COMMUNITY LAND SUMMIT 2021

SUMMIT REPORT
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Contributors
Rappoteuer: Evelyne Nairesiae, IMPACT staff, Communities, CSOs and both National and County governments
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and exploitation of natural resources through a system which is based on an ecosystem in spite of the perceived or existing political or and administrative boundaries.

Consensus has been thus that the absence of strengthened communities’ rights on the management of land and natural resources has been detrimental to the land use planning, investment, and the dignity of local communities. The convening is aimed at covering the 24 Counties with communal lands to review the CLA 2016 through evidence and experiences. This shall go along way into ensuring that amendments are informed by experiences of the piloted communities and the bottle necks on the implementation of the CLA 2016. In addition, the summit shall create a platform to strengthen the already existing CLA 2016 champions and sustain the land reform agenda.

Finally, the summit enabled communities present their own petition to the duty bearers on the glaring gaps in the Community Land Act, 2016.

5 years on...

In 2016, Parliament enacted into law the Community Land Act, Providing a framework for recognition and registration of customary land rights. The Act aspires to foster these rights and address the prolonged unresolved historical land and natural resource injustices.

It is five years down the line since the promulgation of the Community Land Act, 2016 (CLA). Communities continue organizing themselves to meet the requirements set-out in the Act and timelines. The law guides customary landholding communities towards securing discrete collective titles to their lands. While not compulsory, formalization is accepted by communities and government alike as now urgent to double-lock their constitutionally recognized possession. This is due to longstanding historical subordination of communal rights and continuing encroachment and threat to these lands. Those affected by number and area are predominantly pastoral and agro pastoral communities whose customary domains extend over much of northern and eastern Kenya. Hunter-gatherer communities, primarily forest peoples, and settled communities seeking formal title over commons may also benefit.

The convening has been informed by the need to interrogate the barriers and facilitators to the implementation of Community Land Act 2016. This has been informed by the institutionalized and the participatory nature of the land use planning as reflected within the local, regional and national contexts. The rationale is further anchored on the need to strengthen the exploration and exploitation of natural resources through a system which is based on an ecosystem in spite of the perceived or existing political or and administrative boundaries.

Consensus has been thus that the absence of strengthened communities’ rights on the management of land and natural resources has been detrimental to the land use planning, investment, and the dignity of local communities. The convening is aimed at covering the 24 Counties with communal lands to review the CLA 2016 through evidence and experiences. This shall go along way into ensuring that amendments are informed by experiences of the piloted communities and the bottle necks on the implementation of the CLA 2016. In addition, the summit shall create a platform to strengthen the already existing CLA 2016 champions and sustain the land reform agenda.

Finally, the summit enabled communities present their own petition to the duty bearers on the glaring gaps in the Community Land Act, 2016.

Mali Ole Kaunga
Executive Director, IMPACT Kenya
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Executive Summary

Five years into the implementation of the CLA 2016, a Community Land Summit was held on 22 - 23 November 2021 in Nanyuki, Laikipia County in Kenya. Co-convened by IMPACT Kenya and the National Land Commission (NLC), the Summit was held under the auspices of a joint Memorandum of Understanding signed between the two partners towards advancing the registration and monitoring of community lands following the Community Land Act 2016.

The objective of the Summit was to review progress made in the implementation of CLA 2016; and present local communities and their leaders living in community lands in Kenya including former Group Ranches, former trust lands, forest dwellers, hunters and gatherers, women, the youth and Persons with Disability a unique and much needed space to directly engage the NLC and Ministry of Lands and Physical Planning (MoLPP) and representatives of County Governments, share experiences, lessons learnt and opportunities to fast track the implementation of the Act.

The Summit brought together over 221 delegates from 19 out of 24 counties with community land, featuring high level officials from NLC, MoLPP, County governments, community members and leaders including chairs of dissolved and undissolved Group Ranches, former Trust Lands, traditional and religious leaders, women, the youth, PWD, CSOs, local artists and other stakeholders.
Mr. Mali Ole Kaunga, Executive Director, IMPACT Kenya

Welcoming the delegates to the Summit was Mali Ole Kaunga, the Executive Director of IMPACT Kenya. In his remarks, Ole Kaunga underscored the importance of the Summit terming it as a unique opportunity for participants to have open and constructive discussions, share insights that reflect on the progress made in the implementation of CLA 2016, lessons learned, and emerging issues that need to be addressed.

Acknowledging the gains made so far in the implementation of CLA 2016, he called on participants to celebrate achievements made including successful registration of several community lands, and to take advantage of the summit to forge a way forward that will fast track the implementation of the Act.

He further affirmed the commitment of IMPACT Kenya in facilitating local communities towards the registration of their lands as provided for in the Act; land use planning for conservation, reducing land degradation and negative impacts of climate change; and fostering peace and stability through inclusive and gender-responsive approaches.

He acknowledged the partnership between IMPACT and NLC, anchored in the signed MoU towards facilitating the implementation of CLA 2016.

Mr. Linus Kaikai

The Summit discussions were moderated by Mr. Linus Kaikai, a Media Strategist/Consultant in Kenya, and other facilitators.
Representing the National Land Commission (NLC), Commissioner Reginald Okumu affirmed the Commission’s commitment to implement the CLA 2016, in close collaboration with the MoLPP, the CSOs, and development partners. He further highlighted the roles of the NLC as defined in the CLA 2016 including monitoring the registration of community land and use of ADR processes in resolving disputes.

These, in addition to NLC roles defined in the Constitution of Kenya 2010, the Land Act 2012, Land Registration Act 2012, and other legislations including role to investigate historical injustices, acquisition of land for public projects, and ensuring prompt compensation to those affected.

NLC is committed to the process of implementation with the ministry and CSOs and have signed several MOUs with NAMATI, Samburu Women Trust, IMPACT and others to ensure the process is accomplished.

Acknowledging the MoU between IMPACT Kenya and NLC in which the Summit is organized, called on local communities and their leaders to make their voices heard by engaging county and national government officials in the review of the progress made in the implementation of the Act.

Mr. Reginald Okumu, National Land Commission

“NLC is committed to the process of implementation with the ministry and CSOs and have signed several MOUs with NAMATI, Samburu Women Trust, IMPACT and others to ensure the process is accomplished.

