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# The Community Land Act and the subdivision of Kenya's Maasailand's remaining commons: implications for community conservation

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The introduction of the Community Land Act (2016), heralded by Kenya's National Land Policy under its 2010 Constitution, reignited debates around the formalisation of customary property rights, leading many Maasai group ranches to dissolve communal land into private, individualised parcels rather than register as community lands. This trend has often resulted in land enclosures and unsustainable resource use, threatening vital community-managed resources such as forests, grasslands, and wildlife. This study employs a qualitative comparative case study of two Maasai group ranches' transition to private tenure in order to investigate local perceptions of the CLA and the factors motivating communities to move away from communal land holdings. It also examines how the two different approaches to land subdivision affect resource management and conservation outcomes. It draws from ethnographic fieldwork conducted in Oloirien (Narok County) and Olgulului/Ololarashi (Kajiado County), including semi-structured interviews, household questionnaires and participant observation, conducted between 2022 and 2023 among Maasai communities, as well as a review of secondary sources. The findings reveal that Olgulului/Ololarashi, which integrated demands for private property rights with communal access and management of the commons, was able to mitigate many unintended consequences of privatisation, such as path dependency and resource fragmentation. In contrast, Oloirien's approach led to increased land enclosures and weakened collective management. This paper argues that, in an enclosure context, conservation initiatives that allow for the continuity of customary resource management and give people a tangible stake in projects are more likely to foster a collective sense of environmental responsibility and stewardship. These insights have broader relevance for land policy and conservation strategies across African rangelands.

## KEYWORDS

Maasai, Kenya, land subdivision, conservation, constitution, group ranch, privatisation

## Introduction

Land plays a fundamental role in shaping human identity and livelihoods, yet many communities have encountered territorial dispossession and displacement since the advent of European colonisation, severing these longstanding relationships to the land (Inman, 2016). While Indigenous rights over lands and territories they have traditionally occupied have recently been recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), such acknowledgements cannot undo the historical and ongoing dominance of Western property rights system. Kenya's Community Land Act (CLA) of 2016 represents a significant attempt to diverge from this trend by formally integrating customary land tenure into its legal framework (Odote, 2013; Alden Wily, 2018). This legislative move aims to reconcile traditional land management practices with modern legal structures, potentially offering a more culturally appropriate and equitable approach to land governance. Yet, as this paper argues, the CLA had the opposite effect of triggering remaining Maasai group ranches to subdivide into individualised, private holdings.

The continuing conformity to colonial ways of inhabiting the land, what Odote et al. (2021) refer to as “privatization philosophy,” has led some parts of Kenya's Maasailand to transition from collectively held group ranches to private land ownership despite the recent efforts of the CLA. There is a long history of research examining tenure transitions in pastoral regions of Kenya. For instance, previous research has explored the social, economic and ecological effect of land demarcation and the resulting sedentarisation in Kenya's Maasailand (Galaty, 1994; Homewood, 1995; Mwangi, 2007; Galvin, 2009; Groom and Western, 2013). Moreover, studies have shown that the formalisation of pastoral tenure through the conversion of Maasai group ranches into individualised private titles has failed to deliver on its economic promises (Galaty, 1994; Homewood, 1995) and has exacerbated socioeconomic disparities (Mwangi, 2005; Galvin, 2009). This transition has also driven land enclosures and unsustainable management practices, adversely affecting natural resources such as forests, grasslands, and wildlife that were once managed communally (Groom and Western, 2013). Scholars have further explored the broader challenges associated with formalising tenure in African commons (Okoth-Ogendo, 1991; Musembi, 2007; Cousins, 2008; Robinson and Flintan, 2022) and have analysed Kenya's constitutional land reforms (Odote, 2013; Odote et al., 2021; Bassett, 2017; Alden Wily, 2018). Despite this substantial body of work, there remains a gap in the literature concerning the recent impacts of the CLA on tenure security, community wellbeing, and pastoral ecosystems since its implementation.

To address this gap, my research focused on two sites in Narok and Kajiado counties that had undergone subdivision within 5 years before my arrival in 2022. I observed active settlement on individual parcels, including home construction, land transactions, and infrastructure development. While some

community members welcomed these changes, others expressed dissatisfaction. These dynamics motivated my investigation into local perceptions of the CLA and the process of tenure formalisation that followed. This paper presents the findings of a comparative analysis of the transition from communal to private tenure in these two Maasai group ranches. The study's objectives are to examine local perceptions of the CLA and the factors motivating communities to move away from communal land holdings. It also seeks to analyse the varied outcomes of land tenure change in both field sites and assess how different subdivision approaches have influenced resource management and conservation outcomes.

## Methodology

### Study area

The study was conducted in two ecosystems in Kenya predominantly inhabited by Maasai communities: Maasai Mara (Narok County) and Amboseli (Kajiado County). In the Maasai Mara, research focused on Oloirien group ranch (Siria section), which borders the Maasai Mara National Reserve, Kenya's highest earning protected area (Norton-Griffiths et al., 2008). In Amboseli, research centered on former Olgulului-Ololarashi group ranch (OOG) (Kisongo section), which surrounds Amboseli National Park. These sites were selected for comparative analysis because they share key contextual features—namely, their proximity to wildlife protected areas and recent subdivision under the Community Land Act of 2016—allowing for examination of how similar legal and socio-ecological conditions influence pastoralist land use and conservation practices.

Both sites combine pastoralism with agriculture, with some variations: households in Oloirien integrate small-scale livestock herding with rain-fed cultivation, while those in Olgulului-Ololarashi primarily practice extensive livestock herding, with some households engaging in agriculture where irrigation permits. In both areas, some households also receive income from wildlife tourism.

### Research design

This study employs a qualitative comparative case study design of two Maasai group ranches in Kenya. Twelve months of ethnographic research were conducted between September 2022 and June 2024. Time was split between Oloirien (Narok) and OOG (Kajiado). Qualitative data was collected through ethnographic methods, including participant observation of daily life (e.g., livestock rearing, herding, and fetching firewood and water) and 205 semi-structured interviews with local community members and conservation actors across both sites.

