Dynamics of Law, Culture and Society in the Organisation of Land and Water Distribution among Rural Farmers in Karatu District/Northern Tanzania

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List of Acronyms

CRS	Catholic Relief Service
CHADEMA	Chama cha Demokrasia na Maendeleo
CCM	Chama Cha Mapinduzi
COWSO	Community-Owned Water Supply Organisations
DMDD	Diocese of Mbulu Development Office
dp	Domestic Point
ENDAWASU	Endamarariek Endabash Water Supply System
ESIWASU	Endayaya Silaloda Water Supply Trust
ECM	Extended-Case-Method
VEO	Village Executive Officer
GYEWASU	Gyetighi Water Supply Trust
IMF	International Monetary Fund
KAVIWASU	Karatu Village Water Supply
LA	Land Act
LGRP	Local Government Reform Programme
MP	Member of the Parliament
MDGs	Millennium Development Goals
NCA	Ngorongoro Conservation Area
NIE	New Institutional Economy
VLA	Village Land Act
WSDP	Water Sector Development Programme
WUG	Water User Group
WB	World Bank
TNA	Tanzanian National Archive
TANAPA	Tanzania National Parks
TANU	Tanganyika African National Union
VDC	Village Development Committee
PRSP	Poverty Reduction Strategy Paper
VWC	Village Water Committees

1. Introduction

Narrative Prologue

> *April 2009, a little village in Karatu District, Tanzania.* I had already spent some weeks in the area conducting a pre-study for my doctoral research. One morning I sat in the comfortable entrance hall of the ward councillor of Endamarariek, whom I had visited to conduct an interview. He was the representative responsible for five villages in the Karatu District Council. But we were hardly able to hold a conversation because villagers kept coming in to talk with my interview partner. While I did not really understand the nature of the conversations because they were in Kiiraqw, I observed the discussions and was impressed by the councillor's respectful interaction with his guests. Then he suddenly explained that we would now go to a meeting at one of the villages he represented. He said he was urgently needed to open the meeting. "This is just a traditional thing," he explained. Moments later, I was sitting in his Toyota Land Cruiser as we drove along a bumpy road, which ran parallel to the edge of the East African Rift Valley, offering a panorama of the enormous Lake Manyara National Park. It ended straight ahead in a large field with trees.
>
> I observed more than 500 women and men sitting quietly under the shady trees waiting for the councillor. After he had officially opened the meeting, an elderly man from the village explained the reason for the gathering: some weeks before, *hayoda*—an emergency call that everyone was obliged to respond to—had been cried out because a man had been missing from the village for some days. On that day, people from a distance as far as 7 kilometres had responded to the *hayoda* to support their neighbours. But some members of the local village council, notably the chairman and the sub-village chairmen, had supported the search no more than the first day. Rumour had it that on the second day, they had instead discussed an investor's application for 23 acres of land. After the corpse of the lost man had been retrieved, the participants of the search had called for a meeting to discuss the behaviour of the members of the village council.
>
> The community elders, in accord with the people present, had meted out one of the highest fines: handing over one cow per person to the elders. This fine had been paid by almost all the accused, except the chairman of the village—now sitting on a bench on the meadow opposite the villagers—who had opposed the community.
>
> The meeting today would discuss how to handle this behaviour. After the case was explained in detail, the defendant claimed that the topic of the meeting on the second day of the search had not been about any land questions. He argued that, instead, it had concerned the disappearance of the man. Consequently, he had entirely complied with his duties as village chairman.
>
> The sun was already setting and still the discussion had not come to an end. Along with the councillor's brother, I returned to the district capital. The next day I learned the result of the negotiations: the village chairman would be excluded from the community until further notice. There were more questions than answers from this event and I intended therefore to examine this case more closely in the course of the main study in 2009/2010.

Disputes over land between individuals, households, and interest groups and between the Iraqw and other ethnic groups have arisen frequently in Karatu District, Tanzania since the late 1980ies (Hagborg 2001:9). Whatever the cause of these disputes, be it the resettlement that occurred during the socialist era (see Lawi 2007), population growth leading to resource scarcity, or the lack

of a comprehensive management system, they all challenge the diverse forums[1] of dispute settlement that exist in the area. The Tanzanian government attempted to meet this challenge by enacting the Land Act (LA) and the Village Land Act (VLA) of 1999. The VLA provides the village council with management rights to land inside village boundaries. However, besides the village council, a plurality of other non-state forums can be observed.

The objective of this study is to analyse the negotiation of legal concepts of land and water and the legal practice among the Iraqw-speaking agro-pastoralists in rural Tanzania. The study focuses on the strategies used by actors to gain and maintain access to land and water during times of legal reform. The overall goal of the study is to increase understanding of how actors perceive and make use of the VLA of 1999 and the Water Supply and Sanitation Act of 2009 when negotiating access to land and water.

This work is divided into two main parts—a historical section in chapter 5 and an analysis of current negotiation processes in chapter 6 related to water and chapter 7 related to land. The historical part examines the influence of history on laws and decision-making forums and their underlying power structures[2] at the study site. The current part captures the contemporary legal practices of organising the use of land and water in rural Tanzania. In many cases, new laws are implemented in the context of established, historically evolved rules and decision-making forums. The investigation of land and water reforms in Tanzania and of local processes driven by the decentralisation of land administration therefore offers an opportunity to understand the dynamics of law, culture and society in the organisation of resource distribution among the Iraqw in Tanzania.

1.1. The Impact of Local State Administration on Rural Land Organisation

Anthropological research pays scant attention to the practical functioning of public administration and services in rural Africa (Bierschenk 2008:101). Compared with other African countries, such as Benin (see Bierschenk and Sardan 1997:468), the state administration in Tanzania has a significant impact on the lives of rural people. The 1999 land reform was expected to have a major influence on the organisation of access to resources at the local level (Pallotti 2008:221, for northern Tanzania see e.g. Snyder 2005:37). It is therefore important to analyse the dynamics that have been activated by this reform.

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[1] I use the term "forum" (see also Benda-Beckmann 1981:157) to describe bodies where resource access is negotiated in public or with representatives of the community (see chapter 2.3.1.)
[2] For a detailed definition see chapter 2.3.2..

It has been over 10 years now since the Tanzanian government started implementing a land policy based partly on global neo-liberal concepts (see e.g. Manji 1998:658). In 2000, the United Nations formulated the Millennium Development Goals (MDGs) aimed at halving worldwide extreme poverty by 2015. Improving local resource management is a major step in reaching the MDGs. Access to water has been specifically mentioned as a goal. The World Bank (WB) is one of the largest sources of development finance and has greatly influenced the manner of implementing the MDGs.

As part of its strategy to reduce poverty, the WB has been actively involved in land reform processes worldwide (see Driver 2007:64). Secure access to land is perceived as the key factor for improving the livelihood of rural populations all over Africa. Different strategies for securing land access have been discussed in international development parties, the most popular being a market-based land reform. This reform has been realised in several African countries through intensive lobbying by the WB and the International Monetary Fund (IMF).

