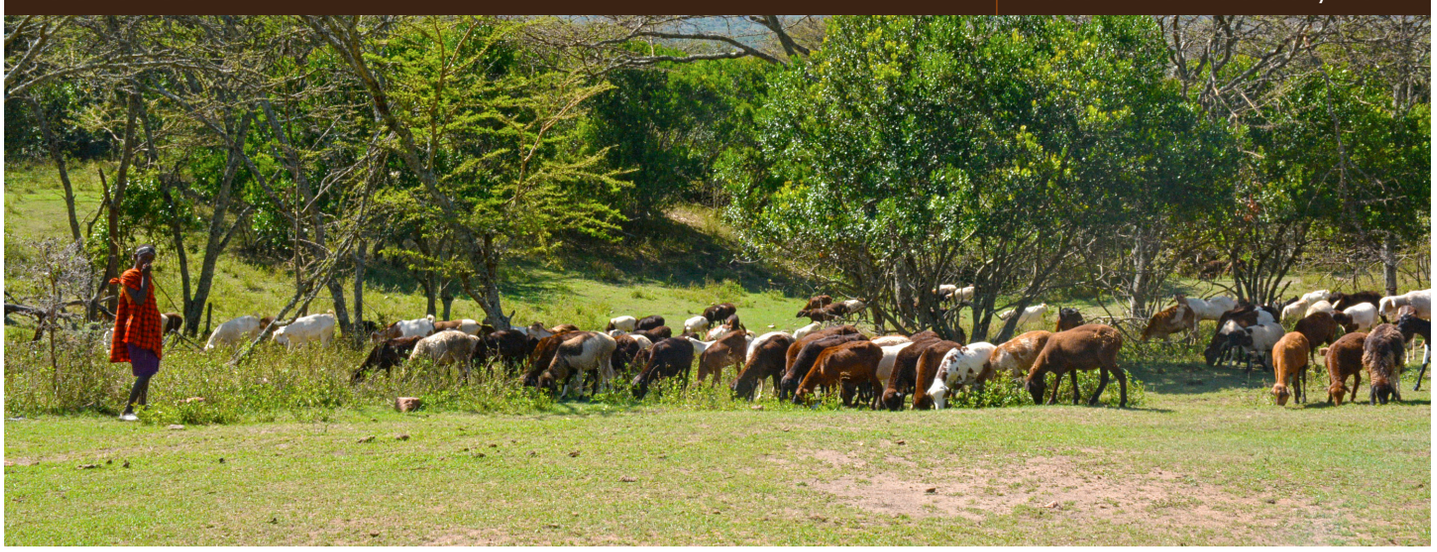
Land Rights for Kenya's Community Conservancies Strengthened

Community Land Act, 2016

Fact Sheet | **Issue Date:** February 2017



A local boy grazing in Olderkessi community conservancy in the Mara.

Central to the success of any conservation efforts is secure land rights. Conflict, dispossession, low investments and over-exploitation characterize community conservation initiatives under a weak land regime.

87 wildlife conservancies in Kenya occur on community land. This accounts for 65% of conservancies in the country and cover an area of 15 million acres. With two thirds of land in the country occurring on communally held land and with majority of wildlife being on these landscapes, the opportunity for growth of conservancies is immense.

Community conservancies occur on trust lands and group ranches. Under the trust lands regime, community land was held in trust by local governments. Absence of community decision making structures, uncertain land boundaries, unclear membership and lack of evidence of ownership presented a challenge in the sustainable management of land and natural

87 wildlife conservancies in Kenya occur on community land. This accounts for 65% of conservancies in the country and cover an area of 15 million acres.

USAID FROM THE AMERICAN PEOPLE

The Nature Conservancy
Protecting nature. Preserving life.

resources and a dis-incentive to investments.

The management of group ranches failed to create accountability for group ranch affairs, accorded group ranch members' weaker decision making power, excluded women and youth and allowed for illegal excision of group ranch land. Inequitable benefit sharing, elite capture, community conflicts and lengthy court battles waters down the ability of community conservancies to thrive. Subsequently, land sub-division, privatization and eventual sale or conversion to non-compatible land uses became a common occurrence.

The Community Land Act became effective on September 21st 2016 to repeal the Group (Land Representative) Act and the Trust Lands Act.