## Data collection and analysis

Participant selection for community members utilised a systematic sampling method, approaching every third house in settlement clusters at each site. To ensure gender balance, we alternated between male and female respondents when possible, adjusting our selection to maintain equal gender representation when faced with multiple potential participants. This approach aimed to secure a diverse and representative sample across the study sites. Conservation actors were selected using snowball sampling. Interviews with community members were conducted in Maa with the assistance of a Maasai field assistant, while interviews with conservation actors were conducted in English where possible, or in Maa with the same assistant when necessary.

During interviews, participants were asked to discuss reasons for and opinions of group ranch subdivision, as well as perceived and expected changes in their social-ecological environment following land tenure change. The interview content was examined using the thematic analysis technique to identify key themes and patterns, with particular attention to the emphasis and occurrence of different themes across sites, age groups, and genders. All coding and analysis were conducted manually following a systematic and iterative process to ensure rigor and transparency. Emerging ideas were tested iteratively by inspecting for recurring instances and differences, ensuring a comprehensive treatment of the data set (Silverman, 2006). Discourse analysis was also used to analyse how language (primarily in Maa) was used by participants to construct meaning. Participant observation complemented the interview data, providing insights into how land privatisation and individuation shaped people's relationships with their environment, natural resource use, and livestock mobility patterns.

An additional survey component was incorporated in the later stages of the research project, after the researcher learned that new conservancies were being established in OGR. A total of 285 landowners from both rural and village areas were surveyed regarding their opinions on the newly established conservancies. Households were selected using systematic sampling, with every third house in settlement clusters approached at each site, as identified through Google Earth satellite imagery. In traditional *manyattas* (clusters of households arranged around a cattle enclosure), all households were surveyed if an adult was present.

To complement empirical data, a comprehensive review of secondary sources was conducted to contextualise the historical and contemporary land tenure systems in Kenya. This review included government documents, legal texts (e.g., the Kenya, 2016), policy reports, and relevant academic literature. The literature search was carried out systematically using databases such as JSTOR, Google Scholar, UCL Library, employing keywords related to “land tenure,” “group ranch subdivision,”

“pastoralism,” and “land policy Kenya.” The review process involved clear inclusion criteria focusing on documents relevant to the Kenyan pastoralist context and authoritative sources from government and academic publications. Documents were screened for relevance and synthesised to provide a historical and legal framework that informed the empirical analysis.

## Results

### Group ranches' history: making Maasailand legible

The Group Ranch Scheme (GRS), introduced in Kenya's Maasailand from the late 1960s to mid-1970s, represented a transition from customary communal land tenure to a more formalised system of collective ownership (Kimani and Pickard, 1998). Under this scheme, pastoral communities owned land as registered groups, with fixed, legally recognised boundaries and management by elected committees. This system served as a middle ground between traditional pastoral tenure and private ownership (Galaty, 1994; Robinson and Flintan, 2022), arguably making Maasailand more legible (Scott, 1998) to the state and capital markets. The GRS aimed to promote tenure security and attract investment for ranching development, aligning with modern state practices of standardising and categorising resources for more efficient management and control (*Ibid.*). This shift transformed flexible, open rangelands into legally recognised, demarcated territories, marking a significant change in land governance for Maasai communities.

By the 1980s, pressure to subdivide group ranches increased due to their failure to deliver on key promises such as tenure security, investment stimulation, and improved livestock management (Galaty, 1994; Kimani and Pickard, 1998). The group ranch system became plagued by conflicts and corruption, with some representatives abusing their authority as land trustees by allocating themselves and select individuals disproportionately large parcels of land (Odote, 2013). In response, ordinary members began to advocate for subdivision as a way to safeguard their individual shares. This movement gained official backing in 1989 when President Moi publicly endorsed the dissolution of group ranches (Galaty, 1992; Mwangi, 2007).

The push for subdivision reflected the influence of Hardin (1968) “tragedy of the commons” theory, which suggested that privatisation would promote more sustainable and productive resource use. International agencies such as USAID and the World Bank, guided by this philosophy and broader neoliberal policies, actively promoted market-oriented commercial ranching and land privatisation (Fratkin, 2001; Harvey, 2005; Maathai, 2009). These ideas were further institutionalised in the World Bank's structural adjustment programs which advocated

for privatisation, fiscal discipline, and trade openness in developing countries.

Challenging the neoliberal promise, research has demonstrated that sustainability and productivity are not always aligned (Ostrom, 1990). Studies have found that extensive pastoralism often outperforms commercial ranches in both productivity and sustainable pasture management (Sandford, 1983; Homewood and Rodgers, 1988). Privatisation and land parceling are ill-suited for rangeland ecosystems, hindering the flexibility needed in drought-prone areas with wildlife (Groom and Western, 2013). Moreover, private land tenure has disrupted traditional social systems, exacerbating vulnerabilities for marginalised groups (Mwangi, 2005) and leading to increased resource competition and disparities (Galvin, 2009). As Galaty (1994), 109 notes, “the moment of enclosure and privatisation is more often characterised by exclusivity rather than equity,” often resulting in land consolidation by a privileged few.

## The Community Land Act and the shift away from community holding

While subdivision of Maasai group ranches began in the 1980s, some ranches remained under communal ownership until quite recently. Many group ranches closer to Kenya’s former Central Province<sup>1</sup> had already succumbed to the pressure to subdivide early on.<sup>2</sup> In contrast, both of my field sites were late to complete dissolution, likely due to factors such as geographical remoteness, the high costs of land registration transfers,<sup>3</sup> or limited community support for privatisation. The passage of

the CLA of 2016 reignited the debate between privatisation and communal tenure in these areas. Kenya’s 2010 Constitution redefined all land as either private, public, or community land, effectively repealing the Trust Lands Act and the Land (Group Representatives) Act that had established group ranches. Communities were given a three-year deadline to formally adjudicate and register their land under the new legal framework (pers. comm. Jackson Mwato, AET).

After decades of colonial laws favouring private tenure and persistent challenges in managing communally owned land under the Trust Lands and the Land (Group Representatives) Acts, the CLA was enacted to recognise and formalise customary land holdings, highlighting the distinctiveness of African commons and the valuable socio-economic contributions of pastoral land uses (Odote et al., 2021). Influenced by the African Union’s call<sup>4</sup> for land reforms that recognise and support indigenous tenure systems, this legislation reflects a shift towards accepting collective tenure as a legitimate form of land ownership within Kenya’s legal framework (Odote, 2013; Alden Wily, 2018, 1).

