

CASE STUDY

Kenya: Community By-Laws Restoring Land, Securing Rights

OVERVIEW

Submitting Organization	World Vision https://www.wvi.org/kenya ; www.fmnrhub.com.au
Type of Grievance Mechanism	Non-State-Based mechanism
Level of Operation	Municipal, Community, and Multiple / Hybrid
Geographic Scope	Kenya / East Africa

SYNOPSIS

*This case study illustrates how **community by-laws in Kenya's drylands** provide a locally grounded framework for land management, dispute resolution, and restoration through Farmer Managed Natural Regeneration (FMNR). Designed to address tenure insecurity and resource conflicts, the mechanism combines customary and formal approaches to clarify rights, ensure fair access, and promote inclusive decision-making. Beyond resolving disputes, the by-laws strengthen community governance, prevent conflicts, and embed accountability in resource use. They have led to tangible outcomes—greater tree cover, fewer grazing disputes, and new livelihood opportunities—while reinforcing tenure security and collective stewardship of land.*

BACKGROUND

In Kenya's communal rangelands and semi-arid areas, conflicts over grazing, fuelwood, charcoal, sand, and water resources have accelerated land degradation, desertification, and drought impacts. Farmer Managed Natural Regeneration (FMNR) offers a practical, low-cost restoration approach that enables communities to rehabilitate even the driest and most marginal lands. It involves the systematic selection, pruning, and management of existing tree stumps and wild seedlings to regenerate native vegetation. Successful implementation depends on community consensus and cooperation in protecting and managing these trees. However, unclear land tenure and uncertainty over access to the benefits of restoration often discourage long-term community investment. The limited participation of women, youth, and minority groups in decision-making and benefit-sharing further weakens collective engagement.

MECHANISM

To address this challenge, the use of **community by-laws** emerged as a practical response. These by-laws provide communities with greater security over land and tree tenure, define rights to access and benefit from restoration activities, and establish transparent mechanisms for resolving disputes. In

doing so, they create the confidence and enabling environment necessary for **community-led restoration efforts**, such as *FMNR*, to thrive and expand at scale.

Blueprint for Action: Foundational questions for FMNR By-laws

- *How will FMNR work be organised? (For example, as a cooperative, an association, through traditional management or on individuals' own land.)*
- *Who is included in the bylaw?*
- *Who gets to use the resources from regenerated trees?*
- *When and how can these resources be used?*
- *What are the responsibilities of different community members?*
- *How will FMNR work be protected from theft, fire, livestock or vandalism?*
- *What are the regulations around livestock grazing and grass harvesting?*
- *What are the consequences for not following the bylaws? Who enforces them?*
- *How will the community interact with government agencies and ministries?*

A range of institutions and stakeholders contributed to establishing and operationalizing the by-law mechanisms. These include traditional authorities and elders, affected communities and land users, Community Land Management Committees (CLMCs), Community Assemblies, county governments (notably in Turkana, Kitui, and Makueni), and national government agencies such as the Ministry of Lands and the Judiciary of Kenya. Development partners and NGOs, including CIFOR-ICRAF, the Ada Consortium, and Natural Justice.

Building on this collaborative foundation, the **implementation process** follows a structured, 12-month cycle that translates these partnerships into coordinated action on the ground.

Months 1–3: Foundation and Social Preparation

- Community engagement and social preparation to secure collective buy-in.
- Participatory mapping of land use and ecological zones.
- Drafting and registration of community by-laws, followed by formal adoption through Community Land Committees.
- Election of CLMC members and establishment of accessible alternative dispute resolution mechanisms.

Months 4–6: Capacity Building and Institutional Setup

- Zoning of settlements, grazing areas, FMNR zones, and riparian buffers.
- Delivery of FMNR training for community members and partner organizations.
- Creation of permit registers for regulated resource use.
- Baseline monitoring of ecological, livelihood, and governance indicators.

Months 7–12: Implementation, Incentives, and Oversight

- Enforcement of seasonal closures and sustainable management rules.
- Introduction of incentive schemes (e.g., micro-grants and benefit-sharing mechanisms) to promote stewardship.
- Conduct of social audits and public disclosure of outcomes.
- Periodic refinement of rules and procedures based on lessons learned.

Stakeholder Engagement

The process for establishing and using community by-laws combines structured community engagement, participatory planning, capacity building, and clearly defined steps for grievance resolution. Targeted engagement with women, youth, and marginalized groups was integral to ensuring representation in both governance and dispute resolution structures. These consultations helped shape rules that balance community commitment to restoration with equitable access to the resulting benefits, such as the regulated collection of firewood from pruned FMNR trees.

Policy, Legal, and Institutional Frameworks

The mechanism is underpinned by a strong **legal and policy framework**. The **Constitution of Kenya (Article 63)** and the **Community Land Act of 2016** provide a legal foundation for communities to establish by-laws that secure land and tree tenure, regulate natural resource use, and formalize dispute resolution. At the county level, supportive policies operationalize these provisions:

- In Turkana, local policy supports grazing and natural resource committees that integrate FMNR rules.
- In Kitui, the River Basin Sand Utilization and Conservation Act governs extraction, rehabilitation, and conflict resolution around riparian resources.
- In Makueni, the County Climate Change Fund (CCCCF) finances community-based climate actions, including FMNR enforcement and monitoring.

