



VOICES FROM TANZANIA

case studies on  
Business and Human Rights  
(Volume 2)  
“Land Rights & Environment”

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# EDITORIAL

## VOICES FROM TANZANIA -- case studies on Business and Human Rights (Volume 2)

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The edited volume *“Voices from Tanzania – case studies on Business and Human Rights (Volume 2)”* is a collaboration between Tanzanian civil society organisations, the Tanzanian Commission for Human Rights and Good Governance (CHRAGG), Business and Human Rights Tanzania (BHRT) and the International Peace Information Service (IPIS).

The *“Voices from Tanzania”* series supports local field-based studies into business and human rights topics in Tanzania. The publications do not represent IPIS’ research or views. They are based on the surveys and analyses conducted by Tanzanian civil society organisations and solely belong to them.

About the Contributors

**Lawyers’ Environmental Action Team (LEAT)** is a non-governmental and non-profit making environmental management and protection organization in Tanzania. LEAT carries out environmental and natural resources legal and policy research, advocacy, and selected public interest litigation.

**The Land Rights Research and Resources Institute (HakiArdhi)** aims to advance, promote and research the land rights of small peasants and pastoralists with a view to provide information and knowledge to facilitate equitable and socially-just access to, and control over, land for production of food and other basic needs. In this way, it wants to promote and ensure rights to land of rural communities.

**Tanzania Women Empowerment in Action (TAWEA)** is a non-governmental and non-profit organization which assists marginalized and vulnerable groups in obtaining access to social rights and improved services in Tanzania. TAWEA works on human rights and good governance, health promotion, social economic justice and environmental conservation.

**Community Economic Development and Social Transformation (Cedesota)** is a non-governmental and not-for-profit organization that was established to support organized actions and community initiatives that aim to address human rights and poverty issues in Tanzania. Cedesota aims to improve people’s livelihoods through better utilization of resources, improving social services and advocacy for women and children rights, including people living with HIV/AIDS.

**Cover photo:** Women participation in decision-making processes during village land use planning (Kilolo District) (courtesy of HakiArdhi)

**Layout:** Sakado

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# VOICES FROM TANZANIA -- Case studies on Business and Human Rights (Volume 2): “Land rights and environment”

## INTRODUCTION

Land is a crucial resource for the socio-economic development of communities in Tanzania, and especially for those in rural environments<sup>1</sup>. There, access to land and land resources is directly related to agricultural productivity, income and food security. Security of land tenure - allowing access to, use of and control of land-, hence, directly affects community's livelihoods and quality of life<sup>2</sup>. Land is also a key asset for business activities and local/foreign investment, including for resource extraction, tourism or agricultural production. Access to land and land tenure security, therefore, impact the (economic) development of the country as a whole.

In Tanzania, land became public property after the 1961 independence. The Land Act (1999)<sup>3</sup> and Village Land Act (1999)<sup>4</sup> provide the **present-day legal framework for land rights** in the country<sup>5</sup>. The Land Act (1999) stipulates that all lands in Tanzania are vested in the President, on behalf of its citizens. Three types of land are thereby identified: “reserved”, “general” and “village” land. “Reserved land” includes all land set aside for special purposes, such as nature conservation or public infrastructure. “Village land” refers to all land that belongs to registered villages. The remaining land is considered as “general land”. In contrast to the centralized governance of reserved and general land, the management of village land is bestowed upon local governments. In accordance with the Land and Village Land Acts (1999), both land title certificates as well as customary rights are legally recognized as a basis for land tenure. In rural areas, rights to village land can be granted through ‘*Certificates of Customary Rights of Occupancy*’, while in urban areas ‘*Certificates of Rights of Occupancy*’ can be obtained<sup>6</sup>. The Acts also clearly stipulate the protection of equal rights for women and men when it comes to land. While all Tanzanian nationals have an equal right to occupy land, foreigners are only eligible to temporary access land for investment purposes via rights of occupancy from the Tanzania Investment Center<sup>7</sup>.

**Issues with land (resource) management and disputes over land rights** are well-documented in Tanzania<sup>8</sup>. Conflicts often exist due to the competing needs for land between different groups of users, such as small-holder farmers *versus* big agribusinesses<sup>9</sup>, pastoralists *versus* farming communities<sup>10</sup> or (indigenous) communities *versus* tourism investors. An example of the latter is the case of the Maasai in Loliondo (Arusha Region). There, Maasai peoples have been evicted from and denied access to their traditional land and resources in Serengeti National Park to make way for wildlife hunting tourism<sup>11</sup>.

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- 1 Human Rights, Formalization and Women's Land Rights in Southern and Eastern Africa. Benjaminsen, T., Noragric Report No. 26, Aas Norway; 2005.
  - 2 Improving Land Sector Governance in Africa: The Case of Tanzania. Kironde J.M.L; 9-10 March 2009; [http://www.tzdp.org.tz/fileadmin/migrated/content/uploads/land\\_governance\\_in\\_Tanzania\\_paper\\_by\\_Kironde.pdf](http://www.tzdp.org.tz/fileadmin/migrated/content/uploads/land_governance_in_Tanzania_paper_by_Kironde.pdf)
  - 3 The Land Act (Cap 113). United Republic of Tanzania; 1999.
  - 4 The Village Land Act (Cap 114). United Republic of Tanzania; 1999.
  - 5 All legislative examples relate to Tanzania mainland. Zanzibar legislation is not mentioned here, as all case studies in this volume are located on the mainland of the United Republic of Tanzania.
  - 6 Land Tenure and Property Rights. USAID; 2015 [https://www.land-links.org/wp-content/uploads/2016/09/USAID\\_Land\\_Tenure\\_Tanzania\\_Country\\_Profile.pdf](https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Tanzania_Country_Profile.pdf)
  - 7 The Land Act (Cap 113). United Republic of Tanzania; 1999
  - 8 Government forms taskforce to quell land conflicts. Daily News; 09.11.2018. <https://dailynews.co.tz/news/2018-11-095be52b3f8e1dd.aspx>
  - 9 E.g.: “There isn't any”: Tanzania's land myth and the brave New Alliance. African Arguments; 16.05.2018 <http://africanarguments.org/2018/05/15/there-isnt-any-tanzanias-land-myth-and-the-brave-new-alliance/>
  - 10 E.g.: Viongozi Pwani malizeni mgogoro wa wakulima, wafugaji –Mama Samia (Coastal Region Leaders were told to end the conflict between pastoralists and farmers). Mtwananchi newspaper; 29.10.2018
  - 11 Losing the Serengeti. The Maasai land that was to run forever. The Oakland Institute, 2018. [https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/tanzania\\_maasai\\_final\\_web.pdf](https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/tanzania_maasai_final_web.pdf)

Tanzania's areas of natural wealth are increasingly managed and protected<sup>12</sup> to ensure conservation and promote tourism, one of the country's main economic assets. These measures are needed to limit the destruction of land and environmental resources both by community<sup>13</sup> and business activities<sup>14</sup>. The right to a healthy environment, adequate to people's health and well-being, is considered a precondition for the realization of other human rights<sup>15</sup>, including rights to life, food, health and an adequate standard of living<sup>16</sup>. Conservation efforts, however, often conflict with the land (resource) needs of the communities surrounding protected areas. Land disputes between communities and conservation authorities occur frequently<sup>17</sup>, can be long-lasting<sup>18</sup> and escalations into human rights violations have been reported in communities surrounding several of Tanzania's protected areas<sup>19</sup>.

The absence of **formalized land rights and land use plans** in many regions of the country aids in sustaining land-related challenges. To counter this, land use planning programmes and initiatives to increase land tenure security have been developed, to some success<sup>20</sup>. However, it is yet unclear if these programmes have and live up to their potential to effectively and on a longer-term address outstanding land-related issues, such as land conflicts, environmental destruction, gender inequalities and human rights violations.

## THE CASE STUDIES

"Voices from Tanzania" studies are devised as small, field-based scoping studies, executed by Tanzanian civil society organization, which aim to draw attention to pertinent issues on **business and human rights in Tanzania**. Through their presence and activities, businesses can play an important role in both promoting and harming human rights. While it is the State's duty to *protect* citizens from corporate harm, businesses have a responsibility to *respect* human rights. This means that they have to act diligently in order to avoid infringing on human rights<sup>21</sup>.

"Voices from Tanzania" studies combine **new field data**, obtained through e.g. stakeholder interviews, observations or questionnaires, with secondary data sources such as (inter-)national legal frameworks, published reports or company (policy) documents. The analyses present previously undocumented information, provide new insights and allow the formulation of **clear recommendations** to the different stakeholders involved.

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12 E.g.: Protected areas in Tanzania. (Tanzania Wildlife Management Authority TAWA: <https://www.tawa.go.tz/conservation/protected-areas/>) or the United Republic of Tanzania's "Environmental Management Act 2004", the "Forest Act 2002" and the "Wildlife Conservation Act 2013".

13 E.g.: Concern as human activities encroach Serengeti, Mara. Daily News; 31.03.2019

<https://dailynews.co.tz/news/2019-03-315ca05028b735c.aspx>

14 E.g.: Acacia fined Sh5.6bn for leaking toxic water. The Citizen; 17.05.2019. <https://www.thecitizen.co.tz/News/Acacia-fined-Sh5-6bn-for-leaking-toxic-water/1840340-5119270-515vy7z/index.html>

15 The universal, fundamental rights for every person around the world, as described and confirmed in the Universal Declaration of Human Rights, United Nations 1948. <http://www.un.org/en/universal-declaration-human-rights/>

16 E.g. About human rights and the environment. United Nations OHCHR. <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/AboutHRandEnvironment.aspx>

17 JPM aombwa kuingilia kati mgogoro wa Hifadhi ya Kitulo (JPM has been asked to intervene Kitulo reserve crisis). Mtanzania newspaper; 23.04.2019

18 E.g.: Voices from Tanzania – Case studies on Business and Human Rights, Study 4: Tourism and land rights: case study of Uvinje sub-village and Saadani National Park. Legal and Human Rights Centre; 03.2019. <http://ipisresearch.be/publication/voices-tanzania-case-studies-business-human-rights-vol-1/>

19 E.g.: Voices from Tanzania – Case studies on Business and Human Rights, Study 5: Limestone mining and human rights issues in Kigoma region. E. Mawala (IPIS); 03.2019. <http://ipisresearch.be/publication/voices-tanzania-case-studies-business-human-rights-vol-1/>

20 E.g.: Land disputes in Morogoro Drop. Daily News; 19.02.2019. <https://dailynews.co.tz/news/2019-02-195c6babd164302.aspx>

21 Read more in e.g.: Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework. Office of the High Commission on Human Rights (OHCHR); 2011. [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

The second volume of “Voices from Tanzania” presents **four cases studies that focus on “land rights and environment”**. The studies address two key issues in this regard: (1) how are initiatives to increase **land tenure security and land use planning** affecting rural communities, and (2) how are **conservation efforts** impacting land and human rights in villages adjacent to protected areas?



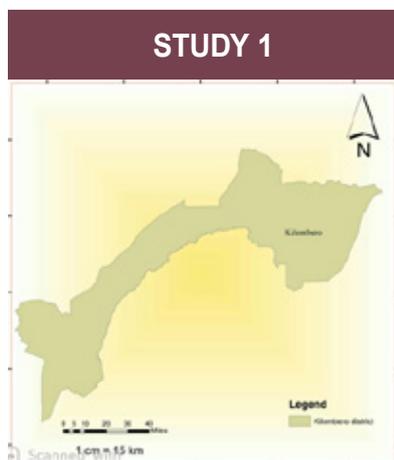
*Overview of studies covered in the “Voices from Tanzania – case studies on Business and Human Rights (Volume 2)” publication*

**Lawyers’ Environmental Action Team (LEAT)** conducted a study on the immediate effects of the Land Tenure Support Programme to communities in Kilombero district (Morogoro). The Land Tenure Support Programme is the biggest land regularization programme to date in Tanzania, aiming to improve land tenure security (i.e. the secure access to, use of and control of land) through good land tenure regularization. It was implemented between 2016-2019 in Morogoro, a region “famous” for its many land-based conflicts.

**HakiArdhi (the Land Rights Research and Resources Institute)** focused on how Land Use Planning can be a tool for promoting land governance, as seen in the specific case of Kilolo District, Iringa. Village land use planning determines the land area of a village and enables the demarcation of plots of land. It also debates and decides on the uses of these lands and on land ownership. Land use planning policies in Tanzania were developed in response to growing conflict over land and natural resources and the need for improved tenure security.

**Tanzania Women Empowerment in Action (TAWEA)** has investigated how protected areas in Kigoma region can cause land and human rights issues in communities adjacent to such areas. The study focused on 2 villages in Kasulu district, situated near the protected areas of Makere South Forest Reserve and Moyowosi Game Reserve. Population growth and an increasing demand for more farming land and resources to support villagers’ livelihoods increasingly put pressure on available resources within the villages. As a result, villagers have expanded their activities in the nearby reserves, which is in violation of the government’s conservation policies for these areas.

**Community Economic Development and Social Transformation (Cedesota)** studied how the proximity of Arusha National Park (Arumeru district, Arusha) impacts human rights in villages next to the park. There, human-wildlife conflicts are on the rise, as human population growth combined with fixed availability of resources results in increased interactions between wildlife and nearby communities. As these interactions often negatively affect both human and wildlife sustainability, they increasingly pose a threat to communities' basic rights and wildlife conservation.



### **Immediate Effects of the Land Tenure Support Programme (LTSP) to Communities in Kilombero District, Morogoro Region (Lawyers' Environmental Action Team)**

*Increased population, investments and land ownership greediness in Tanzania have led to many conflicts thus calling for major initiatives on land tenure security. The Land Tenure Support Programme (LTSP), which is the focus of this study, is one of those programmes.*

This short report depicts the immediate effects of the Land Tenure Support Programme (LTSP) implemented by the Government of Tanzania through the Ministry of Land, Housing and Human Settlements Development in Kilombero district, Morogoro region. Studying Kilombero district, in particular, was crucial since the district presents unique economic and environmental opportunities to land-based investments, local economic opportunities and environmental benefits. Equally, Kilombero is close to Mvomero and Kilosa districts, where frequent pastoralists-farmers conflicts have been reported.

The study took stock of **immediate effects on business, human and environmental rights as propelled by the implementation of the LTSP** in five wards in Kilombero district (Kisawasawa, Signali, Idete, Mlimba and Mang'ula ward). The **key study questions** were: (a) What are the effects of LTSP implementation on land planning and regularisation in selected key villages in Kilombero district? And (b) What livelihood, economic, land and human rights have been affected in these villages as a result of the LTSP?

The report is divided into four major sections. The first, introductory part of the report offers insight to the background of the study. It briefly discusses key land administration issues in Kilombero and Tanzania at large, and introduces the LTSP and the study area. Further, the introduction provides insights into the necessity of the study and the key objectives. Section two of the study highlights the methodology of the study. Section three brings forward the main findings of the study. The fourth section of the study puts forward the conclusions and recommendations of the study.

**Analyses of the findings** have been made to reflect business, human rights and environmental impacts of the LTSP programme. Positive and negative effects are found. Positive effects include increased village boundary surveys, establishment of geodetic control points, certificates of village land, establishment of district land use framework plans, preparations of village land use plans and increased security of land tenure. Negative effects found are loss of land and land rights, inequitable control of land and reduced land for pastoralists. The assessment of these immediate effects of the programme is much-needed to allow duplication of LTSP programme activities in other regions in the country.

**Conclusively**, the study acknowledges the work done by the LTSP programme in Kilombero district. Furthermore, the study commends the public-private nature of the programme which allowed non-governmental organizations, and Tanzania Land Alliance (TALA) in particular, to implement advocacy activities alongside the implementation of the programme. Noting some of the programme challenges, the study has also made **recommendations** to further improve land administration in other areas of the country. These include increased sensitization for villagers, capacity building for land institutions at the local level and more accountability mechanisms to enforce transparency, rule of law and participation at the village levels.

## STUDY 2



### **Land Use Planning a tool for Promoting Land Governance: A case study of Kilolo District, Iringa Region (Land Rights Research and Resources Institute)**

*Various studies have clearly explained the usefulness of land use plans in addressing land rights challenges when these plans are prepared in a participatory manner and all stages are completed.*

There is an assumption that there is a linkage between poor decision making on land at the village level and the absence of land use plans, and vice versa. Such decisions include, but are not limited to allocation of chunks of land to investors without prior and informed consent of the villagers, land conflicts among different land users such as farmers and pastoralists or investors and communities, villages' boundary conflicts, and unregulated human activities

such as farming, charcoal making, timber harvesting and other human activities in protected areas like forest reserves, water sources and riverine areas. In its participatory nature, the effective preparation of Village Land Use Plans (VLUPs) is connected with improved strategies in addressing land rights problems, environmental destruction, effects of climate change, gender inequalities and human rights violations.

In this study, findings are presented on village **land use planning processes and their contribution to promoting the good governance of land and natural resources management**. The study gathered findings on land use planning from Kihesamgagao and Lyamko villages in Kilolo District in Iringa Region. **The key study questions** were: (a) What is the status of the Village Land Use Plans (VLUPs) in Kilolo district; (b) What are the motives for preparing VLUPs in Kilolo district? And (c) What are the impacts of VLUPs on land governance and its effects, including land conflicts, investment, environmental management and women's land rights.

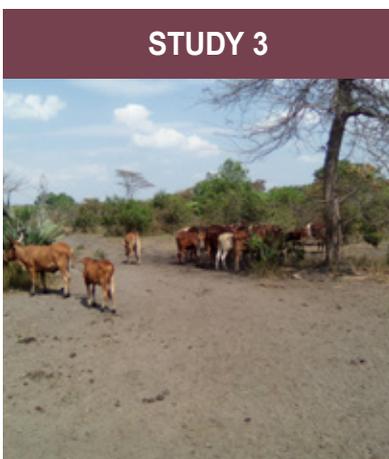
**The findings** show that land use plans connect to each of these issues in a different way. For instance, on village land governance, land use plans create democratic decision – making procedures as they involve all social groups and individuals in the village due to the participatory nature of the land use planning process. Land use plans have the potential to reduce land conflicts through community's collective identification of land uses, based on informed decision making. It was also noted that land use plans can support villages in resolving land conflicts over village boundaries. On the topic of environmental protection, the findings show that the land use planning process provides an opportunity for villagers to plan the use of their land while protecting resources such as water sources and forests. On women's land rights, land use plans provide an opportunity for women to participate in decision-making processes on land. The Land Act and Village Land Act of 1999 and the Land Use Planning Act of 2007 require involvement of women in every step of land use planning, including as members of the Village Land Use Management (VLUM) team formed by the Village Council. Besides, land use planning allows women to own land through the provision of customary title deeds.

**Besides these positive effects, land use plans pose challenges to communities** and can even negatively affect them. When non-governmental partners, such as investors, step in to facilitate the process of land use planning, there is the risk of promoting self-interest instead of communities' interests. Involving external partners also risks to take away community ownership of the planning process. While planning processes can stimulate the protection of environmental resources, protection measures do not always consider the needs and demands of the local communities who have been using now protected lands for many years for their subsistence. It was also noted that involvement of women in the process of village land use planning was often minimal, as in general men were believed to have more precise information than women. Moreover, in the studied villages, land conflicts remain despite the presence of village land use plans.

**Overall**, despite the identified benefits of land use plans, it cannot be concluded that these benefits happen automatically just because land use plans are in place. There are many gaps identified in the process itself, which limit the usefulness of land use planning in achieving its objectives. One of these

gaps is the failure to prepare the land use plans in all the six stages. However, creating a detailed land use plan is key for economic growth as it supports the villagers to understand how to use their land more productively and to respect different land uses. Another significant gap is the failure of the government to financially support the land use planning processes. This opens up opportunities for non-governmental stakeholders, such as investors, to prioritize their interest instead of considering the interest of the communities.

The study's **recommendations** include simplification of the land use planning process for effective participation of the villagers. Also, to ensure sustainability, land use plans should be owned by the villagers and not (only) by village leaders as is currently observed. Furthermore, the land legal framework should clearly instruct that the approved village land use plan is a precondition for village land allocation to investors. The allocation of land to investors should not be allowed in villages without land use plans in place. This will help villagers to decide if they really allocating land to investment is in the village's best interest. On top of that there is a need to recognize local knowledge of the rural communities in environmental conservation. This can be achieved by involving farmers and pastoralists in the formulation of policies and laws. Lastly, it is recommended that women land rights should not be reduced to the issuance of customary title deeds, but should include real efforts and campaigns to emancipate women.



### STUDY 3

#### **Land and human rights issues among local communities adjacent to protected areas in Kigoma Region. A case study of Kagera Nkanda and Mvinza villages adjacent to Moyowosi Game Reserve and Makere South Forest Reserve (Tanzania Women Empowerment in Action)**

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*The aim of this report is to bring to light land and human rights challenges faced by local communities in Kagera-Nkanda and Mvinza villages adjacent to Makere South Forest Reserve and Moyowosi Game Reserve, Kigoma region. Villagers in these places mainly conduct farming, pastoralism, fishing and beekeeping activities to sustain their basic needs. Population growth and an increasing demand for more farming land and resources to support villagers' livelihoods increasingly put pressure on available resources within the villages.*

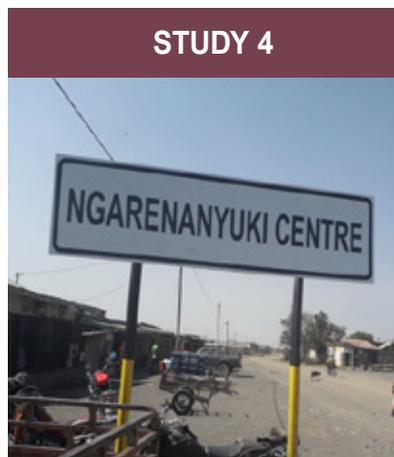
*As a result, villagers conduct some of their economic activities inside the nearby reserves. This creates tensions with government authorities that are mandated to enforce laws and regulations to protect and conserve reserve areas.*

The objective of this study is to identify land and human rights issues experienced by local communities in Kagera-Nkanda and Mvinza village (Kigoma Region). **Key questions** are (1) what are the land use conflicts present in villages adjacent to Moyowosi Game Reserve and Makere South Forest Reserve?; (2) What are the impacts of land conflict on villages adjacent to Makere South Forest Reserve and Moyowosi Game Reserve? ; and (3) What is the role of community conservation programmes in resolving land issues and conflicts related to Makere South Forest Reserve and Moyowosi Game Reserve?

This report results from primary and secondary data gathering, including interviews and questionnaires, focus group discussions and site visits conducted in the study villages during August-September, 2019.

**The key findings** are grouped in three major areas: (1). Existence of land tensions and violations of human rights in Kagera-Nkanda and Mvinza villages due to human activities in the reserves and subsequent conservation law enforcement. Use of excessive force, including beatings, and confiscation of villagers' properties are thereby reported as key human rights violations during law enforcement by conservation authorities. (2). Existence of unresolved land disputes as the result of a lack of information and non-participatory processes of land use planning, land verification and tourism investment by the government and private investors. (3). Community conservation initiatives (beekeeping project and environmental education) play a crucial role in supporting livelihoods of villagers as well as their support for the protection of natural resources and game and forest reserves.

**The recommendations** from the study include the development of new community conservation initiatives, cooperation of stakeholders at all levels to ensure proper and participatory execution of land demarcation and land use planning processes, adequate training of conservation officers to execute their duties with respect for human rights, and awareness raising is needed on the rights and duties of different stakeholders in conservation.



### **The Impact of Arusha National Park to Human rights in Olkung'wado and Ilkirimuni Villages - Arumeru District, Arusha (Community Economic Development and Social Transformation)**

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*Human-Wildlife Conflict is a serious problem in many areas of Tanzania, not only in Arumeru district (Arusha Region). Human population growth combined with fixed availability of resources is often the reason for increased interactions between wildlife and communities. For communities living adjacent or close to protected areas, the situation is especially critical.*

CEDESOTA undertook a case study to explore **the causes and consequences of human-wildlife conflicts in Olkung'wado and Ilkirimuni villages that border Arusha National Park in Arumeru District** (Arusha Region, North East Tanzania). The objective of this study was to determine the impact of Arusha National Park on human rights and land rights in Olkung'wado and Ilkirimuni villages. The study was carried out using structured interviews with community development officers, village and ward leaders and villagers who are the victims of human-wildlife conflicts and the District Wildlife officer for Arumeru district. The data were collected in Olkung'wado and Ilkirimuni villages and analyzed with focus on Human-Wildlife conflicts, land issues, relations between communities and conservation authorities and community benefits from the proximity of Arusha National Park.

**The interactions between humans and wildlife** in the two villages have caused neither killings nor injuries to people, albeit livestock was harmed to a lesser extent. Elephants were reported to destroy crops, particularly in 2018/19. This has led to food shortages, thus threatening the right to food as well as to life of communities adjacent to Arusha National Park. Community members perceive human-wildlife interaction as a threat to their life. However, reports to Village Councils and to the District Council often remain without tangible solutions. Compensations are also insufficient to pay for real losses. **Land conflicts** between villages and villagers were not found to be common. Conflicts do exist between villages adjacent to Arusha National Park and the park's authorities. Relationships between communities and conservation authorities are complicated by insufficient communication by authorities and top-down decision-making regarding conservation practices and requirements, often disadvantaging local community members. Despite these issues, communities are also experiencing benefits from Arusha National Park, including trainings to women groups, opportunities to market goods to tourists, construction of classrooms and a dispensary as well as employment to youth in the tourism industry.

**Conclusively**, human-wildlife conflicts pose significant challenges to communities living adjacent to protected areas in Arumeru District. These conflicts are a major shortfall for community-based conservation programs. Involving communities in the governance process is essential for sustainable wildlife conservation and provides incentives to communities to assist in the conservation and the protection of wildlife. The introduction of a bee keeping project in the buffer zone areas surrounding the park, could be one of the alternative sources of income which also offers protection to the forest and blocks elephants from the park to enter nearby villager farms.

To ensure effective community participation in conservation and mitigate the effects of human-wildlife conflicts, **the study recommends** to undertake a review of compensation rates when losses are incurred due to human-wildlife interaction; to create more awareness in communities on their rights and duties in the conservation cycle and on mechanisms to access redress in case of negative impacts; to simplify communication mechanisms between communities and conservation authorities, and to simplify information for communities, to ensure all can participate in conservation and decision-making processes.

## OVERALL CONCLUSIONS AND RECOMMENDATIONS

The four case studies presented in this second edition of *"Voices from Tanzania"* focused on two key aspects within the focal topic of *"land rights and environment"*: (1) how are initiatives to increase **land tenure security and land use planning** affecting rural communities, and (2) how are **conservation efforts** impacting land and human rights in villages adjacent to protected areas?

