

Mega Projects and De-commonization: Infrastructure, Land Tenure and Local Institutions Change in a Communal Conservancy in Isiolo, Kenya

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ABSTRACT

In this paper, we examine how mega projects transform land tenure and local institutions in the context of a community-based conservation (CBC) model in northern Kenya. The model was introduced in some parts of Africa in the early 1990s to facilitate a win-win strategy for conservation and economic development; through tourism-based economies and enhanced traditional livelihoods (pastoralism). The conservation approach is anchored on Ostrom's ideas of governing common-pool resources which institutionalizes indigenous systems and customary expressions to promote local communities' rights to land and nature, as well as their participation for sustainable access, use and management of natural resources. In the last decade, communal conservancy spaces in northern Kenya found within the territories earmarked for ambitious development corridors, have experienced significant changes and emerging controversies. We take the case study of the components of the Lamu Port South-Sudan Ethiopia Transport (LAPSSET) corridor; a mega-infrastructure project connecting Kenya, Ethiopia, and South Sudan, as well as other ancillary projects, to understand how they re-organize land tenure and traditional (local) institutions within the Nakuprat Gotu conservancy in Isiolo county. The paper is based on ethnographic data collected in 2022 and it uses the 'economies of anticipation' perspective to interpret emerging dynamics related to the competition between development and conservation visions and aspirations on a communally owned landscape. Our findings reveal how the anticipations, hopes, fears, and contestations between these actors has re-defined communal land views, values and tenure system, and local institution arrangements, posing a threat to the future of the region's conservancy model.

Keywords: Communal Conservancy, Community Land, Development Projects. Land Tenure, Local Institutions, Mega projects

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I. INTRODUCTION

Community-based conservation (CBC) ideals emerged as a result of the evolution of global policy frameworks endorsing and facilitating systems that restore community stewardship (Hoole, 2014). These frameworks pay attention to the bio cultural approach, the interconnection of land, nature and culture, and economic development. These structural adjustments in conservation have facilitated for institutionalized traditional and locally led systems that increasingly replace centralized forms and its political authority over resource management imposed in Africa during and after the colonial era (Galvin, Backman, Luizza, and Beeton 2020). Resultantly, local communities are recognized in access, use, benefit-sharing and governance of communal land and natural resources through organized common institutions and collective action (here in referred to as *commonization*) following Cockerill and Hagerman, (2020).

Community-based conservation systems implemented across Sub-Saharan Africa have resulted in fundamental changes in natural resource governance, with reliance on co-production of information and the rich adoption of indigenous knowledge (Chapman, 2022). Increasingly, and particularly in Kenya, the model is viewed as an advanced land use governance arrangement and is valued for its compatibility with traditional livelihood activity (pastoralism), hence facilitating conservation and economic development (Galvin, et.al. 2020).

While some literature presents the CBC model as a panacea, its functionality and sustainability are thought to be dependent on local contexts (Galvin et.al., 2020), hence the need to continually interrogate and re-think community-based conservation from an analytical and context-based perspective. In Northern Kenya, a network of CBC models,

approximately 30 communal conservancies (Glew et.al, 2010) occupying more than 2.4 million acres have emerged as buffer zones to key protected areas, hence holding 75% of the region's wildlife (LAPSSET 2017, pg. 82). In the recent past, these conservation spaces have been hosts to various infrastructural components and development plans embedded in the Kenya's Vision 2030; a strategy that seeks to facilitate the transformation to an industrialized, middle-income country (Kasuku, 2018).

The government of Kenya launched the Lamu-Port South Sudan Ethiopia Transport (LAPSSET) corridor in 2012, which includes a resort city, an airport, a crude oil pipeline, an interregional highway, and other ancillary projects to open-up the historically marginalized regions of northern Kenya (LAPSSET, 2017). Chunks of community land (former trust land and rangelands) some pending formal registration and governed through the conservancy model are compulsorily acquired for the various components of the LAPSSET project. (LAPSSET, 2017).

Nakuprat Gotu conservancy, a community-based conservancy is found within a community land earmarked for LAPSSET's linear infrastructural components and other projects. A regional highway already traverses through the region and land for a crude oil pipeline and a standard gauge railway has been surveyed within the conservancy area. Additionally, it is situated close to a proposed resort city and a special economic zone. This makes the area prime land for private accumulation by various ambitious actors, for economic enrichment.

Theoretical Framework: Economies of Anticipation

This paper explores how mega-development plans and projects re-define the Nakuprat Gotu's conservancy model through the lenses of the emerging re-organization of land tenure and traditional (local) institutions. It reconstructs its theoretical framework from the 'economies of anticipation' discussed by Cross (2015), which implies that development areas and mega-infrastructure are *promising zones* where people conceptualize possible futures not just for themselves but also for others, while holding hope, desire, anxiety, and fear. It explains how various actors (powerful capitalists, politicians, and local communities) orient themselves in the wake of the 'promising' infrastructural plans, and the interactions and feedback of their divergent ambitions.

Dalakoglou (2017) exploring the concept *economies of anticipation* describes infrastructure as a locus of imagination, hopes and dreams. Development visions of powerful capitalists, politicians, and local communities in the wake of the 'promising' infrastructural plans converge and conflict in common zones. In Muller-Mahn, Mkutu and Kioko (2021), these dynamics are discussed from the lenses of *politics of aspiration*, in which hope is produced and performed in public debates, political negotiations, and planning processes.

