

The 7th Regional Resource - Based Conflict Conference

**“Land Use, Land Rights & Conflict
in East Africa and the Horn”**

**Imperial Resort Beach Hotel, Entebbe
28-30 June, 2008.**

The Conference

This seventh in a series of conferences for CSOs addressing resource based conflicts in the Greater Horn of Africa brought together participants from nine countries.

This RBC network of civil society organizations now has a Nairobi-based Secretariat, which aims to take this initiative forward and support the network's members in carrying out activities that have a tangible impact in reducing conflict over resources in this volatile region.

Acknowledgements

This conference was organized by PENHA-Uganda, the national focal point organization in Uganda for the RBC network.

Thanks are due to Amsale Shibeshi, PENHA-Uganda Program Coordinator, who was principally responsible for the efficient organization of the conference. Everse Ruhindi of PENHA-Uganda played a key role in overseeing the development of the RBC network in Uganda, following the last conference in Hargeisa and leading up to this event.

William Tsuma, of the RBC Secretariat, supported by John Aheere, was the principal driving force and lead actor in shaping this conference.

The two facilitators, Dr. Zeremariam Fre of PENHA and Wilson Kaikai of the Participatory Development Centre (Nairobi), performed their functions admirably.

The efforts of Mr. Kees Maxey, of PENHA's London office and Mr. Joseph Bitature's, in recording and documenting the proceedings, are gratefully acknowledged.

Amended Schedule

Day 1 (28/06/2008)

8.00 am	Breakfast & informal discussions
	Session 1: Introductory Session
9.00 –	Opening remarks – Everse Ruhindi (PENHA-Uganda), Wilson Kaikai (PDC) and Dr. Zeremariam Fre (PENHA)
9.30 am	
9.30 –	Review of objectives & participants' expectations
10.00 am	
10.00 –	Introductions (of participants)
10:30 am	Housekeeping issues
	Country groups – discussion of objectives
11.00 am	Tea Break
11.30 am	Keynote Speech by Hon. Hope Mwesigye, Minister for Local Government
12:30am-1:00 pm	Question & Answer Session with Hon. Hope Mwesigye
1.00 pm	Lunch
2.00 pm	Session 3: Special Session to Discuss Hon. Mwesigye's Speech
3.30 pm	Tea Break
4.00 –	Formation of multi-country groups & discussion of objectives
4:30 pm	
4:30 –	Group discussions
5:30 pm	
5:30 –	Reflection on Day 1
6:00 pm	
6:00 pm	End of Day 1
evening	Management team – meeting to review Day 1 and plan Day 2
	Group Work
7:30 –	Dinner and informal interaction
9:00 pm	

Day 2 (29/06/08)

8.00 am	Breakfast & informal interaction
9:00 –	Session 1: Country Presentations & Discussions
10:00 am	
	South Central Somalia, Puntland & Somaliland
10:00 –	Plenary Discussions
10:30 am	
10.30 am	Tea Break
11.00 am	Session 2: Country Presentations

Kenya, Uganda & Tanzania

Plenary Discussions

1.00 pm

Lunch

2.00 pm	Session 3: Country Presentations Eritrea, Ethiopia & Sudan Plenary Discussions
3.30 pm	Tea Break
4.00 pm	Session 4: Country Presentations Uganda & Kenya Plenary Discussions
5:30 pm	Reflection on Day 2
6.00 pm	End of Day 2
evening	Management team – meeting to review Day 2 & plan Day 3 Group Work
Day 3 (30/06/08)	
8.00 am	Breakfast & informal interaction
9:00 am	Session 1: Key Messages Facilitators' presentation of approach & objectives Discussion of Common & Cross-Cutting Issues
9:30 am	Group Work
10:00 am	Session 2: Presentation of Key Advocacy Messages
10.30 am	Tea Break
11.00 am	Presentation of Key Advocacy Messages (continued)
1.00 pm	Lunch Break
2.00 pm	Session 3: Key Recommendations
2:30 pm	Special Session: "the Entebbe Declaration" – discussion & drafting
3.30 pm	Tea Break
4.00 pm	Session 4: Closing Session Closing Address by Hon. Atwooki Kasirivu, Minister for Lands Question & Answer Session with Hon. Kasirivu Closing Statement by Dr. Zeremariam Fre (PENHA-Uganda) Closing Statement by Daudi Ekuam (RBC Chairman)
5.00 pm	

Cultural Evening: Dance & Entertainment by “Ndere Troupe”

(showcasing Uganda’s Cultural Diversity and themed on conflict resolution)

Day 4 (30/06/08)

RBC Board meeting

Discussion of the way forward for the RBC network & the Secretariat

Introduction

By John Livingstone (Regional Policy & Research Officer, PENHA-Uganda)

Changes in Approach and the Establishment of the RBC Secretariat in Nairobi

Following the 6th RBC Conference in Hargeisa, Somaliland, significant changes were made with a view to introducing a new dynamism into the RBC process.

Novib agreed to fund a new RBC Secretariat, in Nairobi, whose purpose would be to guide and coordinate activities across the region and to support the focal point organizations in the individual countries. Previous RBC conferences have incorporated analytical as well as training elements. This 7th conference, while focusing on the specific issue of conflict over land, aimed, fundamentally, to look at what the different CSOs are doing in each country and to identify ways of strengthening the RBC network.

Arguments for a Shift Towards Bolder Activism

There was a feeling in some quarters that there had been too much talk and too little action. While the need to proceed on the basis of sound analysis, and the value of sharing ideas and experience across the region, were generally accepted, some felt that there was a need for a more activist approach, at both the policy and grassroots levels.

PENHA-Uganda wanted a conference that addressed current controversies and involved key players from government, the private sector, the security forces (police and army), the judiciary (local and national), the media and the communities. Many are convinced that the RBC network needs to move in this direction, with a bolder approach, working much more closely with community groups and building their capacity to advocate for and defend their interests.

Evidently, such an approach is only possible in those countries that have relatively open political systems, such as Uganda, Kenya and Tanzania. In other countries, a more cautious approach is necessary. Although, even where civil liberties are restricted, there is scope for network members to work more closely with communities, to build local capacity in various areas, and to work with governments and communities in areas such as natural resource management. The Eritrean NFP's natural resource management program with women headed households is a good example. The program enjoys government support and it has helped poor households to make better use of their land holdings. CSOs can also carry out analyses and share these with government. Many participants in this conference agreed with the view that CSOs need to develop mutually beneficial partnerships with government.

In the end, it was decided that this conference would look inwards, getting our house in order, so that we could look outwards as we go forward on a sound basis.

The Goal of Enhancing Personal and Working Relationships within the Network

The concept of a "family day" was advanced by the Secretariat. The idea being that members need to get to know each other better as individuals and to spend time interacting informally and developing an understanding.

Hitherto, there has been little, or infrequent, interaction between network members across the region. Dry exchanges of position papers program documents have not produced a genuinely cohesive network of individuals, collaborating intensively on the basis of a set of shared principles.

“Family Day” was to have involved a whole day of loosely structured, and more or less informal, interaction and discussions. But, this had to be abandoned when it became clear that there would not be enough time, with only three days, to get through the formal presentations and the plenary discussions of the latter, as well as the forward-looking sessions on practical/operational matters.

So, the Secretariat’s original conference program had to be substantially modified, with only the usual space for informal interaction.

Nevertheless, the goal of enhancing the quality of the interaction between network members remains, and there are hopes of doing this in innovative ways through the RBC Network’s website. It should be remembered here that relationships between organizations can become more effective when they become relationships between people.

More broadly, participants, NFPs and the Secretariat exchanged a number of ideas on ways to make the network more effective.

Planning and Managing the Conference

Overseeing the modifications to the conference program, and seeking to reconcile divergent visions, was a management team composed of the two facilitators, Dr. Zeremariam Fre of PENHA and Wilson Kaikai of the Participatory Development Centre (Nairobi), William Tsuma and John Aheere of the RBC Secretariat and John Livingstone and Amsale Shibeshi of PENHA-Uganda.

The management team held meetings in the run-up to the conference and on each evening of the conference, as well as at various points during each day of the conference. Amsale Shibeshi, PENHA-Uganda’s program coordinator, was principally responsible for the organization of the conference and made significant inputs on the management (content) side.

It was agreed that the usual mix of country presentations, group and plenary discussions, would be supplemented by “multi-country” group discussions, in which selected members from different countries would interact intensively.

On the final day Karin Van Dijk of Oxfam-Novib and William Tsuma held separate discussions with each country group on the way forward.

For the Uganda team, the discussion with Karin produced agreement on the need to focus on building the capacity of citizen’s groups to advocate for themselves and to defend their rights in local and national judicial and political processes (vis-à-vis District Land Tribunals and local government institutions with decision-making powers as well as their national-level counterparts).

This suggests an agenda of legal awareness training on land rights, information, education and communication around the Land Bill and government policies, efforts to expand access to information in the communities, empowering citizens to challenge and engage with their political representatives, and advocacy-related training for community groups.

All agreed that it is time to take a bolder approach and push harder, taking the side of the poor in the negotiated process that governs access to and ownership over land. PENHA-Uganda put forward the view that, given the uncertainties over land ownership, the outcomes are the result of an on-going negotiation between contending parties – the role of CSOs like PENHA is, then, to strengthen the hand of the poor in this negotiation.

A Note on Pastoralism and Conflict over Land in Uganda

Ugandan participants emphasized pastoralism throughout the deliberations.

This emphasis, in a conference on conflict over land, may not be obvious to those not familiar with the Ugandan context.

In fact, pastoral (communal) land tenure systems and pastoral mobility, as well as seasonal movements onto land that belongs to neighboring communities, have been at the heart of persistent conflict, latent in the West, violent in the East.

In the West, Banyankole and Banyarwanda pastoralists, who formerly enjoyed seasonal access to vast areas of grazing land across several districts, have, since the 1960s, seen their access to grazing land progressively restricted, following land grabs by politically connected ranchers and “absentee landlords”, as well as by a variety of competing land users. In the early 1990s, Western Ugandan pastoralists burned down ranchers’ residences, asserting traditional claims to land that was now privately owned. An uneasy compromise was reached, but latent tensions remain. Poor pastoralists in the West are now largely landless, a situation that imperils their livelihoods and obstructs progress in a number of areas. They cannot, for example, invest in water points, or roofed homes with water harvesting structures, on land that they do not own. The possibilities of mutually beneficial interaction with cultivators, through leasing and bartering arrangements, are limited by ethnic tensions and the fear that temporary users, “squatters”, might gain permanent rights to the land.

In the East, Karamoja’s three contiguous districts occupy a vast area of semi-arid land, bordering Kenya. With only a few agro-pastoral pockets, the area is overwhelmingly pastoralist. It is unquestionably Uganda’s most “backward” area, with little or no social or economic progress since the colonial era. Land is communally owned, with traditional rules and the decisions of clan elders governing land use. Karamojong pastoralists’ almost universal ownership of modern weapons has enabled them to prevent outsiders from alienating their land, and to resist cattle raiding by armed Kenyan pastoralists, but it has also enabled young warriors to terrorise neighboring communities in Teso and Acholiland. Within Karamoja, there has also been persistent violence and armed raiding between clans and ethnic groups, making development initiatives all but impossible. The Governments of Uganda and Kenya have both been sharply criticized for their failure to protect neighboring communities from pastoralist violence. Thousands have been killed

in a constant stream of brutality over several decades, and agro-pastoralists in Teso and Acholiland have seen their herds decimated by raiders.

The presence of significant deposits of gold and minerals in Karamoja also poses important questions. Outside business interests are seeking to buy up chunks of land, and are not operating in a way that is transparent to local people. Government policy does not incorporate strong guarantees for local people, nor does it envisage measures, such as the hypothecation of tax revenues, that would ensure that local people benefit from any developments on their traditional land.

There are three key questions in the East:

- How can neighboring communities be protected and law order maintained?
- How can seasonal pastoral mobility onto the lands of neighboring communities be made peaceful, mutually beneficial and compatible with animal health regulations?
- How should communal land tenure be adapted to accommodate social and economic change?

The land question – private versus communal tenure on traditionally pastoral lands, and the terms of access to seasonal grazing land in neighboring areas – is, then, central to violence and (latent) conflict in and around the pastoral areas of Uganda.

Land and Conflict

This conference was originally intended to focus on the concept of land as a strategic resource.

Clearly, land is special. It is owned and traded, and leased, like any other good or asset. But, it is bound up with the identities and ways of life of communities that have lived on a particular area of land for generations. Pastoralism and pastoralist culture have been shaped by, or have grown to fit, the arid lands that pastoralists inhabit. The same could be said of the agricultural communities of the highlands of many countries in the region – identity, culture and land, inseparably intertwined.

But, of course, change is a fact of life. It has been argued that conflict often accompanies positive change. Population growth has put pressure on the land and on traditional systems. In many parts of the region, rapid economic growth and social change are opening up new possibilities, raising the value of land, promoting sales and investment.

Ultimately, these changes may well bring about better standards of living for all, if the winners from change effectively compensate the losers, through new mechanisms for the distribution of benefits from growth and change. But in the short to medium term, change is likely to be associated with increased conflict – whether this conflict is violent or not, depends on the effectiveness of local and national institutions.

In 2004, in Kibaale District, hundreds of people were killed in a handful of days over the issue of the immigration of Bakiga people from neighboring Kabale, where population growth has diminished individual land holdings and left many landless. Large areas of land in Kibaale are now farmed by Bakiga immigrants. The trigger for the violence was the election of a Mukiga to the highest political post in the District, which dramatized for “indigenous” people the scale of the immigration. The keynote speaker at this conference, Hon. Hope Mwesigye, was called in to address the unfolding crisis, as the army moved in to quell the violence. She was instrumental in fashioning a compromise between local politicians that ended the violence. The latent tensions remain. This incident raises important questions for us. Why were so many people killed so quickly? Where were the police forces? Why were local institutions not capable of handling the tensions peacefully? Why didn't local people advance their positions through civil society organizations and political representatives, before taking up arms?

In other areas, the predicted effects of climate change may be making themselves felt. Somaliland and Ethiopia have undergone a cycle of apparently more frequent droughts and floods. Climate change, alongside the salient macro-political factors, may be a factor in the violent conflict in Darfur. Whatever the facts of individual cases, it seems obvious that there is some scope to improve natural resource management and agricultural productivity in the region and that this could contribute to reducing conflict over land – a primary goal of CSOs, then, should be to help communities, working with government institutions, to make the most of the land that they have.

It is important to recognize that conflicts seldom have a single cause – they are usually the result of the interactions between a number of, related, causative factors.

Ethnic cleavages, poor governance, that often exacerbates ethnic divisions; weak institutions at local and national levels, the inability of the state to supply the basic public good of security; bad economic policies (national, regional and international) that lead to low growth and large pools of unemployed youth who have little to lose from engaging in violent activity – all of these and other factors may contribute to the eruption of violent conflict over a particular area of land.

Daudi Ekuam's interesting presentation on the shocking post-election violence in Kenya emphasized the way in which latent conflict over land and other resources interacted with other factors to produce terrible violence in one of the region's most stable countries.

Land tenure regimes across the region are characterized by a high degree of uncertainty. The difficult transition from traditional to modern systems has resulted in a confusing mish-mash, often with multiple overlapping claims to the same piece of land. In principle, security of tenure promotes investment, productivity and economic growth. In practice, land titling in the region has failed to produce these incentive effects, to some degree, because land titles and ownership remain contested. Country presentations at this conference attempted to take us through the complicated development of land tenure systems in each country. In most cases, the complexities are daunting and bewildering. But, rather than aiming to come up with a definitive analysis, or a “magic bullet” solution, we should think in terms of building community capacity to engage in the negotiated legal and political processes that determine outcomes. We should also seek to help strengthen and shape the local and national institutions within which these negotiations, over land ownership and use, take place, in

hopes that these institutions will include all stakeholders in discussions that displace violent conflict.

As CSOs, and as a network, we need to think through these analytical issues and agree on some common principles.

One fundamental question is, to what extent do we welcome change, evolution and economic growth, seeing our role as to help people to manage change effectively and peacefully, and to what extent do we wish to preserve the status quo in rural Africa?

Day 1.

Session 1: Introductory Session and Keynote Address

1.1 Opening Remarks - Everse Ruhindi (PENHA-Uganda)

[Since the last RBC conference in Somaliland, PENHA-Uganda has been the national focal point for the RBC process in Uganda and Everse Ruhindi has been principally responsible for overseeing activities in Uganda and liaising with the Secretariat.]

Ms. Ruhindi opened the session by welcoming all of the participants and expressing her happiness at their safe arrival from all the different countries.

She remarked that there were two distinct sets of representatives at the conference.

The first set comprises “the old ones”, members of long standing who have displayed a high level of commitment over a number of years and bear the Network’s institutional memory.

The second set comprises “the new ones”, those participating for the first time in an RBC conference, who have something to add – new ideas and fresh minds. Ms. Ruhindi warmly welcomed the new members into the RBC family and encouraged them to take an active part in the network and to see it as their own.

She reminded participants that land issues are not for those with faint hearts - these are difficult issues with vital interests at stake. Tackling them may well involve confronting the powerful, and civil society actors and activists must display the necessary courage. She mentioned the recent protests in Uganda over the sale of parts of Mabira Forest to investors, which had turned violent, with activists being tear-gassed on the streets of Kampala and innocent passers-by attacked by mobs. To be effective, however, CSOs, working with community groups, must be courageous. It is not enough to debate the issues in safe forums such as this one. We must be active in the communities where there is tension and violent conflict over land and we may well have to challenge powerful interest groups on policies and on specific issues.

Ms. Ruhindi urged participants to work hard over the three days of the conference to achieve its specific goals and, particularly, to identify basic principles and develop key messages to guide the members of the RBC network, so that we speak the same language and have a clear idea of what we want to achieve, and thus have a stronger collective voice.

She concluded her speech by thanking Oxfam-Novib for their financial and moral support, for all those organizations present at the conference, for the Secretariat in Nairobi and for PENHA-Uganda in organising the conference.

1.2 Introductions

Ms. Ruhindi handed over to the two co-facilitators who would run the sessions, Wilson Kaikai of PDC (Nairobi) and Dr. Zeremariam Fre, the Executive Director of PENHA.

Mr. Kaikai asked participants to introduce themselves, stating their names, their country and the organization that they represent.

1.3 Remarks by Dr. Zeremariam Fre (Executive Director, PENHA)

Dr. Fre welcomed all and remarked that Uganda has been transformed since he first came to work in the country in 1989, when walls in all the major towns were still marked by bullet holes.

He emphasized the centrality of land rights and noted that most people in our region depend on the land for their livelihoods. For this reason, land is often an underlying issue in conflicts, even in those that appear to have very different proximate causes.

Dr. Fre noted that, in almost every country of the region, pastoralist communities, whose livelihoods depend on access to vast areas of rangeland, are threatened with the alienation of these lands. He added that these pastoralists generally make a very significant economic contribution, but receive comparatively little in terms of public services.

However, the positive aspect is that many of the pastoralist communities are now more effectively represented – by CSOs and by politicians. They have a voice, as do other stakeholders competing for the same resources. He indicated that CSOs like PENHA have a role to play in building the capacity of communities to engage in the different negotiated processes that govern access to resources and land.

He also called upon CSOs that deal with pastoralism to be imaginative and to understand that the lives of pastoralists are changing and evolving. They are modifying traditional ways, becoming more commercially oriented, diversifying economically and socially. Communal land tenure and seasonal mobility may still be necessary in arid and semi-arid lands, but new arrangements are possible and are emerging.

Land is a finite resource, and for many pastoralist communities it is a diminishing resource – this makes it imperative that alternative technologies; alternative animal feeds and new methods be applied in order to make better use of the land available. This may well reduce the occurrence of violent conflict over land. Dr. Fre also urged participants to learn from interventions that have worked in other regions.

He underlined the importance of “voice”, for marginalized groups such as pastoralists and for women, whose rights to own land have, across the region, been restricted, reminding participants that an international forum such as this one represented an opportunity to draw attention to important local, national and regional issues.

He urged network members to debate the issues and to use this forum to outline practical solutions and interventions that could have a real impact.

Dr. Fre talked about the diversity of the region and the widely differing national contexts. he reminded participants of the situation of Juba, Southern Sudan, emerging from conflict, contrasting it with that of Darfur, where pastoralists are involved in a multi-layered conflict, but are attacking non-pastoral communities, partly, in order to secure access to land.

1.4 Speech by Daudi Ekuam, Chairman of the RBC Secretariat.

(prepared speech – copy attached (Appendix 1))

Mr. Ekuam introduced the members of the Executive Committee and key PENHA staff.

He talked about the Regional Steering Committee, which formerly comprised members from seven countries but now includes eight members from National Focal Point organizations.

Mr. Ekuam welcomed the new members – Eritrea as well as Tanzania, which was represented here by two organizations.

He gave a brief background on the RBC process, mentioning the locations, themes and major outcomes of the six previous annual conferences.

Mr. Ekuam also talked about the less tangible, but no less important, impact of the RBC process and related activities in influencing attitudes, and he requested members to be ambassadors of goodwill and to promote renewed attention to the existing conflicts in the region, taking place in Kenya, Sudan, Uganda, Somalia, Eritrea and Ethiopia.

