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**LAND AND NATURAL RESOURCES CONFLICTS IN
TRANSBOUNDARY AGROECOSYSTEM MANAGEMENT
PROJECT KAGERA BASIN.**

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Acronyms

CNND-FDD- Conseil National pour la defense de la democratie – Force de defense de la Democratie

CNTB- Commission National des Terres et Autres Biens.

DRC-Democratic Republic of Congo

EAC- East Africa Community

FAO- Food and Agriculture Organization

FGD- Focus group discussions

FFS – Farmer Field Schools

FNA- Forest National Authority

IDPS - Internally Displaced Persons

KI - Key Informants

LSSP- Land Sector Strategic Plan

NEMA - National Environment Management Authority

PNT - Participatory Territorial Diagnosis

SDC - Swiss Agency for Development and Cooperation

TAMP - Trans boundary Agro ecosystem management Project

WC - Welcoming Capacity

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The views expressed in this report, any oversights and errors in the interpretation and analysis of facts, are however, my sole responsibility.

Executive Summary

This assessment report on land and other natural resources conflicts in part, addresses the second outcome of the Trans boundary agro-ecosystem management project in the Kagera Basin that enabling policy planning and legislative conditions are in place to support and facilitate the sustainable management of agro-ecosystem and restoration of degraded land. Specifically, component 2.2 Regulatory actions and conflict resolution mechanisms developed and used to promote - or remove existing barriers to - sustainable land and agro-ecosystem management.

Kagera River Basin possesses land and other natural resources (forests, grazing areas, wildlife, water & wetlands) that support cultural, socio-economic development, food security and communities' livelihoods in the basin. However, population pressure is creating conflicts that threaten sustainable land and agro-ecosystem management. The report elucidates the contexts in which access to land operates in Rwanda, Burundi, Uganda and Tanzania which are so important for the project in adopting an integrated ecosystem approach for the sustainable management of land and other natural resources in Kagera Basin, with a view to improving food security and rural livelihoods. The following are highlighted geography, access to land, land tenure systems, land scarcity and population, land rights among the minority, refugees and IDPs resettlements and existing policies and legal instruments in each Country.

The report provides a comprehensive analysis of natural resource conflicts and effects on sustainable land management. Focus group discussions and key informants interviews at various levels highlighted that competition for land and other natural resources are as result of peoples need to sustain their livelihoods, what differs is the dimension, level and intensity of these conflicts that vary from country to country and even lower from District to District. There are also Trans boundary resource related conflicts in the four countries besides in country conflicts. Identified in country conflicts include conflicting land tenure systems, land conflicts between IDPs and refugees, State and individuals/community land conflicts, encroachment into government lands such as wetlands, national reserves and forests, conflicting government policies, conflicts between herders and farmers and water conflicts.

Identified trans boundary conflicts are over land between Tanzania citizens and their village leaders for abuse of office in engaging in irregular allocation of village land to Rwandan citizens in *Karagwe* District without involving the village councils. Conflicts over access to village land occur between Tanzania citizens and the village Chairmen who are allegedly involved in informal land sales to foreigners along the border Districts of *Missenyi*, *Karagwe* and *Ngara*. There are also conflicts over land between Tanzania citizens and seasonal pastoralists from Rwanda securing land through informal land deals sales or through Tanzania relatives for a period of time. Conflicts also occur between Tanzania citizens and illegal migrants with large numbers of livestock from Rwanda and Uganda over water and grazing areas (pastures and animal corridors) in places such as *Kimisi*, *Burigi*, *Ibada* and

Rumanyika game reserves. And, finally there are conflicts over forest destruction between Tanzania residents and immigrant pastoralists from Burundi, Rwanda and Uganda. The report highlights in country natural resource conflict resolution institutions in each country. The hierarchy seems the same because majority of the cases are settled at the family/clan, village levels and very few cases reach District courts.

The consultative meetings and discussions carried out in the four countries revealed that policies, laws and legislation even by –laws exist for sustainable land and agro-ecosystem management and conflict resolution to regulate and enforce sustainable utilisation of natural resources. From discussions held on the ground however, decentralization as a policy instrument still falls short of providing structures and mechanisms for successful implementation of policies, laws and regulations effectively among the resources users. The gap between national level, the Provincial, District and people (community) on the ground is so wide.

Weak and ineffective institutions to effect natural resource management policies/laws and regulation at the lower levels have created more resource conflicts. Which in reality means policies, laws/regulation and by-laws exist but no enforcement mechanisms in place and stiffer penalties on those who do not obey or follow rules leading to resource conflicts. The application of policies, laws and regulations and by-laws does not take root at thus community levels or among resources users leading to overexploitation, degradation and conflicts.

Lessons learned are that land and natural resources are politically sensitive in Kagera Basin, as in many areas worldwide which calls for innovative and dynamic management tools at all levels to enhance multi-stakeholder participation and improve sustainable utilization of resources. Optimizing local level control over land and other natural resources with more emphasis on gender –sensitive participatory mechanisms could improve access and decision- making on resources for all. Land suitability maps and land use maps when developed and enforced can be useful in solving land and natural resources conflicts as well in the Kagera Basin. More community participation in management of water resource at the basin would enhance integrating land and water, upstream and downstream, ground and surface water resources. Adopting government policies, laws and by-laws regarding land and other natural resources would enhance sustainable utilization of resources and reduce conflicts emanating from competition.

In conclusion, the reports states clearly, that land and other natural resources related conflicts affect sustainable land management. Relentless efforts should be put to address latent and perceived resource conflicts before embarking on efforts to improve sustainable utilization.

The report has proposed a framework for negotiation process for sustainable land and other natural resources management. TAMP Kagera should “pilot” dialogue processes among

resource users using Participatory Negotiation Territorial Development (PNTD) and Welcoming Capacity approaches to address and resolve land and other natural resources conflicts, in country and trans boundary.

The report has provided recommendations/ way forward for TAMP Kagera such as

- Strengthening policies and conflict resolution institutions
- Development of land suitability maps and land use map
- Training workshops
- Awareness creation and sensitization at the community levels
- Empowerment of FFS and the community
- Alternative sources of livelihoods
- Regional workshop
- Policy harmonization across the Kagera River Basin
- Research on alternative sources of energy and building materials

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Introduction

The assessment of land and other natural resources conflicts partly addresses the second outcome of the Trans boundary agro-ecosystem management project in the Kagera Basin that enabling policy planning and legislative conditions are in place to support and facilitate the sustainable management of agro-ecosystem and restoration of degraded land. Specifically, component 2.2 Regulatory actions and conflict resolution mechanisms developed and used to promote - or remove existing barriers to - sustainable land and agro-ecosystem management.

The Kagera Basin possesses land and other natural resources (forests, grazing areas, wildlife, water & wetlands) that support cultural, socio-economic development, food security and basin communities' livelihoods. The Basin is currently witnessing severe population pressure particularly, Rwanda, Burundi and South Western Uganda that is creating conflicts that threaten sustainable land and agro-ecosystem management. This means that increase in population density inevitably has resulted in greater competition for a finite amount of productive land and its natural resources, moreover, it continues heightening the potential for future conflicts.

A close analysis of the complex relationship between population pressure and its impacts on the natural-resource base confirms that resource exploitation within Kagera Basin is occurring not only to meet subsistence needs but also for other vested interests. It is evident that population size and composition in the Basin already have significant implications on natural resources and, worse still growing populations require more or different food, which typically requires land and water or other forms of production. This calls for a comprehensive analysis to explore the complex relationship between population pressure and its role in the natural resources conflicts in the Basin.

It is informative to note, Kagera Basin levels of dependency on natural related resources are very high, particularly among the rural poor, who rely on subsistence livelihoods therefore, access to natural resources have been significant factors in a number of high-intensity conflicts in the region. Limited access to land for instance, exacerbated by its inequitable distribution, and by tenure insecurity (brought about by frequent episodes of population displacement and subsequent re-distribution of land by the State), have been described as key aspects of the 'structural conflict' patterns of economic domination and exclusion that created deprivation and social tension that prepared way for violence in Rwanda and Burundi. Land and natural resources tenure systems therefore significantly affect the resource users' decisions and have greater implications in terms of sustainable management of resources in general within the Kagera River Basin.

It is important to mention that the report benefitted from TAMP Kagera workshop held on land tenure systems in 2011 and a wealth of literature obtained from government offices.

Access to land in Kagera Basin

In order, to adopt an integrated ecosystem approach for the sustainable management of land and other natural resources in the Kagera Basin that will, improve on food security and rural livelihoods, it is important to elucidate the contexts in which access to land operates in Rwanda, Burundi, Uganda and Tanzania.

Rwanda

Rwanda is the smallest country in the project area with a total surface area of 26, 388 Km² out of which only 52 per cent is arable (Arable land is estimated at 1. 3 million hectares). Forests cover 12.4 per cent, protected areas such as *Akagera* National Park, *Nyungwe* Forest and *Virunga*-Volcano National Parks constitute 14.6 per cent of the total land (Government of Rwanda 2001). According to the Rwanda National Land Policy agriculture sector is the mainstay of the country's economy with an estimated population of about 8 million inhabitants, giving an overall population density of more than 300 people per km². Land access is through inheritance, gifts, government allocation and purchase/markets.

i) Land tenure systems

Historically, land pressure and widespread dependence on limited natural resources for subsistence has been a major problem in Rwanda predating contemporary land and natural resource conflicts. There is a long history underlying the relationship between land and politics for instance, and, land still remains the focus of ecological grievances for majority of the Rwandan population. Historical unequal land distribution among different livelihoods groups (farmers and herders) also had an impact on conflicts emerging from competition and unsustainable management of land and other natural resources (Musahara and Huggins,2005). Inequitable access to and shortage of land resources, natural resource degradation and poverty became a vicious cycle in Rwanda before the genocide.

The land tenure system in Rwanda operates in dual legal systems namely, the written and customary laws as stated in the Organic Land Law (2005) article 7. The written law mostly governs land in urban districts and some rural lands managed by churches and other natural and legal persons. The written law confers several land tenure rights to individuals such as land tenancy, long term lease and title deeds (particularly in towns). Customary law governs almost all the rural land and customary tenure¹ rules are recognized such as land rights are

¹ Customary tenure systems did not recognize equal inheritance rights of men and women but there were special arrangements which granted land rights to women such as giving land as souvenir -*Urimbutso* or as a marriage gift-*intekeshwa* and *inkuri* by the parents.

acquired through patrilineal inheritance arrangements where sons inherited land from fathers. Women had only secondary access rights through the male family members before the adoption of current organic land law. Customary land tenure system favours land fragmentation, a practice which reduces further the size of the family farms which in most cases are already below the threshold of the average surface area that is economically viable. Customarily securing access to land meant acquiring and clearing more virgin forests for land but with population increase land has become extremely scarce.

ii) Land scarcity and high population pressure

In the 1980's land tenure security problems had become more pronounced in Rwanda as a result of complex interactions between high population pressure, land scarcity and land infertility. Land scarcity and population pressure has exacerbated environmental degradation through deforestation and uncontrolled usage of wetlands. The search for more land for cultivation as the population grew bigger has also led expansion of cultivation onto sloping hillsides causing massive land degradation.



An example of cultivation on sloping hill sides (in the background) in Rulindo micro-catchment.

The structural scarcity of land has made farmers move into the wetlands/marshlands as an alternative to the degraded hillsides leading to loss of wetlands and their important to water regulation and filtration functions as well as soil degradation. Land scarcity also historically created serious land issues such as internal migration where people moved from overpopulated higher potential areas to drier areas with less reliable rainfall that were sparsely or under-populated due to poor soil fertility and low natural resources potential.

According to Rwandan Agricultural Survey (1984) an average area of a family cultivation plot was reduced to 1.2 ha from 2 ha in 1960. These interactions further reduced access to land because already there were existing regional inequalities concerning arable land per family (HHs), ranging from less than 0.25 ha to 2 ha yet, 90% of the population practiced agriculture.