Additionally, although infrastructural advancements often reflect the *dreamscapes of modernity* (Jasanoff and Kim 2015; Müller-Mahn 2020), the implication on social-ecological transformation demands close attention even when the underlying vision is not fully implemented (Mosley and Watson, 2016). Larkin (2013) also notes that infrastructure projects are not just technical objects that shape modernity but also tools that stimulate the *enthusiasm of imagination* that

could enable new and unprecedented types of economic, social, and political connectivity, relationships, and disruptions. In this case, large-scale development zones are increasingly viewed as *places of emotive imagination and aspirations* where the future is felt, encountered, and inhabited, and, as Cross (2015) notes, these presents a platform for diverse speculation. This leads to conflict and immodest alignment with indigenous way of life (also discussed in Enns, 2017; Elliot, 2016).

These perspectives of *economy of anticipation* are therefore crucial in gaining a deeper understanding on the ongoing dynamics in Nakuprat Gotu community conservancy, as mega-developments interact with the conservation model.

II. METHODS

Study Area

Isiolo county in the northern part of Kenya comprises of three sub counties namely, Isiolo, Merti and Garbatulla, covering a total area of 25,605 square kilometers (Isiolo County Integrated Development Plan (CIDP), 2018-2022). The study area, Nakuprat Gotu Conservancy, is in Ngare Mara location, Isiolo sub-county. The conservancy is 39,300 hectares in size and is under community land tenure (pending formal registration). It is primarily owned by approximately 15,900 semi-nomadic Turkana and Borana pastoralists (Kenya National Bureau of Statistics, 2019). The conservancy is divided into four sub-locations namely, *Nakuprat, Gotu, Attan* and *Aregai*. The region is notorious for culturally driven and resource-based conflicts stretching to the 19th century which unfold through livestock raiding, banditry attacks and retaliatory missions by groups representing the pastoralist Turkana, Borana and Samburu communities.

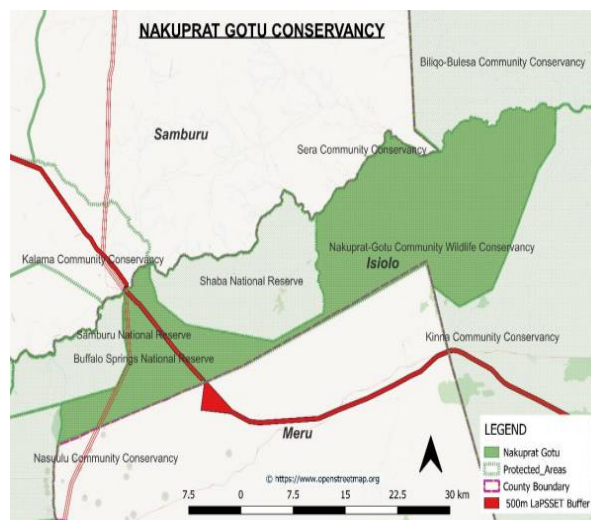
In order to resolve the conflict situation, Nakuprat Gotu conservancy was established in 2010 by the Turkana and Borana council of elders on the Ngare Mara Ward with the support of the Northern Rangelands Trust (NRT)¹. The two historically warring communities who had clearly demarcated boundaries on their land but were defined by unstructured, forceful overlaps and violent entries in pursuit of resources donated their land for the establishment of a common conservancy. The Nakuprat section (Turkana's land) was merged with the Gotu section (Borana's land); and formal processes of registration of the Nakuprat Gotu community conservancy followed. The conservancy has been a peace-building tool as the model adopts advanced securitization and enhances traditional and modern strategies for amicable communal resource use and management, as well as conflict-transformation by supporting former cattle rustlers through capacity strengthening programmes.

Additionally, the conservancy acts as a buffer zone for three major protected areas; Shaba, Buffalo Springs, and Bisanadi National Reserves, hence being a critical dispersal area for 75% of the wildlife found in the adjacent protected areas. It forms part of the critical ecological zone that connects to key wildlife ecosystems in Northern and Eastern part of Kenya. The conservancy hosts key water resources, wildlife corridors, habitats, dry and wet season wildlife, and livestock grazing area. The conservancy has a management plan where the elders clearly demarcated core conservation areas, wildlife corridors, settlement zones, breeding grounds, grazing areas, key human-wildlife conflict hotspots and key tourist areas. Various committees under the conservancy management plan, alongside the elders'

systems were instrumental in overseeing the management of these zones.

Figure 1

Nakuprat-Gotu Community Conservancy and Adjacent Conservation Areas



Research Design

This study adopted qualitative methods, and heavily relied on ethnographic approach. Qualitative data was collected through semi-structured interviews, key informant interviews, and focus-group discussions (Bernard, 2002).

Sampling Technique

A multi-stage cluster sampling was used to select informants from 13 settlement sites comprising of around 15,000 people. The settlement areas are Manyatta Zebra, Atumtum, Chokaa, Ngare Mara, Aremaoi, Akunoi, Kiwanja, Aregai, Echok, Daaba, Nakuprat, Boji dera and Gotu. First, purposive sampling was used to select 7 cluster samples from the 13 settlement areas, based on their proximity to

¹NRT is a membership organisation established as a shared resource to help build and develop community.

earmarked development zones. These areas include Manyatta Zebra, Daaba, Nakuprat, Kiwanja, Chokaa, Akunoit and Ngare Mara. The sampled settlement areas were put into strata and respondents were drawn from each selected stratum, given that the conservancy members were mutually homogenous yet internally heterogeneous. This ensured that enough data was gathered from the study population to capture diverse perspectives from respondents disaggregated by age and gender.