Albeit different in their specific context and topic – from the Land Tenure Support Programme in Kilombero (Morogoro), to village land use planning in Kilolo (Iringa) and protected areas in Kigoma and Arusha regions – all four studies stress the importance of land for the development of communities and the fulfilment of rights. **The search for livelihood opportunities** (and related land-based resources) is underlying a lot of the land issues discovered in the studies. It is why people are illegally using protected areas as a source of resources (Makere South Forest Reserve, Moyowosi Game Reserve (Kigoma)) or why there are disputes over land demarcation (Mvinza village (Kigoma); Olkung'wado village (Arusha)). It is why people are trespassing on land of others (Kihesamgagao and Lyamko village (Iringa)), why different groups of land users are in conflict with each other over land ownership (Makere South Forest Reserve (Kigoma); Miwangani, Sagamaganga and Mpanga Kisawasawa villages (Morogoro); Kihesamgagao and Lyamko village (Iringa); Olkung'wado village (Arusha)) and why conflicts over access to protected areas can escalate to human rights violations during conservation law enforcement, such as forceful arrests, imprisonment, beatings, unlawful fines and confiscation of villagers' properties (Makere South Forest Reserve (Kigoma)).

In essence, these issues result from the absence of land tenure clarity and security. **Participatory land use planning and regularization of land**, ensuring **secured land tenure**, are therefore considered crucial to resolve land issues and to protect and promote rights of different land users. Where implemented, these processes are found to produce **positive effects**, including an increased issuance of land certificates - including those for women -, community-based environmental protection and more democratic decision-making processes on land, as shown in the cases of Kilolo and Kilombero districts. In their absence, disputes over land access, ownership and land use can flourish. These can spark long-term conflicts and escalate to human rights issues, as shown in the cases from Kigoma region. Despite the presence of different land use planning and land rights programmes, land regularization and proper land administration remain inadequate in a large part of the country. As shown for Village Land use Planning and the Land Tenure Support Programme, **processes are often incomplete or unbalanced**, due to insufficient funds, insufficient stakeholder capacities, insufficient general awareness and the absence of truly participatory practices, amongst others. These gaps have notable effects. The exclusion of certain stakeholder groups, such as pastoralists, from land governance processes was found to sustain land conflicts in Kilombero district (Sagamaganga village). The failure to prepare complete village land use plans – i.e. the failure to implement the process through all required stages –, leaves them without a detailed plan for the actual use of demarcated lands, again opening up room for conflicts and debates (Kihesamgagao and Lyamko villages, Kilolo district). Even in a participatory process, a lack of adequate information and awareness often leads to decisions that are disputed afterwards, when full implications are realized. This seems especially the case when village land is allocated for investment.

**Insufficient communication and awareness** on rights, regulations and decision-making are found to augment land-related tensions and conflicts. For instance, poor communication about village land demarcation and tourism investment is causing a prolonged dispute over land ownership between Mvinza village and conservation authorities in Kigoma region. Limited awareness on procedures to resolve human-wildlife conflicts and to seek redress, on the other hand, leave villagers near Arusha National Park (Olkung'wado and Ilkirimuni villages) aggrieved and accusing village and park authorities of valuing

wildlife conservation over human lives and livelihoods. Besides effective land use planning, increased awareness on environmental regulation and conservation and information-sharing on the rights and duties of different stakeholders in conservation is much needed, especially in areas that host reserved lands. As such, environmental conservation can be positively affected, while conflicts related to land and resources can be minimized. Establishing and implementing **community-conservation programmes** could be one way to increase communities' participation in conservation of protected areas and their resources while considering people's livelihood needs in these areas.

**Recommendations** from this volume's "*Voices from Tanzania*" studies include:

- **Land tenure regularization and land use planning processes need to be fully implemented** throughout the country. They are essential tools to resolve land-related issues and to protect and promote rights of different land users.
- **Land governance processes need to be fully participatory and inclusive** for them to have long-lasting effects on the security of rights and the prevention of conflicts. Inequitable power relations and the exclusion of stakeholder groups in these processes need to be avoided to ensure effective outcomes.
- Land use planning **processes need to be simplified** to ensure effective participation by villagers and to ensure sustainable ownership by communities and not (only) by village leaders or external partners, as is currently often observed.
- **Capacities and awareness at local levels need to be strengthened** – including community members, local governments, authorities and land institutions – for each to optimally execute their duties in the processes of land regularization, land use planning and conservation.
- **Community conservation initiatives need to be developed and supported**, to increase local awareness and ownership of conservation, while providing alternative livelihood opportunities for rural communities. Recognizing the local knowledge of rural communities in environmental conservation would further help eliminate causes for conflict.
- **Communication between communities and conservation authorities needs to be optimized and simplified.** The current mechanisms of communication are often very bureaucratic and top-down, excluding communities from participating in decision-making processes or gaining full access to information.
- **Land regularization/planning programmes need to go beyond issuing land title deeds.** Guaranteeing land rights for all, including those for women and other vulnerable groups, requires fundamental societal changes that go beyond the mere provision of Certificates of Customary Rights of Occupancy. This includes promoting gender equality, awareness raising and empowerment of all groups of rights-holders.
- **Sufficient resources need to be allocated** for the full implementation of programmes, such as village land use planning, issuance of land use certificates or the support for community conservation initiatives.

The Kiswahili version of this introductory summary – including executive summaries of all four studies – can be found at <https://ipisresearch.be/home/capacity-building/voices-from-the-south/voices-from-tanzania/>

# VOICES FROM TANZANIA (VOL. 2)

## REPORTS OF THE FOUR CASE STUDIES

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## List of Abbreviations

<b>ACHPR</b>	African Commission on Human and Peoples' Rights
<b>CCRO</b>	Certificate of Customary Right of Occupancy
<b>CHRAGG</b>	Commission for Human Rights and Good Governance
<b>CSO</b>	Civil Society Organizations
<b>DANIDA</b>	Danish International Development Agency
<b>DFID</b>	Department for International Development
<b>GRO</b>	Granted Right of Occupancy
<b>HEP</b>	Hydro-Electric Power
<b>IFTC</b>	Ifakara Town Council
<b>IPIS</b>	International Peace Information Service
<b>IWGIA</b>	International Working Group for Indigenous Affairs
<b>KDC</b>	Kilombero District Council
<b>LEAT</b>	Lawyers' Environmental Action Team
<b>LTSP</b>	Land Tenure Support Programme
<b>LUP</b>	Land Use Plan
<b>PLUM</b>	Planning Land Use and Management Committee
<b>MKUKUTA II</b>	National Strategy for Growth and Reduction of Poverty II
<b>MLHSD</b>	Ministry of Land, Housing and Human Settlements Development
<b>MNRT</b>	Ministry of Natural Resources and Tourism
<b>NGO</b>	Non-Governmental Organization
<b>SIDA</b>	Swedish International Development Cooperation Agency
<b>SP</b>	Strategic Plan
<b>TALA</b>	Tanzania Land Alliance
<b>TNRF</b>	Tanzania Natural Resources Forum
<b>UKAID</b>	United Kingdom Department for International Development
<b>URT</b>	United Republic of Tanzania
<b>VAC</b>	Village Adjudication Committee
<b>VFR</b>	Village Forest Reserve
<b>VLUM</b>	Village Land Use Management Committee
<b>VNRC</b>	Village Natural Resources Committee
<b>VLC</b>	Village Land Council
<b>WMA</b>	Wildlife Management Area

## Executive summary

Land is crucial for the development of all communities. In Tanzania, more than 65 percent of the citizens access livelihoods through land-related activities, notably agriculture. In rural settings, the importance of land is even stronger as land in rural areas provides access to resources for community sustenance.

However, land and different land uses have created conflicts that have sometimes led to death, injuries, and loss of property. Increased population, investments and land ownership greediness in Tanzania have led to many conflicts thus calling for major initiatives on land tenure security. The Land Tenure Support Programme (LTSP), which is the focus of this study, is one of those programmes.

This short report depicts the immediate effects of the Land Tenure Support Programme (LTSP) implemented by the Government of Tanzania through the Ministry of Land, Housing and Human Settlements Development in Kilombero district, Morogoro region. Studying Kilombero district, in particular, was crucial since the district presents unique economic and environmental opportunities to land-based investments, local economic opportunities and environmental benefits. Equally, Kilombero is close to Mvomero and Kilosa districts, where frequent pastoralists-farmers conflicts have been reported.

The study took stock of immediate effects on business, human and environmental rights as propelled by the implementation of the LTSP that kicked off in 2016 and phased out in 2019.

The report is divided into four major sections. The first, introductory part of the report offers insight to the background of the study. It briefly discusses key land administration issues in Kilombero and Tanzania at large, and introduces the LTSP and the study area. Further, the introduction provides insights into the necessity of the study and the key objectives. Section two of the study highlights the methodology of the study. Section three brings forward the main findings of the study. Analyses of the findings have been made to reflect business, human rights and environmental impacts of the LTSP programme. Positive and negative effects are found. Positive effects include increased village boundary surveys, establishment of geodetic control points, certificates of village land, establishment of district land use framework plans, preparations of village land use plans and increased security of land tenure. Negative effects found are loss of land and land rights, inequitable control of land and reduced land for pastoralists. The assessment of these immediate effects of the programme is much-needed to allow duplication of LTSP programme activities in other regions in the country. The fourth section of the study puts forward the conclusions and recommendations of the study.

Conclusively, the study acknowledges the work done by the LTSP programme in Kilombero district. Furthermore, the study commends the public-private nature of the programme which allowed non-governmental organizations, and Tanzania Land Alliance (TALA) in particular, to implement advocacy activities alongside the implementation of the programme. Noting some of the programme challenges, the study has also made recommendations to further improve land administration in other areas of the country.

# 1. Introduction

## 1.1. Background Information

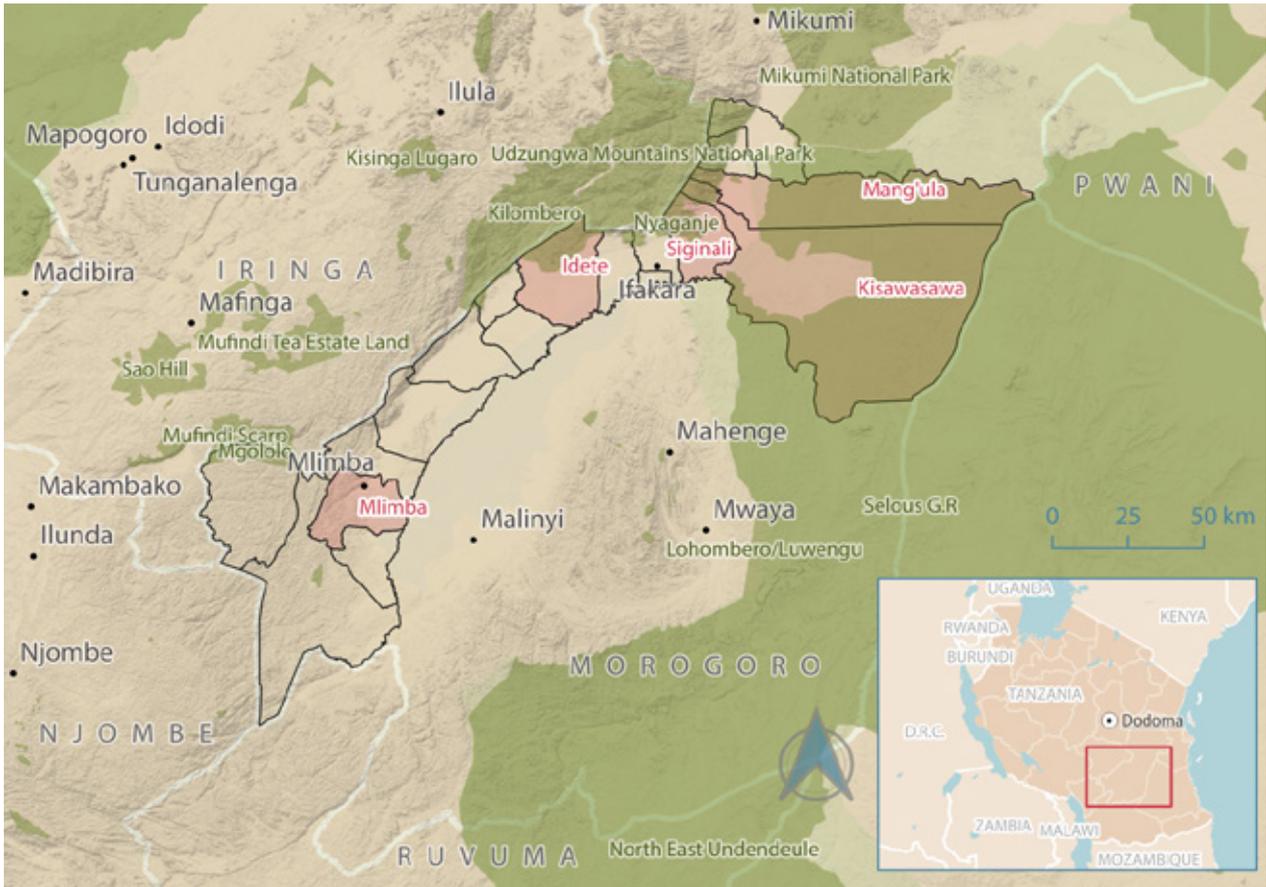
Land is a crucial asset for the socio-economic development of communities in Tanzania (URT, 1997). Its significance is overly highlighted in countrywide policies, laws, and plans, such as the Tanzania Land Policy 1995 (currently under review), the National Agriculture Policy 2013, the National Wildlife Policy (Revised 2007), the National Livestock Policy 2006, the National Forest Policy 1998, the Tanzania Development Vision 2025, National Strategy for Growth and Reduction of Poverty II (famously MKUKUTA II), and the Tanzania Five Year Development Plan (2016/17 – 2020/21) to name but a few. Highlighted plans and policies identify land as an integral asset for survival and development, as land supports the livelihood of most rural populations and is the major resource upon which political, social, cultural and economic activities and aspects of life depend. Access to land and security of land tenure is especially crucial to local communities in rural settings where socio-economic needs are predominantly met through direct community interaction with land and land resources (Kironde, 2009). Hence, access, use and control of land in Tanzania, play a significant role in determining the quality of life of local communities (URT, 2015).

The evolution of land tenure in Tanzania has passed through different phases (URT, 1997). These phases/historical stages include: pre-colonial era, colonial era, independence and new land order era. The pre-colonial era is sometimes known as customary tenure regime in which land was owned customarily. Land administration and conflict management was the role of the elders who were also custodians of the customs. Land administration changed with the onset of colonialism, as colonial powers required land to produce much-needed raw materials like crops, minerals, wildlife, and forest products<sup>1</sup>. During German rule, land belonged to King Kaizer (Fimbo, 1992), while the British passed a land ordinance in 1923<sup>2</sup>, establishing a title deed system with prominence over customary tenure.

After the 1961 independence land became a public property. A notable change made to the laws governing land was the replacement of the word 'governor' with 'President'. Land became public, but vested on the President on behalf of all the citizens. Act No. 47 of 1967 reinforced the presidential powers on land acquisition. The most recent land acts (Land and Village Acts No.4 and 5 of 1999) have retained this but with improvements on the compensation package. The Land and Village Acts 1999 provide the present-day legal framework for land rights and recognize both land title certificates as well as customary rights as a basis to secure land tenure (USAID, 2015).

Shortfalls in the management of land and related problems are well-documented (Mugabi, 2013). Conflicts often exist due to the diverging needs to promote economic growth *versus* the need to protect resources. For instance, different reports and studies have documented community sufferings due to evictions from ancestral lands to allow businesses operations (Reuters, 2018). The case of the Maasai in Loliondo (Arusha Region) is one famous example of ongoing land-related sufferings due to tourism investment (Ojalammi, 2006). In this case, the rights of indigenous groups have been challenged to make way for wildlife hunting investments in areas of Serengeti National Park that are traditionally used by Maasai peoples to access water, graze herds or build villages (ACHPR & IWGIA, 2015). As a result, Maasai have been denied access to land and resources (The East African, 2017) and had villages burnt to facilitate hunting tourism (ACHPR

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- 1 In Tanganyika (Tanzania mainland), both German and British colonial administrations adopted identical land policies. Under both administrations, the state was vested with extensive supervisory powers over land tenure. The (German) Imperial Decree of 26th November 1895 declared that all land in German East Africa (Tanganyika) was regarded as unowned and thereby vested in the Empire. State institutions were assigned the function of granting land to planters and settlers. Tenure under German law took the form of conveyance of ownership and leaseholds. In 1912, nearly 1.3 million acres of land had been alienated in the form of conveyances of ownership. The main plantation crops were sisal, cotton, rubber and coffee.
  - 2 Similar to German rule, the British administration exercised monopoly over land. "The whole of the lands of Tanganyika whether occupied or unoccupied on the date of the commencement of this Ordinance were hereby declared to be public lands" stated the *Land Ordinance* 1923. The Ordinance gave power to the Governor of making grants of land on Rights of Occupancy for periods not exceeding 99 years. The Governor could grant land plots to enterprises, organisations and individuals and could define terms for using the land.



Map 1: Localisation of Kilombero district within Morogoro Region, Tanzania. The location of the five wards studied in this report (Kisawasawa, Signali, Idete, Mlimba and Mang'ula ward) is indicated in red.

& IWGIA, 2015). On the same token, pastoral and farming communities in different parts of the country have clashed over access, use and control of land, leading to the loss of lives in some instances (IPS, 2016). Morogoro Region (central-east Tanzania; Map 1) presents an example of land use challenges in Tanzania (Massoi, 2015). The region is host to some notable land-related disputes that have often resulted in injuries, loss of properties and sometimes death (IPS, 2016). Fights between pastoralists and farmers are notably high, particularly in Kilosa (Benjaminsen *et al*, 2009) and Mvomero districts (Kalenzi, 2018). Moreover, the region has a number of land-based investments and practices that conflict with communities' need to access, use and control land and land resources (TNRF, 2017). Kilombero district, for example, hosts the Kilombero sugar farms and Kilombero Valley Teak Company that, among many, have been documented to have made land-based investments that reduced communities' access, use and control of land (Stambuli, 2018). Rich individuals in Tanzania obtaining ownership of large chunks of land within Morogoro region, have also sparked land-based conflicts. This practice, e.g. has encouraged the encroachment of private lands by local communities to sustain their agriculture activities on lands lost to these individuals (The Citizen, 2015).

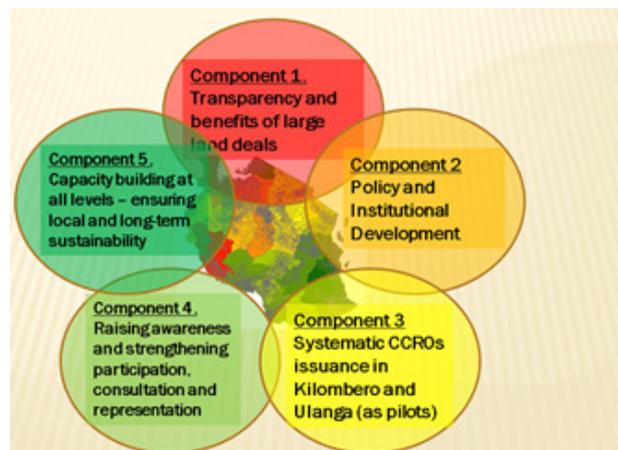


Figure 1: A Venn diagram of the LTSP program depicting the five components of the programme. Picture courtesy of the LTSP Facebook account.

To promote land access, use and control in Morogoro, the government of Tanzania - with funds from Department for International Development (DFID/UKAID), Danish International Development Agency (DANIDA), and Swedish International Development Cooperation Agency (SIDA) - embarked on one of the country's biggest land regularization programmes, implemented in three districts in Morogoro (Kilombero, Malinyi and Ulanga; DFID, 2016). The overall objective of this Land Tenure Support Programme (LTSP) was to improve land tenure security through good land tenure regularization. This three-year pilot programme (2016-2019) worked to address land administration challenges in the country, focusing on enhancing transparency, policy and institutional development, and increasing land tenure regularisation by identifying appropriate technologies and methodologies for land regularization. Further, the LTSP aimed to produce tangible outputs such as surveys of village boundaries, the preparation of Village Land Use Plans (LUPs) and the issuance of Certificates of Customary Rights of Occupancy (CCRO). The programme also included strong awareness-raising and capacity-building activities at all levels (see Figure 1). LTSP activities covered 156 villages within 3 districts of Morogoro (Kilombero district: 81 villages, Ulanga district: 50 villages, and Malinyi district: 25 villages).

In February 2019, LTSP reported that the programme has registered positive results in terms of cost reduction in registering titles to land and mechanisms of solving disputes. Therefore, a roll out of good practice across the entire country is recommended (Machabe, 2019). However, before the LTSP is used as an example for the implementation of similar land programmes, it is essential that land actors engage to study the LTSP and the effects it has had on local communities in Kilombero, Malinyi and Ulanga.

## 1.2. Problem Statement

The Land Tenure Support Programme (LTSP) has been implemented from 2016 to 2019 in Morogoro Region, a region with arguably the largest number of injury-causing land conflicts in Tanzania (Massoi, 2015). The aim of the programme was to strengthen land tenure, as this, in turn, would reduce conflict and promote (agricultural) livelihood security and investment.

LTSP, through its land regularisation processes, poses opportunities, but also threats and challenges. One of the challenges is that the LTSP has to consider already established *planning areas*<sup>3</sup>. In doing so, a number of villages and streets, particularly those close to urban centres, were not demarcated and registered, as they were once declared by the Government as planning areas. For example, in 1948 Mang'ula, Kidatu and Ifakara villages were declared as trading centres (Government Notice (GN) No. 40 of 1984). Therefore, residents regardless of the right to access, use and control land could not be part of the LTSP programme as occupancy settings in trading centres differ from villages. Residents in trading centres own land through Granted Right of Occupancy (GROs) that is granted by the President through Commissioner of Land while in villages ownership is through CCROs. On the other hand, areas dedicated to nature conservation or social services are respected as such. In this way, planning areas provide space for an organized community with increased quality of life, more protection from disasters and easy access to social services like water, schools, hospitals and other public spaces. Hence, the LTSP potentially can affect local livelihoods, environment, economic investment and human rights, particularly as they are established in communities that depend mainly on pastoralism and agriculture.

The Lawyers' Environmental Action Team (LEAT) conducted a study in Kilombero district, Morogoro Region, to understand the immediate effects of the LTSP and how it affects pastoral and agricultural businesses, small-scale farmers, women and the marginalized in accessing livelihoods. In Kilombero, the majority of residents live and access income through small-scale agricultural and pastoralism activities which centrally require land. LEAT chose Kilombero as a study district because of its significance economically (i.e. the presence of large-scale agriculture schemes for example Kilombero Sugar, Kilombero Valley Teak Company) and environmentally (i.e. the presence of rivers, Udzungwa National Park, Kilombero Nature

3 A Planning Area is defined under section 25 of the Land Use Planning Act of 2007. It is an area declared by a planning authority for the purpose of the preparation of a land use plan or the adoption of the existing plan. According to the said act a planning authority other than the Land Use Commission may, by notice published in at least two newspapers circulating in the area, declare an area within its jurisdiction as a planning area.

Once declared, planning areas limit villagers from performing livelihood activities including crop cultivation and pastoralism thus limiting villagers in daily economic activities.

Reserve, Iluma Wildlife Management Area, and Kilombero Game Controlled Area). As the LTSP works to regularize land administration in the villages (including the establishment of planned settlements and investment areas as well as limiting nomadism and agriculture activities), the proposed study aims to identify how the LTSP has immediate effects on local economies, environment and human rights.

The LTSP programme is the biggest land regularization programme to date to be implemented in Tanzania. Therefore, it plays a significant role as a standard for other programs. Learning the negatives and positives of the program is key to the implementation of future land regularization projects, in particular, the forthcoming project to be implemented in ten (10) regions with a loan from the World Bank (WB, 2019).

### 1.3. Description of the study area

The study was conducted in Kilombero district, Morogoro Region (Map 1). According to the 2013/14 -2017/18 Kilombero District Council's (KDC's) Strategic Plan (SP), Kilombero district is one of the six administrative districts of Morogoro Region. The district is located on the western side of Morogoro. The district lies between latitudes 7°40' and 9°21' (South) and between longitudes 35°20' and 37°48' (East). The district borders Kilosa and Morogoro rural districts to the North East, Mufindi and Njombe to the South West, Kilolo District to the North, Ulanga District to the South East (along Kilombero River) and Songea rural district to the South.

Kilombero district covers an area of 14,918 km<sup>2</sup> (1,491,800 ha). Land within the district is categorized as: (a) Arable land which is about 4,458.96 km<sup>2</sup>; (b) grazing area which is about 1,076.26 km<sup>2</sup>; (c) area covered by natural forest which is about 1,250 km<sup>2</sup>; (d) area covered by reserved forest which is about 1,079.15 km<sup>2</sup>; (e) area covered by planted forest which is about 66.98 km<sup>2</sup>; and (f) residential area which is about 5,786.65 km<sup>2</sup>.

Most of the district lies along the Kilombero Valley and part of it is in the Rufiji Basin. Kilombero district partly hosts the Selous Game Reserve (the biggest protected area in Tanzania spread across four regions: Morogoro, Pwani, Lindi and Ruvuma). The district is also home to the Udzungwa Mountains National Park, covered by Miombo woodlands that rise about 1700 meters above sea level. Kilombero district has 38 permanent rivers which provide high potential for Hydro-Electric Power (HEP), as demonstrated in the two key HEP projects of Kihansi and Kidatu. The 38 permanent rivers also provide space for large irrigation schemes within the district.

According to KDC's website, Kilombero has a population of 451,817 people and is divided into 5 administrative divisions, 26 administrative wards, 99 villages and 390 sub-villages (KDC, 2019). In this study, we focussed on Mpanga Kisawasawa village (from Kisawasawa ward), Sagamaganga village (from Signali ward), Miwangani village (from Idete ward) and the wards of Mang'ula and Mlimba (see Map 1). Villages have a population of ca. 2,500 inhabitants, while the studied wards are populated by up to 38,000 people. Key economic activities in these sites include agriculture (crop cultivation and subsistence farming), animal husbandry and small/petty businesses. Three of the five study villages reported to have village forest reserves (VFR): Mpanga Kisawasawa has Nakandumbo VFR, Sagamaganga has Nanganji VFR, and Miwangani has Miomboni and Mitemikwila VFRs. Mpanga Kisawasawa and Sagamaganga village border the Selous Game reserve, while Miwangani village borders the Kilombero Valley Ramsar site. Miwangani village has been involved in a prolonged land conflict with this internationally-renowned wetland site (KDC, 2019).

The LTSP was implemented in Mpanga Kisawasawa, Sagamaganga and Miwangani village. In Mang'ula and Mlimba wards LTSP activities were not implemented, largely because these wards were in the past identified as planning areas.

