

SOCIO-LEGAL ANALYSIS OF COMMUNITY BASED
CONSERVATION IN TANZANIA
POLICY, LEGAL, INSTITUTIONAL AND PROGRAMMATIC ISSUES,
CONSIDERATIONS AND OPTIONS

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By

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The study team consisted of three lawyers provided under the auspices of LEAT (Lawyers for the Environmental Action Team) Rugemeleza Nshala, Vincent Shauri and Tundu Lissu. LEAT is a partner in the EPIQ projects mandate to support institutional strengthening. Dr Bwire Kaare is an anthropologist whose speciality relates to pastoralists (Maasai) and hunter gatherers (Dorobo). Simon Metcalfe is a Zimbabwean community conservation specialist who also acted as editor-in chief. The report reflects individual contributions but we stand collectively behind it. It is our values and views that are reflected and not necessarily those of EPIQ or its partners, particularly in this case WD, TANAPA or AWF. The report is meant to be useful and we hope the good parts are remembered and any mistakes or misrepresentations will be rapidly overlooked and forgiven.

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1.0 EXECUTIVE SUMMARY

1.1 Fundamental Pillars of the New Wildlife Policy

The recently adopted Wildlife Policy of Tanzania (1998) marks a progressive and welcome departure in the wildlife conservation discourse. Unlike previous policies and practices, this “charter” recognises the need and makes provisions for community based conservation (CBC) of wildlife on local communities' lands. However, while the policy has become “use” orientated, the legal environment is still characterised by “protectionist” assumptions that regard "use" by local communities with suspicion.

The new policy proclaims the Government of Tanzania's intention to establish sustainable utilisation of wildlife by private landholders, especially rural communities, and particularly those who reside inside and adjacent to state protected areas. The government intends to implement the policy by allowing rural communities to establish and manage Wildlife Management Areas (WMAs), as a new category of protected area, organised around villages as common property management regimes. Further, government commits itself to use the protected areas for the generation of revenue, employment, income, and food for local communities.

The innovative feature of the policy is its support of the sustainable use of wildlife by rural communities and may be said to form a new supportive pillar of the wildlife policy in Tanzania. Other pillars of policy remain state ownership of the wildlife resources and the central role of the exclusive wildlife protected areas system in wildlife conservation. The previous policy relied only upon the latter two pillars.

A Maasai elder told the Study Team that the government's conservation and development policy was like “a multi-storied house without a foundation”. We would wish to believe that the new policy, by introducing the possibility of CBC, creates a link between the ground floor and higher levels.

The rural communities are weak because they have been rendered powerless for so long. Both their rights of access and their indigenous knowledge systems were denied. In addition, they can be "divided and ruled" as individual village units with ease. The development of voluntary WMA Associations, as community-based organisations (CBOs), is indicated, so communities can register a collective response and become partners with the government.

The private sector is also individualised and the positive value of competition could become the chaos of concession and lease grabbing. Although tour operators and safari hunters are ostensibly organised in independent organisations, these are weak and have hardly played any independent role in conservation discourse in the country

The policy is inadequate on the role of the non-governmental sector (NGOs), saying merely they should assist government. NGOs are formed to safeguard or further the interests of particular constituencies, which may not necessarily be always consistent with the policies and practices of

the Government. To assume that NGOs would always support or assist the government in implementing the latter's policies is unrealistic. It would have been more appropriate for the Policy to state the role of NGOs as being to assist the various stakeholders in the wildlife sector implement the Policy and help provide a conducive policy atmosphere for NGOs to play that role.

The new policy developments call for major reforms of the legal structure to implement them. There is in this connection a need to create a forum for dialogue on legal reform between the Government, conservation agencies, local communities and NGOs on the kind of reforms which are needed to implement the Policy

1.2 Legislative Issues

Apart from reform necessary to bring the legal order into conformity with the policy requirements, there still exist possibilities - even if rather limited - within the existing law, to empower local communities to implement CBC projects. Local government legislation in Tanzania creates Village Councils as basic units of local government, endows them with a legal personality and vests onto them powers to manage natural resources in village lands. The wildlife conservation legislation on the other hand grants the minister responsible for wildlife discretionary powers to designate Village Councils as Authorised Associations for purposes of allocating hunting concessions to them. Furthermore, Village Councils have control and regulatory powers over the administration of village lands. The creative linking of these provisions makes it possible to allow local to communities undertake CBC for their benefit, centred on the Village Council, as a local natural resource management institution.

Consequently, and without discounting the difficulties engendered by the present lego-institutional arrangements, the present policy can be implemented if there is sufficient will on the part of the government and its wildlife management agencies.

The Study Team noted with alarm that the implementation of the proposed WMAs would be made conditional upon village councils acquiring title to village lands before their being designated as "Authorised Associations". The Team considers this conditionality as wrongly conceived, controversial and leading to unnecessary delays and bureaucratic "bottlenecks". It is a misconception to assume that lack of formal titles over rural lands is equivalent to their being 'no man's lands' over which village councils should apply for grants of title from the government. Village lands are owned under customary law by individual or clan members of the villages concerned so that they cannot be allocated to the village councils without customary titles first being legally revoked. It is also a misconception to view customary titles as being somehow inferior to granted titles. Superior courts of law in Tanzania have stated on a number of occasions that customary titles are in every respect of equal status and effect as the granted titles. This position has now been codified under the proposed Land Act Bill, 1998.

Conditionality, related to villages having granted titles before being authorised to carry out WMAs would establish a long and cumbersome process which would severely undermine the intention of the policy to provide incentives to local communities to manage wildlife. Evidence of attempts to

grant village titles suggest that this exercise has not been successful as it is too complicated, time-consuming and costly. It involves a number of institutions and departments, demarcation of village boundaries, surveys, intensive land use planning requirements, mapping and tiers of oversight and approval which make it difficult and costly. Given the present economic climate characterised by cost-cutting in the government, it is difficult to see it succeeding.

It is the Team's view that the establishment of WMAs could proceed more efficiently and effectively on the basis of the present villages as politically and administratively constituted without interfering with customary land titles. The local government legislation in force recognises Village Councils as bodies corporate with all the legal capacities to enter into contractual arrangements and own property. Under this system, Village Councils could be deemed "Authorised Associations" for the purposes of establishing WMAs. This is, incidentally, envisaged even under the existing Wildlife Conservation Act, 1974, which empowers the Minister responsible for wildlife to declare existing villages as "Authorised Associations" to which game licences can be granted. Several pilot projects have proceeded on this basis with promising results.

Consequently, a combination of the Wildlife Conservation Act (1974) and the Local Government Act (District Authorities) (1982) is sufficient to implement the Wildlife Policy (1998) in regard to establishing CBC through authorised village-based WMAs.

It is worth highlighting that the Wildlife Conservation Act largely relates to control of "consumptive" use and a Village Council is already entitled, through its control of land uses of village lands and by virtue of being body corporate, to enter "non-consumptive" (e.g. photo-tourism, camping safari or hotels) joint ventures.

1.3 Institutional Aspects

A central feature of the Policy is that the present institutional arrangements have been left intact. Institutional fragmentation and rivalry continue to be the norm in the wildlife sector as is its "top-down" approach to local communities. These issues were quite obvious to the Study Team in the course of this inquiry. For instance, TANAPA has no legal mandate to manage wildlife, without Ministerial consent, outside the National Parks Estate. However, they seem to do so through attempts to control land and wildlife use on the basis that the Wildlife Division, which has the mandate, has not the resources nor willingness to do so in a way which does not impair the integrity of their Estate.

The Wildlife Division on its part feels that TANAPA has no business outside the parks. This institutional fragmentation and rivalry has been carried over into the area of community conservation outreach programmes. Whereas the Division has had a Community Based Wildlife Conservation Unit doing community outreach projects with local communities, TANAPA on its part has a fully fledged Community Conservation Services Department doing similar outreach work in areas around National Parks. The two outreach programmes are not co-ordinated and are in competition with one another.

The policy outlines that villages would manage their WMAs through Natural Resource Committees (NRC). The NRC would effectively be a sub-committee of the Village Council. As the VC is body corporate this means that the NRC can have similar status and therefore operate accounts and sign contracts. This has profound possibilities, unique in Africa, and means that there is no institutional impediment to the village becoming an effective wildlife management regime. Village WMAs could voluntarily associate with other WMAs to form larger management units (conservancies) in order to manage and market their resources through leases and concessions at the appropriate scale. This would mean that associations of WMAs could manage hunting blocks, corridors and dispersal areas.

A critical aspect of successful CBC relates to institutional development. We believe that wildlife management incentives (tangible benefits) must be sufficiently immediate and positive to motivate an internally driven development process. Hence the need to empower village WMAs with “authorised association” status rapidly.

1.4 Local Community Perspectives

It was obvious to the Study Team that local communities continue to view wildlife conservation institutions with some hostility and suspicion. Apart from the historic evictions of communities in order to create protected areas for wildlife, local communities continue to complain about abuses and harassment by the law enforcement arms of these institutions. They also complain of the surreptitious and illegal expansion of park boundaries, which encroach on their grazing lands leading to even more loss of land and resources and to the intensification of conflict. There are also complaints against tourist hunting operators, both private and parastatal who local communities’ accused of malpractices and of ignoring their legitimate concerns for human safety and ethical hunting on their village lands. These fears and concerns are in large part justified as the Study Team was able to verify some of the accusations of park expansion through creation of buffer zones of dubious legality and corridors established in an arbitrary manner.

It was clear to the Study Team that local communities are confused, even bewildered, by the lack of co-ordination, even rivalry, which reigns within the government and its conservation agencies. They find it hard to understand the logic of agencies of the government such as the Wildlife Division, TANAPA and TAWICO undertaking activities independent of each other and often against one another. It is also clear that if the CBC programme is to be effectively and efficiently implemented this position has to be corrected. The Team was informed that a Presidential directive has been given to the effect that the existing institutions in the wildlife sector be merged to form a single "streamlined" agency. This would be positive step although the veracity of the information and its implications are open to speculation.

Communities are not purely homogenous entities but are differentiated by several factors such as wealth, age, gender, and ethnicity. The programme needs to understand this and ensure a social science research input to complement the natural science backgrounds of the wildlife authorities. It is instructive to realise that the University of Dar es Salaam does not teach anthropology. This may

partly explain why an appreciation of indigenous knowledge systems is weak in Tanzania. That information is needed if CBC is to be responsive to communities.

Communities believe that the goals of CBC would be best achieved if they were directly assisted in implementing WMAs by agencies other than TANAPA because it is a statutory party with an obvious vested interest in influencing community land use. A more neutral agency could help both parties to find a new and more balanced relationship over time. It is accepted that TANAPA has valid concerns, as do communities, but these concerns need to be mutually addressed. For example a "buffer zone", according to our definition, is not just an area outside the park over which TANAPA wants influence, but, a zone inside and outside the park over which both parties want influence in order to soften the "hard edge" of conflicting land uses.

1.5 Implementation

The policy is meaningless if it is not properly implemented. Both TANAPA and the Wildlife Division appear to insist that the communities must show the capacity to operate CBC before they are given powers and authority to establish WMAs. Should they insist that communities demonstrate the "capacity" to manage as well as have the "intent" to do so, it would considerably delay the empowerment process and negate the immediate incentive of tangible benefit and control. The policy should be implemented on the basis of village communities' expressing the "intent" to establish WMAs with a general statement on how they plan to proceed. As the benefits "flow" the communities would then have the motivation to develop "capacity". The institutional development process and related wildlife management activities could then become internally motivated.

General conditionalities, related to quotas, contracts, fund management, monitoring and oversight can be broadly set and, once agreed, attached with authorisation. It should not be a condition that an elaborate wildlife management plan, in conformity with WD's or TANAPA's expectations, and the Land Act is in place first. Community-based institutions must be motivated to develop management institutions through granted rights and responsibilities accompanied by corresponding costs and benefits.

To get results the wildlife authorities should bring communities and private sector in as partners for a thorough estimation of implementation modalities and to build consensus and joint ownership of the process. The Team is apprehensive that some conservation agencies may attempt to hijack CBC to further their institutional interests. TANAPA officials, for instance, appear to assume they have a mandate to oversee CBC and the implementation of WMAs and that they can undertake the programme around their "sphere of influence" almost single-handed. The Team has doubts about these assumptions because TANAPA faces a credibility crisis with local communities. It should not become a rural development agency but should facilitate a collaborative team approach to ensure that a collective effort serves the implementation process.

The role of NGOs requires analysis. TANAPA's anxiety over managing donor inputs is understandable but they should facilitate communication between partners and attend to their capacity building needs. For example, in the MTC study area Inyuat e Maa appeared to enjoy the trust, as a CBO, of the Maasai communities the Team visited. It could be encouraged to play a role in mobilising and representing community interests. Similarly, Dorobo safaris appeared to have established acceptable and detailed joint ventures with some Maasai communities in the MTC area and they could be encouraged to participate in the implementation planning process and liaise with the private sector. It was also clear to the Team that AWF's role too closely duplicates that of TANAPA's Community Conservation Service producing some institutional overlap instead of the positive collaboration the CBC programme in the Manyara/Tarangire Complex requires. This could be avoided by encouraging AWF's CCSC to facilitate CBO and private sector participation in the implementation process and ensuring technical advice to communities on resource management aspects and marketing is available.

An NGO training input for institutional development related to managing effective common property management regimes (NRCs) is indicated. This would require trainers who have experience in co-operative management (the management by groups of shared resources). Effectively, the villagers are shareholders, the NRC the management, and the Village Council the Directors. This would need awareness raising and training in terms of roles, responsibilities and capabilities.

A summary of agencies and their collaborative roles follows:

- government motivates the programme by forming a collaborative team with clear responsibilities.
- CBOs mobilise communities and represent them.
- NGOs provide technical assistance and training for institutional development and natural resource management (two distinct roles). International NGOs support evolution of local NGOs.
- Research institutions analyse, monitor and evaluate CBC.
- The private sector puts use values on community held resources and participates in collaborative management through associations.

1.6 Summary Findings

- The wildlife policy is a positive blueprint for community based conservation.
- Legislation may be improved but can empower WMAs through ministerial discretion.
- The village as body corporate can receive WMA authority and use it effectively.
- Policy and law is not the main problem but the “will power” of authorities and management could be. Will the Minister support community access to a full range of wildlife utilisation options, how and when?
- The negative perceived value of wildlife has contributed to loss of its habitat
- Communities distrust wildlife authorities. Village communities’ generally welcomed new policy provided the "strings attached" are not too demanding. They need proof of a real change of approach.
- Villages would like agencies other than just wildlife authorities to facilitate implementation of CBC on the ground.
- Wildlife authorities do not have rural development extension experience or capacity.
- AWF’s work too closely duplicates TANAPA CCS and it should clarify its role and expand its capacity accordingly.
- Inyuat e Maa, a Maasai CBO, is trusted by local communities in the villages visited in Monduli and Simanjiro Districts. It needs support but must retain its independence. Inputs from Tanzanian agencies such as such as LEAT with support from AWF, among others, would help.
- TANAPA is concerned that donor funding will establish new centres of influence over which they do not have enough control

1.7 Summary Recommendations

- The new policy should proceed into implementation phase without delay.
- A forum for government, community and private sector should be established to develop a partnership approach and general guidelines.
- A collaborative group of government, CBOs and NGOs and private sector should be established to design an implementation plan, programme and suite of projects.
- Government should not insist on authorising only villages "granted" title under land legislation but recognise "deemed" title and empower Village Assemblies through their Councils through Local Government legislation.
- Government should ensure that incentive to establish WMAs is established early on to ensure the process is dynamic. Therefore it should satisfy itself that villages want WMAs (intent criterion) and not that they are fully prepared (capacity criterion).
- Wildlife authorities should not attempt to become rural development extension agencies because they do not have the experience or capacity and because it will cause a role conflict in their mandate.
- Implementors of CBC should recognise the indigenous knowledge systems of the communities they work with, including governance systems, as a critical part of community management. "Scientific" and "local knowledge" should complement one another, as should statutory and indigenous institutions.
- WD and TANAPA should not attempt to control donor funding as ensure a positive framework for collaboration and co-ordination to ensure the desired results and an enabling environment for CBC, including the development of local NGO and CBO capacity.

- 2. INTRODUCTION

2.1 Study Background and Objectives

Tanzania is endowed with a large population of wildlife resources but its management still emphasises state monopoly and control. This has resulted in indigenous communities being denied of access to wildlife and acted as a conservation disincentive. The newly adopted wildlife policy, however, provides a positive incentive for an integrated approach in by allowing the for the establishment of Wildlife Management Areas (WMAs) in which communities are directly involved in the conservation of wildlife.

This study is undertaken with an objective of exploring the opportunities and options available under the existing laws and policies with special emphasis to wildlife resources. The study team was requested to pay particular attention to local community perceptions of all the issues and possibilities involved and, to that end, several days were spent in the field. The report hopes to assist the process of laying the foundations for Community Based Conservation as well as reflect community needs and sentiments. As such, Inyuat e Maa, a Maasai Community Based Organisation (CBO) in the MTC study area is taken, along with TANAPA and AWF as a primary client of the study.

The team is aware that the above agencies have different expectations of this report and we try and provide a practical guideline to the policy, legal, institutional and programmatic environment as it applies to the newly promoted CBC approach.

2.2 The Study Area

The study concentrates on areas adjacent to and/or within the Tarangire and Lake Manyara National Parks, referred to in this study as the Manyara and Tarangire Complex (MTC). The MTC is one of the USAID/Tanzania pilot areas and is characterised by competing land and natural resource use management systems. The findings and lessons learnt from this microcosm of Tanzania, hopefully, will be relevant to the national policy and legislative reform situation.

The major Land Uses in the Area include wildlife conservation, hunting, pastoralism, agriculture and tourism. The MTC has in recent times experienced orthodox (top/down) conservation policies and practices in a context where local communities of pastoralists and hunter-gatherers and increasingly farmers are competing more and more for scarce resources of the area to meet their subsistence needs.

2.3 Definitions

The term "community" may have different meanings depending on the context in which it is used. In the context of this study the term community means:

" An identifiable and unified body of individuals, living in a particular area, with a common interest in the regular use of natural resources, either for traditional uses alone or in some cases for commercial purposes"

Tanzania also has planned communities in form of villages. Most villages were formed under the operation vijiji in which millions of people were forcibly grouped into defined boundaries. As such one community may have members dispersed into different villages.

The Scope of Work (SOW) for this study provided a definition of community conservation as follows:

"CC includes a range of possibilities available to communities with respect to natural resource management (NRM), including community-based natural resource management (CBNRM), Park/ Neighbours Policies, and integrated conservation and development programs (ICDP)".

However, the new Wildlife Policy of Tanzania (1998) uses the concept of Community Based Conservation (CBC) defined as follows:

"CBC means conservation of resources based on the participation of the people."

Considering that TANAPA's Community Conservation program has the attributes of a park/ neighbour approach the study believes the definition given in the SOW may confuse more than enlighten because CC as a generic context is different from CC as applied by TANAPA at present.

The concept of ICDP is left out of this study because it may only serve to confuse matters further by trying to combine the complexity of inter-sectoral conservation and development activities within a single program. This has generally been found to be cumbersome for any single programme. Several countries in the southern African region have agreed on a common definition of CBNRM to describe what they desire on community land but the term is not used in this report.

Whilst it is accepted that community conservation could have a wider generic meaning, the study uses the following two terms to reflect the applied situation as it is today:

(1) Community Based Conservation (CBC)

CBC is what communities do on their own land through the proposed Wildlife Management Areas (WMAs) under the new wildlife policy

(2) Community Conservation.

community conservation refers to TANAPA's park and people outreach approach.

2.4 Report Layout

The report is laid out in three parts as follows:

- Part One An applied social, legal, institutional and programmatic analysis of the MTC study area.
- Part Two An in-depth and general legal, policy and institutional analysis which can act as a reference for many parties.
- Annex I The new Wildlife Policy of Tanzania (1998) is a watershed in conservation approach and a mandate for community based conservation (CBC). The annex highlights all relevant references to CBC so that communities can see what the policy has for them. It can be taken separately as a handout to CBOs in order to raise their awareness of the policy.

Included with the report is a listing of findings and recommendations related to the need to synchronise policy, legislation, institutional and programmatic aspects. The policy is a mere blueprint and the legal framework and the way it is interpreted through its implementation process will determine how it guides sustainable utilisation of wildlife for the country and its constituent communities.

PART ONE

**APPLIED SOCIAL, LEGAL, INSTITUTIONAL
AND PROGRAMMATIC ANALYSIS OF
THE MANYARA, TARANGIRE COMPLEX (MTC)
(The Study Area)**

3.0 NEW OPTIONS AND OPPORTUNITIES FOR COMMUNITY BASED CONSERVATION (CBC) IN TANZANIA

The future of Tanzania's wildlife management has exciting possibilities as, for the first time in its colonial and post-colonial history, the government has passed a National Wildlife Policy (NWP) that positively encourages community based conservation (CBC) of wildlife. The policy, in its many statements, proclaims the government's intention to involve local communities in the management of wildlife, particularly those living inside and adjacent to protected areas.

The community involvement in wildlife management envisaged by the policy is through its protection and sustainable utilisation. The government intends to allow the establishment of Wildlife Management Areas (WMAs) in villages adjacent to the Protected Areas (PAs) to not only to give protection to animals that are found in and migrate through these areas, but also the habitat and ecosystem which supports them. Importantly, the definition of wildlife has been expanded to include not only the wildlife itself its habitat and supporting ecosystem.