The CLA emerged from longstanding debates and grievances over land administration, particularly issues of centralisation, corruption, and inefficiency (Manji, 2015). Article 40(1) of the 2010 Constitution articulates the guiding principles of Kenya’s new National Land Policy, emphasising equitable access, security of land rights, sustainable and productive land management, transparent and cost-effective administration, and the elimination of gender discrimination in laws, customs, and practices related to land and property. The CLA was enacted to put these provisions into practice.

Under the CLA, communities are empowered to register themselves and obtain a single collective title for territory they jointly own and govern according to customary law. The Act grants communities the autonomy to define themselves, provided they represent “a consciously distinct or organised group of users who share any of the following attributes: common ancestry, similar culture or unique mode of livelihood, socio-economic or other similar common interest, geographical space, ecological space or ethnicity” (CLA s. 2). Despite the progressive intent of the law, however, when presented with the option to register under the CLA, communities in both of my field sites chose instead to complete the subdivision process, preferring individual titles over collective registration within the new legal framework. This is because the belief that private tenure offers the greatest security, delivers more tangible benefits, and enhances the land’s productivity and development potential. Additionally, many viewed privatisation as an inevitable process.

1 The provincial system was replaced by a system of counties in 2013. The Central Province was a region which now comprises five counties: Kiambu, Kirinyaga, Muranga, Nyandarua, and Nyeri.

2 This could be due to high level-civil servants and politically influential persons encouraging nearby Maasai communities to privatize as they sought to benefit from it. This is evidenced in Galaty’s (1994) case studies of the Mosiro and Iloodariak group ranches in the South Rift Valley, whereby non-residents and non-Maasai were registered illicitly as members in anticipation of subdivision. Areas of Maasailand bordering other communities saw infiltration of non-Maasai migrants as the post-colonial government permitted the influx of other farming communities into fertile lands near Nairobi (Mwangi, 2007; Fratkin, 2001). When I asked my research participants why their group ranch was not subdivided until the second half of the 2010s, respondents said that subdivision is an undertaking that takes time and resources which their group ranch committee did not have, or that it was difficult for leaders to get the support of registered members to go ahead with subdivision. In OGR, subdivision was so controversial that opponents “came out with spears” when surveyors began their operations in 2019 (OGR, #40).

3 Costs associated with dissolving group ranches fell on communities (Odote et al., 2021). Members in both Oloirien and Olgulului/Ololarashi were asked to pay 35,000 ksh (approx. £200) to their county’s Land Registry to obtain their title deeds, not including the costs of surveyor fees and other associated costs.

4 See the African Union’s Framework and Guidelines on Land Policy in Africa (AUC-ECA-AfDB, 2009).

Proponents of subdivision argued that years of corruption and mismanagement by their group ranch committees had eroded the integrity and legitimacy of the group holding, while benefits from tourism and conservation investments rarely reached the wider community. In contrast, private ownership was seen as a way for individuals to directly benefit from their own parcels—however small. As one man said: “Investors will come directly to landowners now. They will stop going through the group ranch committee to negotiate agreements. People will not be taken advantage of” (OGR#30, junior elder). Many respondents viewed individual landownership as a positive shift, granting them a sense of agency they lacked under previous collective ownership. With private titles, landowners could independently decide how to use their land and with whom to partner for investments. For instance, many interlocutors had already converted their parcels to agriculture by partnering with farmers from other ethnic communities to grow cash crops, or collaborated with tourism partners to develop campsites or lodges on their properties. This newfound authority made them the primary decision-makers regarding the economic use of their property, while the ability to fence or enclose their land provided a tangible sense of security and ownership.

Private tenure is also believed by many of my interlocutors to increase development in their rural areas—a perspective rooted in the belief that “development” occurs as the result of a linear transition between “traditional” and “modern” institution (Odote, 2017). As one woman said, “Subdivision is a good thing because it will bring development of the land. Roads, shops, schools and dispensaries will come” (Oloirien#64, junior woman). Some respondents explained that under the group ranch system, it was difficult to develop their land:

Before, you would be scared of building a permanent house and investing in your shamba [piece of land] because you never knew who would come and settle or the chairman would tell you to go away. When the land was communal, you could not control what is done with the land. It is easier controlling your own piece of land now” (OGR#8, junior woman).

Kenya’s pastoral areas have for a long time been characterised by low investment and policy neglect by governments, so many saw privatisation as means to attract greater investment (Odote, 2013). In the words of a government administrative leader in the Amboseli location, “Subdivision is paving the way for development. How can you develop the land if it’s not privatised?” (OGR#26, junior elder).

Members advocating for subdivision were also motivated by fears of land grabbing and encroachment by both local elites and outsiders. Indeed, community registration did not change the possibility of elite capture, and many feared that the Act would perpetuate longstanding patterns of neglect and disregard for

communal land rights (Odote et al., 2021). For instance, in Olgulului/Ololarashi, many respondents reported that their leaders warned of potential government settlement of non-Maasai on their land if subdivision did not occur, despite this not being explicitly stated in the Act. There is one provision, Section 30(5), which prohibits gender discrimination by granting community membership to anyone married to a community member, unless the marriage ends through divorce or remarriage after a spouse’s death. This clause may be seen as conflicting with customary Maasai law, which passes land rights patrilineally, and has raised concerns that women marrying outside the community could enable non-Maasai to acquire land through marriage (Odhambo and Sankale, 2021). However, my interlocutors did not express this specific fear. Instead, they emphasised concerns that, without subdivision, the government might settle migrants from other regions on their land, as un-subdivided land would remain vulnerable to external appropriation. This anxiety is rooted in Kenya’s legal history, where property rights have traditionally only been recognised and protected by the courts if land was held under freehold or leasehold entitlements (Odote et al., 2021).

In any event, the CLA created confusion around the definition of “community” and left state powers over community lands ambiguously defined, potentially giving government leeway to appropriate land.<sup>5</sup> Alden Wily (2018) and Odote et al. (2021) highlight concerns about the lack of political will to convert group ranches into community holdings, which may have prompted leaders to advance narratives that casted doubts instead of promoting community tenure. As one man working for a conservation NGO in the Amboseli ecosystem said: “There was a misinterpretation of that Act by many of our leaders. They were spreading a gospel that if we do not subdivide, the land will go to all people in the group ranch, even the non-Maasai” (OGR#30, junior elder). Respondents, particularly those critical of subdivision, noted that local and county elites and decision-makers were pushing for privatisation because they believed it would offer them greater opportunities to access individual land than if it were registered collectively under the entire community.