## 1.4. Objective of the study

The study focused on identifying the immediate effects of the Land Tenure Support Programme as implemented by the Government of the United Republic of Tanzania through the Ministry of Land, Housing and Human Settlements Development (MLHSD) in Kilombero district.

The key study questions were: (a) What are the effects of LTSP implementation on land planning and regularisation in selected key villages in Kilombero district? And (b) What livelihood, economic, land and human rights have been affected in these villages as a result of the LTSP?

## 2. Methodology

The study made use of both primary and secondary data collection methods. Books, local newspapers, journals and online information portals were used to accumulate and validate data on land issues, Kilombero district and the LTSP. Presentations previously made by LTSP programme staff were also analysed. In advance of consulting the aforementioned, key criteria for secondary sources were determined, including the dates of publication, reliability of the data source, quality of discussions, depth of analyses, and the extent of contribution of the text to land management in Tanzania.

The research also made use of primary data collection tools. A field study was conducted in the villages of Mpanga Kisawasawa, Miwangani, Sagamaganga, Mlimba ward and Mang'ula ward between 15 and 27 September 2019.

Both qualitative and quantitative information was collected from different stakeholders of the LTSP, including those implementing the LTSP programme and those benefiting from the LTSP programme. Predominantly qualitative approaches were administered to access land administration narratives from contacted LTSP stakeholders. Open-ended questions were asked to selected individuals to collect and analyse information related to the processes and the immediate effects of the LTSP in Kilombero. 98 individuals were interviewed on a face-to-face basis. Questions were prepared for (a) members of the village social services committees; (b) members of the village economy and planning committee; (c) Village land councils; (d) ward councils; (e) members of village land use committees; and (f) members of village natural resources committees. The study also collected information from villagers without leadership positions at the village level.

To comparatively understand the immediate effects of the LTSP, five villages were purposely selected within Kilombero district. Study villages with the LTSP implemented included Mpanga Kisawasawa (from Kisawasawa ward), Sagamaganga (from Signali ward), and Miwangani (from Idete ward). The study further included the wards of Mang'ula<sup>4</sup> and Mlimba<sup>5</sup> where LTSP activities were not implemented, largely because Mang'ula and Mlimba were in the past identified as planning areas<sup>6</sup>. Selected villages are also scattered over the Kilombero district to provide the study the opportunity to grab information from different actors and settings.

4 Government Notice (GN) Number 40 of 1984 identified Mang'ula, Kidatu and Ifakara as trading centres.

5 GN Number 220 of July 1, 2015 identified Mlimba as a township authority.

6 "Planning area" means an area declared to be a planning area in accordance with section 25 of the Land Use Planning Act, 2007. Land parcels under Planning Areas cannot be titled by Certificate of Customary Right of Occupancy (CCRO).

### 3. Findings and Analysis

#### 3.1. Land planning and regularisation

Primarily, through the LTSP programme, villagers engaged in land use planning, by categorising village land into different uses including: residential, agricultural, reserved, grazing, social services, and investment, to name a few. Subsequent to land use planning, villagers promulgated bylaws that enforce land use plans. The LTSP involved land use planning as one key step to the adjudication of land parcels. The adjudication of land entailed the demarcation and individualization of land parcels. The process, in the end, provided Certificates of Customary Rights of Occupancies that show ownership of land, the size of owned land and the type of land use activity (for example, residential, commercial, recreational, and farmlands; Figure 2).

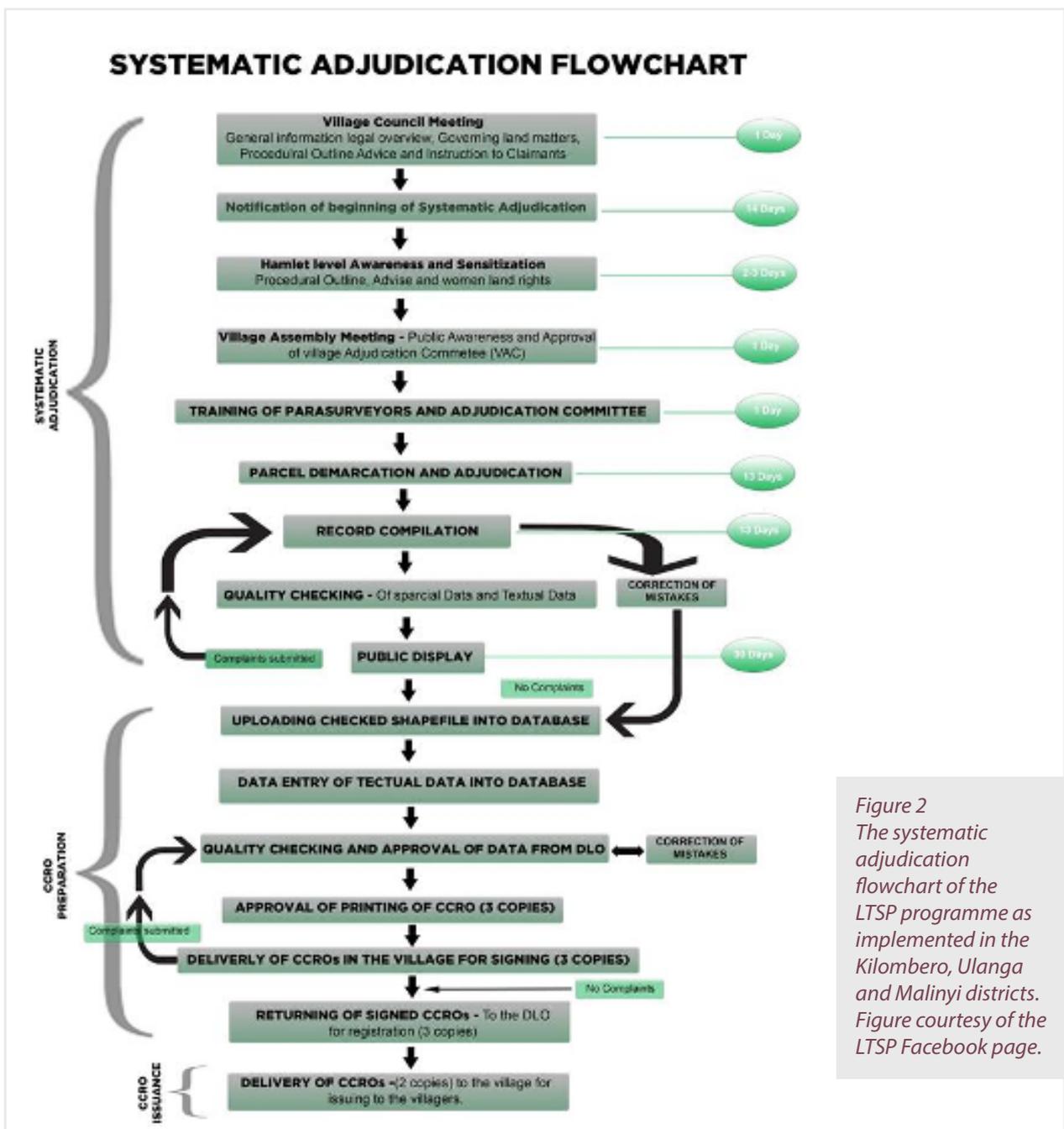


Figure 2  
The systematic adjudication flowchart of the LTSP programme as implemented in the Kilombero, Ulanga and Malinyi districts. Figure courtesy of the LTSP Facebook page.

The study discovered both positive and negative immediate effects due to the implementation of the LTSP land use planning and adjudication.

### 3.1.1. Certificates of Customary Rights of Occupancy

The principal positive immediate effect of the LTSP is the increased provision of Certificates of Customary Rights of Occupancy (CCROs) to villagers in Kilombero district (Table 1). As a result of the systematic adjudication, villagers now can have CCROs that provide assured land access and land use, with the ability to decide on the use of land. In the past, villagers, and particularly women, had comparatively less influence on the control of land and other productive resources. Although no disaggregated data (i.e. male, female) was provided, both Kilombero District Council Staff, Singali and Mpanga ward officials and Sagamaganga, Miwangani and Mpanga Kisawasawa village officials reported a significant number of women now own land and their rights to access, use and decide over the use of land have been augmented by CCROs. In the non-visited village of Nyange, 37% of the provided CCROs are reported to be for women (LTSP, 2018).



Figure 3: Picture showing the extent of women land ownership in Nyange village due to the LTSP. Source: LTSP Facebook page.

Ward	Village	Number of CCROs produced	Number of CCROs before LTSP
Kisawasawa	Mpanga Kisawasawa	581	0
Singali	Sagamaganga	5150	0
Idete	Miwangani	0	0

Table 1: The number of CCROs provided to Mpanga Kisawasawa, Sagamaganga and Miwangani villagers as a result of the LTSP. Numbers as reported by the Tanzania Land Alliance (TALA) office.

Moreover, the LTSP program has enabled villagers to recognise and respect the right to own land by individuals. During the implementation of the programme, awareness was created to villages on the rights to equal ownership of land between men, women and the marginalised. "Some had visited [our] office to claim for land ownership for their disabled child..." said Mr. Faraja Nkwera, Kilombero District Council (KDC) staff and a member of the Planning Land Use and Management Committee (PLUM). Respondents at different levels agreed that the implementation of the programme has led to substantial improvements

in the security of land tenure with more women, men and marginalized groups now officially owning land (Figure 4; *MLHHS – press release, August 09, 2017*).

Despite this, Village Chairpersons and Executive Officers in the study villages reported that villagers rarely pick up CCROs. The failure to collect CCROs was reported in both Mpanga Kisawasawa and Sagamaganga villages. One key reason for this seems to be the fact that villagers lack safe spaces to keep CCROs within their households. Others have not collected their CCROs as they have failed to see economic values to CCROs, despite efforts put by the MLHHS. It was also reported that the failure to pick up CCROs relates to the fact that the owners of the CCROs reside outside the borders of the respective villages and sometimes even outside Kilombero district. The failure of villagers to pick up their CCROs can cause disputes over land ownership and can even lead to the loss of CCROs, especially in rural settings where authorities lack spaces for preserving uncollected CCROs.

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09 Agosti, 2017

#### TAARIFA KWA UMMA

##### UZINDUZI WA UTOAJI WA HATI ZA HAKIMILIKI YA KIMILA 2,111 KWA WANANCHI WA KIJIKI CHA NYANGE, KILOMBERO TAREHE 15 AGOSTI, 2017

Wizara ya Ardhi, Nyumba na Maendeleo ya Makazi kupitia Programu ya Kuwezesha Umilikishaji Ardhi (**Land Tenure Support Programme - LTSP**) itazindua rasmi utoaji wa Hati za Hakimiliki ya Kimila katika kijiji cha Nyange, wilaya ya Kilombero mkoani Morogoro tarehe 15 Agosti, 2017.

Waziri wa Ardhi, Nyumba na Maendeleo ya Makazi Mhe. William Lukuvi atakuwa mgeni rasmi katika tukio hilo ambapo atagawa hati 2,111 kwa wananchi wa kijiji cha Nyange na kuzindua ofisi na masjala ya ardhi ya kijiji hicho. Ofisi na masjala ya ardhi ya kijiji cha Nyange imejengwa kwa nguvu za wananchi na msaada wa Serikali kupitia mradi wa LTSP.

LTSP ni Programu iliyo chini ya Wizara ya Ardhi, Nyumba na Maendeleo ya Makazi. Programu hii ni mahsusi kwa wilaya za Kilombero, Ulanga na Malinyi ambapo takribani vijiji 160 vitanufaika. Hadi sasa, Programu imehakiki na kupima vipande vya ardhi 21,154 katika vijiji 18 vya Wilaya za Kilombero na Ulanga. Kati ya vipande vilivyohakikiwa na kupimwa, jumla ya vipande 9,112 vimeandaliwa Hati za Hakimiliki ya Kimila.

Kazi nyingine zilizotekelezwa na Programu ni pamoja na:

- Kusimika alama za msingi 54 za mtandao wa kijiodesia katika Wilaya za Kilombero, Ulanga, Malinyi na Mufindi;
- Kupima mipaka ya vijiji 50 na kutatua migogoro 18 ya mipaka ya vijiji iliyodumu kwa muda mrefu;
- Kuandaa vyeti vya Ardhi ya Kijiji kwa vijiji 57;
- Kuandaa mipango ya Matumizi ya Ardhi ya Vijiji kwa vijiji 50; na
- Kuchangia katika ujenzi na ukarabati wa masjala za ardhi na ofisi za vijiji katika vijiji 61.

Wadau mbalimbali, wakiwemo washirika wa maendeleo wanaofadhili Programu ya LTSP na wananchi watashiriki katika uzinduzi huo. Programu hii inafadhiliwa na mashirika ya maendeleo ya **DFID**, **DANIDA** na **SIDA**. Wananchi wote wanakaribishwa kushuhudia tukio hili.

*Hamaah Mwanadolewa - Mtaalam wa Mawasiliano - LTSP*

Figure 4: A press release letter by the MLHHS on the launching on the provision of certificates of Customary Rights of Occupancy to 2111 villagers of Nyange village, Kilombero district. Picture courtesy of the LTSP Facebook page.

### 3.1.2. Land use planning

The land use planning process offered villages the opportunity to plan land use activities and align land use with their daily socio-economic needs. Some of the planned areas included areas for agricultural use, grazing, social services, and settlements. Equally, the process offered villagers the option to change the use of some pieces of land. So far, the positive aspect of land use planning has been that land uses can be allocated to meet the current needs of people while safeguarding future resources. In this way, land use planning has balanced different needs, by providing information on trade-offs and using consensus-based decision-making.

However, through the land use planning process, land belonging to villagers was converted to other land use forms. In this way, the LTSP led to land ownership loss for some villagers in Kilombero district. For example, in Sagamaganga village a conflict is ongoing between the village and one of its inhabitants over the ownership of an area once demarcated by the village assembly to host social services. Patrick Malisha, the secretary of Lugongole-Sagamaganga (a pastoralist association for Lugongole and Sagamaganga villages), reported a loss of over 5000 acres of land that was initially set for pastoralism activities. Mwajuma Likuma, also from Sagamaganga, reported that discrepancies in the land planning process caused a villager to lose land to a pastoralist, which has led to a land conflict between the villager and the pastoralist over the use of the land. Land loss has been reported without compensating individuals for this loss, which is contrary to the Village Land Act No. 4 (1999) and Land Act No.5 (1999). The failure to compensate was reported by respondents from Sagamaganga village.

Despite the fact that land use planning was participatory, not all user groups accessed the right to own land. For example, in most villages, livestock keepers/pastoralists were denied the right to have land for grazing. Mpanga Kisawasawa is an example of a village where grazing land was not set. Miwangani village is another controversial example where livestock keepers were denied space for grazing and thus limiting the right to work and access livelihoods.

Moreover, respondents at the district, ward and village highlighted the incompleteness of the programme. Not all communities living within the borders of Kilombero district were reached by the programme, including communities in Ifakara town council, Mlimba and Mang'ula. Through interviews with district officials, it was learned that land use and adjudication activities were implemented in 57 villages instead of the primary target of 81 villages. Diverse reasons were shared for the incompleteness of the programme. They include the unavailability of resources, communities' unpreparedness, land conflicts at different levels, tight implementing schedule and the availability of landowners living in the selected villages (i.e. not every landowner lives within the programme villages). The failure to reach all communities, irrespective of the reasons, has reduced land tenure assurance to communities in the said villages. The failure to implement activities in all communities causes access, use and ownership gaps and may lead to misunderstandings and conflicts that often lead to loss of properties, injuries and death to residents of Kilombero district.

Perceptions on the effectiveness of the LTSP to immediately reduce land conflict differ. Overall, the LTSP is said to have reduced the amount of land conflicts in the participating villages. KDC's staff member Mr. Samwel Mtafya said that generally *"land conflicts [reported to KDC] have significantly reduced [in number] and existing land conflicts are mainly between relatives"*.

In contrast, all study villages in Kilombero district still reported land conflicts at varying levels. For example, authorities and villagers in Miwangani village reported an ongoing land conflict with the Ministry of Natural Resources and Tourism (MNRT). MNRT is accused of grabbing agricultural and grazing land belonging to Miwangani village and converting it to a reserve land to serve ecological purposes. Similar ownership conflicts were also reported in other study villages, including Sagamaganga and Mpanga Kisawasawa.

### 3.1.3. Village land institutions

In line with component 2 of the programme (see Figure 1), the LTSP also helped the establishment of key land institutions in the villages. The programme facilitated the formation of legally recognised Village Land Councils (VLC)<sup>7</sup> across all the programme villages. Correspondingly, the programme assisted the formation of Village Adjudication Committees (VACs)<sup>8</sup>. The VLC and the VACs respectively have the mandate to arbitrate land cases at the village level and determine, adjudicate and advise on the land planning process.

Positive aspects of the establishment and/or strengthening of VLC and VACs are that they provide space for villagers to mediate land cases in accordance with (a) customary principles of mediation; (b) natural justice; and (c) any principles and practices of mediation in which the members may have received any training. Their presence in the villages provides a neutral ground for the mediation of land conflicts. Moreover, the VLC is the primary mediation opportunity at village level. The failure to mediate land cases will lead them being taken to the Ward Tribunal, the District Land and Housing Tribunal, the High Court (Land Division) or the Court of Appeal (legal action).

Despite the LTSP programme, these land institutions at the village level have failed to perform duties in accordance to the laws of the country. For example, section 61 of the Village Land Act (1999), assigns village land councils with the duty to mediate between and assist parties to arrive at a mutually acceptable solution on any matter concerning village land. However, the VLCs were commonly identified in the study villages as institutions for the dispensation of justice rather than arbitration or mediation. VLCs in Mpanga Kisawasawa, Miwangani and Sagamaganga have been reported to investigate and sentence, rather than arbitrating land conflicts between parties.

Respondents at different levels also reported the failure of the programme to establish reliable land registries. According to the Village Land Act (1999) land registries should provide a safe space for the protection of land certificates against possible damages. For example, in Mpanga Kisawasawa it was reported that the existing land registry and the cabinet for filing CCROs are insufficient to hold all residential CCROs that will be distributed to villagers. Moreover, it was also reported that the quality of the cabinet is not good enough.

### 3.1.4. Conclusion

Overall, the implementation of the programme has renewed the management of land and land related resources in Kilombero district, irrespective of the presence of land use conflicts in all the visited study villages. The presence of the participatory land use plans and the establishment of key land management institutions (i.e. Village Land Councils, Village Natural Resources Committees, Village Adjudication Committees, and Village Land Use Committees) in the programme villages are a starting point to an improved administration of land and other resources in Kilombero district.

7 Village Land Council(s) is/are established under section 60 of the Village Land Act (1999). The functions of the village land council are stipulated under section 61 of the Village Land Act (1999) and include to mediate between and assist parties to arrive at a mutually acceptable solution on any matter concerning village land.

8 Village Adjudication Committees (VACs) is established under section 53 of the Village Land Act, No. 5 (1999). Upon approving a recommendation that a village adjudication process shall take place, the village council shall establish a village adjudication committee, the members of which shall be elected by the village assembly. The functions of a village adjudication committee include: (a) determine the boundaries of and interest in land which is the subject of a village adjudication; (b) set aside or make reservations of land or demarcate rights of way and other easements which it considers necessary for the more beneficial occupation of land; (c) adjudicate upon and decide in accordance with customary law any question referred to it by any person with an interest in land which is the subject of a village adjudication; (d) advise the village adjudication adviser or any person subordinate to him who is assisting in the village adjudication process upon any question of customary law as to which its guidance has been sought; (e) safeguard the interests of women, absent persons, minors and persons under a disability; (f) take account of any interest in land in respect of which for any reason, no claim has been made.

## 3.2. Immediate effects of the LTSP

Under this section, the study presents positive and negative effects on human rights and livelihoods, business opportunities and environmental rights.

### 3.2.1. Human rights and livelihoods

LTSP has significantly worked to address land access, use and control rights for both individuals and communities, as commended by national and international frameworks that call for communities' access and ownership of productive resources. The LTSP aligned with articles 22 and 24 of the Constitution of the United Republic of Tanzania (1977) that provide citizens with rights to work and own properties, respectively (Figures 5-6). The LTSP, by regularizing land ownership, has provided villagers with the opportunity to use land to serve key livelihood activities including agriculture and animal husbandry. These two activities form the backbone of the economy of most households in Kilombero. Land regularization has provided an ongoing opportunity to assuredly engage in agriculture for both subsistence and business, hence contributing positively to the villagers' livelihoods and fundamental rights.

Mr. Salum R Mbagi, the Agriculture Extension Officer for Mpanga Kisawasawa village (who by the time of the data collection acted as the Village Executive Officer (VEO)), testified that Abuu Msangi, a villager from Mpanga Kisawasawa, has acquired a tractor thanks to his CCRO, which he could use as collateral for the purchase. Mr. Mbagi went on and said he also helped another villager to access a 25,000,000 Tanzania shillings loan to buy a tractor. According to the agriculture extension officer, the tractors will further crop cultivation activities and at the same time be leased to other villagers in need of the tractor.

Moreover, the LTSP has increased land ownership for women, although it has failed to fully mainstream gender to the ownership of land in KDC. All programme villages showed discrepancies in land ownership regardless of the fact that women use more land to run land-based activities (like agriculture). The failure is contrary to article 24 of the Constitution of the United Republic of Tanzania (that provides the right to own properties) and the Land Policy of 1995 that calls for equality in the access, use and control of land.

Right to work Act No.15 of 1984 Art.6	<p><b>22.-(1)</b> Every person has the right to work.</p> <p>(2) Every citizen is entitled to equal opportunity and right to equal terms to hold any office or discharge any function under the state authority.</p>
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*Figure 5: Article 22 of the Constitution of the United Republic of Tanzania (1977)*

Right to own property Act No.15 of 1984 Art.6 Act No.1 of 2005 Art.9	<p><b>24.-(1)</b> Every person is entitled to own property, and has a right to the protection of his property held in accordance with the law.</p> <p>(2) Subject to the provisions of subarticle (1), it shall be unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation.</p>
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*Figure 6: Article 24 of the Constitution of the United Republic of Tanzania (1977)*

Overall, the implementation of the programme has given villagers more bargaining power as compared to the past. As villagers now own titles of their land parcels, they can use their CCROs to obtain bank loans for agricultural activities, to run small and medium businesses, and

for other household activities. Mr Mtafya (KDC) reported that the capacity of people to access loans in banks and other financial institutions, using CCROs as collateral, has increased. National Microfinance Bank (NMB), Postal Bank, CRDB, Tanzania Agricultural Development Bank (TADB) and Savings and Credit Cooperative Societies (SACCOS) were identified as key institutions where landowners access loans. By the time of the data collection, KDC staff reported that 1.3 billion Tanzania shillings in loans was already lent to Kilombero villagers who used CCROs as collaterals. The downside, however, is that villagers now increasingly risk losing their land parcels to financial institutions. In July 2018, banks in Tanzania published a report documenting that debtors in Tanzania are not committed to paying loans as required by loan contracts and laws. The 2018 CRDB's Annual report documented that there is a total of non-performing loans of up to 282 billion Tanzania shillings (CRDB, 2019). Failure to pay loans has often triggered financial institutions to cease properties. This, in turn, increases villagers' risk of increased poverty.

Sn	Name of Village	Name of Mortgager	Sex	Corporate	Name of Mortgagee	Amount Borrowed (TZS)
1.	Nyange	Joseph Lau Matonya	M	No	NMB	600,000
		Ibrahim Said Ling'wala	M	No	CRDB	19,000,000
2.	Msolwa Ujamaa	Msolwa Ujamaa Cane Growers Association	NA	Yes	TADB	300,751,168
		Msolwa Ujamaa Village Council	NA	Yes	CRDB	150,000,000
		Muhoji General Supplies Ltd.	NA	Yes	NMB	900,000,000
					Total	1,604,251,168

*Table 2: People and businesses that have used LTSP-based CCROs as collateral to access funds. (Source: Machabe, 2019)*

Despite the fact that land use planning was participatory, not all user groups were positively affected. This difference is highly notable between farmers and pastoralist groups in different villages. Respondents expressed that farmers are now more secure due to land use plans and CCROs, as these mechanisms limit the extent to which pastoralists can roam with cattle. In some areas, the programme stripped villagers of the opportunity to run pastoralism activities. The denial to communal grazing areas has sidelined communities undertaking animal husbandry activities and is denying them the right to essential livelihood activities. Moreover, such moves only spark conflicts between different groups of land users. In Sagamaganga for example, over 5000 hectares of land were taken away from villagers because of participatory land use plans. This claim was made by Mr Patrick Malisha, the secretary for the Lugongole-Sagamaganga pastoralist association. According to Mr Malisha land use plans set aside around 6000 acres of land for pastoralism. Mr Elpidius Ndumba, as the Ward Executive Officer for Signali ward (the ward of three villages including Sagamaganga), also reported cases in which pastoralists complained that Iluma Wildlife Management Area<sup>9</sup> is encroaching on the land set aside for pastoralism activities.

As mentioned in Section 3.1, the fact that the LTSP has not been effective (yet) in eliminating all land conflicts, poses a significant threat to the protection of human rights. Remaining land conflicts include: (a) conflicts between relatives of the same family clans that compete for land ownership left through inheritance; (b) conflicts between conservation practices and economic activities as in the case of

<sup>9</sup> Iluma Wildlife Management Area is located in Kilombero and Ulunga districts, Morogoro Region, in the eastern part of Tanzania. Iluma is part of the Selous ecosystem and most importantly part of Kilombero Valley Ramsar Site. The area borders Selous Game Reserve to the East. (SOURCE: <http://twma.co.tz/wmas/iluma.html>)

Miwangani, where the Ministry of Natural Resources and Tourism competes with farmers and pastoralist for land; and (c) conflicts between farmers and pastoralists that are caused by the passing of cattle across farmlands on their way to grazing lands that are set at the outskirts of the villages. The presence of land conflicts between individuals, villages and institutions sets tone for injuries, loss of properties and even loss of lives.

To help raise people's awareness on their rights and build capacity to exercise those rights, the LTSP provided space for civil society to participate in the implementation of the programme. The presence of a CSO component in the programme allowed CSOs such as Tanzania Land Alliance (an umbrella organization of 14 NGOs) to raise public awareness (through workshops, sensitization meetings and Information, Education and Communication materials), to demand accountability, to encourage public participation, and to share experiences. This also allowed different stakeholder groups (including women, youth, pastoralist, farmers, small scale producers and authorities) at village, ward and district levels to gain more understanding of procedures. However, a big shortfall for CSOs was that they only started their work after the ministry delivered CCROs to villagers, offering little space for CSOs to shape, demand accountability and steer public participation in land regularization processes.

