

## **STANDARDS OF CONSERVATION PRACTICE AND THE STATUS OF COMMUNITY NATURAL RESOURCE RIGHTS IN KENYA’S RANGELANDS.**

Paper submitted to UN DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS Division for Inclusive Social Development Indigenous Peoples and Development Branch - Secretariat of the Permanent Forum on Indigenous Issues.

*Mordecai O. Ogada, Conservation Solutions Afrika, P.O. Box 880-10400 Nanyuki, Kenya.*

### **Background**

The benefits obtained by rural communities from their environment include pasture, and wood for fuel and construction of livestock corrals and houses. In non-protected areas, these resources are shared with the wildlife populations. These lands are community-owned and commonly grazed, so that there are no individual subdivisions of land, given that a key component of pastoralism as a livelihood is unrestricted movement across landscapes. There are no large wildlife populations in non-protected areas of East Africa, other than the pastoral lands, further underscoring the principle that pastoralism as a livelihood is highly compatible with conservation of wildlife populations, and must be protected in policy for conservation to succeed in practice. The geographical and temporal niches exploited by the human and wildlife communities in these areas are maintained by the connectivity of habitats and freedom of human, livestock, and wildlife movement between them. The resilience of human societies and sustainability of wildlife habitats in these rangelands is currently challenged by active fragmentation in the name of conservation, and the suppression of pastoralism as a livelihood. It is therefore imperative that these challenges are addressed to avoid the spectre of violent resource conflict and loss of biodiversity.

#### **1. Major threats and challenges**

##### **3.1 Disenfranchisement of local communities**

A major challenge that the proponents of the conservancy model have failed to meet in Kenya (and much of East Africa) is the inclusion of local communities as intellectual participants in conservation. This failure is a consequence of tourism’s becoming a basis for rather than a by-product of conservation. The origins of safari tourism in Africa are historically based on the curiosity of people from other continents about the abundant megafauna and landscapes that they encountered when they first came to explore this continent. The people were to be subdued and colonized, a part of this history that has seldom been told and never used in the tourism narrative. Accordingly, the indigenous social fabric of East Africa is still largely excluded from the current conservation discourse.

In general, current conservation practice still presumes that it operates in a vacuum; that is, that there was no thought or philosophy that guided the way in which indigenous African societies lived and interacted with the wild fauna and natural resources around them. One of the results of this thinking is that wildlife research in Africa is designed, implemented, and funded largely by external agents, who advance the paradigm that they have “brought conservation” to the communities among whom they work. Further evidence of this situation lies in the large amount of financial and human resources spent on “awareness creation” about various aspects of conservation. In much of Africa, there has always been and still is a large proportion of resources obtained directly from the environment. These resources include grazing, fuelwood, fish, game, and water. It thus stands to reason that these communities possess some level of knowledge of how to live among and exploit these resources in a sustainable manner (Ogada & Nyingi 2013). In Northern Kenya, the community conservancy model generally entails the demarcation of community land into a unit the ‘conservancy’, which then has a committee with a chairman, secretary, and other office holders. This committee is then given the

mandate of managing the conservancy, signing agreements such as leases with investors, and making decisions on resource use. There are also various subcommittees created to manage other issues such as pasture use and security. The “community structures” established by the external agents (NGOs) to manage various processes in the conservancies often ignored the pre-existing community structures, and in reality are founded to serve the external agents’ and tourism investors’ interests. Therefore, the designated “core” conservation areas tend to be located in the best and most productive parts of these communally owned lands. In the more arid zones, these overlap with the dry season grazing areas, and permanent water sources, which are vital to the pastoralists’ resilience.

### **3.2 The dominance of tourism interests over conservation needs**

The tourism industry has continued to exert a strong influence over conservation practice in Kenya, as the “primary users” of wildlife populations. This influence has grown to a point where the tourism industry has grown from being a beneficiary of conservation into the basis thereof. The expected earnings from foreign tourists have been put forward by NGOs as a reason for communities to conserve their wildlife, despite all the unpredictable variables associated with this particular livelihood option to woo tourism investors to the new conservancies, conservation NGOs invested in drawing up leases that heavily favored them at the expense of communities. The communities were convinced with promises of large profits and other benefits from conservation. The first shortcoming of this arrangement is the model that gives communities a share of the profits, rather than a fixed lease fee or rent from these tourism facilities. Once the investors are brought in, the community’s gain from the business is entirely dependent on the profits declared by the investor, a variable that is easily manipulated, to the detriment of the communities.