~ Mr. Reginald Okumu, National Land Commission
The Summit was officially opened by Cabinet Administrative Secretary (CAS) in the MoLPP, Hon. Alex Mburi Mwiru graciously delivered greetings and the speech by Farida Karoney, the Cabinet Secretary (CS), MoLPP of Kenya.

In the CS official opening speech, she acknowledged the importance of the Summit in deliberating the effective strategies for implementation of CLA 2016, the recognition, protection, and registration of community land rights; with 12 out of 24 counties having submitted their inventories of unregistered community lands to the MoLPP to fast-track registration of community land.

The Community Land Act, 2016 was passed into law on September 21, 2016, to give effect to Article 63(5) of the Constitution of Kenya, 2010; and the Regulations to implement the Act approved by Parliament on November 24th, 2017. The Act provides for recognition, protection, and registration of Community Land; as well as the role of County Governments concerning unregistered community land. She commended the efforts of IMPACT Kenya and other CSOs whose work contributes to the implementation of the Act and exonerated confidence that the MoLPP target to register 347 undissolved group ranches into community lands in the 12 counties by 2024 is feasible.

Recognizing the great socio-economic potential that needs to be unlocked and the mandate under the Act, the MoLPP in consultation with the NLC and the County Governments commenced the implementation of the Act in July 2019; establishing a Working Group on Implementation of the CLA (WGICLA) to spearhead the implementation.

The Ministry of Lands and Physical Planning is working with 24 counties that have unregistered community land. The aim is to have all land registered into community land by 2024 and urge counties not to be rigid and delay the process.

The MoLPP is working with 24 counties that have unregistered community land; with over 30,000 participants in 23 counties had already received public education about the Act with close collaboration with state and non-state actors, and partners such as FAO and the European Union. She Lauded the 12 communities in Laikipia, Samburu, Kajiado, and West Pokot that have successfully registered their community lands: terming this as a significant milestone in the implementation of the Act.

In her speech, the CS highlighted the findings of a study by the MoLPP on the status of implementation of CLA 2016 in Kenya which revealed that: some communities were experiencing boundary disputes, fear of marginalization and discrimination, lack of fair compensation for land acquisition, paying such compensation to communities affected through County Governments without communities consent, inadequate number of technical staff including; surveyors, land adjudication officers and registrars available to support land registration processes at County level, the slow flow of inventories from Counties to MoLPP, lack of inclusivity in the election and activities of Community Land Management Committees and preparation of bi-laws.

She also highlighted priorities for MoLPP in the current financial year to include:

- Registration of communities and community land parcels in 347 Group Ranches that need to transition to community land and 84 unregistered community land, as contained in the 12 inventories received so far from 12 counties.
- Review the Community Land Act, 2016 and its Regulation, 2017 to remove bottlenecks.

Hon. Alex Mburi Mwiru, Chief Administrative Secretary, MoLPP, Kenya

The Ministry of Lands and Physical Planning is working with 24 counties that have unregistered community Land. The aim is to have all land registered into community land by 2024 and urge counties not to be rigid and delay the process.

~Faridah Karoney, Cabinet Secretary, Ministry of Lands and Physical Planning, Kenya
Continuous structured public education with a focus on key actors and duty bearers in the implementation of the Act.

Strengthening partnerships, synergies, resource mobilization and advocacy necessary for the implementation of the Act.

She specifically thanked communities that have been sensitive to the two-third gender rule, the inclusion of the youth and PWD in the formation of LCMCs as required by the law. She further underscored the importance of coordination, cooperation, and consultation among different state actors, national and county governments and respective communities in the 24 counties, charged with different roles under the Act, terming it vital for success. She pointed out the value of secure land rights as key to a country’s growth and investment climate, and for social inclusion especially for disadvantaged communities such as the pastoralists whose land has never been registered.

She called on state and non-state actors to preach peace and apply ADR and other traditional approaches whenever disputes occur, and challenged all stakeholders and duty bearers to listen to ‘community voices’ and take collective and individual action to successfully implement the Act.

In his complementary message to the CS speech, Hon. Mburi challenged communities to identify and provide for corridors and routes within their land for wildlife and livestock use. He called on county governments to allocate resources to support efforts towards registration of communities and transitioning to community lands. Noting the challenge of a limited number of technical staff to support the implementation of the Act, he affirmed the MoLPP commitment to make available technical staff including land registrars, surveyors, and adjudication officers at the county level.

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“We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect.”

~ Aldo Leopold
H.E. John Mwaniki, Deputy Governor of Laikipia

Hosting the Summit in Laikipia County was not only contextual but also strategic in benchmarking and in recognizing progress made by the County Government of Laikipia, with 6 of the 13 undissolved group ranches successfully registered and transitioned to Community Land as per the Act.

Representing the office of the Governor of Laikipia, the Deputy Governor John Mwaniki underscored the importance of land as a factor of production, and an ingredient for peace and development for all especially among the pastoralist communities who rely on livestock; a sector that supports over 10 million Kenyans. Citing the challenges of prolonged drought and negative impact of climate change, Mr. Mwaniki noted the increasing land and natural resource-based conflicts and called on communities to diversify their livelihoods, resolve conflict using ADR and promote peaceful co-existence.

H.E. Julius Leseeto, Deputy Governor of Samburu

The Deputy Governor of Samburu County Mr. Leseeto affirmed that the CLA 2016 has increased counties capacities in land administration and management; including setting up of infrastructure and increased technical capacity to produce land titles for respective communities and individuals; with over 10,000 individual titles so far printed in Samburu County. Samburu county for the first time has a land registry, thanks to the CLA and the support of the MoLPP that made this possible.
The importance of securing community land, embracing ADR in land and natural resource conflict resolution, strengthening capacity in land use planning and ensure provision of wildlife and livestock corridors/routes (for migration, watering grounds, pasture, holding grounds) especially among the pastoralist communities were further echoed by the Member of Parliament of Laikipia North Hon. Sarah Korere and NLC Commissioner Tiya Galgalo. Most of the traditional corridors/routes are privately owned and totally inaccessible by people, wildlife, and livestock. While acknowledging the significant progress made in Samburu, Laikipia and other counties in which a number of community land have been registered, she noted the need to address boundary related conflicts, historical injustices for restitution and review of unlawful grants, to revert the land back to respective communities including claims by the Yaaku people in Mukogodo, Lekiji, ADC Mutara, the Elmolo, Awer community in Lamu among others. Noting that most counties with community land at scale are also categorized as Arid and Semi-Arid Lands (ASAL) and which accounts for over 60% of the Kenya’s land mass, serve to underscore the importance of responsible land use planning, conservation, climate adaptation and mitigation measures to ensure resilient and sustainable livelihoods for millions of local communities, peace and development. The leaders cautioned local communities especially those that dissolved their Group Ranches and former trust lands from selling their land; terming this as detrimental to their livelihoods and potential ingredient for conflicts.

