



Securing Communal Land Tenure in Northern Tanzania Using Certificates of Customary Right of Occupancy

Key Messages:

- Pastoralists and hunter-gatherers face serious threats of land loss due to a lack of tenure security over lands used communally for livestock grazing or other natural resource uses.
- A Certificate of Customary Right of Occupancy (CCRO) is an effective tool for strengthening community land rights and securing communal lands provided for under the Village Land Act, but which has previously not been widely used to secure communal lands.
- Use and implementation of the CCRO model should be expanded, especially across Tanzania's rangelands, to reduce conflicts over land, promote equal access and ownership, and secure communal rights to land over the long-term as the basis for pastoralist livestock production and land management systems.
- Increased awareness, investments and information exchange is needed to test out, strengthen and expand the collective CCRO model.

Communal lands are central to the livelihoods of many Tanzanians, particularly to pastoralists and hunter-gatherer groups. But a number of factors can undermine the security of these lands remaining 'communal,' in turn threatening the livelihoods of many people and cultures. This brief sets out a new mechanism for strengthening community land rights by securing local tenure through acquiring a Certificate of Customary Right of Occupancy (CCRO). It describes the legal basis and process under this mechanism and provides recommendations on ways to mainstream this tool for the benefit of different public and private actors.¹

Land and Pastoralists

Increasing agricultural and commercial land values, deteriorating quality of governance, and a growing human population are all factors contributing to heightened pressures on community lands and an increasing level of rural land tenure insecurity in Tanzania as well as in much of eastern Africa today. Such pressures are resulting in widespread conflicts, including outbreaks of violence between competing groups of people,² as well as a deterioration of livelihoods and cultures that are closely tied to land.

Pastoralist communities are particularly vulnerable to land loss and expropriation, especially those in northern Tanzania that practice seasonally mobile livestock production.

This is because these pastoralists often live in areas of high natural resource value, with wildlife, forests and water resources; their seasonal grazing patterns can lead to the misperception that their community land is 'unused' and thus available for alternative purposes. In addition, pastoralists are socially and politically marginalized across Tanzania as a whole. For these reasons, land rights – and in particular tenure over communal grazing areas – have been a major concern and are the subject of much organized policy engagement and advocacy throughout Tanzania's modern history.

Yet despite many concerted efforts to strengthen communal land tenure – from advocating for improved policies at national level to seeking formalized rights at the community level – tenure security is more concerning than ever. In response to this, starting in 2011, the Ujamaa Community Resource Team (UCRT) worked with local communities, district officials and the Ministry of Lands to pilot a different, and stronger, mechanism to secure communal land rights: a group Certificate of Customary Right of Occupancy (CCRO).³ Since then, eight CCROs have been obtained – the first group-CCROs ever issued by the Ministry of Lands under Tanzania's Land and Village Land Acts. These pilots provide an initial demonstration of the effectiveness of this legal tenure instrument. Scaling up this approach across northern Tanzania could be key to protecting and strengthening livelihoods and cultures facing growing threats.

Looking Back: Rethinking Communal Land Tenure Mechanisms

The land reforms of the 1990s – specifically the Land Act No. 4 and Village Land Act No. 5 of 1999 – attempted to strengthen community rights over land by clearly recognizing rural communities' customary rights to use and manage their land. The Village Land Act designated Village Councils as managers of "Village Lands" – the lands within the boundaries of a registered village – who are accountable to the Village Assembly⁴ for land use and allocation decisions.

¹ - This brief is based on the work of UCRT, and was co-authored by Edward Lekaita, UCRT Legal and Advocacy Officer, and Fred Nelson and Jessie Davie of Maliasili Initiatives. Fiona Flintan and Chira Schouten provided helpful reviews of an earlier version of this brief.

² - Violence in Kiteto District in 2013 is an example of these types of land conflicts <http://farmlandgrab.org/post/view/20120-concern-over-rising-number-of-land-disputes-in-tanzania>

³ - Group CCROs have also been piloted during a similar period of time by the Sustainable Rangelands Management Project (SRMP).