The second shortcoming is the misconception spread amongst the communities that makes them perceive donor-funded projects and developments as “benefits of conservation” rather than finite subsidies. An example in the southern Kenya rangelands is the Shompole conservancy, approximately 160 km south of Nairobi. It was set up in the year 2000 by the local community with the assistance of the African Conservation Centre ([www.accafrica.org](http://www.accafrica.org)) with the key objective of resisting the progress of subdivision and consequent loss of pasture and wildlife habitat. This aim draws from a widely held consensus that the survival of wildlife populations and pastoralism as a livelihood depends on the maintenance of open grasslands (Curtin & Western 2008). Following the establishment of the conservancy, governance structures were set up and the success of this model resulted in the conservancy’s winning the Whitley award in 2003. The progress of this conservancy continued with the construction of the Shompole luxury eco-lodge at a cost of over \$5 million. As a result of aggressive marketing, this lodge rapidly became a model for community-based tourism enterprises. Again, a key misconception in this discourse is people’s failure to realize that use of the term “community-owned” facility does not necessarily mean that the community in question are the decision-makers in the management of the facility. The majority of such facilities are leased to external investors who are believed to have the requisite marketing skills and connections to the client source markets. Therefore, decisions such as the exclusion of livestock grazing, fetching water, firewood collection, and other resource uses from the “tourism area” around the lodge are spuriously attributed to the community members. This misconception masks the need for conflict-resolution mechanisms, which are often absent from these lease agreements. There are three fundamental threats to these tourism operations in community-owned lands;

- i) The unstable nature of the tourism industry, which is easily affected by several extraneous factors such as global insecurity, economic downturns, or disease outbreaks (such as Ebola) that reduce profits and community benefits.
- ii) The lack of local capacity, excluding locals from the skilled jobs in a facility of which they are said to be the “owners.”

iii) Disenfranchisement: Community eco-lodges are typically small facilities whose profits cannot provide for an entire community, even at 100% occupancy. Shompole lodge, for instance, had a total of six rooms and two suites. The majority who are not participants in the tourism venture only suffer loss of pasture.

In 2012, less than 10 years after the lodge was built and after hundreds of thousands of dollars of investment in development of the conservancy, there was serious discontent in the conservancy over perceived inequitable sharing of benefits, and it came to a head in 2014 when the lodge was burned down by members of the community after the investors were ejected. The culprits were arrested, but the process of prosecuting the crime has divided the community between those who were perceived as beneficiaries of the project and the rest of the community. An important point to note is that it was impossible for the facility to provide substantial income for the community, and that the entire concept was fundamentally flawed. In a separate case, there was an invasion of the Nguruman Kamorora ranch in October 2014 by local herders in which the foreign investor who had leased the land, and his employees were violently evicted and property, including a luxury tourist facility and vehicles, were burned. According to a local community leader, the land was “taken” from the Maasai community by the investor in 1986 on the pretext of setting up a tourist lodge and a game sanctuary but the owners of the land “do not benefit” from this arrangement.” The spread of this anti- “investor” sentiment indicates shortcomings in the community conservancy model as currently practiced and calls for a re-evaluation. It is likely to be a more serious problem in the rangelands of northern Kenya, where the proliferation of small arms is an additional threat to security. However, the current model is currently expanding rapidly, driven by heavy grant inflows from various donors, including foreign governments.