In Laikipia North, 4 communities have transited and 4 are in the process. Life has changed and population increased, let’s embrace alternative livelihoods. Let’s live with peace.

~Hon. Sarah Korere, M.P, Laikipia North

Registration process is a long tedious process and the community needs to be first before government processes are effective.

~Tiya Galgalo, Commissioner, National Lands Commission, Kenya
Panelists:

This plenary session featured the contribution of panelists drawn from undissolved Group Ranches that have transitioned to community land:

- Ms Nancy Tausi - Member of CLMC in Ilgwesi Group Ranch.
- Mr. Ratinoi Shuel (Maiyianat, Chairperson of Community Land.
- Metian - Chairperson of Olkeri community land

Summary:

- Inclusion of women in decision making, achieved 1/3 (5 of 15) members of CLMC being women is considered a major success in their respective communities.
- High cost of transitioning including cost for community awareness in geographically vast areas covered by the respective communities, need to engage the local administration, a lawyer, and a lot of paperwork.
- Limited capacity to undertake land use planning for conversation initiatives and other development agenda that can attract investors and revenue for the benefit of their members.
Plenary Session 1: Undissolved group ranches that have registered and transitioned to community land

The panellists shared their experiences on the processes used to register their land including intensive and costly public consultation with members of their respective communities, mainly done in villages.

They noted the power of the CLA 2016 in amplifying women voices by participating in decision making structures such as CLMCs and Community Assemblies, securing their rights to land including inheritance rights through inclusion in community land registers; contrary to customs and traditions that had men as sole owners of the land. Inclusion of women in decision making, achieved 1/3 (5 of 15) members of CLMC being women is considered a major success in their respective communities. This was in addition to inclusion of PWD and the youth representatives in the CLMCs.

Unlike the former Group Ranches, community land is governed under the law and by its own members. Citing high cost of transitioning including cost for community awareness in geographically vast areas covered by the respective communities, need to engage the local administration, a lawyer, and a lot of paperwork.

Expounding on the post community land registration, the panellists noted the limited capacity to undertake land use planning for conservation initiatives and other development agenda that can attract investors and revenue for the benefit of their members. Despite this, several registered community lands are already undertaking their land use plans.
Panelists:

- Lawrence Lorinyoi - The chairperson of Baragoi Group Ranch in Samburu County.
- Beatrice Mjomba - Human rights defender and natural resource rights activist from Taita Taveta County.
- Kaunda Lenamparasio - The chairperson of Tinga B Group Ranch

Summary:

- Cases of on-going legal suits including Taita Taveta County challenging NLC’s gazette notice to transit former Group Ranches, unregistered community land and trust lands under the new Act.
- Numerous concerns including boundary disputes, encroachment, overlapping titles with national parks, private investors with land titles illegally acquired without Free Prior and Informed Consent (FPIC).
- Limited access to technical officers especially land registrar, surveyors and adjudication officers

Plenary Session 2:
Undissolved group ranches that are yet to transition to community land
The panelists included ranch officials, human rights defenders, and natural resources activists who shared their experiences and challenges in their communities’ pursuit to register their community land.

Citing political interference in Baragoi pitting two communities that have lived in harmony for years and now embroiled in mistrust with one securing legal objection for registration of the community land.

Cases of on-going legal suits including Taita Taveta County challenging NLC gazette notice to transit former Group Ranches, unregistered community land and trust lands under the new Act, due to numerous concerns including boundary disputes, encroachment, overlapping titles with national parks, private investors with land titles illegally acquired without Free Prior and Informed Consent (FPIC).

Despite communities’ interest and commitment to register and transition to community land, these challenges have not only been a source of conflict between communities, investors and the county government, but also have deepened community members fear of marginalization and greatly constrain efforts to implement the Act. Limited access to technical officers especially land registrar, surveyors and adjudication officers was also noted as a challenge that affected Tinga B; which upon submission of all their documents to the registrar, they are yet to receive their land title six months down the line without any communication as to why this is the case.

Political Interference
Two peaceful communities in Baragoi are now embroiled in mistrust with one securing legal objection.

Legal Suits
Taita Taveta county are challenging the National Land Commission gazette notice to transit former group ranches, unregistered community and trust lands

Limited Access to Technical Officers
Lack of access to land registrars, surveyors, and adjudication officers slowed down the submission of their registration documents.
Plenary Session 3: 
Forest dwellers, hunters and gatherers

Panelists:

- Lawrence Lorinyoi - The chairperson of Baragoi Group Ranch in Samburu County.
- Beatrice Mjomba - Human rights defender and natural resource rights activist from Taita Taveta County.
- Kaunda Lenamparasio - The chairperson of Tinga B Group Ranch

Summary:

- The Awer community in Lamu forest and the Yaaku community living in Mukogodo forest in Laikipia expressed fear of discrimination and marginalization.
- Effects of historical injustices and communities seeking restitutions was a common denominator.
- Legal gaps in the CLA 2016 including unclear protection of community rights to land gazetted as public forests and the conversion of such forests to community land, restitutions, and cancellation of unlawfully acquired grants leaves a lot to be desired.
- The need to secure unregistered wetlands to ensure rights of the women, the poor and marginalized communities are protected from powerful elites and investors.
Panelists from Narok, Lamu and Laikipia counties share experiences of forest dwellers, hunters, and gatherers at the CLS2021. (Nanyuki; 22 November 2021) © IMPACT.

Plenary Session 3: Forest Dwellers, Hunters and Gatherers

This plenary session featured the experiences of forest dwellers, hunters, and gatherers from Narok, Lamu and Laikipia counties.