Further, the study used purposive sampling to identify key informants' interviews (KIIs) and focus group discussion (FGD) participants drawn from organized groups, conservancy management, civil society organizations and government officials, reaching a small-scale respondent for in-depth analysis as recommended in Bernard (2002). Purposive sampling was also chosen as it is convenient for intensive case studies, critical and sensitive cases (Bernard, 2002). Additionally, snowballing sampling designs were instrumental in getting respondents that offer in-depth understanding, especially on traditional and historical knowledge on systems of conservation of commons.

Data Analysis

Thematic content analysis was used to interrogate qualitative content, analyze, and present various themes in this work (Bernard, 2002).

Ethical Considerations

The study observed a set of standards and institutional schemes to regulate the activities of this research and consider the welfare of the respondent, avoid deception and prevent bias, as recommended in Madhushani (2016). Beyond getting informed consent, the researchers ensured that the respondents were adults who understood the choice made in

terms of participating in the research. Additionally, the researchers revealed the purpose of the study and any perceived risks to participants.

While the participants were granted the freedom to express themselves freely, the right to privacy was guaranteed. Absolute confidentiality and anonymity has been maintained by disguising key individual, group, institute. Respondents were free to withdraw at any stage of the study, should they feel uncomfortable or get exempted from any discussions that would cause psychological torture or stress.

III. RESULTS

Land-Demanding Development Projects in Nakuprat Gotu Conservancy Spaces

Ngare Mara ward, where the Nakuprat Gotu conservancy is found, and which forms part of the former Northern Frontier District, is an emerging significant development area envisaged to be transformed by LAPSSET-related mega-infrastructure projects spearheaded by the Government of Kenya, the World Bank, the Africa Development Bank (ADB) and other private investors.

The LAPSSET Corridor and Other Ancillary State-led Projects

The LAPSSET Corridor Program is the largest and most ambitious development corridor in Eastern Africa, connecting 3 countries: Kenya, Ethiopia, and South Sudan. According to the master plan, the corridor consists of seven key infrastructure components. In Kenya, it starts with the 32 Berth port at Lamu: an interregional highway from Lamu to Isiolo, then to Ethiopia and South Sudan. A crude oil pipeline also starts from Lamu to Isiolo, Isiolo to Juba, and product oil pipeline commencing from Lamu through Isiolo to Addis Ababa. Additionally, an

interregional standard gauge railway lines start from Lamu to Isiolo, Isiolo to Juba, Isiolo to Addis Ababa, and Nairobi to Isiolo. Three international airports in Lamu, Isiolo, and Lake Turkana are found within the plan. Resort cities in Lamu, Isiolo and Lake Turkana, as well as a multipurpose high grand falls dam along the Tana River have been planned for.

Ngare Mara ward in Isiolo county is already traversed by the Lamu-Ethiopia interregional highway which is acting as a decongestant for other private corporations' investments by capitalists attracted by the looming economy in the region. More recently the community land was also surveyed for other linear components of the LAPSSSET project, including the Lamu-Lokichar crude oil pipeline (LLCOP), and more land will be acquired for the standard gauge railway. Additionally, the area is close to the gazetted land for a major resort city and the Isiolo special-economic zone (SEZ). Within this area is also the recently refurbished Isiolo international airport which was upgraded in 2013 to be a game changer for the economies in the region. The completed airport has come under sharp criticism from the public for failing to start the anticipated cargo freight services. For the LAPSSSET and state-led projects to be set up, community land is obtained through compulsory land acquisition, also known as 'eminent domain,' arrangement, as outlined in the state's land regulations. This means that the unregistered community (conservancy) land is legally held in trust by the county government of Isiolo, so are the benefits accrued from compulsory acquisition of the land.

Other key land-demanding, government-related projects and plans are being implemented in the area. The county and national governments have constructed a livestock market facility within Ngare Mara, with a plan to tap into external markets through increased connectivity brought by the LAPSSSET project.

Proliferation of Private Investments on Conservancy Land

The private sector investors have not been left out in the scramble for conservancy land in the studied area. For example, the Catholic University of East Africa (CUEA), a private higher learning institution, has acquired vast land (approximately more 25 hectares) previously under communal conservation with the intent to develop a new campus in Manyatta Zebra in Ngare Mara ward. Moreover, the Kenya Medical Supplies Authority (KEMSA) facility seeks to build a multi-billion facility that combines a warehouse and a central point for drugs and medical supplies for prescribed public health programs and the national strategic stock reserve. While the size acquired land is not clear to communities, recent land survey processes reveal that large tracts of conservation and grazing land have been dispossessed. The forms of land acquisition for these private entities are discussed later in this work. Other 'masked' private investors have sought large portions of land to build medical facilities, factories, and service industry facilities.

Figure 2

A Multi-billion Company Set to Start Development in Community Land.



Expansion of Existing State Institutions

Moreover, government institutions are seeking to expand and secure their land. The ministry of defense (MoD), for instance, is forcefully demarcating land for military training under the school of combat engineering and the school of artillery in Chokaa and Kiwanja, respectively. The recent demarcations and boundary redrawing are viewed by the local community as ‘expansionist’ in nature, encroaching on conservancy’s land beyond the size offered by the elders in 1970s.

