

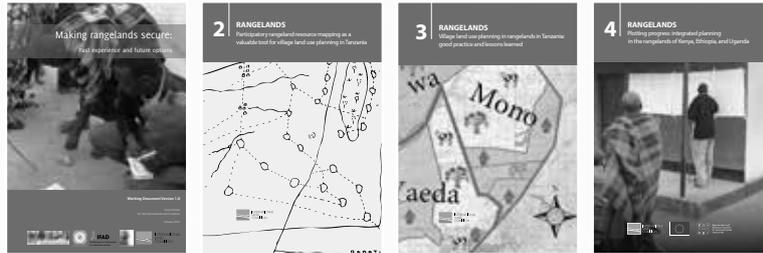
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## RANGELANDS

Conservation and “Land Grabbing” in Rangelands:  
Part of the Problem or Part of the Solution?



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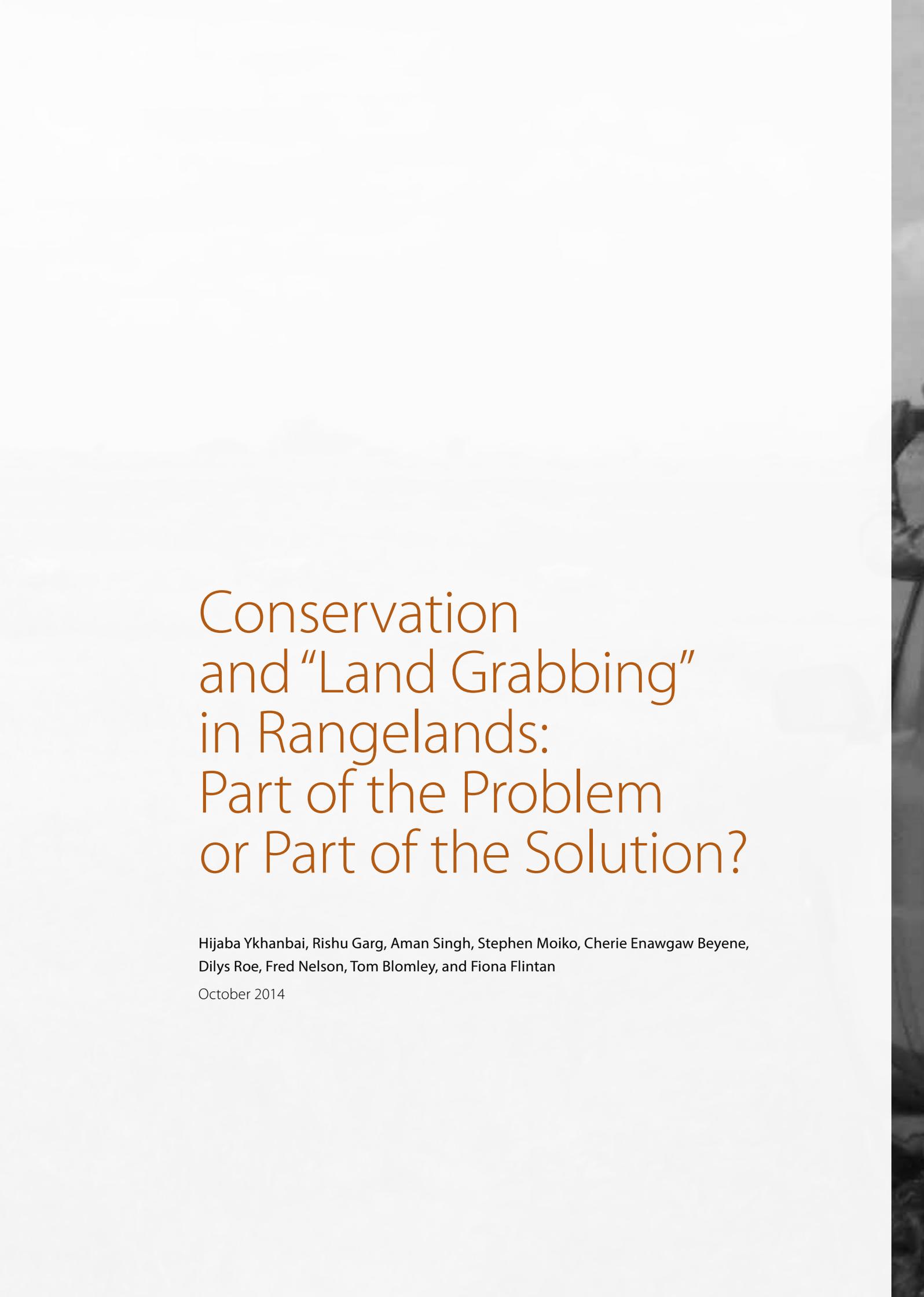
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# Conservation and “Land Grabbing” in Rangelands: Part of the Problem or Part of the Solution?

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October 2014

# Executive summary

## Background

Large-scale land acquisitions have increased in scale and pace due to changes in commodity markets, agricultural investment strategies, land prices, and a range of other policy and market forces. The areas most affected are the global “commons” – lands that local people traditionally use collectively — including much of the world’s forests, wetlands, and rangelands. In some cases land acquisition occurs with environmental objectives in sight – including the setting aside of land as protected areas for biodiversity conservation. On the other hand, current trends and patterns of commercial land acquisition present a major and growing threat not just to local livelihoods and human rights, but also to conservation objectives. There is a potential opportunity here for greater collaboration between conservation interests, and local communities’ land rights interests with their supporters amongst human rights and social justice movements. This Issue Paper documents experiences from the rangelands of Mongolia, Kenya, India, Ethiopia, and other countries, which were presented at a Conference on Conservation and Land Grabbing held in London in 2013.

## Land grabbing, green grabbing?

Rangelands are a target for investment, including for mining and large-scale crop production, across the world. The land allocated to commercial investors is usually considered empty or under-used. In Mongolia between 2000 and 2010, 0.3 million hectares of pastureland were provided to mining companies, and another 10 million hectares were placed under limited access while mining exploration took place. At the end of 2012, almost 3% of the country was under licence for mining exploitation, and another 10.4% was under mining exploration. Land tenure in such areas is usually customary and communal, and often unprotected legally. Many states neither legally recognise unregistered customary land rights nor provide opportunities for land users to obtain legal property rights over group-held land.

The “global land rush” is also challenging biodiversity conservation efforts. There was a wave of downgrading, downsizing, or degazetting of protected areas between 1960 and 2010, and in particular in the past 15 years. In addition, over 2,000 proposals in 24 countries are currently in place, totalling nearly 1 million sq km; the majority of these are in industrialised countries, such as the USA and Australia. Recent examples from Kenya, Ethiopia, Mongolia, and India all highlight areas of high biodiversity lost to commercial agriculture (sugar, biofuels, grain crops) and to mineral extraction. Many of these losses are from within existing state-protected areas. In India from 2002 to 2011 the Ministry of Environment and Forests (MOEF) granted permission for the diversion of 400,687 hectares of forest land to other land uses. Diversion to mining and power projects accounted for 38% of this loss. In Ethiopia, more specifically Gambella and South Omo, the national conservation authority managed to negotiate key biodiversity areas back from investment concessions, once their high conservation value was proved.

Simultaneously, states have often used coercive methods to evict local residents from protected areas. This has caused unrest and disquiet amongst those who lose their rights to resources, leading to mass movements and resistance to government laws and policies. In India, from 2002 there were eviction drives from protected areas and forests on a mass scale and, despite seemingly facilitating policy and legislation to better support community conservation and secure land rights, people (including pastoralists) are still being evicted from such areas today. The implementation of the 2006 Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, which offered opportunities for upholding the rights of forest users, including pastoralists, has failed to live up to its potential. The exclusion of local communities from protected areas has served to create a rift in the historical connectivity between pastoralists or hunter-gatherers and nature. In Mongolia, there has also been a steady growth in protected areas. Around 1% of this annual growth is said to involve pastureland – reportedly 6.6 million hectares between 2000 and 2010. This equals a reduction by 18.9% of pastureland in the country (though other figures suggest the loss is even greater). Herders get no compensation for land lost, as all pastureland is state-owned. Often conservation and wildlife laws conflict with other laws, leading to confusion and contradictory implementation.

The Convention for Biological Diversity (CBD)'s recently adopted Aichi Biodiversity Targets, part of its Strategic Plan, calls for the global land area under protection to increase to 17% (from its current level of 12.5%). Though this growth can include community-conserved areas, some fear that there will be a new wave of government-controlled protected areas, alienating local communities' land and resource rights.

### **Making a win-win reality**

Land rights and conservation clearly have a complex and evolving relationship, and land rights issues are beginning to feature strongly in debates around conservation, Reducing Emissions from Deforestation and Degradation (REDD+), and climate change more widely. Tenure offers a foundation for managing natural resource use sustainably in a way that supports long-term conservation outcomes, while simultaneously promoting local resilience and sustainable livelihoods. Supporting rural communities to secure and scale up land rights can reduce the risk of land grabs and develop new opportunities for conservation. It can also help states meet their CBD targets in ways that support, rather than threaten, local livelihoods. Conservation authorities are realising this, and increasingly there are examples of stronger partnerships between conservationists and local land users working to secure land tenure and conservation goals through initiatives such as indigenous and community conserved areas (ICCAs), conservancies, and community-based forestry and pasture management.

## The way forward

A number of challenges and opportunities exist. Conservation organisations often see the complexity of debates around land rights and use, and their variability from country to country, as a barrier to using land rights to achieve conservation aims. Land conflicts are often deeply rooted in governance failures – an area that is often both unfamiliar and uncomfortable territory for international conservation organisations, particularly those that work closely with state agencies.

Community-owned and managed conservancies present an opportunity for the intersection of development goals and biodiversity conservation in rangelands. The existence of high levels of poverty but also viable tourism resources indicates an opportunity for synergies. Processes of integrated and participatory land use planning are required to fully consider at national and local levels the most appropriate use of lands, taking into consideration the full range of political, economic, social, and environmental factors. A developing example of this is found in the Tana Delta in Kenya.

A secure land tenure policy framework that supports the pursuance of sustainable economic and land use practices that are in tune with people's socio-cultural systems would go a long way towards sustaining livelihoods, promoting biodiversity conservation, and reducing poverty and landlessness in rangelands. New partnerships with human rights-based NGOs and with development organisations, both local and international, that take a "rights-based" approach could offer a route to achieving shared goals. The global land crisis and the need to strengthen land rights in order to address shared human rights and conservation goals at the landscape scale could (and should) catalyse stronger collaboration between environment and development organisations.