The WB argues that poverty reduction can be achieved through a statutory land tenure policy, which provides transparent and „easy" land access for everybody (Enemark, McLaren, and van der Molen 2010:8; see also UN Habitat publication *Secure Land Tenure for All* [2008:1]). According to De Soto (2000), one of the main advocators of market-based land reforms, the recognition of property rights in natural resource management plays a central role for participation in the global economy, particularly for people with low incomes. De Soto (2000) sees the transformation of "informal arrangements" into formalised property rights as the key to reducing poverty. By formalizing the rights of "the poor",[3] he reasons, capitalism can reduce poverty because it will increase productivity and access to credit (see also Deininger 2003:ix). Based on this argument, the formalisation of land ownership and the use of titles as loan collateral has been a prominent strategy for approaching the MDGs in so-called developing countries. However, investigations show that formalising land titles is not a panacea for reducing poverty. In fact, in some cases it causes the opposite effect (see for Tanzania Englert [2005], Odgaard [2003] Maganga [2003], for Kenya for example Musembi [2007]).

In questioning de Soto's approach to reducing poverty by means of formalisation of land rights, anthropologists highlight the complex local dynamics that are activated by market-based land reforms. Quoting Hart: "The question we will ask is not whether land reform works … , but rather how it works" (Hart 2012:564). From the point of view of a legal pluralistic approach, de

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[3] I put this term in quotation marks because—after having fruitful discussions with my informants in Tanzania—I refuse to define individuals or families as "poor" based on their cash income. The multiple ways in which someone could be defined as disadvantaged will be discussed in chapter 3.2.2..

Soto's argument has the shortcoming that "informal" arrangements can derive from several sources that partly contradict and interfere with each other.

It should be kept in mind that the legal and social dynamics framing access to land cannot be separated from the social, cultural, historical, political and economic matrix. Gender, economic wealth, ethnicity and class will determine which type of land rights actors possess. Furthermore, land rights can only be seen in a context of continual change and re-invention (Benjaminsen and Lund 2003:8). It is therefore important to continuously investigate these processes in order to gain a better understanding of the relative and changing impact of rules of resource distribution and governance.

Investigations in rural areas might be seen as trivial when taking into account the high urbanisation rate in African countries. However, Richards underlines the centrality of rural areas and the significance of secure land tenure in preventing violent conflicts (Richards 2005:587).[4]

1.2. Significance of the Study

The authority of the state in organising resource access is challenged by the co-existence of different laws with other bases of legitimacy (Benda-Beckmann 2008:59; for Tanzania see Juma, Sippel, and Wanitzek 2004:237). In cases of multiple laws existing, actors can make use of the available laws in a selective manner (Benda-Beckmann 1981:157). However, actors are also endowed with various attributes that influence their choices. Different actors have different levels of access to monetary capital, social networks and information. According to Bourdieu (1983:196), the forms of capital held by an individual are transformed in the rural context of resource negotiation.

The present thesis contributes to a theoretical discussion by analysing the interplay of actors' socio-economic wealth and their forum-shopping behaviour within a legal pluralistic setting. Although this analysis is focussed on one particular local setting, it also intends to raise broader questions about the dynamics of law and human interactions in the negotiation of legal concepts, and about actors' strategies for negotiating land access in rural Africa. Beyond presenting alternative viewpoints that are developed from the exploration, this thesis aims to describe the way in which national and global land laws are translated and manifested at the local level.

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[4] In the context of civil war in Liberia and Sierra Leone, Richards points out that the rural context is of greater significance than the urban. He believes that the key to conflict resolution is a reform of "customary land" emphasising agrarian justice. He argues that youth "without secure land tenancy will continue to float in the countryside without stable social commitments, and thus remain vulnerable to both chiefs and militia recruiters" (2005:587).

Land and water rights are often interrelated, but the extent of their relation depends on the legal order. Looking through the lens of legal pluralism, we can identify different extents to which different laws integrate or separate water and land rights. In Tanzania, statutory land titles provide permission to extract and sell water from sources on the land. In other words, water rights are a subsidiary component of land rights in statutory law. Customary law provides a much more integral and broad frame that will be discussed in the chapters below.

My research focuses on the effects of two land reform policies: the resettlement policy during the socialist era and the current land and water reforms. Karatu District in northern Tanzania was an ideal site to examine these interests. Three aspects make this district special.

(1) Many land conflicts are rooted in the resettlement era. The district is known for diverse land conflicts, as documented in literature and gathered from my own interviews. Disputes over land access have occurred frequently and on multiple administrative levels since the late 1980s (Hagborg 2001:9). According to the councillor of one ward, many of these conflicts are rooted in the *Ujamaa* era. [5]

(2) Karatu District is situated in a semi-arid area in the vicinity of the famous national parks of Tanzania. An increase in tourism, more frequent droughts, a growing population and a dependence on agriculture have all contributed to increased pressure on land and water resources. The majority of the people in Karatu depend on agricultural access to land and water for the basis of their livelihoods. External interest in these resources is growing. The tourism sector is booming, and investors have tried to obtain access to land and water for hotels and other tourism infrastructure. Although the tourism sector can provide new income opportunities for the people in the district, it also contributes to disputes over resources. The manner in which individuals and households cope with these conflicts is framed by the social and political organisation of their communities, the laws governing resource access, and the existing forums for dispute management.

(3) Resource management by the dominant language group in the area, the Iraqw, is strongly influenced by local beliefs, which form the basis of customary law. Prior to the colonial period, the organisation of access to land and water in Iraqw settlement areas was linked to customary law. Elders had the prerogative to interpret the law, and by doing so they allocated usability to available land. A power struggle for the right to manage resource use erupted when rural communities were incorporated into a national centralised administrative structure. Apparently,

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[5] Interview with John Luciano Mahu, Karatu, 15.03.2009.

the period of African socialism (1961–1985) has seen one of the fiercest struggles for power in that region so far.

1.3. Analytical Approach of the Study

This work is based on a legal anthropological approach which takes the possibility of a plurality of laws in local land organisation as a precondition (see also Benda-Beckmann and Benda-Beckmann 1997:222; Benda-Beckmann 2008:59; Meinzen-Dick and Bruns 2000:24; Nilsson 2001:49; Nkonya 2008:7, 2011:27; Lein and Tagseth 2009:210).

The work analyses the emergence and continuity of legal pluralism in land organisation with the goal of better understanding the existing rules and decision-making forums through which access to land and water are negotiated. The term forum is defined as bodies with political or jurisdictional power, while I understand rules as "shared understandings about prescriptions that apply to more than a single individual" (Schlager and Ostrom 1992:250). The definition of both terms is further elaborated in chapter 2.

Moore's concept of semi-autonomous social fields is used throughout this work to identify laws that are *de facto* applied in the community (Moore 1973:722). According to Moore, law is generated, maintained and enforced in semi-autonomous social fields. These fields are not defined by the organisations themselves but through their actions: at the moment a rule is generated and enforced, a social field can be identified (Moore 1973:722). In this context, a rule is understood as a regulation that is agreed upon.

In order to make the impact of laws and their patterns of resource organisation recognizable, I will examine three historical phases during which state interventions have been central for rural resource access: the colonial era, African socialism, and liberalisation. State interventions by past regimes have affected current patterns of land organisation on the local level to various extents. The colonial and postcolonial governments have actively built rules and decision-making forums on the local level. In addition, state-initiated projects have aimed to gain direct and repressive control over social processes (Bierschenk and Sardan 2003:149).

Local Organisation and State Interventions

Anthropologists have described "traditional" laws as rights and obligations that direct conflict resolution and the daily co-operation between individuals. Malinowski's work *Crime and Custom in Savage Society* (1926) discusses the interaction between law and society and attempts to explain individual action through the systematic description of local societies. The book *African Political Systems*, edited by Fortes and Evans-Pritchard (Fortes and Evans-Pritchard 1940:1),

marked the beginning of comparative studies analysing laws in sub-Saharan Africa. The earliest studies did not take into account the impact of the colonial state. They were confined to describing laws and their contribution to social cohesion and co-operation at the local level. This functionalistic approach was criticised at the beginning of the 1960s. At that time, anthropologists picked up a more holistic approach with roots in political and legal anthropology. Instead of looking only at the local level, they examined how actors are shaped by power relations in connection with the emergence, continuity and change of political systems and laws.

