

A STUDY ON OPTIONS FOR PASTORALISTS TO SECURE THEIR LIVELIHOODS IN TANZANIA

CURRENT POLICY, LEGAL AND ECONOMIC ISSUES

Volume One: Main Report

AUTHORS

**Ringo Tenga
Amon Mattee
Ntengua Mdoe
Raymond Mnenwa
Sengondo Mvungi
Martin Walsh**

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This study is an effort to realize the challenge given in 2006 to pastoralist stakeholders in Tanzania by the UN Special Rapporteur Professor Rodolfo Stavenhagen on the rights and situation of Indigenous peoples, where he argued on the necessity of developing options for securing livelihoods in the face of loss of basic resources.

Here the authors present options for Pastoralist livelihoods in terms of current state policies, legal status and economic prospects. The study is commissioned by CORDS, PWC, IIED, MMM Ngarantoni Centre, TNRF and UCRT. It has been funded by CORDAID, TROCAIRE, Ireland Aid and the Wildlife Conservation Society AHEAD Programme. However views expressed herein are solely those of the authors.

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Disclaimer

The views expressed in this study are strictly those of the authors and do not necessarily reflect those of its sponsors and funders.

LIST OF ACRONYMS

| | |
|-----------|---|
| AA | Authorised Association |
| AIDS | Artificial Immuno Deficiency Syndrome |
| AWF | African Wildlife Foundation |
| CBO | Community Based Organisation |
| CCA | Community Conserved Areas |
| CCS | Community Conservation Services |
| CORDS | Community Research and Development Services |
| CSO | Civil Society Organizations |
| DALDO | District Agricultural and Livestock Development Officer |
| DIIS | Danish Institute of International Studies |
| EAC | East African Community |
| EC | European Community |
| FAO | Food Agricultural Organisation |
| GDP | Gross Domestic Product |
| GN | Government Notice |
| GoT | Government of Tanzania |
| HIV | Human Immunodeficiency Virus |
| IIED | International Institute for Environment and Development |
| ILCA | International Livestock Centre for Africa |
| ILRI | International Livestock Research Institute |
| IUCN | The International Union for the Conservation of Nature and Natural Resources |
| IWGIA | International Working Group for Indigenous Affairs |
| LEAT | Lawyers Environmental Action Team |
| LHRC | Legal and Human Rights Centre |
| MGR | Mkomazi Game Reserve |
| MoA | Ministry of Agriculture |
| MNRT | Ministry of Natural Resources and Tourism |
| MKURABITA | <i>Mpango wa Kurasimisha Rasilimali na Biashara za Wanyonge</i> (Programme to Formalise Property and Business of the Poort) |
| MLUD | Ministry of Lands and Urban Development |
| MVIWATA | <i>Mtandao wa Vikundi vya Wakulima Tanzania</i> (Network of Farmers' Groups in Tanzania) |
| NAFCO | National Food Corporation |
| NBS | National Bureau of Statistics |

| | |
|-------------|---|
| NDV | National Development Vision |
| NGOs | Non Government Organisations |
| NLUPC | National Land Use Planning Commission |
| NNP | Net National Product |
| NSGRP | National Strategy for Growth and Reduction of Poverty |
| OAU | Organisation for African Unity |
| PINGOs | Pastoralists Indigenous Non Governmental Organizations |
| PRSPPoverty | Reduction Strategy Paper |
| PWC | Pastoralist Women Council |
| RDA | Range Development Area |
| RDS | Rural Development Strategy |
| SUA | Sokoine University of Agriculture |
| TANAPA | Tanzania National Parks |
| TAPHGO | Tanzania Pastoralists, Hunters and Gatherers Organisation |
| TBS | Tanzania Bureau of Standards |
| TEV | Total Economic Value |
| TNRF | Tanzania Natural Resource Forum |
| TzPPA | Tanzania Participatory Poverty Assessment |
| UCRT | Ujamaa Community Resource Trust |
| UK | United Kingdom |
| URT | United Republic of Tanzania |
| UN | United Nations |
| USA | United States of America |
| USD | United States Dollar |
| VGDA | Village Grazing Land Development Area |
| VGDC | Village Grazing Land Development Committee |
| VLA | Village Land Act |
| WCED | World Commission on Environment and Development |
| WISP | World Initiative on Sustainable Pastoralism |
| WMA | Wildlife Management Areas |
| WTO | World Trade Organisation |

EXECUTIVE SUMMARY

According to the Terms of Reference (ToR) given to Consultants:

“Pastoralism can be defined as an extensive system of animal production that involves varying degrees of mobility where families depend on livestock and their by-products for a significant level of their subsistence and income. Many groups practice different forms of pastoralism in Tanzania ranging from the Maasai in Ngorongoro highlands and Longido plains to the Barabaig. Depending on livestock for a significant level of income (i.e. greater than 50%) as well as some form of mobility are key elements in pastoralism. Freedom of movement is enshrined in Article 17(1) of the Constitution of the United Republic of Tanzania (URT). Mobility is an ecological necessity. And mobile pastoralism is often the best way to manage dry environments sustainably (UNDP, 2003 p.1) and to maximise livestock survival and productivity in such harsh disequilibria environments (TAPHGO. 2003). According to UNDP mobile pastoral systems are more economically productive per land unit than the highly capitalised ranches in northern countries (UNDP. 2003. P. 10), and presumably in East Africa.”

Historically in Tanzania a substantial protein dependency is linked to the contribution of pastoralist livestock production. Yet, as elsewhere in the world, the policy and legal frameworks have largely ignored pastoralist livelihoods.

The options study for pastoralist livelihoods is an initiative aimed at addressing basic flaws in state policy, law and economic management with regard to the pastoralist sector in Tanzania ever since independence. All hitherto policies and laws have carried with them elements of misinformation, xenophobia against pastoralism as a way of life and in some cases outright neglect. This has been done despite the significant position pastoralism occupies in the economy, accounting for at least 14% of the GDP. State policies have focused upon livestock industry in a way which de-emphasizes consideration of human communities that live and sustain their livelihoods as pastoralists. In this way, salient contributions of pastoralism to the ecosystem, the total economic value of its products and services, and the human element as the main objective of governance and development have been glossed over.

Bibliographical data indicates that pastoralism has been well researched, and hitherto there have been more than 100 Tanzanian NGOs involved in one way or the other with pastoralism. The failure of the sector to win acknowledgement in policy, law and economic processes indicates a lopsided understanding of the sector, partly explained by the failure of pastoralists to integrate into the mainstream governance and development structures and processes. Such marginalization has left the fate of pastoralism in the hands of agriculturalists that constitute a majority within the ranks of policy and law makers.

In appreciating this position , CORDS, PWC, IIED, MMM Ngaramtoni Centre, TNRF and UCRT commissioned competent and experienced consultants to carry out a study on **the Economic, Political and Legal Options for Pastoralists to secure their Livelihoods in Tanzania** from August 2007 to December 2007. The consultant team is composed of:

- (1) Dr. Ringo Tenga, team leader (legal component – legal framework)
- (2) Dr. Edmund Sengondo Mvungi (legal component – case studies)
- (3) Professor Amon Z Mattee (policy component = policy framework)
- (4) Dr. Martin Walsh, (policy component = policy case study)
- (5) Professor Ntengua Mdoe (economic/investment component)
- (6) Raymond Mnenwa (economic/investment component).

This team of consultants conducted the study and presented to stakeholders the preliminary findings on 17th November 2007 in a workshop held at Impala Hotel, Arusha. The workshop brought together forty three (43) countrywide participants involving NGOs and among them umbrella organizations such as PINGOS and TAPHGO.

i. What Are The Objectives Of This Study?

In view of the plethora of studies and data that exist on pastoralism, what does this study seek to achieve that has not been covered by previous ones? This study signifies a process of stopping and thinking about pastoralism after more than four decades of independent nationhood. During this period the state has responded to challenges of the day through policies, laws and specific frameworks of economic management. The main thrust of the study is therefore to assess the situation of pastoralists in Tanzania in the light of current and future policy and environmental changes; and, to identify practical responses that will help ensure pastoralism provides a sustainable livelihood to the millions of families who depend on it while contributing to the national economy of the country. Hence, this is a study that gives an overview of knowledge, data and experience that had been gained after more than four decades of research, and activism in the pastoral sector in Tanzania. The terms of reference of this study have delimited the study to cover policy related issues, economic issues and legal issues.

ii. Policy Related Issues

In Policy related issues the study situates pastoralism in the wider debate on the future development of Tanzania. Policies followed by the colonial government are replicated by the independence government and these have resulted in the loss of the resource base on which pastoralists and hunter gatherers have relied upon for generations. Most of the policies were and still are based on the implicit notion that pastoralism is not the most efficient use of land. Rather, other forms of land use have always been given priority over pastoralism (ref. the cases of Serengeti, Ngorongoro, Mkomazi, Ihefu, Basotu, Yaeda Chini etc). As a result, over the years and up to now, pastoralists have continually lost land to other users, as their lands continue to be converted to farm land by small and large scale farmers and to conservation in the form of game parks, game reserves and game controlled areas. Even in the predominantly pastoral Districts like Kiteto, a disproportionate amount of the budget is allocated to crop production rather than to livestock development. In the case of Mbarali, where Dr. Walsh has worked for years and returned to during the currency of this study, research has proved that it is the increase on the use of water during the dry season for agricultural purposes that has caused the

drying up of the Great Ruaha River and Mtera Dam, yet it is the pastoralists who have taken the blame and paid by being evicted from the area.

The study confirms that there has not been any real break from the colonial policies and that hitherto made state policies have not sufficiently involved pastoralists. Because of this major finding, the study identifies the core agents for change being pastoralists themselves and their Civil Society Organisations, and proposes that:

- (a) In engaging with the government, pastoralism needs to be couched more as an economic or environmental issue rather than a livelihood issue.
- (b) A stronger national platform needs to be created for engaging with the government.
- (c) Pastoralists are marginalized also because very few of them are involved in the local political structures, especially at Local Government level.
- (d) The pastoralist lobby must have a stronger presence in Dar es Salaam, perhaps by forging stronger alliances with those activist organisations based in Dar es Salaam but with a national reach. At the workshop a stronger argument was proposed for the formation of a Pastoralist Council in line with what farmers have formed as a National representative organ, namely MVIWATA.
- (e) There has to be a more pro-active and consistent action to influence policy makers and politicians.
- (f) While diversification out of pastoralism seems to be a bad sign, but the reality calls for pastoralist communities to be empowered to get more into the economic mainstream by engaging in various other economic ventures, rather than being spectators in their own areas.

The study takes on board the GoT's Vision 2025 that foresees a future built on a strong and competitive agricultural base and intervenes by putting forth the case for pastoralism in the re-allocation of land for pastoralism. It proposes that Tanzania's extensive drylands should be re-allocated to pastoralism and secured as part of the government's commitment to MDG targets.

iii. Investment Related Issues

Researchers have focused on the concern raised in their terms of reference relating to rising population and a static or declining natural resource base. Specifically, researchers have sought to unveil current trends with respect to land and water use and control in Tanzania today especially for pastoralists. The issue of equitable allocation of natural resources and their conservation for future generations has become a national challenge that needs proper answer. Together with these concerns the researchers have unveiled opportunities and challenges that face pastoralism in meeting domestic and international demands for livestock-based products while sustaining local livelihoods and the environment.

In answering these vital questions researchers have adopted the total economic value model in presenting the economic contribution of pastoralism in Tanzania to the general domestic production. This has been done in terms of direct values – subsistence, internal trade, external

trade, material supply for industry, employment, other socio-economic and cultural factors; Indirect values – inputs for tourism, ecological services for wildlife conservation, small scale agriculture; Option values – in relation to future opportunities e.g. based upon the growth value of natural resources and new opportunities for increased livestock exports based on disease compliance equivalence and existence and bequest values – both global and local.

iv. Legal Related Issues

- (a) The protection of Pastoralist' resource right by legal instruments is still far from adequate.
- ✓ Land rights of pastoralist have depended much on the customary tenure articulated by the colonial state. The new Land Acts have made efforts to incorporate these into right of occupancy system of land holding that is also a creation of colonial law. But an option is now open for protection of Pastoral Lands through formalisation structures within the Village Land Acts following the Models done by the Ministry of Lands in Mbozi District and with MKURABITA in Handeni District. The study gives particular credit to the work on this score done by CORDS, Farm-Africa, AWF and others and urges prompt action to be undertaken for taking advantage of these protections.
 - ✓ The Study has reviewed other current legal provisions and determined how these affect pastoralists' rights such as in the area of Conservation Law and Range Management policy and Law. In conservation the study supports the WMA concept that incorporates pastoralist communities in wildlife areas management. The study gives particular credit to work done by TNRF (Nelson, Stolla, etc.) on this score and urges that the WMA regulations be modelled in such a way that communities are not hampered by over-regulation that finally restricts the launching of well managed WMAs.
 - ✓ In Range Management the Study has reviewed recent initiatives of re-launching the Range Development scheme. The study notes that although this is still 'old wine in new bottles' it is imperative that Pastoralists and their NGOs join in the formulation of appropriate legislative scheme. The study notes the marginalisation of pastoralists and their organisations within the current Draft Bill. The consultants join TAPHGO in calling for urgent action for stakeholders' intervention lest the 1960s and 1970s fiasco on Range Development be repeated again through pretence of following the 'Botswana Model' on Range management.
- (b) In terms of governance at village level the Consultants note the consistent marginalisation of pastoralists in village governments. The pastoralists themselves are guilty of omission where they appear passive in terms of participation. The study notes various studies (Lane, Ernestina Coast, Sanna Ojalammi, Grandin, etc.) indicating the resilience and strength of traditional pastoral governance systems and calling for integration of the same with formal systems within the present Local Government structures and Village Land Act. The study gives credit and support to recent initiatives by PINGOs forum, Norwegian Peoples Aid, OXFAM, etc. in trying to identify and promote an understanding of the pastoral Collective Titling on resource rights (eg. pasture land) and to merge this conception with the current legislative schemes for a realistic and practical inclusion of pastoral communities in protecting resource rights important to pastoralists.

- (c) With regard to gaps in constitutional and legal guarantees on pastoralists' livelihoods the study has identified constitutional and international law guarantees and frameworks that could be used to protect and advance pastoralist interests.
- (d) As regards the litigation options that have been adopted by pastoralists in the last two decades, researchers have suggested that international fora like the African Union Court of Human Rights based in Arusha could be taken as recourse to for cases that have exhausted local remedies.

v. The Way Forward

The Study Team presented its findings to a Stakeholders Workshop which considered the various presentations and considered various issues that could be part of 'think points' for the options study as follows:

- ✓ The livestock Policy of 2006 is not in the favour of pastoralism. Therefore, through lobbying and advocacy, the government must be consulted for a favourable livestock policy in the country.
- ✓ Although traditional pastoralism is mainly for subsistence, it still supports 10% of the population and contributes to 10% of the GDP.
- ✓ Pastoralist economy must be diversified for more subsistence options
- ✓ There was and still is poor involvement of pastoralists and their stakeholders in policy formulation in the country.
- ✓ Pastoralists must be active in local and national politics so that they can actively participate in decision making. Pastoralists must participate actively in politics at all levels starting from the Village Council level.
- ✓ There have been poor lobbying and advocacy by pastoralists NGOs for policy change
- ✓ Pastoralists' issues are mistakenly labelled as Maasai Issues.
- ✓ There must be a liaison office for policy follow-ups at the national centre for policy formulation. This must be done by the umbrella pastoralists' organizations like TAPHGO and PINGOs forum. It should be noted that: 'when we are pursuing policies, we are also pursuing personal interests somewhere'.
- ✓ There has been poor collaboration of pastoralist organizations in the country in addressing common pastoralists' issues. There are about 100 pastoralist organizations in the country but only marginal results were realized for the betterment of the pastoralist community.
- ✓ Pastoralists umbrella organizations do not reflect the country-wide representation of all pastoralists but are mainly dominated by people from the north. Pastoralists in the south, including IIParakuyo are not actively represented.

- ✓ Since legal means for pastoralists have failed to recover their alienated land in areas like Basuto and Mkomazi, other means should be resorted to. Some of these may involve lobbying and advocacy for policy change; and resorting to other courts of human rights nature outside Tanzania.
- ✓ There is *lacunae* in law where pastoralists cases are quashed deliberately and unconstitutionally
- ✓ The Draft of the Range Development Bill 2007 is not in favour of pastoralists
- ✓ There has been confusion between grazing land and public land.
- ✓ Pastoralists NGOs and activists are lacking proper mechanism of information flow on issues of interests to pastoralists. For instance, the movement to evict pastoralist from Usangu/Ruaha Valley started ten years ago by certain tour operators who lobbied to the government for the area to be gazette and elevated to fully fledged national park. Where were these pastoralists NGOs and activists for counter-lobbying?
- ✓ The structure of land ownership for pastoralists is not well known. A proper structure for pastoralists ownership must be well established.
- ✓ Information programmes must be in place through radio and television so as to educate the community on issues of primary concern to pastoralists.
- ✓ There was an observation that the *Study on the Economic, Political and Legal Options for Pastoralists to secure their Livelihoods in Tanzania*, should address the issue of gender, and determine the current position of women in the community.
- ✓ The Study should also show the number of livestock units that are required to sustain the household per year.
- ✓ All pastoralist Ritual Sites like *endonyo-olmorwak* should be legally protected from being alienated by other users like agriculturalists.
- ✓ Proper definition of the term *pastoralist* must be redefined with modern realities.
- ✓ There has been a weakness of pastoralists' umbrella organizations since they exclude agro-pastoralists and pastoralists like the Sukuma. There must be a pastoralists council which unites all pastoralists and agro-pastoralists in the country regardless of ethnicity and geographical location. Let the MVIWATA experience be emulated.

In view of other general directions to all consultants, enumerated in the Terms of Reference and observations at the Stakeholders Workshop the consultants have come up not with a Vision but rather with a core of options that could be used by pastoralists from grass roots level to advance the struggle for their livelihoods. As the main objective of the study, the consultants were required to come up with **recommendations** and a proposed action plan for all stakeholders with an interest in pastoralism as to what are the most appropriate interventions for the future. The action plan forms part of the conclusion and proposes in a tabulated form action items and their timeframes.

The outputs of this study as reported in the main report provide a compact of options that address present and future challenges facing pastoralists in the light of increasing population and decreasing natural resources. It also makes recommendations on how policies and laws could be changed to take on board pastoralist interests by involving them in the re-drawing of policies and laws. The study sees great potential and opportunities for pastoralists to avail of investment opportunities in the prevailing investment climate in Tanzania. The compact of options maps out existing social networks with a common interest in issues of concern to pastoralists. The proposed short term and long term actions for pastoralists, their representatives and other actors in pastoralism have been captured in an action plan annexed as part of the report. The value of the action plan is to enable all stakeholders to identify their areas of activity that flow from the specific recommendations made in this study.

vi. Conclusion

This study was never intended to end all studies on pastoralism. It presents only a moment of stopping and thinking on our past experiences, and presenting challenges and future options. Any of these variables that have not found space in this report should not be dismissed as valueless but should compliment the report and enrich future studies. For the moment however, the consultants are of the view that pastoralism is an essential factor in our political, social and economic relations in Tanzania that we can not afford to ignore. State policies, laws and economic programmes must take pastoralism on board as pastoralism and not as livestock development sector.

1 INTRODUCTION

1.1 Study Objectives

The main objective of the study is to assess the situation of pastoralists in Tanzania in the light of current and future policy and environmental changes and to identify practical responses that will help in ensuring that pastoralism provides a sustainable livelihood to the millions of families who depend on it while contributing to the national economy of the country. It seeks to answer questions such as what are the possible alternatives for securing pastoral rights in the face of unreceptive policy and legal environment (Mattee & Shem, 2006). While accepting the fact that there is paucity of data regarding the value of contribution of pastoralism in the national economy the study suggests an analytical framework that would permit a much more realistic economic evaluation of pastoralism. Mdoe and Mnenwa in the present study advance the alternative thinking based on the framework of Total Economic Value (TEV). Studies that have addressed these questions in various ways are many and some highly current¹. This study hinges on policy, legal and economic issues that provide a basis for stakeholders to see workable alternatives for challenges facing Tanzania's pastoralists today. On legal issues relating to pastoralism in Tanzania Tenga and Mvungi provide a backdrop that arises from both legal practice in courts of law, legislative reform in the laws of Tanzania (land, wildlife conservation, and range development), and protections in the constitution and international human rights regime. In taking stock of some of the core issues there are others that have been left hanging not because they are unimportant but due to the consultants' focus and limitations of time and scope that is natural in this kind of overview. The study should provide a point of reflection for all issues relating to pastoralism in Tanzania and pave the way for a pro-active vision for the 21st century.

Terms of reference of this study is broken into three distinct sections which enabled the consulting team to chart out the study as follows:

1.1.1 Policy related Issues

Here the task given to the Team is:

- To situate pastoralism in the wider debate on the future development of Tanzania
- Related to the above is the question of how policies are formed

¹ Little, et al., 2007 "Challenging Stereotypes: The Multiple Dimensions of Poverty in Pastoral Areas of East Africa" (ILRI, *ssrn_id997623*); Odhiambo, Michael O., 2002 "Advocating for Land Policy Reform in Kenya, Uganda and Tanzania: NGO Lessons and Prospects" (RECONCILE, Nakuru).

- To outline an understanding of the directorates of Ministry of Livestock, Ministry of Regional Administration and Local Government, Ministry of Lands and Human Settlements, Ministry of Natural Resources and Tourism and Ministry of Finance
- To identify political and policy instruments that are of relevance to the pastoralist debate today

The GoT's Vision 2025 foresees a future built on a strong and competitive agricultural base – how can pastoralism as an effective and efficient user of scarce resources in Tanzania's extensive dry lands contribute to the governments MDG targets?

1.1.2 Investment related Issues

The Terms of Reference tasked the Study Team to revisit issues relating to general economic aspects of pastoralism in Tanzania, and in particular –

- Given rising population and a static or declining natural resource base, what are the opportunities and challenges for pastoralism in meeting domestic and international demands for livestock-based products while sustaining local livelihoods and the environment?
- Related to investment provide an overview of the total economic value (TEV) of pastoralism in Tanzania
- Comparing tourism and pastoralism economically:
- Related to investment is the question of opportunities for pastoralists to avail of investment opportunities. Which priority investment sectors impact on pastoralism currently and in the future

The Consultants focus on the concern raised in their terms of reference relating to rising population and a static or declining natural resource base. Specifically, consultants have sought to unveil current trends with respect to land and water use and control in Tanzania today specifically for pastoralists. The issue of equitable allocation of natural resources and their conservation for future generations has become a national challenge that needs proper answer in the face of internal displacement of pastoralists in Ihefu/Mbarali, Mkomazi, Hanang and omnipresent threats of evictions in Ngorongoro. Together with these concerns the consultants have unveiled opportunities and challenges that face pastoralism in meeting domestic and international demands for livestock-based products while sustaining local livelihoods and the environment.

In answering these vital questions Prof. Mdoe and Raymond Mnenwa have adopted the total economic value (TEV) model in presenting the economic contribution of pastoralism in Tanzania. This has been done in terms of direct values – subsistence, internal trade, external trade, material supply for industry, employment, other socio-economic and cultural factors; Indirect values – inputs for tourism, ecological services for wildlife conservation, small scale agriculture; Option values – in relation to future opportunities e.g. based upon the growth value of natural resources and new opportunities for increased livestock exports based on disease compliance equivalence and existence; and, bequest values – both global and local.

1.1.3 Legal Issues

The Study team is tasked to review the following legal issues:

- To review, assess and document the status, provisions and application of the principle legislation, acts and directives that affect pastoralists and the security of natural resources which have benefited them until now.
- In relation to current laws which are relevant to pastoralists e.g. land laws, what are the relevant laws that could be utilised by pastoralists to secure their rights?
- Examine internal governance structures at village level and how these structures have led to governance failure. Look at the interplay between formal and customary institutions.
- In the light of the **evictions** of pastoralists in Ihefu, Southern Tanzania and the pending evictions in Ngorongoro, find out the impact of these evictions on pastoralists and advise on what actions can be taken locally and internationally to prevent such evictions in the future
- How can pastoralists bring this issue forward to international fora like the African Union Court of Human Rights, The International Court of Justice?

The Study Team has made a general review of the core laws that affect pastoral livelihoods. This is done by Tenga and Mvungi under Section 2 of this Study. The laws that are reviewed relate to governance (Local Government Acts), Land law (the Village Land Act), Conservation laws, and proposed Grazing/Rangeland Management Acts. We also consider case studies of the widely publicised cases of the Barabaig pastoralists of Hanang District and the Mkomazi Eviction Case where lessons are derived about the conduct of cases in defending pastoral resource rights and the perplexing negative attitude of the courts. Finally an assessment is made for alternatives through constitutional rights cases (right to livelihood) and chances open to pursue these perennial issues in international fora, e.g. East African Court, the African Court of Human Rights and the UN Human Rights avenues.

1.1.4 For All Consultants

The Terms of Reference to Study Team indicated that some consideration be given to some cross-cutting issues to all consultants and these were enumerated as follows:

- What are the longer term data and research requirements that are required to assist pastoralists and their support organisations;
- To identify key actors/organisation/academic institutions with common interests with pastoralists e.g. small farmers, fishermen, small scale miners so that alliances could be formed with these actors to focus on the common interests of pastoralists and these actors – MVIWATA springs to mind.
- Based on the discussions with different stakeholders, to propose a vision for the future of pastoralism in Tanzania including a vision statement for discussion among pastoralists and their supports

- To come up with recommendations and a proposed action plan for all stakeholders with an interest in pastoralism as to what are the most appropriate interventions for the future with particular focus on:
 - Lobbying and advocacy work – especially to help pastoralists to secure rights over their livelihoods. As part of this it is important to identify partners outside the country for support in this area as well as strategies that will help pastoralists to secure their rights even if they have won their case in Tanzanian courts of law;
 - Service delivery – what are the most appropriate ways to assist pastoralists with services for those interested in that area of support;
 - Evictions – what is the best and most appropriate way to respond including linkages with institutions outside the country;
 - General tactics for political engagement – traditionally pastoralists have taken a hostile approach to Government and their policies. Is this the most appropriate response and what are more suitable ones – infiltration, subversion, confrontation etc.
 - Investment opportunities – what opportunities exist in the current and possible future investment climate in Tanzania for pastoralists and how to avail of them.

In the light of the above the study team is tasked to come forward with a set of proposals on how pastoralists, their representatives, civil society actors, donors and indeed anyone who is sympathetic to pastoralists can best respond to the challenges. To consider further if there is a possibility of pursuing court cases there is need to identify which legal instruments and potential actors can help in pursuing this avenue and which actors are worth networking with and around what issues etc. This has been presented here in the study and in detail by presentation made by Mattee on policy and Mvungi on legal and constitutional remedies.

1.2 Expected Output(s)

Based on the study, analysis of available data and discussions with different stakeholders, the researchers were tasked to come up with **recommendations** and a proposed action plan for all stakeholders with an interest in pastoralism as to what are the most appropriate interventions for the future. The outputs of this study provide the following details:

- Present and future challenges facing pastoralists in the light of increasing population and decreasing natural resources;
- Mandate, jurisdiction and application of existing laws including the constitution
- Current policy making practices and policies and how pastoralists can exploit them to their advantage
- Potential opportunities for pastoralists to avail of investment opportunities in the prevailing investment climate in Tanzania
- A map of existing social networks with a common interest in issues of concern to pastoralists
- Proposed short term and longer term actions for pastoralists, their representatives and other actors in pastoralism to ensure that the natural resources which have benefited them to date will continue to do so in the future.

As part of the report, there is annexed herewith, an action plan on how to bring forward specific recommendation particularly short term actions as well as some long term ones.

1.3 How the Study was conducted

This study is developed from a joint effort between CORDS, IIED East African Programme and Tanzania Natural Resources Forum (TNRF). CORDS and IIED-EAP undertook the responsibility for recruiting consultants for the legal aspects and one consultant for the policy aspects. TNRF took the responsibility for the investment aspects of the study as well as sourcing one consultant for the policy aspects. CORDS and IIED-EAP funded the bulk of the study while TNRF provided funding for one consultant on policy issues and one consultant on investment.

Benedict Nangoro undertook the responsibility of managing and coordinating the study on behalf of CORDS/IIED East African programme with assistance from Alais Morindat and Dr Eamonn Brehony. Dr Andrew Williams, of TNRF undertook the responsibility for the investment part of the study.

The action plan that has been generated from the study is a key document that would guide critical interventions as well as providing a tool for monitoring the implementation.

1.4 Timeframe and methodology

The study was conducted between August and November 2007 and each researcher took at least seven weeks of preparation, field work, debriefings and writing the report. Out of these, five weeks were used for fieldwork. As most of the information on trends was sourced in Dar es Salaam, Kilosa, Mbeya, Manyara Region and Arusha from both official government sources, desk and field studies. The consultants read relevant project documents; visited project sites in Mbarali districts (re evictions), Ngorongoro district, Monduli district, Mkomazi, Arusha, Katesh, and Kiteto districts where they met stakeholders at various levels, and debriefed them on findings through a workshop in November 2007 before coming up with this final study report.

The Team followed an open-ended triangulation methodology by firstly developing an open ended interview framework and then involving three kinds of stakeholders - organisations dealing with pastoral issues, the Initiators of the Study and a stakeholders' engagement on initial findings. A desk study on available literature being a necessary pre-condition time was taken to do so.

1.5 Study Team

The study team was composed of consultants from Cambridge University, University of Dar Es Salaam, and Sokoine University of Agriculture (SUA), with expertise and experience in law, policy making and economic management and investment. Consultants were Dr Ringo Tenga for the legal aspects and who also acted as team leader, Dr. Edmund Sengondo Mvungi a constitutional lawyer retained to formulate possible constitutional and remedies that are of

interest and concern for pastoralists, Prof. A. Z. Mattee and Dr Martin Walsh for the policy issues and related case studies, and two economists Prof. N.S.Y. Mdoe and Raymond Mnenwa who carried out economic management and investment issues study.