In Oloirien, fears centered on past encroachment by powerful local elites: “We wanted land subdivision to stop the corruption

5 According to Wily’s analysis (2018), there are potential loopholes in the CLA which might enable the national and/or county governments to remove land from community entitlement. First, the CLA states that the county government acts as a trustee until the community is officially registered, a process which may take years. Given the county government’s long history of malfeasance, it is understandable that community members are concerned. Second, the national government may too easily withhold communal lands which are deemed “public land vested in the national or county government” (CLA s. 13 (1) & (2)). It is unclear what is understood as the public’s interest, and thus, could be used to reappropriate land by “reassign[ing] some community land areas as disposable public land” (Alden Wily, 2018, 14).



and land grabbing that was taking place during the communal era” (Oloirien#45, junior elder). They saw this opportunity to formalise land into individual holdings as the only way to stop illegal land grabbing by political elites. However, this same man concluded that “Land subdivision ended up being another opportunity for corruption.” Individuals in positions of authority during the subdivision process wielded significant influence, enabling them to make decisions that served their own interests and ultimately secure permanent legal ownership of appropriated land through formal tenure.

The limited availability of clear, practical guidelines for communities, combined with misinformation from local leaders and corruption, contributed to community support for subdivision, who viewed it as a safeguard against both non-Maasai settlement and powerful local elites. This pattern echoes findings by Woodhouse and McCabe (2018) in Tanzania, where land insecurity was identified as a primary threat to Maasai wellbeing. Ultimately, private property, as the prevailing tenure system, appears to offer disenfranchised communities a greater sense of protection against land dispossession.

Finally, many community members in both group ranches were living with the weight of the impending subdivision. They anticipated that the privatisation of their communal land into individual parcels was inevitable, creating a sense of uncertainty and anticipation. Musembi (2007) notes that the formalisation of property rights in Africa often carries a social evolutionist bias—an assumption that private ownership is the inevitable endpoint for all societies. Similarly, Odote et al. (2021) observe that Kenya’s property regime has long glorified land titling, to the extent that “citizens became accustomed to seeking titles as evidence of ownership, a mark of property protection, and a status symbol” (299). This deeply rooted expectation influenced community support for subdivision. Many of my interlocutors echoed these sentiments, expressing the belief that private land ownership would empower individuals to manage their holdings more effectively and to capitalise on the associated benefits.

In any event, the CLA, by compelling communities to rethink and formalise land tenure under Kenya’s new Constitution, appears to have renewed a longstanding trend towards privatisation, prompting many of the remaining group ranches to pursue subdivision. The CLA failed to eliminate ambiguities over the future of collective holdings and provide community members with confidence that they would not incur more losses within the shared domain. Private tenure, perceived as an inevitable conclusion, offered community members a welcomed sense of empowerment and security. Nevertheless, there is no delusion that this decision to subdivide the land will affect Maasai way of life and the environment that sustains it.

Despite the trend towards land privatisation, many community members remain aware of the potential environmental and social ramifications of subdivision. In

response, some are actively seeking ways to reconcile private tenure with conservation goals and the preservation of pastoral values. The manifestation of these efforts varies between the two field sites due to differences in leadership and historical contexts. The following section presents findings from the comparative case study to examine how each community has navigated the transition to subdivision. The analysis focuses on identifying which elements of each approach have empowered (or disempowered) community members to mitigate the negative impacts of land privatisation (Groom and Western, 2013). By comparing these two distinct cases, this research aims to clarify the factors that have influenced resource management and conservation outcomes post-subdivision.

## Comparing transitions to private, individualised tenure

Oloirien and Olgulului/Ololarashi implemented distinct adjudication strategies during their land subdivision processes. These differences can be largely attributed to their respective historical and political contexts at the time of subdivision. In this section, I analyse each group ranch’s subdivision strategy and its subsequent effects on the Maasai social-ecological system. I also discuss how the differing approaches to subdivision have influenced conservation outcomes in each location.

### Olgulului/Ololarashi group ranch (OGR), Kajiado County

The decision to subdivide was contentious and led to conflicts<sup>6</sup> amongst group ranch members. However, as the CLA came into effect, conservation actors in OGR sought to engage with the community from the outset. Once group ranch leadership decided to proceed with subdivision, these actors provided advice and support throughout the process. A pivotal role was played by the Amboseli Ecosystem Trust (AET), a not-for-profit organisation, funded by international donors and managed by local Maasai, which helped mediate among key stakeholders—including the group ranch committee, the national government, and conservation NGOs—during the subdivision process. The AET is in an umbrella organisation that brings together the local community, as well as governmental, conservation and developmental stakeholders in the entire ecosystem. The AET was created in 2009 to coordinate stakeholders and

6 Notably, a conflict erupted in Namelok in 2019 between supporters and opponents of the subdivision when the land committee began allocating parcels to members. Interlocutors reported that police were called to intervene, and women attempted to discourage the men by threatening to strip naked—a common form of protest among women in Kenyan society.

oversee the implementation of the Amboseli Ecosystem Management Plan (AEMP) 2008–2018, Kenya's first ecosystem-wide management plan. The Trust's board, which includes representatives from all organisations operating in the Amboseli ecosystem, meets quarterly to drive forward initiatives that support the wellbeing of people, wildlife, and habitats spanning seven former group ranches. Through its collaborative structure, the AET effectively unifies and amplifies diverse conservation efforts across the region.