The decline in land through infertility and overexploitation as a result of land scarcity has exacerbated pressure and destruction of natural reserves, over cultivation, soil erosion, and resource degradation and these processes have continued unabated² resulting in low agricultural productivity. Several strategies have been adopted by the population to mitigate land scarcity such as agricultural intensification whereby farmers have reduced fallow periods, use continuous cropping and switching, adopt labour intensive techniques, and invest in land capital if they have the means.

iii) Resettlement of refugees and its impact of land tenure

In 1959 Rwanda experienced serious violence that led to the first outflow of refugees to neighbouring countries that forever changed the governance and redistribution of land. It's informative to note, that at this point competition for land was already fierce in addition to cycles of conflicts and population displacements. The Arusha Peace Accords stipulated that the refugees were to return to Rwanda (Article 2 of the Protocol of the Arusha Peace Accord between the Government of the Republic of Rwanda and the Rwandese Patriotic Front on the Repatriation of Rwandan Refugees and the Resettlement of Displaced Persons stated that..."every returnee is free to settle in any area of his/her choice in the country, as long as he/she does not infringe on somebody else's rights"). Article 3 of the Protocol stated that "in order to resettle the repatriated persons, the Government of Rwanda should release all unoccupied land so identified by the Repatriation Commission". On the other hand, Article 4 of the Protocol stipulated that "the right to property is a fundamental right for all Rwandans".

In reality the return of the 1959 refugees gave rise to a real land problem as returnees were given plots on public land and vacant land on which they could resettle and produce (GoR 2004; World Bank 1998). For instance, *Umutara* Game Reserve, two thirds of the *Akagera* National Park and the *Gishwati* Mountain Forest, as well as land belonging to certain state-owned projects was parcelled out and distributed to the 1959 refugees (majority returned from 1998 onwards having been in displacement for decades). This included communal land, woody areas found on good soil, pastures, and areas near the shallow sections of marshlands. The resettlement seriously affected natural resources conservation in Rwanda. In some provinces such as *Kibungo*, *Cyangugu*, *Kigali Rural*, *Ruhengeri* and *Umutara*, many family plots were parcelled out and re-distributed between the owners and the returning

² Rwanda, with up to 80 percent of households in hilly areas dealing with a decline in productivity related to soil erosion has been a major issue of concern.

1959 refugees this created a great discontentment among the population that many families are holding up to date.

iv) *Policies and other legal instruments on land and other natural resources*

The Government of Rwanda acknowledged the sensitivity and complex nature of land problems such as, the landless, IDPs and refugees, land disputes and unequal distribution of land (elites owning large chunks of land at the expense of the poor) that led to land tenure reforms. The rigorous land reforms led to the adoption of a national land policy with a series of land tenure reform practices at the centre. The land policy reform defined a new legal framework and institutional arrangement through institutionalizing structures governing the humankind relation to land by intervening in the prevailing land ownership, control and usage.

Rwanda has one of the best policies, constitutional and legal frameworks relating to gender, and particularly to women's land rights. In the Organic Land Law 2005 (Chapters 3 & 4 on Management Organization and Exploitation of Land) Rwanda has undertaken significant steps in the development of effective land administration system as a prerequisite for land tenure security for all Rwandans and reinforces a legal environment that recognizes landholders' rights and provides to the holders the possibility for registering and transferring their rights, over land, including the redistribution of land for landless.

Furthermore, it clarifies inheritance process and intends to solve the prevalent land conflicts resulting from the traditional practices of exclusion which was practiced towards the aforementioned vulnerable categories of Rwandans³. The 2004 Land Policy basically provides that:

- i) all Rwandans will enjoy the same rights of access to land
- ii) all land should be registered for security and titles that are tradable unless it fragments a plot to less than 1 ha
- iii) land use should be optimal
- iv) consolidation of household plots is encouraged to ensure that each holding is not less than 1 ha
- v) land administration is to be based on a reformed cadastral (registered title deeds) system
- vi) a system of land administration is to be developed
- vii) Marshlands are in the state's private domain and are to be allocated to individuals on concession by the Ministry of Lands (MINITERE) on condition of good management.

The Land Law was gazetted in August 2005. Most elements of the Land Law support the same argument as the Land Policy and further specify

^{3 3} Government of Rwanda, MINITERE, 2007; MINIRENA, 2008

- i) all land has to be registered
- ii) land consolidation is encouraged and will be approved by the minister responsible for agriculture in conjunction with local authorities
- iii) land has to be protected and conserved
- iv) monitoring of land use is assigned to land commissions whereas registration is assigned to land officers
- v) failure to use, protect and conserve land properly can result in requisition or confiscation
- vi) land ownership is only provided through leases of up to 99 years
- vii) marshlands remain state property
- viii) transfer of title deeds requires prior consent of all family members
- ix) there will be a land tax
- x) Undeveloped land reverts to the state's private domain after three years. In addition to the national land policy Rwanda has developed Master Plan for land allocation, land use and land development and has established, National Land and Geographical Information Centre that includes land registry and land-use planning. These are aimed at reducing conflicts and improving on sustainable land management.

Others include National Environment Policy (2003) that stipulates the utilization of natural resources and the protection and rational management of ecosystems for sustainable and fair development. National Strategy and Action Plan for the Conservation of Biodiversity (2003) that stipulates development of national strategies, plans or programs for the conservation and sustainable use of biological diversity. It integrates the conservation and sustainable use of biological diversity into relevant sectoral and cross-sectoral plans, programs and policies.

National Wildlife Policy (2007) that provides for mechanisms to protect wildlife, including regulatory instruments for hunting and collection of specimens. Wildlife outside protected areas is not explicitly provided for. National Forestry Policy (2004) which has established Provincial Forest Commission to promote and oversee forestry activities those meet, on a sustainable basis, the populations.

Burundi

Geographically, Burundi is located between Tanzania, the Democratic Republic of the Congo (DRC) and Rwanda. It occupies a high plateau divided by several deep valleys with a total area of 27,830Km² out of which land cover is 25, 649 Km². Burundi has 8.6 million habitants, with 300 inhabitants per km². More than three-quarters of the country's population live in the rural areas and depends on farmland for their food and other livelihoods opportunities.

i) Land tenure systems

Historically, Burundi like Rwanda has experienced several phases of ethnic related conflicts in 1972, 1988, 1993 and 2005, causing massive displacements of population into Tanzania, the Democratic Republic of the Congo (DRC), Rwanda and other neighbouring countries. Currently, several areas engrossed at the heart of today's questions over land ownership, are those who fled the violence in 1972 and are returning and wanting to reclaim their original homes.

Burundi still embraces plural land tenure systems, customary and statutory. Statutory law is prevalent in urban areas and customary law practised among the rural population. Faced with two parallel tenure systems there are various challenges regarding land tenure security and management of other natural resources. Under customary land tenure, land resource is still hereditary from fathers to sons. Women have secondary user rights through male relatives. It is important to note that polygamy types of marriages are still recognized customarily in Burundi rural areas in particular creating several inheritance land conflicts. Customary land tenure system land is still owned as a communal/common property resource and people have lived with it for a long time and therefore, understand how it works more than statutory tenure system.

Customary land tenure system in Burundi makes it difficult to resolve land use conflicts and environmentally generates little personal interest in the status of land resources management ("the tragedy of the commons") leading to mismanagement and degradation. From focus group discussions informants agreed that previously, when human population were low, the environment could absorb the impacts of human activities such as unsustainable agricultural practices i.e "slash and burn" and long term fallowing. It now appears that the mismanagement and degradation are rampant and the assimilative capacity of Burundi's environment under customary tenure is exceeded in several areas visited such as *Mwaro, Gitega, Kirundo* among others.

ii) *Population density and intensive deforestation*

The Burundi population has tremendously increased, in 1960s it was 3 million currently estimated at 8 million and is projected at 14 million in 2014 yet, the land size remains the same. Because of dense population there is heavy pressure on land leading to intensive land fragmentation within families (customary demands all male children inherit land from their fathers). Land fragmentation (as seen below) has been impacting on soil fertility and severe land degradation including erosion and the wetlands have become alternative land for agriculture to accommodate ever increasing populations. It is important to take note that Burundi is a signatory to the Ramsar Convention on wetlands.⁴



Land fragmentation, Gitega



Cultivated Marshland, Karusi

In the 1970s⁵ places such *Kayanza* and *Ngozi* were already facing serious population pressure forcing the then government to transfer/move the people to *Kirundo* which at that time was sparsely populated and agriculturally suitable for sorghum production. Today, *Kirundo* is one of the most heavily populated Provinces with families encroaching into *Muhere* Forest for settlements, farming and grazing activities.

Over 90 percent of Burundi's working population is directly tied to the land for their livelihoods through agriculture, yet the land is no longer able to provide an adequate yield for these families. Thus, with an average of 0.5-0.7 hectare per household the rising population density continue to reduce the possibility of access to land and continue to contribute to the steady fragmentation of farmland. The result has been overexploitation, high levels of soil degradation and weak agricultural productivity further increasing the number of land disputes among families.

⁴ According to the Ramsar convention on wetlands widespread degradation and loss is triggered by development projects, land conversion and deforestation.

⁵ Interview with the Director of Green Belt Movement

Burundi is facing widespread deforestation from exploitation for firewood, charcoal, brick making (exporting to Rwanda) and construction materials, rapidly degrading the remaining natural forests and the biodiversity dependent upon those ecosystems, as well as diminishing water supplies for many populations. In *Mwaro* and parts of *Gitega* Provinces deforestation is so severe along the steep slopes exposing the hills to further soil erosion down the streams and water quality. The discussants in *Gitega* and *Mwaro* also highlighted that erosion of the topsoil contributes to the fertility of the marshlands, so we follow the soil downstream it is not completely “lost” to the agricultural system.

Burundi ‘ population pressure and demands for land by returning refugees are even adding many other problems caused by land scarcity, dysfunctional land administration systems, unclear inheritance rights and long standing problems of illegal allocation of public land. There are general difficulties to guarantee tenure security to facilitate proof of land rights. Land registration procedures are complicated, long and expensive.

iii) Internally Displaced Persons and Refugees

Following Burundi’ peaceful political settlements of the civil war, Arusha Peace and Reconciliation Agreement(2000) and the CNND-FDD coming to power the country has another challenge created by large number of returnees of refugees and internally displaced peoples with severe land tenure insecurity. Article IV of the peace accord guarantees returnees access to their property, or adequate compensation, and recognises the need for the equitable apportionment and redistribution of national resources throughout the country. However, demands for land or compensation by returning refugees are adding to many other problems caused by land scarcity, dysfunctional land administration system, unclear inheritance rights and long standing problems of illegal allocation of public land. It’s informative to note, that several rights are granted to the State, under the categories of “public domain” which is inalienable and “private domain” which can be conceded to private entities by public officials. Navigable water bodies, flood plains, and areas designated specifically for protection (e.g. national parks and forest reserves) are considered the State’s private domain. However the State public domain is much broader, and includes “vacant” lands, land expropriated for reasons of public utility, confiscated lands, non-navigable water bodies (including marshes and wetlands), and forests.

During the conflict the government resettled the internally displaced peoples in the land in and around urban centres’ which either belonged to the government or refugees who fled the country. After the war the IDPs are not willing to vacate such land (they want to retain their new homes) at the same time, not willing to relocate to their original homes /land. The refugees on the other side have failed to repose or secure their land and property either from the government and IDPs.

For the IDPs and refugees access to land is seen as the only meaningful access to socio-economic rights, but also as a symbol of re-assertion of national identity in a context in which, historically access to rights and in particular, the right of access to land has often been contingent upon ethnic allegiance. The ability of refugees to reassert claims over land is not only a source of economic empowerment, but also an important indicator of reintegration and the reinstatement of active citizenship and inclusion.

Burundi is facing general difficulties to guarantee tenure security and facilitate the proof of land rights, land registration procedures are complicated, long and expensive for refugees. It's important to note that the government has adopted short and long term mechanisms to address land problems among returnees and the ever increasing population but land reforms are still far from solving Burundi' problems. The government strategy of establishing peace villages for the land less notably, the sans reference refugees who were returning from neighbouring countries and "villagization programmes" commonly known as *paysannat* are not sustainable given the fact that no guarantee on security of tenure exists in terms of ownership, access, dispose and transfer rights over such land. The peace villages are not seen as providing long lasting solution for neither reclaiming land lost to government and corporations nor offering the opportunity for reintegration into the social fabric of Burundi society and citizenry.⁶ Instead, they are fostering feelings of injustice and resentment that do not portend well for Burundi's efforts to rebuild society and persuade its citizens to return home.

iv) *Access to land by the Batwa minority*

Traditionally, the Batwa ethnic group use land for gathering and hunting but their rights legally are not recognized and not protected as those of farmers and herders. They are vulnerable and marginalized with no legal land use recognition and protection. Their land has been converted into protected areas such as *Muhere* forest exposing them to unsustainable survival means such poaching and deforestation (cutting trees for wood fuel and charcoal burning).

v) *Land policies and other legal instruments*

Burundi has a well-developed Land Policy (*Lettre de Politique Fonciere*) adopted in 2009. In 2011 the land policy was revised and promulgated in April 2011. The new Land code (2011)

⁶ Two people can't share the same pair of shoes neither really profit since it becomes useless(Returnee, Temporary hosting site, Bukemba, July, 2009)

initiated as Presidential Decree in 2012 led to the creation of a National Land Commission. Burundi also has other codes related to natural resources such as, the Environment Code (2000), Water Code (2012) and Forest code (1986). According to the revised Land Code (April, 2011) land tenure reform is one of the components the government is adopting to improve food security and general development. The new Land Code has factored in gender equality and inheritance rights issues on land unlike customary land rights.