This paper makes the following recommendations:

1. Conservation organisations should take the lead in developing partnerships with organisations that represent and promote the land and resource rights of local communities. Clear joint strategies can then be developed that aim to secure land for both conservation and local development goals. Local communities can monitor and bring attention to critical issues on the ground, and conservation organisations can take these issues to national and international levels, where action can be taken. An effective partnership can benefit both.
2. Integrated land use planning at national and local levels should be carried out to guide rational and better-informed decisions about land allocation and use. This land use planning will require the involvement of many different actors, including local land users and conservationists, and the collection of different types of information. Though the process is resource-intensive, the outcome is likely to be more sustainable, productive, and conflict-free land use and agreements between different land users.
3. Commodity and private sector roundtables and "safeguard" mechanisms are increasingly important for getting land-based agricultural investments, including forestry and palm oil, to develop and adopt social and environmental standards. Standards can create commodity investments that are less harmful, and even beneficial, for both biodiversity and community land rights. It is recommended that these are developed at national and lower government levels, with particular attention to rangelands.

4. Social and environmental safeguard mechanisms are attracting growing attention on issues related to REDD+, forest trade, and law enforcement. REDD+ is increasingly making the link between reducing deforestation and securing land and natural resource tenure at state, provincial, and national levels. It is recommended that conservation organisations get more involved in such initiatives and work with communities to improve forest conservation, while also securing communities' rights to forestlands and resources.
5. FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and the AU Declaration on Land Issues and Challenges in Africa can provide new opportunities for national and local actors to lobby governments to strengthen land rights and be more transparent about large-scale land deals. While the Guidelines are non-binding, they have undergone widespread consultation and review by both state and non-state actors. Conservation organisations have had little involvement to date, but could use the Guidelines as a new "hook" that opens up political space to talk about law reform.
6. Indigenous and community conserved areas (ICCAs) have been widely documented and promoted as a way to integrate local communities and indigenous peoples' territorial rights with formal conservation aims. ICCAs are increasingly promoted by the International Union for Conservation of Nature (IUCN) and within the CBD process, and in 2013 the World Conservation Monitoring Centre (UNEP-WCMC) issued a toolkit to support conservation by indigenous peoples and local communities. IUCN's Protected Area Matrix is a useful tool for understanding and developing governance arrangements. Conservancies are increasingly being promoted, and particularly in rangelands. More attention should be paid to the different models for community conservation, with the aim of achieving a full understanding of what works best in different contexts and to what degree these models achieve goals of both conservation and development (including securing land).

# Acronyms and abbreviations

|          |  |
|----------|--|
| AWF      | African Wildlife Foundation                            |
| CBD      | Convention for Biological Diversity                    |
| CBNRM    | Community-based natural resource management            |
| EWCA     | Ethiopian Wildlife Conservation Authority              |
| FAO      | UN Food and Agriculture Organization                   |
| FPIC     | Free, prior, and informed consent                      |
| GDP      | Gross domestic product                                 |
| GTZ      | German Technical Cooperation                           |
| ICCA     | Indigenous and community conserved areas               |
| IIED     | International Institute of Environment and Development |
| ILRI     | International Livestock Research Institute             |
| IUCN     | International Union for Conservation of Nature         |
| KA       | Kyaramacan Residents' Association                      |
| KRAPAVIS | Krishi Avam Paristhitiki Vikas                         |
| LSPA     | Local Special Protected Area                           |
| MET      | Ministry of Environment and Tourism, Namibia           |
| MOEF     | Ministry of Environment and Forests, India             |
| NCA      | Ngorongoro Conservation Area                           |
| NCAA     | Ngorongoro Conservation Area Authority                 |
| NGO      | Non-governmental organisation                          |
| NP       | National park  |
| NRM      | Natural resource management                            |
| NRT      | Northern Rangelands Trust                              |
| PA       | Protected area   |
| PFM      | Participatory forest management                        |
| PoWPA    | Programme of Work on Protected Areas                   |
| REDD     | Reducing Emissions from Deforestation and Degradation  |
| SNNPR    | Southern Nations, Nationalities and Peoples Region     |
| SSPA     | State Special Protected Area                           |
| TANAPA   | Tanzania National Parks Authority                      |
| TNC      | The Nature Conservancy                                 |
| UNEP     | United Nations Environment Programme                   |
| WCMC     | World Conservation Monitoring Centre                   |
| WMA      | Wildlife management area                               |

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# Introduction

## Background

Large-scale land acquisitions have increased in pace and scale due to changes in commodity markets, agricultural investment strategies, land prices, and a range of other policy and market forces. So-called “land grabbing” (see Box 1) has spread in countries with relatively weak governance and poor legal protection for customary land rights. The areas most affected are the global “commons” – lands that local people traditionally use collectively – including much of the world’s forests, wetlands, and rangelands. These landscapes support up to two billion people around the world, most of whom are rural and poor. These areas also hold a large proportion of the world’s biodiversity.

In some cases “land grabbing” or “green grabbing” occurs with environmental objectives in mind – including the setting aside of land as protected areas for biodiversity conservation. Therefore, conservation can drive land grabbing, and historically the expropriation of local communities’ land rights and territories for state conservation areas have been a major source of conflict and debate. On the other hand, current trends and patterns of commercial land acquisition present a major and growing threat not just to local livelihoods and human rights but also to conservation objectives. This presents a potential opportunity for greater collaboration between conservation interests and local communities’ land rights interests with their supporters amongst human rights and social justice movements. This is because often the best way to prevent large-scale conversion of forests or rangelands to alternative commercial land uses is by strengthening local communities’ collective land rights.

### Box 1: “Land grabbing” – a definition

The Tirana Declaration of the International Land Coalition (ILC) defines “land grabbing” as acquisitions or concessions that are one or more of the following:

- » in violation of human rights, particularly the equal rights of women;
- » not based on free, prior, and informed consent of the affected land users;
- » not based on a thorough assessment or are in disregard of social, economic, and environmental impacts, including the way they are gendered;
- » not based on transparent contracts that specify clear and binding commitments about activities, employment, and benefits sharing;
- » not based on effective democratic planning, independent oversight, and meaningful participation.

See: <http://www.landcoalition.org/about-us/aom2011/tirana-declaration>

### Why rangelands?

Rangelands deserve special attention in discussions about land acquisitions. They are inherently vulnerable, with their ecology driven by unpredictable and uncontrollable factors such as rainfall; frequently they are important for biodiversity (for example, East Africa's unique wildlife); and due to increasing populations and weak land tenure, they are increasingly at risk from appropriation by non-pastoral land users.

The abundance of biodiversity (in particular larger mega-species) has made pastoral landscapes the target for conservation land grabs and state land acquisitions. Tourism development goes hand-in-hand with conservation protectionism. It is recurrently among the highest economic and foreign exchange contributors in many countries in East Africa: in Kenya tourism accounted for USD 884 million in 2010 (Homewood et al., 2012). Conservation agencies (government and NGO) attempt to protect rangelands with measures that restrict local use, management, or tenure rights, driving major historic and continuing conflicts between pastoralist and conservation agendas.

Simultaneously, commercial agricultural and biofuels investors are increasingly interested in rangelands, seeing them as vacant and under-used (see Box 2). Since governments often do not recognise the economic productivity of pastoral systems, they allocate rangelands to alternative commercial uses. In addition, land-based investments annex water rights and often land along watercourses, which are extremely important to herders, particularly in dry seasons.

#### Box 2: Rajasthan's biofuels policy

The state government of Rajasthan (one of the biggest states in India) introduced a policy on biofuels on 10 January 2007. The policy provided for the allocation of about 30% of the state's 4.9 million hectares of commons (categorised as "cultivable wasteland") to private companies, cooperative societies, and families living below the poverty line, amongst others, for the planting and processing of *Jatropha* for biofuel production. This policy has been widely opposed by local people and civil society organisations (CSOs), who argue that, rather than promoting economic development, the policy is a pretext for handing over the lands of poor people to commercial companies.

Allotting "cultivable wasteland" means that most of the state's Orans<sup>1</sup> could be lost, estimated to be 25,000 in number and covering 600,000 hectares. It is estimated that 7.5 million pastoralists, including Rebari and Gujjar communities, are directly dependent on Orans for grazing. A study carried out by an NGO (the Society for Promotion of Wasteland Development) found that most of the actual wastelands are rocky barren lands, ravines, and deserts, and therefore unfit for cultivation. The remaining "wasteland" serves as grazing land and is already heavily encroached upon – it is these common lands that are at greatest risk of allocation and loss (Garg and Singh, 2013).

1 Orans are sacred groves or woodlands around temples that have been conserved and protected by local communities throughout the state from time immemorial. Generally, a religious faith and a deity are associated with the area, which is protected from usage, harvesting, or diversion. Generally these are commons lands, with no legal ownership over the resource by any particular community or individual.



'Mega-species' such as elephants found in pastoral lands attract both conservation organisations and tourists (credit: F. Flintan)

In Ethiopia, the federal government has identified 3.7 million hectares with potential for large-scale investment. A significant proportion of this land is in dryland areas along rivers, which risks cutting off pastoralists from their main permanent water source and dry season grazing areas. For example, in Afar region, east-northeast of Addis Ababa, 409,678 hectares of land have been identified for potential investment and development along the Awash River. In the lower to mid-Awash River Basin in particular, pastoralists are already under pressure, losing lands to the Awash National Park and to *Prosopis juliflora* (mesquite), an aggressive invasive shrub species that has covered over 1 million hectares of land there. Further loss of lands is likely to have a highly negative impact on pastoral livelihoods unless access to dry season grazing areas is preserved (Flintan, 2014).

Political drivers of change can also have an impact. In Mongolia (a country where grasslands cover around 111 million hectares, or 70%, of the surface area), until 1990 the livestock herd was national collective property (as with most resources). In 1990 livestock ownership was privatised as part of a move towards a more market-based economy. Since then, the number of livestock has increased dramatically, also influenced by competitive market conditions and weak governance structures: between 1996 and 2010, livestock numbers increased by 3.4 million to around 40.4 million animals. As government regulatory regimes

have retreated, herders have had little incentive to protect pastures as all pastureland is state-owned and accessed through short-term leases. Only land under winter and spring camps is allocated to herder families, and increasingly the ownership of shelters on these lands is being used to claim *de facto* rights to the campsites and surrounding pastures. This situation has led to environmental degradation in many areas (Ykhanbai, 2013).

