

Jumuiko
la
Maliasili
Tanzania



Tanzania
Natural
Resource
Forum



Training On Village Land Act (1999), Wildlife Conservation Act Of 1974 And Mkurabita To Laigwanani At Simanjiro District

10 - 12th August 2007

INTRODUCTION

The training on Village Land Act (1999), Wildlife Conservation Act of 1974, Wildlife Management Areas Regulations (2002) and MKURABITA to Laigwanani was convened at the Terati division (Simanjiro district) from 10th to 12th of August 2007. The key participants of the training were the Laigwanani (traditional leaders). Apart from Laigwanani, the training was also attended by the Divisional Secretary and Village Executive Officers.

Officer from Terati village as invited participants. A total number of thirty six participants attended the training where by thirty two were male and four were female.

OBJECTIVES

The objectives of the training include *interalia*:-

- To understand the laws governing the land and wildlife sector in Tanzania.
- To understand the linkage between the Village Land Act (1999), Wildlife Conservation Act of 1974, Wildlife Management Areas regulations (2002) and MKURABITA
- To develop a synergy among the Laigwanani in order to provide a road map for future well being of rural community through wildlife sector.

BACKGROUND

The training was organised following the ongoing process of establishing the community forums as well as building the technical capacity of the traditional leaders (Laigwanani) who are the potential members of the community forum in their respective areas. It was designed to provide the technical inputs (knowledge and skills) to Laigwanani particularly on the aspect of Village Land Act (1999), Wildlife Conservation Act of 1974, Wildlife Management Areas regulations (2002) and linkage which exist between the aforesaid law, act, regulations and MKURABITA (Acronym of Swahili version meaning-MKAKATI WA KURASIMISHA RASILIMALI NA BIASHARA ZA WANYONGE NCHINI TANZANIA). In English the term MKURABITA simply means the Property and Business Formalisation Programme for Tanzania.

THE TRAINING CONTEXT

DAY ONE OF THE TRAINING

SESSION: OFFICIAL OPENING OF THE TRAINING

The training was opened by Makko Sinandei (UCRT) and Julius Norbert (TNRF) who provided short remarks by welcoming the invited participants and acknowledged their high turn out. Also they extended their grateful thanking to training organiser and funder –UCRT & TNRF. During this period of opening the training, the aim of the training was elucidated that is to build the technical capacity of the traditional leaders (Laigwanani) on the aspects of the Village Land Act (1999), Wildlife Management Areas Regulations (2002) Wildlife Conservation Act of 1974 as well as linking these laws with the issue of MKURABITA.

They went on by saying that, the training was a forum that would give Laigwanani technical inputs with what have been stipulated in the village land Act (1999), wildlife conservation Act of 1974 and wildlife management areas regulations (2002)

After this few remarks, the participants were given the opportunity to introduce themselves and eventually the training started.

SESSION: BACKGROUND AND CONTEXT OF THE VILLAGE LAND ACT (1999) - BY FRANCIS STOLLA.

The session content was preceded by the brief conceptualisation of the key issues pertaining to the general principles, roles and responsibilities of land management in the country. He made clear on the following points pertaining to Land Act, 1999 and Village Land Act, 1999:-

- That, the Land Act makes clear that all land in Tanzania is public land which the president holds in trust on behalf of all the citizens.
- In the central government the president gives power to the minister of lands and next to him the commissioner for lands to make sure that everything is done properly.
- The commissioner is given a lot of power to make decisions concerning land management and is now the chief land administrator in the country.

He further pointed out that land in Tanzania is divided into three main types which are; Reserved, Village and General land. He went on by saying that:-

- Village councils are responsible for allocating village lands but they cannot do it without the approval of the village assemblies.
- The president may transfer village land to general or reserved land which means that the village council would no longer manage it. He may decide to do this for the public benefit for example if the land is required for investment.