The military training grounds in Ngare Mara ward were allocated by the council of elders who were approached by the representatives of the MoD. While land measurements were not stated in terms of acreage, the elders marked these boundaries with key physical features, and this memory has been passed down to the current generation. The community observes that a peaceful entry and co-existence in a common space for a long time has turned violent.

Forms of Acquisitions and Accumulation of Community Land for Development

Land is evidently one of the most emotive issues as large-scale development plans and projects play out in Isiolo county. In Ngare Mara’s community land, the Nakuprat Gotu conservancy sits on a previous trust land transitioning to community land (pending formal registration) under the Community Land Act (2016).

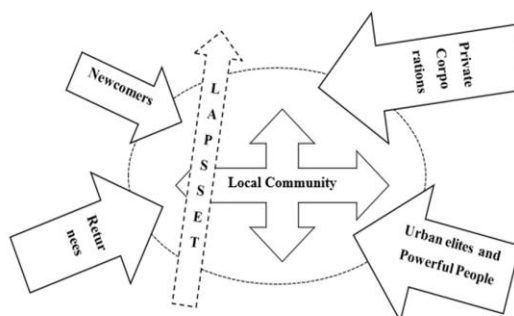
The state-led development corridor, expansion of state institutions, and proliferation of private investments introduce the dimension of development politics in an insecure land tenure system and fragile communal land governance. As described in Larkin, (2013) these projects become tools that stimulate the ‘enthusiasm of imagination’ in “places of emotive imagination and aspirations” where the future is felt, encountered, and inhabited, presenting a

platform for diverse speculation with growth visions being interpreted and appropriated in a manner that may bring conflict and immodest alignment as espoused in Enns (2017).

As shown in figure 3 below, land-seeking actors are looking at the planned infrastructure as the ‘promising infrastructure’ holding hope, desire, anxiety, and fear, and places where people conceptualize possible futures (Cross, 2015). The divergent dreams of various actors, including the state, private (powerful) investors, individual newcomers and the local community converge in a common space.

Figure 3

Entries and Dispersal into Community Land by Different Actors



Discussing the new entries, an informant stated that:

“Our land has undoubtedly gained value and interest. It has attracted a variety of ‘land-eaters’, they are now all over and are still coming in. The area, which was feared, considered a bush, a hide-out for cattle rustlers, is now lucrative because of this road and the LAPSET which we see it as the ‘power-saw’ that is cutting down the trees in the former ‘bush’ and ushering in newcomers who are coming for our land.”

KII in Manyatta Zebra, September 2020.

Compulsory Land Acquisition “Eminent Domain”

Land as a subject and as a critical resource draws great legal challenges and emotive issues when matters of compulsory land acquisition and rights thereto occur (Hutchison and Tiwari, 2020). The dynamics are complicated when land is acquired for state-led projects in community land which is unregistered/ pending registration. The contestations have been around the expectations of the land acquisition process to be transparent and participatory yet is marred with significant irregularities as also noted in Adu-Gyamfi (2012).

For LAPSSSET projects traversing the conservancy area, the implementation of the principle of *free, prior, and informed consent* (FPIC) and constitutional requirements for public participation through the acquisition process raises emotive issues on two key instances. First, the capacity and enabling environment for public participation in decision-making on land and resource related issues. Secondly, access to information and public participation (decision-making) on community land governance in land acquisition seem elitist, with either a manipulative approach of seeking social license of operation (SLO) from the elders, or a strategy to weaken their grip on land issues. A social license to operate refers to the process of land-seeking actor seeking the approval of elders, so that their activities are socially acceptable and legitimized. Additionally, the question on the actual compensation that trickles down from the “*holders in trust*” (the county government) to “*rightful beneficiaries*” (the local communities) becomes critical.

Land Transfers and Sales by the Local Community

As Mosley and Watson (2016) observe ‘new’ entries, dispersal and re-organisation led by land-seeking investors and local communities come with interesting dynamics. Land-seeking

actors colluded with either the land committees or local leaders or both, while some individuals within the community engage in land sales through a willing-buyer willing-seller arrangement, and at a throw-away price.

In terms of land sales, the land seekers relied on their existing networks within the area to identify parcels for sale. On the other hand, actors seeking significantly larger tracts of land came through local leaders who introduced them to the elders. Meat-eating meetings/ceremonies with the elders were conducted where the land actor presented their development agenda and the promised returns for the local communities. Most of the agreements were made orally as such land transactions were made. Lack of documentation meant no reference point for the communities, when these pledges were not met or when investor’s actions conflicted with conservation, pastoralism, or their customary expressions.

Politics of Aspiration in Conservation Spaces: Changes and Conflicts

With the land gaining commercial value, new actors (such as land speculators and private investors) push to acquire parcels, while those who have a foothold on the land seek to formalize their land holdings. In most cases, these rushed processes of scramble and registration came into sharp conflicts with the conservancy management plan that guides the access, use and sustainable management of communal resources.