### This paper

In March 2013, stakeholders from conservation NGOs, development organisations, and indigenous/community rights groups met in London to explore interactions between conservation, land acquisitions, and community land rights. The meeting was organised by the International Institute of Environment and Development (IIED)'s Poverty and Conservation Learning Group, in collaboration with the International Land Coalition (ILC), Zoological Society of London, and Maliasili Initiatives.<sup>2</sup> The outcome of the meeting is described in a short brief, *'Land Grabbing': is conservation part of the problem or the solution?*<sup>3</sup>

ILC's Rangelands Initiative supported the writing of three country papers (from Mongolia,<sup>4</sup> India,<sup>5</sup> and Kenya<sup>6</sup>), which considered the particular issues relating to rangelands. These papers were presented at the meeting together with a fourth presentation from Ethiopia.<sup>7</sup> This Issue Paper presents the key findings of these papers, supported by some examples from elsewhere.

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2 "Conservation and Land Grabbing: Part of the Problem or Part of the Solution? The 2013 Poverty and Conservation Learning Group Symposium", jointly organised by IIED, ILC, the Zoological Society of London (ZSL), and Maliasili Initiatives, 26–27 March 2013, London Zoo. Several of the references below are to symposium presentations, all of which are available online at: <http://povertyandconservation.info/node/8235>

3 Available at: <http://pubs.iied.org/17166IIED.html>

4 Ykhanbai, H. (2013) Conservation and pasture land rights in Mongolia. A paper presented at the Symposium on Conservation and Land Grabbing: Part of the Problem or Part of the Solution?, London Zoo, 26–27 March 2013.

5 Rishu Garg and Aman Singh (2013) Discourses in Indian Conservation Regime: From Land Acquisitions to Establishing Community Rights. A paper for ILC's Rangelands Initiative.

6 Moiko, Stephen (2013) Secure Land Rights: The Missing Nexus Between Conservation and Sustainable Rangeland Management: The Case of a Pastoral Group Ranch in Kenya. A paper for ILC's Rangelands Initiative.

7 Beyene, Cherie (2013) Reconciling Conservation and Investment in the Gambella Omo Landscape, Ethiopia. A presentation made at the Symposium on Conservation and Land Grabbing: Part of the Problem or Part of the Solution?, London Zoo, 26–27 March 2013.

# Land grabbing, green grabbing?

## How land losses can affect people

Investors acquiring rural land in the developing world is nothing new: it has been going on since colonial times. The difference is the increasing frequency and scale of acquisitions since the mid-2000s, driven by growing global demands and prices of agricultural and mineral commodities (Cotula and Polack, 2012). Information on the scale and coverage of land acquisitions is patchy and unreliable, but some countries have seen rapid changes<sup>8</sup>.

The land allocated to commercial investors in rangelands is considered empty or under-used, because it lacks permanent settlements or signs of agriculture. However, this masks a different reality. Much of this land is in fact used by local resident communities for livestock grazing, seasonal or shifting cultivation, subsistence hunting, and for harvesting forest products. Forests often provide important browsing and grazing for livestock during dry and drought years. These rangeland and forest areas are also rich in biodiversity because they are relatively undisturbed and have benefited from longstanding indigenous or local natural resource management practices.

It is not only agricultural investment that is swallowing up rangelands, but also mining concessions. These not only take land, but also pollute rivers and water sources. In Mongolia between 2000 and 2010, 0.3 million hectares of pastureland were provided to mining companies, and another 10 million hectares were placed under limited access while mining exploration took place. At the end of 2012, almost 3% of the country was under licence for mining exploitation, and another 10.4% under mining exploration. Although in the past this has been mainly for minerals, increasingly exploration is focusing on oil and uranium. Currently the mining sector contributes 22.7% of Mongolia's gross domestic product (GDP) and 73.2% of its export income. In 2010 mining received USD 1.5 billion of foreign direct investment (FDI) and in 2013 this was predicted to reach USD 5 billion. However, the sector employs only 3.2% of the population – the majority of these being non-local migrants. Though a law was put in place to ban mining in forest areas and in the country's main watersheds, this has not been implemented (Yhankbai, 2013).

Land tenure in such areas is usually customary and communal. Many states neither legally recognise unregistered customary land rights nor provide opportunities for land users to obtain legal property rights over group-held land. This deprives communities of legal rights to the lands and resources their livelihoods depend on, leaving residents few if any legal measures with which to resist external claims. It also creates legal openings for states to allocate land to investors, or to local or national elites, often without compensation.

## How land grabbing can affect conservation

The global land rush is also challenging biodiversity conservation efforts. Work by the World Wide Fund for Nature (WWF) reveals that conversion of land to commercial uses is a key pressure driving governments around the world to degazette or downsize protected areas.

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<sup>8</sup> The Land Matrix provides a public-access information source on land acquisitions including in rangelands [www.landmatrix.org](http://www.landmatrix.org)



Agriculture and mining concessions are swallowing up Mongolia's rangelands (credit: H. Yhankbai)

There were significant trends of degazetting, downsizing, and degrading of protected areas between 1960 and 2005, and in particular in the past 15 years. In addition, over 2,000 proposals are currently in place in 24 countries, totalling nearly 1 million sq km – the majority of which are in industrialised countries (particularly the USA and Australia). The main reason for these trends is the use of land for industrial purposes (Krithivasan, 2013).

Examples from Kenya, Ethiopia, Mongolia, and India all highlight areas of high biodiversity being lost to commercial agriculture (sugar, biofuels, grain crops) and to mineral extraction. Many of these losses are from within existing state-protected areas. In India, for example, from 2002 to 2011 the MOEF granted permission for the diversion of 400,687 hectares of forest land to other land uses (Garg and Singh, 2013). Diversion to mining and power projects accounted for 38% of this loss. In Tanzania, 200 sq km of Selous Game Reserve was excised or downsized to make room for a uranium mining site (Krithivasan, 2013).

In western Ethiopia, the government's allocation of lands to external agribusiness investors in and around Gambella National Park not only threatens the livelihoods of local pastoralist communities but also the migration of white-eared kobs (antelopes) between Ethiopia and South Sudan (one of the world's largest remaining wildlife migrations).

Originally almost all of Gambella and 63,000 hectares of Omo National Park (see Figure 2) were excised. After assessments on the ground revealed the biological importance of the area and recommendations were made on how to mitigate the negative impacts of investments, the Ethiopian Wildlife Conservation Authority (EWCA) was able to negotiate the return of 25,000 hectares of land in Gambella National Park from the investor. In addition, 10,000 hectares were returned for conservation purposes from the government's Kuraz Sugar Plantation in South Omo, plus a wildlife corridor established to ensure connectivity between South Omo and Mago National Parks (Beyene, 2013).<sup>9</sup>

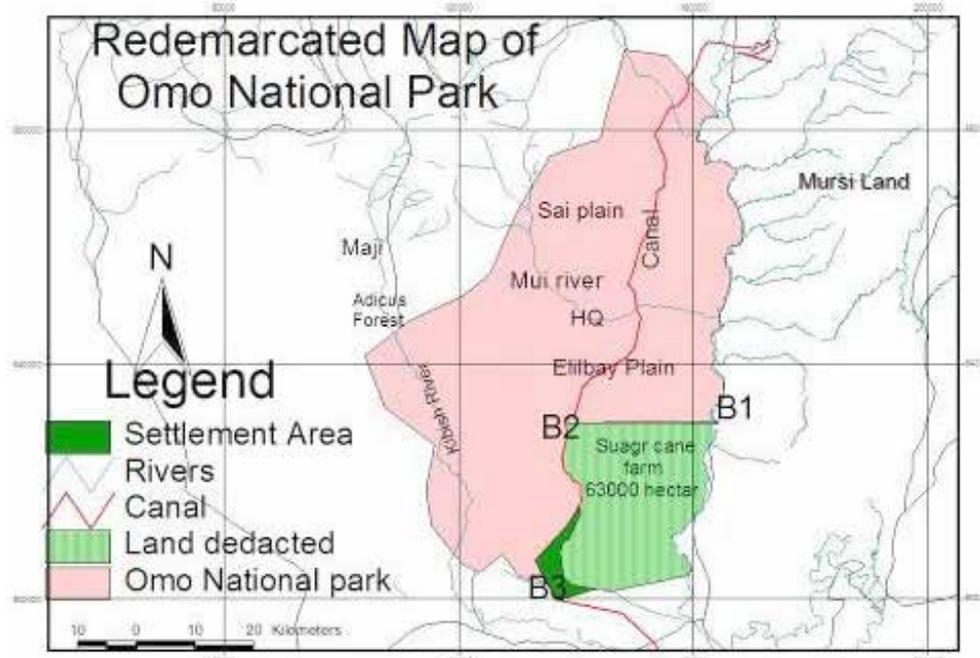
<sup>9</sup> Recent news (October 2014) indicates that the Indian company in Gambella has pulled out of the investment due to ongoing problems including flooding of land and insecurity.

Figure 1: Uranium mining has resulted in the downsizing of Selous Game Reserve



Source: Krithivasan (2013)

Figure 2: Area of Omo National Park excised for suagr cane production



Source: Beyene et al. (2011)

### Green grabbing?

Land acquired for “green” purposes, such as for protected areas, forest concessions, biofuel plantations, or carbon offsets, can also become a “land grab” if it meets the criteria described in Box 1. Today this is commonly called “green grabbing” (Fairhead et al., 2012). From the late 1800s in India for example, the colonial government put in place a number of charters and acts that provided the state with immense power in the appropriation and control of forest areas as state forest resources, limiting use by communities and setting aside their individual and collective ownership. By the end of the colonial period, around 96% of forest was under state control, with restrictions on local entry and use (though special rights were given to some tribal and forest-dwelling groups) (Garg and Singh, 2013). These and similar trends in other countries has resulted in extensive areas of lands under protected areas (see Box 3).

#### Box 3: Extent of land currently under protected areas

In India, 4.9% of the total land area lies in protected areas (PAs), with 668 PAs extending over 1,61,221 sq km and comprising 102 national parks (NPs), 515 wildlife sanctuaries, 47 conservation reserves, and four community reserves (MOEF website, 2011).

In Kenya, around 8% of the surface area is currently listed as conservation estate (Homewood et al., 2012). Around 92% of Kenya’s parks and reserves and 50% of gazetted forests are found in drylands, which also boast about 75% of the country’s wildlife and account for more than 80 per cent of its eco-tourism interests (Barrow and Mogaka, 2007).