Positive experiences shared from Pokot County profiled the successes realized following the registration of their community land after addressing historical injustices and made provision for migratory routes/corridors for wildlife and livestock.

This was not the case in all counties, as communities in Mau Forest in Narok County, the Awer community in Lamu forest, and the Yaaku community living in Mukogodo forest in Laikipia expressed fear of discrimination and marginalization due to historical land injustices, unclear tenure rights with pressure from land-based investment projects such as LAPPSET (Lamu), and pending court case (by Yaaku) seeking restitution.

Communities living in Mau forest in Narok have hope and confidence that the CLA2016 will offer lasting solutions in securing their land rights, with 9 claims waiting for conversion from forest land to community land. As the experiences varied from one community/county to another, the effect of historical injustices and communities seeking restitution was a common denominator.

Legal gaps in the CLA2016 include unclear protection of community rights to land gazetted as public forests and the conversion of such forests to community land, restitution, and cancellation of unlawfully acquired grants leaves a lot to be desired.

Communities living in the forest and wetlands (such as Yala Swamp in Siaya county) are not only custodians of the land but conservationists who apply traditional knowledge to preserve their natural environment for sustainable ecosystem-based services and posterity.

Panelists in this session: Mr. Kobei from Mau Forest, Rafael Kemoi (West Pokot); Mohamed Yusuf (Lamu, Awer Community) and Jennifer Koinante, (Yaaku, Mukogodo forest in Laikipia) expressed confidence that the implementation of CLA2016 will address their long struggle for justice and secure their land rights, calling on NLC and MoLPP to speed up registration for their community land and address any legal gaps in the current laws.

Acknowledging issues discussed by the panelists, representatives from Yala Swamp in Siaya County affirmed the need to secure unregistered wetlands to ensure the rights of the women, the poor, and marginalized communities are protected from powerful elites and investors, who grab and are unlawfully issued with land title deeds for community land without FPIC terming their situation in Yala requiring urgent support from National Land Commission.
Panelists:

- Mr. Osman Obdile (Wajir County)
- Paul Lekapana (Marsabit County)
- Nana Hashora (Tana River County)
- Ahmen (Isiolo County)

Summary:

- County Governments laxity, lack of cooperation with local communities and failure to fast track the process for registration of unregistered community and trust lands in accordance with the Act.
- Lack of support from county government took their own initiatives to prepare and submit their inventories to the Ministry.
- Communication lapse between national and country governments.
- Some communities are not aware about CLA 2016, citing low awareness and sensitization done by the national and county government.
- Lack of clear policies and guideline for acquisition of community land for public interest projects.
- The need to secure women’s and youth land rights, and their participation in decision making bodies such as CLMCs were also underscored.
Participants highlighted challenges facing local communities living in unregistered communities and trust lands. (Nanyuki; 22 November 2021) © IMPACT Photo

**Plenary Session 4: Unregistered Community Lands/Trust Lands**

This plenary session featured the experiences of forest dwellers, hunters, and gatherers from Narok, Lamu and Laikipia counties.

This plenary session highlighted challenges facing local communities living in unregistered community lands and trust lands. County Governments came to sharp criticism for their laxity, lack of cooperation with local communities, and failure to fast track the process for registration of unregistered community and trust lands by the Act.

Some of the counties missed deadlines for submitting inventories of unregistered community land with only a few submitted, while others submitted their inventories without public consultations. In some instances, communities frustrated by the lack of support from the county government took their initiatives to prepare and submit their inventories to the Ministry as means to fast-track the process for registering their community lands.

Communication lapse between national and county governments left communities helpless and caught between a rock and hard place, with some not knowing the status of their submission for more than six months. Such situations are further compounded by lack of technical officers from the MoLPP especially the land registrar in Counties such as Garissa, Wajir, Isiolo, and Mandera who are meant to facilitate the process for registration. In addition, some communities are not aware of CLA 2016 especially in Turkana and Tana River Counties, citing low awareness and sensitization done by the national and county government, and security challenges affecting parts of Tana River County.

Lack of clear policies and guideline for acquisition of community land for public interest projects such as LAPPSET and the role of county government as a recipient of the compensation on behalf of communities; has left affected communities along the LAPPSET Corridor and in the Tullow Oil project unsettled and with fear of losing their rights to land and fair compensation. They don’t trust the County as a custodian of their compensation.

The need to secure women’s and youth land rights, and their participation in decision making bodies such as CLMCs were also underscored; noting that they are key stakeholders in land administration and management of community land as provided in the Act. The need to engage the youth and bring them on board in the implementation of this Act especially in Tana River was highlighted. Despite the complexity of the issues discussed by panelists: Mr. Osman Obdile (Wajir), Paul Lekapana, (Marsabit), Nana Hashora (Tana River), and Ahmen (Isiolo), they appreciated the presence of representative of NLC and MoLPP in the Summit, noting that they hoped their voices were heard and that action will be taken to address their challenges. They further affirmed their commitment to follow due processes as provided for in the Act and the Regulation to secure their community land and call on County governments to do their job.
Panelists:

- Mr. Okumu from the National Land Commission
- Ms. Truphosa Achar from the Ministry of Lands and Physical Planning
- County Government representatives:
  - H.E. John Mwaniki, Deputy Governor, Samburu County
  - Mr. Kanyiri, County Commissioner of Laikipia County.

Summary:

- MoLPP promised that the land surveyor and registrar for Garissa County are already on process for deployment, and similar requests from other counties will be addressed sooner than later.
- Some counties had presented inventories without due public participation; a process she termed as against the spirit and provision of the CLA 2016.
- Communities were assured that they will receive compensation only if they are registered entities.
- The process for community land registration will continue until every community and their land is registered.
- The challenge to convert forest and or wetlands already gazetted as ‘public forests/wetlands’ to community land due to legal gaps in the Act.
- Unregistered community land and or trust lands will revert to County Government once the leases expire.
- NLC commitment to address historical land injustices and ensure community land is reverted and secured.
- Local administration provided the platform for sensitization of local communities about the Act through Chiefs’ Barazas.

Plenary Session 5: Response from national and county government officials
This session brought together representatives from the National Land Commission and the County Government representatives to respond to questions and emerging issues from previous panelists and from the floor.