### 3.2.2. Business and investment

The LTSP programme aligned with Tanzania's and global visions for economic growth. The zoning of land areas for different uses allows communities to regulate and control land. It also provides opportunities to stimulate business development in the villages. The presence of land set for investment in the programme villages assures investors (both local and international) of the access to land in the villages and thus of the possibility to run productive economic activities. The programme positively dedicated areas for industrial investments and at the same time provided space for small-scale production, which forms the bulk of business-related activities in the project villages.

The LTSP initiative sufficiently aligned with long-term economic goals of Morogoro region. The programme, through land use planning, gave way to increased investments in the region, although not in one of the studied villages. Respondents at the village level failed to identify investors that have come forward to capitalize on the available land zoned for investment during the LTSP.

The downside of the LTSP is that the zoning was done without sufficient attention to details such as soil structure, vegetation or elevations. Scientific measures on soil parameters, forest values, and water pathways will indicate if a piece of land is suitable for a certain economic activity or what its ecological value is. Without these details, villagers were not able to make evidence-based decisions on how to best zone land. Therefore, land zoned for investment might not suit the needs of investors. Moreover, the new land use planning may challenge the development potential of areas and structures that do not conform with the new zoning standards.

### 3.2.3. Environmental rights

The LTSP has allowed local communities to participate in decision-making activities for the management of natural resources.

The LTSP complemented land use planning and adjudication with the promulgation of village bylaws that protect lands and force citizens to adhere to identified land uses. Promulgated bylaws, hence, were made to protect zonation within the programme villages. The programme has helped conserve forests, wildlife and water resources as it observed the complexity of land administration in the country by integrating environment, natural resources and conservation laws, compensation laws, registration laws, housing laws, agriculture and livestock laws, investment laws and local government laws (Figure 7).

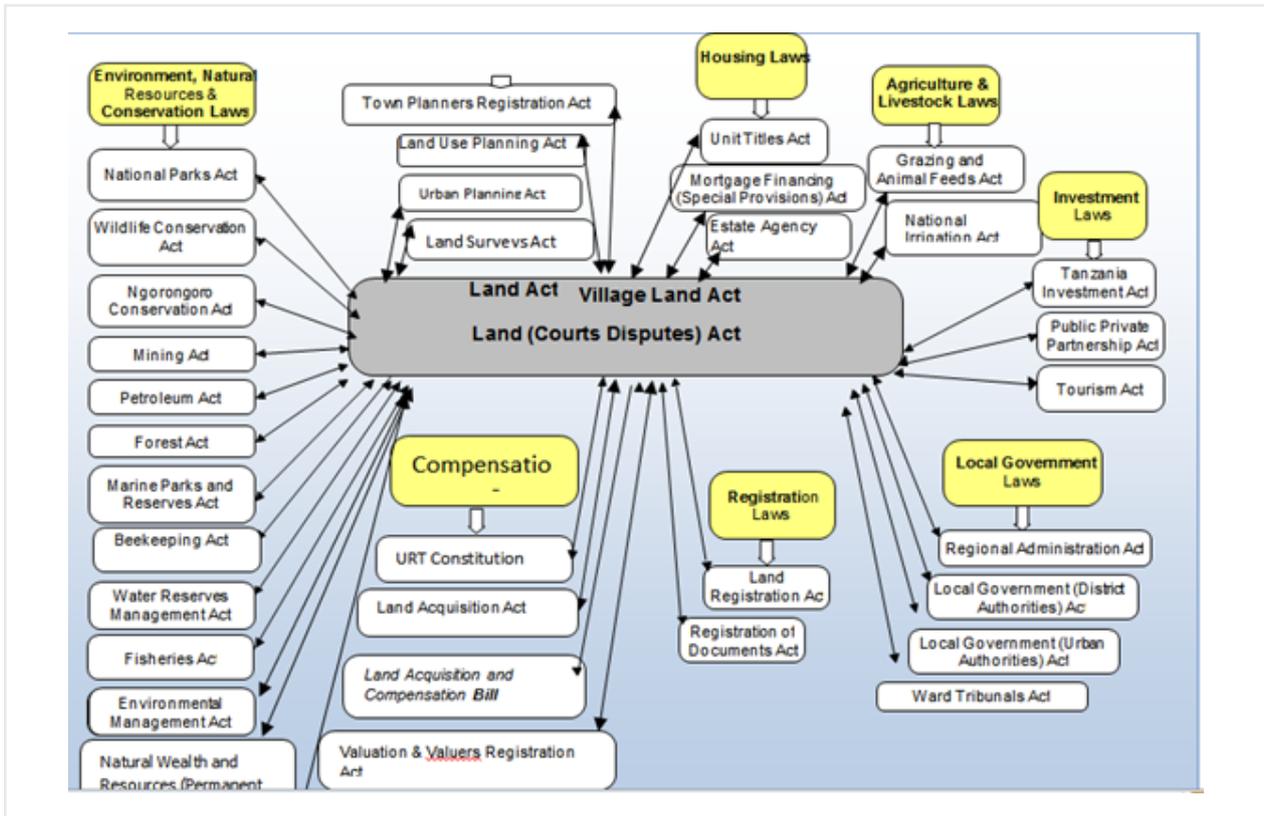


Figure 7: Laws Governing Land Administration (LTSP, 2019)

Through the land use plans and bylaws, the programme has facilitated villages to protect ecologically sensitive areas of Kilombero district, and particularly village forest reserves (VFR) and water sources. Three of the five study villages have village forest reserves: Nakandumbo VFR (Mpanga Kisawasawa), Nanganji VFR (Sagamaganga), and Miomboni and Mitemikwila VFRs (Miwangani). Mr. Faraja Nkwera, KDC staff, reported that the programme was beneficial to the protection of natural resources. *“Before villages were not adjudicated. Now villages have been adjudicated - villages are now in a position to protect Game Controlled Areas (reserved areas)”* said Mr. Nkwera. Again, Mr. Nkwera reported that the programme has addressed the degradation of key protected areas that were initially encroached by villagers. *“LTSP focused on forest reserves and through [promulgated] bylaws that are in Land Use Plans, the programme has protected [natural] resources. For example, [the villages of] Ipugusa and Tanganyika have hunting quotas [that are currently protected]. The degradation of water sources caused by brick making has reduced”* continued Mr. Nkwera. The programme has protected water sources by not giving any land parcel within 60 meters of a water source to villagers.

The LTSP has helped communities to have control over land uses, and hence the quality of life in the future. The LTSP offered a way for communities to conserve existing structures and prevent mixing of incompatible land uses, such as reserves and grazing areas. Moreover, the LTSP substantially played a part in promoting ecological values by protecting recreational areas, open spaces and conserving environmentally-sensitive areas. As such, by-laws that came with the land use plans have helped to reduce illegal logging, possible deforestation, biodiversity loss and greenhouse gas emissions.

However, the programme lacked the process of drafting specific natural resources bylaws that could complement the land planning and adjudication process. The villages of Mpanga Kisawasawa, Sagamaganga and Miwangani all lacked specific, approved village bylaws on natural resources that ensure the protection of natural resources like water, forests and wildlife. Natural resources can not only be managed through the use of land-related bylaws but require their own specific bylaws. The

lack of such bylaws, which are essentially made and enforced by the villages, holds back joint efforts by stakeholders to manage natural resources.

Overall, the implementation of the programme demonstrates Tanzania's need to protect natural resources and related environmental rights.

## 4. Conclusions

This study assessed the immediate effects of the Land Tenure Support Programme (LTSP) implemented by the Government of Tanzania through the Ministry of Land, Housing and Human Settlements Development in Kilombero district, Morogoro region. The study analysed the immediate effects on business, human and environmental rights as propelled by the implementation of the LTSP between 2016 and 2019.

Positive and negative effects of the LTSP were found. Positive effects include increased village boundary surveys, establishment of geodetic control points, certificates of village land, establishment of district land use framework plans, preparations of village land use plans and increased security of land tenure. Negative effects found are loss of land and land rights, inequitable control of land and reduced land for pastoralists. The programme overall means a step forward for the protection of human rights and livelihoods in the study villages, although the participatory process is often not complete and land conflicts remain present. The LTSP zoned land for business activities and investment, albeit it without sufficient information available to optimize zoning for different activities. Land bylaws formulated during the LTSP process are a step forward in the protection of environmental resources. However, without specific bylaws on natural resources, the programme falls short in effectively promoting environmental protection.

Overall, the implementation of the LTSP programme is a testament to the fact that the government of the United Republic of Tanzania, provided the availability of the resources, can implement people-centred programmes that protect local communities, social welfare, the environment and natural resources. Further the study acknowledges the public-private nature of the programme that allowed Non-Governmental Organizations (NGOs) to implement advocacy activities during the implementation of the programme.

## 5. Recommendations

For similar programmes to realise positive effects, we recommend:

- a. More sensitization should be put in place to allow villagers to understand the essence of a LTSP programme and to allow them to fully engage in meetings, planning, and enforcing prepared land use plans;
- b. Implementers of land use and adjudication projects should facilitate just allocation of land to allow land users, regardless of their activities, smooth access to livelihoods. Facilitations should be made to make sure that dominant groups take into consideration the needs of minorities. For example, dominant farmers groups versus minority pastoralist groups;
- c. More training workshops are needed for land institutions at the local level, particularly the village and ward land councils. Once established, these institutions are mandated with the duty to arbitrate land conflicts in the villages and wards, respectively. Capacity building is therefore primordial to ensure their adequate and efficient operation;
- d. Increased district interventions are needed at the village level. Non-adjudicated villages within Mlimba, Mang'ula and other areas should be regularized to minimize chances for land conflicts. Similarly, land

in the whole country should be regularised to reduce country-level land conflicts and provide land assurance that is necessary for economic growth;

- e. Increased involvement of CSOs to advocate for better management and governance of land. This can be done through more research, vying for positions to adjudicate villages in Mang'ula, and Mlimba where the LTSP programme was not implemented, and more trainings to villagers on land management. Moreover, CSOs can train villagers, particularly women on entrepreneurship thus taking full advantage of loans in case one chooses to use her/his CCRO as a collateral;
  - a. User groups, regardless of their numbers, should all access, use and control land. Participatory land use planning makes more sense when communities understand and respect the rights of the minorities. Failure to accommodate the needs of all groups sparks conflict in the villages; and
  - b. More accountability mechanisms should be established to enforce transparency, rule of law and participation at the village levels.

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## Land Use Planning a tool for Promoting Land Governance: A case study of Kilolo District, Iringa Region

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## List of Abbreviations

<b>ADB</b>	African Development Bank
<b>CCROs</b>	Certificates Customary Rights of Occupancy
<b>CHRAGG</b>	Commission for Human Rights and Good Governance
<b>CSOs</b>	Civil Society Organizations
<b>DED</b>	District Executive Director
<b>DFID</b>	UK Department for International Development
<b>DUD</b>	Directorate of Urban Development
<b>GDP</b>	Gross Domestic Product
<b>IPIS</b>	International Peace Information Service
<b>LARRRI/HAKIARDHI</b>	Land Rights Research and Resources Institute
<b>LUP</b>	Land Use Planning
<b>MLHSD</b>	Ministry of Lands, Housing and Human Settlements Development
<b>NLUPC</b>	National Land Use Planning Commission
<b>PBFP/MKURABITA</b>	Property and Business Formalization Program
<b>PELUM</b>	Participatory Ecological Land Use Management
<b>PFP</b>	Private Forestry Programme
<b>PLUM</b>	Participatory Land Use Management Team
<b>RAS</b>	Regional Administrative Secretary
<b>SAGCOT</b>	Southern Agricultural Growth Corridor of Tanzania
<b>TFCG</b>	Tanzania Forest Conservation Group
<b>TIC</b>	Tanzania Investment Center
<b>URT</b>	United Republic of Tanzania
<b>VLA</b>	Village Land Act
<b>VLUM</b>	Village Land Use Management Committee
<b>VLUPs</b>	Village Land Use Plans
<b>WARIDI</b>	Water Resources Integration Development Initiative
<b>WWF</b>	World Wide Fund for Nature

## Executive Summary

Land is the basis of human society because it provides food, water, energy, clothing and shelter. In the face of scarcity of resources and increasing conflicts over land uses, the role of land use planning for sustainable management of land and natural resources is evident. Various studies have clearly explained the usefulness of land use plans in addressing land rights challenges when these plans are prepared in a participatory manner and all stages are completed. This is a challenge in the context of Tanzania due to the slow pace of preparing these plans across the country.

There is an assumption that there is a linkage between poor decision making on land at the village level and the absence of land use plans, and vice versa. Such decisions include, but are not limited to allocation of chunks of land to investors without prior and informed consent of the villagers, land conflicts among different land users such as farmers and pastoralists or investors and communities, villages' boundary conflicts, and unregulated human activities such as farming, charcoal making, timber harvesting and other human activities in protected areas like forest reserves, water sources and riverine areas. In its participatory nature, the effective preparation of Village Land Use Plans (VLUPs) is connected with improved strategies in addressing land rights problems, environmental destruction, effects of climate change, gender inequalities and human rights violations.

In this study, findings are presented on village land use planning processes and their contribution to promoting the good governance of land and natural resources management. The study gathered findings on land use planning from Kihesamgagao and Lyamko villages in Kilolo District in Iringa Region in relation to village land governance, land conflicts, investment, environmental management and women's land rights.

The findings show that land use plans connect to each of these issues in a different way. For instance, on village land governance, land use plans create democratic decision – making procedures as they involve all social groups and individuals in the village due to the participatory nature of the land use planning process. Land use plans have the potential to reduce land conflicts through community's collective identification of land uses, based on informed decision making. It was also noted that land use plans can support villages in resolving land conflicts over village boundaries. On the topic of environmental protection, the findings show that the land use planning process provides an opportunity for villagers to plan the use of their land while protecting resources such as water sources and forests. On women's land rights, land use plans provide an opportunity for women to participate in decision-making processes on land. The Land Act and Village Land Act of 1999 and the Land Use Planning Act of 2007 require involvement of women in every step of land use planning, including as members of the Village Land Use Management (VLUM) team formed by the Village Council. Besides, land use planning allows women to own land through the provision of customary title deeds.

Besides these positive effects, land use plans pose challenges to communities and can even negatively affect them. When non-governmental partners, such as investors, step in to facilitate the process of land use planning, there is the risk of promoting self-interest instead of communities' interests. Involving external partners also risks to take away community ownership of the planning process. While planning processes can stimulate the protection of environmental resources, protection measures do not always consider the needs and demands of the local communities who have been using now protected lands for many years for their subsistence. It was also noted that involvement of women in the process of village land use planning was often minimal, as in general men were believed to have more precise information than women. Moreover, in the studied villages, land conflicts remain despite the presence of village land use plans.

Overall, despite the identified benefits of land use plans, it cannot be concluded that these benefits happen automatically just because land use plans are in place. There are many gaps identified in the process itself, which limit the usefulness of land use planning in achieving its objectives. One of these gaps is the failure to prepare the land use plans in all the six stages. However, creating a detailed land use plan is key for economic growth as it supports the villagers to understand how to use their land more productively and to respect different land uses. Another significant gap is the failure of the government to

financially support the land use planning processes. This opens up opportunities for non-governmental stakeholders, such as investors, to prioritize their interest instead of considering the interest of the communities.

The study's recommendations include simplification of the land use planning process for effective participation of the villagers. Also, to ensure sustainability, land use plans should be owned by the villagers and not (only) by village leaders as is currently observed. Furthermore, the land legal framework should clearly instruct that the approved village land use plan is a precondition for village land allocation to investors. The allocation of land to investors should not be allowed in villages without land use plans in place. This will help villagers to decide if they really allocating land to investment is in the village's best interest. On top of that there is a need to recognize local knowledge of the rural communities in environmental conservation. This can be achieved by involving farmers and pastoralists in the formulation of policies and laws. Lastly, it is recommended that women land rights should not be reduced to the issuance of customary title deeds, but should include real efforts and campaigns to emancipate women.

## 1. Introduction

### 1.1. Context

Land is typically the most important asset for people in the developing world who depend on agriculture for their livelihoods. Further, Benjaminsen, (2005) notes that land is a vital resource for rural livelihoods. That means that secure rights to land can increase agricultural productivity and income, address food insecurity and alleviate poverty (Landesa, 2012). The Land Act of 1999 stipulates that all lands in Tanzania are vested in the President as a trustee on behalf of all citizens (URT, 1999). Every Tanzanian has equal and equitable access to, use of, control and ownership of land (URT, 1995). A national citizen is entitled to full occupation of land, and is granted either Certificates of Customary Rights of Occupancy (CCRO) - in the case of village land - or Granted Rights of Occupancy (GRO) - in the case of general land. A foreigner is only eligible to access land for investment purposes via derivative rights of occupancy from the Tanzania Investment Center (TIC) (URT, 1999, Section 20).

The rural population in Tanzania heavily depends on land resources to meet socio-economic demands through agriculture, livestock keeping, fishing, forestry and the collection of natural products among other products. Most farmers in the country are smallholders who rely largely on tillage using a hand hoe (NSGRP, 2010). Agricultural production is dominated by peasants, the majority of who are women cultivating farms of between 0.9 hectares and 3.0 hectares (Kamata and Mwami, 2011). Apart from the subsistence use of land, the Land Act (Cap 113) of 1999 has provisions to promote land allocation for large-scale investment. The procedures for land allocation in rural areas in Tanzania must involve Village Councils and Village Assembly meetings in which villagers agree to grant land to a company or individual for investment (Tenga and Kironde, 2012).

Despite the good intention to allocate land for large-scale investment, Theting and Brekke, (2010) state that the village consultation processes in many cases involve no real community participation. Often, local people act merely as bystanders in a show put on by investors to highlight the positive potential of their proposed investment. Shivji (1999) argued that poor participation of villagers in the land allocation processes is caused by the fact that administration, management and allocation of land are placed squarely in the executive arm of the central government under a centralized bureaucracy.

Village Land Use Plans (VLUPs) are considered to be a useful tool to improve land governance and, hence, to address land rights conflicts resulting from disputes on land allocation. Often, poor decisions on land allocation at the village level have been linked to the absence of land use plans or partially prepared and implemented plans. Such decisions include allocating chunks of land to investors without prior and informed consent of the villagers, land conflicts between and among farmers, pastoralists and investors,

boundary conflicts among villages and potentially environmentally-destructive human activities, such as farming near water sources or charcoal making and timber harvesting.

The participatory nature of the VLUP process, which brings together villagers through Village Assembly meetings and Village leaders and District Council members in the Participatory Land Use Management Team (PLUM), is a key element for its potential to address issues such as land conflicts, environmental destruction, effects of climate change and human rights violations. The process not only determines the land area of the village and enables the demarcation of plots of land, but also debates and decides on the uses of these lands, such as settlement, social services, investment, agriculture, pastures, reserve land or any other use depending on the villagers' choice. As part of the VLUP process, villagers can also agree on the formulation of by-laws to regulate the utilization of land and other natural resources.

Despite this positive potential, various challenges have been raised in relation to the preparation and implementation of village land use plans. These include the slow pace in the preparation of VLUPs due to limited resources, the use of VLUPs for the interest of investors rather than smallholders/community members and decision-making on land allocations without community consent. Therefore, it is imperative to evaluate the various effects of VLUPs on the ground and their role in promoting land governance.

Therefore, in this study, village land use planning and its effects on the governance of land, human rights and natural resources are assessed. This study was designed to analyze the preparation and implementation of VLUPs in relation to village land governance, protection of women land rights and environment, allocation of land for investment and other land-related matters, using Kilolo district (Iringa Region, central Tanzania) as a case study. The aim of this study is to inform the public and policy- and decision-makers on the practical application (preparation and implementation) of VLUPs and its successes and shortcomings.

## 1.2. Research questions

### 1.2.1. Main question

To what extent do land use plans successfully lead to promoting land governance and, as such, preventing land conflicts, human rights violations and environmental destruction?

### 1.2.2. Research questions

This research sought to respond to the following key questions:

1. What is the status of the Village Land Use Plans (VLUPs) in Kilolo district?
2. What are the motives for preparing VLUPs in Kilolo district?
3. What are the impacts of VLUPs on land governance and its effects, including;
  - Types, causes and effects of land right conflicts in Kilolo District?
  - Investment opportunities in Kilolo District, and especially the promotion of large-scale investment versus the protection of interests of small-scale producers?
  - Promotion of environmental conservation and climate change resilience? Promotion of women and minority groups' rights?

## 1.3. Description of Village Land Use Plans

Land use planning policies in Tanzania were developed in response to growing conflict over land and natural resources, the need for improved tenure security, and the government's interest in establishing a market for land. Several studies have cited concerns for local control of resources in the face of 'land

grabbing' across Africa as the motivation for developing such policies (Nelson, 2010). However, land use planning was designed as much to create opportunities for economic development, conservation and tenure security, as it was to mitigate the risks of land grabbing. According to Dr. Stephen Nindi, up to November 2017 only 1,731 out of 12,545 villages in Tanzania mainland, equivalent to 13 per cent, have land use plans in place.<sup>1</sup> Recent information from the National Land Use Planning Commission reveals that by December 2019 there were about 2,400 villages recorded with land use plan in place (19 per cent of all the villages).

Land use planning in Tanzania started immediately after independence in 1961 and was conducted through periodic Development Plans. The first Three Year Plan (1961-64) included a proposal to establish village settlement schemes in districts with low population densities. This involved the spatial organisation of rural settlements to modernise smallholders' land use management. The preparation of the land use plans for these settlements, and the subsequent allocation of land, was carried out by the Rural Settlements Commission under the Ministry of Agriculture. According to Lerise (1993b), this marked the beginning of centralised physical planning in rural Tanzania. Several new settlements were established, but survived for only a few years (Lerise, 1993b). The Village Settlements Schemes idea was abandoned in 1965. The responsibilities of the Rural Settlements Commission were transferred to the Town Planning Division of the Directorate of Urban Development (DUD) in the Ministry of Lands, Housing and Urban Development. This ministry assumed responsibility for physical planning in both urban and rural areas. Subsequently, the First Five Year Plan (1964-69) proposed more than 60 pilot settlement schemes to be established by 1970.

In 1970, three Presidential Planning Teams approved village sites and prepared plans for them. At the end of 1976, 13 million people were reported to be living in the newly established Ujamaa villages. But the way that villages were created did not encourage grass-roots participation, because of government enforcement and the short time allowed for discussion and planning (Coulson, 1982).

Village land use planning was re-activated in 1985 to implement the 1983 Agricultural Development Policy. To systematise village planning, the National Land Use Plan Commission (NLUPC) commissioned a team to prepare draft National Village Land Use Planning Guidelines. These focussed on ensuring sufficient land for agricultural and livestock needs, overcoming village boundary conflicts and land misuse, and creating the basis for issuing long-term leases to villagers. As before, these guidelines rely on outside experts and continue to fail to acknowledge a role in planning for villagers' indigenous knowledge and ability to make land use decisions in their own best interests.

The current legal framework for land use planning allows for the villagers' consultation in the process, granting them to make the ultimate decision. This has been possible as the result of land laws which were enacted in 1999, namely the Land Act number 4 of 1999 and Village Land Act number 5 of 1999 (see Section 2). The legislation directed the village land to be administered customarily under the administration of the Village Council, which should be reporting to the Village Assembly meeting. Also, the Land Use Planning Act number 6 of 2007 (see Section 2) stipulated the responsible authorities for preparation of land use plans. The Village Council has been given that mandate in the case of village land.

In theory, the land use planning process in Tanzania appears to emphasize bottom-up planning strategies, with the participation of villagers. Unfortunately, the actual implementation of the concept has been difficult, pointing out discussions about official mandates and limited capacity hampering the execution of these mandates.

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<sup>1</sup> Dr. Stephen Nindi, Director General of National Land Use Plan Commission on his presentation titled "Tanzania's participatory village land use planning: A tool for community land protection and people centered land governance" on 25th November, 2017.

## 2. Policy And Legal Framework

The governance of village land in Tanzania mainland is described in the following policies and acts:

### 2.1. The National Land Policy of 1995

The National Land Policy addresses village land use planning. The policy describes the need for land use plans because of the increase in human and livestock population and, hence, the raised demand and competition for land for agriculture, grazing and human settlement in both rural and urban areas. The Policy proposes simplified processes of preparation of village land use planning, based on local land use plans developed by District Councils in collaboration with Village Councils. Land use planning will be conducted in a participatory manner to involve all beneficiaries. The planning will be preceded by studies to determine existing land tenure, land use patterns and land capability. Village land use plans will be used as a tool for implementing policies for better land use and management.

### 2.2. The Village Land Act Number 5 of 1999

The Land Act of 1999 defines the legal framework for the three types of land in Tanzania: “reserved”, “public” and “village” land. The Village Land Act (VLA) Number 5 of 1999 defines village land as the land within the boundaries of a village registered in accordance with the provisions of section 22 of the Local Government (District Authorities) Act No. 7 of 1982. Also, village land can be the land designated as village land under the Land Tenure (Village Settlements) Act number 27 of 1965. The Village Council has been mandated to manage the village land on behalf of the villagers (VLA section 8). Besides, the Commissioner for Land may give any advice to Village Councils on the management of the village land.

### 2.3. The Land Use Planning Act Number 6 of 2007

Land use is defined as the purpose for which any parcel of land, any structure erected on land, or part of it, is or is intended to be used or occupied. Land use planning is defined as the procedures and processes in accordance with which land use in a planning area or zone are prescribed, managed, monitored and evaluated (URT, 2007). The objectives for land use planning include: to facilitate efficient and orderly management of land use; to empower landholders and users to make better and more productive use of their land; to promote sustainable land use practices; to ensure security and equity in access to land resources; to facilitate the establishment of a framework for the prevention of land use conflicts (URT, 2007). Furthermore, the Act states that subject to approval by the Village Assembly, the Village Council shall prepare detailed land use plans for implementation in its respective area of jurisdiction, to secure the orderly and environmentally sustainable development in the village; to ensure productive use of village land; and to preserve village land resources including forests and wildlife.

## 3. Description of the study area and research methodology

### 3.1. Description of the study area

Kilolo District Council is located at the north eastern end of Iringa Region (central Tanzania), about 37 kilometers from the regional headquarters (Map 1). The District Council shares borders with Mpwapwa District (Dodoma Region) in the North, Kilosa district (Morogoro Region) in the North East, Kilombero District (Morogoro Region) on the East, while Mufindi District is on the south with Iringa Rural District on the west. The district lies between latitudes 7° and 8°30' south and between longitudes 34° and 37° east. Kilolo District Council has a total land area of 7,874.6 square kilometer, most of which is mountainous with

steep hills, ridges, valleys and escarpments. The arable land available for agricultural production is 4,181.8 square kilometer. Only 1,278.9 square kilometer is actually cultivated annually, leaving the remaining 2,902.9 square kilometer either lying idle due to infertility, used for grazing or as land for forest reserves, forest plantation and other human activities (about 1,902.9 square kilometers).