In Mongolia, 27.2 million hectares (or 17.4% of the country’s total surface area) are set aside as State Special Protected Areas (SSPAs). This includes 16 strictly protected areas totaling about 12.4 million hectares, 30 natural reserves (2.7 million hectares), and 14 natural or historical monuments (0.1 million hectares). There are also Local Special Protected Areas (LSPAs), which in 2013 were said to equal 52.6 million hectares or 33.7% of the country’s surface area (MNEG, 2013).

Ethiopia has a network of protected areas including NPs covering more than 41,946 sq km, which increased by 61% or 15,891 sq km between 1998 to 2013. The country also has two biosphere reserves with another two planned. In addition a number of wildlife reserves have been established including the Chelbi Reserve in SNNPR, 4,212 sq km, and the Alideghi Plains in Afar. There are also 7,212 sq km of Controlled Hunting Areas with 296 sq km in Afar, and 1,394 sq km in Somali region being established in 2012; as well as six community conservation areas all formally established in the last fifteen years – the largest of which is Tama CCA in SNNPR, with an area of 1665 sq km. The second is Guassa Menz, Amhara – 110 km sq; and two community managed ecotourism and hunting areas – Sororo Tergem, Oromiya 78 sq km, and Adaba Dodola, Oromiya 736 km sq (Young 2012).

Though access may be allowed to a protected area, there can be restrictions on the use of the land. In the Ngorongoro Conservation Area (NCA) in Tanzania, pastoralists are able to enter the Area but are not allowed to grow crops. In 2013 this restriction was said to be a key cause of their inability to cope with the particularly dry period that year, which resulted in large numbers of cattle dying. Though the NCA Authority (NCAA) distributed grain to 87,000 residents, this is not a situation that should be repeated (Nkwame, 2013).

States have often used coercive methods to evict local residents from protected areas. This has caused unrest and disquiet amongst those who have lost their rights to resources, leading to mass movements and resistance to government laws and policies. In India, from 2002 there were eviction drives from protected areas and forests on a mass scale and, despite the development of seemingly enabling policy and legislation to better support community conservation and to secure land rights, people (pastoralists) are still being evicted from such areas today (see Box 4).

#### Box 4: Sariska Tiger Reserve – a lost opportunity for community/wildlife alliances

Sariska, located in Alwar District in Rajasthan, is one of India's iconic tiger reserves, covering around 1,100 sq km. More than 300 villages surround the reserve, including 28 villages located in the core area. Agro-pastoralists also use the reserve for grazing livestock. This close interface between wildlife and people poses challenges to the "fortress" conservation model common in such circumstances.

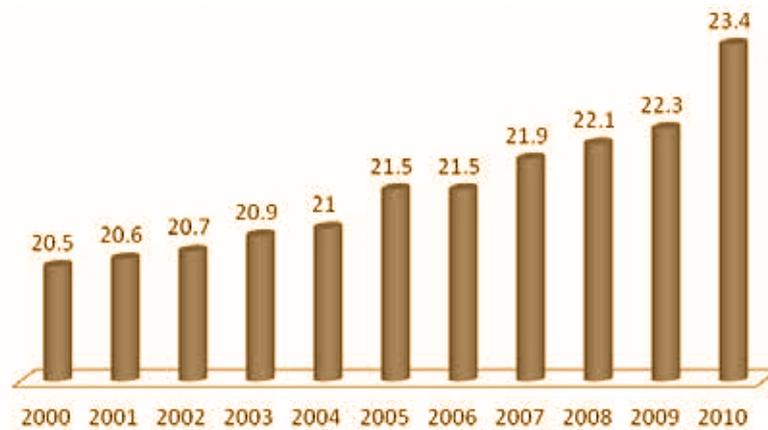
There are many miners and poachers in the area. Through Supreme Court intervention, mining activity has been legally restricted but, as in other parts of the Aravali hills where mining has been banned, it continued until reports attracted the attention of the government.

The agro-pastoral inhabitants of Sariska criss-cross the forest areas, which had helped to check the activities of poachers. Conservation in Sariska has a long history, and this community has for generations enjoyed community rights over local resources. In 2009 the government took a more aggressive approach to conservation in the reserve and started relocating villagers in order to create critical tiger habitats: to date 11 of the 28 core villages have been displaced. The government ignored the rights that the villagers hold under the Forest Rights Act, and did not contact the Gram Sabha, who should be consulted in all village land use decisions.<sup>10</sup> No efforts were made to find ways to formalise the co-existence of the pastoralists with tigers, despite good examples elsewhere, such as in Gir National Park. Local communities are convinced that poaching will increase as a result of their displacement and lack of presence in the forest (Garg and Singh, 2013).

The exclusion of local communities from protected areas has served to create a rift in the historical connectivity between pastoralists or hunter-gatherers and nature. This has influenced the increasing exploitation of remaining pastures, as well as increases in hunting and poaching. In Mongolia there has been a steady growth in protected areas. Around 1% of this annual growth concerns pastureland – reportedly 6.6 million hectares between 2000 and 2010. This equals an 18.9% reduction in the area of pastureland in the country (though other figures suggest that the loss is even greater). Herders get no compensation for land lost, as all pastureland is state-owned. In Mongolia there are two levels of protected areas – State Special Protected Areas (SSPAs) and Local Special Protected Areas (LSPAs) (see Box 3). However, according to Yhankbai (2013), even the LSPAs can be considered to be "green grabbing" – with non-transparent contracts and no democratic planning and participation (so contravening points (iv) and (v) of the Tirana Declaration).

<sup>10</sup> The Gram Sabha – the village assembly – comprises all adult members of the village.

Figure 3: Expansion of State Special Protected Areas in Mongolia



Source: Ministry for Environment and Green Development (2011), cited in Yhankbai (2013)

In Kenya, recent incidences of evictions include preparations made for the proposed Laikipia National Park (17,100 acres). The case involves the dispossession and transfer of ancestral land inhabited by the Samburu community to former president Daniel arap Moi, and the subsequent purchase and donation of the land to the government by the African Wildlife Foundation (AWF) and The Nature Conservancy (TNC) in November 2010. More than 300 Samburu families were forcibly evicted from the land, with many of their houses and possessions burned (Survival International, in Moiko, 2013). In another land conflict, a private Kenyan tourism and conservation enterprise, Nguruman Ltd., is trying to acquire two community group ranches in Kajiado District through a forced auction due to a dispute where the company accused community members of trespassing on company land during a period of extreme drought in 1991 (Galaty, 2011)<sup>11</sup>. Ironically, these two ranches, Olikiramatian and Shampole, are held up as examples of how group ranches can function well including contributing to conservation and development goals (see below).

Often conservation and wildlife laws conflict with other laws, leading to confusion and contradictory implementation. In India there are more than 300 pieces of legislation on the environment and forests, few of them known to local land users. However, not all protected areas prevent entry or restrict resource use – the different sets of access rights in relation to protected areas in India are summarised in Table 1. In Mongolia too, during periods of severe *zhud*<sup>12</sup> herders are allowed to use the pastureland in protected areas. Often, in implementation the rules of access are not clear even to local administrators, and access therefore depends on their discretion and empathy with the cause of the local land users.

11 In a dramatic progress of events in late October, a High Court order has demanded that Olikaramatian Group Ranch and neighbouring Shampole Group Ranch be put up for public auction on the 27th November 2014 due to the group ranches failing to pay the fine given to them for the trespassing incident in 1991. It is anticipated that the tour company Nguruman Ltd, who has been responsible for putting the group ranches in the situation, will be at the head of the bidding process. The group ranches are hoping that they can source enough funds to employ a lawyer to fight for a stay of execution on the order in the Supreme Court, and eventually the order's overturning.

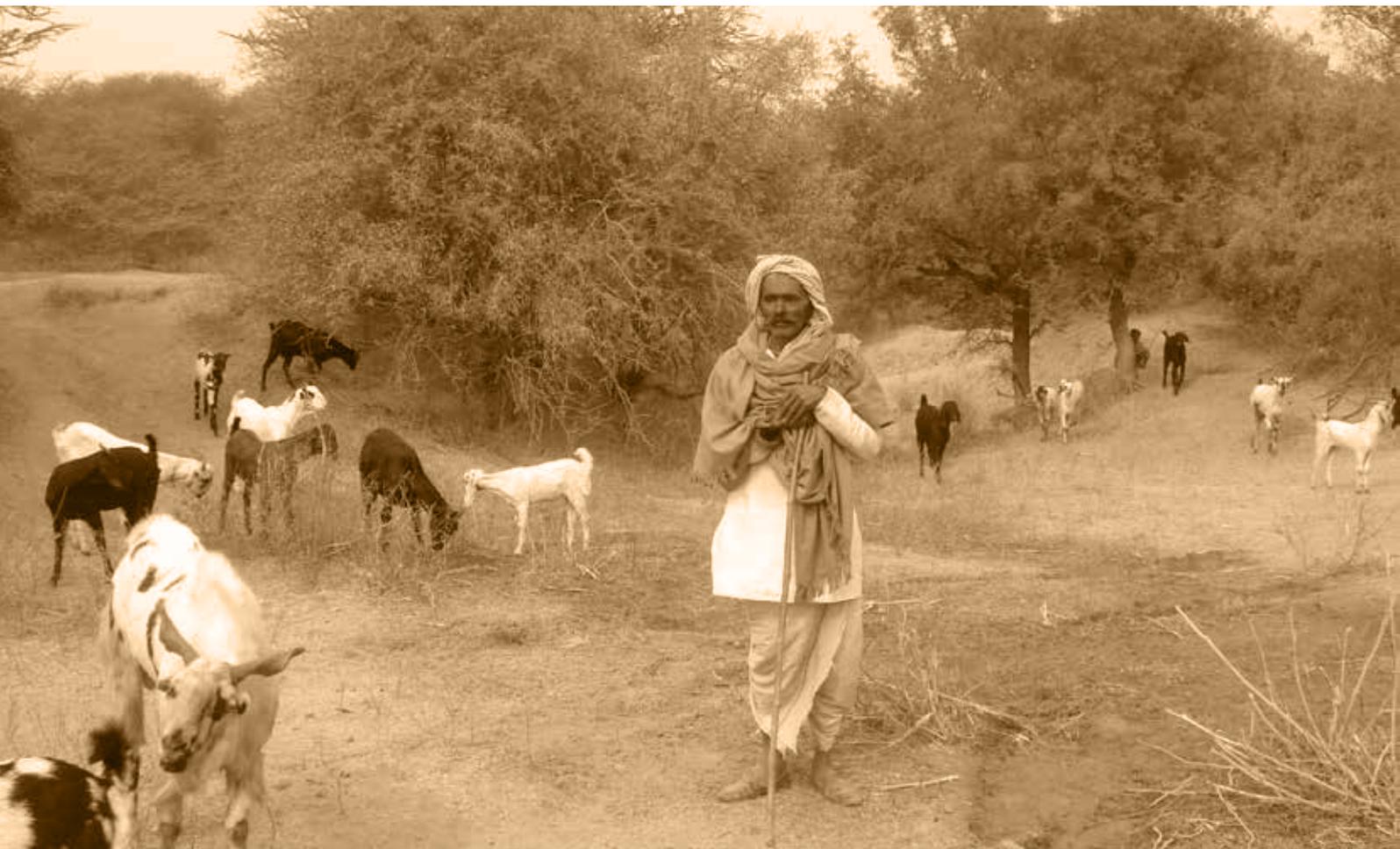
12 An extremely harsh, cold, and snowy winter during which large numbers of livestock can die. In the *zhud* of 1999–2000, for example, 2.4 million head of livestock, or 7.2% of the national herd, died. The combined losses of 1999–2000, 2000–2001, and 2009–2010 amounted to more than 12 million animals.

