

Legal Empowerment:
The Case of Pastoral Land Rights

Legal Empowerment: The Case of Pastoral Land Rights in Northern Tanzania

By Ringo Tenga & Benedict Ole Nangoro

in Northern Tanzania

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1. Introduction

1.1 The Context

Conceptual Basis:

Legal empowerment is about enabling communities to use law to improve their livelihoods. It is an assumption of the process that there is in existence a rule of law framework that provides the rules through which legal empowerment may be realised. The term legal is to be understood in a wider context where issues concerning poverty reduction or alleviation, and issues of governance are dealt with in order to involve communities in taking the development agenda as direct participants and not were beneficiaries.¹ Thus, according to Golub, the focus is on using "legal services and related development activities to increase disadvantaged populations control over their lives as an alternative".

Comment [r1]: #Golub, Steven Beyo
"Beyond Rule of Law . Orthodixy the Legal
Empowerment Alternatve (2003)

Four components characterise the Strategy:

- (i) Law specialists support the disadvantage communities as partners, instead of dominating them as proprietors of expertise.
- (ii) The disadvantaged play a role in setting priorities, other than state officials and donor personnel dictating the agenda.
- (iii) Narrow notions of legal institutions and the law are transcended by non-judicial strategies.
- (iv) More broadly, the use of law is often just part of integrated strategies that include other development activities.

In Tanzania a classic example, which by chance rather than design, has implemented a similar strategy is that of securing Maasai pastoralist resources in Northern Tanzania. The initiative has been organised through the work of CORDS, a development NGO based in Arusha, Tanzania. In line with the terms of reference given to us we shall review here:

- (a) The legal framework within which Maasai Pastoralists have struggled in securing their livelihoods. In doing so we shall also state the Pastoralists' predicament which has led to the adoption of the strategy.
- (b) The CORDS' initiative and its Pastoralists Land Rights (PLR) Programme.

¹ Stephen Golub, "Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative," **Carnegie Endowment: Rule of Law Series** (New York) Democracy & Rule of Law Project, 41 (October, 2003)

- (c) The Evaluation of the Programme in relation to Legal Empowerment and its prospects.

1.2 What is CORDS?

This presentation is based on the work done amongst minority pastoralists in the North Eastern part of Tanzania by CORDS a non-governmental community research and development organization (NGO), based in Tanzania, East Africa. CORDS' head office is located in the city of Arusha in Northern Tanzania, with a satellite office in Kiteto, Manyara Region. CORDS has designed and executed several community-based projects that primarily aim at securing and enhancing sustainable livelihoods for pastoralist communities in its focus area in the districts of Monduli, Longido and Aru-Meru in Arusha Region, and in Simanjiro and Kiteto districts in Manyara Region.

CORDS was founded and registered as a society in 1999 under the **Societies Act**, Chapter 337 of the Laws of Tanzania (R.E. 2002); and was issued a certificate of registration with number 9398.² The original membership is composed of 12 members who are development practitioners devoted to the research and development of issues and projects related to sustainable livelihoods in disadvantaged communities in Africa. The immediate Governance organ is a Board of Directors which has 5 members who oversee the governance structure of CORDS. CORDS, as a society, has incorporated Trustees who hold its corporate personality under the **Trustees Incorporation Act**, Cap. 318 of the Laws of Tanzania (R.E. 2002). The Board of Trustees has 3 Trustees.

1.2 Why an NGO Devoted To Secure the Livelihoods of Pastoralist Communities?

In 1997 CORDAID, an international Dutch co-financing development organisation, funded a research project on pastoral livelihoods in Tanzania. The research was done by a group of development practitioners led by Benedict ole Nangoro, the present Coordinator of CORDS. They produced a thorough report that is popularly referred to as the PARDEP Report, and on the basis of that report an NGO was formed to pursue programmes targeted at securing pastoral resource rights.

CORDS is organized around six planning and implementation frameworks:

- 1) Pastoral Land Rights Programme (PLR),

² See detail on <http://www.cordstz.org/index.html>

- 2) Pastoral Land Use Planning and Management Programme (PLU),
- 3) Livestock Development Programme (LDP),
- 4) Gender and Women Development Programme
- 5) Community Radio Programme
- 6) Coordination and Institutional Development

These six frameworks are the basis of the present planning and organisational schemes of CORDS and they form the basis of the next programmatic orientation in future programmes. The frameworks are integral to CORDS' strategic challenges and priorities and are consistent with its mission and vision.

1.3 Mission Statement

The mission of CORDS is to work with NGO's, CBO's and local communities to enhance the security of resource tenure among the pastoral communities in Kiteto, Monduli, Ngorongoro and Simanjiro and to promote sustainable livelihoods. Through research, documentation and dissemination of information, CORDS informs policy makers and stakeholders in development while raising awareness of the local communities on issues affecting their lives. The institutional support unit of CORDS builds the capacity of local organizations and promotes community based development initiatives (land rights, water, human and animal health and education). These initiatives aim at improving conditions of the marginalised groups and ultimately it is hoped that they will help to broaden choices of the people. CORDS primarily seeks to enhance sustainable pastoral livelihoods.

1.4 Vision Statement

The vision of CORDS is that all people are born with right to live a fully human life and that resources, if distributed fairly are enough for the holistic development of each individual, household, community and nation. CORDS envisages a society in which all the pastoral communities in Arusha have access to resources and services necessary to live a life worthy of human dignity and sustaining livelihoods of their own choice. And to facilitate solidarity and networking among pastoral NGO's and other development actors in the region for improved performance.

1.5 Aims and Objectives

Broad aims of CORDS include: promoting security of resource tenure, research and documentation in order to inform policy and actors in

pastoral development, providing institutional support to CBO's and NGO's operating in the field of pastoral development.

2. The Context

The Pastoralists' Predicament.

Pastoral Maasai communities in Arusha and Manyara Regions, in Northern Tanzania have traditionally enjoyed access, control and management of land and natural resources in the Districts of Kiteto, Simanjiro, Monduli and Ngorongoro. Things have however changed in the past forty five (45) years as big tracts of land have been alienated from pastoralism to other uses. Land alienation has led to land scarcity which in turn has generated extensive land use conflicts.³ The lands that have been traditional lands for these communities are the extensive marginal lands of Northern Tanzania that are most beneficially used for traditional pastoralism. The landholding system of the Maasai is based on a traditional pastoral system of property rules that recognises individual ownership of certain resources and common use of other resources such as pastoral lands.⁴ Hence property is conceived as a 'bundle of entitlements', as it were, where in the same item possessory and holding rights for a variety of users may be identified ranging from private use to common use. The system of use of common resources has access options that are in opposition to the dominant legal concept of property that is exclusive in nature. The pastoralist would not, in essence, exclude other users of land unless such other use is in contradiction to the priority of use of land by the pastoralist. This inclusive notion of use and ownership has often been exploited by other non-pastoralist users who have assumed, to their advantage, that this 'open access' is a free for all and as such the land has no owner. Due partly to this legal misconception and other vulnerabilities of the pastoralists large tracts of lands have been taken by both public and private trespassers who have often used the law against the traditional rights of pastoralists.⁵ The pastoralists' predicament is partly a realisation that the public law domain cannot assist them in securing their

³ Ojalamm, S., 2006, *Contested Lands: Land Disputes in Semi-Arid Parts of Northern Tanzania - Case Studies of the Loliondo and Sale Divisions in the Ngorongoro District*, PhD diss., Department of Geography, Faculty of Science, University of Helsinki.; Shivji, I.G., 1994, *Report of the Presidential Commission of Inquiry into Land Matters*, Uppsala: Scandinavian Institute of African Studies, Tanzania

⁴ Tomasz Potkanski, **Property Concepts, Herding Patterns and Management of Natural Resources among the Ngorongoro and Salei Maasai of Tanzania** (London: IIED, 1994)

⁵ Daniel Ndagala, "The Need To Protect Traditional Livelihoods: The Case Of Pastoralism And Foraging In Tanzania," in, **Economic, Social and Cultural Rights of the Maasai**, Juridica Lapponica 17, Horn, Frank (Rovaniemi: University of Lapland, 1998)

resource rights unless a redefinition of property rules is made to include their notion of user rights and be part of legally recognisable possessory and proprietary rights.

Due to this predicament rights to land and other natural resource entitlements have increasingly been eroded, with prime lands being gradually lost to commercial large-scale farming, wildlife conservation, small scale farming, human settlements and infrastructure. The latter occurred for example in Ngorongoro Conservation Area, Serengeti, Lake Manyara and Tarangire National Parks. Wealthy investors currently exert considerable pressure on remaining tracts of land for development. Recently, investors have acquired lands from the pastoral areas for mining, hunting blocks, large scale farming, snake parks, wildlife conservancies, hotel and tourism development.