When the AET was made aware by the group ranch committee that subdivision was imminent, they took an active role in the process to mitigate the ecological effects of the transition to private tenure (pers. comm. Jackson Mwato, AET). They sought legal counsel from consultants and organised stakeholder workshops to raise awareness among group ranch leaders about the social and ecological risks associated with land subdivision. Recognising the community's desire for secure individual land ownership alongside the need to preserve collective management of shared rangelands, the AET worked to find a balanced solution that would support both the continuity of pastoral livelihoods and environmental sustainability. A report prepared for the AET and OOGP concluded:

The appropriate legal option for holding and managing the land after subdivision of OOGP should be one that provides and guarantees security of tenure over individual property, while also upholding the tenets of collective management of rangelands that characterize communal land tenure, making it possible for individuals hold private title to specific portions of the land, while also having an interest in rangelands held in common as communal property. (Odhiambo and Sankale, 2021)

OOGP opted for a zoning approach, aiming to achieve an optimal mix of land uses by designating specific zones for different activities. This strategy confines certain land uses to designated areas, with the objective of limiting agricultural expansion and preventing further fragmentation of the rangeland, thereby ensuring habitat connectivity after subdivision. The AET prepared bespoke land-use plans for each group ranch within the ecosystem and gazetted these into law. As a result, each member's share was allocated across different land uses: settlement, farming, and conservancy. "This is the first time it is done in Kenya," noted the AET's Executive Director, highlighting the innovative nature of this intervention, which uniquely considered the ecosystem as a whole when planning subdivision-balancing community needs with wildlife conservation. Notably, three new community-owned and -managed wildlife conservancies were established in OOGP as part of the subdivision process (Kitenden B, Ole Narika, and Ilaingarunyoni conservancies). Each registered

member received eight acres within one of the new conservancies, in addition to 21 acres designated for settlement.<sup>7</sup> To discourage development within conservancy areas, landowners were not shown the precise coordinates of their parcels.

Each conservancy is managed by an elected committee responsible for both day-to-day operations and attracting potential investors. While each conservancy establishes its own rules and regulations, all agreements must guarantee Maasai herders controlled grazing rights within these areas. The conservancies are designed to support the coexistence of wildlife and livestock, fostering an environment where both can thrive. Tree cutting is prohibited, but local women are permitted to harvest firewood sustainably by selectively gathering dry branches. In return for maintaining the land free from fences and permanent infrastructure, each shareholder is compensated through a lease arrangement, subsidised by international conservation organisations and revenues generated from tourism activities within the conservancy. Members anticipate an annual payment of 15,000 KSH (approx. £87), although this amount has yet to be confirmed. Beyond lease payments, community rangers are employed to monitor wildlife and manage natural resources, further supporting conservation efforts. This financial stake in the conservancy is intended to foster a sense of shared responsibility for environmental stewardship among community members.

The land designated for the new conservancies was selected in accordance with the AEMP, which "defined a Minimum Viable Area (MVA) for sustaining wildlife and pastoral herds, minimising threats to ecosystem integrity, and proposed specific mitigation measures" (Amboseli Ecosystem Trust, 2020). The new conservancies tend to fall on *enkaroni*, or areas traditionally kept open for grazing, usually only used during droughts. Under customary practice, seasonal grazing areas functioned as a common pool resource, collectively managed by local herders and providing essential resources such as pasture, firewood, and timber for building. Crucially, these pastoral zones are also vital for wildlife, encompassing key dispersal areas and migration routes. The land-use prescriptions for these zones are thus designed to support both pastoralism and wildlife conservation. As such, the establishment of conservancies serves to formalise and legitimise these communally managed areas, providing them with legal protection against encroachment and unsustainable development while promoting coexistence between livestock and wildlife. Through this approach, the AET is achieving its goal of

<sup>7</sup> Wildlife corridors and conservancies which have been created the formal subdivision process is complete and after people have been issued their parcels, such as the Nairabala corridor and Taisere Conservancy. These are created by leasing people's 21-acre parcels which were originally intended for settlement.

integrating private land titles with rangelands held in common as communal property.

Alongside the financial incentives provided by conservancy land leases, leaders are actively promoting the non-monetary benefits of conservancies for both wildlife and local livelihoods. This outreach is conducted through public meetings and by leveraging clan leaders to communicate with their respective members.<sup>8</sup> Conservancies are framed as a win-win solution, balancing landowners' interests with broader conservation objectives in the newly subdivided landscape. As the AET's Executive Director explained, "Maintaining the continuity of this landscape is not just good for wildlife; it maintains Maasai livelihood."

This narrative was echoed at a public meeting hosted by the group ranch committee and Soils for Future Africa (July 20, 2023), where a Maasai radio personality highlighted the benefits of controlled grazing on conservancy land for sustaining Maasai livestock keeping:

Continue keeping your livestock, continue using your grazing pattern, but of course at a fee. So, you will be paid to do what you usually do in your daily life. The land will still be used according to the practices you've been doing since you are born, so who would refuse such a program? Just keep doing what you've been doing and you will be paid — who can refuse that?

This approach seeks to cultivate a sense of shared responsibility and mutual benefit among private landowners, thereby fostering support for the establishment and maintenance of new conservancies and wildlife corridors within the recently subdivided group ranch. It seeks to sensitise landowners to the diverse benefits conservancies offer to people, livestock, and wildlife, while also emphasising their role in preserving cultural continuity—a factor deeply valued by many community members, especially elders whose support is paramount. Many individuals have begun to internalise and articulate this narrative about conservancies, often repeating the benefits communicated at public meetings in conversations. Interlocutors frequently echoed similar accounts regarding the advantages of the newly established conservancies, suggesting that the messaging has been effective in shaping positive perceptions and support for these initiatives. Eighty-four percent (84%) of 285 respondents surveyed in OGR said that the creation of conservancies during subdivision was a good idea. According to respondents, the newly created conservancies will enable traditional Maasai land and resource management practices,

such as *enkaroni*, to continue to some degree, enabling livestock owners to cope with variability. As one woman said, "Conservancies will help us continue to live the way we live because it will keep some open space where livestock and wild animals can graze." (OGR#13, junior elder).

Interlocutors also noted that conservancies will benefit vulnerable members who most often lose out in land privatisation. Families who cannot afford charcoal and gas can continue to harvest firewood from the nearby conservancies. Families whose livelihoods depend solely on livestock-keeping can continue to graze their cattle in the open rangeland. Land lease payments distributed to landowners' bank accounts on a yearly basis will also supplement household incomes, which is welcomed considering that livestock-keeping is an increasingly risky endeavour with the unpredictable climate. Importantly, conservancies help prevent economically vulnerable individuals from selling their title deeds, thereby keeping land within the Maasai community and preventing the risk of land use conflicts with non-pastoralist buyers.