Table 1: Protected areas and use rights in India

|                       | Purpose  | Act  | Rights   |
|-----------------------|--|--|--|
| National parks        | Protecting, propagating, or developing wildlife  | Wildlife (Protection) Act 1972, Indian Forest Act 1927 | No rights are given to locals. Removal of forest produce requires recommendation of National Board of Wildlife. The status of National Park argues for protection of natural resources and wildlife from outsiders.        |
| Sanctuary             | Protecting, propagating, or developing wildlife  | Wildlife (Protection) Act 1972, Indian Forest Act 1927 | Certain rights may be given to local people. Grazing rights, collection of fuel wood, and collection of non-timber forest products are allowed. Removal of forest produce requires approval of National Board of Wildlife. |
| Conservation reserves | Declared by a state government on government land adjacent to national park/sanctuary for protection of wildlife and its habitat | Environment Protection Act 1986                        | Rights of the community remain unaffected. Conservation reserves provide protection and restrict certain activities in areas adjacent to protected areas.  |
| Community reserves    | Declared by a state government on any private or community land outside other protected areas for protection of wildlife         | Environment Protection Act 1986                        | Rights of the community remain unaffected. The aim is to provide protection to ecologically important and often fragmented areas.  |

In one current controversy revolving around state-protected areas and community land rights, the Tanzanian government is attempting to create an exclusive wildlife corridor along the eastern boundary of Serengeti National Park that would effectively alienate 150,000 hectares of grazing land and homesteads of Maasai communities, in practice undermining the livelihoods of up to 20,000 people and risking conflict between local communities, state conservation goals, and investment interests linked to wildlife. The root of the conflict is not “conservation” per se, as the local communities living in the area have a strong and well documented track record of co-existing with large wildlife populations. Rather, the conflict centres on different political and commercial interests in how wildlife is used, and who benefits: is it the state (or at least certain national elites) or can it be local pastoralist communities (TNRF and Maliasili Initiatives, 2011)?

Currently the local communities – many of whom have lost vital pastoral resources to the Serengeti National Park and who now are expected to live with wildlife in neighbouring areas – receive less than 2% of the park’s revenue, despite it being one of Tanzania’s biggest income generators. In the financial year 2011–2012 it generated EUR 21 million. Of this, EUR 14 million was returned to the Tanzania National Parks Authority (TANAPA), which used it mainly for the running costs of other national parks and protected areas, and TANAPA HQ. The central government takes VAT, a tourism levy, and other taxes from the gross revenue. The revenue remaining with Serengeti National Park of EUR 7 million was spent in the following way: EUR 715,000 (10% of total) for ecosystem and wildlife management (particularly rhino); EUR 152,000 (2%) for tourism management; EUR 6 million (87%) for park operations (anti-poaching, vehicles, human resources, repairs to roads, buildings, etc.); and only EUR 108,000 (2%) on community outreach (conservation education, boundary disputes, and community initiatives).



Gujjar pastoralists in India constantly battle to hold on to their grazing lands (credit: A. Singh)

The Convention for Biological Diversity (CBD)'s recently adopted Aichi Biodiversity Targets, part of its Strategic Plan,<sup>13</sup> call for the global land area under protection to increase to 17%, from its current level of 12.5%. This could be achieved through a new expansionist surge in government-controlled protected areas, alienating local communities' land and resource rights, or it could be achieved through the inclusion and development of more community conservation areas.

In the face of increasing land pressures and demand for land for commercial enterprises, including agriculture, unless stronger and fairer partnerships are established between conservation authorities and local communities, both conservation and local livelihoods will continue to lose out. India has developed seemingly enabling policies and legislation, yet conservation authorities fail to see the benefits of working with local communities rather than against them, and as a result large tracts of land are still being lost to mining and agriculture. In 2006, the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act was passed "...to address the long standing insecurity of tenurial and access

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13 CBD (2010) Strategic Plan for Biodiversity 2011–2020. Convention on Biological Diversity, Montreal.

rights of forest dwelling scheduled tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to state development interventions". The Act provides for community and individual rights over forest land,<sup>14</sup> including for management and governance of forest resources. Rights include habitation on and self-cultivation for livelihoods, rights over grazing and collection of minor forest products, rights for conversion of disputed claims and leases to forest titles, rights for conservation and protection, and recognition of rights under the traditional and customary laws of tribal communities. Also, the right to in situ rehabilitation was granted for those evicted illegally from forest areas without receiving legal entitlement before 13 December 2005.

In the first few years of implementation, the Forest Rights Act evolved to become a major deterrent to any transfer of land to non-forestry uses, especially for mining and allocation of land to corporations. However, at the same time, its loss of authority and shift of role from "exclusive owner" to "shared ownership" has been difficult for the Forest Department to come to terms with. Any diversion of forest land requires consent of the relevant Gram Sabha. The Act recognised that the rights of pastoralists over terrain to which they have traditionally taken their livestock should be recognised as a common right. However, despite many protests and much lobbying, the granting of grazing rights under the Forest Resources Act still remains a distant dream.

The Act's potential has also been diluted and mining has been allowed in forest areas, with many negative impacts for local communities. During the period 2007–2011, 8,284 projects were granted permission for forest clearance and 2.04 lakh<sup>15</sup> hectares of forestland was diverted. In 2009 alone as much as 87,883 hectares of forestland was granted clearance, and in 2010 a total of 14,500 hectares of forestland was diverted for mining (CSE Public Watch, 2012). At the end of January 2013, over 100 proposals were seeking central government approval for diversion of forestland to non-forest purposes. These included 36 mining proposals covering around 8,000 hectares of land.<sup>16</sup> In a recent development, the MOEF further diluted the provisions of consent by the Gram Sabha for change of land use. Illegal mining is being ignored and the government is increasingly prioritising the short-term interests of private companies over local communities and the environment (Garg and Singh, 2013).

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14 Land of any description falling within a forest area, including unclassified forests, demarcated forests, existing or deemed forests, protected forests, reserved forests, sanctuaries, and national parks.

15 A lakh is one-tenth of a million.

16 See Statement detailing proposals seeking approval—<http://www.moef.nic.in/assets/Proposals%20seeking%20prior%20approval%20under%20FC%20Act,%201980%20for%20diversion%20of%20forest%20land%20for%20non-forest%20purpose%20pending%20before%20MoEF%20as-.pdf>



Community conservation guards are trained by conservation organisations to protect wildlife in community conservancies. (Credit: F. Flintan)

# Making a win-win reality

## Conservation through communal land rights

Land rights and conservation clearly have a complex and evolving relationship, and land rights issues are beginning to feature strongly in debates around conservation, REDD, and climate change more widely.

Tenure offers a foundation for managing natural resource use sustainably in a way that supports long-term conservation outcomes, while simultaneously promoting local resilience and sustainable livelihoods. It is increasingly recognised that secure rights over land and resources are a critical institutional element of local communities being able to establish and enforce local rules and management practices that enable natural resources to be used sustainably – in other words, to be conserved. Supporting rural communities to secure and scale up land rights can reduce the risk of land grabs and develop new opportunities for conservation. It can also help states meet their CBD targets in ways that support, rather than threaten, local livelihoods. Conservation authorities are gradually realising this, and increasingly there are examples of stronger partnerships between conservationists and local land users working to secure local land tenure and conservation goals.

## Indigenous and community conserved areas

The value of ICCAs is increasingly being recognised. ICCAs are defined by IUCN as “natural and/or modified ecosystems, containing significant biodiversity values, ecological benefits and cultural values, voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means”. Some ICCAs are cases of the continuation, revival, or modification of traditional practices, and others are new initiatives. Some communities push for formal protection of the land under a conservation designation, while others prefer less formal recognition. Increasingly, the benefits of ICCAs both for conservation and in protecting local rights to lands and resources are being realised by conservation organisations and communities alike. Some examples from around the world are given below.

In Tanzania, the legislation of the modern state has at times been inspired by customary law, and this offers valuable entry points for the recognition of ICCAs. A telling example is that of villages. Rural villages in Tanzania are managed by Village Councils, which are accountable to the assemblies of all adults living within the village area – a system dating back to President Nyerere’s *ujamaa* programme, which established villages as legal subjects and enabled them to develop their own by-laws. As long as they do not violate any other laws of the country, by-laws are legally binding and enforceable. Village by-laws thus provide communities with a powerful tool to develop natural resource management rules and procedures at the local level. In addition, land can be held and managed communally by Village Councils and Assemblies, which develop zoning and land use plans, including for ICCAs. It is estimated that thousands of ICCAs exist as legal entities at village level in

Tanzania, mostly comprising dry season grazing reserves and local forests. Some of these have been formalised as wildlife management areas (WMAs) (see Sulle et al., 2011) or conservation easements (see Box 5).

#### Box 5: Conservation easements in Tanzania

In Simanjiro, the Ujamaa Community Resource Team (UCRT) has joined with a number of collaborators, including the Wildlife Conservation Society and private tourism companies, to initiate an innovative approach to supporting integrated wildlife conservation and livestock production, in Tanzania's first "conservation easement". The partners helped to facilitate a voluntary arrangement with Terrat village, which possesses a portion of the key short-grass plains in the district that are important for wildlife. The village is paid an annual lease fee by a consortium of tourism companies for maintaining the plains as livestock pasture, where permanent settlement and farming are prohibited. As part of this arrangement, the village also has a number of village game scouts who work to prevent illegal wildlife use and charcoal production, and who collect data on wildlife numbers and movements.

