014). This is a critical element to consider in the Kenyan context where, after the CLA implementation, voices arose that feel that the government (both local and national) is not working in the interest of the communities wanting to register their land (Wily, 2018). It can be argued that due to the power relations surrounding land, the government will always be interested in property rights and will attempt to influence who has the power in communities, such as what persons are in land committees. This power can be political, social or economic but is often a mix of these. Isiolo town sees that the ethnic community that holds political power, currently the Borana, has more access to social and economic power concerning land ownership. Minority communities are often negatively affected here as they are excluded from these mechanisms of gaining land, especially where pastoralist and sedentary communities collide (Elliot, 2016).

While recognising customary law and community land and implementing the CLA, the Kenyan government is still mainly focused on legitimisation and sedentarisation. Sedentarisation is a significant element in the land registration discussion. James Scott argues that states focus on creating a sedentary population and aim to create a more legible and easy way for a state to function. If people live on the same land the whole time of the year, it is easier to exert state power and control over them and include them in national tax systems and conscriptions. Land ownership and registration are intimately connected, as formalising this land allows governments to exert power (Scott, 2008). This means that the recognition of sedentary communities will often be promoted before recognising pastoralist communities' lifestyles.

The discussion on community land registration worldwide has been a discussed topic. As seen above, these debates tend to take a more universal and theoretical approach to understand situations and their impacts on minority and pastoralist communities. In the next chapter, a non-universal approach is taken to understand the specific locality of Isiolo and its surroundings and analyse its effects on the theories.

Methodology and Reflection

This chapter aims to give an insight into the methodology used during the research stay in Isiolo to gather data and also hopes to offer a reflection on different elements within the research period.

The research makes use of a qualitative exploratory research method. This method was chosen due to the flexible nature of the research topic, where beforehand, it was already expected that a very set approach would not fit the reality of the research field. Also, due to the personal nature of the topic of community land registration, it felt more fitting to keep the data-gathering process more personal and to build trust through qualitative interviews with the aid of a translator. This exploratory method proved to be especially useful when the research goal had to be changed from reflecting on government policy on community land registration towards the lived experiences and challenges of people concerning gaining community land registration (Kumar, 2018; Rivoal and Salazar, 2013). Most literature on the topic of land in Isiolo was written in anticipation of the implementation of the Community Land Act of 2016. Therefore, it seemed plausible that there had been progressing made on community land registration where it would be essential to reflect on its impact on communities and the effectiveness of the Act. After arriving in Isiolo, it was quickly determined through initial interviews with officials and observations that the Act had not been implemented yet, and the local government was discussing the best ways to start implementing the CLA, leaving the communities on their own thus far.[4] The decision was then made to refocus the research on the difficulties and challenges a minority community, such as the Turkana community in Isiolo, faces when attempting to gain community land registration. This focus was chosen because, in the first interviews with community members, the challenges people were living with continually came up as having the most significant impact on their lives. Also, there was limited previous research on the topic, so it seemed interesting to attempt to understand and map the challenges to community land registration. The different villages also provided interesting comparative material regarding the diverse but somewhat overlapping issues.

The interviews were conducted in both one-on-one settings and focus group settings. The interviews had a semi-structured approach in that questions, and a general structure outline would be written out before the interview. However, the interview flow would dictate the order

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[4] Field notes, 23-2-2023, full day. Consultative Forum on the Implementation of CLA 2016 organised by the Isiolo County Government.

of the questions and follow-up questions. There was space to go beyond the prepared questions if respondents brought up other issues they would share. This allowed for a more conversational interview that was helpful with the villagers outside of town unfamiliar with being interviewed. Similarly, this approach was also taken in the focus group interview settings that we could organise in various villages. This setting was more comfortable for some respondents as they could share their issues as a community rather than individuals and discuss differing viewpoints with their peers. Focus groups were organised to understand the impact of challenges to community land registration on different groups within the community, such as elders, young men, and mothers (Kumar, 2018).

One element of the interviews that was both an upside and a downside was the impromptu style of planning interviews. Due to the language barrier and difficulty contacting the community members, most interviews were organised through the translator. I would give him the direction I wanted to go with the research and in what villages, and he would work on organising the interviews. This meant that while I was able to direct the goals to reach for, for example, a specific week and prepare accordingly, it also meant that in the morning, I could be surprised by a call from the translator that we could meet certain people that day and therefore not have as much in-depth preparation as preferred. However, as the research progressed and specific villages became the focus, it became easier to hold these impromptu interviews as the previous interviews could be built upon. I also learned that spontaneous interviewing worked best for respondents as I fit into their day and did not burden their often limited time. This usually meant rushing to get to a village on *boda boda*[5] to meet villagers before they left for the afternoon markets or go to school openings to be able to speak with an official before they left town again for Nairobi. The more informal style also made people feel it was easier to trust me as I could step away from being the 'serious Western researcher', and I worked with a local translator.

Finally, the impromptu interviewing style also meant that I had to be extra careful to clarify to respondents my role as a researcher and what their information might be used for. It was extra important to clearly explain consent and the implications for them to be part of the research, which sometimes people seemed to gloss over due to the more informal start of interviews. The decision was made to mainly seek oral consent, as written consent would be difficult to attain with illiterate respondents, and it might formalise the interview, possibly scaring respondents who have yet to be used to being interviewed. A downside of oral consent

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[5] Taxi bike, Swahili.

is that it makes it easier for respondents to miss the importance of informed consent. Therefore, it was crucial that, especially during the first meeting and interview, their rights as respondents were made clear about the research and its possible impacts and repeated during follow-up interviews. All respondents had access to me via phone (email was not a suitable option as many respondents had no access to the Internet and the culture of communication was not email focused) and also were able to contact the translator in case they were unsure of their participation in the research or wanted to retract statements.

Use of a translator (Squires, 2008. Turner, 2010)

All interviews were done with Kenyans, either locals to Isiolo and the surrounding area or officials that initially were from other parts of the country. The national language in Kenya is Swahili, and English is the other official language in the country. This means that many Kenyans speak English to some degree. However, the research could not have been done without the help of a translator. This is because my grasp of Swahili was and still is limited, too limited to hold detailed conversations on the intricacies of land registration. I did not want to make assumptions about people's level of English. My assumptions were soon confirmed when I learned that many people in and around Isiolo spoke limited to no English, so I wanted to accommodate respondents by being able to have conversations in Swahili. When looking for a translator with the help of a local organisation, it was determined that it would be essential to gain the help of a local who, besides English and Swahili, could also speak Turkana. This would benefit interviews where respondents felt more comfortable conversing in Swahili and Turkana. This could also benefit the research as respondents did not feel limited in their information sharing. To build connections with the Turkana community, it was also crucial that the person who would aid in translation would be from the community or at least could speak Turkana very well. This proved helpful as many elders in the villages surrounding Isiolo regularly spoke limited Swahili. I also preferred to have a translator who was not only able to speak Turkana but also came from the community itself. The translator from the community would help get an 'in' into the community and build trust.

