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Monitoring the Transition of Group Ranches to Community Land in Kenya

A Case Study of Laikipia, Kajiado, West
Pokot, and Samburu Counties

September 2023

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ABBREVIATIONS

AJS	Alternative Justice System
CEMC	County Executive Committee Member
CLMC	Community Land Management Committee
CLA	Community Land Act
CS	Cabinet Secretary
FAO	Food and Agriculture Organization of the United Nations
FGD	Focus Group Discussion
IMPACT	Indigenous Movement for Peace Advancement and Conflict Transformation
KI	Key Informant Interviews
MOU	Memorandum of Understanding
NLC	National Land Commission
NRT	Northern Rangelands Trust
NGOs	Non-Governmental Organisations
PWDs	People with Disabilities

DEFINITION OF TERMS

Baraza: In Kenya, a “baraza” refers to a public gathering or meeting, often held outdoors, where members of a community come together to discuss various issues of local importance, share information, make decisions, and engage in dialogue.

Community: means a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes— common ancestry; similar culture or unique mode of livelihood; socio-economic or other similar common interest; geographical space; ecological space; or ethnicity

Community Assembly: Consists of adult members of the community who collectively make decisions regarding the management, use, and allocation of community land. This is the highest decision making organ of the community under the Community Land Act.

Community Land: means land declared as such under Article 63(2) of the Constitution; land converted into community land under any law;

Customary Land Rights: These refer to the enjoyment of land use that arises from customary, unwritten practice rather than written codified law.

Communal Tenure System: means unwritten land ownership practices in certain communities in which land is owned or controlled by a family, clan or a designated community leader;

Group Ranch - A group ranch is a form of communal land ownership where a group of individuals or families within a community collectively own and manage a specific area of land. This land is typically used for grazing livestock and can also serve as a valuable resource for pastoralist communities.

Group Representatives: Group representatives are individuals chosen or elected to represent the interests of the members of the group ranch. These representatives play a crucial role in the decision-making and management of the group ranch. This was before the Land (Group Representative Act) was repealed.

Local Communities: These refer to persons who share common attributes including ancestry and inhabit same geographic space

The Ministry: Refers to the Ministry of Lands, public works, housing and urban development, formerly known as the Ministry of Lands and Physical planning.

The Commission: Refers to the National Land Commission.

Transitioning: The processing taken by undissolved group ranches to move to community land in compliance with the Community Land Act, 2016

Subdivision: The subdivision of communal lands refers to the process of dividing collectively owned land into individual or smaller parcels that are privately owned by individuals members of a community

Swynnerton Plan: A colonial agricultural policy that appeared as a government report in 1954 in Kenya, aiming to intensify the development of agricultural practice in the Kenya Colony.

Undissolved Group Ranch: The term “undissolved” implies that the group ranch has not undergone a process of subdivision or privatization.

FOREWORD



Article 67(2)(c) of the Constitution of Kenya, 2010 requires the National Land Commission to advise the National Government on a comprehensive programme for the registration of title land throughout Kenya. Section 5(2) (b) of the National Land Commission Act, 2012 requires the Commission to monitor registration of all rights and interests in land.

The enactment of the Community Land Act in 2016 marked a significant milestone in the pursuit of tenure security for Kenya's Indigenous and local communities. It rekindled these communities' hopes that their constitutional rights to secure land tenure could be – and would be – realised. This transformative legislation empowers Indigenous and local communities by redefining leadership structures. It ensures accountability between community leaders and community members and facilitates meaningful engagement of all community members in land governance through the establishment of community assemblies and other progressive provisions.

In an effort to track progress made on land reform agenda, the National Land Commission, in accordance with its role of monitoring land rights, partnered with Namati Kenya to document and assess the progress made in transitioning group ranches to community land. The outcome of this collaborative research is presented in this report titled 'Monitoring Transition of Group Ranches to Community Land in Kenya'. The report offers valuable insights into the current state of implementation, highlights common challenges, and imparts crucial lessons for stakeholders involved in ensuring that the spirit of this progressive law is not lost in its implementation.

Notably, the study's findings establish that the registration of community land is a capital-intensive exercise that requires concerted efforts by the Ministry of Lands, Public Works, Housing, and Urban Development, and the National Land Commission, in collaboration with County Governments, civil society organisations, non-governmental organisations, development partners, and communities themselves. It further establishes the need to conduct more public education on the process of registering community land in order to realise the goals envisioned in Article 63 of the Constitution and the Community Land Act, 2016.

In conclusion, I wish to reiterate the Commission's commitment to the continuous monitoring of the registration of all rights and interests in land and remain optimistic that the findings and recommendations of this report will enhance security of land tenure and sustainable management of land resources in Kenya.

Gershom Otachi Bw'Omanwa
Chairman|National Land Commission



Kabale Tache Arero

Secretary|CEO National Land
Commission

ACKNOWLEDGMENT

The National Land Commission (NLC) in collaboration with Namati Kenya conducted a study on 'Monitoring the Transition of Group Ranches to Community Land in Kenya'. Data collection was done in a participatory way involving various stakeholders such as the Ministry of Lands, Public Works, Housing, and Urban Development, County Governments, land professionals, group ranches' leadership, and communities.

This report was prepared with support and guidance of Commissioner Reginald Okumu, Prof. David Kuria, Dr. Mary Macharia, and Samuel Odari of the National Land Commission, and Eileen Wakesho, Rowena Ndwakwe, and David Arach of Namati Kenya. This team was supported by NLC and NAMATI staff with special recognition to Erin Kitchell (Namati); Stephen Chebii, Principal Advocacy Officer, NLC; Robert Koech, Chief Research Officer, NLC; Bonventure Kaliti, Senior Land Use Planner, NLC; Esterina Dokhe, Senior Natural Resource Officer, NLC; and NLC County Coordinators Grace Wairagu (Laikipia County), David Rugut (West Pokot County), John Kirombe (Samburu County), and Saida Isak (Kajiado County).

We register our gratitude to the County Governments of Laikipia, Kajiado, West Pokot, and Samburu and the Ministry of Lands, Public Works, Housing, and Urban Development. We wish to thank all the agencies that provided data and information used in this report.

We highly appreciate the NLC Chairman and Commissioners for their guidance, leadership, and technical contributions. We acknowledge the relentless effort and guidance of the Land Use Planning, Research and County Coordination Committee members comprising of Commissioners Gertrude Nguku, Hon. Esther Murugi, Reginald Okumu, and Prof. James Tuitoek.

Finally, we acknowledge the contributions of the various stakeholders who worked to ensure the production of the report.



MESSAGE FROM NAMATI

The enactment of the Community Land Act, 2016 was a step in the right direction in the quest to secure land tenure rights for Indigenous and local communities and address women's exclusion in land ownership and governance. The Constitution of Kenya, 2010 acknowledges that women and ethnic minorities have suffered discrimination, land dispossession, and political marginalisation for generations. Loss of communal and family lands deprives Kenya's most vulnerable citizens – especially women – of the source of their livelihoods, heritage, identity, and political power.

We have an opportunity to realise a successful transition of undissolved group ranches to community lands, as envisioned in the law. This report's findings and recommendations offer useful insights for the National and County Governments to ensure that the objective of the Community Land Act is met. Getting it right will take concerted efforts from all relevant actors.

We hope that this report rekindles a commitment to a people-centred community land registration process and affirms the need for regular monitoring of the process. Let the recommendations inform systemic changes at the national and county level as we seek to strengthen tenure rights for all.

Eileen Wakesho

Director, Land and Environmental Justice|Namati Kenya

EXECUTIVE SUMMARY

Before the promulgation of the Constitution of Kenya, 2010, customary lands were recognised through trust land and group ranches, governed by Trust Land Act, Cap 288 and Land (Group Representatives) Act, respectively. The concept of group ranches in Kenya involved setting aside and registering land that was shared by a group of people, often Indigenous and local communities, most of whom practised pastoralism. This provided a window through which group or community ownership could be exercised in Kenya.

Group ranches faced a number of challenges, including the inefficient and inequitable management of communal land by the group ranch representatives; pressure from different actors to privatise the ranches; and increasing demands for the communal land to be subdivided into individual smaller parcels for personal use. These prevailing issues informed policy reforms introduced through Sessional Paper No. 3 of 2009 on National Land Policy, the Constitution of Kenya, 2010, and Community Land Act, 2016.

The Community Land Act (CLA) repealed the Land (Group Representatives) Act, Cap 287 and Trust Lands Act, Cap 288. It provided a mechanism for transitioning group ranches held under Land (Group Representatives) Act to “community land” to improve tenure security and facilitate more equitable, inclusive, and accountable management of communal land.

In 2021, the National Land Commission (NLC) in collaboration with Namati Kenya commissioned a study to monitor and assess this transition process. Specifically, the study sought to document the status of the transition of group ranches to community land in Kenya; establish the level of involvement of women, youth, and other minority groups during the transition process; identify challenges to and with the process; determine the extent to which state actors were involved in the process; and identify practical measures to fast-track and improve the process.

Initial research revealed that progress on transitioning group ranches across Kenya to community land has been slow. While efforts began in 2017, by May 2023 only 46 out of 315 group ranches nationally had fully transitioned. To determine why progress has been slow, the NLC and Namati Kenya studied sixteen (16) undissolved group ranches in four counties (Laikipia, Samburu, Kajiado, and West Pokot) that had either started or had yet to start the transition process.

The findings established that the slow rate of progress is due to conflicts and disputes within and amongst the group members (39.7%), financial constraints (22.5%), inadequate information on the processes and procedures (20.6%), and challenges related to the registration processes (17.2%).

The study further established that the involvement of women during the transition process was low. In accordance with the CLA, Community Land Management Committees (CLMCs) must be formed with at least one-third of members being women. Of the group ranches in the study that had elected their CLMC, eight achieved the legally required minimum representation of women, while three fell short and one did not have any women, youth, or ethnic minorities represented on their committee. This amplifies traditional trends of limited participation by women in land management and decision-making, a role historically reserved for male elders.

It is in the interest of the communities within these group ranches and the national land reform agenda, that the process of transitioning group ranches is fast-tracked and communities are supported to secure their land tenure while ensuring the inclusion of all community members.

Consequently, the study recommends that the Ministry of Lands, Public Works, Housing, and Urban Development should allocate adequate human and financial resources to support the transition process. Additionally, the Ministry should review the existing statutory forms, including CLA 2 and CLA 3, to include parameters such as gender, age, and physical disability. This will ensure that the transition process is not simply a matter of legal compliance but adheres to the spirit of inclusivity enshrined in the Constitution. The Ministry should also enhance the coordination of various actors, specifically County Governments and the National Land Commission.

The study further recommends that County Governments coordinate continuous sensitisation and awareness campaigns at the county level. Sensitisation and awareness efforts in counties should also be decentralised to the local level, possibly ward level, and designed to target community members and leaders, land officials (community land registrar, land adjudication officers), and county government officials in charge of lands.

