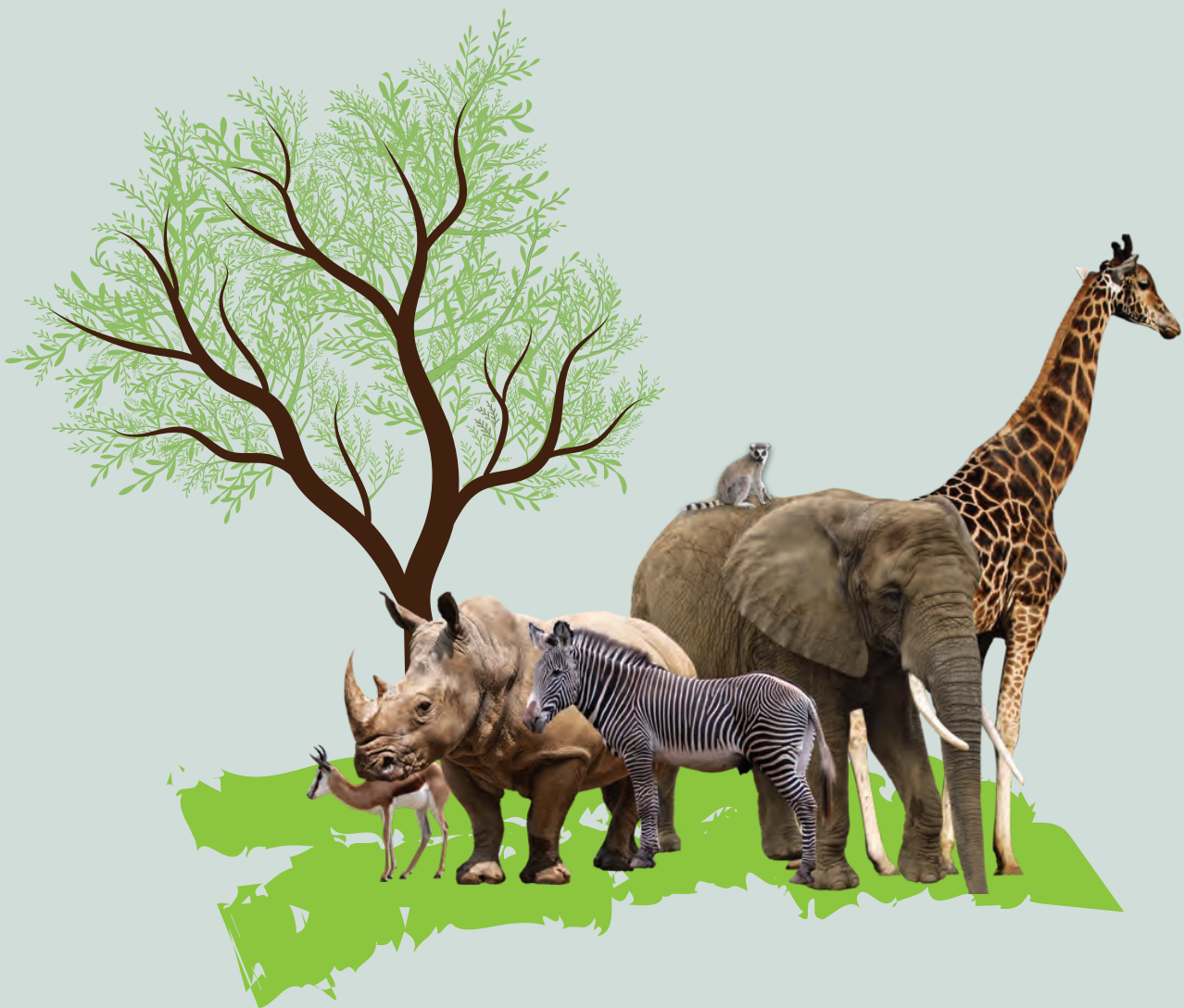


REPORT

A Human Rights
Observations & Risk
Assessment of
Community
Conservancies
in Kenya



July 2022

Acknowledgements

Institute for Research & Policy Alternatives

ACK Garden House, 6th Floor
1st Ngong Avenue
P.O. Box 7619-00100
Nairobi, Kenya
www.irpaconsulting.com

Principal Researchers and Authors

- Dr. Ken Nyaundi, Phd.
- Kevin M. Doyle
- Shalom M. Ndiku
- Faith Adu
- Samia Bwana

Research Assistants

- David Silakan
- Amina Jillo
- Yoakim Kuraru
- Lucky Tubman

While this study was commissioned by The Nature Conservancy, the findings, analysis, conclusions and recommendations are the sole responsibility of IRPA and do not necessarily reflect the views of The Nature Conservancy, the Kenya Wildlife Conservancies Association, or any other third party.





TABLE OF CONTENTS

ACRONYMS	I	DATA COLLECTION	12
EXECUTIVE SUMMARY	II	Field Assessments	13
INTRODUCTION	1	Models of Conservancies Encountered	14
Overview of Study	1	Limitations and Challenges Encountered	16
Purpose	1	Methodological Limitations	16
Goal of the Study	1	Limitations of the Field Teams	16
Definition of “Community Conservancy”	2	FINDINGS	18
Literature Review: Community Conservancies and Human Rights in Kenya	4	Background and Context	19
METHODOLOGY	6	Summary of Findings	23
Selection of Conservancies	7	Findings vis-à-vis Operations and Establishment of Conservancies	24
Development of Tools	9	Analysis of Findings	35
Why a Human Rights Risk Assessment?	11	CONCLUSIONS	44
		RISKS & OPPORTUNITIES	48
		APPENDICES	50

Acronyms

ALOCA

Amboseli Land Owners Conservation Association

CIHR

Conservation Initiative on Human Rights

FGD

Focus Group Discussion

FPIC

Free, Prior and Informed Consent

GOK

Government of Kenya

HRIA

Human Rights Impact Assessment

HRRA

Human Rights Risk Assessment

IP

Indigenous Peoples

IPLC

Indigenous Peoples and local communities

IRPA

Institute for Research and Policy Alternatives

KII

Key Informant Interviews

KWCA

Kenya Wildlife Conservancies Association

KWS

Kenya Wildlife Service

LC

Local Communities

NRT

Northern Rangelands Trust

SORALO

Southern Rangelands Association of Land Owners

TNC

The Nature Conservancy

UNDRIP

United Nations Declaration on the Rights of Indigenous Peoples

WCMA

Wildlife (Conservation and Management) Act

DISCLAIMER

In the event of a conflict of meaning or interpretation in the Swahili version of the report, the text within this English version of the report shall prevail.

Executive Summary

Kenya's unparalleled stunning environment and rich natural resources are critical national assets that contribute valuable socioeconomic benefits to the country and to its communities. Conservancies form a crucial part of Kenya's conservation narrative and present an attractive land use option for communities, while offering improved resource rights from ecotourism and other conservation enterprises. Various studies indicate that community conservancies have generally delivered positive conservation and socioeconomic benefits. Because conservancies provide a group channel for common benefit, they establish elements of social cohesion and togetherness which should translate to shared values and revenues. There is a desirable correlation between wildlife conservation and a respect for human rights. To realize the common and shared standards, conservancies should protect and enhance the fundamental human rights of community members. It is however unclear what the human rights effects and impacts of conservancy establishment and existence has been on communities.

This study examines the risks to the protection, advancement and safeguarding of human rights in the context of community conservancies. It focuses on determining the presence of increasing broad-scale awareness on human rights issues and risks; developing concrete and accessible mechanisms in place for communities to identify, address and track any adverse human rights effects, as they arise; and establish structures that communities can use to advance self-determination.

Key Findings

This being a Human Rights Risk Assessment (HRRRA) rather than a Human Rights Impact Assessment (HRIA), the findings spotlight potential adverse effects of conservancy operations and establishment with the aim of accentuating priority intervention areas, without underestimating the actual and potential positive impacts on Kenya's people, wildlife and environment. The study identifies five cross-cutting thematic areas that call for immediate intervention to mitigate human rights impacts.

Security of land tenure and the right of communities to use, develop and control their territories and resources: A number of significant rights are at risk due to land tenure insecurity. Rights touching on IPLCs, women, livelihoods and benefits accrued from the conservancy model are linked to land. Increased risks on land and environmental rights correspond with a higher risk to socioeconomic rights, mainly due to the reliance on land and environment for social, economic and livelihood benefits. The very existence of conservancies is at risk where security of land tenure and the manner in

which they use their resources is not addressed. This is aggravated by three issues: a) community land is not fully regulated thus creating tenuous land status; b) private land can be transacted, freely, and models grounded on this tenure basis face many risks and possibility of dissolution; and c) public land hosting conservancies means significant control of these enterprises rests with the state.

Women's equality and freedom from non-discrimination: The study establishes an inextricable linkage between women's rights and socioeconomic and participation rights, which may be attributed to the associated livelihood-related responsibilities that fall on women. A majority of the conservancies are within patriarchal communities, and it was noted that this influences their decision-making as well as the right to equality and freedom from non-discrimination. On a positive note, in conservancies where women own land, their decision-making abilities were elevated. Though not rife, the reported sexual crimes do not augur well and more must be done to create an environment where women's rights are respected in this regard. Participation and meaningful involvement in decision-making for women is essential to address the risks associated with gender-based rights.

Insecurity - the right to life, human-wildlife conflict, human-human conflict, and threats to security of person and property: While we take note of the important fact that human-wildlife conflict, as well as other threats to life and property are not directly attributable to conservancies, the objective of these conservancies lie in their quest to preserve and protect nature, including wildlife. Given the reality of life-changing injury or loss of life and property, coupled with the government's inconsistent approach to compensation, the issue cannot be ignored. There is immense opportunity to collaborate with communities to alleviate these losses, taking into consideration that the biggest risk to conservancies is human-wildlife co-existence.

IPLC decision-making and participation rights: IPLC engagement in conflict resolution, Free, Prior and Informed Consent (FPIC), decision-making and self-determination are key markers for minimizing the risks to their human rights. The study noted that governance structures as they currently exist within community conservancies, whether formal or informal, are capable of adversely impacting the degree of decision-making by communities and increasing conflict. IPLCs' rights were at greater risk in heterogeneous communities and those of a diverse nature, for instance in cases where conservancies cross county borders and various groups live, or two historical-warring communities come together to end conflict through formation of the conservancy. Further,

discriminatory practices are reported to occur among sub-groups of Indigenous Peoples (IPs), where predominant groups benefit and are in control of the conservancy. Limiting community members,' particularly IPs' rights to FPIC and self-determination happens when intimidation tactics are applied by authorities or Local Communities (LCs) which impacts their right to use, access and benefit from their territories. Consequently, their ability to self-govern is impeded, posing a risk to their culture and livelihoods.

Benefits accrued from the conservancy: the existing models of conservation, especially those with influential or non-transparent third-party actors who

have alienated significant portions of their communities, present a threat to the benefit sharing aspect of community conservancies. A majority of the conservancies with these third-parties intimidated at their dissatisfaction with the lack of transparency on how the conservancies are used to generate funds, and the manner in which these gains eventually trickle down to the community. While the risk was linked to perceptions of interviewed community members, the cited instances of corruption grant some merit. Across both new and well-established conservancies, some stakeholders decried the lack of clarity on how conservancies can generate tangible and monetary benefits for them.

Recommendations

Towards increasing broad-scale awareness of human rights issues and risks, developing mechanisms for communities to continuously identify, address, and track any adverse human rights impacts, and building structures through which communities can advance their self-determination, we recommend that:

a. National and county governments, conservation and other regulatory authorities consider: fast-tracking titling by the National Land Commission (NLC) to guarantee security of community land tenure; Ensuring an enabling environment for community conservancies to thrive by harmonizing overlapping policies and legislation governing agency coordination and management of natural resources management; Improving the capacity of stakeholders and rights holders to routinely undertake participatory human rights audits; and, Recognizing, exploring and upholding traditional or alternative conflict resolution mechanisms in management of environmental and natural resource-based conflicts.

b. The private sector can play an active role in building the capacity of communities to manage their conservancies by: Carrying out due diligence on the application of FPIC and inclusive engagement prior to granting funding for the establishment of new conservancies or supporting existing conservancies; Placing emphasis on baseline studies prior to the establishment of conservancies to promote communities right to FPIC and buy-in; and, Supporting the development of training modules that can be used by conservancies to build their capacity around organizational and institutional strengthening, operations, policy documents, and strategy.

c. For better socioeconomic and environmental outcomes, Community Conservancies could prioritize a combination of strategies that maximize socioeconomic benefits for local community members and protection of biodiversity values including: Devising and implementing strategies aimed at enhancing and entrenching local community participation in conservancy programs, to

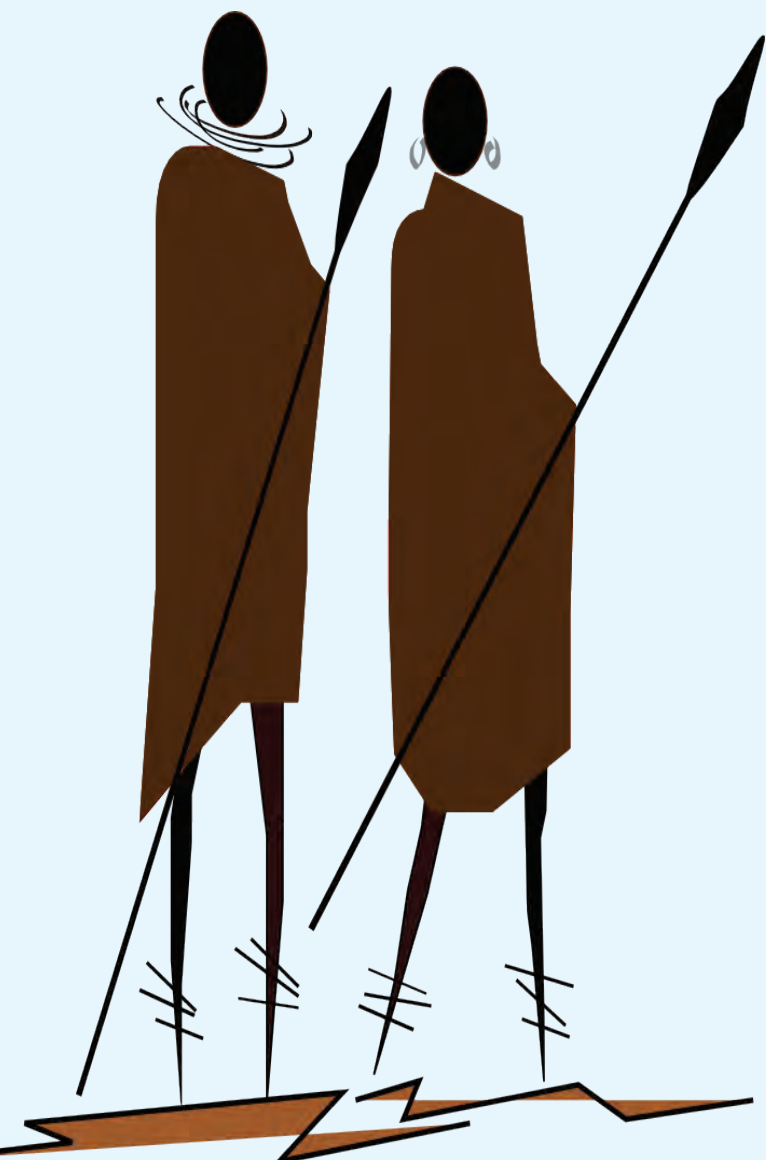
uphold their rights to participate in decision-making and self-determination; Identifying and reducing barriers to equitable local participation, increasing women representation on boards and adopting sustainable livelihood models that promote women economic empowerment; and, in collaboration with IPs and LCs, developing culturally responsive conflict resolution mechanisms, increasing information on, and adhering to these procedures to the satisfaction of aggrieved members.

Based on the three focus areas, the report draws the following conclusions:

- Broad-scale awareness of human rights issues and risks: The level of awareness was observed to be low among IPLCs and rangers engaged with during the data collection exercise. Many stakeholders and rightsholders had not interacted with their conservancies through a human rights lens. They found the exercise educative and had great interest in understanding those rights as they related to their day-to-day operations.
- Mechanisms for communities to continuously identify, address, and track any adverse human rights impacts that may emerge: The study did not find explicit evidence of mechanisms to regularly track adverse human rights impacts, that would help identify trends and seek solutions to address human rights violations.
- Structures through which communities can advance their self-determination: To some degree there are existing structures through which communities can advance their self-determination, be they County governments, the Ministry of Lands, the National Land Commission, the Kenya Human Rights Commission, and the Kenya National Human Rights Commission. In addition, the regional wildlife conservancy associations and KWCA could certainly play a more explicit role to ensure that communities that are either already part of a community conservancy or are targeted for a new conservancy, are provided the opportunity and capacity for self-determination.

Introduction

Chapter One



In August 2021, the Institute for Research & Policy Alternatives (IRPA) was commissioned by The Nature Conservancy (TNC) to conduct an independent Human Rights Observations and Risk Assessment of community conservancies in Kenya, to identify potential and/or existing human rights issues, risks and opportunities around the establishment and operations of community conservancies in Kenya.

The findings, analyses, and recommendations in this report are the result of a thorough literature review and a series of robust site visits to a semi-random selection of community conservancies throughout the major regions and ecosystems of Kenya, which include physical observations as well as discussions with conservancy personnel, community conservancy members, and other stakeholders with an interest in the community conservancy model in Kenya.

The views expressed in this publication are those of the authors, borne of interviews and discussions with community members within the conservancies and do not necessarily reflect the views of The Nature Conservancy.

Overview of Study

Purpose: This HRRRA study finds its foundation on five main facts:

- 1) Approximately 65 percent of Kenya’s wildlife inhabit outside of government-protected areas, and that community conservancies (as well as private and group conservancies) provide critical habitat and connectivity for the iconic species that are the heart of the country’s rich biodiversity that is also central to the livelihoods of many communities and the country in general;
- 2) In light of the Government of Kenya’s (GOK) commitment to the Convention on Biodiversity, the international legal instrument for “the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources”, this study is designed to produce learning and policy recommendations to support existing community conservancies and the future establishment of any new community conservancies in a manner that aligns with international best practices and standards for human rights. This is integrally tied to Kenya’s “30 x 30” commitment aligned to the Convention,¹ which entails putting an additional nine percent of land under protection – a significant portion of which is expected to be implemented through the community conservancy model.
- 3) TNC has supported the community conservancy movement in Kenya since 2007 through direct support to umbrella conservancy organizations and by being a founding member of the Kenya Wildlife Conservancies Association (KWCA) to inform national policy and increase coordination among conservancies;

4) TNC is deeply committed to supporting human rights of Indigenous Peoples and local communities (IPLCs)², including the foundational principle of self-determination, and international instruments which define and protect those rights, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and;

5) There has been growing concerns in recent years from various concerned parties which have been reported in the media and through published reports alleging human rights abuses in both the establishment and operations of conservancies in Kenya.

This study is meant to evaluate the application of human rights in a representative sample size of community conservancies throughout Kenya and assess the risks associated with their non- application in order to stimulate a conversation on human rights and IPLC self-determination issues that may need to be considered vis-à-vis the continued operations of existing community conservancies and the potential growth of the community conservancy model in Kenya. This study is not meant to be a full-blown HRIA which would require a much larger sample size and more detailed investigation into the entire supply chain revolving around the establishment and operations of conservancies, including looking at more empirical and quantitative data. See the Methodology section for more explanation of why a HRRRA framework was selected.

Goal of the Study

The main goal of this study is to examine risks to the protection and advancement of human rights, in the context of community conservancies, and whether the following rights-based

¹ Campaign for Nature (11 Jan 2021) 50 countries announce bold commitment to protect at least 30% of the world’s land and ocean by 2030. Press Statement by the High Ambition Coalition for Nature and People. Accessible at <https://www.campaignfornature.org/50-countries-announce-bold-commitment-to-protect-at-least-30-of-the-worlds-land-and-ocean-by-2030>

aspects are present:

- (a) there is broad-scale awareness of human rights issues and risks;
- (b) there are concrete, accessible mechanisms in place for communities themselves to continuously identify, address, and track any adverse human rights impacts that may emerge; and
- (c) there are structures established through which communities can advance their self-determination.

Definition of “Community Conservancy”

We found 239 conservancies in the country, initiated through partnerships between the government, development partners, private tourism companies and community, private and group landowners. The conservancy model in Kenya developed steadily starting in the 1980s and became a recognized land use under the Wildlife Conservation and Management Act of 2013 (WCMA). Today, conservancies are a critical part of the overall conservation strategy of the country and an attractive land use option for communities, offering improved land and resource rights and access benefits from ecotourism and other conservation enterprises.

Over seven (7) million hectares of the country’s land area (580,367 km²) are encompassed in conservancies (constituting roughly 12%), compared to approximately 4,642,900 hectares that are protected as national parks or reserves (8%).

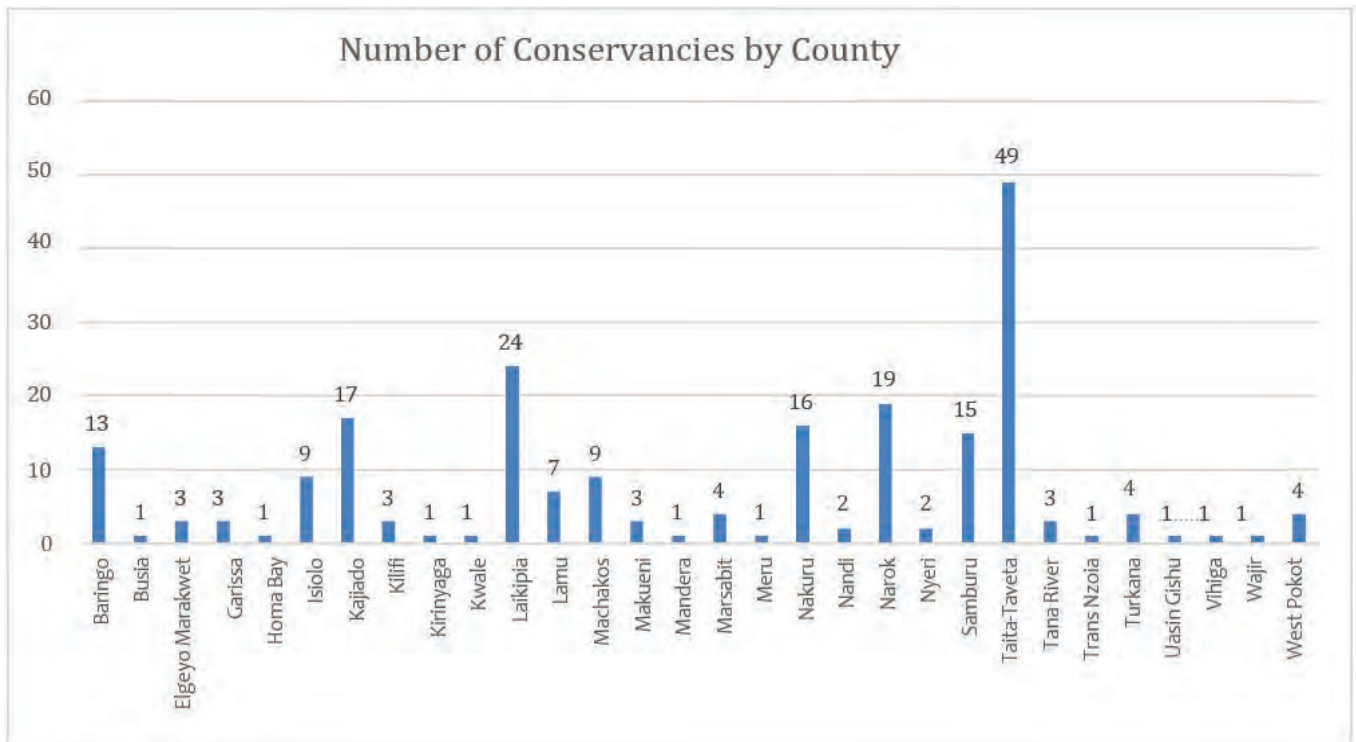
The WCMA recognizes wildlife conservancies as

a legally legitimate form of land-use and defines conservancies as: ‘An area of land set aside by an individual land-owner, body corporate, group of owners or a community for the purposes of wild-life conservation’.

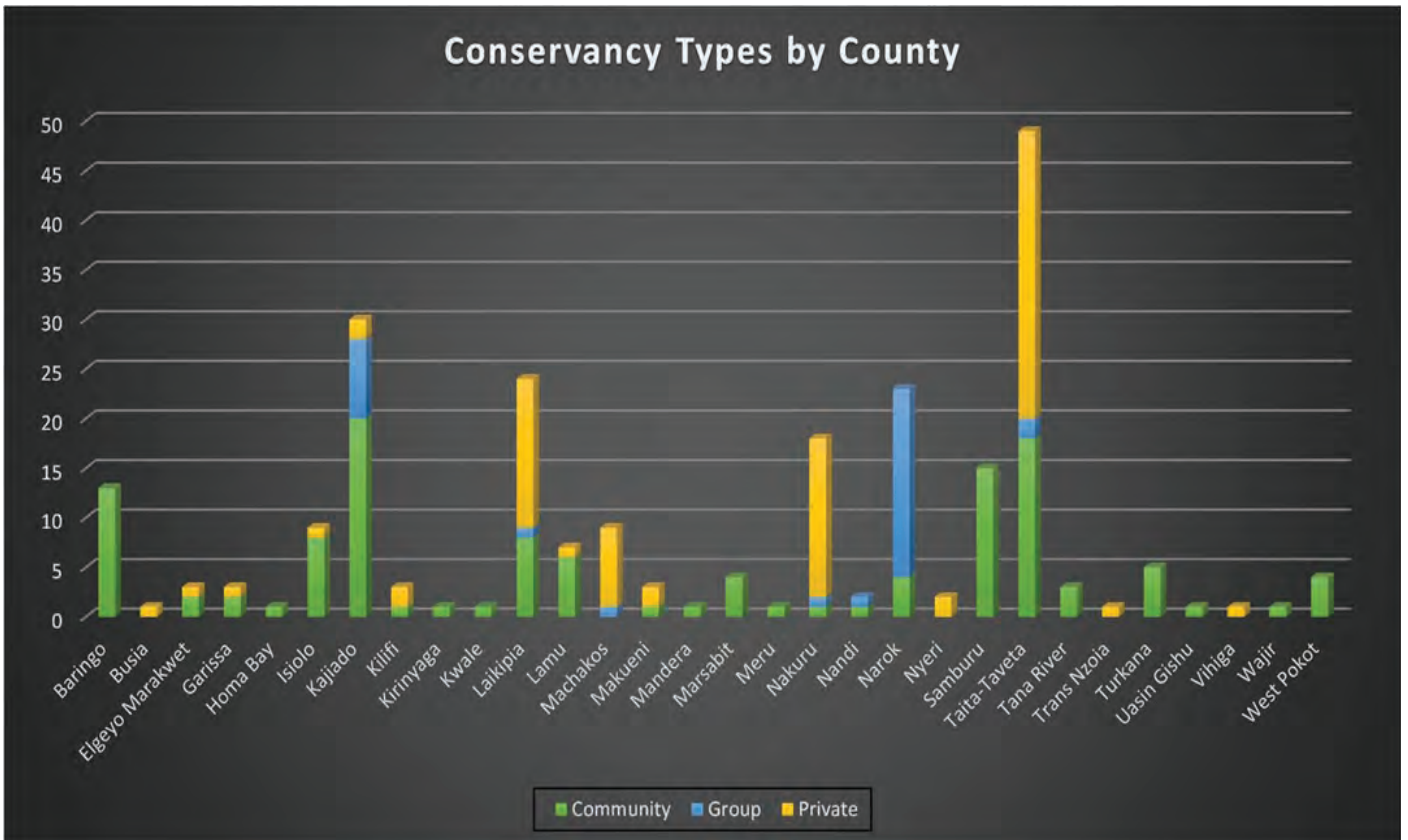
In preparation for the selection of ten (10) conservancies for this study, we gathered information from KWCA and a number of the regional umbrella conservancy associations in the country so as to ensure we have as comprehensive list of all the conservancies in the country as possible, including:

- Amboseli Ecosystems Trust
- Amboseli Land Owners Conservation Association (ALOCA)
- Athi Kapiti Wildlife Conservancies Association
- Baringo County Conservancies Association
- Laikipia Conservancies Association
- Maasai Mara Wildlife Conservancies Association
- Northeastern Conservancies Association
- Northern Rangelands Trust (NRT)
- Northern Rangelands Trust Coast
- Rift Lakes Conservancies Association
- Southern Rangelands Association of Land Owners (SORALO)
- Taita Taveta Wildlife Conservancies Association
- Western Wildlife Conservancies Association

By this process, we recorded the presence of conservancies (of all types) in at least 28 out of Kenya’s 47 counties (58%). After our classification, community conservancies are found in 25 counties.



²TNC extends the benefits of any protection the law requires for indigenous peoples to a wider range of potentially affected local communities. In TNC’s view and for the purposes of this study, IPLCs include communities that are part of community conservancies in Kenya.

