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Case studies on Remuneration of Positive Externalities (RPE)/ Payments for Environmental Services (PES)

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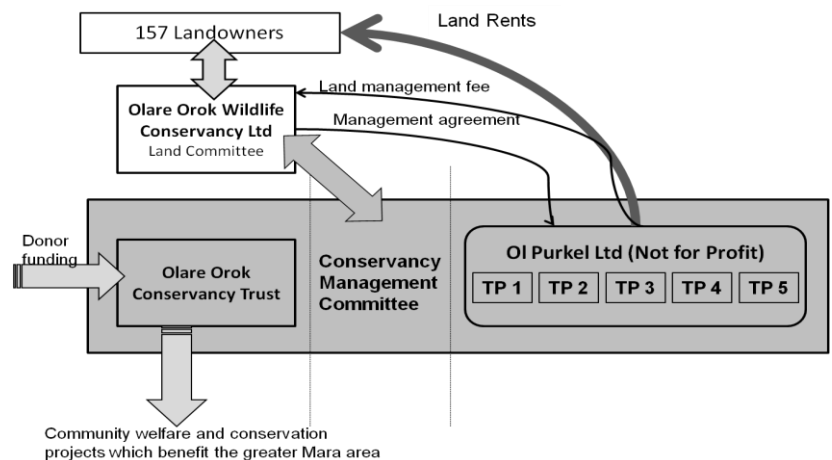
Since 2006, the Maasai landowners are paid US\$ 41/ha/year (in 2011) by a consortium of five commercial tourism operators, to voluntarily relocate their settlements and exclude livestock grazing inside the Olare Orok Conservancy (OOC), Conservancy, which is exclusively reserved for high-end wildlife tourism.

The Olare Orok Conservancy: tourism investment in wildlife conservation, Kenya

Overview

The project followed the breakdown in 1998 of former Koyaki Group Ranch, a rangeland area owned by Maasai pastoralists at the northern edge of the Mara Reserve. This led to the sub-division of land and the allocation of individuals land titles to former group ranch members between 1999 and 2004. The land sub-division process was seen as posing a threat to the hitherto lucrative tourism business outside the Mara Reserve, and there were fears that land sub-division may lead to increase in fencing, cropping and fragmentation of land[1]. Consequently, a group of commercial tourism operators negotiated with the Maasai land owners of the former Group Ranch to develop new institutional arrangements for wildlife tourism in the form of a Conservancy.

In this arrangement, individual landowners were to be paid directly for collectively setting aside their land for wildlife tourism within the Olare Orok area situated adjacent to the Mara Reserve. As in most pastoral areas in southern Kenya, the process of land sub-division was driven by government policies supporting land privatization and individualization of tenure and the mismanagement of the Group Ranch system. These prompted Group ranch members to press for sub-division so as to gain individual security of land tenure and advance their livelihoods on their own land. The conservancy arrangement was developed purely as a private sector driven initiative, and is separate and independent from the park revenue sharing scheme that is managed by the Narok County Council, the local government entity that collects revenue for the Mara Reserve.



[1] See for instance Kepher-Gona (2006) exposing the concerns of tourism operators regarding the land sub-division in the Mara

Figure 1: The structure of the OOC programme

Background

The challenges facing wildlife conservation that can potentially compromise the sustainability of wildlife and tourism in the larger Maasai Mara Ecosystems (MME) comprises a combination of different factors, which include: the land use changes especially the expansion of both large scale mechanized and small scale agriculture in response to the economics of landuse [2], increasing human population accompanied by the expansion of settlements[3], and the ongoing privatization and sub-division of pastoral rangelands from large parcels under collective tenure to small parcels under individual and corporate tenure, driven mainly by the desire of landholders to secure legal title and user rights to land[4]. These processes contributed to large declines in wildlife population[5], which were further accentuated by the effects of climate change[6].

Another key challenge was related to the absence of individual incentives to conserve wildlife habitat. Despite the huge revenues generated by wildlife tourism, both within and on lands adjacent to the Mara Reserve, a large majority of pastoral landowners did not receive direct benefits and were excluded from the benefits, due to mismanagement and lack of transparency by the local elites such as Group Ranch committee members, responsible for engaging in contracts with tourist campsite agencies. This was in addition to the lack of transparent mechanism for revenue sharing from the Mara Reserve. Even when wildlife tourism revenues were shared among landowners, it was pegged on visitor numbers and therefore was irregular and unpredictable because it fluctuated widely by seasons.