In Iran, national legislation "absolutely forbids" the breaking-up or obstruction of migratory routes of mobile pastoralists, as well as any land use changes in customary nomadic tribal territories. These laws – which have not been widely respected, to say the least – are now being "rediscovered" by mobile indigenous peoples, conservation organisations, and some government officials to secure customary rights and conservation-friendly land uses. The Supreme Council for the Environment of Iran is legally able to assign the governance of a protected area to any entity with a legal personality. Since the approval of the CBD's Programme of Work on Protected Areas (PoWPA) in 2004, high-level officials have begun assigning to specific mobile tribes management authority and responsibility over their migration territories and wetlands. Some of the 700 tribal confederacies and independent tribes of mobile indigenous peoples in Iran have registered as CSOs, with statutes based on their ancient customary laws. They are gradually regaining control over their traditional landscapes and territories, which are being *de facto* recognised as ICCAs under local governance (Farvar in Borinni-Feyerabend, 2010).

Another example can be found on the Tibetan Plateau in China, where several community-conserved areas overlap with the huge government-controlled Sanjiangyuan Nature Reserve in Qinghai province. Concerns about environmental degradation in the area led the government to develop a policy of "ecological migration", with outright relocation of people away from grasslands to towns. Under this policy, about 50% of herders in some communities have sold their animals and relocated to small towns. However, with the help of the international NGO Plateau Perspectives and several other partners, two cooperation models have emerged: community co-management and contract conservation. Under the co-management model, community members are allowed to stay on their lands while participating in the monitoring of wildlife, reporting instances of poaching and promoting environmental awareness.

Though community members gain more respect than before, and participate in conservation and land use decisions, they are not, however, really in control of most conservation decisions (i.e. governance).

Under the contract model, on the other hand, local communities are given greater autonomy in deciding how specifically to conserve wildlife and protect the environment. For their work, as per a formal agreement with the government, they receive a financial contribution that they can use or disburse at their own discretion. The first instance of this model is in Cuochi community (Qumahe township). This community had already decided several years earlier that, for cultural and religious reasons, it wanted to protect its wildlife. Toward this end it had established a grassroots organisation, Friends of the Wild Yak, in 2001. After significant investments of time and effort by local people and a local organisation over a period of several years, a formal conservation contract was developed and signed.

The evident success of the contract model, which most resembles an ICCA in the Tibetan Plateau region, nonetheless also presents some potential pitfalls. The nature reserve staff, some policy-makers, and the provincial forest bureau (which is in charge of most wildlife conservation matters in China) were discussing how to rapidly “go to scale” with this model in 2010–2011, possibly covering dozens if not hundreds of communities across the province. This could prove to be a disastrous decision. Many years have been devoted by local leaders to developing and refining the contract model in contexts such as that of Cuochi community. Without proper training and the committed involvement of respected community leaders, the contract model may simply not succeed, providing an inaccurate “demonstration” that herders are not good custodians of the land and wildlife resources, and possibly fuelling other approaches such as the ecological migration policy. More moderate growth and extension, in-depth social studies, and time for the internal mobilisation of communities have been recommended for the contract approach to conservation before it is spread widely (Foggin in Borini-Feyerbrand, 2010).

### Conservancies

Namibia has been able to record outstanding progress against existing CBD targets, reporting nearly 40% of its total land area to be under protection (Namibian MET, 2012). Almost half of this land is protected through conservancies, internationally recognised as being among the leading models of community-based conservation (Roe et al., 2009). In this way, devolving resource rights (and *de facto*, land rights) to rural communities can create conditions for formalising local conservation efforts that advance national and global conservation targets while simultaneously benefiting local economies and land and resource tenure. An example of this can be found in Bwabwata National Park (see Box 6). Here the Khwe San people negotiated privileges from the Park in return for sustainably managing and protecting resources.

**Box 6: Playing the “conservation card” – the Khwe San in Namibia’s Bwabwata National Park**

Approximately 5,500 people, most of them from the indigenous minority Khwe group, live in Bwabwata National Park (BNP). Though this northeastern part of Namibia (formerly known as the Caprivi Strip) is part of the ancestral home of the Khwe, their rights to control the land and resources were removed by the state in the 1960s. However, following Namibian independence in 1990, conservation policy and practice shifted and community-based natural resource management (CBNRM) was popularised. This opened a door for many communities, including the Khwe, to secure rights to their lands and resources.

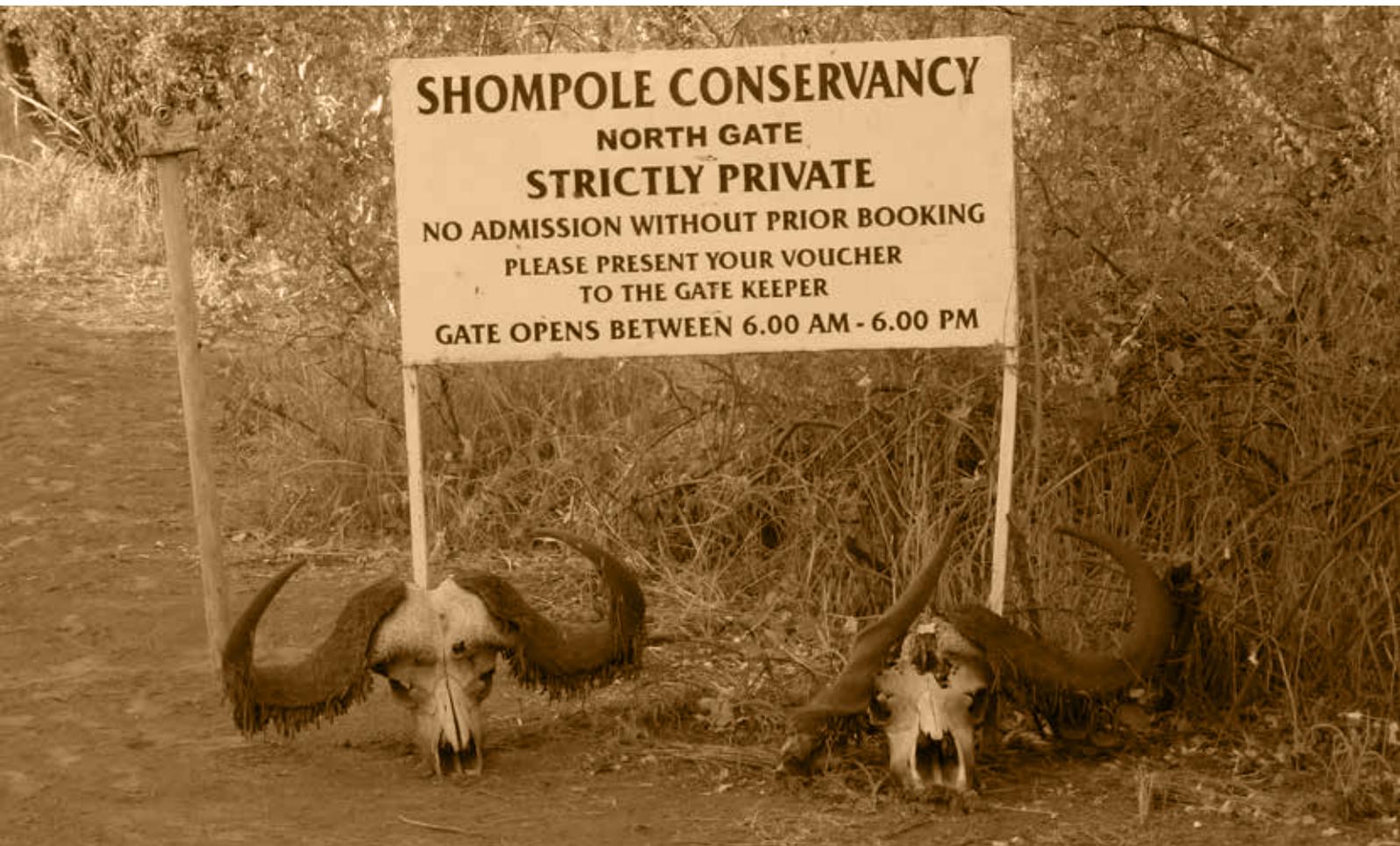
Namibia’s Ministry of Environment and Tourism (MET) requires that communities form a legally registered body in order to obtain rights to land and to benefit from safari hunting and tourism. Therefore, in 2005 those living in BNP established themselves as the Kyaramacan Residents’ Association (KA).

This enabled the development of a mutually beneficial relationship between the BNP and the KA. Since 2006, the MET has awarded the KA highly valuable trophy hunting concessions, earning them approximately USD 214,000 per annum. Since 2008, the MET has also provided the KA with a permit to harvest the medicinal plant devil’s claw (*Harpagophytum zeyheri*), earning 562 harvesters USD 142,824 from the 2012 harvesting season alone. Between 2005 and October 2013, the KA earned approximately USD 1,180,252 from these two activities. A large portion of its hunting income pays for the employment of 43 community staff, most of them community game guards (mainly men) and resource monitors (mainly women). The importance of these jobs in an area with fewer than 160 people in wage labour cannot be overstated. In 2011, the KA was given a 20-year lease for a tourism concession on the Kavango River, which is still being developed. Today the KA earns more from wildlife than do all of the neighbouring communities who live in communal conservancies outside the park.

Inadvertently, National Park (NP) status has also provided tacit land rights to Khwe residents. Effectively, NP status should weaken communities’ rights to land and resources as their *de jure* status in a park is that of illegal squatters. But here in Bwabwata, the *de facto* situation is that the government is highly unlikely to remove residents from the park as they are well recognised, effective resource managers. This can be attested to by the state’s investment in public schools, clinics, and the provision of water to villages in the park, as well as the discussions taking place between the MET and park residents about how to deal with the in-migration of people into the park for cropping and grazing purposes.

The Khwe residents are well aware of their comfortable status and have highlighted their rights as poor Namibians struggling to survive in a park riddled by human-wildlife conflict in order to secure their privileges. Timing also helped: by the time the KA requested recognition and benefits from the park, the MET had almost a decade of experience in facilitating the development of communal area conservancies, and was open to testing an innovative new collaborative approach with a community living *inside* a park.

Source: Karine Nuulimba (2013)



Conservancies in Kenya have proven to be a mechanism for communities to protect rangeland and wildlife resources, and to benefit from tourism (credit: F. Flintan).