A shrinkage in seasonal grazing is perceived by the local Maasai people as immediate and real threats to their livelihoods. Insecurity and alienation of woodlands, grazing and browsing, water resources and salt licks, coupled with frequent and intensive resource based conflicts pose serious threats to pastoral livelihoods and to pastoralism as an economic system.

Sustainable pastoralism in northern Tanzania, as it is the case elsewhere, relies on extensive rather than intensive use of natural resources. Dispossession of such lands is forcing an unnatural intensification of land use, with all - the - year round rather than seasonal uses of grazing, browsing and water resources. As the rangeland re-growth capacity is exceeded the grass/herb composition changes and more unpalatable and sometimes, toxic species invade the rangelands. Poor vegetative cover as a result of over-grazing leaves the lands open to erosion and degradation. The distance to water has increased for the herds, and routes are over utilized and in many cases such routes are blocked, likewise contributing to land degradation. A decline in livestock nutrition and lowered production are natural outcomes of the land alienation and dispossession.

The marginalisation of the pastoral communities in the target areas features in the other areas such as access to education, health care, veterinary services, and inclusion in political, governmental and development processes. High levels of illiteracy deprive them of representation in different professions such as medicine and law in which high education is a determinant.⁶

⁶ Amon Z. Mattee and Martin N. Shem, **Ambivalence and Contradiction - A Review of the Policy Environment in Tanzania in relation to Pastoralism** (London: International Institute for Environment and Development [IIED], March, 2006)

3. Local Pastoralists' initiatives in addressing land tenure insecurity.

3.1 Overview

Different pastoralists groups in CORDS areas of operation came together and analysed the insecurity of resource tenure and social change.⁷ Both traditional and modern forms of social organisations were used by village communities in problem identification and seeking support from development organisations that were engaged in pastoral development (CORDS, FarmAfrica, LAMP, AWF, etc.).

- ⇒ Meetings were organised and held in different villages
- ⇒ Traditional and village leaders approached pastoralists organisations/CSOs
- ⇒ CSOs participated in meetings and used PRAs and other participatory methodologies as tools of analysis, planning and involving local communities
- ⇒ Legal experts were invited and used to provide legal guidance as to what could be done to ensure that rights of pastoralists to land were:

- ✓ Recognised
- ✓ Formalised
- ✓ Protected and
- ✓ promoted

Rural development experts were involved in developing strategies that ensured optimal community participation in devising approaches to branding the land.⁸

3.2 How a Pastoral Land Rights Protection Programme is developed by CORDS in collaboration with the Pastoralist Communities.

During the Research phase⁹, various communities in Monduli, Kiteto, Simanjiro and Monduli identified loss of land as the main development priority of pastoral communities in such areas. Different communities approached CORDS and asked it to work with them in addressing the problem of land losses and conflicts that were threatening the future of pastoralists. As a response to such requests from different village communities, CORDS in collaboration with such communities developed a programme designed to enhance the

⁷ Benedict ole Nangoro, "Branding The Land": Maasai Responses To Resource Tenure Insecurity And Social Change," in, Horn, Frank, **Economic, Social and Cultural Rights of the Maasai** (Rovaniemi: University of Lapland, 1998)

⁸ Ole Nangoro, B.N. (1998) Branding the Land, Ibid.

⁹ See Pardep Research Report (1998)

security of resource tenure for the Maasai pastoral communities in Monduli, Longido, Simanjiro, Aru-meru and Kiteto.

3.3 Pastoralists' analysis of land problems and agreement on common strategies

District Workshops were used to analyse land problems and generate a consensus on basic strategies. CORDS organised four residential workshops one for each district (Ngorongoro, Monduli, Simanjiro and Kiteto). Every workshop took a total of five days and it brought together participants from the entire district. At the workshop, the problem tree mapping was used as a method to analyse the problem of land in each respective district, with participants highlighting the underlying causes of land tenure insecurity and effects that land losses had on their lives.

Comment [RWT2]: When???

3.4 Key Problem(s) as identified and articulated by the pastoralist communities

The tenure of pastoral lands in Tanzania is very insecure.¹⁰ Such tenure insecurity is caused by policy and legal frameworks that are premised on models of property rights that are intrinsically alien to pastoral production systems.¹¹ This insecurity manifests itself in massive alienation of lands from pastoralism to other uses such as small and large scale agriculture, protected areas and infrastructural development. This has led to massive land losses, shrinkage in the pastoralist resource base leading to increased land use conflicts, increased frequency in food insecurity and vulnerability. As pastoralists, "we now have a difficult time managing environmental vicissitude as we did in the past".

3.5 Why such a set of problems?

From the workshops, participants identified key drivers of land alienation in the Maasai areas of northern Tanzania and these included:

- ✓ Disempowering pastoralists through negative land policies,
- ✓ Wildlife and conservation policies that exclude human development,
- ✓ Large and small scale crop farming,
- ✓ Lack of access to justice,

¹⁰ R.W. Tenga, Pastoral Land Rights in Tanzania. A Review, Drylands Programme, Pastoral Land Tenure Series (London: International Institute for Environment and Development [IIED], 1992)

¹¹ Chris M. Peter, "Human Rights of Indigenous Minorities in Tanzania and the Courts of Law," University of Lund (Lund: Raol Wallenberg Institute of Human Rights and Humanitarian Law, 2007)

- ✓ Exclusivity of the legal language to non-pastoral paradigms,
- ✓ Hostile and negative general policy environment.

3.6 Programme Target population

A total of ninety (90) villages secured certificates of village lands (31 villages in Monduli, 31 in Longido, 9 in Kiteto and 20 in Arumeru).

Arumeru District

The target population that benefited from the initiative in Arumeru is 83,633 agro-pastoralists living in twenty four villages in Arumeru District.

Monduli and Longido Districts

In Monduli and Longido districts, one hundred and eighty five thousand one hundred and ninety (185,190) people benefited from the land rights and legal empowerment project.

Kiteto District

In Kiteto District, a total of five thousand six hundred (5,600) Maasai households with a total of twenty six thousand four hundred (26,400) people living in nine (9) villages have participated in the empowerment initiatives.

3.6 Designing a Strategy: Identification of Appropriate Legal Tools

The strategy adopted was to enhance land tenure security through use of existing legal framework i.e. village land demarcation and certification, establishment of village land registries, developing sustainable land use planning as provided under:

- ⇒ National Land Policy 1995
- ⇒ Land Act, 1999 [Cap. 113 of the Laws]
- ⇒ Village Land Act, 1999 [Cap. 114 of the Laws]
- ⇒ Land Regulations 2002

4. Land Tenure and the Legal Framework in Tanzania

The legal system in Tanzania is based on the English Common Law system. The Land laws and its regulations evolved from the Land Ordinance, 1923

which declared all land in Tanzania as public and that it is vested in the governor/president as trustee of the natives/citizens of Tanzania.

In 1995, the National Land Policy was formulated and it provided guidance for the formulation of the Land and Village Land Acts, 1999 which divided land into the following categories and gave mandate to various institutions:

Land in Tanzania is divided into three categories:

⇒ General Lands

⇒ Village Lands

⇒ Reserve Lands

Different institutions are mandated by law differently in issues related to land:

Institution	Mandate/powers/roles
President	<ul style="list-style-type: none"> ◆ -Trustee on behalf of citizens of all land in Tanzania ◆ -Can revoke rights of occupancy ◆ - Can acquire the land for public interests
Minister of Lands	<ul style="list-style-type: none"> ◆ -Assist the President and oversees the Commissioner on land administration
Commissioner of Lands	<ul style="list-style-type: none"> ◆ -Principle administrative officer on land matters ◆ -Assist the president implement the land laws ◆ -Can delegate functions to person or institution ◆ -Key role in decision regarding land allocation
District Councils	<ul style="list-style-type: none"> ◆ -Assist in advising appropriate Institutions on land management decisions
Village Councils	<ul style="list-style-type: none"> ◆ -Manage Village lands on behalf of Village Assemblies ◆ -Receive and determine applications for land ◆ -Allocate village lands after approval from village assembly ◆ -Grant Certificates of Occupancy and derivate powers
Village Assemblies	<ul style="list-style-type: none"> ◆ -Oversees management of village lands by village councils ◆ -Approves village adjudication to be done
Village Adjudication Committees	<ul style="list-style-type: none"> ◆ -Mark land boundaries ◆ -Determine interests of people on land ◆ -Settle disputes arising from adjudication process ◆ -Reports to the village council
Village Land Council	<ul style="list-style-type: none"> ◆ Settle disputes over land matters in village lands