Land registration for instance, is encouraged by the government to address land conflicts and improve land use. Land reforms are being implemented for instance, the National Commission on Land supported by Swiss Agency for Development and Cooperation (SDC Land Tenure *Sécurisation foncière*) in 2007 launched a pilot project to help upgrade the existing services of the cadastres, land titles, planning and training of the staff. The program supports the National Commission on Land and other property in its work of inventorying and delimitation of lands in the pilot communes⁷ (currently the pilot has undertaken land registration in 14 communes that have received registration certificates).

Burundi does not have a policy document on environment although there is a piece of legislation on environment which was enacted in 2000. Environment Code, Act No. 1/010 of June, 2000 *Loi No. 1/010 Portant Code de l'Environnement de la République du Burundi*) Environmental Code. This is a relatively recent legislation compared to the environmental legal frameworks applicable in other Partner States like Uganda which was enacted in 1995. Like any other environmental legislation, this law is fairly comprehensive covering almost all aspects of environmental and natural resources management, such as, environmental principles, management of forests, energy, water resources, soil erosion and land use, desertification, public inquiry/participation, management of wetlands, wildlife, legal institutions

Law No. 1/6 of 3 *Parc national (National Park) and Réserve naturelle (Nature Reserve)*(1980) Activities for which prior permission is necessary include entry for visitors, felling of trees (under supervision of a forester), and capture of animals for scientific purposes and fishing. *Réserve forestière (Forest Reserve)*—relevant legislation is Law (1980). The objectives of the reserves are to maintain soil on mountains and slopes, to prevent erosion and to maintain the ecological equilibrium for the benefit of the population and for the conservation of plant or animal species recognized to be in within.

⁷ Strengthening capacity of the government on land management by bringing the results of its pilot project in the national debate, the Program supports the Government in finalizing and communicating new legislation in preparation: Policy Land Letter, Land Code, rules and regulations. It also supports the necessary coordination efforts between ministries and the civil society as well as the coordination of all land related activities through a coordination unit available to the Ministry of Planning;

Uganda

Bordering Tanzania, Rwanda and Democratic Republic of Congo (DRC) Uganda covers a total area of 199,807.4 km² according to the Uganda Bureau of Statistics (2011). Its population density has increased from 123 persons per km² in 2002 to an estimated 165 persons per km² in 2011. Over half of Ugandan households consider agriculture to be the single most important source of their livelihood and as such, land is a critical resource for the 42 percent of households that earn a living from subsistence farming (Uganda Bureau of Statistics, 2010; 2011). Taken together land is of critical importance to many Ugandans, especially considering that 85 percent of the rural population depend on it for their livelihoods and income.

i) Land tenure systems

All land in Uganda rests in the citizens of Uganda according to the Constitution (Ugandan Constitution, 1985) and is owned with customary, freehold, mailo and leasehold tenure systems. The Land Act of Uganda (1998) recognizes the four tenure systems. Customary land tenure system is the most common tenure system in Uganda in the western part of the country alone it comprises 47% of total land holdings (Republic of Uganda, 2010). Customary tenure system access to land is “governed” by the customs, rules, and regulations of the community.” Holders of land under the customary system do not have a formal title to the land they use, but generally have secure tenure.

Customary land is owned and disposed of in accordance with patrilineal customs and traditions. Women have no equal rights over land they only possess secondary ownership through male members of the family. According to customary tenure regulations individual ownership of land is not recognized but does the rights of the individual to possess and use land subject to superintendency by his family, clan or community. In practice customary tenure are categorized either as communal/tribal tenure where ownership of land occupied by the community or tribe is vested in the paramount tribal leader as owner, who holds it in trust for the entire group, or clan/family tenure where land is vested in the head of the group as owner or trustee for the entire group.

Historically, *Mailo* land tenure system was introduced as a result of the 1900 Buganda Agreement. Under this agreement, 9000 sq. miles of land were divided between the King (*Kabaka*), other notables and the Protectorate government.⁸ *Mailo* tenure is a quasi-freehold tenure system established to reward colonial agents who advanced British interests in many regions of Uganda. It remains a relatively secure and well-defined system of tenure, particularly in the Central region comprising of 99% (Republic Uganda, 2011). An

⁸ The basic unit of sub division was a square mile, hence the name mailo.

important feature of *mailo* systems is that much of the land is used by tenants who are restricted in their security of tenure on the land they farm. There are two types of *mailo* namely; unregistered freehold *mailo* comprising of 71,331 Km² and registered freehold *mailo* comprising of 15,331 Km² and leased 31,769 km². They could not be subdivided or sold but passed intact from original office holder to his successor. In private *mailo*, the owner held rights in the land akin to those of freehold and could dispose of land as he wished. Under this system land is held in perpetuity and a certificate of title is issued. The principal advantage of this system is that it still provides security of tenure thus allowing long term developments including those related to conservation.

Freehold tenure is a system whereby owners of the land have a title to their land which allows them to hold the registered land indefinitely. The landowner is given complete rights to use, sell, lease, transfer, subdivide, mortgage and bequeath the land as they see fit, so long as it is done in a manner consistent with the laws of Uganda. Just like *mailo* freehold has similar environmental management problems. Due to population pressures in some parts of Uganda where freehold tenure exists, land fragmentation is a common occurrence. Land fragmentation is further contributing to significant environmental degradation.

Leasehold tenure is a system where the owner of the land grants the tenant exclusive use of the land, usually for a specific period of time. Land may also be leased from the state to individuals for typical lease periods of five, 45, or 99 years. In return, the tenant usually pays an annual rent or service under specified terms and conditions. Leaseholders may or may not hold formal contracts with the owner. There are two types of leasehold tenure agreements, private leases given to individual landlords and official or statutory leases given to individuals and or corporate groups under public act terms. The advantage of the leasehold system is that the lessor can attach conditions to leases and has the right to revoke ownership in case of abuse.

ii) Land rights

Land rights of pastoral communities in *Mbarara* and *Rakai* Districts and ethnic minorities such as the *Batwa* in *Kabale* have registered exploitation. Many pastoral communities and ethnic minorities have lost their land rights to conservation projects, mainly the national parks. This has led to depletion/overexploitation of land resources such as grazing areas or landlessness as inhabitants are fenced off. Privatization of communal grazing lands and other pastoral resources has forced some herders/pastoralists to invade other people's land or to encroach on protected areas, in their neighbourhood.



Examples of fenced off communal grazing areas in Rakai Kakuuto Sub/county

iii) Population pressure and land degradation

Population pressure and land degradation are ushering in land tenure changes that if left uncoordinated will create serious land related problems further underscoring the urgency for land use planning. The major source of land degradation in South West Uganda is deforestation, soil mining, land and soil burning for brick making and wetland encroachment. Land degradation continues to be a great cost to the quality of land resources within Kagera Basin in Uganda mostly in the highlands and the cattle corridors. It is estimated, for example, that land deterioration accounts for over 80% of the annual costs of environmental damage, a situation the country can hardly afford. In addition, land reserved for conservation purposes continues to pose challenges as regards, biodiversity protection and heritage preservation.

Demands exerted by population growth and settlement expansion have placed wildlife resources, catchment areas, forests and wetlands at risk despite the existence of legislation on these issues. In some areas, especially Kabale District, the fragmented nature of land ownership further complicates the process of converting customary land into freehold. In addition to the above noted costs, the costs of surveying small, scattered plots easily accumulate and become prohibitive.

iv) Policies and legal instruments on resources

Uganda got a draft National Land Policy (1995) and has no laws to operationalize it. There is the Land Act (1998) and the National Land use policy (2007) that should have been based on the land policy. Currently, Uganda has no national land use plan although the legal provisions for its existence are provided for in the National Physical Planning Act (2010). Absence of a national land policy to guide a review of the existing land laws on land administration and management makes land resource issues complicated.⁹

⁹ The Centre for Land Economy & Rights of Women 2005 on Land Policies in Sub Saharan Africa.

It is important to note, that Uganda has drafted Land Act (1998) and Land Sector Strategic Plan (LSSP), Local Government Act (1997) and Forest Policy (2001). Other legislatives include, Wildlife Policy (1995), The Water Statute (1995), The National Policy for conservation and management of Wetland Resources (1995), The Uganda Wildlife Statute (1996), National Environment Policy (1994), Uganda Wildlife Authority (1996), National Environmental Management Authority (1995), Uganda Forest Policy and Forest Reserve Order (1998).

Tanzania

Tanzania is in the East Africa Coastline of Indian Ocean. To the north are Uganda and Kenya to the west, Burundi, Rwanda and Congo and to the south, Mozambique, Zambia, and Malawi. Tanzania contains three of Africa's best-known lakes Victoria in the north, Tanganyika in the west and Nyasa in the south. Mount Kilimanjaro in the north, 19,340 ft (5,895 m) the highest point on the continent. Tanzania has a total land area of 886,039Km with a population (2010 est) 41,892,895. It also holds the greatest amount of River Kagera waters.

Land in Tanzania is public vested in the Presidency. Access to land is through inheritance, gifts, allocation by the government village or central or through purchase/markets.

i) History of land tenure system

The introduction of centralized administration during the colonial era had weakened the traditional land tenure arrangements and practices in Tanzania that defined common property rights. Before colonialism, most land was common property resource, and was owned and utilized by members of well-defined groups, such as a tribe, the inhabitants of one village, a family or a clan. Management of these resources was governed by traditional or customary law. Under the colonial rule The Land Ordinance of 1923 defined and regulated land tenure in Tanganyika, declaring all land occupied and unoccupied as public land. The control and adjudication of such land was vested in the Colonial Governor.

In reality land tenure systems in Tanzania are still defined and regulated by the Land Ordinance of 1923 albeit several revisions of the laws. The entire body of land in Tanzania has been declared 'public lands.' Rights over the land are under the control and direction of the President of the United Republic and those rights cannot be disposed of without the consent of the President. The President has radical title to all land in Tanzania and under the Ordinance, must ensure that the land is held and administered for the use and common benefit of Tanzanian natives.

The 1923 Land Ordinance introduced two main categories of land tenure. The Granted Right of Occupancy, in which land title certificates were issued by the state to the land owner; and The Customary Right of Occupancy to most natives without title deed. The Ordinance provided that wherever there is a conflict between the two types of land ownership, the granted right will prevail. A native individual or community lawfully occupying land in accordance with native law and custom is deemed to have a "Right of Occupancy." It is worth noting, that currently, clans/tribes in Tanzania have been "deprived of ultimate" control and title to land. Such control and title are still vested in the President. Village land, the individual/family/groups get allocated to are all based on derivative rights.

ii) Formal and legal context of land tenure systems

The legal basis for land tenure in Tanzania is derived from two basic laws that were passed in 1999. The Land Act and the Village Land Act state that, all land in Tanzania is public land, which the president holds in trust for all citizens. The president delegates the power to designate, adjudicate and modify land tenure status to the Commissioner for Lands. District and village councils play an important role in managing land at the local level. These two laws have the overall objective of formalizing and legalizing traditional and customary land tenure arrangements. Tanzania recognizes three categories of land Reserve, village and general land.

Reserved land is land set aside by central government for purposes such as nature conservation, under wildlife or forestry laws. It includes forest reserves, wildlife reserves and national parks. Management of these areas is defined by the parent law (e.g forest reserves are managed according to the Forest Act).

Village land includes all land within the boundaries of registered villages, of which there are more than 10, 500. Village councils and assemblies are given power to manage this land. The village Land Act of 1999 allows village government to enter into agreements and enterprises that provide well-being for villagers. Village councils are required to divide village land into three categories: communal land, which is shared by a large number of individuals within the village and may include grazing, pastures, forests or other areas with natural resources; occupied land, which is used for housing, cultivation, businesses, etc. and managed by individuals or single families and future land, which is set aside for future use by individuals of the community.