The study also provides recommendations for the National Land Commission, namely that the Commission should regularly monitor key aspects of the registration process; map out and document all public land within community land; and undertake monitoring and oversight of land use planning. These recommendations and others are outlined in Section 5.



1.0. BACKGROUND

1.1 Introduction

It is estimated that over 65% of the world's landmass is held by local communities through a customary, community-based tenure system, yet only 18% is formally recognised. In Sub-Saharan Africa, that figure drops to 9.6% (Rights and Resource Institute, 2015; 2020). According to Rights and Resource Institute (2015), approximately 2.5 billion people rely on customary land for their livelihoods, identity, and culture.

In Kenya, it is estimated that over 60% of all land mass is communally owned and home to over five million Indigenous people (GoK, 2023).

Securing community land rights is central to the achievement of the Sustainable Development Goals, to adhering to international commitments on climate and biodiversity, and to addressing a myriad of other social and environmental imperatives.

Customary land rights in Kenya, before promulgation of the Constitution of Kenya, 2010, were mainly recognised as trust land and group ranches, governed by the Trust Land Act and Land (Group Representatives) Act, respectively.

Group ranches were introduced by the colonial government as a means of controlling grazing, since wanton grazing had been blamed for land degradation (Kenya, Protectorate 1956). They were also presented as a compromise between conflicting communal ownership and private ownership interests. During this period, the Swynnerton plan¹ had come up with the Arid Land Development (ALDEV) programme, with funds allocated to arid and semi-arid areas to initiate and enforce rotational grazing. Consequently, according to Matui et al. (2006:2007), the colonial government sought to bring meaningful development among the communities whose livelihood depended solely on pastoralism.

The colonial government never considered giving Africans legal ownership of land by way of registration. Hence the post-independence government's first task was to carry out land reforms in the African reserves. It did this by coming up with a legal framework – in the name of Land Adjudication Act Cap 284 and Land (Group Representative) Act Cap 287 – that provided for individual and group ownership of land respectively. Both came into effect in 1968. It was thought that upon registration, the title deed would be used to access services (GoK, 1972).

The Land (Group Representative) Act was first applied in the Maasai districts (Kajiado and Narok). Group ranches were then established in other ecologically similar areas in Rift Valley and Coast Province. According to Galaty (1994), the concept was a hybrid of Maasai customary land tenure and private land tenure. It involved setting aside a piece of land that was recorded and registered as a "Ranch" that was legally owned by a group of people (Rutten, 1992). The system offered them security of tenure and protected their land from loss to other tribes (GoK, 1996). According to Kameri Mbote (2013), group ranches gave a window through which group or community ownership could be exercised in Kenya.

There has been a general understanding that group ranches have failed to meet their intended objectives, with the majority of them subjected to rapid subdivision. The inefficiency of group representatives in management,

¹ The Swynnerton Plan was a colonial agricultural policy that appeared as a government report in 1954 in Kenya, aiming to intensify the development of agricultural practice in the Kenya Colony.

together with the pressure to privatise the ranches, increased the demand for subdivision (Kieyah, 2007). According to Kameri (2013), group ranches did not work well because the group representatives lacked the authority of traditional leaders which led to questioning of their legitimacy and disregard for group ranch rules. Further, government policy has tended to emphasise individual rights and has worked off the assumption that group rights would eventually mature into individual ones. This led to defensive titling of land within group ranches to prevent encroachment by governments or other entities.

These weaknesses with the Land (Group Representative) Act led to policy reform, introduced through Sessional Paper No. 3 of 2009 on National Land Policy and the Constitution of Kenya, 2010.

The Constitution vests community land to communities identified on the basis of ethnicity, culture or similar interests. It also defines community land to include land held by groups under the Land (Group Representatives) Act and the unregistered land held by County Governments in trust of communities under the Trust Land Act. The Constitution further required parliament to enact legislation on community land within five years.

Pursuant to the Constitutional requirements, parliament enacted the Community Land Act in 2016. The Act repealed the Land (Group Representative)s Act, Cap 287 and Trust Lands Act, Cap 288 and provided for a mechanism through which land held under the Group Representatives Act is transitioned into community land.

The National Land Commission (NLC) is required under Section 5(2)(b) of the National Land Commission Act, 2012 to “monitor the registration of all land rights and interests in land.” Monitoring measures the effectiveness of the registration programmes and helps determine if the programmes are on track. It also enables the assessment of government performance in land administration and policy implementation and the evaluation of policy effectiveness, which, in turn, informs policy design and policy reform. Monitoring is an important tool for promoting constructive, inclusive, and evidence-based dialogue on land issues.

In 2021, Namati Kenya and NLC entered into an MoU to jointly undertake a study to monitor the transitioning of group ranches to community land in Kenya and ensure the land policy principles enshrined in the Constitution, such as inclusivity and equality, are upheld throughout the process. It marked the first time since the enactment of the Community Land Act, 2016 that a monitoring of the transitioning of group ranches would be conducted.

This report presents the findings from the study.

1.2 Objectives of the Study

The overall objective of the study was to monitor the transition of group ranches to community land in Kenya. The specific objectives were to:

- Document the status of the transition of undissolved group ranches to community land in Kenya.
- Assess the involvement of the vulnerable and marginalised (women, youth, and other minority groups) in the transition process.
- Identify challenges and enablers of the transition process.
- Establish the extent to which the National and County Governments and non-state actors are supporting the registration process.
- Recommend practical measures to fast-track the transition process of group ranches, while ensuring inclusivity and equality.

1.3 The Scope

The study focused on undissolved group ranches – those that do not have consent to subdivide into smaller parcels of land for individual use. Some of the group ranches in the study had started the process of transitioning to community land, others had not. The study was carried out in sixteen (16) group ranches across four counties of Kenya: Laikipia, Samburu, Kajiado, and West Pokot.

1.4 Limitations of the Study

The study had a number of limitations that challenged the mobilisation of focus group discussion participants, the number of sampled counties, and timely dissemination of data from the study.

Drought: Due to the harsh and extended drought experienced in the northern part of the country, pastoral communities are forced to move in search of water and pasture. This meant that in some cases, the study team was unable to get to the targeted community on the set date and time. As such, meetings had to be rescheduled to ensure that the targeted participants were reached.

Inadequate budget: The budgetary implications of travel influenced the selection of counties and the number of focus group discussions.

Limited Time: Data collection was done between October and November 2021 but analysis, validation, and final launch took more time. This means that some of the data and information reported may not represent the current reality.



2.0 LEGAL AND INSTITUTIONAL FRAMEWORK ON COMMUNITY LAND

2.1 Legal Framework on Community Land

Group ranches and unregistered community land in Kenya are governed mainly under the following policy, legal, and institutional frameworks.

2.1.1 Sessional Paper No. 3 of the National Land Policy, 2009

The National Land Policy, 2009 defines community land as “land lawfully held, managed and used by a specific community.” The policy defines community as “a group of users of land, which may, but not need to be, a clan or ethnic community.” These groups of users – which include subsistence farmers, pastoralists, hunters, and gatherers – hold a set of clearly defined rights and obligations over the land.

The policy acknowledges that the process of individualisation of tenure and registration of land under the Registered Land Act (Cap 300) affected customary tenure by undermining traditional resource management institutions and ignoring customary land rights. The policy also recognises the widespread abuse of trust in the context of both Trust Land Act (Cap 288) and Land (Group Representatives) Act (Cap 287). Specifically, the policy notes that group representatives entrusted with the management of the land have, in many cases, disposed of group land without consulting the other members of their groups.

The policy proposed the following, among other measures:

- Accountability mechanism for groups, individuals, and bodies entrusted with the management of community land, and community participation in the allocation, development, and disposal of community land.
- Reviewing and harmonising the Land (Group Representatives) Act (Cap 287).
- Investing in capacity building for communal land governance institutions and facilitating their operations.

2.1.2 Constitution of Kenya, 2010

The Constitution of Kenya, 2010 recognises community land rights; defines community land to include land lawfully registered in the name of group representatives and land lawfully transferred to a specific community by any process of law; and provides that community land shall be vested in communities.

The Constitution further states that community land shall not be disposed of or otherwise used except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively. It thus instructed parliament to enact legislation on community land rights.

2.1.3 Community Land Act, 2016

The Community Land Act, 2016, was enacted pursuant to Article 63 of the Constitution. It is the main legal framework that provides for the recognition, protection, and registration of community land rights; management and administration of community land; and the role of County Governments in relation to unregistered community land.

The Act also repealed the Land (Group Representatives) Act and the Trust Lands Act.

Section 47 of the Act provides that:

- Respective group representatives shall be registered as a community in accordance with the provisions of the Act.
- The respective group representatives shall cease to hold office.
- Land held by group representatives shall not be sold, leased, or converted to private land before it has been registered.
- Title documents issued to group representatives shall continue to be in force until new titles are issued in the names of respective communities or other institutions in accordance with the Act.

2.1.4 Community Land Regulations, 2017 [Legal Notice 279 of 2017, Legal Notice 180 of 2018]

The Community Land Regulations, 2017 were formulated to operationalise the Community Land Act, 2016. Section 26 of the regulations provided for the conversion of group ranches to community land through the following steps:

The Cabinet Secretary shall cause to be prepared an inventory of all land held under the repealed Land (Group representatives) Act, (Cap 287) indicating their status.

The Registrar shall notify the group representatives and their members of the status of their land, including group representatives who had applied for their group ranch to be dissolved before the commencement of the Act but had not dissolved on the requirement to convert into a community land.

The groups are expected to make an application to register as community land within twelve months of coming into effect of the Community Land Act Regulations .

2.1.5 Land Registration Act, 2012



The Land Registration Act, 2012 gives provisions for revision, consolidation, and rationalisation of the registration of titles to land, in order to give effect to the principles and objects of devolved governments in land registration and for connected purposes. The Act applies to registration of interests in land under all the three land tenure regimes established by the Constitution.

The Land Registration Act, 2012 makes specific provisions for community land, subject to the legislation on community land to be made pursuant to Article 63 of the Constitution. Section 8 of the Act requires each registration unit to have a community land register with the following information:

- A cadastral map showing the extent of the community land and identified areas of common interest;
- The name of the community;
- A register of members of the community;
- The use of the land;
- The identity of those members registered as group representatives;
- The names and identity of the members of the group; and any other requirement.
- The Registrar is to issue a certificate of title or certificate of lease but is prohibited from registering any instrument purporting to dispose of rights or interest in community land, unless it is in accordance with the law relating to community land. The Act, at Section 10, grants the public access to information in the register either by electronic or any other means.

2.1.6 Land (Group Representatives) Act, Cap 287 (Repealed)

The Land (Group Representatives) Act, Cap 287 recognised group tenure over land and provided for the incorporation of representatives of groups who have been recorded as owners of land under the Land Adjudication Act. The Act defined groups as a “tribe, clan, family or other groups or persons, whose land under recognised customary law belongs communally to the persons who are for the time being the members of the group, together with any persons of whose land the group is determined to be the owner.”