Among those actors elites have and important role. A definition of elites is provided by Cohen (1981:xvi): "An elite is a collectivity of persons who occupy commanding positions in some important spheres of life, and who share a variety of interests arising from similarities of training, experience, public duties, and way of life."

As pointed out by Behrens and Pauli (2012), the definition of elites always depends on the definition of the respective social, economic or political framework in which they act. Therefore I will speake of political, educational, religious or economic elites. In the context of elites I will occasionally refer to the patron-client relation. Kaufman (1974) characterises these relations as followed:

> The patron-client relation is defined here as a special type of dyadic exchange, distinguishable by the following characteristics: (a) the relationship occurs between actors of unequal power and status; (b) it is based on the principle of reciprocity, that is, it is a self regulating form of interpersonal exchange the mainanance of which depends on the return that each actor expects to obtain by rendering goods and services to the other and which ceases once the expected rewards fail to materialize; (c) the relationship is particularistic and private, anchored only loosely in public law or community norms. (Kaufman 1974:285)

1.3.1. Historical Context in Land and Water Governance

However, the political and legal history of land access in a village does not simply mirror the national political history. To use Moore's term (Moore 1973:743), the semi-autonomy of the local arena leads to a particular interpretation that is "embedded in a specific context that colours, transforms and reorganises them" (Bierschenk and Sardan 2003:156).

Contextualising the organisation of land and water helps us to understand changes in land law and how existing forms of organisation came to be. Furthermore, historical contextualisation can explain why different rules and forums impact different levels of governance. Local history

provides a basis for the analysis of the contemporary organisation of land access and helps to capture the multifarious and dynamic processes controlling land access.

The contextualisation of the current organisation of land and water access by means of the analysis of historical processes is a common approach (see Benda-Beckmann 2006:19, Chanock 1998:7, Derman 2007, Haaland 2008:2, van Koppen 2004, Moore 1998, Nkonya 2008). For example, Moore uses a historical perspective to illustrate the terms and conditions of land holdings in Tanzania (Moore 1998:34). Today's rules and decision-making forums and their socio-economic consequences can only be understood in the context of the history of state interventions in resource organisation. In particular, a history of rules and power structures shows the close interweaving of institutional, social and economic factors. The historical approach underlines the diverse strategies of actors and groups and their creativity in coping with a centralised political organisation. Furthermore, it helps to elucidate how power structures changed and how elites gained and lost influence. The first interaction of a centralised administrative state with local communities in East Africa occurred during the colonial phase. The colonial government redistributed land through administrative structures aimed at opening up land access to European settlers for cash crop production (see Iliffe 1979:473). While customary laws governing land access continued to exist, a parallel colonial state law to organise land tenure and land administration was established. At the same time, anthropologists who worked with the colonial administration were involved in constructing so-called customary law (Benda-Beckmann and Benda-Beckmann 2006:2)— defining ethnic boundaries for administrative purposes and writing down traditional political organisation and law. The goal of this process was to make local political and social organisation suitable for colonial policies (Moore 1986:109). In total, the local organisation of access to land during colonial times was shaped by three legal orders: colonial law, written and fixed so-called customary law, and flexible and fluid local law. The incorporation of local communities into a centralised and hierarchically organised society led to a gradual change in local decision-making and land access possibilities.

The second intervention of the state in land organisation occurred shortly after independence. Many newly independent African countries performed resettlements in the twentieth century. These resettlements gave governments greater control over their rural populations and made policy implementation easier (Wet 1995:27). Algeria, Ethiopia, Mozambique, Tanzania and Zimbabwe performed resettlements under socialist regimes. The socialist political programmes aimed at implementing communal production and a socialist political structure, while also providing service centres for the rural population (Wet 1995:27). During the era of Julius Nyerere (1961–1985), the first president of Tanzania following the colonial

period, the countryside was shaped by a villagisation programme called "Operation Vijiji". The field site of this study, Karatu, is seen as a good example of brutal state intervention during resettlement when compared with the rest of Tanzania (see e.g. Hagborg 2001:78). There was widespread resistance among the Iraqw against the implementation teams (Lawi 2007:69), and in many cases the resettlements did not proceed smoothly and failed to meet their goals. One of the provocative scholars who have tried to explain the failure of state intervention among rural farmers during socialist resettlement is Hydén (1980:1). In his book *Beyond Ujamaa*, he argues that development policy in Tanzania failed because small-scale farmers successfully resisted state interventions. Hydén's picture of rural farmers is innovative in so far as he depicts them as active and powerful people who make their own decisions in favour or against policies. However, as will be shown in chapter 5.5, the resettlement phase did activate a significant change in local organisation of access to land.

The third major period of state intervention occurred during the liberalisation programme instigated by the World Bank (WB) in the 1990s. Many African countries, including Tanzania, were forced to adopt structural adjustment programmes (SAPs). According to the theories supported by the WB, "customary land law" and local rules were constraints to development. Experts at the WB therefore promoted titles or registration and supported a total redrafting of land laws in order to encourage privatisation and the development of a market in land, which was believed to improve agricultural performance (Palmer and Robin 1997:3). A long-term perspective study by the WB furthermore promoted the codifying of "traditional land tenure": "agricultural modernization combined with population pressure will make land titling necessary.Traditional tenure systems need to be codified" (World Bank 1989:104). However, the codifying of land titles had unintended socio-economic consequences. Moyo shows that in Zimbabwe, a new trend in land use emerged among the elite during liberalisation. The economic elite became involved in large-scale farming, and a strong stratification process took place because of the difference in incomes between small-scale and large-scale farmers (Moyo 2000:141). In many cases, the implementation of the SAPs led to a segregation of societies in which some benefited from the new policies while others were excluded from access to land. The unequal effects of the liberalisation programme illustrate the importance of paying attention to the socio-economic consequences of state intervention in local land organisation.

Change and Continuity of Rules

In order to understand the evolution, interplay and enforcement of rules and forums, it is necessary to first expose the underlying forces driving change and continuity in organising access

to land. Governments often exercise power over their citizens by controlling the administration of resources.

Current and colonial, local and central states all put a key focus on the organisation of access to land and other resources (Benjaminsen and Lund 2002:1). The incorporation of local communities into the wider state system "is often with the intent of diminishing the relative power of local institutions" (Breemer and Venema 1999:5).

However, the authority of the state in organising resource access is challenged by the co-existence of other laws with different bases of legitimacy (Benda-Beckmann 2008:59). The gradual loss in influence of customary law and gain of state influence is thus of key importance for governing rural areas.

New rules in rural land organisation need to be implemented and acknowledged at the local level as a precondition to being applied. Bierschenk describes this process by introducing the analytical field of the meso level as a field "at which the hegemonic claims of the central state are mediated" (Bierschenk and Sardan 2003:150). Investigating this level "allows an understanding of how a logic determined by bureaucratic procedures and the rule of law connects with local political logics 'at the bottom'" (Bierschenk and Sardan 2003:150).

In addition to the state, the meso level can also describe the space in which, for example, global religious concepts influencing access to land are brought to the local level by religious leaders.