Map 1: Localization of the study area (Kilolo District, Iringa Region, central Tanzania)

By the end of 2012, Kilolo District Council had managed to conduct a land boundaries survey in 83 villages out of 106 villages in the district. This was conducted in the process of land planning for farming, grazing areas and human settlements in rural areas. Fifty-seven villages have been offered Village Land Certificates. Agriculture has continued to be the main source of livelihood for the residents of Kilolo district, employing about 90 percent of the district workforce. For most of agricultural households, annual crop farming is the activity that provides most of their cash income, followed by permanent crop farming, livestock and forestry. Livestock keeping is an important economic activity for the residents of Kilolo district, offering a big contribution to food security and poverty alleviation at household level. Livestock keeping, to a large extent, is still traditional and involves mostly indigenous cattle (96 percent). Pigs, sheep, donkeys and poultry are other common livestock found in the district.

In this study, we are assessing the village land use planning processes that took place in Kihesamgagao and Lyamko villages between 2012 and 2015. Both villages are located in the south of Kilolo district (Map 1). In terms of population, Kihesamgagao village has a population of 3,400 people and Lyamko village has a population of 2,139 people. The main economic activities here are similar to those of Kilolo District in general, with agriculture and livestock keeping as main subsistence and livelihood activities. The selection of the two villages as case studies was based on the availability of land use plans and the fact that sufficient time passed between the preparation of the plans and the time of this study. This allows to understand the impact of the implementation of the village land use plans. Other criteria for their selection were the presence of investors in the villages and existing pressure on land for other uses apart from agriculture for food production.

## 3.2. Research methodology

### 3.2.1. Research strategy, design and sampling

This study conducted a field-based case study to analyze village land use planning preparation and implementation and how these processes affect land governance in Kilolo district, Iringa Region. Our strategy offered flexibility in data collection and analysis by using qualitative research methods and field observations. The case study design enabled the researcher to collect in-depth information about the research problem from Kihesamgagao and Lyamko villages. A field study was conducted from 8<sup>th</sup> to 15<sup>th</sup> September 2019. Primary data were collected through individual and group interviews with a purposively selected sample of village residents. The research used checklists, physical observation, structured questionnaires and semi-structured interviews.

The study sample was constructed by purposively selecting individual participants who represented social groups widely considered to have different experiences and interests vis-à-vis land tenure (men, women, farmers, livestock keepers, widows and outside investors). The total sample size of this study was 37 respondents. These include 10 village leaders (Village Chairpersons, Village Executive Officers and Sub-village Chairpersons) from Kihesamgagao and Lyamko villages. There were also 3 District Council officials and 24 individual villagers without official mandate in the villages included in the study (e.g. heads of households). For each village, the heads of households were picked based on the following criteria: (1) those whose land was issued customary title deeds, (2) those who participated in the process of land use planning and (3) those who were part of the village committee involved in the land use planning process.

## 3.3. Data collection methods

In the process of data collection, the following methods were used: questionnaires, interviews, direct observation, focus group discussion and documents review.

### 3.3.1. Questionnaires

Data collection from the households was conducted using semi-structured questionnaires which comprised of both closed and open-ended questions. These questionnaires were used to collect information from individual research participants with regards to village land use plans, issuance of customary title deeds and use of land use plans in socio-economic activities, governance and environmental issues.

### 3.3.2. Key informant interview

In order to get in-depth information, key informant interviews were used to acquire information on land use planning especially from village, ward and district leaders. Also, in some areas the interviews were used to obtain detailed information from ordinary villagers who previously had a great role in the process of preparation of the village land use plans in their respective villages.

### 3.3.3. Direct field observation

Through direct field observations land use plan process outcomes were observed, such as the land allocated for different uses including agriculture, grazing, forest, social services. We also observed title deeds documents (CCROs) issued to villagers and other beneficiaries.

### 3.3.4. Documents review

Various publications were reviewed such as official Village Council's documents from Kilolo District Council and Kihesamgagao and Lyamko villages. These documents include minutes of meetings, the village land use plan register, the village land use plan book and Certificates of Customary Rights of Occupancy (CCROs). Other reviewed publications include policies and legislation on land use planning.

## 3.4. Theoretical framework

This study is based on theories related to governance and legal empowerment as they are connected with issues of land use, land conflicts, investment and environment.

### 3.4.1. Governance theory

Governance refers to group decision-making that address shared problems in a particular society. It refers to the process through which decisions are made rather than the substance of the decision itself (Carrington et al, 2008). Governance has gained significant attention on the global development agenda and is often considered a fourth dimension of sustainable development, adding to economic, social and environmental dimensions (Burns and Dalrymple, 2008).

In this study, governance is a relevant concept as it helps to analyze to what extent principles of good governance (transparency, accountability and participation) are applied during the preparation and implementation of the land use plans. For instance, to what extent do the process of land use planning integrate the principles of fairness and equity to avoid exclusion of particular groups? Also, the study will analyze the accountability of village leaders in responding to the demands of the land policies and legislation.

### 3.4.2. Legal empowerment theory

Legal empowerment theory uses law as a tool for change, by empowering communities as agents in their own development. It demands accountability of the state, and fosters the rule of law and peaceful dispute resolution. It offers practical legal solutions to everyday problems of the poor by using community-driven models such as paralegals and other non-lawyer resources and by adapting and responding to local context, including informal systems of justice (Golub and McQuay, 2001).

The relevance of the theory in this study relates to the fact that land use planning is a legal process guided by law at every stage. For instance, women's land rights are legally guaranteed and their involvement in the process of land use planning is stipulated in the land laws. Women need to be empowered to understand their rights and take action. The study will offer analysis on the legal procedures for preparation of land use plans and all the required stakeholders. Furthermore, the study will provide analysis on the participation of women and other groups in the process as per legal requirement.

## 4. Presentation and discussion of the findings

This part presents findings and discussion on land use plans as a tool for promoting good governance on land resources management in Kilolo District, Iringa.

### 4.1. The Status of Village Land Use Planning in Kilolo District

Currently, Kilolo district comprises of 94 villages, of which only 46 villages have prepared village land use plans to date. Unfortunately, the District Council had allocated almost no budget for the preparation of land use plans, leaving this crucial intervention to be funded mostly by Non-governmental organizations, private investors, development partners and the Government. The funders of the land use planning

process are Concern Worldwide, World Wide Fund for Nature (WWF), Tanzania Forest Conservation Group (TFCG), Mpango wa Kurasimisha Rasilimali na Biashara Tanzania (MKURABITA) translated in English as Property and Business Formalization Programme in Tanzania (PBFP), Land Rights Research and Resources Institute (LARRRI/HAKIARDHI), Private Forestry Programme (PFP), Water Resources Integration Development Initiative (WARIDI), New Forest Company, Participatory Ecological Land Use Management Tanzania (PELUM) and the Tanzania Ministry of Lands, Housing and Human Settlements Development (MLHSD).

This practice has both positive and negative impacts. If these non-governmental stakeholders are supporting VLUPs without any hidden agenda, then their efforts will help in the protection of land tenure security for the small-scale producers and support their economic growth. However, this support can turn out to be negative if the plans prepared through the support of investors may aim at allocating land for investment purpose only. Likewise, Non-governmental organizations may fund land use planning for their own interest (e.g. in order to allocate land for conservation) rather than for the interest of the villagers.

In Kihesamgagao and Lyamko villages, the preparation of the land use plans was conducted with the support from HAKIARDHI through a United Kingdom Department for International Development (DFID) funded programme between 2012 and 2015. The specific focus of the project was on environmental conservation and protection of women's land rights during land use planning. Reports from HAKIARDHI show that villagers and village leaders received the land use plans very positively, not in the least because they were accompanied by a series of capacity building and awareness raising activities on land laws, particularly the Village Land Act 1999 and the Land Use Planning Act 2007 (HAKIARDHI, 2014). Intensive training of different groups of villagers on land rights and land laws started almost three years prior to the establishment of the actual land use plan. Throughout the process, HAKIARDHI ensured maximum involvement of the villagers.

## 4.2. Motives for preparation of land use plans in Kilolo District

In Kilolo District, the preparation of the village land use plans has been pushed by many factors in recent years, both internal and external, as discovered during this study. These motives include the following;

### 4.2.1. Environmental conservation

In the course of addressing the effects of climate change in the district, there have been different projects implemented by district partners, particularly civil society organizations (CSOs). For instance, between 2012 and 2015 HAKIARDHI (through DFID funds) was implementing a project in Kilolo and Mufindi districts which aimed at addressing the effects of climate change through the preparation of village land use plans. It is assumed that the presence and implementation of a well-completed land use plan will enhance proper and sustainable use of land resources, and hence, will build climate change resilience. For instance, the presence of land use plans supports the preparation of by-laws which prohibit the illegal use of land for activities such as charcoal making, cultivation close to water sources and bush burning.

Beyond climate change resilience, the land use plans supported by HAKIARDHI intended to protect natural resources and ecosystems. For instance, the land use plans concentrated on water management by ensuring that villages were also protecting natural forests and tree species that keep water in the soil. For instance, in Kihesamgagao and Lyamko, villagers agreed during the land use planning process to protect "*mivenji*" trees which are traditionally used to protect water bodies.

### 4.2.2. Formalization of land

In 2004 the Tanzanian government established a programme to register property and businesses of low-income households known by its Swahili acronym MKURABITA. The programme aimed among other

things to accelerate the registration of land belonging to the poor. In this way, their land could become so called “live capital”. This means that land could be used as collateral for loans in order to increase agricultural productivity. In Kilolo district nine villages were part of this programme, which resulted in village land demarcation, village land use planning and village land certification (ADB, 2017).

#### 4.2.3. Support of farmers to protect agricultural land

Kilolo district was one of the districts that benefited from the project implemented by PELUM Tanzania from 2014. The project was known as “Citizens engaging in government oversight in agriculture” and it aimed at ensuring that farmers understand their rights to land. These include access to, use, control and ownership of land as a means to avoid internal and external spoilers such as land conflicts, which largely affect the production of food and cash crops and, hence, rural livelihoods. Besides that, the land use plans support farmers to determine the size of land they want to use for farming to avoid allocating chunks of land for investment and other uses which are not directly linked to agriculture.

#### 4.2.4. Promoting Women’s Land Rights

Access to land is crucial for combating discrimination. People who are denied access to land tend to be economically disadvantaged. Tanzania is among the most undeveloped nations in the world, where gender inequalities with respect to accessing land are a central problem. Studies indicate that the majority of women within villages in Tanzania are illiterate, unaware of any existing entitlements, lacking in sufficient assets to defend their rights, and that their involvement in land administration institutions is limited (Moyo, 2017). There are many challenges in realizing women’s property rights in Tanzania, including the traditions of customary tenure; inadequate knowledge about women’s property rights by both women and men; negative attitudes towards women’s influence, position, capability and reputation; outdated customs<sup>2</sup>; archaic and conflicting interests in laws; and the lack of legal capacity (empowerment) towards property rights (Moyo, 2017).

In Kilolo district several women’s land rights projects on land use planning have been conducted, mostly supported by civil society organizations such as PELUM Tanzania and HAKIARDHI. For instance, HAKIARDHI conducted a project from 2014 to 2017 in Kilolo (funded by Care International in Tanzania), informed by a baseline study on land rights which revealed serious violations of women land rights. The study indicated that Hehe’s and Bena’s customs and traditions do not consider girls and women equally to men when it comes to land ownership. Land rights trainings by HAKIARDHI resulted in the majority of women realizing their need of access to land, because they are the main food producers and suppliers at the family level.

During the ‘public debates on land rights’ women shared their experiences of being denied rights to land by their male relatives. Therefore, funds were raised to prepare land use plans with the aim of issuing Certificates of Customary Rights of Occupancy (CCROs) to women and other minority groups, such as orphans and people with disabilities. Throughout the process of land use planning, women were involved and took active roles during the Village Council and Village Assembly meetings as well as in the formation of the Village Land Management Committee (VLUM). Observations by HAKIARDHI show that this has led to the prioritization of women in land surveys and issuing the title deeds. Four villages benefited from this project, which are Ilamba, Mdeke, Ng’ang’ange and Lukani.

#### 4.2.5. Promoting land allocation for investment

The study found that some of the land use plans in the district have been conducted in order to facilitate land allocation to investors. For instance, New Forest Company, a company investing in tree production,

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2 Traditionally, women are often deprived of any right to possess land through inheritance because relatives believe they will be married to other families from which they will then gain access to land.

has been pushing for land use plans in several villages, including Magome, in order to formalize their land owned for trees production. In 2016, the Company approached HAKIARDHI with the intention to fund the process of land use planning in ten villages in the district. The funds were denied as in some villages the villagers were still complaining of irregularities in the process of land allocation to New Forest Company during the land acquisition process. For land use planning to take place in a meaningful way, these issues need to be resolved first.

The Southern Agricultural Growth Corridor of Tanzania, also known as “*Tazara corridor*” or SAGCOT, encompasses one third of Tanzania mainland, stretching from East of Dar es Salaam through Morogoro, Iringa and Mbeya, West to Sumbawanga in Rukwa Region. The initiative aims to bring 350,000 hectares of farmland into commercial production for regional and international markets and increase annual farming revenues (ADB, 2017). Kilolo district is also part of SAGCOT under the Ihemi cluster. Through this initiative there has been high demand for village land use plans in order to facilitate the demarcation of land for investment.

The land use plans can be used positively or negatively in promoting large-scale investment on village land, depending on who supports the preparation of land use plans. Increased land security can attract investment and economic growth in the villages. However, as discussed in Section 4.1, whenever non-governmental partners step in to facilitate land use planning, there is the risk of promoting self-interest instead of the interest of communities. It is unfortunate that when investors have funded the process of land use planning, their main concern has been on getting land for investment. Thus, it is recommended that the preparation of land use planning should be done by the government itself or other stakeholders who do not have a direct interest in land.

### 4.3. Impact of village land use plans in Kilolo District

In this section, we discuss the impacts of village land use plans on land governance, and how this affects land conflicts, investment, environmental protection and the equal promotion of rights, and women rights specifically.

#### 4.3.1. Nature, types, causes and effects of land rights conflicts in the district

In most of the districts in the country, the most serious land conflicts are those which involve competing land use interests of farmers *versus* pastoralist or investors *versus* communities, and those about villages’ boundaries. However, the situation in Kilolo district is slightly different in comparison to other districts in Morogoro region (like Kilosa, Kilombero and Mvomero districts), or in Manyara region (Kiteto and Simanjiro districts) where there are uncounted land conflicts among the groups mentioned above. This is due to the fact that Wahehe and Wabena tribes in Kilolo district did not receive migration of pastoralist tribes who hold large herds of cattle, such as Wasukuma and Maasai, on their land. Hehe and Bena usually own a range of 10 – 50 cattle (for the households who own cattle) and practice zero grazing. Thereby cattle can move from one area to another to access available pasture areas as well as health services and cattle dip.

The most dominant type of land conflicts in Kilolo district is between different farmers. For instance, it was revealed at Kihesamgagao village that some of the farmers have extended the boundaries of their farms or sometimes cultivate neighbour’s farms without any agreement, therefore *de facto* confiscating their neighbour’s land without the consent of the other party. Due to scarcity of agricultural land, villagers in Lyamko village encroached on the land allocated for tree plantation. On this land, trees were grown for up to 15 years before being harvested. This caused a conflict between different farmers in search of land for agriculture. There are also land conflicts at the family level, caused by the struggle for land among family members.

Land conflicts among farmers are mainly caused by the failure to understand the proper boundaries of farms. A lot of land is transferred through inheritance and people often do not own written proof of actual farm boundaries. Therefore, land boundary conflicts can continue to exist. The presence of a

complete village land use plan should enable the farmers to understand the size and boundaries of their farms and should limit encroaching behavior and conflicts. Furthermore, one of the pre-conditions for a village to prepare a land use plan is to ensure that there are no boundary land conflicts among and between different villages.

The growing value of village land is another factor for land conflicts in the district. The land market is growing fast due to attractive prices offered by non-villagers who are mainly town-based individuals who purchase land in order to start tree plantations. The village leaders are often involved in these land sales. Many of these sales are illegal, as they end up selling other villagers' land without their consent. For instance, at Kihesamgagao village, conflicts at the family level were reported, caused by the sale of land without the consent of the relatives. The presence of the village land use plan can reduce the effect of the land market. It will enable the villagers to understand which land is actually available for their uses before they make the decision to sell village land to third parties. On top of that, the presence of land use plans will make sure that the village government understands which land is owned by every villager. This should allow them to limit the sale of village land for the interest of the future generations.

Allocation of village land to investors is another source of land conflict, mainly caused by village leaders' decisions to allocate village land to investors without the consent of the Village Assembly meetings. For instance, in 2017 the then Village Chairperson of Lyamko village allowed the Private Forestry Programme (PFP) commonly known as Panda Miti Kibiashara, to plant trees on the 500 acres of land which were demarcated as land for pasture during the preparation of the village land use plan. According to the interviewed villagers, the decision by the Village Chairperson aroused anger among the villagers who agreed to remove him from the position and take back the land from PFP. This example proves the importance of village land use plans. Without a land use plan in place, the villagers would not been able to reveal the misconduct of the Village Chairperson. The collective decision making during the preparation of the land use plan enabled the villagers to recognize the change of land use from what they agreed in the Village Assembly meeting.

In the study villages, there are also land conflicts between the villagers and Government institutions which are unresolved for many years. For instance, in the 1960s the government requested land from the villagers in Kihesamgagao village to build a training camp for Freedom Fighters from Southern African countries that had not yet attained independence. The end of the apartheid system in South Africa in 1994 witnessed all the freedom fighters vacating the area. The villagers believed that the land would be returned to them or that the government would establish a college, an educational institution or a museum on the site. However, the government instead established a prison in the area. Villagers argue that the government thus has not abided by the terms of the agreement through which land was originally allocated for the camp. They also dispute the boundaries of this area arguing that, following the establishment of the prison, the prison agency has expanded the prison area into neighboring farms that belong to villagers. Villagers complained about their poor involvement in the land survey, saying that the process was done without their consultation and that their demands have been ignored for many years now. It was revealed that during the process of land use planning in the village, this conflict was discussed but left unresolved. The District Land Officers at the time promised to resolve the issue. However, until the time of study, the conflict was not resolved yet.

The supporters of land use plans narrate that it is easy for the land use plans to minimize the occurrence of land conflicts due to the participatory nature of the land use plan process whereby every group of people and individual villagers are supposed to be involved, allowing everyone to raise a concern at any step of the process. However, as the examples above show, land conflicts remain despite the presence of village land use plans. As many conflicts exist due to a lack of information or poor decision-making, capacity building and awareness-raising are much-needed to resolve outstanding issues.

#### **4.3.2. Village Land Use Plans and Investment: What is the contribution?**

Kilolo district includes potential land for investments which support the cultivation of both commercial and food crops. Most of the investors prefer to invest in commercial crops, mainly trees. The study

revealed the presence of local and foreign investors in the study villages and the district at large. The investors in Kihesamgagao village include Kibaha Holding Limited (3000 acres of land, acquired in 2002), a Kenyan investor (100 acres acquired in 2014) and the Catholic Sisters who own 80 acres. At Lyamko village, we found investors such as Albert Kalongole from Mbeya city, who in the 1990s acquired 30 acres of land, but in 2016 extended his land to 300 acres without the consent of the Village Council and Village Assembly meetings. Another investor is Pili Mohamed Mula from Iringa town, who owns more than 1000 acres of land. Both of these investors acquired the land prior to preparation of land use plans at Lyamko village.

There are also many other individual investors who were mentioned by the village leaders and villagers. However, they lack key details in regards to the size of land and the year they acquired it. In general, the district has other large investors such as New Forest Company (tree plantation investor), but this Company does not invest in the study villages and therefore will not be further discussed here.

In relation to village land use planning, it was revealed that the allocation of land to different local and foreign investors in Kihesamgagao and Lyamko villages was done without the land use plans in place. Some of the interviewees were of the view that if the allocation of land or sale of land to investors could have been done after the land use planning process, then they could have decided otherwise. For instance, in Lyamko village, the villagers are not satisfied with the size of land owned by Albert Kalongole. Still they agreed to the land use planning in their village, only because they thought that it is an opportunity they could not miss if they wanted to get land title deeds and other benefits associated with land use planning.



*Picture 1: Part of the land used by Mtanga Company for investment at Kihesamgagao village.*

From the findings it can be learned that land use plans can be used by investors, well-off individuals and private companies to facilitate easy and quick acquisition of land. However, land use plans can also be helpful for the villagers and village leaders to make informed decisions in land allocation for investment. The land use planning process provides all the necessary information on the size and use of the village land, which would generally not be available without the land use planning. The major shortcoming of the land use planning process identified during the study is that most of the land use plans do not reach the stage of gathering detailed information on land resources, which is necessary to make informed decisions. For instance, at Kihesamgagao and Lyamko villages the land use planning process ended with the issuance of title deeds to some of the villagers, without discussing the use of land by the villagers.

### 4.3.3. Village land use plans and protection of smallholders' interests

The Land Use Planning Act of 2007 clearly states that village land use plans aim to protect the interests of smallholder farmers and pastoralists, not only when considering land allocation to investors but also in resolving land conflicts, improving land governance and protecting land rights of disadvantaged groups such as women, orphan's youth and others. However, in this study we learned from village leaders that it is not easy for the villagers (who are predominantly smallholder farmers) to understand the intention of the land use plans. They lack awareness and knowledge. Moreover, the process itself is technically dominated by the Participatory Land Use Management (PLUM) team which is composed of technocrats from different departments at the District Council, such as Land, Natural Resources and Environment, Community Development, Legal, Forest, Planning and others. As a result, the interests of smallholders are generally not fully protected as provisioned by the law.

Therefore, as a good practice, land use plans should be prepared following a series of trainings on land rights. This was done in Kihesamgagao and Lyamko villages, where HAKIARDHI started with awareness raising on land rights through indoor trainings and public debates three years prior to the preparation of land use plans. Other relevant examples can be learned from the land use plans prepared by PELUM Tanzania in several villages in Kilolo district, whereby the training on land laws for different groups started before the actual land use plan preparation.

The awareness-raising trainings helped the process of land use planning to become more participatory from the first stage to the final ones. Respondents from the District Council who implemented other land use planning processes confirmed that sometimes the budget allocated for the process is insufficient to the extent that it is not easy to undertake a serious training on land rights before the preparation of the plan. That is why in other villages, the planning started without much emphasis on the villagers' participation in the whole process. However, the ultimate owners of the village land use plans are the villagers, through their Village Council.

In an interview with an official from the Ministry of Land, she argued that there is a problem with the preparation of village land use plans across the country. A study by the Ministry has noted that different approaches are used from one district to another which results in inconsistent standards. She added that sometimes the interests of those who financially support the land use planning process (whether investor or civil society organization) contributes to these inconsistencies, as planning and budgeting is often conducted without the consultation of the respective authorities, particularly the National Land Use Planning Commission (NLUPC) and District Councils. She offered an example of HAKIARDHI and PELUM, who have worked with different budgets in different villages across Kilolo district. This will affect the process, either in terms of the number of days to be used in the planning process or the amount or quality of the awareness-raising provided to village leaders, villagers/smallholder farmers and Village Land Use Management Committee (VLUM).



*Picture 2: Some of the farms used by the farmers to cultivate different crops close to water sources during the dry season at Kihesamgagao village.*

From the discussion above, it can be argued that the smallholders have little say in the process of land use planning compared to the funders. Smallholders themselves cannot fund the process due to the high cost involved. Moreover, as land use planning appears to communities as a complex process, they see it as external to them and only made possible through the government and other stakeholders.

There can be many ways to make land use plans protect the interest of the smallholders, not in the least by simplifying the process and by making villagers truly own it. Therefore, they need to understand everything about the planning process, from the start to the final stage. Furthermore, the Central and Local Government Authorities have to prioritize the land sector by allocating more human and financial resources. This will lessen the pressure and interest of investors and civil society organizations which override the interest of the smallholders. For instance, it was learned that every year in Kilolo District Council there is a plan and budget for land use planning but it is rarely implemented as no funds allocated.

#### 4.3.4. Village Land Use Plans and Environmental Conservation

The preparation of village land use plan is parallel implemented with other laws and policies on environment, water and forest management, investment, livestock, mining, agriculture and others. Thus, why the PLUM team is formed by multi-sectoral technocrats from the District Council. In this study, we learned that the preparation of land use plans in Kihesamgagao and Lyamko villages included other aspects such as identification of all the resources including forests, water sources, rivers, historical sites, and mountains. This was done in order to agree on the proper management of those resources in line with the respective legislation.

The majority of the respondents in Kihesamgagao and Lyamko villages had a lot of concerns in relation to management of water sources, rivers and forests. They expressed issues with the rigidity of the laws which govern these resources and which do not consider the local knowledge nor the local demand of land for food production. For instance, the Water Supply and Sanitation Act of 2009 provides power to the Minister responsible for water to make regulations to protect water by prohibiting human activities near water sources. The study revealed that farmers, livestock keepers and other land users are prohibited from using land within 60 meters of water sources, within 15 meters of main rivers and within 3 meters

of small rivers. Villagers find the law discriminatory as it does not consider the needs and demands of the local communities who have been getting food from these lands for many years and still protect the environment. On the other hand, the respondents were very positive about the idea to protect the environment and they understand the clear need to do so.

The study revealed that the majority of farmers use the valley farms to grow both food and cash crops such as maize, peas, sweet potatoes, cabbages and other crops. According to them, leaving 60 meters of land near water sources unused will lead to food unavailability and food insecurity to many families. A large part of the community depends highly on the river for their food production, because large parts of the upland areas have been planted with commercial trees such as pines and eucalyptus. Because trees are harvested after 15 to 20 years, they have removed large portions of the village land from potential food production.



*Picture 3: Human activities near water sources in Kihesamgagao village where the livestock keepers bring their cattle for drinking water.*

The respondents indicate that more trainings on environmental conservation are required while acknowledging the local knowledge which is still relevant today in addressing environmental problems. For them, strict legislation will not be helpful in conserving the environment but will rather make land users adopt more destructive activities. Residents believe they can apply local knowledge to protect the environment once they understand the value of environmental protection for their livelihoods. For instance, at Kihesamgagao village, the respondents explained that in 2014 a total of 45 water sources were identified in the process of preparing land use plans which are protected until today. They admit that water flow has been reduced compared to thirty years ago, but they argue that in addition to farming practices, this has resulted from decreasing rainfall in recent years. They proposed for an amendment to the law to reduce the required distance from water sources.

The findings from the study revealed that environmental protection was among the objectives for preparation of the land use plans at Kihesamgagao and Lyamko villages. Leaders in both villages said that the PLUM team was insisting on protecting the existing water sources and forests but also considering the best way to protect land for agriculture and grazing. The same applies to protecting natural tree species such as 'mivengi' which are believed to have a great capacity of storing a lot of water in the soil compared to alien species like 'eucalyptus' and 'pines' (which are mostly planted for commercial use).