The translator I worked with was a local human rights activist who had previous experience aiding researchers in their projects and could translate for the entire research period. Quickly, his role as translator became more prominent than I initially dared to hope when preparing for the research stay, as he was willing to also assist in organising interviews and contacting colleagues to gain an audience with officials. English was the common language used for interpreting, and the style used was direct interpretation. I would ask the question, the

translator relayed the question in Swahili and Turkana, the respondent would answer, and then the translator relayed the response. It took some time and coordination to get used to each other, partly due to my lack of experience with a translator. However, a sound system was set up with clear communication, and the translator was willing to follow my lead. He also learned what I was looking for in my research and what to gain from interviews, so he offered his assistance there, too, in offering up possible people to interview that I had yet to learn of. His role in the research process was not strictly as a translator but also as a research assistant and a guide for me in navigating Kenyan culture, thus arguably becoming my main informant. Using a translator who could hold this multifaceted position was vital as it was a good source of information on boundaries that respondents might have and what questions could or could not be asked. Discussing interviews and reflecting on rephrasing questions was necessary so respondents could better understand what was asked. Many discussions were had on Isiolo and its people and practices for me to gain a better understanding of the area and my research.

One part of the research for which it was also good to have someone local was the discussion of money. This was a topic that came up very often when having interviews with respondents and also people on the streets when they saw me together with the translator. The translator was paid a base rate fitting the local salaries paid by local organisations for the work he did for the research. This we agreed upon based on my being a student and having limited funds but still wanting not to misuse him and his work. He often had to explain and defend himself to people why we had made such a deal since I am a Westerner and Western organisations pay higher rates. I found these conversations difficult to navigate personally, but the translator had experience with these topics and mainly navigated them. We often discussed the issue of money as respondents also requested some reimbursement, such as money for the interviews. Here, we explained that my situation aside, research ethics also came into play. The translator often took the lead to ensure I did not make any social faux pas. This was not always discussed with me as when the respondents asked, he kept the discussion in Swahili, but I knew when it happened as my Swahili was good enough to understand, and we always made sure to discuss it afterwards. For several focus group interviews, we brought along some corn flour for the community to thank them for their time and the complex situation people found themselves in due to economic inflation and the drought at the time of the research.

Going into the research, it was expected that it would be difficult to find respondents willing to discuss the issue of community land registration as it can be a controversial and personal topic. In reality, this was not the case, as people were very open to discussing the topic and their points of view on the challenges. The importance of the translator cannot be

underestimated here as he was a familiar face to the respondents, making people more willing to share information and skip over the initial distrust I might have experienced if I had been alone. Many of the respondents voiced their gratitude for the ability to share their stories on community land registration and hoped their voices would be heard by sharing their stories. Some expressed their hopes for their stories to have an impact in Kenya and abroad so that aid could come to them. It was made clear that the impact of the research would most likely be limited, but this way of thinking probably explains people's willingness to be interviewed. It is good here to take a moment to reflect on the impact of a Western researcher coming to the area. While respondents might have been more willing to share information, being a foreigner might have impacted how people answered. As people expressed their hopes to have their struggles heard, their responses may have focused more on what was troubling them and underexpose of what was going well. It is vital to be conscious of this possible effect in the data analysis and cross-reference the information respondents shared with what could be observed in the field (Kumar, 2018. Hannerz, 2006). Interestingly enough, while most people were open to speaking, one of the communities in town had a general distrust of me and tried to dissuade the translator from working with an outsider on their research. When reflecting on the data-gathering process, it must be mentioned that it is possible that I was just lucky to have chosen the Turkana community for the research. If another community in town had been selected, the process might have been very different and more complex.

Regarding access to officials, I had a mixed experience. Initially, officials were very open to discussing the topic of community land registration with me. They were willing to share information with me and make time for interviews. I also got connected with other officials for further interviews. They welcomed my research on the topic. However, as I was warned by my supervisor that might happen, after a certain period, this enthusiasm disappeared. Certain officials no longer responded to communication attempts; the translator and I were stood up for planned interviews. The local organisation I connected with during my stay already expressed their surprise during the first few weeks of my research that I could easily access these officials. They informed me that they met with significant difficulties when they tried to reach officials during their different research projects, and officials were not interested in participating. I discussed with them what they thought might be why my experience at that moment was so different. We concluded that it must be related to being a foreigner and a Western researcher who is assumed to have little on-the-ground knowledge. Officials seemed happy to show off their status in town and English proficiency while positioning themselves in the best way possible in their telling of the situation. Other researchers have experienced similar situations

when interviewing officials and the perceived 'higher' status of a Western researcher by respondents (Turner, 2010. Missbach, 2011).

As mentioned, I eventually ran into similar issues that my internship organisation had also met in their years in the area. The further my stay in Isiolo progressed, the harder it became to have follow-up interviews with officials that previously were accessible. One thing that must be noted is that at the end of the period in late March, the month of Ramadan started, with the town going into a sleep modus due to its predominantly Muslim population. This also meant businesses and government slowed down (like Fridays in the other months), with many establishments closing the month. Due to this, officials diverted their focus and became less accessible in their offices. However, the most distance was already starting to be created before Ramadan, so it is possible that Ramadan was more of a happy accident that gave officials an excuse. One official became impossible to reach after a demonstration observed as part of the research. Here, it can only be concluded that they assumed that the study would favour the protestors and against their work, as this official was responsible for the issue being protested against.

Ethics of anonymisation

One of the significant struggles while writing this thesis was the issue of the anonymisation of sources. As the research is so geographically focused on an area with a smaller and tight-knit community, one can easily recognise the villages I visited and the people I interviewed. It is therefore attempted with great care to tell the stories while not putting any person in harm's way. One way to tell the deliberated stories was by writing the thesis topic-based. However, quickly, it became clear that by mainly focusing on the issues and concepts, the specifics and the difficulties of the realities that villages face became lost in generality. While the topic-based approach might have made anonymity easier, it was chosen not to do this to stay true to the respondents' trust in the research for sharing their lived experiences. Also, this thesis does not aim to make statements and conclusions with the goal of universality. The thesis aims to focus on and highlight a specific case within community land registration without making assumptions about other cases. As the issue of community land registration is so geographically driven by many different contexts, the Turkana community in Isiolo cannot speak for others. Some connections might be made to other cases of community land registration. However, these do not represent a universal truth. The research, therefore, focuses on a geographical approach that can showcase the complexities in the community land registration process (Kumar, 2018).

Due to this geographical approach, the thesis uses fictionalised names for the villages around Isiolo to protect respondents (these names are known and can be shared when required). However, the town and the Ward structure within the county have not been changed. This is done to keep the data grounded in reality, and the town and wards are of such a size that people can be less easily identified.

The thesis aims to give due respect to the data people were so free to share for the research. Complete anonymity will be difficult to attain while staying true to the data. However, a reasonable attempt has been made to keep the respondents safe and for this research to have little to no negative personal impact on them as much as possible. All respondents were informed of this possible risk of identification and were allowed to retract statements and participation (Kumar, 2018).