1.6 Reporting

This final report which is the total output of the study that includes: the Executive Summary; Main study findings and Observations; Conclusions and Recommendations is presented as Volume One. The Annexures to the report which contain uncondensed versions of the scholars' reports are presented as Volume Two.

2 POLICY RELATED ISSUES

2.1 Current Policies and Policy Making Practices

2.1.1 The Policy – Making Process in Tanzania

In order to influence policy, it is important to understand policy and the policy processes that result in certain decisions at various levels. In general terms, a policy is a statement of guiding principles and goals in addressing a certain issue. In the public arena, the policy would ideally be a means for citizens to hold public institutions accountable for their actions concerning issues of public interest. However, this is not always the case as the policy processes are often quite complex. On the one hand, policy making is seen as an objective logical process by “policy makers” who are expected to act rationally and dispassionately in the “public interest”. Most government policies are perceived as being formulated in the public interest, which then makes it difficult to challenge them, as that would be interpreted as working against the public interest. In reality however, many such policies arise from a centralized system that often promulgates policies in which “the poor are seen not as beneficiaries of policy, but as agents of environmental destruction.”² Furthermore, often policy serves more to legitimize what is taking place, than to direct what might take place.

This popular notion of policy is in contrast to the view that sees policy processes as political processes that are embedded in power relations and institutional politics.³ This view sees the policy making process as involving not only “policy makers”, but a range of stakeholders, each of which must lobby to advance their interests within the policy. The implication of this then is that the eventual policy outcome is a result of several factors, including power relationships (the politically stronger carries the day) among the stakeholders. In this case, overlooking the role of power in any policy engagement is likely to lead to failure.

Even where a policy has been formulated, it may not be implemented. The implementation of policy is often influenced by politics, internal dynamics of the implementing institutions, as well as their structural positioning. Individuals also have a key role on either catalyzing or inhibiting institutional change, which means that policy engagement must also focus on micro-politics of how decisions are made within an organisation and the consensus required for different kinds of actions. Often, trusted and sympathetic individuals are the key to effective communication and learning processes.

In Tanzania policies are usually proposed as a response to addressing and overcoming identified problems. The whole purpose is to try and ensure that root causes of the

² Brown and Amanor, 2002

³ Brock and Harrison, 2006

problem are identified and subsequently addressed in the design of policy. Generally, ideas may originate from individuals, communities, organisations, public or private institutions and other interest groups such as Trade Unions, Chambers of Industry, Commerce or Agriculture, professional associations, Farmers Organisations and NGOs. These ideas are then worked up to become policies.

The policy development process in Tanzania is supposed to use a bottom – up approach and to be participatory and consultative so as to ensure that people’s views are accommodated. The process starts with recognition of a problem that needs to be solved. Having identified a problem what follows is identification of stakeholders upon who this problem impacts the most, and the roles of different stakeholders in addressing the problem and reaching a solution. All key stakeholders i.e. government and its institutions as well as key actors in Regions, Local Government Authorities and local communities have the right to take part in the process.

Stakeholders participation is advocated right from the early stages of the exercise to make sure ideas are shared and supported by all stakeholders. Participation may be effected through various methods including interviews and dialogue with various people (individuals or groups), workshops and round table meetings. The mass media may also be closely involved through publishing special articles and features in newspapers, discussion in radio and television programmes. The participatory approach is advocated in order to ensure policy papers are comprehensive, relevant and addressing stakeholders’ views.

Participation is supposed to be broad based, i.e., to include stakeholders at all levels. However, in practice not all stakeholders can fully participate in the policy process. Although officially all policy formulation must involve a certain degree of stakeholder consultation which ideally should provide the opportunity for all interested parties to air their views and provide an input into the process, in reality it is the government that decides which stakeholders to consult. Furthermore, consultations are mostly in terms of reacting to what has already been proposed by government, which is then presented as a draft policy document to a ‘stakeholders’ workshop’ that is organized to react to the draft. More often than not, the draft is in a language that may not be easily accessible to the general public, or the stakeholders may not have been given enough time to digest and consult those that they represent before giving their views. A further limitation of this approach is that there is no way of ensuring that stakeholders’ views are actually incorporated in the final document, or if they are incorporated, that actions will match the policy. At any rate, the formal process of policy making presents an opportunity for well organized civil society organisations including pastoralist NGOs to present their views and suggestions on any policy under formulation. The problem so far has been the fragmented nature of these NGOs such that there can not be an organisation which can be said to represent the consensus view of the pastoralists, and often government officials make random choices as to who to consult among pastoralists when formulating policy.

There are two main levels of policy making: national and local government level.

vii. National level

At national level there are macro or cross cutting policies, sector policies as well as sub sector policies. Macro or cross cutting policies are those policies whose implementation involves several ministries or cuts across several sectors. The Tanzania National Vision 2025, The National Strategy for Growth and Reduction of Poverty (NSGRP) and several other economic policies provide the overall framework for the formulation and implementation of other (sector) policies. The responsibility for formulating these policies lies with organs like the President's Office, the Vice President's Office, the Prime Minister's Office, Ministry of Finance or Ministry of Planning, Economy and Empowerment.

The design and formulation of sector policies is the responsibility of respective sector Ministries. These Ministries have the mandate to formulate sector policies and to monitor their implementation and impacts. The approach used in the formulation of sector policies is supposed to be participatory. Ministries may form Task Forces or Committees under supervision of the Policy and Planning Divisions to review the performance of their sectors and prepare the framework and policy statements. The Task Forces or Committees normally constitute the Technical teams. The technical teams are usually composed of ministry staff together with other staff who may be drawn from various implementation organs including local government authorities, research and training institutions, NGOs, occasionally from the private sector and farmers' organisations. The technical teams are supposed to bridge the gap between policy makers and implementers, so as to ensure the smooth implementation of the policies. The technical teams will solicit views from major stakeholders e.g. ministries, institutions, the private sector and NGOs and later organize workshops to confirm their stands on various issues raised. A series of workshops are set for editing, finalization and preparation of a final copy to be presented to the government for approval. This is another opportunity which can be exploited by pastoralist NGOs in presenting their inputs to the process of policy making either through participation as members of the Task Forces or by making formal submissions to such Task Forces. This, however, assumes that the pastoralist NGOs are in close and constant contact with the centers of government decisions, in order to always follow what is going at any one time.

A Department within a sector Ministry may also formulate a sub-sector policy within the framework of a sector policy, on a particular aspect as the need arises. The Livestock Policy that has just been completed, the Crops Policy and the National Food Security Policy that are currently under preparation are sub-sector policies within the framework of National Agricultural and Livestock Policy of 1997 and the Agricultural Sector Development Strategy (ASDS) of 2001. The process and institutional framework of formulating sub-sector policies is similar to that of formulating sector policies.

After having been considered at Ministerial level, sector and sub-sector policies are then sent to higher policy making organs namely the Cabinet Secretariat where they are discussed in depth before being forwarded to the Inter – Ministerial Technical Committee (IMTC) which comprises of Permanent Secretaries from all government ministries. The main interest here is to make sure the proposed policy is in harmony with other policies that are currently operational in other sectors. From the recommendation by the IMTC, the policy paper is submitted to the Cabinet. The

submission can be accompanied by appropriate research documents for government, Cabinet, and Parliament members to read alongside the policy paper.

The Cabinet discusses the policy paper submitted by the Sector Ministry and takes a common position, which becomes a blue print for implementation. Once the policy is approved by Cabinet it is submitted to Parliament for information, although Parliament may comment on the policy and advise the government should there be need to improve the policy. The Cabinet may also feel (or upon request from the Sector Ministry) that the proposed policy contravenes existing laws or there is a need to enact a law to implement the policy. The Cabinet may then decide to refer the decision to the Parliament to either enact or amend the existing law(s).

The Parliament then debates the Bill submitted by the Government and may either approve or reject it. However, before the Bill is presented to the full Parliament, it is first considered by the relevant Parliamentary Committee (pastoralist issues are under the Parliamentary Committee for Natural Resources and Environment) which reviews it in detail and advises the Parliament on any shortcomings that may need to be addressed before it is passed. The Parliamentary Committee may receive views, suggestions or objections on the Bill from any interested person or organisation. This is another area where opportunity exists for pastoralists organisations, if well informed and well organized, to influence members of Parliament on specific policy proposals from government that may have an impact on their livelihoods. Once the Parliament has enacted a law and the Act assented by the President, the judiciary interprets that law. Implementation of the law can be effected once subsidiary legislation (or Regulations) is in place and gazetted by the relevant Minister. The Figure below illustrates the formal process of policy making at national level.

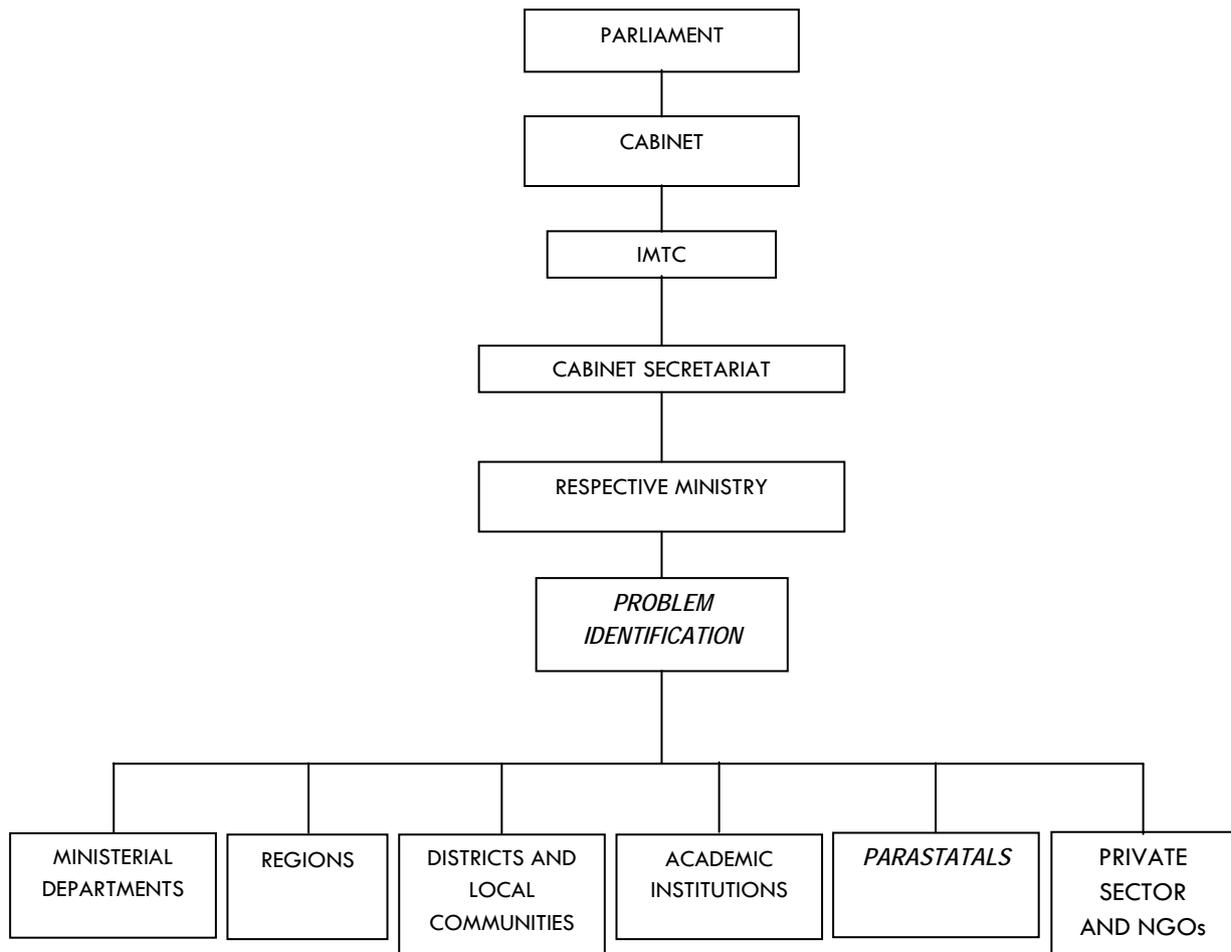


Figure 1: The Policy Development Process in Tanzania

viii. Local Government level

Following the government’s decision to decentralise some of its functions to lower level, through the Local Government Act of 1982 and the Regional Authorities Act of 1997, the Local Government Authorities at District, Municipal and Village level are empowered to formulate their own policies that may be passed as legally-binding by-laws. A by-law may be for addressing a particular issue or problem, for facilitating or regulating certain activities. Many local authorities, for example, have by-laws for regulating the movement of livestock in their respective areas, for regulating the exploitation of natural resources such as water, land and forests, as well as by-laws for facilitating the collection of revenue from various sources in the form of taxes, levies or cess.

Usually, the idea of formulating a by-law by a village or ward is raised by a staff member or a member of the community in a public forum. The idea is presented to the relevant village government committee for further discussion and endorsement, before being submitted to the village government and eventually the Village Assembly, for approval. A draft village or Ward by-law is presented to the Ward Development Committee, where amendments may be made

before submission to the full District Council for final approval after which it may be applied by the concerned village.

Likewise, at District or Municipal level, the proposal for a by-law may come from one of the technical departments of the Council, or from members of the public directly or through their Ward Councillors. The proposal has to be discussed by the relevant Council Committee before it is presented to the full Council for approval. A District by-law must be approved by the Minister responsible for Local Government before it can be applied.

The Local Government Act also empowers the Minister responsible for Local Government to pass by-laws that may apply to all or some of the local government authorities depending on the issue being addressed.

All policies (including unwritten policies) and by-laws are eventually operationalised through the day to day decisions and actions of leaders and staff at the various levels of the local government authorities, which may support or infringe on pastoralist livelihoods in various ways. These decisions and actions are reflected in the development programmes and strategies that are pursued by the local government authorities. By and large, these have reflected the inbuilt bias against pastoralism even in the predominantly pastoralist areas. For example, in Kiteto District, where the predominant livelihood is pastoralism, with livestock contributing 54% of the District GDP, and numbering about 340,000 cattle, goats and sheep, the decisions and actions on the ground do not reflect this. The District does not have a single Veterinary Officer, while the few extension officers are posted at the level of the Ward. Only 19 out of 50 villages have any access to extension services. Out of the 66 staff required, only 32 are on post, leaving a deficit of 34 staff. The situation is the same for most of the other pastoralist Districts. Furthermore, a review of the District Agricultural Development Plan and Budget (DADP) for 2007/08 to 2009/10 for Kiteto District Council shows the District Mission as “(to provide) quality service to its people through preference made by the people themselves and so involving them in planning and implementation of development activities in accordance with the requirements of good governance. This is in line with the National Poverty Eradication Strategy, which aims at involving the people, especially the poor in identifying, planning, implementing, monitoring and evaluating poverty eradication programme”.⁴ Yet in a community where the majority is livestock keepers, about two-thirds of the DADPs budget for 2007/08 is directed at supporting crop production!

One of the major challenges identified in the Plan is that “...due to uncontrolled grazing, uncontrolled livestock movement plus grazing on cultivated land and lack of proper land use management plans, has resulted into escalating of land use conflicts by different land users competing for access to land”. The historical fact is that land use conflicts have not been brought about by uncontrolled movement of livestock, but by the uncontrolled migrations of crops farmers from other Districts into Kiteto District! It had been a policy of the then Arusha Region to regard the pastoral areas of Simanjiro and Kiteto to be expansion areas for surplus people from the

⁴ Kiteto District Council DADP 2007/08 – 2009/10 pg 16

densely populated Districts like Arusha and Meru.⁵ More recently, the District has seen an influx of immigrants from other areas like Babati, Kondoa, Kongwa, Kilosa and Same Districts, all seeking to open farms in areas that were exclusively for grazing, and these are the ones that have exacerbated land conflicts.

2.2 What drives policy in Tanzania?

In principle, government policies are supposed to address issues that improve the welfare of the people, and for a country that is committed to eradicating pervasive poverty, policies are expected to be pro-poor. However, given that the country has embraced economic liberalization, many policies have been formulated to facilitate economic liberalism in all its dimensions. Some of the forces that currently drive policy decisions include:

2.2.1 Commercial/Economic interests

The government is currently promoting the commercialization of agricultural production, including that of livestock. The National Livestock Policy of 2006 for example, seeks to promote the commercial production of beef and dairy cattle, sheep, goats, poultry and pigs. The desire to commercialise goes hand in hand with steps to strengthen the private sector, which is supposed to drive the commercialization process. The government has accordingly facilitated the formation of the National Private Sector Forum, the Investors Round Table of Tanzania, the Tanzania National Business Council, and Regional Business Councils in all the Regions of Tanzania. All these are forums that are expected to negotiate with the government to ensure that commercial interests are well accommodated in national policies.

At the local government authority level, District Councils and village governments have adopted policies that are meant to attract private investors to their areas. Often such policies relate to allowing the exploitation of the natural resources (land, forests, wildlife etc) by these private investors, in return for payment of 'royalty fee' to the District or village. In Ngorongoro and Monduli Districts, for example, private tourist operators and professional hunters are now allowed to acquire large tracts of land, to set up tourist camps and to enter into contracts with village governments, even without the involvement of the relevant District Authorities. The promotion of Wildlife Management Areas (WMAs) under the Wildlife Act is also meant to facilitate the exploitation of wildlife through the collaboration of the local communities.

Environmental Conservation interests

Environmental conservation has been a major factor in the promulgation of policies that have impacted negatively on pastoralists. The Wildlife Policy of 1998, the National Environmental Policy of 1997, the Wildlife Act of 2003 and the proposed Grazing Areas Act, all seek to protect from degradation and to regulate the use of the natural resources that have traditionally

⁵ Ole Lengisugi, 1997

been used by pastoralists.⁶ These policies have, by and large, worked to the detriment of pastoralists, who have consistently been blamed for environmental destruction of the natural rangelands, and for which the government is determined to stop.

Political interests

Often, political imperative drives the formulation of a specific policy. This is sometimes in response to an intensive, broad-based and highly visible lobbying on a particular issue. The National Gender Policy was in response to intensive international and national lobbying that brought the issue of gender to the attention of policy-makers. Walsh⁷ argues that the decision to evict pastoralists from Mbarali, while justified by the need to conserve the environment, in actual fact it was driven by the need for the government to be seen to take decisive steps to address the critical power shortage which was becoming too politically sensitive. In fact, the evictions in Mbarali as described by Walsh demonstrate the convergence of conservation, commercial and political interests that reinforced each other and provided the impetus for the government's decision. The implication is that in order for government policies to be favourable to pastoralists, the government must be made to see the economic or commercial, political or conservation value of pastoralism.

2.3 The Impact of Policies on Pastoralist Livelihoods

Historically, pastoralists have been marginalized socially, politically and economically. Sorensen (2006), documents how colonial and post-colonial policies have marginalized pastoralists and hunter gatherers over time. Many policies pursued by the colonial government and the Tanzanian government have resulted in the loss of the resource base on which pastoralists and hunter gatherers had relied on for generations⁸. Most of the policies were and still are based on the underlying notion that pastoralism is not the most efficient use of land. Rather, other forms of land use have always been given priority over pastoralism (ref. the cases of Serengeti, Ngorongoro, Mkomazi, Ihefu, Basotu, Yaeda Chini etc). As a result, over the years and up to now, pastoralists have continually lost land to other users, as their lands continue to be converted to farm land by small and large scale farmers and to conservation in the form of game parks, game reserves and game controlled areas. Even in the predominantly pastoral Districts like Kiteto, a disproportionate amount of the budget is allocated for crop production rather than to livestock.⁹ In the case of Mbarali, research has proved that it is the increase on the abstraction of water during the dry season for agricultural purposes that has caused

⁶ Mattee and Shem, 2005

⁷ Walsh, 2007

⁸ see for example, Ole Ndaskoi ,n.d. The Root Causes of Maasai Predicament

⁹ Kiteto District, DADP and Budget, 2007/08 – 2008/09

the drying up of the Great Ruaha River and Mtera Dam, yet, it is the pastoralists who have taken the blame and paid the price by being evicted from the area.¹⁰

Likewise, reviews of other policies¹¹ reveal the low appreciation of pastoralism by government officials and the wish for pastoralists to settle and to modernize livestock production. Likewise, most policies favour other land uses rather than pastoralism. The net effect of these policies is the alienation of land on which the pastoralists had depended for their livelihood, as large areas of land have been given over to alternative uses of land, and the pastoralists have become economically marginalized. The growing pressure on the shrinking pastoral resources has resulted into (sometimes violent) land conflicts often exacerbated by vested political interests.¹²

The decline of pastoral lands is leading to increased numbers of pastoralists to move out of pastoralism and to diversify into other economic activities, including crop farming, petty trade, and urban wage employment mostly as watchmen.¹³ However, outside pastoralism, the pastoralists remain on the fringes of the national economic activities. Those that remain in pastoralism are becoming increasingly vulnerable to stresses, including drought, disease outbreaks, unpredictable market forces and political pressures from more powerful interests.

2.4 Map of existing social networks with a common interest in issues of concern to pastoralist livelihoods

Pastoralist livelihood issues revolve around ensuring access to productive resources especially land and water, access to support services, especially livestock extension and health services, markets and infrastructure, access to social services, especially health, education and potable water, and participation in the decision – making processes and structures. From this perspective, there are many organisations working on these issues. However, there are those organisations that are working directly to support pastoralists, such as pastoralist NGOs, but there are other organisations, whose work is relevant to the livelihood of pastoralists, or who may be supporting pastoralists only as part of their work.

These organisations may be categorized into those that are working at local - village, Ward, District - level, and those that are working at national level. Sorensen (2006) lists more than 60 organisations, most of them small to medium scale, working in various localities, and concerned in various ways with improving the welfare of pastoralists and hunter gatherers. Most are involved in improving access to social service, like education, health and water, promoting alternative income generating activities especially for women, and promoting the cultural identity of pastoralists and hunter gatherers. Many of these organisations lack the capacity to create significant impact on the welfare of pastoralists, or to have any influence on policy makers.

¹⁰ Walsh, 2007

¹¹ Mattee and Shem, 2005, Ole Nasha, 2004, Sorensen, 2006

¹² Macha, pers. Comm..

¹³ Mung'ong'o and Mwamfupe, 2003.

The two pastoralist NGOs working at national level, are **TAPHGO** and **PINGOs Forum**, which act as umbrella organisations for the many smaller pastoralist and hunter gatherers NGOs and CBOs, many of which belong to both umbrella organisations. Both organisations see their mission as to strengthen the capacity of the local NGOs in governance, lobbying and advocacy and to sensitize communities on their rights, to strengthen networking among the local NGOs, and to influence national policies in favour of pastoralists and hunter gatherers.

While the two organisations have had some success in influencing national policy, most notably the National Strategy for Growth and Reduction of Poverty (NSGRP) in pastoralists favour, many people believe that their inherent weaknesses have rendered them less effective. The two organisations are dominated by Masai from the northern part of the country and may not be seen to represent the interests of all pastoralists in Tanzania. The Il-Parakuyu Masai in particular do not have strong affiliation to these organisations.

The location of the two organisations in Arusha rather than in Dar es Salaam at the centre of policy making also means that they are not always up to date with current policy processes in the country. As both organisations pursue virtually the same mission, they often compete for attention and resources, and consequently, they have not been able to present a solid united front for pastoralists and hunter gatherers in negotiating with the government. According to Walsh (2007), the Mbarali evictions highlighted the weaknesses of the pro-pastoralist advocacy at both local and national level. According to him, On paper there are more than twenty named groups or associations of livestock keepers in Mbarali District, some of them formally registered. However, many of them are largely inactive and loose associations based on locality and/or common ethnicity, with relatively limited objectives focusing mainly on the provision of livestock services. The principal exceptions are said to be a well-organised group in one of the agro-pastoral Maasai villages of Usangu, and a couple of cooperatives that are not ethnically based but focus on modern dairy production and marketing. Earlier efforts to bring all of the groups in Mbarali into a single organisation (*MUWAMBA, Muungano wa ushirika wa Wafugaji Wilaya ya Mbarali*) failed once the German advisors who facilitated it had departed.

The livestock keepers of Usangu and the wider region are indeed sharply divided by ethnic affiliation and socio-economic class. The relatively wealthy dairy producers that I interviewed in Rujewa expressed their approval of evictions from the Ihefu and thereabouts, while a village chairman in Utengule-Usangu Ward noted that some local livestock keepers were happy to have more grazing for themselves once their Sukuma and other competitors with large herds of cattle had been removed. The Il-Parakuyu Maasai of Usangu, who have lived for many years in their own registered villages, were not significantly affected by the evictions, and at least some of those Maasai who were took refuge with relatives. The Maasai of Idodi and Pawaga in Iringa District are reported to have stolen many of the cattle of the Sukuma who followed the Great Ruaha valley down to Mtera. Under circumstances such as these, there was little scope for a unified local or regional response to the evictions. This was especially so because many of the Sukuma and Barabaig who were forced to move with their herds were already politically marginalized and played relatively little part in village and district government – often because

of the residential choices that they made, preferring to live and farm outside of established settlements. Nonetheless, many of the younger herders who left Mbarali have also left their elderly and other relatives behind to continue farming, keeping their options open as to whether the whole extended household will eventually move or not.

Civil society and pro-pastoral organisations at national level were also slow to take up the cause of the Sukuma and other evictees from Usangu. We can surmise that the divided pastoral politics of Tanzania were in part responsible for this. The Sukuma are, after all, environmentally irresponsible agro-pastoralists in the eye of many other pastoralists as well as mixed farmers in the country, and have never been particularly welcome in the pro-pastoral lobby, with emphasis on the politics of identity and the cultural distinctiveness of pastoralists as a minority group.¹⁴

Other organisations working at national level which, although they are not pastoralist organisations, are working on issues pertinent to pastoralists include:

2.4.1 Legal and Human Rights Centre (LHRC)

Started in 1995, this is a membership organisation based in Dar es Salaam that is involved in providing legal counseling and representation for marginalized sections of the community, including women and children, and in lobbying against laws and policies that are detrimental to any section of the society. LHRC strategic plan focuses on two areas: policy engagement and community empowerment. The Centre has consistently spoken out against social and economic injustices and as a result has gained recognition as a credible and professional organisation. It has solid management, and the human and financial capacity to work in most parts of Tanzania. The Centre has also accumulated a lot of experience on policy engagement and could be an ally of the pastoralist lobby in engagement with the government.

2.4.2 Haki-Ardhi

This is also a membership organisation that is based in Dar es Salaam, with the purpose of lobbying for and defending the security of land tenure for the ordinary people in Tanzania. The organisation has programmes on creating public awareness on land rights and good governance, covering several Districts in the country. The organisation also conducts research on various issues pertaining to the use and ownership of land, bio-resources and the like. The organisation has only a small core staff, but relies on members who volunteer to undertake various activities for the organisation. Given its focus on land rights, this is another potential organisation that pastoralist NGOs could team up with in the effort to secure land rights for pastoralists.

2.4.3 Oxfam

Oxfam has been operating in Tanzania for several decades supporting both relief and development work. Oxfam International in Tanzania constitutes Oxfam Great Britain, Oxfam

¹⁴ Walsh 2007, pg 14

Ireland and Oxfam-Intermon of Spain. Oxfam Great Britain and Oxfam Ireland have been supporting pastoralist programmes, including training on pastoralist systems and policy options for those involved in pro-pastoralist lobbying, promoting collective titling of pastoral lands and promoting access to education for pastoralists.

The Joint Oxfam Livelihoods Initiative for Tanzania (JOLIT) involves all Oxfam organisations and aims at generating and sharing practical experiences on 'best practices' for improving livelihoods of rural communities, including pastoralists and agro-pastoralists. This programme has a lot of potential for providing practical case studies for influencing decision makers with regard to appropriate policy options for pastoralists.

2.4.4 FARM-Africa

This organisation was founded in the 1980s and has been supporting rural development including pastoralism in several African countries including Ethiopia, Kenya and more recently, Tanzania. Its mission is "to improve the livelihoods of pastoral peoples and demonstrating the viability of a diversified pastoralist way of life in order to improve government and donor policy and practice".

FARM-Africa has introduced the 'Mobile Outreach Approach' which allows teams of staff to provide support to pastoralists from mobile camps that are moved around with the pastoralists, and allows staff to better understand pastoralists needs and to provide technical advice and information in a way that fits into the traditional pastoralist way of life.

More recently, FARM-Africa, in collaboration with the African Union, have developed the African Union Pastoralist Policy Framework that, among other things, will form the basis for continental commitment to the political, social and economic development of pastoral communities. The organisation therefore provides an opportunity for national pastoralist organisations to put pastoralist issues on the agenda of international organisations, and for giving them stronger political leverage.

2.4.5 Haki Kazi Catalyst

This is an NGO based in Arusha that is engaged in policy dialogue particularly on issues related to human rights and good governance. It has been particularly successful in 'demystifying' various government policies and strategies so as to make them accessible to the general public through simplified easy to follow publications. The organisation is also very much involved in training activities on lobbying and advocacy skills. Haki Kazi is another potential organisation for collaboration with pastoralist NGOs, for it is well experienced when it comes to informing the public about various government policies, strategies and programmes so that the public may be actively involved in discussing their merits and demerits.

2.4.6 The Department of Pastoral Systems Development, Ministry of Livestock Development

The new structure of the Ministry of Livestock Development was approved in April 2006. It includes a new Department of Pastoral Systems Development, which is responsible for range management and animal feeds development. Range management includes all natural resources for livestock like pastures, water, salt licks, infrastructure like stock routes and markets, livelihoods and resolution of conflicts with other land users.