⁴ - Village Assembly

The Village Land Act also charges Village Councils, subject to the approval of the Village Assembly, with zoning lands into shared communal lands, for example rangelands and village forests, and individual lands used for farms and settlements. Boundaries of Village Lands are documented through Certificates of Village Lands issued by the Ministry of Lands.

Based on these reforms, efforts over the past 15 years to strengthen local communal land tenure in pastoralist areas have focused on two basic strategies:

- 1. Obtain authority and rights at local level** - To clarify the authority of Village Councils over village land by defining boundaries and facilitating the issuance of Certificates of Village Lands by the Ministry of Lands.⁵ This provides clarity and documentation on the area of land classified as Village Land and under the management of a given Village Council and Village Assembly, helping enable the village to prevent encroachment and alienation.
- 2. Designate and formalize 'communal' lands through village land use plans** - To facilitate village-scale land use plans that are legally supported through village by-laws. Land use plans provide clear boundaries to communal lands, and thus enable Village Councils and community members to protect communal lands from encroachment, or subdivision.

In recent years, a number of constraining factors have led some activists and community members to rethink this model and develop new strategies to secure communal lands for pastoralists and other vulnerable communities, particularly hunter-gatherers. Such factors include shifting community demographics and interests; social and economic changes; growing external commercial pressures and demand for land; and human population growth, all of which have created more pressures on community lands and communal land holdings (see Box 1 for the Hadzabe example). In some cases, Village Councils have excised areas designated as communal grazing in land use plans, and allocated them for individual use.

Box 1: Securing the Traditional Lands of the Hadzabe

"We have resolved that the Hadzabe should be given official title deeds to ensure that the country's last hunter-gatherers are not troubled by land-hungry-invaders particularly in the wake of scramble for land."

-Ms Dorothy Wanzala, the Assistant Commissioner for Land in the Northern Zone
(The Guardian, Tanzania, October 30, 2011)

Mongo wa Mono village (now split into Mongo wa Mono and Domanga villages) in northern Tanzania contains the last significant area of land for East Africa's – and in many respects the world's – last remaining 'first people', the Hadzabe hunter-gatherers. The village was formed specifically to give the Hadzabe control over village land, enabling them to use and manage the land in a way that supports their livelihood and culture. But over the years outsiders moved in, encroaching upon this Hadzabe-dominated village, and in 2009 the majority of representatives on the Village Council were non-Hadzabe. This shift presented a very real threat that lands originally secured for the Hadzabe in village land use plans and by-laws could instead be allocated to individuals for other purposes, such as farming. Without being able to maintain majority representation on the Village Council, the Hadzabe were faced with the reality of having limited say or authority to make those critical decisions about land use.

To find a solution to this significant potential threat, UCRT worked with the Hadzabe and the Ministry of Lands to secure the first-ever group CCRO. The CCRO, which dedicates approximately 20,000 hectares of village land as a Hadzabe conservation zone, secures Hadzabe communal rights to live on, manage and use their ancestral lands in perpetuity.

Another factor that has created challenges is the new legal and regulatory framework for land use planning provided by the Land Use Planning Act of 2007. This legal framework prescribes a number of additional steps and formal requirements for the registration and approval of land use plans, making the process more expensive and time-consuming than the more streamlined process of land use zoning described in the Village Land Act. As a result of these changes, although participatory land use planning per se remains a key process for determining the extent of communal and individual land areas within Village Lands, land use plans have become more costly and time-consuming to facilitate. This can slow down the actual securing of rights over land, which is urgently needed as pressures and interests over land increases.

As a result of such changes, organizations such as UCRT have sought new mechanisms to augment and complement the past focus on obtaining Certificates of Village Land and facilitating participatory land use plans. The major advantage of the group CCRO is that it serves as a customary group 'title' to a defined communal land area, which makes it a stronger and less easily subdivided tenure instrument than the communal land designations under a land use plan.