Evolution and Accessibility

Each by-law is locally tailored, the mechanisms differ by location and evolve over time. Communities retain the authority to modify and update their by-laws as needed, ensuring flexibility and continued relevance. The by-laws are accessible to all communities in Kenya, and their structure is designed to ensure equitable access for all affected stakeholders.

PROCESS

Within this framework, **the grievance management process** embedded in the by-laws typically proceeds as follows:

1. **Submission:** Community members raise grievances at the village or zonal level, often through elders or designated committees.
2. **Documentation:** Decisions and outcomes are recorded to ensure accountability.
3. **Escalation:** Unresolved cases move to the CLMC, which convenes inclusive panels ensuring gender and generational representation.
4. **Further escalation:** Complex cases may be referred to Alternative Justice Systems and, as a last resort, to the formal judicial system.
5. **Safeguards:** Clear timelines, fee waivers, and requirements for public record-keeping are mandated to ensure accessibility and transparency.

In terms of **governance**, the by-laws function through a **four-level dispute resolution structure**:

- **First level:** Community elders mediate local disputes, with outcomes documented for transparency.
- **Second level:** The CLMC addresses unresolved cases through inclusive panels that ensure participation of women and youth.

- **Third level:** The Alternative Justice System (AJIS) provides a restorative, community-based pathway recognized by national institutions.
- **Fourth level:** Formal litigation in Kenyan courts is reserved for cases beyond community resolution.

Fairness Through Layers: How Community By-Laws Resolve Land Conflicts

The dispute resolution framework established under these by-laws is multi-tiered, combining customary and formal mechanisms with clear escalation pathways that ensure continuity of remedy and fairness throughout the process.

Each community by-law establishes its own timelines for grievance resolution to promote timely and responsive outcomes. At the community level, most disputes are resolved within weeks or a few months. Financial and institutional support mechanisms differ across locations. During the development phase, assistance is often provided to facilitate inclusive participation and dialogue between community representatives and county authorities. Once operational, by-laws may include fines for violations but also provide fee waivers for vulnerable groups. Ongoing support from NGOs and county governments—together with micro-grants tied to restoration activities—helps maintain community engagement, equity, and long-term sustainability.

OUTCOMES

The community by-law approach has produced multiple outcomes across ecological, social, and governance dimensions.

Resolution and governance: Disputes over land use and resource access—especially grazing conflicts—have declined significantly. Communities report improved tenure security and increased trust in collective governance mechanisms.

Remedy and reform: Through the by-law framework, communities have created new resource management rules, established benefit-sharing arrangements, and developed restoration funds that channel revenues or fines into sustainable land-use initiatives.

Livelihood and environmental impacts: The restoration activities associated with the by-laws have increased tree cover, reduced the burden on women for fuelwood collection, and opened new income opportunities, including regulated sales of forest products and by-products.

The mechanism has proven effective not only in resolving existing disputes but also in **preventing future conflicts**. By providing clarity, transparency, and collectively agreed rules on how land and natural resources are to be used, by-laws reduce ambiguity and competition that typically trigger disputes. When all community members can access benefits equitably, incentives for overexploitation diminish, fostering long-term resource sustainability.

LESSONS LEARNED

Case Illustration Restoring Land and Strengthening Tenure: Community By-Laws and FMNR Driving Change in Turkana and Baringo

In **Turkana and Baringo Counties**, communities have successfully designated about **3,500 hectares** for FMNR and grazing reserves under registered by-laws. These frameworks regulate tree protection, grazing rotations, permit issuance, and alternative dispute resolution.

After two years of implementation, measurable outcomes include:

- A **35–60% increase** in live tree stems per hectare;
- A **40% reduction** in grazing-related disputes;
- A **25–40% decrease** in the time women spend collecting fuelwood; and
- The emergence of **new livelihood opportunities**, such as honey production and regulated fuelwood sales.

The **Nakukulas community** in Turkana, which registered its community land in November 2024, demonstrates how securing tenure can underpin effective FMNR enforcement and sustainable resource management. *Source: Natural Justice. 2025. The Nakukulas community in Kenya successfully register their community land [The Nakukulas community in Kenya successfully register their community land](#).*

Several **enabling conditions** have contributed to the success and durability of the mechanism:

- A **strong legal and policy framework**, particularly the Community Land Act, which legitimizes community by-laws and land management committees.
- **Leadership and legitimacy of traditional authorities**, whose endorsement helps secure compliance.
- **County government facilitation**, ensuring integration with local policies and financing mechanisms.
- **Community buy-in** through participatory design processes.
- **Annual audits and public reporting** that build transparency and accountability.
- **Support from NGOs and development partners**, which provides technical assistance and capacity building.

Despite these enablers, communities continue to face **challenges and barriers**, including:

- **Elite capture** and power asymmetries that can skew decision-making.
- **Limited awareness** of by-law provisions among marginalized groups.
- **Potential delays** in enforcement or escalation to higher levels.
- **Resource constraints** that limit monitoring and enforcement capacity.
- **Cross-boundary disputes** with neighbouring communities

To enhance effectiveness, stakeholders suggest several **improvement areas**:

- Strengthen **inclusivity**, particularly for women, youth, and minority groups, through enhanced participation in by-law drafting and enforcement.
- Expand **awareness and capacity-building initiatives** to ensure that all community members understand their rights and responsibilities.
- Improve **transparency** via real-time public reporting and digital registers of decisions and resource use.
- **Streamline escalation procedures** to reduce delays between levels of grievance handling.
- Integrate the by-law system more systematically with **national and county land administration systems** to reinforce formal recognition and sustainability.