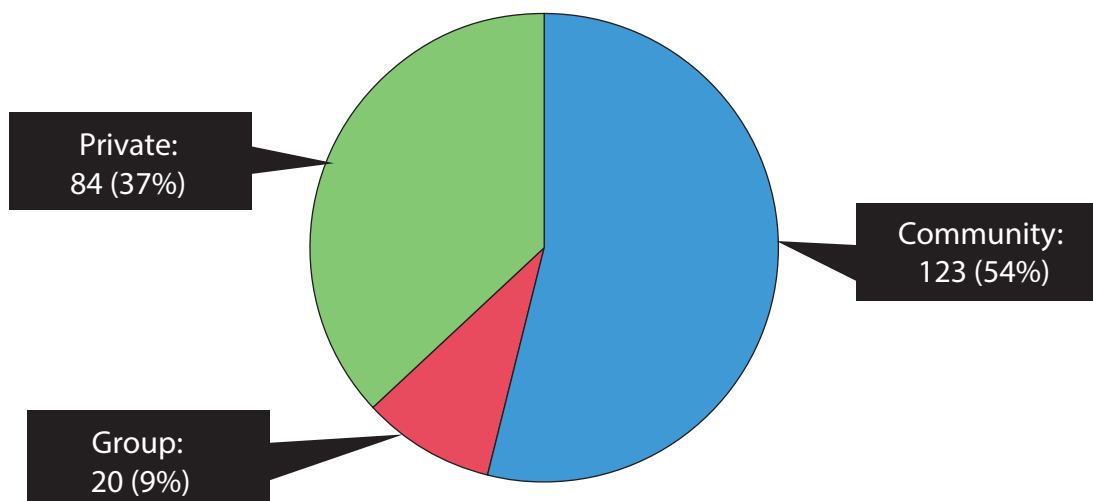


Prior to our random selection of the conservancies for this study, we categorized each conservancy into one of three main classifications of conservancies, that is, Community, Private or Group. This was not as clear cut a process as we had imagined, as information about many of the conservancies was not readily available to help us ascertain which one of the three classifications to assign. We also found that there are a handful of conservancies that are alternatively classified, that is, as a Directed Agriculture Area, as a Co-Managed Conservancy or

as a Community Forest Association, the latter of which is a similar but distinct measure under the Forest Conservation and Management Act, 2016. In order to facilitate this task, we exercised our professional judgement to classify Directed Agriculture Areas under Private Conservancies and Co-Managed Conservancies and Community Forest Associations as Community Conservancies.

In this exercise, we ascertained that the definition of a community conservancy in practice is tenuous

Conservancies by Category in Kenya



and does not strictly adhere to the definition of a community conservancy as per the KWCA publication, *Establishing a Wildlife Conservancy in Kenya – A guide for private landowners and communities*, which defines a community conservancy as “a conservancy set up by a community on Community Land.”

In actuality, we discovered there are very few if any conservancies that are set up on legally recognized community land due to the fact that less than a dozen communities in the country actually have a registered community land title. Secondly, while the Constitution of Kenya recognizes customary land holdings as community land, the formal recognition of community land via formal documentation is still nascent. In some cases, customary communities, for example in the coastal area of Kenya, are not necessarily recognized as community land since the land is legally recognized as Public Land (formerly Government Land) despite the presence of communities living communally on the land and the presence of customary arrangements.

For the purposes of this study, we sought fit to redefine a community conservancy as:



A conservancy that is either owned by a community, or land leased from community members, or has significant community involvement and/or benefit sharing arrangements.

Literature Review: Community Conservancies and Human Rights in Kenya

It is widely accepted that conservancies are now a critical part of Kenya’s conservation narrative and present an attractive land use option for communities, while offering improved resource rights from ecotourism and other conservation enterprises.

While various studies and reports indicate that community conservancies have generally delivered positive conservation and socioeconomic benefits, it is somewhat unclear what the human rights effects and impacts of the establishment and existence has been on communities. The protection, advancement and safeguarding of human rights in the context of community conservancies has the capacity of increasing broad-scale awareness on human rights issues and risks; developing concrete and accessible mechanisms in place for communities to identify, address and track any adverse human rights

effects, as they arise; and establish structures that communities can use to advance self-determination.

As one of the first steps in executing this assignment, IRPA conducted a thorough literature review³ to examine the existing social science thinking and analysis on the human rights issues, risks and opportunities tied to the community conservancy model. We looked at existing national guidelines, laws, policies and a large number of reports and studies on community conservancies, as well as any relevant international standards and guidance on the rights of IPLCs. This high-level, survey-style literature review helped inform the development of key tools and guidance for the fieldwork phase of the assignment.





IPLCs, which impedes their protection and full attainment of minority rights.

Further, due to the fact that over time, the genesis of conservancy establishment that was centered on conservation saw a number of conservancies and/or regional conservancy umbrella bodies evolve into enterprising outfits, who now hold sway politically, socially and economically not only within their communities, but broadly at the county and national levels too. As a result, the political risks and socioeconomic rights aspects – i.e., linkages to the right to education with schools being established within conservancies, or the right to health as a result of medical centers being set up to cater to the community – come to the fore and increase the human rights risks such a study would assess. A positive example from the literature review indicates that where gender equity and non-discrimination against women occurs within community conservancies, the human rights risks significantly reduce. Therefore, a need to be aware of all aspects of human rights risks as they are crucial in ensuring that the study is as objective as possible.



Our review systematically focused on the current community-based conservation and human rights literature, particularly on resources touching on laws, policies, standards and best practices on self-determination, Free Prior and Informed Consent (FPIC), the rights of Indigenous Peoples and local communities, natural resource-related rights and other associated human rights risks posed. Broadly, it is widely accepted that the establishment and operation of community conservancies has an impact on various rights. The literature we reviewed reveals that aside from environmental and community rights, the civil, political and socioeconomic rights of communities within and around the conservancies are capable of being impacted, both positively, and from a risk perspective, adversely.

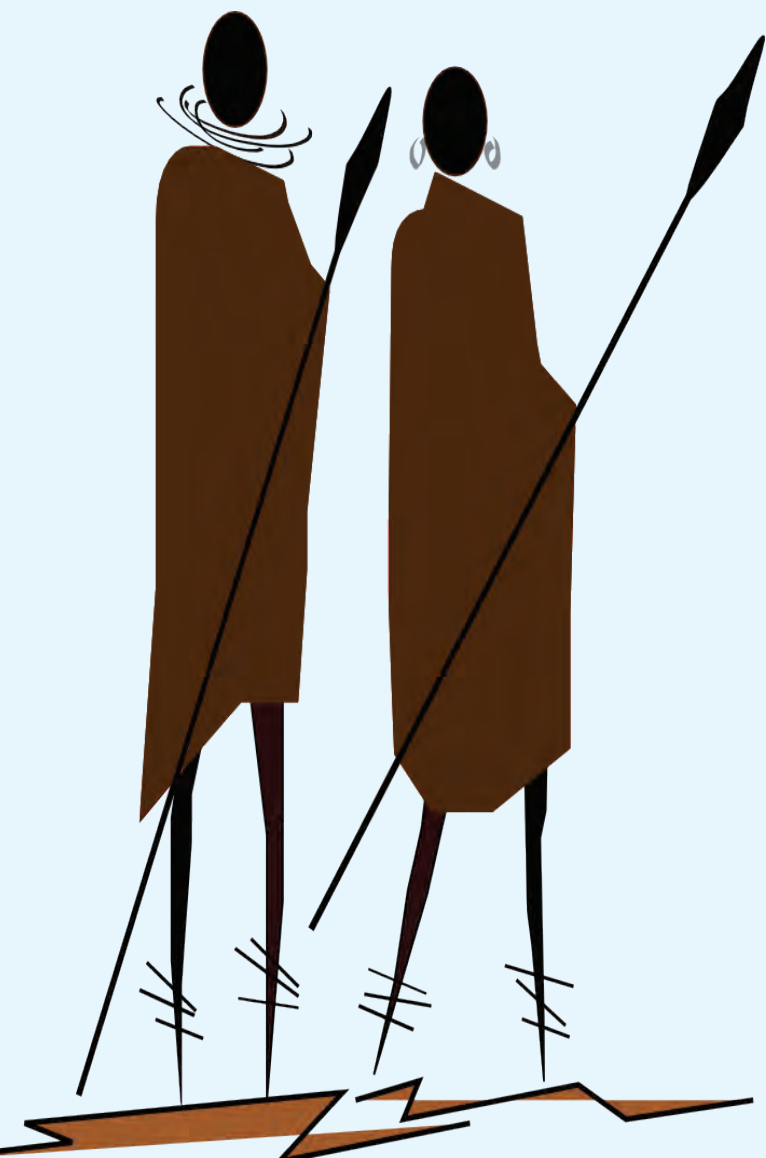
Prevalent risks that arose from the review exercise include threats to meaningful participation by communities, violence and loss of lives within conservancies, land grabbing and other impacts to the right to property, inequitable sharing of natural resources, and a failure by government to recognize

³A comprehensive literature review was conducted at the outset of the study and shared directly with the client as part of the assignment.



Methodology

Chapter Two



In designing the methodology for this study, IRPA was guided by the following goals set by TNC:

- (a) collect the existing social science thinking and analysis on the human rights issues, risks and opportunities connected with the community conservancy model;
- (b) transparently collect fresh data and feedback from communities, and;
- (c) begin a conversation about what the existing analysis and data tell us about the most salient human rights issues, risks and opportunities linked to community conservancies.

The overall methodology for the assignment includes the following elements:

- Inception Report
- Desk Research of Literature & Applicable Standards
- Establishment of comprehensive, disaggregated list of conservancies in Kenya
- Semi-random selection of 10 Conservancies to study
- Development of Tools
- Orientation/Training of Field Staff
- Pilot Assessment of 2 Conservancies
- Preliminary Observations Report
- Revision/Improvement of Tools
- Assessment of Remaining 8 Conservancies
- Analysis and Draft Report
- Sharing of Findings with Rights Holders
- Final Report

Understanding that TNC is a member of the Conservation Initiative on Human Rights (CIHR), we endeavored to integrate the CIHR principles in respect to human rights, promotion of human rights within conservation programs, protecting the vulnerable, and encouraging good governance throughout the research process as we equally recognize that we “have a responsibility to address and be accountable to the social effects of our work”, as per the CIHR mandate. We were also guided by TNC’s *Human Rights Guide for working with Indigenous Peoples and Local Communities*, ensuring that the autonomy, decision-making and self-determination of IPLCs is respected, supported and upheld.⁴

These standards and best practices were strictly adhered to by IRPA for all aspects in the execution of this assignment, including on issues of conducting inclusive meetings and interviews, maintaining meeting minutes and interview materials, fieldwork to solicit community feedback, documenting

decision-making processes, and properly interacting with representative institutional structures. IRPA shall ensure respect for the diverse and wide-ranging groups and peoples that reside and live in the Community Conservancies, respecting all views, appreciating all interests and ensuring that context and circumstances are factored into the data collection and analysis.

Selection of Conservancies

In accordance with the original Terms of Reference spelt out in the Request for Proposals from the client, the Human Rights Observations and Risk Assessment should sample ten (10) Community Conservancies, with the following provisos:

- 1) Five (5) of the Community Conservancies to be studied shall be conservancies established prior to the 2015 KWCA Wildlife Conservancy Guide coming into effect and the other five (5) after the Guide came into effect.
- 2) At least one of the 10 selected conservancies should be in Isiolo County where conflict is a known issue.

IRPA suggested that the selection criteria be modified to bolster the diversity and range of potential issues to be assessed in the study, including:

- 1) A representational geographic range across the country and inclusive of most major ecosystems where community conservancies are present, including at least one conservancy in Isiolo County where conflict is a known issue;
- 2) Representation from a diverse set of primary community livelihoods categories from amongst the Community Conservancies: pastoralists, forest dwellers, agricultural, etc.

The criteria for selecting five Community Conservancies established prior to the KWCA Wildlife Conservancy Guide coming into effect (it was published in 2015) and the other five since the Guide went into effect was effectively scrapped in favor of an approach to ensure broad regional and ecosystem diversity.

Upon agreement with the client, IRPA proceeded with the following steps:

Step 1:

A) Create a database of all Conservancies in Kenya using Google Sheets/Microsoft Excel, delineated by:

- Year of Establishment
- County

⁴ Read more about TNC’s Guide here: <https://www.tnchumanrightsguide.org>

- Type of Conservancy (Community, Private, Group)
- Regional Location (Northern Rangelands, Tsavo-Amboseli, Masai Mara, North Coast, Other)
- Primary Livelihood Pursuit (Pastoralism, Forest-dwelling, Agriculture, Other)

B) Sort the Conservancy database into ten regional classification “pools” from which one Conservancy shall be randomly selected.

No.	Selection Criteria
#1	One randomly selected Community Conservancy located in Isiolo County
#2	One randomly selected Community Conservancy located in either Laikipia, Marsabit or Samburu County
#3	One randomly selected Community Conservancy located in Maasai Mara Region
#4	One randomly selected Community Conservancy consisting of a Forest Community
#5	One randomly selected Community Conservancy located in the Amboseli area
#6	One randomly selected Community Conservancy located in the Tsavo area
#7	One randomly selected Community Conservancy with Wetlands/Maritime features or aspects
#8	One randomly selected Community Conservancy located in South Rift/Athi Kapiti Area
#9	One randomly selected Community Conservancy located in Western Kenya/ Baringo
#10	One randomly selected Community Conservancy located in Coast Region

C) Have the database and classification validated by KWCA to fix any errors prior to selection. The final, validated database with classifications can be seen in Appendix 1.

Step 2:

Conduct random selection of ten (10) Community Conservancies using KuTools™ Plug-in tool in Microsoft Excel.

Upon application of KuTools™ for each of the “pools”, one conservancy was randomly selected for each of the designated geographic/ecosystem “pools”.

Step 3:

Keeping with the principles of FPIC, explicit consent from the selected community conservancies was solicited and requested to be granted in writing prior to commencement of the study in each individual conservancy. A general description of the study including the study’s goals and objectives was sent out by the KWCA to all its members. Then, once the ten conservancies were selected, KWCA sent a letter to each of the implicated Regional Conservancy Associations informing them that one (or more) of their respective member conservancies had been selected for the study, and to ask them to encourage their participation.

Thereafter, IRPA commenced email and telephone communication with each of the selected conservancies on an individual basis to discuss the study’s methodology, the roles/responsibilities of the Conservancy, the confidentiality aspects, and the timeframe. A letter of consent was then shared with the leadership of each Conservancy for signature upon their provision of consent. (See Appendix 2).

None of the selected conservancies declined to participate in the study, although they were assured that had they opted out, they would not suffer any penalty or disfavor and would be replaced through randomized selection using the same criteria used for the selection of the conservancy that declined to participate.

Upon implementation of the study, however, our team ran into a few situations that forced us to select replacement conservancies for two of the ten conservancies. In one case, we visited a conservancy that was originally recognized as a community conservancy, only to learn that the community members had chosen to pursue development goals that did not include any conservation goals and are attempting to attract investment for the construction of a university and other associated developments. In that case, we reselected another conservancy from the corresponding pool (region and ecosystem) and followed our set procedures for confirming their willing participation in the study.

In another case, the day before arrival at another selected conservancy, the conservancy manager reported that there was insecurity in the area centered around ongoing cattle rustling in the region. It was suggested that the visit be aborted for the field team’s safety. We therefore reselected another conservancy from the same pool and identified another conservancy which we successfully visited at a later date.

Development of Tools

Upon conclusion of the Desk Research of Literature & Applicable Standards portion of the assignment and concurrent with the selection process, IRPA developed a set of quantitative and qualitative tools to utilize for conducting the assessment. The first step of this was the development of the set of relevant rights that would be measured, and a set of indicators for each identified right.

These rights and indicators were identified and narrowed down using the research conducted in the Desk Research of Literature & Applicable Standards process, while consulting numerous documents dealing with human rights assessments.

A total of 31 rights and 168 indicators (see Appendix 3) were selected amongst a much larger set of rights and indicators based on their relevance and applicability to the assignment. The rights were organized under six (6) main areas:

1. Conservancy Operations
2. General Human Rights
3. Environmental and Natural Resources Rights
4. Land and Habitat Rights
5. Labour Rights (Staff and Workers as the rightsholders)
6. Local Livelihoods Rights

Once the rights and indicators were developed, discussed and deliberated over with the client, IRPA then set in motion the development of four (4) primary tools described below:

1	<p>Key Informant Interview Questionnaire & Interview Guide</p> <p>This tool consisted of a set of questions to ask key informants identified amongst the communities being surveyed, organized around the aforementioned rights and indicators. The tool included an area for the field staff to notate responses from the key informant, as well as to capture general administrative data about when and where the interview occurred, the name of the interviewer, and the gender and age of the key informant. (See Appendix 4)</p>
2	<p>Focus Group Discussion Guide & Interview Guide</p> <p>This tool served as a guide to discussions with focus groups that were convened in the communities being surveyed in order to systematically capture information about each of the aforementioned rights and indicators based on the responses of the group members, including when the responses lacked consensus. The tool included an area for the field staff member to write responses from the group members, as well as to capture general administrative data about when and where the interview occurred, the name of the interviewer, the number of group members, and other identifying features of the group (women, youth, elders, rangers, or mixed members of the community). (See Appendix 5)</p>
3	<p>Administration Survey & Interview Questionnaire</p> <p>An Administration Survey tool was created to capture basic information about the Conservancy’s establishment, registration, governance structure, key goals, organization, staffing, funding, etc.</p> <p>A separate questionnaire was also developed for leadership members of the Conservancy, consisting sometimes of the Conservancy Manager, a Board Member, or in some cases, more than one member of the leadership structure together. (See Appendix 6)</p>
4	<p>Observation Indicators Checklist & Observation Tool</p> <p>The Observation tool provided guidelines for recording observed activities, behavior or occurrences without necessarily communicating with the individual/group members. It captured information specific to the conservancy including what was observed, location of the issue in the conservancy, regularity of occurrence and the Right impacted. (See Appendix 7)</p>

For all four tools, IRPA applied protocols for protecting any identifying information about individuals, groups or conservancies, and keeping our data anonymous and confidential from TNC. All four tools include two risk rating scales for each indicator under each right. These ratings scales have been adopted directly from the *NomoGaia Human Rights Risk Assessment: A Practitioners Guide*⁵ to evaluate if an operation has the potential to infringe human rights based on two factors:

- 1) the likelihood of a particular adverse human rights outcome, and
- 2) the impact of that outcome.

Likelihood is determined by the level (kind, quantity and quality) of evidence that the risk is at or approaching fruition. Likelihood is rated on a five-tiered scale from certain to unlikely, according to the table below:

Unlikely	No documented indication of issues related to a particular human rights in the country or industry
Uncertain	The risk is a logical possibility; Risk has arisen at a comparable operation in the country or a comparable region
Likely	<ul style="list-style-type: none"> Additionally, conditions exist to make the risk possible in the location of the proposed operation, and/or Incentives exist within the community to conceal the risk and/or benefit from it
Highly Likely	<ul style="list-style-type: none"> Additionally, credible reports exist that the identified risk is already a reality, and/or The company does not have mechanisms in place to identify and/or prevent the risk, and/or Direct observation reveals that policies and procedures are not being followed
Certain	<ul style="list-style-type: none"> Assessors witness the human rights impact directly Credible and substantiated evidence produced by legitimate researchers documents the human rights impact

The impact of an outcome is then denoted by its intensity (the gravity of impact for each affected rightsholder, including the reversibility of impact) and extent (number of rightsholders and degree of corporate complicity).



⁵<http://nomogaia.org/wp-content/uploads/2019/11/Practitioners-Guide-to-HRRA.pdf>

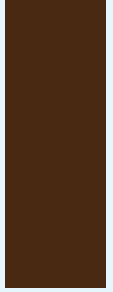
Impact is rated on a five-point scale, ranging from extreme to variable, and color-coded according to the table below:

Variable	A rightsholder group cannot be effectively singled-out for the impact, either because impacts vary by proximity, or because population influx/movement complicates population estimates
Medium	A concretely at-risk rightsholder group can be identified
High	Additionally, a majority proportion of that identified rightsholder grup can be demostrably at risk of experiencing the impact, based solely on existing characteristics and conditions
Very High	<ul style="list-style-type: none"> • Additionally, the severity of the impact is assured (i.e there is no less severe potential impact that could be experienced) • Additionally, compounding factors exist that can interact adversely with the risk directly under analysis
Extreme	The risk, if actualized, has irreversible impacts

Why a Human Rights Risk Assessment?

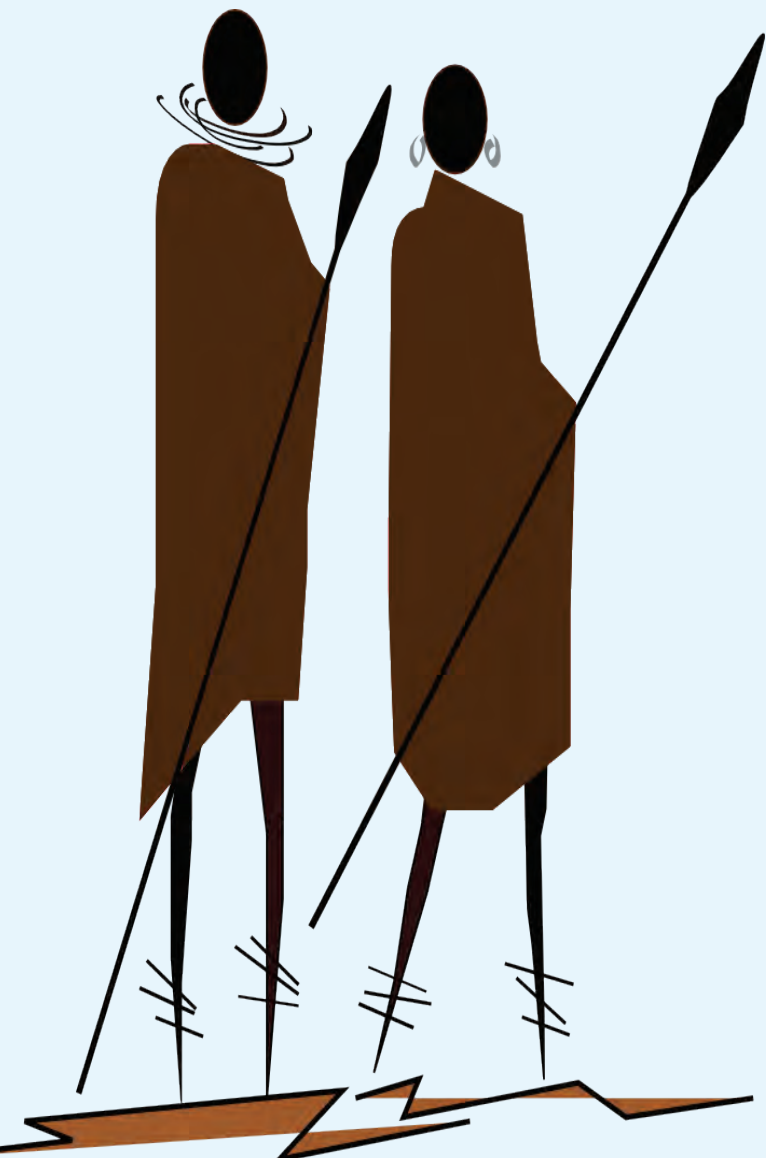
The authors are guided by the remits of the client’s original scope of work to appreciate the multi-layered human rights and risk complexities that exist within the conservation space and therefore conduct a Human Rights Risk Assessment (HRRRA), as compared to a more demanding and difficult to gauge Human Rights Impacts Assessment (HRIA). First, a fully-fledged HRIA would require a larger undertaking and be dependent on prior existing baseline data to then compare against the findings on human rights impacts in conservancies. Second, the broader inclusion of risks and observations related to the rights allow for a more inclusive process where various stakeholders involved in the community conservancy can share their perspective of these risks and observations.

We also believe that focusing on potential risks to human rights (as opposed to impacts) presents a greater scope to better inform TNC and other conservation stakeholders about future programming and interventions in the community conservancy space. While a HRRRA is meant to surface themes to help with future interventions, a HRIA arrives at strong conclusions on human rights-related impacts. For example, while overall, there is a high level of variability in the findings within this study as will be seen below, our focus remains on risks and not a consistency of findings or larger pattern. Where a risk or right violations are prevalent and worrisome within these conservancies, that is where our attention will be drawn to. Finally, the hope is that the findings from this assessment and the themes that arise should merit a need for follow up and identification of how to begin to address them – it is in no certain way an end of itself.



Data Collection

Chapter Three



Field Assessments

IRPA organized a team of four primary researchers, one research assistant with specific human rights and conservancy expertise, and three field assistants who all had previous field research experience, to carry out the assessments in the field. The tools, developed by the primary researchers and research assistants, were discussed and tested with the entire team prior to their utilization in the field in order to ensure familiarity and to clarify the process for collecting information and data.

After the entire team conducted the study at the first conservancy, the team was divided into sub-teams of 3-4 persons to visit each of the remaining conservancy sites from October 1st, 2021 through January 14th, 2022. Each study visit lasted between 3-4 days, with the assigned team conducting numerous key informant interviews (KIIs) and a number of focus group discussions (FGDs)—the latter consisting of 3 or more persons—in each of the community conservancies, observing all Covid-19 prevention and control guidelines.

To gain diversity in opinions, perceptions and experiences, as wide a group of community members as possible was engaged, with specific efforts to ensure the participation of women, youth, village elders and groups formed around the main livelihood/trading activity of the conservancy (i.e., pastoralists, farmers, fishers, etc.). Time did not allow us to visit every single community that lived in proximity to each conservancy.

A total of 90 KIIs and 85 FGDs were held across the ten conservancies, with the latter totaling 523 participants (an average of 52.3 participants per conservancy).

FGDs included mixed members of communities, as well as groups exclusively of women, youth, elders, rangers, herders, and fishers. At least one FGD in each conservancy was with village elders and one with women.

IRPA relied upon the individual conservancy managers (and their teams) to help organize groups, but efforts were made to ensure that the groups were able to speak freely without the influence of conservancy personnel during the focus group discussions. In the few events that we felt that some individuals or groups were coached by conservancy staff to provide responses that would only reflect positively on the conservancy, we made efforts to break up the groups or otherwise switch tactics in an attempt to solicit their frank responses to our questions.

At the commencement of each KII and FGD, IRPA team members presented the purpose of the study and underscored our approach to ensure confidentiality and anonymity for all information shared so as to avoid any possible identification of individuals, groups or the conservancies. Further, we reminded all KII and FGD participants that the study only sought to understand conservancies' experiences, not to judge, grade, or critique the performance of any individual conservancy, hence we were inviting honest feedback.





Further, in each interview/discussion, the IRPA team members discussed the underlying principle of the study: Free Prior and Informed Consent (FPIC) in order to ensure that participants had a good understanding of FPIC in terms of the questions we posed in the course of the interview, both in terms of their right not to participate in our study as well as their rights associated with the establishment and the operations of the conservancy.

Daily data quality checks were conducted and adjustments to our field schedules were made each evening to ensure the equitable inclusion of settlement zones, women, youth, elders and other groups in the KIIs and FGDs within each conservancy.

To reinforce transparency, upon completing the collection and analysis of data from the conservancies, IRPA revisited all ten conservancies to present a recap of the global findings of the study, and to discuss notable findings specific to their particular conservancy. These sessions were generally well received in each conservancy as they provided some comfort in knowing that challenges cut across

other conservancies, as well as agreement in the areas for improvement (weaknesses). The exercise also confirmed that our overall findings reflect what was shared, and that the process was instructive for community members to better understand their rights.

Models of Conservancies Encountered

During the conservancy selection process, it became apparent to us that there are numerous models of conservancies that exist in Kenya, more profoundly distinct than simply classifying them as either a Community, Private or Group Conservancy.

The conservancy models we encountered throughout this study are based on the following four main areas:

1. Origination – who initiated the conservancy’s very existence?
2. Registration – what kind of body is the conservancy registered as?
3. Land Ownership – what is the land tenure situation on the land included in the conservancy?
4. Governance – what is the governance structure chosen for the conservancy to operate?

“

According to the Food and Agricultural Organization of the United Nations (FAO) in their Free Prior and Informed Consent Manual for Project Practitioners, the aspect of ‘free’ refers to a consent given “voluntarily and without coercion, intimidation or manipulation”.

Further, the aspect of ‘prior’ means that consent is “sought sufficiently in advance of any authorization or commencement of activities, at the early stages of a development or investment plan, and not only when the need arises to obtain approval from the community.”

On the question of origination, there are a number of different models that we came across, although often it is impossible to pinpoint a single originator, as many conservancies are the result of partnership arrangements amongst various actors with common goals.

A major aspect of the various models we encountered revolves around the land ownership of the conservancy. We encountered all three land tenure regimes recognized by the Kenya Constitution and Land Act (Public Land, Private Land and Community

Land), in addition to unadjudicated customary land. As mentioned earlier in this report, we did not encounter nor are we unaware of any community conservancy that has to date formally obtained a Community Land title.

Finally, the last major set of distinctions has to do with the governance structure of the conservancy. In the chart below, we have indicated with a checkmark the models and aspects we encountered amongst the ten conservancies we studied.