Picture 4: Shows efforts of villagers and their village leaders in protecting water sources at Kihesamgagao village in one of the water sources identified during land use planning process in the village.

#### 4.3.5. Protection of Women's land rights in the process of Land Use Plan

Promoting women's land rights forms one of the key agenda in the land sector for many years from the formulation of the National Land Policy and Land Act and Village Land Act in 1995 and 1999, respectively. The questions around the debate include, but are not limited to, "what are women's demands over land, is it access, use, or ownership and control?"<sup>3</sup> and "does the existing customary land ownership grant women the right to own land?". All these questions are connected to the major role played by women in the food production in their families.

It is argued by land use planning practitioners that the protection of women's land rights can be easily achieved when the process is done in a participatory manner and particularly through the issuance of customary title deeds to women. However, women have to be able to understand their rights and responsibilities in order to protect their rights to land. They must also take an active role in key decision-making organs such as Village Council, Village Adjudication Committee, Village Land Management Committee and Village Assembly meetings. Facilitators from HAKIARDHI and PELUM Tanzania insisted that usually in the process of land use planning the prioritization has been on raising awareness among women on land laws.

Some of the women interviewed during the study confirmed their involvement in the process of village land use planning. However, their involvement was minimal on some issues, like telling the history of the village in terms of village's boundaries, origin of the village, the founders of the village and other essential information. Men were believed to have precise information on these issues. However, some of the interviewed women, disputed this observation.

Ms. Rose Kasige, the current interim Lyamko village chairperson, explained that;

*"We women were involved in the process of land use planning. The PLUM team was insisting on women involvement and men were positive on this call. Some of us were selected as part of the VLUM committee. However, the challenge was that men were largely dominating the process but women were also trying to make sure that their views were taken into consideration."*

3 The Village Land Act upholds customary rules on land, but provides that the customary rule or any action dependent on the rules shall be void to the extent to which it denies women, children or persons with disability lawful access to ownership, occupation or use of any customary land.

With regards to the issuance of customary title deeds<sup>4</sup> the study revealed that there is a contention among the Wahehe and Wabena with issuing the title deeds to women especially those who are married. In their traditions a married woman uses and owns land through her husband. However, in some of the progressive family's land could be inherited by their daughters. Generally, women themselves are not confident in defending their land rights because they often only know the traditional system. A woman respondent interviewed at Kihesamgagao village said that;

*"If it was not for the training provided prior to land use planning process, I could not bother to apply for the customary title deeds because I was born and raised in the system that only father, husband, brother and son can own land. So, it was a surprise to get this title deed."*

The study disclosed that in Kihesamgagao and Lyamko villages few title deeds were issued to spouses compared to those issued to men only, widows only and single parents. An official from the Land Department in Kilolo District Council said that co-ownership of land between a husband and wife is still a challenge in the district. Some men prefer to forgo a title deed entirely rather than to receive a title that makes them co-owner with their wives.

From these examples it is clear that land use planning can have a positive effect on women's land ownership, rights awareness and participation in decision making. However, this study cannot conclude that women's land rights are fully protected through the land use planning simply because control and ownership of land goes beyond having title deeds. It should start with changing the mindset of the whole society and community, such that all members recognize that women and girls like men and boys can access, use, control, buy, sell and own land. This needs to be done not only during the land use planning process but also through intensive programmes on land rights as part of primary secondary and university level education. Land rights awareness should also be included in events organized by traditional and religious leaders and during other socio-economic and political gatherings. While land use planning provides opportunities for women to obtain title deeds, protecting women land rights goes beyond that, and more awareness raising trainings on land rights and land laws are therefore needed.

## 5. Conclusion and recommendations

This part presents conclusion and key recommendations of the study, which add to the discussion of land use planning in relation to improved land governance, land conflicts, women's rights and environmental protection.

### 5.1. Conclusion

The study has presented findings on land use planning in relation to village land governance, land conflicts, investment, environment and women's land rights. The findings show that land use plans connect to every aspect mentioned above in a different way.

On village land governance, land use plans create democratic procedures in decision making which include involvement of every group due to the participatory nature of the process. However, in reality, not all stakeholders feel represented in the process, due to a lack of information, a lack of awareness, or due to the interests of stronger participants (such as investors or government officials).

In relation to land conflicts, land use plans may play a great role in resolving land conflicts when all land users are presented in the process of identifying land uses. It was also established that land use plans support the villages to resolve boundary land conflicts between villages, as every village will receive a

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<sup>4</sup> The Village Land Act permits any individual, family unit or group of persons recognized as such under customary law to apply to the Village Council for a customary right of occupancy. Also, the Act makes special provision for divorcees who have left their spouse at least two years prior, and who were villagers prior to the marriage. Besides when family units apply, at least two persons from that unit must sign the application. Further, the law requires that the Village Council treat all applications equally, regardless of the gender of the applicant, and forbids the Council from adopting discriminatory practices or attitudes toward women applying for a certificate of customary right of occupancy (CCRO).

Village Land Certificate. However, as in the studied villages, land conflicts remain despite the presence of village land use plans.

Regarding investment, it was revealed that the allocation of land to different local and foreign investors in Kihesamgagao and Lyamko villages was done without the land use plans in place. Some of the interviewees were of the view that if the allocation of land or sale of land to investors could have been done after the land use planning process, then they could have decided otherwise.

On the topic of environmental protection, land use planning processes provide an opportunity for the villagers to plan the use of the village land while protecting resources such as water sources and forests.

On women land rights, the findings show that the land use plans provide an opportunity for women to participate in decision making on land as the land legislation requires involvement of women in every step of the process including being members of the VLUM team. Furthermore, the land use plans allow women to own land through the provision of customary title deeds which go beyond access rights to conveying ownership of land. However, it needs to be stressed that true promotion of women land rights needs to go beyond issuing title deeds, as it requires important societal changes.

Overall, the study cannot conclude that the benefits mentioned above happen automatically just because land use plans are in place. There are many gaps identified in the process itself, which limit the usefulness of land use planning in achieving its objectives. One of these gaps is the failure to prepare the land use plans in the sixth stage designed to create detailed land use plans. Most of the current land use plans end at stage four or five and only identify uses of land and issuance of customary title deeds, without in-depth details on the use of land. However, creating a detailed land use plan is key for economic growth as it supports the villagers to understand how to use their land more productively and to respect different land uses. That is why land use plans in Kihesamgagao and Lyamko villages are considered useless for those who do not have the title deeds. Another gap is the failure of the government to financially support the land use planning processes. This opens up opportunities for non-governmental stakeholders to fund the preparation of land use plans and increases the risk that they are prioritizing their interest of acquiring land for investment instead of considering the interest of the communities. The slow pace in the preparation and implementation of land use plans district-wide and countrywide is another element slowing down the positive potential of the land use planning process.

## 5.2. Recommendations

Based on this study's findings, the following are the recommendations;

- Simplification of the process for effective participation of the villagers. The current procedures are complicated which makes the villagers conclude that the process is for technocrats from the District Council, CSOs and investors.
- To ensure sustainability, land use plans should be owned by the villagers and not (only) by village leaders as is currently often observed. Ownership of land use plans should be transferred to the people so that they can execute and protect it for many years.
- The land legal framework should clearly instruct that the approved village land use plan is a precondition for village land allocation to investors. The allocation of land to investors should not be allowed in villages without land use plans in place. This will help villagers to decide if they really allocating land to investment is in the village's best interest.
- There is a need to recognize local knowledge of the rural communities in environmental conservation. This can be achieved by involving farmers and pastoralists in the formulation of policies. They have a lot to offer and their involvement could promote environmental protection while also taking into account local socio-economic activities and livelihoods.
- The land use plan practitioners must not put emphasis only on issuing title deeds to women. Promoting and realizing women's land rights goes beyond title deeds. There is a need to invest in changing mindsets regarding women's land ownership by increasing awareness-raising campaigns.

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Picture 1: Mvinza villagers showing one of Conflicting boundary beacons with Makere South Forest Reserve



Picture 2: A group of cattle in Makere South Forest Reserve



## LAND AND HUMAN RIGHTS ISSUES AMONG LOCAL COMMUNITIES ADJACENT TO PROTECTED AREAS IN KIGOMA REGION. A CASE STUDY OF KAGERA NKANDA AND MVINZA VILLAGES ADJACENT TO MOYOWOSI GAME RESERVE AND MAKERE SOUTH FOREST RESERVE

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Tanzania Women Empowerment in Action bears sole responsibility of this report.

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## List of abbreviations

<b>BHRT</b>	Business and Human Rights Tanzania
<b>BTC</b>	Belgian Development Cooperation
<b>CHRAGG</b>	The Commission for Human Rights and Good Governance
<b>CSOs</b>	Civil Society Organizations
<b>IPIS</b>	International Peace Information Service
<b>KAGENZA</b>	Kagera-Nkanda and Mvinza Beekeeping Cooperative
<b>LHRC</b>	Legal and Human Rights Centre
<b>MNRT</b>	Ministry of Natural Resources and Tourism
<b>TAWA</b>	Tanzania Wildlife Authority
<b>TAWEA</b>	Tanzania Women Empowerment in Action
<b>TAWIRI</b>	Tanzania Wildlife Research Institute
<b>TF</b>	Tanzania Forest Services
<b>TZS</b>	Tanzanian Shilling
<b>USD</b>	United States Dollar

## Executive Summary

The aim of this report is to bring to light land and human rights challenges faced by local communities in Kagera-Nkanda and Mvinza villages adjacent to Makere South Forest Reserve and Moyowosi Game Reserve, Kigoma region. Villagers in these places mainly conduct farming, pastoralism, fishing and beekeeping activities to sustain their basic needs. Population growth and an increasing demand for more farming land and resources to support villagers' livelihoods increasingly put pressure on available resources within the villages. As a result, villagers conduct some of their economic activities inside the nearby reserves. This creates tensions with government authorities that are mandated to enforce laws and regulations to protect and conserve reserve areas.

The objective of this study is to identify land and human rights issues experienced by local communities in Kagera-Nkanda and Mvinza village (Kigoma Region). Key questions are (1) what are the land use conflicts present in villages adjacent to Moyowosi Game Reserve and Makere South Forest Reserve?; (2) What are the impacts of land conflict on villages adjacent to Makere South Forest Reserve and Moyowosi Game Reserve? ; and (3) What is the role of community conservation programmes in resolving land issues and conflicts related to Makere South Forest Reserve and Moyowosi Game Reserve?

This report results from primary and secondary data gathering, including interviews and questionnaires, focus group discussions and site visits conducted in the study villages during August-September, 2019.

The key findings are grouped in three major areas: (1). Existence of land tensions and violations of human rights in Kagera-Nkanda and Mvinza villages due to human activities in the reserves and subsequent conservation law enforcement. Use of excessive force, including beatings, and confiscation of villagers' properties are thereby reported as key human rights violations during law enforcement by conservation authorities. (2). Existence of unresolved land disputes as the result of a lack of information and non-participatory processes of land use planning, land verification and tourism investment by the government and private investors. (3). Community conservation initiatives (beekeeping project and environmental education) play a crucial role in supporting livelihoods of villagers as well as their support for the protection of natural resources and game and forest reserves.

### **The recommendations from the study include:**

- New community conservation initiatives should be developed, established and supported, which will increase villagers' awareness on conservation and their ownership of the forest resources. This will help to provide alternative livelihoods and, as such, protect the game and forest reserves adjacent to villages.
- Stakeholders at all levels should cooperate to ensure that land demarcation and land use planning processes are held in a participatory manner. This is to prevent future disputes of land boundaries between villages and protected areas, but also to ensure that village land is to the benefit of the villagers rather than outsiders who managed to obtain these lands.
- Clarifications are needed regarding the 2007 boundary verifications of Mvinza village. This is needed to resolve the ongoing dispute on the placement of the new village demarcation beacons and the ownership of village versus reserved land.
- Awareness raising is needed on the rights and duties of different stakeholders in conservation. Conservation officers should be adequately trained to ensure that their actions are in line with the Forest Act 2002 and Wildlife Conservation Act 2009 and do not violate basic human rights. Community members need to be aware of their responsibilities towards conservation, as described by Tanzania's laws.

# 1. Introduction

## 1.1. Study context

Kigoma region, located in the north-west of Tanzania, is rich in natural forests gazetted by the government as game and forest reserves. Game and forest reserves are areas of the land that are protected from unlimited human activity, for conservation purposes. These areas are governed by semi-autonomous executive government agencies and specific government directives and regulations. The game and forest reserves in Kigoma region have an abundance of flora and fauna which contribute to ecosystems management, water resources management, livelihoods and socio-economic development. Most of these reserves are surrounded by local communities living in villages registered before or after the establishment of the reserves.

This study focuses on land and human rights issues in Kagera-Nkanda village (with a size of 14,262 ha and a population of 12,422 villagers) and Mvinza village (with a size of 14,056 ha and a population of 13,883 villagers). These two villages are located at Kagera-Kanda ward in Kasulu District, Kigoma Region (Map 1). These villages were both established in 1973 and registered in 1983.



Map 1: Localisation map of the study area (Kasulu District, Kigoma Region, NW Tanzania)

Both villages are located adjacent to two reserves: Makere South Forest Reserve and Moyowosi Game Reserve, which are located in Kasulu district and extend to Uvinza and Kibondo districts. Makere South Forest Reserve (59,747 ha), established by the Government Notice No.250 of 1956, is one of the endangered forest reserves in Kigoma Region.

The forest is home to a wealth of fauna and flora, including different bird species and a wetlands ecosystem. In the forest reserve, a hunting block is rented by a private safari hunting company for hunting tourism. Moyowosi Game Reserve (600,000 ha), established by the Government Notice No.1 of 1981, includes a

variety of habitats, from huge swamps to open flood plains, which adjoin large areas of Miombo forest. Lion, leopard, buffalo, crocodile, topi, Lichtenstein's hartebeest, and sitatunga are found in the reserve, as well as rare water birds such as the shoebill stork. Moyowosi Game Reserve is supervised by the Tanzania Wildlife Authority (TAWA, 2016) and Makere South Forest Reserve is supervised by the Tanzania Forest Services (TFS, 2020).

In Kagera-Nkanda and Mvinza villages, the main economic activity is agriculture, followed by livestock keeping, beekeeping and fishing. Over the years, these activities have contributed to socio-economic progress of the villagers. Population growth, an increasing demand for more farming land and resources to support villagers' livelihoods, as well as the arrival of farmers and pastoralists with large herds of cattle from nearby regions such as Mwanza and Shinyanga all increasingly put pressure on available resources within the villages. Villagers are therefore conducting some of their economic activities inside the reserves, which can lead to deforestation, land degradation and habitat loss for wild animals. This is in clear violation of the Tanzania Forest Act 2002(article 26) and Wildlife Conservation Act 2009(article 20), which prohibit human activities such as farming in the forest and game reserve, respectively. As a result, tensions exist between villagers and government authorities that are mandated to enforce laws and regulations to protect and conserve reserve areas.

Tensions can escalate and human rights violations, such as excessive use of force and the unlawful destruction of private property, have been reported as the result of authorities' protection actions in Makere Forest Reserve, Kigoma (Mawala, 2019). Moreover, disputes over land between village and (conservation) authorities can be long-lasting (LHRC, 2019) and can cause long-term insecurities for communities that depend entirely on land for their living.

The present study seeks to complement existing understandings and fill in knowledge gaps of land and human rights issues between reserves/conservation areas and adjacent local communities in Kigoma region. The study will critically look into the reasons and status of land conflicts in Kagera-Nkanda and Mvinza villages, and their impact on human rights and conservation. In this way, the study aims to assist stakeholders in addressing the land and human rights issues at local and national level and to reduce tensions between local communities and authorities in favour of conservation, responsible land investment and prosperity of the people.

In this report, the introductory chapter (Chapter 1) is followed by three other chapters. Chapter two explains the methodology used during primary and secondary data collection. Chapter three focuses on the main findings regarding land conflicts in Kagera-Nkanda and Mvinza villages, related human rights issues and conservation efforts in the two reserves. Chapter four presents our conclusions and Chapter five lists some key recommendations following from this study.

## 1.2. Study objectives

The objective of this study is to identify land and human rights issues experienced by local communities in two villages (Kagera-Nkanda and Mvinza) adjacent to two protected areas in Kigoma region (Makere South Forest Reserve and Moyowosi Game Reserve).

The following key questions will be addressed:

- What are the land use conflicts present in villages adjacent to Moyowosi Game Reserve and Makere South Forest Reserve?
- What are the impacts of land conflict on villages adjacent to Makere South Forest Reserve and Moyowosi Game Reserve?
- What is the role of community conservation programmes on resolving land issues and conflicts related to Makere South Forest Reserve and Moyowosi Game Reserve?

## 2. Methodology

This study used both primary and secondary data. Qualitative and quantitative primary data was collected during field work from August to September 2019 in Kagera-Nkanda and Mvinza villages and Kasulu district offices. Individual interviews and focus group discussions were conducted. Interviews involved 30 respondents from the 2 villages, while 5 focus group discussions involved 45 participants from the village government and government officials in Kasulu District Council. The questionnaires were composed of open-ended and semi-structured questions.

The participants in the focus group discussions and individual respondents were farmers, beekeepers and village authority leaders, Kasulu district officers, hunting block management, civil society organisations (CSOs) and livestock keepers. Secondary data was collected from reading materials related to community conservation, human rights, outreach programs and legal documents such as acts, policies and regulations related to forestry, wildlife management, beekeeping and land management.

## 3. Main findings

### 3.1. Land issues in Kagera-Nkanda and Mvinza villages

#### 3.1.1. Land tenure and demand for land

The villagers in Kagera-Nkanda and Mvinza acquire land through inheritance from parents and grandparents, through buying pieces of land or lending from land owners. Many villagers pass land rights on to children and relatives through the word of mouth or through written documents kept for relevant children identified by their parents. Outsiders from other districts are allowed to buy land located in the village through negotiation and formal documentation in the village government's offices. The village governments in Kagera-Nkanda and Mvinza do not allow the buying or selling of land located in the reserves, neither by villagers or by outsiders from other districts or regions, as this action is illegal. Village government officers are supported by the Forest Act 2002 (article 26) and Wildlife Conservation Act 2009 (article 20) which clearly state that it is illegal to dedicate land for farming or other human activities inside reserves.

The main economic activities in Kagera-Nkanda and Mvinza villages are agriculture, livestock keeping, beekeeping and petty business. Livestock keeping is done mostly by migrants from Shinyanga, Tabora and Simiyu regions. The farmers produce maize, cassava and beans as food crops. Cotton and tobacco are produced as cash crops. Reports in Kagera-Nkanda and Mvinza villages show that on average, one farmer owns land of 2-8 acres for farming and may produce 1-5 tons of crops in one season.

In recent years there have been movements of people from nearby villages and districts coming to Kagera-Nkanda and Mvinza for farming activities. The population growth in the villages urges villagers to search for more agricultural and pastoral land. Another factor that increases the need for new agricultural land is the dominant cultivation practise in the villages. The soils in most part of Kasulu District are shallow. Improved agricultural services are therefore needed for a farmer to cultivate crops for multiple farming seasons. Reports from Kasulu District Council show that the villagers only use farm land for 1-2 farming seasons. After that they seek new land in the villages and in the reserves.



Picture 1 : Kagera-Nkanda and Mvinza Village leaders during focus group discussion with TAWEA Surveyors

In response to the long-time request for extra farm land, the government split land from Makere South Forest Reserve in 2018 (Government Notice No 718 of 2018) to add to both Kagera-Nkanda (2,496ha granted from Makere South Forest Reserve) and Mvinza village (2,174 ha granted from Makere South Forest Reserve). Despite this, reports from village governments in Kagera-Nkanda and Mvinza show that still there are active farming activities, especially in Makere South Forest Reserve contrary to section 26 of the Forest Act.

### 3.1.2. Human activities in Moyowosi Game Reserve and Makere South Forest Reserve

Villagers use the reserves for farming, fishing, beekeeping, charcoal making and firewood, collection of poles for construction, traditional medicines and livestock grazing.

Reports from Kasulu District Council show that the status of Makere South Forest Reserve is worrisome. One Government Officer in Kasulu District Council commented that *“almost 60 percent of the reserve is degraded by farmers, villagers and livestock keepers from adjacent villages”*. Records show that other intruders come from places such as Kigoma, Tabora, Kasulu, Shinyanga and Simiyu. The degradation is visible as large pieces of forest land are now deforested, compared to 10 years ago. Moreover, Makere South Forest Reserve is facing two types of fires that are both started by farmers to prepare the land for agricultural activities. These fires are not well-controlled and, hence, destroy large portions of the forest reserve, including infrastructure such as bee apiaries that are placed in the reserve.

Inside Makere South Forest Reserve there is a hunting block of 2,561km<sup>2</sup> which was established in 1995. Reports from Kasulu District Council show that government legal procedures (as per section 38 of the Wildlife Conservation Act) were followed to declare the area as hunting block. This includes aerial surveys by the Tanzania Wildlife Research Institute (TAWIRI), approval by the full council of the District Council and final approval by the Director of Wildlife. Inside the hunting block there is Uvinza National Ranch, which is used as pastoral lands and for the production of domestic animals. Also included is Mayala Forest Reserve, which is managed by the Kagera-Nkanda village. Wengert Windrose Safaris Tanzania Limited is the hunting company operating the hunting block located in Makere South Forest Reserve since 2004. The company pays 30,000,000/=Tanzanian Shilling (TZS) (13,043 USD) annually to Kasulu District Council for renting the hunting block. The company conducts photographic tourism, sport fishing and hunting tourism inside the hunting block.

Fishing activities are conducted in the Malagarasi River which passes through both Makere South Forest Reserve and Moyowosi Game Reserve. The Malagarasi River is 475 km long and the second longest river in Tanzania. Ninety-four (94) km of the river passes through the hunting block in Makere South Forest Reserve. The hunting block uses 50 km of the river for sport fishing and the remaining 44 km are used to carry out fishing activities with special permits from Kasulu District Council. Villagers are found fishing in both authorized and unauthorized areas of the river.

Moyowosi Game Reserve is facing incidents of illegal immigrants, elephant poaching and killings of other types of wild animals for meat. To limit human activity in the Moyowosi Game Reserve, the government shifted a group of Tutsi livestock keepers, who lived inside the reserve since 1914, to Uvinza National Ranch in Makere South Forest Reserve in 2003.

### 3.1.3. Government conservation operations

The government of Tanzania, through the established bodies under the Ministry of Natural Resources and Tourism (Tanzania Forest Services (TFS) and Tanzania Wildlife Authority (TAWA)), has the mandate of protecting game and forest reserves. The authority means that the natural resources available in the protected areas are protected for current and future generations. The plans to utilize natural resources in protected areas are regulated by using established tools such as forest management plans, participatory forest management, joint forest management and Wildlife Management Areas. To ensure proper management and protection of Moyowosi Game Reserve and Makere South Forest Reserve, the government conducts conservation operations in the following ways.

Kasulu District Council, TFS and TAWA prohibit entry in the Moyowosi Game Reserve and Makere South Forest Reserve without permits, as stated in the Forest Act 2002 (especially section 26 which prohibits human activities in the forest reserve) and the Wildlife Conservation Act 2009.

To control activities in the reserves, conservation authorities patrol the reserves. Reports from Kasulu District Council show that a lack of financial and human resources gives the authority a hard time to patrol the whole reserve. Tanzania Forest Services in Kasulu district have one vehicle in possession for all forest operations. There are plans to establish a permanent post in Makere South Forest Reserve for conducting effective forest patrols. Responding to issues of law enforcement one forest officer in Kasulu District Council said that *"it is tedious to conserve the forest as sometimes people mobilize themselves in order to attack law enforcers. In 2017 two officers were killed by the farmers in Makere North Forest Reserve when conducting regular forest patrols"*.

Reports from Kasulu District Council reveal that several times the government announced plans to evict farmers and pastoralists carrying out activities, especially in Makere South Forest Reserve which is heavily destroyed by existing farming activities. These evictions are part of law enforcement to prevent environmental degradation by intruders in order to improve safety of natural resources, people and properties. Human activities in the reserves are prohibited by both Forest and Wildlife Conservation Acts and hence it is legal for the government to evict intruders.

During 2018, The Minister for Natural Resources and Tourism (MNRT) accused the regional leaders in Kigoma of being lax to protect the region's natural resources by allowing invaders to inflict damage in the protected areas through activities such as farming and animal husbandry. The Minister instructed the regional leaders to oversee the eviction of the invaders with immediate effect (IPP, 2018). The eviction of the farmers from forests and reserved areas in Kigoma region was supposed to take place between January and June 2019. The plans were postponed several times to let the farmers harvest their crops located in the reserves (The Citizen, 6/01/2019).

The government authorities in Kigoma region also carry out law enforcement in the game and forest reserves to combat insecurity caused by illegal immigrants. These immigrants mainly come from Burundi and are hired by farm owners from Kagera-Nkanda and Mvinza villages as cheap labourers. Villagers in both Kagera-Nkanda and Mvinza accuse these immigrants of being involved in crimes, such as (armed) robbery, car hijacking or even beatings and killings.

Reports from Kasulu District Council indicate that in 2019, about 74 cases were filed to the district and primary courts in Kasulu District. These cases involved people arrested in both the hunting block and Makere South Forest Reserve and Moyowosi Game Reserve. The district council commented that it is hard to secure copies of judgements for reference and recording from the courts, despite several official attempts.

Finally, the government regularly conducts awareness meetings about beekeeping, community conservation and the prevention of forest fires in all villages adjacent to game and forest reserves in Kasulu district.

## 3.2. Impact of conflicts related to land and land use management

### 3.2.1. Tensions due to village land demarcation

After an official presidential visit to Kasulu district in 2017, a special committee composed of the Ministry of Natural Resources and Tourism (MNRT), Tanzania forest services, the Regional commissioner's office and the Kasulu District Council was formed to assess land demands made by Kagera-Nkanda and Mvinza villages. The re-demarcation of Makere South Forest Reserve was discussed, which resulted in Mvinza village acquiring 2,174ha and Kagera-Nkanda village 2,496ha of land from Makere South Forest Reserve in 2018. Government Notice No 718 of 2018 details the new demarcation and village coordinates.