The new part of this wildlife management policy is found in regard to the sustainable utilisation of the resource by rural communities rather than the pure protection of it by government. The government commits itself to use PAs for the generation of revenue, employment, income, and food for the local communities.¹ To support sustainable use by communities the policy propagates the enhancement of wildlife values through private sector initiative to discourage illegal use.² Of critical importance, the policy encourages the creation of an enabling environment to ensure that legal and sustainable wildlife schemes directly benefit local communities.³

To implement CBC the policy mandates the creation of WMAs as a new form of protected areas. WMAs will be established in critical habitat found adjacent to village settlements and protected areas like National Parks, Game Reserves and Game Controlled Areas. Areas adjacent to the above three categories of protected areas includes migration corridors, buffer zones, and dispersal areas. These areas form part of village common land, as envisaged by the Land policy. However, the Wildlife Policy does not provide details as to how WMAs will be organised and run. From the experience gained from the Selous Conservation Program, currently taking place in Selous Game Reserve (SGR), it is probable that Village Natural Resources Committee will be charged with the management role. Much needs to be done to ensure WMAs achieve their policy objectives.

¹ See para. 3.2.2 of National Wildlife Policy, march 1988. P.9.

² Ibid.,

³ Ibid.

3.1 Options

The new National Wildlife Policy creates several options by which local communities, especially those contiguous with national protected areas, can benefit from wildlife management activities. However, before the options can be pursued the condition precedent is that the community has to establish a WMA. A WMA as defined in the policy means “an area declared by the Minister to be so and set aside by village governments for the purpose of biological natural resource conservation.”⁴ The precise modalities of how WMAs are to be established are not provided by the policy. According to an interview conducted with officials of the Wildlife Division, the following steps are to be followed:

- a village assembly meeting must receive and support the idea of setting aside village’s common land to be a WMA;
- once the village assembly accedes to or endorses the proposal its decision and proposal is sent to the District Council;
- the District Council, together with the village government, survey and demarcate the land envisaged to be the WMA;
- an important aspect of the process is the creation of the Village Land Use Plan showing how all the land in the village is to be used;
- the District Council must approve the LUP and forward it, with its recommendation, to the Regional Authorities who, on review and satisfaction, send it to the responsible Minister (Wildlife and Natural Resources), through the Director (Wildlife Division).
- upon review and satisfaction the Minister will give a declaration, published in the government gazette, establishing the village WMA.

This review process is cumbersome and bureaucratic. Whilst the role of the District Council cannot be discounted the powers and expertise of regional government were largely devolved by government 1996 with the transfer regional officials to the district level. Regional government has little capacity or expertise to review the matter and, more important, its legal

⁴ See Annex 2 to the National Wildlife Policy, *Ibid.* p. 34

powers over this matter are questionable. In our opinion, therefore, two reviewing authorities are enough, that is, the District Council and the Minister, to ensure efficient and effective decision-making in regard to establishing a WMA.

Once a WMA is established a range of consumptive and non-consumptive wildlife utilisation options arise. The policy also broadly supports institutional capacity building and recognises traditional methods, which would mean the legalisation of traditional weapons.⁵

3.2 Consumptive Utilisation

Hunting of wildlife in the WMA could be undertaken in the WMA after it had been allocated a quota. The policy, following the Selous example, would encourage contiguous communities practising CBC to be allocated quotas, without charge, by the Director of Wildlife. The policy says communities should be provided "the necessary assistance in allocating concessions and setting wildlife utilisation quotas for the rural communities."⁶ It is assumed that communities currently do not have the capacity to compete for quotas with private outfitters. The policy encourages communities to allow hunting in the WMA as a form of CBC aimed at supporting the development of the village and its members. Once the quota has been allocated a range of consumptive options are potentially available eg. tourist, local and community hunting as well as capture and live sale. The potential of capture and domestication of guinea fowl could arise as well as the sustainable harvest of ostrich eggs for farming, as well as sale.

Further possibilities would relate to timber, fishing, grazing of cattle, cultivation, and water use as well as traditional crafts using wild products, including hides and horns. However, although the definition of wildlife includes plants and habitats other cross-cutting legislation, and its attendant authorities, exist eg. fishing and forestry.

The policy makes a significant shift in the management of game reserves by allowing local communities access to natural products.⁷ Community members living adjacent to game reserves could be allowed exclusive multiple use access to collect wood, honey, wild fruits, traditional medicine, cut grass for their cattle, and fetch water for domestic use or their cattle, to mention a few new opportunities.⁸

⁵ See paragraph 3.3.8 Ibid. p. 17

⁶ Ibid. See paragraph 3.3.6 (iv)

⁷ ibid. See paragraph 3.3.8 (v)

⁸ This interpretation is taken from the policy itself when it talks of women and children issues in wildlife conservation and management. See paragraph 3.3.11 for detailed exposition.

Another newly permissible activity for contiguous communities would be the small-scale cropping of animals. This could enable communities with a tradition of hunting and gathering to legitimise their livelihoods for the first time in decades (eg. the Dorobo). It would also be possible for communities to nurture endangered and rare species, and then sell some to the private sector at lucrative prices. Problem animals that threaten crops, like baboon and wild pig, could be managed locally. All this consumptive use could proceed on a viable sustainable use basis provided the quota was approved by the WMA. This is a radical departure from the traditional protectionism of government and wildlife authorities who for many years have been the sole management and beneficiary.

3.3 Non-Consumptive Utilisation

This option as traditionally understood means activities that do not involve killing and capture of animals, or removal of natural resources from protected areas such as national parks. Viewing of animals in these areas is the main form of use.⁹ This option covers a range of activities including photo-tourism, camping, hiking, game viewing and adventure tourism. Included would be cultural tourism as most communities have a distinct and rich cultural history that could generate a market. For example, king palaces (contrary to degrading term of “chiefs”, as many ethnic groups like the Wahaya, Wachaga, Wahehe, and Wanyamwezi, to mention a few, had Kings and not chiefs as paramount leaders). In addition, places of worship, traditional clothes, initiation ceremonies, and traditional dances could, if well promoted, bring revenue to contiguous communities.

A WMA authority would have an array of CBC development options through which to benefit of its members. The WMA authority could through its village, as body corporate, run enterprises, develop tourist services (hotels, camps, adventures etc.) organise cultural events (dances, cultural sites), trade in crafts and cultural artefacts, and market their own brand name. Through negotiation the community enterprise could also organise tours into protected areas adjacent to it. Upon entering these areas the tourist would be under the authority of TANAPA (national park) or Wildlife Division (game reserves and game controlled areas).

Communities could enter partnerships or joint ventures with private companies for the purpose of running tourist activities or any wildlife related business, consumptive or non-consumptive, in the area. The partnership agreement would ideally maximise the strengths of the parties, for mutual gain, with rights and responsibilities jointly agreed upon. It is likely, that the private sector would provide capital, management and marketing expertise while the community might offer management support, land access, resource management, security,

⁹ Paragraph 3.3.10 (vi) of the policy provides as its strategy for regulating and developing the wildlife industry that the government intends to “encouraging and promoting game viewing within appropriate WMAs which could offer a wide variety of recreational opportunity than are available within the protected areas.”

cultural context, and labour. The arrangement would be formally agreed between equal parties but the community would not alienate its land or its resources from itself except through subsidiary rights of access for which it felt it secured optimal return.

3.4 Administration and Management of WMAs

The policy places the challenge of managing WMAs as the responsibility of the Village Natural Resources Committees (NRCs).¹⁰

The Village members must elect an NRC management committee. It is presumed that the NRC would, through the Village Council (VC), be body corporate. In this Tanzania is uniquely placed in Africa, elsewhere this is not generally the case. The NRC would be responsible for setting a tentative land-use plan that would demarcate the land "set aside" especially for the WMA. The NRC would have executive responsibility, under VC, for overseeing the daily activities of the WMA. It would, for example, provide staff, apply for the hunting quota, apportion and allocate the quota to outsiders or villagers, sell the quota to resident and/or tourist hunters. The NRC would be charged with entering into agreements with private outfitters for various tourist-related ventures in the WMA. It would have to collect, manage and account for all revenue and financial matters. In this important matter it would be subject, in probability, to the oversight of the village assembly, the VC, and ultimately the District Council.

The NRC would be responsible for the overall management and protection of the wildlife in the WMA and would need trained village game scouts for such purposes as protecting wildlife, guiding or escorting resident and tourist hunters in the WMA, anti-poaching, trespassing and problem animal control. The policy states that the government should help the NRC to train its wildlife game scouts. Since the policy encourages the use of indigenous knowledge in the conservation of natural resources, the NRC should ensure that any training builds on and develops indigenous knowledge systems and does not merely replicate the modern game scout training which government is so fond of. Villagers with local knowledge should be supported not merely ones which might have had some military training.

In all the above the NRC would initially work very closely with the Wildlife Authorities (WD and TANAPA) as these agencies are very likely to act as "gatekeepers" and require convincing that they should actually empower NRCs to effectively manage. It is incumbent on NRCs to have the goal of securing the real authority to manage.

¹⁰ The policy as already explained does not talk much about this committee but defines it to mean "a village government committee which oversees and co-ordinates natural resources conservation on village land." P. 33

3.5 Benefit Sharing between Protected Areas and Communities

A central aspect of CBC of wildlife, promoted by the policy, relates to the precise benefit sharing mechanism between Wildlife Authorities and WMAs run by neighbouring communities. The intention is share benefits relative to the input that each party makes to ensuring the conservation of the resource.¹¹ The policy seeks to achieve this by a adopting a relative distribution mechanism to different stakeholders including central government, district councils, wildlife authorities and the private sector. The policy is not explicit about the ratio of distribution to be followed. A closer reading of the policy would seem to suggest that communities situated in areas critical to wildlife survival or a tourist focus would get the "lion's" share. It would be important that this mechanism is more transparent than the present TANAPA policy of benefit sharing in their "good neighbours" programme where they select the amount, the community and the project with little community participation. If this mechanism is to cultivate partnership with local communities then wildlife authorities should cease arbitrary and patronising approaches that alienate neighbours as more than endear them.

3.6 Human-wildlife conflict

Amongst the many complaints local communities make about Tanzania's wildlife management regime is that wildlife is accorded more protection and value than the people living with it. A local villager, for example, on entering a protected area to hunt an animal for food can be prosecuted, fined and jailed. An animal destroying a villager's farm crops is paid no compensation. The government does not provide compensation for people injured or killed by wildlife, even when defending their property or life. The essence of the problem is that when a villager touches state property he/she is always wrong but when state property (wildlife) harms village property, or a state official (scout) beats up an innocent villager, nothing happens.

The Wildlife policy does not make a radical departure on the compensation position except through its recognition of the inequity of the property issue generally through devolution of property rights (use rights). The policy promotes the idea that human/ wildlife conflict is best addressed by the WMA where a NRC can deal with the issue directly.¹² A compensation scheme would open the state to countless claims and therefore no payment to an individual who has been injured or his/her property destroyed, is offered. The policy encourages a long-term strategy for controlling problem animals by attempting to incorporate them into the hunting quota of the WMA. By this mechanism communities must anticipate problems and find the best way of dealing with them. The policy states that the wildlife authorities would

¹¹ See Paragraph 3.3.9

¹² See paragraph 3.3.12

progressively devolve problem animal control to the WMAs through their respective NRCs. In reality, wildlife authorities are nearly always reluctant to devolve problem animal control as it would give communities an excuse for possible consumptive use abuses, hence the method of including it the quota.

3.7 An Indicative "Bottom-Up" View of CBC Management Institutions

VILLAGE ASSEMBLY

The Wildlife "Shareholders" in the Common Property of the Wildlife Management Area Represented through the Annual General Meeting & Other General Meetings

VILLAGE NATURAL RESOURCE MANAGEMENT COMMITTEE

"The Management" of the Wildlife Management Area as Common Property of the Village Assembly

VILLAGE COUNCIL

"The Directors" of the Village Wildlife Management Corporation

DISTRICT NATURAL RESOURCES COMMITTEE

Co-ordination of Village WMAs & Requirements of National "Responsible Authorities". Regulation, Oversight, Audit, Conflict Resolution

DIRECTOR OF WILDLIFE

Co-ordination of Concerns from Wildlife Sector

4.0 PASTORAL COMMUNITIES IN THE MANYARA/TARANGIRE COMPLEX AND THE WILDLIFE MANAGEMENT AND POLICY

4.1 Introduction

The Lake Manyara/Tarangire National Game Parks Complex (MTC) is made up of two National Parks, Conservation Areas, Game Reserves, Game Controlled Areas and Open Areas. These animal haven areas with differing levels of animal protection status are also inhabited by communities of largely pastoral Maasai and very few hunter- gatherer peoples popularly known as the Dorobo although they are a different ethnic groups each with its own identity, the most significant of the markers being language. Both hunter- gatherers and pastoral communities living in this areas have a long history of knowledge and association with wildlife. This historical association with wildlife is clearly spelled out in each of the community's ideas about being.

The Maasai pastoralists have until recently considered wildlife to be part of their broader being. Like cattle, wildlife was and still is regarded to be a very important part of Maasai pastoralism. Wildlife constitute an important understanding of the functioning of pastoral economy. Historically, pastoral economic strategies, such as transhumantic movements of cattle, have gone hand in hand with movements of wildlife. This was the case for the Maasai prior to the demarcation of their habitat into exclusive wildlife areas surrounded by their own pastoral lands. In other words, what is now the MTC was part of the Maasailand pastoral ecosystem, until when it was separated to become exclusive lands for wildlife.

This development greatly reshaped and reoriented Maasai's notions of spatial organisation in their entire habitat. What hitherto constituted a broad Maasai cosmological mosaic was replaced by a fragmented habitat characterised by dual landscapes separated by unequal power relations, originating from the utilisation and management needs differential of the now split ecosystem. Ever since, the Maasai have developed a kind of popular discourse which distinguishes the exclusive wildlife zones from their pastoral domain. This distinction is reflected in the community's popular perceptions about their place in the whole wildlife and conservation thinking, particularly the politics which inform the central themes in wildlife management. The Maasai now consider wildlife areas not to be part of their pastoral way of life. The reasons for this judgement are found in how the Maasai economy and society is organised.

4.2 Maasai Economy and Society: Its pertinence to the contemporary wildlife management thinking.

The literature describing the intricate interrelationships between Maasai people, cattle and their ecosystem is plentiful (Arhem, 1985; Rigby, 1982; Galaty, 1977, 1982; Homewood, 1995; Kaare, 1997). Broadly, a common theme running in the various literature show that Maasai pastoral economy and the subsequent strategic land use evolve(d) around the collective utilisation of the diverse natural endowment of their environment and their knowledge and accommodative ability of both human and cattle in conformity to the requirements of the changing climatic conditions during the productive season life cycle. The intricate link of their socio- cultural, economic and political setting has always made it possible for deployment of, and optimal exploitation of human and natural resources in specific and collective Maasailand expanse.

Maasai political and social organisation (i.e. pastoralism) make sense in relation to the diverse endowment of their landscape as an all inclusive property rights regime with unrestricted access by all. The MTC was historically part of this strategic pastoral economic and political set up. The establishment of MTC alienated part of the Maasai pastures leading to distortions in the utilisation of the diverse resources in the entire Maasailand adjacent to it. The current Maasai disenchantment with MTC as revealed during the field visit can largely be attributed to various factors associated to the process of land alienation.

4.3 MTC as a social, economic and political phenomenon

The establishment of the complex engendered new forms of relations between the Maasai, the various institutions charged with the management of wildlife, institutions who, in the course of discharging their duties have come into direct contact with the Maasai. The Maasai have constructed outlooks about the relationship which perceive the various agencies involved in management of the MTC as being made up of alien powerful bodies which have rendered them and their way of life hopeless. Conversely, these institutions view the Maasai (in general terms), as the ones obstructing sound wildlife management by disrupting the natural wildlife resources utilisation system. These views echoed by TANAPA (the Tanzania National Parks Authority) have culminated into an ever increasing attitude by the organisation to alienate, year after year, tracts of Maasailand pastures in the name of protecting wildlife. The most contested issues in TANAPA's wildlife management concept evolve around the establishment of buffer zones, corridors and animal dispersal areas. These concepts are viewed differently by both the Maasai and TANAPA. Whereas to TANAPA the creation and non interference in these areas is seen to be a sensible strategy which ensures free and uninterrupted access of resources to the wildlife; to the Maasai the creation of corridors and buffer zones meant land encroachment inevitably leading to land squeeze rendering their strategic pastoral economic logic untenable. However, the Maasai do not seem to have any problems with the idea of animal dispersal areas. This is partly due to the fact that their pastoral system does not obstruct animal movements in pastoral territories. The only contention, to which Maasai find hard to get an acceptable explanation, is why wildlife should be allowed access into these

dispersal areas when their animals are prohibited from utilising resources in parks and game reserves.

The MTC therefore, constitutes a space where diverse interests and interpretations of what should be the best way of engaging the complex come into play. The various agencies which have a stake in the complex hold particular views on how the complex is to be utilised; in most cases these deriving from what a particular agency needs to realise in the area. The various interests in MTC include: the government (represented by the Wildlife Division WD- in the Ministry Natural Resources and Tourism); TANAPA; TAWICO (Tanzania Wildlife Company); the various private hunting companies; the various public and private farming individuals and institutions and the Maasai people. Of all these, the latter seem to be the weakest, but critical to the survival of wildlife as we know it today.

All these various groups have interests, each with its own practice which shape the contemporary Maasai perception of what the MTC entails. The actors in the complex, have impacted in the final resort, on the attitudes of the Maasai towards the wildlife and conservation in general. The MTC is now a site where diverse economic, political and social interests come into play with diverse implications on those involved in it. This ultimately has come to generate a sort of power struggle in which some gain while others lose. Attempts to remedy or reconcile some of the worst outcomes of this power game has resulted into the current Maasai understanding and continued reinterpretation of what the MTC has become as well as shaping their understanding of what this complex is, what it should have been and what is impending out of it.

Generally, the Maasai people regard the areas around the National Parks and those other areas demarcated for wildlife as places which are distinguishable from their grazing lands and consequently, alien lands. The alienation is both economic and ideological. The process of demarcating what was once Maasai pastoral ecosystem means more that depriving them their traditionally flexible system which enabled them respond to uncertain events, and the opportunity to exercise mobility, to enable them an optimal use of a heterogeneous environment. These contingent responses were/are critical to successful survival in their environment. Although it may be argued that the lands so demarcated are negligible compared to the entire Maasai land as a whole, land alienation among these communities has left scars far beyond what can be explained just in economic terms. The alienation has also recast Maasai political as well as cultural perceptions on those who were/are involved in managing lands alienated for wildlife purposes. This has invariably led to Maasai redrawing their traditional relationship with the animals of the wild and the institutions charged with managing them. The apparent result of this has been the clear drawing by the Maasai of a distinction between what they see as their animals and what are the animals of the government.

The above divide is reflected in the way the Maasai discern the entire institutional difference in the set up of the broader wildlife- Maasai relations. Indeed as Neuman (1992) has pointed out, the current situation in the MTC evolve around the difference in contested meanings about what constitutes the optimal and most viable use of the complex.

4.4 The Manyara/Tarangire Complex (MTC)- Its History and the Adjacent Communities.

Like all other parks and game reserves which were introduced in the Northern Circuit, the MTC has aroused enormous discontent from the communities adjacent to it. Neuman (1992) cites cases of Maasai discontentment with the establishment of the Serengeti National Park in 1940 and the conflicts it generated. What constitutes the current MTC came into being in 1957 when both Lake Manyara and Tarangire were declared Game Reserves in 1957. They were both elevated into National Parks (Tarangire became National Park in 1970), the latter involving the alienation of big tracts of land from local communities and set aside for exclusive use by wildlife (Neuman, 1992; Kipuri & Ole Nangoro, 1996). The history suggest that the MTC is one of the most recent created national parks complex in the country. The MTC has traditionally been inhabited by the Maasai and the minority hunter- gatherer Dorobo peoples. It is these communities which lost considerable amount of land to parks. This, coupled with other factors contributed a great deal of resentment of parks by people adjacent to them. A similar attitude has been recorded in many other places in Tanzania facing similar circumstance (Newmark et al, 1993; Bergin, 1995). The literature point to rupture, both moral and material, of the communication channel links between the communities on one hand and the institution of wildlife management on the other, as being the cause for the on going disenchantment with the MTC.

4.5 MTC - The Current Situation.

To alleviate the problem of parks - communities relationships, TANAPA initiated the Community Conservation Service in 1991 locally known as *Ujirani Mwema* (good neighbourliness). The core objective of this approach was to move away from the law enforcement approach to conservation to an approach that involves a local people in wildlife conservation. Most of the problems we witnessed during our field trip are similar to those observed by Kipuri and Ole Nangoro (1996), in their study titled "Community Benefits Through Wildlife Resource: Evaluation Report For TANAPA'S CCS Programme" carried out and submitted in November 1996. It is pertinent to add here to what Kipuri and Ole Nangoro observed in their 1996 report that the law enforcement approach not only leads to peoples disenchantment with the wildlife and the institutions which are charged with managing it, but also alienates the local communities and renders them powerless to all wildlife activities going

on in their areas. Thus, local communities become alienated not only from wildlife and institutions which manage it, but also to the social and economic activities which go hand in hand with wildlife including the consumptive and non- consumptive activities going on in their areas. As Kipuri and Ole Nangoro (1996) observed in their recent evaluation of TANAPA's Community Conservation Service:

‘the link between wildlife management institutions, particularly TANAPA, and the communities have recently shifted from law enforcement approaches to one which involve the integration of local people in wildlife conservation. However, the integration approach so far implemented by TANAPA (and indeed as also clearly pointed out in Kipuri and Ole Nangoro report) has come to mean an outreach programme which to a large extent left out the critical needs of the communities mostly born out of pastoral requirements such as livestock water, addressing cattle rustling and security issues etc. Besides TANAPA's attempts to involving communities through CCS, other institutions dealing with wildlife in MTC (WD, TAWICO and hunting companies) have left these communities with great bewilderment particularly regarding their *modus operandi* within communities and areas just adjacent to their habitat.’