Origination		Registration		Land Ownership		Governance	
✓	Community- driven	✓	Community- based Organization	✓	Community Land	✓	Board of Directors
✓	Former Group Ranch	✓	Trust	✓	• Formal (with Community Land Title)	✓	Board of Trustees
✓	County Government supported	✓	Private Company	✓	• Leased from community members	✓	• Elected Directors
✓	National Government supported	✓	Association	✓	• Customary (unadjudicated)	✓	• Appointed Directors
✓	International Conservation Interest			✓	Private Land	✓	• With Community Representation
✓	Private Individuals			✓	• Owned by Community Members	✓	• Without Community Representation
✓	• Landowners			✓	• Owned by Trustees	✓	• With Shareholders
✓	• Non-Landowners			✓	• Owned by Other Individuals/Entities	✓	• Community member Shareholders
					Public Land		

The terms of our study did not afford us to disaggregate the data collected from the ten conservancies we studied based on the various models encountered, although it would certainly be of interest to compare human rights performance between the various models of conservancies to identify any trends amongst one particular model or another.

Other interesting aspects to note around the various models include the conservation function of the conservancy, the secondary objectives of the conservancy’s establishment, its sustainability model and the primary and secondary livelihoods of the IPLCs living in the conservancy. We encountered the following aspects amongst the ten

Conservation Function	Secondary Objectives of Conservancy	Sustainability Model	Livelihoods Pursuits
<ul style="list-style-type: none"> • Wildlife Corridor • Wildlife Dispersal Area • Buffer Zone to another protected area(s) • Biodiversity Significance • Species Focus Conservation • Ecosystem Health • Watershed Functions 	<ul style="list-style-type: none"> • Peace between communities • Ecosystem services • Tourism Revenue Generation • Aesthetics • Cultural Heritage Preservation • Conservation Ethic/ Learning models • Co-management with Government Conservation Efforts • Research • Carbon Credits 	<ul style="list-style-type: none"> • Self Sufficient • Donor Dependent • Diversity of Investments 	<ul style="list-style-type: none"> • Pastoralism • Fisheries • Agriculture • Ranching • Mining • Commerce • Other

Limitations and Challenges Encountered

Numerous challenges and limitations were encountered in the execution of this study which had some impact on our ability to conduct the study as we originally envisioned. Despite these challenges, however, we feel confident that the findings and our analysis of those findings were not significantly altered due to the limitations and challenges encountered.

Methodological Limitations

Time constraints: Field teams typically had three days within which to conduct all the KIIs and FGDs and undertake an initial collation of data from the interviews. However, certain demographics were only available for interviews within a given period. To ensure comprehensive engagement, FGDs targeting women were scheduled for early afternoons after they had completed morning chores and before they embarked on evening ones. The same applied to groups of herders.

Limitations of the Field Teams

Language barrier: It was expected that communication could be a challenge due to the different languages spoken by the communities. The language medium in which the questionnaires were developed was English, though they were predominantly administered in Swahili. During the recruitment, the team ensured that the Field Assistants were fluent in one or more of the languages spoken by the communities engaged. The make-up of the field teams ensured that where English and/or Swahili was not sufficient, a field assistant also acted as a translator to facilitate the participation of the respondents during the study.



Limited access to data: During the initial field visits, the teams noted that certain conservancy leaders attempted to shape the narrative by organizing certain individuals to participate in the interviews and FGDs. After the first two conservancies, IRPA re-evaluated the manner of engagement during field visits. Upon arrival, the team would meet with the conservancy management as initially planned, then randomly identify respondents from the community, as opposed to having the meetings set-up in advance of the team's arrival. In some conservancies for example, women groups were identified at town-halls where they gathered for various meetings, or fishermen at landing sites. The teams would then be introduced to the potential respondents by a conservancy leader to get their cooperation in participating in the study.

Weather: Most conservancies are huge and field teams preferred meeting respondents at their convenience, i.e., villages, grazing blocks or

rangers' outposts. This involved travelling across vast distances which, in addition to time limitations, exposed them to the elements. Some teams experienced difficult terrains such as sudden flash floods which required them to wait out the flowing waters. Once on the ground, teams split to hold two or more parallel interviews/FGDs towards efficient use of time.

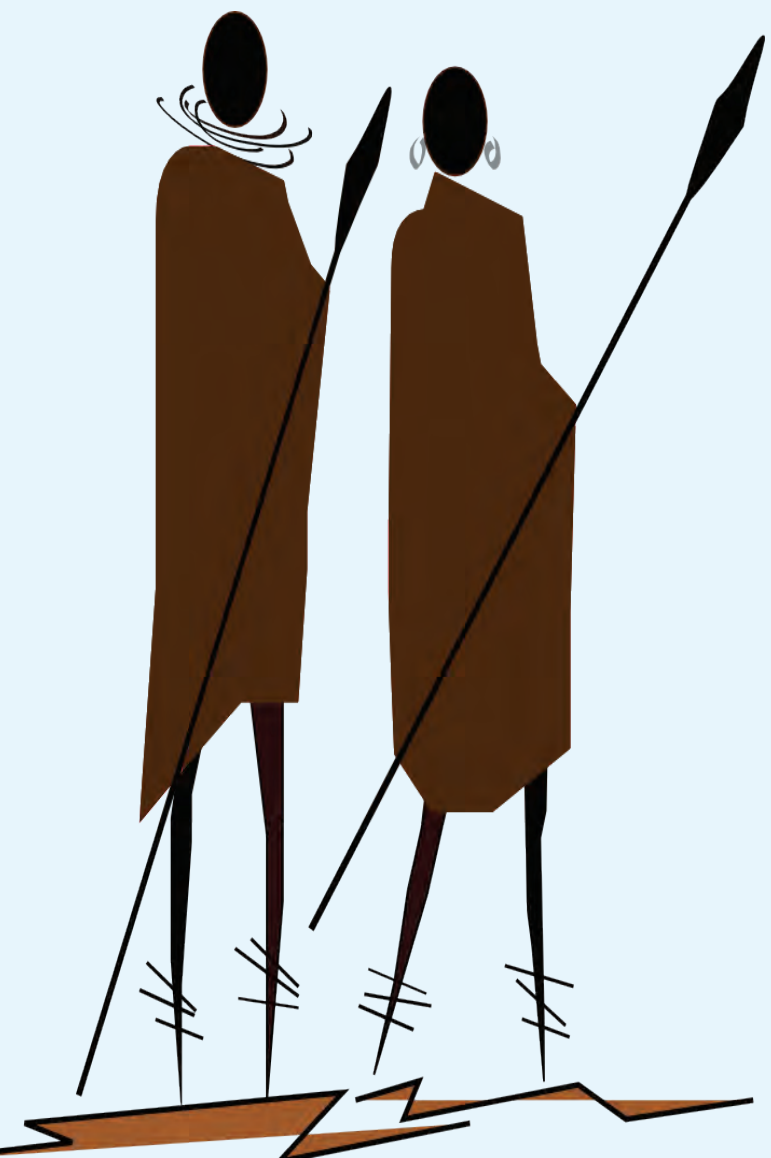
Incentives for Conservation: Separately, it was observed that a fair number of respondents based their support for conservation on the immediate or potential material/financial benefits as opposed to also having a good understanding of the non-tangible benefits such as a clean and healthy environment, wildlife conservation goals, or natural resource management. The risk in this case is that the community is not motivated to protect wildlife and the environment for the long-term.





Findings

Chapter Four



Background and Context

Our findings are presented below in as objective and informative a manner as possible, relying on the methodology and additional factors covered earlier in this report. The intention of the authors here is to provide a narrative of the data collected, assessed and analyzed for purposes of this HRRRA of community conservancies in Kenya. At the outset it is crucial to repeat that the data below is devoid of a baseline assessment and where negative impacts are found, they have not been weighed against prior data, particularly in relation to whether the conservancy created or exacerbated a risk by its existence or through its operations. Where this is more pronounced, we do cite it within our findings.

It is important to note that most HRRAs are often not public documents and remain the preserve of the consultant hired to conduct the study and their client. However, given the desire for these findings to be public with the hope to enrich the public dialogue on the subject, as well as time constraints we encountered, it is important to mention that our findings focus uniquely on potential adverse effects of the establishment and operations of conservancies and do not represent a fully holistic picture of impacts by excluding potential and actual positives.⁶ This approach is key to keep in mind, particularly given that by a cursory assessment of the ratings below, the findings may appear variable or inconclusive – but despite that, our focus is on key risks and human rights violations that must be brought to the attention of the reader.

The focus on adverse or negative impacts in a risk analysis is the approach used in such assessments; it is the purpose and point of the exercise. This focus does not imply that there are no positives or value in the role that community conservancies play in the bigger picture of wildlife conservation. Instead, this approach highlights risks in a manner that directs interested parties towards what issues are a priority and must be dealt with without any distractions or a potential undermining of credibility. This report does not seek to answer whether community conservancies are positive or negative within the Kenyan landscape, it just helps spotlight certain concerns of a human rights-related nature that require attention. The success of community conservancies is widely documented, with the private sector, civil society and government all appreciative of the impact they have had to not only conserve wildlife and nature, but positively impact communities. These findings should not in any way detract from that, despite the nature of their content.

Additionally, there may be a single set of facts that resulted in the manifestation of a risk or rights violation that may touch on multiple rights (i.e., women being denied access to a forest to collect firewood may impact their sustainable livelihoods rights, gender rights, traditional means of subsistence, and, if they are from an indigenous community, their IPLC rights, etc.) and hence the potential of overlap or certain rights being highlighted more within certain clusters.

As much as possible, we have strived to anonymize the findings in order to ensure that the identity of each conservancy studied is safeguarded and to also ensure the confidentiality of each subject conservancy's rights and risk profile is maintained. We accept that the identity of individuals, groups or conservancies could possibly be inferred based on the information contained in the findings despite our best efforts to conceal them.

This overall risk assessment is subjective and focuses on the following risks: Present, Significant Risk, High Risk, Very High Risk, and Extreme Risk.

⁶Our justification for this approach comes from the *Nomogaia Guide*, p. 10.



RISK OF IMPACT	
An assessment of risk looking at a combination of the likelihood of impact and the degree of impact	
Low Risk	No documented indication of issues related to a particular human right in area, or no rights holders can be singled out for experiencing the impact. ⁷
Possible Risk	The risk is uncertain or there is a logical possibility that a risk might occur based on existing circumstances
Present	The risk likely or highly likely but might not have a significant impact in the broader community.
Significant Risk	The risk is likely, and the degree of impact is between medium to high
High Risk	The risk is more than likely, and the degree of impact is between very high or extreme
Very High Risk	Credible reports or observation of a risk that have very high or extreme degree of impact
Extreme Risk	Direct observation or credible and substantiated evidence of irreversible risks with extreme degree of impact

Please note that in the tables below, the column of data attributable to a conservancy has been randomized across each of the groups but not within the table, and therefore, the first column in Gender may not necessarily be the first column as well in Land rights. This helps in keeping the data as random as possible and limiting the possibility of inferences being made by readers, particularly those highly familiar with the conservancy sector.

Where a conservancy’s risk is Possible (Yellow) or Low (Gray), a narrative for this is not provided in the findings or analysis below.⁸ While each right is assessed across each of the ten conservancies, certain sub-rights are either not assessed for each of them, or the data from certain conservancies is unreliable, and thus, the data set may have less than ten conservancies assessed. For example, certain conservancies consist of a near 100% population of indigenous persons, and as a result, assessing for IPLC-specific rights at risk within the conservancy is not necessary. Another example arises from the data collection process, where our pilot study was initially carried out in two conservancies, and the tools refined and improved, thereby altering certain data points and sets minimally.

The study seeks to assess human rights risks both at the establishment and during the operations of each conservancy. However, in our findings, a significant portion of the human rights risks presents themselves as touching on operations, with a

smaller portion arising during establishment of the conservancy. While one may assume that this is a result of operations being more ‘front and center’ or present, it is not the case as our tools attempted to—as exhaustively as possible—assess for human rights risks during the establishment of the conservancy. Therefore, it is the authors’ suggestion that in reading these findings, emphasis should be placed on risks within operations. Where the risk arose during the establishment phase, we explicitly cite it as such.

Another element the authors desire to bring to the attention of the reader is the linkage between the establishment or operations of a conservancy and the risks identified below. Associating conservancies with risks and human rights violations is a bold undertaking and we appreciate the fact that the existence of a conservancy may either directly contribute to a violation, or in certain circumstances exacerbate or mitigate already existing risks and violations. Our assessment focuses on the former

⁷In certain very limited circumstances, gray boxes mean that no data was available or collected. However, the significant majority of gray boxes should be interpreted to mean “low risk”. Given the focus of this report on higher risks (As compared to low), this data is not flagged but can be availed upon request from the authors.

FINDINGS

– direct contributions, while also addressing the role a conservancy plays or does not play where risks or human right threats or violations exist.

For example, it is undisputable that with or without a conservancy, human-wildlife conflict is likely to occur where people and wild animals co-exist in a defined area. Now, while the conservancy may not directly be responsible for the loss of lives or economic assets attributable to wild animals, where this risk and the threat to life and the safety and security of people is grossly impacted, as has been concluded in this study, then it is a risk that cannot be ignored. Another example may be of a conservancy member, who is part of the community, selling his land which forms a part of the conservancy, to a commercial farming enterprise, which blocks migratory corridors for wildlife and extracts copious amounts of groundwater for its agricultural ventures. Here, the conservancy may not seem at fault, but the human right risk – to the security of tenure and right to water, at a minimum – is adversely impacted by a decision by one of its members. The complexity and nuances are prevalent when one dissects the findings below and has a deep understanding of what the raw data revealed, as the authors do.

At the core of the community conservancy model, as earlier considered in this report, is a single or group of communities living with nature

and thus the models present a mix of various elements of exposure to human rights risks and violations. Factoring this diversity in models, what we find is that drawing a line delineating the conservancy from the community is nearly impossible as the conservancy plays a key role – in most circumstances – in the lives of these community members. Therefore, even where certain rights or risks appeared to manifestly not be attributable to the conservancy’s existence, this strong intertwining of the day-to-day ordinary lives of communities within and around the conservancy and the blanketed nature of the conservancy’s enveloping this ordinariness, proves complex to totally divorce from each other. We therefore advise the reader to factor this above complexity and appreciate the challenge of divorcing risks and violations as either being wholly delinked from the conservancy or being directly attributable to it.

For purposes of protecting the privacy not only of conservancies, but also the individuals and groups assessed during this exercise, we have made a deliberate choice not to footnote any of the statements of risk made below. However, note that each allegation, claim or finding below is directly attributable to the data collected during the exercise and where necessary, can be backed up with a source if required subject to the data protection and confidentiality prescriptions of the study.



⁸ These rights are included in the charts, nevertheless, to provide a fuller picture of the findings.

Summary of Findings

Our research findings indicate a High Risk rating to the right to life. Responsible for this are human-wildlife conflict and injuries attributed to either conservancy staff, poachers or raiders. A Significant Risk is associated to a threat to security of person and property against wildlife. Threats to the safety and welfare of community members as well as loss or damage to food prevail. Straying wildlife or livestock which find their way near the conservancy zones are a problem. For the wildlife, community members may kill them for the meat whilst the drifting livestock may be fodder for the wildlife.

There is a Low to Present Risk concern with respect to women that are restricted from fetching firewood, an important source of fuel, for cooking purposes in certain conservancies. This begets discrimination as their opinions are rarely sought when regulations in protection of the conservancies are promulgated. A Present to High-Risk relates to the place of women in the leadership and benefit-receiving ranking in the conservancies. In this, women are strikingly absent and their contribution silent. In a number of local communities, participation in conservancy matters is qualified by ownership of land, yet women are prohibited from ownership of land. The fate of women is shared by youth who do not own land and are therefore shut out of conservancy structures and resultant benefits.

Largely, a substantial measure of the human rights risks attends to the operations in the

conservancies. Overall, there is a perception that communities are not well represented in the decision-making organs which run the conservancies. Both at inception and in their operations, conservancy management are tight with information which pertain to their activities. Further, establishment of conservancies has not enhanced structures for governance and management of community land rights. Similarly, there are concerns on women and youth inclusivity in conservancy undertakings as the elderly males still dominate decision making and benefit sharing. We observe that a manifest preponderance of conservancies has not established dispute resolution forums, though there is minimal reliance on traditional conflict resolution mechanisms that have been utilized by multiple generations. Reliance is predominantly placed in formal tribunals, courts or traditional institutions which delay a resolution of, even, minor disputes, overtly discriminate against women, and thereby contribute to enduring hostilities or increased violations, usually between the conservancy and the community.

In our study, we find that a Very High Risk is present in one conservancy which sits on public land that is owned by a public entity. The public entity applies state machinery to control entry and access to the conservancy by the use of legal instruments often established without the participation and buy-in of the local community. Whilst the public entity asserts that it is undertaking an exercise for the common good, the IPLCs feel particularly fraught



and oppressed. This High Risk is also evident in conservancies located in community land or within an amalgamation of private land titles where community participation is limited, either in a complete or on a gender-instigated basis.

A shift from communal to individual land tenure, attracting investors who create private enclaves often with their own interests at heart which at times conflict with those of the conservancies, portend a high risk. These investors invoke neoliberal and, in some instances, neocolonial tendencies, ignoring the sustainability of the fragile human-wildlife ecosystem setting; thereby creating a danger of conflict and probable violence. An example of this was witnessed near one community conservancy surrounded by large farms and private conservancies that are fenced off without consideration of the IPLC communities. Our observations witnessed gross limitations to the movement of livestock by community members, presentation of unwarranted risks such as cutting off water points, and a more adverse societal toll on these IPLCs that are simply trying to utilize their environment and ecosystem as their forefathers did.

Reliance on coercive tactics to obtain community harmony and goodwill fails to recognize that indigenous communities still feel entitled to resource use, access and control. It is observed that land leasing poses difficulties, especially when the incoming lessees fail to acknowledge local livelihood production systems or disregard the rights of people within the conservancy by denying them expected or agreed to benefits. The locals feel displaced and dispossessed, especially when this leads to a limitation in the sustainable development of people, livestock and even wildlife.

Articles 42 and 69 of the Constitution of Kenya provides for a right to benefit from a process of development that is friendly to the environment and natural resources. Conservancies which utilize their lands against agreed standards with the community or impede access to forests for harvesting of honey and traditional medicinal herbal plants face a present to significant risk for obstructing a benefit from the environment. It is critical that conservancies abide by arrangements agreed with the full, free and meaningful participation of communities, and when these elapse, renew them on fresh terms. Placing conservation principles over community concerns poses a Significant Risk of disagreement and conflict. It must not be lost that the environment ought to support human existence.



We have already observed the prevalence of High Risk in conservancies where the local communities feel left out of the benefits that accrue to the conservancies. This is true of conservancies which practice discrimination in employment or allocation of public utilities flowing out of conservancy revenues. Our only Extreme Risk assessment pertains to a conservancy where a ranger, who was pursuing raiders from an adjacent community, was shot dead in the line of active duty. Significant Risks, also, were observed in cases where poor training of rangers placed them in danger of faulty equipment or sheer incompetence. Insufficient training coupled with poor equipment places the rangers and community members at risk. In certain instances, staff members are made up of volunteers with no employment rights. In others, employees suffer from unfair hiring practices and low remuneration. In others, there is a glaring non-representation of minorities.

Details of this findings are provided in the section below.

Findings vis-à-vis Operations and Establishment of Conservancies

Below, we have clustered the rights into eight categories,⁹ namely those predominantly related to (a) participation; (b) equality and non-discrimination; (c) land and the environment; (d) security; (e) socioeconomic and livelihoods; (f) labour; as well as a broader examination of certain key rights that uniquely impact two special groups, namely (g) women/gender; and (h) IPLCs.

⁹ This clustering is by no means perfect and the presence or absence of a right in a cluster does not imply it exclusively belongs to that group, our efforts were informed by a need to be efficient and provide a more holistic perspective of our findings.

A. PARTICIPATION

Participation										
Right	Conservancies									
Right to information and awareness on just and fair procedures for the resolution of conflicts	Yellow	Red	Yellow	Orange	Orange	Light Orange	Orange	Light Orange	Orange	Yellow
Right to access just and fair procedures for the resolution of conflicts ¹⁰	Orange	Orange	Grey	Orange	Light Orange	Grey	Yellow	Yellow	Yellow	Yellow
Right to free and prior informed consent	Yellow	Orange	Orange	Light Orange	Light Orange	Grey	Yellow	Yellow	Yellow	Light Orange
Right of access to information	Yellow	Light Orange	Yellow	Light Orange	Light Orange	Light Orange	Yellow	Yellow	Yellow	Yellow
Accountability – a lack of transparency and corruption ¹¹	Light Orange	Light Orange	Yellow	Yellow	Orange	Grey	Yellow	Grey	Grey	Yellow
Right for communities to participate in decision-making	Yellow	Orange	Orange	Yellow	Yellow	Yellow	Yellow	Yellow	Light Orange	Yellow
Right to maintain and develop their political, economic and social systems or institutions.	Yellow	Light Orange	Grey	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
Right to self-determination	Yellow	Orange	Yellow	Grey	Grey	Yellow	Yellow	Grey	Grey	Grey

The right to information, awareness and access to conflict resolution mechanisms presents a Significant Risk due to a majority of conservancies not having any policies to address conflicts arising within them. While certain conservancies claim to have conflict resolution policies, the HRRA identifies that this is not the case, with community members and in certain instances, staff relying on alternative mechanisms (i.e., government, traditional/ customary or faith-based institutions) which in a number of instances fail to factor IPLC rights, or exclude women. For example, in some conservancies where culturally responsive mechanisms like an elders council were used for conflict resolution, women were not represented on the council. In some instances, the council would trivialize the conflict-generating issue before it when a woman is the party seeking redress. A single conservancy also cites the formation of Conflict Committees which existed, but ended up being dissolved due to inactivity.

The singular rating of a Very High Risk arises from a portion of community members significantly damaging conservancy property with protests within and around the conservancy, which had no conflict resolution mechanisms in place and this resulted in

the government intervening to address the matter. An example worth citing involves a woman that reported an instance of alleged child abandonment by a ranger that had been consensually involved intimately with her and has shown no interest in fulfilling his parental responsibilities. She informed us that despite promises of remedial measures to be taken by the conservancy to address this abandonment, these were not implemented even with repeated reports to the local chief.

Additionally, long-standing founders of these conservancies, particularly large non-IPLC land owners, unduly influence processes. This includes limiting access to grievance mechanisms to the point that the community conservancy’s IPLC leadership loses all trust in objectivity and fairness in these processes and deems them inaccessible. An example of this undue influence involves a founding member of the conservancy and long-serving leader, a white farmer, who had apparently been influencing conflict resolution processes to the point of the community losing any faith in the grievance mechanisms’ effectiveness. The board also cites that it mistrusts the ranchers around the conservancy and this had trickled down to the community, who are afraid to confront them when conflict arises. Elsewhere,

¹⁰ This right, as compared to the one above it, focused more on access to the mechanisms, while the above right focused more on the efficiency and awareness of the conflict resolution mechanism.

¹¹ While this is not particularly a human right, we deemed it necessary to assess this issue as part of the risks posed by the establishment and operations of conservancy influenced by a lack of accountability by the officials running the conservancy, lack of transparency and incidents of corruption.

FINDINGS

a High Risk arises where a board member within the conservancy doubles up as a government official and bears responsibilities of conflict resolution within the conservancy – resulting in dissatisfaction by community members on matters conflict due to their inability to escalate matters to other board members due to his influence, and similarly not be able to raise it with the government official which also happens to be the same individual.

The risks to a high standard of accountability predominantly involve a lack of transparency on matters of financial benefits and use of fiscal resources, thereby meriting an assessment of Present to Significant Risk, with conservancies lacking policies to address corruption as well. This is prompted by various findings, including an umbrella conservancy body being perceived by the community as being untruthful and colluding and/or pilfering financial resources, our own perception of a gendered, ethnicized and clannish imbalances in the distribution of financial benefits, and, strong-handed tactics and claims of threats being made if repayment of loans from the conservancy are not timely.

Overall, a majority of conservancies were established with the involvement of communities in a manner reflective of FPIC. Throughout the establishment of numerous conservancies, though the term may not have been used or known, various evolving standards of the principle were adhered to. Human rights risks touching on FPIC are more manifest during the operational phase of conservancies. Most conservancies lack policies or staff with training on FPIC and evince that they do not have the capacity to fully implement operations in a manner respectful of this principle. A High Risk to FPIC in two individual conservancies arises where IPLCs living in a heterogenous community with more dominant groups, are denied involvement in the conservancy's establishment and lack a comparative level of awareness of its operations when compared to other communities within it. Strong calls by a number of representatives in another conservancy express that due to their perceived violation of this right by the conservancy's management, the conservancy should be disbanded.

Self-determination, which underlies a number of the rights assessed, particularly in this participation cluster, presents a rating of a High Risk in one conservancy. We observe an impossibility for the community to self-govern, with IPLCs' culture and livelihoods at stake. For example, during the establishment of the conservancy, the IPLCs, who

are predominantly pastoralists, were presented with the reality that the nearby grazing area would be fenced. They shared potential alternatives that would allow them to greater access to these grazing areas, but these were not taken into account by the conservancy's founders. A decision was made to set up a limited number of entry points into the grazing area, impeding their access as grazers. This same group of IPLCs are impeded from governing themselves and playing a significant role within the structures of the conservancy. Elsewhere, a Present risk rating arises where a large NGO serves as a proxy to the point where the local community appears to the authors to have been subsumed under the organization to the point of having limited control over its affairs of conservation.

We observe that a majority of the wider community members participate in decision-making by the conservancies. Significant Risk to this right is identified where a highly aggressive top-down approach to governance by a single conservancy's management was imposed on members. In this single instance, a board member is perceived by the authors, certain community members and a few staff members of the conservancy, to micromanage and impose his view, approach and individualism on nearly every aspect of the conservancy's operations, including matters deemed to be minutiae, in our expert opinion. Present to High-Risk ratings arise where limited community participation or access to boards in control of conservancy affairs is observed (i.e., only through Annual General Meetings – AGMs – where meetings are rushed, or in a language not easily understood, etc.), as well the sidelining of women in decision-making.

Linked to decision making, a Significant Risk impeding access of information by some community members within a single conservancy, arises where members cite that there is minimal information shared with them, and they remain in the dark on conservancy operations. An example of this lack of transparency is evinced in a number of conservancies where community members interviewed cite that the board does not share any information with them on its activities. Particularly, even where demands for information are made through protests outside conservancy offices, no sufficient information is provided.

⁸ This clustering is by no means perfect and the presence or absence of a right in a cluster does not imply it exclusively belongs to that group, our efforts were informed by a need to be efficient and provide a more holistic perspective of our findings.

B. EQUALITY AND NON-DISCRIMINATION

Equality and Non Discrimination										
Right	Conservancies									
Right to equality and freedom from discrimination	Orange	Orange	Grey	Orange	Orange	Brown	Grey	Grey	Brown	Orange
Youth's right to equality and freedom from discrimination	Grey	Yellow	Grey	Yellow	Yellow	Yellow	Grey	Grey	Brown	Grey
Freedom of conscience, religion and beliefs	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Right not to be subjected to any discriminatory conditions of labour	Grey	Yellow	Grey	Yellow	Yellow	Yellow	Grey	Grey	Brown	Grey

This cluster, when examined separately of IPLC and women's rights, but broadly within the community against other protected characteristics, presents a mixed bag of results. Nevertheless, instances of inequality and discrimination in the wider community conservancy do exist to varying degrees.

Significant and High Risks present via widespread nepotism within conservancies and their management, where jobs and opportunities (i.e., benefits for communities, etc.) are predominantly reserved and awarded to community members from one family or clan. ¹² Our study team were also inundated with multiple community members in these

conservancies decrying the fact that they are discriminated against on the same basis by not being allowed to participate in the running of the conservancy, with the board holding a lot of control and women being sidelined.

Present Risks exist in conservancies where rangers perceived a sense of discrimination against them by senior staff who do not involve them in decisions that expose the rangers to greater risk as they undertake their jobs. Present risks also represent lesser degrees of nepotism, and ageist practices by the conservancy in the distribution of training opportunities.

C. LAND AND THE ENVIRONMENT

Land and the Environment										
Right	Conservancies									
Right to a clean and healthy environment	Orange	Orange	Orange	Orange	Grey	Grey	Orange	Grey	Brown	Grey
Right to water	White	Orange	Yellow	Yellow	Orange	Orange	Orange	Grey	Grey	White
Right to use, develop and control the lands, territories and resources that they possess	Orange	Brown	Orange	Brown	Brown	Grey	Yellow	Grey	Grey	White
Right not to be forcibly removed from their residences, lands or territories	Grey	Red	Grey	Grey	Grey	Orange	White	Grey	Grey	White
Right to security of land tenure	Yellow	Red	Brown	Brown	Orange	Brown	Orange	Yellow	Yellow	Yellow
Right to redress, by means that can include restitution and compensation using FPIC (land- related)	White	Brown	Grey	Grey	Grey	Grey	Grey	Orange	Orange	Grey

¹²It should be noted, as a mitigative factor, that when sharing the results of the study with one of these particular conservancies, it cited why this was the case – the opportunities had been shared with the said family members only. It then stated that at its next AGM following our data collection exercise, it had opened up more opportunities to a wider group of members within the conservancy. Out of respect to the subjects that shared this information – who were not represented at the sharing of the findings to dispute or counter the new data collected – we have respectfully selected to retain this finding within the report.

FINDINGS

The greatest land and environment-related risk to community conservancies presents in the form of violations and threats posed to the security of land tenure. A Very High Risk presents in a single conservancy whose territory is legally owned by a public entity, despite communal use. Around the conservancy, community land is not recognized with commercial land sales occurring frequently to the detriment of conservation efforts and the wellbeing of pastoralists. Further, ranchers and farmers have purchased or inherited via colonial arrangements, gargantuan tracts of land proximate to the conservancy which limit access by the traditional owners and users of the land and its resources, especially for their livestock.

