SECURING COMMUNAL LAND TENURE THROUGH
CERTIFICATES OF CUSTOMARY RIGHTS OF OCCUPANCY IN TANZANIA

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Abstract

This paper provides a detailed account of how the Ujamaa Community Resource Team (UCRT) has worked with local communities and several levels of government in the United Republic of Tanzania in East Africa to secure land-tenure rights for community groups by helping them acquire Certificates of Customary Rights of Occupancy (CCROs). It shows how vulnerable groups of pastoralists and hunter-gatherer that depend on natural resources for their livelihoods could be assisted in using mechanisms and opportunities offered by the legal framework in the country. UCRT accompanied several such groups through the process of securing communal land-tenure rights by means of ‘group CCROs’, building on participatory land-use planning grounded in the national policy and legislation governing land tenure and Local Government Authorities. This process is anchored on the Village Land Use Plans (VLUP) of local government legislation (mainly the Local Government Act of 1982), which enables village governments to pass local by-laws that recognize, protect and respect the developed village land-use plan to its subordinates. The paper describes the procedures to acquire CCROs and points to the effectiveness of this approach to ensuring land-tenure security as an important step toward reducing poverty among rural people in Tanzania.

**Key Words:** common property resources, community land tenure, indigenous peoples, participatory approaches
Introduction

Communal lands are central to the livelihoods of many Tanzanians, particularly to pastoralists and hunter-gatherer groups that depend on natural resources for their livelihoods. But a number of factors can undermine secure access to these communal lands and threaten the lifeblood of many people and cultures in the country. This paper describes a new mechanism for strengthening community land rights by securing local tenure through acquiring a Certificate of Customary Rights of Occupancy (CCRO). It explains the legal basis and process under this mechanism and recommends to mainstream this approach for the benefit of both public and private actors in Tanzania. The paper is based on the experience of the Ujamaa Community Resource Team (UCRT) in securing the land rights of pastoralist and hunter-gatherer groups by helping them acquire a legal CCRO.

The process of acquiring a CCRO is supported by the legal provisions and policy in Tanzania through the Land Acts of 1999, the National Land Use Planning Act No. 6 of 2007 and the Village Land Act of 1999 (revised in 2002). The National Land Use Planning Commission (NLUPC) produced guidelines for Participatory Land Use Planning (PLUP) and has itself carried out land-use planning activities at the village level in many localities.

These activities in securing communal land-tenure rights in Tanzania are based on a Legal Framework for Participatory Land Use Plans grounded in the national policy and legislative framework governing land tenure and Local Government Authorities (LGAs). This is anchored on the Village Land Use Plans (VLUPs) of local government legislation (mainly the Local Government Act of 1982), which enables village governments to pass local by-laws that recognize, protect and respect the developed village land-use plan to its subordinates.

The Village Land Act No. 5 of 1999 (revised in 2002) requires villages to allocate land to individual and communal categories, as well as to designate some land as areas set aside which will be allocated as individual or communal areas at a later time. It therefore provides a relatively secure tenure framework for communal land uses such as pastures and forests, as well as specific requirements for basic land-use planning and zoning. The Village Land Act and Land Use Planning Act allow the Village Councils to conduct a PLUP at village level and charge it with securing “orderly and environmentally sustainable development in the village.”
Rural Economic Activities and Demands for Land

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 insecurity in rural land tenure in Tanzania, as in much of eastern Africa. Such pressures are resulting in widespread conflicts, including outbreaks of violence between competing land-user groups, as well as a deterioration of livelihoods and cultures that are closely tied to the land.

Rural communities face numerous threats from outside interests seeking to take control over their lands and resources. Pastoralist and hunter-gatherer communities are particularly vulnerable to land loss and expropriation, especially those in northern Tanzania that practice mobile systems of livestock production. These groups often live in areas of high natural resource value, with wildlife, forests and water resources, and their seasonal use of pastures can lead to the misperception that their reserved grazing areas are ‘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 of mobile peoples – 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.

During the course of the past decade, the Ujamaa Community Resource Team (UCRT), a non-governmental organization (NGO) in northern Tanzania, has collaborated with other NGOs and with government officials at district and regional levels in Tanzania in helping many grassroots communities secure their land tenure and improve their livelihoods and their capacity to govern their resources. Local-level governance is a critical issue, as local leaders who do not follow transparent decision-making procedures undermine communal plans and rules. Strengthening the capacity of the entire community to hold leaders accountable and to ensure that governance decisions are made in a transparent and participatory way has emerged as a central challenge in UCRT’s work, and to the sustainability and effectiveness of the PLUP process.