### **3.3 Deliberate Suppression of pastoralism as a livelihood**

Pastoralism existed in the Kenyan rangelands for several centuries before the introduction of structured conservation. The presence of large wildlife populations in the rangelands is testimony to the compatibility of this particular land use with wildlife conservation, forming vast socioecological production landscapes. However, tourism investments market a “wilderness” product that does not include pastoralists and their livestock, and conservation interests have sought several ways of separating livestock and conservation areas. A case in point is the “management of grazing”; traditionally, this is the remit of the morans (warrior age group) in pastoralist societies. This tradition reflects the reality that livestock are the most valuable resource (economically and culturally) and that grazing the animals is combined with the function of security. A study by Hawkins (2015) in a cluster of six NRT conservancies found that the morans were often described by conservancy managers as “disobedient” and “uncooperative” with reference to the objectives of the conservancy. Another key finding was that 62% of the morans interviewed had never heard of the “planned grazing” stipulated by the conservancy management. This exclusion was found to preclude the support of this vital demographic group for conservation objectives, leaving coercion as the next viable option. One of the tools for application of this pressure is the NRT Livestock to Markets Program, a scheme ostensibly conceived to strengthen the livestock production value chain (see schematic diagram below). Cattle purchased from pastoralists under this scheme are quarantined on Lewa Wildlife Conservancy and fattened and slaughtered on Ol Pejeta (a collaborating commercial cattle ranch), with profits covering NRT Trading’s costs and contributing a levy to cover some of the ‘conservancy management costs’. This market aims to incentivize conservancies to practice effective, transparent governance, and sustainable natural resource management by linking local livestock owners in high-performing conservancies with ready markets (NRT 2014). However, the strict stipulations detailed in the schematic diagram raise serious doubts over whether the scheme is designed to economically empower the communities or impose certain regulations on them, cases in point being that;

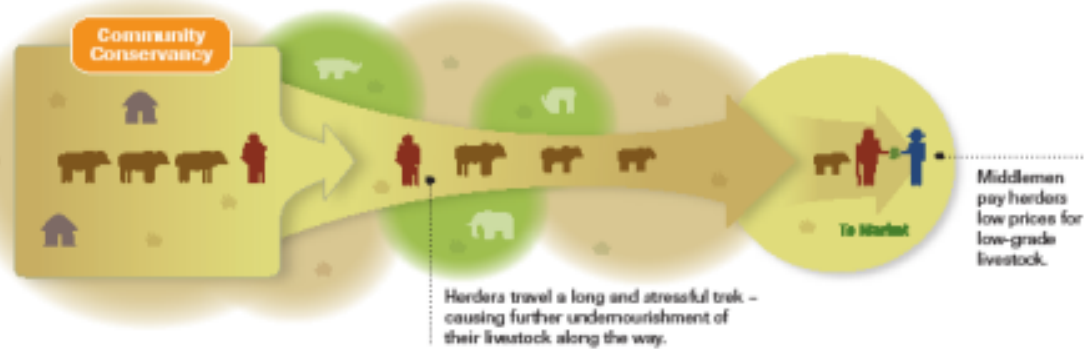
# Investing in Conservation and Communities

## How Impact Investment Generates Benefits for People and Nature in Kenya

### YESTERDAY

#### Without Northern Rangelands Trust's Livestock Program

Communities do not have the resources to sustainably manage their grasslands – as a result the grasslands that livestock depend on for food are degrading and disappearing.