Significant Risks are identified in a circumstance where in one conservancy, there are disputes related to a boundary between former board members and the current crop of leaders within the conservancy over the land, with an apparent court case on the matter ongoing. Further, evidence of encroachment around a swamp resulting in the claiming of land gained as the swamp disappears, creates further confusion as to the conservancy's land and threatens environmental integrity. The same rating also manifests where a significant portion of community members in a conservancy hold Letters of Allotment, which do not provide sufficient security over the conservancy's land. The High Risks arrived at in assessing this specific right reveal conservancies placed at peril with respect to their land tenure. This is as a result of various factors, including multiple members selling parcels of land to non-native private individuals. There are also claims of land grabbing by elites, the county government and the military.

Concerns to the right to use, develop and control the lands, territories and resources that communities around and within conservancies possess also present meaningful risks.¹³ The sole High Risk conservancy present is assessed as such as a result of IPLCs being unable to fully access the same forest referenced above due to its highly regulated nature. Due to the public categorization and government control over it, the impact on their livelihoods (pastoralism) results in conflict arising overuse of these resources.

Significant Risks are identified where lodge owners within conservancies fail to respect and compensate for the use of natural resources of local communities. This is witnessed through these individuals acquiring large tracts of land for their herds of horses which the community accuse of consuming more pasture than livestock as well as grazing

beyond core areas identified by the community's representatives responsible for pasture management. Elsewhere the risk rating manifests due to instances of restriction to forest and fishing sites in conservancies and failure by lodges to fulfill agreements entered into with communities – particularly payment for use of the natural resources and the land.

Risks are assessed to be Present in a variety of circumstances that indicate threats to this right being likely but with a limited impact. These include the weak enforcement of agreed-upon fishing practices by the conservancy and community members that adversely impact low-income earners who predominantly rely on fishing. Elsewhere, lessees of land that certain community members perceive as unruly are accused of unduly influencing the leadership of the conservancy to renew lease agreements on unfavorable terms, where the lessees' large herds of camel herds limit access to water points for wildlife given this commercial venture. Other threats include various non-conservation activities that adversely interfere with the delicate ecosystem within conservancies, including the clearing of land for human settlement and farming, mining activities, as well as rock blasting. The latter activities also threaten environmental rights, which are explored in more detail below.

The right to a clean and healthy environment is predominantly safeguarded across the conservancies. However, a High Risk is identified in a single conservancy where overgrazing of the wild and domestic animals threatens the pasture and grasslands that the community utilizes, therefore requiring regulation. An elder in the community informs the authors that they had used traditional grazing schedules and plans in the past, but with an increased population over the decades, more grazing pressure and demands has arisen, thus affecting the environment adversely. Another risk factor is the conservancy's blanket 'conserve all nature' policy which inadvertently protects an alien invasive species, *Prosopis juliflora*, which has adversely affected the environment: creating dryness, reducing grass cover and impacting the wellbeing of livestock.¹⁴ There is no monitoring of the environmental issues to understand trends in environmental management and plans to respond by the conservancy, thus this adds to this risk. Elsewhere, the right to water is threatened and merits a Present Risk rating where commercial farming activities within the conservancy where land parcels have been sold cause the heavy extraction of groundwater. This results in damage to existing water sources within and around the conservancy, to the detriment of wildlife, livestock and people.

¹³ Note that this assessment should be examined for IPLCs as well and we do not intend to assess it separately below in the stand alone IPLC section.

¹⁴ To our knowledge, there are no known traditional or community uses of this invasive plant to the local community and no instance of any benefits was cited during our assessment.

D. SECURITY

Security										
Right	Conservancies									
Right to life	High	Extreme	Extreme	High	Extreme	Extreme	Low	High	High	High
Right to security of person and property against wildlife conflict	High	High	High	High	High	High	High	High	High	High
Right to security of person and property against human conflict	Low	High	High	High	Extreme	Low	Low	Low	Low	Low
Right to the enjoyment of the highest attainable standard of physical and mental health	High	High	Low	Low	High	Low	Low	Low	Low	Low
Right to suitable health and safety for staff and employees	High	High	Extreme	High	High	High	Low	High	High	High

This assessment’s only Extreme Risk finding for a conservancy is presented where the right to suitable health and safety for staff and employees is concerned. A single conservancy had a ranger shot dead while on duty in responding to a raid by bandits from a neighboring community.

A mix of High and Significant Risk manifests particularly for conservancy rangers. They find themselves in dire straits due to a lack of capacity and being unarmed,¹⁵ as well as poor use of equipment that results in injury. For example, a ranger lost a number of fingers when attempting to throw a thunder flash at an elephant. Further, poor sanitation and health facilities for staff members, as well as cases of injuries from wild animal attacks support our findings to assess these conservancies as possessing Significant Risk.

A Present Risk is identified in cases where rangers have to walk for long distances across the conservancy while exposed to predators in order to get to their outpost and where they suffer attacks from community members who associate the marauding wildlife in their farms with the rangers. Conservancies with verification officers (staff members tasked with valuing and assessing the level of loss following attacks by wildlife in the conservancy), suffer from threats and at times, violence, from community members who contest their findings if their claims were rejected or minimized.

The right to life is impacted across nearly all conservancies, with High Risk ratings as a result of

multiple instances of the loss of life in conservancies through human-wildlife conflict as well as raids from neighboring communities. By sheer volume of the number of responses that provided data on violations and threats to this right, human-wildlife conflict was one of the most pervasive finds across nine of the 10 conservancies. When it comes to this right and others in this section, it is important to note that linking the loss of life to the existence of the conservancy is not as direct here, given that even without the conservancy, wildlife may still kill human lives through attacks. However, given the high-impact nature of this right, and the conservancies’ objectives to improve the co-existence of humans and wildlife, this right’s assessment is necessary and may be exacerbated and/or mitigated via the existence of the conservancy.

Indeed, all of the studied conservancies undertake activities and implement various technologies to thwart the possibility of wildlife attacks. Across a majority of the conservancies, the assessment also identifies certain perceptions strongly linked to shared sentiments about conservancies that were attributable to the impact of wildlife on life, as well as livelihoods – for example in certain conservancies, members associate elephant killings to the conservancy’s existence and question its value if human life was lost. Elsewhere, other community members, despite animal-related deaths, find value in the conservancy model addressing this risk and have faith in it to mitigate the loss of life.

¹⁵ Unarmed rangers exacerbate security-related risks due to the fact that their weapons and other protective gear protect both them and community members from marauding wildlife. Of course, this would be different if armed rangers misuse their weapons and cause harm to or kill individuals as a result of being armed. This finding should be associated with the former exacerbation of the risk and its mitigation if these rangers are armed.

¹⁶ This example could be a double-edged sword which blocks access for communities seeking to enter the conservancy, but on the positive, it does quell human-wildlife conflict.

FINDINGS

This loss of life affects varying rights holders, including individual community members (through wildlife-related killings) and a conservancy staff member who was shot by raiders. Threats to life that do not amount to loss but impact this right also include death threats from nearby commercial farmers against a conservancy staff member that brings media attention to an alleged land grab. A rating of Significant Risk is predominantly attributable to meaningful threats to life, where no loss of lives occurred. This is linked to other security-related rights elsewhere in this section, and readers should view these holistically. Present Risk ratings to this right occur as a result of a lower threshold of the threat posed to life, including wildlife-related conflict, a lower-scale of banditry (i.e., not full-on raids by neighboring communities armed with modern weapons), or land-disputes that escalate to violence capable of resulting in the loss of life.

A lingering Significant Risk to the right to security of persons and property from the threat of wildlife exists in half of the conservancies. Some of these risk factors include wild animals attacking firewood collectors, failure to mitigate against risks to this right, i.e., conservancies have no fences, electric or regular, to limit access by wild animals and their rangers were unarmed, damage to food by wildlife, and even wild animals posing a threat to other forms of property including schools, community water tanks, electric fences,¹⁶ water troughs and pipes. The risk to the same right, but as a result of the threat from humans presents as a High Risk where banditry by neighboring communities during raids is frequent. Significant Risks also arise where community members protest against and violently attacked rangers, and raids by neighboring communities still result in meaningful damage to property (i.e., theft of livestock) and human physical wellbeing.

E. SOCIOECONOMIC AND LIVELIHOODS

Socio Economic and Livelihoods										
Right	Conservancies									
Right to maintain and develop their political, economic and social systems or institutions	Yellow	Orange	Grey	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
Right to adequate food	Yellow	Grey	Yellow	Orange	Yellow	Yellow	Yellow	Grey	Yellow	Yellow
Right to education	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Right to sustainable livelihoods and development	Grey	Yellow	Yellow	Yellow	Yellow	Grey	Yellow	Grey	Yellow	Grey
Right to their traditional means of subsistence	Grey	Orange	Grey	Yellow	Yellow	Grey	Yellow	Yellow	White	Grey
The right to benefits accrued from the conservancies	Yellow	Orange	Orange	Orange	Yellow	Orange	Orange	Yellow	Yellow	Grey

The right to benefits accrued from the conservancies is most at risk in this cluster, with a High Risk rating arising where communities perceive that conservancy benefits do not trickle down to them as its members. This risk is further exacerbated where existence of powerful individuals in the conservancy's leadership or umbrella associations exercise excessive control over any benefits that arise from the conservancy, according to certain community representatives. In one conservancy where IPLCs are part of a conservancy community that consists of more dominant non-IPLCs, the former feel aggrieved that benefits from the conservancy, in the form of gate fees and ecotourism initiatives, mainly favor the non-IPLCs and provided them with greater benefits. It also manifested in conservancies where certain sections of the community feel discriminated against, citing favoritism on distribution of employment opportunities and micro-lending facilities, particularly.

A Significant Risk arises where communities express concern about how much the entity managing the conservancy's operations receives and how much comes down to its members generally. This entity oversees every aspect of the conservancy's operations, from paying staff salaries to running a financial credit scheme for community members. Elsewhere, certain community members reveal that not all villages have clear benefit sharing arrangements in place from revenues brought on by tourists who visit the conservancy, with employment opportunities skewed towards some villages and to the exclusion of others. A Present Risk is identified in a newer conservancy that is younger and located in a unique ecosystem, where its members are yet to fully comprehend the benefits of the conservancy and cite that nothing has been generated in the form of benefits.

FINDINGS

A Present Risk to the right to sustainable livelihoods and development is identified where a threat posed by invasive alien species i.e., *Prosopis juliflora* are dire, as well as where overgrazing practices by the community's growing population result in an adverse impact on the environment.

Further, some conservancies have, through their existence, limited potential livelihood options (i.e., limiting access to fishing sites, mangroves, etc.) and this leads to frustration among community members who do not see it as being beneficial. The right to traditional means of subsistence scored a High Risk rating where the establishment and operations of conservancies has impeded the pastoralist way of life. This could be through restricted access to grazing areas, a non-recognition of the traditional ways of IPLCs, and a limited involvement of IPLCs in operations, thus affecting the sub-group's means of subsistence.

The right to adequate food is assessed as having a Present or Possible Risk, predominantly as a result of crops and farms belonging to certain members of the community being under constant threat and

suffering damage as a result of invading wildlife, particularly elephants and zebras. For example, even where one conservancy's membership has ringfenced two acres for farming outside the conservancy near an urban area, the roaming wildlife still find its way to these farms and damaged crops. Another instance meriting this rating occurs in conservancies where sustainable fishing management is being implemented, where such practices have myriad short-term impacts on this right, with decreased daily catches or reduced fish activities in certain areas where fishing is often practiced (i.e., by allowing fishing activities on certain days only).

Elsewhere, the designation of certain areas for wildlife by the conservancy results in changing the grazing routes herders take, and a number of them then take livestock nearer to farms and this results in the destruction of crops. Conservancies have mitigated some of the adverse impacts above by installing water troughs for domestic animals to limit their interaction with wildlife and keep the latter out of farms, by installing electric fencing, and through the provision of piped water to communities practicing farming

F. LABOUR

Labour										
Right	Conservancies									
The right to fair employment contracts and practices	Yellow	Grey	Yellow	Orange	Orange	Orange	Orange	Grey	Orange	Grey
Prohibition of slavery, servitude, and forced labour	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Right to privacy	Yellow	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Yellow
Right to favourable work conditions	Yellow	Grey	Grey	Yellow	Orange	Orange	Grey	Grey	Grey	Grey
Youth rights to favourable work conditions	Grey	Grey	Grey	Grey	Grey	Grey	Yellow	Grey	Grey	Grey
Right against economic exploitation of underage youth	Grey	Grey	Grey	Grey	Grey	Grey	Orange	Grey	Grey	Grey

A Significant Risk to the right to fair employment contracts and practices is identified in a conservancy where a majority of the staff are volunteers, which poses a risk to the longevity of the conservancy and places greater responsibility on non-contracted community members. A Significant Risk to the right to economic exploitation of underage youth is identified in a conservancy where minors are sighted vending food at a conservancy's fishing landing site and nothing indicates that the conservancy has tried to bring a stop to this form of child labour. Present Risks are attributable in a large number of conservancies as a result of nepotism, low representation of minorities, temporary

contracts, hiring of non-locals, unfair hiring practices where certain board members perceive that jobs are only being offered to community members from certain parts of the area, and the conservancy is not informing employees when the terms of employment are altered. The right to favorable work conditions faces a Present Risk where staff members known as verification officers, as well as rangers, cite risks when engaging with community members post-wildlife attacks and being exposed to conflict and violence during disputes or claims. Elsewhere, a female staffer is a victim of sexual harassment and is eventually terminated from employment for reporting this incident.

G. GENDER

Gender										
Right	Conservancies									
Right for women to participate in decision-making	High	High	Medium	Medium	High	High	Medium	High	High	High
Women and IPLCs right to adequate food ¹⁷	High	High	Medium	High	High	Medium	High	High	Medium	High
Women's right to equality and freedom from discrimination	High	High	Medium	High	High	High	Medium	High	Medium	High
Women's and girl's right to security of person and property ¹⁸	High	High	Medium	High	High	Medium	Medium	Medium	Medium	High
Women's right to use, develop and control the lands, territories and resources that they possess	Medium	High	Medium	High	High	Medium	Medium	High	Medium	High
Women's right to sustainable livelihoods and development	High	High	Medium	High	High	Medium	Medium	Medium	High	High
Women's right to their traditional means of subsistence	High	High	Medium	High	High	Medium	Medium	High	Medium	High
Women's right not to be subjected to any discriminatory conditions of labour	High	High	Medium	High	High	Medium	Medium	High	Medium	High
Women's right to security of land tenure	High	High	Medium	High	Medium	High	High	High	Medium	High

Considering that it has been previously noted in research that there is a difference in experiences between women and men in and around conservation areas, our findings stratify for gender differences. In doing so, we have to keep in mind that the variations in gender equity that have been found in literature so far. This includes access to and control over resources, the availability of economic opportunities due to differences in roles and responsibilities, knowledge base, and public participation in decision-making, experiences of gender-based violence, employment practices, behavioral norms, discrimination, among other issues. As such, we particularly examine these variables to examine if they match with previous research, as well as try to identify if there are any new findings. In doing so, we aimed to ensure that a culturally responsive approach to gender equity is factored, honoring the human right while not imposing outside biases or expectations in a colonial manner.

In all the rights above, women expressed higher likelihood and/or impact of risk than men in most indicators during the interviews. The risks that are reported as being experienced significantly more by women than men are women’s right to equality and freedom from discrimination, the right to decision-making, and the right to adequate food. The right to decision-making is the most cited risk specifically facing women across of most conservancies, while other risks vary in various conservancy locations.

A High Risk to the right of women to participate in decision making manifests where it is observed that

they are not included in the leadership of the conservancy (i.e., as board members), as well as senior staff. This risk is exacerbated where conservancy models are linked to land ownership, which is often patriarchal in nature with men acting as owners to the exclusion of women; the latter of whom cannot own land in the conservancy. A Significant Risk is identified in conservancies that have representation of women on the boards, though they remain a minority and are inactive members, particularly by not attending meetings.

A High Risk impacting the equality of women’s rights and non-discrimination against them arises as a result of women reporting discrimination, particularly in leadership positions and their non-involvement in how conservancies are run. Further, women feel intimidated to challenge any judgements or outcomes of conflict resolution mechanisms by the conservancy, thereby discriminating against them. Other examples of discrimination come up where unmarried women are land owners and members of the conservancy in their own capacity, but are unable to have their sons provided with opportunities as men in the community because of the marital status of their mothers. A Significant Risk presents itself where in a single conservancy, women are appointed to the board of trustees in a tokenistic manner, with their actual participation being limited.

Significant Risk is found to be prevalent when assessing the right to security of persons and property as it pertains to women, particularly in conservancies that have instances of sexual harassment. For example, a senior male staff member physically assaults a subordinate female

FINDINGS

colleague and terminates her employment after she refuses his advances.¹⁹ Further, a male ranger makes advances at a female ranger that amount to sexual assault and when she reports him, he is dismissed. A Present Risk is identified in two conservancies for similar incidents where male rangers allegedly commit sexual crimes against women. In one incident, statutory rape occurs when a minor has her rights violated and eventually ends up being married to the ranger. In another, the ranger impregnates a woman, but when the woman delivers the child, the ranger refuses to play a part in its life, even after efforts by the chief to intervene and ends up neglecting her. Further, the woman returns to the chief to request his further intervention, but he dismisses her and derides her publicly before other community leaders.

A Significant Risk is identified in conservancies where access to the conservancy for women is regulated in respect to their collection of firewood. Women in this conservancy are only allowed access into the conservancy in the mornings of three days of the week with restricted quantities of firewood.

A Very High Risk manifests in two conservancies with respect to the right to security of tenure. In the conservancy, it is observed that certain parcels of the land have been sold to third-parties by male landowners, resulting in adverse impacts for their wives and children.

The single conservancy with a Significant Risk to the right to sustainable livelihoods and development has women bearing a perception that their knowledge on artisanship is being exploited. In this case, the lodge owner is accused of undercutting, underpaying, and unjustly replicating their products by taking photos of their curios and hiring cheap labour to create the same products despite an agreement with the women not to do this. The Present Risk manifests in a conservancy whose women sustain themselves by artisanship and growing tree nurseries. However, they have grown frustrated with the conditions of an agreement with an outside non-profit that limits the sale of their weaved products and tree seedlings to this one non-profit due to an exclusivity clause, thereby restricting their market access.

A Significant Risk exists for women when assessing the right to traditional means of subsistence in a single conservancy where when they ferry their curio goods to the lodge in order to sell them, they are being exposed to attacks by wildlife.

Present Risk in the form of structural discrimination is evinced where job ads create a minimum qualification required in the form of a high school certificate, which is typically achieved by males in this part of Kenya, resulting in discrimination against women due to their low literacy levels and denying them employment opportunities.

H. IPLCS

IPLCS										
Right	Conservancies									
IPLCs right to participate in decision-making	Yellow	Red	Grey	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
IPLCs right to equality and freedom from discrimination	Grey	Red	Grey	Grey	Orange	Grey	Grey	Grey	Grey	Grey
IPLCs right to the enjoyment of the highest attainable standard of physical and mental health	Grey	Yellow	Grey	Grey	Orange	Grey	Grey	Grey	Grey	Grey
IPLCs freedom of conscience, religion and beliefs	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey
IPLCs right to traditional knowledge and cultural expression	Yellow	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey
IPLCs right to use, develop and control the lands, territories and resources that they possess	Yellow	Orange	Grey	Orange	Yellow	Grey	Grey	Grey	Grey	Grey
IPLCs right not to be forcibly removed from their residences, lands or territories without FPIC	Grey	Red	Grey	Grey	Grey	Grey	Grey	Grey	Grey	Grey

¹⁷ This right was assessed jointly for these two vulnerable groups (women and IPLCs) to identify unique elements of risk for these joint stakeholders – no other right was assessed for both groups jointly and this was an exception.

¹⁸ Given the nature of this right across females of any age, the assessment examined both the rights of women and female minors (girls).

¹⁹ Do note that ‘assault’ and ‘advance’ are distinct – here we mean that following failed sexual advances by the perpetrator, the latter assaulted the victim as a result of his failed advances, resulting in sexual assault.

FINDINGS

The same stratification of IPLCs rights has been undertaken as the one highlighted above for women, though not for the same category of rights, with the findings outlined to a greater extent below.

The risk related to IPLC rights to participate in decision-making is determined to be at a Very High Risk in a single conservancy occurring as a result of IPLCs bearing very limited participation in decision making. This is manifested through a lack of their presence within the leadership and governance structures of the conservancy, as well as in its operations, with their input to its establishment also being minimal, while their views are predominantly not taken into account.

The right to adequate food for IPLCs, as outlined together in the table focused on women, rises to Significant Risk as a result of a marginalized minority community within the predominant IPLC community in the conservancy wholly abandoning beekeeping as a result of the conservancy's restrictions and their inability to dwell in the mountains that are now preserved for conservation. This approach impacts their honey supplies for consumption and their dwelling in the mountains where this long-standing traditional practice had existed. The Present Risk rating arises as a result of grazing which is restricted on the same facts above cited in this report where goats are prevented from accessing a public forest and limitations to collecting firewood needed as fuel to cook are enforced.

Equality and non-discrimination rights present a single instance of a Very High Risk rating for a singular conservancy as a result of IPLCs being subjected to manifest discrimination by the conservancy and more dominant local communities. Here, the conservancy's establishment did not factor the livelihoods of these IPLCs, who are predominantly grazers, failing to take their input into account their way of life in the conservancy's design. The IPLCs are also overtly discriminated against by not being involved in the operations and activities of the conservancy, as a matter of fact, the sole IPLC representative (of that specific group of people) was kicked out of the board and never replaced. The Present Risk identified is as a result of a sub-group of IPLC community members suffering discrimination by the dominant IPLC group to a lesser degree than the higher risks assessed, through nepotism, limited employment opportunities and non-inclusion in conservancy activities.

An individual conservancy with a Very High Risk rating with respect to the right not to be forcibly removed from their territories, particularly for IPLCs within it, is identified. These IPLCs rights over the land are never factored, with reliable sources and their representatives confirming that the conservancy is not respectful of their customary land tenure rights. Decades prior to the conservancy, the IPLC community used this resource freely, but as a result of increased logging by private individuals, the government took over control of the land and secured it, strictly regulating access by the community members that live around and depend on it.



Analysis of Findings

A. CROSS-CUTTING THEMES

Our approach to shaping this analysis stems out of the authors' identification of key factors that, when viewed against the rights clusters examined here above, aid in teasing out certain cross-cutting themes. As we commenced with the analysis of findings, these factors ostensibly appeared to influence and present certain trends within the findings above. They are:

1. Year of establishment/registration of the conservancy;
2. The type of land tenure where the conservancy is resident (public, private and/or community);
3. Whether the community conservancy (as lessor) leases portions of its land to lessees (as tenants);
4. Nature of the conservancy boundary, it being either administrative or traditional;
5. Class or type of a majority of the livelihoods within the conservancy (i.e., pastoralists, farmers, fisherfolk, etc.);
6. Whether IPs are a majority or not;
7. Whether the community in the conservancy is primarily heterogenous or not;
8. Involvement of an influential third party to significant degree (i.e., NRT, Big Life, etc.); and,
9. Whether traditions are still preserved and practiced.

Each of these factors were injected into the data sets to reveal various iterations of the rights clusters identified in the previous section, and provide trends, themes and observations as the interplay of data sets and the conservancies arose. It is this inter-relatedness between the factors and rights that informs the thematic analysis below.

1. Land tenure and status is an underlying and central feature of impact and influence on a wide range of rights and risks within conservancies.

Community conservancies situated on government land present a significantly greater risk of human rights violations related to participation and equality and freedom from non-discrimination. Our arrival at this conclusion arises from the reality of a tug-of-war between the conservancy and state authority in ownership of the land and nature of authority over it. This manifests in multiple power dynamics, with confusion and a lack of understanding as to who does what within the conservancy. Communities within conservancies were found to assume that the state authority with control over the land is similar or akin to the conservancy's management.

Where a conservancy is situated on public land, we witness community members cross into this conservancy and become subjects of this publicly owned territory where the strictures of forest conservation and management prevail to their unfortunate detriment. They have no sense of ownership within the conservancy. The power dynamics evident with respect to the land also worsen where one reflects on the fact that sufficient due diligence as well as FPIC was limited during the formation of the conservancy, according to various data subjects. The complexity of this conservancy's land tenure status grants a stronger say on the use of land around, and historically even within the conservancy, to a few non-IPLC and beneficiaries of colonialism, whose lands are recognized through formal title, but the traditional ownership rights of IPLCs, protected under customary law, are utterly neglected.

Elsewhere, the lack of finality in the community land tenure regime regulatory framework poses a risk, which in turn has appeared to be an opportunity for wayward government actors, i.e., the military or county government, to partition or apportion the land that the conservancy sits on, which leaves one of the conservancy's most crucial assets at risk. This is a massive risk that a significant number of conservancies, particularly those in the north, may fall prey to if unscrupulous individuals with power act on their whims to grab or possess these supposedly 'free-for-all' lands. The land tenure of conservancies is of crucial importance and investing in getting this streamlined from a policy and practice perspective is likely to result in mitigating the existing, and potential unforeseen, risks and violations. Further, as stated earlier, land is the conservancy's central asset, and hence risks and violations on it cut across and impact socioeconomic, gender, IPLC, participation and equality, etc. Addressing this risk is prudent, if any difference is to be made to curtail these risks and violations.

The inverse was witnessed where conservancies formed from a conglomeration of individual private land owners with title deeds were assessed. Here, conservancies with these land-owning members present the lowest risk on violations and risks related to participation. Our opinion is that this holds due to the fact that ownership results in one taking a stake, meaningfully, in the conservancy initiative and taking part in its operations. We also found that where a significant portion of community members identified with being involved in the establishment of conservancies, again, the participation and equality-related risks posed here were low with limited adverse effects. The community representative took part in the operations of the conservancy and bore responsibility over the conservancy.



Conflict related to land also presents risks worthy of an analysis. Of the ten conservancies sampled, the three conservancies in Southern Kenya use a model of bringing together individual landowners who form the formal membership of a conservancy. The greatest risk posed here is that of the sale of land by individuals who may desperately need cash and do not buy into the conservation agenda. This results in conflict, internally among conservancy members and threatens the conservancy's status as an ongoing entity. One of these sales attracted massive media attention when a prospective commercial venture purchased the land from a member and the conservancy and its partners took the purchaser to the National Environmental Tribunal, which ruled in favor of the community. This decision was appealed against by the purchaser and at the date of the assessment, the community is awaiting a decision by the appellate court. The fear, that we were informed now presents: if the court rules in favor of the commercial farmers by declaring the conservancy's tenure penetrable and open to subdivision to private owners, this will serve as impetus or an incentive for other community members to sell their land to outsiders and in doing so, bring the conservancy to its imminent demise.

Aside from the conflict that arose, including threats to the life of the conservancy's board chairperson, we hold that such acts could alter the model of land ownership by conservancy members in Southern Kenya, where the model has worked to a great degree of success. A number of conservation-driven donor or third-party organisations lease the land from communities to protect it, but a bigger windfall cash-wise may arise from a sale. This risk is one worth addressing soon, given that in each

of the conservancies where this model is being utilized, sales had occurred and resulted in outsiders who do not buy into the conservancy model were now a part of the community, posing a threat to the objectives of the conservancy.

Another trend observed is that economic ventures in the form of land leases for lodges, particularly, that were entered into by the conservancies and third parties were not respected by the lessees. Despite the existence of agreements with terms relating to the use of the land and its resources, entered into with investors, general discontentment existed, with certain community members contesting the agreement's contents. Finally, conservancies where IPLCs were in minority also manifested higher risks of environmental and land rights violations.

Meanwhile, increased risks on land and environmental rights correspond with a higher risk in socioeconomic rights, particularly because of the reliance on land and the environment for social, economic and livelihoods benefits. Our analysis finds that where conservancy lands are leased by third parties that pay annual rent fees in the form of cash to the conservancy, there are lower risks on average on socio-economic benefits, interestingly, even though this setup presents higher risks to other rights, as mentioned above. We believe that this may be the case due to the fact that these annual revenues are predictable, expected by community members and therefore easier to plan for and distribute. Conservancies with strong financial practices and competent staff show that they have benefited from these leases, with the reliable funds incentivizing most of them not to sell their lands.



2. Insecurity and threats to the lives and property of communities in these conservancies is arguably the most prevalent risk with frequent attribution of these threats to wildlife and outside communities.

A common trend observed is that in communities with predominant pastoralist livelihood practices, the highest reports of elevated risks to security-related rights, particularly security of persons and property, generated from human-to-human conflict, is prevalent. The linkage between predominant livelihoods and security rights was something we note, and are not surprised by, given the threats posed by neighboring communities. Risks of less severe conflict is cited in communities that have mixed livelihoods, where the ways of life are diverse and include pastoralism and farming. Another security-related trend arising is in community conservancies where

IPLCs are a minority in the population. This presents higher risks of security-related rights. Finally, one other trend manifest is a correlation between increased risks on security-related rights and higher risks where land, environmental rights and IPLC rights are concerned. This may be as a result of the conflict or security affair relating to the land or its natural resources, hence the association.