General land is, land that is neither reserved nor village land. It is managed by the Commissioner of Lands, on behalf of the central government.

iii) National Land policy and tenure systems

The Tanzania's National Land Policy of 1995 provides that existing rights are recognized through long standing occupation or use of land and must be clarified and secured by the law. The Land Act, 1999 states that 'A Customary Right of Occupancy is in every respect of equal status and effect to a granted Right of Occupancy.' The proviso continues to clarify that the Customary Right of Occupancy is capable of being allocated by Village Council to person/persons and that it can be within Village land or reserved land; for an indefinite duration. Such land shall be governed by customary law in respect of any dealings, between persons residing in or occupying or using the land. It is inheritable and transmissible by will and finally it is liable, subject to prompt and fair compensation, to acquisition by the State for public purpose.

The Village Land Act No. 5 of 1999 provides for the management and administration of land entrusted to the village leader, which is to be directed by the Village Council. The crux of the matter is that the management and administration must be in compliance with the customary law of the respective area. Village Councils have no idea or hand-on experience with the customary law of the land they are administering. The customary law is unwritten and largely depends on tell-tales from elders. The Law provides for existence of the customary right of occupancy in village, its existence as its founding customary law is either non-existent or continuously being diluted and polarized by the infiltration of intermarriages, migrations and urbanization. Those who own and occupy land under the Customary Right of Occupancy are themselves not aware of the laws that govern their occupation. Autochthonous land tenure is not recognized in Tanzania laws and one can safely conclude that the alternative to the seemingly customary right of occupancy is not covered by law and at worst can be illegal.

Among the major issues aimed at being addressed by the 1995 Land Policy is to give equal status to granted right of occupancy and customary right of occupancy. The Village Land Act of 1999 provides for registration and issuance of Certificates of Customary Rights of Occupancy (CCROs) as a measure of land security enhancement in rural Tanzania. The Act stipulates the procedures to be followed so as to get CCRO. One of the important procedures is adjudication of parcels of land of applicants. The Law offers methods of adjudication namely Spot or Sporadic adjudication and Village or Systematic Adjudication.

iv) Land Registration and Land information.

Most land in Tanzania are not registered/ documented or mapped. Registration of land in rural areas under customary land only is a source of conflict because there is no existing land information. Data are scattered in the Ministry of Lands, Local Government Authorities and Village Councils. There is no coherent system for collection, storage and retrieval of land information.

v) Population pressure

TAMP Kagera Districts are located in the north-western parts of Tanzania are some of densely populated areas (500-1250 persons per km² of cultivated land) exerting a lot of pressure on land and other natural resources. Agriculture is the sole means of economic production and farm holdings are mostly smaller than a hectare and continue to fragment as population continues to grow.

vi) Policies and legal instruments

Tanzania has got a National Land Policy enacted in 1995 and was amended in 1997, Land Act no.4 and village land act no 5 enacted in 1999 and three more laws (enacted in 2007) on Land Use Plan Act, Town and Country Planning Act, Planners Registration Board Act. Under the Land Dispute Courts Act No.2 of 2002 and Regulations G.N. 174 of 2003, Land Tribunals, 2004.

Other policy instruments are The Forest Act (2002) *Village land forest reserves (VLFRs)*. These are a new category of forests, which became legalized following approval of Forest Act No. 14 of 2002, Wildlife Conservation Act 2009 and Wildlife Policy of Tanzania (2007), Tanzania and Wildlife Policy (1998). Tanzania Environment Management Act (2004)

Natural resources conflicts effects on SLM in Kagera Basin

Conflicts over natural resource seem to be occurring everywhere in Kagera Basin. Oral data on natural resources related conflicts obtained through focus group discussions and key informants interviews at various levels (National, District and Community/village levels) highlighted competition for land and other natural resources are as result of peoples need to sustain their livelihoods. There are also Trans boundary resource related conflicts in the four countries. Population growth has great effects on land and other natural resources management because of clashes among groups over resources ownership and access rights. The population however, exploit these resources without considering the long terms effects thus creating a vicious cycle of resource degradation (deforestation, soil erosion, soil infertility among many others) and poverty as shown below.



In county identified land and other natural resources conflicts

i) Conflicting land tenure systems

From participatory discussions and interviews carried out land was identified as the most common source of resources conflicts in the four countries because most of the rural population rely on land for agriculture. At the moment it's only Rwanda that has developed land tenure reforms is in the process of implementing. The land tenure systems (written and customary laws) are adhered to according to the Organic Land Law of 2005. In Burundi conflicts over land are occurring in rural and urban areas and there are several killings linked to land cases¹⁰. Land conflicts from the assessment are emanating from conflicting land tenure systems (customary land and statutory) as practised. In Burundi land in rural areas are predominantly governed by customary land rights. There are conflicts because of polygamy forms of marriages resulting in several land disputes up to family levels mainly through customary inheritance rights, unequal land distribution (size and gender biasness)

¹⁰ Interview with Director of Green Belt Movement held on 23rd of August, 2012

and fertility of the land in question. Inheritance rights¹¹ demands that land should be subdivided among male children. The practice has not only resulted in conflicts but also land fragmentation into uneconomical units prone to degradation (low production and poor soils). There are no land registrations done on customary land that can secure tenure rights for sustainable land management. The fragmented lands have no accurate demarcation creating conflicts over informal land sales that are not honoured due to the fragile nature of agreements, land grabbing, inheritance problems in polygamous families, boundaries among families and neighbours.

In Tanzania *Bubale Missenyi* District lack of clear land ownerships is identified as the cause of conflicts between farmers and herders over crop destruction. The herders feel that their communal grazing land which falls under Village land (Village Land Act No. 5) has been irregularly allocated to individual ranch owners (private ranches locally known as “blocks”) reducing the traditional grazing areas. The herders are forced to graze close to the farmers and with high livestock population conflicts over crop destructions are inevitable. The villagers have also been involved in informal land sales on what they term as customary land that has led to expansion of small sugar cane growing reducing the communal grazing area. According to the village leader’s focus group discussion the discussants bitterly complained that the government short changed them out of their customary land rights by allotting huge chunks of village land to Kagera Sugar Factory and Missenyi Ranch and more recently private ranches. This is as a result of conflicting tenure systems (village and general land are not clear to the public).

In Uganda different participatory focused group discussions and interviews with key informants explored the linkages between land conflicts and existing systems of tenure including the rights and institutions that govern access and use of land such as the draft national land policy, Uganda Land Act and National Development Plan. The interpretations of land ownership according to the four tenure systems are a major source of conflict. For instance, *mailo* tenure system either registered or unregistered is held in perpetuity with absentee land lords giving room for squatters¹² to occupy such land. The Constitution allows squatters who have lived in such land for over 12 years right to ownership creating conflicts between legitimate title holders and constitutional rights of squatters. Currently there are squatters on *mailo* land who have no incentives to ensure sustainable management of land they do not own.

Under customary tenure the land is a resource for which people have only user rights and individual ownership of land is not allowed but access to land for individuals in accordance with community authority is encouraged creating room for resource mismanagement. There is existing literature that shows enough evidence that the government policy promotes greater individualization of land, which confers permanent use rights to individuals and enables the transfer or sale of land thus limiting communal access. The government also plans to take a transformational approach to customary tenure, issuing certificates that

¹¹ Women no longer enjoy secondary land rights because husbands divide the land to their male sons only.

¹² The *Busuulu* and *Envujjo* law of 1928 made it difficult for landlords to evict tenants and set a rent ceiling of ten shillings led to a situation whereby *mailo* landlords and tenants still share long-term rights to the same piece of land.

confer rights to convert customary lands into freehold tenure. This individualization of land ownership generates fears that “legal land alienation” will lead to more conflict as different parties assert their perceived access rights.

In *Rakai* District communities with customary land rights are slowly getting evicted as the customary authorities’ sale or lease land to individuals who in turn register such land as individual property¹³.

In *Kakuuto* Sub County the communities expressed several problems of acquiring land titles as tedious aggravated by cost and bureaucracy (Land registration are at the Sub County level impeding access at the Parish and village levels), corruption, legal and regulatory constraints, culture, attitudes, historical issues among others. In *Mbarara* and *Rakai* Districts, *Mwizi* and *Kakuuto* Sub-Counties respectively conversion of customary land have resulted into conflicts as individuals fence common water points and grazing areas because they have titles to such land. The argument advanced in such circumstances is that water or fenced off grazing corridor belongs to an individual who legally owns the land causing un sustainable land management practices such as overgrazing and land degradation in the remaining communal grazing areas as shown below.



ii) Land conflicts between refugees and IDPs

In Burundi land conflicts between refugees (some have been in displacement for 40 years) and IDPs continue to threaten not only sustainable land management but also undermine the progression towards long term peace, according to discussants, land disputes if not

¹³ The much larger customary land was also declared to be state land in which households could apply or similar 99 year leaseholds. Although plausible from an economic standpoint, the 1975 Land Reform Decree appears not to have had much effect as households continued to recognize pre-1975 land tenure categories which in addition to mailo and customary tenures included small areas of freehold and scattered leasehold agreements.

addressed may cause renewed conflicts. Many refugees have not been able to reclaim their land and property, especially in cases where their land is occupied and the current inhabitants are unwilling to leave. The Land Code of 1986 grants ownership to land for those IDPs who have occupied the land for up to 30 years. According to CNTB property (*Commission Nationale des Terres et Autres Biens*) the refugees win such cases and recommendations are made to revert the land but the IDPs use judicial institutions they often find that the ruling is not in their favour (some of the current occupants have titles to such land).

The CNTB has no legal mechanisms to affect the ruling a loop hole that IDPs take advantage of by taking judicial process to challenge their rulings. Even when the ruling is in their favour they fear for their safety from retaliation by the current occupants particularly, when the land occupant is a powerful army officer or an influential person. With no access to land sustainable management becomes a big challenge for refugees whereas IDPS enjoy the privilege of using their old farms (original homes) as well as the “occupied land”.

Some IDPS bought land and are encouraged by the government to share with returning refugees creating frictions between them because refugee households are bigger in size (some HHs have 17 male adults) leading to severe land fragmentation. Besides, it creates bitterness from IDPs who genuinely bought land with own resources either from the relatives of those who fled or neighbours who remained behind¹⁴. Such insecurity of tenure between refugees and IDPs results into unsustainable land management. It is important to note, that already there is land shortage leading to competition in these areas the result is that more conflicts among the IDPs and refugees land users.

Burundi' vulnerable groups are even in more fragile situation because they cannot reclaim their land from the current occupants, at the same time, have limited options with regard to accessing alternative land. The focus group discussions held in *Kirundo* Province highlighted that population pressure has made it extremely impossible for customary land rights to offer equality to all. The conflict resolution mechanisms handling resource disputes are so corrupted that people loose land to those with money. For instance, the women returnees, orphans, the Batwa minority and a group of refugees¹⁵ referred to as “*sans reference*” are the worst hit. A female discussant “explained you must give the ink for the village elders’ pen to write”. Genuine land owners are denied access to their land leading to further land degradation in small plots already faced with poor soils.

Rwanda has successfully integrated the refugees and IDPs through its land reforms. For instance, the main objective of the national land Policy was to establish a land tenure system that guarantees tenure security for all Rwandans and guides land reform initiatives

¹⁴ According to the Director Global Rights ;“it’s not a Hutu –Tutsi conflict as perceived my many but it’s between Hutus and Hutus and also Tutsi and Tutsi

¹⁵ According to UNHCR the category constituted approximately 10% of the returning 1972 refugees to Burundi.

that will establish good management and the rational use of land. Rwanda land policy is aimed at ensuring equitable allocation of land ownership, enhancing the land rights and improving access to land for disadvantaged people through legal and administrative acts.

iii) Land conflicts between the State and individuals/ community

The other conflict related to land is between the government and the communities. In Tanzania the general land (owned by the government) and village Lands are not demarcated leading to land grabbing of State land by individuals. In *Missenyi, Karagwe* and *Bukoba* Districts discussants complained of village land and general land being converted illegally to individuals through land sales. Altering the right of occupancy to claims as stated in the Land Act no. 4 and Village Land Act no. 5 creating conflicts between the State and individuals/communities.

In Burundi refugees whose land had been taken through concessions, appropriated or allocated for public use under unclear circumstances particularly are at conflict with the government. The Burundian *Batwa* have been marginalized by the government in terms of offering alternative livelihood opportunities from the forest. They occupy one hundred metres stretch of forest land in *Muhere* Forest with no alternative land for farming. They turn to unsustainable exploitation of the forest resources. Their population is also growing with time which means the government need to address their land rights in the long term.