He noted the following principal challenges facing the Network:

- Delayed approval of funding
- Registration process taking long
- Poor communication between the Secretariat and NFPs, resulting in delays in taking important decisions.
- The lack of funding for NFP projects and for the Secretariat.
- An inability to expand the funding base, so that the Network is over-dependent on Oxfam-Novib. (This is partly a consequence of the delay in getting the Secretariat formally registered.)

Mr. Ekuam noted that this network, and the RBC “process”, is entirely voluntary – members have chosen to be a part of it. He urged members to make the most of their opportunity to shape the process and to rededicate themselves to realizing the networks’ dream – a peaceful and harmonious East and Horn of Africa.

1.5 Brief Statement by Karin Van Dijk (Oxfam-Novib)

Karin said how happy she was to be in Entebbe with members of the RBC network from around the region. She mentioned that she had worked for some time just across Lake Victoria in Tanzania.

Karin noted and appreciated the importance of the proposed “family day”, agreeing that it was important for the individuals participating in the network to get to know each other better and to have informal discussions.

However, she emphasized the need to make the conference as practical as possible and to set achievable and realistic targets. Karin reminded participants the RBC conferences are intended to help individual CSOs, working as “focal points” for groups of CSOs, to take practical steps to address conflict in their countries. She stressed the need to work towards specific results.

1.6 Participants’ Expectations and Housekeeping Issues

The facilitators went through some basic housekeeping issues, and agreed with participants on the timing and spacing of lunch and tea-breaks.

Participants were asked to write on a piece of paper, without giving their names, the one major thing that they hoped to get out of the conference.

Their responses are summarized below.

Expectations:

- To come up with practical ideas on how the network can engage with national policymakers to address with land issues.
- To come up with at least two (shared) advocacy messages.
- To share experiences on the major institutional gaps regarding land use and tenure – as a key cause of conflict in the HEA.
- To get wider experience on conflicts in relation to land issues.
- To have informal discussions in small groups.
- To come up with a concrete starting strategy for concrete action which is time bound.
- To get new ideas on how to make or build cemented relationship with the farmers.
- That we will genuinely bond as a family and re-commit ourselves to the ideals and aspirations of the RBC process – with solidified our relationships solifi as the RBC family

- Consensus on the common land issue in the HEA and gaining new ideas on how to tackle these issues through experience sharing.
- To decide on a realistic and workable way forward for the Network that is more action-oriented.
- A strengthened regional network that can effectively coordinate all RBC programmes in the region, given the required resources .
- Using the forum as a basement to make an opportunity for economic boost through idle/unused land
- A practical and feasible advocacy/lobbying campaign policy brief.
- Strategies and approaches to reduce land based conflict at all levels, e.g. at the family level.
- To come up with a harmonized land based resource conflict resolution framework or strategy.
- As a new member, to understand what the RBC Network is all about and what PENHA is all about.
- The expansion of the network and its renewed determination to move forward.
- To identify the most relevant root causes of the conflicts that prevail in the region.

Clearly, there was a wide range of expectations, with many participants expecting different, and, to some extent, incompatible things out of the gathering.

It is also clear that, while there is a general appreciation of the inherent value of the interaction and sharing of ideas and experience that a conference such as this one permits, many participants are anxious to see the network develop and support initiatives that produce tangible results.

Only one participant expressed interest in greater engagement with communities or community groups, something that the organizers are eager to pursue in future work.

1.7 Aims and Objectives of the Conference

The facilitators took the participants through the aims and objectives of the conference.

The overall aim is to strengthen our regional network of CSOs, so that our individual and collective efforts are more effective.

The specific objectives of the conference are:

1. To assess (in each country and comparatively):
 - land-related conflict,
 - land policies and customary law
 - legal and institutional frameworks governing land tenure and use
 - the cross-border dimensions of conflict
2. To produce a consensus on basic principles and approaches to managing conflict
3. To develop civil society advocacy strategies on specific issues
4. To develop a set of key messages on land-related conflict
5. To review country action plans and integrate them into a coordinated regional approach
6. To devise better ways of working together, and with other actors, to bring about change and have a real impact

Tea-break: Participants were requested to report back at 11:00am.

Session 2: Country Groups and Keynote Address

The facilitator, Mr. Kaikai, stressed the need to remain sharply focused on the theme of the conference – conflict over land – rather than straying into more general issues or other kinds of conflict. However urgent or important these issues may currently be, he emphasized, they are not the subject of this conference.

2.1 Formation of Country Groups and Discussion of Expectations

Participants were asked to form country groups for the purpose of assessing progress and identifying gaps in each country.

One NFP, for Southern Sudan, was not represented at the conference. A participant from Northern Sudan was requested to represent Southern Sudan. For various reasons, this was far from ideal, but no better solution could be found in the circumstances.

The facilitators led a discussion of the participants' written expectations for the conference.

The facilitators thanked the participants for taking the exercise seriously and providing practical suggestions that would help to shape the conduct of the conference and help to produce a practical action plan.

Separate groups were formed for Uganda, Eritrea, Sudan, Ethiopia, Kenya and Tanzania. After some discussion, it was decided not to form a single group for participants from "the former Somalia". Puntland, Somaliland and Somalia each formed separate groups.

[Somaliland is not officially recognized by the UN as an independent country, but has operated as such since the early 1990s. Puntland operates autonomously, but is nominally still part of Somalia. It should also be noted that many Ethiopian participants came from Ethiopia's Region V province, overwhelmingly Somali and with close cross-border ties with Somaliland and Somalia. There have been violent clashes in Region V between Ethiopian-Somali clans and clans from Somaliland over land and water.]

2.2 Questions For Group Discussions

The conference management team identified the following key questions for group discussions:

1. What are the basic RBC/land issues?
2. What are CSOs doing to address these issues?
3. What gaps/deficiencies/weaknesses are there in CSO responses?
4. How can the RBC Network, Secretariat and NFPs be strengthened?

In other words:

What are the problems? What has been done? What needs to be done (differently)?

And, how can we make the RBC network more effective?

These very straightforward questions were posed with a view to achieving clarity and producing practicable recommendations for the way forward in each country and as a network.

Facilitators stressed to participants that, given their familiarity with the country issues and the basic analytics, it was expected that country groups would rapidly produce a synoptical run-through on issues and analysis and focus very much on ways to make CSO responses, and this network, more effective.

2.3 Keynote Address

Hon. Hope Mwesigye, Minister of State for Local Government

The Minister began by apologizing for her late arrival, explaining that she had traveled to Kampala late the previous night from an up-country engagement. She thanked participants for their patience and welcomed those from outside Uganda to the country.

She told participants that she herself comes from an NGO background, with over a decade of experience working in civil society before entering politics and government.

She thanked the members of the network for their commitment to addressing conflict and regional issues, noting the value of interaction between people from across the region. She also thanked the program coordinator of PENHA-Uganda, Amsale Shibeshi, for her efforts in organizing the event and informed participants that she, the minister, serves as the chairperson of PENHA's advisory board.

Noting that land has been a contentious issue in all of the countries represented in the conference, Minister Mwesigye remarked on the value of sharing experience, ideas and good practice across the region.

Uganda's New Land Use Policy

Uganda has recently developed a comprehensive new land use policy. The minister described the range of issues addressed, including land utilization, management, control, and ownership, and emphasized that it was the outcome of a consultative process. She encouraged participants to have a look at the document, with a view to drawing lessons from it.

Land "Wrangles" in Uganda

She surveyed the various "wrangles" over land – affecting both agriculturalists and pastoralists, noting the seriousness of the violence that occurs both within Karamoja, Uganda's predominantly pastoralist semi-arid region, and between Karimojongs and their neighbors in Teso and across the Kenya border.

The role of CSOs

Minister Mwesigye discussed the role of CSOs in addressing these and other issues.

Importantly, CSOs must play a watchdog role - holding government accountable. But, she argued, CSOs should not see their relationship with government as fundamentally adversarial. She noted that CSOs tend to think that they should always oppose government. Instead, they should see themselves as partners of government, working towards common goals. It is important to provide constructive criticism rather than mere opposition. Many CSOs are entirely antagonistic towards government, agitating without regard to what is practical or to broader policy goals that government

may have. She reminded participants that government that the state wields the instruments of coercion – the police, army, and prisons. In light of recent events in Uganda, with protests against the sale of parts of Mabira Forest to investors of Indian origin turning ugly and resulting in the murder of an innocent Asian man by a mob, it is understandable that the minister called for CSOs to act responsibly and take a more pragmatic approach. In fact, she argued for a more subtle approach to advocacy, urging CSOs to forge relationships with key individuals in decision-making positions. She noted that few CSOs understood the internal dynamics of governmental institutions or sought to identify and engage with individuals with decision-making authority.

The minister argued convincingly for a more sophisticated approach to lobbying and advocacy. CSOs need to learn how to lobby effectively, to know where decisions are made, who makes them, and why such decisions are made. They need to use the non-formal spaces that are open to them – understanding that important elements of decision-making often develop behind the scenes, in informal interactions and discussions.

It is critical to develop strategic networks – within governments and regional bodies, such as IGAD, the East African Community and the African Union.

Finally, she urged participants to look for specific outputs from this conference, to aim at achievable, concrete objectives, and to develop implementable action points. She challenged participants to produce a statement of key principles and recommendations which could be presented to policymakers and could serve as an advocacy tool. She gave her personal commitment to take up any substantive points advanced. Urging a bolder and more ambitious approach, she called on participants to form a stronger network and to think of widening the network.

She ended her speech by wishing the network members good and fruitful deliberations over the three days of the conference.

Q & A Session with Hon. Hope Mwesigye, Local Government Minister

Questions:

- Climate change and its effects on Uganda – what is Uganda doing about this?
- Food scarcity and sharply rising prices – terms of trade within and across borders
- How has Uganda developed its policies related to land – has it borrowed best practices from Kenya and other neighbors?

- What is the Uganda Government doing to address the problems of Karamoja and its neighbors, who are suffering at the hands of Karimojong warriors?

The Minister's Responses:

Climate change

She noted that this falls within the area of the responsibilities of the Ministry of Water and the Environment, although government is developing policies in a range of related areas. She commented on the difficulty of addressing this global issue, which requires effective international cooperation.

She mentioned several relevant environmental policies, including the gazetting of protected areas such as wetlands and forests, and the policy on “buveera” (plastic bags), which aims to progressively substitute their use with paper bags and may at some point involve a ban on plastic bags.

Food security and rising prices

This is a global issue now, with diminished production (resulting from “green” ethanol subsidies that have caused major producers to turn land over to the production of biofuels rather than food). Also, the tremendous economic growth in China and India has pushed up demand, so that it is outmatching supply, causing higher food prices.

The minister informed participants that these food price issues were discussed at the recent OIC (Organization of Islamic Conference) summit in Kampala. The governments represented at that summit had agreed to establish a \$100 million fund to mitigate the impact on the poor. She said that Uganda is ready to take advantage of this fund.

She also noted that government policy is centered on raising household incomes, particularly in poor and rural communities. The “Prosperity for All” program aims to raise income at household level. Under this, and the related PMA/NAADS program (“Plan for the Modernization of Agriculture” and “National Agricultural Advisory Services”), the country has been divided into distinct agro-ecological zones and new sets of crops, inputs and processes have been identified for each zone.

Government policies have resulted in a 9% per annum economic growth rate, which, despite regional disparities, is seeing people lifting themselves out of poverty. This growth, and the government programs that support it, are not entirely dependent on the World Bank international donors – such dependence has steadily been reduced, so that growth is becoming self-sustaining.

Decentralization and Participation in Policy Formulation

The minister stressed the fact that people are actively involved as agents of their own development. Decentralization has brought government closer to the people and

Uganda has developed a highly consultative system. Under decentralization, local government has been significantly strengthened and men and women hold elected posts at all levels from parish, to sub-county and to District levels. Uganda's 50,000 villages are all consulted and participate in policy processes. All policies are formulated on the basis of a thorough consultative process, and this is equally true of the land policy.

Mechanisms For Addressing Land Disputes

There are legal and judicial mechanisms for addressing land disputes (including land boards and tribunals in all of the districts).

Given that there are numerous overlapping and conflicting claims to much of Uganda's land, government policy gives priority to the people who have been living on a parcel of land and using it.

On the issue of idle land, held by absentee landlords, speculators or simply by people who have inherited it but do not use it, government policy is to favor and promote the use of that land by people who will invest in it.

In general, government seeks to promote investment and opportunities for investors who will utilize the land productively, however this is balanced with a concern for the environment. Designated protected areas, of special environmental value, are off limits to investors and developers.

Karamoja

This has been a long time problem – dating back to the colonial era. The internal Karamoja-Teso border problems are serious, with considerable loss of life and property in the communities of Teso, where Karimojong pastoralists have traditionally gone to take advantage of seasonal grazing lands.

We need a multi-pronged approach.

We must address the social and economic aspects - construct valley dams in Karamoja so that the pastoralists have adequate water sources for their animals, reducing their need to move in search of water; provide schools, including mobile ones and alternative basic education, and provide meals in schools to induce parents to send their children to school; and provide other social amenities to entice the pastoralists to settle.

The second element is implementing the disarmament policy. This involves engaging with local leaders, securing their participation. The approach is based on buying guns from the Karimojong. A large number of guns has been collected in this way, but many more remain in the hands of Karimojong warriors. It is a slow process. Porous borders and the vastness of the region mean that it is very difficult, if not impossible, to stop the flow of arms. Local people also have a legitimate fear that, if they are disarmed, they will be defenseless against armed Turkana raiders from across the Kenya border. The minister noted that a regional, or cross-border, approach is necessary, involving coordinated action by governments and local authorities on both sides of the border. She noted the value of recent discussions between the police forces of the two countries.

In addition, government must provide security (local) for the people living near the Teso-Karamoja border.

Further Questions and Comments from the floor

On the Karamoja question:

It was pointed out that pastoralists move in search of water *and* pasture – new water sources will not make seasonal movements unnecessary in a semi-arid area.

One participant suggested that Uganda makes use of its lakes to greatly expand irrigation and water supply for production.

The Minister's response:

Pastoralism involves maintaining very large, but relatively unproductive herds. Government is urging people to reduce the number of cattle kept and invest in these smaller herds so that they are more productive. It is encouraging a shift from traditional subsistence-oriented livestock keeping towards a more commercial orientation. At the same time, government wishes to promote alternative livelihoods and local economic diversification.

The minister accepted that government lacks the resources to fully implement its policies on Karamoja – with scarce resources, government has to prioritize its resources, looking at the wide range of challenges facing the country and undertaking those initiatives that are likely to have the most impact.

She noted that Karamoja has significant mining potential, which could be developed to the benefit of local people. Hon. Mwesigye also reiterated the fact communal (common property) land tenure is recognized in the constitution.

There is no question of government attempting to *force* pastoralists to sedentarize and abandon their way of life, as governments attempted to do across the region in the 1970s. Instead, government is seeking to *encourage* change. It is also introducing controls on the movement of cattle across districts in order to curb the spread of animal diseases.

[Dr. Fre later pointed out that pastoralists across the region are increasingly seizing opportunities to improve production methods and increase sales of meat and milk, as well as reducing seasonal mobility and seeking new alternatives. A corollary of this is changing land use patterns.]

In response to a sharp comment from one participant, the minister made it clear that government is not seeking to criminalize the movement of pastoralists.

She again explained that:

- government has a responsibility to protect the neighboring communities that have been victims of violence at the hands of mobile pastoralists;
- unregulated cattle movements often spread disease, frustrating the national policy goal of improving the quality of meat and dairy products in order to gain access to European and international export markets;
- mobility makes the provision of basic services difficult and policy aims to enhance the quality of life and promote social development in pastoral communities.

On regional policies with respect to pastoralism and cross-border movements

A participant asked the minister what policies had been set out by the various regional bodies.

Another asked, on the cross-border issues involving Kenya, Uganda, Sudan and Ethiopia, if there is any (established or regular) forum in which these issues are discussed.

The minister responded that she was not sure of precisely what policies were in place, although she was aware of a number of initiatives and deliberative processes, particularly on the part of the AU. She added that she had expected the participants, as CSO activists, to be better informed!

She also said that she expected the participants to produce solid recommendations that she and others could take to the relevant bodies.

The minister talked about efforts, over an extended period, to open up trade within the region, noting that many barriers to trade had been removed. She argued that more needs to be done to free up regional trade and to establish a regulatory framework for the movement of goods, capital and people across the region.

The minister concluded the Q&A session at 12:45pm. The RBC Chairman, Daudi Ekuam, thanked the minister for opening the conference and answering questions and addressing concerns in a straightforward and frank manner. A group photo was taken with the minister, after which participants went for lunch.

Session 3: Addressing the Points Raised by Hon. Hope Mwesigye

Organizers and participants agreed that Hon. Hope Mwesigye's substantive speech and the extended question and answer session with participants had been very useful. It was decided that they merited a special session to discuss the points raised and the Minister's suggestions as well as the specific challenges that she had directed at RBC network members.

Session Objectives:

- To identify key issues and points arising from the Honorable Minister's speech and Q&A.
- To determine how best to use the opportunities and respond to the challenges presented by the Honorable Minister.

3.1 Summary of Discussions

The most salient points made:

- Participants from Karamoja, Uganda's overwhelmingly pastoral semi-arid district, took exception to the tone of the Minister's remarks on Karamoja and disagreed with her policy stances on pastoralism.

For them, this speech was a repetition and reflection of the Government's negative attitude towards pastoralists, which is reflected in the policies. Some of the language used – "pacification of the Karamojong" – was also objectionable. This aspect of the minister's speech illustrated the need to address the difficult relationship between government and CSOs in addressing pastoralist issues.

- One participant from Somaliland, apparently unaware of the serious nature of the violence perpetrated on neighboring communities by Karimojong warriors, took strong exception to the minister's comments on Karimojong violence.

She felt that the minister was "stereotyping" pastoralists as violent and mounted a strong defense of pastoralism and pastoralists and gave the example of West African pastoralism, with its significant economic contribution and peaceful mobility. Participants from Karamoja agreed that it is necessary to re-examine pastoralism as a livelihood and, in response to the minister's support for coordinated disarmament on either side of the Uganda-Kenya border and controls on pastoral movements, asserted that these policies amounted to criminalizing pastoralism. These participants rejected the minister's view that that change is inevitable for pastoralists.

Participants from Teso argued against this view – they reminded participants that Karimojong movements into Teso and Acholiland, where they have historically exploited seasonal grazing land, have been characterized by serious violence and loss of life, with armed warriors terrorizing local people. Teso participants were also

sharply critical of the Government of Uganda for its failure to protect neighboring communities from these armed warriors (“Karachuna”) and establish the rule of law.

- Most participants agreed that it was an encouraging and inspiring speech.

In particular, people were enthused by way in which the minister challenged participants liked the emphasis on intensifying ties across countries, and sharing experience and ideas with a view to developing concrete initiatives, on country issues and on cross-border issues.

- Participants agreed that the minister was right to suggest more regional-level advocacy, targeting regional bodies, the AU, IGAD and the EAC, as well as coming together as a regional network to lend more weight to advocacy efforts by a network member in one country.
- Perhaps unsurprisingly, given the very tight controls on civil society in their country, Eritrean participants strongly approved of the Minister’s call to CSOs to develop supportive, rather than purely adversarial, relationships with governments.

Dr. Fre reminded participants that the Ethiopian government is about to pass a new bill that introduces tight restrictions on CSO activity.

There was, nevertheless, general agreement that the minister was right to urge CSOs not to take reflexively anti-government stances and to work engage with government, challenging policies and practices on the basis of sound, thorough analysis as well as close consultation with communities.

It was further agreed that there was a need to develop greater subtlety and sophistication in approaches to advocacy.

The minister’s point that developing personal relationships with people in government was well taken. However, a number of participants noted that the scope for this kind of approach depends very much on the nature of the regime in place. In many countries in the region, there are few ministers who are as well disposed to civil society as Hon. Mwesigye.

The restrictions on civil society in Eritrea, Ethiopia and the Sudan obviously necessitate a different approach to advocacy in those countries. CSOs must cultivate relationships with influential persons and put forward their ideas in a very cautious and careful manner.

But even in countries like Uganda, with a very favorable environment for CSOs, it is difficult for CSOs to challenge government, or powerful actors and private sector interests, where policies or commercial interests are at odds with needs or interests of the communities that CSOs seek to represent. Participants from Karamoja emphasized the difficulty of building relationships with members of a government that is fundamentally opposed to pastoralism and communal land tenure. Others pointed out that where government is closely allied to investors who wish to use large tracts of land, it is difficult to defend the interests of communities, and that, even when CSOs have good personal understandings with key policymakers, the latter are likely to be swayed or even suborned by wealthy interests and groups.

- Both participants and organizers embraced the minister's suggestion that the conference's deliberations should culminate in a declaration of principles and key messages aimed at governments and regional bodies.

Dr. Fre suggested that participants keep this in mind as they discuss the issues, so that, in the final session of the conference, a collective statement, the "Entebbe Declaration", could be produced after a relatively tight, focused discussion.

The minister had suggested some ways in which such a declaration could be used as a tool to support policy advocacy. Participants agreed that network members could hold public discussions around the statement and could use the document to initiate discussions with policymakers.