4.6 Summary of discussions with MTC villages during field trip:

PLACE	COMMUNITY REMARKS
Esilalei Village Monduli District Lake Manyara NP	<ul style="list-style-type: none"> - villagers accept the idea of WMA as explained by team - complained about TANAPA attempt to move them from their village - powerless to control hunters - do not profit anything from hunting going on in their village - villagers complain that they do not know what is going on, hunters come, hunt and take everything away without their knowledge
Selela Village Monduli District Lake Manyara NP	<ul style="list-style-type: none"> - idea of WMA accepted under condition that no more land alienation - complain of uncontrolled cropping of wildlife by hunters and tourists without any knowledge of villagers - made particular complaints about TAWICO that it does not care for Maasai well being - the hunting located in the village hires workers from outside village non-Maasai and leaves youths in the village unemployed - complained of the recent 2,000 acres corridor grab by TANAPA - observed that TANAPA should be excluded from village affairs - observed that government encourage poaching by making villagers powerless - pointed out that they prefer Inyuat e-Maa than TANAPA as their extension agency
Lolkisale Village Monduli District Tarangire NP	<ul style="list-style-type: none"> - complained about the perpetual TANAPA land grabbing habit - Tarangire National Park has unilaterally taken pastoral land - complained that the village was denied permission to graze in an open area - complained of big farms in their area - hunters humiliate villagers by beating them and harassment - complained that government officials from district to national level grab their pasture land without their consent

PLACE	COMMUNITY REMARKS
	<ul style="list-style-type: none"> - empty promises by government and TANAPA yet to be fulfilled - accepted the idea of WMA under condition that villagers devise means of managing wildlife in their respective areas.
<p>Sukuro Village Simanjiro District Tarangire NP</p>	<ul style="list-style-type: none"> - park officials and hunters engaged in hunting in the village denigrate Maasai - cheated by a hunting company which built an incomplete school but now powerless to force the company complete building school - complained of hunting clearances granted in Dar es Salaam as the major reason for their denigration - recommended that government give them full control of management including granting licenses - complained of the tendency by TANAPA to extend buffer zone year by year - complained that whenever TANAPA involved villagers in making decisions, it does so by mischief because many times this has led to more land grab - complained of hunters' method of hunting companies which sometimes cause death to their livestock and gross humiliation to Maasai people - WMA idea accepted
<p>Emboreet Village Simanjiro District Tarangire NP</p>	<ul style="list-style-type: none"> - complained of TAWICO's perilous habit of hunting at night and using their homesteads as wild animal baits - complained that there is unequal relationship between the Maasai and parks; wild animals graze in Maasai pastures but Maasai animals are prohibited in parks - complained of humiliation administered to villagers by hunters and TAWICO officials - the idea of WMA accepted so long as it involves villagers in making basic decisions and not district or Dar es Salaam as it is now
<p>Loibor Soit Village Simanjiro District Tarangire NP</p>	<ul style="list-style-type: none"> - despair and disillusionment of empty promises and visits by government officials without solving their burning problems - welcome the idea of WMA but still sceptical whether the idea is not intended to further grab Maasai land and squeeze grazing land by reverting it to TANAPA - said that wildlife and pastoralism are not in conflict with small scale farming, where needed it should be granted.
RECURRING COMMENTS BY COMMUNITIES ON THEIR RELATIONSHIP WITH WILDLIFE AUTHORITIES AND WILDLIFE IN GENERAL	
<ul style="list-style-type: none"> - We are interested in obtaining wildlife management rights but without strings attached. - We have lived with wildlife a long time and welcome the chance to manage it. - We are worried as we see things happening beyond our understanding and knowledge and control, but they happen on our land with no explanation from the wildlife people (largely a reference to wildlife use by parties unknown to communities and without the being informed if they are legal or not). - Why does government not look after the Maasai as well as it looks after its wildlife. - Sometimes TAWICO permits extra people to hunt and the community does not know whether they have permits or are poachers. - The local safari operator in this village pays us some money himself and has hired local game scouts but he pays the government much more and we have no rights to discuss anything that is happening and no explanation is given why it happens the way it does. - While the government institution of the village attempts to dominate the traditional institution of the location the traditional institution tries to dominate the village in return. Our culture is at stake not just the management of wildlife. We have no control over the survival of our culture or our wildlife. - The corridor was imposed on us. We have always allowed wildlife to pass but TANAPA wants to extend its influence. - People have no chance to meet the Wildlife Division but they just permit people to come into our area with no invitation, no welcome, no respect, no warning and we are given no report. - We do not want TANAPA as our advisor for WMAs and land use plans. We do not trust their intentions and 	

PLACE	COMMUNITY REMARKS
	<p>they cannot be the extension advisors.</p> <ul style="list-style-type: none"> - We fear that the WMA is a way for TANAPA to control the village land use plan. We have already lost 2000 hectares of forest to the corridor with no discussion, no agreement, no benefit. We were just informed by a notice from the District Administrator. - Communities have been hearing fine words for a while but nothing has happened except that people come to hunt without saying a word. We get nothing not even any leather from the wildlife. - We do not know who to trust as TANAPA gives us nothing but difficulties. We believe there should be give and take. We give the wildlife land and security but TANAPA cannot even give our cattle a drink of water in the drought. - We distrust because of the experiences we have had. We are on our own and not supported by government. People come saying they want to help us but usually we end up losing something. We feel cheated, we do not benefit, we see the park boundary coming ever towards us and TANAPA treats us rough. We cannot easily work with them. - TANAPA should manage their own land and not ours. <p>In contrast to the above it was TANAPA's view that they, the "professionals", have to show the community what to do rather than communities seeking help, when desired, or recognising their indigenous knowledge systems.</p>

This cross section of opinions by villagers the field visit team managed to get suggest a number of issues relating to the wildlife management sector:

- It is clear from the interviews that there is a significant rift between the officials in the wildlife management sector and the communities adjacent to the MTC. This rift centres around unequal power relations in terms of natural resources management within the complex and the subsequent access to these resources which arise out of this inequality.
- The main actors engaged in the MTC economic activities (i.e. consumptive and non-consumptive) derive their legitimacy for carrying out their activities within villages and areas adjacent to villages (normally considered by the Maasai to be part of their respective village localities) from outside sources (mainly from district up to national level government officials). This is the case whether these are individual tour or hunting operators engaged in consumptive and non- consumptive activities. The Maasai desperation derive from the feeling that they live in an environment which they no longer control. Their traditional ideological discourse which saw humanity, land and cattle as one interlinked cosmological unity has been seriously dented and compromised by forces which they can no longer control or engage in dialogue with.
- Public institutions, the government, TANAPA, and the Wildlife Division seem confusing and are conflated into one by the communities because they do not understand how possible it is for a public institution which, among other things, claims to be a peoples representative can collude with private institutions to humiliate them. Indeed, as was aptly put by a Maasai elder in Lolksale village, "it seems to us that the way our government works is like a storey house without any foundation. It is as if the government starts at district level upward. In my life I have never seen any building without foundation. What sort of government is this?" Remarked the Maasai old man.
- In most of the previous studies on the Maasai, the factor of knowledge and how it is transmitted is normally neglected. It is apparent however, that Maasai transmit knowledge of their past, present and possible future as a necessary socialisation process. The institution, known as *engigwana* (pl. *ingigwanaal*), conducts meetings (*ingigwanaat*) by looking at how things were, in relation to how things are now, and how they should be. It is in such institutions that the Maasai local meaning to their current predicament is socially appropriated and transmitted on to the public. The institution is largely responsible for instilling into Maasai of all ages Maasai values. The institution is critical in tilting the current relation between the Maasai and their external world.

4.7 The Way forward- the WMA option.

Despite what the Maasai have gone through, they still expressed hope of taking or participating in any sincere measures taken to remedy their current predicament. These measures must be seen by the Maasai to be different to what has been going on before. If possible, the changes must be prompt, swift and tangible to realise desired result at the shortest possible period. Delay can lead into scepticism on part of the Maasai given their historical mistrust of government institutions.

Maasai traditional institutions are still very potent in the community's decision making. In some cases they run parallel to public and other government institutions. The Maasai also distrust local officials working for the public because they feel alienated from them mainly because they derive their legitimacy from government and owe their allegiance to government and not Maasai people. It has been proposed in previous studies on governance in Maasailand to put Maasai traditional institutions on the agenda of government and development agencies for the sake of grassroots institutional development. Institutions like the WMA which in their nature tend to be grassroots based must consider this fact seriously for effective and sustainable change in policy and possible acceptance by the targeted communities in Maasailand.

It may not be an over statement to propose that if the intended new approach to wildlife management going beyond community outreach approach is to be realised through WMA, new strategies have to be designed to facilitate effective involvement of the communities adjacent to the MTC. These may range from participatory involvement of the villagers in designing the actual WMA implementation strategy to the early implementation stages. The representation of the local communities in the initial preparatory stages before launching a broad participatory project proposal may involve the local Maasai NGOs and other interests both public and private.

4.8 Epilogue: Hunter-Gatherers in the MTC.

The various ethnic communities going by a generic name of the Dorobo live, along with the Maasai in the MTC. It is sensible to give them a special attention separate from the main text because of two reasons: first, they have a different way of life from both pastoralism and agriculture. Being hunter-gatherers, they depend in varying levels to the use of bows and arrows and foraging wild products for their subsistence (although many Dorobo in this area also practice little farming, while a few get employed in wide range of casual rural labour. The second factor is the tendency of forgetting them as if they do not exist. Many research reports conducted among the Maasai in MTC have tended to treat the Dorobo peoples unfairly, as people who do not exist. This has led into completely forgetting them and their welfare.

The Dorobo is a generic name given by Maasai to a group of hunter-gatherers living or having lived by foraging and hunting. The Dorobo together with the Hadza (another hunting and gathering community in the Lake Eyasi Basin) have witnessed the most extreme forms of discrimination from their neighbours as well as the state. The new concept of community participation in wildlife management can provide sufficient opportunities for the Dorobo

peoples active involvement in the broader implementation of the WMA concept, given their traditional skills in using bows and arrows for subsistence and their rich knowledge of wildlife. The dangers of leaving the Dorobo out of this program can be fatal to their existence as a community as well as their relationship with their neighbours. One of the foreseeable immediate problems of excluding the Dorobo from the WMA implementation is that they will become homeless, may lead to cultural genocide by denying them their traditional means to livelihood. In an eventuality where the WMA becomes operational and zoning has taken place, the Dorobo will be left with literally nothing of a homeland. The WMAs will decimate the rights of the Dorobo free access to hunting for their livelihood. Although they up to now continue hunting for subsistence with no formal government recognition, the creation of WMAs will completely deny them of any nominal claims to a legitimate territory as a people.

Kaare (1996) has demonstrated that the various Dorobo groups adjacent to the Tarangire National Park have always maintained a complementary relationship with their Maasai neighbours. Similar observations have been echoed in various literatures about the other Dorobo groups in Kenya (Blackburn, 1971; Galaty, 1982; Kratz, 1988). Perhaps, it is plausible to suggest that further studies be carried on to determine the nature of relationships, complementary or otherwise, which can be forged between the Dorobo and their Maasai neighbours within the WMA setting.

5.0 SOCIO-LEGAL STUDY OF THE MANYARA/TARANGIRE COMPLEX IN THE CONTEXT OF THE WILDLIFE MANAGEMENT AREAS (WMA) CONCEPT

5.1 Introduction

This is an attempt to situate the concept of Wildlife Management Areas (henceforth WMAs) in the context of the various socio-economic processes which are taking place in the Tarangire Lake Manyara ecosystem, which processes may spur or impede the implementation of the WMAs in the area. We look first at the land use changes, which have been taking place in the area over the last two decades and the forces behind these processes. The objective here is to see whether and how these land use changes will impact on the establishment and operation of the WMAs and the effects on the local communities, which are the intended beneficiaries of the WMAs.

We secondly examine the envisaged processes leading up to the establishment of the WMAs to see whether or not these processes are not an impediment to communities establishing and operating WMAs. The objective here is to formulate procedures which are not complicated and cumbersome so as smoothen the establishment and effective operation of the WMAs by the local communities. We finally examine institutional aspects related to the establishment and operation of the WMAs with the intention of clarifying roles that various institutions can play in the establishment of the former.

5.2 Large-Scale Agriculture and Transformation of Land Use in the MTC Complex

Historically, the Tarangire Lake Manyara Ecosystem was an area where pastoral and wildlife land uses predominated. As is now well known, pastoralism and wildlife conservation are not incompatible. In recent years, however, a transformation in the land use pattern of the area has taken place which threaten both the wildlife protected areas and pastoral economy. This transformation is the expansion of both medium and large scale agriculture in the areas surrounding Tarangire and Lake Manyara National Parks. The situation is such that the entire northern and north-eastern ribbon of the Tarangire National Park is now surrounded by large farms. The Study Team was availed of the statistics which show that more than half a million acres have been allocated to medium and large-scale farmers in this area alone! Almost all of these farmers are absentee landlords and companies based in Arusha and elsewhere and certainly not the local people who live and work the land in the area.

The effect of this land alienation is two-fold: First, the local communities of Maasai pastoralists have been increasingly pushed out of their grazing lands to drier and more inhospitable areas to the south. This, together with the historical land alienation to create the Tarangire National Park, has undermined the basis of the pastoral production and economy with the result that more and more Maasai are also turning to cultivation as their major source of livelihood. The Study Team witnessed the patchwork of farms scattered in a haphazard

mosaic of farms and grazing lands in the six villages the Team visited in Monduli and Simanjiro Districts. The Team was also informed that cultivation is increasingly becoming the mainstay of the Maasai economy given the declining livestock population (Loiborsoit Village Executive Officer, pers. comm.)

Secondly, the agricultural transformation has directly impacted on the movement of wildlife in these areas. Various studies on wildlife movements conducted in this area have underscored the fact that wildlife corridors and dispersal areas to the north-west, north and north-east of Tarangire National Park have either been completely blocked or are under increasing pressure from the large-scale farming (See, for instance, Otto, et al., 1998) The spectre of the 'increasing isolation of the Tarangire National Park', which Borner first gave warning about in 1985, today stands out in the sharpest relief.

These developments have very serious implications on the establishment and the viability of the WMAs in the areas in question. On the one hand, large-scale farming has displaced and continues to displace wildlife in the areas under the plough through the destruction of its habitats and breeding grounds. Which means that these areas may no longer be viable for the establishment of the WMAs at least as long as they remain under farming as wildlife therein is becoming increasingly rarer. On the other hand, since the areas are no longer part of village lands in the sense that they have been allocated to non-villagers and non-village commercial interests, they are no longer subject to village control and would not benefit the local communities even if they were to be designated as WMAs.

To the author, the most likely scenario in these lands is that as the benefits of community conservation become increasingly clearer, these private landed interests will discard farming which, in these marginal lands, is not all that profitable anyway and embrace wildlife conservation in private game ranches. Indeed, one of the strategies for integrating wildlife conservation and rural development under the recently promulgated Wildlife Policy of Tanzania is 'encouraging ranchers and farmers operating on privately owned or leased lands to develop cropping programmes to supply designated markets with meat and trophies' (MNRT, 1998:3.3.6) The latter is said to be already happening in Zimbabwe and Kenya. This will not benefit the local communities either, since the stated policy objective for the establishment of WMAs is to enable local communities benefit directly from wildlife in their lands.

5.3 Titling of Village Lands and WMAs

A recent study on the options for community-based conservation in Tanzania argues that 'a vital step if villages are to be allowed to manage wildlife legally on "their" land and to receive direct benefits from that management' is the acquisition of village titles by the villagers (Leader-Williams, et. al., 1996:185) Indeed, in interviews with officials in the Division of Wildlife the Study Team got the impression that only villages with titles to lands within their boundaries shall be allowed to register as 'Authorised Associations' for purposes of establishing WMAs.

The process of village titling is highly controversial and fraught with many dangers. For instance, it wrongly assumes that village lands are 'no man's land' over which village councils can and should apply for grants of title. It is also based on another wrong assumption that customary titles are somehow legally inferior to the government granted titles. Legally, apart from reserved lands and rural lands which have been alienated for various purposes and held under the granted rights of occupancy, the rest of the rural lands are held by the local communities under their respective customary laws as 'deemed' rights of occupancy. The latter rights have been held by the superior courts in Tanzania to be of equal status and effect as the granted rights of occupancy (see *Bishop M.P.Nyagaswa vrs. C.M.Nyirabu and A.G. vrs. Lohaay Akonaay & Another Civil Appeal No.31 of 1994 CAT (Arusha.)*) This position has been further reinforced by its codification in the Land Act Bill, 1998, which proclaims a customary right of occupancy to be 'in every respect of equal status and effect to a granted right of occupancy' (cl. 23)

The law which established villages did not grant titles over village lands to village authorities, rather it constituted villages as politico-administrative units. The titles to land within the boundaries of these villages continued to subsist in the individual or clan members of the village concerned. It is not disputed that Village Councils and Assemblies have had some 'powers of eminent domain' and 'police powers' in the administration of village lands but these are not powers of ownership! Granting titles over village lands to Village Councils without first legally revoking existing customary titles as it appears to be the case in most of these 'allocations'- would thus appear to be illegal. It is also dangerous as it may lead as it has in some villages in Ngorongoro District to violent conflicts between different communities (Bradbury, et al., 1995)

Apart from the above considerations, village titling is also a long and cumbersome process which involves several different offices and departments at both central, regional and district levels. Leader-Williams, et al. in the study cited above, have listed some 16 steps which must be followed from the time the village boundary is defined through its surveying and demarcation to, finally, the forwarding of the certificate of registration of the village title by the Zonal Registration Office! (ibid., 186) According to the same study, of between 8,000 to 10,000 villages in Tanzania, some 2568 villages appear to have been surveyed and 1191 have a prepared Certificate of Occupancy. This represents around 25-30% of the total while those with a prepared Certificate of Occupancy represent between 10-15% of the total villages in the country.

In connection with village titling in the area of this study, the Study Team was informed that of the 50 villages in Monduli District, only three have been granted titles since the exercise began in 1991! (van Kooiman, pers. comm.) Monduli District has the highest potential of wildlife utilisation outside the National Parks and the NCAA. In Simanjiro District, the exercise of village titling seems to have been more successful as almost all the villages there are said have been granted titles (Peterson, pers. comm.) The reason for this seems to be the particularly small number (less than ten) of villages in the latter district.

It is the author's view, therefore, that given these considerations the process of establishing WMAs in villages with titles only should not be undertaken and instead a less complicated process which is also founded on the present law be adopted. The latter process should be based on the present villages as politically and administratively constituted under the Local Governments (District Authorities) Act, 1982, which incidentally recognises Village Councils as bodies corporate with all the legal capacities to enter into contractual arrangements and to own property. Under this system, Village Councils shall be deemed to be 'Authorised Associations' for the purposes of establishing WMAs. This is, incidentally, envisaged even under the existing Wildlife Conservation Act, 1974, which empowers the Minister responsible for wildlife to declare existing villages as 'Authorised Associations' to which game licenses can be granted (ss. 26 and 27) We also have precedent for adopting this approach: the Selous Conservation Programme which was established in 1998 and which by 1994 involved some 33 villages in the vicinity of the Selous Game Reserve (Baldus, et al. 1994) These villages were declared as 'Authorised Associations' and granted 'Presidential licenses' to hunt game for their own food needs. A review of this programme suggests that it has succeeded to reduce the hostility of the local people to wildlife conservation as well as markedly reducing poaching (Baldus, et al., *ibid.*)

One major advantage of this arrangement is that decisions of the Village Council on, say, the disposition of the revenue accruing from tourist hunting in the village WMA shall be subjected to the scrutiny of the Village Assembly which is the highest organ of power and authority in the village and in which all the adult members of the village participate. This is likely to ensure a more democratic management of the WMAs and a more equitable sharing of the latter's revenues and other benefits. It is also much less costly than the titling process.

5.4 **Who Should Spearhead Establishment of WMAs?**

In the course of its field investigation the Study Team was consistently faced with the question as to which institution should spearhead the establishment of WMAs and who should have the final say on the various uses - both consumptive and non-consumptive - of the WMAs. Interviews with various TANAPA functionaries gave the Team the distinct impression that TANAPA would like to not only be heavily involved in the nitty gritty of establishing the WMAs and their operational aspects, but also to veto WMA use decisions which it does not like. A more elaborate presentation of this position is given by Bergin (1997) who argues that TANAPA should be mandated to undertake community conservation on a much larger scale than its present park outreach programmes.

The legality of TANAPA working outside national park boundaries is, at best, questionable, unless they have a clear mandate to so from the Director of the Wildlife Division.

Bergin (AWF) argues that TANAPA should be 'explicitly' empowered to lease or purchase land, negotiate rights of way, purchase a concession in which communities agree not to build,

cultivate or harass wildlife within communities' lands, etc. (ibid., 14) TANAPA would like its mandate expanded this way because, presumably, it has 'the resources and incentive to act.' (ibid., 15) Of course realising that this kind of expansionism is likely to be suspiciously viewed by the communities as an impending land grab and resisted, Bergin adds that 'it might help if TANAPA were willing to sign an agreement stating that it would not seek to annex the area to the park' (ibid., 14)

These are all legitimate concerns on the part of TANAPA given the recognition that wildlife is a 'fugitive resource' which does not respect park boundaries and activities outside the parks have a direct impact on the wildlife inside the park. But while we recognise these legitimate concerns and are of the considered opinion that they should by all means be addressed, we however hesitate to give a blanket endorsement of TANAPA's involvement in the activities of WMAs, especially if they entail giving the former a dominant position vis a vis the local communities. It was obvious to the Study Team that there is a deep mistrust within the local communities of TANAPA's real intentions in its dealings with the local communities. This mistrust, it seems to the Team, is not only the result of the historic land alienation to create the National Parks, but also a reflection of the continuing atmosphere of tension and conflict between TANAPA and the local communities.