This experience provides important lessons to other communities and organisations supporting them. It proposes that communities begin by advocating for the rights most easily attainable. Once these “low-hanging fruit” have been achieved, it then becomes easier to gradually advocate for more rights in order to reach a position of security, even though rights might not be absolute. This also gives both communities and government time to adjust to changes in resource access and rights, thus ensuring that appropriate governance structures are in place and functioning. Understanding how best to achieve this given the current political context is also vital: there are times when it is appropriate for communities to play an “indigenous card” and others when a “conservation card” (in this case, emphasising the positive connections and interdependence between the Khwe and natural resources) may be of greater benefit. The challenge lies in deciding which is more beneficial and when. For the people living in Bwabwata and for the conservation authorities, the timing and decisions were right: the park has been transformed from an unwanted hindrance and a conservation burden to a win-win situation that benefits both sides.

In Kenya too there has been an increasing trend of investing and experimenting in biodiversity conservation ventures, particularly in pastoral areas, as a means of income generation, biodiversity conservation, and livelihoods diversification. However, unlike in Namibia, conservancies here have as yet no legal meaning or defined structural form or requirements. In Kenya, conservancies are being set up where private and communal land holders consolidate land for conservation and tourism purposes and organise themselves to benefit from the provision of wildlife habitat services. Often these occur on group ranches where an institutional and administrative structure already exists. It is only very recently that “conservancies” have been given any official meaning in Kenya, having been included in the new Wildlife Conservation and Management Act of December 2013.<sup>17</sup>

In Kenya, establishing a conservancy involves the allocation of communal or individually owned land (which can be a private ranch, group ranch, or Trust Land<sup>18</sup>) to wildlife conservation and tourism to generate financial and non-financial benefits directly or indirectly to landholders. These benefits can be provided by commercial tourist companies, conservation NGOs, and state wildlife protection agencies. The setting up of conservancies can mean that landowners face land use trade-offs, including restrictions on fencing to allow wildlife mobility, permanent or semi-permanent controls on livestock grazing, conditions on housing and settlements, and prohibition of cultivation. Research by the International Livestock Research Institute (ILRI) indicates a growing number of such enterprises: 41 conservancies established in eight districts around the country, covering a total of 1.58 million hectares, including 402,141 hectares within “conservation zones” that are specifically set aside for wildlife, tourism, and seasonal livestock grazing.

The majority of conservancies (24 out of 41) in the ILRI database are located on the group ranches surrounding the Maasai Mara National Reserve in Narok District and Amboseli National Park in Kajiado District. In both these areas, conservancies have been formed through joint venture and concessionary agreements between local landholders and tourism companies, which provide for communities to set aside areas for tourism and wildlife in exchange for certain fees and other benefits. The tourism market has largely driven the creation of these areas, aided by the fact that just as much of Kenya’s wildlife is found on the community lands outside state-protected areas as within them (Western et al., 2009).

The Northern Rangelands Trust (NRT) records a slightly larger total area than that contained in the ILRI database: about 1.6 million hectares contained within the 19 conservancies operating under its umbrella (NRT, 2011) (see Figure 3). All of these conservancies are located within central and northern Kenya, where the number of conservancies has increased rapidly over the past decade. Given the partial overlap between the NRT figures and the ILRI database, it is reasonable to estimate that a total of at least 2 million hectares is contained within conservancies nationwide. All of this land lies within pastoralist rangelands in the south-central or north-central (or in a few cases eastern) parts of the country (Nelson, 2012).

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17 The act describes a conservancy as “land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation in accordance with the provisions of this Act”. Wildlife Management and Conservation Act 2013, No. 181.

18 Trust Land is community land held “in trust” for the community by a local County Council. Communities are able to use the land and resources found on it, and develop by-laws registered with the county to control this. Under Kenya’s developing Community Land Bill, Trust Land will be redesignated to communities as Community Land.



an investment. This incentive would be more meaningful, however, if the community lodge was fully functioning; the community have found it extremely difficult to find an effective way to manage the lodge that allows them to maintain a level of control over it, and yet is financially rewarding (Moiko, 2013)<sup>19</sup>.

The conservancy model has clear benefits therefore for both conservation and for rangeland users – the consolidation of lands for shared purposes provides greater access to resources for both wildlife and livestock. This provides incentives for landholders to maintain conservancies and for collective resource sharing rather than individualising them. However, it can be difficult to maintain balanced decision-making processes where communities have as much say and control over outcomes as conservation organisations, which may be providing funding for the initiative. There are also numerous challenges related to benefit sharing – who is entitled to benefit and how. A study of schemes around the Maasai Mara, for example, concluded that greater attention must be given to adjacent areas and communities that may face negative knock-on effects from such schemes (Bedelian, 2012). In addition, the establishment of a conservancy does not help to directly secure land tenure, but rather it builds on existing landholdings and tenure models and institutions. If these are weak, then the establishment of a conservancy may in fact aggravate the situation for land users and landholders.

### Community-based forestry and pasture management

In Ethiopia, participatory forest management (PFM) is geared towards facilitating collective action of users in a given forested area in order to improve its sustainable use and productivity, regulating resource use and securing access rights by signing an agreement with local government. A resource assessment forms the basis of a management plan for a demarcated PFM area. A formal agreement is established between the local government office and a group of local forest users, giving them usufruct rights to use, manage, and control forest resources in return for protecting and sustainably managing them. Locally defined by-laws are established to regulate this.

More than a decade ago, the NGOs Farm Africa and SOS Sahel developed the Participatory Forest Management Programme for Chilimo and Borena forests in Oromia Region and Bonga Forest in Southern Nations, Nationalities and Peoples Region (SNNPR). Parallel to this, the Integrated Forest Management Programme of German Technical Cooperation (GTZ) was implemented in Adaba-Dodola in Oromia Region. The two projects, together with a steady development of other NGO-led initiatives, helped to reinstate use rights for communities in state forests. PFM is now being mainstreamed across forests in four regions in Ethiopia, through the relevant regional governments, and has been implemented in a number of dryland areas, including in Borena. In 2012, the Ministry of Agriculture estimated that there were 2.4 million hectares of forest under PFM in the country (including projects in the pipeline) (MOA, 2012). In 2010 the PFM approach was adapted to rangelands with the *Introductory Guidelines on Participatory Rangeland Management* (Flintan and Cullis, 2010).

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<sup>19</sup> As mentioned above, unfortunately Olkirimatian and its neighbour Shampole, are currently facing the forced public auction of their lands and property, in order to pay a fine resulting from a dispute with a neighbouring foreign tour operator (see page 20).

This approach has been piloted in a number of pastoral areas across the country and has potential for improving the sustainable use and protection of rangeland resources, as well as improving the access and use rights of local land users.

Building on PFM, REDD+ schemes are being developed, for example across the forests of Ethiopia's Bale Mountains Eco-Region. The project idea note for the Bale project (PIN) has been completed and the project design document is under development. Covering more than 500,000 hectares, the project reduces the risk of the loss of 18 million tonnes of CO<sub>2</sub> over 20 years<sup>20</sup> – and would likely become the biggest REDD project in Africa. An important part of developing appropriate and enabling institutions for REDD is the securing of local rights so that local people have greater incentives to invest in forest management and conservation, and are able to benefit from the distribution of payments.

Participatory rangeland management approaches are also being developed in Mongolia. In 2005 an Amendment was made to the Law on Environmental Protection, which among other things supports community-based pasture and NRM. This is the first legal document in Mongolia to recognise the rights of local communities and the participation of community members in NRM. It promotes local governance of natural resources by the community (*nukurlul*) through co-management agreements. "Community" is defined as local residents (around 15–20 households) with similar lifestyles and natural resource base, linked together by strong kinship and friendship ties that have evolved over time. They work together as an economic (*khot ail*), social (*sakhalt ail*), and ecological unit (*neg nutgiinkhan*) with common interests in order to improve pastoral livelihoods and conservation. By 2010 more than 791 *nurkurlul* had been established (Yhankbai, 2013).

Today in Mongolia, legislation has been drafted (but not yet approved) that would provide for land use rights to be provided to herder groups for pasturelands on a yearly basis. Under this law, a co-management agreement will be drawn up between a group and the local government land authorities. This should provide an opportunity for greater security to land and resources for pastoralists and a stronger role in decision-making and management of the land (albeit with increased roles and responsibilities). It should also give the pastoral user group opportunities to play a greater role in negotiations with mining companies and other investors. The group should be included in all discussions with a mining company wanting to explore/exploit their land and should have the right to see all related documentation, environmental and social impact assessments, and workplans. Effectively, both government and the community should jointly make the decision about whether the company should be allowed to proceed. Other mechanisms are also being discussed and developed:

- » Proposed higher taxes on mining activities, which should stem the growth of the industry to some extent;
- » Land legislation that should limit the rights of local governments to allocate common land (including pastureland) to Local Special Protected Areas, and clearer, more transparent mechanisms for payment of compensation to herders for the transformation of pasturelands to other uses; and

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20 See project website: <http://thereddesk.org/countries/initiatives/bale-mountains-eco-region-redd-project>

- » A “New Regulation on Pasture Use for Traditional Livestock Herding within Authorised Zones of Special Protected Areas”, which is awaiting approval by the Minister of Environment and Green Development. This Regulation will allow agreements (pasture use contracts) to be developed between government administrative organisations, including conservation bodies, and local pasture user groups (herder communities), to allow the latter to engage in livestock herding and related activities in authorised zones (Yhankbai, 2013).

# The way forward

## Challenges and opportunities

A number of challenges and opportunities exist. Conservation organisations often shy away from the complexity and political sensitivities of debates around land rights and use, and their variability from country to country. Land conflicts are often deeply rooted in governance failures – an area that is often both unfamiliar and uncomfortable territory for international conservation organisations, particularly those that work closely with state agencies. Furthermore, “land grabbing” is essentially about rights – not a traditional concern for many conservation organisations. Few have the capacity to undertake this kind of work alone, but some have seen benefits in working together with other organisations that have similar aims (see Box 7).

### Box 7: Examples of international groups working on biodiversity conservation and land rights

The Africa Biodiversity Collaborative Group is a partnership of six international NGOs working in biodiversity conservation across Africa. The network promotes dialogue and exchange between member institutions, and considers large-scale land acquisitions to be a priority topic.

The Conservation Initiative on Human Rights is a consortium of international conservation organisations that was established in 2009 to strengthen practice for integrating human rights within global conservation practice; a focus on land rights could be a natural issue for this group to catalyse greater action on.