While acknowledging the limited number of technical officers posted to support land registration processes at the county level, Ms. Achar of MoLPP promised that the land surveyor and registrar for Garissa County are already on process for deployment, and similar requests from other counties will be addressed sooner than later. She also confirmed that some counties had presented inventories without due public participation; a process she termed as against the spirit and provision of the CLA 2016.

On compensation for community land acquired for public interest projects, communities were assured that they will receive compensation only if they are registered entities and that this applies to the LAPPSET project. Despite the MoLPP target to register all community land by 2024, she noted that the process for registration will continue until every community and their land is registered.

Unregistered community land and or trust lands will revert back to County Government once the leases expire. In such cases, the owner of the lease can apply for review or extension of their lease agreement; a decision that lies with the county government. If the lease agreement is held by Kenyan(s), they have the preemptive rights as first users. County Governments and NLC need to discuss the status of all expired leases; including leased land reverting back to communities.

Commissioner Okumu of NLC acknowledged the challenge to convert forest and or wetlands already gazetted as ‘public forests/wetlands’ to community land due to legal gaps in the Act, citing the example of Tana River and Mau Forests. The constitution of Kenya (Art.62) provides for community land and excludes government forests and provides only for access to resources and not public ownership. Low forest cover, currently below the 10% internal standard may further compound the ability to make a case to convert such forests. He however, observed that NLC will hold dialogues on how such resources will be shared and who can use them.

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Commissioner Tiya affirmed NLC commitment to address historical land injustices and ensure community land is reverted back and secured, citing the example of the Dorobo community in Isiolo whose claim from the Livestock Marketing Division and Kenya Defense Forces following the intervention of the NLC is at final stages of conclusion and the land is expected to revert back to community.

Mr. Mwaniki in his response affirmed the role of County Government as custodians of community land. While
Participants highlighted challenges facing local communities living in unregistered communities and trust lands. (Nanyuki, 22 November 2021) © IMPACT Photo
acknowledging that some counties may have experienced challenges in the implementation of the CLA 2016, he emphasized the importance of land registration as it secures the land for the community and promotes development. His sentiments were further complemented by Mr. Tom Putunoi, from Musul community Land in Laikipia who expressed his satisfaction following the registration of their community land in accordance with the CLA 2016.

Laikipia County Commissioner Mr. Kanyiri expressed appreciation to the MoLPP, NLC, County Governments and local communities for their collaborative efforts with the National Government Administrative Officers (NGAO) that has since provided security to communities and technical officers facilitating the community land registration process. He added that, local administration provided the platform for sensitization of local communities about the Act through Chiefs’ Barazas. The Administrative officers are trained on conflict management and ADR, which have been instrumental in supporting the implementation of the Act. The data can also be used to support conflict resolution efforts including administrative maps.

On boundary conflicts, the administration in collaboration with other actors can also invite the support of the Independent Electoral and Boundaries Commission (IEBC) for support. He called on the communities to live in peace and address their grievances without taking arms to fight each other. He encouraged communities to use ADR and seek the support of the Administration Offices available at their level to resolve conflicts when they occur.

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"The government is the community. The custodian of community and county land is the county government."  
~Hon. John Mwaniki, Deputy Government, Laikipia County

"Minority groups will be considered in political goodwill and duty bearers will help them in the registration process."  
~Tiya Gaigalo, Commissioner, National Lands Commission, Kenya

"2024 is the year for strategic planning but the registration process will continue until all the community lands are fully registered."  
~Ms Truphosa Achar, Ministry of Lands and Physical Planning
Dr. Kanyinke Sena

Panelist:

- FPIC is a human right and must be respected and promoted across board in the context of investments in community land rights.
- Women have rights to community land and any benefit that comes with such investments on community land.
- Participants were encouraged to make use of ADR in resolving the conflicts related to trust lands.
- Counties need to fast track submission of inventories for registration of community land in their respective Counties.
- Public consultation for development of inventories and or investment projects needs to be done in smaller administration units at location or sub-locations to ensure no one is left behind.
- County governments have not authority to issue allotment letters for trust lands without community consultation and respect of FPIC.

Summary:

Plenary Session 6: Free Prior and Informed Consent (FPIC) guidelines
Plenary Session 6: Free Prior and Informed Consent (FPIC) guidelines

This session featured the presentation and discussion on the evolution of Free Prior and Informed Consent (FPIC), underscoring the struggles of colonialization and property rights claims by indigenous communities, and the lack of representation in decision-making.

The struggle dating back to 1924 when the minority rights and their property law was developed in Lancaster; and the efforts to secure representation at the United Nations for indigenous people spanning from 1924 to 1984 when they finally were accepted to join the UN.

This milestone was followed by the recognition and declaration of indigenous peoples’ rights by the UN in 2007, based on the need and value for respect for FPIC.

The application of FPIC goes beyond its concept, to underscore the importance of access to information among indigenous people and local communities, access to legal representation, value for community structures and how to make them inclusive to avert further marginalization, fair compensations, and benefit sharing and sustainable revenue/economic empowerment, dispute resolution mechanism including AJS/ADR based on customary laws, as well as capacity development to effectively ensure FPIC.

Noting the long-term struggles by indigenous and local communities to secure their community land from illegal acquisition and encroachment, it is paramount that communities engage as stakeholders in land and investment deals such as LAPPSET, Tullow Oil, Wind Power projects in Marsabit and Kipeto, making communities voices count through formal and informal decision-making structures and related outcomes. FPIC is a human right and must be respected and promoted across board in the context of investments in community land rights.

During this session, officials from MoLPP, NLC and County Government took the time to respond to questions and emerging issues from the presentation on application of FPIC and community land rights. Some of the questions raised included rights of communities to directly receive compensation for investments, how conflicts associated with trust lands being illegally allocated by County government can be addressed and the role of county governments. In response, the officers observed that in land acquisition, consultation with the local communities is important for FPIC, negotiate terms of investment including benefit sharing, terms of contract and exit strategy.