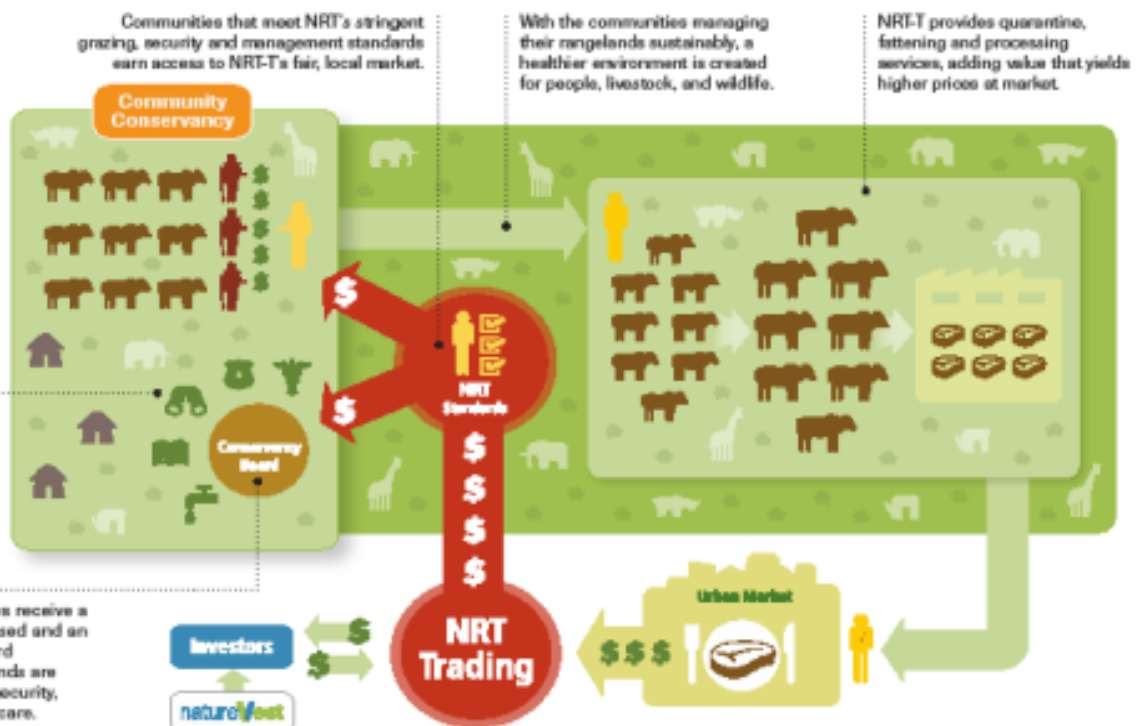
### TODAY

#### Livestock Program With Grant Capital Only

NRT shares new tools and guidance that help communities better manage rangelands and livestock grazing practices.

As rangelands improve, wildlife populations increase, which attracts tourists. This in turn, allows communities to diversify their income streams by creating ecotourism businesses.

Community Conservancies receive a levy for each cow purchased and an elected conservancy board determines how those funds are reinvested into schools, security, water pumps and health care.



### TOMORROW

#### Scaling up for Impact

Today: Livestock Program with grant capital only



Cattle Sustainable Grasslands Income Beneficiaries

Tomorrow: Livestock Program plus investor capital



A recent \$7M impact investment to the NRT livestock program in Kenya will allow it to operate at a scale that maximizes its environmental and social impact.

### KEY



Raising and selling livestock is the sole income source for many rural African families. As resources grow increasingly scarce in and northern Kenya, life for pastoralist communities becomes more difficult.



Market access in remote northern Kenya is limited. Herders have no choice but to sell livestock to middlemen who pay low prices, keeping most of the profit for themselves.



The Northern Rangelands Trust (NRT) is a Kenyan NGO that builds resilient communities by providing tools and resources that strengthen local governments, security, livelihoods and natural resources management.



NRT-Trading (NRT-T) is a for-profit division of NRT. It helps Community Conservancies grow revenue-generating enterprises to increase household income and fund community development and conservation efforts.



A formal alliance where neighboring communities organize and agree to work peacefully together to sustainably manage the lands, waters and wildlife they share.



Capital from impact investors allows projects with high potential impact to grow to a scale that maximizes their social and environmental benefits. At scale, these projects can generate revenue to repay investors, sometimes with a profit.



A TNC program, NatureVest identifies and evaluates programs like NRT's Livestock program, where top impact investment funding would allow such projects to scale up for maximum environmental and social benefits.



The Nature Conservancy (TNC) is a global conservation NGO. It provides scientific, business and financial expertise to increase the environmental and social impact of programs like NRT's Livestock Program.