In Uganda the *Batwa* minority ethnic groups in Kabale feel that their traditional land was converted to National Parks without getting alternative settlements and forms of livelihoods from the government. The *Batwa* are hunter-gatherers their forests have been converted into conservation sites. They are landless, marginalized and despised by the *Bachiga*¹⁶ farmers because they cannot produce own food leave alone applying sustainable land management a response from one informer.¹⁷

iv) Encroachment into State forests, national reserves and game parks, wetlands and water sources

There are incidences of human, wildlife conflicts among communities bordering forests, national and game parks due to encroachment. Wildlife habitats have been disturbed and wildlife migration corridors blocked through human activities such as deforestation, farming and grazing in the forests. In *Karagwe* District *Rumanyika Rugudu* Game reserve is an example where rhinos and monkeys destroy crops planted close by the buffer areas. The discussants argue that the buffer zone is not demarcated that is why farmers cultivate in the forest a fact disputed by the Wildlife Officers. Illegal poaching and bush fires are prevalent but are unsustainable means of resource exploitation adopted by the communities.

Encroachment to government forests and wetlands/swamps in Burundi and Uganda is a source of land conflicts between State conservation apparatus and the community. *Muhere* forest in Burundi is threatened by overgrazing and population settling beyond the buffer

¹⁶ *Bachiga* are Bantu speaking community occupying SW and Western parts of Uganda

¹⁷ Interview with the Director of African International Christian Ministry held on the 4th of Sept, 2012 at Kaabale.

zone. Human activities continue to threaten the environment and wildlife conservation areas with further encroachment of protected forests. Unsustainable agricultural practices (bush burning, cultivation of ecologically sensitive areas such as hilly or sloping areas, forests and wetlands without paying attention to establishment of soil erosion control.

In Uganda National Forest Authority (FNA) exists in paper but on the ground government forests have been turned into grazing land, exposed to bushfires, deforestation (charcoal burning and wood fuel. In *Mwizi* Sub –County the Focus group discussions highlighted how communal grazing areas no longer exist but people have livestock the only grazing option we have is the government forest. (As photographed seen below)



Animals grazing in a government forest in Mwizi Sub-County, Mbarara District.

Wetlands/swamps in Uganda, Tanzania (Ngara District close to River *Ruvubu*) and Burundi are not respected as conservation areas but have been slowly turned into agricultural farm land, settlement, dairy farming, grazing areas, brick making, sand mining and clay extraction. In Uganda project sites wetlands that can be cultivated or grazed on are all occupied by the community despite the fact that, wetlands are declared protected ecosystems and habitats of species of fauna and flora thereby excluding or limiting human activities. Exclaims and environment officer in *Kabale* “we have policies according to NEMA Uganda that clearly states, that the management of river banks and lakes shores, the Authority in consultation with lead agency shall take all measures it considers necessary in order to protect the banks of rivers and shores of lakes from human activities that will adversely affect the rivers and the lakes”. There are political interferences over wetland encroachment despite policies, laws and by –laws. “Wetlands do not vote” was one of the recorded statements in *Kabale* District Uganda. ***Below is brick making less than 10 metres in Ruvubu River, Ngara District. On the left is wetland in use in Rakai District***



v) Farmers and herders because of the absence or non enforcement of land use plans at the local levels

There is also as strong link between natural resources utilization and natural resource competition and conflicts in Kagera Basin. There are in country conflicts over land uses that rise when farmers and herder groups use resources differently in the same geographical location. Rwanda has developed a land use plan and has managed to reduce resource

conflicts between herders and farmers. Tanzania has developed village land use plans in some villages in the Districts (not all) of *Bukoba Missenyi* and *Ngara*. However enforcement remains elusive for instance in *Karagwe* District (*Katera* and *Kihanga* villages), in Uganda *Bubale* Sub-county (*Kitumba* and *Bubale* village) farmers and herders are constantly at conflict because of land scarcity. Farmers are extending farming activities to communal grazing areas and herders encroaching farming land creating conflicts over crop destruction or blocked animal corridors.

In *Karagwe* farmers are encroaching designated traditional communal grazing areas leading to massive land degradation. The attachment to land by farmers and herders impede sustainable land management. For instance, in *Bubale* village *Bubale* Sub-County in Uganda the herders rejected the construction of terraces to reduce soil erosion in degraded grazing areas because they believed the farmers would eventually claim that piece of land.

Over grazing is a big problem in Uganda coupled with poor compliance of policies, laws, regulations and by-laws. Hilly and mountains have been fragmented and are at risk of further environmental degradation i.e they are prone to soil erosion, landslides, vegetation cover have been removed or is likely to be removed from the area at a faster rate than it is being replaced and other land use activity that lead to environmental degradation are so common. In *Kituma Kabale* District farmers are faced with massive land degradation because of cultivating on the hilly and mountainous areas but are not willing to protect the soil through terracing ("*fanya- chini fanya- juu*") method because it would take part of their land.¹⁸

vi) Water conflicts

Water scarcity was mentioned among discussants in Rwanda *Rulindo* micro-catchment. Particularly, during dry season when capacity of natural water sources from the mountains are reduced. In Burundi focus group discussion in *Kirundo* highlighted that water conflicts are prevalent during dry seasons when farmers irrigating farms upstream consumes huge volumes creating shortages for those downstream. Water conflicts in Uganda and Tanzania according to the discussants are as result of blocked or fenced off watering sources causing congestion. Kagera Sugar Factory has blocked access to River Kagera local villages in *Bubale* areas.

vii) Conflicting government policies/laws/regulations and Acts on natural resources

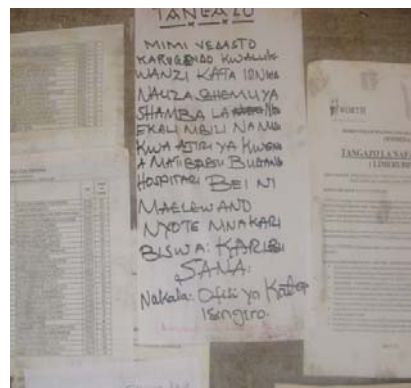
¹⁸ Land scarcity is already a big problem in Kabale because of high population land is fragmented and each person want to retain that land at all cost.

In the four countries there are overlaps and conflicting policies, laws, regulations and Acts that are creating confusing among resource users leading to unsustainable land management. In Tanzania the Agriculture policy allows farmers to cultivate wetland areas during dry season going against the water and environment Acts. In Rwanda tea growing is done within the wetlands because of the fertile soils yet wetlands should be preserved ecosystems.

Identified natural resource Trans-boundary conflicts

- i) Conflicts over land between Tanzania citizens and their village leaders for abuse of office. The village leaders engage in irregular allocation of village land to Rwandan citizens (some have inter marriage ties with Tanzania citizens). In *Karagwe* District the villagers complains are afraid their village land will all be given away since the leaders are not involving the village Council (*Baraza la kijiji*). The loss of trust between the communities/villagers and the village chairmen is leading to serious land conflicts.

- ii) Conflicts over access to village land between Tanzania citizens and the village Chairmen who are allegedly involved in informal land sales to foreigners along the border Districts of *Missenyi*, *Karagwe* and *Ngara*. Large chunks of village land are allegedly sold to Rwandan pastoralists in *Kihanga/Katera*, *Isingiro* and many other places which were traditionally grazing areas leading to internal conflicts between farmers and herders over encroachment particularly the villages of *Bonde la Asina*. Foreigners use Tanzanian citizens to secure land which is against the law of investment and villages are slowly turning /becoming part of pastoralist’ acquired land. Below are samples of the land sales advertisement found in the noticeboard at *Isingiro Karagwe*.



- iii) Conflicts over land between Tanzania citizens and seasonal pastoralists from Rwanda. The Rwandan citizens securing land through informal land deals sales or through Tanzania relatives for a period of time. Slowly such land is eventually fenced

despite the fact, that they are village land for communal grazing. In areas *like Nyakasimi, Kihanga/Katera, Isingiro* and *Rusumo* conflicts are over grazing land between Tanzania citizens and Rwandese from across over informal land sales.

- iv) Conflicts between Tanzania citizens and illegal migrants with large numbers of livestock from Rwanda and Uganda over water and grazing areas (pastures and animal corridors) in places such as *Kimisi, Burigi, Ibada* and *Rumanyika* game reserves.
- v) Conflicts over forest destruction between Tanzania residents and immigrant pastoralists from Burundi, Rwanda and Uganda in places such as *Minziro, Nyakasimbi*, leading to deforestation (charcoal burning, wood fuel, brick making, bush fires, wildlife poaching and land degradation). The following photos were taken in Kargawe and Ngara Districts.



Institutions involved in conflict resolutions

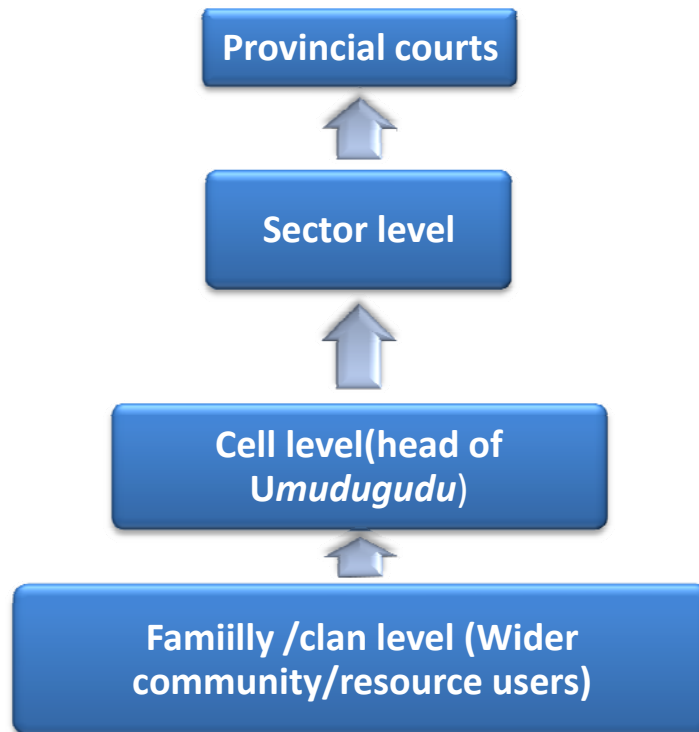
Each of the four countries has got more or less well established institutions for conflict resolution related to natural resources.

Rwanda

- i) Land disputes are resolved at family levels because currently land is registered and demarcated with few cases occurring as a result of family land sales, boundaries encroachment, land distribution whereby sons/daughters (more recently) inherit smaller portions or infertile land from parents.
- ii) If the dispute is not resolved then, it's taken to the Village head (*Umudugudu*)
- iii) If the dispute is not resolved its then taken to the Cell
- iv) If the dispute is not resolved then the Sector levels.
- v) Courts at the District levels

The discussants were quick to point out that very few land cases reach sector and District Courts unless they involve high profile people in the urban areas.

The following is the hierarchy of land disputes resolution institutions;



Burundi

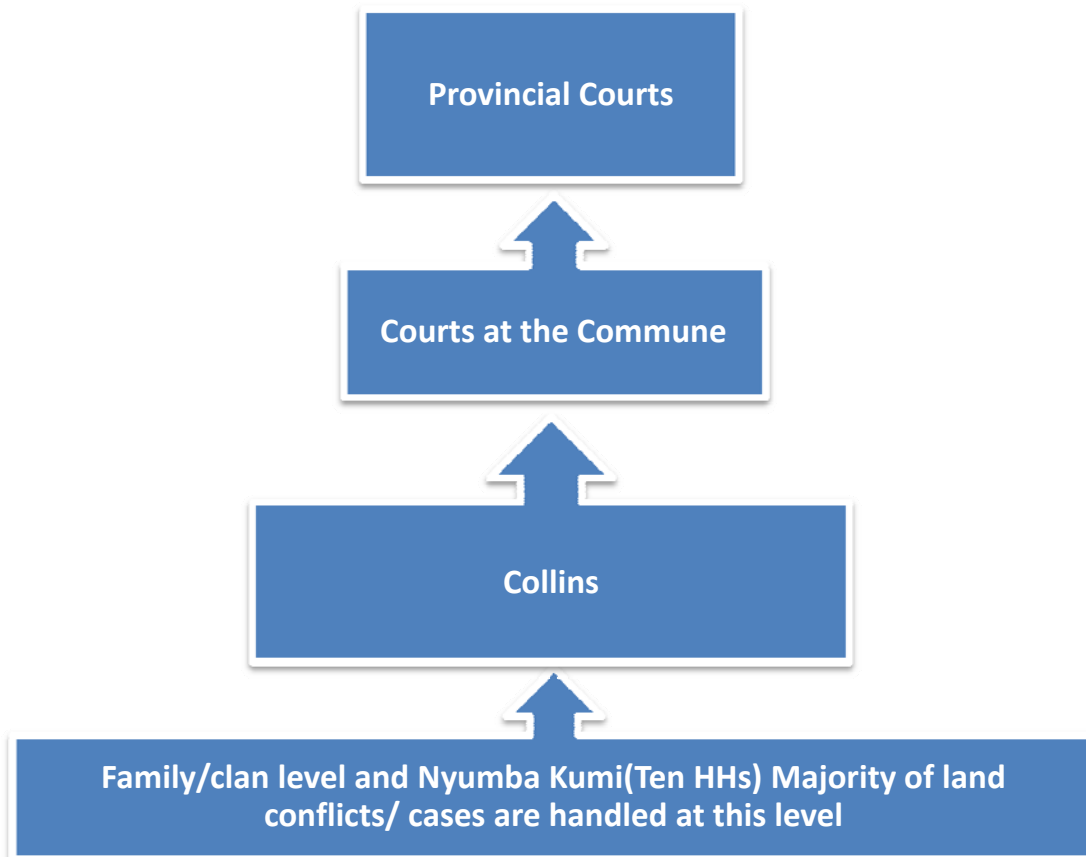
The most common source of conflicts emerges from land resource.