This Department seems to provide a window of opportunity for addressing pastoralist issues by both the government and pastoralist NGOs. Indeed having a separate Department dealing with pastoral issues makes it possible to develop a policy to guide the Department in its work. Pastoralist NGOs could start working with this Department to begin to develop a framework for an eventual pastoralist policy especially now that there is already a framework proposed by the African Union.

2.4.7 Tanzania Natural Resources Forum (TNRF)

TNRF is a collective of civil society organization with a common interest in improving natural resource management in Tanzania by addressing the issue of governance.

TNRF works to improve accountability, transparency and local empowerment in natural resource management, by bringing together a diverse range of stakeholders and interests to share information, build alliances and to pool resources towards a better and devolved natural resource management.

In the view of TNRF, improved management of natural resources encompasses the following:

- More accountable and transparent governance institutions.
- A responsive and better functioning policy and legal environment that enables sound management and fully supports local people's rights.
- People who are empowered, skilled and accountable resource users and managers.
- Formal enterprises operating profitably, through fair partnerships with rural people for better rural livelihoods and sustained local and national development.
- Well managed ecosystems which generate sustainable services and values needed by a diverse range of people and interests.

TNRF works to achieve their vision by facilitating the flow of information amongst TNRF members, using various communication tools like meetings, seminars, the internet, and others that reach the general public including rural communities.

TNRF also facilitates collective action among the member, through Working Groups, that study and analyse specific issues, and develop solutions based on the experiences and insights of the group members. Currently there are six Working Groups on different themes.

TNRF is also active in dialogue with the government on various issues relating to natural resource management in order to create a common understanding of issues, and to influence the government towards improved natural resource management.

Some of the themes TNRF is working on are directly relevant to pastoralism and pastoralists. These include: Community based tourism, Human and wildlife conflicts and Rangelands and livelihoods.

2.4.8 Vetaid

VETAID is an international NGO that works with pastoral and agro-pastoral communities to reduce poverty and improve food security.

The goal of Vetaid is to strengthen livelihood strategies of resource-poor communities by increasing the contribution made by their livestock, by promoting their rights and by partnering and building capacity of local organizations.

In Tanzania Vetaid is working to support sustainable pastoralist livelihoods. The aim is to reduce poverty for pastoral communities through developing a secure livelihood based on livestock trade. Specifically the Vetaid initiative aims to:

- Improve land use in marginal pastoralist areas through land use planning,
- Support the emergence of livestock keeper groups that can link with meat processing companies,
- Increase livestock off takes from pastoralist areas, and
- Develop a framework that can facilitate the export of livestock and livestock products.

2.4.9 The Foundation for Civil Society

The Foundation for Civil Society is non-profit organization registered under the Companies Act, a brainchild of like-minded development partners working in Tanzania.

The goal of the Foundation is to contribute towards the development of a vibrant, effective and innovative civil society sector that allows citizens to engage in the decision-making processes, and promotes human rights and overall improvement in the quality of life for all Tanzanians.

The Foundation therefore, provides financial and other forms or capacity building to civil society organizations, particularly to enable them to support the citizens to:

- Access information and understand policies, laws and their rights,
- Engage effectively in policy formulation, and
- Contribute to social development and to constructively hold the government and the private sector accountable.

In this respect, the Foundation has funded a number of initiatives by some of the pastoral NGOs.

2.4.10 The NGO Forum

This is a network of over 60 NGOs registered in Tanzania, and is registered as non-profit company in Tanzania. It draws together NGOs with specific interest in influencing policy processes to enhance poverty reduction, equity and democratization.

The goal of the Forum is to increase civil society participation in decisions that impact on their daily lives. Currently the Forum is working in three clusters, local governance, budget tracking and active citizens' voice. Each of these thematic areas has a Working Group that analyses issues, generates information and shares with other members, and with the general public. Sharing of information is mainly through newsletters, other publications and radio programmes.

The Forum's governance structure includes the General Assembly involving all members, as the supreme decision making organ, the Steering Committee and a small secretariat.

The Forum provides an opportunity for pastoralist NGOs to participate as members, and to put pastoralism as one of the possible thematic areas for the Forum to work on. Currently only Ujamaa Community Resource Trust seems to be a member from the pastoralist lobby.

2.5 References

Hesse, C. and M. Ochieng Othiambo (2002) In search of a vision for the future of pastoralism in East Africa. Discussion Paper for RPCS-EA.

Kiteto District Council (2007) Kiteto District Council, District Agricultural Development Plan and Budget, 2007/2008 – 2008/2009.

Mattee, A. Z. and M. Shem (2006) Ambivalence and contradiction: A review of the policy environment in Tanzania in relation to pastoralism. IIED Issue Paper No 140, March, 2006, London, International Institute for Environment and Development.

Mung'ong'o, C. and D. Mwamfupe (2003) Poverty and changing livelihoods of migrant Maasai pastoralists in Morogoro and Kilosa Districts, Tanzania. Research Report No. 03.5, Research on Poverty Alleviation, Mkuki Na Nyota Publishers Ltd Dar es Salaam.

Ole Nasha, W. (2004) Analysis of policy environment for pastoralist production in Tanzania
Ole Ndaskoi, N. (n.d.) The Root causes of Maasai predicament.

Sorenson, C (2006) Study on the main policy issues impacting on the livelihoods of pastoralists and hunter-gatherers in Tanzania & mapping of key organisations. Report for IWGIA, April, 2006.

Walsh, M. (2007) Pastoralism and Policy Processes in Tanzania: Case Study and Recommendations. Report to TNRF, September, 2007.

3 LEGAL ISSUES

3.1 Introduction

Pastoralists are significantly by-passed in most statutory schemes. Where they are granted some recognition it is either for purely penal sanctions, or for purposes of supporting some other legislative scheme (be it conservation, tourism, etc.), or some production system objective that addresses traditional pastoralism for the markets. Almost no piece of legislation exists that comprehensively addresses the livelihood aspect of pastoralism. Consequently, any consideration of legal regulation of pastoralism must arise from gathering various pieces of legislative material, which address pastoralists, and from these scattered instances situate pastoralism within the legal framework. As we shall show here, the resultant overview of legal regulation of pastoralism is haphazard, incoherent, contradictory and thus inadequate for securing the pastoralists' livelihoods. This is not a discovery at all; literature on the topic of pastoralism is explicitly and impliedly replete with this negative assessment.¹⁵ What we attempt in this section of the study is to give a general review that would assist in designing pro-active options for better security of pastoralist livelihoods within the existing legal framework, and provide as well a starting point for advocacy on change of policy and law reform. Our presentation is limited to five general sub-sections: Governance Regulation; Statutory Regulation of pastoral Livelihoods; Case Studies on the Courts and Pastoral Rights, Constitutional and Human Rights Protections and, the International Human Rights Regime.

The first sub-section on Governance, seeks to situate pastoralists within the constitutional and legal framework that recognizes pastoralists as citizens and lawful members of communities within which they live. Pastoralists have only a role of influencing policy change and claim legal security where they are legitimate members of their communities. Furthermore, once again, literature is replete with evidence of the resilience of traditional governance institutions, operating *sub-rosa*, as it were, and re-asserting themselves repeatedly despite formalization of governance by statutory regimes.¹⁶

The second sub-section on Statutory Regulation of pastoral livelihoods is largely a technical overview of pieces of legislation. For purposes of brevity, we group the statutes in thematic sub-sections: Land law, land use and planning laws; conservation laws; and livestock laws and range management.

The third sub-section takes into account the struggle for Pastoralists to assert their rights in the Courts of law where they have been faced with threats against their traditional resource rights. In the case of alienation and eviction from land prominent court cases relate to evictions from

¹⁵ Amon Z. Mattee and Martin N. Shem, *Ambivalence and Contradiction - A Review of the Policy Environment in Tanzania in relation to Pastoralism* (London: International Institute for Environment and Development [IIED], March, 2006)

¹⁶ Liz Alden Wily, "Land Rights Reform and Governance in Africa: How to Make it Work in the 21st Century," Discussion Paper, UNDP Oslo Governance Centre (New York: UNDP Drylands Development Centre, 2006)

conservation areas (Case of Mkomazi Game Reserve) and from land alienated to large scale farming (the Case of Hanang Wheat Farms). These cases again have been reviewed extensively but in our case the review provides a spring board for suggesting options for protection of these rights.

The fourth sub-section on constitutional and human rights protections covers the interesting area of constitutional rights and remedies in relation to pastoral livelihoods. Is it possible to secure livelihoods within the arid and mechanical basic rights provisions, as they exist in the Constitution of the United Republic of Tanzania, 1977? Under Basic Rights Enforcement Mechanisms can statutory regimes that enable government to deny people their livelihoods be challenged? If not, is there recourse within the new international law human rights regimes, which is the subject of the fifth sub-section.

3.2 Governance Regulation

The pastoralists in Tanzania are rural based as such communities of pastoralists are found in village lands. Villages are established under the Local Government Authorities system, which in turn derives its legal foundation from the Constitution – Articles 145 and 146. The constitutional basis for local government is set out generally under Article 145.

While Article 146 emphasizes the main purpose of establishing Local governments being, first, the devolution of governance authority to the people. Secondly, the same Article enjoins Local governments to involve the people in the planning and implementation of development programs. Two constitutional principles emerge, that is, on the one hand, the devolution of governmental power to the people; and, on the other hand, the participatory imperative out of which the involvement of the people is fundamental in development planning, since as we shall see later, in relation to pastoralists, the practice falls far short from the ideal.

3.3 The Local Government Acts and Governance at Village Level.

Local Governance structures are regulated in Tanzania Mainland principally by two Acts one rural and the other urban: **Local Government (District Authorities) Cap. 287**, R.E. 2002 [Act No. 7 of 1984]; and, **Local Government (Urban Authorities) Cap. 288**, R.E. 2002 [Act No. 8 of 1984]. Local Government authorities operate from the District level and are thus separate from the Central Government, which operates nationally. The Districts are divided into Divisions (Tarafa), and the Divisions are divided into WARDS (Kata), and Wards into Villages (Vijiji). The Village is the lowest rung of local governance, but administratively it is also divided into sub-villages known in Swahili as 'Vitongoji' (singular 'Kitongoji'). However the Kitongoji is not a governance level but an administrative and representative structure for the governance of the Village.

The District Authorities Act under Sections 141, 142 and 164 sets out the governance structures of the Village, as the lowest rung of local government. In matters related to policy, election and supervision of the Village Council, etc., the **Village Assembly** is the supreme organ of governance and is made up of all adult members of the Village. Executive functions for running the affairs of the Village are bestowed upon the **Village Council**; and it is this organ that the law has given corporate personality and hence it is the Village Government. The Council has a

variety of powers including organization of economic activities, raising revenues, proposing by-laws for the governance of the Village to the Village assembly, and generally, to run all the affairs of the Village as the executive organ.

The Village Council is assisted by other statutory committees which include – the Finance, Economic and Planning Committee; Social Services and Self-Reliance Activities Committee; and, Security and Defence Committee. The Council is however empowered to form other committees, permanent or ad-hoc, to assist it in the performance of its functions.

Other statutes require the Village Council to form Committees for the implementation of various legislative schemes: Village Land Act, Forests Act, Cap. 323, [Act No. 14 of 2002], Beekeeping Act, Cap. 224; Land Use Planning Laws; Environmental Act, etc. The resulting scenario has been to over-burden village committees and functionaries with a myriad of regulatory demands when the capacity to relate effectively to each statutory scheme is low. On the accountability level, the record shows low level of transparency and participation in village governance so much that in the pastoralists' case this has been attributed as one of the major causes of alienation of communal village lands by Village Councils.¹⁷

The Government through the new grazing lands bill is somehow addressing this structural lacunae and some reviews have lauded the attempt as partly positive to pastoralists.¹⁸ The **Draft Grazing Lands Management and Utilisation Bill, 2007** envisages the creation under Clause 17 of Village Grazing land Development Areas (VGDA) where another village committee for the regulation of these areas is set up, namely, the *Village Grazing land Development Committee* (VGDC). The VGDC is mandated to be the principal village or villages' body concerned with the management of the VGDA and must report on regular basis to, and take account of, the views of the village council or assembly on its management of the village range development area. The Bill does not directly refer to pastoralists' participation in the VGDC but states in the following provision (Clause 18[3]) that the VGDA may be managed by the VGDC or "*in accordance with such other arrangements as may be proposed by the village council and agreed to by the village assembly*". This is odd as it seems some other entity, unspecified, may as well be given control of the VGDA; and this means pastoralists, where well organised, may as well influence the decision to hand over management of the VGDA to other entities. It is therefore clearly essential that bodies of well-organised pastoral communities stand a better chance of exploiting these legislative gaps or ambiguities in favour of their livelihoods interest.

Yet, where pastoralists have a significant population presence, their control of Village governance has not been detailed from the studies we revisited. This absence may arise either

¹⁷ Jim Igoe and Dan Brockington, "Pastoral Land Tenure and Community Conservation: A Case Study from North-East Tanzania," IIED Pastoral Land Tenure Series (London), 11 (1999); F. Nelson, "Wildlife Management and Village Land Tenure in Northern Tanzania," TNRF Occasional Paper No. 6 (Arusha, TNRF, March, 2005)

¹⁸ John Letai, "An Audit of the Rangelands Act and its Implications on Pastoral Livelihoods in Tanzania: A Report for Tanzania Pastoralists and Hunter-Gatherer Organization (TAPHGO)," (Arusha, TAPHGO, August 2007)

from the lack of demographic study detail, which characterise pastoralists' studies generally¹⁹ or from the fact that any investigation on the pastoralists' oversight in village governance would be negatively perceived as an ethnic investigation. In either case, it is strongly recommended that a general study be undertaken with the specific focus of profiling governance in pastoral villages in both the formal and customary spheres. The study should be a livelihoods based study whereby part of its focus would be whether control of formal governance is in the hands of pastoralists or non-pastoralists.

3.4 What is the Status Pastoralist Customary Institutions & Law?

The view that customary institutions have generally been resilient and overtime have re-asserted their spatial and territorial functions is well founded in literature.²⁰ In the case of pastoral land tenure in Tanzania Sanna Ojalammi states:

“ In the Loliondo and Sale Divisions, the study considers that one major cause for the land disputes of the 1990s has been linked to transforming spatialities, and another to overlapping claims on land property (State and informal). Inequalities of holding property and property rights have led to many conflicts, especially in specific places where people have different production systems (Lund 2002: 14).”²¹

The reality of what we may term to be informal tenures (or customary land tenure) has been a perennial issue in the jurisprudence of Tanzania since the colonial times. The Germans chose to recognise customary tenures as the 'law of the natives' without delving much into its mechanics. The Imperial Decree of 1895 did declare all land to be Crown Land but somehow allowed the existence of the native title to land. This approach was taken by the British colonialists who, through the Land Ordinance of 1923 (Cap.113), established the Right of Occupancy system of Land Tenure and the Governor could issue Certificates of Titles for use and occupation of land to, largely, non-native residents. The majority African peoples were 'deemed' to have Rights of Occupancy on the land they possessed provided such lands were held under African native law and custom which had to be proved through oral evidence as written records were absent. These deeming provisions allowed the British administration to avoid an otherwise Herculean task of

¹⁹ Ernestina Coast, "Maasai Demography," (PhD thesis, University of London, 2000); Ernestina Coast, "Colonial Preconceptions and Contemporary Demographic Reality: Maasai of Kenya and Tanzania," IUSSP Conference S.50 The Demography Of Indigenous Populations (London, LSE, 2000)

²⁰ Lorenzo Cotula, ed., Changes in "Customary" Land Tenure Systems in Africa (London and Rome: International Institute for Environment and Development [IIED], March, 2007; Platteau, J.P. 1996. "The Evolutionary Theory of Land Rights as Applied to Sub-Saharan Africa: A Critical Assessment" Development and Change Vol. 27 at p. 29-86; Migot-Adholla, Shem E. & John Bruce. "Introduction: Are Indigenous African Tenure System Insecure?" in Bruce, J. & Shem E. Migot-Adholla (eds.) Searching for Land Tenure Security in Africa Chpt. 1 (World Bank, 1993); S.E. Migot-Adholla, P. Hazell, B. Blarel and others, "Indigenous Land Rights Systems in Sub-Saharan Africa: A Constraint on Productivity?," World Bank Economic Review (Washington) 5, 1 (1991)

²¹ Ojalammi, Sanna "Contested Lands"; Lund, Christian (2002). 'Negotiating Property Institutions: On the Symbiosis of Property and Authority in Africa'. 11–41 pp. In Juul, Kristine & Lund Christian (eds). Negotiating Property in Africa. Heinemann, Portsmouth.

recording and codifying native customary tenures. Sociologists and anthropologists did publish research that haphazardly analysed native institutions, for example, Hans Cory's sociological reports on various Tanganyika's tribes.²²

For pastoralists the story is the same and even worse. No official record exists of their customary tenure. Moreover, much as the sociological record has massive documentation on pastoralists' socio-economic detail, land tenure does not receive equal attention perhaps due to the assumption that the mobile pastoralist has little concern over land occupation - a pre-occupation of sedentary agricultural peoples.²³ The non-pastoral Bantu have had some of their customary law codified through the Hans Cory project but it never extended to non-Bantu tribes including pastoralists.

The independence government has been guilty of the same oversight. Today customary land tenure is recognised under the Land Acts; but only in 1992 a recently retired Prime Minister Edward Lowassa, a member of parliament from the Monduli pastoral district, then Minister for Lands, moved in parliament a statute to abolish all customary land tenures! The Courts declared the statute unconstitutional.²⁴ Therefore, this recognition of customary land tenure in the Land Acts is merely salutary, populist, and done without critical reflection. A detailed analysis undertaken by a leading authority on Tanzanian Land Law, Prof. G.M. Fimbo, found out that the recognition of Customary Titles under the Land Acts is actually vague when it comes to the land allocation authorities for traditionally held customary land. The Village Councils authority over such lands is questionable under the law, as their authority directly covers only lands allocated by the Village Councils or allocated to them by statute and not otherwise. The implication of this observation means that a large portion of the rural land, which is still under the control of traditional systems of land allocation and land tenure, is outside the purview of the Village Councils. Actually, the Village Land Act itself states that such lands would be administered in accordance with the prevailing customary law. Yet there is official and popular belief that holds that under the Village Land Act in particular all rural land is under the auspices and singular control of the Village Council! The MKURABITA Diagnosis report has also noted this discrepancy.

In the case of Pastoral Land the view is worse in the sense that it assumes that such land is terra nullius (no man's land). The Village Land Act for instance has provisions that indicate recognition of common property for the pastoralists, such that land sharing arrangements are possible. According Liz Wily and others this is a laudable step forward.²⁵ Wily shows several provisions

²² Hans Cory, *Sukuma Law and Custom* (London: International African Institute [OUP], 1953); Hans Cory and M.M. Hartnoll, *Customary Law of the Haya Tribe* (London: International African Institute, 1945); etc.

²³ See for some information on Pastoral Land Tenure – Gulliver and Peter Rigby

²⁴ Issa G. Shivji, *A Legal Quagmire: Tanzania's Regulation of Land Tenure (Establishment of Villages) Act, 1992*, Pastoral Land Tenure Series No. 5 (London: International Institute for Environment and Development [IIED], 1994)

²⁵ Liz Alden Wily, *Community-Based Land Tenure Management: Questions And Answers About The Tanzania'S New Village Land Act, 1999*, Issue Paper No. 120 (London: IIED, 2003); Sanna Ojalammii, "Contested Lands: Land Disputes in Semi-Arid Parts of Northern Tanzania - Case Studies of the

that are pro-pastoralists especially the issuance of a Customary Certificate of Right of Occupancy over land held under traditional pastoral tenure [S. 29.2(iii)]. The problem that remains seems to be that of defining the incidences of the pastoral tenure – how pastoralists acquire, hold and dispose land.

In the case of pastoralists, however, official practice does not appear to recognise a customary pastoral title to land it only recognises a usufruct – a mere license to use someone else's property.²⁶

The Draft Grazingland Development Bill is similarly guilty of this perception. Pastoral communities are not directly recognised in the Bill as having customary titles, written or unwritten, over grazingland. The Bill goes on to regulate the management of grazing lands in pastoral areas as if the pastoralists are mere licensees who are temporary with no permanent rights over their lands.²⁷ In fact, under the provisions of the Bill a Joint Village Land Management Committee may review plans for managing the gazetted village grazingland area [s. 20.4(c)]. The Joint Committee has power to amend, alter, adjust or abolish '*any of those customs, practices and rights which in the opinion of the Joint Committee would be likely to impede the management of the gazetted village GDA in accordance with the revised village GDA management plan*'. The traditional pastoral land title and rights, unless formally registered under the VLA, are highly vulnerable and insecure under the proposed Grazingland Bill. Although the Constitution protects the right to property absolutely the drafters of the Bill, when it comes to pastoralists, are oblivious of its protections.

To pastoralists however this means there is still on the agenda the issue of detailing pastoral land tenure especially in relation to the collective titles and land held in common over grazing lands, and the concomitant identity and powers of the land allocating authorities in those traditional systems. The team observes that it is possible to incorporate such traditional institutions onto the present land management system as the law itself recognises the existence of the substance of customary law over such lands. It is also noted that no authoritative records and analyses of such systems have been undertaken other than sporadic sociological reports [See Charles Lane, Grandin, etc.]. A much more comprehensive research, with a multi-disciplinary approach is urgent and necessary to make a formal record of pastoral land tenure. Terms of reference for such approach may be developed through a stakeholder consultation in order to create a knowledge base that would be useful for reform and work related to range management and regulation of traditional pastoral systems. An initial and innovative attempt is in the process of implementation and sponsored by several stakeholders including Oxfam, Norwegian Peoples Aid, etc. It is important, we recommend, that the initiative be widened and supported. Some of the points of this innovative approach are discussed below.

Loliondo and Sale Divisions in the Ngorongoro District," pp. 35 – 40 'The Common Property Debate'. (PhD diss., Department of Geography, Faculty of Science, University of Helsinki, 2006)

²⁶ Usufructuary right is defined as 'A legal right to use and derive profit from property belonging to someone else provided that the property itself is not injured in any way'

²⁷ Letai, "An Audit of the Rangelands Act.."(TAPHGO, 2007)

3.5 Statutory Regulation of Pastoralist Livelihoods

3.5.1 Land Law & Land Use Planning Laws

Sanna Ojalammi, in her study 'Contested Lands' 2006, captures the statutory model's hegemony over customary models of land ownership in pastoral areas in her study of land conflicts in Loliondo and Sale Divisions of Ngorongoro District, where she shows the hegemony of the State vis-à-vis traditional land holding.²⁸ It is clear that the Village Land Act (VLA) applies essential principles of Land Reform to Village land. By identifying the village land manager as the Village Council the VLA gives it extensive powers of land allocation and land use planning. However this institutional design has raised so far several concerns.

First, as noted above, land, which may be fully allocated and managed by the Village Council, appears to be land that is not traditionally owned. The customary institutions do not appear to have been significantly affected by the reforms. Actually the VLA reserves space for customary land law in the regulation of land tenure. In doing so a potential conflict or grey area exists in terms of land management – is it the responsibility of the Village authorities or of traditional land allocation authorities?²⁹

Second, common lands, which in many cases cover grazing land, appear to be 'no man's land' as such subject to the exclusive management of Village authorities by virtue of the VLA. For pastoralists this raises a critical concern in that without pro-active response to this ambiguity the VLA virtually dispossesses the pastoralists from their grazing lands.³⁰ A close reading of the Draft Rangeland Management Bill 2007 confirms this official perception. The perception is also exemplified by the fact that lands that are frequently alienated for large scale farming, for forest and wildlife conservation, and other general uses are the village commons where grazing land is situated. The reaction to this has been either to generally block grazing land as a use class in the process of land use planning and protect it from further alienation through by-laws,

²⁸ Sanna Ojalammi, "Contested Lands: Land Disputes in Semi-Arid Parts of Northern Tanzania - Case Studies of the Loliondo and Sale Divisions in the Ngorongoro District," (PhD diss., Department of Geography, Faculty of Science, University of Helsinki, 2006), p. 2; and she quotes Issa G. Shivji, Report of the Presidential Commission of Inquiry into Land Matters (Uppsala: Scandinavian Institute of African Studies, 1994), URT; Blomley, N.K. "Landscapes of Property." 32 *Law & Society Review* 567–612 [1998]; Halvor Wøien, " 'Enkutoto is Just a Place with Homesteads Around,' Territoriality and the Management of the Tanzanian Maasai Land", Centre for Environment and Development Report, 3 (London, CED, 1997); Wily, Alden, Liz "Reconstructing the African Commons." A Conference Paper presented at the Eighth Biennial Conference of International Association for a study of Common Property May 31–June 4, Indiana (<http://www.indiana.edu/iascp/drafts/wily.pdf>).

²⁹ G.M. Fimbo, "Land Law Reforms in Tanzania," A Lecture prepared to Commemorate the author's 60th Birthday Anniversary on the 8th day of August, 2003. (Dar Es Salaam:2003)

³⁰ Liz Alden Wily, "Land Rights Reform and Governance in Africa: How to Make it Work in the 21st Century," Discussion Paper, UNDP Oslo Governance Centre (New York: UNDP Drylands Development Centre, 2006)

or allocate such lands to individuals or groups by issuing customary land titles. Each solution raises a number of problems. In the first case, the security of demarcated commons depends on the governance structure of the village. If control is in the hands of non-pastoralists then other uses, even reallocation, would be given priority to the detriment of pastoralists. In the second case, the grant of customary titles over the commons has its own weak spots. It brings to issue the problem of the focus group (the holders of the land) is it the individual or a group? How do you define the group and what legal form must it adopt? In addition what of the principle of open access to grazing land - how is it incorporated once land is allocated to individuals or groups? The solution that appears tolerable is one of registration of the commons to a focus group; and for those in favour, including the MKURABITA programme, a number of challenges have to be addressed³¹:

who is a member of the collective?

- in mixed agricultural-pastoral communities, how can the interests of people who depend on the common land be balanced with those of people who do not?
- how is a collective legally constituted and how does it relate to the Village Council, which holds land in trust for the community?
- how are beneficial interests and decision-making rights distributed among members in ways that maintain fair access to *common resources and appropriate distribution of benefits from their use*?
- how can access to rangeland across village boundaries continue to be assured?
- how can a collective guard itself against exploitation by its own leaders?
- why not rely on the provisions of the Village Land Act to define and safeguard common land?

The viability of registration programmes for pastoral land, within the mandates of the Village Land Act, is yet to be tried out and the known vulnerabilities of titling as tested in Rangeland schemes present a formidable challenge. Government so far has not designed a Pilot Registration programmes for Pastoral lands. In the Handeni titling project, for example, Pastoralists were either given very small portions of land or totally excluded as people 'who do not own land' and hence completely marginalised³². It is recommended that the proper approach to this problem should be immediate design of what formalisation would entail for the commons, and a pilot programme be initiated similar to the Mbozi and Handeni Projects, which have largely favoured non-pastoralists.³³

³¹ Notes on 'Draft Concept Note in Support of Registration of pastoral common land rights', Draft obtained from the Teams' Interview with Oxfam's William Ole Nasha – 10th August, 2007

³² Lembulung M. Ole Kosyando, "A Participation Report of the Pilot Project in Handeni District, September 18 - December 8, 2006," MKURABITA AND THE IMPLEMENTATION OF THE VILLAGE LAND LAW ACT NO 5 OF 1999 (Arusha, TAPHGO, January, 2007)

³³ William Ole Nasha, "Formalisation of Land in the Commons: the Future or the End of Pastoralism in Tanzania?," MKURABITA Newsletter (Dar Es Salaam), March, 2007

Third, procedural complexities with regard to both titling and land use planning have generated implementation and follow-up fatigue to the extent that a fallback to traditional mechanisms increasingly appears to be a welcome alternative.³⁴ Many commentators on both titling of village land and land use planning have noted the difficulties involved in following the procedural steps. These range from bureaucratic red tape, too many forms to deal with, level of skill required to manage the process, absence of infrastructural support and manpower, etc.

To illustrate the recent Land Use Planning Act, 2007 provides the procedure for Village Planning process by establishing the Village Planning Authority, which is the Village Council, and the procedure for preparing Village plans. In the course of the process the planning authority is required to consider a list of 13 issues some of high technical nature such as soil surveys, population analysis, socio-economic and bio-physical data, proposals for multiple land use systems, etc. Then the process itself covers 10 steps all requiring a multidisciplinary and participatory involvement. Surely all this is necessary but way above the resources of an ordinary village in Tanzania and more so for pastoral villages. Numerous reviewers of these processes have called upon the planning authorities to simplify and cut-down the lengthy procedures and approvals. It seems the procedure arises from the logic of the framework used in the planning process and planners, according to Gerald Mango of NLUPC, are constrained by that logic.³⁵ Practitioners elsewhere are trying innovative ways to break out of this planning-cycle vice grip and the Team recommends a collective action to do so, otherwise inertia would jeopardise the whole process.

3.5.2 Conservation Laws

i. Impact on Pastoral livelihoods.