The Process of Acquiring CCROs

The CCRO process (see Figure 1) involves demarcating the communal grazing areas, training sessions, and formalization of secure land rights. The actors involved are the National Land Use Commission; the Ministry of Land, Livestock and Fisheries; the Zonal Land Commission; Regional land surveyors;
District land officers; representatives of NGOs; Village Councils (VCs), traditional leaders, Village General Assemblies (VGAs), Women’s Rights and Leadership Forums (WRLF) and CCRO Committees. 

(Place Figure 1 approximately here)

The CCRO Committee is nominated by the VC and approved by the VGA. Special training was given to the communities on gender inclusiveness in land issues. This led to full involvement of women in the process of securing land tenure and managing the communal areas. The communities elected women as members of the CCRO governing bodies, and women are involved in all decision-making at local level. In the villages where UCRT has worked with local communities, each CCRO Committee is composed of 12 members: six women and six men. Three of the 12 people (two men and one woman) are signatories of the certificate on behalf of the community.

With UCRT’s assistance, the communities were able to carry out successfully all the processes shown in Figure 1, dealing with the District and Zonal Land Commissions. This work has been fully supported through legal frameworks and the processes of certification of customary rights of occupancy, and was exercised through the organs of local governance administration, namely VCs and VGAs. Customary land-use areas are defined as ‘Village Land’ in the Land Act, and the Village Land Act provides the legal basis for management and governance of these lands. At the grassroots, district and national level, the role of the CCRO Committees in managing these lands on behalf of their communities is now recognized.

**Piloting the CCRO Process with Groups**

In Tanzania, village lands held through CCROs may be apportioned to individuals or groups. This effectively formalizes their rights to that land. Typically, CCROs have been issued to individuals, as required by the legal framework for people living in a village (including in peri-urban areas) to document and formalize their landholding to date. In 2011, the UCRT started to work with local communities, district officials and the Ministry of Lands to pilot a new, and stronger, mechanism to secure communal land rights: a group CCRO (UCRT 2014). Until then, CCROs had not been issued to groups of people to formalize their rights to land, even though this opportunity exists as a legal mechanism. UCRT realized that this approach is a valuable tool for strengthening land tenure especially for pastoralist and hunter-gatherer communities, because a group CCRO can be obtained through a relatively straightforward procedure – also by minority groups, which are often vulnerable to land grabbing and competing interests.
The law governing CCROs provides for two categories of ‘groups’ that 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’). 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.

It is highly unlikely that land secured under a group CCRO would be traded or sold, because such transactions can occur only if the 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 land to be subdivided, providing an additional layer of tenure security to what can be provided through land-use plans and village land certificates (see examples in Figures 2 and 3, respectively).

(Place Figures 2 and 3 approximately here)

**Case of Securing Communal Land Tenure through CCROs: Hadzabe Hunter-Gatherers**

The Hadzabe are a group of hunter-gatherers who have likely lived in the Lake Eyasi basin for at least 80,000 years. They are one of the original peoples. Despite their long history in the area, they have gradually been displaced: within the last 50 years, they have lost over 90% of their land to other groups that have encroached on the land to practice grazing and farming. To ensure the survival of the Hadzabe, it is essential to secure their land rights and thus protect their livelihoods. When it became clear that the Hadzabe land rights were being severely infringed upon, UCRT began working with the largest remaining Hadzabe settlement in the Yaeda Valley. The Hadzabe and other communities in the area did not know their rights to land in terms of the law and, at the same time, did not have the resources to carry out the long and complicated process of securing village and other land certificates (titles) themselves. Through participatory land-use planning, lobbying and advocacy, UCRT was able to help the Hadzabe secure rights to Mongo wa Mono, the only village with a Hadzabe majority in Tanzania. UCRT assisted the community in developing a land-use plan and village by-laws.

UCRT then worked with local communities, district officials and the Ministry of Lands to pilot group CCROs. It assisted the Hadzabe to apply for a communal CCRO in each of the modern villages that cut across their ancient domain. UCRT’s work with the Hadzabe has been extremely successful, culminating in obtaining the title deeds for the Hadzabe’s customary rights of occupancy for over 46,320 hectares.
UCRT also worked with pastoralists in the area to secure access to and protection of their grazing areas through obtaining CCROs. Pastoralist communities have thus legally secured their communal land. For local enforcement and accountability in managing the communal grazing areas, communities have developed their own protocols such as by-laws and memoranda of understanding (MoUs) for cross-border resource use of the communal areas. Making MoUs is meant to ensure that traditional mechanisms between pastoralist communities such as mobility, reciprocity and sharing of common natural resources (e.g. salt licks, water) are maintained. After the clear demarcation and titling of the land, overt conflicts between crop farmers and pastoralists declined.