The Act established the position of Registrar of Group Representatives whose role was to supervise the administration of the groups and ensure proper records of the groups are kept. The Registrar presided over elections of group representatives, who upon incorporation had powers to sue and be sued in their corporate name, and to acquire, hold, charge, and dispose of group property. The Act defined group ranch as a demarcated area of range land, to which a group of pastoralists who graze their individually owned herds have official land rights.

The Act was the basis of registration of group ranches in many pastoral communities. However, as pointed out earlier, Kameri-Mbote et al. (2010) identified persistent problems with group ranches. Firstly, in many cases the group representatives entrusted with the management of such group lands disposed of group land without consulting the other members. Secondly, the group representatives lacked the authority of traditional leaders, leading to questions over their legitimacy. Thirdly, government policy has tended to emphasise individual land rights over group ownership. These factors have led to defensive subdivision and individual titling of land within group ranches to avoid encroachment by government or other entities.

2.1.7 Trust Land Act, Cap 288 (Repealed)

Trust land comprised of areas that were occupied by Indigenous Kenyan during the colonial period, and which had not been consolidated, adjudicated, and registered in individual group or group ranches, as well as native land that had not been taken over by the government. Trust Lands Act, Cap 288 governed the management and administration of Trust Lands. It vested the ownership of trust land in the local government on behalf of residents within its jurisdiction.



2.1.8 Land Tenure System under Community Land Act, 2016

Community Land Act, 2016 provides that community land may be held under the following tenure system: Customary, Free hold; Lease hold; and Such other tenure system recognized under the Act of written land, as described below.

(a) Customary Tenure

These are unwritten land ownership practices by the specific communities. Customary tenure an opportunity for securing customary land rights by giving legal recognition of customary rights in land as lawful forms of property with equal legal force and effect as rights obtained and transacted under freehold and leasehold tenure. In so doing, it addresses the foundational issue that has historically undermined land rights of rural communities since colonial times.

Community land tenure rests on two pillars – the registration of a community, and registration of the community land. It is through the act of registration that the community attains the legal personality to be registered as owner of land. This is an important first step as only a registered community within the meaning of section 2 of the Community Land Act can apply to be registered as a landowner.

(b) Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. In the context of community land concept, freehold system mirrors the land (group representative) Act, where every member of the group had rights in the ownership for the group land in undivided shares. The members were entitled to reside therein free of charge with their family and dependants and make exclusive use for the group ranches resources. This was a marriage between the need to have exclusive use of an area of land and the communal ownership and use of land in these areas.

(c) Leasehold

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed including those relating to developments and usage. The maximum term under the current land laws is 99 years.

Section 35 of the Community Land Act, 2016 provides for Lease under community land. It empowers the Community to enter into a leasehold agreement with any interested party, subject to implied conditions, restrictions and covenants prescribed under Land Act, 2012.

2.2 Institutional Framework

Institution	• Roles and Responsibility
1.Cabinet Secretary	<p data-bbox="253 371 1107 405">Ministry of Lands, Public Works, Housing, and Urban Development</p> <ul data-bbox="765 483 1480 1621" style="list-style-type: none"><li data-bbox="765 483 1480 645">• Develop a national programme for public education and awareness in consultation with the National Land Commission and the respective County Governments.<li data-bbox="765 685 1480 891">• In consultation with the relevant County Governments and other stakeholders, undertake community awareness and mobilisation programmes, training, and induction for the newly elected CLMC.<li data-bbox="765 931 1480 1003">• Declare the Community Land Registration Units in accordance with the Land Registration Act.<li data-bbox="765 1043 1480 1160">• Issue public notices of intention to survey, demarcate, and register specified community lands.<li data-bbox="765 1200 1480 1361">• Gazette Land Adjudication Officers to facilitate recording of community land claims, demarcation, and delineation of community land boundaries for subsequent survey and registration.<li data-bbox="765 1402 1480 1621">• In consultation with respective County Governments, constitute additional community land registration units in specific sub-counties for purposes of ensuring reasonable access to land administration and registration services.

2. Director of Land Adjudication and Settlement

- Preparation of an inventory of land held under repealed Land (Group Representatives) Act.
- Analyse and indicate the status of the land in the inventory.
- Provide the Community Land Registrar with information on the status of all group ranches.
- Together with the Community Land Registrar, facilitate the handing over of group records, assets, liabilities, and other facilities by group representatives to community land management committees and facilitate changes caused by implementation of the Act.

3. Community Land Registrar

- Receive a detailed report on the status of land held by group ranches from the Director of Land Adjudication and Settlement.
- Notify the group representatives of their status and the actions they need to undertake to facilitate registration.
- Notify the group representatives of the dissolution status and, where necessary, advise the groups on initiating the process of registering as a community.
- Call for the first meeting of all the group members including women and facilitate the election of the CLMC.
- Register the group ranch as community land.
- Open a register for the registered community land and enter the records of particulars and interests as well as the certificate of registration, as per the Land Registration Act.
- Issue certificate of title or lease in exchange for the old title or lease.
- Cancel the existing title document and certificate of incorporation issued under the Land (Group Representatives) Act.

County Government

- Hold in trust and ensure safe custody of all unregistered community land.
- Hold all monies payable as compensation for compulsory acquisition for unregistered community land.
- Collect monies paid as a result of compensation and deposit the monies in a special interest-earning account of the County Government.
- Participate in the development of a national programme for public education and awareness.
- Participate in implementation of the public education and awareness programmes
- Prepare and submit to the Cabinet Secretary an inventory of all unregistered community land within their jurisdiction to facilitate preparation of a comprehensive adjudication programme.
- Ensure, coordinate, and assist communities in developing administrative capacity for participation in governance at the local level. This can be relied upon to ensure that communities effectively participate in the management of community land.

National Land Commission

- Gazette any community land identified as public purpose land and facilitate registration in the name of the identified public entity.
- Pursuant to monitoring and oversight responsibilities over land use planning, request the County Government to submit records of land use and development plans prepared by the registered community and lodged with the County Government.
- Facilitate the conversion of public land to community land, in accordance with the Land Act, 2012.
- Monitor registration of rights and interest in land and advise the National Government on a comprehensive programme for the registration of title land throughout Kenya.

Group Representatives

- Initiate process to convert into a community land as per the Community Land Act, if the dissolution process has not gone through.
- Undertake fresh registration of all the community members as required by the Community Land Act.
- Review and/or make rules and regulations to govern the registered community land.
- Make an application to register as a community.
- Surrender the existing title document and certificate of incorporation under the repealed Land (Group Representatives) Act.
- Hand over of all community assets and documents to the community land management committee.
- Finalise the process of dissolution within three years (if they have applied for dissolution and have been issued with the certificate).

Civil Society Organisations

- Community mobilisation and sensitisation.

2.3 Legal Steps to Register Community Land

- Step 1** Complete and submit CLA Form 1 (Application for Recognition of Interest/Claim on Community Land), to notify the government that the community intends to go through the process of legally claiming its land. The form can be completed by any 10 members of the community.
- Step 2** Elect a 7 to 15 member Community Land Management Committee (CLMC). At least one-third of the committee members must be women. An official from the Community Land Registrar or someone delegated by the Registrar must oversee the election.
- Step 3** Create participatory bylaws for community land governance, membership and rights, and natural resources management. The bylaws must be formally adopted by at least two-thirds of all adult community members.
- Step 4** Create a Community Register that includes the names, dates of birth, and ID numbers of all community members.
- Step 5** Complete and submit CLA Form 3 (Application for Registration of a Community). This form should be completed by the Community Land Management Committee. This form begins the process of registering the community as a legal entity that has nearly all the same rights as a legally registered company, including the rights to sign contracts, sue, and be sued. After the government approves the application, the community will receive CLA Form 4 from the government that shows that the community has been officially registered. The community must receive CLA Form 4 before it can continue the land registration process.
- Step 6** After the community agrees on its boundaries with its neighbours and recognises historic shared access rights, the CLMC should complete and submit CLA Form 5 (Application for Recognition and Adjudication of Claim on Community Land). The CLMC must include evidence of the community's land claim. This can be a description of the boundaries, a sketch map, or a GPS map.
- Step 7** The government will then put an official notice of the community's land claim in local media and will give anyone with a competing land claim time to notify the government.
- Step 8** The government and community will work together to resolve any land conflicts or completing land claims.
- Step 9** After any and all land conflicts have been resolved, the community will work with a government surveyor to create an official map of the community's land.
- Step 10** After the map has been processed by the government, the community will receive a title to its land.

2.4 Community land Registration in other Jurisdiction

2.4.1 Introduction

Over the past decade, several African countries have introduced new legislations to protect community/collective land rights. Countries which have enacted legislation to protect community/collective land rights across the continent include South Africa, Mozambique, Zambia, Uganda, Tanzania, Kenya, Liberia, and Sierra Leone. This move is seen as an attempt to recognize the customary rights of local communities, and to mainstream their involvement in resource governance and development. The laws are aimed at securing community/collective land rights and to place local communities as key stakeholders on investments over their lands.

This section reviewed selected cases of countries and their effort in terms of community land registration

2.4.2 Botswana

Botswana enacted a Tribal Land Act in 1968 to provide mechanism for governance and administration of land according to customary laws.

The Act replaced chiefs and headman with appointed and elected land boards in order to create mechanism to bring customary authorities, state officials and elected representatives together to jointly take on the administration and management of land in Botswana. The Boards were well-designed decentralized system of land administration that relies heavily on a back and forth with local customary leaders.

The main innovations concerning statutory recognition of customary land rights established through include the following.

- Customary, elected, and state-appointed leaders administer and manage land together under both customary and statutory tenure, thereby merging the two systems into one,
- Mechanisms to transform customary land claims into legal grants of customary land rights, as valid and enforceable as formally-granted titles,
- Holders of customary land rights have tenure security over their individually-held land, as well as the ability to transfer, sell, bequeath, or assign their land rights,
- All allocation of land is free of charge, as under custom.

The longevity of Botswana's Tribal Land Act offers multiple insights into how systems that integrate customary and state land administration practices evolve and are modified over time. As Botswana has changed, aspects of the land board system have also changed. For example, as a result of a series of amendments over the years, the land boards have been professionalized and modernized. Customary leaders were removed from the land boards and replaced by officials appointed by and accountable to the Minister of Lands.

The other aspects of the land board system have remained relatively the same since their inception. The land boards have found it necessary to continue to rely on ward chiefs or headmen (the lower-most level of the customary hierarchy) for their on-the ground knowledge of local terrain, existing customary claims, and community dynamics. So while chiefs have been phased out, headmen have remained an integral part of Botswana's land management system. However, glaring gaps in the law – particularly regarding the land rights of women and minority ethnic groups – have not yet been filled in, despite recent amendments.