- i) At the family/clan levels elders resolve land disputes/conflicts i.e land grabbing, family land sales, boundary disputes, inheritance issues, polygamous marriages and land distribution.
- ii) When no agreement is reached the disputes are taken to the head of *Nyumba Kumi* (Ten households)
- iii) From the ten households the conflict is taken to the Collin (hill) levels. The discussants were quick to comment that the Collins and *Nyumba –Kumi* are so corrupt that justice is not guaranteed. The leaders require the “ink for their pens to write” (a local version of describing corruption). Without the ink whether land is customarily yours you will loose the case to the people with money. Returnees, women and orphans are the worst affected because such type of leadership does not accept justice systems. Several examples were given by the discussants that even killings have happen because one has money the other has not. International NGOS such as Global Rights handling disputes between refugees and IDPs or Local NGOs (CARE) supports resource users address their conflicts in non-violent means. Global Rights’ Burundi has been involved at these levels in resolving land disputes among refugees and those who occupied their land. Global Rights have established both stationary and mobile clinics in *Muyinga, Kirundo, and Ngozi* provinces and community paralegals have been trained.
- iv) When the conflicts are not resolved at the Collin level the cases are moved to the Zone level
- v) Courts at the commune level

The discussants quickened to say very few cases reach this level because of lack of access and affordability. Majority of rural population are not aware of the procedures, are poor and cannot afford the court charges. Courts are for the rich and educated peoples not for us exclaimed one woman in a focus group discussion in *Mwaro*. The wealthy people use courts to swindle the poor people of their land because they cannot represent themselves. Several times land cases are postponed purposely for the poor to give up. As it stands, Burundi’s courts have not been effective in resolving land disputes. Although 80 percent of the contentious cases in the country’s judicial system involve conflicts over land, few Burundians have confidence in court verdicts, fewer than half of which are ever enforced. And for most people, even flawed legal proceedings are too lengthy, complex, and expensive to pursue.

It’s important to highlight that customary conflict resolution mechanism are applied at all levels except at the government courts where statutory laws are used. Mediation as a form

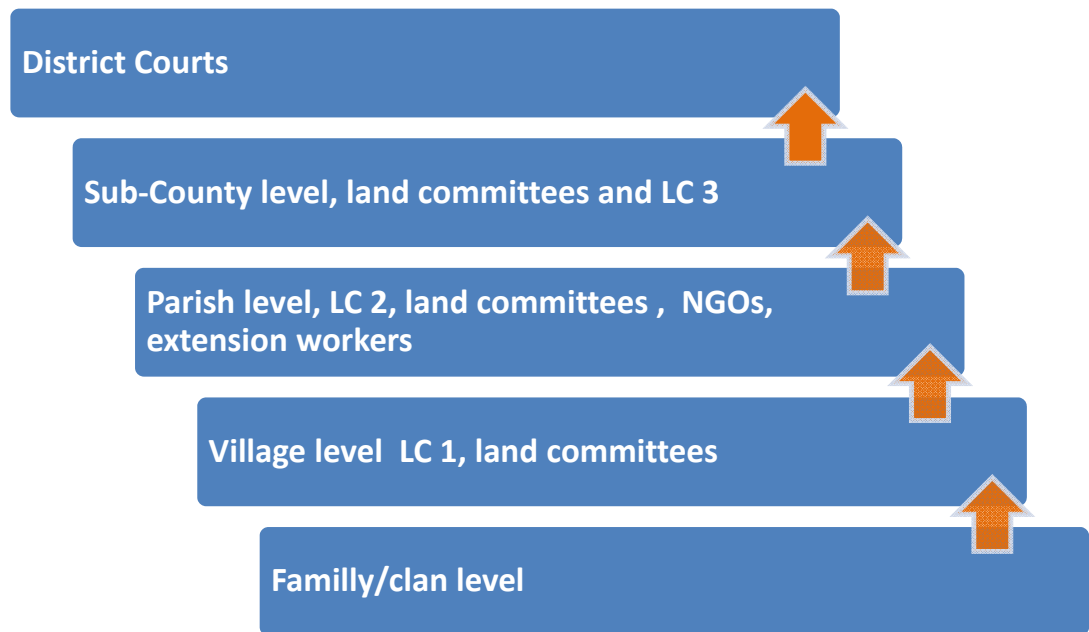
of conflict resolution has proved very successful and particularly welcomed by rural populations. Judicial proceedings are seen as often lengthy and costly and many people don't have the time or resources to go through the courts. Mediation, on the other hand, is less confrontational and takes less time than court proceedings. Parties are happy to have successful mediations because it means that they have reached an agreement. In Burundi, there is a common say that a bad agreement is worth more than the imposition of a good decision. Below is the hierarchy of conflict resolution institutions in Burundi:-



Uganda

- i) Land conflicts in Uganda for instance, are settled first at family/clan levels (usually disputes related to inheritance, land sales, land grabbing and boundary encroachments).
- ii) Local Council 1 (LC1) is responsible for resolving land disputes at the village level. These LCs are volunteers elected by the villagers for a 10 year term without any payment from the government. The leaders are accused of corruption and biasness over land cases. There also land committees at the village levels responsible for land conflicts.

- iii) Parish level, LC 2 and land committees resolve land conflicts. Civil Society Organization such as Africa 2000 Uganda and Religious Organizations(African International Christian Ministry in *Kabale* has been in fore front fighting for the land rights of the minority *Batwa* community). Ministry of Agriculture i.e Agricultural extension officers handle crop destruction conflicts at the community levels between farmers and herders.
- iv) Sub-county levels there are local courts, land committees and LC3 to resolve resource conflicts, the discussants however, hastened to link it with the elites and politicians who take advantage of the poor to swindle them off their land. The courts according to some discussants were inaccessible, corrupt and unaffordable by many.
- v) District courts



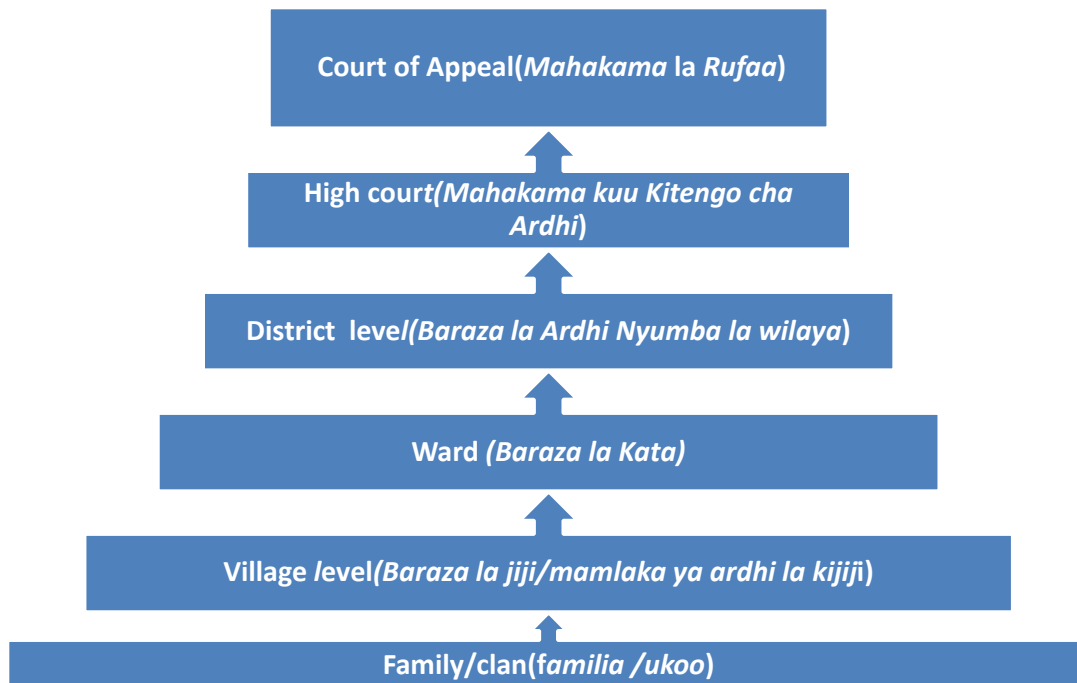
Tanzania

Tanzania has got a unique system of land conflict resolutions compared to Rwanda, Uganda and Burundi. Land cases are handled outside normal courts Land conflicts' are decentralized up to the village levels. Land conflicts are dealt with as follows

- i) At the family or clan level disputes concerning land sales, inheritance, land grabbing and encroachments are settled through consensus and mutual agreement reached by all parties to the conflicts.
- ii) If the conflict is on the village land the village leader/headman and the village assembly known as *baraza la jiji*. The village assembly have a component of land -*mamlaka ya*

ardhi la kijiji mandated to resolve such conflicts convene a meeting and settle them. The village leaders/headmen are not paid by the government and most of them are accused of corruption and involvement in illegal sale of village land to which they should be the custodians. There is a lot of resentments in several villages because of irregular land allocation.

- iii) If no solution is found the case is taken to the Ward (*Baraza la Kata*) the members of the Ward land dispute resolutions are paid by the government. There are charges for land disputes handled at the ward level and a reference number given to the cases resolved or not.
- iv) At the District level land disputes are handled separately through District Lands and Housing section, then High court special section on lands and finally court of appeal. The last three levels have got charges to be paid. Many rural populations are not aware of the procedures regarding land conflict resolution and end up giving up. Below is the hierarchy of institutions dealing with land disputes:-

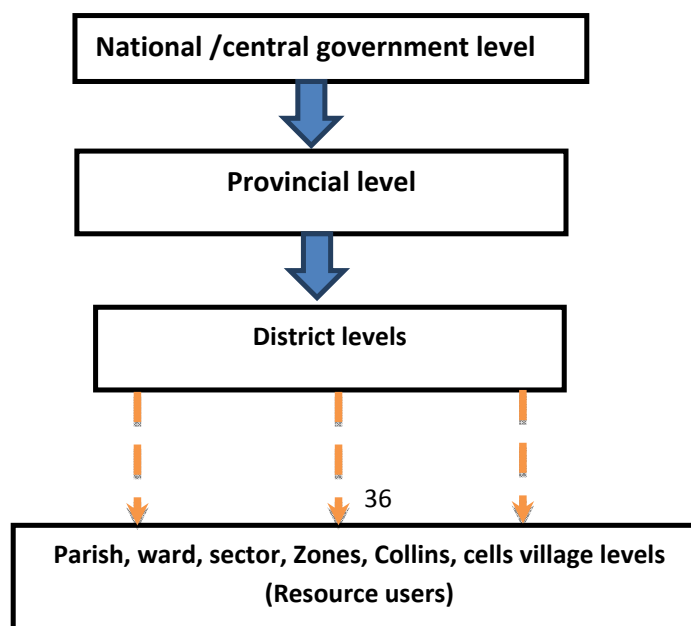


Policy and legislation for sustainable land and agro-ecosystem management and conflict resolution

Sustainable land and other natural resource management is all about using the resources to meet human needs while preventing the environment. All the Kagera countries acknowledge this fact and have developed policies, laws and by –laws and have in place, legal and institutional frameworks to regulate and enforce sustainable utilisation of natural resources.

At the same time the policy makers in the four countries of Kagera Basin have realized that sustainable natural resource management requires strong institutional structures that encourages and increases community participation in the management of natural resources. The countries have adopted the notion that user based natural resources management systems are the most effective way of ensuring sustainable management and overall development of communities. Several efforts have been made on devolution of resource management to the user communities (Villages, cells, wards, Parishes sectors, Collins etc) and there is in “theory a reduction” of central government involvement in resource management.