The Teams' second concern with regard to laws that affect pastoralism is that of conservation laws. This is a well-researched area to such an extent that information overload may cloud analysis. The following nine (9) core conservation statutes deserve attention: The Ngorongoro Conservation Area Act, Cap. 284, R. E. 2002 (No. 14 of 1959); the Wildlife Conservation Act, Cap. 283, R. E. 2002 (No. 12 of 1974); the National Parks Act, Cap. 282, R. E. 2002 (No. 12 of 1959); The Forests Act, 2002 (No. 7 of 2002) replacing the Forests Act, Cap. 323, R. E. 2002 (No. 14 of 1959); the Natural Resources Act, Cap. 259, R. E. 2002 (No. 30 of 1948);³⁶ The Environmental Management Act, 2004 [replacing the National Environmental Management Act, Cap. 191 [R. E. 2002 (Act No. 19 of 1983)]; Land Act, Cap. 113 R. E. 2002 (Act No. 4 of 1999); The Village land Act. Cap. 114 R. E. 2002 (Act No. 5 of 1999); Local Government (District Authorities) Act. Cap. 287 R.E. 2002 (Act No. 7 of 1982)

³⁴ Per Larsson, "The Challenging Tanzanian Land Law Reform: A study of the implementation of the Village Land Act," (MSc diss., Swedish Royal Institute of Technology [KTH], 2006)

³⁵ Team's Interview with Gerald Mango, Ag. DG of the National Land Use Planning Commission, on 9th August, 2007 in Dar es Salaam. The Planning Bill is now an act of Parliament.

³⁶ See punitive rules under it, styled as the Natural Resources (Destocking Arusha Region) Rules, 1983 (G.N. No. 114 of 1982)

The Team's has given a policy overview on these laws but the focus here is on legislative impacts. The 2006 IUCN study on Community Conserved Areas (CCA's) in Tanzania makes an overview of the variety of conservation laws covered here and all have an impact on pastoral livelihoods.³⁷ In the assessment some of the statutes mentioned above are found wanting in obtaining their stated conservation objectives, and these include the Wildlife Conservation Act, the Ngorongoro Conservation Area Act, and the Environmental Management Act. The others such as the Land Act, the Village Land Act, the Forest Act, etc., raise little or no issues at all with regard to conservation. Taking our cue from this study and similar others we shall first give an overview of the Wildlife Management Areas (WMA) regulations as a detailed statutory attempt to grapple with sustainable conservation issues; and secondly, with the proposed Grazingland Bill which focuses on rangeland management as an example of a statute that regulates core pastoralists resources.

Again, as stated by legal Anthropologists it is only in the "crucible of conflict" that an understanding and evaluation of rules can be usefully made.³⁸ In the case of Conservation laws outstanding disputes in Tanzania are those of Ngorongoro, Mkomazi, Serengeti's Nyamuma killings, Ihefu/Usangu Evictions etc. All of these areas have received detailed legal analysis.³⁹ To illustrate how these conflicts have affected pastoralist livelihoods, and the law's role in 'resolving' them, the team deals later in this study with two such cases. First the case of exclusion of pastoralists from their lands in the name of wildlife conservation - the case of Mkomazi Game Reserve. In addition, the case of the eviction of the Barabaig pastoralists from their traditional grazing lands in Hanang District for wheat farms.

³⁷ Yves Hauser, "Tanzania Survey of Conservation Legislative Framework on Community Conserved Areas [CCAs]," Evaluation By The IUCN Commission On Environmental, Economic And Social Policy [CEESP] (IUCN, 2006), Inputs by Igoe, Jim; Lasgorceix, Antoine

³⁸ Snyder, F.G., "Anthropology, Dispute Processes and Law: A Critical Introduction." 8(2) *Brit. J. of L. & Soc.* 142-144. (Winter, 1981); Cf. generally: Llewellyn, K. and E.A. Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence.* (Norman, 1941); Leopold Pospisil, *Anthropology of Law: A Comparative Theory,* (HRAF Press, New Haven, 1974); Moore, Sally F., *Law as Process: An Anthropological Approach* 215-216 (Routledge & Kegan Paul, Lond. 1978).

³⁹ Shivji & Kapinga, *Maasai Rights in Ngorongoro* (1998); William Ole Nasha, "Parks Without People: A Case Study of the Ngorongoro Conservation Area, Tanzania," *Indigenous Information Network*, 2006; Dan Brockington, *Fortress Conservation: The Preservation of the Mkomazi Game Reserve, Tanzania.* (Oxford: James Currey Ltd, 2002); Ibrahim H. Juma, "Extinction of Customary Land Rights in the Wildlife Conservation Areas of Tanzania: The Case of Mkomazi Game Reserve," *Africa: Zeitschrift der Gesellschaft fur afrikanisches Recht* 2 (2000) ; LHRC, "Protection of Wildlife & Human Rights on the Balance Sheet: A Case of Serengeti Killings," An Evaluation by the Legal & Human Rights Centre (Tanzania) (Dar Es Salaam) (2003) ; PINGOs, HakiArdhi, LHRC, and HIMWA. 2007. *Eviction and Resettlement of Pastoralists from Ihefu and Usangu-Mbarali District to Kilwa and Lindi Districts.* Collaborative Report by PINGOs, HakiArdhi, LHRC and HIMWA, Arusha, PINGO's Forum.; Martin T. Walsh, "Pastoralism and Policy Processes in Tanzania: Case Study and Recommendations," A Report to the TNRF & Contribution to the Collaborative Study (Arusha, TNRF, September 2007), Filling in the Knowledge Gaps to Better Understand Policy Options for Pastoralism and Rangeland Management.

ii. **The Inclusion of Pastoralists in Conservation: The case of Wildlife Management Areas (WMAs).**

The operation of the present wildlife conservation laws stems from the wildlife policy framework analysed above. The involvement of communities in conservation strategies has been accepted to be necessary for successful legal processing of the WMA concept.

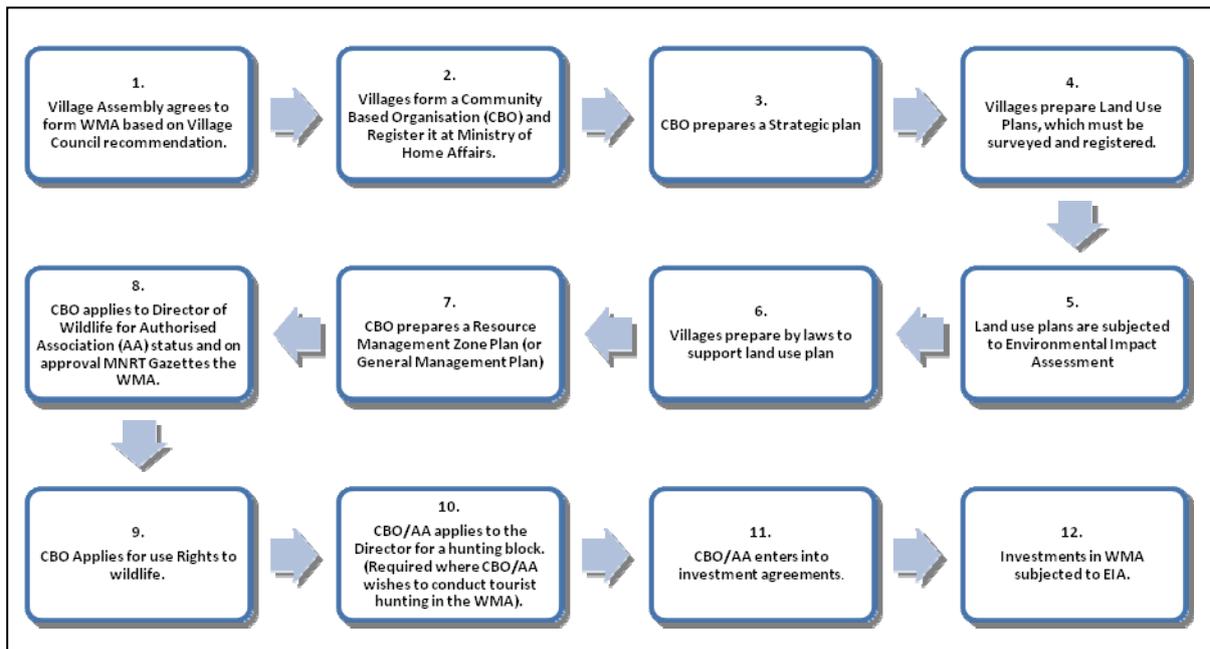
The concept of WMA has been at the core of this strategy and its basic purpose is to give communities full mandate of managing and benefiting from conservation efforts. The Wildlife Regulations of 2002 contain the statutory statement for the operationalisation of the WMA concept. The principal legislation i.e. the Wildlife Conservation Act, Cap. 283 gives, under Section 26, the Director of Wildlife the mandate to grant user rights to any legal entity in the management of wildlife. The resultant regulations create an institutional set up establishing a Community Based Organisation (CBO) at the Village level which is then granted the status of an Authorised Association (AA) once the Director of Wildlife is satisfied that the institutional design incorporates the necessary legislative prescriptions. There is no need to repeat here the whole statutory scheme. This has already been done in excellent detail by other studies (Stolla, TNRF review, Baldus, Walsh, Fred Nelson, etc).⁴⁰ Suffice to note here that these analyses have shown the fragility of the WMA concept. The most recent is the TNRF critique which has made substantial recommendations in three aspects: Institutional Design; Facilitation; and, Political Will and Implementation⁴¹

The central criticism of the WMA concept has been on institutional design. The process of establishing a WMA is woefully cumbersome and bureaucratic. A twelve steps process is designed that requires competence, skills and resources way above the capability of an average Tanzania Village council. The following steps according to TNRF's view, see Figure 2, are essential:

⁴⁰ F. Stolla, "Wildlife Management Areas - A Legal Analysis," TNRF Occasional Papers No. 5 (Arusha, TNRF, 2005); Y.B. Masara, "The Conflict of Legislations and Collisions of Jurisdiction: An Impediment to the Realization of Community Based Conservation in Tanzania," Consultancy Report of the AWF, Arusha (Arusha, AWF, 2000); R.D. Baldus, David T. Kaggi, and P.M. Ngoti, "CBC: Where are we now - Where are we going?," *Miombo - The Newsletter of the Wildlife Conservation Society of Tanzania* (Arusha), July 2004; Fred Nelson, *Emergent or Illusory? Community Wildlife Management in Tanzania, Pastoral Civil Society in Tanzania* (London: International Institute for Environment and Development [IIED], July, 2007), Issue Paper No. 14; F. Nelson, Emmanuel Sulle, and Peter Ndoipo, "Wildlife Management Areas in Tanzania: A Status Report and Interim Evaluation," Report Prepared for Tanzania Natural Resource Forum (Arusha, TNRF, August 2006)

⁴¹ Nelson, Sulle & Ndoipo, "Wildlife Management Areas in Tanzania" (TNRF, 2006).

Figure 2: Process for Establishing a WMA



According to TNRF's report (2006) the success rate so far of the Pilot WMA, is only at 25% with only 4 gazetted i.e at step 8, and as yet to complete the benefits structuring steps 9 -12. Without clarity in benefit generation, the concept of WMA remains fuzzy and theoretical.

The Team has reviewed evaluations on the WMA concept that point out to the complexity of the regulations as a problem. The evaluations converge on the major assumption that the WMA concept has positive potential for bringing together local communities into a conservation strategy that would bring real benefits to the communities involved. Some of the core recommendations are as follows.

- The regulatory scheme of the WMAs must clarify the issue of benefit sharing as presently what has to be retained by the ministry vis-à-vis the communities is left to the opportunistic directives and circulars of the Director of Wildlife.
- The authorities (ministerial, regional and district) must relinquish control of wildlife utilisation activities, such as tourist hunting, over to the Communities in order to assure the communities' hegemony within the WMA.
- The procedural framework for registration of WMAs is complex and bureaucratic in the extreme. The linkages between the processes of land use planning, acquisition of certificates of village land, overlaps with other sectoral schemes, such as forestry, over complicate the formation of the WMA. Both the MBOMIPA Project and those of the Selous Game Reserve are proof to this. The procedures for the formation of the WMA must be streamlined and 'best practices' benchmarks for simplified processes are in existence such as those used in the formation of Village Forest Reserves.
- Hand in hand with the simplification of WMA formation procedures is the need to streamline the provision of certificates of village land and land use planning

requirements. This can be achieved by decentralising more superintendence and executive authority to District government rather than the current situation where much power is concentrated at the national ministerial level.

- The CBO as the corporate body that would administer the WMA on behalf of the community is yet to get a balanced design in terms of community control, democratic governance, accountability and transparency. For example, village assemblies appear to have no powers for determining the composition of members of the CBO. In some recorded cases executive officers appoint relatives and spouses to the CBO board. According to the current regulations it appears that the CBO is more accountable to the Ministry rather than the community. Regulations must set up minimum organisational requirements that would assure CBOs accountability to the community.

The Team recommends that stakeholders should intervene in the current review process by proposing a model code that would reflect the ideal WMA design. Stakeholders may use the model code as a lobbying tool with the ministry and as an advisory tool for the pastoral communities in relation to the formation of the CBOs, benefit-sharing schemes, contracting formats and related matters.

3.5.3 Livestock & Range Management Laws

i. Legislative Reform:

The containment of pastoralists in grazing areas has been on the agenda from the colonial period. The Maasai reserve is testimony to this and the need to regulate range lands has been paramount due largely to the fact that there has been increasing pressure to open up the range lands for other activities, chief among them being conservation. Immediately after independence the Government Commissioned a Report for the Management of Range Resources within the Modernisation paradigm of the World Bank. This initiative resulted into the Fallon Report of 1963.⁴² This Report suggested a social engineering design whereby the Pastoral Maasai would be brought into a 'modern' ranching system. The same design proposal was made in neighbouring Kenya.⁴³ Later a FAO Survey (1967) was also to recommend a 'Western style' capital intensive ranching as the progressive path to commercial livestock development.⁴⁴

The result was the **Range Development and Management Act 1964** (No. 51 of 1964) titled "*an Act to provide for the conservation, development and improvement of grazing*

⁴² Leland Fallon, Development of Range Resources in the Republic of Tanganyika (Dar Es Salaam: USAID, 1963)

⁴³ Mathew Forstater, "Bones for Sale: development, environment and food security in East Africa," Review of Political Economy 14, 1 (2002) 47-66.

⁴⁴ Forstater, "Bones for Sale" p. 56

lands” as the means to establish Range Development Areas and a Commission charged to rehabilitate, conserve, develop and improve natural resources in the area.(Ss. 3-4). The Commission could regulate and restrict every, residence and settlement in the range development area. (S.6) and, where necessary, the Commission was empowered to issue certificates of residence and impose conditions thereupon. In its general regulatory powers the Commission could impose penalties for breaches. Under Part III of the Act the Ranching Associations could be formed and ranch lands established. Lastly, Part IV of the Act provided for the Development and Management of ranch lands. It established procedures for authorised stock units and ranch management schemes. It also provided for how to make by-laws for a ranching association and the regulation of membership. Any defaulting member would risk attachment of property or expulsion. The Act, under its first schedule, established the first Range Development Area (RDA) known as the Maasai Range Development Area.

From its enactment, the Act was bound to fail. It targeted the Pastoralist Maasai who were not even consulted in the process. The whole structure was reminiscent of a western corporate body unknown to the non-literate Maasai society. The governance structure would fly against the traditional territorial and age-set division of labour and governance that was at the core of the indigenous range management system. Out of the 20 ranching associations scheduled to start only two took off. The critiques of the programme range from insensitivity to customary rangeland management’s assumptions that apply to non-equilibria range settings e.g. the carrying capacity concept on the basis of which stock quotas are established,⁴⁵ and the fact that pastoralists had virtually no role in the land use planning, administration and management of the land.⁴⁶

Pastoralist related policies have ever since been subordinated either to the predominant agricultural oriented paradigm or, where separated from this, to the modernisation paradigm that is modelled to the Western Oriented business ranch.⁴⁷ After the Range Development Associations debacle there followed the sedentarisation long term strategy – “*Operation Imparnati*” – whose sad consequences are chronicled elsewhere⁴⁸. With the new liberalisation policies time and again the pastoralists feature under ranching policy strategies insensitive to their livelihoods. Where the pastoralist are given recognition this becomes a token gesture when weighed against other concomitant legislative events that

⁴⁵ R. Hatfield and J. Davies, "Global Review of the Economics of Pastoralism," World Initiative for Sustainable Pastoralism (Nairobi, WISP/IUCN, 2006)

⁴⁶ Issa G. Shivji, Report of the Presidential Commission of Inquiry into Land Matters (Uppsala: Scandinavian Institute of African Studies, 1994), URT

⁴⁷ Mattee, Ambivalence and Contradiction - A review

⁴⁸ Daniel Ndagala, "Operation Imparnati: the sedentarization of the pastoral Maasai in Tanzania," Nomadic Peoples 10 (1982); Moringe ole PARKIPUNY, "Some Crucial Aspects of the Maasai Predicament," in, Coulson, Andrew, African Socialism in Practice: The Tanzanian Experience (Nottingham: Spokesman, 1979)

strengthen the expropriation of pastoral land e.g. wildlife conservation, alienation of land to non-pastoralist tourist interests, etc.⁴⁹

Presently, there are new initiatives to re-introduce Range Management through statutorily recognised “Ranch Groups” and a **Grazing Land Bill** is in Draft. Mattee and Shem have analysed it and see it as wide-ranging statute. But they doubt its eventual efficacy given the underlying policy paradigm that refuses to acknowledge the superiority of the traditional range management techniques suitable for “non-equilibria” range conditions (i.e. semi-arid, marginal and subject to constant seasonal variations). While a rhetorical acknowledgment is made towards traditional practices, policy implementation is negative to mobility and transhumance, which is the key to the system. Mattee and Shem conclude:

*“The provisions within this Act betray the same misconceptions held by government of pastoralism as a backward, unproductive and environmentally damaging livelihood system. The proposed Act seeks to modernise pastoralism by limiting livestock husbandry to specific areas in which forage, water and other inputs are provided, and livestock’s movement and numbers are strictly controlled. It is a “ranchers” vision of livestock production in Tanzania, which seeks to control, through technical means, the major factors of livestock productions access to forage and water. Such a vision, however, fails to accommodate the highly dispersible and unpredictable nature of natural resources in Tanzania”*⁵⁰

TAPHGO has undertaken a more detailed study of the **Range Development Bill, 2007**. The study shows how the same misconceived strategies are repeated in ‘new bottles’, as it were.⁵¹

The first noticeable repetition in the law is the over-bureaucratisation of the scheme. The major criticism of the 1964 statutory scheme is its top-down approach that stifled local initiative. The new scheme goes some way in addressing this problem by establishing a National Ranching Commission supported by District Rangeland organs that would presumably be nearer to the communities. However, a quick look at the composition of these organs shows the heavy hand of the executive vis-à-vis the other stakeholders. The National Commission has eleven members and six of them, including the secretary of the Commission, are ministerial appointees. The five remaining minority is composed of members from SUA (Sokoine University of Agriculture), Milk producers association, pastoral association and two members from meat producers association. The pastoralist voice has only one representative, even less than that of meat producers who have two representatives. The same skewed representation is manifest at the District level where the nine-member committee is composed of a majority of district officials (6) and the minority three from meat, milk and pastoral associations. The statutory sidelining of the pastoralists is therefore astonishing, as range management would affect them more than any other group.

⁴⁹ Mattee, *Ambivalence and Contradiction - A review*

⁵⁰ Mattee, *Ambivalence and Contradiction - A review* pp. 25-26

⁵¹ Letai, "An Audit of the Rangelands Act .." supra. [TAPHGO, 2007]

The second repetition is a subtle one and relates to pastoral organisation, traditional range management and land tenure. The present initiative tries to define pastoralism and agro-pastoralism in what appears to be an attempt to be more sensitive to these livelihoods. The 1964 Act simply ignored such definitions, imposed a western-like form of ranch organisation and rangeland management, the tenure imposed was the statutory granted Right of Occupancy. The present Act has the merit in providing for what has been termed by pastoralist organisations as positive which include, *“the setting aside of grazing lands, recognition of pastoral production system and recognition of the inter village and inter-governmental dialogue for the shared management of grazing lands”*.⁵² But again closer analysis cuts down these advantages. The definition of pastoralism is merely salutary as the word appears only once in the definition part (s. 3) and practically nowhere else, except for the word ‘pastoral’ appearing in reference to pastoral associations. This is not mere quibbling for words. If you try to search in the Bill for the words ‘ranching’, ‘ranch’ or ‘ranches’ not only is there a good definition of the activity but the associated words proliferate the statute; just as the 1964 Act did. The voice of the rancher and that of the livestock producer is heard loud and clear; and as already pointed out Meat Producers have two (2) representatives in the National Rangelands Commission whilst the Pastoral Associations have only one (1) representative. If numbers were anything to go by pastoralists outnumber ranchers by thousands and should have more representatives in the Commission than anyone else. The Commission and the Director of Rangelands, who is its secretary, have vast regulatory powers over the whole scheme and fair pastoralists’ representation in it is critical for good governance. In omitting and/or sidelining the pastoralists’ voice the fundamental principles of the Bill appear cynical to the pastoralist when they state that a major objective the Bill is:

“to delegate responsibility for the sustainable utilisation of forage, water and soil resources to the lowest possible level of individual users of grazing land resources consistent with the furtherance of national policies;”

The issue of representation is not alone in the spate of apparent omissions in the Bill as there are clear blanks with regard to inclusion of traditional pastoral organisation and land tenure. Research on rangeland management is replete with references pointing out on how reform in rangeland management fails where it does not take into account traditional systems. The Pastoral Association appears in the Bill as the non-ethnic corporate entity that is supposed to be the locus for organising pastoralists at the Village level. If this is so a central issue is the incorporation of traditional system in the statutory scheme. This issue remains unattended in the Bill. Yet it would not go away as it would rise again, as the proverbial sphinx, when grazingland management plans have to be generated and implemented. Paradoxically the TAPHGO review appears to suggest that the Bill recognises the ‘pastoral system of production’, but the main reference to this

⁵² Letai, *ibid.*

implication, Clause 24 (a) of the Bill, states that villagers in relation to Village Grazing Lands have:

“..the right to exercise existing rights to enter, occupy use and use the pastures of the grazingland jointly with all other members of the village, in a sustainable manner in accordance with the terms of any GDA management plan, by-laws, rules, agreements or customary practices”.

This apparent right is formulated in the standard ‘claw-back’ phraseology where the existing right is granted on the premise that it will be subject to other regulations and considerations, which, once considered, take back all what has been granted. If you subject the traditional pastoral land tenure system to the management plan, village by laws and rules, etc, what remains as customary or traditional would disappear in an institutional set-up that, in the last instance, is not accountable to pastoralists but to state bureaucrats! The issue of who dominates the institutions of governance, and who owns the rangeland would come back again as this Bill is deliberately vague about it, when in actual sense it is the core issue.

The last point is with regard to the penal character of this Bill. It is true that a regulatory statute would have its fair amount of sanction mechanisms. Nevertheless, it is also true that where deviance from norms occur traditional mechanisms of dispute processing have a different style of restoration of balance in society, through mediation and conciliation, which is in total contradiction with the punitive and harsh style of these Acts. In the Bill breaches in relation to by-laws, rules, general and special orders, etc., are dealt with in the most draconian manner. The argument here is that this penal orientation could be minimised where the relatively effective traditional mechanisms are incorporated. The case of village forest reserve management schemes, such as Soledo in Kiteto, is an example of the success of traditional management and compliance systems which are simple, inexpensive and efficient.

The Team joins TAPHGO’s review in recommending urgent action on this score by lobbying in both policy and legislative frameworks to change the course by heightening the pastoralists’ voice in the rangelands reform process. In terms of advocacy, the starting point may be an alternative model based on the initial recommendations found in the tabulated matrix appended to the TAPHGO Report. Stakeholders could then jointly come out with additional inputs that would generate an alternative model, which will enhance the advocacy threshold. Some of the critical considerations would include:

- Defining the means of incorporating and recognition of traditional pastoral systems of rangeland management within the law.
- Clear statutory recognition of traditional pastoral title, with its incidences, over the rangelands and debunking the current idea that the rangelands are terra nullius.
- Define the means and process of identifying and registering the traditional pastoral title as a customary right of occupancy and define the landholding entities.

- Broaden or rather deepen the process of Rangeland Management as envisaged in the present Livestock Policy documents and participate fully as recognisable interest group in the formulation of policy and enactment of statutes. Where possible, lobby for a long term possibility of having a national pastoral policy defining the parameters of pastoralist economy and livelihoods and role in the national economy.

3.6 Experiences in the Defence of Pastoralist Resource Rights in Tanzania: Lessons and Prospects

3.6.1 The Courts and Pastoralists

In Tanzania pastoralists have for decades struggled for the right to own, live in and use their traditional land despite intrusions, transgressions, trespasses and compulsory acquisition made by diverse interests and authorities. In Hanang district, the pastoralist Barabaig took to court a Parastatal, NAFCO when it trespassed upon their lands. Similarly, in a variety of other cases the pastoralist Maasai communities have taken official and non-official trespassers to court. The following **Table 1** highlights such cases.⁵³ In all these cases, there has been a variety of reviews on the implication of each case. Suffice to point out that success has not been on the side of pastoralist. It seems, according to Chris Peter that, the courts still view pastoralist in the most negative sense and technicalities are used to throw out substantive cases.⁵⁴ We give a brief review of two scenarios to put our views into context: The Barabaig Case and the Mkomazi Case.

Figure 3: Some Core Pastoral Land Rights Cases in Tanzania

| No. | Case Reference | Community | Claim | Final Court Decision |
|-----|--|--|---|---|
| | Mulbadaw Village Council & 67 Others vs. NAFCO (HC - Arusha - CV# 10/1981 and CA - CVA # 3/1986) | Barabaig Pastoralists in Hanang District | Claim Over extensive Pasture Lands appropriated by NAFCO, a Parastatal, as MULBADAW FARM, (about 10,000 acres) funded by CIDA, Canada | Pastoralists lost: (1) Village Council failed to show legal allocation of land from prior land authorities. (2) Barabaig Pastoralists failed to show the Court that they are natives of Tanzania! (Despite the public fact that |

⁵³ Adopted the Table from Tenga, R.W. 'The right to food and security of pastoral resource rights in Tanzania' 2007 - Forthcoming in FAO/IIED publication on the Right to Food in EA.

⁵⁴ Peter, Chris Maina. "Human Rights of Indigenous Minorities in Tanzania and the Courts of Law," Raoul Wallenberg Institute of Human Rights and Humanitarian Law (Lund: University of Lund, 2007)

| No. | Case Reference | Community | Claim | Final Court Decision |
|-----|---|--|--|--|
| | | | | Barabaig Pastoralists are found nowhere else on Earth, and in Court some had to get a translator! |
| | Yoke Gwaku & 5 Others vs. Gawal Farms Ltd & NAFCO (HC – Arusha – CV#52/1988) | Barabaig Pastoralists in Hanang District | Claim Over extensive Pasture Lands appropriated by NAFCO, a Parastatal, as GAWAL FARM, (about 10,000 acres) funded by CIDA, Canada | <p>The High Courts Awards a Nominal Victory:</p> <ol style="list-style-type: none"> (1) Court finds the Pastoralists have been illegally Dispossessed (2) But Representative Suit only covers those in Court and not the odd 780 others. (3) Trespasser’s title legalised, Claimants to be paid token monetary compensations in lieu of title and repossession of the land |
| | Ako Gembul & 100 Others vs. Gidagamowd and Waret Farms Ltds & NAFCO (HC- Arusha – CV#12/1989) | Barabaig Pastoralists in Hanang District | Claim Over extensive Pasture Lands appropriated by NAFCO, a Parastatal, as WARET and GIDAGAMOWD FARMS, (about 20,000 acres) funded by CIDA, Canada | <p>The High Court (per Nchalla, J.) dismisses the case:</p> <ol style="list-style-type: none"> (1) That the Government has priority in Food Security and the acquisition of the Barabaig Land is proper, as national interest overrides all other interests.. (2) That the suit is bad in law as it should have been consolidated with the <i>Yoke Gwaku</i> Case. The litigants were at fault and maybe guilty of |

| No. | Case Reference | Community | Claim | Final Court Decision |
|-----|--|--|--|---|
| | | | | abuse of the process of Court. |
| | Lekengere Faru & Ors vs. AG & Ors (HC- Moshi - CV#33/94 & CV#33/95 and CA – CVA # 53/1998) | Maasai Pastoralists living in Mkomazi Game Reserve, North Eastern Tanzania | Claim against evictions from ancestral lands within the Game Reserve | The High Court per Munuo, J. finds that the Evictions were illegal, Orders that alternative land be sought and Claimants be Compensated. Court of Appeal per Nyalali, CJ, in a hastily written Judgment (1999) 'finds out' that the Maasai are not Natives of Mkomazi but 'recent' immigrants who only resided there under a licence. Orders paltry damages for only those who gave evidence in Court and also orders for alternative land to be sought. The last Order remains unimplemented to date. |
| | Ngotyaki, Oloruja & Others vs. Republic, (HC – Arusha - Criminal Appeal # 8/1991) | Maasai Pastoralists in Ngorongoro Conservation Area | Five Pastoralists appeal against conviction by Monduli District Court for allegedly breach of Anti - Cultivation Regulations within the Conservation Area, the conviction covers 9 people jailed for 3 months and 649 fined. | Convictions quashed by the High Court as they were based on (1) Repealed Law, and, (2) Section 9A of the Ordinance under which the accused were charged contained no punishment provisions |

ii. The Case of Barbaig Pastoralists in Hanang District.

The Barabaig cases, as shown table 1 above are founded on the principle that pastoralists have traditional legally recognizable rights over the land upon which they were born, live and graze. **S.2 of Land Ordinance 1923** provided then that natives had customary (deemed) title over their land and the same could be recognized and proved in a Court of Law in accordance with the provisions of **S.11 of the Judicature and Application of Laws Act**. The three cases (**Mulbadaw**, **Yoke Gwaku** and **Ako Gembul**), all held, at one stage, that the pastoralists had a customary title to their grazing lands. In the **Mulbadaw** case the High Court held that there was a native title but the Court of Appeal, on the basis of a flimsy technicality, held that the title was not proved as the claimants in Court did not prove that they were Barabaig natives! Disqualification

of the Village Council as the custodian of the collective pastoral title in Mulbadaw case calls for resuscitation and co-option of traditional organs of governance to fill in the apparent lacunae.