Challenges to community land registration

A military threat

In the previous Northern Frontier District, Isiolo was a strategic location for military bases and training barracks during the Shifta conflict in northern Kenya. Four military bases train soldiers from Kenya's military (KDF) and foreign militaries for international operations. Many of these bases were established in the 1980s, often leading to the displacement of Turkana villages.[6] The KDF is now expanding its land claims for training grounds, which clashed with the communities living around the military bases who consider the land their ancestral territory. Limited land registration among the community leaves their land vulnerable, and the military, supported by the national government, acquires title deeds without much scrutiny of the land ownership or intimidates and evicts the communities. Community members highlight that it is often not just the KDF as an institution but individual people higher up the chain of command that take the land for their gain using the military as a guise. The Turkana community is working on halting evictions through court cases against the KDF to assert their rights and register their land. However, legal proceedings are challenging due to limited legal knowledge, distance to courts, and high lawyer costs. Local officials, often connected to the KDF, do not support the community in these proceedings.

Two areas near Isiolo experience the threat of the KDF from nearby, while both are at different stages. One area is the Burat Ward, which is in the legislation stage. The community started a court case against the KDF, the wrongfully gained title deed, and forced evictions against the community. The community has formalised all landownership claims and has divided the land between private and community land, and they are now awaiting the verdict.[7] The original date for the final hearing was supposed to be early May but was moved to July. Some locals suggest the case might have been moved due to interference by the national government.[8] The court case taking its time makes it difficult for community members to continue living their lives. Especially as many feel that the situation is too uncertain about building new homes or economic ventures. Several *Wazee*[9] when interviewed said that they are waiting for the courts to announce their verdict. They cannot do anything until they know what will happen with the land registration. One *Mzee*[10] mentioned that while the community is

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[6] Field notes, 6-3-2023.
[7] Field notes, 22-2-2023, 17.00.
[8] Whatsapp communication, 23-5-2023.
[9] Male elder, Swahili, plural.
[10] Male elder, Swahili, singular.

waiting, the KDF still tries to expand land and gain control over the river against court orders.[11] However, there is not much that the community can do with its limited power and funds. When asked about the next step during interviews in the area, different people mentioned the same things. When they win the case, they immediately go to Ardhi[12] House to register the private and community land, receive the title deed, and start development. *If* they are to lose the case, the community members do not know where to go to. As the *Mzee* said: "It is the military who knows where they will take me because I don't know where … I don't have [a] place. I'm home. I cannot go anywhere. If it is the death, it's already arrived for me. Yeah, I will die here."[13] The the community will try to take the case to higher levels, as many people similarly have no other place to go if they are evicted. These further court cases might be complex due to the high legal fees and lawyer costs that still need to be paid for this current case and again for the next case.[14] There are limited ways for the community to gain funds. Several officials mentioned during interviews do not support the court cases as they think the issue should have been resolved through dialogue. Some believe the community has chosen the 'extreme' path by going to court and is unwilling to work together.[15] On the other hand, the community believes that these officials promote dialogue because they hold more negotiation control. By taking the case to the courts, the community takes away its power and puts it in the hands of a judge. The community hopes that, with this case, a fair judgement will be made.[16]

Some final notes must be made regarding the research done in Burat Ward. During the stay, the Mlango area of Burat Ward was challenged by insecurity due to the drought that the northern area of Kenya was struggling with. Due to this area in the ward still having some grazing pasture compared to the surrounding drought-ridden areas, pastoralists from neighbouring counties moved their cattle into the area without community permission. This led to conflicts between the different communities, with a risk to the interviewed community if the conflicts were to spread. This conflict did not spread and was contained in that area, and no effects were felt in and around town as long as people made sure to steer clear of the area. The translator and I stayed away from the area during my research period, especially when we heard of insecurities. The research done in the Burat Ward does not include the area that saw insecurities. Besides the insecurity that the area saw, in the research's final weeks, the area

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[11] Field notes, 20-2-2023.
[12] Land, Swahili. The land registration offices of Isiolo County.
[13] Field notes, 20-2-2023.
[14] Field notes, 20-2-2023. Field notes, 22-2-2023, 17.00.
[15] Field notes, 3-4-2023.
[16] Field notes, 22-2-2023, 17.00.

became inaccessible due to the start of the rainy season that brought sudden heavy rains. The drought-stricken ground could not absorb the sudden high amount of water, and the subsequent flooding of the Isiolo River due to heavy rains further upstream at Mount Kenya made the area unsafe to visit. Some final interviews about legal proceedings that were planned had to be cancelled. Ultimately, this did not significantly impact the research as the community members to be interviewed again were at a standstill in the legal proceedings as the court case date had been moved to a later date.

Another community threatened by the military is the community of Vumbi. Their community is located bordering a military training base on land previously belonging to the community. In the 1980s, the KDF settled on the land and moved the community a few hundred meters. Nowadays, the base looks to expand its land claim further and threatens and intimidates the community, sometimes using violence. Community members are not allowed on the land within the gates, limiting their access to ancestral land and the burial places of elders. The community is not allowed to build permanent structures such as houses or toilets since the KDF sees this as a settlement and does not allow it. A school in the community is also not allowed to expand its classrooms as the military sees the land it is on as theirs. When talking with the school and community members, the respondents all mention that the difficulty of the long-term insecurity on landownership is taking its toll on community members. They must always be prepared to be forcibly evicted and cannot invest in their lives. Asked how long this insecurity was already taking place without receiving any information, the response was: "Oh, it's around five years, yeah."[17]

Another meeting with the community became an exchange of information between the community, me and the translator, who had more information due to his work in activism. He shared with the community what risks they were under and wanted to activate the community to follow a similar path as the community in Burat possibly. It is necessary that the community first mobilises and prepares for such a commitment. It takes much effort to go against the KDF in a land case, and the community thus far has not taken many actions.[18]

During the final visit to the village, a few weeks after the previous one, villagers seemed agitated that they had not taken action against the military threat yet. Some expressed shame at still being in a similar position to the first visit. When asked why they thought not much action, such as mobilisation and unification, had taken place, one mama said that people do not care enough to take the long-term perspective. She blamed the harsh living conditions with the

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[17] Field notes, 9-2-2023.
[18] Field notes, 9-3-2023.

drought and the high inflation in the country at that point as having people focussing on the now. An elder added that there is also a general feeling amongst villagers that help from outside is needed, as the processes are perceived as too complicated, so people are waiting. Again the translator spoke to the community, which he summarised in English as follows:

"So I was just trying to tell them that we've been here now for the third time. They have not shown anything. You are just sitting there, yeah. You are not, you are not showing any action, not even showing that even your land is going. You are just silent sitting there. I just challenge them. I tell them we have been here for the last two months. The Upepo people just organise themselves in two weeks time when we are there and they have taken their views, Have met the governor. They met the county Commissioner. They have taken all their views to concern authority and you people, you are still sitting. How can we help you guys when you're just sitting? We can't awaken you if you can't awake."[19]

People got agitated and questioned other villagers about their reasonings not to mobilise thus far and why they were waiting for others to save them. It is up to the community to work for their future, and when they are mobilised, outside support can come. The translator confirmed that he could connect the community to organisations once they have decided on their path and formed an unionised front. This unionised front is essential for the villagers and their community land claims, making them robust against attempts to buy land and support. Villagers expressed their interest in forming a committee to organise community meetings and become mobilised against military encroachment.[20]