2.4.3 Mozambique

The Government of Mozambique established an inter-ministerial land commission to develop the land law policy. The law is flexible and encompasses all of the various land tenure systems practices in rural communities throughout the nation. The land law creates new systems of land management and sharing designed to foster integrated rural investment and development and bring prosperity to rural communities.

Its length and simplicity have meant that it can be directly translated into many of the languages spoken in Mozambique and read, taught and understood by Mozambicans from all walks of life. Most importantly, the land law elevates custom and all customary land claims up into formal law at a stroke, giving weight and legal validity to the land claims of the rural and urban poor without the need for formal documentation.

The primary innovations concerning statutory recognition of customary land rights established by the Mozambique land law and accompanying legislation include:

1. Customarily-held land rights are equal in weight and validity to administratively-granted land rights;
2. Local communities are the lowest level of land and natural resource management and administration;
3. The local community may choose and create the leadership structures and rules by which it will administer and manage its lands (customary or otherwise);
4. Customary principles of land management (including land transfer, dispute resolution, inheritance, and demarcation) govern community land use and allocation with the "local community";
5. Women have equal rights to hold, access and derive benefits from land independent of any male relatives: this principle overrides any contrary customary rule;
6. No written proof of customary rights is necessary; the oral testimony of an individual's neighbours that he or she has been occupying land in good faith for more than ten years is proof equivalent to and as enforceable as a paper title;
7. Processes for delimitation and registration of local community lands as a whole are established, after which the community becomes a legal entity, capable of transacting with outsiders;
8. Communities must be consulted before an investor or outsider application for land within that community can be granted, and are empowered to negotiate for mutual benefits in exchange for the use of their land;
9. Customary rights of way and other communal areas are explicitly reserved and protected; and
10. The decisions of community-level (customary) dispute resolution bodies are appealable directly up to the highest court of Mozambique.

The law's implementation has faced various challenges, for two primary reasons. First, (as in Botswana) even the best-drafted laws are prey to the complex manoeuvres of a nation's powerful elite and the reticence of administrative agencies to alter governance systems and power dynamics. As such, one might explain Mozambique's implementation challenges as stemming from the government's efforts to amend and undermine the original intent of the law. Mozambique's land law lacks critical systems of checks and balances, oversight structures, and enforcement mechanisms. As such, it does not go far enough to protect the rights of the most

poor and vulnerable within rural communities or include sufficient legal protections for communities against external threats.

2.4.4 Tanzania

Tanzania enacted Village Land Act No 5 of 1999, to protect the more vulnerable members of a community from power imbalances and struggles within each village. Pastoralists, women, orphans and disabled people are all explicitly and repeatedly protected. The primary innovation concerning the recognition of customary land rights established through the Act include the following;

1. Customarily-held land rights are equal in weight and validity to formally-granted land rights;
2. Processes for titling, granting and registration of family and communal land within village are established, with village councils given the power and authority to administer and manage village lands according to customary rules;
3. Women gained equal rights to hold, access and derive benefits from land; importantly, the act sets out that the burden of protecting and enforcing women's, widows and orphans' land rights falls on the village council
4. Communal areas and pastoralists' land claims are formally recognized and protected;
5. New village-level land registries were created to formally register customary land rights.
6. Tanzania's informal land market was formally recognized, including addressing issues of market value, and rules relating to sale, rental, mortgage and transfer of land within villages, including sale and transfer of customary land rights; and,
7. The decisions of village-level, customary dispute resolution bodies are appealable directly up to the highest court of Tanzania (under the Land Disputes Settlement Act of 2002).



Undissolved Group Ranches' Transition to Communities Workflow

Pre- Transition

Preparation of an inventory of undissolved Group Ranches by Director of Land Adjudication - Section 8(2), (3)

Director of Land Adjudication hand over Group Representatives' document to the Chief Land Registrar Gazette Notice Establishment

Gazette Notice establishing Community Land Registration Units by Cabinet Secretary (CS) in Charge of Land matters (Section 10 of Land Registration Act, 2012)

Designation of Community Land Registrar for every Registration unit by Chief Land Registrar (Section 9 of CLA)

Appointment of Land Adjudication Officers through gazettelement for each Registration Unit by CS/DLAS (Section 11(2) of CLA, 2016)



Transition

Undissolved Group Ranches submit Applications for Recognition of Interest or Claim on Community Lands – Form CLA 1 to the Community Land Registrar

Election of Community Land Management Committees (CLMCs) by Undissolved Group Ranches in inaugural meeting convened by Community Land Registrar or Public Officer appointed by CLR for the purpose – **Section 7(2) of CLA, 2016**

Application for Registration of Communities by **CLMC to the Community Land Registrar – Form CLA 3**

- Name of community
- Register of members
- Minutes of community assembly
- Rules and regulations

Description of community land - Section 7(6) of CLA, 2016

Registration of Communities and issuance of Certificate of Registration

Form CLA 4 to CLMC by the Community Land Registrar

CLR maintains Register of Communities - Form CLA 5. (Section 8 of LRA, 2012)

Registration of Community Land by Community Land Registrar and issuance of Certificate of Title or Lease (Section 8 of LRA, 2012)



Post-Transition

Determination of Customary Right of Occupancy.
Applicant submits Form CLA 9 to CLMC
Community Assembly approves or rejects application
CLR issues Certificate of Customary Use & Occupancy (Form CLA 10)
CLR makes entries in Land Register
Land Use Planning



3.0 METHODOLOGY

3.1 Introduction

This section outlines and describes the research design, target population, study area, sampling procedure, data collection instruments and procedure, as well as the data analysis technique.

3.2 Research Design

This study adopted quantitative research design. The approach helps in gaining new insights, discovering new ideas, and expanding knowledge of the phenomena. Creswell (2013) posits that a descriptive research design is adopted when information is gathered to describe persons, organisations, settings, or phenomena. The choice of descriptive design was informed by the fact that the study sought to describe a single phenomenon.

3.3 Target Population

In this study, the target population were County Executive Committee Members, land officers from the State Department for Lands (Land Adjudication and Settlement Officer, Community Land Registrar), members of the community and the Community Land Management Committee.

A total of sixteen (16) heterogeneous focus group discussions, representing sixteen (16) undissolved group ranches, were conducted with 149 participants sampled from both community members and community land management committees (CLMCs).

Table 1: Distribution of Key Informants per County

Laikipia	West Pokot	Kajiado	Samburu
County Executive Committee Member lands (male)	Chief of lands (male)	County Executive Committee Member lands (male)	County Executive Committee Member lands (female)
Land Adjudication and Settlement Officer (male)	Land Adjudication Officer (male)	Land Adjudication Officer (female)	
Community Land Registrar (female)	Community Land Registrar (male)	Community Land Registrar (male)	Ministry of Lands Registrar (male)

3.4 Sampling Procedure

According to Ogula (2005), sampling is a procedure, process, or technique of selecting a subgroup from a population to participate in a study. That is, it is the process of choosing a number of individuals for a study in such a way that the individuals chosen represent the larger group from which they were selected.

The study used purposeful sampling to identify respondents to participate in the study. Tongco (2007) observes that purposeful sampling, also known as judgement sampling, is the intentional choice of a respondent based on their attributes. In this study, the key respondents, or “informants”, at the county level were purposely selected

due to their wealth of knowledge and experience in the community land transition process. They included Land Adjudication Officers, County Executive Committee Members, Community Land Registrars, and County Chief Officer of Lands. Table 1 shows the distribution of key informants per county.

The selection of the sixteen (16) undissolved group ranches for study was purposeful; it enabled lessons to be drawn from communities that had successfully transitioned to community land and those yet to transition. The study sampled group ranches in Samburu, West Pokot, Laikipia, and Kajiado (Table 2). Please note that the group ranches that intended to register as community lands were still in the process of updating their registers. Accordingly, the number of registered members at the time of the study should not be considered to be official or conclusive.

Table 2: Description of the Sample Group Ranches

County	Group Ranch	Sub County	Ward	Registered Members	Estimate Size (Ha)	Predominant Land Use
Laikipia	Kurikuri	Laikipia North	Mgogodo East/ West	175	6,230	Pastoralism, conservancy, settlement, and beekeeping
	Musul	Laikipia North	Mukogodo	638	2,646	Settlement, grazing, conservancy
	Ilingwesi II	Laikipia North	-	448	3,673	Grazing, settlement,
	Murpusi	Laikipia North	Mmunyot	1,150	13,000	Grazing
Samburu	Marti	Samburu North	Le-darta	2,000	27,131	Grazing
	Tinga B	Samburu Central	Mosul	1,100	4,999.6	Grazing, settlement, conservation
	Ngilai est 1	Samburu East	Wamba North	3,842	27,000	
	Gigir	Samburu East	Ewaso	42,000	16,000	Grazing, settlement, conservation, farming
	Sere Olipi	Samburu East	Waso	1,289	168,641	Sacred places, grazing, settlement, conservancy, water points

Kajiado	Olkeri	Kajiado West	Magadi	273	47,314	Grazing, settlement, towns, conservancy
	Olkeramatian	Kajiado West	Magadi	1,429	24,000	
	Shompole	Kajiado West	Magadi	3,200	62,889	
West Pokot	Chemchoi	Kapengurla	Kapenguria	498	1,835	Settlement
	Chesra	West Pokot	Chabararia	1,292	10,635	Farming, beekeeping
	Pachuk	Pokot Central	Lomut	1,800	1,988	
	Korelach	Pokot South	Korelach	1,305	2,000	Limestone mining, grazing, settlement

Source: Field Survey, 2021

3.5 Data Collection Instruments and Procedure

The study used both primary and secondary data. Primary data was collected through field work using various techniques. The main data collection method was key informant interviews and focus group discussions. A key informant interview guide was used to facilitate in-depth interviews with people in the field of study who are conversant with subject matter in the four counties. Similarly, a focus group discussion guide was used to facilitate focus group discussions with community members (men, women, youth, and local leaders). Semi-structured interview guides with a hybrid of both open and closed ended questions were used in key informant interviews and focus group discussions. Secondary data from the Ministry of Lands was also collected.

3.6 Data Analysis

The data collected was analysed using both quantitative and qualitative data analysis methods. A digital data platform (Google Forms) was used for data management. Data was then downloaded to Excel, cleaned, and organised per thematic area. Six core themes – land management, community land registration progress, inclusion, challenges/disputes during registration process, external support received, and cost of land registration process – formed the basis of a deductive coding process. An inductive coding process was then done to capture emerging trends, key highlights, and identification of codes for further quantitative analysis. Codes from the inductive process were summarised as sub-themes under core thematic areas and quantified based on mentions per community. Inferences, trends, divergences, and connections across themes, backed by quotes, were then used to develop a narrative with key findings.

Figure 1: Photos of the Data Collection Process



4.0 FINDINGS AND DISCUSSIONS

4.1 Status of the Transitioning of Group Ranches to Community Land in Kenya

The Community Land Act, 2016 requires group ranches to apply for registration as community land. This is preceded by an inventory that has been prepared by the Cabinet Secretary.