3.2 Summary of Key Issues:

- The relationships between CSOs and Governments – moving beyond adversarial relationships, so that CSOs both challenge and support governments.
- Examining best practice in addressing the cross-border dimensions of conflict, seeking to draw lessons from West Africa and experiences with pastoralism elsewhere.
- Integrating the customary and modern legal frameworks that govern land use, land rights and conflict.
- Re-examining pastoralism as a livelihood and a way of life, recognizing its viability and economic rationality, while seeking to promote social change, economic diversification and peaceful relationships with neighbors.
- Developing strategies to engage regional bodies such as IGAD and the AU.
- Advocacy – developing effective strategies that target centers of power and decision-making, while engaging community groups and building their capacity to do their own advocacy work.

3.3 Formation of Multi-Country Groups

At the end of the session, facilitators oversaw the formation of "multi-country" groups, which, ideally, would have included one member from each participating country, though uneven numbers make this impossible.

Seven groups were formed, with a mix of participants from different countries.

[There was some discussion on the proper way to treat the three Somali political entities, Puntland, Somalia and Somaliland. It was agreed that participants from the three distinct political units should not be treated as a single country group for the purposes of allocation to multi-country groups. It was, nevertheless, recognized that, as with some participants originating from Ethiopia's Somali speaking Region V, all had a good understanding of the issues in the other Somali political units.]

While country groups would permit in-depth discussion of national issues, the purpose of the multi-country groups was to ensure cross-learning and the exchange of ideas and experience across countries.

The multi-country groups were also intended to allow participants to share the outcomes of the country groups, sharing with their colleagues country-specific

After a tea-break of 30 minutes, group discussions were held over a further half hour. Due to a lack of time, there were no group presentations to the plenary group.

Late arrivals: Edith from Tanzania, working with AFREDA (Action for Relief and development Assistance), and another participant Somaliland were introduced and welcomed.

There were no housekeeping issues raised. Participants were requested to report for the first session of the following day at 9:00am, which would begin with the country presentations.

Day 1 closed at 05:04 pm.

Day Two: Sunday 29th June 2008

Facilitators led a re-cap of Day 1 and stressed to participants the severe time constraints faced, asking presenters to aim for concision, given the challenge of getting through a packed program.

Participants were informed the morning session would run to 1:10pm, and would be followed by a “family afternoon”, during which participants would interact informally, exchanging ideas and getting to know one another better.

(This “bonding” aspect was seen as crucial in strengthening the network as a network of individuals who understand each other and can work together for shared goals.)

2.1 Country presentations

Country presentations were to be limited to 15 minutes, with 5-10 minutes for discussion.

Participants were urged to present analysis concisely and to focus on concrete and practicable recommendations that could be taken forward by the network and its member organizations.

The 11 groups were divided into three bundles of three countries and one bundle of two, so that three consecutive presentations would be followed by a break, before the next bundle of group presentations and discussions.

The grouping of country presentations sensibly followed the geography of the various sub-regions, permitting relevant cross-border and similar country issues to be treated together, with a logical flow from one set of issues to another.

The following order of presentations was agreed upon:

1. Southern Central Somalia, Puntland and Somaliland.
2. Kenya, Uganda and Tanzania.
3. Eritrea, Ethiopia and Sudan.
4. Uganda and Kenya.

2.2 Session 1: Somalia, Puntland & Somaliland Presentations

2.2.1 Somalia presentation

“Land Based Conflict in South Central Somalia.”

By Guhad Muhammad Adan (SADO)

Introduction

Land is one of the most important resources in sub-Saharan Africa. Fertile land and valuable infrastructure has been under turmoil for the last 18 years. The causes and possible remedies of this problem seem to have received little studies from scholars. Land grabbing especially the fertile land of the southern Somalia gained momentum over the past years hence increased land based conflicts. Efforts to remedy this turmoil seem to have yield little if any. The relationship between those involved the grabbers and the affected remains edgy, tinged with suspicion and often rancorous. This paper will not discuss the panacea/solution of this phenomenon but highlights the repercussions.

Political context

The political history of Somalia dates back to the Berlin conference of 1885 when the country subdivided and the great Somali nomadic community was spread over five countries: French Somaliland (currently Djibouti), British Somaliland now (Somaliland), north eastern Kenya, Italian Somaliland (now Somalia) and the Ethiopian Ogaden. In 1960 the French, Ethiopian, and Kenyan British parts of the Somalia people remained outside the newly created state of the Somalia republic. However, British Somaliland joined later. In 1969 General Mohamed Siyad Barre ousted the ruling clan coalition government and established a military dictatorship based on the ideology of scientific socialism.

Traditionally the Somali community was based on life style, livelihoods, and social make-up. Somalis were divided into southern agro-pastoralists (living in and around the inter-riverine areas) and northern nomadic pastoralists living in central, north eastern, northwest, and the southwestern regions of the country whereby resources like water, fertile land are relatively limited.

Generally the issues at stake in Somali's current turmoil include power sharing, money, land and other natural resources. The natural resource conflicts influencing violence in many parts of the country include pasture/land and water resources and related such as access to urban property and markets. The importance of clan lies in the fact that clan identity is the basis of physical security and militia mobilization. Clan based factions are controlling the fertile regions of the country that was not belong to them. Natural resources and infrastructures such as sea ports, airfields, roads and land in general have fallen in the hands of clan militias. These have been always a traumatic and have a long term negative impact on the affected human species in this part of the planet.

Post civil war Somalia

The collapse of the Somali central government in 1991 was not the best thing that one could imagine of it to happen even those who overthrew the government. The paradox in the post civil war Somalia is that the most affected people women, aged and victims are still clan advocates even after 18 years. Human right abuse has been homogenously the order of the day. Laws and land policies has diminished with the former central government and customary laws also completely violated. Majority of the Somali pastoral communities who are the background of the Somali clan based conflicts seriously competed and grabbed huge amount of urban land and properties. Ironically there has been a serious urban development in many big cities where pastoralist Somali communities leads these urban developments. This is clearly the translation of the saying of the prophet Muhammad (PBUH) saying: "...the signs of the Day of Judgment are; when you see the shepherds, the poor, who use to walk bear, footed competing for modern houses and stories"

Clan ideology

Somalia community is normally described as a clan society and the classic anthropological texts echoed in the state propaganda from independence to 1991 have ascribed in almost fatalistic clan identification to Somalis. The mainly nomadic and land grabbing oriented communities of Somalia the Darood, Hawiye, Dir have the mentality that they are the only ideal Somalis, and the Rahwen along with other Cushitic origin of Somali clans are deviations. This is nothing more than ideological construct of ruling groups to marginalize these communities and grab their land and other valuable resources, supported by colonial legacy. Ideally these self Somali clan only have superiority complex that has no base and proof. The only historical evidence that historians have is that Darood, Hawiye and Dir all belong to the big Cushitic tree. The Rahwen and the other Cushitic communities are the ideal and original indigenous communities of southern Somalia. These other clans only came to the place in search of pasture and water as they are nomadic pastoralist communities. This puts a question mark on the identity of Somalia communities in general.

Land tenure and use

Somalia is one of the worst places where state collapsed and failed in the African post colonial era. This paper will highlight some of the factors related to land and related resources conflicts in southern Somalia. In the absence of a nationally recognized functional central government formal laws regarding land tenure, land policies and land use seem to have been depleted and instead used the Somalia customary laws known as *Heer* or *xeer*. There are strong armed occupations in southern Somalia, i.e. the Shabelle regions, Juba regions, Banadir region as well as Gedo region of Somalia.

The Somalia customary land ownership is communal especially in the agro-pastoral communities. In the rainfed agricultural areas in southern Somalia local farmers continue to rely on customary land tenure. Community and clan elders have the authority to allocate land to individual households and households enjoy rights overland they have historically owned. Land disputes within villages are less frequent in Somalia today. In some parts due depopulation of the villages caused by the civil war, control over harvest is sometimes a problem where farming communities will have to pay for protection fees called *baad* to self-styled militias called *Moriyaan*. This is very common in southern Somalia where the Somali Bantu and the minority clans are badly affected. On the other hand pastoralist survival depends on recurrent movement from one place to another in

search for pasture and water. This includes cross-border pastoralists movement from Somalia to either Kenya or Ethiopia, where criminalization affects them hence conflicts between the host communities and the pastoralists.

In the Somalia context we can identify the following land issues:

- Land ownership which are either:
 - Communal
 - Customary
 - Private land tenure

- Land conflicts
 - Fertile land conflicts
 - Infrastructural land ie roads, sea/air ports, irrigation canales, bridges etc

- Pastoral land
 - Enclosures
 - Water points
 - Charcoal burning
 - Poaching
 - Pasture areas

Land Grabbing

The history of land grabbing in Somalia is dated back in early 1970s. The elites who were closer to the former military government started grabbing fertile land along the Juba and Shabelle valleys. Land grabbing and occupation has been realized by indigenous communities along the Juba and Shabelle valleys during the former military government. To legitimize grabbing the military government created 10 more regions mainly in the south and central Somalia. The state power has been used by the nomadic groups to start a gradual but illegal appropriation of land in and around the inter-riverine areas belonging to the less belligerent agro-pastoral communities. However, the worst happened when the government was over thrown and land hungry, pastoral, primitive and non-selective militias lead by the late warlord general Aidid from northern Somalia invaded southern Somalia. Militias lead by the late warlord Aidid had the ideology that the fertile land in southern Somalia belonged to them and was grabbed by the military government. These had displaced both the first grabbers and the real owners of these lands. The properties and facilities grabbed include: Roads – road blocks known as *isbaaro*, Sea ports, Airport ports and fields, fertile land, important bridges etc. The last 18 years has been the scene of land grabbing and forceful occupation of some Somalia communities by other Somalia communities. Some communities had their land taken by force simply because of being from a minority clan.

Environmental Features

Although several agencies including UNDP have estimated Somalia's land use there is no accurate land use management and data base that can be scientifically deduced from. Huge amounts of land have been abandoned while a huge amount of land has been claimed by agriculture. Due to unprecedented clan dynamics and minimal clan interactions in Somalia land use has been either over utilized or underutilized. Fertile land and water has been the theme of Somali conflict at grass root and regional levels. Competition, grabbing and occupation of fertile land by the aggressive Somali pastoralist

from the northern regions seem to be the real cause of the two decades old conflict. Recurrent droughts and famine exacerbates the land and water based conflicts in the pastoralist and agro-pastoralists life. On the other hand frequent dust storms over eastern plains in summer and floods during the rainy seasons affect the environment that has been orphaned by clan conflict and dynamics. Deforestation caused by charcoal burner, overgrazing, soil erosion and desertification are other environmental hazards that are prevalent in Somalia especially south and central Somalia. Recurrent drought preceded by torrential rains caused a lot of gully erosion especially along the juba river basins.

Land based conflicts in south and central Somalia

- **Shabelles:** This region was home for Digil, Biyamaal, Reer Baravo, Somalia Bantu and some elements of Hawiye in the pre and post colonial Somali. The colonial legacy of grabbing the fertile land and exploitation followed by the aggressive pastoral close to the former governments' facilitated land re-grabbing in these regions of Somalia and marginalized the indigenous communities. A good example is the shabelle settlement of the 1974-1975 long droughts famous as ***Dabadheer*** long tail victims from central and northern regions to the south mainly the lower shabelle region where the indigenous communities were forced to give out their land, cultivate and provide labour. Shabelle regions are where absolute armed occupation is prevalent in Somalia. The indigenous communities are spectators of their own lands. However, this is potential for a long term conflict since the indigenous communities have been mentioning of re-liberating these regions from the invaders. On the other hand these regions are the among the center of interest in Somalia land issue and every future potential clan power will no doubt claim for a share in these regions. The strength of political Islam in Somalia in its ability to address the needs of certain groups that have been marginalized by both resource conflicts and clan militarism may emerge in the near future. Many of today's conflict are the legacy of land grabbing and asset acquisition of the former periods. Resolving these will require legal archeology in to the provenance status of land titles.
- **Jubas':** The juba region was home for darood, Gigil and mirifle, Somali Bantu, Bajun, Biyamaal, sheqaal, Galjecel and many more Somalia clans in the pre-colonial and post colonial Somalia. Over 50% of the indigenous communities have been displaced, their land grabbed and subjected to many other atrocities.
- **Gedo:** Rahwen and Ogaden were among the main clans living in this region both post and pre-colonial Somalia. However, Ogaden has been totally displaced where the Rahwen is only there by the say. Their land has been either grabbed without any pay backs or bought from them at through away price. 98% of the Rahwen and Ogaden land in Gedo region is not in their hand any more.
- **Bay:** this is the bread basket of south and central Somalia. It is the region where most communities rely on customary laws for land disputes. Several minority clans have been displaced and their land grabbed. These include Reer dumaal, some Bantu communities as well as other non Rahwen communities. On the other hand there has been recurrent land conflicts between the Rahwen clans and these include Hubeer – yantaar conflict over Idale, Harin – leysan conflict over habare to mention but a few.
- **Hiran:** Hiran is a multi-clan community region that is mainly agro-pastoralist. The Shabelle River passes through the region making it potential for irrigation

activities. There has been recurrent conflict over water and pasture between pastoralists and agro-pastoralists. This is very common during the dry seasons and droughts.

- **Banadir:** This being the capital city of the country Land grabbing has a long history too. By the virtue of Mogadishu being the capital city of Somalia and the most cosmopolitan city the issue of land ownership seems to be the most difficult one. Ancestrally Banadir has been the home of the Banadiri, Mundulood, Murusade, and Rahwen. However, Mogadishu was the capital city of Somalia it has pulled all the other communities which seems to be logic. On the other after overthrowing the central government Hawiye clan claimed the ownership of Banadir. This facilitated legitimization of land grabbing by the Hawiye clans from the rest of the Somali communities, the Darood, Banadiri and Rahwen been affected most. The occupation and domination still persists and remains potential conflict.

Conclusion

The lack of central government and recognized land policy in the country exacerbated land based conflict on both agricultural and pastoral lands. The urban land based infrastructures have not been spared though.

Recommendations:

Since there is no functional central government that can be mobilized and accounted for land based conflicts in south and central Somalia, the following recommendations require some attention:

- Advocacy
- Documentation of events
- Community mobilization and conflict resolution
- Capacity building for local actors
- Networking

2.2.2 Puntland Presentation

“Land Use, Land Rights & Conflict – The Case of Puntland”

By Abdirashid Ali Adan

INTRODUCTION

Punt land State of Somalia is geographically located in the North-Eastern of Somali, between latitude 6N and 12 N and longitudes 15 E and 45 E. The state covers an area of 212,510 square Km or one –third of Somalia territory, with an altitude varies from few meters above the sea level to 1000 meters. It borders with Somaliand to Northwest, Gulf of Aden in the North, Indian Ocean in the Southeast and Central regions of Somalia in the South and Ethiopia in the Southwest. It has a coastline of 1640 km extending from Gulf of Aden to the Indian Ocean.

The Puntland State is divided into eight administrative regions. The climate of Puntland is mainly semi-arid with average daily temperatures from 27 degrees centigrade to 37 degrees centigrade. The average annual rainfall ranges from 100- 500mm.

The climate is dry tropical .The seasons are roughly divided into four periods; two rainy period and two dry periods . The primary wet season (Gu) begins from April to June. This is considered the season of plenty; grazing is good and livestock fatten. The dry season-Hagaa , begins from July to September. Dust storms are common, vegetation and pastures became dry, and livestock return to permanent water sources. Autumn rains- Deyr -generally begin in September or October. The Dayr rains fall sporadically over the area until December or January , when the main dry season (Jilaal) commences. The main dry season, Jilaal, is normally the harshest season of the year when livestock may die of thirst and even life of pastoralist/herder families are likely to be in danger!

Sources of livelihood for people and land use in Puntland:

- 65 percent Nomadic Pastoralism
- 3 percent Fishing
- 1.5 percent Frankincense production
- 0.8 percent agricultural production (crop and vegetable).
- 19.5 percent trade and self employment.
- *Source : Ministry of Planning and International Cooperation, 2004)

Livestock sector

- Population of livestock in Puntland-estimated at 17, 454,180 Animals (Livestock Policy Document 2007)
- 10.6 percent Camels,
- 2.29 percent cattle,
- 35.4 percent sheep,
- 51.6 percent goats.

Population

- Estimated at 3.94 m (2007 , ministry of planning and International Cooperation).
- Population Density : 11 persons per sq.km , but varies widely between rural and urban centers with 65% of the population being Nomadic pastoralist and 35% in urban areas.
- Average family size , estimated at 7 persons.
- In Puntland, environmental issues are within the mandate of the ministry of Livestock, Agriculture and Environment (MOLAE) whose vision among other includes ensuring proper land use so as to increase agricultural production and conservation of fragile environment (MOLAE, 2004).
- The Core functions of the ministries are:
- Management and conservation of the natural resource base for Livestock and agricultural production.
- Formation , implementation and monitoring of Livestock , agriculture and environmental policies and strategies.
- Puntland State of Somalia has put in place LAW No.2 (officially gazetted on 23 January 2001) in relation to the management , conservation and use of Rangeland in Puntland.
- The Law covers among others ; seasonal grazing reserves, and protection of grazing areas .

Land Issues

Issues of concern in Puntland

- Rangeland conflicts
- Charcoal-based RBC Conflicts
- Urban land conflict land grabbing
- Oil/mineral resource exploration conflict/controversy
- Territorial land disputes over Sool and Sanag regions (Somaliland Vs Puntland)

Role of CSOs

- Lobbying and advocacy for conflict resolution, at local level (within Puntland regions)
- Formation of peace committees by member organizations of the network in several areas i.e , Xabo peace committee by RMCO
- Information sharing among members and with other CSOs at regional level
- Participation of network members in conflict resolution/ peace building workshops organized by the International NGOs
- Contributing to the drafting and reviewing of Natural Resource Management Policy in Puntland

Historical Perspective

- ❑ In the past, before the collapse of central authority, Puntland (like the rest of Somalia) had a land tenure system and registration, which contained specific provisions to regulate land use and ownership.
- ❑ All land, both urban and rural, was declared to be State property and Government had the legal authority to issue title deeds, transfer land, impose restrictions or acquire land for public uses (for institutional uses, schools, hospitals, parks etc).
- ❑ Land use was also classified in different land use categories (residential, agricultural, commercial etc).
- ❑ The ministry of Public Works, through local governments and municipalities and the ministry of Agriculture, rigorously enforced land policy and imposed appropriate penalties for the violation of the Law.
- ❑ N.B: Puntland is presently working on laying down the necessary administrative provision and modalities to ensure proper registration of land property by Local government authorities.
- ❑ In the pre-colonial era, conflicts over rangelands and land use were common phenomena among the Somali society.
- ❑ During this period, the conflict resolution was based on traditional Xeer (Customary bylaws) and Islamic Sharia.
- ❑ In most areas, Colonial administration did not have the manpower or resources to fully administer the Colonized Somali territory and had to rely on local power structures (Colonial supporters) to help them.
- ❑ Various factions and groups within the Society exploited this European requirement for their own purposes, attempting to gain a position of power within their own communities by cooperating with Europeans.
- ❑ The Somali Constitution of 1961 and its subsequent amendment of 1979 did not recognize the clan ownership of land and stated that all land and its resources belong to the State and any citizen could settle anywhere in the country.
- ❑ The Rangelands policies and range management strategies applied by the military government included the establishment of seasonal, drought, rotational, forest and permanent grazing reserves.
- ❑ In early 1990s, Formal laws regarding the land tenure and land reform have been replaced by informal patterns of property claims based on admixture of customary tenure and armed occupations, as a result of civil strife.
- ❑ The expansive pastoral rangelands of Somalia (Puntland) remained a common area. However, wealthier, more powerful pastoral households were illegally enclosing good grazing areas with apparent impunity.
- ❑ Urban land ownership throughout Somalia/land, particularly Puntland, remained contentious.
- ❑ Despite local municipalities frequently being accused of issuing multiple deeds to the same plot due to corruptions (bribes/nepotism), several Somali towns and cities experiencing real estate booms, fueled to a large extent by Somali extensive Diaspora and pervasive land speculation.

Achievements

- Successful mapping of CSO, involved in conflict resolution, peace building, natural resource management, among other actor
- Formation of fully-fledged RBS Network, comprising of 30 CSOs
- Democracy election of NFP for the Network
- Setting up of steering committee for the Puntland RBC management network
- Registration of the Network with the line ministry (MOLAE) of Puntland state of Somalia as well as ministry of Planning and international Cooperation
- Training workshops for network members on conflict transformation, held in /Bosaso
- Compilation of training manuals a conflict transformation
- Information sharing with other members of RBC management of Horn & East Africa

Puntland RBC Network.-Lesson Learnt

The organisation has identified the following learning points:

- Trust and confidence building measures are essential to the peace process;
- Balance must be maintained at all times;
- Transparency is essential;
- Peacebuilding is a very time-, energy- and resource-consuming process;
- Work demands creativity and flexibility;
- This type of work cannot be done without having to deal with some level of relief support.

Gaps

- Lack of comprehensive institutional and financial support to undertake meaningful interventions and/ or activities to attain the Network objectives.
- Lack of appropriate legal framework to address various aspect of land conflict on the part of state authority
- Inadequate Capacity/skills of CSOs (Members of the Network).
- Lack of enforcement of the few existing land /rangeland policy

Way Forward

- Effective and efficiency of fund raising strategy for Lobbying/Advocacy on issues of Land and Natural Resource Management.
- Enhance of Network Members Capacity/skills.
- Peace committees at district /regional and village levels with kitty (funds to address emergencies as they emerge.