The countries have embraced decentralization as a policy instrument aimed at improving local level/community participation, efficiency, equity, effectiveness and sustainability in the field of natural resource management and conflict resolution. From the assessment carried out the natural resource management policies, laws and by –laws exist at the national up to District levels in the four countries. However, there is a “disconnect between the District and community levels (Village, Collins, Sector, Ward, Parish etc.) Decentralization as a policy instrument in Kagera Basin in terms of implementation has a disconnect from the District level to the lower levels such as the Parishes, Wards, Sectors, Zones, Collins and the village resource users as shown below)



The decentralization as a policy instrument from the discussions held on the ground still falls short of infrastructures for successful implementation of policies, laws and regulations on sustainable utilization of available natural resources effectively among the resources users and resolve conflicts at the lower/grassroots' levels. The gap between the national level, the District, extension service providers and people on the ground is so wide.

Weak and ineffective institutions to effect natural resource management policies/laws and regulation at the lower levels have created more resource conflicts. Which in reality means policies, laws/regulation and by-laws exist but no enforcement mechanisms in place and stiffer penalties on those who do not oblige leading to resource conflicts. The policies, laws and regulations and by-laws do not take root at the community levels or among resources users leading to overexploitation, degradation and conflicts.

In Tanzania for instance, The Village Land Act no. 5 (1999) does not allow the Village chairmen (legal custodians of village land) to allocate more than 50 acres of land to an individual, and that land must be approved by the Village assembly exist but it's not followed. The Village chairmen are accused of breaching such laws by allocating large chunks of land to individuals and irregular land sales creating land conflicts between the villages and individuals who purchase such lands. In Burundi the policies/laws and regulations are written in French not Kirundi prohibiting the local communities access of information because very few people read at the village levels.

The communities are not fully aware or sensitized on such policies and the consequences. In Tanzania they have village committees that should closely work with the District authorities to ensure sustainable use of resources but they are not motivated (no incentives from the government) or rewarded by the government on conservation issues. The communities turn blind eyes on environmental issues.

Technical personnel at the District levels such as governance and administrators working with natural resources forests, land and environment are not aware of some of the policies and laws they should implement. At the same time, conflicting policies on natural resources creates more confusion and laxity in terms of implementation at the village levels. In

Burundi the right to ownership of marshlands which occupy about 20 percent of the country is contradictory. Traditionally marshland belonged to public land but there are no current legal provisions to safe guard the issue. Marshlands have become smallholder farming units and are privately owned creating conflicts between the communities and public authorities. The Land policy (2009) clearly stated that marshlands are privately owned but the administrators are not aware.

Different government departments of natural resources lack functional implementation strategies on policies among user communities/grassroots because of lack of funds (lack of prioritization of natural resources ministries) and human resources. For instance, in Tanzania each District has only one forest officer who reports directly to the Executive Director whose priority is not conservation issues. Other issues mentioned include;

- Allegations of corruption and ineffective government officials and village leaders (local councils and village chairmen) at the village levels to enforce policies, laws and by-laws).
- Lack of incentives from the government for the communities living close to forests reserves to fully engage and promote participatory sustainable utilization of natural resources. Communities look at the forests as government' property and in the absence of forest officers they overexploit the resources. In Tanzania brick making activities along River *Ruvubu* occur at night when the villages use indigenous trees to burn bricks which is not allowed by law.
- Lack of alternative sources of energy impeding success on sustainable exploitation of forest resources.
- Lack of alternative income generating activities to ease the pressure on natural resources particularly in areas already affected by severe land infertility. Poverty makes us cut trees but we all know the government want us to plant more trees are some of the comments from villagers.
- Political interferences with natural resource management i,e wetlands are constant sources of conflict between farmers/herders supported by politicians. Depending on who (herders or farmers) voted them in the elections policies are bend to support voters.

Lessons learned

- i) Land and natural resources are politically sensitive in Kagera Basin which calls for innovative and dynamic management tools at all levels to enhance multi-stakeholder participation and improve sustainable utilization of resources.
- ii) Optimizing local level control over land and other natural resources with more emphasis on gender –sensitive participatory mechanisms could improve access and decision- making on resources for all.
- iii) Land suitability maps and land use maps when developed and enforced can be useful in solving land and natural resources conflicts as well in Kagera Basin.
- iv) Communities are more enthusiastic on agro-forestry activities i.e boundary planting, woodlots, shed –tree planting, plating trees with crops more than management of water resources. There is need to develop an integrated water management tool to bring all stakeholders together to determine community long term needs for water and other related natural resources in line with climate change(maintaining essential ecological concerns and sustainable agricultural practices)
- v) More community participation in management of water resource at the basin would enhance integrating land and water, upstream and downstream, ground water and surface.
- vi) Adopting government policies, laws and by-laws regarding land and other natural resources enhance sustainable utilization of resources and reduce conflicts emanating from competition.

Framework for negotiation process for sustainable land and other natural resources management

From field visits, interviews and consultative meetings the reporting consultant proposed a simple framework for negotiations to be experimented/piloted in Tanzania, Uganda, Burundi and a joint/ trans boundary (Rwanda, Tanzania, Burundi and Uganda) to resolve identified conflicts and improve sustainable management of natural resources. It's important to note; the framework is part of the recommendations made on TAMP Kagera as an action point for country specific and transboundary project activities.

The framework proposes that TAMP Kagera should initiate country specific and trans boundary (as stated below) negotiation and dialogue “pilot “processes among resource users using Participatory Negotiation Territorial Development (PNTD)¹⁹ (country specific conflicts) and Welcoming Capacity(transboundary conflicts) approaches to address and resolve land and other natural resources conflicts.

PNTD approach has been successfully adopted in negotiation on land and other natural resources i.e migratory routes, grazing areas and water conflicts in Sudan -Darfur, on land conflicts in Angola and Mozambique and, has demonstrated ability (**FAO added value**) to support trust building process at local level whilst supporting higher level policy/legislative mechanisms. PNTD currently is gaining international recognition as an important tool for managing local resources and territorial development. It supports negotiated decision-making processes and encourages social dialogue and partnerships between the actors within a given territory.

Using PNTD framework for negotiation should be adapted to address identified country specific conflicts such as i) farmers and herders conflicts in Tanzania, *Karagwe* District (*Kihanga/Katera* villages) ii) Land conflicts in Uganda, *Kabale* District (*Kitumba* and *Bubale* villages) and, iii) Land conflicts in Burundi, *Mwaro* and *Gitega* Districts. The approach offers participatory platform forums that address suspicion, mistrust and offer better understanding of all the stakeholders/actors (parties) before embarking on dialogue, and eventually reaching a consensus anchored on negotiation.

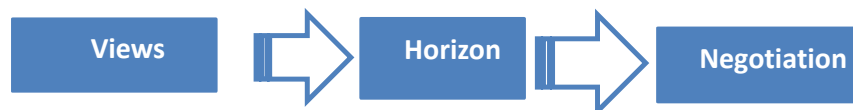
The framework begins with a comprehensive participatory territorial diagnosis of seeking views, opinions, interests, positions and power imbalances of all the stakeholders (directly and indirectly) involved in land and other natural resources conflicts. The territorial diagnosis is then followed by horizon phase where dialogue processes on land and natural resources and proposals for enhancing sustainable resource utilization are discussed. The dialogue face opens up discussions among stakeholders/actors and starts from the evidences and analysis provided by the participatory territorial diagnosis. Negotiation phase is the final process in the framework where the stakeholders/actors have gained confidence,

¹⁹ http://www.fao.org/sd/dim_pe2/pe2_050402a1_en.htm

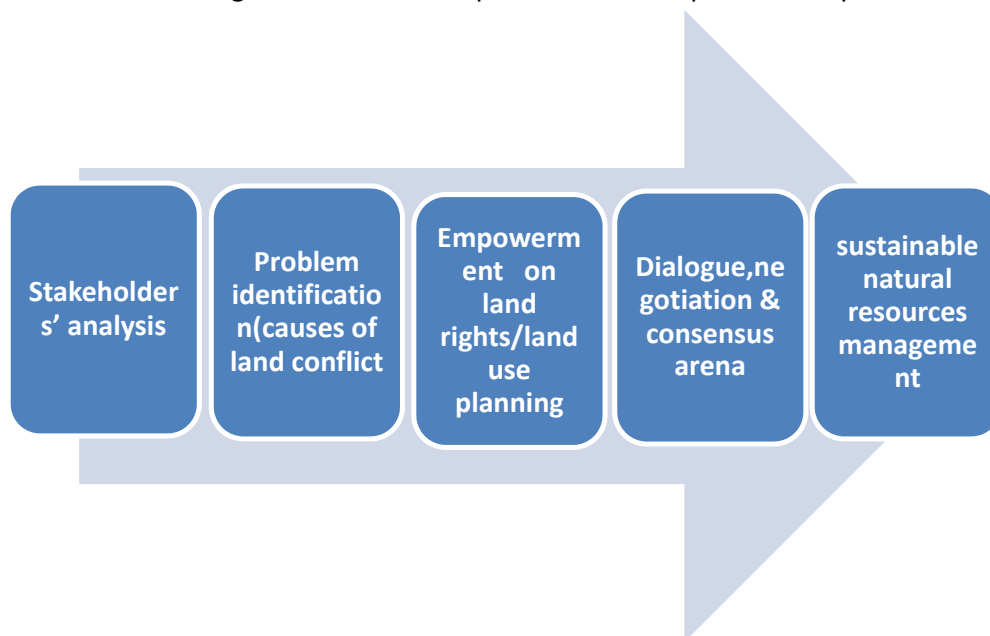
trust and willingness to reach a consensus on natural resources conflict resolution mechanisms and sustainable management of resources.

Participatory Rural Appraisal tools/ methods (Community/village resource maps, transect walks, historical analysis, seasonal calendars etc) shall be adopted for inclusive, open and transparent discussions. Below diagram illustrates the PNTD phases:

PNTD phases for negotiation



It is important to note that PNTD approach is a process that takes time before a consensus is reached. Below diagram illustrates the processes and explains each phase in details



Phase 1: Views (Participatory territorial diagnosis)

- Stakeholders Analysis/identification i.e TAMP Kagera, Government line Ministries, CSOs/NGOS, Private sectors, local authorities, institutions, community groupings (views, interests, power asymmetries etc).
- Participatory problem identification (land ownership, land use conflicts farmers/herders) using PRA tools.
- Empowerment of weak actors on policies, laws and regulations

- Trust and confidence building among stake holders

Phase 2: Horizon(dialogue)

- Dialogue platform /arena is set to discuss land issues
- “Win-win” situation for all and a formal agreement is reached through consensus
- Collaborative resource management for all stakeholders

Phase 3: Negotiation and consensus building

- Trust and confidence building leading to joint decision making
- Willingness to reach a consensus

On the other hand, trans boundary (Tanzania, Rwanda, Uganda and Burundi) land and resource conflicts can be addressed using Welcoming Capacity approach. It is important to note that for trans boundary conflicts participatory negotiations and dialogue processes can go a long way;

- i) establishing trust and confidence among resource users,
- ii) ensuring seasonal or temporary access to resources through joint consensus (through documented formal agreement) indicating period/time other resource users can access resources i.e pastures,
- iii) establishing terms and conditions of the agreement well stated with effective monitoring systems in place.

WC approach is a shift of perspectives towards an inclusive address of conflicts emanating from natural resource by focusing on building of trust, dialogue and negotiations among “hosting communities” in this case Tanzanian citizens and “foreigners” from Rwandan, Ugandan and Burundi resource users. The main objective of adapting this approach is to promote an all-inclusive (host communities and their neighbours/foreigners) negotiations processes and reach a consensus. For instance, how many pastoralists and the number of livestock should be welcomed or accepted to graze per Km² in a particular area and under what conditions.

The WC approach provides practical introduction to systemic negotiation processes which offer room for inclusion and recognition of all stakeholders /actors as equally important and their engagement in all the on –goings trans boundary natural resource issues are very crucial. The approach is a step towards changing perspectives from focusing on alternative conflict resolutions mechanisms between the Tanzania hosts and their neighbours but offers

understanding of existing “gaps” that affects the social relationships²⁰ as well (there is an existing intricate socio-cultural relationships and inter-dependencies).

The WC approach will also improve awareness on transboundary policies, laws and regulations i.e environment, water, wildlife and land tenure and their effects on sustainable natural resource management and challenges facing resources users. Closely identify and analyse what are the conflicting natural resources and territorial challenges? Who are the “drivers” or what are the determinants? What are conditions? How can the condition be improved? The WC approach will provide an opportunity to identify (with the view to prevent) nascent differences or “low –key conflicts” from spilling over into violent confrontations.