The proposed development zones are situated in traditionally conservation corridor popularly known as Manyatta Zebra (the gravy zebra’s habitat). This exposes the community to two significant layers of conflicts. First, it conflicts with Nakuprat-Gotu’s conservation ideals and customary ways of human-wildlife relations, which govern human settlements and activities. Secondly, the means of acquisition of large

tracts of community land by these investors is highly contested, particularly based on public participation and free-prior-informed consent. Negotiations and formalization process were undertaken between concerned institutions and local leaders, with the elders being manipulated into rubber-stamping the arrangements. The process locked out key conservancy actors, for instance, conservancy committees, community land management committees and the conservancy members. Resultantly, permanent fences have been established leading to dispossession and inaccessibility of traditional routes, grazing areas, wildlife habitats and socio-cultural areas. This conflicts with the aspiration of the conservation actors, while the youth, seeing the implications of these actions, are seeking to acquire and privatize land in areas marked as core conservation and grazing areas. They accuse the elders of double standards when they attempt to protect these zones from being hived off by the youth. As a result, the elderly institution began to lose its strong and historical grip on conservation issues.

On the other hand, as the Ministry of Defense seeks to formalize their ownership considering the emerging contestations have erected beacons on what they considered their 'new' border lines, dispossessing and closing out core conservation areas, wildlife and livestock grazing areas, water points, conservation corridors and some settlement areas within the conservancy. Besides beaconing, relatively intensified military activities have led to voluntary migration of adjacent communities, and creation of new 're-settlement areas' within the conservancy land, particularly in zones not initially demarcated for settlement in the conservancy management plan. The peaceful, negotiated and coordinated entries by such actors in 1970s, and decades of years of co-existence have recently turned into violent

conflicts, eviction notices, threats due to increased land interests.

Privatization of commons: Weakening the Notions of Communal Ownership and (In)Security of Land Tenure

Land tenure changes in the region are being defined by property rights changes (from communal ownership to privatization), boundary redrawing, sales, enclosures, and dispossession, also observed in Enns (2017); Elliot (2016); and Mosley and Watson (2016). These emerging issues, as noted in Cross (2015) are not entirely governed by blueprints but by speculative regimes that reproduce key social aspects. These have direct implications on the stability and sustenance of the CBC model.

Pastoralists within the conservancy have traditionally viewed land as an intergenerational resource that is critical to their existence, identity, and wellbeing. Property rights over their communal land has been a continuum that includes territorial control and collective ownership (also Behnke, 2018). Land rights definitions have been based on the ability to collectively access the resources for livelihood and cultural expression, as governed under indigenous knowledge, customary definitions and rules for sustainable use and control bases.

Additionally, land was traditionally governed based on a territorial system (locally known among the Turkana as the *Ekwar* system), with demarcated all critical 'sites of use' under the model based on specific customs, including the land's physical attributes and socio-cultural attachments. These zones were demarcated with relatively vague and sometimes unclear boundaries, depending on the sensitivity of the area. As reflected in the conservancy management plan, there were clearly demarcated boundaries of core conservation areas, migratory routes, and settlement areas.

In settlement areas, like other sections of the conservancy, land was held communally, although a clan's or an extended family's temporary and semi-permanent structures, including households and *bomas* (cowsheds) were clustered together within the settlements. Heads of households, clans and families were vested with the powers of ensuring that immediate activities by the members of the households followed community norms of communally conservation of natural resources through amicable access, sustainable use, and proper benefit sharing. Land outside the settlement areas was meant for grazing and conservation purposes, and its access, use and benefit sharing were guided by customary knowledge and cultural expressions implemented through the patriarchal elders' system.

The announcement of the LAPSSET and other projects in the area evoked different views on land, making it the most emotive communal resource. More recently, and as land value increases, the community members began to claim land outside settlement areas, with the aim of seeking to privatize some portion of land, particularly areas speculated to the LAPSSET traverse, or other areas with development interests by key investors. In these areas, communities scramble to privatize the land, based on a "first-come-first have" basis. As Mosley and Watson (2016) point out, news trends of land claims by the community in the area are driven by the possibility of an area gaining investor interest and with the hope of getting compensation from state-led projects, when the formal land registration processes are finalized.

Cases of land claims, sale and grabs outside the demarcated townships and key settlement areas, some within the core conservation areas, and previously unsettled land, emerged. Commodification of communal land is increasingly witnessed through exchange or

'ownership' by individuals, community groups and clans. Observably, the nomadic community, whose pastoral livelihood strategy is contingent to mobility as becoming more permanent 'settlers' with semi-permanent structures, and privatization, hence the fencing off portions of land. These changes defy the traditions norms and cultural expressions to pastoralism and fragment key ecosystems and lead to collapse of critical conservation zones within the conservancy. It was stated that:

"The scramble to own and privatize land that was held communally has never been witnessed before. We have to ensure we (individually) own a good share of the land before we lose it all to projects and investors."

FGD with a youth group in Ngare Mara, September, 2020.

Local Institution Changes and its Implication on the Nakuprat-Gotu's CBC Model

According to Mowo et.al. (2013), local institutions provide the basis for collective action, building consensus, undertaking coordination and management responsibilities, and attaining an energized degree of interpersonal solidarity. By local institutions we refer to informal rules, norms and values which are the basis for social order. Besides these local institutions being the warehouse for indigenous knowledge and beliefs, they have the potential to effectively link local communities and other actors (*see* Mowo et.al., 2013). Through various layers of interaction, they connect communities and other institutional systems, such as the local government, to articulate community needs (Donnelly-Roark, Ouedraogo, and Ye 2001). Dixon and Wood (2007) argue that because they are dynamic, flexible, and responsive to societal and environmental change, local institutions are in fact more efficient in promoting sustainability than are formal

policies and laws regarding resource management.