Wherever the Study Team went in the six villages it visited, it was greeted with the same cry from the local Maasai communities: TANAPA is encroaching on village lands by surreptitiously expanding the park boundaries claiming they are buffer zones. In a recent study christened 'Closing the Corridors', Otto, et al. (1998) came across complaints in Monduli District that TANAPA was bullying the District leadership into 'imposing corridors' on unwilling villagers. This was dramatically confirmed by the Study Team on its visit to Selela Village of Monduli District where the Team heard complaints from the villagers that TANAPA had prevailed upon the district leadership into ordering a ban on cultivation and settlement in more than 2000 acres of village land at Loseyai locality, claiming that it is a wildlife corridor. A letter addressed to Selela Village via its Ward Executive Officer by the Mto wa Mbu Divisional Secretary with Ref. TM / MON / L.15 / 210., dated December, 1997, is instructive and is worth quoting *in extenso*:

In accordance with the Government directive I direct you to move from the Loseyai area. Any person who shall ignore this directive shall have stern legal measures taken against him. The first measure shall be the demolition of all huts inside the corridor, for those who have cultivated in the area in spite of the Government directive given by the District Commissioner on 12th August, 1997 before the Divisional, Ward and Village leaders, and before TANAPA experts and other leaders from the neighbouring Karatu District.

'Any person who cultivates shall be prosecuted and shall have his crops destroyed by feeding them on livestock. By this letter I direct that you should move all your properties to avoid destruction. I give you 14 days from the date of this letter to do so, and whoever is found cultivating thereafter shall be liable to these measures

being taken against him. Also any tool or implement used in the said cultivation such as tractors, oxen or mules shall be confiscated. In other words YOU NOT ALLOWED TO LIVE IN THAT CORRIDOR ! (Original emphasis, direct translation from Swahili ours)

The Study Team also came across complaints of widespread intimidation, even beatings, of villagers by TANAPA staff whenever the former take their livestock to graze in the contested buffer zones. However, the Wildlife Act (1974) makes provision for "buffer zones" and the concept used by TANAPA seems arbitrary and contestable. The new policy refers to corridors and migratory routes but has no definition for buffer zone. The study teams definition, having listened to the arguments is that a buffer zone would be an area, inside and outside a protected areas, where the adjacent land authorities (TANAPA and communities) have a vested interest in agreeing on a mutual land use to avoid conflict.

At Sukuro Village of Simanjiro District, the Team was confronted by angry villagers demanding to know whether the Team was part of the TANAPA machine and it took quite a while to defend the Team's mission. The same also happened in Loiborsoit Village. Although these complaints were generally denied by the TANAPA officials the Study Team met, the Team feels that there is a serious problem here which needs to be resolved if local communities are to be persuaded to accept community based conservation. For CBC to work, we believe it must be carried out by an institution which has legitimacy with the local communities and can be trusted by the latter.

Furthermore, CBC must - in our view - be carried out by an institution possessed of a legal mandate to undertake such a task and which is prepared to treat local communities as equal partners and give the requisite concessions where necessary. Given its mission and recent history, the Team is unable to say that TANAPA has both the requisite legal standing or capacity, nor legitimacy in the eyes of the local communities to undertake community based conservation work.

This is not to say, however, that TANAPA has no role to play in WMAs, nor valid interest. Rather, that being an interested party TANAPA cannot be expected to be an interested player and an umpire at the same time. That umpire should be the Division of Wildlife which has the legal mandate over wildlife conservation outside National Parks. The Division is also the policy-making organ in respect of the wildlife sector and it has some experience - albeit limited in time and space - of overseeing community based conservation in the Selous. The task of establishing and running WMAs must also be undertaken by the local NGOs which represent local communities. Fortunately for the local Maasai communities, there are several pastoralist NGOs which are active in the areas the Study Team visited. These should be in the vanguard of the WMAs. The experience of the CAMPFIRE Programme in Zimbabwe also suggests that NGOs are capable of playing a central and responsible role in facilitating CBC if they are given the necessary space and mandate to do so.

6.0 PROGRAMMATIC ISSUES AND CONSIDERATIONS

6.1 Authority and management must be united

"A state divided cannot stand"

The government has an obligation to co-ordinate its wildlife management agencies. From a community perspective seems as if government is severely lacking in this area. Within any one village in the MTC the community perspective is as follows:

- Whilst TANAPA manages parks on lands removed from communities its anti-poaching efforts extend onto community lands. The agency's has no legal mandate to operate on these lands but has created one through their concern for "buffer zones", "wildlife corridors", "dispersal areas" and "calving areas". These concepts have no validity in law but is recognised that they are relevant concerns for the conservation of biological diversity. From a community's perspective TANAPA should be content with the land they have and not attempt to control communal land use when communities have no wildlife use rights.
- Whilst TANAPA's anti-poaching efforts are characterised by the force of authority and its land use concerns typified by manipulation its Community Conservation Service preaches "good neighbourliness" and Cupertino. It is beyond communities' comprehension how TANAPA would believe they would accept CCS "gifts" in the form of unsolicited projects without being distrustful.
- In law the mandate over wildlife outside of National Parks rests with the Wildlife Division. The WD authorises hunting on community lands and captures the financial benefits without reference to the resident communities. While this may be the WD's legal right the fact that the activity occurs on community land would make it common courtesy to any landholder, to say the least, to introduce oneself, give a report on activities, and at leave some token of appreciation behind. Instead communities witness complete strangers hunting their lands with no information about the legal status of their activities in regard to quotas or ethics.
- To compound the situation the hunter is sometimes the government itself in the form of the parastatal TAWICO.
- The WD has allowed a portion of hunting revenue (25% of 75%) to be paid to District Councils. In the words of one party knowledgeable of this issue, from a community's perspective "the funds disappear down a black hole, Kabisa!". The funds make no impact on wildlife conservation and no return to the development of the people from whose land the wildlife was shot.
- In the instance of Ngorgoro there is yet another wildlife management authority.

It is clear that communities feel robbed, mistreated and totally perplexed by this situation. When you live in a semi-arid rangeland, good for producing livestock and wildlife, no land manager could be content with this arrangement. Multispecies land use could be the highest and best use of the range and conserve biodiversity at the same time, but, not this way. It is hard to credit that Tanzanian wildlife authorities expect communities to respect a government that has taken its authority and broken up its management in this way.

If the new wildlife policy is to have any chance of being implemented as it should, then statutory authorities must approach communities wearing a single uniform and speaking with one voice. The confusion over roles and mandates within the management authority (ies) underscores that management and authority must be united especially those of WD and TANAPA in regard to communities, CBC and WMAs.

The principle of authority and management responsibilities being united applies also to communities. If CBC is to have any chance then it must be premised on communities having clear access rights to wildlife and the benefits from its sustainable use. To give communities responsibilities without the authority to carry them will fail. Negatively perceived, the concept of WMA, in the vicinity of National Parks, could be interpreted to mean that there will be no wildlife benefit until communities comply with TANAPA driven land use planning and zoning. This would not be empowerment but would transform communities into the dependent clients of the Protected Area authority.

6.2 Intent before capacity

A key issue surrounding the granting of authorised authority (AA) status to a Village Council (VC) and thereby empowering the community to effectively manage wildlife in a WMA involves the issue of community intent and community “capacity”. Under the Wildlife Act (1974) and the Local Government Act (1982) the Minister can grant rights to the village, but on what basis would this occur, sooner or later. What would be the criteria?

Were AA status be granted on a decision and statement of collective intent by a village assembly, through its VC, this would amount to an empowerment approach. The statement of intent might include recognition of the need to use the resource wisely and to the benefit of the village and the resource itself by ensuring that it and its habitat were safeguarded. Should the Director of Wildlife (or TANAPA), however, insist that communities have to have the capacity, in the form of institutional and resource management capability, to manage wildlife before being granted use rights, then that would be a recipe for dependency. The reason for this is that the Wildlife Division are in a position to set elaborate criteria and conditions before granting AA status and can literally demand that communities comply before having any chance of securing their wildlife use rights and related benefits.

It is clear from interviews with TANAPA and other interested conservation orientated parties that community compliance with their vision of the wider landscape, habitat and ecosystem

would be a condition precedent for community empowerment. This a "gift" that would oblige communities, in perpetuity, to comply with or risk their AA status. It would not establish a partnership between equal parties but a "game" in which the wildlife authority was both player and referee. It must be remembered that in the MTC the pastoralists have their own vision of the landscape and its highest and best use. This vision has to be reconciled with that of the conservation agencies before any coexistence. As one Chief Warden stated, "*the pastoralists are our potential allies, it is the farmers who are the real threat*".

A simple table elaborating the above proposition is given below:

ACTIVITY	EMPOWERMENT APPROACH	DEPENDENT APPROACH
1. Granting of AA status for a WMA	<ul style="list-style-type: none"> - Authorities grant AA status to villages - Villages receive benefits - Villages receive respect as equal partners - Villages seek support & advice from - government agencies, CBOs, NGOs & private sector 	<ul style="list-style-type: none"> - Authorities insist on full land use plan - Authorities insist on elaborate institutional arrangements - long & drawn out procedures - process characterised by non-transparent bureaucratic rules & delay
2. Management of hunting	<ul style="list-style-type: none"> - WD oversees quotas but allows communities (with advice) to negotiate contracts - communities receive benefits directly & in full - districts negotiate levies with villages 	<ul style="list-style-type: none"> - WD oversees quotas & contracts - WD receives revenues & then disburses a portion - District paid directly by WD - Communities get what they are given from above
3. Management of buffers, corridors etc	<ul style="list-style-type: none"> - AA status at outset means communities are equal partners - TANAPA states what it wants & what it offers - Communities state what they want & what they offer - Both parties negotiate win/win scenario - mutual respect and firm base for long term partnership 	<ul style="list-style-type: none"> - TANAPA give communities conditions on which they can have AA status - Weak communities comply as in the past - Basis of relationship not equal & perceived as communities as another win/lose scenario - Conflicts continue until situation becomes lose/lose
4. Relationships between primary stakeholders	<ul style="list-style-type: none"> - authorities, communities & private sector work as partners - incentive of sustainable use & clear rights & responsibilities motivates conservation-based community development - sustainable use of wildlife & wild land achieves highest & best land use 	<ul style="list-style-type: none"> - wildlife authorities regulate, control & dominate interpretation & implementation of policy - communities and land use fragment over time - private sector not motivated by long term sustainability but short term access & gain

6.3 Incentives should be focused and up-front

The incentive package related to sustainable use of wildlife must be focused on clear community-based tenurial arrangements. The combination of ownership (use rights) and high wildlife use values is the best approach to securing a place for wildlife on communal land. Only if that is impossible should the state intervene, at its own expense, to conserve biodiversity. The more clearly both the community and the wildlife resource is bounded by rules of access and exclusivity the easier the resource will be to manage.

The village is the ideal unit for management in Tanzania for the following reasons:

- the scale ensures face to face relationships can reduce the cost of elaborate management institutions;
- rules can be enforced largely through informal social sanctions rather than formal legal sanctions which require great effort to monitor and enforce;
- the village council in Tanzania is body corporate and therefore can manage funds, sue and be sued, and form collaborative arrangements with other villages, wildlife authorities and the private sector;
- through collaboration villages can associate voluntarily to establish the correct management scale for utilising specific wildlife resources eg. a hunting block may need three villages to cooperate; a tourist concession may require joint arrangements. In the study area the Maasai already do this through traditional institutions for pastoral management.
- Although the formal village council is not a traditional institution the fact that the Maasai have largely coopted it means that the possibility exists for positive institutional synergy eg. traditional representation through a state registered body corporate. Through joint WMA arrangements the gap between modern territory and traditional pastoral domain can be narrowed. This would greatly support institutional efficiency and effectiveness.

The importance of ensuring villages are authorised quickly and that benefits flow rapidly is because it would motivate the following CBC related activities:

- The benefit flow would act as an incentive to village assemblies to address the options and opportunities related to CBC and WMAs;
- Through an awareness raising process the village assembly would see for themselves the need for a wildlife and natural resource management plan;
- Awareness for planning resource use in the village would lead to an appreciation of the need for management through natural resource committees (NRCs);

- The need for NRCs would link to the need to clarify the role and relationship of the NRC to the Village Council, as body corporate for the village;
- Through awareness that wildlife resources would be common property to the village members villagers would be motivated to bound and register their membership and make rules for access and exclusion to resource benefits;
- Fundamentally, communities would be motivated to learn about wildlife management and benefit management and allocation for themselves, rather be dependent on dispiriting environmental education from outside.

Should wildlife authorities insist that communities must prove their capacity before they can be authorised then those same authorities would have the responsibility of instructing communities what they need to know, an uphill task. It should be remembered that none of the wildlife authorities has any experience in rural community institutional development, capacity building. If the wildlife authorities go the empowerment route of rapid authorisation and benefit flow they would find communities eager to learn. After all the chance of having resource access returned to them is the motivating action.

6.4 Building a consensus around the policy

There is a danger that the very positive new Wildlife Policy will remain the WD's "baby" and not provide for all "three legs of the stool" : state (WD), communities and private sector. If this becomes the case then a positive policy would remain obstructed by the top-down regulatory attitude which has been the defining culture of the wildlife "industry" so far. The policy has now been selected by the WD and they should introduce it to the other primary stakeholders and estimate, together, its implications together and clarify points of interpretation and implementation. Relationships should be clarified and the stakeholders should work towards a consensus, joint sense of ownership and institutional partnership. The WD should foster this partnership by bringing the primary stakeholders into a policy estimation and programme identification process.

It should be remembered that communities are not hierarchically organised like the government. Therefore, communities should be encouraged and supported to form district and regional associations and community-based organisations through which they can participate in negotiations and planning activities. The policy is a mere blueprint, no matter how good, and the difficult work of implementation is ahead.

Likewise the private sector should be encouraged to form hunters and tour operators associations at national and regional level, through which they can take their part as a major stakeholder. It is governments responsibility to help its partners develop these such associations and in its interest to move away from the "divide and rule" practices of the past. Only in this way is an ethical and responsible approach to sustainable utilisation of wildlife going to develop. Government should not fear but welcome strong allies as together they can

build and defend the interests of a wildlife based industry in the face of many other development claims.

At the level of the MTC complex, the WD should ensure that its and TANAPA's respective roles and responsibilities are clear and then invite agencies such as Inyuaat e Maa (CBO) and Dorobo Safaris (local tour company), both of whom impressed the Study Team, to participate in facilitating the evolution of participation from their respective sectors.

6.5 Collaborative teamwork between programme implementers

In order to implement the new wildlife policy the WD needs the support of parties we characterise as secondary stakeholders, the NGOs and the donors, each with clear roles and responsibilities and working as a team. The WD would ideally oversee the design and implementation strategy and foster a motivated and co-ordinated team approach. We would assume the following main steps:

- The WD, recognising the wide range of inputs necessary to implement WMAs in an ordered and dynamic fashion as well as its own comparative advantages and disadvantages (capacity constraints and limitations, lack of rural development experience, limited budget, lack of knowledge of private sector, social science etc.) would invite a group of agencies to assist it in implementing the CBC programme.
- It would encourage donors to support and work with these agencies in order to ensure the development of local NGO and CBO capacity and commitment.
- These teams could work at mainly regional level while the national level monitors and steers their development.

In the MTC area the Team noted the following:

- TANAPA's Community Conservation Services (CCS) have recently established capacity and have explored park / neighbour issues. However, working for a protected area authority their perspective is to secure the park by trying to ensure compatible land uses in the surrounding areas. They have an interest in these areas but no legal mandate. TANAPA uses park revenue to support selected community projects. These are not community entitlements to share revenue in any way but are used at TANAPA's discretion.
- The AWF supported Community Conservation Service Centre (CCSC) in many ways duplicates TANAPA's approach as they have no individual mandate to work directly with communities. Consequently, CCS and CCSC do not have clearly allocated and mutually reinforcing mandates which can cause role confusion and even conflict.

- AWF has supported a CBO, Inyuat e Maa, who like "cinderella" waiting to be invited to the ball plays a largely advocacy role on behalf of Maasai pastoralists interests and is concerned to see wildlife management integrated with pastoral management. Inyuat e Maa has no formal role in the park/neighbour programme.
- Private sector safari tour companies, like Dorobo Safaris, have been working closely with communities in their leasehold areas and have a vested interest in the wildlife land use conflicts and confusions being resolved. They have interesting and innovative experiences to share.
- There is a general lack of community involvement, advocacy, training and development

The following is an indicative outline of what a team established to implement CBC might look like in the MTC, assuming the present mandates of WD and TANAPA:

- WD would be the "responsible authority" for implementing CBC in the community WMAs. It would have to ensure that consumptive use was sustainable through oversight of quotas and ensure that communities were enable to negotiate and secure leases to their optimal advantage. It would have to facilitate a framework for implementing CBC through establishing an implementing team through a collaborative group of agencies.
- TANAPA would concentrate on being the park management authority and on its community liaison function. As a regulatory agency and "gatekeeper" it should state its expectations, what it seeks and what it offers, as clearly as possible. Its legal remit is the protected area and it should protect its interests, related to wildlife and land use outside its boundaries, through co-ordination with WD and such instruments as Environmental Impact Assessments to protect game corridors, when necessary. If it attempts to facilitate the implementation of WMAs directly it risks finding itself in a role conflict, "reaching beyond its grasp", and undermining its main responsibility.
- The Community Conservation Service Centre, as AWF's project could provide management services to local NGOs and CBOs, to ensure that local communities received timely natural resource management and institutional development technical advice and support. It could also be an information base and positive linkages between the private sector and communities. It might act as an administrative buffer between donors and local agencies. It would have a strong support and monitoring role.
- Inyuat e Maa could be the community association (CBO) responsible for mobilising and representing communities at the MTC programme level. A suite of agencies might provide services under the auspices of Inyuat e Maa:

- * A rural development NGO to provide training and institutional capacity for co-operative resource management.
 - * An NGO, such as LEAT, to provide legal and advocacy support related to legislation, policy, contracts, joint ventures and conflict resolution.
 - * A social science research effort could be involved to undertake case studies, monitor developments and generally advise the other partners on critical issues to be considered.
- Private sector companies like Dorobo Safari's who have learned the hard way, have a long term view and a wealth of experience working with communities on joint ventures should be considered as partners in the process to establish guidelines for establishing joint ventures and mutual land use agreements. Honest private sector endeavour has as much as stake as other parties. Dorobo could facilitate liaison in the private sector and the evolution of a code of practice and practical training and advice on working in partnership with communities.

Inyuat e Maa is the weakest of the institutions but within a short period of time it should be made stronger and supported to become the "lead agency" in ensuring the CBC initiative genuinely meets the development needs of the communities as well as the conservation needs of wildlife and its habitat. It must be recognised that while conservation agencies see development as a means to conservation the communities see it the other way around. Both perspectives are valid and must be reconciled within the overall framework of sustainable development.

6.5 Options and opportunities

The study team was asked to assess what communities can or cannot do in terms of a full range of wildlife management options with the given policy and legal framework. The policy does not elaborate on the process of granting villages "authorised authority" status. The policy, interpreted positively, could empower communities to become effectively the managers of the wildlife resources in their WMAs. A negative interpretation could undermine this to the point that communities can only do what TANAPA or the WD allows them to do in their land use management plans.

The legislation is also open to interpretation and discretionary powers. The present law would allow the Director of WD to authorise a village council to manage their WMA with a full range of use possibilities. However, this is a discretionary power and may be forthcoming or not, in full or in part. Therefore, although many things are possible they would depend on the discretion of the Director, under the Minister. That is the weakness of the present law, it depends on the vision and courage of the Minister and Director. There is no definition and protection of the rights of authorised associations in law nor what their claim would be in the case of conflict and dispute.

For example, as TANAPA has the "ear" of the Director of WD more directly than a village, it is to be expected that they might veto any village activity it dislikes. Consequently, whilst the policy can be implemented today it depends on the will of the WD. A more sound legal framework would be preferable but is not necessarily an impediment in the short term.

6.6 RANGE OF RESOURCE USE OPTIONS & OPPORTUNITIES OPEN TO COMMUNITIES

Many of the options hereunder depend as much on administrative will as policy and law

RESOURCE USE OPPORTUNITY	BY WHOM	WHERE	HOW
Professional Hunting	Community owned & Licensed to Safari Outfitter	Community land	Hunting occurs already but is owned & controlled by government through the Wildlife Division. 25% (of 75%) of revenue is now returned to local districts but funds are not delivered to communities from which land wildlife offtake occurs. Under the new WMA policy a community could own & control hunting. This requires a decision by the Director of WD as seen in Selous. However, although policy is becoming favourable & law not necessarily an obstacle, administration could be. Negatively, WD may insist that several "stepping stones" have to be crossed before WMAs are actually authorised creating a significant "bottleneck" jam. In the Selous WMAs the WD oversees both quota & outfitter license. In Zimbabwe government oversees quota but contract is locally negotiated and paid. Much depends on whether WD empowers communities at the "stroke of a pen" and then follows-up or whether the process becomes protracted and the incentive structure is undermined.
Local Hunting	Community owned & managed	Community land	At present hunting is only permitted by WD. Given use rights through WMAs communities could establish a sustainable cropping (harvest) quota to complement the trophy quota and license community members to hunt. This would be an ideal relationship between Maasai (pastoralist) and Dorobo (hunter gatherer) people as it would legitimise present activities & establish a monitoring mechanism.
Live Game Sales	Community owned & managed	Community land	At present physical use of wildlife is controlled by WD. Given use rights through a WMA a community could capture, translocate and sell wildlife to other parties interested in stocking. Once landowners have use rights a value on wildlife & wildlife land use is established and an incentive to restore wildlife on the land exists. In Zimbabwe, the live sales market is very active with values achieved on many species far above that of livestock with a premium on rare species; an incentive to conserve.