- i) Cattle are purchased only from those deemed to adhere to the strict (NRT-imposed) grazing, security, and management rules.
- ii) Cattle are purchased at “fair” price as determined by the purchaser (NRT). The producer has no further participation after this point.
- iii) Cattle are quarantined, fattened, slaughtered, and sold by NRT.
- iv) Profits from the value addition in (c) go to NRT Trading.
- v) The only other gain for the community is from expected improvement in rangeland condition (from de-stocking) that is expected to increase wildlife populations, which in turn is expected to increase tourism revenues, with this increase expected to trickle down to them.
- vi) The benefits from the ‘fair prices’ on offer are negated by the levy imposed on the sales by NRT to cover conservancy management costs

Apart from the profits accruing to NRT Trading and the returns to the investor, the only other net effect is the de-stocking of the landscape. Even the levy imposed on every purchased cow is passed on to the group ranch committee, which decides on its expenditure. In the schematic diagram, the initial objective is to improve on a situation where grasslands are in poor condition, ostensibly due to overstocking, and pastoralists are receiving low prices from middlemen for low-quality livestock. The new system is seeking to improve the rangelands by reducing the numbers of livestock and is replacing the middleman with a grant-funded trading company, with this replacement also skewing the local livestock market against private enterprise. Pastoralism is an activity that covers extensive geographical areas, so that the market distortion from this scheme would be expected to spread beyond its target area. Without appropriate checks and balances, schemes like this one seem aimed at economically disempowering pastoralist communities. The participants from Marsabit informed the meeting that NRT livestock buying programs are currently targeting and offering premium prices for the purchase of female livestock to actively curtail livestock numbers.

This weakening of pastoralist livelihoods can also damage Kenya’s national economy. Over 70% of Kenya can be classified as arid or semiarid, and livestock production is the cornerstone of these vast SEPLs. Western and Finch (1986) showed that indigenous East African cattle display energy-sparing capabilities during drought. Pastoralists can thus herd cattle at great distances from water at little more cost than animals on the normal maintenance diet and watered more frequently. The physiological response of cattle to drought, the ecological constraints imposed by livestock and wildlife competition, and the energetic efficiency of mixed milk and meat pastoralism explain why herders traditionally select their characteristic management practices (Manzollilo, Western & Nightengale 2006). When these practices are restricted, replaced, or otherwise compromised, the equilibrium of the entire system is at risk.

#### **4. Conclusion**

The prevailing thinking that currently informs the implementation of conservation projects in Kenya has its origins in the laws and regulations that are in place to manage wildlife (enforced by the Kenya Wildlife Service). These, in turn, originated from the practice of game keeping in Victorian England, which was brought to Kenya by the British colonizers of the time. This paradigm is largely responsible for the difficulties currently faced in the effective and sustainable management of wildlife and other natural resources in Kenya. It presumes that there was no culture, thought, or philosophy that guided the way in which precolonial African societies lived and interacted with the wild fauna around them. One of the results of this thinking is that wildlife research and conservation practice in Kenya is largely designed, implemented and funded by external agents, who are widely believed to have “brought conservation” to the communities with which they work. In Kenya and much of Africa, there has always been a large

proportion of resources obtained directly from the environment. These include grazing, fuelwood, fish, medicinal plants, and water. It thus stands to reason that these communities possess some level of knowledge of how to live among and exploit these resources in a sustainable manner, and this is how Kenya's rangelands have functioned for centuries.

The creation of social, mechanical, and economic barriers to the free movement that has maintained the biodiversity in these socioecological production landscapes is serious threat to their existence and the diversity they support. The disruption of rural societies that have learned to coexist with wildlife will ultimately damage the natural and human environment, an effect that will be felt far beyond the landscapes in question. It is therefore imperative that we develop and promote a new paradigm that will replace the current unsustainable model being imposed on Kenya's rangelands and rural communities.

In the current globalized world, breaches of conservation ethics, violations of human rights, and annexation of natural resources in Africa and much of the global south are largely driven by external interests. These include donations, tourism, 'conservation finance' and natural resource extraction. The real and present threat posed by climate change and biodiversity loss has created an ethical 'lacuna' through which injustice passes in the name of conservation. This meeting is a timely intervention by an international body to seek standards by which we can conserve while protecting the rights of the people for whom we are protecting the resource.