When examining the implementation of new rules, institutional change and continuity is grasped by analysing the embeddedness of individual actors. Special attention is given to individuals who translate laws that are then manifested in rural resource organisation. These single, powerful actors—members of the local elite—navigate the central state land politics and forward their implementation.

1.3.2. The Extent to which Rules and Forums Influence Practice in 2009/2010

Focus on Conflicts and Daily Life: Organisation and Access

In a setting where different laws exist side by side, actors require skills and creativity to gain and maintain resource access. In order to determine the influence of the various laws on local resource management, this work describes how and which rules and forums of decision-making are called upon, both during conflicts and in daily life.

The analysis of local strategies of conflict resolution helps to identify not only the points of contention, but also the acknowledged rules and forums, and the actors' articulation of what they think is right and wrong (see chapter 3.2.3. for extended case method). With regard to land, this may include a description of inheritance law, rules on leasing and loans, and marital agreements. Meinzen-Dick and Nkonya (2005) distinguish three categories of rules in water organisation that are also suitable for land organisation: (1) user rights of access and withdrawal (i.e. field fruits); (2) administrative rights of decision-making (i.e. regulation and control over the resource use and users, including the right to exclude others); and (3) the right to earn income from the resource (Meinzen-Dick and Nkonya 2005:4). The analysis of daily life where resources are accessed without conflict shows, which rules are unchallengingly accepted by people. Therefore, conflict analysis is supplemented by the description of daily practice in this work.

Actors, Strategies and their Point of Departure

Benda-Beckmann describes how individual actors might navigate their interests in a legal pluralistic situation: in the case of legal pluralism, actors can make use of the available rules and forums of decision-making in a selective manner, according to which law is most likely to support their claims (see Benda-Beckmann 1981:157; Meinzen-Dick and Pradhan 2002:5). This process is called "forum shopping". I will argue that actors not only engage in forum shopping, but have different preconditions and points of departure, too, depending on their education and socio-economic status. I will employ Bourdieu's (1983) and Foucault's (1982) approach to explain the possibilities and constraints of single actors in the process of gaining and maintaining access to land through forum shopping. Utilizing this instrument, I will elaborate on whether and how an actor's wealth influences the negotiation process and the individual gaining of power in the process of negotiation.

The actor-based approach adopted in this study was inspired by the works of the Manchester School and its founder Max Gluckman (1958). Gluckman initiated the shift from structure to the individual actor in anthropology. He focused on the change and continuity of rules by describing conflicts of interests, which he explained by analysing the conflicting interests of individual actors from competing social groups. This study's focus on the social action and reaction of individuals (theory of action) was further motivated by the sociologist Max Weber (2002:7). Following Weber, this work takes the motivation of actors in the negotiation process as one starting point. The analysis is based on a profound understanding of actors' strategies, motives, and expansion of power in the process of negotiating access to land and concepts of land organisation. Thus this work uses an actor-orientated approach with a strong interest in motives, morals, power and inequalities.

The community studied in this work is characterized by high heterogeneity of actors compared to other communities as for instance in the Usambara Mountains in rural Tanzania (see Achterberg-Boness 2012:280).

In this thesis, actors belonging to the elite (as defined in chapter 1.3. and now adapted to the frame of my research) are understood as people who are acknowledged by other members of society due to better education or gain a high status because of their economic wealth. Government employees and extensive workers feature in this group. They have gatekeeping capabilities, i.e. they can hold back information or channel resource distribution. In contrast with low-income actors, the elite are politically well-connected, enjoy access to national and international social networks, and are extremely mobile. The elite of the community provide an authority structure (that functions through social relations between influential people) and control the political and economic spheres (see Adhikari and Lovett 2006:439). They impose rules of decision-making and resource distribution, in contrast to low-income actors who are passive in negotiation processes because of their social status. The elite also have more opportunities for forum shopping (see chapter 7.5.) than low-income actors.

The analytical category used in this work is the wealth group of individual actors and their manner of behaving in the processes of gaining, securing and losing access to land. This field will be approached by giving special attention to the strategies of actors belonging to different wealth groups (for further discussion and definition of wealth groups through informants, see chapter 3.2.2.).

The Land and Water Connection

Statutory law in Tanzania treats the resources water and land separately. In practice, however, they are integrally connected. On the local level, there are a variety of situations showing a water–land connection: the monetary or symbolic value of land can rise or fall according to its proximity to water; access to a water source can be hindered if the passage over private property is refused; land use can contaminate nearby water sources for example by fertilisers and pesticides. Furthermore, land use can change if water is made available for irrigation.

The usage and control of land and water resources are connected in many cases, therefore I will use an integrated methodological and analytical approach. By looking at water as well as land, I hope to provide new explanations and perspectives on the numerous land conflicts in Karatu District described in literature. Although both resources are limited and under pressure, land conflicts are very common while water conflicts are rare. The results of this study could be used to decrease land conflicts in Karatu and surroundings areas.

1.4. Research Design

1.4.1. Framework of the Research

My study was associated with the project "Human Mobility, Networks and Institutions in the Management of Natural Resources in Contemporary Africa". The postgraduate programme for master's and PhD researchers is based in the Institute of Social and Cultural Anthropology at the University of Cologne (Germany), co-operating with five other institutes (in Cameroon, Namibia, the Netherlands, South Africa, and Tanzania). I started working with the programme in 2009, taking part in conferences and workshops. During my research, I constantly exchanged ideas with project supervisors as well as colleagues in Tanzania. My field research was funded by the German Academic Exchange Service for half a year. Subsequently I was awarded a scholarship by the Villigst Protestant Academic Foundation (Evangelisches Studienwerk Villigst). Since mid-2013, I have worked in non-academic fields to finance my writing.

1.4.2. Methods of Data Collection

Research commenced with a six-week pre-study in March 2009. The pre-study was followed by a one-year field stay from July 2009 to May 2010. Mixed anthropological methods were applied: participatory observation (Bernard and Ryan 2010:41); 30 interviews; an ethnographic census (Lang and Pauli 2002:5) of 205 households (1901 individuals) with an extension consisting of open and closed questions; GPS location of households. Resource conflicts were mapped using the extended case method (ECM) (see Burawoy 1991:279, Rössler 2003:153 and van Velsen 1978:146). Eight cases of conflicts were gathered during fieldwork. Information was collected by participation in crucial events and supplemented by planned and coincidental interviews with actors. These interviews aimed to explore the actors' interests, strategies, points of view and roles in the community. Based on an actor-centred approach, the actors' ideas about the use and administration of land and water and the laws used were made visible.

1.5. Structure of this Work

Chapter 2 is dedicated to a more in-depth discussion of the theoretical background of the work. In order to avoid confusion about terms, a short section defining the terms "rules and laws" is included. The chapter furthermore elaborates upon the concepts of legal pluralism, semi-autonomous social fields and forum shopping, which are used later in the work to analyse resource access.

Chapter 3 describes the methodological instruments. Research design, methods, constraints and a reflection upon my role as a researcher are included in this chapter.

Chapter 4 contains an ethnography of the community where research was conducted. It begins by describing various aspects of the geographical setting, including the socio-economic setting, land use, household organisation, and way of life. The chapter then portrays the diversity of the religious setting at the research site. Finally, it examines the political setting with a description of both the village government and the customary forums of decision-making.

The analysis of the thesis is based on two approaches: in chapter 5 a historical analysis is presented, while an analysis of the current 2009/2010 situation on water access and on land is included in chapters 6 and 7.