Despite the enactment of the Community Land Act in 2016, by the 16th of May 2023, only 46 (14.6%) out of 315 undissolved group ranches across 11 counties had transitioned to community land while 63 (20%) were undergoing subdivision (Table 3).

Table 3: Status of the Transitioning of Group Ranches in Kenya

S/No	County	Undissolved Group Ranches	Transited	Group Ranches Undergoing Subdivision
	Baringo	4	0	1
	Kajiado	2	2	13
	Kilifi	6	0	0
	Kitui	4	0	0
	Kwale	3	0	2
	Laikipia	13	13	0
	Narok	239	0	23
	Samburu	25	21	12
	Siaya	6	0	0
	Taita Taveta	6	5	0
	West Pokot	7	5	9
	Embu	0	0	3
Total		315	46	63

Source: SDLPP, 2023

4.1.2 Status of the Transition in the Study Area

The study sought to establish the status of the transition of group ranches in Samburu, West Pokot, Laikipia, and Kajiado Counties. The findings indicate that in November 2021, three ranches out of sixteen (16) had completed the process and received their community land title. Ten (10) were in the process of transitioning; they had filled CLA Form 1, elected members of the Community Land Management Committee, developed a register of the adult members of the community, prepared maps, submitted the applications to the Community Land Registrar, and were awaiting the subsequent processes of registration, that are to be done by the Community Land Registrar. Two group ranches indicated that they are not interested in transitioning, having earlier applied for dissolution with the intent to subdivide, while one was yet to decide on whether to proceed with transitioning or pursue subdivision.

By May 2023, the number of those who had transitioned had increased to thirteen (13) (Table 4).

Communities that applied for dissolution/subdivision and received a consent letter from the Registrar before the passing of the Community Land Act can legally proceed with subdivision. Those that did not receive a consent letter before the passage of the Act are required to first transition to community land and then subject the subdivision decision to the community assembly, which includes all adult members of the community. If more

than two-thirds of the assembly endorse the decision, then they can submit the minutes from the meeting to the Registrar for acquisition of a consent letter. To evade this step in the process, some communities are colluding with officials in the Registrar’s office to secure back-dated consent letters.

Table 4: Status of Individual Group Ranches in the Study Area

County	Group Ranch	Status of Transition as of July 2021	Status of Transition as of May 2023
Samburu	Ngilai West 1	<ul style="list-style-type: none"> • Transition in progress. The milestones below had been achieved: Application for registration into community land submitted. • Members of the Community Land Management Committee elected. • Register of adult members created. • Deed plan for use in registration acquired. • Awaiting feedback from the National Government. 	Transitioned
	Tinga B	<ul style="list-style-type: none"> • Transition in progress; the milestones below had been achieved: • Application for registration into community land submitted. • Members of the Community Land Management Committee elected. • Register of adult members created. • Deed plan for use in registration acquired. • Awaiting feedback from the National Government. 	Transitioned
	Sere Olipi	Transition complete; Community Land Title received.	Transitioned

	Marti	<p>Transition in progress; the milestones below had been achieved:</p> <ul style="list-style-type: none"> • Application for registration into community land submitted. • Members of the Community Land Management Committee elected. • Register of adult members created. • Deed plan for use in registration acquired. • Awaiting feedback from the National Government. 	Transitioned
	Gigir	<p>Transition in progress; the milestones below had been achieved:</p> <ul style="list-style-type: none"> • Application for registration into community land submitted. • Members of the Community Land Management Committee elected. • Register of adult members created. • Deed plan for use in registration acquired. • Awaiting feedback from the National Government. 	Transitioned
West Pokot	Pachuk	Registration process barely started; only a few community-level meetings convened on the same.	Have not transitioned
	Chesra	Transition complete; Community Land Title received.	Transitioned
	Chemchoi	Transition complete; Community Land Title received.	Transitioned
	Korelach	Not interested in transitioning, but rather dissolving the group ranch. The community is unsure if they obtained consent to subdivide prior to the enactment of the Community Land Act, 2016. If they do not, then they will have to transition before they can subdivide.	Not interested
Laikipia	Ingwesi II	Transition complete; Community Land Title received.	Transitioned

	Kurikuri	<p>Transition in progress; the milestones below had been achieved:</p> <ul style="list-style-type: none"> • Application for registration into community land submitted. • Community was following up with the National Government for their application for registration to be processed. 	Transitioned
	Murpusi	<p>Transition in progress; the milestones below had been achieved:</p> <p>Application for registration into community land submitted.</p> <p>Community by laws for land governance and management had been drafted</p> <p>Community was following up with the National Government for their application for registration to be processed.</p>	Transitioned
	Musul	Transition complete; Community Land Title received.	Transitioned
Kajiado	Olkeri	Transition complete; Community Land Title received.	Transitioned
	Olkeramatian	Not interested in transitioning, but rather dissolving the group ranch. The community has a consent letter from 1993 and as such, can proceed with subdivision.	Not interested
	Shompole	Transition complete; Community Land Title received.	Transitioned

Source: SDLPP, 2023

Korelach in West Pokot and Olkeramatian in Kajiado were the two (2) group ranches in the study that indicated that they intend to subdivide and have not initiated the registration process. Olkeramatian has a consent letter issued before the passing of the Community Land Act and therefore can legally proceed with the subdivision process. However, Korelach members aren't sure whether the group ranch committee acquired the consent letter. If they didn't, they will need to transition to community land before pursuing subdivision.

4.1.3 Functionality of Group Ranches in the Study Area

All the group ranches in the study, with the exception of Sere Olipi and Ngilai West, were registered as group ranches more than three decades ago (between 1973 and 1986). The Sere Olipi and Ngilai West groups were registered in 2013 and 2014 respectively. All sixteen (16) group ranches in the study have group ranch committees, nine of which still carry out periodic elections, an indicator that group ranch committees remain functional in most communities.

Under the group ranch system, community members are to be consulted on questions around how the communal land is used and managed, with the group ranch committee making the final decision. In some communities, like Korelach, community members were only informed during 'barazas' about key issues and decisions made. Three communities – Ngilai West, Girgir and Tinga B, all from Samburu – mentioned that major decisions were discussed and made solely by the group ranch committee members before the enactment of the Community Land Act..

4.1.4 Public Land within the Group Ranches

Group ranches have earmarked parcels of land for public facilities and amenities (Table 5). The National Land Commission is required to survey, map, and gazette the land that has been set aside for public purposes as public land. This process had not been undertaken at the time of the study.

Table 5: Some of the Public Facilities within Group Ranches

County	Group Ranch	Public Land
Laikipia	Kurikuri	Trading centres, primary schools, nursery schools, community boreholes, police post
	Musul	Markets, public schools, and police stations
	Ilingwesi II	Schools, clinics/health facilities, trading centres
	Murpusi	Holding group, secondary school, primary schools and Early Child Development Centres
Samburu	Marti	Schools, markets, water point
	Tinga B	List not provided by interviewed respondents
	Ngilai west 1	Schools, police post, markets
	Gigir	Schools, hospitals
	Sere Olipi	Air strip, shopping centres/markets, secondary school, primary school, Health centre, KWS/Police station and administration blocks
Kajiado	Olkeri	Conservancy, schools, dispensaries
	Olkeramatan	List not provided by interviewed respondents
	Shompole	Military camp, schools, police station, hospitals

West	Chemchoi	Primary schools, trading centre, dispensary
	Chesra	Schools, market, water point, hospitals
Pokot	Pachuk	List not provided by interviewed respondents
	Korelach	Schools, shopping centre

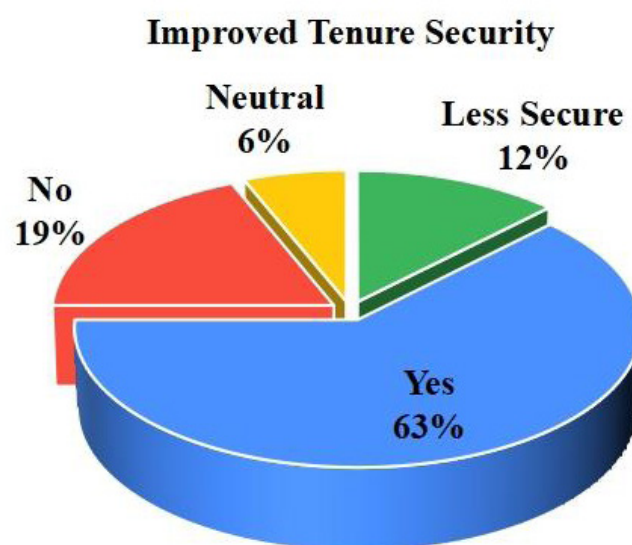
Source: Field Survey, 2021

The National Land Commission is required to document the list of public lands within the community lands and proceed to gazette them for registration. However, in all the studied communities, no gazettment of public land within the community lands had been done. This is a missed opportunity that needs to be addressed not only for the registered communities, but for all subsequent registration of community lands across Kenya.

4.1.5 Communities' Perceptions of the Significance of the Transition Process

The majority (63%) of the community members from the sixteen (16) group ranches have confidence that the transition process, once complete, will improve tenure security (Figure 2), strengthen governance structures, and improve levels of involvement in decision-making. The Community Land Act leads to improved governance by devolving land administration to local institutions at community level through the Community Land Management Committee and the community assembly. The Act vests decision-making on all matters that affect members' access and use of land to the community assembly, a step further than the Group Representatives Act which had vested these powers in the group representatives/ranch committee. This devolved power is seen by many community members as an opportunity for them to participate in shaping decisions over their lands and natural resources. This inherently improves their sense of perceived tenure security. Many believe that if they can participate in decision-making, then they can secure their land for future generations.