Community-owned and managed conservancies present an opportunity for the intersection of development goals and biodiversity conservation in rangelands. The existence of high poverty levels alongside viable tourism resources indicates an opportunity for synergies. Indeed, tourism is still a growing industry and is seen as an opportunity for pastoralists and other rangeland users to benefit. For example, in 2010 some 456,090 tourists visited Mongolia (up from 201,153 in 2003), contributing USD 213.3 million. The majority of these tourists closely followed the protected area network, but an increasing number participated in adventure tours, including spending time with nomadic pastoral groups (Yhankbai, 2013). However, despite high expectations that wildlife tourism will make significant contributions to pastoral livelihoods, research has shown that this has not happened in the majority of cases. In Kenya, apart from a few regions such as the Maasai Mara which experience exceptionally high tourist flows, wildlife contributions to household incomes are often not significant (Homewood et al., 2009). This has proved contrary to community conservation narratives that tourism revenues would trickle down to households and offset income loss and other opportunity costs of protecting wildlife.

Processes of integrated and participatory land use planning are required to fully consider at national and local levels the most appropriate use of land, taking into consideration the full range of political, economic, social, and environmental factors. This is a huge undertaking, with few countries having comprehensive and updated national land use plans, or effective structures in place or capacities to carry out land use planning at local levels. However, Kenya has instigated a number of land use planning processes at local level, with many of these being led and resourced by conservation NGOs.

The Rangelands Issue Paper No. 4 describes the process of developing a land use master plan for Kitengela, in which AWF played a critical role. Box 8 provides another example, of Nature Kenya assisting in the development of a land use plan for the Tana River Delta.

#### Box 8: Integrated land use planning for conservation and development

The Tana River Delta in Kenya has become a victim of the “new scramble for Africa”, being targeted for large-scale agricultural investment. Foreign and local private companies and government corporations are jostling to exploit its riches. However, the record of development within the Lower Tana River and Tana Delta is a litany of poorly planned engineering and irrigation schemes. The majority of large-scale projects that have been attempted in the Delta over the past 50 years have ended up being dismal failures, sometimes after millions of dollars have been spent.

Now international and local companies are claiming more land than is available. Since local communities have no land ownership documents, the Delta is viewed as a vast area of unoccupied land prime for development. This is despite the Tana Delta being a biodiversity hotspot and home to over 100,000 small peasant farmers, fishers, hunter-gatherers, and pastoralists. Over the past decade, conflicts have been increasing amongst the inhabitants of the delta over access to water, pasture, and farmland, as fewer resources need to be shared amongst a growing population. Between August 2012 and January 2013, close to 200 people lost their lives in violent clashes between Pokomo farmers and Orma pastoralists as the latter tried to access the river to water their livestock. Large-scale agricultural projects exacerbate the situation.

Better land use planning was seen as one solution to the challenges faced in the area and to reconcile the different needs and views of land users. In collaboration with a number of partners, Nature Kenya lobbied the Kenyan government (through the former Office of the Prime Minister) to oversee the formulation of a land use plan for the area. Subsequently the government established an Inter-Ministerial Technical Committee to coordinate the sustainable management of delta areas in Kenya. In September 2011, the Ministry of Lands, with involvement from other agencies, started preparing a land use plan. Given the plan's implications for the sustainable development of the delta, it is being subjected to a Strategic Environmental Assessment, with advice from the Netherlands Commission for Environmental Assessment. The Tana River Delta land use planning process is based on extensive stakeholder consultations at the national and county levels, and within local communities.

Within the delta, a Planning Advisory Committee consisting of 25 members was established to provide a forum for eliciting the views of local people in the land use planning process. The committee is made up of four local government and 21 community representatives. Nature Kenya facilitated visits by government officials to 106 villages within the Tana Delta in order to collect communities' inputs into the land use plan. Each village drafted a village land use plan, and these will be considered in the drafting of the delta-wide plan. At the national level, several consultative meetings were organised with various interest groups. Further consultative meetings at national and local levels are planned, and it is anticipated the plan for the delta will be completed in 2014.

Source: Muganti (2013)

The synergy between conservation and the development of natural resources is most likely to be achievable where communities have some form of secure land rights that enable them to invest in resources, strategies, and institutions for sustainable resource governance. Indeed, examples described here show that where communities have more secure rights to land, this has increased their willingness to put some of their land aside for conservation purposes. Though the financial benefits of doing so have not yet been fully realised, communities can still gain enough benefits from the practice and are able to manage the opportunity costs of setting the land aside. The collective nature of the decision-making processes and governance structures that support these rights are a further incentive for communities to agree to the action i.e. the opportunity costs of the investment are shared by the group (although any benefits need to be shared too). As such, a secure land tenure policy framework that supports the pursuance of sustainable economic and land use practices that are in tune with people's socio-cultural systems would go a long way towards sustaining livelihoods, promoting biodiversity conservation, and reducing poverty and landlessness in rangelands.

New partnerships with human rights-based NGOs and with development organisations, both local and international, that take a "rights" approach could offer a route to achieving shared goals. The global land crisis and the need to strengthen land rights in order to address shared human rights and conservation goals at the landscape scale could (and should) catalyse stronger collaboration between environmental and development organisations. More focused and appropriate responses to the global land rush would also see conservation organisations placing more strategic emphasis on community land rights as a major cross-cutting issue for conservation, and supporting greater local-level efforts to document, strengthen, and secure such rights as a foundation for sustainable natural resource use and management at the landscape scale.

Nevertheless, investing in community land rights alone will usually not be sufficient to ensure conservation outcomes. Additional work is needed to clarify and address management arrangements and responsibilities, capacity, economic incentives for conservation, and governance arrangements. Attention also needs to be given to ensuring the enforcement of communal rights where they exist. For example, if communal land is required for investment, then decisions and agreement should follow appropriate channels. Concepts such as free, prior, and informed consent (FPIC) need to be fully implemented and, where common property is concerned, in a collective manner. Indeed, while consistency with norms of democratic consultation is imperative, FPIC is not equivalent to and should not be reduced to individual participation. Therefore, even when an individual has traditional or customary authority to grant consent while representing the community, states should ensure accountability – i.e. that he/she is not acting in his/her own personal interest. This should not, however, under-rate the interplay between and complementary nature of individual and collective rights, as they are not mutually exclusive. The acceptance of the right to FPIC remains highly dependent on political will (Abebe, 2009).



Gujjar women pastoralists being taken through a community planning process in an ICCA in India (Credit: A. Singh)

### Conclusions and recommendations

It is clear from the experiences documented here that, though there are some scattered initiatives that have developed partnerships between conservation organisations and local communities, with win-win outcomes for both, there is a lack of strategic action to achieve this more widely. Conservation organisations have been slow to challenge poor governance (including weak local land rights) in the countries where they work and, rather, have often ignored human rights infringements as long as conservation goals are achieved. However, the negative outcomes of this lack of action are now being seen, as land is being lost from conservation purposes as well as from local land use. This is particularly the case in rangelands, which have been subject to a new wave of attention for large-scale commercial investment. Though community conservation initiatives show great potential, they have struggled to achieve both conservation and development goals. A key factor in this could be the lack of secure land rights, which provides little incentive to communities to invest time and resources in conservation activities, instead exploiting the land and resources for short-term benefits.

The development of community conservation initiatives requires significant investments, and rarely are adequate resources (time, finances, skills) provided for these. However, where adequate and effective investment has been made (e.g. in Namibia), long-term benefits have been seen. In the meantime there are a number of steps that can be taken.

This paper makes the following recommendations:

1. Conservation organisations should take the lead in developing partnerships with organisations that represent and promote the land and resource rights of local communities. Clear joint strategies can then be developed that aim to secure land for both conservation and local development goals. Local communities can monitor and bring attention to critical issues on the ground, and conservation organisations can take these issues to national and international levels, where action can be taken. An effective partnership can benefit both. Land-focused organisations should also seek to develop these partnerships so that more collaborative efforts are made to jointly engage on rangelands governance and land tenure reform.
2. Integrated land use planning at national and local levels is carried out to guide rational and better-informed decisions about land allocation and use. This land use planning will require the involvement of many different actors, including local land users and conservationists, and the collection of different types of information. Though the process is resource-intensive, the outcome is likely to be more sustainable, productive, and conflict-free land use and agreements between different land users.
3. Commodity and private sector roundtables and “safeguard” mechanisms are increasingly important for getting land-based agricultural investments, including those involving forestry and palm oil, to develop and adopt social and environmental standards. Standards can create commodity investments that are less harmful, and even beneficial, for both biodiversity and community land rights. It is recommended that these are developed at national and lower government levels, with particular attention given to rangelands.
4. Social and environmental safeguard mechanisms are attracting growing attention on issues related to REDD+, trade in forest and non-timber forest products (e.g. gums and resins), and law enforcement. REDD+ is increasingly making the link between reducing deforestation and securing land and natural resource tenure at state, provincial, and national levels. It is recommended that conservation organisations get more involved in such initiatives and work with communities to improve forest conservation, including forests found in rangelands, while also securing communities’ rights to lands and resources.
5. FAO’s Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and the AU Declaration on Land Issues and Challenges in Africa can provide new opportunities for national and local actors to lobby governments to strengthen land rights and be more transparent about large-scale land deals. While the FAO Guidelines are non-binding, they have undergone widespread consultation and review by both state and non-state actors. Conservation organisations

have had little involvement to date, but could use the Guidelines as a new “hook” that opens up political space to talk about law reform. Processes are underway to consider and define the application of the guidelines in both ‘the commons’ and ‘pastoral areas’.

6. Indigenous peoples’ and community conserved territories and areas (ICCAs) have been widely documented and promoted as a way to integrate local communities and indigenous peoples’ territorial rights with formal conservation aims. ICCAs are increasingly being promoted by IUCN and within the CBD process, and in 2013 the World Conservation Monitoring Centre issued a toolkit to support conservation by indigenous peoples and local communities. IUCN’s Protected Area Matrix is a useful tool for understanding and developing governance arrangements. In rangelands, and in particular in eastern and southern Africa, conservancies have received less national and global attention and therefore it is unlikely that their potential has been fully optimised. More attention should be paid to the different models for community conservation, with the aim of achieving a full understanding of what works best in different contexts and to what degree these models achieve goals of both conservation and development (including securing land).

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ILC's Global Rangelands Initiative is a programme facilitating learning between and providing technical support to different actors who are working to make rangelands more tenure secure. In Africa the Rangelands Initiative is led by a small coordination and technical unit made up of ILC members RECONCILE (in Kenya) and ILRI (in Ethiopia). The Rangelands Initiative supports ILC members and their government partners to develop or influence enabling policy and legislation, and/or implement policy and legislation in a manner that better supports productive and sustainable rangeland use. A key input to this is the joint identification of solutions based on innovation and good practice, through research, knowledge generation and experience sharing. This series of Issues Papers documents and shares some of the information and knowledge generated during these processes.