The Community Land Act became effective on September 21st 2016 to repeal the Group (Land Representative) Act and the Trust Lands Act. As envisaged under the Kenyan constitution, the Act confers stronger land rights, creates inclusive and community driven decision making and management structures, addresses past and developing land use issues and promote inclusion of the historically marginalized persons in land management including women and youth.

While the Community Land Act is a key development towards securing community land rights, gazetting of facilitative regulations to the Act, efficient and coordinated registration systems, and compliance by communities will determine future success of conservancies on community land.

Why is Community Land Act Important?

i. The community acquires absolute and indefeasible ownership or title to their land and can consequently challenge any illegal or unauthorized use or adverse interests on their land;

ii. A certificate of title, similar to that issued to private land owners, is given to the registered community in the name of the community. The Certificate of Title acts as conclusive evidence of ownership of land by the community;

iii. Registered communities acquire direct ownership and control of their lands without trusteeship arrangement through county governments or other third parties;

iv. Major decisions affecting title or rights on community land require a two thirds approval by the community assembly. such decisions include: transfer, sale, lease, investment agreements and conversion of community land to other

Procedure for Community Land Registration

1. **The cabinet secretary gazettes a comprehensive adjudication program and appoints an adjudication officer for each registration unit.**
2. **The Chief land registrar designates a community land registrar for each registration unit.**
3. **Members of a community express their interest on community land to the community land registrar for registration.**
4. **A community land management committee comprising of 7-15 members is elected by a community assembly.**
5. **The community land management committee submits to the registrar: community name, members' register, committee rules and its meeting minutes.**
6. **The cabinet secretary issues a 60 days' public notice of the community's intention to demarcate and register community land.**
7. **The community land is surveyed, demarcated and a map issued to registrar.**
8. **Community is issued with a certificate of reservation and upon registration, a certificate of title is issued as conclusive evidence of land ownership.**

tenure systems through special meeting convened for that purpose;

v. Communities may reserve special purpose areas for community conservation;

vi. Where community land is compulsorily acquired by either national or county government for public use, communities are entitled to just and prompt compensation;

vii. Prohibition of disposing unregistered community land.

viii. Customary law, culture, institutions and decision making processes recognized so long as they are not contrary to other written laws and Constitution.

ix. Alternative methods of resolving conflicts and disputes over community land including traditional methods encouraged.

x. Recognition of land leases as avenue to confer community land rights to third parties with requirement for commensurate compensation and empowers communities to cancel lease for failure to comply with its terms.

xi. Leases or agreements over community land entered before the commencement of the Act are still considered valid and operational.

xii. Use of community land is required to be guided by approved land use and grazing plans; where grazing plans can be legally enforced if contravened through a penalty of up-to Kshs 100,000/= or up-to 6 months' imprisonment.

xiii. A strong focus in natural resource management and requirement for sustainable, accountable and equitable benefit sharing.

xiv. Marginalized groups including women and youth accorded equal rights of management, use and benefit sharing of community land and its resources.

xv. Women of the age of majority and those married into a community are accorded automatic membership into community land.

xvi. Communities empowered to directly enter into investment agreements with investor over community land and can seek external technical guidance.



Community Land Act is a key development towards securing community land rights, gazetting of facilitative regulations to the Act, efficient and coordinated registration systems, and compliance by communities will determine future success of conservancies on community land.

John Kandie of Kiborgoch Community Conservancy pointing at Kiborgoch Community Land in Baringo County.



Giraffes roaming on community land in Magadi, Kajiado County.

Concerns on Implementation of Community Land Act

- Transition from the group ranch legal regime to Community Land Act interpreted by communities as duplication without clear benefits
- The multiple requirements for registration of community land may encourage group ranches that had initiated sub-division process before commencement of the Act to finalize privatization
- While annual update of the community land register is desirable, it is a logistic challenge
- Potential high cost of registering community land
- Potential conflicts in delineation of community land boundaries
- Loss of investment opportunities prior to registration of community land

Kenya Wildlife Conservancies Association (KWCA)
P.O. Box 1038-00517
Uhuru Gardens, Nairobi, Kenya

USAID FROM THE AMERICAN PEOPLE

The Nature Conservancy
Protecting nature. Preserving life.