Chapter 5 provides the historical context and is structured as follows: Subsequent to an introduction, I zoom in to the localised resource organisation of the Iraqw-speaking agro-pastoralists during the late nineteenth century in my research region and surroundings.In chapter 5.3. the colonial and afterwards the national state become evident for resource access in my research region. For this reason the following sub-chapters are divided into two parts: first I will carry out an examination of the mesolevel of the state, followed by a second step with linking these insights to the local dynamics of resource negotiation in the research region.

The overall historical chapter is structured according to the historical periods, showing which new laws emerged during which period and by which forces. It also describes different actors who were engaged in disputes and possessed the power and authority to generate law. After explaining the historical background, the chapter analyses land and water reform by examining the forces that influenced the ideas framing the law. Iwill map international and national discourses, showing the influence of the reform implementation on the community level. Finally, the forces driving the reform are given some consideration. Despite its focus on local history, this chapter also contains insights into Tanzanian national history.

Chapter 6 is about physical and legal access to domestic water in the research community in rural Karatu District, eight years after launch of the water reform in Tanzania. It sets off with a description of the main government strategies for rural Tanzania introduced by the 2002 water reform, then zooms into a remote community in rural Karatu District in order to reflect on the implementation and application of the reform in rural areas. It analyses how people obtain domestic water and which actors influence water access in rural Karatu. It will be shown that the implementation of the water reform in the reseach area did not meet the intended goal to provide access to clean water for low-income families. I will show that local beliefs, gender and

historically grown power asymmetries result in a situation, in which the low-income families favour fetching household water at unimproved water sources free of charge, even though the water quality is low. The unequal distribution of water in the reseach region is partly provoked by the discrepancy between statutory models for rural water management in the 2002 water reform and the de facto local water management.

Chapter 7 focuses on land access and distribution after the implementation of the 1999 land reform. It begins with an overview over the government strategies for rural Tanzania manifested in the land reform. The reform has three main goals: to "empower the poor", to increase tenure security and to reduce conflicts over land. I will describe the main forums of land dispute management in a conflict-prone setting in rural Karatu District and analyse how both power and forum shopping affect the process of negotiating solutions to land conflicts. Based on three case studies on land conflicts in Endamarariek, I will show the shortcomings of the implementation of the 1999 land reform ten years after the law had been launched. The first case focusses on a conflict on inheritance (which is the primary cause of conflicts in that region). The second case analyses the linkage between microfinance and insecurity of land tenure of low-income families. The third case deals with the shortcoming of the land reform to give the village council the power over village land and the resulting conflict.

The 8th and final chapter links the results of the previous chapters to the theoretical approach. The data collected in Karatu District in northern Tanzania is used to draw broader arguments about the impact of the water and land reforms conducted all over Africa.

2. Theoretical Background

The 1999 land reform and the 2002 water reform in Tanzania are both direct attempts at "social engineering". The reforms were implemented by means of a top-down process in which the government attempted to influence social behaviour on the local level.

The assumption that the new laws will change behaviour misses the fact that actors actively frame access to resources and engage with the diverse laws in a social field. People in Tanzania are not just passive receivers of legal changes. They actively participate in a negotiation process, which influences the extent to which a law is applied on the micro level. Actors in rural Tanzania find themselves in an environment with a plurality of decision-making forums and institutions and therefore manifold ways to acquire access to resources. In this situation, an individual's freedom of choice is limited by power structures and access to economic capital, social networks, and information. These factors influence the way actors choose and address forums and obtain resource access, both in daily life and during conflicts.

This thesis uses concepts from legal anthropology to analyse the implementation of the Tanzanian land and water reforms at the local level. Legal anthropology is a sub-discipline of anthropology that covers a wide range of subjects with diverse research topics, methods, and conceptual problems. Legal anthropology rather looks at the social significance of law and legal practices than only at the substance of law. The comparative perspective pays attention to diverse laws and not only to one law such as customary law. The historical dimension is as important as the actual context, in which the legal anthropologist uses extensive fieldwork as the basis for analysis (Benda-Beckmann 2008:59).

The book *Law and Anthropology* by Sally Falk Moore (2004) provides a historical overview of legal anthropology: its development, its present state, and its potential future course. While the book covers a wide range of topics, it does not mention the use of legal anthropology to investigate water and land law at the local level. This may be due to the fact that studies relating to resource access in rural areas are generally classified as belonging to rural development studies.

Franz von Benda-Beckmann, while serving as professor at Wageningen University in the Netherlands, laid the foundation for investigations of legal pluralism. Collaborating with Keebet von Benda-Beckmann, he investigated laws and their social significance. Among other things, their topics included legal pluralism, dispute management and water rights. Franz and Keebet von Benda-Beckmann describe the legal anthropological approach as follows:

> Adopting a legal anthropological perspective means giving primary attention to description and analysis of the current legal situation and trying to understand the significance of the legal situation for the actual forms and practices which water rights and water management assume. (Benda-Beckmann and Benda-Beckmann 1997:222)

Legal anthropologists agree that the concept of law does not presuppose a definitional binding to the political organisation of a state. Non-state actors can also generate and maintain law even if it is not recognised by national or international bodies as "the law".

A range of scholars have used Benda-Beckmann's approach to analyse the changing relationships between different laws and their relative social importance, particularly in the negotiation of access to resources. These scholars range from the "Legal Pluralism" project group at the Max Planck Institute for Social Anthropology in Halle, Germany, to Irit Eguavoen (2010), who conducted research on household water in northern Ghana using the same approach as Benda-Beckmann.

Legal anthropological research provides a holistic view, which starts from the perspective of the actors who negotiate resource access. The actors and their activities are understood against the background of a wider social setting, which includes the historical perspective and cultural features of a defined location. Law is seen not as a fixed entity but as a dynamic process. At various stages in history, rules related to water and land may change. Legal anthropological studies pay attention to these historic changes in order to understand the processes affecting the local application of laws.

A legal anthropological approach is of considerable value for development projects and state administrations aiming to change or improve rural water and land access. The identification of different rules and laws makes visible the complexity of local particularities and the way in which access to resources is (re)designed by actors in a local field. Forums can be named, which decide on who can use a resource and under which conditions. The moment a new law is implemented, new forums of decision-making are installed and new institutions are put in place. These new forums and institutions meet a web of power and historically developed ideas of how to shape access, already in place.

Legal anthropological works combine the advancement of scientific knowledge with direct relevance to development work in the field of resource management. The specific knowledge about conflicts of laws can, for example, be transferred to other fields in which they can draw attention to certain topics to be examined.

This thesis uses three major concepts from legal anthropology to explain current access to resources and the influence of the new statutory laws on resource access in rural Tanzania: (1) legal pluralism, (2) the development and maintenance of law in semi-autonomous social fields, and (3) forum shopping.

The following sub-chapters provide an overview of how this work structures and understands complex negotiation processes on the local level. I will introduce key terms derived from anthropology, law, and economics that cover the concepts of legal pluralism, semi-autonomous social fields, and forum shopping. At the same time, I will explain the main concepts from the two major theoretical approaches used in this work—institutional theory and legal pluralism. Both approaches are frequently used by scholars to analyse access to resources.

2.1. Rules and Law

2.1.1. Rules

I apply a broad understanding of the term "rules" as frames for the social relationships between people in a community. Rules about access to resources therefor frame social relationships between people with respect to these resources (see also Meinzen-Dick and Nkonya 2005:1)

> The concept of "rule" relates to shared understandings about prescriptions that apply to more than a single individual. (…) Rules, be they operational, collective choice, or constitutional choice, instruct individuals to take actions that are required or permitted, or to avoid taking action that is forbidden. (Schlager and Ostrom 1992:250)

By choosing the term "rule", I highlight the co-existence—and not hierarchy—of rules on the local level. For instance, the constitution of a water scheme can be viewed as a set of rules authorizing and forbidding future actions for water users. A decision by a council of elders concerning a land conflict is a set of rules affecting future actions under that council's jurisdiction. These rules instruct actors to take action and restrict or permit behaviour.