Further noted that women have rights to community land and any benefit that comes with such investments on community land. Participants were encouraged to make use of ADR in resolving the conflicts related to trust lands and call on NLC and MoLPP for support in situation when there is limited or no cooperation from their County Government.
Counties need to fast track submission of inventories for registration of community land in their respective Counties. Public consultation for development of inventories and or investment projects needs to be done in smaller administration units at location or sub-locations to ensure no one is left behind. Counties with investment projects such as LAPPSET are encouraged to submit their inventories needed to fast track registration of unregistered community land.

County officials noted that their counties are accountable for compensation received from various projects, with the county assemblies as the custodians. Where communities do not trust their County Governments, such compensation can be withheld by NLC until such communities are registered in accordance with CLA 2016 to directly receive their compensation.

Unregistered trust lands are under the custodianship of county government. Despite this mandate of the County Government, communities need to be consulted in the review of leases and or conversion to community land with clear spatial land use planning that define the use of the said land. In this regard, county governments have no authority to issue allotment letters for trust lands without community consultation and respect of FPIC.

“FPIC involves both local and legal knowledge to secure the rights and sharing as per the wish of the community and no one is forced.”

~Dr Kanyinke Sena, Land Expert
Status of the Implementation of CLA2016:
Ministry of Lands and Physical Planning (MoLPP)

Panelist:
- Ms. Truphosa Achar, Ministry of Lands and Physical Planning

Summary:
- CSOs played the “watch dog” role in supporting the implementation of the Act, a key role to ensure the Act is fully complied with.
- The MoLPP is planning to undertake public consultation on the legal gaps in the CLA 2016 in order to address them.
- Received inventories of unregistered community land from 12 counties with 12 more pending.
- CSOs have played a key role in sensitizing communities about the Act and need to register their land rights; need for inclusion for all including women, youth and PWDs.
- Reported disputes with neighboring communities stood at 41% most of which are yet to be resolved.
Status of the Implementation of CLA 2016 by the Ministry of Lands and Physical Planning (MoLPP)

During the summit, Ms. Truphosa Achar of MoLPP provided highlights of the status of implementation of CLA 2016 in Kenya. These included:

- CSOs played the ‘watch-dog’ role in supporting the implementation of the Act, a key role to ensure the Act is fully complied with.
- The MoLPP is planning to undertake public consultation on the legal gaps in the CLA 2016 in order to address them.
- Currently 31 community land registrars are supporting the registration processes; with 34 more already gazetted including land adjudication officers.
- The MoLPP has set up Ardhi Houses/officers in all the counties to facilitate their work.
- Received inventories of unregistered community land from 12 counties with 12 more pending.
- There has been great political good will and support for the registration of community land at all levels.
- There is need to develop and translate information, education, and communication materials in local languages to make them more accessible to local communities.
- Inclusivity is still a challenge including attaining the two-third gender rule, including of the youth and PWD in the registration process especially CLMCs and inclusion of women (in their diversity) and girls in land registers for the respective communities. More needs to be done to sensitize the community and advocate for their rights with cultural norms a major setback.
- Areas previously declared for adjudication in 2019 will continue (covering mainly private land).
- In some instances, there has been encroachment of public land and community land.
- Undertaking investment project in transitioned communities needs to provide capacity in contract development including provision for exit clauses to ensure such investment is well secured.
- High level of poverty continues to hold many community members from participating in the implementation of Act.
The MoLPP Recommends that Land Actors to:
1. Translate sensitization materials in local languages to enhance their accessibility,
2. Address intra and inter county boundary conflicts taking advantage of ADR before going to law courts.
3. Encourage CSOs to adopt a county to fast track the implementation of the Act.
4. Counties should register communities into small units, lowest possible for effective community assemblies; and submit the 12 pending inventories.

NLC Report on the Monitoring the Implementation of CLA 2016: Gaps and Opportunities

Dr. Samuel Odari, the Deputy Director NLC presented a report by the Commission on the monitoring of the implementation of the Community Land Act 2016, examining the gaps and opportunities. Monitoring the implementation of CLA 2016 is the mandate of NLC. On this mandate, the Commission has signed MoUs with IMPACT Kenya, NAMATI Kenya and other partners to monitor the implementation of the Act including the registration of community land rights.

This report presents findings from 5 pilot counties, Laikipia, Samburu, Kajiado, Isiolo and West Pokot; in which 17 undissolved Group Ranches were reached. Preliminary findings show that:
☑ Most communities are interested to register and transition their land under the CLA 2016
☑ CSOs have played a key role in sensitizing communities about the Act and need to register their land rights; need for inclusion for all including women, youth and PWDs.
☑ Although there have been efforts to include women in community land registers, this remains a challenge for most women and need advocacy to challenge cultural norms that leave women behind. Such register needs to be reviewed to make them inclusive of everyone including women, youth, PWDs and children below 18 yrs.
☑ Reported disputes with neighboring communities stood at 41% most of which are yet to be resolved.
☑ Most communities that had registered and transited to community land had received financial support from external entities including donors and well wishes; with exception of Laikipia County that had made budget provision for the implementation of CLA 2016.
☑ 63% of respondents reached through the study perceived their land rights as secured under the CLA 2016.
Gaps Identified in the Study by NLC

- Limited civic education on CLA 2016, roles and responsibilities of different actors.
- Some community registers are not updated and hence do not include children, youth and women.
- Unclear on what next after registration e.g. need for land use planning and investment options.
- Unclear boundaries for some group ranches which overlap with public land and counties boundaries causing conflicts.
- Limited use of ADR in resolving conflicts, as communities resolve to go to courts.
- High level of poverty resulting from prolonged drought and impact of COVID-19 have slowed down efforts to register community land.

Opportunities

- Community resources mapping and use for their own benefit.
- High number of youths participating in CLA 2016 implementation processes.
- Increasing number of women representations in decision making structures including CLMCs.
- Political goodwill from national and county governments to implement the Act.

Community Land Atlas, a joint effort by IMPACT Kenya and the National Land Commission

The plenary presentation on the Community Land Atlas, a joint effort by IMPACT Kenya and NLC was done by Fred Nyongesa, an NLC consultant. The Atlas featured among other contents, an overview of the community land, natural resources in community land, public land within community land, sustainable management of community land, contested community land, and case study of 5 counties including Laikipia, Samburu, Isiolo, West Pokot and Marsabit Counties. From this presentation, it was deduced that community land is host to natural resources including minerals and spiritual sites among others. The need to map and document such resources is key to ensure their preservation and protection, and promote sustainable land management and use.