The story of an invisible village against a cartel

During the research stay in Isiolo, I was fortunate to meet and build a relationship with the villagers of the small village of Upepo, located 40 kilometres from town. When I first visited the village with the translator, we joined a community information session with another local activist where there also was space to ask some initial questions. The villagers shared how they discovered their land was illegally demarcated by a cartel and registered in October 2022, and title deeds were divided without the community's consent. Cartels are organised groups within communities, often supported by influential people, who work to convince community members to sell their land to them so that they can resell it for profit to outsiders. If community members do not cooperate, the cartels seek to influence the registration process in their favour and excluding the community members from receiving their title deeds. There is not one

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[19] Field notes, 23-3-2023.
[20] Field notes, 23-3-2023.

specific cartel in Isiolo, but rather dynamic groups of people with powerful connections working in their own interests. The current demarcation would make them homeless without a place to go, so the villagers were looking to revoke it. The community had written petitions to the county government to stop being driven from their land because this cartel sold their land without their knowledge. However, in February 2023, they received no responses. The local activist promised the community that he would connect them to a Kenyan NGO that could aid them in resolving their problems.[21]

A few weeks later, I had the opportunity to join the three mamas who represent the village in this conflict during a training session in town organised by the NGO. Here, the goal was to inform the mamas on how to fight against the demarcation and inform them of their rights as citizens, of which they had minimal knowledge. This served as a classic example of creating an awareness of procedural rights within the community. The Elements discussed were the departments and the different levels of the Kenyan government and who was responsible for what. The most crucial part to be learned in this training was learning what offices to go to with the demarcation problem so that the village could be less reliant on their representatives that so far had not helped much in resolving the problem, creating one less bureaucratic layer where the issue could get 'stuck.'

When speaking with the mamas, they shared that one of the more vocal villagers during the last meeting and their co-leaders were working with the cartel and turning villagers against one another. They dropped her from their group, who pulled the cart in the revoking process. This issue made it even more apparent to them that they had to be more careful with sharing information, preventing it from ending up in the cartels' hands.[22]

Soon after, the NGO and local activists organised a community meeting to discuss the issue of the demarcation of Upepo village and the next possible steps. Educating the villagers to arm them against the divide-and-conquer tactics of the cartel was at the centre of the meeting, while also offering space for community members to share their views and emotions on the issue. It became painstakingly clear how emotional the topic of land is for people, especially as many people highlighted that they have nowhere else to go if they are being driven from their land and risk becoming an internally displaced person (IDP). People shared their feelings of not being seen and heard and how it impacts their daily lives in the village, and they fear building up any economic activities as they can be taken away at any moment. In the community meeting, the people still unaware of or on the fence about revoking the demarcation were made

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[21] Field notes, 13-2-2023, 14.00.
[22] Field notes, 1-3-2023, 10.00-15.00.

aware of the importance and the enormous impact it would have on their realities: "This is a wakeup call for us to come to action, are we ready? If we can't do anything now the Upepo community will become squatters."[23] It was then decided that the only way forward to being heard was to hold a demonstration by the community, supported by the NGO. The NGO offered their support in creating the petition, aiding in gathering signatures and ensuring the documents would all be handed over correctly.[24]

On a last-minute basis, we joined the mamas and the NGO again a few days later when they handed over the demonstration notice and petition to the local police office and county government. At the county, handing over the documents was complex and slow. Three separate offices had to be visited: the county government, council and constituency office. At these offices, the mamas were sent to different desks multiple times to hand over the documents and receive stamped receipts, as the stamps were 'lost' in all three offices. The mamas persevered and were willing to wait as long as was necessary to receive the stamped receipts, as this would be their only proof of handing over the petition. It must be noted that in two out of three offices, when I stuck my head around the corner as the last person in the group, often waiting out of sight of the office worker, the process sped up rather quickly, and stamps could be found. It can not be said for sure whether it might just be that I came in at the right time or that my being there had an impact on the situation, but it did seem that way, and one of the mamas noted that it was 'helpful' that I was there that day. However, in the end, all documents were received in good order, the police chief approved the demonstration, and the demonstration was good to go.[25]

On the day of the demonstration, we joined the community that had started walking from Upepo at 5:00 a.m. in Central, where we were free to follow along during the demonstration. The intention was to meet the Member of the County Assembly of Isiolo (MCA), who represents Ngaremara Ward, at the ward offices, but no one was there. The villagers were not surprised as this fit in the pattern of the MCA being difficult to contact and fed their suspicions that he does not work for the community's interests. The walk continued to town, and the demonstration attracted quite some attention. People stopped to ask about the cause of the demonstration, and when the villagers mentioned Upepo village, almost no one had heard of the village or the demarcation before. This reconfirmed for the villagers the need for the demonstration to improve the issue's visibility. To the delight of the protesters, they

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[23] Field notes, 8-3-2023, 11.00.
[24] Field notes, 8-3-2023, 11.00-15.00.
[25] Field notes, 17-3-2023, 10.00-12.00

caught the governor in front of the Isiolo County Assembly. He heard the villagers, received the petition and requested an inquiry and formal response from the Ardhi House officials in 14 days. This would be the first formal acknowledgement of the Ardhi House of the petitions. A registrar at Ardhi House also received the petition. When leaving Ardhi House, several cartel members walked into the building to try to find out what was happening. The villagers seemed happy to have the upper hand over them for the first time and to show their strength as a community. The petition was handed over at several of Isiolo's government offices, and a case was opened at the Ethics and Anti-Corruption Committee against the role of Ardhi House in the demarcation of Upepo. When the villagers were preparing to return to Upepo, the MCA's assistant arrived and tried to hand the community money to let the demarcation rest without further demonstrations. The governor questioned the MCA why he had not brought the issue to the county and now came into action due to this pressure. The community refused the money and demanded a village meeting with the MCA to discuss the demarcation and the county's role. So far, this meeting has not happened.[26]

It was possible to discuss the MCA's view during an interview after the demonstration, which took many attempts to organise. During the demonstration, I was informed by villagers and the translator that they had seen the MCA at the Isiolo County Assembly ducking into his car when the villagers handed over the petition to the governor. When asked about it, the MCA shared that he was not in Isiolo on the demonstration day and could not meet with the villagers. According to him, he had other obligations somewhere else in the county, unfortunately, but he would have liked to be there on the day to support the effort. He proclaimed himself a supporter of the cause and was against the demarcation. These statements go directly against the ones made by the villagers who saw him on the day of the demonstration and the appearance of the assistant with the money. Interestingly, the MCA did not seem to recognise me while I was there on the day of the demonstration, which makes me believe that he thought I did not know me being there to witness the demonstration and his assistant's appearance. This might be why he felt it was possible to share his version of the truth with me and be more open, due to his regarding me as an outsider with limited knowledge, possibly seeing space to influence the research. However, this is pure speculation, and after discussing the issue with the translator when the interview ended, we both were unsure whether the MCA believed his own story or if he deliberately shared differing facts to change my perspective on him. A national representative was also questioned on his stance regarding the demonstration of the village. He

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[26] Field notes, 22-3-2023, 8.00-15.00.

claimed to be against the demonstrations, as, according to him, demonstrating ends all dialogue and takes the cases to an "extreme." This stance was surprising, but when I finished the interview, the translator informed me of the rumours that this representative was behind the cartels in the ward that made the demarcation. There might be fear of losing power and profit in the area if the village is to receive more support and recognition due to the demonstration.