Three categories of land and water rules can be distinguished: (1) rules of access and extraction; (2) rules that frame decision-making rights to regulate and control resources (including the right to exclude others); and (3) rules that manage the right to earn income from a resource, also called usufruct rights (see Schlager and Ostrom 1992:250; Meinzen-Dick and Nkonya 2005:4).

Anthropologists do not agree with the assumption that the rules which structure daily activities and conflict settlement in resource management may derive from state law only. Of course the impact of statutory acts and policies is recognised, but state law is no more than one

of many sources of law. Legal anthropologists look at how all the sources of law affect the basic social interactions by which access to resources is negotiated.

2.1.2. Law

The question of how to identify the laws governing resource access is central for this work. It is preceded by the question of how to define law. This work uses the concept of legal pluralism, which underlines the possible co-existence of different laws that set rules on the local level (Griffiths 1986:38). However, legal pluralism "has been plagued by a fundamental conceptual problem—the difficulty of defining 'law' for the purposes of legal pluralism" (Tamanaha 2008:376). Regarding Tamanaha's critique, Woodman argues that "law covers a continuum which runs from the clearest form of state law through to the vaguest forms of informal social control" (Woodman 1998:45). I agree with Tamanaha concluding that "legal pluralism exists whenever social actors identify more than one source of 'law' within a social arena" (Tamanaha 2008:396). In this work, law is defined as a set of rules, which have binding force and frame the behaviour of people. If the rules making up the law are violated, rule breakers are punished by forums that enforce compliance to these rules.

The concept of legal pluralism contains the idea that law is not necessarily associated with the state, that it can also derive its legitimacy from other sources. The plurality of existing laws is especially evident in postcolonial East Africa, where state law often co-exists with customary law, project law, international law, or religious law. The conceptual framework of legal pluralism helps anthropologists to identify these different types of law (Meinzen-Dick and Pradhan 2002:2). The identification and description of these laws then uncovers the diverse attributions of social meaning to physical resources like water and land. It also helps in determining the strength and area of coverage of the various force fields present in a community.

> In a force field certain forms of dominance, contention and resistance may develop, as well as certain regularities and forms of ordering. In this view, the patterning of organizing practices is not the result of a common understanding or normative agreement, but the forces at play within the field. (Nuijten 2003:12)

The different and co-existing laws may cover different geographical or political spaces (Benda-Beckmann and Benda-Beckmann 2006:21). Figure 1 shows how these laws may overlap and co-exist.

Figure 1. Overlapping laws relating to water and land.

Source: Meinzen-Dick and Pradhan (2002:2), with own modification

State Law

International Law

Local law

Project Law

Religious Law
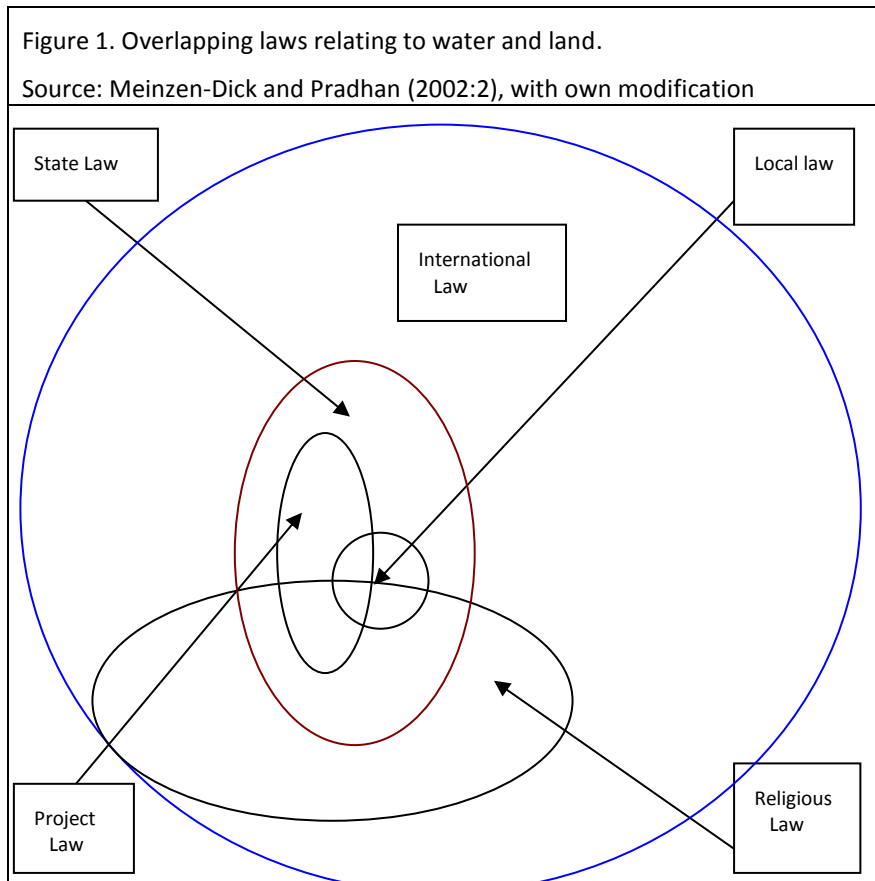
The various sources of law can also influence each other. For example, the historical chapter in this work (see chapter 5.4.) shows how the British colonial government's policy of indirect rule resulted in an individualisation of decision-making rights over land distribution in customary law. Laws may also be pluralistic in themselves. For example, the 1999 Village Land Act of Tanzania is pluralistic: it recognises the multiplicity of laws by providing land tenure for individuals either through the statutory granted right of occupancy or through the respective customary right, called the deemed right of occupancy (see Gastorn 2008:79).

Laws related to resources may either treat land and water separately or manage both resources within one frame. It will be shown that customary law in the research area treats land and water in one frame and with one source of legitimisation, while statutory law provides separate acts for the management of these resources. In a situation of legal pluralism, the diverse forums of conflict resolution may impose different resource-use plans and conflicting rights of access. Laws and their forums may also differ greatly in terms of shape and sanctioning mechanisms.

2.1.3. Types of Laws

There is a tendency to perceive written laws as clear and to see customary law as vague. However, in the eyes of local actors, it might be the other way around. Focussing on the actors' perspective provides a way out of the difficulty of defining law, and overcomes the biased classification of certain types of law as vague or clear.

> Thus instead of looking at the legal pyramid from the top, from the centres of decision, from the standpoint of power, one is brought to contemplate it at the level of ordinary men in their daily activities. (Vanderlinden 1989:153)

Many descriptions of legal pluralism in resource management use the term "customary law", often in contrast to statutory law (see Gastorn 2008:17; Maganga 2003a:995; Nkonya 2006a:53; Wanitzek 2005:179). "Customary" as well as "traditional" law are terms that must be treated with caution. They often carry the connotation of backwardness or even a false idea of ambiguity, insecurity of tenure, or gender inequity of access to resources.