- Protect dry lands from indiscriminate appropriation by individuals, companies and institutions under the excuse of investment or national development .
- Promoting the role of customary institutions on Land use management.
- Harmonization of laws/policies of the Puntland State authority and that of the transitional Federal Government in relation to Land use, and Natural Resource Management.
- Explore the linkage of climate change on Land use, for the purpose of adaptation
- People-to-people peacebuilding is only fully effective within a defined accountable governance environment.

- The scope and level of engagement in peacebuilding must be at a sufficient scale to have an impact.

- The hierarchy of interventions of people-to-people peacebuilding must be implemented strategically, so that each intervention creates the space for the next phase of activities to allow the process to root and grow.

- , mitigation and awareness creation.

Conclusion:

From its work, the organisation has drawn three important conclusions:

2.2.3 Somaliland Presentation

“Land Ownership and Political Representation”

By Sadia Muse Ahmed (PENHA-Somaliland)

Introduction

- Existence of different land related policies
- Different Ministries and local governments administer such laws creating confusion
- Government laws contradict customary ownerships of land
- Weak law enforcements on land at the level of rural areas
- Inefficient judicial system on land disputes
- Politicization of land ownership on political representation at the democratization process
- Encroachment of too many stakeholders on land ownership I.e. Diaspora, business communities and government development programs at the expense of the common users
- Illegal enclosures for fodder production and indiscriminate cutting for charcoal production
- Contradiction between government tenure of land and the public perception and practice of land ownership and use

Effects

- Illegal enclosures hampered the transhumant nature and mobility of the livestock and people
- Charcoal burning created environmental degradation and loss of millions of tree contributing to the recurrent droughts
- General land grabbing that created social upheaval among communities
- Breakdown of traditional resource use systems
- Lack of demarcation on grazing and crop production land
- Confusion over policies creating unnecessary conflicts among the resource users
- Land ownership in the hands of the public creating many conflicts and disputes
- inefficient judicial systems contributed to the conflicts of land issues
- Administrative decentralization revived conflicts over contested areas as competing groups attempt to control newly established districts and villages for political reasons
- Clan defined political representation in the democratic process triggered politics of difference and the desire to exclusive ownership
- Disparity of perceptions and practice between government’s official position of tenure ship and practices on the ground

- Unplanned and uncoordinated practices of commercialisation of land
- Political recognition depends on a group's ability to control and claim a district or a village encourages conflict over spatially concentrated Natural Resources.
- The tenure policy does not accommodate the tenure transitions that shape the current diversification of the rural resource use.
- The land administration law is marked by bureaucratic mindset that does not genuinely take into account the roles of civil society organizations..
- All types of resource use and ownership hinge on resource users' affiliation to a clan group rather than on common user associations.
- Rural land ownership usually failed to comply official land tenure policies and land grapping without registration is commonly used

Way forward

- Agricultural areas and grassing lands should be differently marked while the illegally fenced lands should be immediately removed.
- In the cultivated land, when the crops are harvested, the area should be set free for the livestock to have an unconditional access to grassing
- Cutting trees down for charcoal and fencing on big enclosures should be put to an end and banned while the communal grazing land and forestry guards are to be restored and range reserves installed
- Alternative energy sources to substitute the use of charcoal be found and exempt taxes like solar system, butane and kerosene gasses and electric power
- Strong measures are to be imposed on all those who are contributing to the destruction of the environment.
- Harmonization of state tenure and customary ownership are essential for reducing conflicts on land rights and use
- Strengthening of judicial systems to mitigate land conflicts
- Definitive demarcation between crop production and grass lands and proper land allocation be put in place.
- Strengthen civil society groups to advocate and lobby for proper policies on land tenure systems
- Proper investments for the preservation and protection of the environment and its users are required.

2.2.4 Key Points and Comments

[The Puntland presentation omitted a section on the way forward, but this will be shared with participants in written form.]

- In the case of Somalia, where there is effectively no operational state or government in place, to whom can CSOs direct lobbying and advocacy efforts?

[Given the current situation of Ethiopian occupation, with a minimal AU presence, a very weak government of questionable legitimacy with little real presence in the country and an active Islamist insurgency, there is very limited scope for CSO advocacy.]

- What are the possibilities of, and feasible mechanisms for, engaging with existing structures such as clan leaders and warlords?
- The role of women in land management and resource conflict – the Somali presenters did not address the gender dimensions.
- The grabbing of land belonging to minority tribes and less powerful stakeholders.
- The need to spell out, highlight and share best practices, in particular fostering in Somalia an understanding of and reflection on the path to peace and reconciliation in Somaliland.
- Can CSOs come together to propose practical ways of resolving the conflict in Somalia? How can they influence the contending forces?

2.3 Session 2: Country Presentations – Tanzania, Kenya & Uganda

Presentations were made in the following order: Tanzania, Kenya (1), Tanzania and Uganda (1 & 2) and, finally, Kenya (2).

There was “conflict” over which Kenya presentation should go first. The facilitators, who had throughout had to contend with lengthy statements, interruptions and challenges from participants, earnestly requested participants not to disrupt the flow of proceedings, given the severe time constraints faced.

But participants were adamant that they had a role to play in determining the flow of proceedings and the order of presentations.

In the end, it was agreed that the original, programmed order of presentations should stand.

2.3.1 Tanzania Presentation

“An Overview of Tanzanian Land Tenure and Land Conflict Management Systems”

By Yefred Edson Myenzi (Haki Ardhi)

Background: Land is life

- Land is a basic resource from which human beings and almost all other living creatures depend on for their living
- In Tanzania, (though statistics vary depending on use, and user) more than 80% rural based communities depend entirely on land through farming, livestock keeping, mining, fishing, hunting and gathering, or doing varieties of related activities like tourism etc.
- This importance has, over time, added value to it (land) hence one of the heavily contested resources between its various users and beneficiaries
- There are three main phases in the development of the Tanzania land tenure system
- Those are the pre- colonial, colonial and post independence periods.
- Except for the pre colonial period, the remaining two phases are closely linked to each other although they functioned at different times and context, and, this partly explains why administration of land rights and conflict management has not been an easy task to date.
- Imperative also to note is the fact that, the new land regime is a product of both internal contractions and market driven forces most African countries have succumbed to in the last three decades

Pre colonial land tenure system

- Land use and ownership was under the respective tribes and clans with varied ways of accessing, using, owning and controlling basing on their own customs and traditions
- No one tribe that had a mandate to set up a land tenure system for others
- Principles of equality and justice were defined and applied within the limits of tribal/clan jurisdiction
- Land was therefore owned and controlled customarily with heads of clan managing both the administration of rights for their subjects as well as land disputes
- Owners had ultimate possession and control over their land they occupied through deemed rights acquired by virtue of their being citizens of Tanganyika and members of their respective clans
- This arrangement functioned well especially with regard to protecting the rights of the land holder and appreciating the efforts one had made in tilling up the land to put up some improvements.

- The score of this system lies in the fact that customary land tenure system took into considerations, the interests, perspectives, notions of justice and fairness of the large majority in rural settings where it was generally applied

Colonial land tenure system

- Tanganyika was colonized by Germans and British the former from 1885 to 1918 and the later from 1919 to independence in 1961
- Germans ruled through decrees one of which was issued in 1895 promulgating that all land in Tanganyika whether occupied or not was to be treated as un owned Crown land and vested in the Empire under king Kaizer of German.
- The British came over as trustee under the league of Nations but went further to enact the land ordinance No.31 of 1923 that declared the land public but vested the ultimate ownership and control to the Governor
- The law repealed the previous ruler's decrees out rightly and vested the symbolic control over the territory land on her Majesty the British Queen
- It also recognized deemed rights of occupancy for natives and introduced graded rights of occupancy where to facilitate foreigners access to and ownership of land through granted title deeds
- The customary or deemed right of occupancy was however accorded with lower status than the granted rights of occupancy or title deed
- This was to be reflected in the administration of rights upon disposition and/or acquisition of land

Implications?

- During colonial rule, natives lost their rights to occupy and use lands save for exempted claims to ownership or other claims which private persons, chiefs or native communities could prove. It was however difficult prove even if this proviso was made
- Indigenous or native lands were treated as un owned which meant they were due for grabbing and re allocation to new foreign owners
- The radical title or ultimate ownership and control over land that was previously vested in the land holder and administered by their clan heads and chiefs shifted to the political sovereign
- Small producers had to turn into casual labourers in settlers farms sometimes on the land they used to own

Land tenure in the post independence phase 1960's to 2000's

- Tanganyika got independence in 1961
- No fundamental changes were made on the land regime at independence save for replacement of the title governor with president and reinstating that all the land is public but held in trust by the president on behalf of all the citizens
- The law also retained the radical title powers with the president
- The 1923 land ordinance continued to govern land administration and adjudication of rights until 1999 when the new laws were enacted

The 1960's

- The post independence developments had a bearing on both land use plans and the rights to land of many Tanzanians.
- Such developments include the 1967 Arusha declaration that nationalized private properties including landed properties like buildings and farms,
- Enactment of the land acquisition act No. 47 of 1967 to give more powers to the president to acquire land for *National interests*. This was not a new land law but rather complemented the 1923 land ordinance and the Ujamaa principles

The 1970's

- A special resettlement operation popularly known as Villagezation or *operation sogeza* was carried from early 1970's to early 1980's reinforced by the enactment of the village and Ujamaa villages Act number 25 of 1975
- Establishment of state owned farms and ranches leading into the alienation of Villagers from their land to give way to state owned companies like NAFCO and NARCO
- This was also time for many archaic orders and political declarations dished out in the name of national building by both the bureaucracy and politicians without due respect on land and other resources rights of the people

The 1980's

- The local Government (District Authorities) Act number 7 of 1984, enacted to guide establishment and administration of villages and village land by the village councils
- Internal developments (population growth, climatic changes, institutional dysfunction, resulted into land grabbing, conflicts over land and land based resources and corruption
- Increased external pressure for liberalization hence beginning of serious reforms in the land tenure system after almost 70 years

The new land reforms

- Began with the presidential commission of inquiry into land matters also known as Shivji Commission
- The commission made wide public consultations and submitted very comprehensive recommendations including;
- The need to set up a new land policy to guide the land tenure regime that takes the reality and challenges of time
- The need to enact new land laws to replace the 1923 colonial ordinance
- The need to decentralise land administration to involve the people and their traditional systems
- The need to incorporate land in the national constitution
- The need to establish responsive and inclusive land disputes management mechanisms

The Nature of Land Use and Ownership In Tanzania

The National Land Policy (NLP)

- Tanzania has a national land policy established in 1995 revised in 1997
- The policy defines and gives context of the new land regime and lays down the fundamental principles of the policy
- The national land policy was a progressive step in addressing the numerous land tenure challenges and anomalies in administration of land rights throughout the three decades of independence.
- It generally regarded as a good policy save for the provision and principle that vested the radical title in the president as trustee on behalf of all Tanzanians.

NLP principles

- To facilitate equitable distribution and access to land,
- Regulate amount of land owned by individuals and corporate,
- Ensure land is used productively
- Recognize land value,
- Recognize and ensure prompt and fair compensation,
- To provide for an efficient, effective and transparent system of land administration and regulate the operation of a market in land so as to ensure that rural and urban small holders and pastoralists are not disadvantaged

The new Land Act No. 4 and Village Land Act No. 5 of 1999

- Two laws were enacted in 1999 as LA No. 4 and VLA No.5. to operationalize the policy, define land and give procedural details for access, ownership, use, control and disposition of land
- The law recognizes rights of occupancy to all Tanzanians through both deemed and granted right, (i.e. customary and through granted title deed)
- Deemed rights and granted rights of occupancy have equal status unlike the 1923 colonial ordinance that gave supremacy to title holders
- Non citizens are not allowed to own land on their own right except for investment purposes through TIC

Land amendment Act 2004

- Define bare land as land without un exhausted improvements
- Attached value to bare land unlike the principle act
- Attached commercial value to land and allowed compensation of bare land upon disposition
- Allowed the use of bare land as collateral in banks
- Simplified the procedures for redemption of equity from defaulting mortgagor/borrowers
- Allowed for sale of land i.e transfer of rights of occupancy to the third party

Note the Implications? For bankers and for borrowers?

Land categories

- The laws divide land into three categories of General land, Reserved land and Village land.
- Reserve land. Defined in Sec 6(1) as land designated or set aside under the provisions of forest ordinance, (cap 389), National; parks ordinance (cap 412), Ngorongoro Conservation Area Ordinance (cap 413) and wildlife Act No. 12 of 1974. others are the marine parks and Reserves Act No. 291 of 1994, Town and County planning Ordinance (as repealed in 2006) and High way ordinance cap 167 . This constitutes around 30% of the total land mass in Tanzania
- The administration of the activities taking place in reserve lands is under the different authorities responsible for them but the land remains under the control of the Commissioner for lands and he/she alone can grant right of occupancy in them

Categories

- Villages land is all the land declared to be village land under, and in accordance with section 4 of the Land Act and includes any transferred land to a village from other categories
- General land all public land which is not reserved land or village land and *it includes un occupied or un used village land*. The village land Act (VLA) No. 5 defines general land as land which is not reserved or village land but does not include any of village land whether occupied or un used.
- The technical gap in this definition is that it implies that villagers unused land, pastoralists land that suits their shifting mode is always liable for alienation for it is regarded as idle

Land administration

- Administration of general land falls under the Commissioner for land in the ministry of land at the national level
- His powers are delegated in municipal councils to land officers who initiate land allocation processes but are not authorized to give titles
- Title deed must be given in the commissioner's own hand and seal in the absence no other person can perform this function
- Titles can be revoked by the president at his discretion to allocate the land to another user. Neither minister for land nor the commissioner has powers to revoke a land title
- Administration of village land falls under the Village Council. This allocates land to applicants after the village assembly has endorsed the applications
- Village council is a governing organ while village assembly is the adult villagers meetings
- Land in village is owned customarily with or without certificates of customary rights of occupancy (CCRO) that is an equivalent of a title deed

- CCRO is given to a villager after the village has been surveyed, demarcated and given a village land certificate. The village then initiates a process of allocating CCROs that are signed by owners, village leaders and district council

Rights to land for special groups

- The law specifically mention and made provision for protection of women land rights. Section 2(3) grants equal rights for both men and women to access, own and control land
- No special provision is made for Pastoralists except for the general requirement that in villages, land use plans shall take into considerations grazing land
- The law retains customary tenure system and recognizes customary laws most of which disregard youth in land and property ownership in general
- The tenure system allows up to 99 years leasehold that makes no difference to perpetual ownership if land is not acquired for other public usages. This has already proved to deny new applicants on public land that is owned under such land term leaseholds

Key issues

Land use

Two issues are critical here:

- Lack of proper land use plans (leading to alienation of village lands and poor town settlement) is also a source of conflicts
- Unsustainable land use (due to inadequate resources and skills) leads to low production returns and food insecurity

Key issues... land rights

- Concentration of powers (admin and adjudication) on the executive arm of the state leading to misuse of such powers against people
- General lack of awareness on the laws and rights
- Traditional knowledge and experiences on land tenure system undermined (eg. pastoralist mode)
- Scattered/divergent policy prescriptions (land, wildlife, mining) conflicting one another (robes people of their rights)
- Weak institutions of land rights governance and conflict management (sometimes non existence)
- Lack of security of tenure for small producers. Titles?

Land conflicts

- Most prevalent between peasants and pastoralists, govt and villagers, villagers and investors, pastoralists and conservators
- Caused by inadequate resources like land, water and facilities, also conflict of interests/conflicting laws, lack of knowledge over laws, deliberate violation of laws and political motivations
- Conflicts have caused so much harm to communities like loss of animals and people's lives, destruction of properties, insecurity, low productivity etc

Conflict management

- Both formal and informal mechanisms are applied
- Informal mechanisms include use of traditional systems mainly elders and religious leaders. They aim at arbitration and impose sanctions and punishments according to the system of the locality/religion
- Land conflicts in Tanzania were before 2002 channeled through the normal judicial system but thereafter a separate land court system was established under the land Acts of 1999 and the Land Courts Act No 2 of 2002
- This begins with the village land Council with 7 members 3 of whom must be women
- Next is the Ward Tribunal with at least 5 to 8 members of whom 3 must also be women
- Then the district land and housing Tribunal chaired by a graduate lawyer and assisted by 4 assessors
- Followed by the High Court of Tanzania, land division
- Last the Court of Appeal that is the appellate body for all other cases not only land

The Village Land Council

- Is a village land conflicts arbitration machinery with 7 members who are appointed by the village council and endorsed by village Assembly
- Makes customary arbitration and not formal legal ones
- Have mandate within the villages only and their membership limited to non executive members of the village and employed professionals
- Has mandate to send the appeal to the ward tribunal

Ward Tribunal

- Has a broader mandate to attend to conflicts within the ward which is an administrative units of several villages
- Its pecuniary jurisdiction is up to Th.3.5m, equivalent to almost U\$3,500.
- Uses customary means to resolve conflicts but also a quasi judicial organ that can impose fines and order for compensation unlike the village land council that is purely for arbitration
- Members are elected from villages forming the ward

District Land and Housing Tribunal and higher level courts

- The land and housing tribunal at district level follows the judiciary system
- Chaired by a graduate lawyer
- Elders or assessors elected by the Regional commissioners
- At the high court, the special land division is in charge of land matters and not the ordinary court
- The court of appeal is an appellate jurisdiction for all types of cases, i.e. land and other matters.

Challenges of land conflict management

- Many village land councils are not established due to resource constraints and lack of political will
- Conflicts of interest between village government leaders and land council members
- Jurisdictional mandate crisis of the Ward tribunal (is the lowest court for civil and criminal cases, a land court at ward level and local government organ accountable to the district council)
- Interferences of conflict management processes by un authorized people/institutions
- Corruption
- The role of state as both source of conflicts and arbitrators

What can we do?

- Research for generation of reliable information to inform policy processes and practice changes and Wide sharing of the findings
- Broad based public awareness to sensitize the public about their rights and thematic content of the laws
- Facilitate implementation of the law, i.e land use plans, establishment of dispute settlement machineries
- Carry out conflict resolution
- Strengthening national and regional issue based networks through learning and sharing of experiences and joint interventions.

What do we need?

- Capacity building - equip actors with knowledge and skills
- Resources - human, material and financial to broaden the coverage of interventions
- Joint efforts for CSOs interventions

Conclusion

- Our people in our countries need sustainable land tenure system that is socially just and guarantees equitable access to, ownership and control over land and related resources. Such a system can be developed out of broad based public consultations followed by creation of responsive and inclusive institutions of governance and conflict management.
- We are all urged to initiate, participate and and/or influence processes to arrive at such a system

2.3.2 Kenya Presentation (1)

“Land Use, Land Rights and Conflicts in The Horn of Africa - The Case of Kenya”

By Joseph Samal Lomwa (PREMAP)

Introduction

- Land is an important productive Resource & Asset & yet a source of conflict in Kenya.
- Kenya’s history of land dispossession (land grabbing) has left the country with a complex land problem.
- Kenyan economic devt. & household food security is closely linked to land ownership, access & use.
- Pastoralists suffer the brunt of land grabbing

Origin of the Land Problem in Kenya

- Introduction of free enterprise system predicated on White settlers owning land, while Africans destined to be mere labourers.
- Creation of native reserves without an industrial base capable of absorbing the dispossessed landless population.

Origin of the Land Problem in Kenya

- Compromise constitution at independence –complete with colonial land policies, laws & administrative infrastructure.
- Perpetuation of a dual property rights protection i.e. individual/private & trust land systems at central govt. & local govt. levels riddled with corrupt allocation & governance mechanisms.

Attempts to Answer the Land Question

Land Inquiry Commissions in Kenya:

- Kenya Land Commission (1933)
- East African Royal Commission (1953-1955)
- Ngala Commission on Coastal Land (1972)
- Parliamentary Land Committee (1978)
- Akiwumi Land Clashes Committee (1998)
- Njonjo Commission (1999-2002)
- Land Commissions:
- Ndung’u Commission

Other Efforts:

- The Constitution of Kenya Review Commission
- The National Land Policy Formulation Process

- The Kenya National Dialogue & Reconciliation Process (Agenda Item 4 – Land Reform)

Current Situation

- Debate & acknowledgement of the role of land in the Dec. 2007 Post-Election crisis.
- Recurring displacement trend is linked to unresolved land grievances, in the context of poor governance & socio-economic insecurity.
- Absence of serious attempts to resolve land related grievances beyond IDPs return, relocation & integration processes.
- Acceleration of urbanization as IDPs seek alternative livelihoods.
- Deliberate Development Plans directed to Northern Kenya; e.g. to de-congest urban areas.

Possible Options

- Finalize & implement a National Land Policy
- Embrace & implement key Ndung'u Commission recommendations
- Stay the course of Kenya National Dialogue & Reconciliation Process – Agenda 4 on land, constitution, legal & institutional reforms
- Support CSOs engagement & watchdog functions on Land Policy and Conflict

Conclusion

- Need to address inequities in land distribution arising from colonial period but continue today
- Search for Durable solutions to the land question must acknowledge historical Imbalances, grievances and address them
- It is essential that development partners understand land issues as they seek to intervene in whichever sectors they are interested in-prioritization of focus.