Kimana, a neighbouring group ranch which dissolved in 1992, saw widespread disposition of land by its members after subdivision. Many sold their parcels to non-Maasai buyers, who subsequently converted pastoral land to agriculture and urban development. This shift led to major land use conflicts, the near collapse of livestock-based livelihoods, and the emergence of a class of landless Maasai (Odhiambo and Sankale, 2021). Conservation efforts were also undermined by new developments. As one conservation stakeholder explained, "The 'Kimana effect' informed the development of the AET's Amboseli Ecosystem Plan. There are so many hotels on the road to Kimana which block wildlife corridors. That's the effect of subdivision. Conservationists feared this would happen in other group ranches." (OGR#29, junior elder). There are some ongoing efforts by the AET to establish a fund which would buy land from private landowners who wish to sell (Odhiambo and Sankale, 2021).

Women, in particular, have shown strong support for the conservancies, as the subdivision process often left them vulnerable; in many cases, husbands sold family parcels without their consent, exacerbating women's land insecurity. Land within conservancies is subject to restrictions on title deeds, making it less attractive to buyers interested in farming or development. These restrictions help keep land within the Maasai community and reduce the risk of further disposition and conflict. Nevertheless, OGR has not been exempt from widespread land sales; many individuals who received parcels outside conservancies have subsequently sold them to both local and external buyers.

According to conservation stakeholders in OGR, these conservancies will bring about positive ecological impacts. Keeping large swaths of land open and connected through corridors will allow for the continuity of wildlife migration, from the Tarangire ecosystem to Amboseli, Chyulu Hills and

<sup>8</sup> Informants indicated that Maasai are most receptive to guidance from leaders within their own clan, making clan-based leadership an effective strategy for building support for conservation initiatives.



Tsavo. Conservancies also prevent agricultural expansion on marginal land, promoting other practices better suited for the rangeland ecosystem. If well managed, the conservancies may promote sustainable resource management beyond conservancies and foster positive attitudes towards conservation more broadly. As community members reap the monetary and non-monetary benefits of conservancies, they may decide to create new ones or add land to existing ones.

### Oloirien group ranch, Narok County

Unlike in OOG, Oloirien subdivided the total group ranch acreage, minus land for public utilities (i.e., schools, medical centers, public offices), amongst all registered members, allocating each member 36 acres. Oversight of the subdivision was largely in the hands of the county governor and his allies, who directed the group ranch and land subdivision committees with minimal input from the broader community or conservation stakeholders. Oloirien's proximity to one of Kenya's premier tourism regions made it particularly attractive for land speculation by regional and domestic elites. Consequently, the subdivision process facilitated the acquisition of prime parcels by these influential individuals, leading to extensive fencing of properties overlooking the sought-after Mara Triangle. The political economy of the region played a decisive role in shaping these outcomes, with power dynamics and economic interests driving the subdivision approach. This stands in stark contrast to OOG's more community-driven process, underscoring how differing political and economic contexts can produce divergent land management strategies, even within the same broader Maasai community.

Many Oloirien members, who initially supported subdivision believing it would enhance their land security, later recounted how elites exploited the formalisation process to acquire additional land. They claimed that the land subdivision committee allocated the most valuable parcels to young, uneducated men, who were perceived as more susceptible to persuasion and thus more likely to sell their land to elites. Numerous accounts describe brokers flocking to the community after subdivision, targeting young, unmarried Maasai men with cash offers and promises of exciting trips to Nairobi. As a result, many young landowners sold their parcels at bargain prices, often unaware of the true financial value of their land.

The unequal and fraudulent nature of the subdivision process has fostered widespread mistrust and resentment toward conservation actors in the area, as many political elites implicated in land grabbing are also closely linked to conservation and eco-tourism organisations. Many of my interlocutors who own land in certain areas near the Mara Triangle escarpment reported being regularly visited by brokers and investors who pressure them to sell their land—they refer to them as *orkonoy*, the Maa word for hyena.

As many explained, putting up an electric fence around their properties provides a sense of security as it clearly delineates their parcels and deters buyers. Others make their land unattractive to potential buyers by cutting trees and farming.

Deforestation has emerged as a significant conservation challenge in Oloirien, particularly within the Nyekweri Forest—a vital community forest that serves as both a migratory corridor and breeding ground for elephants (Santini, 2024). During my stay in Oloirien, my host guided me on a walk through the forest to illustrate the tangible impacts of land subdivision. Along the way, we encountered landowners clearing trees to make room for new settlements, as well as non-Maasai laborers collecting logs for charcoal production destined for commercial markets. We met community rangers employed by international NGOs engaging in casual conversation with the men burning charcoal. To my surprise, the rangers were not attempting to intervene or halt the illegal activity. When I asked a Maasai ranger from the local area about this apparent leniency, he explained that his primary responsibility was not to prevent deforestation, but rather to patrol the forest and mitigate human-elephant conflicts. He admitted that it was difficult for him to watch members of his own community cut down the forest, but he felt powerless to intervene, as charcoal production and land clearing are essential for their livelihoods: “I cannot tell people not to make room for their boma and their cows. They have nothing else, that's what they were given [during subdivision]” (Oloirien #61, junior elder).

The ranger further lamented that the group ranch committee should never have subdivided the forest, arguing that it should have remained under community ownership: “Nyekweri forest was until a few years ago community land, but Oloirien Group Ranch committee subdivided the forest regardless of the recommendation by local activists to keep the forest as community land.” Many of my interlocutors echoed this sentiment, expressing regret over the missed opportunity during the subdivision process to formalise the forested area as community land, rather than dividing it into individual parcels.

The land subdivision committee reportedly chose to allocate parcels within the forest, rather than establishing a trust and registering the forest as community land. Had the forest been registered as community land, a title deed would have been issued, granting it legal protection. Instead, these forest parcels—considered less valuable—were allocated to individuals in exchange for their more desirable plots on the escarpment overlooking the Mara Triangle, along with a small monetary incentive. Furthermore, decision-makers had a vested interest in maximising the amount of group ranch land allocated, as this created opportunities for them to purchase parcels from sellers after subdivision. In contrast, once land is registered as community land or as part of a conservancy, it cannot be bought or sold, thereby limiting such speculative gains.