Compensation for the loss of life or major injury caused by wildlife is an area that presents numerous challenges for community members in a majority of conservancies. This responsibility, tasked to the Kenya Wildlife Service (KWS)²⁰ appears to be subject to various inconsistent policy positions (i.e., one KWS official mentioned that injury from certain animals, snakes for example, do not merit compensation, yet elsewhere other data indicated

otherwise) and this creates confusion among community members. Compensation takes up to seven years to arrive for a community member, and due to these delays of compensation following attacks by wildlife, a perceived sense of disinterest or anti-conservationist sentiments from certain individuals within communities appears to be present.

Across a majority of the conservancies, the assessment also identifies certain perceptions strongly linked to shared opinions about conservancies that are attributable to the impact of wildlife on life, as well as livelihoods – for example in certain conservancies, members associate elephant killings to the conservancy’s existence and question its value if human life is lost. Elsewhere, other community members, despite animal-related deaths, find value in the conservancy model addressing this risk and have faith in it to mitigate the loss of human life. This mixed bag of sentiments is necessary to address in order to ensure that the objectives of conservancies are anchored in conservation and the best interest of communities.

We do note that this is one of the risks that may not be directly attributable to the existence of a conservancy, and this reality must be appreciated. However, give the gravity and frequency of the risk across nine of the 10 conservancies, and the perceived linkage or tie to the conservancy being responsible for advocating the conservation of wildlife, which community members attribute to the insecurity, it is a reality that in assessing these conservancies, one cannot sweep under the rug.

3. IPLCs perceive quasi-neocolonial influences from a few elites or proxies in the form of individuals or organisations who wield certain political, social and/or economic power over the conservancy and its objectives.

We also found a race-based perception-cum-resentment – frankly speaking – against certain ranchers, investors and even founders of the conservancies who are white or predominantly controlled by white people, at least from a de facto perspective. This perception does not stem from express or oppressive racism or discrimination, though certain community members deemed them imposters who abuse their privileged position through control or influence of the conservancies to the detriment of IPLCs. In a number of conservancies, animosity has festered between the conservancy and white lodge owners who allegedly do not pay the requisite rents for using the conservancy’s land. This experience is what most minority groups in power-down positions are subjected to. In another pocket of the country, an organization with a limited affiliation to certain influential white persons, despite a majority of its

staff being black, was perceived to be the cause of a majority of what is wrong with the conservancies. Community members in another conservancy kept repeating the name of a white founder and attributing their inability to develop as a conservancy to his strong-handed tactics in its founding and leadership, while others accused him of running the conservancy like his own personal fiefdom.

One of the most intriguing trends we identify that impacts IPLC rights pertains to the effect of having a third-party involved that usually has significant control over the conservancy’s affairs. We identify a variety of influential third parties usually in the form of an umbrella conservancy organization or an international conservation NGO that, in our opinion, have subsumed the conservancy’s operations and run its activities. One sign of this enveloping nature that we immediately witnessed is how some community members did not refer to a conservancy’s staff members as that, but instead tag them as employees of the third party given the branding, integration and “swallowing” of the conservancy by the organization which is deeply embedded within the community. This thematic finding indicates that the community conservancies with such prominent third-party actors report higher risks and violations. Comparatively, conservancies we studied that did not have these third-party conservation partners exhibited a lower risk with respect to IPLC rights. This is a trend worth flagging and possibly looking into further in future to address these intervening implications of outside umbrella organisations.

Another association that manifests involves conservancies that have received a rating placing IPLC rights at great risk, which also aligns with high risks on equality and discrimination in the overall community. This is particularly present where communities are heterogenous and of a diverse makeup, i.e., in cases where conservancies cross county borders and various groups live, or two warring communities come together to end conflict through the formation of a conservancy. Further discrimination also occurs among sub-groups of Indigenous Peoples, where a larger predominant group has benefited and is in control of the conservation, to the detriment of the smaller sub-group.

4. The land tenure systems of conservancies appear to have an effect on the rights of women and IPLCs in decision-making and participation.

Our analysis finds that conservancies where land ownership is private present a greater risk of violations on the rights of women. This may be as a result of the fact that in many of the communities we assessed, where private title is prevalent in the conservancy’s tenure system, most women do

²⁰ This responsibility is statutory even where animals are within a community conservancy

not own the title to land. This risk is exacerbated when decision-making is linked to ownership of land, where only land owners are able to influence the trajectory of the conservancy's activities and consequently, automatically, excludes women. In a single conservancy where significant numbers of women own land and thus are involved in decision making, there was a comparatively lower risk and less impactful and frequent violations across the rights we assessed specifically for women.

Another cross-cutting theme, related to gender and land, is that community conservancies in community lands (as opposed to community conservancies in public or private lands) have a lower risk of violations against women across most of the indicators. This was a surprising find, given that our literature review and observations within a number of community land-based conservancies appeared not to sufficiently factor the rights of women, but the data seemed to counter this. It may be something worth digging into further in future research.

The rights of IPLCs are also subtly affected when it comes to the categories of land that the conservancy sits atop. Conservancies situated on government land present a greater risk of human rights violations to IPLCs than those atop private or community land. Here, the government owns the land and since the establishment of the conservancy, it runs and manages operations within the public land while a concession agreement has been provided to the conservancy to provide ecotourism services. As a result, the IPLCs on the land are subject to the rules and regulations of the authority controlling the owned land which restricts access to browsers such as goats, the majority category of livestock the IPLCs in the community own and rely upon for their livelihoods. Higher risks relating to IPLCs rights, though at a lesser degree than that assessed in public lands, are also found in some conservancies on community land. Interestingly, conservancies that are located on private land where individual title deed owners united as members of their conservancies, presented the lowest risk on IPLC rights violations.

5. Ethnic heterogeneity resulted in increased discriminatory practices attributable to Local Communities within conservancies, particularly against Indigenous Peoples.

Expectedly, where community conservancies have IPLCs as a minority of their ethnically heterogeneous population, higher risks of poor participation in the endeavor arise. The Local Communities (LC), often characterized as dominant Kenyan communities or represented by powerful minority individuals with influence within or around the conservancy, wield grossly higher influence over Indigenous Peoples (IPs). This impacts IPs and affects their rights to use, access and benefit from the land and

its resources. Instead of developing as a people, the minorities witness their degeneration as a result of limited involvement in the conservancy. For example, in some historically IP lands, LCs have taken over and run these parts of the conservancy, absent of the IP community. Slowly but surely, the right of IPs to self-determination is adversely affected. Consequently, we believe that IPs shall soon be unable to self-govern if the conservancy continues to be managed, as is.

Our analysis also requires us to reflect and acknowledge that structural discrimination exists within the Kenyan social context, where race, ethnicity, classism and even influence permeates society and parasitically grasps on to the societal interactions of conservancies too. This presents as inequality where IPLCs, or subsets of groups, particularly women, and in limited circumstances, youth, face discriminative practices that the conservancies either promote, or at a minimum do not admonish or place a barrier against such practices.

6. Sexual offences and crimes are present in a number of conservancies, and in certain circumstances, attributable to staff members or perpetuated as a result of conservancies not addressing the issue.

Instances of rape, sexual assault, and denial of opportunities or services also arise in a number of conservancies, either among staff, or where staff members are accused of committing gender-based crimes against community members. This nature of violations occurs across about one-third of the assessed conservancies. It is attributable to rangers, to male staff members, and in certain instances unaddressed by the conservancy or local leaders when reported, thereby creating an environment where such gross misconduct is tolerated or ostensibly acceptable. Rangers are predominantly male across nearly all conservancies, with women as a minority, generally. This gendered imbalance is likely to continue creating an environment where female rangers exist in a susceptible space where their male peers dominate in number and thus, unless conservancies put up sufficient measures to address sexual offences, it is bound to continue.

We also suspect that there may be more instances of sexual violations that were not reported to us, and this is worrying. Our justification for this suspicion is grounded on the private nature of the offence and the likelihood of retaliation for women who come out and report such offences. This latter retaliation is more worrying given that there are incidences where a senior conservancy staff member, and rangers – who are often armed and perceived as powerful – were accused of committing sexual crimes. Resultantly, a fear resides in victims who may not open up due to the reaction or response of the accused staffer or ranger. Further, the victims

may fear the embarrassment that such an incident may attract, in traditional societies and within the community where stigmas around such conduct still exist despite one being a victim.

7. Governance structures as they currently exist within community conservancies, whether formal or informal, are capable of adversely impacting the degree of decision-making by communities and increasing conflict.

In conservancies with a dual presence of governance structures (i.e., a government authority exercising significant control within a conservancy dually with the enterprise’s management as well), community members assumed that either the conservancy or the state authority will take responsibility over an aspect of the conservancy’s affairs, which often touches directly, including adversely, on communities. Yet, this does not – or even cannot happen. For example, expectations to keep the conservancy community secure and grant access to the conservancy’s natural resources may be placed on the management, yet by statute access is only grantable by the state authority, yet a community member would not know this. The government’s stronghanded tactics may also result in higher conflict where FPIC is violated, for example, resulting in community retaliation which threatens the entire

initiative, as we witnessed in certain circumstances and eventually be attributable to the conservancy itself. Further, even where traditional or customary governance mechanisms existed, we found that these tend to be deferential to state mechanisms for governance, and often tend to discriminate against women, IPLCs and youth.

8. Conservancies with high risks related to women’s rights also present high risks around on socioeconomic and participation rights.

Conservancies where rights of women were violated and presented high risks also had a higher rate of risks and violations with the socioeconomic and participation rights for the wider community. This may be as a result of, one, the bulk of socioeconomic and livelihood related responsibilities falling on women within a number of community conservancies, and two, the limited involvement of women in the participation aspects of rights, particularly decision-making as well as the right to equality and freedom from non-discrimination. On conflict resolution, for example – we found that even culturally responsive mechanisms that were being utilized by the community, would still outrightly exclude women from participating and even adopted patriarchal approaches to resolving disputes, as cited above in the previous cross-cutting theme.



B. PRIORITY ISSUE IDENTIFICATION

This report presents a variety of findings and analyses arising from our HRRRA in community conservancies within Kenya. However, in order to ensure that those required to act on the risks and violations identified in this report do so meaningfully in a manner that identifies five key priority rights that require intervention, we have provided a breakdown of the same below in order of priority.

1. Security of land tenure and the right of communities to use, develop and control the territories and resources.

From our analysis, the one cross-cutting theme that appears to impact a number of significant rights is that of land. It touches on IPLCs, women and affects socioeconomic and livelihood rights, while the benefits accrued from the conservancy model are linked to land. Further, that the existence of conservancies or their “intactness” is at risk if security of land tenure and the manner in which they use their resources is not addressed soon, the whole existence of conservancies stands to be placed in jeopardy.

This issue is exacerbated by the fact that, (1) community land is not fully regulated, perhaps by design, and this creates confusion and a tenuous land status; (2) private land can be transacted, freely, and models grounded on this tenure basis face massive risks and possibility of dissolution; and (3) public land hosting conservancies means significant control of these enterprises rests with the state.

This issue is an urgent priority and must be addressed as soon as possible (within the next three to six months), though it requires a longer-term outlook given the complexities of dealing with land issues in Kenya.

2. Women’s equality and freedom from non-discrimination.

More must be done to meaningfully involve women in community conservancies. There is a dire need to identify ways in which their participation can be formalized in a meaningful and non-tokenistic manner. A majority of the conservancies sit within communities with a history of patriarchy and thus, the conservancy reflects this patriarchal setup, while in some cases, treating women as a non-vital or subservient group in the affairs of these community conservancies. For example, positive examples where women are capable of owning land empower them by elevating their decision-making abilities within conservancies and making an impact on their experience within the community conservancy. Also, though not rife, sexual crimes

reported do not augur well and more must be done to create an environment where women’s rights are respected in this regard. However, as a start – participation and meaningful involvement in decision-making for women is essential, to even start making progress towards mitigating the risks associated with gender-based rights.

This issue is a priority and an urgent issue and must be addressed as soon as possible (within the next six to twelve months), taking up a more systematic approach and identifying how to make a longer-term impact within conservancies for women, with proper investment that is recognizant and sensitive to women’s experiences within the conservancy and reflective of contextually acceptable standards.

3. Insecurity – namely the right to life, human-wildlife conflict, human-human conflict, and threats to security of person and property.

At the outset, it is prudent that we repeat this: human-wildlife conflict, as well as other threats to life and property from neighboring communities are not directly attributable to conservancies. If these conservancies did not exist, the same conflict would still exist, perhaps to a varying degree. However, what makes this issue relevant for this assessment, and thus a high priority, albeit eclipsed by land and women’s rights issues, is the simple reality these conservancies have as an objective the preservation and protection of nature, which includes some of the marauding wildlife. Ignoring this reality and brushing aside the risk of human-wildlife conflict, as well as other forms of conflict generated by neighboring communities would be a risk exacerbation in and of itself, even where the latter risk is not attributable to conservancies. It results in the loss of lives, major life-changing injuries, and even serious damage to property – it simply cannot be ignored if the conservancy model is to thrive. One conservancy in particular had an amazing model of assessment of damage from wildlife and compensation to community members which may be worth assessing and replicating elsewhere. Further, KWS’s inconsistency in approaching compensation, as well as gross delays in repaying for injuries or the loss of life resulting from wildlife is a strong point of dissatisfaction in community conservancies – which is an opportunity to intervene.

This issue is a priority, though it is moderately urgent, and should be approached by testing a model of addressing it in a limited number of conservancies before it is rolled across the country. A 12-to-24-month timeline may be sensible in order to pilot a model to addressing it and finetune it.

4. IPLC Rights, particularly around decision-making, where they are a minority.

IPLCs face unique challenges, as has been indicated above, particularly in community conservancies with a heterogeneous makeup. However, even in other conservancies where homogeneity of IPLCs is present, certain sub-groups still face discrimination. One of the grossest violations pertaining to IPLC rights is that various conservancy models and circumstances that are allowed to fester create an inability for them to actively participate in decision-making. They are also subjected to the whims of external influential individuals and organisations that, honestly, ignore or use the IPLCs' to push their version of conservation. Resultantly, the rights of IPLCs and their ability to fully attain their self-determination becomes impeded. Further, a distinction between IPs and LCs must be appreciated, particularly when assessing this priority issue, given that IPs whose livelihood is more strongly tied to their culture and who they are as a people, tend to be given the shorter end of the stick on matters of community conservancies. A fuller and robust examination of this risk and rights violation is most likely to reveal underlying nuances, trends and themes that go beyond the findings of this report, thereby meriting a unique intervention approach.

This issue is a priority, also moderately urgent, and should be approached with a great respect and sensitivity given how IPLCs are defined not only in the Kenyan context, but widely within Africa. Dissecting exactly what an IPLC is within the Kenyan conservation space would be vital, and having a buy-in from the IPLCs themselves, particularly following separate engagement with

IPs as well as with LCs, may make the process more meaningful. A possible timeline to factor here is 12 to 24 months as well.

5. Right to benefits accrued from the conservancy.

The existing models of conservation, particularly those with excessively influential or non-transparent third party actors who have utterly alienated significant portions of their communities, present a threat to the benefit sharing aspects of community conservancies. Across a majority of these conservancies with these intervening parties, there were sentiments of dissatisfaction with a lack of transparency on how the conservancy is used to generate funds and how these eventual gains trickle down to the actual community. This risk was predominantly linked to perceptions by community members that were interviewed, but even despite this, instances of corruption were cited that grant some merit to these perceptive observations by the beneficiaries of the conservancies. Further, across both new and well-established conservancies, certain pockets of

stakeholders decried that there is no clarity on how conservancies can generate tangible and even monetary benefits for them.

Of the five priorities, this is the lowest and least urgent (while still being, in our opinion, a priority and of high urgency when compared across the wide list of rights and risks assessed, nevertheless), but despite this could place the current conservancy approach at risk if not truly analyzed from a livelihood and even socioeconomic perspective. Addressing this within 24 to 26 months may be most feasible, particularly if more resources and time is dedicated to the above four issues prior to this one.

C. GAP ANALYSIS

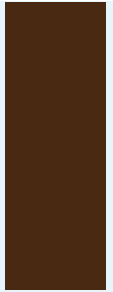
Looking back and reviewing the data, we identified certain gaps, unexpected findings or areas for further exploration and engagement. Further, this section should be read together with our 'Limitations and Challenges' section earlier in this report, as those elements also played a key part in contributing to certain gaps the study was subjected to. Our gaps include (in no particular order):

- **FPIC:** We are surprised by the data on FPIC, which broadly indicates a number of limited high risk instances across the entire data set. It is important to keep in mind that a national outlook to approaching the establishment and operations of the conservancies assessed may contribute to this, given a majority of attention on FPIC issues have been in the 'northern' conservancies. We do find that in regard to the establishment of the conservancies, FPIC was an evolving standard and taken up by the various founders or communities to varying degrees – definitely not to the expected standards – but nevertheless to some extent. Further, bare minimums such as AGMs, are reflected in a majority of conservancies, for example – an influence of the current mechanisms in place for organized enterprises in Kenya, that conservancies seem to fall under. The questions on FPIC therefore, that need to be addressed on establishment of community conservancies should be whether: FPIC was fully met; IPLCs were provided with all requisite information to make informed decisions; information was understood by IPLCs both in language and terms; IPLCs were coerced into a decision; and, IPLCs knew they could reject the idea or put it on hold till more discussions were held. We established that in some instances, IPLCs decisions were influenced by the potential for benefit-sharing dividends through tourism or other revenue-generating activities, added layer of land tenure security, and clearer mechanisms for compensation due to losses from human-wildlife conflict. We found no evidence that this is the case, although in theory, a conservancy may have more direct contact with KWS or with international

FINDINGS

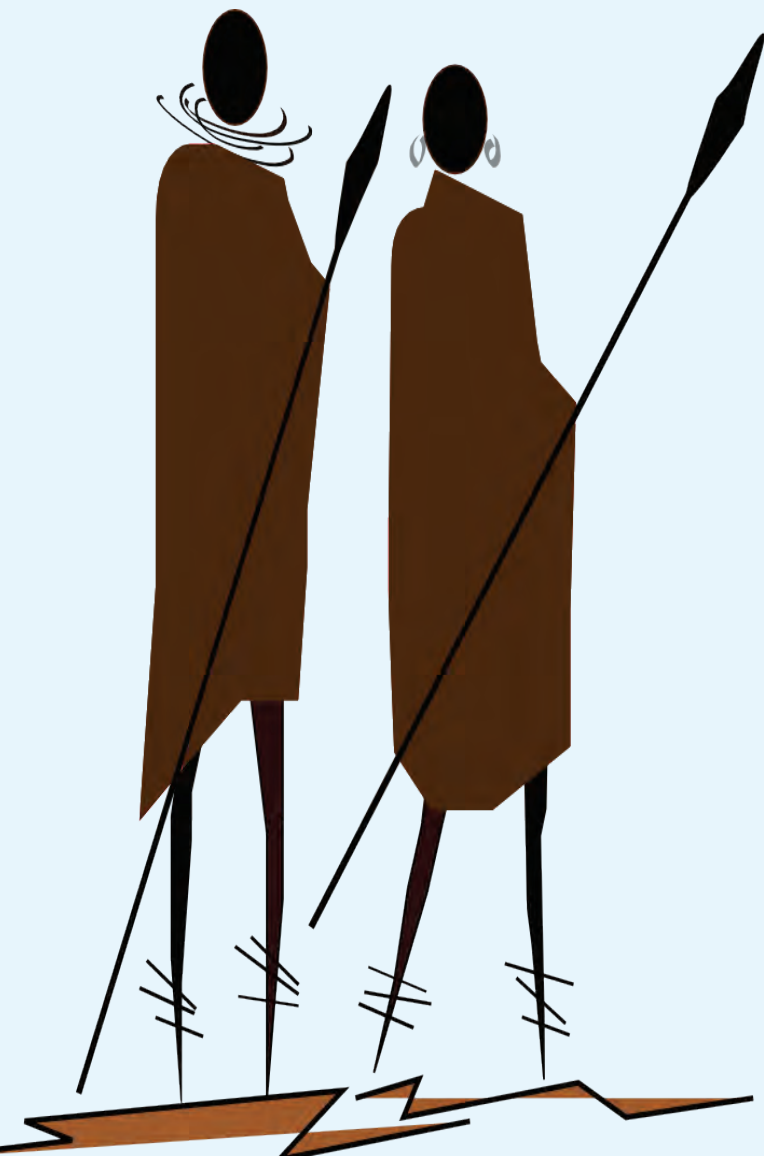
conservation organizations who administer human-wildlife conflict compensation schemes. Research could further assess this and distinguish the extent of FPIC undertaken at establishment and throughout the conservancy's operations – and this could be a future iteration of this process. This further assessment can also attempt to paint a picture of how FPIC appears within conservancies to date and identify its key features, particularly given how it permeates a big portion of the activities and tenets of community conservancies.

- **Deeper assessment of IPLCs:** One proviso to make when we assess for IPLC-related rights, is that a majority of the conservancies we assessed ranked as Low Risk. The predominant reason for this is because of the fact that in such cases, one single group of IPLCs comprises the entire conservancy and thus, discrimination against them is limited. However, this ranking may camouflage the risks that exist in conservancies where more than one community live and/or dominant, as against, IPLC communities that are members of a single conservancy, as highlighted in the paragraph above. Further, it also does not account for the local elites within an IPLC group who have influence over the community and influence the conservancy's direction in a meaningful, and oft times, detrimental manner. Limited community participation, even where it's all IPLCs, that has elites leading the conservancy's activities or even establishment, can create an environment that corruption is capable of thriving in and thus, was not possible to effectively capture in the assessment.
- **Sub-groups:** IPLCs are often clustered together, yet this is presumptuous given that LCs may be in control in a same space they share with IPs. IPs may in some cases have sub-groups of other IPs within, and discriminate against this smaller sub-group. It may be worth exploring this further as the study identified that a deeper investigation of issues facing IPLCs make it more complicated to arrive at certain conclusions. The study did not assess for the fact that IPs as peoples have more rights, bear as a cohesive identity that could disappear, and thus are granted special protection. To get a better sense of the impact of conservancies on IPs, particularly on their self-determination, autonomy, protection of their culture, etc., it would be worth crafting a study that examines this in a more customized manner.
- **Conservancy Models:** We realize that no two conservancies are the same – with each having different livelihoods, land tenure systems, legal entities, etc. Perhaps in the future, or in studies building on this one, the KWCA conservancy profile may be examined to identify the features that make up conservancies in Kenya and possibly assess those that present models not addressed in this study.
- **Baseline Data:** It would have been ideal to have baseline data on the human rights status prior to the study to observe trends. Though we did notice that certain conservancies responded to the study by stating that they are now more aware of human rights and have taken action to mitigate risks in the time period between the data collection and sharing of findings. Perhaps the next phase of the study, or after a period of three to five years, the same study can be undertaken to identify how things have changed or not, for a more longitudinal perspective.
- **KWCA Guide:** The *KWCA Guide to Establishing Conservancies* is a resource that informed the study, but from our general querying on its use, only one conservancy cited relying on it meaningfully. Perhaps a more explicit survey as to its use and reliance when setting up conservancies may be valuable.
- **HRIA and/or Economic Impact Assessment on Human Wildlife Conflict:** Human wildlife conflict is rampant within and around conservancies. Rights violation and risks linked to this was one of the most egregious, and may merit an independent Human Rights Impact Assessment within community conservancies. The economic impact of these losses (i.e., loss of life of breadwinners or failure to compensate) may also be worthwhile to assess and use as a policy measure to engage government or other donors/bilateral partners interested in human-wildlife interaction.
- **Human rights champions:** It may be worthwhile to find human rights champions and good practices within the conservancies and support those efforts, bolstering human rights protection in the communities impacted by the conservancy.



Conclusions

Chapter Five



Conservancies in Kenya are intended to be a management mechanism for wildlife conservation by IPLCs in the areas where people and wildlife subsist. To realize the common and shared standards, conservancies must protect and enhance fundamental human rights of the inhabitants in the communities, as well as for their staff. It is anticipated that conservancies establish local governance institutions which in turn design and generate policies and programs that comply with human rights standards. The policies should address land connectivity between wildlife zones and the neighboring agricultural or pastoral communities, land tenure security, biodiversity conservation and sustainable development obligations. It must be pointed out that these achievements fall short of viable accomplishments if they do not address human rights compliance.

The report flagged security in the conservancies as a critical focus area. The high and significant risks associated with right to life and the right to security of person and property against wildlife/ humans noted in most conservancies call for a quick intervention. Noteworthy is a linkage between predominant livelihoods and security rights. This stems, largely, from threats posed by neighboring communities. As has been intimated, the linkage of loss of life to the existence of conservancies is blurry, since loss of life has been registered in similar landscapes even in the absence of conservancies. Conservancies may however worsen or mitigate against the threats to life and property. In both scenarios, there is immense opportunity to collaborate with them to alleviate injuries, loss of life and destruction of property, taking into consideration that the biggest risk to conservancies is human-wildlife co-existence. Further, these interventions would also protect rights pertaining to labour, land and socioeconomics.

It was noted that there is a negative impact on land and environmental rights, specifically security of land tenure and the right to use, develop and control the territories and resources. It is evident that a higher risk of environmental and land rights violations exist in conservancies where IPLCs are a minority in the population. The findings also point to a high risk where conservancies are located on community land or within a merger of private land titles where community participation is limited. The risk here is that investors often protect their own interests which may conflict with those of the conservancies. A major threat to security of tenure is the lack of community land titling, which exposes community land to encroachment and grabbing. Ultimately, increased risks on land and environmental rights are directly proportional to increased risks on socioeconomic rights, due to dependence on land and the environment for social, economic and livelihoods benefits.

Participation through engagement in conflict resolution, FPIC, accountability, decision-making and self-determination is a key marker for reducing risks to violation of human rights in conservancies. Violation of community members,' particularly IPLCs' right to FPIC and self-determination happens when intimidation tactics are applied by authorities or third parties. Consequently, their ability to self-govern is impeded, posing a risk to their culture and livelihoods. Conservancies that presented the lowest risk to violations around participation were those that had land-owning members, an indication that ownership likely guarantees their meaningful participation in the operations of the conservancy. The lack of transparency on matters of financial benefits and use of fiscal resources, signifies a risk of violations of the right to accountability.

Ideally, the threshold for FPIC must be more categorical in the establishment of any new community conservancies. Here, it is important to remember that "consent" is the heart of the standard. Often it is confused as consultation. Consent and consultation have different meanings, and while consultation is an instrumental part of the FPIC process and should be adequately robust, consent is the aspect that is integral in considering whether a community has given its explicit permission for something to happen or agreement to do something, such as establishing a community conservancy. Our research leads to the opinion, that the fullest standards of FPIC were not fully adhered to in most cases in the establishment of conservancies, although this was more of a factor of a lack of capacity and understanding of FPIC on the part of conservancy proponents, and not an egregious, malicious intent to usurp the rights of communities. Despite this, there are efforts that indicate the standard being utilized to varying degrees, nevertheless.

As we have seen, women experience higher degrees of impact compared to men in conservancies. Their right to participate in decision-making is oft limited due to various factors such as non-representation on boards, or where land ownership is linked to decision-making and they do not have the titles. The reverse, a comparatively lower risk, was found to be true in instances where significant numbers of women own land and were therefore involved in decision making. Based on the number of reports of sexual harassment or assault – among staff or staff against community- it is our conclusion that gender-based violence remains a present risk across a range of conservancies. There are potentially more cases that were not brought to our attention considering the private nature of the violation. Gender related rights are also inextricably linked to socio-economic and participation rights, particularly the rights to decision-making and to equality and freedom from non-discrimination. That being the case, certain aspects such as culturally accepted conflict resolution mechanisms were found to be non-responsive to women, some due to their patriarchal nature.

Last but not least, we took note of the dynamics impacting rights of IPLCs. For example, the conservancy land ownership whether government, private or community determines the extent of violations of their human right. Conservancies situated on government land present a greater degree of risk to human rights encroachment, to IPLCs than those on private or community land. Separately, having third-party conservancy partners with significant control over the conservancy’s affairs reported a preponderance to higher risks to negative intrusions to human rights, as opposed to conservancies without them. Further, in heterogenous communities IPLC rights were most at risk, with an equally high risks to equality and discrimination in the overall community.

The data collected suggests the presence of risks of human rights violations in community conservancies. This report details those that we encountered amongst a relatively small sample size. The impact of these violations on the community conservancy model requires further investigation. It does appear that, ultimately, if community conservancies are to have a lasting role in the country’s wildlife conservation goals, all those involved in the planning, establishment, and day-to-day operations of conservancies must increasingly be more aware of and respectful of the human rights of IPLCs.

Let us recall that the main goal of this study was to examine risks to the protection and advancement of human rights in the context of community conservancies. To help us make final conclusions, we are guided by three critical questions about the presence of the following rights-based aspects:

- (a) Is there is broad-scale awareness of human rights issues and risks?
- (b) Are there are concrete, accessible mechanisms in place for communities themselves to continuously identify, address, and track any adverse human rights impacts that may emerge?
- (c) Are there are structures established through which communities can advance their self- determination?

Broad-scale awareness of human rights issues and risks

To the question on whether there is broad-scale awareness of human rights issues and risks, we would have to answer, categorically NO.

It was not lost on us that in each of the ten conservancies we visited, the exercise itself of the KIIs and FGDs was an educational process for many of the rights holders and other stakeholders with whom we engaged. Many IPLCs and conservancy rangers never looked at the conservancies they are part of through the lens of human rights, and there was great interest to understand those rights more as they related to the day-to-day operations which impact them. This underscored to us that there is much work to be done in term of raising awareness of specific human rights.