The only form of landholding in Tanzania is the Right of Occupancy which is a periodic form of landholding either grantable by the President (for a period not exceeding 99 years, subject to development conditions), or recognised and/or granted by Village Councils as a Customary Right of Occupancy that is generally perpetual. The majority of Tanzanians live in the rural areas where Village Councils are land managers and have legal authority to manage Village lands that are regulated under customary laws. Villages are established under the **Local Government (District Authorities) Act, 1982**. In Tanzania today there are over 10,000 Villages countrywide. Under Section 22 of that Act the Registrar of Villages may Register an area as a Village where he is satisfied that *"a prescribed number of households have settled and made their homes within an area of Mainland Tanzania, and that the boundaries of that area can be particularly defined..."* The Registrar would give Notice in the Gazette, from time to time of Villages in the Register. The Governing Bodies of the Village are the Village Assembly and the Village Council; the former is the representative popular organ and the other an Executive Organ with corporate personality. The Act repeals the **Local Government Authorities (Application of Laws) Ordinance** and the **Villages and Ujamaa Villages (Registration, Resignation and Administration) Act of 1975**.¹² The Village Structure is borrowed from the provisions of the 1975 Act whereby if the Registrar of Villages is satisfied that *"not less than 250 Kayas have settled and made their homes within any are of Tanganyika and that the boundaries of such area can be particularly defined"* then he can register the area as a Village.¹³ A "Kaya" is defined in the Act to mean "a household or a family unit."¹⁴ Villages do have subordinate units under them known as Vitongoji, or sub-villages but these do not have administrative powers of their own. It is this lowest unit of Local Government Structure, i.e. the Village, which Act No. 5 of 1999, the **Village Land Act**, deals with.

The Village Land Act (VLA) defines what Village Lands are, gives power to the Village Councils to be Village Land Managers, and provides for a procedure where Village Lands can be formally and administratively be demarcated, surveyed, mapped and recognised through the issuance of a registered Certificate of Village Land (CVL). It provides for the establishment of land use plans for the Villages and establishment of Village level committees that would oversee the land use management plans of the Village (e.g. Village Land Use Management Committees [VLUM], Village Environmental and Natural Resources Committees, etc., under the Village Council). Under Section 7(1) of the VLA Village lands would comprise of:

¹² See Fimbo, G.M. "The State and Peasantry in Tanzania: A Study of Agrarian Law and Administrative Institutions" in Essays in Land Law Tanzania [DUP, 1992] pp. 27-50 at p. 38-40 on administrative structure at Village Land.

¹³ S. 4 of Act No. 21 of 1975.

¹⁴ S. 2 of Act No. 21 of 1997.

- (a) All lands under Registered Village (Under S. 22 of the LG (DA) Act 1982).
- (b) Land designated as Village Land under the **Land Tenure (Village Settlements) Act, 1965**.
- (c) Land the boundaries of which have been demarcated as Village Land under any law or administrative procedure - whether formally approved or not.
- (d) Land the boundaries of which have been identified and agreed upon by holders thereof to be under the jurisdiction of a Village Council. (Such holders being: Village Councils, the Commissioner for Lands, Officials or Public Organisation responsible for Reserved Land, Local Authorities with jurisdiction over Urban land or Peri-Urban Land, Persons or Bodies with a Right of Occupancy.)
- (e) Land, other than Reserved Land, that the Villagers claim prescriptive title over it, for over at least 12 years, and would include (i) land on fallow; (ii) land used for depasturing cattle by the Villagers or by persons doing so with the agreement of the Villagers or in accordance with Customary Law; and (iii) land used for passage to land used for depasturing cattle.

Due to this statutory definition of what would comprise Village Lands for the purposes of the Land acts, the mere declaration of Villages through the Local Government legislation was seen to be not enough as any village had to identify the village land area under the terms of the Land Act and the Village Land Act (VLA).

As a first step therefore it is necessary for Village Governments to take on exercises of identifying and demarcating village lands and then after that go through a process of obtaining a Certificate of Village Land (CVL) through which legal authority for the Village Council to be a Village Land Manager can appropriately be claimed. This step for pastoralist villages has been taken to be the first legal tool that may allow pastoralist villages to protect and therefore 'shield' their lands against non-pastoralist incursions. CORDS has been working hard with communities to make sure that the Villages achieve this first step that is allowed by the law.

The second step is that of land use planning which means once a Village Council properly demarcates use-areas or zones within the Village lands it is

possible to identify areas for grazing of livestock, farming, common lands, etc. and then oversee the process of proper allocation and grants of Customary Rights of Occupancy. This step allows villages to generate their own by-laws to regulate a variety of economic activities within the Village. Here the pastoralists' lot may be safeguarded by active participation of pastoralists in the governance structures of the villages. To the chagrin of most development activists pastoralists are least interested in the governance structures of the statutory villages and they opt for traditional structures which are often not recognised by the law. Yet clearly the law offers a chance for 'customisation' of the law by the stakeholders in order to incorporate their paradigms within the law. This is another legal tool that the pastoralists may use to integrate within the law their own paradigm of managing the commons and rangelands within the villages

The third step is that of granting the Customary Right of Occupancy to the pastoralists. This has been taken to be the most challenging step. How is the collective title within the 'bundle of entitlements' to be defined in law? And once this has been done who is to be the legal custodian of that entitlement? Is it the representatives of the pastoralists, and at what levels starting from the family, the clan, the age-group, or the neighbourhood? This step, challenging as it may appear, is the ultimate legal tool that would enable the pastoralists to define their proprietary paradigm and defend it within the law. It is both a challenge and a potential trap in the sense that once pastoralists fail in their quest their lands would be now open to access through legal means and the basis for lawful appropriation by non-pastoralists would have been established.

A short summary of these steps which are basic to the Legal Tools mentioned above is therefore appropriate:

I. Demarcation, Survey and Issuance of Certificates of Village Lands (CVL).

The Village Council, as a Village land manager has to start the formal process of applying for a Certificate of Village land after formally demarcating, surveying and mapping Village lands as required under Section 7 (1-6) of the VLA. This has to be done in a participatory manner as adjoining villages may differ about the boundaries of each village especially where the land lies over critical resources such as minerals, woodland, pasture or fertile farmland. The issuance of a CVL is regulated under Section 7 (7-8) of the VLA. The application for a Certificate of Village Land (CVL) is made to the District Land Officer who then prepares the CVL. Then the CVL is sent back to the Village for the signatures of the Village Chairperson and the Village Executive Officer (VEO). The CVL is then sealed with the Seal of the given Village Council. The signed and sealed CVL is then sent back to the District Land Officer who now forwards it to the Commissioner for

Lands for his signature as the delegate of the President. Once the Commissioner for Lands signs the CVL he initiates the recording of the CVL in the Register and then sends back to the District Land Officer for registration in the District Land Registry. Once the registration is done the District Land Officer retains one copy and the VEO of the particular Village is required to collect one copy of the CVL to be kept in the Village Land Registry.

II. Village Land Use Planning

The Planning exercise is carried on at the Village level at any stage. However it is prudent to undertake land use planning before the intensive allocation of land for the use of the villagers. Matters to be taken into account are listed in the new **Land Use Planning Act 2007 (Act No. 6 of 2007)** as shown the Box below:

<p>THIRD SCHEDULE</p> <p>MATTERS TO BE INCLUDED IN VILLAGE LAND USE PLANS</p> <p>Part A: Issues for consideration</p> <ul style="list-style-type: none"> (i) Existing tenure arrangements land uses and development patterns. (ii) Proposals for multiple land use systems too accommodate different land use practices. (iii) Participation of local committees and villages in managing their resources. (iv) Pattern of rural settlements. (v) Population growth, migration, density and distribution, age sex structure, household size. (vi) Employment and incomes of the population including where people go to work and what trend and problems there are in relation to services. (vii) Agricultural potential of the rural areas showing various agricultural activities and the problems faced by the local communities. (viii) General statements on he terrain, soils and climate. (ix) Soil survey (land classes, soil texture, erosion, soil suitability (x) Analysis of social economic data and bio-physical data. (xi) Proposed implementation of existing tradition technologies. (xii) Potential role of wildlife in local community, village development. (xiii) Potential role of forests in local community development. <p>Part B: Procedures</p> <ul style="list-style-type: none"> (i) State goals and objectives (ii) Prepare of community action plans for the management of land use (iii) Preliminary activities <ul style="list-style-type: none"> (a) establish or ascertain village boundaries (b) prepare or update village land use and base maps (c) motivate villagers for land use planning (d) mobilise and motivate stakeholders in the village (e) assemble necessary resources. (iv) Organise meetings with Village Council and sub village authority (v) Agree on broad zoning for land uses and community facilities (vi) Negotiate tenure rights between individuals and the community (vii) Involve stakeholders in actual planning (viii) Draft and finalise village land use plan (ix) Present draft land use plan to stakeholders for discussion and approval (x) Establish institutions for evaluation and monitoring

Under Section 22(1) of that Act the Village Council is the Land Use Planning Authority for a Village. The mandates of the Village Council in its planning capacity are enumerated under Sections 12 and 13 of the Village Land Act. However the Land Use Planning Act enumerates further Village Council mandates under Sections 22(3), 28 and 33. It provides capacities for the Village Council to make a determination of land for various uses including land for rangelands (S.28(1)(a)), and the promotion or regulation of the scope of pastoral activity (S.28(1)(k)).