In **Yoke Gwaku** and **Ako Gembul** cases, the pastoral claimants tried to skirt around the procedural and technical hurdles erected by the court in the Mulbadaw case. Anthropological evidence was adduced by Dr. Charles Lane a distinguished Australian Anthropologist to prove the existence of a native pastoral title in Hanang based on his sociological study of Barabaig society.⁵⁵ Second, the representative character of the claimants was achieved through the application of a representative suit as provided under the **Civil Procedure Code, 1966**. In both aspects the Barabaig still lost as the Courts became highly ingenious in generating technical hurdles. In the case of Yoke **Gwaku** the court held that a customary pastoral title over the lands of Gawal area in Hanang District was proved. However, the Court held the representative application, although granted at the outset, did not hold water unless all claimants had appeared and gave evidence to prove their losses in court. The court reasoned that orders for compensation may only be provided to individuals who gave evidence in court; and since only a few individuals gave evidence the court felt constrained to nullify the whole title over extensive tracts of land to benefit a few pastoralists! This is a case in which owners of the land proved trespass but were denied justice because the court was sympathetic to the bogus title of the trespasser! The trespasser happened to be a state corporation. The claimants appealed but the case was never heard for several years. Then one day the case was scheduled for hearing but the Appellant's advocate told the court that he had no instructions. In the upshot, instead of allowing the appellants to instruct another advocate, the court took the opportunity to strike down the appeal. Whether this was irregular or not, for the pastoralists the goal had been shifted once again and this time it has disappeared completely from the playground.

From this scenario what do we learn? First, the court's negative attitude towards the existence of the pastoral title proves that the state never believed in the traditional title. Furthermore that although the Land Act and Village Land Act provide an avenue for the proof and recording of customary title hence enabling pastoral community to defend their resource rights, cumbersome titling procedures will land pastoralist into the same difficulties in terms of proving the title just as it happened in the Hanang cases. This does not mean that proof is impossible; it only means the pastoralists must undergo a complex process in terms of proof and chances of success may be minimal. **So lesson number one – simplify the process of registration of pastoral title.**

The Second lesson from the Barabaig cases is one regarding the procedural aspects of defending the collective or common resource rights of a pastoral community. This issue devolves on who is the lawful custodian of this kind of title. In the Barabaig case the Village Council was disqualified. Today there exists at law no body corporate or traditional entity entitled to act as custodian of collective customary title to land. The present Land Acts provide a solution by putting in place a process for the formalization of the pastoral title without establishing an authority entitled to be the custodian of the collectives' title. The New Grazing Land Bill 2007

⁵⁵ Charles. Lane, Pastures Lost: Barabaig Economy, Resource Tenure And The Alienation Of Their Land In Tanzania (Nairobi: Initiative Publishers, 1996)

seems to suggest a Pastoralist Association but this is the kind of entity that was not successful in the former Range Development Strategy. The challenge is how to identify the entity entitled to act as custodian of the commons. Then the next challenge is to define the bundle of rights that may be registered with the title. **Now lesson number two seems to be - identify and legalise the custodian of the common pastoral title to land.**

The third, lesson appears to be one of litigation strategy. The pastoralists succeeded in whatever they did in Court through extensive networking. Not only were the Pastoralists engaged but also other facilitators (from Individual Researchers, Lawyers, NGOs, and International Organizations). The knowledge base that is required has to be extensive since there are a variety of actors interested in pastoral lands for different objectives, some of which are in conflict with the communities' interests. It is possible to create appropriate synergies where a proper stakeholders' audit is done. **The third lesson appears to be one of advocacy and strategy – there must be a working and dynamic network of like-minded stakeholders.** Advocacy and media strategy go a long way in shaping participants' resolve to go on with cases that may take very long to finish.

iii. The Case of the Maasai Pastoralists in Mkomazi

The Mkomazi pastoralists different with the Hanang pastoralists are faced with an eviction problem justified as a conservation issue. The establishment of a Game reserve that has now been changed into a National Park has led to one of the most unjustified evictions in Tanzania's history. The Mkomazi Game Reserve (MGR) is established in the north-east of Tanzania alongside the border with Kenya, south of the Tsavo National Park. It was established in 1952 and in the enabling Charter pastoralist rights were preserved. However by 1987 the Maasai Pastoralists started to face serious systemic mass expulsions from the Reserve. The pastoralists went to the High Court in Moshi where they lodged 2 cases challenging the eviction.⁵⁶

The Applicant pastoralists claimed to be native residents "for hundreds of years" of an area in north-east Tanzania known as "Alaililai lemwarzuni" in Maasai language and today styled by the law as Mkomazi Game Reserve. The area was made a game reserve under the **Fauna Conservation Ordinance**, Chapter 302 of the laws of Tanzania, in 1951. However its creation did not affect pre-existing and future customary land rights of the natives as these were expressly safeguarded by statutory and positive assurances by the government that these rights would not be disturbed without the consent of the resident pastoralists. Neither did the legislative changes brought about by the **Wildlife Conservation Act**, 1974 affect the safeguards. The Game Division itself in 1952, 1963, 1968 and 1971 made a list of pastoralists

⁵⁶ Lekengere Faru Parutu Kamunyu and 16 Ors versus (1) Minister for Natural Resources, Tourism and Environment, (2) the Director, Wildlife Division, (3) Project Manager, Mkomazi Game Reserve and (4) The Attorney General (HC-Moshi) Civil Case No. 33 of 1r Mkomazi pastoralists' case which was similar to this one and also lodged in Court by Legal Aid Committee Advocates was styled: Kopera Keiya Kamunyu & 44 Ors vs. The Minister for Natural Resources Tourism and the Environment & 3 Ors [HC-Moshi] Civil Case No. 33 of 1995. Both cases were later consolidated.

who were found in the Game Reserve and whose rights were safeguarded. The first government directive came out in 1987 to get all pastoralists out of the reserve. They however complained and got a brief extension. Nevertheless in 1988 by a directive from the Principal Secretary of MLUD, Mr. A. Mshangama, the Wildlife Division ordered all pastoralists out of the MGR.

The Applicants claimed in court that they were forcefully evicted from their ancestral lands, their homesteads were burnt down and livestock maimed or killed; and that their customary way of life has been broken down resulting into emigration of their members to Kenya and to urban areas. In the court they claimed that their constitutional right to live and enjoy their respective lives and to own, occupy and use their ancestral lands had been infringed. They challenged their eviction, which they claimed constitutes a serious infringement of the claimants' customary land rights of natives of Tanganyika as recognized by land laws of Tanzania. Their claims were indicative of the corpus of rights that go along with the collective Title of the Maasai pastoralist. Extensive literature supported by extensive research work by Dr. Dan Brockington and Prof. Jim Igoe, show how the eviction was carried out and how it has succeeded.⁵⁷

In High court the Judge held that the pastoralists had been unlawfully evicted but instead of nullifying the eviction, the court confirmed it and ordered payment of paltry damage and grant of alternative land on a 'self help' basis. The claimants appealed to the Court of Appeal, there was hope that the top most court would clear the ambiguities in the High court's decision but instead the Court of Appeal gave a hopelessly worse decision.⁵⁸ The Court of Appeal's decision contradicted all known historical facts. Even those facts proved by the trial court were nullified in order to allow the court to deliver a political rather than a judicial decision. In so doing the Court of Appeal, turned a blind eye on undisputed historical facts and adopted those facts designed by the colonisers of a defenceless people.

When we visited Mkomazi pastoralists in August 2007 they related their predicament. Up to this day they have not been allocated alternative land. The Authorities have shown them some unsuitable land in Handeni. But an inspection of these areas, with government officials, revealed that the grass is totally unsuitable for livestock, no watering areas could be identified and the infrastructure for livestock keeping practically absent. The advocate for the pastoralists, Prof. Ibrahim Juma, now Chairperson of the Tanzania Law Reform Commission, gave us copies of correspondence with the authorities urging them to give alternative land to pastoralists as ordered by court. The challenge seems to be what these defenceless people can do in the face of a hostile municipal legal system. Are there any other remedies?

⁵⁷ Dan Brockington, *Fortress Conservation: The Preservation of the Mkomazi Game Reserve, Tanzania*. (Oxford: James Currey Ltd, 2002); Jim Igoe and Dan Brockington, "Pastoral Land Tenure And Community Conservation: A Case Study from North-East Tanzania," IIED Pastoral Land Tenure Series (London), 11 (1999); Ibrahim H. Juma, "Extinction of Customary Land Rights in the Wildlife Conservation Areas of Tanzania: The Case of Mkomazi Game Reserve," *Africa: Zeitschrift der Gesellschaft für afrikanisches Recht* 2 (2000)

⁵⁸ Sifuni Ernest Mchome, *Evictions and the Rights of People in Conservation Areas in Tanzania* (Dar Es Salaam: Dar Es Salaam University Press, 2002);

These cases show that not only has the post colonial state deliberately marginalised pastoralists by taking their traditional pasture land without providing ADEQUATE compensation and alternative pasture land, but the courts in Tanzania have failed to defend the legal and the human rights of the pastoralists in the last half century. The courts have demonstrated lack of sympathy by readiness to invoke legal technicalities to defeat justice, and slavishly upholding authoritarian anti-pastoralist state policies and laws. The judgments of the High Court and the Court of Appeal in the cases cited above are cases on point.⁵⁹ The pastoralist we visited told us that although they have lost the current legal battles, they are resolutely committed to winning the struggle for their human rights.⁶⁰

3.7 Constitutional Protection of Pastoral Land Rights in Tanzania

The constitution of the United Republic of Tanzania was made in 1977 and is the supreme law of the land. All other laws derive their legality from the constitution. It contains a bill of rights made up of 28 articles. The state has guaranteed through this bill that it will respect the rights promulgated therein without restrictions but has subjected this guarantee to claw back clauses contained in Article 30. The restrictions imposed upon human rights by the provisions of article 30 are by any stretch of interpretation too wide and unnecessary for democracy. For instance Article 30(2) declares that the provisions contained in this part of this constitution which set out the basic human rights, freedoms and duties, do not invalidate any existing legislation or prohibit the enactment of any legislation or doing of any lawful act in accordance with such legislation for the purposes of ensuring the defence, public safety, public order, public morality, public health, rural and urban development planning, the exploitation and utilization of minerals or the increase and development of property or and other interests for the purposes of enhancing the public benefit.

Human rights jurisprudence allows minimum limitation of rights necessary for the operation of a democratic state but it is clear that these limitations relating to “rural and urban development planning, the exploitation and utilization of minerals or the increase and development of property or and other interests for the purposes of enhancing the public benefit are unnecessary in the existence and operation of a democratic order.

3.7.1 Mandatory Guidelines for State Policies and Laws.

Part II of the constitution of the United Republic of Tanzania, 1977 provides fundamental objectives and directives of state policy and laws. The significance of the provisions in this part of the constitution is that they set out mandatory guidelines to state policy that no organ or official of state is permitted to ignore or to detract from. The words used in Article 7(1) notwithstanding the provisions of sub article (2), it shall be the duty and responsibility of the government, all its organs and all persons or authorities exercising executive, legislative or judicial functions to take cognizance of and apply the provisions of this part of this chapter.

⁵⁹ Peter, C.M., 2007, "Human Rights of Indigenous Minorities in Tanzania and the Courts of Law," Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Lund: University of Lund.

⁶⁰ Mama Duncan, Discussion during research, Katesh (august, 2007)

Article 8 enacts democracy and social justice as the fundamental principles of the state. Sovereignty of the people, social welfare, government accountability to the people and participation of the people in the Affairs of their government are stated clearly in this article as the *modus operandi* of governance.

In this study we discovered that people at grassroots level were not given civic education to now how to elect leaders that can uphold their interests. Our discussions with community leaders and CSO officials in Katesh, Ngorongoro and Arusha⁶¹ revealed that pastoralists did not know that it was important to elect pastoralist leaders into elective decision-making organs of state, they elected instead agriculturalists in order to relieve themselves of the hustle of attending endless meetings instead of taking care of their herds. When official policy and administrative decisions were made, these came as a surprise to pastoralists who were absent all the way, but technically 'participated' in accordance with law⁶². But more significant was the response we received from all grassroots leaders we interviewed regarding the involvement of the people in policy making. They all replied "no we were not involved or consulted".

3.7.2 Constitutional Remedies

It follows that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law.⁶³ Tanzania is signatory of and has ratified the International Covenant on Civil and Political Rights,⁶⁴ under which she undertook to ensure that any person whose rights or freedoms as recognized under the Covenant are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.⁶⁵ The Covenant requires that the rights to such remedy be determined by competent judicial, administrative or legislative authorities, or

⁶¹ Per Lekei (Mkomazi pastoralists 14/08/07) , UCRT, Farm Africa (Katesh 16/08/07), Mwedu, ERETO

⁶² In Katesh, officials in the District Council told us that pastoral community leaders had accepted that three of the wheat farms which were subject to court litigation be sold to liquidate debts, and two be divided one to pastoralists (Gawal) and the other (Warret) to agriculturalist. The so-called pastoralists and agriculturalist who were to benefit from the re-distribution of land were not those that had gone to court. Later when we spoke to community leaders they told us a different story. They said that the community leaders were not consulted. The Officials of the District council handpicked individuals from the villages, 17 in all and only 7 were pastoralist. They were hand picked just a day before the meeting and had no time to consult. The community leaders we spoke to expressed fears that this was done for two reasons, fist one being to allow part of the land to be allocated to some big fishes in the District Council and the second to circumvent the pastoralists who went to court. According to them they had to rise up in arms to prevent the parcelling of the farms but we are not sure how this state of affairs will hold.

⁶³ Article 8, Universal Declaration of Human Rights

⁶⁴ UN General Assembly resolution 2200A (XXI) of 16 December 1966

⁶⁵ Article 2 (3) (a), UN General Assembly resolution 2200A (XXI) of 16 December 1966.

by any other competent authority provided for by the legal system of the State.⁶⁶ Tanzania also undertook to ensure that the competent authorities shall enforce such remedies when granted.⁶⁷

3.7.3 Constitutional Petitions.

The normal method of seeking relief for breach of constitutional rights in Tanzania is by way of judicial review initiated by way of constitutional petitions by the party whose basic rights have been injured. The court of competent jurisdiction is the High Court that has the powers to declare the offensive provision of law or action to be unconstitutional and therefore null and void⁶⁸. Article 30(3) of the Constitution of the United Republic allows any person alleging infringement of bill of rights to institute proceedings for redress in the High Court. Therefore the *locus standi* in respect of violation of basic rights is given by the constitution to every person. The procedure of instituting constitutional petition has been provided for in the **Basic Rights and Duties Enforcement Act [Cap 3 R.E. 2002]**. Section 13(1) of the Act, empowers the High Court, in making decisions in any suit, if it comes to the conclusion that the basic rights, freedoms and duties concerned have been unlawfully denied or that grounds exist for their protection by an order of the High Court, to make all such orders as shall be necessary and appropriate to secure the applicant the enjoyment of the basic rights, freedoms and duties conferred or imposed on him under the provisions of sections 12 to 29 of the Constitution. Therefore one may collaterally apply for constitutional remedies in an ordinary suit or application.

Section 8 of the Act provides for, among other things, the Jurisdiction of the High Court to hear and determine applications made by persons seeking for protection of their basic rights.⁶⁹ It is trite law that that remedies available in ordinary laws shall not be sought in a constitutional petition. Section 8(2) of the **Basic Rights and Duties Enforcement Act** states clearly that the High Court shall not exercise its powers under this section if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law, or that the application is merely frivolous or vexatious.

3.7.4 Lacunae in the Law.

It is clear from the decided cases that neither the parliament, nor the courts have been focused and consistent in upholding human rights. The general legislative policy or approach has been to provide for and guarantee rights by one hand while taking them away by the other hand through claw back clauses. To date most of these claws back clauses have been repealed with the exception of those contained in Article 30 of the Constitution. The law has remained

⁶⁶ Article 2 (3) (b), *Ibid*.

⁶⁷ Article 2 (3) (c), *Ibid*.

⁶⁸ See Peter Ng'omango v. Gerson M.K. Mwangwa and Attorney General, [1993] TLR 77, Kukutia Ole Pumpun and another v. Attorney General and Another [1993] TLR 159, and Christopher Mtikila v Attorney General, Misc. Civil Cause No.. 10 OF 2005 (Unreported).

⁶⁹ See Section 8 (1) (a)

restrictive and overly hostile to rights than vice versa. Pastoralists have suffered most because their plight is misunderstood by mainstream policy makers.

Summary of Litigation Options:

We have shown the examples of the decided court cases that the courts in Tanzania have played hide and seek in adjudicating upon human rights, in one some cases standing boldly in defence of the rights of the individual while in others chickening out and presenting brazenly conservative judgments. This practice is supplementary to the existing gaps in law that does not explicitly provide for specific remedies to be offered by the Court in instances of breaches of fundamental Rights. Declaration of unconstitutionality of law is a naked remedy that leaves the injured uncompensated. Further procedural technicalities seem to stand in the way of real justice. For instance over and above the technicalities invoked unnecessarily by the Courts, even within the domestic legal system, it is necessary for a claimant of violated right to exhaust other legal remedies before constitutional process can be invoked.⁷⁰ We have explained with the support of court cases that the state has not proved to be a respecter of provisions of the constitution when dealing with the rights of pastoralists. These communities have been treated inhumanly, their rights have been violated without being given legal remedy and to date they remain fugitives in their own country. They have been rendered landless and homeless through policy and law even when for sometime high profile state authorities hailed from their midst⁷¹.

3.8 International Law Protection of Pastoral Rights

The international legal system has developed over time, especially after the Second World War specific provisions for the protection of marginalised peoples. These provisions have now been codified in two UN declarations, namely UN Declaration on the Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities⁷² and the UN Declaration on the Rights of Indigenous Peoples adopted by the UN General Assembly in September 2007 and specific provisions have been enacted into several different conventions of international law⁷³. The problem with international legal system is that international courts established to implement its laws give *Locus standi* to states and not individuals. In our case however, the African court of

⁷⁰ Section 8(2) of the Basic Rights and Duties Enforcement Act

⁷¹ The late Prime Minister Edward Sokoine, Ex-Prime Minister Frederick Sumaye and current Prime minister Edward Lowassa all hail from pastoralist communities. The Prime Ministerial portfolio is a senior executive position from which one would have expected radical shift of state policy in favour of pastoralism. This has not happened and may not happen.

⁷² UN Declaration on the Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities (1992) and the UN Declaration on the Rights of Indigenous Peoples adopted by the UN General Assembly in September 2007.

⁷³ Convention on Prevention and Punishment of the Crime of Genocide (article 1&2), International Covenant on Civil and Political Rights (ICCPR) International Convention on Economic and Social Rights (ICESR) (1966) and the ILO Convention No. 107 of 1997 and No. 169 of 1989.

Human and People's Rights established by the 2nd protocol⁷⁴ to the Banjul Charter allows individuals to file complaints. Tanzania has already ratified the protocol and the court is based in Arusha. In accordance with the provisions of Article 27 (1) if the Court finds that there has been violation of a human or peoples' rights, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation. Further sub article (2) empowers the court to consider cases of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons, to adopt such provisional measures as it deems necessary. The weaknesses of this new court notwithstanding the creation of the court gives Tanzanian pastoralists an avenue they can fall back to where they have exhausted local remedies.

3.8.1 The East African Court of Justice

Although this visited and studied the East African Court of Justice, established by article 23 of the treaty of East African Community⁷⁵ as a forum that could provide the pastoralists in the region remedy for their legal claims we found that partner states have so far not concluded a protocol to operationalise the extended jurisdiction that covers human rights matters. We are of the opinion that absence of the operationalising protocol hinders the Court of Justice of East Africa from entertaining pastoralist claims at the moment.⁷⁶

3.9 Whither Pastoralism?

For pastoralists in East Africa generally and Tanzania in particular, the struggle for their right to decent, prosperous and rewarding livelihoods has just began. The conservative local legal system should not deter them in their struggle. They may take recourse to the African Court of Human Rights at Arusha.

⁷⁴ Adopted at the 34th Ordinary Session of the Assembly of Heads of State and Government at Ouagadougou, Burkina Faso in June 1998

⁷⁵ Treaty for the Establishment of the East African Community, signed on 30th November 1999 and entered to force on 7th July 2000

⁷⁶ See Article 6 (d) of the EAC Treaty.

3.10 References

- Baldus, R.D., Kaggi D.T., and Ngoti, P.M., 2004, CBC: Where are we now - Where are we going?, Miombo - The Newsletter of the Wildlife Conservation Society of Tanzania, Arusha
- Blackstone., Commentaries on the Laws of England
- Brockington, D., 2002, Fortress Conservation: The Preservation of the Mkomazi Game Reserve, Tanzania, James Currey Ltd, Oxford
- Cotula, L., (ed), 2007 'Changes in "Customary" Land Tenure Systems in Africa'. London and Rome: International Institute for Environment and Development [IIED]
- De Merode, Eleónore, and others (eds), UNESCO World Heritage Paper No. 13
- Fimbo, G.M., 2003. Land Law Reforms in Tanzania, A Lecture prepared to Commemorate the authors 60th Birthday Anniversary on the 8th day of August, 2003, Dar Es Salaam
- Forstater, M., (2002) "Bones for Sale: development, environment and food security in East Africa," Review of Political Economy
- Fortes and Pritchard, E., 1940, African Political Systems (London: OUP)
- Hando, J., 2004, Community Conservation Services: Experiences from Serengeti National Park in Linking Universal and Local Values: Managing a Sustainable Future for World Heritage
- Harold, S., "Aspects of Colonial Land Law in German East Africa" Identity in Africa-Processes of Development and Change (University of Bayreuth
- Hatfield, R. and Davies, J., 2006, "Global Review of the Economics of Pastoralism," World Initiative for Sustainable Pastoralism , Nairobi
- Igoe, J., and Brockington, D., 1999, Pastoral Land Tenure and Community Conservation: A Case Study from North-East Tanzania, IIED Pastoral Land Tenure Series, London
- Juma, I.H., 2000, Extinction of Customary Land Rights in the Wildlife Conservation Areas of Tanzania: The Case of Mkomazi Game Reserve, Africa: Zeitschrift der Gesellschaft für afrikanisches Recht
- Kimambo, I.N., 1995, "Environmental Control and Hunger: In the Mountains and Plains of Nineteenth Century North Eastern Tanzania in Maddox et al Custodians of the Land, James Currey, London
- Kosyando, Lembulung Ole, M., 2007, A Participation Report of the Pilot Project in Handeni District, Mkurabita and the Implementation Of The Village Land Act No. 5 Of 1999, September 18 - December 8, 2006, Arusha
- Larsson, P., 2006, The Challenging Tanzanian Land Law Reform: A study of the implementation of the Village Land Act. MSc diss., Swedish Royal Institute of Technology [KTH]
- Leland, F., 1963, Development of Range Resources in the Republic of Tanganyika, USAID, Dar Es Salaam

- Letai, J., 2007, *An Audit of the Rangelands Act and its Implications on Pastoral Livelihoods in Tanzania: A Report for Tanzania Pastoralists and Hunter-Gatherer Organization (TAPHGO)*, Arusha
- LHRC., 2003, *Protection of Wildlife & Human Rights on the Balance Sheet: A Case of Serengeti Killings. An Evaluation by the Legal & Human Rights Centre (Tanzania)*, Dar Es Salaam
- Llewellyn, K. and Hoebel, E.A., 1941, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*
- Maina, Chris P., 2002, "The Human Rights System"
- Maina, Chris P., 2007, "Human Rights of Indigenous Minorities in Tanzania and the Courts of Law," Raoul Wallenberg Institute of Human Rights and Humanitarian Law Lund: University of Lund
- Masara, Y.B., 2000, *The Conflict of Legislations and Collisions of Jurisdiction: An Impediment to the Realization of Community Based Conservation in Tanzania*, Consultancy Report of the AWF, Arusha(Unpublished)
- Mattee, A.Z., and Martin N.S., 2005, *Report on Policies and Laws that affect Pastoralism in Tanzania*, Consultancy Report on ERETO II, Ngorongoro Pastoralists Project, Phase 2., Dar Es Salaam, Royal Danish Embassy, DSM & URT, Ministry of Natural Resources
- Mattee, A.Z., and Martin N.S., 2006, *Ambivalence and Contradiction - A Review of the Policy Environment in Tanzania in relation to Pastoralism*, International Institute for Environment and Development [IIED], London
- Mchome, S.E., 2002, *Evictions and the Rights of People in Conservation Areas in Tanzania*, Dar Es Salaam University Press, Dar Es Salaam
- Methner, W., 1938, *Unter drei Gouverneuren – 16 Jahre Dienst in deutschen Tropen*, Breslau
- Middleton and Tait (Eds), 1958, *Tribes without Rulers*, Routledge & Kegan Paul, London
- Moore, S.F., 1978, *Law as Process*, Routledge & Kegan Paul, London
- Ndagala, D., 1982 "Operation Imparnati: the sedentarization of the pastoral Maasai in Tanzania Nomadic People
- Nelson, F., 2007, *Emergent or Illusory? Community Wildlife Management in Tanzania*, Pastoral Civil Society in Tanzania, International Institute for Environment and Development [IIED], Issue Paper No. 146, London
- Nelson, F., Sulle, E., and Ndoipo, P., 2006, *Wildlife Management Areas in Tanzania: A Status Report and Interim Evaluation*, Report Prepared for Tanzania Natural Resource Forum, Arusha
- Ojalammi, S., 2006, *Contested Lands: Land Disputes in Semi-Arid Parts of Northern Tanzania - Case Studies of the Loliondo and Sale Divisions in the Ngorongoro District*, PhD diss., Department of Geography, Faculty of Science, University of Helsinki.
- Ole Nasha, W., 2007, *Formalisation of Land in the Commons: the Future or the End of Pastoralism in Tanzania?*, MKURABITA Newsletter, Dar Es Salaam

- Parkipuny, M., 1979, *Some Crucial Aspects of the Maasai Predicament*, In Coulson, Andrew, and *African Socialism in Practice: The Tanzanian Experience*. 136. Nottingham: Spokesman
- PINGOs, HakiArdhi, LHRC, and HIMWA., 2007, *Eviction and Resettlement of Pastoralists from Ihefu and Usangu-Mbarali District to Kilwa and Lindi Districts*, Collaborative Report by PINGOs, HakiArdhi, LHRC and HIMWA, Arusha
- Pospisil, L., 1974, *Anthropology of Law: A Comparative Theory*, HRAF Press, New Haven
- Shivji, I.G. and Kapinga, W.B., 1998, *Maasai Rights in Ngorongoro, Tanzania*. Drylands Programme, IIED/Hakiardhi, London
- Shivji, I.G., 1994, *A Legal Quagmire: Tanzania's Regulation of Land Tenure (Establishment of Villages) Act, 1992*, Pastoral land Tenure Series No. 5: International Institute for Environment and Development [IIED], London
- Shivji, I.G., 1994, *Report of the Presidential Commission of Inquiry into Land Matters*, Uppsala: Scandinavian Institute of African Studies, Tanzania
- Sjoholm, H. and Louno, S., 2002, *Traditional Pastoral Communities Securing Green Pastures through Participatory Forest Management: The Case of Kiteto District, Tanzania*, Proceedings of the 2nd International Workshop on Participatory Forestry in Africa, Rome: FAO
- Snyder, F.G., 1981, "Anthropology, Dispute Processes and Law: A Critical Introduction."
- Stolla, F., 2005, "Wildlife Management Areas - A Legal Analysis", TNRF Occasional Papers No. 5, Arusha
- Tenga, R.W., 2006, "Minority Rights in Tanzania", in *Human Rights, Constitutionalism and the Judiciary: Tanzanian and Irish Perspectives*, (Eds) Binchy, Williams; Finnegan, Catherine, Clarus Press, Dublin
- Wily, L.A., 2003, *Community-Based Land Tenure Management: Questions And Answers About The Tanzania's New Village Land Act, 1999*, Issue Paper No. 120, IIED, London
- Yves. H., 2006, *Tanzania Survey of Conservation Legislative Framework on Community Conserved Areas [CCAs]*, Evaluation by the IUCN Commission on Environmental, Economic and Social Policy [CEESP], IUCN. Inputs by Igoe, Jim; Lasgorceix, Antoine

4 ECONOMIC RELATED ISSUES

4.1 Total Economic Value (TEV) of Pastoralism

It is believed that the decline in rangeland systems is compounded by a lack of government support for improving rangeland livelihoods based on adaptive customary management systems. The government has been evolving policies and practices most of which are in conflict with the needs and interests of pastoral communities because they are not based on their socio-economic realities: a long established and cherished cultural heritage, livestock production as a principal means of livelihood, high mobility through constant migration, and the harsh environment characterized by drought, animal rustling, disease, and poor means of communication (Mlekwa, 1996). It is commonly perceived that pastoralism poorly contributes to the national economy in terms of livestock exports, that pastoralism is heavily limited by disease management deficiencies and that pastoralist range management is obsolete, unproductive and environmentally degrading. Thus the government decisions and actions are usually in favour of sedentary commercial livestock production models such as ranching and would like to abandon customary mobile range management systems. The government seems to neglect the negative consequences of these actions. Together with the growth of commercial agriculture, this policy approach is not pro-poor and is more likely to bring about poorer livelihoods, inequitable access to range resources, and increased environmental degradation, most notably in semi-arid regions of the country where pastoralism is most prevalent (TNRF, 2007). Rising productivity within labour-intensive small farms in which a majority of people is involved can be expected to have a broader effect on poverty reduction than equivalent productivity increases on large, mechanized holdings, which typically generate less additional demand for local goods and services. The sedentary commercial livestock production will also affect migratory wildlife adversely and the potential for developing a diversified rural economy that benefits from tourism (TNRF, 2007).