Figure 2: Opinions on Whether the Transition Process Will Improve Tenure Security



Improved Land Governance

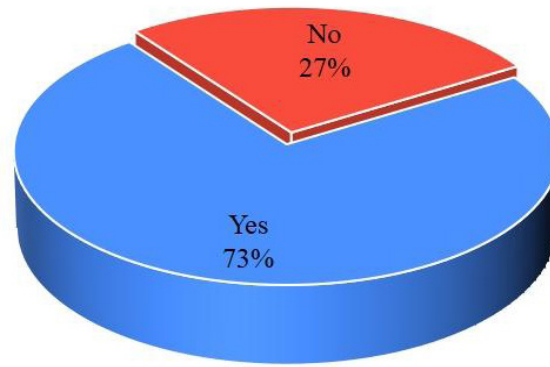


Figure 3: Opinions on Whether the Transition Process Will Improve Land Governance

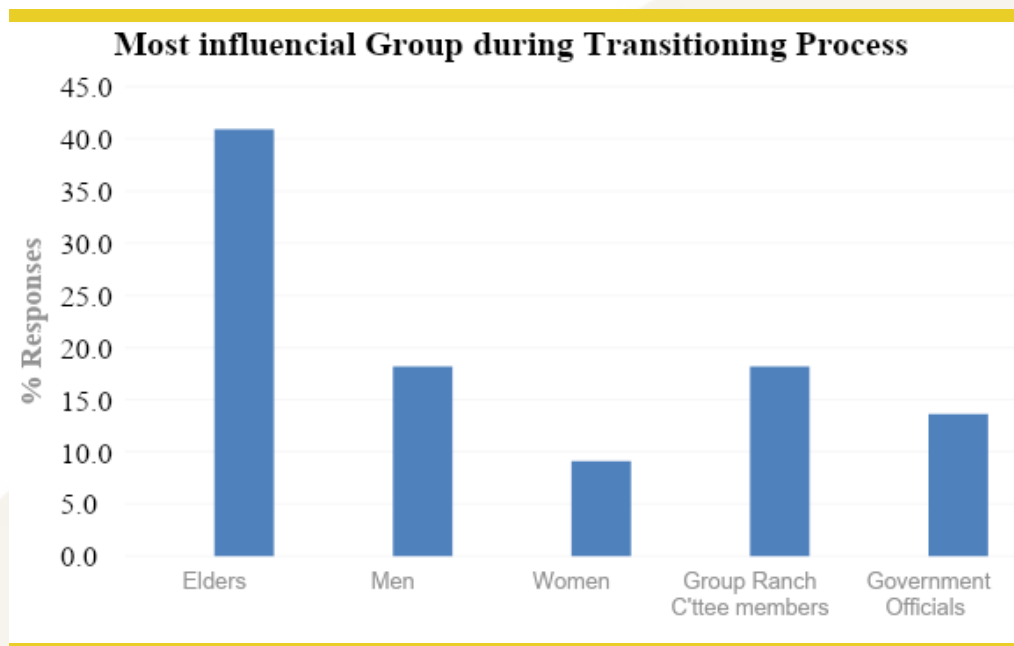
4.2; Involvement of the Vulnerable and Marginalised (Women, Youth, and other Minority Groups) in the Process

The transitioning of group ranches requires the inclusion of women, men, youth, minority, persons with disabilities, and marginalised groups. Every community member has the right to equal treatment during all dealings related to community land registration.

4.2.1 Level of Influence by Different Groups during Transition Process

The focus group discussions established that the process of transitioning involved various stakeholders: elders, youth, men, women, customary leaders, group ranch committee members, people with disabilities, and government officials (such as chiefs). When asked which group had the most influence during the transition process, 40.9% of respondents said elders and 18.2% said men (Figure 4). When asked which group had the least influence, 62.5% said women, 25% said youth, and 12.5% said people with disabilities (Figure 5).

Figure 5: Most Influential Group during the Transition Process



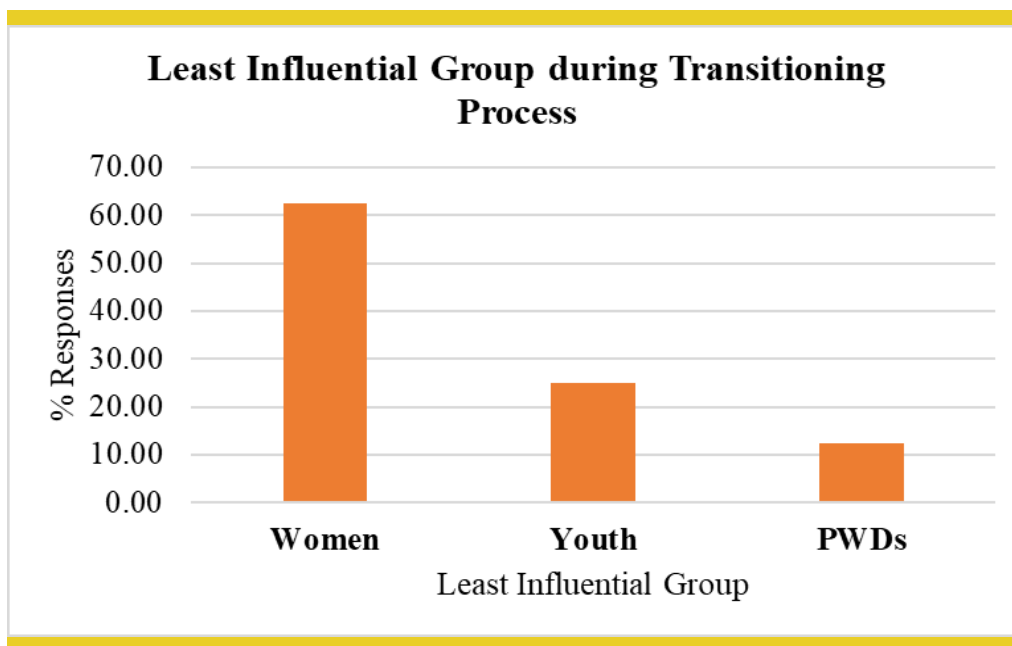


Figure 4: Least Influential Group during the Transition Process

4.2.2 Gender Composition of Community Land Management Committees

The study established the gender composition of the Community Land Management Committee within the ten (10) group ranches that had already carried out their elections. Eight group ranches achieved the required one-third representation by women while three group ranches fell short, and one did not have women, youth, ethnic minorities represented (Table 6).

Table 6: Composition of Community Land Management Committees

Group Ranch	Total Number of Members	Women	Youth	Ethnic Minorities	PWDs
Kurikuri	Not elected yet				
Korelach	N/A				
Musul	15	5	2	0	1
Marti	15	5	4	0	1
Tinga B	15	5	9	0	1
Ngilai West 1	15	5	1	0	1
Gigir	15	5	2	3	1
Sere Olipi	15	3	2	0	1
Olkeri	15	3	4	0	1
Olkeramatian	N/A				
Shompole	15	3	4	0	1
Chemchoi	15	5	2	0	2
Ilingwesi II	13	4	4	0	0
Murpusi	Not elected yet				
Chesra	15	5	5		1

Source: Field Survey, 2021

4.2.3 Gender Composition of Group Ranch Committees

Prior to commencing the transition process, the former group ranch committees were dominated by males, with female representation in nine group ranches being below 30%.

Table 7: Gender Composition of Group Ranch Committees

County	Group Ranch	Female	Male	% of female
Laikipia	Kurikuri	2	8	20
	Musul	3	7	30
	Ilingwesi II	1	10	9
	Murpusi	3	7	30
Samburu	Marti	-	-	
	Tinga B	2	9	18
	Ngilai West 1	-	-	
	Gigir	3	10	30
	Sere Olipi	4	26	13

Source: Field survey, 2021

The key informants mentioned that the increase in the number of women involved in the process of transitioning the group ranch to community land is driven by the community's push to fulfil the gender requirements of the law. Article 27(8) of the Constitution states that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender while the Community Land Act, 2016 stipulates that a minimum of one-third of elected CLMC members must be women. Women's participation in the process is neither meaningful nor structured due to cultural beliefs, low literacy, and traditional gender roles. Cultural beliefs and practices render women unequal to men and deny them the autonomy of taking up leadership positions and having their opinions taken seriously. This is especially the case in matters of land and governance, a role that was traditionally reserved for men.

The inclusion of women as a fulfilment of the law was also evident in the focus group discussions. Most communities with CLMCs, as earlier indicated, adhered to the CLA's one-third rule, with a few having a slightly less proportion of women. None of the communities had more than one-third, an indicator that it was predominantly based on requirements of the law and not community-led gender considerations. This is further supported by the fact that women are reported to have the least influence during the registration process. The ability of women to meaningfully contribute and have their opinions considered during meetings is unsatisfying.

Minority groups such as people with disabilities and small clans also tend to be sidelined and, in some communities, are denied their rightful share of land, have their decisions overruled, or are excluded from leadership roles. The involvement of the youth in most of the cases is limited to running errands on behalf of the decision makers. Other communities have embraced the diversity and integrated historically marginalised groups in the transition process. Such was witnessed among the forest dwellers in Laikipia.

“ For many communities, they are forced to comply by the law, there is resistance to include women and allow their effective participation. The Act envisions women being part of the process, however, in many communities, they cannot participate alongside the men. Participation is not meaningful, just fulfilling the minimum requirements” Key Informant , Laikipia

“Adding women into the register was resisted by most members” -

4.2.4 Enforcing the Inclusion of Women, Youth, Minority, Persons with Disabilities, and Marginalised Groups

The Community Land Act, 2016 mandates the Community Land Registrar to enforce non-discrimination of any person in all dealings with community land. This enforcement primarily occurs during the registration process. The Registrar scrutinises the application documents, including the community land register and list of elected officials.

A review of the statutory form CLA 2 on the Notification of Change in Composition of CLMCs (Figure 3) and CLA 3 on the Application of Registration of Community (Figure 4), established there is no column to document gender, in case of changes in the CLMCs.

Similarly, the community land register, provided for under Section 8 of the Land Registration Act, 2012 and 14 and 15 of the Land Registration (General Regulations), 2017, are not explicit on the requirement to include relevant details that will guide the Community Land Registrar when processing the application. Such details would include the gender, age, and physical disability. The Act and the regulations have equally not provided a standard form of the community land register. Communities are left to design their own.

Figure 7: Form CLA 2 - Composition of CLMC

Form CLA 2
[Reg. 7(2).]



REPUBLIC OF KENYA
MINISTRY OF LANDS AND PHYSICAL PLANNING

Notification of Change in Composition of community Land Management Committee

To: The Community Land Registrar

We, the undersigned Community Land Management Committee do hereby give notice that by reason of death/retirement/removal/resignation/ other _____ of:

(a) _____

(b) _____

(c) _____

the community assembly vide a resolution passed on the _____ day of _____ 20 _____ elected the following to be a member(s) of the community land management committee in replacement thereof:

Name	Addresses	Occupation	Age	Signature
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

A certified true copy of the resolution passed at the said assembly is hereby attached to this notice.

Dated this _____ day of _____ 20 _____

Signed by the following five members of the committee

Name	Signature
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



REPUBLIC OF KENYA
MINISTRY OF LANDS AND PHYSICAL PLANNING

Application for Registration of a Community

To: The Community Land Registrar

P.O. Box _____

Nairobi.

We the undersigned community land management committee hereby inform you that at a community assembly held at _____ on the _____ day of 20 _____ in accordance with section 7 of the Community Land Act, 2016 rules and by-laws were adopted. The draft rules and by-laws of the Community are attached to this application together with a register of the proposed members and a certified true copy of the minutes of the said meeting. We hereby apply under section 7(6) of the Community Land Act, 2016, for registration of the _____ Community.

The following are particulars of the community: —

- (a) The name of the community _____
- (b) Description of the area determined in accordance with the Community Land Act, 2016 _____
- (c) Registered office of the community (if any) _____
- (d) Postal address of the community _____
- (e) Object and purpose of the community _____
- (f) Names, addresses, occupations and dates of birth of the community land management committee

Name	Addresses	Occupation	Age	Signature
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Provision is made in the draft rules and by-laws of the community for all other matters connected with the community and its functions.