The pastoral land owners in the former Koyaki and other group ranches adjacent to the Mara Reserve have reconsolidated their lands to form a number of conservancies, including the Olare Orok Conservancy (OOC). These conservancies have helped secure land for wildlife conservation outside the Reserve reducing the threats of loss or blockade to wildlife corridors and migratory routes while supporting wildlife tourism on private lands adjacent to the Mara Reserve. The mechanism for benefit sharing and the PES conditionality differs from conservancy to conservancy but in general entails regulation of settlements and controlled access to livestock grazing inside the conservancies.

In the Olare Orok Conservancy, a PES land lease scheme was considered suitable because it could help avoid further fragmentation of rangelands following land subdivision in the Olare Orok area, enabling the continuation of wildlife tourism outside the Mara Reserve. Land enrolled in the conservancy cannot be fenced nor be used in ways that undermine wildlife conservation and tourism. In addition, the PES scheme was adopted to ensure that all landowners benefitted equitably through the direct payments from land leases, which would provide regular and more predictable income stream to the pastoral Maasai families.



Figure 2. Map of Kenya showing the location of Olare Orok Conservancy

[2] See Homewood et al. (2001) and Norton-Griffiths et al. (2008)

[3] See Lamprey and Reid (2004)

[4] See Thompson et al. (2009)

[5] See Ogutu et al. (2011)

[6] Ogutu, J. O., Piepho, H. P., Dublin, H. T., Bhola, N. & Reid, R. S. (2007) El Niño-Southern Oscillation, rainfall, temperature and Normalized Difference Vegetation Index fluctuations in the Mara-Serengeti ecosystem. *African Journal of Ecology*, 46, 132-143. 6

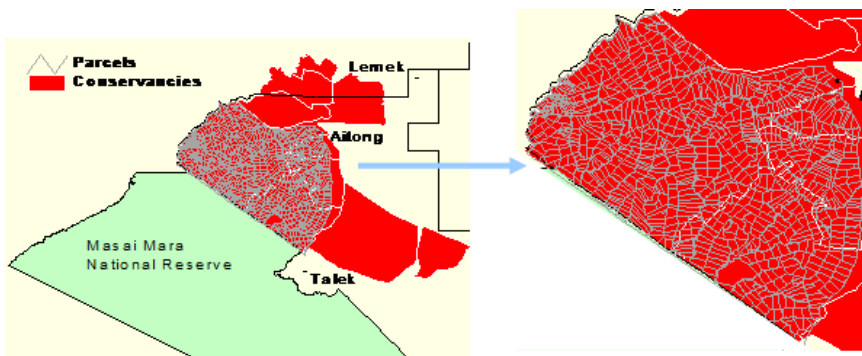


Figure 3. The maps shows individual land parcels after the sub division of Koyaki group ranch which was owned and managed as a single unit. Source: MEMR Task Force (2012)

Policies and institutions

Main operator(s) and their roles:

ES Providers: 217 Pastoral and agro-pastoral Maasai landowners

ES Intermediaries: OI Purkel Ltd and the Olare Orok Land Committee

ES Users/funders: five commercial tourism operators (the Porini Lion Camp, Kicheche Bush Camp, Mara Plains Camp, Olare Camp, and Virgin Camp)

Other Partners: the Olare Orok Conservancy Trust (OOCT); Motorogi Conservancy; Narok County Council (NCC); Kenya Wildlife Services (KWS)

Budget involved so far:

US\$426,400 for Conservancy land lease payments (in 2012) to 217 landowners, or an annual average of US\$ 2000USD per family.

US\$ 140,165 (2012) in transaction costs incurred by the OI Purkel Ltd, the conservancy management company to cover the cost of administration, staff emoluments, monitoring and compliance of contracts, transport and communication, food, equipments and road maintenance.

Currently, there is no single legislation that governs the establishment and operations of wildlife conservancies in Kenya, which are governed by multiple sectoral legislations. The Olare Orok Conservancy thus operates within the regulations covering tourism development, environmental management, wildlife conservation and land use management. The key regulation for tourism in Kenya until 2011 was the Tourism Industry Licensing Act (Cap 381), which has since been replaced by the Tourism Act (2011) that provides the legal framework to regulate the establishment and operations of tourism businesses in Kenya[7].

The key regulation for environment in Kenya is the Environmental Management and Coordination Act (EMCA, 2002) which provides for the establishment of appropriate legal and institutional framework for the management of the environment, including providing guidelines on cross-sectoral issues such as wildlife conservation. Issues specific to wildlife conservation are regulated by the Wildlife Conservation and Management Act (WCMA, 1976; amended 1989) which establishes protected areas for the conservation of wildlife, although it does not adequately address the challenges of wildlife conservation on private and communal outside protected areas[8].