In Nakuprat-Gotu, the local institutions under the community conservancy model have become a key tool in ensuring arrangements for community involvement in organized conservation (Jones, Diggle and Thoules, 2015). Our study identified 3 main institutions that often overlap and conflict with each other in the same conservancy model. We briefly describe these local institutions below to underpin the emerging changes facing them:

i. The Traditional Elders System (gerontocratic rule)

The elders as custodians of traditional ecological knowledge and institutional memory played a key role in marking and allocating key functions to the conservancy including the key conservation areas, livestock and wildlife grazing areas, breeding and migratory areas, human-wildlife conflict hotspots, settlement areas, water points and socio-cultural sites. The elders (predominantly old men above 60) further provided prescriptions to harmonious inter-community and human-wildlife coexistence within a shared space, hence were key in the governance of the conservancy model.

Through an organized Turkana and Borana elder's system, the conservancy, as in Mowo et.al. (2013), operates within well-organized institutions that structure their activities and interactions within their environment. The council of elder's system (the dedha system of the Borana community and the Turkana council of elders), play a crucial role in land governance and natural resources touching on the larger section of the conservancy. Village elders govern issues at specific conservancy settlement areas level, in consultation with the council of elders, depending on the jurisdiction. The Ngare Mara council of elders comprise of elder's representation from the entire ward and

from both the Borana and Turkana community, where the village elders are drawn from specific settlement area. The coordination takes a bottom-up, top-down approach, as information and deliberations were done at village level, and dissemination to and from the council's level was done through representation. Figure 4 below illustrates the interactions of the various elder's institutions, alongside other institutions.

The robustness of the elders' system has been proven through the administration of cultural by-laws on community land access, land use patterns and co-sharing of communally owned resources. Traditional knowledge and cultural expressions on land-use, ownership and transfer, livelihood strategies, settlement patterns and equitable sharing of their communal resources were widely adopted in the management of the conservancy model. This reflects Brooks et.al. (2013) perspectives on CBC as a participatory venture where local governance spearheading conservation practices adopt communities' cultural setting and traditions. It also echoes Ostrom's design principle of community-based resource management (CBNRM) discussed by Cox, Arnold, and Tomas (2010) on the need for complementarity between conservation rules and local conditions. Cox et.al. (2010) discusses these local conditions as the community's ideologies, predominant customs, or even livelihood strategies.

The informal rules, regulations, norms, and values governing land use, as noted by Orlove et al. (2010) are place-based and rooted in local cultures that are mostly associated with communities' strong ties to their land. The Turkana elders, for instance, based on their traditional knowledge, identified, and named special points as key conservation areas which were to be conserved by all members of the community. These include the 'Nataruk' a culture's habitat, 'Awar-napanan' a highly

vegetated area and, breeding site for most mammals, and ‘Anokang’itukoi’ also known as ‘Manyatta Zebra’ is recognized as a grazing ground and habitat for the gray zebras. Other areas identified as key wildlife areas are ‘Nasuroi’, antelopes’ habitat, ‘Nachomin’, baboons’ habitat, ‘Awoiang’idirini’ the oryx habitat, ‘Atapen’, Guinea Fowl’s habitat, ‘Marerei’ grazing land, ‘Kisile’, the buffaloes breeding ground and ‘Akai Etom’, directly translated as the elephant bedroom. The identified areas were highly restricted from encroachments, backed up with traditional sanctions.

The elders also played a significant role in resolving socio-political issues, right from culturally endorsing conservancy management committees and board, to making pertinent decisions related to all facets of the community, most significantly on land governance. Additionally, their traditional ecological knowledge helped the community understand phenomena, for instance, in discerning weather patterns and guiding settlement patterns. It was mentioned that:

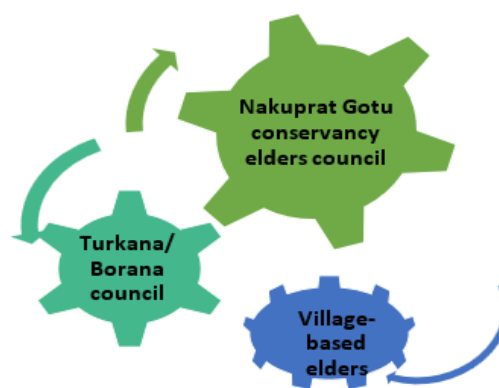
“When a drought was foreseen, the elders asked every household to establish an ‘Amair’- a fenced-off piece of land where the calves would graze as the livestock are driven away in search of pasture and water.” KII in Ngare Mara, September, 2020.

Their arrangement resonates with Donnelly-Roark, Ouedraogo, and Ye (2001), who state that they encompass many different types of indigenous organizations and functions such as village level governance, security arrangements, conflict resolution, asset management, and lineage organization. As such, under the conservancy model, community resilience emerges from social factors among the two ethnic groups, such as the sharing of knowledge, learning, cultural norms, economic strategies, regulatory

enforcement, and ecological factors such as high biodiversity, greater abundance of key species, and a complete community structure, as also observed in emphasized in Hughes et al. (2003), and Ostrom and Ahn (2003).

Figure 4

The Interaction of Various Levels of the Elder’s System within the Conservancy



Changes affecting the council of elders (elder’s system)

The proliferation of development projects and visions of modernity witnessed in Nakuprat Gotu, is causing fundamental transformation on cultural institutions which significantly affect the CBC model. Chapman and Kagaha, (2009) note cultural institutions are highly ritualized and feared, hence customary laws and sanctions are highly respected due to the fear of curses and sanctions. Land-seekers have capitalized on the power vested in this institution, to gain the social license to own land in the area through the elders, hence the ultimate acceptance by the entire community. This has resulted in the invasion of the elders’ cultural rituals and ceremonies by external actors and institutions (land-seekers) seeking ‘blessings’ to culturally seek land through

donation by the elder's system and to culturally formalize ownership. Land dispossessions that occurred through speculative means were sometimes 'sanitized' through manipulating, co-opting, or colluding with elders through such ritualized sittings. Observably, newcomers lead to the expanded mandate of key cultural ceremonies practiced by the elders.