Before leaving, I revisited the village to speak with the mamas about the developments since the demonstration and see how the village was changing. When we arrived, we first visited the new stone quarry in the village, gifted by a community friend. The day we visited was the first official day of operations starting, and they were expecting their first buyers soon. The villagers shared that all profits from the quarry are to return to the Upepo women's organisation to help the community by building a dispensary and paying the kids' school fees. The mamas also expressed the positive effect of the demonstration in the sense that the village has become more visible, as the Red Cross visited the village for the first time the previous week to establish drought relief and healthcare services. The county had given the go-ahead to the Red Cross as they realised the neighbouring village took all services without disseminating them to Upepo. Another result of the demonstration was that the community had shown the cartel that they are a united front that is not afraid to speak out against injustices. As shared via the translator: "They're saying they have seen that there is a big milestone because the cartels now are in fear since the demonstration. Yeah, they see that there is something happening. And they are in big fear. And they [read: the cartels] are trying to intimidate them, telling them that that demonstration you've done it'll go nowhere. Yeah. They just want to create that fear on them so that they can't demonstrate maybe again."[27] For now, the cartel has backed off in actively approaching community members for land, due to fear themselves of the effect the demonstration might have had. The cartels have attempted to open up a dialogue with the villagers to regain their higher position in the demarcation issue. The cartel still has local government officials' support, but their position has become more precarious with the community uniting. The villagers so far have refused to engage with the cartel and are focusing on getting their voices heard. When speaking with the mamas, they shared that while they had not received a response from the county government regarding their petition, they were hopeful it might still come as the governor was involved, they felt honoured he accepted the petition. They had little trust in the land officials in Ardhi House, due to it being more likely for them to be involved in the illegal demarcation but hoped the response might come after the Ramadan

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[27] Field notes, 5-4-2023, 10.00-11.00.

month. Up to June, there has been no official response from the land office. Just before leaving Upepo, the first buyer of stones from the stone quarry called one of the mamas, bringing excitement to the village. She called the men running the machinery, who rushed to the village centre to meet up with the buyers and take them to the quarry. The excitement and hope of slowly being seen and opportunities for a better future in the village could be felt.[28]

Since leaving, I have received a final update on the villagers from the translator, and they are currently still fighting against the cartel that is trying to 'brainwash' the villagers into reconciliation and acceptance of the demarcation. Local activists and the NGO support the community by informing them of their rights and uniting them on the issue. In May, the mamas travelled to Nairobi to meet with the cabinet secretary and permanent Secretary of Land in Kenya to try to get the government to revoke the demarcation as it currently is. I have been told that if the government does not revoke the title deeds as they are now and does not uphold the community's wishes, the next step is for the community to look for a court injunction and start a legal battle.[29]

Boundary issues

Another issue that arose when interviewing communities was the need for more clarity of county borders, especially for villages in the border areas. Isiolo County is quite irregularly shaped, where Isiolo Town is located on the edge of the thinner area of the county, directly bordering Meru County, and many villages in Ngaremara ward are located around the main road (A2, see figure 3). The boundaries of the counties go back and forth over the road, ensuring that the surrounding villages and areas of the town are, therefore situated in the border areas. This means that besides the military threat, the communities face boundary issues and border disputes are also challenges. Villages often fall within one or the other county depending on the claim per county, leading to confusion.

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[28] Field notes, 5-4-2023, 10.00-11.00.
[29] Whatsapp communication, 4-5-2023 and 15-5-2023.

Figure 4: Satellite screenshot from Google Maps 2023. Isiolo County borders, red emphasis added by author.

The earlier discussed village of Vumbi is one of these villages. They are located directly on the border between Isiolo County and Meru County and receive conflicting messages from both governments. On the one hand, villagers vote in and for Isiolo County in election periods. They can influence politics in the Isiolo County government and have a say in the election of the MCA of the Ngaremara Ward. The villagers are economically focused on Isiolo County as they go to the shops in Ngaremara Ward and sell their livestock in the Isiolo market. On the other hand, when issues arise, they are sent to Meru County for resolution. One example of this is police services. When the villagers need help, they have attempted to go to Isiolo for assistance but have been sent to Meru County. Also, the school located near the village and run by an NGO is registered in Meru County, not Isiolo County. According to the school, this was done due to the counties not having a clear definition of the county boundaries, so they decided to profit from whichever county had a better bureaucratic system in teacher registration, which turned out to be Meru County.

These examples showcase the unclarity and confusing situation that villagers find themselves in, directly affecting registration. As villagers are still determining to which county they belong, it is also unclear where they can register their land. Besides this general unclarity,

the counties have not proven helpful. Whenever the villagers prefer one county over the other to register their land in, the other protests, using the unclear borders. For villagers, it is unclear why the counties are unwilling to resolve the issues, and they hope to receive some clarification soon.[30] When discussing the boundary issues with a local working for a land-focused NGO, he shared that the issue was not just a county versus county situation. The counties have also blocked previous attempts from the national government for clarification, making the situation even more difficult for villagers.

> Local: "When we talk about boundary issues, first, when we talk about registration, there's [*sic*] several factors that has been entering that registration. … You know that for you to register land, the size must be known, the neighbours must be known, and the border must be known. Exactly where is it? Where's it start? For instance, for me, Isiolo says it starts here and then Meru says it starts here. Yeah, so that becomes really difficult for me to register."

> "So then you don't know which county you actually have to go to."

> Local: "Exactly. Exactly. So that besides, besides even the interference of the government, the national and county government [interfere]. The boundary issue is not across the county. We have a border issue with Meru. … But there was a time that the county government went [*sic*] to court, … people were confused that county government went to court on boundary issue. No, the reason why the county government went to court was this task force which the national government established to look into that boundary issue. So county government went to court to contest the legality of that task force."

> "Stopping the solving of the issue?"

> Local: "Exactly. So the task force was stopped. After the force was stopped the boundary remain [*sic*] intact as it is, without no one touching it. Yes."

> "Why? Do you have any idea why the county has no interest in fixing the issue?"

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[30] Field notes, 6-3-2023.

Local: "When they went to court by then and the task force was stopped, they were not who were served [and interests listened to] as some entities like Inspector General Police, speaker of National Assembly, speaker of the Senate, chairman of National Land Commission. Those are the entities to be served for the process to commence. And unfortunately, within this situation four to three months, election happened, new leadership came in. You know, whenever new leadership came in, now this one sees that one as a legacy of the other one and doesn't continue [their policies], especially when they're not in the good term [*sic*]. So that's how the whole thing dies."[31]

This conversation showcases the political nature of boundary issues and the difficulties in creating any progress on resolving the issues. The land has become a playing field to showcase one's power towards their voters' base, making officials less likely to want to find common ground for resolving the issue. Personal gains become intertwined with community land registration politics, shifting the focus away from the at-risk communities. As long as the boundaries are unclear, villagers must still figure out where to register their (community) land and stay vulnerable to outsiders taking it.