RESOURCE USE OPPORTUNITY	BY WHOM	WHERE	HOW
Photographic Tourism	Community / private sector joint ventures	Community land	Under present land rights communities can establish photo-tourism ventures through joint ventures with the private sector or directly themselves. Prime sites near national parks or areas of aesthetic beauty and wildlife abundance are optimal in terms of value. If near parks, corridors, dispersal areas then WMA policy will probably insist on EIAs. TANAPA policy of not encouraging development in park puts up value on community land outside park, provided TANAPA allows access to park for drives/ walks etc. Thus photo tourism will often need to be planned in conjunction with TANAPA who for their part could give technical advice and support. Communities will need legal and financial back-up and training in negotiating with private sector. This has been provided by NGOs in Zimbabwe.
Photographic Tourism	Community-owned or sub-leased	Community land	Communities have the option to develop tourist services for themselves or, more appropriately, to license a specific group of community members to do so. The community group would present a plan to the village and negotiate it to the point of establishing agreement and rent. A certain amount of joint planning with neighbouring protected area authorities (EIA etc) would be anticipated. The model is similar to the joint venture one, the difference being that the contract would be between community and a defined community group established as an enterprise, rather than community and external private sector enterprise.
Cultural Tourism	Joint venture or community managed	Community land	Practically, the situation for cultural tourism would be the same as that for photo-tourism. The village could license a joint venture or local community group to establish a cultural tourist service on community land. In fact, a cultural tourist service would complement a photo tourist service well. One could imagine a cultural village being located in the vicinity of most photo-tourist camps and being offered as one of the options for all tourists to visit. It is likely that many of the photo-tourist services will be private sector/community joint ventures because of the marketing demands but the cultural tourist service could easily be fully community-based.

RESOURCE USE OPPORTUNITY	BY WHOM	WHERE	HOW
Craft sales	Community based	Community land	Craft sales would be closely linked to the photo-tourist and cultural village services. They would be further boosted by access granted to communities of wildlife products arising from the consumptive use of wildlife to be permitted in WMAs in the future. Craft work would be largely done by individuals and groups and the marketing by other groups, through various outlets.
Community enterprise in national parks	Community based	national park	The TANAPA policy explicitly bans all consumptive uses in national parks and discourages tourist services within parks. Whereas the access to products from the park may be a handicap to communities the restriction on tourist development is to their advantage as it raises the rental value of community land on park boundaries. The negative aspect is that TANAPA would wish to control and influence such developments through EIAs and could also do so through restricting access for tourists into neighboring parks, except through official gates at set fees, which may not be convenient. At present TANAPA offers communities very little tangible benefits except for SCIP projects which they control and allocate to communities and which communities perceive as bribes for other controls which TANAPA seeks over corridors, dispersal areas and buffer zones.
Community enterprise in game reserve	Community based	game reserve	As the WD allows consumptive use of wildlife in a game reserve it is therefore possible, if not practiced, for a neighboring community to negotiate a specific resource access. This could be the basis of a multiple use approach with several tenurial niches allocated to the community or specific members and groups in the community eg. beekeeping, thatching grass, grazing, camp sites, cropping quota, wood fuel collection, herb collection etc.. The key issue is that the state controls the area and may at its discretion allow parties, under established conditions, to access resources. As trophy hunting is only one use of the land, it could be complemented and added to by other uses. This would be a basis for a healthy community conservation project between the game reserve and the local community.

RESOURCE USE OPPORTUNITY	BY WHOM	WHERE	HOW
Enterprises between more than one community or WMA	Community based	Community WMAs	Assuming that the basic management unit for a WMA is a village, authorised through the village council as a body corporate and coordinated by district, then it is quite feasible and appropriate for a number of WMAs to combine into a cooperative association (conservancy), a co-management unit established by management units with their own authority over wildlife. For Maasai pastoralists this would provide an opportunity to lift the scale of management unit beyond that of the administrative territory to the traditional domain or location level. Synergy between WMAs and traditional locations would reinforce linkages between traditional & statutory authorities.
Enterprises between Communities (WMAs), private and state landowners	Multi tenure	community private state	The conservancy approach would allow for combinations of community eg.: community/private; community/state; community/state/private land. Any authorized management unit could combine with other such units for the mutual purpose of wildlife and ecosystem management, and economic benefit. This approach has great potential for fostering partnerships over substantial areas, even transfrontier situations, linking both biodiversity and cultural dimensions. The conservancy approach might offer prospects for the thorny issue of catering for corridors, dispersal areas and buffer zones because it would be based on joint planning and management by equal partners for mutual benefit.
Enterprises by communities in corridors, dispersal areas, buffer zones and calving areas	Multi tenure	community state private	Communities are very suspicious of these notions being perceived as ways in which TANAPA can extend its influence over communal land use. It is clear that the WMA concept is seen by protected area authorities & communities in two ways: (1) WMAs as a way for PA authorities to use participation & benefit to control community land use and, (2) WMAs empowering communities with use rights which they can then negotiate the use of with PA authorities as equal partners. The study supports option (2).

PART TWO

THE POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

FOR

COMMUNITY BASED CONSERVATION

IN

TANZANIA

7.0 REVIEW OF POLICY AND LEGISLATION PERTAINING TO COMMUNITY MANAGEMENT OF WILDLIFE RESOURCES: PROBLEMS AND CONSTRAINTS

7.1 Introduction

The role of law (including bylaws) and policy in the process of building a participatory and integrated natural resource management in areas of competing resource use around protected areas is crucial. Whereas policy only guides decision-makers and is not enforceable; law defines institutional mandates and distribution of power in a local area, regulates resource use and access and secures stakeholders.

In addition, law provides for conflict resolution mechanisms and sanctions for compliance. However, law is not an end in itself. The existence of laws is not the issue, it is whether they are practical and properly and enforced. Part of ensuring their effectiveness in this way is to ensure participation in the drafting/enactment and approval processes so those stakeholders voluntarily abide by the law and thus reduce the financial burden of the state in enforcing them. In Tanzania, often laws have been made without adequate consultation/involvement of the affected constituency and their enforcement has not been a matter of routine but an ad hoc operation on the part of the administration.

7.2 Customary law

The definition of customary law is statutorily provided in the Judicature and Application of Laws Ordinance, Cap 575 as amended by The Magistrate Courts' Act of 1963. Through the two statutes, the Government dis-applied all customary laws, which have criminal sanctions. Application of customary law is limited to the community in which it is established and accepted or to community having similar customary law on the issue. The Judicature and Application of Laws Ordinance has set criteria for a person to be deemed as a member of a community and thus bound by that community customary laws i.e. he must have adopted the way of life of that community or is accepted into that community either generally or for a particular purpose.

Priority is also given to customary law in some cases, e.g. in cases involving unregistered land or inheritance or in any other matter in which it is felt that the matter be dealt with in accordance with customary law instead of the law that would otherwise be applicable. However, customary law may be dis-applied by statute. Several court decisions have recognised the validity and legitimacy of customary law.¹³ However, it is pertinent to note that the process of "villagization" in the 1970s contributed to the disintegration of most customary laws and structures.

¹³ For example, *Maaggwi Kimito v. Gibeno Werema* (PC) Civil Appeal No. 140 of 1979, Court of Appeal at Mwanza. It was held in that case that "customary laws of this country now have the same status as any other law subject only to the constitution and any other statutory law that may provide to the contrary". In another Court of Appeal decision, ie. *Attorney General Chambers V. Lohai Aknonaay and Joseph Lohai* Civil Appeal No.31 Of 1994, Court of Appeal at arusha, customary land rights were equated to granted rights of occupancy.

Since in communities which were less affected by villagization customary law still governs the use and management of natural resources, review of those for purposes of this analysis is vital.

7.3 Legal Framework for conservation and utilisation of wildlife

For purposes of this study, only those laws, which have a direct or indirect bearing on the study area, are reviewed. In tandem with the government laws, traditional or customary laws as well as international conventions of which Tanzania is a party are also reviewed. The three types of laws make up the framework of the country's legal system.

This analysis is geared towards providing an assessment of the general issues, which ought to be stipulated by legislation for more sustainable resource management and utilisation in the study area. The key goal of the study is to initiate a process in which stakeholders using and conserving these resources will have equitable access to them but at the same time ensure their sustainability for future generations.

7.4 Constitution

The Constitution of the United Republic of Tanzania (as amended from time to time) is the main law in which all other laws in the country should emanate and/or conform. The Constitution establishes the traditional three arms of the state, namely, the Executive, the Legislature and the Judiciary. Part Two of that Constitution contains the Bill of Rights, which stipulates the basic rights and duties of the citizens. For example, Article 14 provides for the right to life and protection of citizen's life by the society.

In addition, Article 9 of the Constitution binds the state to ensure that the national resources and heritage are harnessed, preserved and applied to the common good of Tanzanians. This broad stipulation in the Constitution reflects the State's objective being that of ensuring that every citizen gets a share in the benefits of existing natural resources including wildlife.

The question, therefore, is whether this objective is reflected in the sectoral legislation.

7.5 The National Parks Ordinance

The National Parks Ordinance (NPO)¹⁴ enacted before independence, is still the main legislation governing national parks. It provides for their establishment, regulation and management and other purposes related thereto. Currently, there are twelve national parks established under the Ordinance and these are; Serengeti, Ruaha, Mikumi, Katavi, Mahale, Rubondo, Gombe, Tarangire, Kilimanjaro, Arusha, Udzungwa and Lake Manyara National Parks. Some of these national parks were formerly game reserves and later upgraded into

¹⁴ Cap.412. The Ordinance came into force on the 1st day of July 1959 through the Order in Council No12 of 1959.

national parks. The NPO empowers the President with the consent of the Parliament, by proclamation in the Gazette, to declare any area of land to be a national park¹⁵.

The management authority of the national parks is composed of a Board of Trustees established under section 8 of the NPO. The authority is called Tanzania National Parks Authority (TANAPA). Section 8 also impose duty on TANAPA to "control, manage administer and maintain national parks". As such, all wildlife and land resources in the national parks are owned, managed and controlled by the Board of Trustees of TANAPA which is also a body corporate, capable of suing and being sued.

The powers of TANAPA are somewhat restricted to areas within national parks. However, under section 11 of the NPO, TANAPA may take certain actions outside of national parks with the consent of the Minister. The actions have been broadly described as being those aimed at protection of flora and fauna¹⁶. In addition, TANAPA is given power to establish, operate or manage or grant concessions or licences to other persons to operate or manage on their behalf, any rest camps, lodges restaurants or other places for the accommodation of visitors..."

Section 14(1) restricts entrance into a national Park without a proper permit and also set restrictions on the exercise of mining rights. Also upon declaration of a national park or alteration of its boundaries all land rights and other rights (save for mining rights which become subject to imposed conditions by TANAPA) become extinguished¹⁷.

7.6 Wildlife Conservation Act (WCA)

In addition to the Ngorongoro Conservation Area Authority Ordinance, the Wildlife Conservation Act (hereinafter WCA)¹⁸ is the main legislation governing wildlife in areas outside national parks. However, the use of wild plants remains loosely restricted under the Forest Ordinance.

For purposes of conservation and utilisation of wildlife, the WCA places the non-park wildlife sector into three main categories. The first category is established under S.5 (1), where the President has power, by order published in the Gazette, to declare any area to be a Game Reserve. On the other hand, the second category is created under section 6 which empowers the Minister, by order published in gazette, to declare any area of Tanganyika to be a Game

¹⁵. NPO section 3 as amended mutatis mutandis by the section 8(b) of The Republic of Tanzania (Consequential, Transitional and Temporary Provisions) Act of 1962, Cap.500

¹⁶ NPO section 11(a)

¹⁷ Sections 6,7 and 15

¹⁸ Act No.12 of 1974

Controlled Area. The last category is created under section 13, through which the Director may, by order published in the Gazette, declare any area of Tanganyika to be a partial Game Reserve (protected area).

The consumptive use of wildlife can be done in those categories with permission of the Director of Wildlife who is chief executor of the WCA and the President under S.3 of the Act appoints him. Section 4A establishes the Wildlife Protection Fund, which has a broad mandate to enforce the provisions of the WCA relating to hunting, capturing, photographing of wildlife and dealing in trophies.

The licencing conditions are set out under section 25 in which the licencing officer may issue a licence to an applicant who has satisfied those conditions. The Director may also issue general licences to the authorised association and designated organizations which have been so declared by the Minister (S.26 (1) and (2) of the WCA). The Director is duty bound to give these bodies directions of a general nature (see paragraph 6 and 9 of GN. No.72 of 1974). However, the law allows these bodies to sub-licences their hunting rights to individuals or to group of persons (vide paragraphs 10,11,18 and 19 of GN No.272 of 1974)

Few exceptions have been listed under the WCA of hunting animals without licence these include the killing of animals in defence of life and property (S.50) and the killing of dangerous animals (S.49). In addition, under the WCA, the President has powers under section 41, to issue licences for purposes of scientific research, cultural activities, complimentary gift, etc. and also the Minister, may under section 23, by order, permit any person or category of persons to hunt any specified or scheduled animal without a game licence.

In summary the WCA provides for the following:

- Establishes hunting seasons
- Types of weaponry and manner of hunting
- Restriction on taking of animals without a licence
- Designates animals to different levels of protection

The study area has got two Game Controlled Areas governed by the WCA. These are; MtoWa Mbu and Burunge Game Controlled Areas. The WCA is however weak because it does not address management of wildlife in buffer zones and migration corridors. In addition, the WCA does not address issues of sustainability of the wildlife resources but only address issues of government mandated consumptive utilisation and concomitant offences. In that way the WCA is outdated and behind policy development which advocates for creation of Wildlife Management Areas (WMAs) in which communities will be involved in managing and sharing the benefits accrued from wildlife resources.

7.7 Range Land and Management Act

This Act was enacted for purposes of providing for the establishment, conservation, development and improvement of pastoral tenure. The Minister has powers under the Act to declare range development areas and provide for specific restrictions on land use; such as control on grazing, utilization of water prevention of soil erosion and improvement of vegetation.

Enforcement of the Act is done to some extent through penal provisions. The Act also stipulates the procedure for the registration of ranch associations. However, this Act has remained a non-starter and has not been effectively implemented.

7.8 Forest Ordinance

The Forest Ordinance¹⁹, give powers to the Minister responsible for forests to declare by order any area in the territory as a territorial forest reserve or local authority forest reserve as from a date specified in the order²⁰. However, forested areas may occur under other different protected categories but all with certain restrictions on entry or use e.g. under; the National Parks Ordinance Cap.412, the Wildlife Conservation Act No.12 of 1974, the Protected Places and Areas Act No. 38of 1969, the Ngorongoro Conservation Area Ordinance Cap.413, the Public Land (Preserved Areas) Ordinance Cap.338 and the Local Government (District Authorities) Act No. 7 of 1982.

The Forest Ordinance divides forests into three main categories, namely, open or unreserved forests, reserved forests for commercial exploitation or for conservation/protection of water sources and habitat and unreserved forests on public lands. As noted earlier, due to the on-going debate on land tenure and especially on the status of unreserved forests (whether being under the control of the surrounding villages or not), it is not clear who has the virtual control of those forests.

Most of these forest reserves have been subjected to exploitation and revenue accruing thereby goes to the District in case of Local authority forest reserve and to the Central government in case of the Territorial forest reserve. Any use of the forested must be subject to a licence save in cases where the Director of the Forest Division, the District or under the Ordinance or any other lawful authority. Specified fees for timber felling are contained in the Forest Rules of 1959. Interestingly, the Rules permits certain domestic uses on forested lands such as harvesting timber for "African" arts and crafts. Finally, the Rules provide for permits to graze, cultivate, build or residing in forest reserves.

The Forest Ordinance is vital to the study area and in areas where such resources are not reserved. In fact, over 75 percent of forest resources in Tanzania are on public land and loosely regulated by legislation. These resources are important as wildlife refuge and their

¹⁹ Cap.389 of 1957

²⁰ Section 5(1) of the Ordinance. Under S.6 the Minister is required to give notice of not less than 90 days of the proposed declaration of a territorial forest reserve so as to register public opinion and/or objections.

management directly impacts sources of water and biomass energy for rural communities. In addition, women and other groups in rural areas have been using forest products for craft making and other non-timber micro-enterprises.

The Forest Ordinance is a good model as it provides direct opportunities for CBNRM. One of such opportunities is a possibility under the Ordinance for communities to enter into "covenants" with the Director of Forestry to create and manage forest reserves jointly with them.

7.9 Land Ordinance

The Land Ordinance²¹ is the main legislation governing land issues in Tanzania. The Act has undergone several amendments but the basic structure of the Act is still intact. All land in Tanzania is public land held in Trust by the President²² for the common benefit, direct or indirect of the natives of Tanzania. A native is defined to mean any person who is a citizen of the United Republic and who is not of European or Asiatic origin or descent (section 2). Section 5 enjoins the President to give due regard to Native laws and customs existing in a particular area when exercising his powers under the Ordinance.

There is only one kind of tenure created under the Ordinance and that is the Right of Occupancy something akin to a lease under common law. Section 2 defines a right of occupancy to mean "a title to use and occupy land and it includes the title of a native or a native community lawfully occupying land in accordance with native law and custom". However, the emphasis has been placed by the Ordinance and other land statutes on the granted right of occupancy though the large part of Tanzania's land is held under communal/deemed right of occupancy.

The Land Regulations of 1948 created conditions on grantees of Rights of Occupancy for purposes of Agriculture, Pastoralism, Mixed Agriculture and Pastoralism and for building purposes. The President may revoke a right of occupancy only on good causes as defined by the Act. This restriction also applies for deemed rights of occupancy. The Ordinance also provides that granted rights of occupancy might devolve upon death as provided for under section 13 of the Land Ordinance.

The Land Ordinance does not however, provide for adequate security of tenure and access to land resources for holders of customary land titles. Most often land acquisition and allocation has been done on community lands without adequate adjudication. Community involvement in management of land is also not adequately provided for under the Land Ordinance although Section 6(1) put a requirement that the native authority should be consulted when the President or his delegate want to allocate land.

²¹ Cap 113

²² sections 3 and 4 of the Land Ordinance

7.10 National Land Use Planning Commission Act

The National Land Use Planning Commission (NLUPC) was formed under the National Land Use Planning Commission Act No.3 of 1984 for purposes of co-ordinating the programmes that affect land use and planning undertaken by different line Ministries. As the advisory organ of the government on land matters the NLUPC is also charged with preparation of regional physical land use plans, formulating and recommending of land use policies and legislation for the implementation by the government, co-ordinating the activities of all bodies concerned with land use planning and be the conduit pipe on these matters to the government. In order to safeguard national and local interests the NLUPC is enjoined to establish and maintain liaison with the Land Advisory Committees in the Districts and Regions on land use planning issues. (See section 4 of the Act).

This Act is relevant to management of wildlife and the establishment of WMAs. WMAs could be integrated as one of land uses in communal lands.

7.11 Rural Lands (Planning and Utilization) Act

This Act empowers the President to declare an area to be a specified area, where in his opinion, it is in the public interest to regulate land development. The term "public interest" is, however, not defined under the Act. The same Act gives powers to the Prime Minister to make regulations under the Act for purposes of regulating farming operations, reserve the area or any part thereof for development of gardens, forests or parks and extinguishing rights or titles in the area. Through the powers vested on him by the Act, the Prime Minister promulgated the Land Development (specified Areas) Regulations, GN 659 of 1986. Section 3 of these Regulations give powers to the Minister responsible for Lands to extinguish, cancel or modify any right to land held under customary law if it is in the public interest to do so in a specified area. The Minister shall extinguish such customary land rights only after consultation with the District Authority of the area concerned. Section 9 of the regulations entitles the aggrieved party to compensation for the value, which should not be less than the value of the unexhausted improvements on the land affected. The right of appeal is open to the aggrieved party in case he disagrees with the quantum of the compensation.

The Act has been applied to the study area on several occasions to declare certain areas to be planning areas for purposes of the Act and thus extinguishing customary rights on the land. However, if properly implemented this Act provides for opportunities for establishing community forests or parks.

7.12 Tourist Agents (Licencing) Act (TALA)

All tour operators or travel agents are required by this Act²³, to be registered so as to carry on business in Tanzania. The Act defines tourist agents to mean " a travel agent or a tour operator or any person who for reward undertakes to provide for tourists and other members of the public in relation to tours and travel within and outside the Tanzania, transport, whether by air, sea, railway or road, accommodation, professional advise on tourism and other travel matters relating to tourism, and also includes any person who for reward operates as an agent of a transporter for the purpose of soliciting customers for such transporter". However, the Act does not create conditions for Eco-tourism and do not specify conditions to be contained in licences for the tour operators. Hotel operators are covered by the Hotels Ordinance and regulations made thereunder.

The study area has great tourist potential and attracts a lot of tour operators from outside. However local communities in the vicinity of the Tarangire and Lake Manyara National Parks do not get direct benefits from tourist ventures. The reason is partly legislative and financial. In the former, the TALA Act does not specifically provide for the possibility of communal groups to operate tour companies under special conditions and at the same time maintain requisite standards. In the latter case communities do not have the financial wherewithal to conduct tourist business, which require substantial capital investment. However, TALA does not prevent village councils, as bodies corporate, from establishing tour companies in relation to their WMA activities.

7.13 Local Government Laws and Institutions

Local governments have formed the second ladder of government structures in Tanzania since the German colonial rule. The Germans practiced a decentralised form of administration by having appointees i.e. District Commissioners at District level and Liwalis at the local level. The British inherited this system with modifications. The latter applied the principle of indirect rule which was fairly successful in other colonies. Indirect rule meant that local populations were manned by local leaders known and accepted by them but implementing the wishes of the British colonialists.

Thus the Natives Authorities Ordinance was promulgated in 1926 so that local populations could form native authorities which were composed of local leaders with their advisors. The Native Authorities were given power under section 9 of the Ordinance to enact bylaws prohibiting, restricting, regulating or requiring certain use of resources. Communal lands e.g. forest, grazing or hunting land and all unallocated lands were controlled by the a land allocating authority which were normally incorporated into the Native Authority system but carried out their functions in a traditional manner²⁴.

²³ Act No.2 of 1969

²⁴ James, R & Fimbo, G., **Customary Land Law of Tanzania: A Source Book** (Nairobi, EALB, 1973) p.68

Later in 1954 the Local Government Ordinance, Cap 333 was enacted and provided for District Councils to replace Native Authorities. It is noteworthy that the colonial government did not take away the control of communal lands and regulation of native land tenure from the traditional authorities but enacted the African Chiefs Ordinance to protect the position of the chiefs even after the native authorities were replaced by local councils. After independence District and Regional Commissioners who also involve themselves with matters pertaining to land allocation replaced the Chiefs.