There are now ongoing efforts in Oloirien to establish a conservancy to protect Nyekweri Forest with the assistance of international funders like Basecamp Foundation and the World Wide Fund for Nature (WWF). At the time of fieldwork, the proposed conservancy did not have on-going agreements with landowners, nor had they paid any land leases since their conception. Many community members were either unaware of the conservancy's presence or uncertain about the nature of its operations. Others expressed suspicion regarding the conservancy's interests, noting that the same leaders who subdivided Nyekweri are now involved in its management. These leaders are also associated with historical injustices related to the Mara Triangle, where revenues intended to benefit surrounding communities were instead diverted to a small group of political elites through patronage networks. This history has fostered deep-seated resentment and mistrust. As one local resident remarked about the Nyekweri conservancy, "Why should we create another Maasai Mara which will not benefit me?" (Oloirien #92, senior elder).

Discussions with landowners in the forest revealed mixed attitudes toward the establishment of a conservancy in Nyekweri. One landowner expressed conditional support, stating, "I would be okay with it [a conservancy] as long as I get a parcel somewhere else" (Oloirien #62, junior elder). Convincing landowners to halt development on their parcels after subdivision is a significant challenge, particularly when conservancies are unable to offer alternative plots for resettlement. Subdivision has now fully and irreversibly enclosed land in Oloirien, fostering a strong sense of private ownership. This shift in mentality is evident in common responses to deforestation: "This is his land now; he is entitled to do whatever he wants with it."

The manager of the proposed conservancy described significant challenges in persuading landowners to join, citing both high expectations for monetary incentives and a lack of available funds. Landowners carefully weigh the potential benefits of different land uses, and the conservancy's land lease rates cannot compete with the income generated from cultivating cash crops. Unlike the Amboseli ecosystem, the Mara region receives ample rainfall, making it possible to grow profitable crops like maize and beans without sophisticated irrigation systems. As one landowner succinctly put it, "There is more money in agriculture than in conservation, so why should I join?" (Oloirien #39, senior elder). Despite receiving funding from international NGOs, conservation actors in Oloirien lack sufficient economic incentives and community trust to foster a sustainable transition to private, individualised tenure. The current incentives, both monetary and non-monetary, are inadequate to empower landowners to reduce their reliance on forest resources or to participate meaningfully in sustainable rangeland management.

## Discussion

While residents of Oloirien have shown limited enthusiasm for joining the new conservancy, this should not be mistaken for a lack of environmental concern. Instead, many individuals have been compelled to prioritise land and livelihood security over conservation, given their precarious circumstances. Years of malfeasance by county and group ranch officials have left people in Oloirien with few incentives to collaborate with organisations they do not yet trust, especially when available financial mechanisms fail to provide sufficient benefits. The mismanagement of communal resources has eroded trust in local leadership, further undermining current conservation initiatives.

Trust has been established as an important factor for securing community support of conservation (Davis and Goldman, 2019). It is also fundamental to the fabric of community dynamics: trust makes social life predictable, fosters a sense of belonging, and builds confidence in leadership, thereby facilitating collaboration (Shannon, 1990; Cook, 2003). This social capital enhances the resilience of social-ecological systems to change and crises (Goldman and Riosmena, 2013). Conversely, low levels of trust can create vulnerabilities in the system, potentially causing it to deteriorate into undesired states (Folke et al., 2005, 455).

Moreover, in OGR, there have been deliberate efforts to integrate Maasai institutions for rangeland management within the contemporary private property regime. As Odote (2017) notes, the successful governance of community lands in Africa "requires that traditional institutions be accommodated in modern governance arrangements" (142). The decision to allocate private parcels while simultaneously establishing conservancies in traditional grazing areas such as enkaroni—and the continued allowance for pastoralist grazing—reflects an approach that leverages Maasai knowledge, values, and institutions while adapting to changing times. This continuity enables community members to remain actively engaged in rangeland management even after the dissolution of the group ranch, allowing landowners to make environmentally conscious decisions and collaborate on sustainable land use independently of NGO oversight.

Participant observation confirmed that collective governance of the rangelands persists following subdivision. During fieldwork, elders regularly convened to decide when to open enkaroni and whether to allow livestock from other group ranches to graze. By maintaining some rangeland as open through conservancies, community members continue to play a central role in ecosystem management. With grass quality and availability as primary concerns, livestock owners have independently adopted sustainable practices, often without direct intervention from conservation NGOs. As Anand and Mulyani (2020) observe, when local people are motivated to engage in hands-on, meaningful work in their environment, they

become genuine stewards rather than mere rule-followers. This active involvement helps them recognise the tangible and personal benefits of their conservation efforts, fostering a deeper commitment to sustainable land management.

As a result, the process of land fragmentation and its social and environmental consequences have been moderated because pastoralism has been allowed to continue. Indeed, research shows that pastoralism is the most efficient use of semi-arid areas, as it makes optimal use of variable pasture productivity, and allows livestock-keeping and wildlife to co-exist (Kimani and Pickard, 1998; Behnke and Scoones, 1993; Msuha et al., 2012). Although the subdivision process in OOGRA was still marred by corruption—with group ranch officials and elites still managing to capture land for themselves—and many registered members claiming they were not consulted in accordance with Free, Prior, and Informed Consent (FPIC) protocols, the majority of surveyed residents expressed positive attitudes toward the newly established conservancies. When asked, respondents identified a variety of both monetary and non-monetary benefits, with the most significant being the continued availability of open rangeland for communal access. This demonstrates the importance of maintaining local governance structures and incentivising meaningful participation when seeking to promote sustainable behaviours and achieve effective conservation outcomes under the pressures of land privatisation.

Unlike the organised and clearly communicated efforts of the AET in OOGRA, the absence of similar coordination in Oloirien has made it difficult to establish new collective resource-sharing arrangements within the now private tenure system. During subdivision, no communal pastures were set aside for grazing, leaving few opportunities for collective decision-making about land use. Privatisation creates path dependencies, wherein “once resources are privatised in certain ways, it becomes difficult to return to previous arrangements or adapt to new challenges” (Partelow et al., 2019, 752). As a result, traditional practices such as migrating to enkaroni can no longer continue, as no commons remain for collective governance and the land is increasingly fragmented with electric fences, plantations, and permanent infrastructure.