The 'tree of men' ceremony (locally known as the 'akiriket' for instance is a highly cultural and ritualized meat-eating process under an *Acacia Tortilis* locally known as 'Ewoit' a culturally sacred species known as the 'tree of men.' It was a household-based ceremony conducted to purely celebrate or deliberate on household issues, to pronounce blessings or curses on a matter. The designated areas are normally a few meters from the homesteads to facilitate the undisrupted ritual process, but also to allow for ease of access of any item from the homestead. A goat or a bull is offered to the elders and the sacrifice of the blood, roasted meat and elders sharing of meal, cemented key decisions.

The participants of the 'Akiriket' are the male elders and the younger men who have undergone *Athapan*, an initiation process to transition from childhood to adulthood. During the ritual ceremony, the eldest of the elders sit in the middle of the curve and moderate the discussion, while the rest position themselves according to their age, which is determined by the time of initiation. Those who sit close to the center have more power to influence decisions as they are older, more respected and considered wiser.

The land-seekers, from public, not-for-profit organizations seeking land donations and private investors seek blessings through the ritualized sittings under the 'tree of men.' Observably, the inherent role and cultural practices are intruded on by external interests and eventually manipulated to drive the land

dispossessions. This has led to key changes, in terms of the transformation of the original mandate of an *akiriket* from being a gathering to deliberate on house-hold issues, to culturally formalizing community land-transactions. As observed, rituals that had previously designated areas are often held a areas earmarked for development land in order to deliberate on affected land. A key informant stated that:

"The 'Akiriket' has always been a significant cultural event among the Turkana community conducted by purely male village-based elders who convene to, declare blessings, make decisions, resolve disputes and/or pronounce curses with regards to various events in the community. The ceremony was conducted in identified 'culturally-sacred' areas under a canopy of the 'Ewoit' tree species. The designated areas are normally a few meters from the homesteads to facilitate for the undisrupted ritual process, but also to allow for ease of access of any item from the homestead. In the recent past, we have seen the process being manipulated, misused and invaded by external actors." FGD in Manyatta Zebra, September 2020.

Previously, the elder's system and their ritual processes were viewed as a public, democratic, and incontestable means of undertaking key matters, but these processes are increasingly becoming secretive, and alienation of elders opposed to the discussion has become commonplace, hence causing inter-institutional conflicts. DeCaro and Stokes (2008) and Brooks, et.al. (2013) highlight that the CBC system realizes better success when there is free and open democratic participation in management, substantive recognition, and inclusion of local stakeholder identity, and respectful, non-coercive social interaction. The elders' institution that previously viewed communal land as an inalienable cultural resource, whose full ownership was through inheritance and not purchase, began to hold

sittings where they were coerced into issuing approvals for privatization, for external actors with either investment, extractions, or consumerism interests, causing conflicts between them and other community members within the conservancy. These new challenges facing the system agree with Mowo et.al. (2013) that local institutions have their own weaknesses when it comes to sustainable practices that favor sustainability.

ii. Politically instigated Local Institutional Outfit

According to Mowo et.al. (2013), local institutions may last for a long time, accomplish their objectives, fade out, or transform to capitalize on emerging opportunities. The case of the local land-based institutions in Nakuprat Gotu conservancy shows that some institutions fade out (faster than others) as new ones emerge through ‘institutional innovation.’ The elder’s system (council of elders) is slowly losing its grip due to external pressure and manipulation that leads to lack of trust. In place, local politicians and business elite who are keen to capitalize on the increasing value of land are in favor of a new institutional outfit which is more “inclusive”.

In 2014, when land was emerging as an emotive issue owing to ongoing transfer of rights and rampant subdivision, a politically instigated committee from the larger Ngare Mara ward was formed to govern land-related issues. The selection of 10 committee members followed a top-down approach ignoring the decision-making authority of community members.

The committee claimed to represent the entire Ngare Mara ward, yet its composition was not ethnically-representative. The new members held that narrative that they were in support of the elder’s system, which in their opinion was not proactive. The new outfit positioned itself as inclusive owing to the representation of men, women, and youth unlike the council of elders.

Informants noted that the institution did not replace the elder’s system but rather ran parallel without clear roles, and basis for its quick establishment. In this case, it purported to operate under the desirable hybrid of traditional and contemporary practices as ‘an institution opened for community members who were citizens of the modern state.’

This outfit had political motivation in its formation. It was mainly meant to mobilize votes and support for specific political aspirants. Hence, this was outright manipulation. This institution then advanced land dispossession and the confusion around overlapping land claims, as most of their land-related decisions and transactions were secretive. Informants noted that major land deals and transactions were made during their tenure. At the time of the fieldwork, this new outfit that boasted of political support lost favor among the public following massive corruption complaints and irregular transfer of communal land to private investors.