In Kenya, different legal instruments govern different categories of land and owners. The OOC is implemented through an arrangement that involves the leasing of land for tourism. Land leases were regulated through the Land Titles Act and the Registration of Titles Act until 2010. However, the adoption of a new constitution in Kenya in 2010 led to the development of new land legislations for which the relevant ones include the Land Act (No., 6 of 2012) and the Land Registration Act (No., 3 of 2012). Of particular interest is the current preparation of a subsidiary legislation for wildlife management and land use to guide the establishment and operations of wildlife conservancies in Kenya. If developed and adopted, the subsidiary legislation will ensure that formation of conservancies takes into account the ecosystem management plans and also creates incentives such as exemption from land tax because conservancies will now be recognized in law as a land use category, which is currently not the case.

The implementation of the PES program in the Olare Orok has involved engagement with many governmental and non governmental institutions which provide supporting services at their own cost as part of their regular work. These include the following;

- The Ministry of Tourism which grants licenses for the establishment of tourism operations and businesses
- The Narok County Council (NCC) which is responsible for the management of the Maasai Mara National Reserve jointly with the Trans-Mara County Council (TCC). These are responsible for wildlife protection inside the park and coordination with the conservancy to ensure wildlife protection on conservancy land outside the reserve
- The Kenya Wildlife Services (KWS) which is charged with the protection of all the wildlife in Kenya and conservation of their habitat. KWS also provides security for wildlife against poaching and wildlife veterinary services ,
- The National Environment Management Authority (NEMA) which grants Environmental Impact Assessment (EIA) licenses to the tourism operations and approves land use plans for conservancies
- The Ministry of Lands which provides the title deeds to the landowners and registers the lease contracts between the landowners and the tourism operators.

[7] *The Tourism Act provides for the development, management, marketing and regulation of sustainable tourism and tourism related activities and services, and for connected purposes.*

[8] *See Kameri-Mbote, P. (2005) Land Tenure, Land Use and Sustainability in Kenya: Towards Innovative Use of Property Rights In Wildlife Management. International Environmental Law Research Center (IELRC).*

Incentives for wildlife conservation

The Olare Orok Conservancy land lease PES scheme provides payment for 'habitat services' to support wildlife conservation and thus biodiversity as an intermediate to the ultimate service of tourism (cultural and amenity services)[9]. The ES is measured by the area of land (ha) enrolled in the PES scheme.

The Maasai landowners are paid to voluntarily to relocate their settlements and exclude livestock grazing inside the Conservancy area, which is exclusively reserved for high-end wildlife tourism. Currently, the ES sellers include the 217 Maasai landowners with land in the Olare Orok and the Motorogi Conservancy which are managed jointly and together cover an area of 15,200ha. As at 2011, there were eight other conservancies in the Maasai Mara Ecosystem spanning an area of over 100,000ha. Some of these operate PES schemes while other have different models of benefit sharing arrangements with the land owners

The PES rates in the OOC scheme were calculated based on the opportunity cost, taking into account the expected returns from crop cultivation (agricultural rents), and negotiations between the tourism investors and the land owners. The initial annual payment rate agreed between the tourism investors and the landowners in 2006 was KES 2,500 per hectare (US\$ 33/ha) and this rates has since been adjusted in 2009 and 2011 to US\$36 and US\$41, respectively.

In return for the payment, the landowners are expected to move their settlements outside the conservancy land and to adhere to a strict livestock grazing plan inside the conservancy. Landowners have thus resettled in different places including in their other parcels of land, around the trade centers such as Talek, in un-subdivided pastoral commons, and in land belonging to relatives. The monitoring of livestock infraction is well done, with local scouts employed by the OOC to provide security for tourists and monitor unauthorized infractions.

A penalty of KES 5000 (or about US\$66) per infraction is charged both to the conservancy members and non-members violating this rule. A self monitoring process has also emerged where members of the conservancy themselves also check and report any observed grazing infractions in the conservancy, and this has been made much easier with the use of mobile phones to alert the conservancy scouts.

Current wildlife monitoring is concentrated on a few species of tourist interest such as the big cats and this should be expanded to support an in-depth assessment of the OOC impact on wildlife and biodiversity. The integration of livestock and wildlife has also become an issue for consideration by the conservancy, which initially totally excluded livestock but has now developed a plan to allow planned livestock grazing inside the conservancy particularly during the low tourism season.