Settlement of Disputes

The facilitator pinpointed that, there are five levels of courts which have been arranged by the land laws to settle the disputes over the land. These courts (from the lowest to highest) are:-

- The Village Land Council

- Ward Tribunals
- District Land and Housing Tribunal
- High Court (Land Division)
- Court of Appeal of Tanzania

He said that, all villages must have a Village Land Council which will help the people who are disagree to come to decisions that will help and benefit everyone. Council members will:-

- Total seven people, including at least three women
- Be nominated by the village council and approved by the village assembly
- Serve for a term of three years

The villages also must have the village adjudication committee in which the members;

- Will be elected by the village assembly
- Total no more than nine people, including at least four women
- Serve for three years
- Be allowed to serve for one more three years term if re-elected

The village adjudication committee will have the following responsibilities:-

- Deciding on the boundaries of village lands during the adjudication process
- Setting aside land for various purposes
- Using customary law to sort out the land rights of affected people during the adjudication process
- Protecting the interests of women, minors, the disabled etc. During the adjudication process.

Also, the villages must appoint a village adjudication advisor who will be:-

- A respected local, a professional person, a public servant or official or a magistrate
- Appointed by the village council

After his presentations, the facilitator opened the room for questions from the participants or rather if he could make some more clarifications on those areas where the participants could not catch him. The participants (Laigwanani) admitted that they have had understood the subject, nevertheless they asked a good number of critical and practical questions which was responded well by the facilitator.

DAY TWO OF THE TRAINING

SESSION: BACKGROUND AND CONTEXT OF THE WILDLIFE CONSERVATION ACT OF 1974 (BY FRANCIS STOLLA)

The day was opened by doing the recap of the previous day, and then followed by conceptualising the fundamental issues regarding the wildlife laws that govern wildlife sector in Tanzania. The facilitator pointed out that; the Game Reserves (GRs), Game Controlled Areas (GCAs) and Partial Game Reserves (PGRs) were formed under the Wildlife Conservation Act No 12 of (1974)

He said that, the president is the one who has the authority over the game reserves whilst game controlled areas fall under the minister of natural resources and tourism and partial game reserves are under jurisdiction of the director of wildlife.

The facilitator proceeded by saying that, Wildlife Conservation Act of 1974 is the main law that deals with the wildlife conservation areas in Game Reserves and Game Controlled Areas in the country. The Act was passed in 1974 meanwhile the Policy was formed in 1998, thus the act did not base its roots on the policy. According to facilitator, some of the fundamental issues plaguing the act include:-

- It does not recognise the Wildlife Management Areas (WMAs) as stipulated in the wildlife policy
- It does not provide the opportunities for involvement of local communities in conserving and benefitting from the wildlife resource.
- Excessive power and authority over the wildlife management and conservation have been bestowed upon the central government.
- It does not say anything about the benefit sharing regime of the wildlife resource among the stakeholders.

Facilitator said that, it is obvious that areas of wildlife conservation are under government control and villages have no legal mandate to own the reserve land. Ironically, it is logically impossible for reserve land to be village land at one time. He further made clarification to section 40(1) that asserts, "No person shall hunt or capture any animal on private land unless:-

- o He is the holder of a valid licence, permit or authority issued or granted under this Act.
- o The owner of the private land has given his consent thereto"

He went on by citing an example from Sinya village where he said that, the villagers in Sinya have legal rights of land ownership; surprisingly many hunters do their hunting activities on the private land without the consent from the villagers.

The tourist Hunting Regulations (2000) do not allow for activities like taking photographs, watching animals etc without permission from the wildlife division.