WC as a new negotiation approach is centred on problem resolution and has in recent years, received much attention theoretically on collective negotiation approaches that abandon the obsession for a ‘win-win’ solution and instead emphasizes more on the process rather than the outcome.

It is important to highlight that application of Welcoming Capacity as an approach also adopts PNTD Phases as explained below;

Views Phase (Participatory Territorial Diagnosis)

- The objective of this phase is to carry out a systemic trans boundary/ territorial diagnosis processes. Identification, examination and analysis of actors /stakeholders (direct and indirectly involved), what are their interests, potentials, constraints, opportunities and strengths? What are the roles and responsibilities of the stakeholders actors, (i.e important to understand hosting communities’ and foreigners) potentials, livelihood strategies, coping mechanisms, and inter-dependencies.
- Examination of trans boundary institutions’ dealing with natural resources and establish what are the constraints, opportunities, and capabilities exist to resolve real and perceived conflicts related to natural resource management (competition over resources). What are the institutional gaps in enhancing resource conflicts?
- Historical analysis that will provide a coherent understanding of communities’ social organization (social exclusion and vulnerabilities), livelihoods strategies, socio-economic and historical events, land and land based resources rights and relationship within the productive chain. It is important to understand the history of land occupation and other natural resources exploitation (forests, water) and whether these rights existed for the Tanzania /hosting communities or not.

²⁰ We have close social ties across the border including inter-marriages how can we deny our in-laws access to grazing areas an informant exclaimed at Isingiro, Karagwe District

It's important to note that historical analysis will offer a unique opportunity for examining and assessing land tenure arrangements and how they could contribute to other resource conflicts i.e water, grazing areas, forests and wildlife. Who determined these rights? What changes have taken place i.e migration, climate change and natural resource conflicts?

Horizons Phase (Dialogue and Proposals)

- The objective of this phase is to open up discussions among stakeholders over trans boundary natural resource conflicts. The dialogue processes starts from the evidences and analysis provided by the first phase of participatory territorial diagnosis.
- The dialogue processes will support the stakeholders in drawing up a coherent and feasible perspective for the future trans boundary conflicts resolution and sustainable natural resource management. For instance, once the stakeholders/actors have accepted the different views or areas of concerned in regard to conflicts and sustainable natural resource management, preconditions for dialogue met and concrete proposals (how to resolve trans boundary conflicts and proposed sustainable resource utilization) elaborated to meet specific needs of each stakeholder.
- Dialogue will be based on a more careful understanding of the dynamics of underlying trans boundary conflicts (such as competing claims to resources) and significant involvement of all stakeholders/actors at all levels but more importantly that all efforts would contribute towards social and political stability particularly, at the grass-roots levels.
- Dialogue will offer reassurance to different stakeholders/actors of the necessity of long –term dividends of peace and that effective (internal and external) interventions are only possible when all sources of conflicts are recognized, the dynamics between them understood, decision-making and peace building initiatives enhanced and inclusion (all actors involved should participate). Failure to involve all parties could lead to renewed resource conflicts.

It's important to note that all the Governments and stakeholders/ actors must be open and actively involved in the dialogue processes, in order to identify lasting solutions for conflict resolution and natural resource management. And, stakeholders/actors' willingness to participate in the dialogue processes are always related to their perceptions, experiences of the obstacles and limitations of such a process.

Negotiation Phase

- The objective of this phase is to boost confidence building among trans boundary stakeholders/actors. Confidence building remains a prime activity in WC approach and is key to negotiation process.
- Confidence and trust building will result in a joint/collaborative decision-making processes which in many cases will often than not, influence the willingness to reach

a consensus on conflict resolution mechanisms and sustainable natural resources management.

A variety of PRA techniques will be adopted such as i) Historical analysis ii) Time Line iii) Venn diagrams to establish which institutions and key stakeholders/actors (direct and indirect) iv) Land use patterns (an essential element) investigated not simply in terms of current use, but in terms of the overall community land use systems iv) Transects to obtain a transversal slice of what a territory produces, where and how it creates trans boundary resource conflict.

Conclusion

Land remains the most important resource in the River Kagera Basin because the majority of the population rely on agriculture for subsistence living. In the four countries the discussants identified more with land other than, other natural resources such as water, forests, wildlife and wetlands. It is evident that the four Countries of Kagera Basin have different and unique in country and transboundary resource conflicts that affect SLM. Land ownership and land use remains a big challenge particularly, in rural areas

There are institutions and policy frameworks to enforce sustainable management of land and other natural resources in the Basin however, there is a “missing link” between such institutions and resource users. The policies and legislation are like water hyacinth with no roots at the grassroots levels. The institutions lack the capacity and financial resources needed to roll out beyond District levels among other factors.

As a way forward it is important to enforce policies, laws and by-laws at the grassroots through adequate government funding of natural resources line ministries. The four governments should engage in creating more partnerships and close coordination with international organizations as means of improving access to land and other resources to reduce conflicts.

Recommendations/way forward (Narrative)

Strengthening policies and conflict resolution institutions

Strengthening public institutions is a huge task that TAMP Kagera project cannot achieve independent of the four government' strong support. Two ways are therefore, suggested

- i) TAMP Kagera to engage the four States (National level) in prioritizing natural resources line Ministries (Forests, Water, Wildlife, Environment and Land) as a matter of great and urgent concern to development. Allocate sufficient budget/funds to address the gap of lack of capacity (human and financial support) to enforce/implement/monitor/evaluate policies, laws, regulations and by-laws up to the village levels.
- ii) TAMP Kagera to form Action Groups (AG) in each country to address capacity gaps on natural resources. Lack of capacity by the government officials is adversely mentioned (from the District, Sub/counties, Wards, and Commune, Collins, Zones, Parishes and Village levels) as a setback in undertaking core functions of delivering efficiently and effectively. The Action Groups should involve key stakeholders such as government representatives, natural resources line Ministries, Private sectors, Civil Society Organization (NGOs & CBOs) and individuals interested in conservation issues.

The Action Groups should have clear terms of references (TORS) and monitoring systems to evaluate the progress made in terms of enforcement of policies, laws and regulations regarding natural resources in the project sites.

The Action Group could as well engage in harmonizing conflicting in country policies/laws and regulation and by-laws on natural resources in collaboration with government line Ministries.

Land suitability maps and land use maps

The four countries should develop land suitability and land use maps at the grass root levels (villages) in a participatory manner to take into account the views of the villagers. This will not only reduce resource conflicts but will quicken land registration process at the village levels.

Training workshops

TAMP Kagera in collaboration with implementing partners in each country should engage on training of government officials at the village levels on integrated policies/laws/regulations and Acts on natural resources. This will help in formulating deliverable and achievable by-laws at the community. Each Country should conduct 3 days interactive workshop where Senior government officials from the national level natural resource Line Ministries (Land,

Forest, Wildlife, Environment, Water, Immigrations etc) conduct training on what the policies/laws/regulations are, enforcement mechanisms, procedures and penalties for noncompliance. The workshop should come up with monitoring and reporting mechanisms to ensure that sustainable natural resource management are adhered to and conflicts resolve recorded.

Awareness creation and sensitization at the community levels

After training the government officials at the village level and implementing partners/service providers will embark on awareness creation and sensitization meetings on change of attitudes and behaviours on resource utilization and information sharing regarding policies, laws and regulations, sustainable natural resources use and how to reduce conflicts at the grass root levels. The awareness can also be channelled through translation of policies in local languages and local vernacular radio programmes.

Empowerment of FFS and the community

The Farmer Fields Schools are doing great in the four countries but need to be empowered on Reproductive Health (population control), natural resources policies/laws and regulations, procedures on resource conflict resolution mechanisms, land use planning, land registration issues should be factored in the curricular. TAMP Kagera could should pilot Land and Property Rights using FFS approach to educate farmers (men and women) on land rights and tenure security which is critical for sustainable land management and conflict resolution The module has been tested in Kenya with and Mozambique with FFS and JFFLS respectively (A comprehensive facilitators guide is already developed FAO).

Actions aimed at securing land tenure could go a long way in the management of land resource as well help in sustainable resources utilization within the Basin where land degradation is a major impediment to sustainable agriculture. Land registration for instance, will not only reduce conflicts but encourage adoption of sustainable land management practices with long term impact i.e afforestation, reforestation, rehabilitation of rangelands, terracing and grass strips; hedge grows water and soil retention ditches and check dams would help in the long term.

Alternative sources of livelihoods

The issue of alternative sources of livelihoods mainly off-farm activities to ease the pressure on land in the four countries. Burundi and Rwanda are the worst affected by severe land fragmentation and high population density impacting on unsustainable resource utilization.

Trans boundary

Regional workshop

TAMP Kagera should organize a regional workshop where Trans boundary conflicts (illegal migration of human and livestock, forest destruction and land issues) can be addressed

The workshop should address conflicting regional policies, laws and regulations that affect sustainable resource management (charcoal burning and wood fuel/trade, brick making).

Establish trans boundary enforcement and monitoring mechanisms that would work better in conflict resolution and promoting good neighbourhoods i.e effective trans boundary conflict resolution committees. The existing District Defence and Security Committees are comprised, ineffective and have no clear terms of references.

Policy harmonization within River Kagera Basin

Different countries policies are a threat to sustainable land management a policy harmonization would result in joint enforcement mechanisms that would better. This can be discussed at the EAC level. Already the treaty for the establishment of EAC in Article 112 calls for parties States to cooperate in all issues of Environment and Natural Resources (ENR) Management. The treaty requires that the parties States cooperate to preserve, protect and enhance the quality of environment and ensure sustainable utilization of shared natural resources.

TAMP Kagera should engage in proper coordination and partnerships with others on natural resources management such as Nile Basin Initiative, The Kagera River Basin Transboundary Integrated Water Resources Development Project (TKTIWRDP).

Research on alternative sources of energy and building materials

Conservation and sustainable land management without alternative sources of energy is a big challenge because majority of the population rely on wood fuel. Planting fast maturing trees can be an alternative but must be coupled with intensive awareness creation and sensitization at the local levels in each country.

Recommendations/way forward (Table format)

Action Point (In country)	Activity	Expected outcome	Responsible
Strengthening public institutions	<ul style="list-style-type: none"> • State level dialogue • TAMP Kagera to form Action Groups (AG) in each country to address capacity gaps on natural resources 	<ul style="list-style-type: none"> • Sufficient budget allocated • Action Groups formed and public institutions capacity strengthened 	State line Ministries, TAMP Kagera, CSOs & IPS
Land suitability maps and land use maps	Technical support to produce land use maps	Land suitability and land use maps developed	State line Ministries, TAMP Kagera, CSOs & IPS
Training workshop	Training of government officials at the village levels on integrated policies/laws/regulations and Acts on natural resources	<ul style="list-style-type: none"> • Training workshop organized • Government officials awareness on policies improved 	State line Ministries, TAMP Kagera, CSOs & IPS
Awareness creation/sensitization at the community levels	Organize awareness creation/sensitization meetings	<ul style="list-style-type: none"> • Change of attitudes and behaviours recorded on resource utilization • Information sharing regarding policies, laws and regulations enhanced • Sustainable natural resources management improve • Resource conflicts at the grass root levels reduced 	State line Ministries, TAMP Kagera, CSOs, IPS & communities
			State line

Empowerment of Farmer Field Schools and the Communities in the catchment & micro-catchment areas	<ul style="list-style-type: none"> • Training on resource rights • Inclusion of resource rights i.e land rights, alternative conflict resolution mechanisms and reproductive health in the FFS curriculum 	<ul style="list-style-type: none"> • FFS members/communities awareness on natural resources rights increased • Land registration improved • Alternative conflict resolution mechanisms adopted • Population growth controlled 	Ministries, TAMP Kagera, CSOs, IPS & communities
Alternative sources of livelihoods	<p>Examples</p> <ul style="list-style-type: none"> • Poultry keeping • Bee keeping • Fish farming • Small business enterprises • Other off- farm activities 	Income generating activities initiated and sustained	State line Ministries, TAMP Kagera, CSOs, IPS & communities
Trans boundary			
Regional workshop	Conduct a workshop	<ul style="list-style-type: none"> • Regional resource conflicts addressed • Regional policies harmonized • Monitoring and evaluation mechanisms developed • Coordination/Partnerships developed • Research on alternative sources of energy/building materials initiated 	State line Ministries, TAMP Kagera, CSOs, IPS EAC members & Donors/partners

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