Insufficient understanding about the ecology of adaptive range management based on customary systems and a lack of understanding about their Total Economic Value (TEV), seems to be one of the important factors for the lack of government support for the pastoral systems. The economic value of pastoral production systems remains poorly captured by formal statistics – as much of the pastoralist economy remains in-formal and thus the economic value of pastoralism to the national economy remains understated, and this constitutes a significant data gap, which needs to be filled to develop more effective policy advocacy.

A study that used the Total Economic Value (TEV) Analysis as an approach for data collection and analysis was undertaken to assess the economic value of pastoralism which is not fully captured in formal statistics. Both the review of existing literature and survey carried out in the study provide evidence that the economic value of pastoralism is much higher than the value reported in official statistics. Apart from the value of marketed products which is captured in national accounts, values of the following products from the pastoral systems are not captured as part of the value of pastoralism in the national accounts.

4.1.1 The value of subsistence production

Though significant, subsistence production in the pastoral systems is one of the values that are not captured in the national accounts. Traditionally, pastoral diet consisted of the consumption of milk, meat and occasional blood. All these are not accounted for in the GDP contributed by livestock. Despite lack of official statistics on the household meat consumption in the pastoral systems, it is known that almost all the meat and blood produced in the pastoral systems are all consumed by pastoral households, while 90% of the milk produced (approximately 5.2 million litres) valued at Tshs 1.6 billion is consumed within the pastoral households.

In the Usangu plains, pastoralists interviewed during the field survey in December 2007 pointed out that milk and meat were important components of their diet. The respondents reported that they slaughtered on average 8 cattle, 7 goats, 7 sheep and 39 chicken annually for their household consumption and traditional ceremonies. They also reported that their average household milk consumption stood at 2,422 litres per annum. Measured in monetary terms the household average value of all the household consumed livestock products is estimated at Tshs. 2,768,000. Generalized for Mbarali District in the Usangu plains with approximately 3,000 livestock keeping households, the value of subsistence production comes to TShs. 7.3 billion.

4.1.2 The value of inputs to other sectors of the economy

While livestock produce a myriad of goods and services for household livelihoods such as meat and milk, they also provide draft, transport and are a source of manure for crop production. The use of inputs from livestock in crop production is regarded as an important strategy for efficient utilization of resources from the livestock sector. For example the use of animal power in crop production substantially reduces human drudgery and allows an increase in the cultivated area. Compared to hand hoes, ploughing with animals may also increase yield per unit area, particularly in moisture stress areas by improving soil structure thereby facilitating water infiltration. These conditions allow farmers to gain increases in labour (Gryseels, 1988) and farm productivity (ILCA, 1987; Bekele, 1991). It is argued that adequate use of inputs from livestock can be an effective way of promoting agricultural production because it provides cheap inputs.

For instance, in SSA 13 million cattle, 6 million equines and 5 million camels provide draught power for land cultivation, threshing, water lifting, and transport of people and goods (Jahnke, 1982); and at present the use of animal traction for crop cultivation is widespread in Ethiopia, Botswana, Madagascar, Niger, Burkina Faso, Mali and Senegal (Gryseels, 1988).

Animal traction is one of the major sources of power in the Tanzania's smallholder agriculture and its increased use in the past two decades indicates that it is an acceptable, affordable and sustainable technology, though the utilization of draught animals in the country is mainly confined to conventional tillage using mouldboard ploughs and to limited extent transportation (Shetto, 2005). Shetto further explains that despite Tanzania having a big cattle herd of more than 16 million, only 1.2 million are employed for draught purposes implying that more animals may be used in agricultural production. It is estimated that there are approximately 2 million mature steers that can be trained for draught purposes, the employment of which may put more than 2 million hectares under crop production. This would highly improve the household food security, increase incomes of the rural population, reduce poverty and contribute to the economic development of the country.

The 2002/03 National Sample Census of Agriculture shows that almost a quarter of crop growing households in Tanzania are using draft animals for cultivation. According to the census, some regions in the mainland have more than 45% of the crop growing households using draft animals for cultivation. In the Usangu plains where a field survey was carried out in December 2006, livestock contributes to agriculture in Usangu plains through mechanisation and usage of manure. DALDO Mbarali (2007) estimates that Mbarali district has 9,000 draught oxen or 4,500 oxen pairs. The cost of hiring a tractor for ploughing, including fuel, is Tshs 25,000/= per acre (Tshs 62500/ha). Assuming that each oxen pair ploughs 15 acres or 6 ha per annum, the total value of ploughing is Tshs 1.7 billion. Other work in seeding, harrowing and transport may be equivalent to this amount. Each of the respondents that were interviewed reported having at least a pair of oxen and ox ploughs, and most of the land owned by the households was cultivated using ox ploughs.

Although many households do not apply manure in their farms, its value is also considerable as N, P and K returned to the soil plus improvements in soil structure and water holding capacity. Almost all of the respondents indicated that they usually graze their animals in the crop fields after harvesting, which is one way of returning manure to the crop farms through fresh manure and urine that are produced by the animals when grazing.

The existing and potential contribution of animals to agricultural development and the overall economy are among those pastoral contributions that are not accounted for in economic terms. However, the understanding of these contributions remains a pre-requisite for proper designing of livestock development strategies that address real problems and/or exploit the potential of pastoral production systems. The ignorance of the contribution of pastoral production systems to agricultural production in terms of source of power and manure is a killer assumption that may lead to formulation of policies that do not reflect the significance of the production system and address the real issues and constraints facing it.

4.1.3 The value of supplementary products

There are many products that come from pastoral lands. Many of these products, such as Gum Arabic, honey and medicinal plants have a high value on global markets (Hatfield, 2006). These products are passively managed by pastoralists and have, over the years gained experiences in tapping them. For Gum Arabic for instance, the main challenge is in the cost-effective and timely harvest of gum, a role in which pastoralists are well suited to due to local knowledge of tree conditions over a wide area, and the fact that these activities can be carried out in conjunction with herding (Hatfield, 2006). Tanzania has a big potential for the production and export of Gum Arabic. The arid areas including Tabora, Singida, Arusha, Kilimanjaro, Tanga, Morogoro and Iringa; contain vast areas of Acacia woodlands which produce Gum Arabic. Chihongo (2000) estimated that Tanzania produces approximately 1000 tons of Gum Arabica per year, half of which is informally exported. Tanzania has a very huge export potential for Gum Arabic. In addition, Tanzania possesses big areas (especially the Eastern Arc Mountains) with *Sterculia quinqueloba* trees, used to produce “Karaya gum” which has a significant export market. In the Usangu plains, information generated from discussions with groups of pastoralists during the field survey in December 2007 indicate that the Usangu plains are endowed with a variety of species of useful plants including acacia trees, which could be a good source of gum Arabic. It was learnt that much focus of the government has been on fuel and timber production and the tendency has been to undermine indigenous knowledge and products. Local knowledge and useful products have not been given a priority in research and policy agenda in the district and because of this, production of important products such as gum Arabic is virtually nonexistent. The pastoralists who were consulted indicated that they have knowledge on most of the plant species and their uses including production of gums, but are not doing it because no markets for the products have been identified.

Honey is another important product pastoralists have a comparative advantage to produce. Pastoralists are in the best position to exploit honey harvesting opportunities due to local

knowledge and cost-sharing in terms of harvesting time over large areas. Tanzania has a high potential of beekeeping activity that places its bees wax and honey at a stable market position (EC/FAO, 1999). The country produces about 138,000 tones of honey and 9,200 tons of bees' wax per year from about 9.2 million honey bee colonies (MNRT, 2000). The production of honey and bees' wax serves as a poverty reducer in rural areas. Most of the honey and bees' wax produced is consumed locally and only small amounts are exported to Germany, Japan and the U.K. (FAO, 2000). In Mbarali District in the Usangu plains, beekeeping is one sources of income for pastoralists. Mbarali district ranks the second as honey and beeswax producer in Mbeya Region. Half of the land area of Mbarali district is covered with forests and Savannah woodlands (Miombo). The forests and woodlands are suitable for bee keeping. The key informants that were consulted during the field survey in December 2007 estimate that Mbarali district has about 100 households involved in bee keeping who produce 120 tons of honey and 8 tons of bees wax per annum valued at Tshs 180 million and Tshs 24 million, respectively. Apart from financial benefits, beekeeping plays an important role in environmental conservation. Bees are known for facilitating pollination and maintenance of genetic pools and continuation of species, especially of natural forests.

Due to its rich biodiversity, Tanzania has the potential to deliver many varieties of products in the form of wood and non-wood products in the domestic and external trade markets. Although Tanzania has a variety of plants that are used as medicinal, the trading pattern is still internal and very scanty data is available for external trade (EC/FAO, 2006). Economically, medicinal plants function well to a good number of people. The increasing number of herbalists and the establishment of medicinal plants section in the Muhimbili National Hospital indicate the importance of medicinal plants in the society, this contribution is also neglected in the government livestock policy.

Usangu plain has a variety of plants that are used as medicine. Although there are no data on the production of medicine from plants in Usangu plains, the information obtained from the respondents during the field survey indicate that the use of medicinal plants provides the people with an opportunity to save money, earn cash and save lives. Official statistics on the quantity of the medicine produced and marketed could not be obtained, but the respondents indicated that pastoral households are able to save amount of money ranging from Tshs 36,000 to Tshs 1,000,000 per annum or an annual average saving of Tshs 347,000 from using medicinal plants to cure diseases.

4.1.4 The value of tourism services

Tourism is among the economic sectors with greatest growth potential in Tanzania. Tanzania's tourism potential extends from her wildlife resources, a spectacular landscape and scenery, water bodies and beaches, a diversity of culture, to numerous archaeological sites. Trends in the performance and growth of tourism in Tanzania (Curry, 1986; Wade *et al.*, 2001) show that for the last decade, tourism has grown to be an important sector in Tanzania. As a share of total exports, tourism earnings increased from 15% in the 1980s to over 40% in the 1990s, becoming the second largest foreign exchange earner after agriculture. Tourism earnings as a share of GDP increased significantly, from about 1% in the 1986-92 period to over 6% in the 1993-98 period and 16% in the 2000s period; one of the highest in SSA countries (see WTO, various years).

It is apparently notable that the role of pastoralism in tourism industry is always not acknowledged and promoted. Pastoral systems contribute to tourism through many ways but three obvious aspects are wildlife tourism, cultural tourism, and aesthetic landscape. Significant data exists in the African context that pastoralists have been living in wildlife areas time in memorial, and it is “acknowledged that wildlife populations are not viable if confined to protected areas and that in fact they utilize and rely on pastoral lands as an integral part of their existence” (AWF, 2006).

Hatfield (2006) reports that cultural tourism is an increasingly important aspect of the tourist industry as traditional cultures evoke significant interest globally, as attested by the appreciation for and knowledge of the Maasai of Kenya and Tanzania, the Dinka of Sudan, the Tuareg of West Africa, the Bedouin of North Africa and the Middle East, Mongolian herders and the Pashtan of Afghanistan, for example. The significance of this value is illustrated by the amount of advertising for wildlife safaris in Kenya and Tanzania that utilises Maasai images and citations, where the image of the traditional pastoralist has become an icon (Hatfield, 2006).

The Usangu plains are endowed with natural attractions including wildlife at Utengule Swamps and waterfalls at Igurusi Village on Igurusi escarpment. Despite the fact that, the Usangu plains have potential areas and sites for tourist development, this industry has not been developed enough to capture the market. Recently the Ruaha National Park has been expanded to include most of these areas and all the economic activities including game and tourist hunting have been stopped.

While pastoralists could play a role in the tourism industry as tourist attraction, conservers of wildlife and forests, this has not been given a priority in research and policy. Instead, pastoralists have always been blamed for destruction of natural resources, despite many research findings, which show that they could play an important part in the natural resource management. The eviction of pastoralists from the Usangu wetlands and the nearby villages is one of the outcomes of the misconceptions of the roles of pastoralism in tourism. The eviction of pastoralists from the wetlands with an objective of expanding a national park intended for tourism defeats its own purpose, as pastoralists are known for their being one of the important tourist attraction let alone their role in wildlife and forest conservation.

An example of how pastoralism could contribute to tourism development was found at Matebete village, where cultural tourism was tried by some Maasai. The Masai have preserved some tourist attractions including traditional Maasai houses, forest reserves and water sources. They also offer other cultural tourist attractions such as traditional dancing and songs, traditional commodities such as *shanga*, spears, traditional medicine and decorative items. The village leaders reported that such tourist activities could earn the village some money if were adequately promoted. Apart from paying a tour fee of Tshs 10,000/ per head, tourists buy some commodities from the villagers especially *shanga*, decorative items and medicines. This year the village received nine tourists, earning the village Tshs 90,000/ from tour fees alone.

4.1.5 The value of market chain linkages

The annual red meat production in Tanzania is estimated at approximately 259,800, metric tons out of which 98% is produced from livestock bought from pastoral areas, while only 2% comes from the national ranches and smallholder producers. Thus pastoral production systems are a hub of the beef market chains in the country. Beef market chains encompass primary markets, secondary markets, meat butchers and shops and *nyama choma* businesses. Trading and value addition along the supply chain contributes to a large number of livelihoods, covering costs and even providing profits for each participant in the supply chain.

Using the example of *nyama choma* business. Letara *et al.* (2006) studied the *nyama chama* business in Arusha region and found that there are many benefits from livestock and the *nyama choma* sector. They report that the distribution of benefits varied from one stage of the supply chain to another. The supply chain begins with the pastoralists who keep the animals. Cattle are one of major assets of pastoral communities in northern Tanzania. They provide milk and blood, but also cash to buy cereals and other goods and services while providing an inflation-free store of value. Pastoralists sell their livestock at markets. Young pastoralist men often play the role of middlemen between livestock markets, buying animals on one market, to sell them at a profit on

another. The supply chain then moves to the middlemen who buy livestock from the pastoralist traders, slaughter the animals themselves or sell the animals to the abattoir or other places of slaughter. For the middlemen involved in meat production activities, this trade is their major source of employment and commercial investment. When an animal is slaughtered, nothing is wasted, with different parts being sold to different customers. Household consumers (those buying meat for home use) as well as those buying prepared meat for *nyama choma* businesses buy the meat from the abattoir.

Letara *et al.* (2006) explains that if these data can be generalised for Tanzania as a whole, the population of 33.6 million is serviced by 15,585 *nyama choma* businesses with a supply chain-wide turnover of 1,353 billion Tshs (USD 1.3 billion) and value-added to the national economy of 23 billion Tshs (USD 22 million). Furthermore, outside pastoralism, each pastoral cow slaughtered supports (through the *nyama choma* supply chain) at least one-quarter of a full-time job in the Tanzanian economy, accounting for 1.07 dependants, and providing an estimated USD 172 worth of economic value-added in the economy. In pastoral society, each pastoral cow slaughtered supports (through the *nyama choma* supply chain) at least three-fifths of a full-time job in the Tanzanian economy, accounting for 2.91 dependants.

The information obtained during the survey in December 2007 shows that livestock supply chain in Mbarali district in the Usangu plains has 9 livestock primary markets, 11 slaughter slabs, five abattoirs, and approximately 80 *nyama choma* businesses. The livestock supply chain begins with the pastoralists who keep the animals. Pastoralists in Usangu plains sell their livestock at the primary markets to middlemen who buy livestock for slaughter or re-sell the animals to abattoirs or other places of slaughter. The meat from the slaughtered animals is sold to different customers including household users and *nyama choma* businesses. Table 1 shows the quantity of meat from various types of animals produced in the district. The table shows that annual red meat production in the district is estimated at approximately 259,800 metric tons out of which 99% is produced from livestock bought from pastoral areas, making it a hub of the meat market chains in the district. Trading and value addition along the supply chain contributes to a large number of livelihoods, covering costs and even providing profits for each participant. Table 1 summarizes the estimated distribution of benefits along the supply chain.

Figure 4: Distribution of benefits along the meat supply chain in Usangu plain

| Chain level | Quantity | Purchase price | Value (TShs Millions) | Sale Price (TShs) | Revenues (TShs Millions) | Profit margin (TShs Millions) |
|---------------------|----------|----------------|-----------------------|-------------------|--------------------------|-------------------------------|
| Middlemen: | | | | | | 163 |
| Cattle | 6,353 | 160,000 | 1,016 | 180,000 | 1,144 | 127 |
| Goats | 3,376 | 16,000 | 54 | 25,000 | 84 | 30 |
| Sheep | 700 | 13,000 | 9 | 22,000 | 15 | 6 |
| Butchers: | | | | | | 351 |
| Beef (kgs) | 759,859 | 1,600 | 1,216 | 2,000 | 1,520 | 304 |
| Goat meat (kgs) | 46,589 | 1,700 | 79 | 2,500 | 116 | 37 |
| Mutton (kgs) | 11,480 | 1,600 | 18 | 2,500 | 29 | 10 |
| Nyama choma: | | | | | | 847 |
| Beef (kgs) | 146,000 | 2,000 | 292 | 5,000 | 730 | 438 |
| Goat meat (kgs) | 116,800 | 2,500 | 292 | 6,000 | 701 | 409 |
| TOTAL | | | 2,977 | | 4,339 | 1,362 |

Source: Various DALDO's Mbarali quarterly reports, 2007

Table 1 shows that the participants in the meat supply chain earn approximately TShs. 1.4 billion per annum distributed as TShs. 163 million to middlemen, TShs. 351 million to butchermen and TShs. 847 million to *nyama choma* businesses. The meat supply chain also supports approximately 200 people with a full-time job which would earn them approximately TShs. 60 million per annum.

4.2 Pastoralism versus tourism

4.2.1 Contribution to the economy

It is reported that the livestock sector contributes 13% to the agriculture GDP and 6.1% to the national GDP, most of which contributed by pastoralism. On the other hand tourism earnings as a share of GDP increased significantly, from about 1% in the 1986-92 period to over 6% in the 1993-98 period and 16% in the 2000s period; one of the highest in SSA countries (see WTO,

various years). However, the official statistics for livestock contribution to GDP do not account for the value of subsistence production in the pastoral systems. The contribution of tourism to GDP includes the value of tourist services provided by pastoral communities especially cultural tourism. Furthermore, other outputs from the pastoral systems such supplementary products (honey, Gum Arabic and medicinal plants) and inputs to agriculture (animal manure and animal power) are not valued in the calculation of livestock GDP. Thus the contribution of pastoralism to the economy is considerably masked and seriously underestimated. The GDP only considers livestock and livestock product that are marketed. The value of most of the products coming from the extensive livestock system dominated by agro-pastoralists and pastoralists, comprising about 95% of the total livestock population is not reflected in the GDP.

The contribution of pastoralism to the national economy of Tanzania is also largely invisible because the national statistics on livestock production are usually in terms of livestock products such as beef, milk, hides and skins, but these do not in themselves show adequately what comes out of the pastoral systems. The statistics do not include the number of live animals from the pastoral systems that are not slaughtered. Although the pastoral sector produces meat, milk and blood, most of them are usually consumed in the pastoral households. For instance, out of the total milk produced from the pastoral sector, it is only 5% to 10% that enters the commercial market by selling to consumers usually through middlemen (Mnenwa, 2005). Thus the main commercial outputs from the pastoral livestock system are live animals, hides and skins, and to a lesser extent meat and milk. By counting the quantity of meat only, it leaves out the livestock that is sold for other purposes, and therefore seriously underestimating the contribution of the sector. The national meat statistics also leave out the livestock that is sold informally to neighbours or livestock sold through cross border trade to neighbouring countries. This makes it difficult to figure out the significance of pastoralism to the national economy.

Another important contribution of pastoral systems that is always taken for granted is the foreign exchange savings from not importing meat. A direct result of the contribution of pastoralism to the national economy in Tanzania is the fact that the country does not import any meat, relying entirely on its national production to satisfy the demand for these products (Odhiombo, 2006). Increased domestic production reduces imports and save foreign exchange that can then be diverted to other productive investments and indirectly contribute to food security. Pastoral communities supply more than 90% of the meat and milk that is consumed in the country.

4.2.2 Contribution to livelihoods

While the contribution of tourism to GDP appears to outweigh that of livestock, the revenue from tourism has no significant impact on the livelihoods of individual households. There is some explicit focus on community based tourism, but little else on pro-poor growth strategies in tourism. For example, reports of a cultural tourism programme of SNV (Dutch Development Organization) and the Tanzania Tourism Board that aim to alleviate poverty through tourism several villages in Lushoto and Monduli districts have benefits from the programme but benefits to individual households are low (Conservation Service Centre Office, 1999). In their study on wildlife and livelihoods in Northern Selous Game Reserve in Tanzania, Mdoe *et al.* (2005) report that income from “tourist hunting” has little impact on livelihoods at the household level. Kamara (1995) argue that tourism is being encouraged to generate foreign exchange at the national level rather than to distribute it at local community level.

Unlike tourism, pastoralism contributes directly to the livelihoods of local communities. Apart from livestock in pastoral areas being valued for the products they provide directly, including meat, milk, manure and draught power livestock in the pastoral system contribute to livelihoods of individual households through the following:

- ✓ Maintaining social capital. Livestock are frequently shared, borrowed, given as gifts and slaughtered for a range of ceremonies and occasions which are often seen as “unproductive” but in practice are highly valued for their ability to secure social capital which can play an important role in future livelihoods security especially for the vulnerable households.
- ✓ Providing security: livestock may be sold when something goes wrong and when money is required urgently, for example to pay for medical costs when a family member falls sick. In such cases the livestock plays the role of contributing to the sustainability of people’s livelihoods by making available lump sums of money when need arises.
- ✓ Accumulating assets: One of the routes out of poverty pursued by the poor is to progressively accumulate assets such that they no longer need to be sold to ensure livelihood security, and therefore become productive and contribute to enhancing livelihood status. Livestock accumulation is a key objective for most rural households, and for many this begins with a process of acquiring small animals like sheep and goats, increasing their numbers and sequentially trading up to larger species like cattle.
- ✓ Financing planned expenditures: Livestock are a key source of funds for expenditures in many rural areas of Tanzania. Regular or small expenditures such as for medicines,

food or seed can be financed by selling a goat. Larger expenditures such as purchasing land, a house, starting a small business, paying school fees or making a dowry payment can be made through sale of larger numbers of smaller animals or fewer large animals such as cattle.

4.2.3 Income Distribution

One of the main objectives of the National Strategy for Growth and Reduction of Poverty popularly known as *Mkukuta*, is to reduce household poverty. This objective is likely to be better achieved through the promotion of economic activities in which a larger proportion of the population is participating and benefiting. It is likely to achieve this objective by promoting pastoralism rather than tourism. Pastoralism, not only is an important source of livelihood to the majority of the rural community in Tanzania, but also it serves a big proportion of the human population in the country. For the pastoral community, which owns more than 95% of the livestock population in Tanzania, it is estimated that the pastoral economy is the basis of livelihood for more than 10% of the human population in Tanzania. These are found in arid and semi-arid areas of Tanzania including Manyara, Arusha, Dodoma, Singida, Shinyanga, and Mwanza Regions. There are also pockets of pastoral communities, which have migrated to regions such as Morogoro, Coast, Mbeya, Rukwa and Tabora.

On the other hand, the population of Tanzanian participating in community-based tourism and benefiting from it is quite small. Even if the revenue from community-based tourism trickled down to individual households, the population benefiting from such income would be lower than that of pastoralism.

4.3 Pastoralism and the environment

Most frequently pastoralists are blamed for land overgrazing, land degradation and destruction of fauna and flora. They are usually blamed for environmental degradation through overgrazing and mobility largely because there has not been efforts to quantify the positive contribution of pastoralism to the environmental health. Despite the complexity of quantifying these positive effects, pastoral systems contribute to environmental health through many ways but two obvious aspects are wildlife conservation and aesthetic landscape management. Significant data exists in the African context that pastoralists have been living in wildlife areas time in memorial, and it is “acknowledged that wildlife populations are not viable if confined to protected areas and that in fact they utilize and rely on pastoral lands as an integral part of their existence” (AWF, 2006). In addition, there is now substantial literature that shows that livestock grazing confers significant benefits to wildlife in terms of maintaining or enhancing biodiversity, and the ecosystem services that support such biodiversity, including water and

nutrient cycles (Hatfield, 2006). Incorporating local communities into conservation is an alternative to the more traditional fortress conservation approach to conserving biodiversity (Holmes 2003, Western 1994; Hulme and Murphree, 2001). Sachedina (2006) reports that community based conservation has the potential for success when it offers alternative uses of natural resources as sources of tangible incomes to local communities.

As with wildlife, aesthetically valued landscapes are of great value to the environment and can be enhanced and protected by pastoralism. The most diverse and complex grassland savanna ecosystem in the world extends through the Maasai Steppe in northern Tanzania (Coe, McWilliam et al., 1999; Olson, Dinerstein et al., 2000). Of particular importance are grazing and calving areas in the Simanjiro Plains, where thousands of wildebeest (*Connochaetes taurinus*), zebra (*Equus burchelli*) and elephant (*Loxodonta Africana*) congregate during the wet season. Conservation of the ecosystem's migratory wildlife populations largely depends on maintaining these habitats on communally owned lands (Borner, 1985; Kahurananga, 1997; TCP/OIKOS 1998). In such cases the pastoralism provides natural resources conservation and management services, although in Tanzania the service is not remunerated and the role played by grazers is entirely ignored.

Apart the wildlife conservation and aesthetic landscape management discussed above, beekeeping also plays an important role in environmental conservation. Bees are known for facilitating pollination and maintenance of genetic pools and continuation of species, especially of natural forests.

4.4 References

- Bekele S. (1991): Crop-livestock Interactions in the Ethiopian Highlands and Effects on Sustainability of Mixed Farming: A Case Study from Ada District. MSc. Thesis. Agricultural University of Norway. Oslo.
- Borner, M. (1985): "The Increasing Isolation of Tarangire National Park." *Oryx* 19: 91-96.
- Chihongo. A.W. (2000): Report of the Meeting of the Network of Natural Gums and Resins in Africa (NGARA). Kenya college of communications Technology, Nairobi, Kenya. 29-31 May 2000. FAO/KEFRI 50-52 PP FAO (1999): *The Role of Wood Energy in Africa*. Wood energy Today for Tomorrow Regional studies. Working paper FOPW. 99/3 FAO ROME JULY 1999.
- Coe, M., N. McWilliam, et al., Eds. (1999): *Mkomazi: The Ecology, Biodiversity and Conservation of a Tanzanian Savanna*. London, UK, Royal Geographical Society (with the Institute of British Geographers).
- Conservation Service Centre Office (1999). *The National Framework for Wildlife Enterprise development in Tanzania*. Wildlife Enterprise and Local Development Project (WELD) Discussion Paper, April 1999, Arusha.

- Curry, S (1986): The Economic Impact of Tourist Industry in Tanzania: An Input-Output Analysis. *Industry and Development*, Vol.19, 55:75.
- DALDO Mbarali (2007): Quarterly reports, 2006-2007, Mbarali District Council, Mbeya region.
- EC/FAO (1999): The status of non-timber forest products in Tanzania; Data Collection and Analysis for Sustainable Forest Management in ACP Countries - Linking National and International Efforts, EC-FAO PARTNERSHIP PROGRAMME (1998-2000) Tropical forestry Budget line B7-6201/97-15/VIII/FOR PROJECT GCP/INT/679/EC
- FAO (2000): An information bulletin on Non-Wood Forest Products. *Non-Wood News*, No. 7.
- Gryseels G. (1988): Role of livestock on mixed smallholder farms in the Ethiopian highlands. A case study from the Baso and Worena Wereda near De/pe Berhan. Dissertation, Agricultural University, Wageningen, The Netherlands. .
- Hatfield, R.and J. Davies (2006): Global Review of the Economics of Pastoralism; IUCN, Nairobi 2006.
- Hulme, D. and M. Murphree (2001): African Wildlife & Livelihoods: The Promise and performance of Community Conservation. Oxford, James Currey Ltd.
- ILCA (1987): ILCA's Strategy and Long Term Plan. ILCA. Addis Ababa
- Kamara, B.A. (1995). The Impacts of Structural Adjustment Programmes on Natural Resources with particular Reference to Wildlife Conservation in Tanzania. In Bagwacha, M.S.D. and F. Limbu, 1995, Policy Reform and Environment in Tanzania: Dar-es-Salaam University Press.
- Letara, J, J. MacGregor and C. Hesse (2006): Estimating the economic significance of pastoralism: The example of the nyama choma sector in Tanzania; Pastoral Civil Society in East Africa
- Mdoe, N.S.Y; C. Ashley, F. Ellis; L. Reynolds and F. Mishili (2005). Community Wildlife Management, Rural Development and Poverty Reduction in Tanzania: A case Study of Northern Selous Game Reserve, Tanzania. *Tanzania Journal of Population Studies and development* 12 (2): 1-14.
- Mlekwa, V. M. (1996): State, pastoralists and Education in Tanzania: How Can Conflicts and Tensions be Resolved? *UTAFITI (New Series) Vol. 3 No. 1, 1996:47-65*
- Mnenwa, K. R. (2005): Milk Marketing in Tanga region; A report submitted to the Smallholder Dairy Support Programme (SDSP), Dar es Salaam Tanzania.
- Odhiambo, M (2006): Review of the literature on Pastoral Economics and Marketing: Kenya, Tanzania, Uganda and the Sudan Report prepared for the World Initiative for Sustainable Pastoralism, IUCN EARO, RECONCILE, Kenya
- Olson, D., E. Dinerstein, et al. (2000): The Global 200: A Representation Approach to Conserving the Earth's Distinctive Ecoregions. Washington, DC, Conservation Science Program, World Wildlife Fund-US.
- Sachedina, H (2006): Conservation, Land Rights and Livelihoods in the Tarangire Ecosystem of Tanzania: Increasing incentives for non-conservation compatible land use change through conservation policy; *Conference Paper presented to Pastoralism and Poverty Reduction in East Africa: A Policy Research Conference International Livestock Research Institute Safari Park Hotel, Nairobi, Kenya Symposium: Wildlife and Pastoralists; June 27-28th, 2006*

Shetto R M (2005): Agricultural mechanization in Tanzania. Paper presented to the 3rd Annual Engineers' Day 2005 (AED) – Learned Discourse, held in March 2005 at the Karimjee Hall, Dar es Salaam

TCP/OIKOS (1998): Tarangire Conservation Project: Analysis of Migratory Movements of Large Mammals and their Interaction with Human Activities in the Tarangire Area in Tanzania as a Contribution to a Conservation and Sustainable Development Strategy, University of Milan (Varese Branch) and OIKOS: 122.