In response, livestock owners in Oloirien have developed new strategies to ensure their cattle have sufficient forage. These include paddocking their individual 36-acre parcels, reducing herd sizes by focusing on milking cows and more valuable breeds, and shifting towards crop farming. However, the lack of communication, trust, and community participation has fragmented Maasai social-ecological systems and weakened the momentum of post-subdivision conservation efforts. Rapid land use changes—such as increased settlements, fencing, and roads—have restricted migratory animals’ access to traditional grazing areas. The spread of fencing and cultivation has been directly linked to declining wildlife populations (Ogotu et al., 2016; Msuha et al., 2012).

It is important to note that the success of the subdivision plan developed by the AET and its members remains difficult to assess, as the conservancies are still in the process of being established and the full effects of subdivision are yet to unfold. A key concern is that the benefits of the conservancies may be undermined by elite capture of payment incentives—a challenge frequently observed in community-based conservation initiatives (Bluwstein, 2017; Lund and Saito-Jensen, 2013; Homewood et al., 2012). Several respondents expressed doubts about receiving payments for their parcels within the conservancies, citing past experiences with Kitenden Conservancy, where members reportedly faced irregular and unreliable lease payments due to elite capture and poor management. This history has led to widespread apprehension that economic incentives for the new conservancies could once again be mismanaged or appropriated by local elites. More skeptical community members voiced concerns about the trustworthiness of conservationists, fearing that they might eventually lose access and use rights to conserved areas once investors become involved. The lack of transparency in previous lease agreements—often not shared with the broader community—has heightened these worries, as some fear this opacity could be used to undermine community interests.

Nevertheless, the group ranch committee and the AET have repeatedly assured the community in public meetings that livestock grazing will continue to be permitted within the conservancies. At the time of writing, only landowners within Nairrabala corridor have received their lease payments. Community members remain hopeful that investors and decision-makers will be transparent about financial matters and the terms and regulations governing the conservancies. Ultimately, the success of these initiatives will depend on whether communities are provided with genuine opportunities to engage meaningfully in conservancy governance, as well as on the transparency and accountability of decision-making processes to prevent elite capture and ensure equitable benefit-sharing.

## Conclusion

This work has shed some light on the paradoxical nature of the CLA by examining local perceptions and the factors motivating communities to move away from communal land holdings, in contrast to the Act’s original objectives. While the CLA was designed to empower Maasai communities by providing a legal framework to formalise and protect customary land rights under Kenya’s constitution, many group ranches, including Oloirien and OOGRA, chose to pursue individualisation and privatisation instead. This trend is largely driven by perceptions of greater tenure security under private ownership, shaped by a history of

government-led dispossession and a prevailing “privatization philosophy” that has shaped Kenya’s land policy since colonial times (Odote et al., 2021). Despite the CLA’s promise to strengthen communal land rights, longstanding biases toward private property and ongoing implementation challenges have limited its transformative potential.

By comparing two subdivision strategies in Maasailand, this paper has shown how different approaches influence resource management and conservation outcomes. In OGR, collaboration between conservation stakeholders and local leaders helped balance the desire for private land tenure with the socio-ecological need for collective management of shared resources. The resulting conservancies have transformed communal resources into formally recognised entities under private property, while accommodating customary practices. This approach has empowered individuals as environmental stewards and may help mitigate the negative impacts of land fragmentation. In contrast, in Oloirien, influential elites dominated the subdivision process, with minimal input from conservation actors or the broader community. All land under group ownership was divided among registered members, leading to forest clearing for settlements and undermining subsequent conservation efforts due to entrenched patterns of land use. These divergent approaches highlight how the internal dynamics of subdivision shape both ecological outcomes and the resilience of pastoralist systems.

This comparative study contributes to a growing body of research demonstrating that support for conservation extends beyond monetary incentives (Davis and Goldman, 2019; Kosoy and Corbera, 2010; Fisher, 2012). Fostering positive attitudes towards conservation and thereby mitigating the adverse social-ecological effects of land enclosures requires trusted leadership, clear communication, the integration of local governance institutions, and active community participation in resource management and problem solving. Conservation initiatives that allow continuity of customary resource management and give people a tangible stake in projects are more likely to foster a collective sense of environmental responsibility and stewardship. These findings align with other studies suggesting that conservation success depends on tenure and livelihood security, trust, community participation, and effective communication (Davis and Goldman, 2019; Anand and Mulyani, 2020; Berkes, 2004; Fabricius and Collins, 2007; Brooks et al., 2013; Roe et al., 2009).

This study is not without limitations. The focus on two group ranches, while illustrative, may not represent the full diversity of experiences in Maasailand. The reliance on interviews and participant observation introduces the possibility of respondent bias and may not capture the perspectives of all community members. Additionally, the research reflects a snapshot in time, and longer-term effects of subdivision and

tenure change may only become apparent in the future. External factors such as landscape and environmental variability may have influenced local outcomes in ways beyond the scope of this study.

Despite these limitations, the findings offer broader lessons for commons across Africa undergoing processes of formalisation and privatisation. The case studies demonstrate that trusted and well-organised entities can play a pivotal role in negotiating the integration of customary communal management practices into individualised tenure systems at the time of formalisation. Conversely, the absence of effective facilitation to support collective management prior to formalisation can hinder future efforts to re-establish collective arrangements once private parcels are developed. Further research is needed to assess whether customary pastoral land management practices can be effectively sustained within privatised systems, through mechanisms such as conservancies, as envisioned by the AET’s project.

**Ethical standards** This research was approved by UCL’s Research Ethics Committee, received a permit from the Kenyan National Commission for Science, Technology and Innovation, and consent from Maasai community leaders.

## Data availability statement

The raw data supporting the conclusions of this article will be made available by the authors, without undue reservation.

## Ethics statement

The UCL research ethics’ committee approved this project. Project ID: 22713/001. The studies were conducted in accordance with the local legislation and institutional requirements. Written informed consent for participation was not required from the participants or the participants’ legal guardians/next of kin because Participants offered verbal consent, since many did not have the ability to read or write.

## Author contributions

Study design: GS. Fieldwork and data analysis: GS. Writing: GS.

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## Conflict of interest

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

## Generative AI statement

The author(s) declare that no Generative AI was used in the creation of this manuscript.



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