The need to support research initiatives on emerging issues affecting the implementation of CLA 2016, land use planning and conservation efforts, and challenges and opportunities for evidence-based policy decisions was encouraged. Regular monitoring of the implementation CLA 2016 need to include a review and update of the Community Land Atlas of all land and resources, contestation and provide set disaggregated...
Conference Call to Action and the Communique

Summing up the discussions, propositions and recommendations, participants in this session had a moment to reflect on the two days Summit and make clear propositions and recommendations for better implementation of the Act.

This culminated into a communique that reflects collective views and aspirations of the 221 participants attending the conference presented at the plenary by Ms. Everlyne Nairesiae, a consultant on Land Governance. Participants reviewed the content of the communique, and unanimously adopted it as true representation of issues discussed and recommendation of the way forward towards an efficient and effective implementation of the Act that leaves no one or place behind. The communique is hereby attached and available of IMPACT Kenya website, www.impactkenya.org.
### GOVERNMENT OFFICIALS

| 1. | CAS. Alex Mburi Mwiru - Ministry of Lands and Physical Planning |
| 2. | Truphosa Achar - Ministry of Lands and Physical Planning |
| 5. | Guya Yusuf Galgalo - National Land Commission |
| 6. | Hussein Halake - National Land Commission |
| 7. | Guypo Jirma - National Land Commission |
| 8. | Hillary Kitur - National Land Commission |
| 9. | Dr. David Kuria – National Land Commission |
| 10. | Samual Odari - National Land Commission |
| 11. | Victor Otieno - National Land Commission |
| 12. | Fred Nyongesa - National Land Commission |
| 15. | Dg. John Mwaniki - Laikipia county government |
| 16. | Matu Munyiri - Laikipia county government |
| 17. | Paul Ole Kimir - Laikipia county government |

| 18. | Peter Matunge - Laikipia county government |
| 19. | Dorcas Korir - Ministry of Lands Laikipia |
| 20. | Joseph Saigero - Ministry of Interior Laikipia |
| 22. | Monica Muthoni - Ministry of Interior Laikipia |
| 23. | Silvanas Wainaina - Ministry of Lands Nairobi |
| 24. | Andrew Khaemb - Ministry of Lands Nairobi |
| 25. | Dg. Julius Leeseto - Samburu County government |
| 26. | Hon. Lucas Lekwali - Samburu County government |
| 27. | Hon. Benjamin Leitoret – Samburu County government |
| 29. | Diana Wangari - National Land Commission Nanyuki |
| 32. | Mwandawiro Mghanga - Taita Taveta County Government |

### CIVIL SOCIETY ORGANIZATIONS REPRESENTATIVES

| 1. | Arach David - Namati |
| 2. | Eileen Wakesho - Namati |
| 3. | Atsbaha Gabre Selassie - Miserior |
| 4. | Akshay Vishwanath - Malasiili |
| 5. | Factu Ochieng - Action Aid |
| 6. | Kuresha Bille - Action Aid |
| 7. | Gladys Warigia - Kenya World Life Conservancies Association (KWCA) |
| 8. | Vincent Oluch - Kenya World Life Conservancies Association (KWCA) |
| 9. | Elizabeth Wekesa - Land adjudication & Settlement |
| 10. | Maryama AF - Natural Justice |
| 11. | Isaac Tobiko - Community Land Action Now (CLAN) |
| 12. | Milka Chepkorir - Community Land Action Now (CLAN) |
| 13. | Daniel Letoya - Northern Rangelands Trust (NRT) |
| 14. | Richard Kasoo - Northern Rangelands Trust (NRT) |
| 15. | Lynn Chestit - Womankind Kenya |
| 16. | Ayro Ketta - AAIK |
| 17. | Jattan Wako – FAO |
| 18. | Francis Ngandara - LLMCS |
| 19. | Salantice Lebakash - Samburu Women Trust (SRT) |
| 20. | Hellen Nasoi - Samburu Women Trust (SRT) |
| 21. | Luijah Lesuuda - IMPACT |
| 22. | Jennifer Kornante – YLT |
| 23. | Irene Musundi - Reconcile |
| 24. | Simon Fischer – Weltfriedensdienst (WFD) |
| 25. | Liban Golicha - Waso Trust |
| 26. | Elizabeth Ibrahim - Isiolo Gender Watch |
| 27. | Eunice Lepariyo - Baringo Women & Youth Organization (BWYO) |
| 28. | Daniel Kobe - Ogiek People Development Program (OPDP) |
| 29. | Raphael Pkemio Magal - Pastoral Communities Empowerment programme |
| 30. | Emma Abong - Isiolo Peace Link (IPL) |
| 31. | Rose Orguba - Feiyah Action Network |
| 32. | Jacinta Silakan - Sangida Foundation |
| 33. | John Leparsanti - Samburu Women Trust (SWT) |
| 34. | Guyo Boboo - Indigenous Strategy and Institution for Development (ISID) |
| 35. | Mohamed Karu - Indigenous Strategy and Institution for Development (ISID) |
| 36. | Shoba Golicha - Pastoralists Women for Health and Education (PWHE) |
| 37. | Guyo Tadicha - Pastoralists Women for Health and Education (PWHE) |
| 38. | Mohammed Jarso - Pastoralists Women for Health and Education (PWHE) |
| 39. | Jillo Katello Wato - Kivulini trust |
| 40. | Bilach Jimale - Drylands Learning and Capacity Building Initiative (DLCI) |
| 41. | Jarso Mokku - Drylands Learning and Capacity Building Initiative (DLCI) |
| 42. | Denis Kioko - Trocaire |
| 43. | Wyanie Bright - USAID-KUZA |
44. Anzal Rashid - USAID-KUZA
45. Martin Mugambi - Kenya Land Alliance (KLA)
46. Ogina Hillary - Kenya Land Alliance (KLA)
47. Makambo Loturobo - FOLT
48. Molu Tepo - MID P
49. Emma Abong - Isiolo Peace Link (IPL)
50. Kendi Borana - Resource Rights Institute (RRI)

RESOURCES PERSONS
1. Linus Kaikai - Moderator
2. Tina Kulamo Bullo - Moderator
3. Everlyne Nairesiae - Rapporteur
4. Dr. Liz Alden
5. Dr. Kanyinke Sena