All the settlements located within the OOC were moved by 2006 and the area left for tourism campsites only. The monitoring of livestock infractions inside the conservancy is undertaken by trained community scouts who also provide security for visitors and assist with control of wildlife poaching within the conservancy. In addition, voluntary self monitoring by conservancy landowners is also in effect, with some landowners reporting livestock infractions to the conservancy management. The MRV in the OOC is thus effective



MRV



Incentives

Wildlife Conservation benefits:

The creation of conservancies has secured critical areas that act as wildlife migratory corridors to ensure the contiguity and connectivity of wildlife habitats. The conservancies form crucial buffer areas for the MMNR minimizing the threats to wildlife dispersal areas

Socio-economic benefits:

The OOC PES is the most equitable income source which promotes income diversification and buffers households from the livestock income declines during periods of severe drought such as in 2008-2009. The co-benefits of PES implementation in the OOC include the creation of employment opportunities in the conservancy and provision of social services.

[9] TEEB (2010) *The Economics of Ecosystems and Biodiversity: Ecological and Economic Foundations*, London and Washington, Earthscan.



Public-Private

The Olare Orok Wildlife Conservancy therefore represents a specific situation where a consortium of private commercial tourism operators pay pastoral landowners directly for biodiversity conservation in an ecosystem that is of high touristic value because of the beauty of the landscape and the presence of charismatic wildlife species that support their tourism business.

The OOC operates a business model where the tourism operators guarantee landowners a fixed annual land lease fee which is paid directly to individual households regardless of the number of tourists visiting the camps, a departure from earlier arrangements where payments were based on the bed-night fees and remitted to land owners through communal institutions rather than directly to the households.

Investing in wildlife conservation

The project has had five ES buyers which are mainly the tourist operators or tourist partners (TPs). These tourist partners include the Porini Lion Camp, Kicheche Bush Camp, Mara Plains Camp, Olare Camp, and Virgin Camp. All of the five tourist operators are private commercial companies operating in the tourism industry making the OOC a “user- financed” PES scheme.

Two intermediary institutions, support the agreement, one each on the ES seller and ES buyer sides.

On the ES seller side is the Olare Orok Wildlife Conservancy Ltd which is a shareholding company belonging to the Conservancy member landholders and is guided by a land committee formed by their representatives.

On the buyer side, is the OI Purkel Ltd, a non-profit company formed by five tourist partners and independently managing the conservancy by paying landowners directly, to increase transparency and minimize mismanagement of funds. The OI Purkel Ltd signs a land management agreement and pays a land management fee to the Olare Orok Wildlife Conservancy Company.

OI Purkel Ltd is tasked with the day to day management of the Conservancy, which includes the following responsibilities: collecting money from the tourist partner, providing payments to the ES providers directly to the individual households and monitoring and ensuring compliance by enrolled landowners and community. The costs incurred by OI Purkel Ltd for the management of the conservancy are paid for by the tourism investors

The overall conservancy management lies with the Conservancy Management Committee which is comprised of the representatives of the Olare Orok Wildlife Conservancy Ltd land committee, the OI Purkel Ltd and the Olare Orok Conservancy Trust (OOCT) which was constituted as a conduit for donor supported projects that are independent of the PES scheme land rent payments (Fig. 1).



Figure 4. Zebra grazing inside the Olare Orok Conservancy (OOC) Photo credit: Rob O'meara

Lessons learned

The PES payments offered to the OOC landowners is competitive against alternative land uses such as livestock grazing and farming (which attracts a high cost of controlling wildlife infractions), and it leads to income diversification of the pastoral households.

PES is particularly invaluable during a period of severe drought because unlike other income sources such as livestock and crops, which are highly seasonally variable, the land based PES provide regular and relatively stable income across seasons. The OOC model also provides some measure of financial sustainability so long as tourism operations continue, but these could be affected by local and global economic and environmental shocks, including threats of international terrorism which discourages visitors coming to Kenya. However, this model also ensures the protection of the environmental values upon which the tourism industry relies on. It is also seen as providing opportunity for the disenfranchisement of local Maasai land owners of their land through the so called “green grabs”[10] (box 1)