Date _____

*To be signed by all the members of community land management committee

Figure 8: Sample Register of Members - Musul Community Land



REPUBLIC OF KENYA
THE COMMUNITY LAND ACT NO. 27 OF 2016



REGISTER OF MEMBERS

GCL2021-001 Ref. _____

Registered Number	Name	Christian or Forenames	Gender	ID Number	Telephone No.	Date of Becoming a Member	Date of Cession of Membership	Disability of Member	Guardian	Signature or Fingerprint of Member	Remarks
1	STANLEY	KURENGE	LENYAKUPIRO								
2	ENALAN	LEMARIMA									
3	LMARAN	LESANJAI									
4	MACHON	LEMMELE									
5	KUTAND	LEKUPORA									
6	ADUME	LEKUBATI									
7	LOKURA	LENYAKUPIRO									
8	LOKUPEN	LEKILVAI									
9	NYIKALAN	LEKODHET									
10	HONGESA	LEKUNDISA									
11	LEPIYAN	LENYATASA									
12	LEISI	LEKODHAI									
13	BARUBI	LESADIRA	LEKLOI								
14	WIDONKO	LENYAKUPIRO									
15	MUDI	LEKODHET									
16	BUTURE	LETIMPA									
17	PAYO	LESILH									

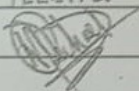
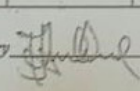
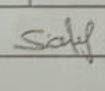
Signatures: Chairman  Secretary  Treasurer 

Figure 9: Sample Register of Members - Musul Community Land

Musul community land. Register of Members 15/04/2021

1	SANTIA	M	
2	TOILALO NKAIDURI LEROREN	F	
3	DAMARIS MENTEN MESHAMI	F	
4	GODFREY KAMPAN PUTUNOI	M	
5	MAXWELL MASINGOT PUTUNOI	M	
6	LESAYON IRKA LELARPEI	M	
7	LORMESHURI IRKA LELARPEI	F	
8	KURIYA OLE LESEBE KIRATEI	M	
9	JANE TINGIS PUTUNOI	F	
10	KILAU KASOSI LARPEI	M	
11	PETER LEKIPALUAI	M	
12	NDIOKO OLE SILAGE	M	
13	NAIMUTE NAIYIBA OLE SILANGE	F	
14	ESTHER PERE	F	
15	FELIX SAMINKO LARPEI	M	
16	JOHN MEGWAR KESIER	M	
17	EUNICE NAAMINISI KESIER	F	
18	SAKIN LEITORE	M	
19	JOHANA JOSHUA ITANGERE	M	
20	JACKLINE NASIANTOI YIANGERE	F	
21	FRANCIS SIRONGA KENGE	M	
22	YIATE SIRONGA KENGE	F	
23	NGACHAR KIKUELE LEPERE	M	
24	SUSAN MULERA LEPERE	F	
25	MIRIAMU ANTONELLA STEITON	F	
26	MAGDALINE NADUNGU SAFARI	F	
27	NANKORIA PILIWAN LARPEI	F	
28	KAIPOI OLE KIRANY	M	
29	NYAYUN LOLOCHUPUKA	F	
30	NDONGUTA NAINCHIN LERUSO	F	
31	MAKUTIAN LOKAPUR LURUSO	F	
32	NAIMBAN LEMOKE PERE	F	
33	STEPHEN LEMOKE TINGANGI	M	
34	LEKUYAN SINYONG KASANA	M	
35	SIROTE LEKUYAN LEKASANA	F	
36	SEPELON SONYOK LEKASANA	F	
37	CHARITY NASHANGAI LEERESH	F	
38	LAPEI FREDRICK MUSA	M	
39	STEPHEN SAIRO LARPEI	M	
40	EMANUEL MAFAN LARPEI	M	
41	RUSO LENTUSA JAMES	M	
42	JOSPHINE REGINA RUSO	F	
43	JOSHUA TOBIKO OLE MOLO	M	
44	ITEMU OLE RUSO	M	
45	JANE MLOTUESHA LERUSO	F	
46	RISATO RUSO	M	
47	CHRISTINA LERUSO	F	
48	WAMBUI KIRINGA LELARPEI	F	

4.3 Challenges of the Transition Process

The study sought to establish the common challenges hindering the transition process, as cited by the key informants and participants of the focus group discussions. The main challenges were conflicts and disputes (39.7%), financial constraints 22.4%, lack of information (20.6%), and registration process difficulties (17.2 %) (Table 8).

Table 8: Challenges Affecting the Transition Process

Challenges to transition process	No. of Respondents	% Respondents
<ul style="list-style-type: none"> • Registration process • Delay by Community Land Registrar in processing the applications after submission of requisite documentation. • Difficulty in filling the paperwork. • Difficulty in getting a Registrar to oversee Community Land Management Committee election. 	10	17.2
a. Conflicts and disputes	23	39.7
b. Financial constraints	13	22.4
c. Lack of information	12	20.6
Total	58	100.0

Source: Field Survey, 2021

4.3.1 Registration Process

The process of transition is well stipulated in the Community Land Act Regulations. Communities must submit an application form, conduct CLMC elections, and develop a community land register. The respondents cited that they found the following aspects of the registration process problematic.

a. Delay by Community Land Registrar in processing the applications, after submission of requisite documentation

On average, the group ranches interviewed that successfully transitioned, took between one to two years to complete the process and receive their title deeds. Other group ranches reported to have submitted their application between 2019 to 2020 and were yet to receive their community land title. .

b. Difficulty in filing the paperwork for community land registration

The community is required, at the minimum, to fill a number of application forms: CLA 1 (Application for Recognition of Interest/Claim on Community Land), CLA 2 (Composition of Community Land Management Committee), CLA 3 (Application for Registration of a Community), and CLA 6 (Inventory Form for Unregistered

Community Land). These forms are in English, which pose a challenge to most communities as English literacy levels are low.

The Land Registration Act, 2012, as earlier indicated, has not provided a community land register template, which also inhibits the smooth completion of the exercise.

c. Difficulty getting registrar to oversee the Community Land Management Committee Election

The Community Land Registrar is required under the Community Land Act, 2012 to invite all members of the community to a public meeting for the purpose of electing the members of the Community Land Management Committee. CLA Regulations 4 (1) require the Land Registrar, in consultation with the National and County Government representatives for the area where the land is located, to convene and oversee this electoral process.

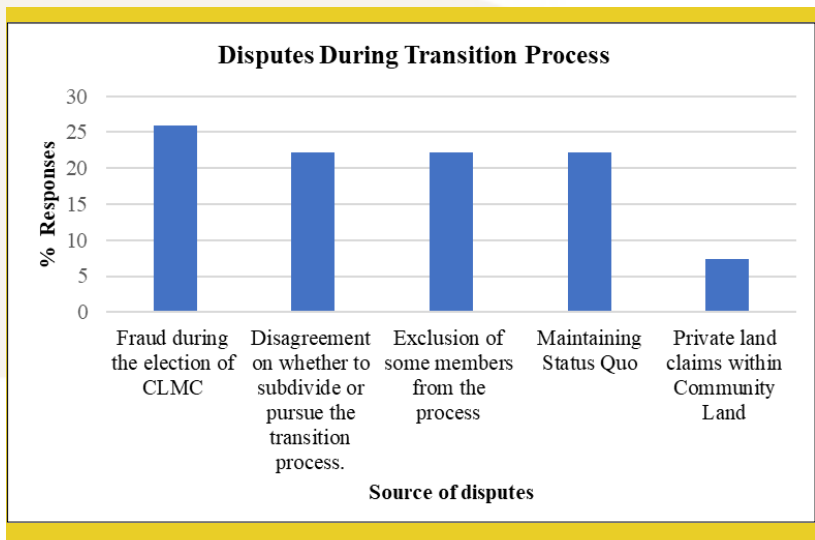
In 2020, the Ministry of Lands, Public Works, Housing, and Urban Development deployed Community Land Registrars in 24 counties, including those in the area under study. The Community Land Registrar is expected to undertake the functions specified in Section 2.2, in addition to supporting the normal duties assigned within the registry.

The respondents noted that, in some instances, the Registrar is not easily available to oversee the elections as required. This was attributed to capacity limitations as the Community Land Registrar also serves as the Registrar of Lands in the county. The other challenge observed was logistics and resources to enable the Registrar to execute their mandate.

4.3.2 Disputes

Disputes are common during the registration of community lands. This is particularly so because of the involvement of diverse groups in the process. The study established that eight group ranches, representing 50% of the study population, experienced conflicts during the registration process. The table below shows some of the major disputes associated with transitioning of group ranches.

Figure 10: Disputes during Transition Process



Source: Field Survey, 2021

a. Disagreement on whether to Subdivide/Privatise or pursue the transition process

The conflict around the push for subdivision of group ranches emanates from the desire of the proponents to have individual parcels of land for personal use, including accessing credit. In other instances, the desire to subdivide is fueled by the urbanisation and adoption of farming which requires permanent individual ownership. The opponents, on the other hand, argue that such a move would jeopardise collective management and pastoral livelihoods where people need to access large areas of pasture for grazing.

b. Exclusion of Some Members from the Process

The Community Land Act, 2016 requires that all members of the community are included in the community register. There is a section of the community members who are opposed to registering everyone, including women and ethnic minorities. In Marti, Samburu for instance, the members fear that the inclusion of everyone in the register would mean less land allocated to original owners, in the event of future subdivision.

c. Fraud during the Election of Community Land Management Committee Members

The election of Community Land Management Committee members is a point of contention in most of the group ranches. It was noted that some former group ranch leaders had become quite wealthy and influential, with others holding political positions, who then leveraged their popularity to influence CLMC elections. Some of them would ferry voters from far places to come and vote in their favour. These practices complicated the elections as some previous group ranch leaders were not willing to relinquish their powers while community members who had experienced their poor governance and corrupt tendencies sought to vote them out.

d. Private Land Claims within Community Land

Nearly one-quarter of respondents (22%) indicated that they had private land claims within the community land. Others had issues with investors who had leased part of the land and were not sure what would happen once the registration was completed.

e. Maintaining Status Quo

There are community members who preferred the group ranch arrangement. They were sceptical of the transition process and concerned about losing the rights and privileges that came with group ranches to other parties, including the government. They benefited from the group ranch system and accordingly wanted to maintain the status quo without any interference.

f. Dispute Resolution

The Community Land Act provides mechanisms for dispute resolution, starting with mediation. If mediation does not work, they proceed to arbitration, followed by the formation of a committee composed of National and County Government officials to resolve the dispute. If a resolution still cannot be reached, the case is referred to formal courts of law. All the conflicts and disputes experienced in the group ranches under study were resolved through alternative justice systems, specifically mediation and arbitration through *barazas*, convenings with local elders, and the Community Land Management Committee.