On the other hand, there was general awareness that things were less than perfect, and

our conversations often opened the flood gates when discussing various risks. We would not be surprised if rights holders within our sample size became more demanding of conservancy managers and boards of directors/trustees in terms of respecting their newly realized rights.

Mechanisms for communities to continuously identify, address, and track any adverse human rights impacts that may emerge

We did not find any evidence of such a mechanism amongst any of the studied conservancies or the various regional wildlife conservancy associations or KWCA to log and track human rights impacts that would help identify trends and seek solutions to address human rights violations.

Structures through which communities can advance their self-determination

To some degree there are existing structures through which communities can advance their self-determination, be they County Governments, the Ministry of Lands, the National Land Commission, the Kenya Human Rights Commission, and the Kenya National Human Rights Commission. In addition, the regional wildlife conservancy associations and KWCA could certainly play a more explicit role to ensure that communities that are either already part of a community conservancy or are targeted for a new conservancy, are provided the opportunity and capacity for self-determination.

Evolution of the study and its objectives

However, as the study evolved over the ten-month period it was conducted, questions around broader and more general human rights issues arose. These go beyond those of FPIC highlighted above and in the original objectives. The authors asked themselves, “If, during the assessment, we find examples of risks and observations pertaining to human rights that could place the conservancy in jeopardy, meet the threshold of criminal conduct, and be deemed worrisome by an ordinary human – it should be pointed out and assessed.” And indeed, this is what happened as the exercise evolved.

To a great degree concerns around rights issues linked to land tenure status and its adverse impact on conservancies and communities, particularly as a compounding element, was manifested. We also observed that insecurity and threats to the lives and property of community members is rife, with a causal link attributable to wildlife and attacks by neighboring groups, resulting in the loss of life. The worrying degree is elevated here where a single example – though an outlier – of a conservancy ranger being shot and killed in the line of duty was cited. It is instances such as these that cannot, and should not, be ignored as part of this process. Beyond FPIC, the broader interests of IPLCs, particularly Indigenous Peoples, were threatened by actual violations of their rights in a manner that impedes the extent of their participation in the conservancy, their land and livelihood rights, including smaller more vulnerable sub-groups of these IPs that are discriminated against and have lost part of their culture.

We formed the impression that proxies and third parties are either clandestinely or overtly controlling conservancies to the detriment of these communities, according to their own accounts. Where investors set up revenue-generating infrastructure on these lands, it is unclear what amount is apportioned to some of these conservancies and in certain cases, not a single shilling trickles down to the communities, all the while these investors continue to use the conservancy resources to their benefit.

Albeit limited, the data indicates that sexual crimes are a reality within conservancies, and we suspect that a deeper examination of this topic as a stand-alone investigation may reveal more instances directly attributable to the conservancy. In addition, a major thread underlying these reflections is that of women – there is a need to better incorporate gendered strategies and approaches to the community conservancy model.

The assessment teased out these findings and we hold the professional view that it is prudent to factor them when developing any programmes going forward or undertaking any policy or programmatic initiatives that will seek to address the risks cited in this report. Resultantly, a number of recommendations and opportunities do exist that make it possible to

start building on the work of various stakeholders in the public, private and non-profit sector, to tackle the above-cited risks and rights violations.

Finally, continuous learning from experience, centering the voices of groups such as IPLCs, women and conservancy staff will be needed in consideration of interventions to protect human rights in conservancies.

RISKS & OPPORTUNITIES

Towards increasing broad-scale awareness of human rights issues and risks, developing mechanisms for communities to continuously identify, address, and track any adverse human rights impacts and building structures through which communities can advance their self-determination, we offer the following recommendations for all the key stakeholders and rights holders who have been working to help make the conservancy movement a success as well as for those who have been critical of it. It is hoped that our findings and these recommendations shall be deliberated over, debated, and otherwise considered to identify a way forward whereby community conservancies may play a more critical role in contributing towards the conservation of Kenya's wildlife and biodiversity, as well as its economic development, by fully incorporating human rights in the establishment and operation of conservancies.

A. National and county governments, conservation and other regulatory authorities could consider:

1. Ensuring an enabling environment for community conservancies to thrive by harmonizing overlapping policies and legislation governing agency coordination and management of natural resources management, particularly those relating to land tenure and human-wildlife conflict.
2. Fast-tracking titling by the National Land Commission (NLC) to guarantee security of community land tenure for established and proposed community conservancies, which registered a high risk of violation, especially for IPLCs.
3. Improving the capacity of stakeholders and rights holders to routinely undertake participatory human rights audits.
4. In collaboration with the private sector, prioritizing intervention areas with a view to allocating more funds to existing community conservancies for them to effectively undertake their functions.
5. Recognizing, exploring and upholding traditional or alternative conflict resolution mechanisms in management of environmental and natural resource-based conflicts since they provide a chance for parties to negotiate and arrive at a consensus. Effective resolution of conflicts also promotes guarantee to continued access to use of the natural resources, for the subsequent generations. However, these mechanisms must be vetted and conformed, as appropriate, to not adversely impact IPLCs or women, as has been found in this study.

B. The private sector can play an active role in building the capacity of communities to manage their conservancies by:

1. Conducting due diligence on the application of FPIC and inclusive engagement prior to granting funding for the establishment of new conservancies or supporting existing conservancies.
2. Placing emphasis on baseline studies prior to the establishment of conservancies to

promote communities' rights to FPIC and buy-in. Additional studies, particularly fuller HRIA or economic feasibility studies be undertaken to identify human rights trends in conservancies, for a more longitudinal perspective and to build on the data and findings herein. The study examined 10 conservancies, which is a relatively small sample size; perhaps it can be expanded to more KWCA members, broadly, and more definitive conclusions can be drawn.

3. Supporting the development of training modules that can be used by conservancies to build their capacity around organizational and institutional strengthening, operations, policy documents, and strategy. Without this basic support structures and systems, the whole enterprise of conservancies and the lofty objective of protecting nature and wildlife is placed at risk.
4. Collaborating with umbrella organizations and conservancies under KWCA to review and enhance the conservancy guide to improve its relevance of and its robust application in the establishment of new conservancies. Meaningfully identify these third partners and ensure a power imbalance is not what characterizes the relationship between conservancies and these organisations.
5. Promoting Community-Public-Private Partnership and where leases and easements are applicable, they be in simplified language and communities allowed sufficient time to interrogate their content. Efforts to ensure that all revenue generated (i.e., lease fees, etc.) are fair and just, and where failure to meet contracts is proven, legal action is taken against wrongdoers.

C. For better socioeconomic and environmental outcomes, Community Conservancies could prioritize a combination of strategies that maximize socioeconomic benefits for local community members and protection of biodiversity values including:

1. Devising and implementing strategies aimed at enhancing and entrenching local community participation in conservancy programs, to uphold their rights to participate in decision-making and self-determination.
2. Identifying and reducing barriers to equitable local participation, increasing women representation on boards and adopting sustainable livelihood models that promote women economic empowerment.
3. Advocating for transparency and accountability of resources by third parties and practicing the same with regard to allocation of resources and benefit sharing. In this regard, community proposal for benefit sharing be taken into consideration and not crafted to disadvantage the right holders.
4. Prioritizing resource mapping and delineating boundaries to mitigate against conflict pertaining to land issues.
5. In collaboration with IPs and LCs, developing culturally responsive conflict resolution mechanisms, increasing information on, and adhering to these procedures to the satisfaction of aggrieved members

Appendices

Appendix 1

Conservancy Database with Classifications

Appendix 2

Letter of Consent

Appendix 3

Rights and Indicators Applied in the HRRRA Study

Appendix 4

Key Informant Interview Questionnaire & Interview Guide

Appendix 5

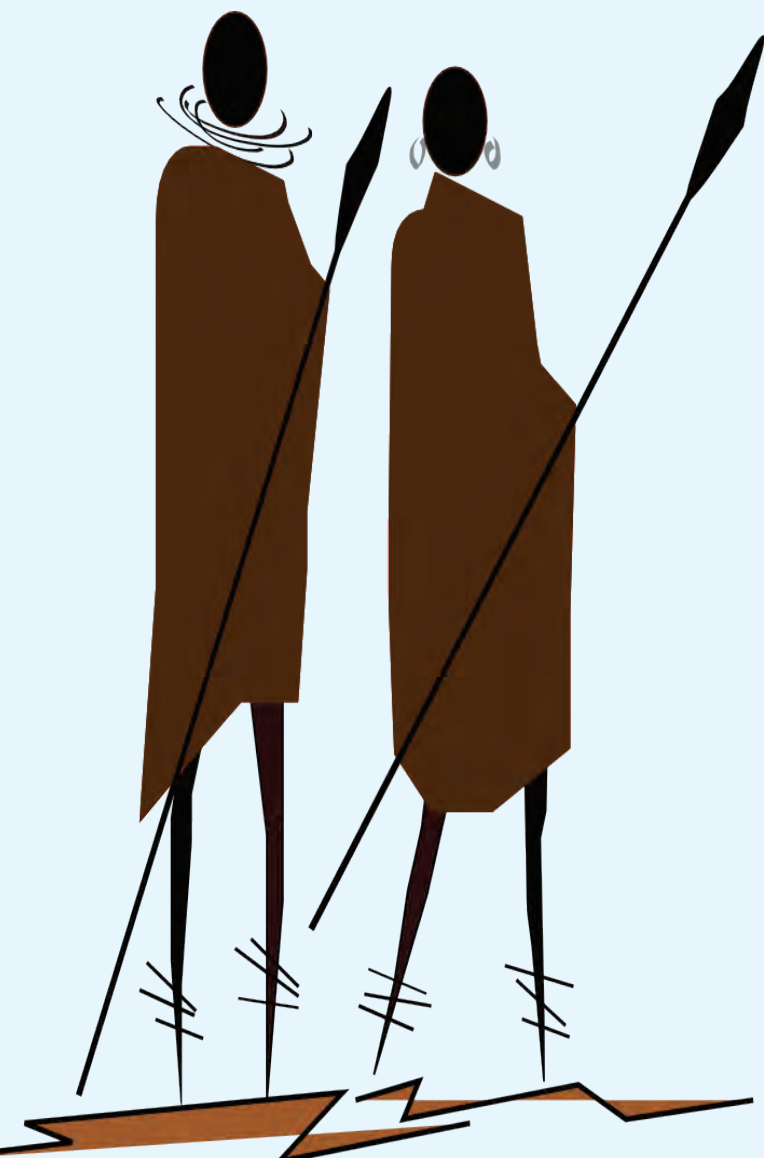
Focus Group Discussion Guide & Interview Guide

Appendix 6

Administration Survey & Interview Questionnaire

Appendix 7

Observation Indicators Checklist & Observation Tool



Appendix 1:

*Conservancy Database
with Classifications*



No.	Conservancy Name	Conservancy type	County
1	Chuine Community Conservancy	Community	Baringo
2	Irong Community Conservancy	Community	Baringo
3	Kabarion Conservancy	Community	Baringo
4	Kaptuya Community Wildlife Conservancy	Community	Baringo
5	Kiborgoch Community Wildlife & Wetland Conservanc	Community	Baringo
6	Kiborit Community Conservancy	Community	Baringo
7	Kimngochoch Community Conservancy	Community	Baringo
8	Kiplombe Community Conservancy	Community	Baringo
9	Ng'enyin Community Conservation Area	Community	Baringo
10	Ruko Community Wildlife Conservancy	Community	Baringo
11	Sinibo Geopark Community Conservancy	Community	Baringo
12	Morop-Tarambas Community Conservancy	Community	Baringo
13	Releng Community Conservancy	Community	Baringo
14	Kapkurmoi Cultural and Conservation/ Rimoi	Community	Elgeyo Marakwet
15	Kibargoi Wildlife Conservancy	Community	Elgeyo Marakwet
16	Bour-Algi Giraffe Sanctuary	Community	Garissa
17	Ishaqbini Hirola Community Conservancy	Community	Garissa
18	Gwasi Hills Community Forest Association	Community	Homa Bay
19	Biliqo-Bulesa Community Conservancy	Community	Isiolo
20	Leparua Community Conservancy	Community	Isiolo
21	Naapu Community Conservancy (Oldonyiro)	Community	Isiolo
22	Nakuprat-Gotu Community Conservancy	Community	Isiolo
23	Nanapisho Community Conservancy (Oldonyiro)	Community	Isiolo
24	Nannapa Community Conservancy (Oldonyiro)	Community	Isiolo
25	Narupa Community Conservancy (Oldonyiro)	Community	Isiolo
26	Nasuulu Community Conservancy	Community	Isiolo
27	Ilaingurunyoni Conservancy	Community	Kajiado
28	Kanzi Conservancy	Community	Kajiado
29	Kimana Wildlife Sanctuary	Community	Kajiado
30	Kitenden Conservancy	Community	Kajiado
31	Kitirua Wildlife Conservancy	Community	Kajiado
32	Motikanju Conservancy	Community	Kajiado
33	Ol Donyo Wuas	Community	Kajiado
34	Ol Pusare Conservancy	Community	Kajiado
35	Olenarika Conservancy	Community	Kajiado
36	Olpusare Conservancy	Community	Kajiado
37	Osupuko, Nailepu and Kilitome Community Conservancy	Community	Kajiado
38	Rombo Emampuli Wildlife Conservancy	Community	Kajiado
39	Selenkay Conservancy	Community	Kajiado
40	Olerai Wildlife Community Conservancy	Community	Kajiado
41	Empaash Oloirienito Conservancy Trust	Community	Kajiado
42	Enkusero Sampu Conservancy	Community	Kajiado
43	Olkiramatian Conservancy	Community	Kajiado
44	Shompole Conservancy	Community	Kajiado
45	Mailwa	Community	Kajiado
46	Olorgesale	Community	Kajiado
47	Shirango Conservancy	Community	Kilifi
48	Ragati Conservancy	Community	Kirinyaga
49	Golini Mwaluganje Community Wildlife Conservancy	Community	Kwale

This list of conservancies and their classification may contain errors. It was made using the best available information available to the researchers for the purposes of randomly selecting conservancies for this study.

APPENDICES

No.	Conservancy Name	Conservancy type	County
50	Il Ngwesi Conservancy	Community	Laikipia
51	Kirimon Conservancy	Community	Laikipia
52	Lekurruki Conservation	Community	Laikipia
53	Naibunga Central Community Conservancy	Community	Laikipia
54	Naibunga Oloiborsoit Conservancy (Lower)	Community	Laikipia
55	Naibunga Upper Community Conservancy	Community	Laikipia
56	Ol-Lentile Conservancy	Community	Laikipia
57	Mutara Conservation Area	Community	Laikipia
58	Awer Community Conservancy	Community	Lamu
59	Kiunga Marine Community Conservancy	Community	Lamu
60	Pate Island Conservation Group	Community	Lamu
61	Amu Ranch	Community	Lamu
62	Hanshak Nyongoro Conservancy	Community	Lamu
63	Witu Community Ranch	Community	Lamu
64	Shirango Community Conservancy	Community	Makueni
65	Chachabole Wildlife Conservancy	Community	Mandera
66	Jaldesa Community Conservancy	Community	Marsabit
67	Melako Community Conservancy	Community	Marsabit
68	Shurr Community Conservancy	Community	Marsabit
69	Songa Community Conservancy	Community	Marsabit
70	Ngare Ndare Forest Trust	Community	Meru
71	Nakuru Wildlife Conservancy	Community	Nakuru
72	Kibirong Wildlife Conservancy	Community	Nandi
73	Entim Conservancy	Community	Narok
74	Olderkesi Community Wildlife Conservancy	Community	Narok
75	Suswa Conservancy	Community	Narok
76	Nyakweri Kimintent Community Forest Conservation T	Community	Narok
77	Baragoi Conservation Area	Community	Samburu
78	Kalama Community Wildlife Conservancy	Community	Samburu
79	Kalepo Conservancy	Community	Samburu
80	Kirisa/Nkoteiya Conservation Area	Community	Samburu
81	Losesia Conservation Area	Community	Samburu
82	Ltungai Community Conservancy	Community	Samburu
83	Meibae Community Conservancy	Community	Samburu
84	Nalowuon Conservancy	Community	Samburu
85	Namunyak Wildlife Conservancy	Community	Samburu
86	Ndoto Conservation Area	Community	Samburu
87	Ngilai Conservancy	Community	Samburu
88	Nkoteyia Community Conservancy	Community	Samburu
89	Nyiro Conservation Area	Community	Samburu
90	Sera Community Conservancy	Community	Samburu
91	Westgate Community Conservancy	Community	Samburu
92	Bachuma Ranching Company Ltd	Community	Taita-Taveta
93	Bura East Community Conservancy	Community	Taita-Taveta
94	Kambanga Ranching Company Ltd.	Community	Taita-Taveta
95	Kasigau Ranching Company Ltd.	Community	Taita-Taveta
96	Kishamba B Ranch	Community	Taita-Taveta
97	Kishushe Ranch	Community	Taita-Taveta

This list of conservancies and their classification may contain errors. It was made using the best available information available to the researchers for the purposes of randomly selecting conservancies for this study.

APPENDICES

No.	Conservancy Name	Conservancy type	County
98	Lualenyi Community Conservancy	Community	Taita-Taveta
99	Lumo Wildlife Conservation Trust	Community	Taita-Taveta
100	Marungu Hill Conservancy Association	Community	Taita-Taveta
101	Maungu Ranching Company Ltd.	Community	Taita-Taveta
102	Mbale Ranching (DA) company Ltd	Community	Taita-Taveta
103	Mbulia Conservancy	Community	Taita-Taveta
104	Mbulia Conservancy	Community	Taita-Taveta
105	Mramba Ranch	Community	Taita-Taveta
106	Ndara B Ranch	Community	Taita-Taveta
107	Oza Ranch	Community	Taita-Taveta
108	Sagalla Ranch	Community	Taita-Taveta
109	Teri B Ranch	Community	Taita-Taveta
110	Lower Tana Delta Conservation Trust	Community	Tana River
111	Malkhalaku Conservancy	Community	Tana River
112	Ndera Community Conservancy	Community	Tana River
113	Kainuk	Community	Turkana
114	Katilu Community Conservancy	Community	Turkana
115	Lochakula Conservancy	Community	Turkana
116	Lokichar Conservancy	Community	Turkana
117	Lorogon Community Conservancy	Community	Turkana
118	Chebororwa	Community	Uasin Gishu
119	Sabuli Wildlife Conservancy	Community	Wajir
120	Kositei	Community	West Pokot
121	Masol Wildlife Conservancy	Community	West Pokot
122	Orwa Wildlife Conservancy	Community	West Pokot
123	Pellow Community Conservancy	Community	West Pokot
124	Satao Elerai Community and Wildlife Trust	Group	Kajiado
125	Tawi-Kilitome Conservancy	Group	Kajiado
126	Nailepu Conservancy	Group	Kajiado
127	Nalarami Conservancy	Group	Kajiado
128	Ole Polos Conservancy	Group	Kajiado
129	Oltiyani	Group	Kajiado
130	Naretunoi Community Conservancy	Group	Kajiado
131	Kwenia Vulture Sanctuary	Group	Kajiado
132	Nareto Conservancy Limited	Group	Laikipia
133	Maanzoni Owners Association	Group	Machakos
134	Lake Solai Wildlife Conservation Association	Group	Nakuru
135	Kingwal Community Conservancy Trust	Group	Nandi
136	Morani Conservancy Trust	Group	Narok
137	Enonkishu Conservancy	Group	Narok
138	Isaaten Conservancy	Group	Narok
139	Lemek Conservancy	Group	Narok
140	Mara Naboisho Conservancy	Group	Narok
141	Mara North Conservancy	Group	Narok
142	Mara Siana Conservancy	Group	Narok
143	Motorogi Conservancy	Group	Narok
144	Nasaru-Olosho Conservancy	Group	Narok
145	Nashulai Maasai Conservancy	Group	Narok

This list of conservancies and their classification may contain errors. It was made using the best available information available to the researchers for the purposes of randomly selecting conservancies for this study.

APPENDICES

No.	Conservancy Name	Conservancy type	County
146	OI Kinyei conservancy	Group	Narok
147	Olara Orok Conservancy	Group	Narok
148	Olarro Conservancy	Group	Narok
149	Olchorro Oirowa Conservancy	Group	Narok
150	Olerai Mara Conservancy	Group	Narok
151	Oloisukut Conservation	Group	Narok
152	Pardamat Conservation Area	Group	Narok
153	Mara Isinya	Group	Narok
154	Mbokishi	Group	Narok
155	Maungu Ranch	Group	Taita-Taveta
156	Mgeno Ranch	Group	Taita-Taveta
157	Mukhondo Conservancy	Private	Busia
158	Sergoit Farm	Private	Elgeyo Marakwet
159	Kabichbich Vulture Sanctuary	Private	Garissa
160	Rimpa Estates Wildlife Conservancy	Private	Kajiado
161	Silole sanctuary	Private	Kajiado
162	Galana Wildlife Conservancy	Private	Kilifi
163	Vipingo Ridge Wildlife Sanctuary	Private	Kilifi
164	Bollerei Limited Sabuk Lodge	Private	Laikipia
165	Borana Conservancy	Private	Laikipia
166	El Karama Conservancy	Private	Laikipia
167	Laikipia Nature Conservancy (Ol Ari Nyiro)	Private	Laikipia
168	Loisaba Conservancy	Private	Laikipia
169	Mpala Conservancy	Private	Laikipia
170	Mpala Research Centre	Private	Laikipia
171	Mugie Conservancy	Private	Laikipia
172	Ol Jogi ltd	Private	Laikipia
173	Ol Maisor Farm	Private	Laikipia
174	Ol Pejeta Conservancy	Private	Laikipia
175	Segera	Private	Laikipia
176	Sossian Conservancy	Private	Laikipia
177	Suiyan Ranch	Private	Laikipia
178	The Mugie Conservancy	Private	Laikipia
179	Lewa Conservancy	Private	Laikipia/Isiolo
180	Kipini Wildlife & Botanical Conservancy	Private	Lamu
181	Kapiti plains estate limited	Private	Machakos
182	Kasanga Ranch	Private	Machakos
183	Kipwa Conservancy	Private	Machakos
184	Kwa Kyelu	Private	Machakos
185	Lisa Ranch	Private	Machakos
186	Machakos Ranching	Private	Machakos
187	New Astra	Private	Machakos
188	Swara Plains Wildlife Sanctuary	Private	Machakos
189	Kamungi Conservancy	Private	Makueni
190	Peregrine Conservation Area(Kaluku)	Private	Makueni
191	Bila Shaka	Private	Nakuru
192	Crater Lake Game Sanctuary	Private	Nakuru
193	Crescent Island	Private	Nakuru

This list of conservancies and their classification may contain errors. It was made using the best available information available to the researchers for the purposes of randomly selecting conservancies for this study.

APPENDICES

No.	Conservancy Name	Conservancy type	County
194	Hippo-point Naivasha Conservancy	Private	Nakuru
195	Kigio Wildlife Conservancy	Private	Nakuru
196	Kongoni Conservancy	Private	Nakuru
197	Lentolia Farm	Private	Nakuru
198	Loldia Conservancy	Private	Nakuru
199	Marula Estate	Private	Nakuru
200	Mundui Estate	Private	Nakuru
201	Olerai Sanctuary	Private	Nakuru
202	Oserengoni	Private	Nakuru
203	Sanctuary Farm	Private	Nakuru
204	Solai Sanctuary	Private	Nakuru
205	Soysambu Conservancy	Private	Nakuru
206	Wileli Wildlife Conservancy	Private	Nakuru
207	Sangare Ranch	Private	Nyeri
208	Solio Game Reserve	Private	Nyeri
209	Bura Ranch	Private	Taita-Taveta
210	Amaka Ranch	Private	Taita-Taveta
211	Chalongo Conservancy	Private	Taita-Taveta
212	Choke Kutima Ranch	Private	Taita-Taveta
213	Dawida Ranching Company Ltd	Private	Taita-Taveta
214	Izera Ranch	Private	Taita-Taveta
215	Lake Jipe Conservancy	Private	Taita-Taveta
216	Lake Jipe Conservancy	Private	Taita-Taveta
217	Lualenyi Ranch	Private	Taita-Taveta
218	Lumo Wildlife Conservation Trust	Private	Taita-Taveta
219	Mgeno Ranching Company Ltd.	Private	Taita-Taveta
220	Mkuki Ranch	Private	Taita-Taveta
221	Mkuki Ranch	Private	Taita-Taveta
222	Mwasui Ranch	Private	Taita-Taveta
223	Mwasui Ranch	Private	Taita-Taveta
224	Ndara Conservancy	Private	Taita-Taveta
225	Ndara Ranch	Private	Taita-Taveta
226	Ndara Ranch	Private	Taita-Taveta
227	Ngutuni Wildlife Sanctuary	Private	Taita-Taveta
228	Rukinga Ranch	Private	Taita-Taveta
229	Rukinga Ranch	Private	Taita-Taveta
230	Sagalla Ranch	Private	Taita-Taveta
231	Taita Hills Sanctuary	Private	Taita-Taveta
232	Taita Hills Wildlife Sanctuary	Private	Taita-Taveta
233	Taita Ranch	Private	Taita-Taveta
234	Taita Sisal Estate Sanctuary	Private	Taita-Taveta
235	Taita Wildlife Conservancy	Private	Taita-Taveta
236	Wangala Ranch	Private	Taita-Taveta
237	Wushumbu Ranch	Private	Taita-Taveta
238	Kitale Nature Conservancy	Private	Trans Nzoia
239	Kaimosi Mission Wildlife Conservancy	Private	Vihiga

This list of conservancies and their classification may contain errors. It was made using the best available information available to the researchers for the purposes of randomly selecting conservancies for this study.

Appendix 2:

Letter of Consent



LETTER OF CONSENT

Study Title: Human Rights and Risk Assessment of Community Conservancies in Kenya

Conservancy: _____

Introduction: In light of the Government of Kenya's commitment to the Convention on Biodiversity, the international legal instrument for "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources", this study is designed to produce learning and policy recommendations to support existing community conservancies and the future establishment of new community conservancies in a manner that aligns with international best practices and standards for human rights.

The study will be centered on community conservancy members' experiences, to be shared via site visits, key informant interviews, focus group discussions and inspection of documentation within a representative, semi-randomly selected group of ten (10) community conservancies across the major ecosystems of the country.

The study only seeks to understand conservancies' experiences, not to judge, grade, or critique the performance of any individual conservancy. All information provided will be treated confidentially and not be attributable to any individual or conservancy according to the terms below.

Research Personnel: This study has been commissioned by The Nature Conservancy (TNC) and is being independently conducted by the Institute for Research and Policy Alternatives (IRPA). If you have any questions about the study, please contact:

- Ken Nyaundi, Tel: +254 722 732 160, ken.nyaundi@gmail.com
- Kevin Doyle, Tel: +254 715 555 248, kevin.doyle@irpaconsulting.com
- Shalom Ndiku, Tel: +254 716 190 074, shalom.ndiku@irpaconsulting.com

Procedure: We request _____ Conservancy to participate in this study through the following means:

- a) The research team shall conduct a site visit to your conservancy to observe key features, assets and community settlement areas within and around the conservancy;
- b) allowing researcher's access to documentation files related to your conservancy such as organizing documents (i.e. bylaws, MOUs, etc.), meeting minutes, incident reports, and other relevant documents; and,
- c) through Key Informant Interviews and Focus Group Discussions with members of your conservancy, to discuss specific questions regarding the recognition and respect of human rights in relation to the establishment and operations of the Community Conservancy.

These site visits, interviews and discussions may be photographed, videographed and/or audio recorded, as well as transcribed for documentation purposes and for the researchers to reference whilst conducting their analysis of the information. These materials will not be republished or shared publicly without explicit consent from the individual(s) included.

Principles: The underlying principle for this study is Free Prior and Informed Consent (FPIC), an operational principle empowering local communities to give or withhold their consent to proposed investment and development programmes that may affect their rights, access to lands, territories and resources, and livelihoods.

- **Free.** We want to avoid any sense of pressure or coercion. This is your choice.
- **Prior.** The Project will only begin once free, prior and informed consent has been obtained from willing participants.
- **Informed.** We begin by providing the information in this document (and subsequent conversations). We will endeavor to continue providing you with all the information we think is relevant. You should feel free to ask for any information you need to decide to participate.

Risks and Benefits: There are no known risks involved in this study. The only cost to you will be the time required to organize and participate in the Key Informant Interviews and Focus Group Discussions. There will be no compensation associated with your participation. The research will help the broader conservation community better understand the viewpoints and concerns of Community Conservancies and their members regarding how the conservancies have been established in the past and how they are operated, and how these areas can be improved. There is no penalty, disfavor, or negative consequences if you choose not to participate. All Government of Kenya COVID-19 prevention and control measures shall be adhered to during the course of this study.

Confidentiality: Any information derived from your participation in this study will be kept confidential by the researchers. Any photographs, videos, audio tapes or transcriptions from the Key Informant Interviews and Focus Group Discussions will be stored anonymously and confidentially. Only group results or anonymous quotes will be presented in our reports, with no attribution to a specific individual or conservancy. No information generated by this study will be sold to third-parties for commercial use, but may be used by IRPA, TNC, or other policy experts, with TNC's permission, for continued policy development.

Enhanced Sensitive treatment of information:

- Some information including community and individual financial information, will be treated as Sensitive by default.
- The community or any individual may request Sensitive treatment as to any other information.
- Sensitive information will be kept securely by IRPA and will not be shared at all, or only according to specific terms of permission.
- Sensitive information will not be used in the report, or will only be used according to specific terms of permission.