The Communal CCRO: Legal Basis and Process

Tanzanian law provides two basic frameworks for both individuals and groups to secure their land tenure. The first is a statutory or Granted Right of Occupancy, which the Land Act defines as 'General Lands'. Most private lands and land in

urban areas are held under such rights. The second, which is what the majority of land in Tanzania is subject to, is Customary Rights of Occupancy, which are rights exercised through the organs of local governance administration, namely Village Councils and Village Assemblies. Customary lands are defined as 'Village Lands' in the Land Act, and the Village Land Act provides the legal basis for management and governance of these lands. Village lands held through customary rights of occupancy may be apportioned to individuals or groups through Certificates of Customary Rights of Occupancy (CCROs), which effectively formalizes their rights to that land.

Typically CCROs have been issued to individuals in Tanzania, as the CCRO is basically the legal framework for individuals living in a village (including in peri-urban areas) to document and formalize their land holdings.⁷ Until 2011, when UCRT began their pilot work with the government and local communities, CCROs had not been issued to groups of people to formalize their rights to communally held and managed land, even though this opportunity exists as a legal mechanism. It was quickly realized that this approach is in fact a valuable tool for strengthening land tenure, especially for pastoralists and hunter-gatherers, because the procedure for obtaining a CCRO is a relatively fast and straightforward way to secure group rights to land, and because a CCRO can be issued to minority group, which is often vulnerable to land grabs and competing interests.

The law provides for two different categories of 'groups,' which are eligible for a group-CCRO – a registered group (e.g. a formalized trust, society or community based organization) and a traditional institution (e.g. Maasai traditional elders, 'Ilaigwanak'). In addition, the law makes room for recognizing a group that may be an 'exception' to these categories (e.g. an extraordinary 'customary' group, such as hunter-gatherers).

A group Certificate of Customary Rights of Occupancy (CCRO) is a strong legal instrument that secures community rights over land.

Figure 1: Steps for Obtaining a Group CCRO

Clear Boundaries

Village must agree upon defined boundaries with their neighbors

Certificate of Village Land

A Certificate of Village Land is processed with a sketch map describing the size of the village and other defining features

Basic Land Use Plan and By-Laws

A village must have agreed upon boundaries through a village land and zoning process, and by-laws must be passed at Village Council, Assembly and District

Groups Apply for CCRO

Groups apply to the Village Council for the issuance of a CCRO

Village Council Approval

Village Council has 90 days to authorize issuance, after which approval is sought by Village Assembly

If Land is More Than 250 Hectares...

Consent from Ministry of Land

If land under CCRO is more than 250 hectares (the legal amount a village can approve), then it is required that the Ministry of Land, through the Commissioner of Land, provides consent

District Authority Review

The District Authority is responsible for sending a team of experts to set beacons and demarcate the land using a sketch map, which is inserted into specific form No. 19 under provision of Village Land Act 1999

Issuance of CCRO

A CCRO is prepared, signed by all relevant authorities and then handed to the owners/representatives of the 'group.'

A CCRO promotes equality by protecting the interests of an entire group. Thus it strengthens the rights of vulnerable people, women, children and other minorities in a community who share and depend on communal land and its resources.

"In some instances hunter-gatherers may not constitute the number required by law to form a village as they are a numerical minority. Nonetheless, in 2011 the Hadzabe were granted a Collective Community Land Certificate without necessarily meeting the required qualifications."

- Ambassador Ramadhan M. Mwinyi, Deputy Permanent Representative of Tanzania to the United Nations, during the 12th Session of the Permanent Forum on Indigenous Issues, May 23, 2013

⁵ - See for example: http://www.cordstz.org/cords_images/OPTIONS_STUDY_REPORT-FINAL-Mattee-11_03_08.doc

⁶ - For a review of UCRT experiences with participatory land use planning, see: <http://pubs.iied.org/pdfs/14608IIED.pdf>

⁷ - Some initiatives, notably MKURABITA (The Property and Business Formalization Programme, or Mpango wa Kurasimisha rasilimali na Biashara za Wanyonge Tanzania) have focused on the issuance of CCROs to individuals and have attempted to carry this out at significant scale.