Nevertheless I will use the term customary law for describing law that is legitimised through local beliefs. These beliefs derive from the local cosmology that is understood as

> a set of common beliefs, value systems, dispositions, attitudes, principles, cognitive templates and action schemes shared by a collective to orient its culture and to legitimise its commonly shared conceptions of its own society in the past, present and future of the world. (Reichel 1999:214)

Statutory law covers all acts, policies and administrative measures the government takes to manage a certain resource. Both statutory law and other sources of local law are increasingly influenced by global ideas of development. On the local level, two important tendencies can be identified: an indirect influence of theories promoted by development agencies on statutory law, and a more direct influence in the form of project law implemented in local water and land projects.

Woodman, Sippel, and Wanitzek, who enrich the discussion on legal pluralism with theoretical ideas about global influences on the local arena, present detailed empirical studies on Tanzania. They point out the effect of globalisation and the way in which statutory land law is penetrated by global concepts through mainstream laws (Juma, Sippel, and Wanitzek 2004:314). However, they do not recognise a homogenizing effect in the land law:

> Although some of the global legal principles, such as that of the individualisation of rights in land and the furthering of foreign investments in land, are reflected in the Land Act and the Village Land Act of 1999, legal pluralism continues to reign, although with modifications. (Juma, Sippel, and Wanitzek 2004:316)

However, global ideas have a significant impact on individual resource access through project law implemented by nongovernmental organisations (NGOs) and transnational agencies. In his study on the interaction between transnational and local concepts in a slum sanitation project in Senegal, Weilenmann defines "project law" as those rules,

> which are formed by the project personnel during the implementations process and in interaction with the so-called target group. Such project law lays down behavioural demands for the local population, devises new structures for decision making and the allocation of resources, and also regulates the various relationships between the project personnel and their target group(s). (Weilenmann 2005:234)

The global influences on local settings create a situation of legal pluralism that shapes access to land and water at the local level. These considerations on the different types of law will thus frame how I will interpret actors' motivation and actions, their reasoning and their justifications for their behaviour.

2.2. Social Fields and Institutional Change

2.2.1. Social Fields

Another central question in this work is how the rules that frame access to resources on the local level are negotiated. Actors in a legal pluralistic setting may selectively use different laws with different concepts of resource access to navigate their interests. To understand the scope of the rules applied by actors, I use Moore's concept of "semi-autonomous social fields" with rule-making and rule-maintenance capacity to overcome the bounded concept of property rights.

According to Moore (1973), law can be generated and maintained in a social field like a community, lineage, user group, neighbourhood or sub-village (Moore 1973:720). Social fields emerge whenever a group of people understand themselves as a user group of a certain resource. For example, a user group of a water point can be formed when the water point is built and people gather around it. People who decide to continue using this water source belong to the group, and after a time they start to generate rules to control the water point.

These social fields are described as "semi-autonomous" since they are not completely independent of outside forces. They are connected to a wider setting such as the state and its forces.

> The concept of semi-autonomous social fields not only shows the existing areas of autonomy and modes of self-regulation inside a social field, but it is useful to show the interdependencies between the local fields and the national or international forces at the local level. (Moore 1973:743)

Moore's concept is a significant methodological development in legal anthropology, yet it is rarely applied by scholars to address the role of law in society from an actor's perspective. However, Shariff has used Moore's concept to investigate the role of legal pluralism in both providing space and setting limitations for individuals wanting to renegotiate power relations within a particular social field (see Shariff 2008:4). Shariff shows that the existence of legal pluralism provides some scope for challenging power relations but that its many limitations can frustrate the achievement of justice for the subjugated. Legal pluralism and power relations pose deeply complex challenges for those seeking to achieve social justice and to assist marginalised individuals (Shariff 2008:38).

In this work, Moore's concept is used to observe the diverse semi-autonomous fields at the local level and to determine the way in which actors use these fields to gain or maintain access to land and water. The concept of semi-autonomous social fields is a descriptive tool that enables the identification of the force fields that create and maintain law. It is also a useful concept for determining how social fields affect resource access. These force fields should not be seen as distinct and delineated but as "semi-autonomous" and interacting with other forces.

2.2.2. Institutional Change

In particular, the historical perspective in chapter 5 of this work deals with the change of rules over time and the factors that influence this change. When analysing resource access, a number of different theoretical concepts of institutions and institutional change can be used as a point of departure. According to North (1990:3–4), institutions are regulation mechanisms that control resource access and enforce disposal rights. In his view, institutions consist of both "formal" and "informal" laws that govern individual behaviour and structure social interactions:

> Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. In consequence, they structure incentives in human exchange, whether political, social, or economic…. Institutions reduce

uncertainty by providing a structure to everyday life. They are a guide to human interaction, so that when we wish to greet friends on the street, drive an automobile, buy oranges, borrow money, form a business, bury our dead, or whatever, we know (or can learn easily) how to perform these tasks. (North 1990:3–4)

The broader definition of rules, which I proposed above, is congruent with North's definition of institutions. Institutions are simply rules that—if embedded in the local culture—restrict the behaviour of actors. I will use concepts borrowed from North's theory of institutions to explain the changing influence of rules on the local level.

There is a variety of approaches to explaining the evolvement of institutions. One example is the new institutional economy (NIE) approach. The NIE consists of three schools (Ebers and Gotsch 1999:200): Property Righs Theory, Transaction Cost Theory, and Principle Agent Theory. The Property Righs Theory highlights the difficulty to control property rights; for example: who is the owner of the result of innovative research (Geraldi 2007:15). The Transaction Cost Theory explains why some economic transactions take place within formal organisations while others occure on a contractual basis on a market setting (Williamson 1975:44). According to Coase (1937:387), transaction costs describe all efforts and expenditures required for attaining the information, which makes an exchange of goods feasible in the first place. And finally the Principle Agent Theory focusses on problems resulting from delegation and institutional arrangements that try to solve these problems (Ebers and Gotsch 1999:230).

The unifying factor of the NIE schools is that they all are derived from a "modified" rational choice model. The actor in the model is basically a homo oeconomicus, however, the world in which they operate is "modified" by additional concepts like uncertainty, informations that are asymetrcially distributed among different actors and transaction costs.

Nevertheless, the fundamental focus of the NIE approaches remains on the individual economic actors, their attempts to maximise utility and the effectuation of those attempts by institutions. While I aknowledge that this view might provide some understanding of development of institutions in Endamarariek, it is however, too narrow to analyse the very complex interactions in the research region and the complex relations of various actors. As I will show later on based on the cases, actors' economic concinderations like cost reduction can only partly explain their behaviour and would disregard diverse relations. Furthermore, other conceptual difficulties like for instance the very unspeficic definition of costs make the application of the NIE a less useful framework for the reseach questions at hand.

An anthropological attempt is better suited to the legal anthropological approach adapted in this work, which connects institutional change to the bargaining power of actors. In particular

anthropologists explain the evolution and change of institutions with a more open and thus more comprehensive understanding of the process of "institutional bricolage".

The anthropological attempt to analyse institutional change builds on the assumptions of the NIE but directs its attention to the role of individual bargaining power. I will discuss power further in the sub-chapter below. At this point I would like to shortly introduce the anthropological view of institutional change: a change of institutions is explained by the change of the aims or opportunities of individual actors. The anthropologist Ensminger (1990:672), who examined the change of economic and political institutions of the Orma in Kenya, shows that the bargaining power of individual actors may influence the formation of institutions. An actor with a high bargaining power can singlehandedly cause the change, introduction, or even removal of institutions, if such a change helps to further the actor's own interests (Ensminger and Knight 1997:3). Bargaining power may derive from monetary capital, social status, networks and access to information; the change of a situation might also endow an individual with bargaining power. In the end, bargaining power shapes institutions and therefore shapes power and resource access.