2.3.3 Uganda Presentation

“Land Use: The Case of Uganda”

By Hilda Akabwai (Uganda Land Alliance)

Uganda: land cover and use

- ❑ Covers 241,551 sq kms
- ❑ 18% of which are inland waters and wetlands
- ❑ Landlocked
- ❑ Population growth of 3.2% per annum (UBOS 2007), one of the highest in the world (Sub Saharan Africa rate stands at 2.4)
- ❑ 2002 census projected Uganda's population to grow to 28.7 million by mid 2007
- ❑ 87% are living in the rural areas, of which 73% are engaged in agriculture.

Land in Uganda:

- o Land is a natural resource
- o It is the earth's cover and which includes soil on the surface of the earth.
- o Land includes components below and above the surface of the earth
- o It is a source of livelihood for most people in Uganda
- o Land is a fundamental asset for agricultural and rural development
- o For Uganda you cannot talk about development and poverty reduction without taking into account the use of land

BACKGROUND TO LAND USE IN UGANDA

- Land use is not a new phenomenon in Uganda
- It dates back to the origin of mankind.
- *Land has been a hub for human settlement*
- *It is a factor of production*
- *85% of Uganda's economy depends on agriculture which in the context of Uganda is on a large scale practiced on land.*
- *Land is a tool for social and economic change*

The concept of Land use in Uganda

The Land use Policy framework

- Land use in Uganda is divided into three components which include;
 - o Human settlement
 - o Agriculture (livestock and Crops)
 - o Conservation reserves
 - o The inter linkage between the various categories of land use is a source of conflict. For instance the presence of crop and animal farming on the same usage there is conflict between the agriculturalists and pastoralists as is the case in many parts of the country

Areas for Human settlement and agriculture

Households live of the proceeds of land

Areas for agriculture and conservation

Parts of The Mabira forest cleared for agriculture and firewood for fuel and charcoal burning for sale)

Agriculture (livestock and Crops)

the presence of crop and animal farming on the same usage is a source of conflict between the agriculturalists and pastoralists

The Legal framework

Land belongs to the Citizen of Uganda

- The Constitution of the Republic recognizes and grants citizens a right to ownership of land.
- Land ownership is in four recognized tenures Which include Leasehold, freehold, mailo and customary
- Recognized tenure is an automatic recognition of right of ownership in which user rights are guaranteed.
- However this is subject to other legal provisions
- Ownership and recognition of tenure is no guarantee for user rights
- The exceptional circumstances among others include;
 - In national interest
 - Areas gazzetted for environmental conservation
 - Mineral exploration

The cultural aspect

- Custom however recognizes women's user rights over land but to the extent of a subsisting marriage or blood relation
- These user rights are limited to production and not control of production
- "Some traditions obtain user rights in a bid to find pasture and water for their animals"

Women and Land use

To women culture remains discriminatory in the sense that they have only user rights by providing their labor force for production

Women form 70% labor force for subsistence farming

Only 7% own land

Women contribute to production

Evictions on Land

“Rights are not given, you must demand for them”.

“Rights are not easily secured, they are demanded for - be assertive”.

People demonstrate

– are we winners or losers?

The Problems are known and the solutions Apparent – How do we move forward?

Action Points

- Starting point - Believe that all people have skills, experience and understanding that they can use to solve their problems at hand
- Strive for justice, challenge inequality and fight oppression
- Always struggle for fairness, equality and justice – state it clearly and make it known
- Be united should be all inclusive.

Are two Legs better than four?

2.3.4 Uganda Presentation (2)

LAND AND CONFLICTS IN UGANDA: An Overview of the National Land Policy

By Margaret Rugadya

Land and Conflicts in Uganda

- Land conflicts are evidently disruptive to law and order as well as livelihoods
- prevalence of land conflicts at household level is high (34.9%)
- In the central region Kibanja on Mailo land has the highest prevalence of land conflicts rated at 30% while in all the other regions customary tenure is most conflict prone accounting for 60% of conflicts.
- most prevalent land conflicts point to lapses in tenure administration and management (32%), land ownership (19%) and its transmission, occupation, trespass and fraudulent transactions. Inheritance and succession wrangles account for (15.5%) and illegal occupation is rated at 12.3%.
- Land disputes are on the increase and yet there is lack of or no capacity at all in the institutions charged with the adjudication and settlement of land disputes.

Types of Land Conflicts

- Evictions on basis of Multiple and Overlapping Rights: Buganda, 1900 Agreements
 - existing landlord-tenant relationship as enacted in the Land Act is a major contributor to the escalating land conflicts and land disputes in the country
 - overlapping and conflicting land rights on one and the same piece of land have created a land use deadlock between the statutory tenants (lawful occupants and bonafide occupants i.e. bibanja holders) and the registered land owner (mailo /native freehold owner).
- Conflict over land use and resource access for common property resources; grazing lands, woodlands, watering points, ritual grounds and forests, fisheries, irrigation systems and recreational parks.
- Dispossession of Ancestral Lands (to conservation and protected areas)
 - Failure to recognize indigenous peoples' communal land rights as property rights, where by loss implies;
 - Threats to survival of ethnic minority
 - Loss of livelihood and culture
- Practice of gazetting to exclude settled and Pastoral Communities around conservation areas
- lands either is located within or overlaps with protected areas, often indigenous patterns of land use are compatible with goals of resource conservation

- Negotiated access to such resources is needed
- Pastoral communities occupy dry lands which are harsh in terms both of climate and ecology. The land use system is, therefore, characterized by territorial expansion, transhumance and competition over grasslands, limited woodlands and watering commons.
 - The resulting stress often leads to conflicts and competition over these resources. This is particularly the case in the North and North-Eastern parts of Uganda.
- Conflicts on basis of internal migration in response to pressure on land resources prompted by competition over land arising, among others,
 - from population growth, resource depletion, and scarcity, is the cause of conflict, insecurity and environmental stress e.g. Balaalo in Buliisa

Challenges for Policy

- As property, the challenge is to design and universalize a system of tenure that would instill confidence in individuals, communities and institutions which own or desire to accumulate it as an asset
 - Fact: land in Uganda is held under multiple tenure regimes, has saddled the country with a complex web of interlocking and overlapping rights and relations drawing their legitimacy from indigenous and statute law.
- As a development resource, agricultural land in Uganda has not always been optimally and sustainably used.
 - land degradation continues to be a serious phenomenon in Uganda
 - land bio-diversity protection and heritage preservation

Policy Solutions

- Three strategies; Management of Land Conflicts, Protection of Common Property Resources and Recognition of Pastoral Rights
- Strategies directed at the management of land related conflict in Uganda including;
 - protection of all land owning communities from external and internal encroachment, seizures and other forms of invasion by hostile agencies;
 - guarantee of tenure security for minorities and marginalized communities;
 - investigation and resolution of all historical land claims and injustices;
 - institutionalization of mechanisms for socially and culturally acceptable resolution of land disputes on a long term basis.

Land Policy

- Common Property Resources: Land Act imposes upon the state and local authorities management trusteeship over some categories of common property resources however, it does not take into account the role of local communities in the preservation and management of common property resource
- Effective preservation and management of common property resources through;
 - Clarification of categories of owners and users
 - Identification, documentation and gazettement of all CPR irrespective of tenure
 - ensure that common property resources exclusively used by or available to particular communities are directly held and managed by them
 - document indigenous knowledge of particular common property resources, especially those of ritual or medicinal value
 - develop mechanisms which will mediate between state, local authorities, communities and individual interests in particular common property resources
- In order to prevent further threats to pastoral resources and mitigate the severity of competition over them legislative and other measures will be put in place to
 - prescribe clear principles for the ownership, control and management of dry lands by designated pastoral communities and institutions as common property under customary law
 - protect dry lands from indiscriminate appropriation by individuals or corporate institutions under the guise of investment;
 - Maintain an equitable balance between the use of land for pasture, agriculture, and for wildlife protection
 - Establish mechanisms for flexible and negotiated cross-border access to pastoral resources among clans, lineages and communities for their mutual benefit
 - Establish efficient mechanisms for the speedy resolution of conflict over dry lands resources

2.3.5 Observations and Reactions to the Presentations

- There is a need to clarify the relationship between the proliferation of small arms and cattle raiding, and to address the role of women.

- There are community safety/security programs in Kenya – with committees based at district, division and other levels.
- There have been campaigns conducted by CSOs as well as specific actions by government to control small arms proliferation.
- There are a number of initiatives involving women in conflict management.
- There is considerable support from international NGOs for a broad range of activities at various levels, including analysis policy work and grassroots initiatives.
- Government has a role to play in establishing water points for pastoralists in accessing water – new water points would reduce, though not eliminate, the need for seasonal livestock movements in arid and semi-arid lands.

- Who carries out research on land issues, and does the Government utilize this research?
 - There is a wealth of research, carried out by local and international research institutions and CSOs. But, government rarely, if ever, uses this body of research effectively. There is a need to examine the policy process and determine why the results of research are not taken up and acted upon.

- Land use policy and hunger – to what extent is the colonial legacy responsible for these problems?
 - There have been important failures of government policy and there are complicated issues relating to poor governance. Many difficult land issues have not been resolved.

- The Ndugu Commission – the draft includes something on pastoralism, and the Kenya group will share the report with network members.

- Land issues in Uganda – how have problems relating to the return of the Asian community been resolved? Does the anti-Asian violence around the Mabira case indicate a return to the problems of the past?
 - On the whole, issues relating to the return of the Asian community have been resolved without significant difficulties.
 - The Mabira case was principally about the lack of transparency in a land deal between government and investors in which large areas of protected forest would be allocated, without due regard to the interests of local people. There were also

underlying fears of a new wave of land grabbing. In this case, the violence took on a specifically anti-Asian character, but the pace of economic growth and change means that we can expect similar tensions wherever large new investments take place, regardless of the ethnicity of the investors.

- Is the picture all rosy in Uganda, as the presentation suggests?
 - Clearly not! As the presentation noted, 40% of conflicts in Uganda are land-related. The Mabira case and conflict between pastoralists and farmers/agro-pastoralists in the East were also highlighted, indicating that things are far from rosy.
 - Underlying this question is the understandable feeling of surprise that the impressive, research and evidence based, policy documents coexist oddly with the unresolved tensions and on-going violence that characterize the situation on the ground. This reminds us that it is not enough to carry out thorough analyses and develop sound policy documents – policies also have to be implemented effectively and inclusive local institutions have to be established, in which the different actors can work out the issues in an on-going process of negotiation.

- What have CSOs done in Kenya? What is their role in national policy development and implementation?
 - Supporting the participation and mobilization of the wanainchi (citizens).
 - Carrying out research.
 - Participating in a various forums with government and other actors, contributing to the formulation of policy.
 - Monitoring the implementation of the policies.

2.4 Presentations from Eritrea, Ethiopia and The Sudan

The facilitator reminded the groups to bear in mind the most important questions for this gathering:

- What is the role of civil society, and the RBC Network in particular, in addressing land use, management, rights and conflict?
- How can we enhance learning, information sharing and understanding across the Network and the region?

Given the unfortunate absence of the members from Southern Sudan, the presenter from Northern Sudan asked for an additional 5 minutes to incorporate the issues in Southern Sudan, and this was granted by the facilitator.

The RBC Chairman, Daudi Ekuam, also asked for additional time to make a presentation, based on a recent study that he carried out, on the post-election violence in Kenya.

2.4.1 Eritrean Presentation

“Land Use, Land Rights and Conflict - The Case of Eritrea.”

By Bereke Ogbamichael Kiflay (TOKER Project)

Location Map of the Country

Eritrea is located in the Horn of Africa with bordering Red Sea on the East, Sudan on West and North, Djibouti and Ethiopia on the South.

Area and Population

- **Geographic Coordination:** 12 and 18 degrees North Lat.
36 and 44 degrees East Long.
- **Area:** Covers an area of 124,000 sq. kms.
- **Population:** Estimated population is 3.6 million.
- The country is endowed with a longest coastline of over 1,000 kms. relative to its size in Africa.
- It is a home to some of the world's finest marine life.
- Gained independence on May 24, 1991 after 30 years of bitter struggle for liberation.
- **Nationalities:** Tigrigna, Tigre, Saho, Bilen, Kunama ,Nara,Afar, Rashida and Hidareb

- **Language:** There are nine ethnic Groups each with their own languages: Tigrigna, Tigre, Saho, Bilen, Kunama ,Nara,Afar, Arabic and Hidareb
- **Official Language:** Tigrigna and Arabic
- **Religion:** Christians and Moslems
- **Port:** Massawa and Assab
- **Capital city:** Asmara with a population of 400,000
- **Economy:** Subsistence agriculture with over 70% involve in farming
- **GDP composition by sector:** Agriculture 18%, Industry 20%, Service 62 %
- **Currency:** Nakfa
- **Flag:** The flag's colors are green, red and blue. A gold lawrel wreath and olive branch running up its center is positioned in the red portion , which is the dominant color
- **Emblem/Symbol:** The camel encircled by an olive wreath

Administrative Divisions (Zobas)

- **Climate:**
- **Hot arid-** Coastal plains
- **Temperate sub-humid** – isolated micro catchments with eastern high escarpment
- **Total Annual rainfall:** 200 mm the northern border of the Sudan and 800 mm in southern border to Ethiopia
- **Amount and distribution:** unreliable
- **Rainfall source:** Southwest monsoon April/May September-October with the coastal area receives from the Indian Ocean

Agro-Ecological Zones

Rainfall Pattern Cont.

Azmera Season Rain (March - May)

Mainly confined to the highlands and parts of adjoining eastern escarpments (i.e., Zoba Debub, Maekel and their surrounding areas). This rain contributes to the long period growing crops such as finger millet, highland sorghum, maize and taff.

Kremti Season Rain (June - September)

Mainly confined to the highlands, western lowlands and parts of adjoining eastern and escarpments. It facilitates start of land preparation and sowing of short cycle crops and also the ones started with Azmara Season rain.

Bahri Season Rain (October - March)

Mainly confined to the Northern and Southern Red Sea Coastal Areas.

Major crops grown with the help of this rain are maize, sorghum, barley and taff.

Introduction

In May 1993, after nearly three decades of armed struggle, the nation of Eritrea formally proclaimed its independence from Ethiopia by popular referendum.

In 1994 the government adopted the Land Proclamation, which initiated a nationwide land reform program vesting ownership of all land in the government while granting limited usufructuary right to Eritreans and providing land leases for domestic and foreign investors.

The stated purpose of the Land Proclamation is to:

- Assure agricultural and industrial development: promote or assure initiative and motivation among beneficiaries and producer:
- Encourage private investment and initiative:
- avoid contradiction, friction, and dispute;
- pave way for the improvement of the living standard of the people of Eritrea:
- be standard and applicable through the nation;
- and ... replace () the existing progress-impeding system of land ... tenure in Eritrea (with) a new and dynamic system.

It is, however, impossible to understand the new legal system governing all real property rights within Eritrea without first acknowledging the traditional land tenure systems that developed before 1994 .

The geography of the nation determines the use and value of the land in Eritrea. Eritrea is made up of three distinct geographical areas: the highland plateau, the western lowlands, and the coastal area along the Red Sea.

The geographic areas divide the nation's population both ethnically and religiously. Tigrinya-speaking Christians, who engage in "sedentarized agriculture," predominantly inhabit the highland plateau. The Beni-Amer and the others who historically have lived

in the western lowlands practice pastoralism and agropastoralism. The Arabic-speaking Afar and Saho population of the coastal area, also known as the Dankalia, engage in pastoralism. Approximately eighty percent of the Eritrean population lives in rural area, and of that eighty percent, “twenty-five to thirty percent,” twenty-five to thirty percent of the population are nomadic or semi-nomadic.”

The varieties of rural land tenure systems that have traditionally existed in Eritrea stem from the country’s cultural traditions, population density, land capacity, and colonial influences.

The most important of these tenure systems for the majority of Eritreans are those held in common. Within these communal systems, the entire village or extended family holds rights to land. Often communal systems allow the land to be cultivated but generally not to the exclusion of any individual. One such type of communal holding, commonly practiced by agriculturalists in the highlands, was known as diessa, or residence-based communal tenure.”

Under this system the land of the village was reallocated among the villagers on a rotational basis every five to seven years. To qualify for a portion of the land a male resident of the village would first have to marry and create a household separate from his parents. These members of the village, also known as Ballabats, were the only community members allowed a portion of the village’s arable land. The land of village could not be sold or inherited, and it reverted back to the village upon death.

Often village custom and law would allow single widows with children, orphans, and widowers a one-half share of the community’s land. The diessa land tenure system held all pasture land out for communal use.

The highlands, in particular, supported a second type of communal land use: risti (risty).

In the risti tenure system, only those families the Enda –descended from a village’s founders held rights to arable land. This extended family system denied an individual the power to devise separate shares of land to different children and disallowed the disinheritance of any offspring. Risti, therefore, was more equitable than the diessa system because male and sometimes, female siblings inherited equal portions of land.

Individuals could also own land in more than one village if they could prove direct lineage from the founders of those villages. Further, a landholder held the right to cultivate his land and lease it to others but could only sell his land with the consent of the entire extended family.

In addition, all pastureland was held in common, similar to that in the diessa system. While these two types of land tenure systems dominated rural village life throughout Eritrea, they do not reflect all of the various traditional pastoralist land systems.

Traditionally, pastoralists have comprised a substantial portion of the rural population of Eritrea. Eritrean pastoral groups can be broadly categorized as nomadic pastoralists, agro-pastoralists, and sedentary pastoralists. All three of these groups are greatly dependent on their animal stock for wealth and security, they each view land tenure differently. Among the pastoralists, communal land use systems range from unrestricted open access to pastoralists vary. Traditional nomadic groups in Eritrea do not encumber themselves with permanent residences, or tie themselves to the land by engaging in agricultural practices.

These nomadic pastoralists move freely about the semi-arid lowlands and coastal areas in search of water and land where their livestock may graze. Agro-pastoralists live within semi-permanent villages in the Western lowland regions near water and land resources that are able to sustain farming and livestock grazing. They move their herds of livestock as water and grazing needs dictate. When resources become scarce, they abandon their villages.

Sedentary pastoralists constitute the third classification of pastoralists found in Eritrea. Members of this group live in permanent residences and cultivate some crops among the highland plateaus but rely predominantly on their livestock for subsistence. The milk and meat provided by the herds is vital to all pastoralists.

Colonial Influence

Traditional land tenure systems have changed in character over the decades due to colonial influences, population and livestock increases, and war. In 1980 Italy joined the rest of Europe in the colonization of Africa. For the next fifty-seven years, Eritrea was an Italian colony. The influence of Italian administration on land tenure was wide reaching. In 1909 and 1926, the Italian government nationalized large sections of land throughout Eritrea. It designated these tracts as demaniale, or government land.

Although much of the expropriated land fell within the control of local villages and pastoralists, the colonial government classified it as “unoccupied” and granted much of it to Italian farmers.

The colonial government expropriated the most fertile lands for Italian colonists. This effectively restricted pastoralists in the lowland areas from using the best and most suitable lands for grazing. Furthermore, local landlords, known as Diglals, held much of the arable lowland areas that were not under the control of the colonial government. The combined actions of the colonial government and the local landlords forced a majority of the pastoral populations in the lowlands into a state of landlessness.

Since the majority of pastoralists owned no land, they rented grazing tracts from the colonial Italian government or local landlords. The government and feudal landlords exploited the nomadic people of the lowlands for tax purposes, labor, and a free supply of milk and meat. The Italian government’s land policy also affected the sedentary pastoralists.

The new colonial government observed that the rotationally-based diessa land tenure system was less hostile to outsiders than the lineage-based risti system. The government began actively to promote, in the highland plateaus, the use of the diessa land tenure system over the risti system.

The Italian occupation of Eritrea came to an end in 1941 with the invasion of British forces during World War II. Under British rule land expropriation continued, especially in the lowlands. The British relocated onto the expropriated lands those Italians who remained in Eritrea after the invasion. Having taken control of Eritrea, the British government began to dismantle many of the land policies promulgated under colonial Italian rule. The occupying British force deemed the communal-based land tenure system of diessa, the land system promoted by the Italian government, to be inferior to

individual ownership. The British Military Administration (BMA) believed that "(1) and should be allocated in individual plots or allotments and not to communal groups."

While the occupying British force advocated individual land ownership in Eritrea, it did not implement any widespread land reform. Thus, land rights in the lowlands became more uncertain and muddled

The Road to Revolution

In September 1952, in accordance with the wishes of the General Assembly of the United Nations, Eritrea became a federation of Ethiopia. The Eritrean federation, to protect property rights, added article 37 to its Eritrean constitution.

This article provided that:

- Property rights and rights of a real nature, including those on State lands, established by custom or law and exercised in Eritrea by the tribes, the various population groups and by natural and legal persons, shall not be impaired by any law of a discriminatory nature.
- the constitutional provision guaranteed all citizens of Eritrea freedom from discriminatory property laws,

It did nothing to reform the varied assortment of land systems present throughout the country. Furthermore, the Ethiopian government made no attempt to create a cohesive land tenure policy.

The plight of the pastoralists grew to the point that they became one of the most oppressed and slighted populations in Eritrea.

In 1962, after several years of strained relations between Ethiopia and the Eritrean federation, Haile Selassie's Ethiopian government officially annexed Eritrea as an Ethiopian province. Armed conflict between Ethiopians and Eritreans soon grew into open revolution. The Eritrean highlands, under Ethiopian influence, became dominated by a communal residence-based system similar to the traditional diessa land tenure system.