However, during focus group discussions with village leaders in Mvinza it was learned that the village was entitled to receive more land. In 2017, reports from Mvinza village showed that the Kasulu District Commissioner announced in an official visitation of the villages that Mvinza village will receive 5,372ha of extra land for farming. This announcement came before the assessment and re-demarcation by the special committee which decided to allocate 2,174ha of land to Mvinza village. Mvinza village didn't cooperate in the demarcation because they still claim 5,372ha of land in the western part of the village. This claim is based on village beacons that were wrongly placed during the 2007 village verification, adding an area of wetland and the meeting point of the Malagarasi and Makere Rivers in the western part of the village. In 2011, the MNRT verified the boundaries, found the error and returned the area under its management. The village chairperson was supposed to sign the minutes for accepting the granted land in 2018, prepared by the Ward Executive Officer for Kagera-Nkanda, but he declined to sign. By this action, some of the unsolved land matters in the village remained on-hold. Villagers still lament that their village land is not enough for the current population, while the government officials stress that villagers should obey the existing laws and government decisions. At present, this dispute between the authorities and Mvinza village is still ongoing.

Moreover, villagers in Kagera-Nkanda and Mvinza regret that the most of extra land that was granted to the villages is mainly owned by outsiders from Tabora, Kigoma, Mwanza, Simiyu and Kahama. The granted area was used illegally by the outsiders when the land was still part of the forest reserve. This situation is now formalised, meaning that the extra land is used by outsiders instead of the intended villagers in Kagera-Nkanda and Mvinza. This issue needs special attention by the government to make sure that future land conflicts are avoided.

### 3.2.2. Human rights violations due to conservation actions

Reports from villagers (respondents in the interviews) and village leaders explain that human activities in reserves cause tensions and conflicts between villagers/farmers and the reserve's protection authorities for more than ten years now. During law enforcements operations in the Makere South forest Reserve and Moyowosi Game Reserve, violations of human rights, such as forceful arrests, unlawful fines, imprisonment, beatings, and grabbing of villagers' properties are described by villagers and village

leaders. When asked to give an opinion about the village's relationship with the protection authorities, one village leader during focus group discussion in Mvinza village commented *"I am tired of selling my maize to help bring the beaten villagers to the hospital"*.

A recent study conducted by IPIS (Mawala, 2019) shows similar actions by government officers, allegedly beating miners in limestone-rich areas located in Makere North Forest Reserve (Makere village, Kasulu district). Harmful collisions between local communities and government authorities in resource-rich areas need special attention by the government considering the severity of the claims made.

### *Forceful arrests and confiscation of people's properties*

Reports from Mvinza village accuse the government officials in charge of protecting Makere South Forest Reserve, Moyowosi Game Reserve and the hunting block of violating the rights of villagers and harassing them. During interviews in Mvinza village, one of the victims narrated that in August 2019, three villagers (father, mother and son) were passing through Makere South Forest Reserve on their way to Shunga village when stopped by 8 government officers. The group of 8 officers had two guns and they wore masks to hide their faces. The family states that they were beaten by the officers and forced to hand over 732,000 TZS (ca. 320 USD), phones and parts of the motorcycle they used to travel with (tires, side mirror, indicators and three liters of petrol). After the incident the family was left in the forest. Back in Mvinza village, they reported the case to the police station at Kagera-Nkanda ward. When consulting Kasulu District Council about this, we found that they seem to have no knowledge of the incident.

Actions as described in this example are a clear violation of Article 5 of the Universal Declaration of Human Rights (1948), which maintains that *"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"*, and Article 7 of the same, which states that *"all are equal before the law and are entitled without any discrimination to equal protection of the law"*. The Constitution of Tanzania (section 13) confirms these human rights.

#### Destruction of crops and farms in Makere South Forest Reserve

Reports from Tanzania Forest Services (TFS) in Kasulu district show that during the farming season of 2015/2016, government officials decided to destroy cassava, maize and bean farms located in the Makere South Forest Reserve. Contrary to section 26 of the Forest Act 2002, these farms were located in a forest reserve and hence, should be removed. Almost 150 ha of farms were destroyed. The action left the farmers with no food at that particular farming season and a loss of the capital invested.

Similarly, reports from the village government in Kagera-Nkanda reveal that farms were also removed in 2017, with forest officers destroying 15 ha of farms illegally located in Makere South Forest Reserve.

In 2019, government officials burned down two huts owned by two farmers in areas outside Makere South Forest Reserve. The huts were used as shelter and storage for the farmers during farming seasons. In the huts were 5 sacks of maize (100kg each), a bicycle and clothes which were also burned. The action left the families with no shelter and food.

### *Arrests and confiscation of properties around Malagarasi River*

Fishing is an economic activity which is done in the Malagarasi River. A report from Kasulu District Council shows that 94km of Malagarasi River passes through the hunting block situated in Makere South Forest Reserve. In the hunting block, 50 km of the river is used for sport fishing and photographing. Another 44km of river has been left for fishermen from the surrounding villages, who are allowed to fish with special permits granted by the local government authority.

Despite the fishing permits provided by the authorities, there are reports of unnecessary arrests and violations of human rights by officers when they find fishers in both authorized and unauthorized areas of the river.

In 2019, five men from Kagera-Nkanda village were arrested and beaten by game officers when found fishing in the Malagarasi River near Moyowosi Game Reserve, in an area where fishing is allowed.

According to villagers in Kagera-Nkanda and Mvinza villages, government officers sometimes arrest fishermen even in areas where fishing activities are allowed by the government. The five men were taken to the Moyowosi Game Reserve Office in Kibondo district, where they were ordered to pay fines of 50,000 TZS (22 USD) each with government receipts were provided.

According to section 116 of the Wildlife Conservation Act of 2009, the Director of Wildlife can impose fines between 200,000 TZS (87 USD) and 10,000,000/= TZS (4,347 USD) for an offense committed against the act. The same section (116) indicates that an officer in charge of wildlife on behalf of Director of Wildlife may forfeit of properties used in committing of an offence. However, the 5 bicycles and fishing gear owned by the arrested fishermen were also confiscated by the authorities. The action left the men, who also possessed fishing permits from the village government, with no means of transport and equipment needed to provide an income for their families. They also stated that “they now fear to fish in the Malagarasi River, even in areas authorized by the government”. The fishermen and village government in Kagera-Nkanda still doubt the fines and confiscation of bicycles because the fishermen were arrested in an area where fishing by villagers is allowed.



*Picture 2 : A villager observing his house burnt by Surveyor during interviews in Mvinza village Government Officers in farming areas in Mvinza village*

They also stated that “they now fear to fish in the Malagarasi River, even in areas authorized by the government”. The fishermen and village government in Kagera-Nkanda still doubt the fines and confiscation of bicycles because the fishermen were arrested in an area where fishing by villagers is allowed.

### 3.2.3. Conflicts with the safari hunting company.

#### *Land conflicts*

Reports by the village governments show that there is a land conflict between the safari hunting company and Kagera-Nkanda village on (1) land ownership of Katoto hamlet in Kagera- Nkanda village and (2) the land rights of Mayala Forest Reserve (situated within Makere South Forest Reserve).

The village government of Kagera-Nkanda and Katoto villagers recognize Katoto as a legal hamlet, established before the hunting block. The hunting company, however, considers Katoto as part of the hunting block due to boundary beacons installed in the hamlet as demarcation of the hunting block. Reports from Kasulu District Council explain that Katoto village is classified as general land which is rented to the safari hunting company for tourism purposes. Section 2 of the Land Act 1999 defines general land as all public land which is not reserved land or village land and it includes unoccupied or unused village land. Reserved land includes land that is reserved for forestry, national parks, and areas such as public game parks and game reserves.

Lack of proper information and community participation in decisions on land investment plans, such as during the establishment of a hunting block, have resulted in land tensions in Katoto hamlet, where villagers live in confusion about the legal status of their settlements. Land tensions like this exist in other villages adjacent to protected areas. A study by Legal and Human Rights Centre (LHRC, 2019), for instance, discussed a long-term conflict between Saadani National Park and the adjacent village (Uvinje). Due to non- participatory procedures during the upgrade of Saadani National Park, Uvinje villagers are left in insecurity about their land rights and in constant tensions with the park authorities.

Secondly, during the establishment of the hunting block it was agreed that Mayala Forest Reserve will be managed by Kagera-Nkanda village government. However, in reality the management of the forest reserve seems to be in the hands of the safari hunting block management. The safari hunting company management and Kasulu District Council officers maintain that they are just assisting in the protection of the forest, and that they have not taken away the authority from Kagera-Nkanda village. They insist that when the forest is left to the villagers, they establish farms, kill wild animals and keep domestic animals.

This case shows again how limited awareness and community participation limit villagers' rights to land, creating tensions with private investors and government authorities who are willing to defend their interests.

### *Human rights violations*

According to employees of the safari company and the village government in Kagera-Nkanda, there are several routes inside the hunting block that villagers use, such as the route to Nguruka ward. This route is used by villagers with special permits issued by the village authorities, allowing villagers to pass through the hunting block every Saturday and Sunday. The hunting block management accepts these permits and allows villagers to pass in hunting-free days. Reports from the village government in Kagera-Nkanda reveal that incidents of villagers being beaten by the safari hunting company employees who are in charge of protecting the hunting block occur when passing through the hunting block, even with active permits. Reports from the two villages (Kagera-Nkanda and Mvinza) show that sometimes hunting block employees and game officers in Kasulu district council join forces to conduct joint operations in the hunting block, Makere South Forest Reserves and Moyowosi Game Reserve.

Reports from Kagera-Nkanda village government indicate that in 2017, one man en route to Mgombe village from his farm in Kagera-Nkanda village was arrested by hunting block officers on patrol. They accused him of intruding in the hunting block. The man was beaten heavily by the officers and later he was taken to hospital where he stayed for six months. In response to this claim, the hunting block management commented that they conduct patrols in presence of government officers from Kasulu District Council and all cases are reported to the government authorities.

In another incident in 2019, hunting block and Game Officers caught 5 villagers from Kagera-Nkanda on transit to their farms. En route, the villagers met 5 officers in a vehicle, who stopped them, asking why they are in the hunting block. The villagers clarified to the officers that their farm is located within village boundaries, but the officers declined to accept this. The villagers were beaten, handcuffed and photographed without their consent. They were then taken to the village government in Kagera-Nkanda where the dispute was discussed with the village leaders, to no solution. Subsequently, the arrested villagers were locked up for one day in a police station in Kasulu town, until they were released on bail. At the time of this study, police officers were still investigating the case.

From these examples, it seems that protection actions by hunting block and wildlife officers have created problematic human rights situations in/near the hunting block for villagers from nearby communities. Resolving disputes over land rights, with the participation and information of nearby community, seems a crucial step in the protection of basic rights. Adding a human rights component to trainings of hunting block officers could be another way to prevent human rights violations.

### **3.3. Community conservation and land conflicts**

Community conservation is the participatory process between people and organizations that have rights and responsibilities affecting conservation of natural environments (IUCN, 1996). Community conservation initiatives serve as a bridge between conservation authorities, conservation stakeholders (such as CSOs) and the communities in areas with forests, game reserves or water resources. These initiatives replace traditional conservation programmes in which the government was fully in charge of planning and managing land resources without much voice for communities. Instead, community conservation programmes require communication, cooperation and coordination between all stakeholders involved,

while valuing community's roles in local resource management (IIED, 2019). As such, these programmes have the potential to play a positive role in conflict mitigation and prevention.

Community conservation is an important mechanism to raise awareness on the need for conservation in the rural communities surrounding much of Tanzania's protected areas. In rural areas, people often struggle to provide for themselves and their families. As such, they tend to see natural environments and resources as a way to fulfil their basic needs. However, as demonstrated in this study, communities' activities in conservation areas are often the cause for (land) conflict between communities and conservation stakeholders. To motivate people to preserve conservation areas, instead of illegally exploiting them, the government - in collaboration with private sector actors - has established various community conservation programmes.

Reports from Kasulu District Council reveal that in Mvinza and Kagera-Nkanda villages, a community conservation project on beekeeping was set up by the Belgian Development Cooperation (BTC) between 2013 and 2016 in Makere South Forest Reserve and Moyowosi Game Reserve. The project supplied the villagers with improved beekeeping education, modern beehives, harvesting gear and the establishment of the Kagenza beekeeping cooperative, which coordinates beekeeping activities in both Mvinza and Kagera-Nkanda villages. While the project boosted villagers' ownership of the reserves, and provided them with extra livelihood opportunities, it also faced several challenges. First of all, some beekeepers were not abiding with their contracts and continued to engage in illegal activities such as timbering, logging and crop cultivation. Furthermore, Mvinza village has withdrawn from Kagenza, the beekeeping cooperative, due to its ongoing conflict with government authorities over extra land within the reserves. The fact that all participants to the project have to secure special permits from both village governments and Kasulu District Council to enter the reserved lands for their beekeeping activities also hampers participation in the project.

## 4. Conclusion

Tensions and conflicts about land exist between Kagera-Nkanda and Mvinza villagers and Makere South Forest Reserve and Moyowosi Game Reserve protection authorities. At the core of these tensions lays the conflict between the villagers' need for extra farming lands - making them expand their activities to land within Makere South Forest Reserve and Moyowosi Game Reserve - and the government's task to protect these reserve lands. The tensions and conflicts are linked to unresolved disputes and poor communication about village land demarcation and to human rights violations during conservation law enforcement, such as forceful arrests, imprisonment, beatings, unlawful fines and confiscation of villagers' properties. Land-related conflicts also exist between the villages and the private investor (safari hunting company) that rents a hunting block in Makere South Forest Reserve. Issues of access to land, land demarcation and violations of villagers by company personnel have been reported.

There is a definite need for government authorities to address the outstanding issues on land use, ownership and conservation law enforcement in Kagera-Nkanda and Mvinza villages. The tensions and violations related to the operations of the safari hunting company that rents the hunting block in Makere South Forest Reserve also urgently need the government's attention.

There is also a need for government authorities and conservation stakeholders (CSOs and international organizations) to work together and to improve communication and awareness. Establishing and implementing community conservation programmes could be one way to increase community's conservation of forest and game reserve resources while considering people's livelihood needs. Increased awareness and respect for natural resources, limiting human activity in protected areas, is one step in preventing future land-related conflicts in the area.

Long-term, sustainable solutions to the land tensions and human rights violations recorded in Kagera-Nkanda and Mvinza village will be possible if the government, conservation stakeholders (local and international organizations), private investors and local communities will work together by establishing workable environments for communication, participation and shared responsibilities in favour of the wellbeing of people and protected areas.

## 5. Recommendations

- New community conservation initiatives should be developed, established and supported, which will increase villagers' awareness on conservation and their ownership of the forest resources. This will help to provide alternative livelihoods and, as such, protect the game and forest reserves adjacent to villages.
- Stakeholders at all levels should cooperate to ensure that land demarcation and land use planning processes are held in a participatory manner. This is to prevent future disputes of land boundaries between villages and protected areas, but also to ensure that village land is to the benefit of the villagers rather than outsiders who managed to obtain these lands.
- Clarifications are needed regarding the 2007 boundary verifications of Mvinza village. This is needed to resolve the ongoing dispute on the placement of the new village demarcation beacons and the ownership of village versus reserved land.
- Awareness raising is needed on the rights and duties of different stakeholders in conservation. Conservation officers should be adequately trained to ensure that their actions are in line with the Forest Act 2002 and Wildlife Conservation Act 2009 and do not violate basic human rights. Community members need to be aware of their responsibilities towards conservation, as described by Tanzania's laws.

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## COMMUNITY ECONOMIC DEVELOPMENT AND SOCIAL TRANSFORMATION

The Impact of Arusha National Park to Human rights in Olkung'wado and Ilkirimuni Villages - Arumeru District (Arusha)

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## List of Abbreviations

<b>ANAPA</b>	Arusha National Park Authority
<b>CEDESOTA</b>	Community Economic Development and Social Transformation
<b>GDP</b>	Gross domestic product
<b>IPIS</b>	International Peace Information Service
<b>IUCN</b>	International Union for Conservation of Nature
<b>NP</b>	National Park
<b>TANAPA</b>	Tanzania National parks Authority
<b>TAWIRI</b>	Tanzania Wildlife Research Institute
<b>TZS</b>	Tanzanian Shilling
<b>USD</b>	US dollar
<b>VEO</b>	Village Executive Officer
<b>WMA</b>	Wildlife Management Area

## Executive Summary

Human-Wildlife Conflict is a serious problem in many areas of Tanzania, not only in Arumeru district (Arusha Region). Human population growth combined with fixed availability of resources is often the reason for increased interactions between wildlife and communities. For communities living adjacent or close to protected areas, the situation is especially critical.

CEDESOTA, with support from the International Peace Information Service (IPIS), undertook a case study to explore the causes and consequences of human-wildlife conflicts in Olkung'wado and Ilkirimuni villages that border Arusha National Park in Arumeru District (Arusha Region, North East Tanzania). The objective of this study was to determine the impact of Arusha National Park on human rights and land rights in Olkung'wado and Ilkirimuni villages. The study was carried out using structured interviews with community development officers, village and ward leaders and villagers who are the victims of human-wildlife conflicts and the District Wildlife officer for Arumeru district. The data were collected in Olkung'wado and Ilkirimuni villages and analyzed with focus on Human-Wildlife conflicts, land issues, relations between communities and conservation authorities and community benefits from the proximity of Arusha National Park.

The interactions between humans and wildlife in the two villages have caused neither killings nor injuries to people, albeit livestock was harmed to a lesser extent. Elephants were reported to destroy crops, particularly in 2018/19. This has led to food shortages, thus threatening the right to food as well as to life of communities adjacent to Arusha National Park. Community members perceive human-wildlife interaction as a threat to their life. However, reports to Village Councils and to the District Council often remain without tangible solutions. Compensations are also insufficient to pay for real losses. Land conflicts between villages and villagers were not found to be common. Conflicts do exist between villages adjacent to Arusha National Park and the park's authorities. Relationships between communities and conservation authorities are complicated by insufficient communication by authorities and top-down decision-making regarding conservation practices and requirements, often disadvantaging local community members. Despite these issues, communities are also experiencing benefits from Arusha National Park, including trainings to women groups, opportunities to market goods to tourists, construction of classrooms and a dispensary as well as employment to youth in the tourism industry.

Conclusively, human-wildlife conflicts pose significant challenges to communities living adjacent to protected areas in Arumeru District. These conflicts are a major shortfall for community-based conservation programs. Involving communities in the governance process is essential for sustainable wildlife conservation and provides incentives to communities to assist in the conservation and the protection of wildlife. The introduction of a bee keeping project in the buffer zone areas surrounding the park, could be one of the alternative sources of income which also offers protection to the forest and blocks elephants from the park to enter nearby villager farms.

To ensure effective community participation in conservation and mitigate the effects of human-wildlife conflicts, the study recommends to undertake a review of compensation rates when losses are incurred due to human-wildlife interaction; to create more awareness in communities on their rights and duties in the conservation cycle and on mechanisms to access redress in case of negative impacts; to simplify communication mechanisms between communities and conservation authorities, and to simplify information for communities, to ensure all can participate in conservation and decision-making processes.

# 1. Introduction

National Parks are the most extensive type of protected areas in Africa and globally. They are classified under category II of the International Union for Conservation of Nature (IUCN) categories of protected areas<sup>1</sup>, and represent the highest level of resource protection. Tanzania has designated a large portion of its land as conservation/protected area, which includes national parks, forest reserves and game reserves, amongst others<sup>2</sup>. These protected areas are important assets for the country's tourism industry, which is one of the main pillars of the national economy, contributing 4.7 trillion Tanzanian Shilling (TZS) to the gross domestic product (GDP) of 2017<sup>3</sup>. Despite this fact, local benefits from tourism often remain limited<sup>4</sup>.

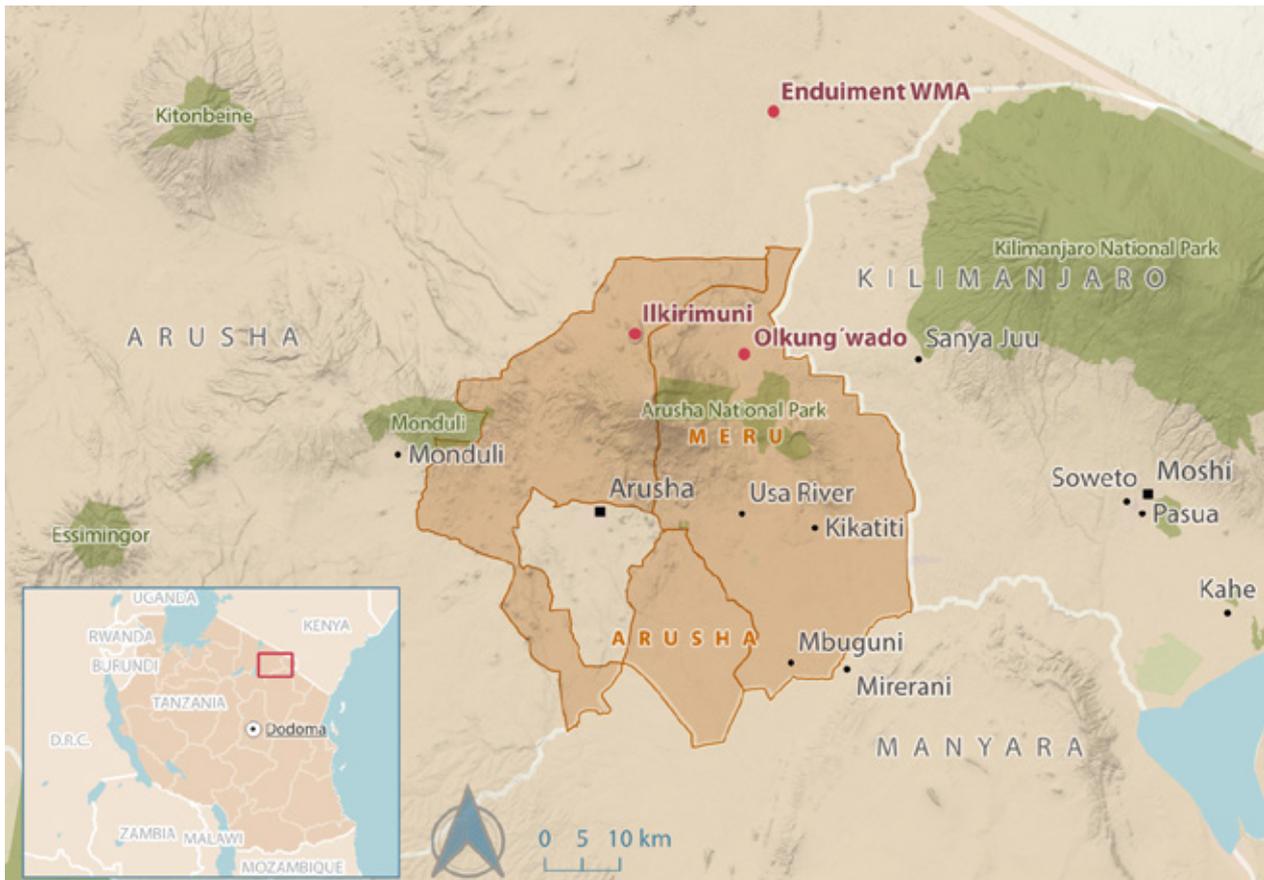
Communities living around protected areas have been in conflict with authorities managing these areas. Often these conflicts are caused by the lack of involvement of local communities in the planning, management and decision-making for the use of land in the area. Misunderstandings are also caused by conflicting needs of the communities surrounding the protected areas – who need land for grazing livestock, firewood, building materials, fodder, medicinal plants, and hunting – and the priorities and mandates of authorities protecting these protected areas<sup>5</sup>.

Human-Wildlife Conflict is another serious problem in many of the communities living around wildlife conservation areas. There, local communities interact with the national park's wildlife in several ways that negatively affect both human and wildlife sustainability. Community members are reported to kill wildlife and to trespass protected areas for grazing activities, cutting grasses (fodder), firewood collection and cutting trees as building materials<sup>6</sup>. Wildlife is known to enter adjacent villages, destroying agricultural crops, land, livestock and human settlements and even causing loss of human lives.

Olung'wado and Ilkirimuni villages in Arumeru District (Arusha Region) are villages where livestock keeping and crop production are the main economic activities. Both villages border Arusha National Park (ANAPA), situated on the slopes of mount Arumeru (north-east Tanzania). The two villages, which are inhabited by Maasai and Arumeru people, were there even before ANAPA was declared as national park. The two villages were chosen as study sites among other villages with human-wildlife conflicts reported. Olkung'wado was picked to represent a village with mainly farmers and little livestock keeping, while Ilkirimuni represents villages with mainly pastoralists and little farming activities.

Human-wildlife conflict seems to be a growing problem around Arusha National Park and can have significant impacts on both human and wildlife populations. These include human rights issues, disputes over land use and conflict with conservation authorities. A scoping study is therefore essential to explore the causes and consequences of the issues and to discuss feasible solutions to address the conflicts present in the communities neighbouring Arusha National Park.

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  - 6 Supra



Map 1 : Localisation of the study area –Olung'wado and Ilkirimuni Vilages, Arumeru District, Arusha Region. Enduiment Wildlife Management Area (WMA) indicated for reference.

## 1.1. Description of the study area

This study involved the villages of Olkung'wado and Ilkirimuni, both located in Ngarenanyuki ward, adjacent to Arusha National Park (ANAPA) on the slopes of mount Arumeru within Arumeru District, Arusha Region (See Map 1).

Olkung'wado village is populated by 10,401 people of which 6024 are women and 4377 men. Ilkirimuni village consists of 1068 people, including 602 women and 466 men. The residents of the villages are predominantly Maasai agro-pastoralists and Arumeru people involved in livestock keeping and crop cultivation as their main economic activities. Population increases force people to require more land for food cultivation and livestock grazing. According to the village leaders, the villages were there even before ANAPA was declared as national park in 1960.

Arusha National Park nests between the peaks of Mount Arumeru and Kilimanjaro (Figure 1). The park was established in 1960 with an area of 552 km<sup>2</sup> in size<sup>7</sup>. The park's landscape includes the Ngurdoto crater, the alkaline Momella lakes with their numerous bird species and Mount Arumeru (4566m), the second highest mountain in Tanzania<sup>8</sup>. Arusha National Park has a variety of flora (from tropical palm trees to highland vegetation), over 600 bird species (forest and mountain birds, water and pond birds) and numerous mammals (carnivores, zebras, hippos, monkeys, hyena, elephants and giraffes).

The Wildlife Conservation Act (2009) puts the Natural Resources and Tourism Ministry in charge of managing wildlife protected areas. Tanzania National Parks Authority (TANAPA) has the mandate to enforce the related laws and regulations and is responsible for the management of 17 national parks in Tanzania, including Arusha National Park. TANAPA is governed by a number of instruments including

7 Tanzania Experience website; <https://www.tanzania-experience.com/destinations/arusha-national-park/>

8 Details at Nomadic by Nature Website ; <https://www.nomadic-tours-safaris.com/english/areas-parks/tanzania/>

the National Parks Act, Chapter 282 of 2002 and the Wildlife Conservation Act No. 5 of 2009. For the aim of power decentralization, the Ministry of Natural Resources and Tourism is represented at the District level under the Department of Land and Environment, which works closely with village authorities. The National Parks Act 2002 (Cap 282) restricts entry, mining and hunting in national parks, unless official permits are sought and given.