Expanding this Model

As pressures for lands across Tanzania increase and as fragmentation of rangelands continues to take place, avenues to secure rangelands and communal lands for pastoralists and for Tanzanians more generally are needed. Group CCROs vested in the community, or particular portions of village communities, are an effective tool that will provide greater level of permanence to collective land use designations and uses, and thus security for communal tenure. Initial evidence also suggests that group CCROs may be a relatively cost-effective instrument for enhancing land tenure security for entire communities and landscapes. As CCROs are scaled up, they can also be developed as a key component of broader landscape planning and management efforts, coordinating a mosaic of group-CCROs to protect shared grazing areas and other resources across multiple adjacent villages.

To scale up this model, we recommend the following actions:

- Increase Awareness – Government agencies (led by the Ministry of Lands), civil society organizations, local government officials, and development partners and funders should work to increase awareness among different actors, including local communities and district land officers, about the potential value of CCROs for communal land tenure security and about the process involved in obtaining CCROs.
- Prioritize CCRO Issuance in Heightened Land Conflict Areas – Issuing CCROs should be prioritized by policy makers and government administrators in areas currently subject to high levels of conflict around land use and tenure. For example, areas that lack secure communal grazing lands, such as in Loliondo and Kiteto, would benefit from CCROs so that clear and permanent tenure over communal lands is established.
- Strengthen this Model Through Information Sharing – Lessons and experiences about implementing group CCROs should be shared between different organizations and projects to raise awareness about this model, promote best practices, identify and address challenges and limitations, and find ways to strengthen the procedural framework for facilitating CCROs. These experiences should be used to inform current efforts to strengthen land tenure, land use, and transparency around land investment in Tanzania.

Box 2: Common Questions and Answers About CCROs

How does a CCRO prevent sale or alienation of land? It is highly unlikely for land secured under a group CCRO to be traded or sold, because such transactions can only occur if an entire group agrees with it. Individuals who are selected as trustees of a CCRO on behalf of others do not have any legal rights to deal with land against the wishes of the entire group. The collective nature of the CCRO makes it very difficult for the CCRO to be subdivided, providing an additional layer of tenure security to what can be provided through Certificates of Village Lands or land use plans.

Can a CCRO be dissolved? Yes. Just like a Granted Right of Occupancy can be dissolved through Presidential order, a CCRO can also be changed and converted into any land category. Each certificate of land ownership is usually issued with conditions, and if any of the conditions is violated then it forms the basis for any certificate to be dissolved or revoked by the relevant authorities – a CCRO is no exception.

Can land be used for a different purpose once a CCRO is granted? No. As mentioned above, like any land certificate, land granted as a group CCRO must adhere to the conditions of that certificate, including for specific land uses. For example, land issued as communal “grazing” land cannot be used for agricultural purposes without seeking approval from relevant authorities of a new or amended CCRO.

What are the tax implications of a CCRO? Just like anyone who does business, if a group with a CCRO is conducting business on that land, then they are subject to paying taxes. This is usually outlined in village by-laws, which must adhere to national and district tax regulations. In addition, like with any land certificate, conditions may be attached to a CCRO that subject it to taxes even if it is not conducting business, but these conditions are agreed at the outset.

What period of time is a CCRO granted for? CCROs are often granted for life, which is one of its greatest advantages in comparison to other land tenure mechanisms.

“ This CCRO will go far in minimizing land disputes related tension among the different land users.”

- Anatoly Choya, Mbulu District Commissioner, speaking at a ceremony where 36,000 hectares across three pastoralist villages in the Yaeda Valley were granted CCROs (The Guardian, Tanzania, June 24, 2012).



The Ujamaa Community Resource Team works with approximately 60 pastoralist, agro-pastoralist and hunter-gatherer communities in northern Tanzania to support sustainable natural resource management, including a focus on strengthening land rights and local capacity for natural resource governance. Since the 1990's, UCRT has used a wide range of legal and institutional measures to secure pastoralist lands and resources.

Maliasili Initiatives is a non-profit organization that supports the growth, development and performance of leading civil society organizations and social enterprises working to advance sustainable natural resource management practices in Africa. Through long-term and adaptive organizational development services, targeted bridge financing, and technical expertise, Maliasili Initiatives is helping our partners achieve their full potential and scale up their impact – for people and nature.