Clearly, the process is complex and requires high levels of facilitation for effective engagement.¹⁵

III. Customary Landholding under the VLA

In rural areas of Tanzania today land is held under customary law in the majority of cases. The VLA recognizes customary land tenure over land but the incidences thereof are left to the particularities of each ethnic grouping or tribe. Legislative reform or influence over customary land tenure has a long history since colonial times. The VLA for once attempts to formalize the Customary Title under one classification, i.e. the Certificate of Customary Right of Occupancy (CCRO). In reality the CCRO may cover three different forms of tenure: land held over time immemorial deemed to be a customary right of occupancy; land held through some other means, e.g. Villagisation, and now held as a customary grant; and land granted as a customary title by the village council.

Nevertheless the VLA provides for a procedure where a CCRO may be granted over such land. An applicant who seeks to apply for the CCRO must apply to the Village Council which in turn must undertake an adjudication to establish the boundaries of the land in issue. Once the VC is satisfied that the land in question is free from objections it submits the Application to the Village Assembly for approval. Once the approval is obtained the Village Executive Officer (VEO) prepares a Letter of Offer whereby the Applicant is supposed to signify his acceptance by his signature. The VEO prepares three copies of the CCRO which would be signed by the land owner(s), chairperson of the Village Council, the VEO, and sealed with the village seal. The VEO would then send three (3) copies of the CCRO to the District Land Officer for cross-checking, registration and sealing. The District land officer would then retain one copy, two copies would be sent to the VEO who in turn would register the CCRO in the Village land register and retain one copy and the other copy deliver to the Owner

The owner of village land would hold the CCRO usually perpetually and subject to conditions in the CCRO. As it is obvious the process of obtaining the CCRO may be long and involving. It requires technical know-how and the existence of infrastructural facilities that would enable the process of documentation, survey, mapping and registration at both the village and district levels. These facilities are largely absent in most villages in Tanzania. According to the officials of the VLA section of the Ministry of Lands the financial resources and technical know-how required is above the average means of a village. However national programmes have been started

¹⁵ Gastorn, Kennedy *The Impact of Tanzania's New Land Laws on the Customary Land Rights of Pastoralists: A Case Study of the Simanjiro and Bariadi Districts*. Pp 195 - 198 [LIT Verlag, Dr. W. Hopf, Berlin, 2008]

in the predominantly farming areas of Mbozi, Iringa and Handeni Districts and the model there appears have some success. For the predominantly pastoralist districts what CORDS is doing in Monduli, Arumeru and Kiteto Districts is pioneering.

In the last instance therefore, through the VLA, it means the pastoralist and peasant villager can now get a Certificate of Occupancy for his or her Customary held land. This Title has equal status with the Granted Right of Occupancy. The Land Acts do not however provide for a method of codifying pre-existing Customary Law. The **Village Land Act** does not even touch the existing Customary Tenures under what are known as the Deemed Rights of Occupancy, i.e., customary property rights that have neither been granted by the Government or the Village Councils but have been in existence from time immemorial. The possibility therefore of continuation of informal tenures still looms large. With the continuing existence of informal tenures, room is left for the survival of a large informal sector with insecure titles. This insecurity will be much more the case with collective customary land rights such as those of pastoralists and of hunters and gatherers. In view of this reality a focus project such as the one designed by CORDS is essential for protection and security of lands under pastoralist economy.

Dispute Processing for Land under the VLA

For rural land disputes processing and settlement the VLA establishes a process at the Village level to settle disputes through mediation by neighbours or through a formal Village Land Council. If settlement fails at this particular stage then a matter may be referred to a Ward Tribunal (Baraza la Kata) which is established under the **Ward Tribunals Act (Cap. 206 R.E. 2002)**. Failure at the Ward level allows reference to the District Land and Housing Tribunal that is under the auspices of the Ministry of Lands, from that Tribunal appeals go to the High Court's Land Division and to the Court of Appeal. The whole chain is provided for under the Land Act and the **Land Disputes Courts Act (Cap. 216 R.E. 2002)**. For a diagrammatic sketch of the dispute settlement hierarchy See Appendix.....

5 Legal Empowerment and related processes

CORDS adopted a processes approach in implementing the legal and land rights empowerment programme. These included a set of steps that constituted processes that were followed:

- ◆ Simplification of documents on land policy and legislation
- ◆ Training and awareness creation on land matters
- ◆ Conflict and border mediation,
- ◆ Village surveying

- ◆ Demarcation
- ◆ Map drawing

5.1 Process Stage One: Simplification of documents on land policy and legislation

CORDS team worked with target communities and legal experts to simplify documents relating to the national land policy (1995), land act, 1999 and village land act, 1999, as well as the land regulations of 2002. In this initiative, CORDS worked closely with a team of staff from the Ministry of lands and human settlements who include: Fidel Mutakyawa, Mrs Suma Mbyopyo, Dan Kami and Jane, who provided the necessary legal guidance and interpretation of all the clauses and specific regulations.

CORDS worked with the Ministry in preparing form number **16A** which is used as cover for village land certificates according to the village land Act, 1999. This took time, but CORDS managed to get the government printer to print 500,000 copies as this was the minimum number that the government printer could accept to print.

5.2 Process Stage Two: Training and awareness creation on land matters

Training is used by CORDS as a tool of empowerment and different forms of awareness raising continued to be a vehicles through which information specific to land issues was channelled to village communities. CORDS, used a two way approach to awareness creation: technical training of target communities in issues related to National Land Policy (1995), Land Act No. - 4 and Village Land Act No. 5, and the second type of training were one day village workshops that involved more people and held at the sub-village levels.

The objectives of the trainings/empowerment were to:-

- ✓ Educate and inform village leaders and District head departments on land policy (1995) and Land /Village land Acts (No.4 & 5) of 1999, and enable them to disseminate the same information to the wider communities.
- ✓ Enable heads of departments to mobilize and train villagers on land rights.
- ✓ Enable Monduli Communities to be aware of the rights of women and men on land.

Trainings further explain in simple language the distribution of powers and roles of different Institutions according to the Land Act and Village Land Act 1999 (see above).

As the Legal language is difficult to understand for the local people, CORDS prepared training manuals which are user friendly and simple for ordinary villagers to understand through the standard Swahili language. Such training manuals cover basic matters such as the meaning of land, categories of land, land administration, customary right of occupancy, dispute resolution etc.

Definition of land

This has been defined in a simple language that it is easy for every individual to understand even without the explanation from any one that the land is not only the soil or the surface we are walking on but also all things attached to it including buildings, trees, plants etc.

Meaning of Village land

As the manuals are basically intended to train villagers issues about village land have been also covered that which one is the village as per section 7 of the Village land Act.

Administration

Sections No. 8 of Land Act No. 4 of 1999 and Regulation no. 37 as well as Form no 16 have been well simplified and explained.

Certificate of Village Land

This is done in accordance to section 7(7) of the village land Act no. 5 1999. Also how the Certificate of Village Land is processed in accordance to regulation 37 and 78 as well as Form No 1b.

Customary Right of occupancy

This is also is one of the very important things covered by the manuals in a simple language. Section 25 of the Village Land Act 1999 describes this.

Dispute Settlement

Specific sections which seemed important for them to understand have been well elaborated and simplified under this. For example functions of elders council in concern of land matters as per section 61 of the village Land Act 1999, how to go about dispute resolution in a systematic way as required by law as per section 62 that the

dispute settlement starts at village land council if not satisfied with a decision made, the party has to take a matter to ward tribunal, District land and housing tribunal, the land division of the High Court and to the Court of Appeal for that matter.

Through this programme , CORDS sought to empower the community in matters concerning land through training, procedures of obtaining land certificate as the security of their land from alienation, as well as raising awareness on all matters concerning land governance in Tanzania.