## 1.2. Objective of the study

The general objective of this study is to determine the impact of Arusha National Park on human rights and land rights in Olkung'wado and Ilkirimuni villages. This study is a scoping study that focuses on the sources and consequences of human-wildlife conflicts in the villages, which cause further issues such as human rights violations, disputes over land use and conflicts with conservation authorities.

This information will be used to:

- Assess the mitigating measures adopted by the villagers and authorities, if any, to reduce human wildlife conflict in the study area;
- Recommend feasible solutions for the human-wildlife conflicts to different stakeholders.

## 1.3. Methodology

Primary data were collected through field visits to Olkung'wado and Ilkirimuni villages (Arumeru District) from 19<sup>th</sup> to 23<sup>rd</sup> of September, 2019. The process of data collection involved both structured and semi-structured interviews with Ngarenanyuki Ward extension officer (1), village and ward leaders (6), villagers from the two selected villages who are the victims of human-wildlife conflicts (17) and the District Wildlife officer (1) for Arumeru District (**See Annex 1**). A survey questionnaire was developed to guide the discussion in the field and the collection of information (**See Annex 2**). The team also attempted to consult with the Arusha National Park Authority and the Tanzania Wildlife Research Institute (TAWIRI). Meeting requests were however unsuccessful. The data collected were cleaned for consistency and reliability and then analysed. Secondary data included articles and research reports from different scholars, websites by different institutions, including the Ministry of Natural Resources and Tourism, and government records.

# 2. Results and Discussion

## 2.1. Human-wildlife Conflict

### 2.1.1. Human-Wildlife interactions

Information provided by the Arumeru District Wildlife Officer revealed that wild animals often congregate at the Enduimet Wildlife Management Area (WMA) located in Longido district, North of Arusha National Park and Olkung'wado and Ilkirimuni villages (see Figure 1). From there, the animals migrate to Amboseli National Reserve, Natron WMA, Kilimanjaro National Park and Arusha National Park in search of new pastures. The Enduimet WMA is as an important migratory route and dispersal area for many animals, including the African elephant, Buffalo, Giraffe, Leopard, Hartebeest, Bushbuck, Wildebeest, Bushbuck, Hyena and other small animals. For these animals to reach Arusha National Park, they have to pass through several villages and over farmers' lands and crops.

Elephants are the animal species that were claimed by the majority in the two villages to enter their village and eat and destroy crops. This information was also confirmed by the District Wildlife Officer and the ward extension officer. The types of crops reported to be destroyed by the wild animals are maize, banana, cabbage, potatoes and papaya, water melons and finger millets. These are all crops which people depend on for cash and subsistence.

In the entire Arumeru District, about 215 acres belonging to 136 farmers were destroyed in 2018/19, seven (7) out of these are women (widows). The Arumeru District Wildlife Officer added that the elephants' seasonal movements, expansion of agricultural land, and the proximity of human settlements and agriculture to the buffer zones and wildlife corridors increase the possibility for crop damage and human-wildlife conflicts. In the discussion with respondents from the villages, it was discovered that in the study villages, there had not been any reports of killings or injuries to people or livestock by lions, leopards, and buffalo nor by elephants. Only one incident was reported of someone killed by buffaloes in the park while he was on his way to home. Also hyena was pointed out to be the most problematic wild carnivore that attacks goats and sheep, mostly during night times in the villages.

Elephants have been destroying crops grown in the village for years, causing serious food shortage in the areas. For the year 2019, the situation seems particularly devastating, as many people have lost their crops through elephant intrusions and, as a consequence, are suffering from food insecurity. A report provided by the Ilkirimuni village authorities indicated that 31 people in the village reported that their crops were eaten and destroyed by elephants in 2019, from an area of 38 acres of people's farms (**See annex 1**). The destruction amounted to a loss of 27,798,000/- Tanzanian Shillings (TZS) (ca. 12,000 USD), at an estimate of 90,000 TZS per 100 kilogram of maize. Similar conflicts were reported in neighbouring places, including Miririni, Nkwasega and Kandashi villages of Leguruki Ward and also all villages within Ngabobo and Ngarenanyuki wards, all in Arumeru District.

The farmers and local leaders interviewed proposed three drivers that may have escalated this conflict. One of the causes is that both human and wildlife populations have grown significantly in the last 20 years<sup>9</sup>. Due to the increase in the number of people, the demand for land (for settlements and agriculture) has increased substantially. Also, due to controlled poaching, animal populations - and in particular those of elephants - have increased. Thirdly, crops are nutrient dense, and therefore appealing to foraging elephants. The combination of these factors has intensified the problem of human-wildlife interactions in recent years. Respondents also indicated that despite the crop damages by wildlife, they fear hurting these animals. According to the Ward councillor for Ngarenanyuki, Mr Emanuel Nko, "*what they do is just to look for means and ways of scaring them away but we don't hurt them or else we call ANAPA guards for help*". He added that for the past ten years, they do not know of villagers hunting wild animals, although this could be done in secrecy. Human-wildlife interactions, therefore, mainly seem to cause significant food insecurity in Olkung'wado and Ilkirimuni villages. However, this has wider consequences, as food scarcity may impact e.g. health, economic activity, community participation in development activities and school attendance, besides the fundamental right to live.

### 2.1.2. Community Perception and Grievances

In general, the situation is perceived by the communities from the villages under study as severe, but not taken serious by the government. Community members interviewed indicated that they have been reporting incidents to the Village Councils for a long time, but so far no tangible measures have been taken.

Villagers mainly regret that wildlife is seemingly given higher value than their livelihood or life. In their experience, police and park authorities are not responding to reports of wildlife trespassing and they fail to take measures to prevent these incidents. People have reported to Village Councils and reports were sent to the District Council for Arumeru District. However, no tangible measures were taken. Moreover,

9 Nyhus, P. J. () Human-Wildlife Conflict and Coexistence: Annual Review of Environment and Resources, Vol. 41:143-171 (Volume publication date November 2016) First published online as a Review in Advance on September 1, 2016 (see at <https://doi.org/10.1146/annurev-environ-110615-085634>)

compensations paid by authorities are considered insufficient by the villagers (see Section 2.1.3). Hence, they feel that more protection is given to wild animals than to human beings.

### Testimonies

**Case 1.** *“This year elephants came to my farm three times therefore nothing was left in the farm. We reported this matter immediately for compensation to help rescue the hard time we are going through and nothing has been done to date. The government need to be considerate of its people, we passing through a very difficult time”, said one of the respondents and victims in Olkungwado village.*

**Case 2.** *“My feelings are that, wild animals have more value than human beings. When someone kills an animal he will be immediately arrested and charged and highly fined or jailed. When these animals come to our settlements and destroy our properties, no timely and fair compensation is given. I have never seen in my life anyone compensated in our village. The last time I heard of compensation was last year in a neighboring village. Even when we reported the invasions of these elephants sometimes we don’t get help promptly. If the government have failed to protect its people, it should allow to ensure protection on our own”, said Baraka Nassari from Olkungw’ado village.*

**Case 3:** *“I am a widow with two grandsons starving and one of these children is disabled. I have nothing at home to feed these innocent teenagers. What should I do? I cannot grow anything now and get food tomorrow. Very soon I will take these children to the park authority because I have no alternative”, said Anna Shedrack from Ilkirimuni village*

### 2.1.3. Government response and redress

Information provided by the District Council through the District Wildlife Officer had substantial disparity with information from the villages. As indicated above, for Ilkirimuni Village 31 people reported damages of their crops for the year 2019. In contrast, the District reported that for the year 2019, there were a total of 16 claims on crop destructions by elephants. Three claims were from Olkungw’ado and 13 from Ilkirimuni village. In the neighbouring villages, the following numbers of people were affected: 40 in Miririni, 11 in Ngabobo, 18 in Kilinga, 29 in Ngarenanyuki and 22 in Nkwasenga village.

For the year 2018/2019 the District received claims for a total of 215 acres of farm land from 136 people whose crops were damaged through trampling and consumption. Out of these 7 (5%) were widows (see 2.1.2-**Case No.3**). This has led to a total of 14,400,000/- TZS (ca. 6230 USD) that was paid as compensation for losses by the Ministry of Natural Resources and Tourism through the District Council. In Table 1, different categories of compensations are listed. From this, it is clear that most compensations were paid for crop damage (83%) and only one person was compensated for injuries. Compensations are paid in line with the reviewed Wildlife Act No. 5 of 2009. Villagers seemed to be dissatisfied with the compensation structure as it doesn’t reflect the reality of the losses in their lives. The government, however, states that the payment should be seen as a consolation and not a compensation.

Category	Amount to be paid (in TZS)	Rate (in TZS)
Consolation for damage of crops	11,900,000	25,000 per acre
Consolation for loss of life	2,000,000	1,000,000 per life lost
Consolation for injury	500,000	500,000 per person
<b>Total</b>	<b>14,400,000/=</b>	

Table 1. Information from the District report of claim categories to be considered for compensation in the year 2019<sup>10</sup>

1 USD = 2282 TZS. 14,000,000 TZS equals ca. 6230 USD.

According to government directives, when a villager faces wildlife interference, he/she has to first report this to the Village Executive officer (VEO) at the village council. If the matter does not need urgent attention, the VEO will prepare a report to the District Executive Director. The District Executive Director, in consultation with the relevant departments, will prepare a report to be sent to the Ministry responsible for local government, which will take the matter to the Ministry of Natural Resources and Tourism. The same report will be copied to the National Parks Authority. If the matter needs urgent attention, the District Council will take necessary measures needed while following the normal procedures of reporting.<sup>11</sup>

In the discussions with village communities, it was observed that villagers are not fully aware of their legal rights. They also do not know which forums to approach for seeking redress for the problems they face. In Olkungw'ado, for example, community members have not been reporting crop damages to their village authorities. In cases where people have reported damages, they are often not aware of the compensation process. Due to the lack of awareness on regulations and procedures, villagers tend to blame the village authorities for the lack of action and/or compensation on their claims. They are not aware of the roles that other authorities play in dealing with these problems. Overall, this means that it is critical for the government and other actors within the sector to create awareness to communities on the necessary procedures for lodging claims and how claims are acted upon.

#### 2.1.4. Human Rights implications of the conflicts

Most clearly, killings by wildlife are a violation of the right to life. As crop damages lead to serious shortages of food, they also threaten the right to life of the communities adjacent to Arusha National Park. When it comes to seeking justice and redress for losses due to Human-Wildlife interactions, it is important for actors within the sector to put more efforts to advocate for realistic, adequate and efficient redress mechanisms and compensation measures. This should also include putting emphasis on community-based wildlife management.

With a community-based wildlife management approach people will be adequately involved in planning and decision-making processes. This approach is effective at conserving wildlife species as well as alleviating poverty. It is implemented with the assumptions: (i) that the national governments and their wildlife authorities are willing to devolve ownership and management responsibilities for wildlife to rural communities; (ii) that the communities are interested and willing to conserve wildlife on their lands and participate in decision-making processes; (iii) that the communities have the capability to manage wildlife; and (iv) that wildlife conservation and rural economic development are compatible. It's anticipated that adoption of community –based wildlife conservation will bring about various benefits to both wildlife

<sup>10</sup> Interview with the District Wildlife Officer for Arumeru District, 24th October, 2019

<sup>11</sup> Ibid

and communities, such as more power and resources to communities to manage land and wildlife, and participating villages receiving a direct share of income from wildlife tourism.

Overall, communities in the selected villages need attention by the government and need the government to act upon its duty to promote and protect both right to land, food and life of its citizens.

## 2.2. Land conflicts

Villagers living around Arusha National Park have not been free of conflicts over land. There has been a land conflict between Arusha National Park and Olkung'wado village, involving farms No 40 and 41, situated in Momela sub-village. The lands were in the hands of an investor (James Preston Mallory) up to 1979, who failed to continue developing the land (966 acres). In the 1980 the investor's title was revoked and different authorities applied for allocation of this land to them, including Olkung'wado village government and Ngorongoro Conservation Authority. In 1983, the Land Advisory Committee urged the government to dedicate the land (two farms No.40&41), sized 966 acres, to TANAPA for the purpose of expanding Arusha National Park (ANAPA). The Olkungwado chairman, Mr Aminiel Mungure, narrated that despite the government decision, villagers continued to fight to obtain back their land through their political leaders including the then Arumeru District Commissioner. Meanwhile villagers sustained their aspiration of acquiring the land by encroaching on it and constructing permanent houses, schools and churches on the land. TANAPA took this case to court in 2016 where Olkung'wado village communities lost the case and were ordered to vacate the land. Since settlements were developed, discussions continued out of the court between TANAPA, Arumeru District Council and the office of the District Commissioner. This discussion came to an agreement in May 2017 and TANAPA was ordered to apportion 366 acres of the land to Olkung'wado village. Arusha National Park was left with 600 acres, which were immediately demarcated and beacons. Despite this offer, communities in Olkung'wado village are not satisfied with this decision, as they claim that the entire area of land was allocated to the village during the village formalisation operations of 1975/76. The discussion over the land is now closed and the land continues to be governed under the Wildlife Conservation Act, managed by ANAPA.

## 2.3. Relationship between communities and conservation Authorities

Arusha National Park Authority, since its establishment has been working closely with community members from nearby villages. This includes supporting social and economic developments at village level (see Section 2.4). However, despite close collaboration between the park authority and communities in the villages, communication between communities and conservation authorities is very bureaucratic and the decisions are top down. Villagers indicate instances of lacking communication/sharing of information which has excluded them from participating in conservation decision-making processes. This has recently led to a conflict in the boundary zone between ANAPA and Olkung'wado village (Momela Sub village area). There, a 500-meter-wide buffer zone was created in 2017, between Arusha National Park and the village. In this buffer zone, no human activity is allowed including grazing of livestock. However, people have established farms in this zone, with the assumption that they are outside the park and hence, are allowed to use their land to graze livestock and cultivate crops. The Olukng'wado Village Chairman said the challenge is when livestock interacts with wildlife or grazes where wildlife graze, particularly buffalos, warthogs and wildebeest. These animals are the natural host of ticks which are vectors of various diseases which exert a strong negative control over the livestock in the area. Furthermore, when livestock is caught grazing in the buffer zone or inside the park, the owners are instantly fined 100,000 TZS (ca. 44 USD) per single cow, 50,000 TZS (ca. 22 USD) per goat per day. The Olukng'wado Village Chairman also said that the traditional networks of roads which formerly crossed the national park are closed now. Villagers are left with only one road, on which people can only cross between 6.00am and 6.00pm from Ngarenanyuki village town to Ailanga main gate and vice versa. The closing of the road networks was done immediately after the creation of the buffer zone boundary in May 2017. Despite the complaints of people, limitation of times to cross the park is a way of reinforcing

the law that it is prohibited to cross parks, game reserves or controlled areas beyond 6.p.m for security purposes of both wildlife and human beings.

## 2.4. Community benefits from Arusha National Park

Apart from the challenges that community members have been facing in their interaction with wild animals, they have benefited from the proximity of Arusha National Park in many ways. For example, for the mere fact that these villages are situated adjacent to the National Park, more than 30 women groups received trainings on entrepreneurship, microfinance management and on bee keeping from ANAPA. Women from the villages are also provided with opportunities to market their local goods to tourists in the park. Moreover, the park supported 70% of classroom constructions at Olkugw'ado primary school, 2 classes at Momela secondary school and a dispensary in Ilkirimuni village. Moreover, youth from the villages are employed in the park as security guards, gardeners, tour guides and for other tourism services (hotel services, cleaning etc.). The outreach activities have paved a way for dialogue with local communities on protecting park resources and reducing hostility. The support for community-initiated programs complimented government efforts to ensure that local communities benefit from conservation.

People perceive the services provided by the park as splendid. The chairman for Ilkirimuni elucidated that otherwise they could not have dreamt of such facilities in the near future. One woman from Ilkirimuni village said the services that are being provided by the park maintain good relationships between communities and the Arusha National Park authority irrespective of the existing human-wildlife conflicts in the villages.

## 3. Conclusion and recommendations

In this study, the sources and consequences of human-wildlife conflicts were investigated in two villages (Olkung'wado and Ilkirimuni) adjacent to Arusha National Park (Arusha Region, NE Tanzania).

The problem of human-wildlife conflict seems to increase each year and the losses that farmers acquire due to crop damages also increase, especially these caused by elephants. Increased wildlife population in the parks and reserved areas necessitate wildlife migration for pasture and predation. Wildlife migratory routes, through which elephants and other wild animals pass, are all blocked by growing human populations and their human settlements and crop farming activities. Crops are nutrient dense and hence appealing to foraging elephants and other herbivores. The combination of these factors is intensifying human-wildlife interactions in Olkung'wado and Ilkirimuni and other villages in Arumeru district.

Overall, villagers are displeased by the actions taken by the government authorities to mitigate these issues and compensate villagers' losses. Crop damages are leading to increased food insecurity, which threatens people's right to life.

Land conflicts between villagers and the park are only pronounced in Olkung'wado village, where the ownership of a revoked piece of land is still debated between Olkung'wado villagers and the authorities.

Despite the presence of human-wildlife and land conflicts, villagers have maintained a good relationship with Arusha National Park which could be due to the park's outreach services.

For sustainable wildlife conservation, it is essential to put communities at the center of governance processes. Community-based conservation programmes are one example of how to achieve this. Community-based conservation can provide incentives to communities to assist in conservation, including protection of wildlife, and could be used to solicit solutions for wildlife interfering with community's activities and livelihoods. Overall, it can help villagers to be aware of the benefits of conserving nature and hence, reduce community interference with conservation.

Therefore, to mitigate the effects of human-wildlife conflict and to ensure communities' effective participation in conservation the following is recommend:

- **Undertake review of compensation rates.** The compensation payments are insufficient to cover the true costs of the losses incurred. This needs to be amended to reflect the real value of livelihood loss (Ref. Wildlife Conservation Act No. 5 of 2009 & 2013).
- **Local Content and awareness creation.** Communities need to understand their rights and duties in the conservation cycle and how the conservation process will benefit them. They would also need to know how to access redress in case of negative impacts.
- **Review of School Curriculums:** Primary and secondary school curriculums should be reviewed and incorporate human rights issues that relate to land, business or investments including wildlife industry, mining extractives, large scale farmers and others.
- **A need to put in place simplified communication mechanisms between communities and conservation authorities.** The current system of communication between communities and conservation authorities is very bureaucratic and top-down, excluding communities from participating in decision-making processes.
- **Simplified information for community consumption.** Most of the information produced is technical and too complex for most members of the community to understand (e.g. laws, regulations etc.).
- **Use of bottom-up approach:** Solutions for problems should be initiated by local communities in their respective areas. Authorities are invited to take these ideas into consideration and build from them to find sustainable solutions to local issues.
- **Community conservation:** Community-based conservation programs, such as bee-keeping projects can assist in raising incomes of local communities, mitigate effects of human-wildlife interaction and to promote conservation. Bee-keeping projects should be established preferably in the buffer zone near Arusha National Park to minimize the amount of elephants entering the villages and consuming their crops.
- **Maintain migratory routes:** further encroachment and blockage of wildlife migratory routes should be halted, with provision of public education on the effects of wildlife –human interactions to the local people.

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# Annexes

**Annex 1:** List of People affected whose crops have been eaten and damaged by wild animals in Ilkirimuni: the list includes names of victims, types of crops involved, size of the farm, expected size of harvest, current price in the market and the total loss (TZS).

	Kanankira zophani Masani	Mahindi	EKARI	MATEMBA	HARVEST	JUMLA KUU BA
						23,068,000/=
						Million ishirini mbili na alfa Saba na nane tu.
26	Kanankira 2. Masani	Mahindi	1 EKARI 1/2	15	900,000	473,000
27	Barakadi Masani	"	1 EKARI 1/2			+
28	SHEPARDI TITO MASANI	"	1 EKARI 1/2			27,798,000
29	LURA MBELENI MAMBARO	"	1 EKARI 2 1/2		1,350,000	
30	EMANUELI MELKISE ACKO Mwanabari	"	1 EKARI 2 1/2		600,000	
31	GABRIEL WILIAM Mwanabari	"	1 EKARI 2		620,000	
					320,000	473,000
						27,798,000

*Ishirini na Saba Laki sabana tisini na nane eldu tu.*

	ZAD	EMBO	MATEMBA YA MATEMBA GUMU	BEVA	HARVEST
1	JINA KABILI	EKARI			
2	AMINIELI SIFARI	1/2 EKARI	7.5	90,000	675,000/=
3	KANANGIRA NAASI	"	7.5	90,000	675,000/=
4	MIRIWA JIMAFI	NIKURUMU 47	47	10,000	470,000/=
5	EDINGI SHARI	1/2 EKARI 1/2	7.5	90,000	675,000/=
6	EMANUELI MBELENI	1/2 EKARI 1/2	19	90,000	1710,000/=
7	MOSSES NDE	1/2 EKARI 1/2	4	90,000	360,000/=
8	AMINIEL JOSEPHAT	1/2 EKARI	4	90,000	360,000/=
9	SILA NARIKI NKO	1/2 EKARI	4	90,000	360,000/=
10	WILSON SIMON	1/2 EKARI	7.5	70,000	675,000/=
11	JOSEPHAT E NAKO	1/2 EKARI	4	70,000	360,000/=
12	CHRISTOPHER MANYARA	1/2 EKARI	4	70,000	360,000/=
13	ELIZABETH ZAKARIA	NIKURUMU 34	34	10,000	360,000/=
14	JOHN MOSSES	1/2 EKARI 1/2	4	90,000	360,000/=
15	ELIKANA ZAKARIA	1/2 EKARI 1/2	4	90,000	360,000/=
16	ESTOMI KIDALE AKO	1/2 EKARI 1/2	4	90,000	360,000/=
17	CHARLES S. MBISE	1 EKARI	15	90,000	1350,000/=
18	MOSSES SARAKIWA	1 EKARI 1/2	7.5	90,000	675,000/=
19	KANANGIRA LUKA	2 EKARI 1/2	30	90,000	2700,000/=
20	KIDALE NKO	1 EKARI 1/2	15	90,000	1350,000/=
21	NDE ZACK NKO	1 EKARI	15	90,000	1350,000/=
22	JOSEPH MARIYO NKO	1 EKARI 2	15	90,000	1350,000/=
23	UNAMBWE ZACK	2 EKARI 2 1/2	30	90,000	2700,000/=
24	ISMAEL K. MAFI	1/2 EKARI 1/2	7.5	90,000	675,000/=
25	THOMAS U. MBISE	1/2 EKARI 1/2	7.5	90,000	675,000/=
26	ELIKANA Z. MAFI	1/2 EKARI 1/2	7.5	90,000	675,000/=
27	PAULU LAZARO MAFI	1/2 EKARI 1/2	7.5	90,000	675,000/=

**Annex 2: Field work questionnaire**

**CEDESOTA**

INFORMATION ON HUMAN-WILDLIFE CONFLICT IN OLKUNG’WADO AND ILKIRIMUNI VILLAGES- ARUMERU DISTRICT)

(TAARIFA JUU YA MGOGORO KATI YA BINADAMU NA WANYAMA PORI)

1. Are there human-wildlife conflict in your village? /Una uelewa wowote juu ya migogoro kati ya binadamu na wanyama pori kwenye kijiji chako?

- (a) Yes /Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure/Sina uhakika ( )

2. (i) If yes what is the cause? /Kama jibu ni ndio nini chanzo chake?

.....  
.....  
.....

3. (i) When did it started, /Migogoro hii ilianza lini,

- (a) Zamani /long ago ( ) (b) Recently /hivi karibuni (c) I don’t know /Sijui

(ii) How regularly does it occur? /Inatokea mara kwa mara au ni kwa vipindi fulani tu?

- (a) During cultivation /Wakati wa kulima ( ) (b) During crop maturity/Wakati mazao yakiwa yamekomaa ( ) (c) Not sure/ Sina uhakika

4. Is there any damages in terms of income that has been caused by the conflicts to villagers /Kuna hasara yeyote ya mapato ambayo husababishwa na migogoro hiyo kwa wanakijiji?

- (a) Yes/Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure/Sina Uhakika

5. Is there any economic benefits received by communities from living nearby wildlife (National Park)? / Kuna faida zozote za kiuchumi wanazopata jamii kutokana na kuishi karibu na wanyama pori (hifadhi ya wanyama pori)?

- (a) Yes/Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure/Sina Uhakika ( )

6. If yes, mention them/Kama jibu ni ndiyo zitaje faida hizo

.....

7. Is there option for these benefits to increase? /Kuna uwezekano wa faida hizi kuongezeka?

- (a) Yes/Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure /Sina uhakika ( )

8. If yes how? /Kama ndiyo, kwa vipi? Eleza;.....

9. Are their incidences of villagers hunting wildlife?  
 (a) Yes/ Ndiyo ( ) (b) No/ Hapana ( ) (C) Not sure /Sina uhakika ( )
10. Do you think the incidences of hunting wildlife by villagers is related to the human-wildlife conflict?  
 (a) Yes/Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure/Sina uhakika ( )
11. If the answer is yes, what do you think are the species being affected most? /Kama jibu ni ndio, unafikiri ni aina gani ya wanyama wanaoathirika zaidi?.....
12. What is the working relationship between village leaders and park staff? /Uhusiano wa kitendaji kati ya viongozi wa kijiji na viongozi wa hifadhi ukoje?  
 (a) Good/Mzuri ( ) (b) Bad /Mbaya ( ) (c) Not sure/Sina uhakika ( )
13. If bad what do you think is the reason behind?/Kama ni mbaya, unafikiri nini yaweza kuwa sababu?.....
14. If bad, has there been any mitigation measures to resolve the conflict between Arusha National Park and villagers? /Kumekuwa na mikakati yoyote ya kusuluhisha migogoro hiyo kati ya wanavijiji na hifadhi ya wanyama pori?  
 (a) Yes/Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure/Sina uhakika ( )
15. If yes what are they? /Kama jibu ni ndiyo ni mikakati gani  
 (a) Negotiation/Mazungumzo na makubaliano ( )  
 (b) Loss recovery as a result of wildlife damages/Fidia ya hasara iliyotokana na uharibifu wa wanyamapori. ( )  
 (c) Mediation/Upatanisho ( )  
 (d) Any other, mention/Nyingine, taja.....
16. What other human rights related challenges do you face by living nearby the wildlife reserved area? / Ni changamoto gani nyingine mnazozipata kwa kuishi karibu na hifadhi ya wanyama pori?  
 a. ....  
 b. ....  
 c. ....
17. Is there any such conflicts in surrounding villages? /Kuna migogoro kama hiyo katika vijiji vingine?  
 (a) Yes/Ndiyo ( ) (b) No/Hapana ( ) (c) Not sure/Sina uhakika ( )

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