Due to the strong rebel presence in the western areas of Eritrea, however, no cohesive land tenure system reached the pastoralists in the lowland areas. This, the multi-tenured system of land use continued throughout the war. The war's effect on the pastoralists of Eritrea was mixed.

The two main liberation groups within Eritrea, the Eritrean Liberation Front (ELF) and the Eritrean People's Liberation Front (EPLF), recognized that land reform was necessary in order to promote stability within the liberated areas. The ELF and the EPLF, however, formed very different land tenure policies with respect to pastoralists. The EPLF enticed nomadic pastoralist groups to settle in villages and become farmers by providing them with both veterinarian services for their cattle and education for their children. It created the Agricultural Commission in 1975 in an effort to execute an agricultural policy of self-reliance, which would increase the food supply for its army. By contrast, the ELF championed the nomadic pastoralist way of life. The divergent land reform policies of these groups reflected supporters' economic and political basis. The ELF gathered the

majority of its support from the lowland areas dominated by the pastoralists, while the EPLF aligned itself with a variety of ethnic groups.

Independence Achieved

As the revolution dragged on, the EPLF became the dominant resistance movement within Eritrea and, in 1991, gained control of the entire nation. The EPLF recognized, early on, the problems presented by the application of divergent land tenure systems in Eritrea. It began to consider some type of national land reformation; even before Eritrean independence was officially proclaimed. In response to this need, the EPLF formed the Eritrean Land Commission in 1993 with the directive to create a cohesive national land tenure policy. The Commission researched and debated several different land tenure systems. It considered reforming the nation's land use policy through privatization, a return to the diessa system, implementation of a modified diessa system with land rotation every twenty years, and other similar plans.

Believing that traditional land systems in Eritrea were a hindrance to development within the nation, the Land commission proposed a radical land reformation.

The Land Proclamation During Independence

In 1994 Proclamation No. 58/1994, "The Land Proclamation," became the cornerstone of Eritrean land tenure. The Land Proclamation revolutionized land tenure in Eritrea by conferring upon the state ownership of all land. The Land Proclamation created a system of individual usufruct rights in the land, while allowing the government to retain final disposition rights. According to the Proclamation, land is to be distributed to all citizens and also made available for lease.

First all citizens of Eritrea, indiscriminate of sex, race, clan or beliefs, have a usufruct right to an allotment of land for housing, business, or agricultural pursuits for their lifetime. Each parcel of land may be leased, but not sold, and inherited by a dependent if the dependent is willing to relinquish his rights to any other land allocated to him by the government.

Second, all land that is not distributed by the government will remain in the government's custody to be administered by it.

Lands that are administered by the government will be leased to foreign investors, held in reserve for mining and timber resources, and distributed to citizens as the need arises.

Due to the all-encompassing nature of the Land Proclamation, its implementation will have a powerful effect on most of the individuals and groups within Eritrea.

The Proclamation is designed to promote capital investment on farms since individuals are assured tenure in their allotment of land because the land will not be redistributed in five to seven years as under the diessa system.

In addition, disputes over particular portions of land will be easier to adjudicate after land holdings are registered and recorded by the government.

Evidence of boundaries and tenure rights will be accessible to individuals seeking clarification of their rights.

Existing Land conflicts

In different Zobas there are many conflicts such as;

Land distributed during the EPLF struggle period land that was distributed at that time old owners will come and ask for their lands. In zoba dobub some villagers were not having land there were living on land rented from villagers. With the new policy they were provided with land and the villagers were not satisfied as they claim to be there lands.

In Zoba Barka land was allocated and on the gash river basin . The old owners claim there land when they come back from abroad. Land distributed for housing called Tessa which is an equal right for every citizen to be allocated an area where his families live. Almost in every village there are many cases to take land based on these lines.

At this time there are conflicts between the crop producers and livestock producers in Zoba Gash Barka, as the land for crop production is intensifying and the area for livestock producers is getting smaller.

Regional Conflicts

Pastoralists do not have a boundary, They move around for the sake of water and feed for their animals. There is a tradition of grazing around the Tekeze basin both in Ethiopia and the Sudan. Due to the prevailing situation there are limited areas to go and feed their animals. There is always a conflict and cattle robberies which make it very difficult for the pastoralist to live in. There is a seasonal migration of animals in the area which is affected by the situation.

A WAY FORWARD

1. There is a need to study and compile the best practices of communal land management in Eritrea
2. Conduct a survey of case studies that has important consequences due to the proclamation
3. Putting the department of Land as stakeholder to conduct Awareness raising to the beneficial Training farmers on their rights. Workshops for the forum
4. Exchange visits for farmers and officials to learn on land use of different countries in relation of INTEGRATED NATURAL RESOURCE MANAGEMENT.

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2.4.2 Ethiopia Presentation

“Conceptualizing Land Conflicts in the Horn and East Africa”

By Honey Hassen

(Pastoral Forum Ethiopia- the Ethiopian National Focal Point for the RBC Network)

Contents

1. Introduction
2. Institutional Frameworks Governing Land use and Tenure In Ethiopia
 - Formal institution
 - Informal institution
3. Critical land use issues
4. Institutional Gaps
5. Existing land conflicts
6. Role of CSOs
7. Way forward

Introduction

Pastoralists in Ethiopia

- Pastoralists inhabit about 52% of the total land mass;
- They are located in six Regions of the country;
- They constitute 12-15% of the total human population;

Types of land use systems

- Broadly, there are two types of land use systems:
 - Farming (Highland areas)
 - Pastoralism (Lowland areas)
- Land ownership systems
 - land is owned by the government;
 - Land administration is mandated to the Regional States.

Land use right are divided into three:

- Government used land;
- Privately owned and used lands by the farming communities (in certificate provision women are included as a family members only and certificate in name of household head);

- Communal land use by the pastoralists (no policy and attempt for both women and men).

2. Institutional Frameworks Governing Land use and Tenure In Ethiopia

1. Formal Land Laws:

- It is only recently that the government is showing some progress to address the issues of the pastoral development;
- For instance the Constitution 49, supports the pastoralists land use right;
- A number of institutions emerging, and the subject on pastoralism and development included in the courses given at the university/college levels;
- The Ethiopian Pastoralist Day celebrated on January 25th is recognized as a national holiday.

Informal laws

- The traditional institutions and socio-cultural systems that served for regulating resource use and management, since time in memory, are weakening in most of the pastoralist areas;
- Clan leaders are being represented by government bodies;
- Their influences in ruling and regulating resource uses, making decisions on distribution of resources, conflict resolution, etc, diminishing from time on.

3. Critical land use issues

- Increased human and livestock population creating pressure on limited land resource;
- Encroachment of crop farming and bushes;
- Land grabbing (expansion of other users to the pastoralists land-investors);
- Land degradation due to drought and disturbances to the traditional rangeland management systems;
- Lack of appropriate extension package for rangeland management;
- Lack of GO and NGO coordination;
- Poor network among the concerned stakeholders;

4. Institutional Gaps

- Lack of appropriate policy frameworks,;
- Institutional conflicts (customary vs formal one);
- Lack of capacity of the traditional institutions to cope with the current situations;
- Institutional gap due to lack of coordination and networking.

5. Existing land conflicts

- Due to increasing human population and declining resource base of the pastoralists cultivation of fertile rangeland in the potential grazing sources of dry season grazing area, the prevalence areas is increasing rapidly, and since such areas are good of conflict among the pastoralists and farmers is escalating from time to time;

- Most of the areas bordering to Kenya, Somalia, and Sudan are inhabited by the pastoralists, and cross-border conflict on land is common across the borders;

6. Role of CSOs

- Working on conflict prevention and peace building;
- Creating awareness among key stakeholders;
- Building the capacity of traditional institutions to claim their rights;
- Taking part on policy deliberations regarding land and land related conflicts;
- Taking advantage of the Ethiopian Pastoralist Day to advocate various critical issues of the pastoralists;
- Supporting the emerging pastoralist self-organizations at the level of regional states (eg. OPC);

7. Way forward

- Inform the policy makers:
 - Having appropriate land use policy that accommodates the various conflicting interests;
 - Protection of communal land ownership;
 - Recognition for the role of customary institution in land use administration;
 - Strengthening the network activities and organizations towards land use and rights issues.

While there may be:

- **Suffering**
- **War**
- **Poverty**

Imagine a world where :

- **Harmony transforms conflicts**
- **Love transforms fear**
- **Abandons transforms scarcity and**
- **Compassion transforms hate**

What if these problems were just a memory

And it all begins with us !

2.4.3 Sudan Presentation

“Land Tenure In Sudan: The Challenges Of Institutional And Legal Reform”

By Dr. Mohy Tohami (SECS)

Land in Sudan

- A central issue to rural communities
- Means for basic survival and social reproduction,
- A source of individual and tribal pride,
- A general relationship between social groups
- A constant source of potential exploitation, marginalization and conflict.
- A culture and ethnic/tribal identity. Ethnicization of conflict has become a critical component of conflict in Sudan (Non-Jellaba vs. Jellaba, Baggara vs. Nuba in S Kordofan; Africans vs. Arabs in Darfur; Beja vs. Non Beja in the Red Sea; Dinka vs. Misseriya in Abyie; pastoralists vs. agriculturalists)
- Existing legal frameworks to land are largely confused with apparent dichotomy between the statutory and customary rights.
- The institutional structures for land administration are extremely weak and suffering problems of poor recognition apparent ambiguity concerning the roles and mandates of the various actors
- Ambiguous and confusing division of power between the federal and state government. This has resulted in conflicting decisions over land use, and the continuous encroachment of the federal government on land in the states.

Customary land tenure systems in Sudan

- The concept of customary tribal homelands is the most important constituent of traditional land tenure in Sudan, and it is intimately related to the principle of native administration.
- The system follows historically derived tribal territorial rights initially constituted during the successive indigenous kingdoms of pre-colonial Sudan.

- Within the tribal homeland the collective security of the tribe is constituted, and individual rights to land were recognized and could be inherited, but with no power to alienate land from the ownership of the tribe.
- In the early 1930s, the entire Sudan came to acquire a tribal structure with relatively well-defined tribal agglomerations headed by tribal chiefs, and inhabiting carefully delineated and recognized tribal homelands based on customary rights.
- This right is vested through the institutionalization of the Native Administration, primarily based on the principle of Dar, or “tribal homeland, and empowered by economic and legislative mechanisms

General features of customary tenure

- customary tenure is the right and sovereignty exercised by the leadership of the native customary institutions in the allocations of land, its administration and the settlement of disputes over it.
- Land is deemed to be the property of a tribe or a clan and dealings in land are an exception rather than the rule.
- The allocation of land rights is vested in the village’s headman (Sheikh). The Sheikh has the right to divide the land within his domain among his villagers as well as to allot land to outsiders or to settle a dispute if he wishes to do so.
- Women have restricted access to land rights and in most cases, they do not possess the land, unless inherited from fathers or husbands

Statutory/ Judiciary Land Tenure Systems

- The British colonial administration paid particular attention to the system of land tenure. Early in 1899 it issued its first ‘Titles to Land Ordinance’ by which it recognized and started registering as private property the continuously cultivated lands in northern and central riverain Sudan.
- The Ordinance excluded from land settlement and registration the rain-lands of central, eastern and western Sudan as well as all lands in Southern Sudan. No individual private ownership of any land in these regions was recognized.
- Government land subject to no right (confined mainly to the northern, central riverain regions, and includes the deltas of Tokar and Gash in eastern Sudan.)

Statutory/ Judiciary Land Tenure Systems

- The 1903 Land Acquisition Ordinance, which gave the government, powers to acquire land for irrigation schemes and other public purposes.

- The 1905 Land Settlement Ordinance made general provision for the settlement and registration of claims to land and all land should be deemed the property of the government unless claims to the contrary were proved.
- The Native Disposition of Lands Restrictions Ordinance, 1918, by which the colonial government sought the 'protection' of the native private landowners from dispossession by expatriates
- The 1920 Declaration on Gash, which stated that: the whole of the land situated in the delta of the River Gash is government land and the government reserves its full rights of ownership of land and the flow of the river through the area declaring the full rights and control of government over the delta.

Statutory/ Judiciary Land Tenure Systems

- The Gezira Land Ordinance, 1927, the first instance of withdrawing usufruct rights on a large scale, which undermined further the position of wathiga-holders and provided for the ownership of all land in Gezira by the government.
- The 1925 Land Settlement and Registration Ordinance to enable any body that claims title or right on land to be recognized and registered.
- The Land Acquisition Ordinance, 1930, paved further the way for government to acquire any "land subject to village or tribal rights" when it "appears that it is likely to be required permanently or temporarily for any public purpose".
- The 1970 Unregistered Land Act has created land as a scarce commodity subject to privatization and accumulation by minority rich investors (both local and foreign) that resulted in modified local land tenure systems continuous alienation of agro-pastoralists from their traditional homelands .
- The Civil Transaction Act 1984: The Act repeals the 1970 Unregistered Land Act, but is more comprehensive giving some details and guidelines for its practical implementation.
- The Act maintains the basic principles of usufruct rights but recognizes that registered usufruct rights are of equal status to registered ownership.
- The Local Government Act 1998: was an attempt to restore the land administration vacuum at the local level created by the abolition of the Native Administration system in 1971

Land in the CPA and INC

- The essence of CPA and INC is to reform governance through power and wealth sharing structures
- The CPA accorded especial article to ownership of land and natural resources.

- It calls for competency in land administration and provides for incorporation of customary laws and practices
- Setting four Land Commissions (National LC, South Sudan LC, and one for each of S Kordofan and Blue Nile states) for the purposes of arbitration, rights of claims in respect to land, land compensation and the possibility of recommending land reform policies.

Land Related Institutions

- The Comprehensive Peace Agreement CPA stipulates that government land is to be administered through Sudan's the three levels of governance (federal, state, and local), and that the GNU establishes NLC, Land Commission for South Sudan SSLC and a Land Commission for each of the two protocol areas of South Kordofan and Blue Nile.
- The NLC is mandated to arbitrate between willing contending parties on land claims, enforce the application of law, assess appropriate land compensation and advise relevant levels of government regarding land reform policies, recommending land reform policies and incorporation of customary land rights.
- The Land Commissions of South Kordofan, Blue Nile, Darfur and East Sudan are entrusted to exercise all the powers of the NLC. State Land Commission, according to the INC shall be competent to review existing land leases and contracts and examine the criteria for the present land allocations and including restitution of land rights or compensations.
- Darfur Land Commission recognizes the rights of the Hakura system, the traditional land tenure arrangement system, and the right of pastoralists to their historical grazing grounds and transhumance routes.
- The private sector investors constitute a direct stakeholder in land particularly through investment in mechanized farming. The sector is continuously accused for land grabbing and alienation of traditional producers.
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- The private sector investors constitute a direct stakeholder in land particularly through investment in mechanized farming. The sector is continuously accused for land grabbing and alienation of traditional producers.
- Native Administration and tribal chiefs, and tribal institutions still constitute one of the key actors in relation to land and have recognition by the State, although their relationship to other different levels of governance is not clear.

- The large category of IDPs and refugees who were overwhelmingly residents of rural areas. Three protocol Areas have found their lands occupied by other actors including private investors, the oil sector other small holder occupants from within and outside the area.
- National and international NGOs, UN Agencies and donors have been supported different land-related initiatives

Land Tenure and Conflict in Sudan

A. Conflicting claims of access to land:

- The 1970 Unregistered Land Act has dissolved customary land tenure systems But created confused legal framework. It is not clear at all whether statutory or customary rights that has legal status.
- To date there is no legislation to sanction the right of entitlement of pastoralists and small farmers to land and natural resource;
- In practice customary law is exclusive discriminating against those who have been for centuries living within the domains of tribes but without recognizable or legitimate rights to land (e.g. migrants in Blue Nile and Gedarif States and the Arab camel herders (Abbala) in Darfur}

B. Dislocation of people by investment capital (mechanized farming, oil and Dams):

- A major source of land alienation, marginalization and social grievances
- Oil industry in transitional zones, Hmadab Dam in the north and Mechanized farming on the central clay are major sources of land alienation, marginalization and social grievances.
- The majority Of mechanized scheme owners are outsiders to the area (73% in Nuba Mts, 76% in Blue Nile and 84% in Upper Nile).
- The majority of the owners (47%) were previous government employees or traders (29%)
- Appropriation pf land for mechanized farming was a major factor the pushed the Nuba and the Funj people to join SPLA/M in 1980s.

C. Distorted Governance

- Distorted and confused division of power between the federal and state governments resulting in conflicting decisions over land and encroachment of the federal government on the powers of the states
- Centralized authoritarian mentality is prevalent.

- Existing institutional arrangements for land administration are extremely weak suffering problems of poor capacities and compartmentalization between different government institutions with an apparent ambiguity concerning roles and mandates;
- Local traditional structures that historically served as institution for conflict resolution have been radically weakened; also suffer problems of politicization and manipulation.
- Exclusion and lack/under representation in the decision making arena.

D. Land Degradation:

- A major factor in the conflict, especially in Darfur where pastoralists of N Darfur (Zaghawa and Arab camel herders) have been forced to move south and settle permanently on lands owned by sedentary farmers (Fur, Birgid, Berti, Daju and Massalit tribes). Claims to rights are made according to 1970 Unregistered LA.
- Removal of forests has been one of the war tactics. In Darfur this extended to burning of pastures and destruction of water sources.
- Poor national and local capacities to manage natural resources
- Absence of national environmental plan

NLC Status Quo

- A commission Preparatory Team was established in 2005 to prepare a draft of the Land Commission Act. However, fundamentally diverging views by the two parties to the Agreement (the National Congress Part NCP and SPLM) precluded progress.
- Accordingly, the task of drafting the legislation for the NLC returned to the National Constitution Review Commission (NCRC). Through support from FAO a draft Land Commission Act was developed and subjected to consultation and discussion in February 2007; since then the whole process has come to a halt and the NLC has not been established up to date although three years have passed since the signing of the CPA.

Costs: Experiences on Land tenure

- Most national civil society and international organizations have been concerned with the question of peace and armed conflict resolution in Sudan, and tens of debates have been conducted around these issues.

- Conduct three case studies on land tenure and conflict and traditional conflict resolution mechanism.
- Established Land Shadow committee, 2004
- Land tenure For a at State and Federal levels, 2005-2006.
- 2 National workshops on challenges of Customary versus Judiciary, 2006-2007
- Established Monthly Forum for debate on land issues, 2005
- Published book on land tenure, 2007, will launched and used as plat form to bring all actors related to land together and advocate for land related policy issues and ways forward
- Influence the national assembly through the Land and water committee
- Legal awareness session on land and conflict at state level

Challenges

- The CPA implicitly recognize existing land tenure procedures as a de facto situation
- The challenge of establishing the possible institutional arrangements for inclusive, just and equitable use and management of land and natural resources.
- It is not clear at all whether claims to rights are to be made on individualistic or collective basis.
- Recognition of customary rights raises the question about the position and mandates of traditional structures to land (Native AS) and relation to modern governance structures.
- The apparent weaknesses of existing customary institutions and structures
- Confusion about the National Land Commission and whether it is going to be a centralized or decentralized one.
- Issues of representation of pastoralists and farmers, direct land users, in the Commission.
- Limited public awareness about the Agreement and Land Commission in particular.
- Land settlement in Darfur, based on recognition of Hakura system, will be faced with major challenge that camel pastoralists do hold Hakura rights. How their rights are to be maintained and legitimated?

Concluding Remarks

- Reform to land policies and legislation to establish/strengthen the rights of poor, landless, women and other marginalized groups,
- Promoting inclusive policy debates and consultation in relation to legislative/constitutional drafting;

- Making legal provisions to capture or formalize legitimate customary rights in formal law;
- Legal representation of communities to enable them to claim their rights to land and natural resources;
- Strengthening organizations that represent land users to advocate for land rights on behalf of their constituencies (CBOs, SCOs and networks land alliances);
- Land rights information and awareness campaigns;
- Instituting local arrangements for land administration and systems for managing land and resolving disputes over it that are accessible and transparent to the communities;
- Participatory natural resource management arrangements that enable access by the small producers to vital livelihood resources;
- Representation of CSOs and CBOs on land boards and land commissions;
- Involvement of CSOs and community representatives in assessing and monitoring the impacts of land and tenure reforms and the performance of land institutions.