5.3 Process Stage Three: Facilitation of Boundary Agreement Meetings

Together with different authorities target Districts, the programme managed to facilitate village boundary agreement meetings for the villages that had earlier refused to agree on their borders, thus, enabling them to proceed in the process of land demarcation. Conflict resolutions were not easy due to scarcity of natural resources that adjacent villages contested over. This made the medication process more difficult and time consuming.

During conflict resolution meetings, various leaders such as official village government leaders, ward authorities and pastoral traditional leaders (ILAIGWANAK) were involved. During the period, some key agreements were reached along the border between the two regions Arusha and Manyara, as well as between Simanjiro and Monduli districts. The facilitation enabled the team to establish administrative boundaries between villages bordering the two districts and regions.

Boundary agreement meetings were facilitated by CORDS for the villages, but in some cases, the villagers failed to agree on their borders mainly because of political interference from the district.

5.4 Process Stage Four: Actual Survey of the Villages⁴

Whenever villages agreed upon their boundaries, the work of actual village lands survey started. CORDS team was accompanied by teams of young people from concerned villages who ensured that agreed boundaries were followed. These young people further cleared paths that were followed during the surveys. Beacons were placed in appropriate locations. The surveyor visited all the points and recorded all the coordinates. Along with the surveyor, Projectus Mutakyawa, CORDS' cartographer, drew maps for all the villages that were surveyed.

5.5 Process Stage Five: Village registration numbers and land area computation

According to the new land legislation, area calculation must be done prior to issuance of village land certificates. CORDS cartographer, Mr. Projectus Mutakyawa, did the village land area computation. This exercise was successfully done using the beacons' coordinates. Area computation is a legal requirement for the maps to be approved by the respective authorities; and thus can be used in Land Use Planning and Management at a later stage. Area for each of villages in Monduli was computed and these villages were presented in hectares (ha) as reflected by the tables in annexes 1, 2 and 3

5.6 Process Stage Six: Preparation of Village Seals and Village Certificates of Land Occupancy

Once village maps were approved by the Ministry of Lands and Human Settlements, another stage that followed was the preparation of certificates of village lands. This was done by CORDS in collaboration with District Lands Department. Up to the time of this report, a total of 58 villages have secured their certificates. Certificates were prepared and duly approved by respective villages' authorities and they were finally approved by the Ministry and signed by the Commissioner of lands.

Prior to issuance of certificates of village lands, CORDS team facilitated the making of village seals. Each village had a village seal made as required by law. Seals were made in Moshi and each village paid Tshs 70,000/= for getting their seal made.

As legal binding document, the village certificates of occupancy must first be approved and sealed by leaders of the respective villages in presence of an Attorney before the same certificates are taken to the Ministry of Lands and Settlements for final approval.

5.7 Process Stage Seven: Data collection of bio-economic data for villages' Profiles and Land Use Plans.

As the demarcation work nearly drew to completion, CORDS team started collecting village data and preparing village profiles as part of the ground work necessary for land use planning. The main objective of collecting all the data was to gather necessary information from the villages in order to prepare comprehensive village land use plans. Through PRA, resource data was collected and analysed, and draft village profiles were prepared for the demarcated villages.

Inventories of natural resources that CORDS land use team did in all the demarcated villages, using a combination of techniques. Natural resources in these villages were assessed and sketch maps developed earlier were digitized and a GIS system used to improve the gathering, analysis and interpretation of data. The data collected from the field work, the team consolidated village resource and profile data using GIS and archive programmes that were used.

CORDS team further assessed the status of each resource against their use and requirements, so that meaningful resource use plans could be developed. Various resources were clustered and assessed using a grided-geo-referenced system. During the last six month of the first year, resource assessment for each village were updated.

The assessment report for each particular village was merged with other preliminary data collected by CORDS earlier, to produce detailed and updated socio-economic profiles for each of the target villages.

Village profiles included establishment of :-

- ◆ Village nominal data (name, date and registration number)
- ◆ Clear Village administrative structures;
- ◆ Human and livestock populations;
- ◆ socio-economic structures and institutions;
- ◆ natural and semi-natural terrestrial vegetation (eg. shrubs, trees, stock routes e.t.c).

The village profiles pulled together and systematised the following information:

	Objectives	
Economic growth, Basic needs, development planning and ecological balance		
	Information needs	
Natural physical resources	Technological information	Socio-enomic and demographic data
Soil	Natural resource management	Special analysis of socio-economic data
Geology	Water management	Population trends
Geomorphology	Pasture management	Social profiles
Groundwater	Pastoralism	Cultural profiles
Land cover	Agriculture	Economic profiles
Rainfall and climate	Water harvesting	Food security profiles
Drainage	Housing construction	Environmental profile

Watershed	Wildlife management	Water resource mapping
Slope aspects and altitude	Health and sanitation	Forestry profiles
Settlement patterns	Farming systems	
Grazing patterns	Food systems	
Water sources		
Forestry resources		
Salt licks		

The programme managed to document and consolidate all these data into a precise and manageable system in Excel software. This has helped to systematize village profiles and it is easier now to monitor field activities as well as trends in land use in target areas.

Village profiles now exist for all villages in the programme area. They are continuously updated and serve as development tools as they are one source of information necessary for rural development planning at the village level. Already the District Councils have requested CORDS to share this information with them and requested that the same formats will be used for other village land use plans throughout the district.

Participatory mapping and resource assessment:

Data on village information was gathered, analyzed and documented. The collected data was on physical features, which included village resource base, demography, and socio economic services available in the village. This must be noted is in accord with the mandates of both the VLA and the Land Use Planning Act, 2007.

Drawing of Sketch Maps

All the target villages have now sketch maps. Mutakyawa, CORDS cartographer, drew sketch maps for the villages target villages. Such maps show various resource niches and ecological zones as designed and agreed upon by villagers for specific land uses.

CORDS team presented sketch maps to each village assembly. People studied such maps, made corrections and added some new information. Projectus Mutakyawa, CORDS cartographer updated the sketch maps, incorporating all the new information gathered from the villagers.

Land valuation

CORDS PLU team carried out land valuation exercises in all the villages. These exercises needed further planning and technical support. The land valuation included: identification of soil types, suitable areas for pasture,

land suitability for specific current uses, assessment and justification of reasons why some soil conservation mechanisms should be adopted in order to protect key resources such as earth dams threatened with siltation, salt licks and forest reserves that provide fall back areas in times of serious droughts.

Value of land was found to be increasing in areas with water, better soils and rainfall. Threats from immigrants seem to be still serious in such areas, but residents have used village by-laws to shelter such critical resource niches.

A common emerging feature is that concept of property rights model, conceiving property as private and individual, is emerging strongly and it threatens the local commons, some people see factors external to village institutions as drivers of types of property rights and land use suitable for land administration institutions.

5.8 Process Stage Eight: Zoning of village lands according to specific uses

After the initial natural resource assessment and mapping, target villages zoned their lands according to specific uses. The focus was given to current land uses, but also projects of livestock, farming and residential requirements were taken into considerations.

Sketch maps for drawn for each zone and these covered the eight villages of Orpopong'i, Ndaleta, Namelok, Partimbo, Kimana, Njoro, Laalala and Mbigiri. Villagers participated fully in these exercises, and women specifically mapped resources that they often use for specific needs such as fuel wood, house-building and medicinal plants. The zones included: *residential areas, grazing areas, agricultural areas, wildlife areas, reserved areas, water sources and stock routes*. The analysis of current land use conflicts was informative in developing plans for use of each zone.

Zoning of different land-uses in a particular village is a prerequisite for an operative/holistic land use plan. During this period, all villages were zoned accordingly in a participatory approach. Sketch maps for these zones were drawn.

The description of each zone was prepared in the presence of representatives from two main disputing groups of pastoralists and farmers. The boundaries of the zones were in the first place agreed and endorsed by the village general assembly; the representatives were there to witness the correct and agreed points.

Initially the description of each zone was prepared by the village governments, and presented to the village general assembly for approval, and then the minutes of each activity/stage is prepared. It is in these general assemblies meeting were the consensus between the land users groups is reached. The signboard posts indicating each land use zone is placed and with GPS equipment the geographical coordinates were recorded for correct mapping and calculation of the area. The representatives from each land user group are represented during the placement of the signboard posts in the correct and agreed points. CORDS team only facilitate the placement of the signposts and villagers are in fore front in directing the CORDS team in the placement exercise and later defending the placed signboard posts.

The areas demarcated includes priority land use categories in the village that included areas for grazing/pasture land, forestry, stock routes, water sources, settlements, and crop cultivation.