When discussing different villages and their situations with people, Central was often pointed at as one of the areas that had received title deeds despite facing boundary issues. Surrounding villages were unsure why this area had received title deeds while others did not, so interviews were conducted to understand the progress and why the results differed from the other villages. During a consultative forum on community land registration in Isiolo County, the region of Central was praised by the national and county government representatives as a successful pilot, building a framework for land registration for the rest of the country.[32]

Arriving in Central, we met two mamas, happy to share their stories on land registration and handing out title deeds in the area. It must be noted that both these women are facing issues with their land, and this might bias their view against the process the county is undertaking. People without disputed land demarcation or who received their title deeds were unavailable for interviews. Quickly it became clear that the main difference between other areas and this village is that there are no community land claims in Central. Due to this, the registration process is more straightforward. The pilot was done in 2021, with the simple focus being registering private land and handing out title deeds. However, this lack of community land

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[31] Field notes, 14-3-2023, 10.00, interview.
[32] Field notes, 23-2-2023, 11.00. *Consultative forum on community land registration in Isiolo County*

registration was not due to a communal decision not to allocate village areas for community land. The mamas share that the previous MCA of the ward denied attempts at community land allocation and registration. According to one mama, this was done so that the land ownership was more split up and, therefore more individual plots where citizens could be divided and convinced to sell their land through the cartels.[33] Multiple villagers have mentioned this before since, for the cartels, it is easier to convince one person or family to sell their land to them rather than a whole community. They prefer communities not to register their land as community land.[34]

One mama shared that her land was demarcated and numbered in 2021, but she had not received her title deed. When she went to Isiolo town to discuss her case at Ardhi House, she learned that another person also claimed her land, the then chief, who denied community land registration. The case is currently in the land court and expected to be heard later in the year. The mama said that her problem with duplication of demarcation is not the only one in the area and that more people are being blocked from gaining their title deeds due to this duplication conflict. Politics and nepotism are the main reasons for these duplication conflicts and lack of resolution. One of the village chiefs is one of the main issues in the disputes, as she is the daughter of the former MCA, giving her a leg up in receiving information and legal support. The mama is waiting for the new chief officers of Isiolo County to be appointed and for them to put their attention on the case. She is confident that the issue will be resolved as the former MCA lost power in the last elections, so there will be less support for the chief. The majority of the community supports the mama in her case and recognises her ownership of the land.[35] While this interview with the mamas showed some of the issues Central still faces, it did not explain much yet how the boundary issues played a role in handing out title deeds. This was mainly because these two mamas were located on the side of the village that was not on the border with Meru County. While this made them lucky regarding issues with the boundaries, they already had other issues to deal with now. A person in the village willing to be interviewed was a local hairdresser who was seeing issues with her title deeds and boundary issues.

Her land was demarcated in 2021, but she had not yet received her title deed, similar to the mama. She suspects that it is due to political interference by the previous MCA, as she was not a supporter and did not vote for him. Others who supported him and lived on the other plots around her land have received their title deeds. She also suspects the unclear county boundaries

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[33] Field notes, 6-3-2023, midday.
[34] Burat women and Ngaremara mamas.
[35] Field notes, 6-3-2023, midday.

slow down her gaining her title deeds as she lives right along the border. She also does not know what county her land actually belongs to but prefers Isiolo, as that is where her business is located. Due to her land being demarcated by Isiolo back in 2021, it would be logical if her land would get registered there too, but when asked, she had no insights into that or whether there are duplicated claims. She hopes the new MCA will help resolve the issue, as she lacks knowledge of the registration process and depends entirely on leaders for information, having no resources to start up legal procedures. Still, there has been no contact on the topic yet from the county to her. This lack of title deeds leaves the hairdresser in great insecurity as she fears that someone will one day show up and claim her land, leaving her and her children homeless. She also fears that if something were to happen to her, the lack of a title deed means that her children have no proof of ownership and have no place to go.[36]

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[36] Field notes, 6-3-2023, around 16.00.

Isiolo County Government

Looking at the previous chapter that outlines the main challenges the Turkana community faces concerning community land registration, it becomes visible that politics significantly impact all three. Local politics is especially intertwined with the issues surrounding community land registration due to Kenya's government devolution since the new government system with the new constitution of 2010. An activist *Mzee* mentioned in the previous chapter highlighted this devolution of politics. The devolution of responsibilities of government from the national level to the county led to a new government system where the counties gained more power and control. According to the Mzee, one of the significant downsides was that "the devolution of government led to the devolution of corruption."[37] On top of this, land is an even more difficult governing topic due to the conflicting interests and values it can hold. The *Mzee* blames this on the case that land is one of the few instances where the government is not entirely devolved to the county. The national government holds interest and control in land, especially in registration, most likely so politicians can still profit off the land. This can be seen when discussing land and registration with various government officials mixed between national and county officials. Ardhi House, where all demarcations, registrations and title deeds are handled, is a mixture of both types of officials. For example, the county registrar and county minister of land positions are nationally appointed, while the demarcation officers are appointed by the county chief officer who handles land. The role of the county registrar has been challenging to fill in the last few years, with the current registrar only being in the position for several months during the research period.

The relationship between national and county governments and their respective officials can be called neutral at best, but it must be clarified. When observing a consultative forum on community land registration in Isiolo County, it was interesting to watch the interrelations between the different representatives of different levels of government representation. This consultative forum was organised to inform and include citizens of Isiolo about the community land registration the county plans to take in the upcoming period and the implementation of the CLA, rumoured to be organised after questions were asked at the national level about the lack of inclusion of citizens in the process. Very quickly, activists who participated in the forum pointed out that the platform is a situation of 'saving face' for the county and national

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[37] Field notes, 27-02-2023, 17.00.

government as they had gotten questions about the slow process of community land registration in the country. So, the meeting was quickly put together to respond to the inquiries. The activists felt that the government was too busy saving face, as the invitation list for the forum was very limited, and the communities were not included. One older activist, in particular, got angry with the county government as he had to gate-crash the meeting to gain information, despite his status in the community. He accused the government of not wanting the communities and civil society organisations without direct and positive government links to be involved.

When these accusations were made to the government officials and questions that were more critical, the officials were quick to point at one another as to why the registration process was taking a long time to start. The officials from the national government point out that community land is a devolved responsibility of the county now and that national is waiting to receive the finished demarcations. Even their 'own' are unsafe here as they also focus on the nationally appointed county registrar. They point out why the communication is slow and unclear because he is almost always unavailable for inquiries. When the registrar gets up to the stage to present his work, the focus is away from the contents and turns towards him, defending himself and his work. The discussion on community land registration grinds to a halt, and personal relations and status take the foreground. A similar happens when one of the invited civil society organisations is somewhat critical of the appeal process and points out the slow processing. The focus is not on discussing possible solutions and resolving the issue but on blaming other officials for the delay and no responsibility taken.

What was most surprising during the consultative forum was the promise by the national government that compensation would be available for people whose land was sold and taken by the government. The compensation is not necessarily the main issue here. The problem is how the compensation scheme was presented. A national minister explained that the county government would handle the compensations and that those with title deeds would receive the payment. For those that will not have title deeds, the money will be given to the county, and the county will then later hand out the compensation money once the title deed is issued. When one thinks about it, this reads as a too bureaucratic process, with the indirectness of the compensation creating inefficiencies. These inefficiencies are where money can get stuck and, without transparency, possibly get lost and never reach the intended receiver. Also, having the county 'hold' the money does not incentivise the county to hand out title deeds to citizens, as they would have both the money and the possibility to profit from the unclear registration situation. The non-government workers in the room seemed very discontent with the announced

compensation scheme. There was, however, no space to discuss the topic further. Similarly, the impact of the military presence in and around Isiolo town was also not up for debate.