LAIKIPIA COUNTY COMMUNITY DELEGATES
1. Rosemary Nenini
2. Tom Putunoi
3. Ratinoi Shuel
4. Nancy Tausi
5. Peter Kimiliu Mula
6. Redempta letai
7. Josoph Ndooku
8. Francis Ngaiduri
9. Jattan W.
10. Ramato Meshami
11. Josophat
12. N. Ibrahim
13. Merissa Naalash
14. John Michael
15. Dr Saigero Alfred

ISIOLO COUNTY COMMUNITY DELEGATES
1. Abdiraman Osman
2. Mary Kepen Mbatia
3. Salante Leburkash
4. Wilson Lerantilei
5. Abdi Salan
6. Hussein Jiwe
7. Bakari Swale

SAMBURU COUNTY COMMUNITY DELEGATES
1. Aloice Losike
2. Laurence lorunyei
3. Kaunda Lenamparasio
4. Benjamin Leitore
5. Leaidura Saitoti
6. Lucas Lekwau
7. Leyeris Naikatwa
8. Hon. Lucas Lukwali
9. Hon. Benjamin Loiterer

MARSABIT COUNTY COMMUNITY DELEGATES
1. Stephen Gambare
2. Paul Lekapana
3. Galma Dabaso
4. Chuluke Duba Katelo
5. Daniel Isole
6. Edin Ali Buri
7. Christiana Saiti
8. Assunta Galgilela
9. Ibrahim K

NAROK COUNTY COMMUNITY DELEGATES
1. Malano Saiguran
2. Lentoyian Sululu
3. Kampei Kuaet
4. Rise Sunkuyia
5. John Kikonya
6. Hamson Ntekerei

KAJIADO COUNTY COMMUNITY DELEGATES
1. John Parani Kikonya
2. Isaac Tobiko
3. Thomas Metian
4. John Marona
5. Elizabeth Nekesa
6. John Marona
7. Joel Karori
WAJIR COUNTY COMMUNITY DELEGATES
1. Osman Abdille
2. Muna Sheikh
3. Sharmake Yusuf

MANDERA COUNTY COMMUNITY DELEGATES
1. Salah Naalim
2. Adan Haji

SIAYA COUNTY COMMUNITY DELEGATES
1. Gladys Oking
2. Anna Anyango

TURKANA COUNTY COMMUNITY DELEGATES
1. John Ekai
2. Sammy Lochok
3. Selina Eka
4. Gabriel Enyole
5. Charles Lokai

LAMU COUNTY COMMUNITY DELEGATES
1. Mohamed Yusuf
2. Somo.M. Somo

KILIFI COUNTY COMMUNITY DELEGATES
1. Trevenia Manga
2. Margaret Luganje

KITUI COUNTY COMMUNITY DELEGATES
1. Rosemary Kimathi

GARISSA COUNTY COMMUNITY DELEGATES
1. Abdi Alinur
2. Mohammed Dahir
3. Abdinur Ahmed.
4. Abdinasir Abdirizak
5. Mohammed Yusuf

TANA RIVER COUNTY COMMUNITY DELEGATES
1. Saddiah Koro
2. Khadija Labo Hassan
3. Nana Hashora

TAITA TAVETA COUNTY COMMUNITY DELEGATES
1. Beatrice Mjomba
2. Gertrude Mwangoma
3. Odha Ilu
4. Mwaiseghe John
5. Paul Oling’a
6. Rose Mdawida

HOMABAY COUNTY COMMUNITY DELEGATES
1. Mary Omwanda Akach
MEDIA TEAM
1. Eliud Waithaka - The Star
2. James Munyeki - Standard Media Group
3. Githui Wa Wairimu - Inooro tv/ Citizen Radio
4. Sheila Silvana - Radio Mchungaji (Maralal)
5. Cynthia Ronoh - Kenya News Agency
6. Muturi Mwangi - Kenya News Agency
7. Paul Mwanki - Mediamax/KBC
8. Nahashon Muhia - Mediamax
9. James Murimi - Nation Media Group
10. Lewis Mutwiri - Baliti Radio (Isiolo)
11. Eric Njure - Royal Media
12. Sharon Nkonge - Royal Media
13. Eric Ntalua - Royal Media
14. Jackson Mwanduka - Nairobi
15. Collins Mugala - Nairobi
16. Peter Muturi Kinuthia - Nairobi
17. Laissa Mali - Nanyuki
18. Mwangi Ndirangu - K24
19. Nick Lenyakopiro - Serian Radio Samburu
20. Swaluha Yusuf - Angaaf Radio Isiolo
21. Anne Kibe - Nairobi
22. Collins Omondi - Nairobi
23. Alice Njeri - Bus Radio Kajiado
24. Robert Newman - Nairobi

IMPACT TEAM
1. Ole Kaunga - CEO
2. John Tingoi - Peace Program Manager
3. Johanna Minyarit - Driver /Mechanic
4. Elizabeth Nassy - Operations Director
5. Sharon Kariuki - Accounts & Procurement officer
6. Vivienne Wendo - Communications Officer
7. Elijah Lempaira - Land Program Manager
8. Trizah Eyanae - Peace Program Assistant
9. Norman Mjomba - Accounts Assistant
10. Sajila Pamita - Resilience Program Assistant
11. James Mema - NRM Project
12. Raphael Lenaruti - Paralegal
13. Priscilla Senteina - Paralegal
14. James Matungu - Paralegal
15. Moipon Sakui - Land Program Assistant
16. Lemperian Kisia - Driver
17. Halima Diba - Paran Alliance
18. Ramson Karmushu - Research
19. Everlyn Lalkaiiepi - Rasilimali Marketing Officer
20. Sabina Lekuton - Admin Assistant
21. Lelente Karmushu - Driver
From 19 out of 24 counties across Kenya attended the Community Land Summit 2021 (CLS2021).

221 Delagates

347 Undissolved group ranches to community lands by 2024

63% Perceived their land rights as secured under the CLA2016
In Laikipia, Samburu, Kajiado and West Pokot have successfully registered their community lands.

12 Communities

30,000 Participants in 23 counties have already received public education about the CLA2016