After the exercise the proposed land use maps showing the specific areas demarcated for forestry, crop cultivation, stock routes/cattle tracks, pasture, and settlement for 6 villages were drawn and each village's specific areas calculated¹⁶. The process of presenting proposed village land use maps to village government and assembly started in June 2004, and this gave all villagers the feedback on the progress that has been made on the zoning of the village lands. CORDS team made some adjustments in some maps and proposed and agreed upon by the villagers. Drafts of land use maps will be shared with the Kiteto district council which is mandated to approve land use maps in villages that fall under its jurisdiction.

5.9 Process Stage Nine: The Facilitation of By-laws Formulation:

Village by-laws were formulated for each villages and such bylaws aimed at enforcing village land use management plans and sanctioned abuses. The District Councils approved bylaws for all the villages. The bylaws provided a framework for village level land institutions to address both governance and administrative issues relating to land ownership and management of natural resources. The by-laws have also been used by the primary court in deciding some cases. This is clear evidence that the by-law making process has clearly provided a legal tool that has been designed by the community for its own protection. This is radically different from the usual top-down imperative perspective of law making under a positivist 'command paradigm'.

¹⁶ Each village area size is computed in hectares and can easily be converted into square kilometres.

5.10 Process Stage Ten: Mediation of land use conflicts:

At the beginning of the programme, land use conflicts in Kiteto continued to emerge in different parts of the district due to incompatible forms of resource utilisation. Farming communities continued to clash with pastoralists. CORDS team introduced conflict resolution techniques at different village meetings as part of land use planning strategies. Specific land use conflicts were mediated between different groups as well as between competing resource users. Before any zoning and plan, mediation between the conflicting parties was a precondition and part of village land zoning strategy.

Conflicts erupted again during the last planting season, and CORDS facilitated processes of conflict resolution in all target villages. The focus was mainly on tolerance in the use of available resources, respect for regulations governing the commons and strengthening village level institutions mandated to manage village lands.

The process created a forum at the village level for discussion, learning, thinking and understanding the causes of conflicts, and management of such conflicts. Issues of history and culture of the inhabitants of the area as well as political dimensions of land use conflicts were addressed. The discussions brought together village and traditional leaders, elders, technical staffs from Kiteto District Council, Ward Executive Officers, Divisional Executive Officer, and CORDS staff. The idea behind was to utilize every opportunity to solve and manage resource based conflicts. In the same fora, villagers and their leaders enhanced their skills for conflict resolution.

CORDS further developed a simple tool for monitoring levels of land use conflicts and village land use committees in collaboration with village governments were charged with the responsibility of responding to such conflicts before they reached violent levels.

Early Warning System [EWS]

CORDS and the communities realised that there was an urgent need for an early warning system to be put in place and function at the lowest possible level. The EWS instruments helped to allocate responsibility at different levels. If a major dispute arises one can look at the actions taken at the various stages and see what happened or did not happen which allowed the dispute to develop to an escalated and more dangerous stage. The system further helps in identifying where there is need for future improvement and where further strengthening and training are required. The major differences in the various stages are the level at which the dispute is solved, or escalated into violence.

One could have the same issue but in one village it may be solved at sub-village level whereas in another village the same issue may have to go to the ward executive to be solved. All disputes should be notified to village governments which in turn should notify the District Commissioner as a matter of urgency. This can be done through the bi-monthly reports given to the office of the District Commissioner by ward executive officers.

CORDS decided to pilot this system and it has proved to be working, it was recommended to the district council for approval and adoption. As part of the legal empowerment process, trainings were then provided to both villagers and leaders at different levels to ensure that people were held accountable whenever they abused the system, and that leaders were made to account if they failed to take necessary action required of them and if they failed to notify relevant authorities. Village and ward tribunals have adopted this framework in addressing land use conflicts.

Early Warning Monitoring System for Conflict Management and Resolution					
Stage of Conflict		Indicators of Conflict	Level of Resolution	Formal Action Required	Evidence of Action Taken
Pre-conflict	Stage 1	Dispute at sub-village level eg. crop damage, verbal abuse	Directly between the 2 people involved	Chairman of sub-village to inform village leadership who informs the ward executive officer who informs the DC	Minutes of Village and ward executive meetings
Confrontation	Stage 2	Dispute at sub-village level but cannot be solved by the two parties eg. land encroachment, verbal abuse, cattle routes etc	Need an acceptable third party to intervene	Chairman of sub-village to inform village leadership who informs the ward executive officer who informs the DC	Minutes of Village and ward executive meetings
	Stage 3	Local or village level dispute which cannot be solved at sub-village level - cattle routes, farmers encroaching on pastoralist land or vice versa etc	Need village leadership to intervene and resolve	Chairman of village to send letter to ward executive who informs the DC	Copy of Letter

	Stage 4	Examples here include substantial damage done to crops or animals eg. burning huts for guarding crops, injuring animals	Need ward and divisional leaders to intervene and resolve	Letter to DC and copy to DED	Copy of Letter
Crisis	Stage 5	Examples of this stage include killing animals or injuring humans	Need for DC and his staff to intervene and resolve	Letter to RC	Copy of Letter
	Stage 6	The example here is the killing of humans	Need for DC and his staff to intervene and resolve	Letter to RC	Copy of Letter

6. Programme Key Result Areas

Associating the legal empowering processes with activities done, the following key result areas were noticeable:

6.1 Key Result Area 1: Reaching the Target Population

The target population of this programme is one hundred and eight five thousand one hundred and ninety (185,190) people living in Monduli and Longido Districts. In the steps to develop land rights plans, the target communities were involved in the following initiatives:

- ✓ Facilitation of villages' common boundary agreements,
- ✓ Demarcation, mapping, registration and certification of village lands
- ✓ Organizing and conducting land rights and legal issue workshops to village leaders,
- ✓ Visits and discussion with districts, regional and national officials on pastoral land matter.

6.2 Key Result Area 2: Participation of local Communities

CORDS continued to deepen the participation of the village communities. Their involvement grew during project implementation and communities were legally empowered (in Kiteto trespassers over Village Land have been sued successfully by villagers through documents generated in the process).

Ward and Village leaders as well as the local populace participated actively in workshops, mediation meetings and actual site visits. A wide range of villagers participated formal and informal gatherings to discuss issues of land demarcation and issuing of certificate of acceptance.

Often, young men cleared the necessary bushes on the way to the boundary points, they looked after CORDS staff and property during long stays in villages while doing land use planning. They were also held responsible for the protection of beacons marking their village borders and those of neighbouring villages, as well as guarding signposts marking zones for specific uses.

6.3 Key Result 3: Clear Demarcated Administrative Village Boundaries

Through CORDS support, all the target villages have Village Land Certificates that show:

- ✓ Clear administrative boundaries between villages.
- ✓ Cadastral maps that show village lands are in place

- ✓ Registered pastoral village land

6.4 Key Result Area 4: Enhanced Awareness on Pastoral Rights to Land

Awareness creation has been a central pillar of the programme and through training the following achievements are realized in the target population:

- ✓ Through organized workshops with other development actors, some issues of primary concern like land rights are increasingly well understood and legal implications known to trainees;
- ✓ After trainings, Village Councils assumed a central role as new managers of Village lands as stipulated in the new village land act;
- ✓ Village Councils played a more central role in arbitration and mediating land related disputes as well as conflicts
- ✓ Village Councils and elders are able to protect sensitive areas such as water catchments areas, forest, wildlife corridors and stock-routes.

6.5 Key Result Area 5: Mechanisms for mediating and solving conflicts

CORDS team built its capacity to address resource based conflicts in target villages in Monduli, Longido, Kiteto and Arumeru. Also, village land committees enhanced their capacity to address conflicts in their villages. More importantly, a framework for monitoring and managing conflict was developed by the programme and it is now in use.

6.6 Key Result Area 6: Sample of Village Land Certificates

Since the introduction of the Village Land Act, 1999 Monduli district became the first in the country to produce Village Land Certificate (VLC).

The ministry has taken keen interest in the work done by CORDS in relation to the application of the village land act, 1999...

6.7 Key Result Area 7: Establishing District and Village Land Registries

Various land registries were established at the village level and each district established land registries. These registries are supposed to be depository of all land related data at both district and village levels.