TNRF (2007): Terms of Reference; Filling in the Knowledge Gaps for Effective Rangeland Policy Advocacy; Assessing the Total Economic Value of Pastoralism in Tanzania

Wade, J.D, B.C. Mwasaga and P.F.J Eagles (2001): A Historic and Market Analysis of Tourism in Tanzania. *Tourism Management*, vol. 22, 93:101.

Western, D. (1994): Ecosystem Conservation and Rural Development: The Case of Amboseli. *Natural Connections: Perspectives in Community-Based Conservation*. D. Western, R. M. Wright and S. Strum. Washington, DC: Covelo, CA, Island Press: 15-52.

WTO (Various years): *Yearbook of Tourism Statistics*, WTO, Madrid.

5 CONCLUSIONS AND RECOMMENDATIONS

This study has led us into some core conclusions, namely that there has been no fundamental change from colonial state policies and law for almost half century since independence. The current policies and laws carry over the basic assumptions that guided colonial state policies and laws. As regards pastoralism, its marginalisation confirms mainstream agrarianisation of the economy as peasant subsistence farming, large scale agriculture and wild life conservation policies and laws that began with colonisation and have been pursued to date. The late Father of the Nation Mwalimu Julius Nyerere once explained this dilemma in the following terms:

We have, for instance, specific zones for crops like cotton, coffee, tobacco and sisal but nothing like that for livestock keeping. We even have special areas for zebras (National Parks) but livestock keepers are hanging.⁷⁷

What we have seen and recorded in this study is that even the little that colonial administration set aside for pastoralism in terms of land resources is now being increasingly alienated. Not only have the 'Maasai steppes' been invaded and taken over by farmers and conservationists, but demographic composition of Tanzania is rapidly being changed to the detriment of pastoralists. Hanang which was over 80% inhabited by pastoralist only 15 years ago is now 84 % occupied by farmers.

But today there is hope in that there are new approaches developed by pastoralist' stakeholders and development researchers in understanding the challenges of pastoralism. These include new participatory and grassroots policy and law making. They have also proposed new approaches to evaluation of the contribution of pastoralist sector to the national economy. The total economic value approach opens up wider potential that was hitherto neglected or unknown to policy makers. Litigation has to be taken forward to new levels, namely the sub regional and regional levels. The African Court of Human and People's Rights at Arusha is a new forum that could turn around the fortunes of pastoralists in Tanzania where they have already exhausted the local remedies. Finally, taking a cue from the Stakeholders workshop in Arusha last November, we propose a merger of voices into one forum, i.e National Pastoralist Council that will speak for the interests of pastoralists with one voice. This shall not replace or replicate the hundred or so of NGOs that are now engaged in various activities and projects for pastoralists, but shall facilitate and totalise their efforts to make them more productive and effective. To sum up this study we give our recommendations in the form of an Action Plan for securing Pastoral Livelihoods in Tanzania.

⁷⁷ Mwl. Julius Nyerere, cited in J.T. Mwaikusa, Community Rights and Land Use Policies in Tanzania : The case of Pastoral Communities, Journal of African Law, Vol. 37 no. 2

5.1 Action Plan for Securing Pastoralist Livelihoods

Based on the study on Options for Pastoralists to Secure their Livelihoods in Tanzania a number of challenges and opportunities have been identified that need to be addressed in future efforts to secure the natural resources that have sustained pastoralists in the past. What is obvious is that a better organised, more consistent and more broad-based approach is necessary in order to ensure impact of such efforts.

The following actions are suggested as the way forward. They are presented in relation to three major areas: policy advocacy, legal issues and investment issues.

5.1.1 Policy advocacy:

This study as well as other similar studies have shown that there are still many government policies and actions that threaten pastoralists' livelihoods, particularly with respect to access to natural resources. There is therefore need to strengthen action at several levels. The following specific actions are proposed:

i. Re-branding and democratizing pastoralist CSOs

Pastoralist CSOs face many challenges related to their internal governance and operational modalities that limit their effectiveness. Fragmentation and lack of strong alliances with other actors including the government is another weakness. There is therefore an urgent need to address these challenges by developing a governance model/charter that will detail the vision, mission, operational modalities, and code of conduct for all pastoralist CSOs. This will provide a common framework for addressing pastoralist issues in a coordinated and synergistic way. Further more, once such a framework is established it will minimize the ethnic or gender disparities that tend to characterize some of the CSOs. It could also provide a framework for funding agencies to support the CSOs based on adherence to the governance charter.

To achieve this it is proposed that a consultant be commissioned to produce a first draft of such a charter, after which a stakeholders' workshop will be organized to study and adopt the charter. The Tanzania NGO Forum provides a good model of how this can be achieved. This is an activity that can be implemented in the next six months.

ii. Integration of traditional governance structures with formal governance structures.

Pastoralist communities are subjected to two governance structures – their traditional governance structure which is still very important in their lives and livelihoods, and the 'modern' governance structure that is an 'imposition' by the government, but which, nonetheless, also affects very significantly the welfare of the pastoralist communities. This has presented many challenges to the communities in terms of how to deal with two separate structures that often seem to act in contradictory ways. In many cases pastoralists are not very much involved in the formal governance structures from village to the District levels which have legal powers, and as a result many decisions that are made at these levels do not take the pastoralists' interests into account. There is therefore need to sensitize and mobilize pastoralist communities to fully participate in the formal governance structures by seeking elected offices at village, ward and District level. In particular, the pastoralist traditional leaders should be encouraged to seek elected offices, so that they can combine both traditional and formal leadership authorities. This

will strengthen their political power and ensure that the interests of their constituents are always addressed in ways that are in line with their traditions and customs.

This ought to be a process that should be undertaken by the pastoralist CSOs on a continuous basis starting immediately.

iii. Establishing a pastoralist movement that will form a forum for promoting the voice of pastoralists across the whole country.

Experience shows that despite many efforts, the pastoralists' voice is not heard by policy makers. One of the reasons is the fragmented nature of these efforts. In order to present a stronger and a more united front in the face of the many challenges facing pastoralists with regard to access to natural resources, it is proposed to initiate a process that will unite all the pastoralist communities into a national forum that will represent all the pastoralists and agro pastoralists in the country. This process should start from the bottom, by pastoralists and agro pastoralists in each District forming a District-level forum, which can take the form of an association, network or any other form. All District-level forums should then constitute a Regional-level forum, drawing representation from each District. All Regional-level forums should then constitute the national forum in the form of, for example, a National Pastoralist Council or any other similar structure. This then would have the mandate to speak on behalf of all pastoralists in the country on all major issues affecting pastoralists in the country.

This process could be initiated by establishing a number of teams of pastoralist CSOs representatives that would be sponsored to visit all Districts in the country for the purpose of mobilizing the pastoralist communities and providing guidance on how to establish such forums. A task force constituting the sponsors of the Options study and a few other stakeholders could oversee the whole process of mobilization, and the process could be initiated in the next six months but be expected to take one year to complete. MVIWATA (*Mtandao wa Vikundi vya Wakulima Tanzania*) could provide relevant lessons on how this can be achieved.

iv. Providing civic education on governance, the Land Acts, and land use planning for village leaders and communities

Experience shows that both pastoralist and non-pastoralist communities are generally ignorant on matters pertaining to land issues. This contributes to land conflicts and sometimes dispossession of land by outsiders. There is therefore a need for a sustained educational effort on this front to empower communities, to better protect and manage their land resources for the benefit of all community members. Already some CSOs like Haki Ardhi and the Legal and Human Rights Centre are involved in this initiative, and pastoralist CSOs could link up with such organizations to enhance their effectiveness. This activity will need to be undertaken on a continuous basis, but will involve firstly developing tools for civic education (including, training kits, information materials translated into Kiswahili, brochures etc), then training of trainers, and eventually training the target groups. Developing the training materials will involve collaborating with NGOs like Haki-Kazi which has a lot of experience in this area, and training of trainers could take one year.

The envisaged target groups should include Members of Parliament, Ward Councilors, District level staff, Ministry officials, Village and Ward Executive Officers, livestock, forestry and community development field staff. The actual training will be a continuous process, but based on an agreed programme of action.

5.1.2 Legal Issues:

From the study it is obvious that pastoralists are faced with a huge challenge when it comes to securing legal ownership of land. It is evident that the existing laws do not necessarily guarantee access or security of tenure to pastoralists. More critically the ongoing initiative to issue customary land titles has proved to be too expensive and cumbersome, and will infact lead to dispossession of pastoralist lands, unless urgent steps are taken to address the specific situation of pastoralists.

To make matters worse, even where pastoralists have sought legal redress where their land rights have been infringed upon, the existing legal system has failed to correct the problem. This means that there is need for urgent action to give legal protection to pastoralist lands so that they can continue to use them for their livelihoods. The following steps are proposed:

i. Simplify the process of issuance of Certificates of Village Land (CVL) and land use planning for village land.

Experience so far has shown that this process is too cumbersome and too expensive. Since there is need to accomplish this task of issuance of CVLs as soon as possible, there is need to simplify the process so that it can be implemented in a shorter time and with less cost.

The simplification process should involve collaborating closely with the National Land Planning Commission, and will involve assessing the experiences of acquisition of CVLs implemented by the government in Mbozi and Handeni, CORDS, AWF and FARM-Africa in Monduli, Kiteto and elsewhere from which best practices can be established and a workable and simplified process developed. This work can be accomplished within one year, by a consultant working closely with NLPC, the Ministry of Lands and Human Settlements, pastoralist CSOs.

ii. Speed up the establishment of Village Registries and land titling in pastoral villages.

One of the basic requirements for land titling is the construction of village registries which need to be undertaken collaboratively by the village communities (constructing the buildings) and the Ministry of Lands and Human Settlements (providing basic facilities like safes, stamps, seals stationery etc). Pastoralist CSOs should mobilize and support communities in pastoral areas to construct buildings to house the registries. This is a process that can take one year to accomplish.

iii. Develop District Land Use Plans for pastoralist Districts and the establishment of District Registries.

In order to secure pastoralist resources, it is important to demarcate broad areas that should be designated pastoral land to be used exclusively for grazing. This can be accomplished by each District developing its District land use plan. This process can start by carrying out a survey of Districts with significant pastoralist populations, to establish the status of land use patterns, and

then developing a strategy for assisting such Districts to develop District land Use Plans with specific areas demarcated for pastoralists. Such a process has already started, for example, in Kilosa Districts, and other Districts could be facilitated to do the same.

Once pastoral lands have been identified the process of issuing individual or collective land titles (Certificates of Customary Rights of Occupancy) should be initiated, based on the simplified procedures developed. This is a process that will need to be undertaken with close collaboration among pastoralist CSOs (in collaboration with other CSOs), District authorities, Ministry of Lands and Human Settlements and NLUPC, and the whole process would take two years to accomplish.

iv. Pursue legal options for protection of pastoralists' resource rights

Since pastoralists have failed to obtain legal redress in the Tanzanian courts, it is necessary to explore the opportunities that are there in regional and international courts for obtaining redress. It is proposed that a legal team be financed to file petitions at the African Court that is being headquartered in Arusha. This process will involve obtaining the mandates of stakeholders to pursue cases regarding the Mkomazi evictions, Hanang cases, Ngorongoro issues and Loliondo alienations, and then to appoint a team of legal experts that will file the petitions. The whole process up to determination of the cases could take up to one year or more.

As a long term measure, it will be necessary to lobby for a reform of the laws that are relevant to pastoralists e.g. the Land Act, the Village Land Act, Rangeland Development Act etc, so that they facilitate the security of tenure of pastoral lands. This will require collaboration among pastoralist CSOs, the Pastoralist Council, LHRC, MPs Pastoralist Forum, the Land and Environment Committee of Parliament and the Law Reform Commission, and it may take up to five years.

5.1.3 Investment Issues

The study has shown that the economic value of pastoralism is very much understated. More over, the pastoralists themselves often do not realize the economic opportunities that exist for increasing and diversifying income sources to improve their livelihoods. To realize higher economic returns from pastoralism the following steps are suggested:

i. Lobby for improved livestock services

First of all there is need to lobby for better infrastructure, more livestock marketing facilities, better livestock extension services, and for actions to improve forage and water supply in the pastoral lands. The objective is to reduce livestock mortality and to increase the quantity and quality of marketed livestock and livestock products. This will require strong lobbying by the Pastoralist Council and pastoralist CSOs with the local government authorities, and the sectoral ministries responsible for agriculture, livestock, water and infrastructure. This also ought to be a continuous and consistent activity that is likely to result in higher incomes for pastoralists.

ii. Promote production and marketing of supplementary products

At the same time, pastoral communities need to be empowered to exploit other opportunities that are within the pastoral areas. These include the harvesting and marketing of products such as honey, beeswax, gum-arabic and medicinal plants that are found in pastoral areas. This will entail an integrated programme of education, training as well as financial and technical support to link the producers to markets. This is likely to increase the incomes of pastoral communities, particularly for those sections of the community that may not have adequate livestock. This programme should be implemented by the LGAs together with pastoralist CSOs.

iii. Develop cultural and eco-tourism in pastoral areas.

There are many tourist activities that are carried out in pastoral areas, but that are implemented by non-pastoralists, with very little income accruing to the pastoralists themselves. There is need therefore to empower pastoralists to be more actively involved in exploiting the cultural and eco-tourism opportunities that are abundant in the pastoral areas. This could involve identifying potential tourist attractions in various areas, sensitizing young pastoralists to become tour guides and promoters in their communities, and assistance in linking with tour operators to promote cultural and eco-tourism in pastoral areas. This could be a five year programme to be implemented by pastoralist CSOs in collaboration with the pastoralist communities, the Tanzania Tourist Board and tours operators.

A 1 ACTION PLAN

A 1.1 Pastoralist options

| | SHORT TERM STRATEGIES | SUB ITEMS | ACTION | TIME FRAME | RESPONSIBILITY |
|---|--|---|---|------------|----------------|
| 1 | District Land Use Plans for Pastoralist Districts and Establishment of District Registries | Identify predominantly pastoral areas districts | Carry out a survey To establish current status | Two months | |
| | | Global strategy for acquisition for Certificate of village lands per CORDS experiences (Mbozi, Handeni) | | Two years | |
| | | Land use plans, National Land Village Commission, CORDS, Farm Africa | | Two years | |
| 2 | Simplify the process of Issuance of Certificates of Village Land (CVL) and land Use Planning for Village land | Asses experiences of acquisition of certificate of village lands(CORDS, Farm Africa, AWF, GOT (Mbozi and Handeni) | Develop best practices | One year | |
| | | | Propose a workable and simplified model | One year | |
| | | | Liase with Ministry of Lands and Human Settlement and National land Use planning Commission | One year | |
| 3 | Speed –Up Establishment of Village Registries and Titling in Pastoral Villages | Focus on registries participatory approach | Villages as managers to own up creation of the building | | |
| | | | Ministry to execute the creation of stationery and appropriate facilities | | |
| | | | Utilize grassroots NGO's and enter into partnership | | |
| | | Oversee the village land Titling Process | Study on collective title and land holding units among persons | Six months | |
| | | | Carry out adjudication and | | |

| | SHORT TERM STRATEGIES | SUB ITEMS | ACTION | TIME FRAME | RESPONSIBILITY | |
|---|--|---|---|------------|---|--|
| | | | registration of land parcels in pastoral villages | | | |
| | | | Oversee application for and issuance and registration of certificates of customary rights of occupancy (CCRO's) | One year | | |
| 4 | Provide Civic Education on Governance, Land Acts and Village Land Use Planning for Leaders and Villagers | Develop tools for civic education (educational tool kits, translation of materials into Kiswahili, brochures etc) | | One year | | |
| | | Training of trainers | | Six months | | |
| | | Train target groups | Train Policy makers (MP's and Counselors) | | | |
| | | | Train Administrators and technical staffs | | | |
| | | | Train Ministry and district officials, | | | |
| | | | Local government officials, Ward Executive Officers and Village Executive officers and village leaders | | | |
| Train Civil Society Organizations and Communities | | | | | | |
| 5 | Integration of Traditional Governance Structures with Formal Governance Structure 1 (eg. Through co-option, etc.) | Incorporate pastoralists in governance at village levels | Build awareness for pastoralists participation in formal governance through civic education | | CSO's Umbrella Organizations, Members of parliament forum and pastoralists Councils | |
| | | | Identify levels of governance that may co-opt traditional | | | |

| | SHORT TERM STRATEGIES | SUB ITEMS | ACTION | TIME FRAME | RESPONSIBILITY |
|----|---|--|---|------------|--|
| | | | governance | | |
| | | Initiation of Law Reform in relation to legislations relevant to pastoralists resource rights (eg. Land Act, Village Land Act, Range Land Development Act, etc.) | | | Law Reform Commission, relevant ministries, CSO's, Umbrella Organisations, Members of parliament forum and pastoralists Councils |
| 6 | Rebrand and Democratize CSOs Governance | Develop a governance model/Charter for pastoralists CSO's (similar to Tanzania NGO's Forum, TNRF etc.) | Commission a consultancy to produce a zero draft for the model/charter | One month | |
| | | | Organize a stakeholders workshop to study and adopt the charter | Six months | |
| | | Develop strategies to remove ethnic and gender disparities within pastoralists CSO's and incorporate other pastoralists group eg. Agro-pastoralists | | | |
| | | Encourage funding agencies and support to be predicated on adherence to government Charter | Establish a system of monitoring and evaluation | | |
| 7. | Establish a Forum for a Common Vision, Strategy for Lobbying & Advocacy, and Best Practices Guides for CSO's | Establish a pastoralists Councils (adopting the MVIWATA framework. Councils to be composed of pastoralists and pastoralists Associations from village, district, regional to national levels | | Two years | |
| | | Constitute a task force composed of the sponsors of the Options study to organize and oversee the process of establishment of | Commission a consultant to propose a model for a pastoralists Councils (framework and mandates) | Six months | |

| | SHORT TERM STRATEGIES | SUB ITEMS | ACTION | TIME FRAME | RESPONSIBILITY |
|---|--|--|---|------------|--|
| | | pastoralists Councils | Organize stakeholders workshop to adopt the consultancy report and suggest and propose the steps for establishment of a pastoralist councils. | One year | |
| 8 | Pursue Legal options for protection of pastoralists resource rights | Fund and finance a legal team to file petitions /process at the African Court, Arusha | Obtain mandates of stakeholders to pursue cases regarding the Mkomazi evictions, Hanang cases, Ngorongoro issue, and Loliondo alienations | Six months | |
| | | Law Reform for protection of pastoralists resource rights | | Five years | Law Reform Commission, Pastoralists umbrella organizations (PINGOS and TAPHGO) and Pastoralists Councils |
| | Develop Economic Options for pastoralists | | | | |
| 9 | LONG TERM STRATEGIES | Pastoralists Council should have as their primary task advocacy for pastoralist policy. | | | |
| | | Pastoralists Council should lobby and advocate for pastoral interests. | | | |
| | | Pastoralists Council should develop for pastoralists Common vision and common objectives | | | |

A 2 LIST OF STAKEHOLDERS INTERVIEWED

A 2.1 During July - August 2007

| S/N | Name | Position and Organisation | Date |
|-----|-----------------------|--|------------|
| 1. | Dr.Akyoo | Ag. DALDO, Monduli District | 30/07/2007 |
| 2. | P. Timika | District Treasurer, Monduli District | |
| 3. | Mr. Donald Gowa | Community Development Officer, Monduli | “ |
| 4. | Flora Bashumila | Director, Kilomonik Integrated Development Organisation, Monduli | “ |
| 5. | Joan Foya | Planning Officer, Monduli District | |
| 6. | Prisca Peter | Planning Officer, Monduli District | |
| 7. | Mr.Lawiso | Solicitor, Monduli District Council | ” |
| 8. | Piniel Mwashu | Livestock Officer, Monduli | ” |
| 9. | M. Barrie | Water Technician, Monduli District | |
| 10. | Joseph Serugwa | Catographer, Monduli | ” |
| 11. | Ms Kimoto | Catographer, Monduli | ” |
| 12. | Mr.Mkwavi | Catographer, Monduli | ” |
| 13. | Mr. M. Aali | Community Development Officer, Monduli District | ” |
| 14. | Mr.Mawanya | (District Game Officer) | ” |
| 15. | Mr.Lyimo | District Forester,Monduli | ” |
| 16. | Alhaj Zuberi Mbyana | Ngorongoro Distict Forester | 1/08/2007 |
| 17. | Hotay Tluway | Solicitor, Ngorongoro District Council | ” |
| 18. | Moringe Ole Parkipuny | Advisor, NGONET Ngorongoro. | ” |
| 19. | Sembere Siloma | Advocacy Legal Officer, NGONET, Ngorongoro | ” |
| 20. | Matei Ole Timan | Former MP, Ngorongoro District. | “ |
| 21. | Sinandei Marko | CRT, Ngorongoro | ” |

| S/N | Name | Position and Organisation | Date |
|-----|---------------------|---|------------|
| 22. | Ms.Manda Ngoitiko | PWC, Ngorongoro | " |
| 23. | Mrs. Mercy Kyamba | African Wildlife Conservation(AWF) | 02/08/2007 |
| 24. | Moses Sangale | Co-ordinator, (TAPHGO) | 03/08/2007 |
| 25. | Esau Losioki | Finance Officer, TAPHGO | " |
| 26. | Jackson Muro | Program officer, TAPHGO | " |
| 27. | Emmanuel Ndulet | CORDS | " |
| 28. | Edward Porokwa | Director, PINGOs Forum | " |
| 29. | Prof. A.M. Hayuma | Consultant, Ministry of Lands | 6/8/2007 |
| 30. | Gerald Mango | Director General, National Land Use Planning Commission (NLUPC) | 09/08/2007 |
| 31. | Hellen Kijo Bisimba | Legal and Human Rights Centre | " |
| 32. | Emmanuel Mvula | Programme Officer, HAKI ARDHI | 10/08/2007 |
| 33. | Bernard Babu | Programme Officer, HAKI ARDHI | |
| 34. | William T.Olenasha | Program Specialist, Lands and pastoralists -OXFAM | " |
| 35. | Pololet Mgema | Former Coordinator, HIMWA | |
| 36. | Adam Ole Kuleit | Member, NGO Task Force on Ihefu Evictions | |
| 37. | M. Kibasisi | Chair, Parakuyo Village, Kilosa District | |
| 38. | Rehema Mkalata | Pastoralist, Mvomero District | |
| 39. | M. Farahani | District Land Planner/ Ag. DALDO, Kilosa District | |
| 40. | M. Macha | Livestock Officer, Kilosa District | |
| 41. | Lekengere Faru | Mkomazi Pastoral Residence | 14/8/2007 |
| 42. | Malipe Lundugushi | " | " |
| 43. | Nguvu Lundugushi | " | " |
| 44. | Samweli Dulanga | " | " |

| S/N | Name | Position and Organisation | Date |
|-----|--------------------------|---------------------------|------------|
| 45. | Maenge Faru | ” | ” |
| 46. | Lekera Said | ” | ” |
| 47. | Saninu Yamo | ” | “ |
| 48. | Joseph Meeki | ” | ” |
| 49. | Kelembu Ngatwala | ” | ” |
| 50. | Isaya Lekengere | ” | ” |
| 51. | Saidi Leiyani | ” | ” |
| 52. | Juma Ali | ” | ” |
| 53. | Sumaili Mahindoo | ” | ” |
| 54. | Mnyunga Salimu | ” | ” |
| 55. | Maleko Matayo | ” | ” |
| 56. | David Matayo | ” | ” |
| 57. | Saikuoni Kombeti | ” | ” |
| 58. | Nayaya Lagevido | ” | ” |
| 59. | Daudi Mwanzia Mbwambo | ” | ” |
| 60. | James Juma | “” | ” |
| 61. | Kangoro | ” | ” |
| 62. | Lekengere Paneta | ” | ” |
| 63. | Kamunyu | ” | ” |
| 64. | Setui Peshuti | ” | ” |
| 65. | Seembo Langasho | ” | ” |
| 66. | Nairukoki Lekei | ” | ” |
| 67. | Elizabeth Paulo | ” | ” |
| 68. | Mr.M.Mtui | DAS,Hanang | 16/08/2007 |
| 69. | Ms.Goody Pamba | DED,Hanang | ” |
| 70. | Mwita Mchuni | FARM-Africa, Hanang | “ |

| S/N | Name | Position and Organisation | Date |
|-----|-----------------------------|---------------------------------------|------------|
| 71. | Samwel Qawoga | Member, GESARU EDUCATION TRUST | ” |
| 72. | Mary D. Gitagno | Director, Women Development Trust? | ” |
| 73. | Dr.Steven Kiruswa | African Wildlife Fund (AWF) | 20/08/2007 |
| 74. | Lembulung M.Ole Kosyando | TAPHGO | 21/08/2007 |
| 75. | Dr. Ntinini Kimesera | MWEDO, Arusha | 22/08/2007 |
| 76. | Alias Morindat | IIED-EA | ” |
| 77. | Dr.Chris | Director, VET Services | ” |
| 78. | Mr Simon Loishiye | IRETO II | ” |
| 79. | Mr Martin | DANIDA Advisor | ” |
| 80. | George Odhiambo | Country Director, Farm Africa | 23/08/2007 |

A 2.2 During December 2007

| S/N | Name | Position and Organisation | Date |
|-----|------------------|---|-----------|
| 81. | David | Ministry of Livestock Development | 6/12/2007 |
| 82. | Hincha Kenedy | Natural Resources Officer Mbarali District Council | 4/12/2007 |
| 83. | Hemed Matiko | Natural Resources Officer Mbarali District Council | 7/12/2007 |
| 84. | Yobo Mlomo | Livestock Officer Mbarali District Council | 4/12/2007 |
| 85. | George Alaman | Livestock Officer Mbarali District Council | 4/12/2007 |
| 86. | J'salema Urrio | Livestock Officer Mbarali District Council | 4/12/2007 |
| 87. | Mwambulul G.T.E. | Livestock Officer Mbarali District Council | 4/12/2007 |
| 88. | Yusufu Ali | Livestock Officer Chunya District Council | 1/12/2007 |
| 89. | Mauma Mabodi | Ivalanje Village Government, Livestock Keeper | 6/12/2007 |
| 90. | Felix Ndandu | Ivalanje Village Government, Livestock Keeper | ” |

| S/N | Name | Position and Organisation | Date |
|-----|-----------------------|--|------------|
| 91. | Docta Taiko | Ivalanje Village Government, Livestock Keeper | '' |
| 92. | Juma Mkutaa | Ivalanje Village Government, Livestock Keeper | '' |
| 93. | Kezia Ngugi | Ivalanje Village Government, Livestock Keeper | '' |
| 94. | Charles Lingodi | Ivalanje Village Government, Livestock Keeper | '' |
| 95. | Samwel Mhepwa | Ivalanje Village Government, Livestock Keeper | '' |
| 96. | Sebastian Clement | Livestock Keeper, Ivalanje village | '' |
| 97. | Ngassa Lugwepa | Livestock Keeper, Ivalanje village | '' |
| 98. | Malima Mabwai | Livestock Keeper, Ivalanje village | '' |
| 99. | Margodo Saitoti | Livestock Keeper, Ivalanje Village | '' |
| 100 | Matiga Masele | Livestock Keeper, Ivalanje Village | '' |
| 101 | Andreasi Kadunda | Nyeregesse Village Government | '' |
| 102 | Baraka Makese | Nyeregesse Village Government | '' |
| 103 | Onesmo Nyakunga | Nyeregesse Village Government | '' |
| 104 | Jid Kipanda | Livestock Keeper, Ivalanje village | '' |
| 105 | Parsianga Itipai | Livestock Keeper, Nyeregesse Village | '' |
| 106 | Raymond Mkota | Livestock Keeper, Nyeregesse village | '' |
| 107 | Musumuche Lepka Kashu | Livestock Keeper, Nyeregete | '' |
| 108 | Thobias J. Mjengwa | Livestock Keeper, Nyeregesse village | '' |
| 109 | Boniface Mkongo | Livestock Keeper, Nyeregesse village | '' |
| 110 | Tera Kurubai | Matebete Village Government, Livestock Keeper | 6/12/2007 |
| 111 | Anitha Kisota | Nurese, Livestock Keeper, Matebete Village | 10/12/2007 |
| 112 | Sofia Kanei | Livestock Keeper, Matebete Village | '' |
| 113 | Tumbeine Kifutu | Matebete Village Government, | '' |

| S/N | Name | Position and Organisation | Date |
|------------|---------------|---|-------------|
| | | Livestock Keeper | |
| 114 | Reuben Kiwuko | Mturo Village, Bee Keeper | ” |
| 115 | Idd Ally | Village Extension worker, Mturo village | ” |