2.4.4 Presentation on Post-Election Violence in Kenya, by Daudi Ekuam

“Pluralism & Tribal Politics In Kenya: Pre and Post Election Violence In Kenya, Unpacking the Myth”

By Duadi. E. Ekuam (RBC Chairman)

Major Causes

- concentration of power in a strong presidential system;
- a winner-takes-all electoral system;
- an Electoral Commission that lacks independence;
- deep socio-economic inequalities.
- animosity generated by an earlier failed attempt at constitutional reforms through a referendum to correct some of the flaws in the system,
- Calls for Majimbo
- General economic marginalization
- Inequality - leading to 90% of the economy in the hands of 10% of the population; minority communities – 78-80% poverty level
- Unequal access to social services and poor infrastructure in areas classified as perennially opposition and pastoralist areas
- Land expropriation

The Land Question

- Problem traced to colonial period – dispossession of communities of their ancestral land
 - White highlands
 - Maasai and other pastoralist land – historical injustices
- Registration based on English Property Law
- Post-colonial government pre-occupation with land
- Land classified as:
 - State Land
 - Leasehold
 - Freehold
 - Trust land
- Only 25% of land agriculturally productive – yet economy is heavily agricultural based
- Population balance – 78% (agricultural area); 22% (ASAL Areas)
- High population growth – esp. in the agricultural areas – average 2.9%
- Desertification and climate change compounding the problem
- Disparities in land ownership
- Increasing problem of “Land Grabbing”
- High level of awareness of rights in the recent past

PEV - Recommendations

- Comprehensive land reforms – Policy, legal
- Equity in political participation and governance
- Equal opportunity in socio-economic development
- Opportunities specific to the youth population
- Entrench responsible and patriotic media ethos
- Comprehensive electoral system reforms
- Comprehensive security sector reforms
- Tackle corruption at all levels
- Inculcate nationhood

Inter- ethnic violence

Encampment of 300,000 people

Massive destruction of property

Impact on the dairy industry

Whole town burnt down

...impact on livestock

Impact on tourism

Effect on pastoral livelihoods

Ahsante Sana!

2.4.5 Observations and Reactions to the Presentations

- The question of gender in Kenya – how much progress has there been on this?
 - There has been a great deal of work on this and significant advances, but progress has been retarded by the recent inter-ethnic violence and displacement of people.
- The various border conflicts in which Eritrea has been involved since independence – do they reflect the will of the people, and a certain belligerence on their part?

[This very politically sensitive question was posed by a participant from Southern Somalia, who had evident political inclinations. It was deftly and tactfully answered by the Eritrean participants.]

- These issues have been politicized, but relations were better in the past. These various conflicts do not reflect any real issues between the local peoples, among whom there is a great deal of economic and social interaction.
- Oil exploration in Ethiopia – How has the attack in Zone 5, by rebel factions, affected the local communities?
 - There is a great deal of uncertainty surrounding this. The subsequent security crackdown has disrupted economic activity, in a region where there is a great deal of cross-border movement and interaction. Rebel activity remains a serious concern, but the political issues are not easy to solve.

Key Concerns

- The failure to deal with the colonial-era legacy of ill-defined borders and uncertain land tenure arrangements
- A lack of transparency surrounding investments by governments and the private sector, particularly with respect to oil and minerals.
- The need to defend and promote traditional livelihoods and land rights, threatened by economic change and the expropriation of land by powerful actors.

In discussion of the Kenyan presentation, it was generally felt that the gender question was swept under the carpet. Kenyan RBC members were urged to pay more attention to gender issues.

Participants were requested to be more realistic, open and frank in their discussions and presentations. A number of people observed that participants were shying away from controversial, or overtly political questions, which loomed over the deliberations, but had,

on the whole, not been squarely addressed. [There was more discussion of these sensitive questions in informal interactions between participants.]

Day 2 ended with the facilitators' comments on emerging issues from the day's discussion.

They emphasized the following points:

1. Some issues were purely national issues – country specific.
2. There are important cross-border and regional issues, as well as riverine issues that involve different communities and countries – as a regional network, we should give these issues greater attention.
3. Participants must respond to the challenge posed by Minister Mwesigye and work hard to produce a Declaration that could be submitted to policymaking bodies and could serve as an advocacy tool. Participants were informed that a group of several people, led by Dr. Fre and John Livingstone, had been formed to work on a draft, which would be presented and discussed in a special plenary session the following day.
4. Participants must think in terms of specific actions that could produce real, measurable results, must develop concrete action points, with a view to securing funding for new initiatives.

Day 3.

Kicking off the third day, the facilitator acknowledged that country presentations had had to be delivered and discussed within a very limited space of time. He also regretted the squeezed time for informal discussions, but noted that these were being conducted in a very encouraging way.

There were discussions among the organizers and between organizers and participants over the what is meant by “key messages”. The organizers, particularly PENHA-Uganda, had in mind concise statements of core principles and analytics on specific issues, accompanied, where possible, by calls for specific actions or policy changes. However, the prevailing notion among participants entirely different – they had in mind very brief statements that essentially amounted to slogans. It was not, in the end, possible to reconcile these two very different views of what was required.

Others argued that the development of succinct statements of policy positions, on specific and general issues, while crucially important, is a task that will require considerable work and reflection, and sustained discussion within organizations and across network members, over a period of time.

It is, however, an urgent task. The network needs to proceed on the basis of clearly articulated core principles and a set of shared positions on basic issues.

Session 1: Key Messages

Participants were requested to develop key advocacy messages around the theme of conflict over land – and to do this, initially, at country level, targeting key stakeholders.

Developing country-specific messages:

Messages were to be developed that specifically target the private sector, Government and other CSOs (all non-state actors that are pursuing relevant goals).

Additionally, participants were asked to develop general messages that cut across the above stakeholders.

Developing messages with regional or cross-country applicability:

Participants were asked to develop messages that either target regional bodies or are applicable to two or more countries.

Participants were requested to keep political controversies out of this discussion.

Participants were asked to bear in mind the following questions:

- What messages do we want to take to the different power centres?
- How can we craft the messages to maximize the likelihood that power holders will respond positively and even take appropriate action?
- How can we, as CSOs and as a network, mobilize citizens and communities to push for action?

Participants were reminded that a good advocacy message should be:

- targeted (at a particular group or institution),
- clear (easy to understand and not likely to be misinterpreted) and
- specific (dealing precisely with a particular issue).

Participants were given a handout to guide them in developing their key messages.

1.1 Some Common or Cross-cutting Issues

- Environmental degradation
- The potential for sustainable agricultural intensification
- Climate change

Many argue that there is considerable scope to increase productivity in African agriculture. If this is so, interventions that increase productivity would enable farmers and livestock keepers to get more out of a given area of land, which might reduce the pressure on and competition over land.

- Uncertainty of land tenure, which discourages investment and fosters conflict between users with competing claims.
- Lack of proper land use plans.
- A declining resource base for pastoralists, given increasing human and animal populations and diminished access to traditional grazing land.
- Weak enforcement of laws, elite capture of local institutions (land boards, etc.) and the failure of governments to establish the rule of law and order.
- A colonial legacy of inequalities and latent land conflicts.

- (The threat of) the displacement of people from the land by wealthy local or foreign investors

A common issue here is the lack of transparency, with deals made between the authorities and investors without community participation and with no serious attempt to provide communities with full information on the nature of the deals proposed or on alternatives. It is also often the case that investors are able to suborn those in authority and subvert normal procedures.

Deals in the areas of minerals, oil and cotton are commonly characterized by a lack of transparency and a failure to adequately compensate those displaced from the land. The hypothecation of a portion of tax revenue, to community development, from these kinds of lucrative investment is rarely considered. It should be noted here that communities can benefit from these kinds of investment, if they bring economic growth and there is adequate compensation as well as specific measures to ensure that local people benefit. CSOs that serve the poor should not be automatically opposed to this kind of investment, which can bring positive change – rather they should seek to strengthen the hand of the poor in the process of negotiation that such change involves.

- Lack of awareness about land use, land rights and conflicts.

In many cases, local or even national issues are poorly understood. Often the public at large and the development community are not aware of local issues that claim lives in violent conflicts.

- Lack of awareness among citizens and communities about the relevant legal provisions and mechanisms.
- A lack of capacity, particularly among poorer and disadvantaged groups, to engage with the authorities and relevant institutions, such as local land boards.

These two related points suggest answers to the last question here.

- What is the role of civil society?

CSOs clearly have a role to play in building capacity in communities to engage with the authorities, in enhancing the legal awareness of local leaders and citizens' groups, in backing community initiatives, in pushing the authorities to be more transparent in their decision-making and to involve communities more, as well as in bringing greater attention to specific issues.

Considerable thought needs to be given to how these tasks and other tasks can be carried out, and to how this network can guide and support national and local efforts, as well as to the nature of the advocacy messages that these efforts will require.

1.2 Presentations of Key Advocacy Messages

Participants presented the results of country group discussions to a plenary session.

Somalia

1. "Stop charcoal burning and save our livelihoods"
2. "Land and peace are basic rights"
3. "Preserve our forests for future generations"

The Somalia group essentially produced three slogans, which reflected their identification of charcoal burning as a key issue. The notion of land as a basic right indicates a determination to defend the interests of ordinary people and communities.

The country is currently occupied by Ethiopian forces who are fighting radical Islamists. There is no effective governmental authority, although a recognized transitional government and President are nominally in place. Under these circumstances, it is not clear whom advocacy messages would target, or how sensible it would be to advance an agenda that does not address the immediate problems. (The basic land issues can only be effectively addressed once the current political conflict is settled.)

The fact that warlords who control the richest agricultural land have been able to amass great wealth and power does, however, indicate a link between the macro-political issues and the land question.

And, it should be possible for CSOs to target communities and international agencies with messages that clearly articulate the way forward for Somalia and the basic outline of a sensible approach to the land question.

Understandably, however, participants from Somalia seemed to be in a kind of limbo, awaiting the outcome of the current multinational conflict taking place on their soil.

Tanzania

1. There is a need to conduct broad-based public awareness raising on existing land law and regulations. [generally applicable]
2. CSOs must strive to contribute to making land a constitutional category in order to ensure security of tenure.
3. There is a need to build the capacity of conflict resolution organizations and institutions so that they can efficiently and effectively discharge their functions
4. Promote the sustainable use of land and enhanced productivity and skills (through agricultural extension agencies), with greater resources (increased availability of inputs).

The Tanzanian group outlined the essentials of a CSO agenda to address land and conflict, which reflected, in large part, the emerging consensus among participants on the way forward.

Ethiopia

1. “Pastoralism is a way of life”
2. Appropriate land use rights for pastoralists
3. Recognition of the role of customary institutions.
4. Equal rights for women.
5. “Join your hands for the rights of our minorities!”
6. “Mobiles for the mobile community!”
7. CSOs are fundamental pillars of development

The Ethiopian group produced a mix of slogans, statements of principles and priority issues.

They highlighted the issues of gender and minority rights and, in particular, the land rights of pastoralists. This emphasis on pastoralism is not surprising, given that Ethiopia’s predominantly pastoral Region V was well represented in the group.

The defense of the role of CSOs in development is important, in light of the government’s recent moves to restrict CSO activities.

Eritrea

1. Communal land use and land rights
2. Legal framework
3. Everybody should know their rights and obligations related to land
4. Sharing best practices
5. Promote the free movement of pastoralists
6. Riverine forest

The Eritrean group produced a list of priority issues, and also statements in defense of communal land tenure and pastoral mobility, which may be at odds with government policy in that country.

Sudan

1. “Land for Peace, Sustainable Development, Justice and Equity”.
2. Establish and strengthen instruments to address land issues in an inclusive responsive and effective way in the national development framework. (addressed to government)
3. Corporate responsibility and social accountability to stakeholders (addressed to the private sector)
4. Mainstreaming of land issues in programs (CSOs)
5. Mainstreaming conflict in national development (General)
6. Mainstreaming of gender policies – NDF
7. Promoting the right to access different livelihood options

Kenya

1. The private sector:

In order to minimize conflict and encourage socio-economic development, support the on-going reform agenda specific to pastoralists:

- The draft National policy framework and the
- The truth Justice and reconciliation Commission Bill

2. Government / the State:

- Address historical injustices in the land reform process, ensuring equitable redistribution, use and ownership rights – dealing with specific and pastoral concerns.
- Undertake a legislative agenda, developing national land policies and laws relating to people’s livelihoods and the management of, use of, access to and ownership of land.

3. CSOs

- Lobby the government to address historical injustices in the reform process.

How? By documenting the historical evolution and effects of land use, rights and conflicts.

- Concerted and coordinated efforts to push for a common agenda on issues specific to pastoralists
- Engage government with a view to establishing pro-active mechanisms in peace building, rather than reactive measures.
- Addressing causes and finding lasting solutions.
- Support the Truth and Reconciliation Commission Bill.
- Engage the state authorities fundamentally on issues relating to regional conflict.

The Kenyan group emphasized the need to renew CSO engagement in on-going national processes on relevant issues. These have great promise, but have so far been frustrated, with disastrous consequences.

The group discussed the way in which political (governance), ethnic and land issues intersect in Kenya. The messages and priorities identified reflect this, but participants are clear that much more work needs to be done, in pulling together analyses, plotting a way forward and crafting effective messages on the issues.

Uganda

1. Gender equality in the use and ownership of land increases production, enhances food security and reduces conflict.
2. Know your land rights and obligations in order to reduce conflict.
3. Pastoralist mobility should be conducted in a peaceful and organized way.
4. CSOs should strengthen the bargaining power of the poor and communities.
5. Provide security of land tenure for small scale producers (farmers and livestock keepers), so that they can invest in the land.
6. Plant a tree, save the future.

7. Land acquisition for public purposes should follow principles of equity.
8. Harmonize laws and authorities governing land.
9. Demand transparency and social/corporate responsibility and accountability from investors .
10. Seek consensus-based decisions meeting the needs of all stakeholders (government, investors and communities).

The Ugandan group had the controversy over Mabira Forest very much in mind, and also considered the issues of proposed mining investments in Karamoja and cotton in Teso. The group was broadly supportive of the government's pro-business, pro-investment stance, but also concerned to ensure that communities benefit from any change and are fully compensated where they lose access to land. There was a clear understanding of the difficulty of confronting powerful interests, and of the way in which the wealthy can influence, or even corrupt, government and local authorities.

Wrapping Up the Session

The facilitator, Mr. Kaikai, wrapping up the session, reminded participants that advocacy vis-à-vis governments and other powerful actors is only one part of the task facing CSOs. He argued that, as CSOs, we constitute our own parliament – CSO debates and statements can, in and of themselves, influence public affairs and CSO initiatives on specific issues can force government to and political representatives to respond. CSOs can play a leading role, with the politicians reacting and following.

He argued that we must not see our role as CSOs as being limited to petitioning those in power, waiting for and relying on governments, IGAD, international agencies and donors.

He and Dr. Fre called upon participants to identify specific actions that they are able to do, practically, that are within their means and for which they can raise the necessary resources. He urged network members to develop practical initiatives with defined and achievable goals.

Clearly, what the groups were able to come up with, as key messages, in the short space of time available, amounts to only a first draft. Network members will need to devote sustained attention to this task. The exercise was, nevertheless, valuable, in forcing participants to think about what the key issues are, what their core beliefs and principles are and how they might advance these.

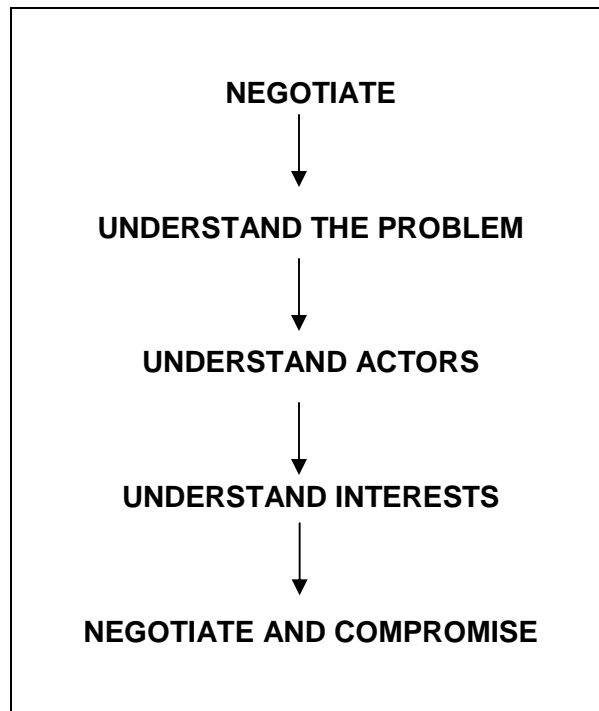
The exercise also produced a list of priority issues for each country, and the intention is that members will work together at national level, and in partnership with the Secretariat

to refine and develop key messages, statements of principle and campaign slogans, all of which would ideally accompany concise and coherent issue briefs.

Multi-Country Advocacy Messages

GROUP 1:

LET US NEGOTIATE OVER BORDER ISSUES



GROUP 2:

Recognition of Minority Groups

- Equal access to natural resources
- Equal participation in decision making
- Respect for the human rights of minorities

Cross Border Pastoralist Conflicts/Trade

- Regional policy on social and economic development – incorporating education, sensitization, and livelihood interventions.
- Capacity building of border communities
- Inclusion of civil society in regional decision making

GROUP 3:

Sustainable, Equitable Utilization of Natural Resources and Benefit Sharing

- Access to and clarification of common resources
- Mechanisms and institutions for the peaceful resolution of differences

Civil society should take the lead in planning, policy monitoring, evaluation, and the implementation of initiatives.

We should develop tripartite partnerships among civil society, government institutions and the people in various areas of good governance, development, peace and human rights.

GROUP 4:

Benefit Sharing

- Rights to resources and accessibility of resources to poor people
- Equitable and responsible use of resources

Regional Institutional Approach

- Strengthening linkages and networking among stakeholders and developing joint actions in support of a common cause

GROUP 5:

Public Awareness on Land Use and Land Rights

- Engage in public education on appropriate land use and rights

Recognition of Customary Land Management Institutions

- Respect and recognize the voice and will of the people and their representatives

GROUP 6:

Climate Change

- Community participation is key to proper land use
- Make proper use of the resources you possess

- Keep the rain where it falls (establish water harvesting structures)

GROUP 7:

Small Arms Proliferation

- Raise communities' awareness on small arms, that is the hazards and risks, as well as the identification of arms.
- Promote community disarmament programmes/initiatives (voluntary and forceful disarmament)
- Enhance cross-border peace and exchange programmes
- Promote the formation of collective groups to monitor small arms and security/peace among communities sharing borders.

Key Recommendations – Country Specific

Eritrea

1. Conduct surveys
2. Mapping active and relevant NGOs
3. Conduct relevant training
4. Conduct a national workshop

Kenya

1. Land Use and Land Rights policies to be pushed in the Constitution
2. Policies to allow pastoralists to graze freely across borders (free movement for pastoralists in the border regions)
3. Establish and promote common markets along the border to minimize conflicts (in particular, establishing these markets in conflict-prone zones)
4. Establish programmes along the common borders among the communities in conflict
5. Facilitate peace dialogues between communities in conflict; funding these initiatives as a way of promoting peace.
6. Organize grassroots forums on land rights, use and conflicts.
7. Provide land rights and paralegal training for community groups
8. Enhance the capacity of traditional conflict resolution structures on land use and rights.

Tanzania

1. The RBC network should support and facilitate the formation of RBC networks at country level
2. Government and CSOs should raise public awareness on land laws and legislations
3. Land administration should be decentralized to enhance local communities' participation in governance and conflict management

Ethiopia

1. Strengthen the national RBC networks and facilitate the establishment of the national steering committees
2. Conduct a thorough conflict mapping
3. Identify the key actors and strengthening working relationships with other like-minded networks
4. Work on advocacy using the Entebbe declaration as a tool
5. Developing appropriate strategies to implement the above recommendations

Sudan

National

- Land policy – (Debate/Forum)
- Gender issue (Land Rights)
- Investment (Private Sector)
- Natural Resource Management awareness

Inter-regional

- Knowledge & research
- Sudan, Ethiopia, Eritrea - cross-border movements

Regional

- Assessment of RBC experiences/lessons - document best practices
- Training workshops on networking, advocacy and lobbying.
- Resume mobilization strategy
- Communication strategy/visibility

Somalia

1. Capacity building for CSOs in the network
2. Mapping resource-based conflict
3. Establish a Resource Based Conflict forum for all stakeholders – the private sector, government/line ministries, traditional elders, pastoralists and NGO/CSOs
4. Awareness raising
5. Establish a forum for dialogue at community level

Uganda

1. Push for enactment of land laws and land policies
2. Establish and promote common markets in conflict zones
3. Facilitate border meetings and dialogue
4. Empower the existing community structures through training
5. Encourage exchange visits
6. Organize forums on land use and land rights at grassroots level.

Key Recommendations - by Country Clusters

Somali Cluster – Somalia, Ethiopia and Kenya

- Grant ID cards for pastoralists
- Grant grazing rights and Community services according borders for pastoral communities with specific emphasis on Gender Equity
- Common laws and strategies on charcoal production and poaching
- Common policy on the utilization of common resources – rivers, lakes, etc..
- Sharing the best practices on conflict management, resources utilization and early warning systems.

Karamoja Cluster

- Bring Sudan on board in the cluster
- Effective coordination among the NGOs that are involved in the cluster
- Quarterly meetings to share experiences and good practices
- Strengthen the already existing joint initiatives ie working together for the common good, having joint proposals together.

Cross-country Peace Building Initiative

Reinforcing the ongoing Borana-Gabra-Garrie of Kenya and Ethiopia cross-country peace initiative being implemented by OPA/PCI/Kenya and PCI Ethiopia.

- We had held separate country meeting with elders and government officials
- We had held joint cross-country meetings involving elders and government officials
- We had planned for big gathering
- The RBC team will join the initiative as of the coming big gathering
- Establish and strengthen cross-country peace committees.
- Support the committee with technical and financial support
- Carry out conflict management and monitoring
- Conduct cross-country peace building meetings regularly.