6.8 Skills that empowerment programme inculcated in the pastoralists community

During the period 2003 to 2006, CORDS worked with the target population and the processes of programme implementation there are men and women at the village level who acquired special skills in the following areas:

- ✓ Skills in legal trainings
- ✓ Skills in reading village sketch maps
- ✓ Skills in reading and interpreting resource maps
- ✓ Skills in identifying types of soils and their suitability
- ✓ Skills in PRAs and Resource assessment
- ✓ Skills in using GPS when surveying village lands
- ✓ Ability of pastoralists to assemble and collate data to assess:
 - ◆ Man-land ratio
 - ◆ Present land uses
 - ◆ Ecological problems faced now as a result of specific usages
 - ◆ Livestock density and ability of land/vegetation to regenerate itself
 - ◆ Diversity of tree, grass and vegetation
 - ◆ Present water uses

Target communities' capacity has been built further and now they are capable of developing alternative resource utilisation and natural resource management within the framework of optimal land uses covering:

- ◆ All sectors in the pastoralists community
- ◆ All the agro-economic production systems
- ◆ All the ecological systems

Village leaders and some selected individuals have been introduced to some specific skills such as:

- ✓ Skills in conflict mediation
- ✓ Skills in registering land transactions
- ✓ Skills in documenting land dispute settlement procedures
- ✓ Skills in diagnosing livestock and human diseases
- ✓ Skills in providing first aid to sick people and livestock
- ✓ Skills in zoning areas and defining usage per zone

6.9 Lesson Learning: Main lessons learned from the legal empowerment programme:

- 1) Sustainable Livelihood approach reinforces the right to land and sustainable management of natural resources. CORDS and the communities learned that the right to land is supported by other initiatives that address livelihoods issues such as the ability of communities, household and individuals to provision their households. Other activities implemented by CORDS under its other programmes such as restocking, grinding mills, micro-finance and household food security initiatives have added value to legal empowerment for land rights and that villagers were enabled to re-assert their rights to land. The connexion between rights and livelihoods can be grasped.
- 2) Land use issues in Tanzania in general and in the pastoralist areas in particular are dynamic and empowerment involves harmonizing competing interests in land and maintaining ecological balance. CORDS and the communities learned that competing interests in land are dynamic and they demand a process of action and reflection, and such interests should constantly be harmonized. Policy environment in Tanzania in matters relating to land is changing fast and these call for pro-active engagement from both communities and change agents.
- 3) Centrality of household food security in appreciating land value and enhancing empowerment. In areas where communities were more stable and food secure, land value appreciated while food insecure areas within the target areas saw value to their land depreciating, and making the process of legal empowerment more difficult to realise. Food secure areas experienced enhanced capacity of village communities and a more organized pro-active engagement of target communities in management of natural resources. The linkage between basic rights, such as the right to food, and other rights could be seen.
- 4) Gendered understandings, utilization and management of natural resources. The demarcation of village lands was male dominated, but resource assessment, resource mapping and ranking usage of specific resources experienced a female led process with women in the Maasai communities specifying the use of each and every resource, classifying resources for building, thatching, medicinal plants, trees of spiritual values, etc, etc.
- 5) Maasai women emerged as land owners and managers of natural resources in their respective areas. In the process of involving women in various programme activities, Maasai women emerged as owners of land with some women owning small gardens, plots on which grinding mills were built and others own water sources. The legal empowerment process empowered women and afforded them the opportunity to increase their access and control over land and natural resources.

7. Challenges and constraints experienced:

Some of these constraints include -

- ◆ Fast changing land policy and land legal environment.
- ◆ Difficulties in accessing legal documents and different interpretations given by different users.
- ◆ Mediation of boundary agreements.
- ◆ Length of time and costs involved in demarcation and certification work.
- ◆ Scarcity of resources available for promotion and protection of pastoral land rights.
- ◆ Competing models of property rights between private and communal land holdings, with tendencies of people to shift more to privately held rights. This is mainly true in areas where agriculture is emerging as an alternative to pastoralism.
- ◆ Legal challenges in defining collectivity in cases where resources are collectively held.
- ◆ Increase in transaction costs in land where land value is increasing; generating clear threats to communal ownership and restricting the access from non-group members.
- ◆ Mechanisms for negotiating access from non-group members (non-villages) are shifting from use of indigenous institutions to more use of modern state structures.
- ◆ Hostile and negative policy environment towards pastoralism.
- ◆ Emerging psyche of land grabbing and land speculation among pastoralists associated with the formalisation of rights to land.

8. Programme Prospects and Future plans:

Some new challenges emerged especially those related to establishment and well functioning village land registries and future programme plans will have to address, these include:

- ◆ Establishment of Villages land registries for all villages in Monduli that secured Certificates of Village Lands.
- ◆ Further trainings in the area of both Land Acts (Land Acts No 4 & Village Land Acts No5 of 1999).
- ◆ Developing Village Land Use Plans.
- ◆ Customary Titling and security of communal lands
- ◆ Enforcement of village by-laws
- ◆ Integrating Maa pastoralists indigenous models of natural resource management into formal paradigms of land use planning.

References

Gastorn, K. (2008), The Impact of Tanzania's New Land Laws on the Customary Land Rights of Pastoralists: A Case Study of the Simanjiro and Bariadi Districts. Pp 195 - 198 [LIT Verlag, Dr. W. Hopf, Berlin]

Muir, A.,(1994) A Situational Analysis of Pastoralism in Simanjiro District, Tanzania. VETAID, Scotland.

Parkipuny, L.M.S.(1979), Some Crucial Aspects of the Maasai Pridicament, In Coulson, A.(ed), African Socialism in Practice: The Tanzanian Experience. Spokesman, Nottingham.

Parkipuny, L.M.S.(1979), Some Crucial Aspects of the Maasai Pridicament, In Coulson, A.(ed), African Socialism in Practice: The Tanzanian Experience. Spokesman, Nottingham.

Potkanski, T.,(1994a), Property Concepts, Herding Patterns and Management of Natural Resources among the Ngorongoro and Salei Maasai of Tanzania. IIED Drylands Programme.

----- (1994b), Livestock as Collective Vs. Individual Property: Property Rights, Pastoral Economy and Mutual Assistance among the Ngorongoro/Salei Maasai of Tanzania. Ph.D. Thesis, University of Warsaw.

Sandford, S. (1983), Management of Pastoral Development in the Third World, Overseas Development Institute, London.

Scoones, I., (ed), (1994), Living with Uncertainty: New Directions in Pastoral Development in Africa. Intermediate Technology Publications, London.

URT, (1994), Report of the Presidential Commission of Inquiry into Land Matters, Vol 1 Land Policy and Land Tenure Structure, Sweden

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Annexes

TABLE I: Village Area Computation, registration no and status: Kiteto District

S/no	Village	Village Registration number	Area(ha)	Status of certification	Status of Land Use Planning
1	Kimana	Ar/Kij/474	71,100	Certified	Draft land use plan
2	Njoro	Ar/Kij/392	9,500	Certified	Draft land use plan
3	Orpopong'i	Ar/Kij/499	26,000	Certified	Draft land use plan
4	Namelok	Ar/Kij/356	56,700	Certified	Draft land use plan
5	Mbigiri	Ar/Kij/543	6,200	Certified	Draft land use plan
6	Laalala	Ar/Kij/542	8,500	Certified	Draft land use plan
7	Partimbo	Ar/Kij/343	16,000	Not yet approved	Draft land use plan
8	Ndaleta	Ar/Kij/478	32,200	Certified	Draft land use plan

TABLE II: Village Area Computation, registration no and status: Monduli and Longido

S/No	Name of the Village	It's Registration. No. By the Registrar of Villages Dodoma	Ward	Division	Area/Ha	Status of work
MONDULI DISTRICT						
1	Loosimingori	AR/KIJ/632	Sepeko	Kisongo	18,300	Certified
2	Selela	AR/KIJ/113	Selela	Manyara	48,424	Certified
3	Mbaash	AR/KIJ/636	Selela	Manyara	36,226	Certified
4	Tukusi	AR/KIJ/513	Lookisalie	Lookisalie	7,203	Certified
5	Mti-Mmoja	AR/KIJ/603	Sepeko	Kisongo	3,567	Certified
6	Lepurko	AR/KIJ/111	Sepeko	Kisongo	15,500	Certified
7	Enguiki	AR/KIJ/112	Monduli Juu	Kisongo	9,900	Certified
8	Arkatan	AR/KIJ/381	Sepeko	Kisongo	3,413	Certified
9	Mswakini Juu	AR/KIJ/583	Makuyuni	Makuyuni	4,447	Certified
10	Migombani	AR/KIJ/286	Mto wa Mbu	Manyara	1,033	Certified
11	Mlimani	AR/KIJ/378	Engutoto	Kisongo	498	Certified
12	Engaruka Chini	AR/KIJ/400	Engaruka	Manyara	45,708	Certified
13	Sinon-Ngarash	AR/KIJ/379	Engutoto	Kisongo	2,175	Certified
14	Lashaine	AR/KIJ/512	Sepeko	Kisongo	3,342	Certified
15	Monduli Mjini	AR/KIJ/237	Monduli Mjini	Kisongo	348	Certified
16	Naitolia	AR/KIJ/582	Makuyuni	Makuyuni	24,819	Certified
17	Barabarani	AR/KIJ/288	Mto wa Mbu	Manyara	1,544	Certified
18	Moita Kipok	AR/KIJ/586	Moita	Kisongo	2,472	Certified
19	Moita Kirorit	AR/KIJ/633	Moita	Kisongo	10,925	Certified
20	Losirwa 'A'	AR/KIJ/579	Esilalei	Makuyuni	14,908	Certified
21	Alarash	AR/KIJ/600	Engutoto	Kisongo	341	Certified