Review and Feedback: A draft report will be submitted to you and the other participating conservancies prior to general publication. Your detailed feedback will be sought and carefully considered. However, to preserve research integrity, the IRPA will not be required to make changes or add/remove information at the request of any conservancy (or TNC).

Grievance Procedures: If you have any complaints or grievances that relate to the study or conduct of the IRPA staff, you are advised to immediately contact Munira Bashir, Tel: +254 722 461412 or munira@tnc.org.

CONSENT STATEMENT:

Having read the above, I, _____, on behalf and with the approval and authority of the members of the _____ Conservancy, in my capacity as _____, agree that we shall participate in this study and consent to the above. I understand that the involvement of the _____ Conservancy in this study is completely voluntary, and that we can decline participation or withdraw at any time. However, any information I provide for the purpose of this study will not be capable of being withdrawn.

I agree to assist in the organization of a site visit by the researchers on mutually convenient dates and times, and to inform and mobilize the members of the _____ Conservancy for their voluntary participation in the study, and, moreover, to not influence their opinions that shall be freely shared with the researchers, or exact any form of retribution upon any member for having a different opinion than my own in relation to the topic of this research study. I also acknowledge that this letter of consent is in no way a binding contract between the _____ Conservancy, IRPA and TNC.

REVIEWED, DISCUSSED, AND ACKNOWLEDGED

DATED:....., 202_

On behalf of _____ Conservancy:

On behalf of the Institute for Research & Policy Alternatives:

Signature

Signature

Name, Title

Name, Title

Appendix 3:

*Rights and Indicators
Applied in the HRRRA Study*



Rights and Indicators for the Human Rights Risk Assessment Study of Community Conservancies in Kenya

Developed by the Institute for Research & Policy Alternatives

Nairobi, Kenya

Conservancy Operations		
Right	No.	Indicators
Right to free and prior informed consent	CO1	The conservancy policies do not expressly recognize the need for FPIC from communities within and around / impacted by the conservancy.
	CO2	The conservancy does not ensure the full participation of IPLCs in the development and implementation of plans, projects, programmes that have a capability of impacting them directly or indirectly.
	CO3	The conservancy staff are unable to provide concrete examples of instances where in its operations, FPIC has been incorporated and implemented in conservancy activities.
	CO4	The conservancy is unable to provide records with sufficient details regarding adequate and meaningful steps it has taken to obtain FPIC together with the responses of the community (i.e. minutes of consultations, recordings, signed letters, etc.)
	CO5	Conservancy staff (and/or contractors) are not trained on how to interact appropriately with IPLCs, including respecting their right to FPIC.
	CO6	The conservancy doesn't maintain a publicly available register of the details of the steps it has taken to adequately and meaningfully consult and obtain FPIC from indigenous peoples.
	CO7	The conservancy doesn't have policy and procedures that require the conservancy to identify the land and natural resource rights of indigenous peoples before engaging in natural resource development on indigenous peoples' lands.
Right of access to information	CO8	The conservancy does not disclose relevant operational information to its members and the community.
	CO9	The conservancy did not inform the communities on interventions that may potentially affect them in a way to ensure that community members properly understood the information and how it will impact their lives
	CO10	The conservancy does not provide equal access to information to all by excluding women, IPLCs, and other minorities
	CO11	The conservancy makes public announcements in a variety of formats about any activities it is considering undertaking that may impact the lives of community members.
	CO12	There is no clarity on agreements that the conservancy has entered into, including other parties, timelines for the agreement, obligations, etc
Right to just and fair procedures for the resolution of conflicts	CO13	The conservancy doesn't have a written policy for conflict resolution and grievance mechanisms
	CO14	There are no efforts to distribute information on the conflict resolution and grievance mechanisms if they exist to the staff and community
	CO15	Community members/staff are unaware of the existence of conflict resolution and grievance mechanisms.
	CO16	Members of the local community do not understand the procedures that should be followed for the conflict resolution and grievance mechanism, if it does exist.
	CO17	Community members are unable to access conflict resolution mechanisms, if they do exist, even if they try.

This study was commissioned by The Nature Conservancy (TNC) in June 2021 and is being conducted by the Institute for Research & Policy Alternatives (IRPA). The study is national in scope. While TNC has made its organizational resources and expertise available to IRPA for collaboration upon request, IRPA exercises professional independence and final decision-making authority regarding data collection and analysis, as well as the final report's conclusions and recommendations, which are anticipated in April 2022.

APPENDICES

Right	No.	Indicators
	CO18	Community members that file grievances participate in grievance resolution report that they suffer retaliation as a consequence of their participation and pursuit of redress.
	CO19	Corrective and remedial measures are not promptly, justly or effectively implemented and monitored
	CO20	Is the grievance mechanism process discriminatory against indigenous peoples', women, youth, or other minorities and marginalised groups.
	CO21	The existing policy requirements, if they exist, are not followed in relation to handling all grievances.
	CO22	The conservancy has a neutral mechanism responsible for hearing, processing, and settling disputes.
	CO23	There are no opportunities or mechanisms to anonymously submit grievances by the community
	CO24	Community members who have lodged a grievance are not updated regularly on the grievance resolution process.
	CO25	The conservancy does not keep thorough records of all grievances lodged and reports regularly both internally and externally.
	CO26	The conflict resolution mechanism is not culturally responsive/appropriate or does not take into account the communities' preferred ways of resolving disputes
Accountability	CO27	The conservancy doesn't have a written policy or guidelines instructing employees on how to deal with corruption.
	CO28	Have complaints or allegations of corruption been raised by members, impacted communities, or third-parties
	CO29	The conservancy does not investigate claims of corruption or misconduct.
Right to participate in decision-making	CO30	The conservancy doesn't have a stakeholder engagement plan in place to engage with a range of stakeholders, including affected communities, government stakeholders, civil society, traditional leaders, and others.
	CO31	Stakeholder engagement do not pay special attention to vulnerable individuals and groups such as minorities and IPLCs.
	CO32	The conservancy doesn't carry out meaningful public consultation with its strategy and annual plans in the relevant language formats.
	CO33	The conservancy's creation did not involve communities sufficiently, or work with the proper representatives of the IPLC institutions or authorities in the formation of the conservancies.
	CO34	Public consultation activities are not tailored to include women, youth, or disabled who may different knowledge and priorities.
	CO35	IPLCs do not feel their knowledge is valued in conservancy decision-making or activities.
	CO36	A lack of women leaders in the conservancy governance structures, resulting in a more patriarchal and male-centric leadership culture.
Right to maintain and develop their political, economic and social systems or institutions.	CO37	The conservancy has failed to analyse and assess the impact of its operations on the key institutions of IPLCs within and around it.
	CO38	The conservancy has failed to consult with traditional authorities or representations of IPLCs to determine how the conservation's operations may have social, spiritual, political, cultural or environmental impacts on these communities.
	CO39	The conservancy does not work with existing IPLC and community institutions to participate in decision making
	CO40	Communities are not included in the planning and strategy for activities at the conservancy

General Human Rights		
Right	No.	Indicators
The Right to life	GH1	There has been a loss of life in the conservancy that is attributable to non-natural causes.
	GH2	There are tangible and realistic threats within the conservancy that may result in the loss of life.
Right of adequate food	GH3	The conservancy's strategy, programmes or initiatives do not address how to address concerns and risks around the right to adequate food of acceptable quality.
	GH4	The community perceives, with sufficient examples, that its right to adequate food is threatened by the existence of the conservancy.
	GH5	There are concrete examples or instances of how the conservancy's operations contribute to food insecurity for certain groups, particularly the more vulnerable ones, within the community.
	GH6	There is poor or no adequate access to grazing areas for livestock to feed (indirect food security impact, for livestock).
	GH7	There is poor or no adequate access to fishing sites or other food sources through hunting and gathering?
The Right To Equality And Freedom From Discrimination (especially for women, IPLC, disabled, and other marginalised groups)	GH10	Community members or staff report personally felt discriminated against or harassed on the basis of a ground of discrimination prohibited under the law.
	GH11	Conservancy's founding or governance documents fail to recognize the right to equality and freedom from non-discrimination.
	GH12	The conservancy does not provide for access to the property or conservancy to disabled groups (i.e. ramps, etc.).
	GH13	The conservancy does not provide for access to the property or conservancy to disabled groups (i.e. ramps, etc.).
	GH14	There are clear incidences of discrimination against IPLCs by the conservancy that has further disenfranchised them
	GH15	Conservancy staff are not educated about the rights of local or indigenous peoples and how their conduct should ensure equality and non-discrimination.
	GH16	Women in the community complain of being discriminated against on the basis of their gender
	GH17	There are written reports/instances in the conservancy of subtle or overt discriminatory practices against women.
	GH18	The conservancy does not have a gender equity policy
	GH19	There is a clear example of discrimination of community members or staff based on age such that youth are disadvantage in decision-making, land used, or other roles in the conservancy.
The Right to Security of Person and Property	GH20	There is no conservancy strategy or measures to avoid human/wildlife conflicts or conflict-related deaths or injuries.
	GH21	The community is able to provide examples of human-wildlife conflicts that are prevalent within and around the conservancy.
	GH22	Community members perceive that certain threats exist that are capable of jeopardising their right to property and sense of security that may result in damage, loss of tenure, loss of access, and greater insecurity.
	GH23	The conservancy does not keep records of GBV or sexual harassment reports.
	GH24	The grievance procedure of the conservancy is discriminatory and not able to respond to gender specific issues, such as sexual harassment.
	GH25	Participants know or have heard of instances of GBV or sexual harassment within the conservancy, or by representatives of the conservancy.

APPENDICES

Right	No.	Indicators
	GH26	The conservancy has failed to punish or address any discrimination, harassment or sexual violence associated with public or private security forces that protect conservancy assets.
	GH27	Reports of children suffering physical attacks within the conservancy. This could be at the conservancy or during conservancy events and activities, or by conservancy staff and senior members.
	GH28	Reports of children suffering psychological violence within the conservancy. This could be at the conservancy or during conservancy events and activities, or by conservancy staff and senior members.
Right to the enjoyment of the highest attainable standard of physical and mental health	GH29	The conservancy has not consulted with indigenous peoples and undertaken assessments to determine whether the planned operations may have any impact on the local sources of medicines.
	GH30	Some conservancy activities has directly impacted the provision of health services within and around the community conservancy
	GH31	Female reproductive health choices and decisions have a bearing on the treatment and benefits received by community and conservancy members or otherwise impacts of the conservancy affect women and girls' health disproportionately
	GH32	The conservancy has not consulted with indigenous peoples and undertaken assessments to determine whether the planned operations may have any impact on the local sources of medicines.
	GH33	IPLC are often denied access to obtain traditional herbs and other medicines from the conservancy
Right to traditional knowledge and cultural expression	GH36	Social, spiritual, cultural and heritage impact assessments are not undertaken prior to approval of projects that may affect indigenous peoples' lands, territories or resources, with the participation of indigenous peoples' representative institutions.
	GH37	Local artisans and indigenous representatives are not compensated fairly before using protectable material in its marketing or advertising materials.
	GH38	The conservancy has attempted, in the past and currently, to establish intellectual property interests / ownership over assets that historically and lawfully belong to indigenous communities.
	GH39	The conservancy uses the land that is culturally significant to the local community in a way that contradicts or harms their cultural practices.
	GH40	There is no proactive, equitable inclusion of local knowledge and practices in conservancy plans
	GH41	The conservancy does not negotiate with indigenous or local peoples for informed consent and compensation to commercially exploit their innovations or traditional knowledge.
	GH42	IPLC Communities within and around the conservancy lack tenets or features of their original culture, and reflect that of the mainstream or more dominant demographic.
Right to self-determination	GH43	Before establishing the conservancy on the land, the conservancy didn't give the community an opportunity to propose alternative solutions for conservation.
	GH44	The conservancy didn't have direct communication with the conservancies during the creation of the conservancies but negotiated through a proxy organisation, individual or government agency.

Right	No.	Indicators
Right to education	GH45	The conservancy doesn't do any background research to ensure that minors who have not completed compulsory schooling or school going youth are not hired without justifiable reason.
	GH46	The conservancy doesn't have an apprenticeship/internship program or it is not open to local youth from the community
	GH47	The conservancy doesn't consult with local authorities and school officials regarding anticipated disruptions to the learning environment in local school facilities during activities, events or programs.
	GH48	The conservancy interferes with the child's opportunities for gaining intergenerational traditional knowledge

Environmental and Natural Resources Rights

Right	No.	Indicators
Right to a Clean and Healthy Environment	EN1	The conservancy has no policy that addresses environmental protection and management, including one that ensures that the local community will not be deprived of basic services and local natural resources as a result of its operations. If it exists, it is also not implemented effectively.
	EN2	Before initiating new operations likely to impact the environment the conservancy does not undertake an impact assessment (even if not a full EIA) as prior to approval / commencement of projects.
	EN3	The conservancy does not meaningfully discuss its plans and activities with community members to measure the environmental impact and to determine how to avoid or mitigate any harmful effects.
	EN4	The conservancy fails to continually monitor its use of local resources, and if necessary, fails to arrange for alternative resources to make sure that its activities do not deprive local inhabitants of basic resources.
	EN5	The conservancy does not ensure that potentially affected community members have correctly understood environmental information, particularly how it would impact their lives, and neither does it provide public access to relevant environmental information it possesses.
	EN6	The conservancy does not have an effective, transparent, accessible, culturally responsible and publicised mechanism for receiving, investigating and addressing complaints from affected individuals and communities about threats, risks or negative impacts on the environment.
	EN7	The conservancy does not engage with the local community to monitor environmental impacts and does not take action to address their concerns in a prompt and timely manner.
Right to water	EN8	The conservancy contributes to the pollution of waste, including toxic material, into nearby water sources.
	EN9	The conservancy overuses and over exploits local limited water resources for its operations.

APPENDICES

Right	No.	Indicators
Right to use, develop and control the lands, territories and resources that they possess	EN10	The conservancy has not undertaken dialogues with all affected parties, especially women and IPLC, to find mutually acceptable solutions to land usage, development plans, as well as control measures on these territories and over their resources.
	EN11	The conservancy does not keep any record of or show awareness about existing treaties or agreements if any between the community and other communities, or sub-groups within the community on the land use practices of the community
	EN12	The security or conservancy employees of the conservancy do not ensure safe and unimpeded use of the land and its resources by indigenous communities.
	EN13	The conservancy does not investigate any violations of the rights of all communities with respect to access and usage rights including customary rights
	EN14	There are conflicts in the community related to limited resources or environmental concerns from the conservancy
	EN15	The conservancy has not consulted with women and undertaken assessments to determine whether the planned operations may have any impact on their access to natural resources for any use e.g. cooking, medicines, beauty or other traditional practices
	EN16	The conservancy does not have guidelines concerning access and usage rights for areas where indigenous peoples have right to access conservancy-controlled land or its adjacent territories impacted by the conservancy.
	EN17	Prior to the conservancy being formed, the conservancy didn't identify non-exclusive indigenous rights holders to the land or they resource uses
	EN18	The conservancy doesn't have a policy to ensure the indigenous community access to freely enter, cross, or use the land.

Land and Habitat Rights

Right	No.	Indicators
Right not to be forcibly removed from their residences, lands or territories without FPIC	LH1	The conservancy has involuntarily relocated or demolished homes without alternative solutions, compensation or redress for either the conservancy or other land uses in the conservancy activities
	LH2	The conservancy and its operations have indirectly and adversely resulted in the relocation or impediment of the right to residence for members of the community individually, as a group, or as a whole.
	LH3	Affected parties and relevant NGOs confirm that the conservancy has not done enough to avoid forced relocations.
	LH4	The conservancy and its agents used coercive tactics in making decisions related to the resettlement of the community did not have a say in selecting alternative resettlement options.
	LH5	Conservancy guidelines fail to mandate consultations with all affected parties prior to using their property for conservancy, and if indigenous peoples are involved, it fails to factor free, prior and informed consent.
	LH6	Conservancy uses coercive measures in order to obtain consent for use of community's territories
	LH7	The conservancy has not explored alternative measures in consultation with the affected parties in order to mitigate any negative effects of relocation
	LH8	Prior to acquiring an interest in land for use, the conservancy didn't investigate or evaluate land rights, including both formal forms of ownership, informal individual ownership, and communal ownership as recognised by international law, national law and customary law. This failure to investigate did not predate independence or colonisation, including potential forced transfer of the land in the past of previous generations.
	LH9	The conservancy didn't assess alternative project designs that could avoid conversions of land and displacement of communities
	LH10	Reliable sources and the indigenous peoples' representatives confirm that the conservancy is not respectful of the land tenure rights of local and indigenous people in its operations.

Right	No.	Indicators
Right to security of land tenure	LH11	There are multiple reports of incidents relating to conflicting land or resource claims that remain unaddressed, or poorly addressed by the conservancy.
	LH12	The conservancy is not committed to clarifying and settling all existing claims and conflicts of land ownership in compliance with the law.
	LH13	There is an actual, or perceived prevalence of land grabbing within or around the conservancy.
	LH14	There is a lack of documented or recognized evidence on ownership or tenure of the land.
	LH15	The conservancy does not have a method in place to verify or at a minimum, address, any claims and titles to land, under Kenyan law (including formal and informal ownership) and the law and customs of indigenous peoples.
	LH16	Conservancy guidelines do not include women and wives in consultations with all affected parties prior to acquiring their property through a third party.
	LH17	There is a lower share of women among owners or rights- bearers of agricultural land, by type of tenure
Right to redress, by means that can include restitution and compensation using FPIC (land-related)	LH18	There are incidents of lack of redress for land lost without the free, prior and informed consent.
	LH19	The conservancy has not provided compensation (housing alternative land, money, etc.) to all affected parties in case of relocation in accordance with international law.
	LH20	If compensation was provided, the compensation was not fairly valued or made in a timely manner.

Labour Rights (Staff and Workers as the Rights Holders)

Right	No.	Indicators
The right to fair employment contracts and practices	LB1	The conservancy withholds wages or threatens to compel overtime (or work itself).
	LB2	The conservancy doesn't provide employment contracts that are fair, transparent, and understood by the workers.
	LB3	The conservancy does not have sexual harassment policies to limit instances of sexually indecent or predatory behavior by staff.
	LB4	Conservancy benefits and vacation policies do not allow for the observance of different cultural/ religious holidays.
The Prohibition of Slavery, Servitude, and Forced Labour	LB5	The conservancy does not prohibit forced labour in its various forms, such as debt bondage, compelled involuntary overtime, forced prison labour and trafficked labour.
The right to suitable health and safety for staff and employees	LB6	Number of instances of staff members being hurt, injured or even killed during the performance of their duties.
	LB7	There is no protective equipment and training necessary to safely perform the functions of their position.
	LB8	The conservancy has a high level of accidents resulting in injuries or illnesses.
Right to Privacy	LB9	Travel documents and identity cards of employees are retained by the conservancy managers or human resource management.
	LB10	The conservancy collects highly sensitive personal information of staff without their consent

APPENDICES

Right	No.	Indicators
Right not to be subjected to any discriminatory conditions of labour	LB11	Workers confirm that the work environment is not discriminatory and not culturally sensitive
	LB12	The conservancy staff ratio does not reflect ethnic balance and equity, particularly in the hiring of IPLCs from the community
	LB13	It is observed that there is resentment among conservancy staff or its leadership / management as a result of unaddressed discriminatory practices.
	LB14	The conservancy discriminates against disabled employees or doesn't provide fair employment opportunities for disabled.
	LB15	The conservancy does not implement an affirmative action program for hiring women.
	LB16	The conservancy requires job applicants or employees to take pregnancy tests, get abortions, or sign agreements not to become pregnant.
Right to favourable work conditions	LB17	The conservancy workplace does not prevent instances of workplace violence, harassment, and threats by taking appropriate preventative and disciplinary action.
	LB18	The conservancy does not take special measures to protect workers from the harassing, violent and threatening conduct of outsiders, such as customers, vendors and clients.
	LB19	The conservancy retaliates against workers who file grievances or complaints.
	LB20	The conservancy hires workers under the age of 18 to perform work that may be hazardous or harmful to their health, safety, educational, or moral development.
	LB21	The conservancy hires or contracts workers under the age of 18 to perform work that exposes them to psychological, emotional or sexual abuse.
Right against economic exploitation of underage youth	LB22	Interviewees confirm that the conservancy has hired persons under the age of 16 (number of cases). This could also be picked up through observation and review of records.
	LB23	The conservancy doesn't have a clear policy regarding the minimum age for employment, which complies with national laws, but is no less than 16 years of age.

Local Livelihoods Rights

Right	No.	Indicators
Right to sustainable livelihoods and development	LI1	The conservancy doesn't have strategies in place to ensure that appropriate measures are designed and implemented to eliminate or mitigate adverse environmental, economic, social, cultural or spiritual impacts that may result.
	LI2	The conservancy doesn't have a schedule defining the amount, location and timing of public services and natural resources needed for its activities.
	LI3	Before leasing the conservancy to third parties, the conservancy didn't offer the local community the opportunity to invest in the land.
	LI4	Does the conservancy have a direct or indirect impact on livelihood and economic development of the local community?
	LI5	The conservancy doesn't not have policies, procedures and processes that take a gender-sensitive approach, e.g. provide for the consideration of impacts on women and girls, collection of sex-disaggregated data, and gender-sensitive engagement methods.

APPENDICES

Right	No.	Indicators
Right to their traditional means of subsistence	LI6	Before establishing a conservancy on the land, the conservancy did not undertake any social impact assessment.
	LI7	The conservancy has an agreement with the local municipality, authority, or community regarding its use of public natural resources, which includes a schedule of use and replacement.
	LI8	The Impact assessment, if conducted, did not include consultation with all local landowners and users so as to identify and avoid potential harm to local food-producing activities
	LI9	The conservancy doesn't have a policy to regulate the percentage of local recruitment required to fulfill the employment quota.
	LI10	If natural resources are scarce, the conservancy does not arrange to source alternative resources from outside the community but instead undertakes questionable conduct (i.e. inflating prices) to compete over the community.
	LI11	Livelihoods-focused income generating activities undertaken by the conservancy are culturally responsive/in line with what communities want
	LI12	Livelihoods-focused income generating activities undertaken by the conservancy are inclusive considering gender, age and other minorities
	LI13	Women are not freely allowed to pursue their livelihoods, or impeded from doing so, by the conservancy's existence or any of its activities/operations.
	LI14	The conservancy does not promote traditional income generating efforts undertaken by women that value their traditional roles/ priorities/desires/ contributions
	The right to benefits accrued from the conservancies	LI15
LI16		There is no benefit sharing agreement between the conservancy and community members, as well as with third-parties.
LI17		The benefit sharing agreement between the conservancy and community members is equitable to consider minorities, women, IPLCs, disadvantaged resource user groups and other minorities
LI18		The conservancy communities were not fairly compensated and/or redressed for the loss of livelihoods, as well as loss of natural resources.
LI19		Communities/individuals feel that the benefit accrued through a benefit sharing agreement did not have a positive impact on them.

Appendix 4:

Key Informant Interview Questionnaire & Interview Guide



KII SURVEY

Name of Surveyor: _____

Date of survey: (____ / ____ / ____) Conservancy: _____

Gender of Participant: F M Age of Participant: _____

Other Details: IPLC Disabled Other Minority _____ (specify)

A. Can you please share details on how the conservancy was started according to your recollection?

1. Informed Consent and Participation: When the conservancy developed did the community participate in this process? (CO2)

Yes No I don't know

a. Did the conservancy negotiate with the communities directly and not through a proxy organisation, individual or government agency? (GH44)

Yes No I don't know

b. Has land been leased to third parties? And if so, was the community made aware of investment opportunities before leasing the land to third parties? (LI3)

Yes No I don't know

c. Did the conservancy work directly with IPLC institutions or authorities (CO33)

Yes No I don't know

d. Was the community given an opportunity to propose alternative solutions for conservation ? (GH43)

Yes No I don't know

APPENDICES

Other comments on informed consent BEFORE the conservancy was started:

Four horizontal lines for writing comments.

2. Assessments of Impacts: Were social, spiritual, cultural and environmental impact assessments undertaken prior to approval of projects that may affect indigenous peoples lands, territories or resources, with the participation of indigenous peoples representative institutions? (GH34)

Yes No I don't know

Three horizontal lines for writing answers.

Check all that were carried out below:

- Checkboxes for Social impact assessment (GH36), Environmental Impact Assessment (EN2), Livelihoods assessment (LI6), and Other.

a. If carried out, did the impact assessment include consultation with all local rights- owners and users so as to identify and avoid potential harm to local food-producing activities? (LI8)

Yes No I don't know

Three horizontal lines for writing answers.

b. Did the conservancy consult with traditional authorities or representations of IPLCs during these assessments? (CO38)

Yes No I don't know

Three horizontal lines for writing answers.

c. Prior to the conservancy being formed, did they conservancy identify non-exclusive indigenous rights holders to the land or they resource uses (EN17)

Yes No I don't know

Three horizontal lines for writing answers.

d. Prior to acquiring an interest in land for use, did the conservancy investigate or evaluate land rights, including both formal forms of ownership, informal individual ownership, and communal ownership as recognised by international law, national law and customary law? (LH8)

Yes No I don't know

One horizontal line for writing answers.

e. Prior to the conservancy being formed, did the conservancy identify non-exclusive indigenous rights holders to the land or their resource uses? (EN18)

Yes No I don't know

f. Did the conservancy consult with the indigenous peoples to determine whether the planned operations may have any impact on the local sources of medicines? (GH32)

Yes No I don't know

Other comments on assessment of impacts BEFORE the conservancy started:

B. Does the running and management of the Conservancy involve the local communities?

1. Consultation and Participation: In your opinion, does the conservancy ensure that you are included in its public consultation activities to its members and/or the broader community? (CO34)

Yes No I don't know

a. Please specify (Check all that apply that are consulted on, if any)

- Plans and strategy (CO40)
- Land compensation/Redress/Relocation (LH7)
- Measuring and monitoring environmental impacts (EN3)
- Commercialization of traditional knowledge? (GH41)
- Conservancy agreements with other parties (CO12)
- Benefit sharing with the community (LI15)
- Land usage and development plans over territories and resources (EN11)
- Consulted on natural resource use (EN15)
- Other _____

APPENDICES

b. During the stakeholder engagement does the conservancy consider vulnerable individuals, minorities and IPLCs? (CO31)

Yes No I don't know

Specify which communities are NOT included, if any:

c. Is the consultation carried in the local language? (CO32) Yes No I don't know

Comments on consultation/ participation AFTER conservancy was started:

3. Information: Does the conservancy provide access to information to everyone in the community? (CO10)

Yes No I don't know

a. Which type of information is shared (Check all that apply)

- Conservancies records (CO8)
- Activities that may impact you (CO9)
- Public services and natural resources required for its activities (LI2)
- Environmental information (EN5)
- Other _____

b. Do you get this information in a variety of tools, platforms and formats that you can easily understand? (CO11)

Yes No I don't know

Comments on access to information AFTER the conservancy was started:

4. Leadership and Decision-Making: Are community members treated fairly and equally by the conservancy and included in decision-making, land used, or other roles in the conservancy?

Yes No I don't know

If no, specify any that are excluded (check all that apply):

- Women (GH16) Youth (GH16) IPLCs (GH14)
 Other _____

a. Do a fair number of women hold leadership positions in the conservancy? (CO36)

Yes No I don't know

b. Does the conservancy work with existing IPLC and community institutions to participate in decision making?

Yes No I don't know

c. Is there proactive, equitable inclusion of local knowledge and practices in conservancy plans and activities? (GH40)

Yes No I don't know

d. Are you of the opinion that indigenous knowledge is valued and taken into account when the conservancy makes decisions? (CO35)

Yes No I don't know

e. When you engage with conservation policies, procedures and processes, do you find them gender-sensitive? (LI5)

Yes No I don't know

f. Other comments on leadership and decision-making:

C. How was the land transfer and relocation process in the IPLC territories undertaken when the conservancy was started and during its operations?

1. Relocations: Has the conservancy during its operations indirectly and adversely resulted in the relocation or impediment of the right to residence for members of the community individually, as a group, or as a whole? (LH2)

Yes No I don't know

a. Specify more details (check any that apply below):

- Homes demolished without alternative solutions, compensation or redress (LH1)
- Conservancy didn't do enough to avoid forced relocations (LH3)
- Conservancy/agents used coercive tactics to seek alternative resettlement (LH4)
- Other _____

2. Land Rights: Is the conservancy respectful of the land tenure rights of local and indigenous people in its operations? (LH10)

Yes No I don't know

If not, please specify more details (check any that apply below):

- Conservancy used coercion to obtain consent for use of territories (LH6)
- The conservancy doesn't keep any record of or show awareness about existing treaties or agreements if any between the community (EN12)
- Other _____

f. Did the conservancy assess alternative project designs that could avoid conversions of land and displacement of communities? (LH9)

Yes No I don't know

Other comments on land rights:

D. Are there any conflict issues that arise with the conservancy, and if so are their suitable measures taken to address them?

1. Conflicts: Are there any cases of other conflict issues that resulted from the existence of the conservancy that may jeopardies community right to property and sense of security, or may result in damage, loss of tenure, loss of access, and greater insecurity? (GH22)

Yes No I don't know

a. If so, please specify.