Following the fall of the new political instigated outfit, which lasted for roughly six months, a new “constitutionally instituted committee” was delivered with support of the County Government of Isiolo. We refer to it here as the Community Land Management Committee (CLMC).

iii. Community Land Management Committee (CLMC)

The formation of the CLMC follows the policy and institutional framework reforms as far as the governance of communal land is concerned emanating from the enactment of the 2016 Community Lands Act. This Act makes provisions for the recognition, protection and registration of community land rights and provides for the conversion of community land, special rights, and entitlement with respect to community land, environment and natural resources management of community land and

settlement of disputes relating to community land. The new legal environment is meant to address the legal loopholes to avoid the adverse effects of these anticipations and contestations on community land. The implementation of this new legal action has resulted in fundamental changes in Ngare Mara.

The Community Land Act (2016) provides the development of by-laws to guide land governance, and the election of a Community Land Management Committee (CLMC) by the entire community and is overseen by the national and county government representatives. The elected CLMC oversees the by-laws and manages the daily activities on the land. The committees, unlike the council of elders and the politically instigated outfit, are specific to homogenous zones. The committee provides a platform for the community to engage in policy dialogue and decisions in a manner that conforms to legal standards. It uses constitutional and legal accounts to reshape the less satisfying elements of land rights.

Dynamics Facing the Community Land Management Committees

The committee was viewed as an institution that would bring order to the complex set of overlapping land rights continuously contested and re-negotiated by previous institutions. It prioritized equity and inclusiveness of the society, as it was legally required that have women and youth as members. In the current context of land dynamics, their main role is to resolve intra-communal land issues, demarcate and plan for community land. They support the community in revising previous acquisition strategies, identifying gaps, and claiming back some land. Through this constitutional institution, the community is gaining new strength; and are 'demanding land actors for signed agreements rather than promises', as observed by an informant.

However, the study noted key challenges facing the modern land committee; including, lack of trust by community members who view them as land sellers, given past traumas from other institutions, including the council of elders. Additionally, the persistent mindset affected the operation of the CLMC that comes under the 'new order'. Big actors who came through former institutions undermine such new institutions. In this case, there is a confusion over who holds the mandate to support land governance between the new land committee and the former regimes. In most cases, issues of manipulation and interference by powerful people leading to cases of corruption, unjust land dispossession and continued land grab were raised. Lastly, it was observed that the community is confined to their specific settlement areas, whereas some decisions made by the other settlements within the conservancy affect their operation area, yet they cannot make these decisions jointly.

Since 2015, yet another institutional outfit emerged: the Community Conservancy Management Committee (CCMC).

iv. Community Conservancy Management Committee (CCMC)

The CCMC, an NRT-supported outfit, has an elected board of 12 members (including 2 women) representing 12 settlement zones within the Nakuprat Gotu Community Trust Land area. The board appoints and oversees a small management staff, and a security force of 29 rangers. The board is divided into sub-committees who oversee grazing, rangeland management, benefit-sharing of financial resources and advancement of tourism opportunities. Through its membership with NRT, the conservancy uses innovative approaches to tackle drought and help rehabilitate the rangeland. The community rangers are on daily patrol resolving conflict over livestock and natural resources and

working with communities to maintain security. The land tenure issue is not a thematic area expressly outlined in the conservancy management plan, although the overarching goal is to support the conservancy model; as a sustainable land-use strategy.

Dynamics Facing the Community Conservancy Management Committee

Community conservancy, and therefore its management bodies in Northern Kenya are challenged on critical basis, especially on the lenses of green-grabbing and land grabbing by conservation actors. Land has become a highly politicized issue, particularly for communities whose land remains un-registered. The Nakuprat-Gotu conservancy management body did not proactively engage in land-related issues, even though major land-related decisions within the conservancy spaces are being undertaken. This, observably, is in a bid to sanitize their conservation model, from the heated contestations in the region.

The conservancy board has therefore purely focused on supporting communities drive their own conservation agenda as opposed to engaging in or intervening on ongoing land dynamics. In this case, large-scale land dispossession and land transactions for state-led projects and private investments in the area raises key fears on imposed land-use arrangements that could conflict with the conservancy management plan.

IV. CONCLUSION

This paper concludes that the anticipation and unfolding of mega-development projects produce an uncertain future in terms of the robustness of a conservancy model which is strongly embedded in communal ideals and traditional livelihoods like pastoralism. The anticipation of projects instrumentalizes problematic changes in land views, values and ownership arrangements that lead to

privatization, dispossession and conflicts, and challenges the conservancy's ability as a land-use model and an entity that is co-shared and co-managed. Additionally, local institutions are destabilized by the politics of infrastructural development and the related land issues. The elder's system, for instance, become susceptible to political manipulations and gradually lose their grip over key issues as outlined in this work.

V. RECOMMENDATIONS

The land question in a CBC model should be interrogated and incorporated in the conservation management plan rather than avoided by conservation stakeholders. Additionally, Ostrom's principal design of community-based resource management (CBNRM) should be expanded within the emerging dynamics of different (development and conservation) visions converging in common communal landscapes. Conservation planning must take a holistic approach that encompasses a multi-faceted landscape dimension that not only considers the ecological processes and ecosystem functions, but also considers a matrix of socio-economic issues.

Common property management principles as advocated by Ostrom (1990) should support putting in place structures that do not advance exhaustive, elite capture interventions that disempowered communities and destabilize their local institutions. The CBC model's priorities should drive the formulation of strategic plans to ensure that development promotes rather than strains the system.

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CONFLICT OF INTEREST

The authors declare no conflict of interest.

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