22	Majengo	AR/KIJ/287	Mto wa Mbu	Manyara	1,530	Certified
23	Engaruka Juu	AR/KIJ/401	Engaruka	Manyara	33,304	Certified
24	Meserani juu	AR/KIJ/282	Sepeko	Kisongo	7,888	Certified
25	Arkaria	AR/KIJ/601	Sepeko	Kisongo	19,433	Certified
26	Lendikinya	AR/KIJ/281	Sepeko	Kisongo	6,075	Certified
27	Lolkisale	AR/KIJ/380	Lolkisale	Kisongo	56,540	Certified
28	Naiti	AR/KIJ/581	Makuyuni	Makuyuni	3,112	Certified
29	Mfereji	AR/KIJ/382	Monduli juu	Kisongo	46,222	Certified
30	Mswakini chini	AR/KIJ/584	Makuyuni	Makuyuni	8,354	To be signed and s Ministry for approval
31	Oltukai	AR/KIJ/580	Esilalei	Makuyuni		Still in conflicts
32	Meserani Bwawani	AR/KIJ/634	Lolkisale	Kisongo		Still in conflicts
33	Naalarami	AR/KIJ/635	Lolkisale	Kisongo		Still in conflicts
34	Moita Bwawani	AR/KIJ/283	Lolkisale	Kisongo		Still in conflicts
35	Kilimatinde	AR/KIJ/599	Moita	Kisongo		Still in conflicts
36	Eluai	AR/KIJ/587	Monduli juu	Kisongo		Still in conflicts
37	Emairete		Monduli juu	Kisongo		Still in conflicts
38	Mbuyuni	AR/KIJ/290	Makuyuni	Makuyuni		Misplaced at the Minist
39	Esilalei	AR/KIJ/289	Esilalei	Makuyuni		Still in conflicts
40	Makuyuni		Makuyuni	Makuyuni		Still in conflicts
LONGIDO DISTRICT						
41	Orkejuloongishu	AR/KIJ/439	Ketumbeine	Ketumbeine	52,160	Certified
42	Noondoto	AR/KIJ/594	Ketumbeine	Ketumbeine	40,586	Certified
43	Olchoronyoekie	AR/KIJ/584	Ketumbeine	Ketumbeine	3,299	Certified
44	Losirwa B	AR/KIJ/579	Ketumbeine	Ketumbeine	9,993	Certified
45	Sinonik	AR/KIJ/	Engarenaibor	Longido	19,433	Certified
46	Mundarara	AR/KIJ/429	Engarenaibor	Longido	29,104	Certified
47	Ngoswak	AR/KIJ/589	Engarenaibor	Longido	11,350	Certified
48	Mairowa	AR/KIJ/438	Engarenaibor	Longido	12,597	Certified
49	Engikaret	AR/KIJ/	Longido	Longido	42,690	Certified
50	Namanga	AR/KIJ/519	Namanga	Longido	220	Certified
51	Elang'atadapash	AR/KIJ/432	Ketumbeine	Ketumbeine	8,920	Certified
52	Gilailumbwa	AR/KIJ/434	Gilailumbwa	Ketumbeine	22,702	To be send to the approval
53	Alaililai	AR/KIJ/602	Gilailumbwa	Ketumbeine	84,243	To be signed and s Ministry for approval.
54	Loondoluo	AR/KIJ/593	Gilaibomba	Ketumbeine	32,111	Certified
55	Kiserian	AR/KIJ/521	Ketumbeine	Ketumbeine	32,881	Certified
56	Longido	AR/KIJ/436	Longido	Longido	70,557	Certified
57	Sinya	AR/KIJ/437	Tingatinga	Longido	56,421	Certified
58	Ngereyani	AR/KIJ/437	Tingatinga	Enduimet	22,044	Certified
59	Gilaimeirugoi	AR/KIJ/435	Gilaibomba	Ketumbeine	36,404	Certified
60	Olgira	AR/KIJ/596	Egarenaibor	Longido	18,775	Certified
61	Elerai	AR/KIJ/638	Olmolog	Enduimet	7,512	Certified
62	Tingatinga	AR/KIJ/640	Tingatinga	Enduimet	10,506	Certified
63	Eworendeke	AR/KIJ/588	Namanga	Longido	23,085	Certified
64	Olmolog	AR/KIJ/448	Olmolog	Enduimet	12,936	Certified
65	Lerang'wa	AR/KIJ/440	Olmolog	Enduimet	10,634	Certified
66	Irkaswa	AR/KIJ/639	Olmolog	Enduimet	2,982	Certified
67	Kimokouwa	AR/KIJ/449	Namanga	Longido	24,317	Certified
68	Kamwanga	AR/KIJ/373	Olmolog	Enduimet	657	Certified

69	Ilorienito	AR/KIJ/433	Ketumbeine	Ketumbeine	16,272	Certified
70	Kitenden	AR/KIJ/592	Olmolog	Enduimet	3,967	Certified
71	Matale A	AR/KIJ/590	Matale	Longido	40,678	Certified
72	Matale B	AR/KIJ/591	Matale	Longido	42,666	Certified

TABLE III: VILLAGES REGISTRATION IN ARUMERU DISTRICT

S/N o	Name of the Village	It's Registratio n. No. By the Registrar of Villages Dodoma	Ward	Division	Area/Ha	Men	Wome n	Land Office No	It's Registration No. by Land Registry Arumeru.
1	Engorora	AR/KIJ/342	Kisongo	Mukulat	2896.89	1127	1248	251158	
2	Lesiraa	AR/KIJ/185	Kisongo	Mukulat	1230.82	763	934	251151	
3	Loovilukuny	AR/KIJ/186	Kisongo	Mukulat	890.07	617	700	251159	1/ARS/4
4	Ilkerin	AR/KIJ/341	Kisongo	Mukulat	2699.50	970	1115	251150	
5	Oloitushula	AR/KIJ/291	Musa	Mukulat	1036.35	913	1054	251156	
6	Nengung'u	AR/KIJ/292	Musa	Mukulat	1246.35	891	1091	251157	
7	Olchorovus	AR/KIJ/293	Musa	Mukulat	923.86	1495	1613	251154	
8	Likamba	AR/KIJ/294	Musa	Mukulat	2464.34	1669	1979	251161	1/ARS/3
9	Ilkiushin		Olturme t	Mukulat		1162	1237		
10	Ekenywa	AR/KIJ/339	Olturme t	Mukulat	2121.62	2206	2426	307864	
11	Lemon'go	AR/KIJ/124	Oldonyo sambu	Mukulat	4876.17	3516	3810	251152	
12	Oldonyowas	AR/KIJ/350	Oldonyo sambu	Mukulat		1154	1009		
13	Losinoni	AR/KIJ/125	Oldonyo sambu	Mukulat		2458	2812		
14	Imbibia	AR/KIJ/334	Mwandet	Mukulat	620.28	1056	1406	251155	
15	Losikito	AR/KIJ/336	Mwandet	Mukulat	1553.71	1860	2414	251160	
16	Engalaoni	AR/KIJ/335	Mwandet	Mukulat	1682.98	1743	2144	307866	
17	Engurtoto	AR/KIJ/337	Mwandet	Mukulat	1589.00	1763	2195	307865	
18	Ngorbob	AR/KIJ/343	Mateves	Mukulat	2137.14	1591	1719	307867	
19	Mateves	AR/KIJ/188	Mateves	Mukulat		2226	2258		
20	Lemugur	AR/KIJ/187	Mateves	Mukulat		748	827		
21	Lengijave	AR/KIJ/130	Oikokola	Mukulat	2088.04	2189	2960	307860	
22	Lemanyata	AR/KIJ/129	Oikokola	Mukulat	866.91	2144	2748	307864	
23	Oikokola	AR/KIJ/131	Oikokola	Mukulat	1550.85	2828	3615	307862	
24	Ilkurot	AR/KIJ/128	Oikokola	Mukulat	1492.82	1389	1841	307861	1/ARSS/1