These types of meetings and solutions proposed by the government create a distance between citizens and politicians. The real challenges the communities face should be discussed, and solutions should be found. The government is looking forward to the new developments highlighted in Kenya's different development plans for the region, mainly Kenya Vision 2030, rather than the issues now. Four projects that are part of the forward-facing approach by the county are within the greater LAPSSET project: the Isiolo airport, new roads to the coast, the proposed building of a resort city and the almost finished local abattoir. These projects aim to bring production and more tourism to the country's northern region, creating more local jobs. Officials showed great enthusiasm for the projects,[38] whereas locals were unsure about the benefits they could bring them and showed a lack of interest. Villagers were mainly indifferent due to being affected little by the plans. Only those at risk of losing land to the projects were more interested. When asking community members if they knew of the exact location of the new road that is expected to be built as part of LAPSSET to better transport to the coast and the location of the new 'resort city', all pointed to different areas, and all said that every few months the sites change. This constantly evolving location makes it difficult for villages to anticipate the future.[39]

Going back to the topic of community land registration and the issues the communities face regarding the Isiolo County government, the main issues that come up are surrounding the subjects of political support, fair dissemination of information and accessibility. One crucial element is the need for more information to be shared with the communities on the registration process, especially one as marginalised as the Turkana. The bureaucracy and paperwork can be complicated for communities to decipher, and before that, they possibly have to resolve issues with military claims, illegal demarcation and boundary issues. If those are either not issues or are resolved, the next step is making the claims with Ardhi House and going into that process. I was fortunate to meet with a local official willing to explain the process, but having to be transparent, it took much work to follow how the process worked. Claiming private land and community land requires different processes. Still, there must be freehold ownership of the land, which means there is absolute title ownership, with no government leases that must be paid. To register a claim, officers from Ardhi House come to the area to adjudicate the ground

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[38] Field notes, 27-2-2023.
[39] Field notes, 9-2-2023.

and measure out an official demarcation of the land. This is then published at Ardhi house to give people time to appeal the land claim. If no appeals exist, the registrar prepares the title certificate on the national government's behalf and is handed out to the land owner. If there are appeals, the legal procedures start, and lengthy court cases occur.[40] One of the main issues that Isiolo has compared to the other counties concerning land registration, according to the official, is the cosmopolitan character of the area. He said that the many different communities and tribes make the ward structure of Isiolo complex compared to other counties. This might be one reason why national officials do not desire the position of the Isiolo County registrar. As an outsider, it can be complicated to understand the intricacies of Isiolo's social structure and how all communities live amongst one another. The official compared the Isiolo ward structure with the more coastal counties where the wards are more strictly divided amongst the communities. "The wards fit the tribes."[41] Since this is not the case in Isiolo in general, he finds land ownership in Isiolo much more challenging to attain. The more mixed living of communities in Isiolo can be traced back to the lesser colonial influence, dividing communities up to colonial control. As Isiolo was left to grow more naturally, this likely influenced the mixing. A community such as the Turkana could more easily live among other communities for whom they provided labour. However, the Ngaremara Ward, having a 98% Turkana majority[42] and still facing registration issues, goes against this theory. It could be that the more recent moving of communities has influenced the demographic makeup of the ward. Still, a good case can be made that it is not the communities that drive the issues with registration but instead, politicians moving the focus for their profit.

The Community Land Act of 2016 was created to fill the gap that previous legislation left concerning Kenya's pastoralist and hunter-gatherer communities. According to the local official, much sensitisation is still needed on the act, but it takes much time. Even longer when not all officials are as well informed and different information is shared with communities, creating misunderstandings. Besides, much political goodwill and financial support by politicians is needed for the act to succeed. The official points out that Ardhi House works with limited resources, making it difficult to disseminate the information while doing their daily work. He specifically names the lack of vested interest and competing interests between leaders working for their gain.[43] This sentiment that the official shares is supported by the research

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[40] Field notes, 24-2-2023 and 27-2-2023.
[41] Field notes, 27-2-2023, 9.30.
[42] Field notes, 7-2-2023. Interview with the Ngaremara Ward principal administrator.
[43] Field notes, 27-2-2023.

done by Wiley (2018) on the effects of the CLA. In her study, she explicitly highlights the lack of political attention on the CLA as there is not enough to be gained from supporting it.

On the topic of dissemination of information, there are some structural issues where information is not reaching the communities as the government promises it does. In general, officials overestimate the effectiveness of the programmes and systems they have set up to disseminate information to people. Whether this is due to a general lack of knowledge leading to uninformed decision-making concerning dissemination or intentional is up for debate. Speaking to the officials, most of them seemed convinced that their way of sharing the information was correct and that it would reach all citizens as intended. One county official shares the 'land clinics' programme through which they share information about the CLA with the communities. "Just tell them we come to a given place, the surveyor of physical planning go there, and they tell."[44] While this effort is good, it immediately showcases the inaccessibility for people located further away and having difficulty organising transport and coming to the clinics. Besides this shared example, I observed some cases where officials were convinced that all those interested in learning more about the community land registration process could join or had received the information. I observed that this was not the case in reality. One example of this is the earlier mentioned Consultative forum on community land registration in Isiolo County that the national and county government organised, having a limited invitation list and, according to some activists, attempting only to involve the local civil society organisations that are less critical of the government. Some activists who could join rightfully raised the issue with the government, who promised that the information discussed in the forum would be shared with further meetings.[45] As far as I know, these were not organised during the research period.

Finally, in March, the Community Integrated Development Programme (CIDP) meetings took place in all wards of Isiolo County. Here, the communities would have input in the development programme for their ward for the upcoming five years. The aim is to have all villages represented so that the county receives complete information and the villages receive the information from the county. Topics such as education, healthcare and land are discussed here, all important to the communities living in the ward. During the meeting, I noticed missing members from two villages I worked with. Due to their location in the ward, these villages are easily the most information-deprived and face many issues, as showcased in the previous

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[44] Field notes, 22-2-2023.
[45] Field notes, 23-2-2023.

chapter.[46] This is worrying as this means that their problems go unheard, and their needs are unmet in the development plan created by and for the ward. When asked about it later, community members shared that they had not heard of the meeting in time and could not organise themselves to join. Officially, the information for such a meeting has to be made available to the public fourteen days before the meeting so that people can prepare. This was not done this time.[47]

The government officials are not easy to trust in the eyes of the citizens of Isiolo. One of the main problems communities name when discussing the government is the lack of accessibility to representatives, leading to believing that politicians do not work for the good of the communities. One extreme example is a villager off-handedly mentioning that some officials tend to switch out SIM cards in their phones, so the communities can not reach their phone numbers if they want to contact the official. "They don't take our phone."[48] This example showcases the difficulty of the way communication between representatives and communities is set up. Politics is very personal in Isiolo, with almost everyone knowing their representatives personally, and the systemic structure almost wholly depending on the official. No set communication systems are in place, so people have to reach out personally to their representatives. This can have positives because the representative is well informed on issues to bring to the county. Still, it also can be overwhelming, which might lead to representatives hiding from their constituents. I was fortunate to be invited to visit a village in the central region of Isiolo county with officials from Ardhi House and several MCA, and while in the car, I witnessed how one of the MCA was receiving many messages from his constituents concerning a broken water borehole in his constituency. After attempting to attend to these messages, he clearly became overwhelmed and turned his phone off, becoming inaccessible to the people messaging him. When we arrived back in Isiolo, he also made sure not to be seen by any people. While it can be understood that he could not attend to all messages at a certain level, completely ignoring the people reaching out to you as the only person they know who can resolve the issue does not seem like the correct solution. It can also be assumed that these messages have not gone to anyone else in the county, and other people would not be aware of the situation if he is not to attend to the issue.