The Local government bodies, which had been formed under the Local Government Ordinance, were later abolished by the Decentralization of the Government Administration (Interim Provisions) Act 1972. Regional Development Committees (RDC) and District Development Committees (DDC) replaced the former local councils.

Representation to those organs was not through popular elections but instead it was ex-official composed mainly of functional managers and politicians. This contributed to lack of efficiency, responsibility to the constituencies and competency. Local Government Authorities were again restored in 1982 after much damage had been done. As noted by James and Fimbo:

" By an imperceptible transformation...the whole structure of traditional hierarchy in relation to land administration has crumbled and the method by which the vacuum is filled is veiled in obscurity ".

In 1982 a couple of Local Government Acts were enacted to create urban, district, Division, Ward and village authorities charged with the mandate and responsibilities of planning, financing, and executing the development plans in their areas. These laws require each authority to; undertake activities and programmes geared toward the promotion of the social welfare and economic well-being of the persons within it area of jurisdiction; control of agriculture, trade, commerce and industry; further and enhance health, education etc

8.0 EXISTING NATIONAL POLICIES FOR COMMUNITY BASED CONSERVATION

8.1 National Policies for National Parks (NPNP)

The NPNP document was recently approved by TANAPA and gives mandate to National Parks to:

Manage and regulate the use of areas designated as the national parks by such means and measures to the preserve of the country's heritage, encompassing natural and cultural resources, both tangible and intangible resource values, including the fauna and flora, wildlife habitat, natural processes, wilderness quality, and scenery therein and to provide for human benefit and enjoyment of the same in such manner and by such means as will leave them unimpaired for the future generations.²⁵

The NPNP though not regarded as TANAPA internal policy document (as Cabinet has not approved it) is vital for areas surrounding national parks. The NPNP takes important strides by introducing concepts and processes; park management planning involving communities, Environmental Impact Assessment in all major actions and development plans near national parks, Community Conservation Services, permissible uses and prohibited uses in national parks, environmentally sound tourism and the use of concession to regulate commercial activities in or near national parks.

8.2 National Land Policy

The new land policy adopted by the Cabinet in March 1995 shows the government direction on land tenure issues. The Policy has four main objectives:

- (1) To promote an equitable distribution of and access to land by all Tanzanians.
- (2) To ensure that the existing rights to land especially customary rights of smallholders are recognised, clarified and secured in law.
- (3) To make sure that all land is put to its most productive use to promote rapid social and economic development of the country and;
- (4) To protect land resources from degradation so as to promotes sustainable development.

According to the land policy, village lands and some communal areas (e.g. forests on village land) will be set aside and titled for village use and those areas will be protected from

²⁵ See the Cover page of the NPNP

individualisation. However, the Policy does not specify what are "village lands". The policy requires co-operation between the District and villages in land use planning to be mandatory.

On the management of natural resources the policy provides under section 13.1.4 for protection of sensitive areas such as national parks and seasonal migration routes for wildlife and that these areas or parts of them should not be allocated to individuals. Further, section 7.1.1 (iii) emphasises on the need for co-ordination of land use activities so that licences or permits for utilisation of natural resources are issued after considering environmental implications.

The policy is also important in areas surrounding protected areas because apart from stipulating for the above, it does also address issues of the overlapping land uses in game controlled areas where there are different activities such as agriculture, settlement, ranching etc. At section 7.4.1 the policy sets game controlled areas as buffer zones between game reserves or national parks and agriculture\settlement and calls for revocation of all titles to farms and ranches blocking migration corridors (see section 7.5.1)

8.3 Forest Policy

The Forest Policy of 1953 has five main goal which include **inter alia**; reserving sufficient forested land and land capable of afforestation for the benefit of present and future inhabitants, preserving and improving local climates and water supplies, stabilise land liable to deterioration, and encouraging and assisting the practice of forestry by local government bodies, private individuals and private enterprises.

The Forest Policy is currently under review. The draft Forest Policy of 1994 contains new reserved area designation termed as "village forest reserves". Most likely villages will control this new designation and possibly assist in alleviating the problem of fuel wood supply in rural areas and hence reduce the rate of environmental degradation. The new draft policy also provides for identification and protection of customary rights and harnessing them to motivate community participation.

8.4 Agricultural Policy

Adopted in 1983, the Agricultural Policy calls for village titling and registration and individual villagers to receive sub-leases from the village title. Although this position has been changed recently the new Land Policy already as of 1990 had titled some 1303 out of 8500 and 200 registered. The policy also addresses management of natural resources at village level by requiring that Village Master Plans be prepared incorporating communal and individual responsibilities for tree planting and conservation of water sources and hill tops.

The Agricultural Policy is important for CBNRM because it calls for survey of villages and eventually giving them certificates of title. Titled villages could then designate reserve areas for various conservation activities.

8.5 Investment Policy

The government of Tanzania introduced radical economic reforms in mid-80's. The reforms included privatisation of the state sector, introduction of free market and promotion of foreign and local investments. These reforms were outlined in the National Investment Promotion policy.

Although liberalization of the economy has a direct impact on ownership and management of natural resources, the Investment Policy pays a subtle attention in that regard. For example the policy does not put a requirement for Environmental Impact Assessment for all major investments. In addition, the joint venture ownership between villages and investors in land ownership postulated by the Investment policy tends not to be well supported by articulated plans and safeguards for villagers' customary rights.

9.0 INSTITUTIONS FOR MANAGING NATURAL RESOURCE UTILIZATION

9.1 Historical Backdrop

The evolution of institutional structures in Tanzania has been very dynamic. From 1962, when the country became a Republic, a number of policies and legislation were promulgated to pave way for the creation of a state run economy manned by parastatals and other state dominated institutions. Although there were several experimentations for decentralisation, these were done with high handedness²⁶ and without involvement of the local people.

During the period between 1972-1982 when the decentralisation process was deemed to be under implementation, confusion emanated as to the mandates and roles of local authorities vis-à-vis the central government as the latter maintained its dominance. The confusion is exacerbated by the fact that, previously (and it is still the same in most case), the ruling party structure run concurrently with the central and local government institutions. As such, 1982 when the Local Government was restored much damage had already been done and the government set up was not streamlined, thus affecting the management of natural resources.

9.2 Institutions dealing with NRM

It is axiomatic that environment is not a "vertical" sector like transportation, industry or energy but a horizontal one cutting across different sectors. Cognisant of that, the Government of Tanzania decided in 1995 to establish an environmental portfolio under the Vice-President's (VP) Office in the hope that the VP office, being above line ministries, will have the necessary clout and be able to act as an overseer of other sectors. The VP's office is expected to assist Ministries, public bodies and private persons engaged in activities which are likely to have significant impact on the environment. But the co-ordinating role of the VP's is not clearly evident at the local level.

Again, in communal areas adjacent to protected areas the traditional clear-cut sectoral approach is predominant with different sectors pursuing different goals and objectives. The production sector for example; irrigated agriculture and microenterprises do not seem to pay adequate attention to the environment where it is perceived by them to be interfering with the targeted production levels and profit margins. In contrast, the conservation sector like TANAPA normally over-emphasizes on conservation demands at the expense of socio-economic development. Resolving this dichotomy requires coordination and trade off between stakeholders involved.

9.3 Community/Traditional Institutions

Since the Central government may not be able to properly manage the resources given its limited financial and human resources, decentralisation of authority and control (which is in place theoretically) is the key to support or strengthening management of natural resources. In addition, communication between the national and local level is very important to ensure that national

²⁶ e.g. the operation vijiji in which millions of people were relocated throughout the country

policies are directly linked with local level realities. Institutional collaboration and synergy both vertically and horizontally are equally important. However, community institutions, which ought to represent grass roots views and plans, are either disintegrating or weak in management skills or lacking financial strength. In Maasai pastoral communities the study team observed that traditional institutions were still the core units of social organisation.

9.4 District/Local Government Institutions

The Local Government (District Authorities) Act, 1982, (hereinafter "the Local Government Act") creates the structure of district based local governments in Tanzania. Villages then, are the basic local government institutions. Section 22 of the Local Government Act provides for registration of a village where the registrar [for villages] is satisfied that the boundaries of that area can be particularly defined and the village meets the requirements of a defined minimum number of households. A registered village is capable of electing a Village Council. The functions and mandates of village councils, which are body corporates capable of suing and being sued, include; planning and co-ordinating the activities of and rendering assistance and advice to the residents of the village engaged in agriculture, horticultural, forestry or other activity or industry of any kind; and to encourage the residents of the village to undertake and participate in communal enterprises. Village councils may also propose by-laws to be adopted by village assembly before being approved by the district council²⁷

The structure and functions of the village administration is laid down under Government Notice 451 of 1995 as follows:

- The Village Assembly, composed of all adult persons in the village i.e. of above 18 years of age and normally convened after every 3 months for purposes of receiving and discussing village finance and development report.
- The Village Council, composed of a chair elected by the Village Assembly, the Village Executive Secretary, and other directly elected members
- Village Committees covering different matters such as; security, finance, planning, forest protection, education, etc

The Local Government Act provides under section 29 for the division of the district into several wards, as the district council may deem fit. In addition, the Local Government Act provides under section 31 for the establishment of the Ward Development Council (WDC). The WDC is charged with the task of making development plans for the ward and general matters pertaining to the ward. The WDC also reviews the projects and plans proposed by the constituent village councils and approve them before being sent to the District Council. Village chairpersons and executive officers and extension officers are members of the WDC. Villages are also required to elect councillors to represent the ward in question in the District Council.

²⁷ Section 163 of the Local Government Act.

The same structure is replicated at the district level where there is a District Council composed of members elected from each ward, the local member(s) of parliament, 3 members appointed by the Minister and one representative of the villages representing other villages on a rotating basis. The District Council has a special committee on district development (DDC). The DDC is charged with the task of supervising and co-ordinating the implementation of all plans for economic, commercial, industrial socio-economic development of the district and approval of village by-laws.

Apart from the DDC there are other committees such as those for finance, planning administration, planning, social services, education and culture, economic services and human deployment. Normally districts do not have a committee on natural resource management. In addition, it is worth noting that even though the ultimate control of village land lies with the District Council, in meetings of the District Council other than "the full council" villagers are not directly represented. Thus matters pertaining to village land are discussed and decisions taken without villagers being directly involved. In addition, village assemblies rarely meet to discuss critical issues affecting the villages²⁸.

Thus under the present local government structure as stipulated by the Local Government Act, there are few prospects for direct participation of the villagers in the administration of village lands.

For purposes of this study, it was important to find out from the communities if there is a culture of sharing authority and responsibilities at the local level. The consultants' finding is that there is little sharing of responsibilities between village administration and their constituency. It seems that the problem does not mainly lie with the existing legal framework as such, but with the long existing domineering role of the central government with appendages at the local levels, apathy and lack of trust on the part of the communities on the system. The Local Government (District) Authorities Act stipulates under section 164(1) that where the village council proposes to make by-laws it shall convene a meeting of the village assembly and present the proposed by-laws for comments by the villagers before forwarding them (together with the minutes of the village assembly) to the District Council for approval. In some areas by-laws have been stuck at Ward level for lack of approval by the ward. The law does not require approval of the Ward for village bylaws. This would add to the bureaucracy and red tapism.

9.5 Regional Institutions

Local governments are not replicated at the regional level, however, the Regional Commissioners, the Regional Administrative Secretaries are responsible to the Prime Minister as the local governments are. Even though the recent changes in the government structure at the regional level are yet to be practically understood, the past experience was that regional authorities exercised direct supervision on the districts and at times vetoed district development plans.

9.6 National Institutions

²⁸ see Ngware, S & Haule; *The Forgotten Level: Village*

Government in Tanzania [IDS, UDSM, 1992]

Protection and management of natural resources is vested on different institutions pursuant to different laws. These include but not limited to: the Wildlife Division and the Forest and Beekeeping Division, the Tanzania National Parks Authority (TANAPA), the National Land Use Planning Commission and the Tanzania Wildlife Corporation (TAWICO). In 1995 a detailed Wildlife Sector Review was carried out by the Division of Wildlife and revealed the fact that there are institutional overlaps in the sector.

10.0 CRITICAL ISSUES IN MANAGING NATURAL RESOURCES

10.1 Institutional Co-operation Insufficient

The law does not provide for mandatory coordination amongst stakeholders on land adjacent to protected areas perhaps it is because such area area not specifically recognised and designated as legal entities. The main institutions prevalent in such areas include; District Councils, Village Councils, TANAPA, Wildlife Division (represented by Game Officers), Forest Division, Hotels, Ranches, NGOs and Hunting companies. Coordination between these institutions is generally lacking. In addition, no explicit devolution of responsibilities and benefits to communities to manage natural resources.

In summary pertinent issues facing institutions in such areas are:

- Lacks of streamlined mechanisms to resolve inter sectoral conflicts and interests.
- Land tenure and access not clearly defined and secured.
- Institutions dealing with natural resources conflict with each other in their responsibilities because of absence of joint planning and inter-institutional agreements.
- Absence of development of cross-institutional approaches in management of natural resources instead there is prevalence of vertical chain of commands;
- Judicial organs, litigation procedures and the guiding laws are not well known to people nor are they enforced as a matter of routine.

The management of natural resources in such areas requires a multi-sectoral approach. Invariably, that implies significant change from the traditional system of running bureaucracies i.e. cooperation between sectors must be fostered. As it was admitted elsewhere:

"Experience has shown that the existing institutional framework cannot effectively face the challenge of integrating environmental concerns into development activities. The current institutional framework is an obstacle to effective implementation"

(See NEMC, The National Conservation Strategy For Sustainable development, p.43)

10.2 Land Administration as affecting Management of Natural resources

10.2.1 Land Use and Tenure

As it has been noted above a large portion of natural resources in Tanzania fall on the non-reserved public lands (or on village lands) and thus are subject to various rules, regulation and tenorial classifications pursuant to various laws. An important issue for the sustainable management of these resources then, is security of access and strength of village title. One of the

key questions which should be addressed is the extent of which village/community may have control over natural resources falling on their land, especially with respect to central government powers to issue licences for the exploitation of these resources, power to gazette protected areas over that land or grant rights of occupancy. In brief, communities in such areas do not have security of access to the resources nor a strong incentive to manage them.

In addition, arable land is scarce in areas surrounding the protected areas. Intensive land use has led to loss of fertility and erosion problems. Few villages have agriculture or Livestock extension officers to ensure the enforcement of soil conservation by-laws.

Pastoral tenure is also an increasing problem in such areas. Due to increased demand for agricultural land less land is available for grazing. In addition, lack of involvement of pastoral communities in decision making on resource allocation makes these communities to become increasingly marginalized. Instances of direct conflicts between agriculturists and pastoralists are common in such areas.

Competition for use of the resources has far outweighed efforts to conserve and sustain the same. At the end of the day the primary users that depend on these resources for subsistence are likely to be the most affected.

10.2.2 Customary Land Rights and Land Use in Lands Adjacent to Protected Areas

The main law governing land tenure in Tanzania is the Land Ordinance, Cap 113. The Ordinance is supplemented by other statutes namely; the National Land Use Planning Commission Act, The Land Registration Ordinance, Rural Lands and Utilisation Act and the Range Land and Management Act. The Land Ordinance under section 2 recognises deemed or customary rights to land which are apparently possessed by the majority of Tanzanians.

However, customary land rights have been subject to alienation via different laws. For example, small-scale agriculturists and pastoralists customarily occupy most of the areas around the Lake Manyara and Tarangire National Parks. But these customary land rights were statutorily extinguished by the Extinction of Customary Land Rights Order GN 88 of 1987 made under the Land Development (Specified Areas) Regulations GN 689 of 1986. The extinction order vests the extinguished land rights in the District Councils, which have jurisdiction over the area where the land is situated, and the district councils may distribute that land the way they deem fit. The Order covers almost all villages of Mbulu and Karatu Districts and two villages of Riroda and Gidesi wards in Babati District. However the Order does not extend to Monduli District. Several cases have been filed pursuant to the enactment and application of the order but without tangible success²⁹.

²⁹.see for example Yoke Gwaku and 5 Others vs. NAFCO, High Court of Tanzania , Arusha Registry, Misc. Civil Application, 148/88

The abolition of the traditional land rights in some parts of that area contributes to land being put under intensive use because the traditional fallow periods are no longer observed and hence degradation of the environment. For example, Northern Karatu is characterised by increasing land coming under wheat cultivation, limited grazing areas with high livestock densities and population pressures. Due to the growing land market in the area the frequency of land transfers is high and thus affecting the propensity to conserve the land. There are also many land disputes in the area as people fight with each other for more land to cultivate³⁰.

In 1995, the government passed the Regulation of Land Tenure Act³¹, which was meant, among other things to revoke all customary rights in villages created under Operation Vijiji. The Act came as a Government reaction to the floodgate of suits filed by individuals claiming portions of land confiscated during the Operation Vijiji. The Act was heavily challenged as being unconstitutional but the finding of the Court of Appeal in the case of *Attorney General v. Lohai Aknonaay and Joseph Lohai* ³² reiterated the powers of the President to take land including land held under customary tenure but directed that in cases where land is so taken the provisions of the Bill of Rights apply, that is, adequate notice and just compensation should be given to the holder. The Chief Justice also issued a circular directing Courts not to entertain customary land cases in their original jurisdictions instead such cases should start in the Customary Land tribunals and appeals to be preferred in Primary Courts.

The extent of land disputes in many areas surrounding the Lake Manyara and Tarangire National Parks signifies the fluidity of customary land rights and/or landlessness situation affecting the majority of people in those areas.

10.3 Insufficient involvement of Stakeholder in the Management of Wildlife Areas

Wildlife Corridors are example of areas falling mostly on village land. The main laws governing wildlife in Tanzania do not mention or address the legal status of wildlife corridors, although they are critical for the survival of the wildlife and also for the tourism sector of the economy. As such, formal management schemes of the corridors have virtually not been there. For example, between the Lake Manyara and Tarangire National Parks, the Upper-Kitete/Selela Corridor was "gazetted" by the Ngorongoro Conservation Area Authority (NCAA) with minimum consultation of the villagers. In addition, the NCAA regardless of how well intentioned it might be has no legal mandate to do so outside its boundaries. Villagers in Upper-Kitete, and Selela were told to respect the boundaries and comply with the conditions of restricted use of the corridor resources. However, in Selela, the village government has balkanised the same corridor into farmlands for villagers and outsiders. In addition, the Wildlife Department has allocated a hunting block in the corridor to a hunting company INTERCON SAFARIS. Thus villagers in Upper Kitete who gave

30. See Griffin, J Integrated Natural Resource Management and Socio-economic Development Through Popular Participation in Multiple Use Areas Around National Parks (FAO, 1996).

31 Act No 22 of 1995

32 Court of Appeal of Tanzania at Arusha Civil Appeal No 31 of 1994.

up their land for the corridor (without compensation) feel they have been unfairly denied access to the resources in the corridor and have now started to encroach the same³³.

Issuance of hunting licences in game controlled areas and/or in wildlife corridors has not been consultative. Villagers are just notified (and sometimes not) that a certain company has been given such a licence. But the effects of the hunting activities on villagers' lives are high. For example, wounded or scared wildlife would tend to harm villagers or destroy their crops. Villagers feel, therefore, that there is a justification, to compensate them in terms of benefits from the hunting business. Sometimes hunting block recipients establish their own de facto rules as to what can and cannot be done in a hunting block hence meet villagers' resentment. Villagers also resent it when outsiders are given permission to hunt when they themselves cannot afford permits or do not feel that they should be required to buy permits to hunt in the same area. Notably, the draft Wildlife Utilization Policy and the proposed amendments to the Wildlife Conservation Act include a designated "Wildlife Management Area" (WMA) which would vest exclusive control over wildlife including the right to issue hunting licences for profit, within a village or other defined group.

10.4 Insufficient Authority and Regulation

10.4.1 Agreements

Pursuant to the Local Government (Districts Authorities) Act, villages upon their registration became corporate bodies and may enter into contracts or law suits. Thus registered villages could enter into contracts with other stakeholders to manage resources deemed to be in their jurisdiction. It is worth noting, however, that contracts may be an option only where the village has exclusive legal right over the resource, i.e., where it has a Certificate of title pursuant to the new Land Policy. But this does not include villages which exist in or utilise such areas as Game Reserves, Game Controlled Areas, Local Authority Forest Reserves and Territorial Forest Reserves) because already these are under different management categories. In addition, since the strength of the village title has not been tested in Court, it is not entirely clear as to the extent of their legal strength. The consultants' experience in such areas shows that villages do enter into these contracts whether they have full legal jurisdiction to do so or not.

Community/village agreements on resource management have developed in the MTC. However, most of these are verbal but consultants were informed by a tour company of the existence of a written agreement between communities a private company which had been notarised. Oral agreements are always difficult to prove and either party may be a loser in the process. To assist communities in bargaining for equitable contracts guidelines for contract making should be prepared for the communities.

Almost all conservation laws, except the Forest Ordinance and the Marine Parks and reserves Act, do not explicitly provide for possibilities for communities or individuals to enter into agreements for collaborative management with others. There are legal opportunities under the Forest Ordinance for community involvement in the management of Local Authority Forest Reserves

³³See Griffin, J op cit.

through; exclusive licences, covenants with the Minister or for villages being appointed as forest managers. In addition, villages can also be given "ownership" of village forest projects for purposes of managing them.

Experience has also shown that agreements between communities and developers have been lopsided and weak since they are not put in writing. The Land Regulations of 1948 require that all agreements on land must be in writing³⁴. Undoubtedly, agreements between parties with diverse interests and stakes require special skills and patience which most communities lack. From the equity standpoint, communities stand chances of losing in the bargaining process for several reasons including; lack of legal knowledge, being desperate for financial gain however small it may be etc.