- Environmental and Natural Resources (EN14)
- Human-wildlife conflict (GH21)
- Land conflict (EN19)
- No access to adequate food (GH4)
- Other

Other information on conflict related to the conservancy:

2. Resolution Mechanisms: Do you know if a conflict resolution mechanism or a process for dealing with conflict resolution with the conservancy exists? (CO15).

Yes No I don't know

a. Please specify what you know and understand about it if it does exist.

- You understand the procedures (CO16)
- It respects your cultural beliefs and institutions when it comes to your preferred ways of solving disputes? (CO26)
- The entity for handling the grievance mechanism is neutral (CO22)
- Anonymous processes for submitting grievances (CO23)
- Other _____

b. If you have ever tried to access the mechanism, did you, or someone you know experience any challenges? (CO17).

Yes No I don't know

Please specify below if any issues exist (check all that apply).

- The mechanism policy requirement isn't followed (CO21)
- Faced retaliation (CO18)
- Unfair to women, youth, or other minorities and marginalised groups (CO20)
- You are not updated regularly when you lodge a complaint (CO24)
- The remedy isn't effectively is it implemented and monitored (CO19)
- Claims of corruption aren't investigated (CO29)
- Not responsive to gender-related issues such as sexual harassment (GH24)

APPENDICES

- Unsuitable punishment associated to abuses associated to private security forces and staff (GH27)
- Other _____

c. Which issues have arisen that you or other members of the community have ever raised concern on either through the grievance mechanism, or through other legal redress or traditional processes of complaints. Specify all that apply.

- Environmental issues (EN6)
- Corruption by conservancy and partners or officials (CO28)
- Community members or staff felt discriminated against or harassed (GH10)
- GBV or sexual harassment cases within the conservancy (GH25)
- Children suffering physical attacks within the conservancy (GH28)
- Children suffering psychological violence within the conservancy (GH29)
- Other _____

Other information conflict resolution mechanisms:

E. What outcomes have you seen that have resulted from the presence of the conservancy, both negative impacts and benefits?

1. Environment: Does the conservancy promote environmental protection and management to ensure that the community will not be deprived of basic services and local natural resources as a result of its operations? (EN1)
 Yes No I don't know

a. If so, please check of which ones below:

- Pollution of waste, including toxic material of water or lands (EN9)
- Misuse and overexploitation of local water resources for its operations (EN10)
- Other _____

b. Does the conservancy engage with the local community to monitor the environmental impacts (EN7)
 Yes No I don't know

APPENDICES

c. If there is an impact, does the conservancy takes action to address community concerns in a prompt manner, such as arrange for alternative resources (EN4)

Yes No I don't know

d. Are you aware of strategies by the conservancy to mitigate against adverse environmental, economic, social, cultural or spiritual impacts? If so, please share examples? (L11)

Yes No I don't know

If so, please specify

Feel free to specify more details below on environmental risks (if any):

2. Access of Resources and Lands: Do the conservancy impact how you use your land, including intervention from conservancy security staff? (EN13)

Yes No I don't know

a. Does the conservancy have guidelines concerning access and usage rights for areas where women and other minorities have right to access conservancy-controlled land or its adjacent territories impacted by the conservancy? (EN16)

Yes No I don't know

b. Is an agreement in place with local community or authorities regarding the conservancy's use of public natural resources, including a schedule of use and replacement?

Yes No I don't know

APPENDICES

c. Is an agreement in place with local community or authorities regarding the conservancy's use of public natural resources, including a schedule of use and replacement? (LI7)

Yes No I don't know

d. Are IPLCs provided access to obtain traditional herbs and other medicines from the conservancy? (GH33)

Yes No I don't know

Feel free to specify more details below on natural resource use risks (if any):

3. Livelihoods: Does the conservancy have a direct or indirect impact on livelihood and economic development of the local community? (LI4)

Yes No I don't know

b. If so, please check of which ones below:

- Impact on forests used for hunting and gathering practices (GH5)
- Inadequate grazing areas for livestock to feed (GH6)
- Impact on fishing sites (GH7)
- Effect on agricultural lands (GH8)
- Other _____

c. Are women freely able to pursue their livelihoods, and do their income generating activities remain unimpeded by the conservancy's existence or any of its activities/operations? (LI13)

Yes No I don't know

If they are, can you specify which ones?

- Firewood
- Water access
- Medicines and other traditional foods
- Other _____

d. If there was an impact on livelihoods, was compensation and/or redress provided fair? (LI18)

Yes No I don't know

e. If food security has been impeded above, has the conservancy provided any alternative food and resources for the community? (GH9)

Yes No I don't know

f. In the instances when natural resources are scarce as a result of conservancy activities, does the conservancy address this fairly to the community? (LI10)

Yes No I don't know

g. Are the local artisans and indigenous representatives compensated fairly before the conservancy uses protectable material in its marketing or advertising? (GH37)

Yes No I don't know

h. Has the conservancy ever attempted, in the past and currently, to establish intellectual property interests / ownership over assets that historically and lawfully belong to indigenous communities? (GH38)

Yes No I don't know

i. Do the local community have a fair percentage of local recruitment to fill the employment quota? (LI9)

Yes No I don't know

j. Select below if any of the hiring practices of the conservancies biased to the following:

- Ethnic minorities and IPLCs (LB12)
- Disabled members of the community (LB14)
- Women (LB15)
- Other: _____

k. Do you feel that the income generating activities by the conservancy are sensitive to the local culture? (LI11)

Yes No I don't know

If not, please specify which one and why not?

l. Do you feel that the income generating activities by the conservancy take into consideration gender, age and other minorities? (LI12)

Yes No I don't know

If there are instances when they do not, please give examples.

m. Does the conservancy promote traditional income generating efforts by women that value their traditional roles/priorities/desires/contributions? (LI14)

Yes No I don't know

n. Are you aware of a benefit sharing agreement between the conservancy and community members, as well as third parties? (LI16)

Yes No I don't know

o. If an agreement exists, does it address the needs of minorities, women, IPLCs and disadvantaged resource user groups? (LI17)

Yes No I don't know

If not, why not?

p. If a benefits sharing agreement exists, have the benefits accrued been shared in the community ? (LI19)

Yes No I don't know

q. If benefits have been shared, did the distribution consider all rights-owners, especially women, IPLCs and marginalised minorities? (LI20)

Yes No I don't know

r. Do you feel that these benefits distributed have had a significant positive impact on the community? (LI21)

Yes No I don't know

Feel free to specify more details below on livelihood risks (if any):

4. Culture: Do the operations of the conservancy have any impact on the traditional institutions and cultural practices of your community? (CO37)

Yes No I don't know

If so, how?

a. Does the conservancy use the land that is culturally significant to the local community in a way that contradicts or harms their cultural practices? (GH39)

Yes No I don't know

If so, how?

b. Do IPLC Communities within and around the conservancy have opportunities to maintain their original culture instead of being integrated into mainstream or more dominant demographic? (GH42)

Yes No I don't know

c. Does the conservancy in any way interfere with the opportunity of children and youth for gaining intergenerational traditional knowledge? (GH48)

Yes No I don't know

d. Does the conservancy provide access to communities for sites that have religious, spiritual and cultural significance? (GH35)

Yes No I don't know

5. Does the conservancy have any other social risks or impacts in the community?

Yes No I don't know

If so, please specify?

a. Does the conservancy have an apprenticeship/internship program open to local youth from the community? (GH46)

Yes No I don't know

b. Does the conservancy consult with local authorities and school officials regarding anticipated disruptions to the learning environment in local school facilities during conservancy activities, events or programs? (GH47)

Yes No I don't know

c. Does the conservancy do background research to ensure that minors who have not completed compulsory schooling or school going youth are not hired without justifiable reason? (GH45)

Yes No I don't know

d. Have any of the conservancy activities impacted the provision of health services within and around the community conservancy? (GH30)

Yes No I don't know

e. Do female reproductive health choices and decisions have a bearing on the treatment and benefits received by community and conservancy members, or otherwise impacts of the conservancy affect women and girls' health disproportionately? (GH31)

Yes No I don't know

Comment on other social risks (if any):

Appendix 5:

*Focus Group Discussion
Guide & Interview Guide*



1. Informed Consent and Participation: When the conservancy developed did the community participate in this process? (CO2)

	Y	N	DK	N/A
Did the conservancy negotiate with the communities directly and not through a proxy organisation, individual or government agency? (GH44)				
Has land been leased to third parties? And if so, was the community made aware of investment opportunities before leasing the land to third parties? (LI3)				
Did the conservancy work directly with IPLC institutions or authorities (CO33)				
Was the community given an opportunity to propose alternative solutions for conservation ? (GH43)				

Other comments on informed consent BEFORE the conservancy was started:

2. Assessments of Impacts: Were social, spiritual, cultural and environmental impact assessments undertaken prior to approval of projects that may affect indigenous peoples lands, territories or resources, with the participation of indigenous peoples representative institutions? (GH34)

Yes No I don't know

Check all that were carried out below:

- Social impact assessment (GH36) Environmental Impact Assessment (EN2)
- Livelihoods assessment (LI6)
- Other _____

APPENDICES

	Y	N	DK	N/A
If carried out, did the impact assessment include consultation with all local rights-owners and users so as to identify and avoid potential harm to local food-producing activities? (LI8)				
Did the conservancy consult with traditional authorities or representations of IPLCs during these assessments? (CO38)				
Prior to the conservancy being formed, did they conservancy identify non-exclusive indigenous rights holders to the land or they resource uses (EN17)				
Prior to acquiring an interest in land for use, did the conservancy investigate or evaluate land rights, including both formal forms of ownership, informal individual ownership, and communal ownership as recognised by international law, national law and customary law? (LH8)				
Prior to the conservancy being formed, did the conservancy identify non-exclusive indigenous rights holders to the land or their resource uses? (EN18)				
Did the conservancy consult with the indigenous peoples to determine whether the planned operations may have any impact on the local sources of medicines? (GH32)				

Other comments on assessment of impacts BEFORE the conservancy started:

b. During the stakeholder engagement does the conservancy consider vulnerable individuals, minorities and IPLCs? (CO31)

Yes No I don't know

Specify which communities are NOT included, if any:

c. Is the consultation carried in the local language? (CO32)

Yes No I don't know

Comments on consultation/participation AFTER conservancy was started:

3. Information: Does the conservancy provide access to information to everyone in the community? (CO10)

Yes No I don't know

a. Which type of information is shared (Check all that apply)

- Conservancies records (CO8)
- Activities that may impact you (CO9)
- Public services and natural resources required for its activities (LI2)
- Environmental information (EN5)
- Other _____

b. Do you get this information in a variety of tools, platforms and formats that you can easily understand? (CO11)

- Yes No I don't know

Comments on access to information AFTER the conservancy was started:

4. Leadership and Decision-Making: Are community members treated fairly and equally by the conservancy and included in decision-making, land used, or other roles in the conservancy?

- Yes No I don't know

If no, specify any that are excluded (check all that apply):

- Women (GH16)
 Youth (GH16)
 IPLCs (GH14)
 Other _____

	Y	N	DK	N/A
Do a fair number of women hold leadership positions in the conservancy? (CO36)				
Does the conservancy work with existing IPLC and community institutions to participate in decision making?				
Is there proactive, equitable inclusion of local knowledge and practices in conservancy plans and activities? (GH40)				
Are you of the opinion that indigenous knowledge is valued and taken into account when the conservancy makes decisions? (CO35)				
When you engage with conservation policies, procedures and processes, do you find them gender-sensitive? (LI5)				

Other comments on leadership and decision-making:

C. How was the land transfer and relocation process in the IPLC territories undertaken when the conservancy was started and during its operations?

a. Specify more details (check any that apply below):

- Homes demolished without alternative solutions, compensation or redress (LH1)
- Conservancy didn't do enough to avoid forced relocations (LH3)
- Conservancy/agents used coercive tactics to seek alternative resettlement (LH4)
- Other _____

2. **Land Rights: Is the conservancy respectful of the land tenure rights of local and indigenous people in its operations? (LH10)**

Yes No I don't know

a. If not, please specify more details (check any that apply below):

- Conservancy used coercion to obtain consent for use of territories (LH6)
- The conservancy doesn't keep any record of or show awareness about existing treaties or agreements if any between the community (EN12)
- Other _____

b. Did the conservancy assess alternative project designs that could avoid conversions of land and displacement of communities? (LH9)

Yes

No

I don't know

Other comments on land rights:

2. **Resolution Mechanisms: Do you know if a conflict resolution mechanism or a process for dealing with conflict resolution with the conservancy exists? (CO15).**

Yes No I don't know

a. Please specify what you know and understand about it if it does exist.

- You understand the procedures (CO16)
- It respects your cultural beliefs and institutions when it comes to your preferred ways of solving disputes? (CO26)
- The entity for handling the grievance mechanism is neutral (CO22)
- Anonymous processes for submitting grievances (CO23)
- Other _____

b. If you have ever tried to access the mechanism, did you, or someone you know experience any challenges? (CO17).

Yes No I don't know

Please specify below if any issues exist (check all that apply).

- The mechanism policy requirement isn't followed (CO21)
- Faced retaliation (CO18)
 - Unfair to women, youth, or other minorities and marginalised groups (CO20)
- You are not updated regularly when you lodge a complaint (CO24)

- The remedy isn't effectively is it implemented and monitored (CO19)
- Claims of corruption aren't investigated (CO29)
- Not responsive to gender-related issues such as sexual harassment (GH24)
- Unsuitable punishment associated to abuses associated to private security forces and staff (GH27)

Other _____

c. Which issues have arisen that you or other members of the community have ever raised concern on either through the grievance mechanism, or through other legal redress or traditional processes of complaints. Specify all that apply.

- Environmental issues (EN6)
- Corruption by conservancy and partners or officials (CO28)
- Community members or staff felt discriminated against or harassed (GH10)
- GBV or sexual harassment cases within the conservancy (GH25)
- Children suffering physical attacks within the conservancy (GH28)
- Children suffering psychological violence within the conservancy (GH29)
- Other _____

Other information conflict resolution mechanisms:

1. Environment: Does the conservancy promote environmental protection and management to ensure that the community will not be deprived of basic services and local natural resources as a result of its operations? (EN1)

Yes No I don't know

a. If so, please check of which ones below:

- Pollution of waste, including toxic material of water or lands (EN9)
- Misuse and overexploitation of local water resources for its operations (EN10)
- Other

	Y	N	DK	N/A
Does the conservancy engage with the local community to monitor the environmental impacts (EN7)				
If there is an impact, does the conservancy takes action to address community concerns in a prompt manner, such as arrange for alternative resources (EN4)				
Are you aware of strategies by the conservancy to mitigate against adverse environmental, economic, social, cultural or spiritual impacts? If so, please share examples? (LI1)				

Feel free to specify more details below on environmental risks (if any):

2. Access of Resources and Lands: Do the conservancy impact how you use your land, including intervention from conservancy security staff? (EN13)

	Y	N	DK	N/A
Does the conservancy have guidelines concerning access and usage rights for areas where women and other minorities have right to access conservancy-controlled land or its adjacent territories impacted by the conservancy? (EN16)				
Is an agreement in place with local community or authorities regarding the conservancy's use of public natural resources, including a schedule of use and replacement?				
Is an agreement in place with local community or authorities regarding the conservancy's use of public natural resources, including a schedule of use and replacement? (LI7)				
Are IPLCs provided access to obtain traditional herbs and other medicines from the conservancy? (GH33)				

Feel free to specify more details below on natural resource use risks (if any):

3. Livelihoods: Does the conservancy have a direct or indirect impact on livelihood and economic development of the local community? (LI4)

Yes No I don't know

a. If so, please check of which ones below:

- Impact on forests used for hunting and gathering practices (GH5)
- Inadequate grazing areas for livestock to feed (GH6)
- Impact on fishing sites (GH7)
- Effect on agricultural lands (GH8)

Other _____

b. Are women freely able to pursue their livelihoods, and do their income generating activities remain unimpeded by the conservancy's existence or any of its activities/operations? (LI13)

Yes No I don't know

If they are, can you specify which ones?

- Firewood
- Water access
- Medicines and other traditional foods
- Other _____

	Y	N	DK	N/A
If there was an impact on livelihoods, was compensation and/or redress provided fair? (LI18)				
If food security has been impeded above, has the conservancy provided any alternative food and resources for the community? (GH9)				
In the instances when natural resources are scarce as a result of conservancy activities, does the conservancy address this fairly to the community? (LI10)				
Are the local artisans and indigenous representatives compensated fairly before the conservancy uses protectable material in its marketing or advertising? (GH37)				
Has the conservancy ever attempted, in the past and currently, to establish intellectual property interests / ownership over assets that historically and lawfully belong to indigenous communities? (GH38)				
Do the local community have a fair percentage of local recruitment to fill the employment quota? (LI9)				

Select below if any of the hiring practices of the conservancies biased to the following:

Ethnic minorities and IPLCs (LB12)

Disabled members of the community (LB14)

Women (LB15)

Other: _____

c. Do you feel that the income generating activities by the conservancy are sensitive to the local culture? (LI11)

Yes No I don't know

If not, please specify which one and why not?

d. Do you feel that the income generating activities by the conservancy take into consideration gender, age and other minorities? (LI12)

Yes No I don't know

If there are instances when they do not, please give examples.

e. If an agreement exists, does it address the needs of minorities, women, IPLCs and disadvantaged resource user groups? (LI17)

Yes No I don't know

If not, why not?

	Y	N	DK	N/A
Does the conservancy promote traditional income generating efforts by women that value their traditional roles/priorities/desires/contributions? (LI14)				
Are you aware of a benefit sharing agreement between the conservancy and community members, as well as third parties? (LI16)				
If a benefits sharing agreement exists, have the benefits accrued been shared in the community ? (LI19)				
If benefits have been shared, did the distribution consider all rights-owners, especially women, IPLCs and marginalised minorities? (LI20)				
Do you feel that these benefits distributed have had a significant positive impact on the community? (LI21)				

Feel free to specify more details below on livelihood risks (if any):

4. Culture: Do the operations of the conservancy have any impact on the traditional institutions and cultural practices of your community? (CO37)

Yes No I don't know

If so, how?

a. Does the conservancy use the land that is culturally significant to the local community in a way that contradicts or harms their cultural practices? (GH39)

Yes No I don't know

If so, how?

	Y	N	DK	N/A
Do IPLC Communities within and around the conservancy have opportunities to maintain their original culture instead of being integrated into mainstream or more dominant demographic? (GH42)				
Does the conservancy in any way interfere with the opportunity of children and youth for gaining intergenerational traditional knowledge? (GH48)				
Does the conservancy provide access to communities for sites that have religious, spiritual and cultural significance? (GH35)				

5. **Does the conservancy have any other social risks or impacts in the community?**

Yes No I don't know

If so, please specify?

Does the conservancy have an apprenticeship/internship program open to local youth from the community? (GH46)				
Does the conservancy consult with local authorities and school officials regarding anticipated disruptions to the learning environment in local school facilities during conservancy activities, events or programs? (GH47)				
Does the conservancy do background research to ensure that minors who have not completed compulsory schooling or school going youth are not hired without justifiable reason? (GH45)				
Have any of the conservancy activities impacted the provision of health services within and around the community conservancy? (GH30)				
Do female reproductive health choices and decisions have a bearing on the treatment and benefits received by community and conservancy members, or otherwise impacts of the conservancy affect women and girls' health disproportionately? (GH31)				

Other Comments on social risks (if any):

Appendix 6:

*Administration Survey &
Interview Questionnaire*



ADMIN TOOL

Name of Surveyor: _____

Date of Survey: _____ **Conservancy:** _____

Gender of Participant: F M **Age of Participant:** _____ (optional)

Other Details: Manager Board Member/Trustee Other Staff _____

Right to free and prior informed consent (FPIC)

1. Do any of the Conservancy's policies/procedures recognize FPIC explicitly or implicitly? **(CO1)**

Yes No I don't know

2. Do Conservancy staff implement FPIC in their day-to-day functions working with community members? **(CO3)**

Yes No I don't know

3. Does the Conservancy have any records to demonstrate that it obtained FPIC from its members (meeting minutes, recordings, signed letters. etc) **(CO4)**

Yes No I don't know

4. Has the Conservancy every conducted trainings on community engagement, including community members' right to FPIC? **(CO5)**

Yes No I don't know

5. Does the Conservancy have any records to demonstrate that it obtained FPIC from its members (meeting minutes, recordings, signed letters. etc.) **(CO6)**

Yes No I don't know

6. Does the conservancy have any policies or procedures that require the conservancy to identify the land and natural resource rights of indigenous peoples before engaging in natural resource development on indigenous peoples' lands? **(CO7)**

Yes No I don't know

7. Assessments of Impacts: Were social, spiritual, cultural and environmental impact assessments undertaken prior to approval of projects that may affect indigenous peoples lands, territories or resources, with the participation of indigenous peoples representative institutions? **(GH34)**

Yes No I don't know

Right of access to information

8. Decision making and communicating decisions: **(CO8)**

a. How does the Conservancy communicate decisions to the community?

b. Are community members provided information and the opportunity to provide their input?

Yes No I don't know

c. Are they allowed to vote on pending decisions? Is their vote equal to Trustees?

Yes No I don't know

d. Is their vote binding?

Yes No I don't know

9. Does the Conservancy make public announcement (newspapers, posters, social media) about activities that it is concerning undertaking that may impact the lives of community members? **(CO11)**

Yes No I don't know

Right to just and fair procedures for the resolution of conflicts

10. Does the Conservancy have grievance mechanism and/or policy on conflict resolutions? **CO13**

Yes No I don't know

11. Are community members / staff aware of the grievance mechanism and conflict resolution system? **CO15**

Yes No I don't know

12. What efforts are made to make the community / staff aware of the grievance mechanism / conflict resolution procedures? **CO14**

13. Does the grievance mechanism allow for anonymous grievances? **CO23**

Yes No I don't know

14. How are grievants informed of the ongoing process to redress a grievance? **CO24**

15. Is there a grievance log and reports on their resolution status? **CO25**

Yes No I don't know

16. May we inspect the grievance mechanism? **CO22**

Yes No I don't know

Accountability

17. Does the Conservancy have an anti-corruption policy? **CO27**

Yes No I don't know

18. Have there been any grievances related to alleged corruption? **CO28**

Yes No I don't know

19. If so, did the Conservancy have an internal or external investigation of the claim? **CO29**

Yes No I don't know

Right to participate in decision-making

20. Does the Conservancy have a Stakeholder Engagement Plan (SEP)? **CO30**

Yes No I don't know

21. Does the SEP deal specifically with vulnerable groups, minorities, indigenous peoples? **CO31**

Yes No I don't know

22. Does the Conservancy share its strategy documents/annual plans in a language that most people can read? **CO32**

Yes No I don't know

23. What specific engagement was conducted with community members around the establishment of the Conservancy? Who was consulted and when? **CO33**

Yes No I don't know

24. Does the SEP deal specifically with engaging women, youth or disabled to take into account their views? **CO34**

Yes No I don't know

25. Are there any women in leadership positions? **CO36**

Yes No I don't know

IF yes, Please specify. _____

Right to maintain and develop their political, economic and social systems or institutions.

26. Has the Conservancy ever conducted an impact/risk assessment to determine the impact of its operations on the key institutions of the community? **CO37**

Yes No I don't know

27. Has the Conservancy consulted with traditional authorities/ representatives to determine how the conservancy's operations may have social, spiritual, political, cultural or environmental impacts on these communities? **CO38**

Yes No I don't know

Right to adequate food

28. Does the conservancy's strategy, programmes or initiatives address how to address concerns and risks around the right to adequate food of acceptable quality? **GH3**

Yes No I don't know

The Right To Equality And Freedom From Discrimination (especially for women, IPLC, disabled, and other marginalised groups)

29. Do the Conservancy's founding or governance documents recognize the right to equality and freedom from non-discrimination? **GH11**

Yes No I don't know

30. Does the conservancy provide access to the property or conservancy to disabled persons? **GH12**

Yes No I don't know

31. Are Conservancy staff educated about the rights of local or indigenous peoples and how their conduct should ensure equality and non-discrimination? **GH15**

Yes No I don't know

32. Has the conservancy noted an instances of subtle or overt discriminatory practices against women? **GH17**

Yes No I don't know

33. Does the Conservancy have a Gender Equity Policy? **GH18**

Yes No I don't know

The Right to Security of Person and Property

34. Does the Conservancy have a strategy to prevent or control human/wildlife conflicts? Does the strategy deal with conflict-related deaths or injuries? **GH20**

Yes No I don't know

35. Does the conservancy keep records of GBV or sexual harassment reports? **GH23**

Yes No I don't know

Right to the enjoyment of the highest attainable standard of physical and mental health

36. Has the Conservancy consulted with indigenous peoples and undertaken assessments to determine whether the planned operations may have any impact on the local sources of medicines? **GH29**

Yes No I don't know

The Freedom Of Conscience, Religion, Belief

37. Does the Conservancy regulate or otherwise dissuade community members or staff from practicing their religion or beliefs? **GH34**

Yes No I don't know

Right to traditional knowledge and cultural expression

38. Does the Conservancy conduct participatory Environmental & Social Impact Assessment prior to initiating new projects to determine if and how they may impact indigenous peoples' lands, territories or resources? **GH36**

Yes No I don't know

39. Does/has the conservancy attempt to establish intellectual property interests / ownership over assets that historically and lawfully belong to indigenous communities? **GH38**

Yes No I don't know

40. Does the conservancy use the land that is culturally significant to the local community in a way that contradicts or harms their cultural practices? **GH39**

Yes No I don't know

41. Does the Conservancy proactively and equitably include local knowledge and practices into its plans? **GH40**

Yes No I don't know

42. Does the conservancy negotiate with indigenous or local peoples for informed consent and compensation to commercially exploit their innovations or traditional knowledge? **(GH41)**

Yes No I don't know

Right to fair employment contracts and practices

43. Does the conservancy provide employment contracts that are fair, transparent and understood by the workers? **(LB2)**

Yes No I don't know

44. Does the conservancy withhold wages or threaten to compel overtime or work itself? **(LB1)**

Yes No I don't know

45. Does the conservancy have a sexual harassment policy to limit instances of sexually indecent or predatory behaviour? **(LB3)**

Yes No I don't know

46. Does the conservancy respect different cultural and religious holidays/practices in its policies? **(LB4)**

Yes No I don't know

Prohibition of Slavery, Servitude and Forced Labour

47. Does the conservancy observe or fail to discourage forced labour, including as debt bondage, compelled involuntary overtime and trafficked labour? **(LB5)**

Yes No I don't know

Right to suitable health and safety for staff and employees

48. Are there any instances where conservancy staff have been hurt, injured or even killed during the performance of their duties? **(LB6)**

Yes No I don't know

49. Do staff have protective equipment and training to safely perform their functions? **(LB7)**

Yes No I don't know

50. Does the conservancy have a high level of accidents resulting in injuries or illnesses? **(LB8)**

Yes No I don't know

Right to Privacy

51. Does the conservancy retain any identification documents belonging to any staff members? If so, what type of documents are retained? **(LB9)**

Yes No I don't know

52. Does the conservancy collect sensitive data about the staff without their consent? **(LB10)**

Yes No I don't know

Right not to be subjected to any discriminatory conditions of labour

53. Are there reports of your work place being discriminatory and not culturally sensitive? **(LB11)**

Yes No I don't know

54. Do the conservancy staff ratio reflect and ethnic balance and equity, particularly the hiring of IPLCs from the community? **(LB12)**

Yes No I don't know

55. Is there resentment among conservancy staff or its leadership and management as a result of unaddressed discriminatory practices? **(LB13)**

Yes No I don't know

56. Does the conservancy discriminate against disabled employees or not provide them with opportunities?? **(LB14)**

Yes No I don't know

57. Does the conservancy have any affirmative action programmes to hire women? **(LB15)**

Yes No I don't know

58. Does the conservancy require job applicants or employees to take pregnancy tests, get abortions or sign agreements not to become pregnant? **(LB16)**

Yes No I don't know

Right to favourable work conditions

59. Are there reports of workplace violence, harassment, and threats by taking appropriate preventative and discipline action? **(LB17)**

Yes No I don't know

60. Does the conservancy not take any special measures to protect workers from the harassing, violent and threatening conduct of outsiders, i.e. customers, vendors, clients, etc.? **(LB18)**

Yes No I don't know

61. Does the conservancy retaliate against workers that file grievances or complaints? **(LB19)**

Yes No I don't know

62. Does the conservancy hire workers that are under the age of 18 to perform work that exposes them to psychological, emotional or sexual abuse? **(LB21)**

Yes No I don't know

63. Does the conservancy hire or contract staff under the age of 18 to perform work that may be hazardous to their health, safety, educational and moral development? **(LB20)**

Yes No I don't know

Right against economic exploitation of underage youth

64. Has the conservancy hired persons under the age of 16? **(LB22)**

Yes No I don't know

65. Does the conservancy have a policy about the minimum age of employment which complies with national laws but is less than 16 years of age? **(LB23)**

Yes No I don't know

Right to security of land tenure

66. Are there instances of conflicting land or resource claims that remain unaddressed by the conservancy? **(LH11)**

Yes No I don't know

67. Is the conservancy committed to clarifying and settling all existing claims and conflicts of land ownership in compliance with the law? **(LH12)**

Yes No I don't know

68. Is there an actual or perceived prevalence of land grabbing within or around the conservancy? **(LH13)**

Yes No I don't know

Appendix 7:

Observation Indicators Checklist & Observation Tool