4.3.3 Financial Constraints

The transition process is capital intensive and requires a substantial amount of financial resources to complete. The cost elements include: community sensitisation and awareness meetings, statutory notices, the election of members of the CLMC, developing the bylaws, updating the community register, submission of the forms, survey and mapping, and dispute resolution.

The study sampled the cost of most common expenses incurred by the communities during the registration process.

Table 9: Sampled Budgetary Provisions for Transition Process

Group Ranch	Community sensitisation and awareness meetings (Kshs)	Statutory notices (Kshs)	Election of members of CLMC (Kshs)	Submission of the forms (Kshs)	Other costs (Kshs)	Total (Kshs)
Musul	130,000	73,000	150,000	20,000		373,000
Ngilai West 1	1,000,000	70,000	200,000			1,270,000
Olkeri	150,000	100,000	200,000		50,000	450,000
Shompole	1,000,000	70,000	500,000			1,570,000

Source: Field Survey, 2021

It can be observed from the analysis above that the cost depends on the size of the group ranch. Community sensitisation and awareness takes the largest share of the cost. The funds for use during the registration have been either raised from among the groups' members or received from the community based organisations and NGOs.

Some counties have shown intention to financially support communities to transition. Samburu and West Pokot, for instance, budgeted Kshs. 3 million and 14 million respectively, however these amounts were not ultimately allocated. Laikipia County allocated Kshs. 250,000 per group ranch to support the transition process.

The Ministry of Lands, Public Works, Housing, and Urban Development has a statutory mandate to facilitate the transition of group ranches through financial and human resources. The development expenditure by the Ministry under processing and registration of title deeds was analysed for a period of five years (Table 10).

Table 10: Expenditure on Processing and Registration of Title Deeds

Financial Year	Approved Estimates (Kshs)
2017/2018	1,231,274,282
2019/2020	1,685,000,000
2020/2021	1,561,000,000
2021/2022	895,000,000
2022/2023	377,500,000

Source: GoK, 2023

The budgeting and expenditure by the Ministry is not segregated into the different categories of land. This notwithstanding, the table shows a continued decline of the development expenditure over the period of five years. This affects the registration of group ranches.

4.3.4 Inadequate

The respondents indicated that the processes that are required during the transition are not clear to them. The land officers responsible for registration of group ranches to community lands required to be taken through the provisions of the law to adequately enable them offer support to the group ranches during the transition process.

Sensitisation and awareness is critical to the success of the implementation of Community Land Act, 2016. The Act bestows upon the Cabinet Secretary the duty to coordinate a national programme for public participation and awareness. The County Governments are also required to undertake continuous awareness and education.

The Ministry of Lands, Public Works, Housing, and Urban Development and the National Land Commission, with support from the EU, carried out a public participation and sensitisation meeting in 2019. Below (table 11) is an extract from the public participation foras that were conducted in the study areas.

Table 11: Sensitisation and Awareness Campaigns

No	County	Date	Venue	Hotel	No. of Participants
	West Pokot	28 th - 31 st January 2020	Kapenguria	Kalya Hotel	60
	Laikipia	26 th - 29 th November 2019	Nanyuki	Falcon Heights Hotel Sportsman's Arms Hotel	60
	Samburu	26 th - 28 th November 2019	Maralal	Samburu Guest House Royal Comfort Hotel	60
	Kajiado	10 th - 13 th December 2019	Kajiado	Enchula Hotel Resort	60

Source: SDLPP, 2020

It is apparent from Table 11 and the feedback from the respondents that the national sensitisation and awareness campaign done was not adequate. The counties have not undertaken deliberate and continuous sensitisation and awareness creation. There have been efforts by other stakeholders, including civil society organisations to enhance sensitisation on the law and support communities through the registration process. However, increased, coordinated awareness campaigns are still needed.

4.4 Involvement of Relevant Actors in the Process

Various actors offered support to the communities under study during the transition process, as discussed in Section 2.2. All the communities, except two, reported to have benefited from external support. This section will therefore discuss the involvement of National Government, County Government, and civil society organisations (CSOs).

4.4.1 National Government

The National Government, through the Ministry of Lands, Public Works, Housing, and Urban Development, as noted above, has a statutory mandate to initiate and facilitate the transition process to its logical conclusion. The Community Land Registrar is required to notify the group representatives and their members of the requirement to convert into a community. The other specific responsibilities include overseeing the CLMCs elections and conducting a national sensitisation campaign.

The group ranches further confirmed that they received additional support from the National Government in the form of public awareness, supporting the filling of registration forms, and overseeing the election process.

The communities noted, however, that they had higher expectations of the National Government, particularly in relation to the training and sensitisation of the communities and CLMC members and post-registration activities such as land use planning.

The National Land Commission, as noted earlier, is required to gazette public land within the community land. This has not been done.

4.4.2 County Governments

The County Governments are mandated to undertake continuous public awareness and sensitisation. Besides this, their role during the transition process is not clear.

The Constitution further mandates the County Governments to ensure, coordinate, and assist communities in developing administrative capacity for participation in governance at the local level. This responsibility has not, however, been unbundled in relation to Community Land Management and Administration.

This notwithstanding, some County Governments, including Laikipia and Samburu, supported the group ranches to carry out sensitisation, CLMC elections, bylaw development, and statutory notices.

The Counties, however, have internal challenges that affect their effectiveness in supporting the transition process. These include unstructured and ineffective coordination between National and County Governments, under-staffing, finance resourcing, and political will.

4.4.4 Development Partners and Civil Society Organizations

There are a number of civil society organisations that support the transition process within the study area. Key among them are IMPACT, FAO, and NRT, who play significant roles in conducting public awareness sessions, facilitating community meetings, drafting bylaws, developing a community register, and land use planning and mapping. Two communities (Sere Olipi and Ilngwesi) developed land use plans with support from FAO and County Governments.

5.0 CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The land reform that was ushered in during the adoption of Kenya's National Land Policy, 2009, Constitution of Kenya 2010 and subsequent enactment of the Community Land Act, 2016, has increased the security of customary land rights in Kenya, including land held under group ranches.

The study established that while the process of transitioning by group ranches commenced after the gazettelement of the Community Land Act regulations in 2017, the process has been slow. Nationally, a total of 46 group ranches out of 315 have transitioned as of May 2023. This represents approximately 14.6% of the total undissolved group ranches, having transitioned to community land within a period of seven years.

The study established a number of challenges that could be attributed to this slow rate. These include challenges related to the registration process, as provided for under Community Land Act, 2016; conflicts and disputes within and amongst the group; financial constraints; and inadequate information on the process. The study also established that the level of involvement of all groups within a community, including women, people with disabilities, and ethnic minorities, has not been satisfactory and is motivated by the need to meet legal requirements. Further the roles of various key stakeholders, especially the County Governments, in the transition process is not clear, which leads to reluctance by these actors to support the process.

The group ranches, once they have successfully transitioned to community land, will require support to strengthen governance and management. The study established that besides the governance and management, these communities will require support for continuous sensitisation and awareness creation, the development of land use and management plans, the continuous updating of the community register, and dispute resolution. There is a need for greater involvement and support from the stakeholders in the process.

Fast tracking the process of transitioning group ranches to community lands is in the best interest of communities as it secures their tenure rights, improves inclusivity and strengthens local land governance. It is also aligned with Kenya's land reform agenda.

5.2 Recommendations

Arising from the foregoing and the findings from this research, this study makes the following recommendations to the Ministry of Lands, Public Works, Housing, and Urban Development; National Land Commission; and relevant County Governments.

i. Ministry of Lands, Public Works, Housing, and Urban Development

a. *Adequately resource the implementation of Community Land Act, 2016*

The human and financial resources allocated to the transition process are inadequate. Budgetary provisions for logistical support to enable technical personnel to offer support to group ranches is needed.

b. *Review the statutory forms and develop templates*

The statutory forms (CLA 2 and CLA 3) do not include relevant parameters that will guide the Community Land Registrars in ensuring compliance with the statutory requirements. Similarly, a format for the community land register and register of community members has not been provided, as required under the Land Registration Act, 2012.

The Ministry therefore needs to review the statutory forms and develop templates for the community land register and the register of community members that include the required details such as gender, age, and physical disability. This will ensure that the transition process adheres to the spirit of inclusion captured in the Constitution.

Additionally, an amendment to include the National Land Commission as part of the ad hoc dispute resolution committee that hears disputes arising from the adjudication process under CLA Regulation 25(4) should be done. This will strengthen coordination while ensuring a holistic approach in dispute resolution.

c. *Strengthen coordination between the relevant stakeholders*

The key stakeholders involved in the transition process are the Ministry of Lands, Public Works, Housing, and Urban Development, County Governments, and the National Land Commission. There is a need to have a coordinated approach towards finalising the transition process. Such coordination mechanisms should clarify the roles of each stakeholder and pool resources.

ii. National Land Commission

a. Regularly monitor key aspects of the registration process and advise the Ministry in improving the registration process

The Commission should monitor the progress of community land registration every two years, at a minimum, and recommend areas for improvement. To ensure that this is done, the Commission should develop a monitoring parameter that includes aspects of gender inclusion, registration costs, strengthening community governance over their lands, security of tenure, sustainable use of the land and natural resources, conflict management, personnel capacity, and speed and accuracy of registration.

b. Develop an inventory of public land

The NLC should urgently map out, document, and gazette all public land within group ranches that have transited. Further, the Commission should work closely with the Ministry to undertake the inventory of public land at the beginning of the transition process. In order to ensure that this process is seamless, there is need to expand definition of “Land Adjudication team” in the Community Land Regulations, 2017 to include “a representative from the National Land Commission”

c. Encourage communities to reserve land for special purposes to be used exclusively used for the purpose as per Section 13(3) & (4) of the Act

Section 13(3) and (4) of the National Land Commission Act in Kenya provides a legal framework for communities to reserve land for special purposes to be used exclusively for the designated purpose. Encouraging communities to use this provision effectively involves education, engagement, and transparent communication. Setting reserve land ensures sustainable use of land resources. It allows communities to protect critical ecosystems, conserve biodiversity, and manage natural resources more efficiently.

d. Monitor and oversee land use planning

The NLC should monitor and provide oversight for the development of land use plans that are prepared by registered communities.

iii. County Governments

The counties are required by the Community Land Act, 2016 to carry out continuous sensitisation and awareness efforts. This is to build on the national sensitisation and awareness campaigns spearheaded by the National Government.

The County Governments should therefore coordinate their continuous sensitisation and awareness campaigns, supported by the Ministry in Charge of Lands and Physical Planning, the National Land Commission, and civil society organisations

The continuous sensitisation and awareness programme should be decentralised to the local level, possibly ward level, and designed for the below groups:

- a. Group representatives and community members
- b. Land officials - Community Land Registrar, Land Adjudication Officers
- c. County Government officials in charge of lands
- d. Provincial administration at the local level

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