The legal certification of Hadzabe land through CCROs opened up an opportunity for the Hadzabe community to benefit additionally from carbon payments for conserving their woodlands. This became possible through collaboration with Carbon Tanzania, a local forest carbon project developer that generates and sells certified carbon-offset credits. The partnership between the Hadzabe and Carbon Tanzania, facilitated by UCRT, is working because the interests of each party are closely aligned: Carbon Tanzania’s mission is to promote community-based conservation, and the Hadzabe would like to protect and live in their last remaining wild lands indefinitely. USD 30,000 for sustainably managing their land and forests – this was just the first of what have become regular bi-annual payments.

**Conclusion**

Over the past five years, UCRT has pioneered a unique approach to help highly marginalized groups secure rights to land across northern Tanzania by using CCROs for communal rather than individual rights to land. In the first year, UCRT secured already roughly 20,000 hectares of communal land through this model and, by the end of 2015, had reached 90,000 hectares. It expects to have added another 200,000 hectares by the end of 2016. These were the first group CCROs ever issued by the Ministry of Lands under Tanzania’s Land and Village Land Acts.

During the course of the past decade, UCRT has facilitated the process of developing PLUPs and local governing by-laws in over 86 villages in nine districts in northern Tanzania. These plans help govern the resources on which the over 25,000 people living in these villages depend.

The general land-use planning for local communities provides a specific legal use of land; this process reduces land-use conflicts between pastoralist and other groups such as farming communities, investors and conservationists. Competing interests have led to ‘land grabbing’ and, in some cases, eviction of
customary users of the resources. The PLUP process that engages all stakeholders and leads to acquisition of village land certificates and CCROs has so far served as a strategic and effective tool against alienation of the land, since the use and users of the resources are clearly and legally recognized. The PLUP has had a substantial positive impact on many vulnerable and marginalized communities, as it has strengthened their land-tenure security and regulated resource use in sustainable ways. It has led to a reduction in conflict over natural resources at village level (see Box 1).

Tanzania possesses an exceptionally enabling institutional framework for local communities to collectively secure rights over and manage land and natural resources. The pilots in obtaining group CCROs demonstrate the effectiveness of this new legal instrument. Scaling up this approach across northern Tanzania could be key to protecting and strengthening livelihoods and cultures that are facing growing threats.

Box 2: Local voices about the land-use planning process and outcomes

“For Lendanai Village, this is the third attempt in the struggle to conduct a land-use plan. In the past two attempts, the process failed due to conflict…. For many years, there was a boundary conflict between our village and our neighboring villages. When UCRT came, they provided conflict-resolution techniques that came up with very fruitful results, as it allowed us to secure our land through a Certificate of Village Land. We were able to demarcate our village boundaries and then zone it for the land-use plan. The land-use plan helps us because our grazing areas are now clearly marked, which will help us during times of drought. The by-laws help us protect our plan and the grazing areas, meaning we can stop community members and outsiders misusing land that we rely on in the dry season for our livelihoods. Now we have a Certificate of Village Land and maps and by-laws in place, we can legally defend ourselves against land grabbers.”

Mr Haiyo Yamat, Naberera Ward Councilor

“Grazing CCROs add protection to our grazing areas. The CCROs support communal grazing patterns and all villages with CCROs have drafted a formal grazing agreement to support our traditional grazing practices across our villages. This mobility helps our cattle in the dry season. Without these CCROs, pastoralists would continue to lose the grazing land we depend on for our livelihoods.”

Mr James Gejaru, Chairman, Mureru Village
“Drought has become a major threat to our livestock and environment, the trainings on drought resilience and contingency planning enabled us to establish by-laws that govern the use of the grazing areas. The ecosystem of our seasonal grazing areas improved. The protection of our grazing areas has supported families in our village to reduce death of livestock.”

Mrs Margret N. Moisari, Sukuro Village

Source: UCRT Annual Narrative Report 2016

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(Source: UCRT, 2014)

Figure 2: Namalulu participatory land-use plan map

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Figure 3: Engaresero Village Certificate of Customary Rights of Occupancy (CCRO)