**A 3 LIST OF PARTICIPANTS WHO ATTENDED THE WORKSHOP ON THE OPTIONS FOR SECURING
PASTORALIST LIVELIHOODS IN TANZANIA – IMPALA HOTEL, ARUSHA, 17TH NOVEMBER,
2007**

| S/n | Name | Organization | Phone contact | Email |
|-----|--------------------------|----------------------|-----------------|------------------------------|
| 1 | Augustine Maragu | Kipoc Barabag | +255784724808 | admaragu@yahoo.com |
| 2 | Samwel S.Qawoga | GET | +255784215813 | baelandasinga765@yahoo.co.uk |
| 3 | John H. Gamasa | RAGONDEGA | +255784941929 | |
| 4 | Elifuraha Laltaika | Makumira University | +255757289411 | elilaltaika@yahoo.com |
| 5 | Raymond Mnenwa | SUA | +255754584044 | krmnenwa@yahoo.com |
| 6 | Ringo Tenga | Faculty of law, UDSM | +255784733733 | drtenga@gmail.com |
| 7 | Alais Morindat | IIED | +255754365180 | olemorindat@hotmail.com |
| 8 | Amon Z. Mattee | SUA | +255754380474 | zmattee@suanet.ac.tz |
| 9 | Edmund S.A. Mvungi | Faculty of Law, UDSM | +255784352552 | edmundgi@yahoo.com |
| 10 | Daniel O. Ouma | A.C.C | +254 724 456482 | oumalucky@yahoo.com |
| 11 | Essau Erasto | TAPHGO | +255754037467 | Taphgo2000@habari.co.tz |
| 12 | Ced Hesse | IIED | +441316247043 | Ced.hesse@iied.org |
| 13 | Andrew Williams | TNRF | +255754095517 | a.williams@tnrf.org |
| 14 | Maria Kaheta | AAIDRO | +255784884403 | Setoon0207@yahoo.com |
| 15 | Ndinini K Sikar | MWEDO | +2557842108839 | mwedo@habari.co.tz |
| 16 | Makko Sinandei | UCRT | +255787699600 | makkosinandei@yahoo.com |
| 17 | Timothy Ole Yaile | PWC | +255787281239 | yailetimo@yahoo.com |
| 18 | Elard Mawala | OIKOS | | |
| 19 | Birikaa Erukutia | KCS | +255787195225 | |
| 20 | Michael O. Odhiambo | RECONCILE | +255722259325 | |
| 21 | Edward Porokwa | PINGOS Forum | +255754479815 | pingostz@yahoo.com |
| 22 | Rehab Kenana | ERETO NPP | +255754025305 | rkenana@eretonpp.com |
| 23 | Maselle N. Maziku | MS-Tanzania | +255754886793 | maselle@mstan.or.tz |
| 24 | Pololet K. Mgema | Parakuyo | +255784772566 | pkmgema@yahoo.co.uk |
| 25 | Rehema Mkalata | Parakuyo | +255717367995 | |
| 26 | Abraham S. Mejooli | CORDS | +255755572639 | CORDS@habari.co.tz |
| 27 | Lembulung ' Ole Kosyando | TAPHGO | +255784533389 | lelokosyando@yahoo.co.tz |
| 28 | Seneto Ole Parpai | UNDP | +255786683888 | seneto.parpai@gmail.com |
| 29 | Michael Halderman | CORDAID | | M2halderman@cs.com |
| 30 | Moses Sangale | TAPHGO | +255754609993 | Taphgo2000@habari.co.tz |
| 31 | Raphael Lengare | CORDS | +255754322869 | lengareraphael@yahoo.com |
| 32 | Steven Kiruswa | AWF | +25574451087 | skiruswa@awf-tz.org |
| 33 | Jacob Parpris Ole Tisho | Parakuyo | +255787497260 | parpris@yahoo.com |
| 34 | Stephen Kisota | Parakuyo | +255784937355 | stephenkisota@yahoo.com |
| 35 | Tom Ole Sikar | CUSO | +255754481802 | t_olesikar@yahoo.com |
| 36 | Zephania Ubwani | Arusha | | |

| S/n | Name | Organization | Phone contact | Email |
|-----|----------------------|--------------|---------------|-----------------------|
| 37 | Samwel Nangiria | NGONET | +255784834873 | samnangiria@yahoo.com |
| 38 | Benedict Ole Nangoro | CORDS | +255784346077 | CORDS@habari.co.tz |
| 39 | Nanai konina | CORDS | +255755293956 | nkonina@yahoo.com |
| 40 | Mustafa Maulid | CORDS | +255786550602 | Mustee2001@yahoo.com |
| 41 | Gideon Sanago | CORDS | +255784609972 | |
| 42 | Anna Matinda | CORDS | +255754417398 | annamatinda@yahoo.com |
| 43 | Lilian Looloitai | CORDS | +255784999823 | nakuyiet@yahoo.com |
| | | | | |

A 4 Pastoral options study: itinerary

| # | Task Name | Sub Task | Responsibility | Date |
|-----|---|--|---|-------------|
| 1 | Project Definition Phase | | Dr.Tenga, B.Nangoro, A. Morindat, E. Brehony, Dr. Williams, Prf. Mattee | 1/7/2007 |
| | | Study of Terms of Reference | Prf. Mattee, Dr. Tenga, B. Nangoro, A. Morindat, E. Brehony, Dr. Williams | 1/7/2007 |
| | | Submission of Commentary | Dr. Tenga, Prf. Mattee, B. Nangoro | 20/7/07 |
| 2 | Concept Phase | Overall concept | Prf. Mattee, Dr. Tenga | 15/7/07 |
| | | Policy Analysis and Options - Concept Note | Prf. Mattee | 23/7/07 |
| | | Legal Issues and Remedies _ Concept Note | Dr. Tenga | 23/7/07 |
| | | Economics of Pastoralism - Concept Note | Dr Williams Prf Mdoe Mr Mnenwa | October, 07 |
| 3 | Research Phase: Policy issues | | Prf. Mattee, Dr. Walsh | |
| 3.1 | Reviews | Review of Various Policies | Prf. Mattee, Dr. Walsh | 29/7/07 |
| | | Literature Review of Policies | Prf. Mattee, Dr. Walsh | " |
| 3.2 | Interviews: Individuals and Civil Society Orgs [CSOs] | Arusha | Prf. Mattee | " |
| | | Kilosa | Prf. Mattee | 15/8/07 |
| | | | Dr. Walsh | 13/8/07 |
| | | Ngorongoro | Prf. Mattee | 31/7/07 |
| | | Prf. Mattee | 16/8/07 | |

| # | Task Name | Sub Task | Responsibility | Date |
|-----|---|-------------------------------|--|---------------|
| | | | Dr. Walsh | 13/6/07 |
| | | | Prf. Mattee | 15/8/07 |
| | | | Prf. Mattee | 16/8/07 |
| | | | Prf. Mattee | 30/7/07 |
| | | Arusha | Prf. Mattee | 30/7/07 |
| | | Kilosa | Prf. Mattee | 15/8/07 |
| 3.3 | Interviews: Governmental Officials | Ministry of Lands | Prf. Mattee, and Dr. Walsh | 6/8/2007 |
| | | Ministry of Livestock | Prf. Mattee and Dr. Walsh | " |
| | | Ministry of Natural Resources | Prf. Mattee and Dr. Walsh | " |
| | | Embassies | Prf. Mattee and Dr. Walsh | 13/8/07 |
| 4 | Research phase: Legal Issues Affecting Pastoralists | | Dr. Mvungi and Dr. Tenga | 29/7/07 |
| 4.1 | Reviews | Review of Various Policies | Dr. Mvungi and Dr. Tenga | " |
| | | Literature Review of Policies | Dr. Mvungi and Dr. Tenga | " |
| 4.2 | Interviews: Individuals and Civil Society Orgs (CSOs) | Arusha | Dr. Mvungi and Dr. Tenga | 29/7/2007 |
| | | Same | Dr. Mvungi and Dr. Tenga | ##### |
| | | Hanang | Dr. S.E.A. Mvungi and Dr. Tenga | 16/8/07 |
| | | | Dr. Tenga | 31/7/07 |
| | | | Dr. S.E.A. Mvungi and Dr. Tenga | 15/8/07 |
| | | Dr. Tenga | 30/7/07 | |
| 4.3 | Interviews: Governmental Officials | Ministry of Lands | Dr. Tenga | 6/8/2007 |
| | | Ministry of Livestock | Dr. Tenga | " |
| 5 | Research phase: Economics of Pastoralism | | Prf. Mdoe and Mr Mnenwa | ##### |
| 5.1 | Reviews | Methodological review | " | 2-7/11/2007 |
| 5.2 | | Review of previous studies | " | 8-13/11/2007 |
| | | Overview of TEV in Tanzania | " | 14-15/11/2007 |
| 5.3 | Interviews: Individuals and Civil Society Orgs (CSOs) | Mbarali district | Mr Mnenwa | 3-13/12/2007 |
| | | Government Officials | Mr Mnenwa | ##### |
| | | Ministry of Livestock | Prf. Mdoe | ##### |
| 6 | Writing Phase - | | Prf. Mattee; Dr. Walsh; Dr. Mvungi and Dr. Tenga | 19/8/07 |

| # | Task Name | Sub Task | Responsibility | Date |
|----|--|------------------------------------|---|---------------|
| | Individual Reports: Policy | Policy Analysis | Prf. Mattee Dr. Walsh | " |
| | | General Policy Analysis | Prf. Mattee | " |
| | | Mbarali Case study | Dr. Walsh | " |
| 7 | Writing Phase - Individual Reports: Legal issues | Legal Matters Review | Dr. Tenga Dr. S.E.A. Mvungi | 19/8/07 |
| | | General Legal Issues Review | Dr. Tenga | " |
| | | Constitutional Rights and Remedies | Dr. S.E.A. Mvungi | " |
| 8 | Writing Phase - Individual Reports: Economic issues | Overview of TEV in Tanzania | Prf.Mdoe Mr.Mnenwa | November 2007 |
| | | Mbarali case TEV case study | Prf.Mdoe Mr.Mnenwa | Dec-07 |
| 9 | Writing Phase - Integration into Single Study: Policy and legal issues | | Prf. Mattee; Dr. Walsh; Dr.S.E.A. Mvungi Dr. Tenga | 26/8/07 |
| | | Policy Options | Prf. Mattee Dr. Walsh | " |
| | | Legal Regime and Remedies | Dr. Tenga Dr. S.E.A. Mvungi | " |
| 10 | Writing Phase - Integration into Single Study: Economic issues | Economics of Pastoralism | Prf.Mdoe Mr.Mnenwa | December 2007 |
| 11 | Dissemination Meetings | | Prf. Mattee Dr. Tenga ,B.Nangoro,A. Morindat, E.Brehony, Dr.Williams | 14/10/07 |
| | | Advisory Group Meetings | Prf. Mattee, Dr. Walsh, Dr. S.E.A. Mvungi, Dr.Tenga, B.Nangoro, A. Morindat, E.Brehony, Dr Williams | 14/10/07 |
| | | Stakeholders' Workshop | Prf. Mattee, Dr. S.E.A. Mvungi; Dr.Tenga B.Nangoro, A.Morindat, Dr. Andrew Williams, Mr | 17/11/07 |

| # | Task Name | Sub Task | Responsibility | Date |
|----|--------------------------|------------------------|--|-----------|
| | | | Mnenwa | |
| 12 | Final Study Presentation | Final Study Submission | Prf. Mattee, Prf. Mdoe, Dr. Mvungi, Mnenwa and Dr. Tenga | Feb. 2008 |

A 5 TERMS OF REFERENCE THE STUDY ON OPTIONS FOR PASTORALISTS TO SECURE THEIR LIVELIHOODS.

A 5.1 Introduction

Pastoralism can be defined as an extensive system of animal production that involves varying degrees of mobility where families depend on livestock and their by-products for a significant level of their subsistence and income. Many groups practice different forms of pastoralism in Tanzania ranging from the Maasai in Ngorongoro highlands and Longido plains to the Barabaig. Depending on livestock for a significant level of income (i.e. greater than 50%) as well as some form of mobility are key elements in pastoralism. Freedom of movement is enshrined in Article 17(1) of the Constitution of the United Republic of Tanzania (URT). Mobility is an ecological necessity, and mobile pastoralism is often the best way to manage dry environments sustainably (UNDP, 2003, p.1) and to maximise livestock survival and productivity in such harsh disequilibria environments (TAPHGO, 2003). According to UNDP mobile pastoral systems are more economically productive per land unit than the highly capitalised ranches in northern countries (UNDP, 2003, p. 10) and presumably in East Africa!

There are a number of policies, laws and guidelines which are very important to consider when addressing the issue of policy making in Tanzania (Adobe Document 2000, pp. 3-4). Of particular importance are:

- Vision 2025 – which sets the economic and social vision the country hopes to attain by 2025;
- National Poverty Eradication Strategy (NPES) – which outlines the national strategy and objectives for poverty eradication efforts through 2010;
- Poverty Reduction Strategy Programme (PRSP) – which is the medium term strategy for poverty reduction, developed through broad consultation with national and international stakeholders, in the context of the enhanced Highly Indebted Poor Countries Initiative (HIPC);
- Tanzania Assistance Strategy (TAS) – which is the result of a mutually felt need by the Government of Tanzania and its international partners for a comprehensive development agenda around which issues pertaining to ongoing activities can be regularly discussed and assessed;
- The Local Government Reform Programme (LGRP) – which aims at decentralisation by devolution. It is focussed particularly on the medium to long term process of legal and institutional reform, intergovernmental fiscal reform, capacity building, deepening of local accountability and the promotion of community accountability in the planning and execution of infrastructure and service delivery projects (Tedemand, 2003, p. 7);
- The Agricultural Sector Development Strategy (ASDS) which envisages an agricultural sector that, by 2025, is modernized, commercial, highly productive and profitable, utilizes natural resources in an overall sustainable manner and acts as an effective basis for inter-sectoral linkages (ASSP, 2003);

- The Rural Development Strategy (RDS) which provides a strategic framework to facilitate the co-ordinated implementation of sector policies and strategies concerned with the development of rural communities; and
- The IFAD/MWLD proposal on pastoral and agro-pastoral communities development project; T

here are a number of other policy changes already in the pipeline or have recently taken place that will greatly affect pastoralists. The recently enacted land laws have had a major impact on pastoralists. While many in the private sector are rushing to register their land holdings pastoralists seem to have been more hesitant to do so, although there is a special provision in the acts for them. In some situations, this has permanently removed land previously accessible to pastoralists e.g. Tourism, conservation, investment, some land used now for farming e.g. in Ngorongoro, Ihefu, Monduli, Hanang and Morogoro .

A land bank inventory has been set up and the results have been given to Tanzania Investment Centre. It is not yet clear what land is included in the land bank, nor what will happen to this land bank, but it is proposed that many millions of acres of 'free land' will be given to investors. Much of this 'free land' is land traditionally used by pastoralists on a seasonal basis. Once this land is given to investors it will be difficult for pastoralists either to access it or to reclaim it. Apart from the above mentioned laws and policies there is a drive by MLD to form livestock producer and keeper associations. These associations will be registered and officially recognised by government.

It would appear that in general pastoralists and pastoralism are largely excluded from current government debates. Current government policy focuses very much on livestock development and sees pastoralism as an out-dated mode of production.

There are particular problems as well that need further investigation. In 1959, Ngorongoro Conservation Area Authority was created (Ngorongoro Conservation Area Authority Ordinance, 1959) following the recommendations of a Committee of Enquiry set up by the colonial government to issue of whether or not to allow local people to live in and cultivate within the Serengeti National park. The recommendations resulted in the partition of the SNP into two separate units: the SNP in the west designated as an exclusive wildlife area; and the NCA in the east (consisting of the Ngorongoro Highlands, the eastern fringe of the Serengeti plains and Kakesio-Endulen area). An "agreement" was signed with the Maasai elders who "agreed" to vacate Serengeti on condition they retained rights of habitation, cultivation and socio-economic development in NCA. Although in the colonial records this appears as a compromise approved by the Maasai, the decision in effect compelled them to abandon their homeland. By way of compensation for the loss of resources in SNP, the government agreed to provide the Maasai with social services within the NCA and invest in water supply projects.

In 1974/1975, the Maasai who resided inside the crater were forcibly removed; and livestock access to salt licks and grazing inside the crater restricted. In 1975 amendments were made to

the NCAA principal legislation (see The Games Parks Laws (Miscellaneous Amendments) and section 9A was included that banned cultivation within the NCAA.

In 1980s, 1990s and early 2000s, diseases killed livestock in large numbers and pastoralist peoples found themselves living in abject poverty. Without any alternative to eke a living such as practicing limited cultivation for food production, residents of the Ngorongoro found themselves living in sub-human conditions, with great cost to human life. A comparative studies done in 1999, found out that Ngorongoro Maasai lived in poorer conditions compared to those living in the Loliondo area in the areas of nutrition, livestock and holdings, general welfare.

Attempts of the Ngorongoro people to organise themselves have often been frustrated and constrained by the NCAA that has been playing the triple roles of legislature, executive and judiciary at the same breath. Using the same powers, the NCAA blocked attempts by Ngorongoro residents to benefit from legal aid support that some University of Dar es Salaam lawyers offered them. In the last few years, plans have been developed to evict more than 200 families from Ngorongoro and to resettle them elsewhere.

Something similar if less dramatic is happening in Loliondo with the involvement of United Arab Emirates in tourism, the more recent involvement of Tanzania Breweries Limited and Thompson Safaris and other tour operators. Likewise in Kiteto big farmers from Njombe, Iringa and other areas have taken large tracts of land from pastoralists in the area.

Side by side with these developments has been the success of pastoralists in Mkomazi in winning their case against eviction from their long standing grazing areas. While they won this skirmish, they have not succeeded in winning any battle yet. The Tanzanian Government has yet to implement any of the findings or recommendations of the case. On the other hand pastoralists take encouragement on the achievements of the San people in Botswana to win the right to return to their homeland.

In the light of all of this there is need for a comprehensive study that will bring together the many challenges facing pastoralists and providing advice for different actors on how best to respond to these challenges so that pastoralists can ensure that their natural resources which have sustained their livelihood until now will continue to sustain them in the future.

A 5.2 Study Objectives

The main objective of the study is to assess the situation of pastoralists in Tanzania in the light of current and future policy and environmental changes and to identify practical responses that will help ensure pastoralism provides a sustainable livelihood to the millions of families who depend on it while contributing to the national economy of the country.

The TOR is broken into three distinct sections to facilitate the consultants in carrying out the study as follows:

A 5.2.1 Policy related issues

1. To situate pastoralism in the wider debate on the future development of Tanzania. The GoT's Vision 2025 foresees a future built on a strong and competitive agricultural base – how can pastoralism as an effective and efficient user of scarce resources in Tanzania's extensive drylands contribute to the governments MDG targets? The team also needs to look in details at other relevant Government policies and documents. What does the CCM manifesto, MKUKUTA and MKURUBITA say about pastoralism and what are the implications. What does the relevant sectoral policies say on pastoralsim and what are the implications – particularly important here is Local Government Reform Programme, SPILL, Water, Natural resources, Tourism and Livestock policies.
2. Related to the above us is the question of how policies are formed. What is the process of policy making in Tanzania at present – present the theoretical way it is done and the actual way. What are the driving forces shaping current Government policy discourses. Select the recently formulated livestock policy to show how that particular policy was formulated. Identify appropriate illustrative case studies that help to understand the nature of policy implementation.
3. Outline an understanding of the directorates of Ministry of Livestock, Ministry of Regional Administration and Local Government, Ministry of Lands and Human Settlements, Ministry of Natural Resources and Tourism and Ministry of Finance. Explain their function in relation to policy making and implementational roles. Also evaluate the functioning and significance of different parliamentary committees in influencing the content of policies and laws. Assess particularly those private sector/non governmental interests that seem to influence the policy process and outcomes.
4. Investment policies: The current Government of Tanzania is very keen on supporting investment initiatives both by nationals and non national. What are the investment priorities of the Tanzanian Government – in what sectors are they particularly keen to get investors?
5. It would be useful to know about the Tanzanian Business Council as well as the Investment Round Table of Tanzania – how it is organised, how it has become very influential and what the pastoralist movements can learn from them;
6. To identify political and policy instruments that are of relevance to the pastoralist debate today – this can build on the study of Professors Mattee and Shem. Side by side with this is the reality of the political alienation of pastoralists from the policy making fora. A case study in Monduli might be useful to see how pastoralists are included and at the same time excluded from political decision-making.

A 5.2.2 Investment related Issues

1. Given rising population and a static or declining nature resource base, what are the opportunities and challenges for pastoralism in meeting domestic and international

demands for livestock-based products while sustaining local livelihoods and the environment? Specifically, what are the nature of the trends with respect to land and water use and control in Tanzania today especially for pastoralists. How much land is under conservation? How much is under farming? How much is under pastoralism? How much is for investment – what is happening with the land banks etc. A table would be very useful here especially showing conservation usage, land under investment including mining, tourism, commercial farming and horticulture and other types of exploitative usage of natural resources What are the implications at present and for the future? What are population trends in pastoralist areas and what is the projected population? What is the cattle population and the projected population? A study of what is happening in Sonjo land may be informative here as they are surrounded by Loita Masai and have a strategy of increasing their population to increase their political voice. What is happening to the natural resources in the light of this population increase?

2. Related to investment provide an overview of the total economic value of pastoralism in Tanzania in terms of:
 - Direct values – subsistence, internal trade, external trade, material supply for industry, employment, other socio-economic and cultural factors;
 - Indirect values – inputs for tourism, ecological services for wildlife conservation, small scale agriculture;
 - Option values – in relation to future opportunities eg. based upon the growth value of natural resources and new opportunities for increased livestock exports based on disease compliance equivalence;
 - Existence and bequest values – both global and local.

Select appropriate case examples of pastoralist systems in Tanzania as a means for providing greater levels of detail and insight in support of the arguments and assessments made above.

3. Comparing tourism and pastoralism economically: What is the real contribution of tourism to the national economy including the number of Tanzanian households gaining a livelihood from tourism – numbers employed etc. In doing these calculations it is important to keep in mind that much of the income from tourism is used outside the country – paying flights, hotels etc and the actual money sent to Tanzania is what is required to run the hotel etc. Contrast this with income from pastoralism. How many households make their livelihood from pastoralism? What are the real economic costs of pastoralism to the economy – sale of fresh meat, exported meat, hides etc. The study wants clear comparitors to assist pastoralists to develop strong economic arguments to support the contribution that pastoralism makes to the economy;
4. Related to investment is the question of opportunities for pastoralists to avail of investment opportunities. Which priority investment sectors impact on pastoralism currently and in the future. Who are these key investors – if possible to identity a cross section of them and see how they see pastoralism and the practical space for co-operation eg. eco-tourism. How can pastoralist movements utilise the private sector to meet its own aims.

Given that pastoralists are often seen as an attraction for tourists are there better ways for pastoralists to explore the opportunities that tourism provides;

A 5.2.3 Legal Issues

1. To review, assess and document the status, provisions and application of the principle legislation, acts and directives that affect pastoralists and the security of natural resources which have benefited them until now i.e. what legal instruments are used to govern pastoralism today. What articles of the constitution are relevant for pastoralists and their rights? How is it applied? Are there gaps or breaches in the application?
2. In relation to current laws which are relevant to pastoralists eg. land laws, what are the relevant laws that could be utilised by pastoralists to secure their rights? How are laws applied at present and are there opportunities for pastoralists to utilise them for their benefit? It is suggested that a particular focus is placed on events in Ngorongoro at present. In the light of the planned evictions what is the best response legally, politically and socially? In the TBL case in Sukenya, what can communities do to secure their livelihoods? In Kiteto where farmers have taken over pastoralist land what is the best response for pastoralists? In relation to Mkomazi, what have pastoralists learned from this case and the experience of 'winning' it? How can pastoralists bring this issue forward to international fora like the African Union Court of Human Rights, The International Court of Justice?
3. Examine internal governance structures at village level and how these structures have led to governance failure. Look at the interplay between formal and customary institutions.
4. In the light of the evictions of pastoralists in Ihefu, Southern Tanzania and the pending evictions in Ngorongoro, find out the impact of these evictions on pastoralists and advise on what actions can be taken locally and internationally to prevent such evictions in the future;

A 5.2.4 For All Consultants

1. What are the longer term data and research requirements that are required to assist pastoralists and their support organisations;
2. To identify key actors/organisation/academic institutions with common interests with pastoralists e.g. small farmers, fishermen, small scale miners so that alliances could be formed with these actors to focus on the common interests of pastoralists and these actors – MVIWATA springs to mind.
3. Based on the discussions with different stakeholders, to propose a vision for the future of pastoralism in Tanzania including a vision statement for discussion among pastoralists and their supports
4. To come up with recommendations and a proposed action plan for all stakeholders with an interest in pastoralism as to what are the most appropriate interventions for the future with particular focus on:

5. Lobbying and advocacy work – especially to help pastoralists to secure rights over their livelihoods. As part of this it is important to identify partners outside the country for support in this area as well as strategies that will help pastoralists to secure their rights even if they have won their case in Tanzanian courts of law;
6. Service delivery – what are the most appropriate ways to assist pastoralists with services for those interested in that area of support;
7. Evictions – what is the best and most appropriate way to respond including linkages with institutions outside the country;
8. General tactics for political engagement – traditionally pastoralists have taken a hostile approach to Government and their policies. Is this the most appropriate response and what are more suitable ones – infiltration, subversion, confrontation etc.
9. Investment opportunities – what opportunities exist in the current and possible future investment climate in Tanzania for pastoralists and how to avail of them.

In the light of the above the study team will come forward with a set of proposals on how pastoralists, their representatives, civil society actors, donors and indeed anyone who is sympathetic to pastoralists can best respond to the challenges. If there is a possibility of pursuing court cases there is need to identify which legal instruments and potential actors can help in pursuing this avenue. If it is social which actors are worth networking with and around what issues etc.

A 5.2.5 Consultative Fora for Feedback on Study

Following the completion of the initial study, the team is requested to meet with a small study group who commissioned the study so that they can have an opportunity to present their findings to date. It is suggested that this one day meeting takes place at the start of week 4 of the study. It will enable the study group to understand the issues and their relevance as well as help the study team to see what gaps exist and how to address them.

On completion of the study draft there will be a one day consultation where the team will formally feed back their findings and recommendations and discuss the way forward. The purpose of this one day meeting is as follows:

1. Feedback the findings of the study in line with the set terms of reference;
2. Ensure that the information is as factual and accurate as possible;
3. Put forward recommendations and discuss them with the participants – small group discussion would be one useful method here;
4. Agree on key short term and long term recommendations as well as a plan of action outlining who ought to do what and when and where.

A 5.2.6 Organisation of the Study

This study has developed into a joint effort between CORDS, IIED East African Programme and Tanzania Natural Resource Forum (TNRF). CORDS and IIED EAP will take responsibility for recruiting consultants for the legal aspect and one consultant for the policy aspects. TNRF will

take responsibility for the investment aspect of the study as well as sourcing one consultant for the policy aspects. CORDS and IIED EAP will fund the bulk of the study but TNRF will provide funding for one consultant on policy issues and one consultant on investment.

Benedict Nangoro will take responsibility for and manage the study on behalf of CORDS/IIED East African programme with assistance from Alais Morindat and Dr Eamonn Brehony. Dr Andrew Williams, Tanzania Natural Resource Forum will take responsibility for the investment part of the study. The action plan that comes out from the study will be a key document to guide future interventions as well as provide a tool for monitoring the implementation. Once completed CORDS, TNRF and IIED East Africa will take responsibility for the next steps – publishing the study to a wider audience, circulate it to partners and help pastoralists strategise around it and identify action points, use materials for teaching and if money is available publish a position paper (occasional paper) on it.

A 5.2.7 Expected Output(s).

The expected outputs of this study will be a report providing details on the following:

- Present and future challenges facing pastoralists in the light of increasing population and decreasing natural resources;
- Mandate, jurisdiction and application of existing laws including the constitution
- Current policymaking practices and policies and how pastoralists can be exploit them to their advantage
- Potential opportunities for pastoralists to avail of investment opportunities in the prevailing investment climate in Tanzania
- A map of existing social networks with a common interest in issues of concern to pastoralists
- Propose short term and longer term actions for pastoralists, their representatives and other actors in pastoralism to ensure that the natural resources which have benefited them to date will continue to do so in the future

As part of the report, there will be an action plan on how to bring forward specific recommendation particularly short term actions as well as some long term ones.

The findings of this study will be used as follows:

- To inform pastoralist activists and their communities on how best to respond to current and future challenges to their livelihoods;
- To inform institutions and development activists on how and in what manner to build up the capacity of pastoralist civil society
- To publish the findings for wider circulation

A 5.2.8 6. Timeframe and methodology.

The study will take place between July and August 2007 and the exercise will take a total of six weeks and (preparation, field work, debriefings and writing the report) of which five weeks are earmarked for fieldwork. As a lot of the information on trends are likely to be found in Dar es

Salaam or Dodoma rather than in the field and as such time is needed to consult people and documents there. During the period, the consultants are expected to read relevant project documents; visit project sites in Ihefu and Lindi districts (re evictions), Ngorongoro district, Monduli district and possibly Simanjiro or Kiteto districts to talk to District officials, consult with relevant stakeholders, debrief on findings through a workshop and come up with a final study report.

A 5.2.9 Study Team

The study team will be composed of five consultants with expertise and experience in law, policy making and investment. Consultants are Dr Ringo Tenga for the legal aspects and to act as team leader – he will also employ a constitutional lawyer for two weeks to help him formulate possible constitutional issues that are of interest and concern for pastoralists, Professor Mattee and Dr Martin Walsh for the Government policy issues, land bank and two economists – one from outside the country will carry out economic and investment issues.

A 5.2.10 Reporting

The final report should include 1) the Executive Summary, Situation Analysis including a section on the current policy environment in Tanzania related to pastoralism, Main study findings and

A 5.2.11 Observations, Conclusions and Recommendations.

The study team shall submit two bound copies of the final report and a retrievable electronic copy to 1) IIED East African Programme; 2) CORDS; 3) CORDAID/Trocaire; 4) Tanzania Natural Resource Forum. Each sectoral report will be of a maximum of 20 pages, excluding annexes, with the overall report being no more than 70 pages.

A 5.2.12 Budget

A budget has been developed separately.