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[46] Field notes, 2-3-2023.
[47] Field notes, 3-3-2023, 14.00.
[48] Field notes, 23-3-2023.

For the villagers, situations like this, where an official is suddenly unavailable when an issue, make their distrust in politics grow. In every village visited, people voice being disillusioned with politics, especially after the hope the Turkana had since the last elections in 2022 that something might change for the communities by having Turkana representatives. Community members and officials alike hoped that having stronger and visible Turkana presence in government, the targeting of Turkana communities in land grabbing cases would lessen.[49]

Eight months since the elections, many say nothing has changed and that voting and electing officials have no impact on access to politicians and their resources. A youth representative in one of the villages that are seeing military issues summarises the situation as follows: "But the community have now come to realise slowly: these guys and these leaders are misleading us, yeah. Yeah, they just there for our votes. … So, okay, even in the last in the last election, some of the community from this village decided not to vote. They protested.
Even him he didn't vote because he's asking what am I voting for? Maybe for those for those who voted, maybe they're relatives of the MCA, or they have been given money. That's why they are voting."[50]

The distance between politicians and communities is a risk for the communities as it creates a space of lack of transparency and accountability for politicians, leaving more room for people to act in their own interests rather than the communities. Especially with a topic such as community land registration, where many communities depend on the information they receive from their representatives, it can create a very unbalanced relationship. Communities do not know whom to trust and if the information they receive is correct and complete, leaving the land claims they can make at risk of being deemed incorrect or incomplete by the registrar at Ardhi House, leaving them and their land vulnerable to further problems.

Finally, the growing distrust in politicians and the democratic system can lead to even further issues that should be addressed nationally. People question the good their voting does and whether it is effective. Some even start completely disconnecting and will not vote in the next elections.[51] It is essential for Kenya as a country that these issues are to be addressed before this becomes a more significant issue and the Kenyan democratic system declines.

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[49] Field notes, 2-3-2023, 16.00. Interview with Isiolo Deputy Governor.
[50] Field notes, 6-3-2023.
[51] Field notes, 6-3-2023 and 6-3-2023.

Conclusion

To conclude the research, an overview of the main conclusions of the results will be given to answer the central question of: What challenges does a minority community such as the Turkana face when working to gain community land registration in and around Isiolo, Kenya? Finally, some recommendations will be made for further research and policy development on the topic.

The research was conducted in early 2023 in and around Isiolo town with interviews with Turkana community members in several villages, local activists, and county government officials. It is a historically marginalised region that, with the new economic focus of the national Kenyan government, has gained more interest in the past few years. Multiple economic projects have been launched in the area, leading to more interest in the development of the area and competition for scarce land. Therefore, It is important for communities to register their land and receive title deeds.

Registration has proven difficult for a pastoralist minority community such as the Turkana due to several issues they face. First, they face the military in competing land claims. Due to the area being of strategic location, the military has had a significant presence since the 1980s through training bases. These bases led to the displacement of Turkana communities, and now the bases are looking to expand again, putting communities at risk of displacement again. Due to limited land registration, the villages are left vulnerable, and with the national government supporting the military, dubiously required title deeds are acquired by the military. The Turkana community is working on halting the evictions through court cases against the KDF to assert their ownership rights and register their land. However, legal proceedings are challenging due to limited legal knowledge, distance to courts, and high lawyer costs. Local officials, often connected to the KDF, do not support the community in these proceedings.

Another challenge to registration for the Turkana is of boundary issues. Due to the geographical location of Isiolo town in Isiolo County, many areas of town and villages are on or over the border with Meru County. The boundary lines are unclear, leading to misunderstanding and confusion among villagers about where they belong. Although some villages are perceived as belonging to Meru County, residents vote in Isiolo County and receive services there. However, they are referred to Meru County for resolution when issues arise. This uncertainty of belonging negatively impacts land registration, as community members are unsure where to register their land claims but are required to register in their respective counties. This lack of clarity leaves community members vulnerable, and counties may block land

registration based on their perceived boundary line. The county governments are not actively working to resolve the unclarity.

A challenge the Turkana faces is that of the dynamic groups of land cartels that work to take their land. The cartels exploit the lack of community land registration in the Turkana community and attempt to register private lands without community involvement. They take advantage of the community's limited knowledge to persuade or coerce them into selling their plots. The cartels often receive support from more affluent individuals seeking personal gain. It is difficult for villages to work against these cartels, but with local NGOs' support, steps to recognise the issues can be taken.

Finally, the main issue the Turkana face in the community land registration process is the lack of political accountability and goodwill in local and national politics. In the 2022 elections, the community elected Turkana representatives in government to better represent their perspective. Community members expressed their initial hope for their voices to be heard and to end the political marginalisation. However, after eight months, doubts now arose as community members noticed the declining visibility and accessibility of politicians. This growing disillusionment has led to increased distrust in the democratic system, as community members perceive voting as ineffective. This lack of political accountability and disillusionment with politics exacerbates the land registration problems in Isiolo. Distrust towards local officials and their lack of visibility and accessibility hinder transparency and information dissemination. The growing gap between officials and the community makes it challenging for communities to hold their leaders accountable, particularly for those living further from town. Physical distance and mobility challenges further impact the accessibility of representatives. Some officials make efforts to evade constituents to avoid communication. This disconnect and lack of transparency put the community at risk of (preventable) land loss as the information about the community land registration process is not sufficiently shared.

Clearly, the Turkana community in Isiolo faces severe challenges that prevent them from quickly gaining community land registration. Therefore, the following recommendations have to be made for possible policy development to be of aid to the community. It is important for the Turkana and local organisations to demand increased community engagement, involvement and visibility of officials in addressing community land registration issues. This will create the space for communities to push for increased dissemination of information to them and arm the communities against people aiming to take their land. The increased visibility will then lead to better accountability and transparency of officials. Next, clarification of the

county boundaries is required to resolve the boundary issues. For this the county governments of Isiolo and Meru have to work together with the national government for a resolution with the goal of helping the community, not themselves, in mind. Communities and organisations have to hold the governments accountable in this. Finally, better legal support for communities has to be set up to support the Turkana community's legal proceedings to formalise land ownership, whether financially or otherwise.

Further research on the topic can be done by looking at the other communities in town and the specific interplay between them. There was only limited space for this type of research in the current research, but would be an interesting topic to gain more information on especially with cartels having quite an impact on the community land registration process. Other than the local research, it might be interesting to further research the national government's position in these debates and how their work impacts the working of county governments.

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