THE WILDLIFE MANAGEMENT AREAS REGULATIONS (2002)

The facilitator emphasised that, in recognition of the fact that the Wildlife Conservation Act of 1974 does not allow for community involvement in conserving and benefitting from the wildlife resource, the Minister for Natural Resources and Tourism subject to section 84 of the pertinent Act, established the WMAs regulations for that purpose. Mr Stolla clarified that; the WMAs shall not function in Game

Controlled Areas (GCAs) not until the land status is changed to the village land that the project could actually take off. The purpose of setting aside the WMAs by the village government is:-

- To conserve and manage the wildlife in a sustainable manner
- Give the local people responsibility for doing that
- Enable the local people to benefit from the wildlife resources
- Allow communities to benefit from the wildlife the way they benefit from other uses of their lands
- Benefit the people financially so that they see the value of conserving the wildlife

Moreover, the facilitator explained how the villages can create WMAs on their lands and what categories of rights and responsibilities the communities will have in the established WMAs. Thus;

- o Villages can set aside a portion of their village land for the conservation. Other uses of land may occur in WMAs but the main purpose of these areas will be for conserving the wild animals.
- o WMAs will be managed by Community Based Organisations (CBOs) representing the villages involved not by village councils or village natural resource committees.
- o The CBOs will ask the director of wildlife to make the WMA legal by gazetting it so that the villages involved will get user rights to an annual quota of wild animals. The CBO must prove that it can manage the local wildlife resources properly.
- o Once the CBO receives the user rights it will become an Authorised Association (AA) as stated in the Wildlife Conservation Act. This means that it has been authorised by the director of wildlife to manage and use the wild animals in the WMA.
- o The CBO/AA will then be legally responsible for managing the wildlife within the WMA according to the agreement it makes with the director of wildlife.

The presentation was followed by some questions from the participants and facilitator responded well to every question asked.

DAY THREE OF THE TRAINING

SESSION: MKURABITA (PROPERTY AND BUSSINESS FORMALISATION PROGRAMME FOR TANZANIA)

The recap of day two of the training was done and then the facilitator introduced the subject of MKURABITA by pinpointing the critical issues regarding it as follows:-

MKURABITA STRATEGY: To set up a unified national system of property rights and businesses. This system will be built from a harmonious marriage of standardised and modernised customary practices from the bottom up and the relevant modified laws from the top down.

MKURABITA GOAL: To empower groups and individuals especially in the informal sector so that they can participate effectively in the modern, formal and market economy.

MKURABITA OBJECTIVE: To empower the marginalised majority in the informal sector so that they can make the better use of their property and business assets and take advantage of other

opportunities in the modern market economy. They will therefore be able to expand their businesses, increase their income and participate in the reduction of poverty.

MKURABITA EXPECTED RESULTS: Reduced individual household poverty, improved living standards of the target group and an expanded national economy that is governed by rule the rule of law.

LINKING MKURABITA AND NATURAL RESOURCE E.G. LAND RESOURCE

The kind of property in which MKURABITA is concerned with mostly is the land, houses and other buildings. However some aspects concern movable property such as a bicycle, radio or car that could be used as a security to get the loan are involved too.

It can be very difficult for people to get credit to establish, maintain or develop their business (whether the business is small farm or a factor y). One way to encourage more lending is to make it easier to use land or other property as a security for loan.

Thus, MKURABITA expects to bring about the following potential benefits:-

- With secure title people will settle and be more productive and will invest in the land.
- Land use conflict will be minimised if title is clear
- Titling of individual plots or at least the land use planning stage that precedes it will tend to protect common areas within the village territory.
- The programme will make women and youth more aware that land has value and they have a right to own it.

CLOSING REMARKS

Prior to closing remarks, the overall evaluation for training was made and the general score was extremely good. Nevertheless, the participants recommended that they should be provided with more training particularly on the aspects regarding the natural resources management policies and legislations. Mr Julius Norbert and Makko Sinandei acknowledged all the participants for attending the training as well devoting much of their time that made the training to be very successfully. They also acknowledged and appreciated the outstanding facilitation done by Mr Stolla and TNRF for funding the training. Last but not least, they insisted Laigwanani to put into practical use the theoretical knowledge and skills they had acquired from the training so as to have the potential and meaningful reforms in the country.