Eritrea, Ethiopia and Sudan

Joint CSOs' Committee to identify:

- Conflict mapping
- Training needs assessment
- Evaluate

- Come with an action plan

East Africa Cluster – Uganda, Tanzania and Kenya

- Cross-border management and harmonization of policies towards land-related conflict
- Lifting trade tariffs to encourage cross-border trade
- Strengthen the joint mechanism of policing the small arms movement
- Cross-border management of the pastoralist seasonal movement with their animals
- Integrate pastoral livelihood systems into the formal land tenure systems
- Harmonize cross-boarder immigration policies

The Value of Informal Interaction

Throughout the conference there was a great deal of enthusiastic and potentially very productive interaction between participants.

The most lively discussions, as one might expect, took place within national groups, in the corridors, over tea and at lunch at dinner.

Ethiopian participants, in these informal settings, engaged one another in detailed discussion of their programs, which, impressively, combined active engagement at grassroots level with advocacy and relationship building with authorities at different levels and across regions. These discussions were not, however, echoed in plenary sessions or group presentations.

The multi-country groups were important in getting people to interact across countries and cultures, but it is clear that in future conferences it will be important to pay greater attention to how these discussions are structured, as well as to allow more time for informal multi-country discussions.

If the participating organizations had exchanged basic documents and information in advance of the conference, and if the organizers had set succinctly and clearly some basic principles and core ideas for participants before they traveled, the flow of the discussions would have been much smoother and less time would have been spent on elementary exposition and analytics, as well as on procedural matters. These inefficiencies drained value out of the sessions. The informal interactions were much richer than the formal sessions, but unfortunately did not feed into the formal sessions as one might have hoped, in part because of time constraints and in part because of the rigid structure imposed on the deliberations.

These deficiencies can be addressed in future by introducing a greater element of structured informality into meetings and by making much greater use of the RBC website to intensify communications between members.

The Way Forward

Discussions on the way forward for the network settled on the following:

- The need to produce an Entebbe Declaration, setting out basic principles and calling for specific actions by policymakers.
- The need to produce and build upon recommendations for actions at country level and at regional level.
- The need to refine and develop key messages on conflict over land and other issues.

What next after this conference?

Participants discussed this question in groups, in plenary sessions and informally. The key points that emerged:

- More frequent and constructive contacts between network members, with the development of the RBC website as a tool.
- Much greater engagement of communities.
- A bolder approach, involving the media and powerful stakeholders, and taking on controversial issues.
- Undertaking initiatives to build community capacity to conduct advocacy, to engage with local and national institutions and to improve natural resource management and agricultural productivity.

Closing Session

The guest of honor for the closing session was the Hon. Atwoki Kasirivu, Minister of State for Lands and Housing.

The RBC Chairman welcomed the Minister and made some introductory remarks, which are reproduced below.

1.1 Welcoming Remarks by the RBC Chairman, Daudi Ekuam.

Honorable Minister,

This is a network of civil society actors addressing resource-based conflicts in the Greater Horn of Africa – representing Uganda, Sudan, Ethiopia, Eritrea, Djibouti, Somalia, Kenya and Tanzania. (The Chairman then asked participants from each country to identify themselves.)

The RBC initiative was borne out of the realization that competition over access to and management of resources in the region is increasingly becoming a major source of violent conflict that has led to distressing human suffering.

Moreover, the formation of the network was in response to a clear lack of a regional initiative by indigenous CSOs to address the intractable conflicts affecting their peoples – leaving the field to external actors.

The initiative, supported by Oxfam-Novib, was born a decade ago and has since held 6 conferences on various themes in the Hague, Sudan, Ethiopia, Somalia and now in Uganda.

The theme of this conference is conflict over land. Without doubt, land is the most important productive asset for most of the communities that we represent.

The theme of this year's conference was therefore born out of the realization that access to land, cultural rights and conflicts were clearly inter-related.

In the three days that we have been here, we have discussed varied issues related to land as concerns our respective countries and also the common regional issues.

The emerging consensus amongst us is that we need to scale up our advocacy initiatives on land and constantly engage our respective governments on land policy.

There could not have been a better person to give the closing remarks at this conference than you, Honorable Minister.

I therefore ask all of you to join me in warmly welcoming the Honorable Minister to make his remarks;

Mr. Minister ... (I leave the floor to you ...)

1.2 Closing Address - Hon. Atwoki Kasirivu, Minister for Lands

The Minister gave a very lively and entertaining speech, taking participants through the historical evolution of land tenure systems in Uganda, giving illustrative examples from the experience of his own family, and describing the current state of affairs with respect to land-related conflict.

He noted that his ministry had specific responsibility for addressing these challenges and other land-related matters, including questions of land use and land rights. He added that he himself comes from one of the most troubled parts of Uganda with respect to land conflict, Kibale District.

[Interestingly, Hon. Hope Mwesigye, who opened the conference, played an important role in dealing with an eruption of violent conflict in Kibale in 2004, resulting from the large numbers of Bakiga immigrants in Kibale from her own District of Kabale, which was triggered by the election of a Mukiga to the highest political post in Kibale. Over 100 people were killed in a couple of days, by indigenous people angry at the acquisition of large areas of land by immigrant Bakiga.]

Hon. Kasirivu described the government's policies on land, emphasizing the goals of reducing conflict, and encouraging investment and economic growth at the same time as promoting equity.

The minister also touched on the issue of internal and cross-border conflict in Karamoja, noting that seasonal mobility, often across modern borders, is a feature of the arid and semi-arid lands of Uganda, Kenya and Sudan. He emphasized the need to develop harmonized regional policies to address the persistent violent conflict in the "Karimojong Cluster" border areas.

He ended by calling upon pastoralists to change their way of life, to diversify economically, so that livelihoods are not entirely dependent on animals, and to invest more in the quality, rather than simply the quantity, of animals.

The RBC Chairman thanked the minister for his illuminating and interesting address and then invited participants to address their questions to the minister. There followed a lively question and answer session.

1.3 Q&A Session with Hon. Atwooki Kasirivu, Minister for Lands.

Regional perspective/cross-border issues

Participants posed questions on a variety of regional issues, including security issues, market integration and good governance, emphasizing the need to promote a vibrant regional economy.

The Minister's Responses:

Pastoralists are rich - the value of herds appreciates, and animals are walking banks! But, the land area remains constant as populations (both human and animal) increases. We need to find ways of accommodating different users on the land.

Some of our leaders are pastoralists! But, we have to accept change. Let's keep fewer animals, and invest in them, so that we get greater returns - as against the traditional pastoralism, with many animals and fewer returns. Having many animals (large herds) promotes conflict – with competition for grazing land. Let's aim for greater yields, by improving pasture, fencing, and controlling diseases.

Further comments and questions from Participants:

- Pastoralists, women, hunter-gatherers, and minorities have had a tough time having favorable policies and laws passed and implemented.
- Climate change; rising in fuel and food prices; the destruction of forests, and the grabbing and uncontrolled use of large chunks of land.
- In addressing the colonial legacy and the question of customary tenure – in relation to land use and rights - how far are we involving the various stakeholders, especially the smallholders and pastoralists?

The Minister's Responses:

The minister said that this, the Land Policy, is the biggest and most important policy – thus the involvement of everybody in the country is crucial.

Emphasizing the importance of the issue of conflict over land, he noted that 40% of incarcerations in Uganda prisons are the result of land-related conflicts.

He also stressed the fact that the policy formulation process has been very consultative, involving all stakeholders.

The RBC chairman thanked the Honorable Minister for honouring the invitation and officially closing the conference.

Final Session:

Discussion and Presentation of the Declaration:

A committee of five people, led by Dr. Fre and John Livingstone, had been charged with producing a draft for discussion. Dr. Fre and Wilson Kaikai presented the draft to the plenary and led a point by point discussion of the proposed Declaration.

Circumstances were less than ideal – participants were tired, after several days and nights of intensive discussions and group work. There was, nevertheless, energetic debate over the content and the precise wording of the document, with contention over how much weight should be given to different issues and an underlying lack of clarity on basic principles.

The original draft was substantially revised, and the final version was the result of a painstaking effort to reconcile differing views.

This “Entebbe Declaration” is a useful outcome of the conference, an essential first step in responding to the challenge posed by Hon. Hope Mwesigye, who had urged the network and its members to intensify their efforts, to be more ambitious and to target centers of power and decision-making with much more vigorous advocacy efforts. This document, presented here in an appendix, is intended to be used as a tool in advocacy work and as a basis for further discussion with policymakers and relevant institutions.

Evaluation

The conference was conducted in a highly participatory manner, with facilitators requesting and responding to participants' views on management and content issues throughout.

At the end of each day, review sessions solicited views and adapted proceedings in response to these.

A final evaluation session was conducted, in which participants were encouraged to give their honest views on the conduct and content of the conference. (Views were given anonymously.) Given the tightness of the program, little time was left for the evaluation, which was carried out in a hurried manner. (Several participants did not participate.)

However, below is a summary of the results of the evaluation:

	Score									
		POOR			FAIR	GOOD		VERY GOOD		
Question	1	2	3	4	5	6	7	8	9	10
1. Transport Arrangements
2. Accommodation							,,
3. Conference Facilities (Audio, stationery, etc.)
4. Administration					
5. Overall Organization
6. Facilitation				
7. Quality/Usefulness of Papers Presented
8. Time Allocated to Group Work on National Issues				
9. Time Allocated to Group Work on Regional Issues				
10. Time Allocated to Analysis	
11. Time Allocated to Action Plans
12. Opportunities to Learn About Experiences in Other Countries				
13. Space for Informal Interaction					

Notes:

- There were 16 respondents. A total of 13 questions were asked, with participants asked to give a score between 1 (poor) and 10 (excellent).
- Each mark/dot represents a participant's response.
- The red dots indicate one participant's response and it was clear that this participant misinterpreted the scoring system. This is confirmed by the comments that this participant gave – “well organized workshop; good participation”.

An open-ended, question asked for participants comments, which are presented below.

Participants' Comments (given anonymously)

- Wish to have a field visit to see first hand on some issues.
- There was a little bit of disorganization in the management of the programme – where it could be difficult to tell what would be the next item in the day.
- No linkages in the issues were discussed with the previous meeting, its conclusions or the previous year's programme.
- The way forward was not clearly discussed and agreed upon as we ended up with the Declaration only.
- What needs to be done: Have a good way of carrying forward the RBCs network programme activities through reports; and prepare a strategic plan for the networks and focal points (national networks) and share this during annual conferences.
- It was nice to be here. Network conference or meetings would be better annually instead of every two years.
- It is now time for action and the network has learned a lot.
- Lobbying and advocating, in terms of fundraising, must be enhanced – why only one donor? Let us wake up – there is a long way ahead of us.
- The accommodation was not conducive to the religious diversity of the participants – for example I would have preferred to have a prayer mat in my room.
- Well organized workshop; good participation
- People coming from other countries need to learn about the host country and see historical sites and other important places in the city.
- This network needs some people who work fulltime in those offices if it is to be sustainable and not a part-time activity.
- My first time in such a conference – I learnt quite a lot and I was enlightened. I hope this conference does not end up in only papers but also results in practice/action.
- If resources are available, more time should be allocated to plenary sessions in order to share and sharpen group assignments.
- The conference was generally good and very educative, although most issues were controversial and there wasn't enough time to discuss.
- I think the accommodation was too expensive a facility. Though this was good for comfort, the money could be better used for implementing other issues which are vital for RBC Network.
- Increase per diems where funds are available – management should choose moderate hotels so that the participants can have something in their pockets.

- The programme was not very clear – specifically for the first day. It was not clear what was a “family day”. For me it was a lost opportunity to have an afternoon off on the second day. The logistics were perfect.
- The system we followed conducting the workshop was time consuming.
- We should have saved more time by going way forward country by country and capturing the common issues and give enough time to consolidate and agree on priorities.

Participants were also asked to give suggestions for the development of the network.

Further Comments & Suggestions for the Development of the Network

- Let us work on practical and multiple issues. Let us build steadily and expand what we have.
- I have missed the issue of climate change and the development of social services for pastoralists.
- Capacity building for the networks – in terms of the resources.
- Conduct follow-up on what the networks are doing in their respective countries
- Need for a field visit to areas/communities facing similar problems, e.g. a pastoralist community for the case of Uganda, such as the Karamoja community and hear from them.
- The network should keep on striving to expand its outreach so as to maximize delivery of its services. as well as getting more information from the countries within its geographical area.
- We expect the network to come up with information on resources mobilization

Appendix 1.

Speech by Mr. Daudi Ekuam, Chairman of the RBC Network

Chief Guest, representatives of Oxfam-Novib, the Country Director of PENHA (our host), Executive Committee members of the RBC Network, the conference facilitator, Mr. Kaikai, colleagues, distinguished ladies and gentlemen, ...

As your Chairman, my task is supposed to be simple. They say “a chairman is like the minor official at a bull fight whose main function is to open and close the gates to let the bulls in and out”. Today therefore, I will be glad to do exactly that – maybe with a bit of advice to the bulls!

But before I make my remarks, let me take this earliest opportunity to formally introduce members of the Regional Executive Committee and the Regional Steering Committee of the Horn and East Africa RBC Network.

I wish to also request all of you to join me in welcoming our brothers and sisters from Eritrea and Tanzania who have joined as for the first time during this august 7th General Assembly of the RBC Network. I ask them to feel welcome and consider themselves worthy and equal members of the RBC family.

Colleagues, as a network, we have come a long way.

The RBC initiative by civil society in the Horn and East Africa region was born out of the realization that the struggle for scarce resources and our inability to equitably share existing resources has generated many violent conflicts that easily turn to politically manipulated and distressing human suffering. These conflicts have ended up causing food insecurity, business and social service decline leading to the marginalization of the affected communities. Subsequent ethnic tensions have tended to spread to become major national violent conflicts, especially in countries with fragile state infrastructure.

In this regard, Novib resolved to engage the civil society organizations involved in conflict management in the region, beginning with its traditional partners, in order to establish entry points for tackling RBC issues in the region.

As a first step, a consultative roundtable was convened in the Hague in 1998, where a core team sought to explore key challenges and opportunities for initiating a regional RBC network.

At this meeting, discussions revolved around:

- the definition of RBCs beyond the natural resource realm;
- the role of different actors at various levels of decision-making, and
- entry points for lobbying, campaigns and advocacy.

It was agreed at this meeting that annual RBC conferences would be viable forums through which progress can be assessed and a collective agenda formulated.

The 2nd RBC Conference took place in Borama in Somalia. This forum sought to develop a regular, acceptable analytical framework for the operationalization of an RBC regional network. The 3rd Conference took place in Dinda National Park in Sudan in 2001. The focus of this meeting was to engage further on conflict analysis tools with more focus on stakeholder analysis. The 4th meeting held in Gashamo, Ethiopia in 2003 focused on the formation of a common campaign agenda around various RBC issues in the Horn of Africa.

The 5th RBC Conference, which was convened in November 2004 in Southern Sudan at the New Site and hosted by NESI, provided a turning point in the RBC process. At this meeting emphasis was laid on the structural orientation of the RBC network in order to shape action for workable, evidence-based campaign strategies. The strategies were to be anchored on clear evidence built upon a good understanding of national RBC issues. The 6th RBC Conference, which was held in Hargeisa in December 2005, sought to further entrench proper understanding of the country contexts in relation to RBC, to share national experiences and develop funding proposals to Novib for further support.

Ladies and gentlemen, as you well know, the RBC initiative's overall goal is to contribute to the reduction and management of resource-based conflicts in the HEA through a coordinated process of facilitating the implementation of National Action Plans. It emphasizes the building of the capacity of network members to gather evidence and engage effectively not only in conflict management but also in evidence-based advocacy nationally and regionally.

Specifically, the members identified the following objectives as critical:

- ❑ Building and strengthening the capacity of National Focal Points and national networks in peace-building skills, conflict analysis, documentation, media and lobbying activities and policy analysis.
- ❑ Initiating and coordinating the process of documenting, processing and exchange of RBC knowledge/information on the HEA.
- ❑ Providing an enabling environment for designing and implementing evidence-based lobbying and campaigns on Small Arms and Light Weapons and land tenure issues at the regional level, and
- ❑ Coordinating and supervising the implementation of selected, prioritized RBC issues within the National Action Plans.

Today's meeting takes place against the backdrop of an uneasy political environment in the region. Kenya is just recovering from an ugly situation of post-election violence. Somalia is undergoing a recurrence of serious violence. Ethio-Eritrean tensions have not been fully resolved. LRA-Government of Uganda talks have not yet concluded. Sudan CPA implementation and the Darfur question still present challenges.

I wish to appeal to you all to be ambassadors of goodwill in these conflicts. Play a role, however minimal, in ensuring that these conflicts do not occasion human suffering.

Ladies and gentlemen, in my opinion, there are five major resources that present a major challenge and may be the future, if not the current, source of conflicts in the region:

1. Land
2. Oil reserves and other energy sources
3. Strategic minerals
4. Food and food security, and
5. Water resources

I am therefore delighted that the theme of the 7th General Assembly (of the RBC network) is focused on land as a vital economic, social and cultural resource.

As you interrogate the land problem in the region, I urge you to pay specific attention to factors such as the respective national philosophies on land; existing legal and constitutional regimes governing development and control of land; land tenure issues; overall principles of land management; cultural rights; collective rights; benefit-sharing from land-based resources; environmental management; planning; dispute resolution mechanisms and the resolution of historical injustices.

Dear colleagues, like any other organization, we have had our fare share of achievements and challenges. I will avoid mentioning the achievements because as has been said, "In the final analysis, you should not measure your success by what you have accomplished, but by what you should have accomplished with your ability". Besides, I would also be unfair to William (Tsuma) and John (Aheere), because I am sure they are anxious to demonstrate to you why they should continue retaining their jobs!

Some of the major challenges we have encountered as an organization were:

1. The delayed approval of funding - prompting many network members, especially at the national level to almost give up and pursue other interests. It also meant that the Action Plans could not be adhered to.
2. The registration process has taken an inordinately long time, tying up other activities including fundraising and networking with other like-minded for a.
3. Poor communication between the NFPs and the Secretariat, occasioning delay in the submission of important information to the funders.
4. Inadequate funding of not only the NFPs' projects but also of the Secretariat
5. Inability to expand the resource base – dependence on only one source of funding.

I hope we shall also use this forum to address some of these challenges.

In conclusion, I wish to remind us that this is a voluntary process that calls for sacrifice and commitment for the sake of our respective communities in the region. I therefore call upon all of us to rededicate ourselves to the noble objectives of the RBC Network, so as to realize our joint dream of a peaceful, harmonious and prosperous Greater Horn of Africa.

I wish you all fruitful deliberations and a good stay in Entebbe Kampala during this 7th General Assembly of the RBC.

Thank you!

Daudi E. Ekuam, Chairman, Regional RBC Network Management.

Appendix 2. The Entebbe Declaration

THE ENTEBBE DECLARATION ON LAND USE, LAND RIGHTS & LAND-RELATED CONFLICT PREVENTION

We the participants of the 7th regional Resource Based Conflict (RBC) Conference, held in Entebbe, Uganda, from June 27th to July 1st 2008, and organized by PENHA and the RBC Secretariat, members of civil society organizations coming from Uganda, Kenya, Tanzania, Ethiopia, Eritrea, Sudan, South Central Somalia, Puntland and Somaliland attending the conference as representatives of national resource based conflict networks:

Cognizant of the fact that our region has been beset by a host of human-made and natural disasters including conflicts, causing great hardship to our people and impeding socio-economic progress, peace and stability in our respective countries;

Aware of the high levels of poverty in our region and the urgent need to improve the well being of our people;

Mindful of the fact that the countries in our region need to cooperate in order to make the best use of the vital resources such as land, livestock, water and others;

Fully aware of the threat posed by climate change to the sustainability of livelihoods and of our commonly shared resources;

Aware of the need to recognize the land rights of women and minority groups;

Recognizing the important role that civil society has to play in promoting peace, sustainable development and good governance;

We call upon the responsible regional institutions and our respective governments to:

- Promote peace and stability in our countries through the instruments of integrated natural resource development strategies to ensure equitable access of all groups to life-sustaining resources
- Address land issues in a sustainable, transparent, and accountable manner in order to ensure the equitable utilization of land, to the benefit of all our people
- Respect the diversity of livelihoods among our communities
- Recognize pastoralism and agro-pastoralism as viable livelihoods and land use systems and facilitate peaceful and regulated pastoral mobility

- Harmonize laws and regulations in order to promote market access for pastoral and agricultural products and work towards the establishment of integrated marketing infrastructure that supports regional trade
- Develop and or review existing land policies and ensure wider participation of the communities concerned in the formulation of policies and regulations
- Work with civil society to build the capacity of communities and their representatives to participate in the formulation of policies and regulations
- Raise public awareness about regional bodies and initiatives and work with the media to promote a sense of a regional identity
- Ensure, in regulating land use changes that promote economic growth, that the needs of all stakeholders, governments, the private sector and investors as well as the communities are met
- Develop and where possible, harmonize cross border frameworks for conflict prevention and the promotion of cross-border trade
- Recognize the positive role of civil society in promoting peace, good governance and development

We the undersigned commit to the spirit and contents of the above declaration.

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SECS
Sudan

Mr. Mohamed Sharif Abdi
NORTHERN RESOURCE CENTRE
Kenya

Dr. Muawia H. Shaddad
Sudan

Mr. Simon Lomeringura
DPC Kenya
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Ms. Niemat Kuku
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Lomwa Joseph Samal
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Mr. William Tsuma
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