10.4.2 Case Law on Agreements with Communities

The Court of Appeal decision in **Sluis Brothers (E.A) Ltd v. Mathias & Tawari Kitomari**³⁵ on unconscionable agreements is relevant in this regard. The appellant in that case was a company engaged in the business of growing, buying and distribution of seed beans. The company had a scheme under which it supplied "stock seed" to farmers and peasants to plant on their farms and the company was to buy from them the harvested seeds. However, the Company required those farmers and peasants (unacquainted with the English Language) to execute a " Growing contract" in a standard form English. The terms and conditions contained in the contract did not bind the company but only conferred rights to it and on the other hand it imposed duties, liabilities and obligations on the peasants. The Company filed a suit in Court demanding from the peasants sums of money under the "growing Contract". In response to the suit, the peasants contended that they did not speak English and thus mis-took the contract to be a joint venture. The Company on the other hand argued that once a person has signed an agreement then he is bound by it.

The Court held that the peasants who did not, to the knowledge of the Company, understand the English language and were, as such not in a position to understand the full purport and legal implications of the terms and conditions contained in the contract should purport and legal implications of he terms and condition contained in the contract should therefore be exonerated from liability. Moreover the court held that the contract was one of unconscionable bargain, in which unconscionable use was made by one side of the of the power ³⁶ arising out of the contracting weakness of the other side, which the court should refuse to enforce on equitable grounds.

In addition, Section 10 of the Law of Contract Ordinance provides that an agreement becomes a contract in the event that it is made by free consent of parties competent to contract, for a lawful consideration and with a lawful object. Free consent is defined, as that not caused by coercion, misrepresentation, fraud, mistake and undue influence.

³⁴ Regulation 3 of the Land Regulations 1948

³⁵ [1980] TLR 294

²⁹ Regulation 3 of Land Regulations 1948
³⁰ [1980] TLR 294

Therefore it may be concluded from Kitomari's case that most communities in rural areas are ignorant of the purport and legal implications of the contracts. In addition, some agreements have been concluded without parties been clear as to the commitments, trade off and compensation made by one part to the other However, community's power to bargain lies on its extent that it is able to assert ownership of the resources.

10.5 Law Enforcement

10.5.1 By Community

Communities through their traditional ethos and institutions (were they exist) continue to enforce customary laws. In the Maasai communities, for example, where a member of the community defies an order to participate in public works without any lawful cause, the community summarily fines him to pay a goat or a cow which is slaughtered and distributed to those who participated in the work. Such enforcement by communities is; efficient cost effective and less bureaucratic. In addition, unlike the formal laws, almost every members of the community usually know the procedures of enforcing customary rules and the attached sanctions.

10.5.2 Ward Tribunals

Ward Tribunals are established under the Ward Tribunals Act of 1985. The idea behind establishment of these Tribunals in every ward is to reduce case backlogs in conventional courts of law. Jurisdiction of the Ward tribunal includes to try offences related to contravention of laws made by village councils and members of the Ward tribunal to be 4 minimum and 8 maximum. Members are also required by law to be residents of the Ward

Matters are to be determined through the use of mediation (section8) and enforcement measures to be devised generally. Penalty not to exceed 2 months imprisonment or fine or both fines and imprisonment. Few ward tribunals exist in the Study Area. No reasons were available for failure to establish them and more research is needed on this issue. In addition, existing ones have been prone to ineptness and corruption resulting into public apathy to existing legal system.

10.5.3 Courts

Magistrate's Courts are established under the Magistrates Court's Act of 1988. Courts, which are established by this Act, include; Primary Courts and District Courts. District Courts are normally stationed at district headquarters and manned by the district magistrates. One the other hand primary courts are established at ward level or in a couple of wards. The jurisdiction of primary courts is mainly on matters relating to customary law or Islamic law.

Apparently in the study is the Regulation of Land Tenure Act of 1992 and the Chief Justice Circular No. 1 of 1995 ousted the jurisdiction of courts of law in relation to customary land rights disputes. The two legal instruments empower customary land tribunals to adjudicate matters relating to customary land rights. Disputes relating to either land use or ownership ought to be adjudicated by these tribunals. However, as noted earlier, GN 88 of 1987 has abolished in most areas of the Study Area, customary land rights and thus the Tribunals have nothing to adjudicate on in those areas. But to say the least the procedure with relation to land adjudication is virtually

confused and thus affect security of tenure. It is also pertinent to note that corruption syndrome has effected the judicial system and diluted people's trust to the system.

11.0 PRIORITIZED LIST OF LAWS THAT NEED TO BE AMENDED

While the policy offers a range of options and opportunities supporting CBC of wildlife, the legal regime is more restrictive and cumbersome. The legal regime is still informed by the concept that the best way of protecting wildlife is through human eviction and alienation from wildlife resources. The effect has been poaching in the protected areas and hostility between the wildlife authorities and the wildlife itself on one hand and the local communities on the other. The Wildlife Policy speaks to that issue profoundly but it is imperative to effect major changes to all pieces of legislation pertaining to wildlife use and management.

Priority would go to the following pieces of legislation:

11.1 The Wildlife Conservation Act No.12 of 1974

This piece of legislation governs the management of wildlife found in Game Reserves, Game Controlled Areas, Partial Game Controlled Areas and Open Land. For effective CBC to take occur in the Tanzania this Act needs a major overhaul to introduce the concept of WMA and CBC. The Act recognizes the establishment of authorized associations as the only form of involving the communities to manage wildlife. These authorized associations are formed only for purposes of carrying out hunting in the protected areas pursuant to the quota allocated to them by the Director of Wildlife. The law does not encourage other kinds of consumptive or non-consumptive utilization.

In amending this law there is a need to not only follow the broad intention of the National Wildlife Policy but also, as far as possible, to put in place broad provisions providing clear guidelines as to how the communities would be involved in the management of wildlife. Experience in other jurisdictions, like the USA, has shown that **leaving the task of formulating guidelines to the implementing agency (Ministry, Wildlife Division, TANAPA, NCA) might derail, indeed, thwart the will of the legislature.** Therefore, it is imperative to draft and append guidelines as schedules to the legislation to capture and emphasize the intention of the legislature in most explicit and an unambiguous possible terms.

11.2 The National Parks Ordinance Cap. 412 of 1959

The Act establishes TANAPA as the overseer and manager of Tanzania's national parks. Tanzania currently has 12 national parks all surrounded by contiguous communities. All forms of consumptive utilization are prohibited in the national parks. Amid much tension between the parties especially concern over TANAPA's reach into the communities land use plans related to buffer zones, wildlife corridors and game dispersal areas. It must be said that in this TANAPA receives a lot of encouragement from international conservation agencies and protectionists. The Act does not provide mechanisms to ensure community involvement in these issues. It is highly likely that TANAPA will attempt to exercise a veto, through such mechanisms as EIA's, over all and every wildlife management plan put up by a prospective WMA. Legally, the protection of wildlife found in the national parks is the sole responsibility of TANAPA. If TANAPA wants to control community use outside the park then they must be encouraged to open up their

management of the park itself to contiguous communities. The intent of the new policy is to break the local hostility once and for all, in perpetuity. This will not occur if TANAPA persists in defining a buffer zone as an area outside the park rather than an area both inside and outside which both parties are concerned about. While a park may be national in law, local interests must be addressed or a hostile attitude, has seen in poaching and disturbance of national parks, buffer zones and migration corridors, which has resulted in massive reduction and an almost extermination of certain wildlife species (elephants and black rhino) will persist.

There are recent efforts by TANAPA itself to amend this legislation in order to bring in some aspects of community conservation of wildlife. Under the proposed draft bill, it is suggested to put in place strategies that will involve contiguous communities to “benefit from the conservation of those areas and involve them in the planning, development and management of these areas.”³⁷ The Bill also mandates TANAPA to strategically collaborate with communities surrounding the national parks.³⁸ These broad aims seem to be in line with the National Wildlife Policy but would need to be crystallized into concrete actions by providing modalities in the new Act if communities are to be real, rather than nominal, partners in the management of national parks.

Since buffer zones, corridors, and migration routes should devolve to the communities through WMA plans it is important for the new law to explicitly address the relationship between TANAPA and the village Natural Resources Committees. Furthermore, modalities of sharing revenue between TANAPA and the communities in question need to be clear rather than being left to the “good judgment” of TANAPA officials.

11.3 The Land Ordinance of 1923 Cap.113

This piece of legislation needs to be amended to ensure local community ownership of buffer zones, corridors and migration corridors. This legislation should provide a clear land tenure system for various categories of land ownership. Efforts are under way to amend the Land Ordinance. The current proposal would establish four categories of land, including village lands. The main feature of the Bill would be that villagers own through their village councils. However, the entire village community would own village common land which would include dispersal areas, buffer zones, and migration corridors.

11.4 The Ngorongoro Conservation Area Ordinance of 1959 (Cap. 413)

This piece of legislation needs amending to formally inject the concept of community based conservation (CBC). Ngorongoro Conservation Area (NCA) is a multiple use area and the NCA Authority has a duty, among others, of conserving and developing the natural resources of the Conservation Area (See Section 5A (a) of the Game Parks (Miscellaneous Amendments Act (No. 14 of 1975)). The Authority has effectively a, “dual mandate” (conservation and human

³⁷ See Section 3(1)(e) of the Annotated Discussion Draft of the Proposed National Parks Act (December 1997; Revised January 1998)

³⁸ Ibid. See section 4 (3) (f)

development) to achieve the above goal while also speaking on behalf of the Wamasai people.³⁹ Effectively the NCA can choose which aspect to stress more. The Act prohibits cultivation and hunting in the Area leaving the Wamasai communities to undertake livestock grazing and dairy farming. Settlement is regulated to natives in the area and there have been attempts by the Authority to proscribe this right.⁴⁰

Much of this legislation is inimical to the whole concept of CBC as envisaged by the National Wildlife Policy. Since the policy advocates for benefit sharing between wildlife authorities and the members of the contiguous communities, then amendment of the NCA Ordinance is imperative. The NCA attracts tourist revenue to the country yet its residents lose out. The Ordinance does not provide mechanisms for communities to be involved in joint ventures between the Authority and themselves or in partnership with private companies. Being a multiple land use conservation area this legislation should be re-modeled to allow communities to implement CBC in a way consistent with the WMA system.

11.5 The Forest Ordinance Cap. 389

This will need amending to guarantee effective implementation of the goals set in the National Wildlife Policy. There are many overlaps of authority depending where the forest is located. Some forests fall under the jurisdiction of Forest Department while others in the hands of District Councils. In addition, wildlife authorities do, arguably, claim authority over forests found in the protected areas. It is interesting to see that the National Wildlife Policy propagates the idea of managing wildlife found in the Forests Reserves through the wildlife legislation without mentioning who is in-charge of forests found in the wildlife reserves. Since these forests do form important wildlife sanctuary including migration corridors it is develop a mechanism that would allow local communities to establish a WMA in those areas and also giving them authority over forests in the WMA.

11.6 The Local government (District Authorities) Act No.7 of 1982

This Act requires a major overhaul to accommodate the policy objectives as it does not provide a good mechanism for villages to be democratically involved in the development of their district in general, and their villages in particular. It is difficult to effect CBC under the circumstances. Most village by-laws have to be passed by a district council that is not directly answerable to the village members. The District Council has powers to levy tax on a village franchise that might frustrate NRC initiatives to form and establish WMAs. District councils, under the existing land tenure

³⁹ Shivji, I.G & Kapinga, W.B., Legal Study on the Rights of Maasai Residents in Ngorongoro Conservation Areas, Tanzania, 1997. p. 18. A paper to be published by the International Institute for Environment and Development (IIED) London. UK. This construction is based on section 5A (c) of the law that provides "safeguarding and promoting the interests of the Maasai citizens of the United Republic engaged in cattle ranching and dairy industry within the Conservation Area."

⁴⁰ In 1972 the Authority passed Ngorongoro Conservation Rule, 1972 (GN No. 12 of 25/1/1972) which required even the native resident in the Area to apply and obtain certificates of residence failure of which would be construed as an offence. For detailed discussion about this rule and rights of the Wamasai residence read Shivji & Kapinga, *Ibid*.

regime, claim authority over various natural resources found in the villages and this could hinder smooth formation of WMAs all over the country. The Local Government Act should be amended to effect changes that would allow villagers more control over natural resources found on the village lands through the proposed NRCs. The legislation would have to provide for district councils to help village communities to prepare land-use plans and support WMA establishment.

11.7 The College of African Wildlife Management Act No.8 of 1964

The College of African Wildlife trains wildlife staff for Tanzania and other African countries. To effect the new policy the Act be amended to mandate CBC management concepts are incorporated in the college's curricula. Since the policy states that there is a need of "ensuring that employees of the wildlife sector are imparted with new skills to adapt to new situations"⁴¹, this goal could be facilitated if existing wildlife training institutions embraced these concepts.

⁴¹ See paragraph 3.3.16 of the National Wildlife Policy

12.0 GENERAL FINDINGS

12.1 LEGAL FINDINGS

12.1.1 Land Legislation

- Under the Land Bill (1998) a customary right of occupancy is in every respect of equal status to a granted right of occupancy.
- A land right of occupancy is akin to a lease under common law. The ordinance emphasises the granted right of occupancy although a large part of land in Tanzania is held under communal and deemed right of occupancy.
- The Land Ordinance does not provide adequate security of tenure and access to land resources for holders of customary title.
- Under the Rural Lands (Planning & Utilization) Act the President may designate land in the "public interest". The Act has been used several times in the study area (MTC). Can be used creatively to establish opportunities for community forest protected areas.
- National Land Use Planning Act is relevant to wildlife management and the establishment of Wildlife Management Areas (WMAs) as the WMA would be integrated as a land use in on village lands as a common property.

12.1.2 Wildlife Legislation

- The Wildlife Conservation Act (WCA) does not address management of wildlife specifically in buffer zones, dispersal areas and wildlife corridors although the Wildlife Policy attempts to through the mechanism of CBC and WMAs.
- Although wildlife corridors have no legal status in wildlife law they have actually been implemented on village land (Selela Village, Monduli District near Lake Manyara) by a directive from the District Commissioner following lobbying by TANAPA without community consultation.
- The WCA does not address sustainable use of wildlife positively but rather government mandated consumptive use and related offenses. The WCA is thus outdated and lags behind the new Wildlife Policy which sees sustainable utilization as a cornerstone strategy.
- The indications are that legislation for wildlife will not receive a major reform in the near future but will evolve incrementally in a piecemeal fashion for the time being.

- Many sustainable use activities can be allowed at the discretion of the Director of the Wildlife Division. The Director may issue general licences to an "authorised association" and designated organisations which have been declared so by the Minister. This is the method by which WMAs would become authorised.
- TANAPA has powers to establish, operate or grant concessions or licences to other persons. Although its policy discourages development in parks it has done so and can do so.

12.1.3 Forest Legislation

- Forest Ordinance a good model for CBC as it provides direct opportunities for CBNRM eg. communities may enter into "covenants" with the Director of Forestry.
- Forest rules permit certain domestic uses as well as access for "African" arts and crafts.

12.1.4 Local Government Legislation

- Local Government (District Authorities) Act allows registered villages to enter contracts with other stakeholders and to manage resources deemed to be under their jurisdiction. However, they must have an exclusive access and in the case of game reserves, game controlled areas and local forest reserves would need compliance from the relevant authorities.
- Villages and private sector have entered contracts following consultation with the WD and under a WMA could do so directly but possibly under an EIA restriction regulated by WD or TANAPA.
- Village Councils, as bodies corporate, backed by WMA authorised association status and supported by the village assembly could enter collaborative management ventures with others of similar status and thus effectively form a collaborative company.
- Local Government Acts (amended 1982) charge village authorities with responsibilities of planning, financing and executing development plans, including WMAs.

12.1.5 Tourism Legislation

- The Tourist Agents (licensing) Act (TALA) does not specifically provide for possibility of communal groups operating as tour companies but it does not prevent them as corporate bodies with their own WMA or jointly with other WMAs.

12.1.6 Communities and the Courts

- The courts have tended to hold that communities in dispute with the private sector over contractual arrangements that they must have fully understood the contract to be held liable.

12.1.7 General

- The combination of the village council as an incorporated body and the village as an authorised association places Tanzania, in comparison to other African countries implementing similar policies, in a potentially advantageous position in terms of empowering communities for CBC.

12.2 POLICY FINDINGS

12.2.1 The Wildlife Policy of Tanzania (1998)

- The policy in word and spirit is very positive for community based conservation.
- The policy has been selected by the Wildlife Division but has not been opened to the estimation of other key players eg. communities and private sector.
- The policy does not give the modalities for establishing WMAs nor the process by which this will occur.
- The policy took 12 years to draft. How long to legislate and implement?
- The policy only guides decision-makers and is not enforceable. Law defines institutional mandates and distribution of power in a local area, regulates resource use and access and secures stakeholders.
- The wildlife policy and proposed amendments to WCA vest a WMA with exclusive control over hunting and the right to issue licences.
- Policy states that role of NGOs (local and international) is to support government. This is wrong as role of NGOs is also to support communities and to facilitate linkages between state, community and private sector and implementation of programme and projects. International NGOs should also foster capacity of local NGOs and CBOs.

12.2.2 TANAPA Policy

- TANAPA policy introduces concepts of park management planning involving communities, EIAs, community conservation services, permissible and prohibited uses, environmentally sound tourism, use of concession to regulate commercial in or near national parks.
- TANAPA could engage in collaborative enterprises with authorised WMAs in their neighbourhood.
- TANAPA policy discourages commercial developments in parks but has the right to authorise them. This policy raises the rental value of contiguous land but also increases TANAPA's interest in land use and EIA procedures.

12.2.3 Land & Agricultural Policy

- LP supports prospect that on village lands and specifically common pool resource therein (eg. forests and WMAs) can be set aside and titled for village use and protected from individualization.
- LP important in areas contiguous with protected areas as it addresses issues of overlapping land uses in GCAs etc. Section 7.4.1 calls for a revocation of titles to private farms and ranches which threaten protected area interests.
- AP (1993) called for village titling and registration. Individuals can receive sub-leases from the village. In 1990 only 1303 out of some 8500 villages had actually received formal title as against customary title. These plans can be a way of allocating individual and common property rights within the village but it should be recognised that it is not strictly necessary but could help in areas of stress from open access tendencies.

12.2.4 Investment Policy

- Investment policy does not require an EIA for major developments. Joint ventures between villages and investors are not addressed and therefore there are no specific safeguards for villagers customary rights. Risk exists of state and private sector interests collaborating to demise of village rights eg. Rufiji Delta prawn extraction.

12.3 INSTITUTIONAL FINDINGS

12.3.1 Traditional and Statutory Institutions at Village Level

- In Maasai villages visited traditional institutions had effectively coopted statutory institutions. This is positive in the sense that conflict arising from dualistic competition can be overcome.

12.3.2 Resource Governance - Local and District Level

- WMAs are targeted at the village level but through implementation and interpretation the regulatory authority (TANAPA) may insist on uniformity between several villages before authorization.
- Village councils are body corporate and can sue and be sued, hold bank accounts. Thus Natural Resource Committees (NRCs), acting as management bodies of WMAs can be companies accountable to village councils as directors and village assemblies as effectively shareholders. This could be the most dynamic CBC structure in Africa.
- Village Councils can propose by-laws to be adopted by the village assembly before approval by the District Council.
- Several village WMAs could combine for specific purposes eg. managing a hunting block.
- Few villages have access to agricultural or livestock extension services. What chance of natural resource and wildlife management extension?
- In direct conflict between pastoralists and agriculturists the former tend to lose out to the latter through incremental advance, lack of recognised tenure and lack of effective associations.
- Security of village access to natural resources is threatened in respect to central government which has powers to issue licences, gazette protected areas and grant rights of occupancy eg. the private sector / government alliance can in certain circumstances be stronger than the government / community alliance.
- District do not, at present, generally have natural resource management committees, which would be a necessary coordinative structure. District has final control over village land but villagers do not have direct access and even full village assemblies often meet rarely.
- Local government is not replicated at regional level. In the past they had supervisory role but this is being dispensed with as too bureaucratic and might be informed of developments only. Should not be part of WMA approval process in any way.

12.3.3 Resource Governance - National Level

- Natural resource management vested in different institutions pursuant of different laws making coordination difficult and coordination at lower levels near impossible.
- Wildlife authority is severely fragmented through several executive arms. Impossible to know for sure who would implement CBC and where. TANAPA claims to have an over-riding interest near parks but historically it has been WD's domain. Would WD give up administration of quotas, licensing hunting and collecting revenue. What does CBC mean for NCA. Community perception is that the "left" and "right" hands of TANAPA and WD are not to the same body.
- There is a sectoral conflict between productive agencies which emphasise development and environmental agencies emphasising conservation. reconciliation unclear at local levels.
- In 1995 government established a portfolio under the Vice President's Office as, being above line ministries, it might have the authority to enforce coordination.
- Consultants informed that VP's office has given a directive that their should be a unified wildlife service organised as a parastatal eg. WD, TANAPA, NCA, TAWICO et al. This could have positive repercussions for CBC programme.
- Although top-down institutions are overstretched customary ones have been undermined.

12.3.4 Institutional Arrangements to Support CBC

- 3 Primary stakeholders: Protected Area Authorities; Rural Communities; Private Sector.
- Communities should be supported to develop Community Based Organisations (CBOs) in order to facilitate their participation in policy estimation, programme planning and project implementation. These could be arranged regionally to facilitate local implementation.
- Tourist companies should be encouraged to develop Tourist associations to foster their participation in policy estimation, programme planning and project implementation. These could be arranged regionally to foster their participation in local implementation.
- CBOs are vital institutions to enable communities to be collectively represented. The prospect of state agencies dealing with communities separately and individually would never create a partnership but would coopt them as mere clients.

- NGOs, as secondary stakeholders, should facilitate the primary stakeholders to implement the spirit and letter of the policy.
- Communities need support in several areas, inter alia: institutional development, capacity building, resource management, establishing joint ventures, lease arrangements, wildlife management planning and monitoring, negotiating with other primary stakeholders (eg. protected area authorities and private sector).