As reported by Bedelian (2012), the Maasai landowners in the Mara dismissed a proposal by the African Parks Network (APN) to join all the conservancies in the Mara under a single management and governance structure. The APN proposed to provide management expertise and financial support for the conservancies, on the basis that a private company would hold the leases where shares were held by all key stakeholders, rather than by the separate conservancy landowners’ companies. The proposal was rejected by conservancy members who saw it as taking away too much of their current ownership rights to conservancy land (Bedelian 2012). This move was also informed by the experience of the Maasai in the neighboring Tanzania who have lost their critical grazing land to investors purporting to promote conservation (Benjaminsen & Bryceson, 2012)

The PES participants are however inevitably faced with a trade-off resulting from the Conservancy land use regulations because of the reduction in the area available for livestock grazing and displacement of settlements, which directly affects both the poor and non-poor households by potentially amplifying their vulnerability to the recurrent droughts [11]. The PES payment should be complemented with investments and support for the improvement in livestock breeds and market access to enable pastoral families earn higher income from fewer high producing breeds.

Box 1: Conservancy establishment as land grab?

As reported by Bedelian (2012), the Maasai landowners in the Mara dismissed a proposal by the African Parks Network (APN) to join all the conservancies in the Mara under a single management and governance structure. The APN proposed to provide management expertise and financial support for the conservancies, on the basis that a private company would hold the leases where shares were held by all key stakeholders, rather than by the separate conservancy landowners’ companies. The proposal was rejected by conservancy members who saw it as taking away too much of their current ownership rights to conservancy land (Bedelian 2012). This move was also informed by the experience of the Maasai in the neighboring Tanzania who have lost their critical grazing land to investors purporting to promote conservation (Benjaminsen & Bryceson, 2012)



Incentives

[10] See Bedelian (2012) for a discussion of the OOC in light of the land grab debate

[11] See Osano et al. (2013) for a discussion of the trade-offs involved in the OOC PES scheme



Public-Private



Negotiation

Innovative aspects of the PES scheme

The OOC involves continuous negotiations between the land owners and the tourism partners not only on the rates of payments but also on other issues such as livestock grazing. This has resulted in the adjustments of PES rates as both the operators and landowners build confidence in the system. For example, the land lease contracts signed in 2006 was for two and a half years, and this was renewed in 2009 for another five years.

In 2010/2011, a revised 15-year contract covering the period 2010-2025 was offered to the landowners, and although it attracted a 90% acceptance rate, some 35 landowners did not accept it for various reasons, including concern for permanent settlement areas and livestock grazing restrictions. Following a series of protracted negotiations, this splinter group of landowners was allowed the option of retaining a five-year contract, which they accepted and they have stayed on in the conservancy.

The OOC institutional model represents an innovation that has yielded benefits to both wildlife and to the pastoral landowners. Wildlife benefits are realized through the conservancy provision of migratory corridors and dispersal areas as well as the security provided against poaching. Land owners benefits are provided through the guarantees of direct payments leading to stable and predictable income that also, promote equity and ensure transparency in the operations of the Conservancy.

Other useful references

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Future Outlook

The Olare Orok Conservancy has yielded positive benefits to both the wildlife through maintenance of wildlife areas and corridors and to the member households through income diversification. The model has been attractive and has been adopted by pastoral landowners and tourism enterprises operating in other areas within the Mara. The Conservancies that have adopted the model include the Motorogi Conservancy, The Mara North Conservancy, the Naboisho Conservancy and the Ol Kinyei Conservancy [12].

The OOC represents an attractive model of public-private partnership involving the private sector in the tourism industry and local landowners. The missing link so far, to support the replication of this model, has been lack of pro-active government engagement in the process of conservancy development, which has resulted in unregulated development of tourism infrastructure in ecologically sensitive areas and saturation of tourism facilities. The current unregulated establishment of conservancies in the MME may undermine wildlife conservation, tourism and socio-economic benefits provided by the conservancies.

Recent increase in poaching in Kenya in the last two years may also affect the operations of these conservancies, and demand greater oversight from the relevant government authorities. These include the establishment of the Mara Conservancies Forum to co-ordinate the establishment, planning and operations of conservancies in line with the recently developed Maasai Mara Management Plan (2009-2019), and increased support for pastoral household for market access and improved livestock breeds.

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[12] For details, see:
Mara North Conservancy
(www.maranorth.org);
Naboisho Conservancy
(www.maranaboisho.com),
and Ol Kinyei Conservancy
(<http://www.maasaimara.com/entries/ol-kinyei-conservancy>)

[13] See for instance the Report of the Ministry of Tourism Task Force on sustainable development of tourism in the Maasai Mara and Amboseli Ecosystems (Ministry of Tourism, 2009)

Contacts

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