12.4 IMPLEMENTATION RELATED FINDINGS

- The process of establishing a WMA suggested in interviews with WD and TANAPA is long, unnecessary and a negative incentive.
- The process of establishing a WMA suggested in interviews with WD and TANAPA is dominated by the wildlife authorities who would effectively be an interested party and a regulator (player and referee).
- Who is responsible for CBC? The WD or TANAPA or both? Can this work?
- Policy says role of NGOs is to support government but communities and private sector need support to make CBC work. Is this a partnership of equals in any way?
- The important role of CBOs, like Inyuaat e Maa in the MTC, is not mentioned.
- From discussions it appears that TANAPA believe they would own, control and implement the CBC strategy around all national parks. They are not trusted by communities and have no experience in rural development activities.
- The implementation process can completely change policy intent through interpretation.
- The implementation process can either empower communities based on their good intent and build their capacities over time or it can insist on communities developing capacity over a protracted process. The former can build on positive incentives which the latter cannot.
- Past history of land alienation, hunting licences and revenues is extremely negatively viewed by communities who wonder if government supports them. The 18% of total hunting revenue which goes to districts never reaches appropriate villages because WD has not insisted. Hunting has not been transparent, accountable or supportive of CBC.
- Effective implementation given local perceptions and distrust should be based on rapid empowerment and benefit flow followed by capacity building for resource management.

- For communities to establish optimal lease and revenue capture agreements with private sector guidelines should be prepared and training and back-up available.
- Most effective CBC witnessed by consultants, under difficult circumstances was that provided by private sector operators, Dorobo Safaris, who had established lease agreements, benefit sharing, land use planning through resource marketing. This effort seemed more effective than the joint services of TANAPA Community Conservation Service and NGO support to Community Conservation.
- There is a role for a rural development agency which would primarily support communities' desires and aspirations in regard to CBC. Wildlife agencies must accept that their primary goal is wildlife biodiversity and not people and development. There is a difference between conservation-based community development, which communities desire and community-based conservation, which the policy desires.

13.0 GENERAL RECOMMENDATIONS

- The new policy should proceed into implementation phase without delay following an "empowerment" approach in which incentives to manage are put up front in return for communities stated "intent" that they want to manage wildlife.
(national level action)
- Communities should not be expected to prove their "capacity" to manage by having to comply with rigid conditionalities and criteria.
(national level action)
- Government should ensure that incentive to establish WMAs is established early on by ensuring direct and tangible benefits flow early on to villages.
(national level action)
- Government should not insist on authorising only villages "granted" title under land legislation but recognise "deemed" title and empower Village Assemblies and their Councils through Local Government legislation.
(national level action)
- Wildlife Division must clarify the TANAPA's role in CBC.
(national action)
- Wildlife authorities should not attempt to become rural development extension agencies because they do not have the experience or capacity and because it will cause a role conflict in their mandate.
(national and regional level action)
- A forum for government, community and private sector should be established to develop partnership approach and general guidelines.
(regional level action)
- A collaborative group of government, CBOs and NGOs and private sector should be established to design an implementation plan, programme and suite of projects.
(regional level action)

13.1 SHORT TERM RECOMMENDATIONS TOWARDS CBC

- Promote awareness of legal rights for the communities and other stakeholders.
- Provide legal backstopping in interpreting different laws governing natural resource utilization and/or management.
- Foster agreements between communities and others on natural resource management and benefit sharing. It should be noted that emphasis had been put in this sturdy on community agreements because they are the most critical ones.

Guidelines for mutual agreements could include the following:

- Agreements should be styled as joint venture agreements. The advantage of that is the equitable distribution of benefits and obligations between the parties.
- Community must have a lucid understanding of what a joint venture is and be able to choose their own objectives.
- All parties to the agreements must be on equitable bargaining terms and with full understanding of existing legal rights of all parties, adequate information, ecological or otherwise, about the area under negotiation and its issues.
- All parties must enter into the agreement with informed consent and notice must be issued to all affected parties
- Equity to be ensured in sharing the benefits from joint venture activities. Preferably a formula for allocating profits amongst partners should be devised. In addition, and inbuilt mechanism should be provided to ensure periodic review of the agreement if need be.
- Specify how the money accrued from subleases, hunting fees, forest access, bed night fees etc. could be divided. Preferably, this money could be used for development projects in the community. Safeguards should be put to ensure sustainability of the resources
- Provide for as far as possible for employment, education and training of members of the community in natural resource management, micro enterprise development, tourism etc.
- Provide for a simple, institutionalized and judicious system of resolving disputes arising out of the agreements.
- The objects of the agreement must be clearly defined and community partners must be secured.

13.2 GUIDELINES FOR BY-LAW MAKING

Guidelines for by-law making might include, but not limited to the following:

by laws must be implementable/enforceable i.e. :

- should name authorized officers, their powers and duties;
- give the public powers of enforcement through public interest litigation or otherwise;
- require cooperation among stakeholders

Must reflect the will of the people/stakeholders.

Provide for on going voluntary public participation in terms of:

Adequate notice of administrative decision:

- opportunity to be heard;
- the right to appeal if aggrieved by decision of administrative authority,

Assure transparency in decision making bodies wildlife resources

Delineate the institutional arrangements and provide (if necessary) for advisory bodies/committees. (especially in allocating hunting blocks)

Provide for integrated land use planning

Provide for:

- general prohibitions on unsustainable natural resources use
- regulatory controls through: general regulations and /or license/permit conditions.
- environmental Impact Assessment regulation tailored for Migration Corridors and buffer zones

13.3 GENERAL RECOMMENDATIONS ON NATIONAL LEGISLATION

Provide oversight mechanisms through:

Legal requirements that all government decisions and plans affecting natural resources are made public except in special and limited circumstances.

Provisions for citizens rights to challenge the government if it fails to uphold its statutory duties, e.g. failure to properly manage natural resources, enact management plans, regulations etc.

Legislate an Environmental Impact Assessment process at national level so as to create opportunity for cross sectoral and multi-disciplinary input into decision making.

Enact a national process for collaborative natural resources management.

Give legal status to migration corridors and Buffer zones as required by the Land Policy

Establish Wildlife Management Areas as required by the Wildlife Policy

Amend all legislation and policy provisions, which hinder CBC

Make general land use plan for the migration corridors and specific land use plans for the Districts and villages in those areas. Assist in the establishment of Land Advisory Committees as provides under he Land use Planning Commission Act other committees for purposes of protection natural resources at village level.

13.4 MEDIUM TERM RECOMMENDATIONS TOWARDS CBC

Strengthen ward tribunals and Primary Courts by providing them with facilities. These are the major interpreters of village and District by-laws.

Secure access of common property resources by giving certificates of village land to those resources as provided by the National Land policy. Further facilitate and foster local initiatives to regulate certain resources (e.g. village forestry, water resources, wildlife etc.) This might also entail bringing together groups of local stakeholders to explore potential of legal- based management (e.g. through; watershed protection committees, forestry protection committees, buffer zones management committees etc.)

Education/Sensitization throughout the legislative process is vital if the laws are to function. In addition, education and training of stakeholders in concepts of democratic decision making, legal rights and duties, agreement formation and participatory rural appraisals are essential. This should include on going sensitization of legislators at all levels regarding use and necessity or different types of collaborative management structures.

13.5 LONG TERM RECOMMENDATIONS TOWARDS CBC

Development a specific policy for buffer zones and migration corridors' ecosystem, which will guide decision-makers. The policy should aim at, among other thing, developing guidelines for community natural resource management

Legislate the provision of the National land policy that land encompassing wildlife corridors will be given legal status and streamline the process of issuing hunting licences.

Ensure participation of all stakeholders through the process of commenting on management plans and decisions and be able to challenge them through administrative bodies or courts of law.

Streamline institutional pluralism in land administration, which tend to augment land disputes in the study area.

Establish environmental funding/trust mechanisms, which will ensure equitable distribution of economic benefits.

13.6 RECOMMENDATIONS FOR FUTURE TECHNICAL SUPPORT AND INTERVENTIONS

Recommendations given herein above are geared towards contributing to the development of a strategy for integrated natural resource management in the Study Area to manage natural resources, conserve biodiversity and achieve socio-economic development. These recommendations are to provide and input to a process of integrated natural resource management through:

Development of a strategy for collaborative management of the Study Area.

Provision of legal backstopping in bylaw making, drafting of joint venture agreements and their enforcement.

Training of stakeholders in management skills and provision of extension services

Assist in the establishment of WMAs

Provide necessary funding for the implementation of the above.

ANNEX I

A COMMUNITY GUIDELINE TO THE 1998 TANZANIAN WILDLIFE POLICY

(All reference numbers in brackets relate to the relevant section of the Wildlife Policy Document to make for easy reference)

2.1 Mission and vision

Amongst other things the policy says it will:

- Involve all stakeholders in wildlife conservation and sustainable utilisation, as well as in equitable sharing of benefits.
- Promote sustainable utilisation of wildlife resources
- Contribute to poverty alleviation and improve the quality of life of the people of Tanzania

2.2 (2.9) Problems facing the wildlife sector

Amongst other things the policy says the wildlife sector has not developed because of the following constraints:

- failure of wildlife conservation as a form of land use to compete adequately with other forms of land use, especially to the rural communities
- loss of wildlife habitat to settlement, agriculture, grazing, mining and logging due to human population increase
- inadequate financial and human resources to enable the government to devolve wildlife management responsibilities to the rural people countrywide
- The existing land tenure system and the wildlife resource ownership by the State, hinders investment in , and the development of the wildlife industry by private sector
- Inadequate wildlife use rights especially to the rural communities

In recognition of the above constraints the government will access user rights to various stakeholder by, among other things:

- Developing and enabling legal, regulatory and institutional environment for rural communities and private sector to participate in wildlife conservation (underline added).

2.3 (3.1) Challenges facing the wildlife sector

The new wildlife policy plans to address the following challenges, amongst others:

- to promote the involvement of local communities in wildlife conservation in and outside the protected area network
- to integrate wildlife conservation with rural development
- to foster sustainable and legal use of wildlife resources
- to ensure that wildlife conservation competes with other forms of land use
- to enhance the recognition of the intrinsic (not only money) value of wildlife to rural people
- to minimise human-wildlife conflicts wherever they occur

2.4 (3.2) Objectives for the wildlife sector

(3.2.1) On Wildlife Protection

Amongst other things the policy says:

- to promote the conservation of wildlife and its habitats outside core areas (national parks, game reserves, Ngorogoro Conservation area) by establishing Wildlife Management Areas (WMAs)
- to transfer the management of WMAs to local communities thus taking care of corridors, migration routes and buffer zones and ensuring that communities obtain substantial tangible (real) benefits from wildlife conservation

(3.2.2) On Wildlife Utilisation

Amongst other things the policy says;

- to promote the use of protected areas (PAs) so as to provide government revenue, employment, income, food and other benefits to Tanzanians; especially the rural communities.

- to ensure that wildlife is appropriately valued in order to reduce its illegal offtake and encourage its sustainable use by rural communities.
- to create an enabling environment which will ensure that legal and sustainable wildlife schemes directly benefit local communities.

2.5 (3.3) Strategies for protecting biodiversity

The ultimate goal of the protected areas network is to create a series of viable conservation areas which include a representative sample of all important habitats and viable populations of all species with particular reference to those that are threatened and endemic (only found in) Tanzania.

Amongst other things the strategy says:

- (3.3.1) establishing a new category of protected area to be known as Wildlife Management Area (WMA) for the purposes of effecting community based conservation⁴²

2.6 (3.3.2) Strategies for protecting wildlife against illegal use

Amongst other things the Wildlife Policy states it intends:

- establishing effective informer networks and intelligence basis at local and national levels.
- Cooperating and enrolling the good will of rural communities.
- Devolving responsibility for containing illegal use of wildlife in WMAs to rural communities.
- Training and supporting village wildlife scouts to protect wildlife resources under their control in the context of community based conservation (CBC).

2.7 (3.3.3) Conserving and managing biological diversity

The overall objective of Tanzania's protected area (PA) network is, amongst other things, to:

- create opportunities and a conducive environment for human communities to access natural resources for the enhancement of rural development.

⁴² The use of the term protected area in connection with the WMA approach is of some concern here as PAs have traditionally been associated with non-consumptive use and with government control. This is in contradiction to the fundamental idea of WMAs being zones for sustainable use under community control. Communities should clarify this as it provides a possible basis for government to extend their control over community land use.

2.8 Strategies for conserving and managing wildlife resources

Amongst other things by:

- administering wildlife by conserving core wildlife species habitats including wetlands through wildlife authorities and devolving (passing down to) management responsibility of the settled and areas outside unsettled protected areas to rural people and the private sector.
- promoting the involvement of stakeholders in setting aside protected areas and protected areas management planning initiatives.
- allowing rural communities to receive benefits from community based conservation (CBC) schemes.
- Ensuring effective partnerships with rural communities and the private sector outside protected areas and providing those rural communities with direct and indirect benefits from wildlife utilisation.

2.9 (3.3.4) Strategies for ensuring that wildlife conservation competes with other forms of land use

Amongst other things by:

- involving rural communities and other stakeholders in taking joint responsibility for the sustainable management of wildlife and other natural resources.
- including a wide range of activities which build trust between protected area managers (eg. Wardens) and rural communities and creating awareness of indirect and direct values of wildlife and natural resources.
- providing technical advice to village natural resources committees and training village scouts to ensure the success of community-based conservation.⁴³
- encouraging rural communities to establish Wildlife Management Areas in such areas of critical wildlife habitat, with the aim of ensuring that wildlife can compete with other forms of land use that may jeopardise wildlife populations and movements.
- conferring user rights of wildlife to the landholders to allow rural communities and private landowners to manage wildlife.

⁴³ The mention of village natural resources committees is the first reference to the local management unit which the policy expects. In regard to village scouts communities must ensure that these are accountable to the village committee and not TANAPA or WD. Therefore, the village must pay the scout not the PA authority.

- assisting wildlife ranchers and farmers to become eligible for the same benefits and incentives that the agricultural farming and livestock industry receive from the government.⁴⁴

2.10 (3.3.5) Strategies for integrating wildlife conservation and rural development

- promoting the legal use of wildlife and its products.
- encouraging the legal and sustainable trade in wildlife and its products from game reserves, game controlled areas and outside protected areas, thus according wildlife a high value, yet promoting sustainable utilisation of the species in which it is appropriate to trade.
- adopting measures that bring an equitable share of revenue from tourist hunting to the rural communities, on whose land the industry is practiced.⁴⁵
- providing the necessary assistance in allocating concessions and setting wildlife utilisation quotas for the rural communities.⁴⁶
- permitting and regulating trade on wildlife and wildlife products.
- compelling licensed dealers to employ casual workers from areas where wildlife utilisation activities are conducted, with the aim of generating local employment and income benefits.
- encouraging ranchers and farmers operating on private or leased land to develop cropping programmes to supply designated markets with meat and trophies.

2.11 (3.3.8) Strategies for recognising and intrinsic value of wildlife to rural communities

- Working in partnership with rural communities.
- encouraging resident hunting which benefits rural communities in WMAs on whose land hunting is conducted.
- permitting communities to hunt in WMAs under community-based conservation (CBC), whose aim is to promote the development of rural communities living close to wildlife.

⁴⁴ This could be an incentive for individuals to attempt to grab land adjacent to protected areas.

⁴⁵ At present communities probably feel most angry on this issue, hardly believing that their own government can virtually steal wildlife from them without the courtesy of any accountability.

⁴⁶ Will Wildlife Division set the quota or provide assistance to communities to do so?

- facilitating the establishment of CBC programmes in WMAs by helping the rural communities to have secure ownership (long term use rights) of their land and enabling them to use the wildlife and natural resources on that land.⁴⁷
- Giving due consideration to collection of natural products inside Game Reserves provided the collection is managed on a sustainable basis with minimal environmental change and without conflicting with the primary aims of managing game reserves (i.e. wildlife habitat, hunting etc)⁴⁸
- enhancing the use indigenous knowledge in the conservation and management of natural resources.
- giving special consideration to traditional hunting methods by specified rural community/ ethnic group.⁴⁹

2.12 (3.3.9) Sharing of benefits

It is recognised that a range of direct and indirect benefits can be derived from wildlife, and that the sharing of revenue is an important benefit. In this respect, various stakeholders in wildlife conservation are recognised as follows:

- rural communities and private landowners, living around (or in the case of Ngorogoro CA, within) protected areas and among wildlife outside them.
- district councils, bearing the opportunity cost of establishing protected areas and providing services to rural communities.
- Wildlife authorities, managing protected areas and providing technical advice on wildlife outside of them.
- central government
- private sector

The policy adopts relative distribution of revenue and benefits to stakeholders which considers their relevant role in different categories of land, the effort invested in conservation of the resource, and the institutional and management costs.

⁴⁷ This is first reference to link between formal land rights and wildlife use rights.

⁴⁸ This would establish the possibility of multiple use access by local communities of natural resources in game reserves (eg. Beekeeping, thatching grass, herbs, fuelwood, building poles, grazing etc)

⁴⁹ This would allow the Dorobo to legally hunt within a traditional relationship with the local Maasai in the Manyara/ Tarangire complex.

Strategies for sharing of benefits

involving various stakeholders in determining distribution of revenue and benefits among themselves.⁵⁰

2.13 (3.3.10) Strategies for regulating and developing the wildlife industry

Amongst several other matters:

- encouraging and promoting game viewing with the appropriate WMAs which could offer a wide variety of recreational (pleasurable) opportunity than are available within protected areas.
- permitting small-scale animal cropping by rural communities practising CBC, ranchers and farmers operating on privately-owned or leased land.

2.14 (3.3.11) Strategies for addressing women and child issues

The policy recognises the role of women and children in the conservation of natural resources and the need for them to benefit by:

- supporting maternal care in villages surrounding protected areas.
- supporting and promoting efforts in providing education to children.
- enhancing women's access to natural resources products in protected areas where appropriate.
- promoting conservation awareness.

2.15 (3.1.12) Strategies for solving human-wildlife conflicts

- Continuing to control dangerous animal species as a matter of priority.
- devolving progressively the responsibility for problem animal control (PAC) to rural communities operating CBC programmes, and continuing to give assistance where rural communities have not developed this capability.

⁵⁰ Obviously important to communities and an issue which should be pursued collectively as well as for specific cases.

- ensuring that those most affected by problem animals are the main beneficiaries of revenue earned from wildlife.

2.16 (3.4) Policy implementation framework

In the Wildlife Policy wildlife is defined as “Those species of Wild and indigenous animals, and their constituent habitats and ecosystems”.

The overall responsibility for the wildlife sector is vested in the Directorate of Wildlife.

A legislative review (WCA [12 of 1974]; NCA Ordinance [CAP 413 of 1959]; TANAPA Ordinance [CAP 412 of 1959; SWRI Act [1980]) is necessary to accommodate proposed strategies related to community participation in wildlife conservation, establishment of WMAs, benefit sharing and wildlife user rights for the communities.

In order to attain its goal the wildlife sector puts emphasis on maintaining and developing the protected area network and involving all stakeholders in the conservation and management of the resource, especially the local communities and private sector. The role of Government focuses on regulating, facilitating and promoting sustainable utilisation of the wildlife resource. The government also acts as service provider in the case of problem animals and extension services to the rural community.

In concluding, the policy states, amongst other things that:

Government will facilitate the establishment of a new category of PA known as WMA, where local people will have a full mandate of managing and benefiting from their conservation efforts, through community based conservation (emphasis added).

2.17 (4.0) Roles of different institutions

The policy says that Government's role in the wildlife sector is to provide clear policy guidelines, stimulate and provide involvement of various stakeholders, manage core wildlife protected areas, retaining ownership of wildlife resources, and see the sectors general development. The government will not engage itself in the business of the wildlife industry, instead it will concentrate its efforts on being the sector's regulator, facilitator and service provider.

The policy then proceeds to say that the role of the private sector and NGOs is to support the government in this endeavour. This is a very weak statement. It makes no reference to the fact that NGOs and the private sector might support communities directly in establishing WMAs. Also does the comment that government will not be involved in the business of wildlife mean that the Wildlife Division is about to give up managing the hunting industry and

disband TAWICO forthwith. As a service provider the policy says that government will establish extension services in rural communities.

In regard to the role of the public the policy says that rural communities living adjacent to PAs or in areas with viable populations of wildlife have a role of managing and benefiting from wildlife on their own lands, by creating WMAs.

2.18 (5.0) Definitions

- **Authorised Associations** means villages, individual groups and designated organisations given the authority to manage wildlife outside of National Parks, Ngorogoro Conservation Area and Game Reserves.
- **Community-Based Conservation** means conservation of resources based on the participation of the local communities.
- **Concession** means an agreement entered between a group of people, corporation, parastatal, or person and the Wildlife Authority or Authorised Association to put to use a designated piece of land, for a short period (not more than ten years) for conservation purposes.
- **Corridors** means areas used by wild animals when migrating from one part of the ecosystem to another in search of basic requirements such as water, food, space and habitat.
- **Dispersal Areas** means areas adjacent to or surrounding protected areas into which wild animals move during some periods from the protected areas.
- **Lease** (as in land act 1997) means an agreement entered between a person, group of people, corporation or parastatal organisation and the Wildlife Authority or Authorised Association to put to use a certain piece of land for a long period of time.
- **Natural Resource Committee** means a village government committee which oversees and coordinates natural resource conservation on village land.
- **Wildlife Management Area** means an area declared by the Minister to be so and set aside by village governments for the purpose of biological natural resource conservation.⁵¹

⁵¹ The issue of whether a WMA is the whole village area or only that part of the village set aside by the village specifically for conservation and sustainable use needs to be clarified. For pastoral people the whole rangeland would be set aside, as it already is, for a multispecies production. The only difference is at present the pastoralists bear the

cost of the wildlife and receive no benefit whereas through being authorised as an WMA they would receive the benefit.