A further variation of the concept of bargaining power is the distributive bargaining theory of institutional change. This theoretical framework explains institutional change as a "by-product of substantive conflicts over the distributions inherent in social outcomes" (Knight 1992:40). Furthermore:

> Individual bargaining is resolved by the commitments of those who enjoy a relative advantage in substantive resources. Through a series of interactions with various members of the group, actors with similar resources establish a pattern of successful action in a particular type of interaction. As others recognize that they are interacting with one of the actors who possess these resources, they adjust their strategies to achieve their best outcome given the anticipated commitments of others. Over time rational actors continue to adjust their strategies until an equilibrium is reached. As this becomes recognized as the socially expected combination of equilibrium strategies, a self-enforcing social institution is established. (Knight 1992:143)

Bues (2011) used the distributive bargaining theory of institutional change to analyse the impact of agricultural foreign direct investment on the local institutional setting of water management in a small-scale irrigation scheme in Ethiopia. In this scheme, floricultural and horticultural farms competed with local farmers for canal water. Bues shows that the institutional arrangement changed towards a setting, which favoured the investment farms. The different bargaining power of the actors led to a shift in water rights towards the foreign actor.

Cleaver (2002) introduces an understanding of institutions based on the process of institutional bricolage. This theory refuses fixed-design principles and underlines the process-related character of institutions. Institutions evolve "through processes of bricolage in which similar arrangements are adapted for multiple purposes, are embedded in networks of social relations, norms and practices, and in which maintaining social consensus and solidarity may be equally as important as optimum resource management outcomes" (Cleaver 2002:17). Cleaver rejects the dichotomous classification of institutions as either "formal" or "informal", arguing that this represents a false polarisation. She instead proposes the terms "bureaucratic" and "socially embedded" to distinguish between types of institutions:

> Bureaucratic institutions are those formalised arrangements based on explicit organisational structures, contracts and legal rights, often introduced by governments or development agencies. Socially embedded institutions are those based on culture, social organisation and daily practice, commonly but erroneously referred to as "informal". (Cleaver 2002:13)

With this idea, Cleaver points out the socially embedded nature of the institutions used for collective action and management of common property resources.

I believe that introduced institutions gain a higher social significance if they match with rules already present in a social field. For example the introduction of a gender balance in the ward land tribunal in Endamarariek ward (for further elaboration of names and places of the research area see chapter 4.1.) matched with the customary role of women being part of decision-making over land questions.

This work will use Cleaver's ideas on institutions to investigate the cultural and social circumstances in which actors negotiate access to resources. Following Cleaver's view, I will focus on social relations as major influences on actors' behaviour.

2.3. Forum Shopping and Power

2.3.1. Forum Shopping

As discussed above, actors negotiate access to resources in an environment with overlapping and sometimes contradictory rules. Social fields including power relations shape the ways in which individuals may claim rights or gain access to resources. In a legal pluralistic situation, actors may make use of the available laws in a selective manner and may purposely choose laws that increase their chances of gaining resource access. This is known as forum shopping (Benda-Beckmann 1981:157).

In order to analyse cases of forum shopping, it is necessary to first define the term "forum". Benda-Beckmann (Benda-Beckmann 1981:157) uses the term "forum" to describe bodies with political or jurisdictional power. I will use "forum" to describe bodies where resource access is negotiated in public or with representatives of the community who have the right to make decisions about resource access. Forums are the spaces where decisions are made about who can use land and water, and how, as well as who is excluded from use or access. Decisions may also concern access in a broad sense, such as non-exclusive rights to graze and water livestock, collect firewood, cut grass and so on.

Forums reproduce or confirm rules by applying them and cement them by punishing rule breakers. The ability of forums to regulate resource use depends on their legitimacy. This legitimacy originates from collections of rules that are generated and maintained in a social field. The legitimacy of a forum can change over time as the situation changes. As discussed in the section on bargaining power, a change in power relations can change the influence of a forum on negotiation over resources. In order to achieve full understanding of the processes controlling resource access, this work not only describes existing forums, but also examines the change of legitimisation of forums.

The concept of forum shopping was originally developed by Benda-Beckmann. It is described by Meinzen-Dick as follows:

> During disputes and negotiation, claims are justified by reference to legal rules. The disputants use different normative repertoires in different contexts or institutions depending on which law or interpretation of law they believe is most likely to support their claims, a process known as forum shopping. (Meinzen-Dick and Pradhan 2002:5)

Several studies have examined the role of forum shopping in negotiations over resource access. In a study on conflicts in a West Sumatran village, Benda-Beckmann (1981) describes the different laws operating on the local level and points out that different forums can assume jurisdiction, depending on which aspect of a dispute is emphasised. Pradhan and Pradhan present a case of forum shopping in their analysis of the range of strategies used by contesting parties in Nepal to gain access and legitimate rights to water (2000). The study examines the process by which different claimants use a variety of bases for their claims to water rights (Pradhan and Pradhan 2000:222). Vel's (1992) research into forum shopping on an Indonesian island shows how development organisations introduce new laws, which become part of the legal repertoire used by community leaders. Depending on the situation, leaders choose different laws and adopt a pragmatic strategy of forum shopping as they choose between indigenous *adat*, church, state and development organisations.

Analyses of forum shopping provide a method for determining the relative strength of different sources of law in a community, water user association, or other local field. Depending on their monetary resources, access to information and social connections, actors make use of all rules and forums known to them to achieve their goals. The actors' choice of forums expresses their understanding of who decides on resource distribution, and thus gives an idea of which laws are stronger than others in a particular local field. The different interpretations of rules and laws and the actors' perceptions of power can be identified by their actions.

It is important to take the local culture and values into account instead of looking only at the personal motives of actors. Rational choice theory is often applied for understanding social and economic decisions made by actors. According to this theory, actors behave rationally and make decisions in a way that maximises individual profits (Diekmann and Voss 2004:19). However, this is an overly narrow view of decision-making. Decision theories have long acknowledged that decisions are based on the subjective utility of expected outcomes instead of objective profit (Bernoulli 1954:24). The attribution of subjective utility is an emotional process based on the value system of an individual. Since value systems are embedded in culture, the definition of rationality and rational choices differs from culture to culture.

In order to avoid a narrow perspective on decision-making, this work rather focuses on access than on property. The focus on access provides a broader approach, which takes into account the variety of channels that may be used to gain access to a resource from the actor's point of view. I adopt Ribot and Peluso's understanding of access as "the ability to benefit from things—including material objects, persons, institutions, and symbols" (Ribot and Peluso 2003:153). Ribot further describes the different types of access:

> People's access to resources and benefits is shaped by a variety of access mechanisms. Property is one variety; others can be knowledge, identities and social relations as well as technology, capital, markets, labour. (Ribot and Peluso 2003:159)

Actors might choose a way to gain resource access that someone from "outside" might not understand at first sight. The holistic view—a core of anthropological thinking—helps to uncover "unknown" patterns of resource distribution and permits a complex understanding of the entire organisation of water and land distribution.

However, the channels that an actor can use to gain resource access depend on the actor's position in society. Actors are endowed with different attributes that influence their behaviour. These attributes include monetary capital, social networks and access to information. Some individuals might be active in a variety of social fields, while others might be limited by their small social networks or lack of monetary capital. Depending on the attributes and societal position of an individual, his or her action and choice of forum is limited.

This work will describe the attributes of actors using Bourdieu's concept of capital. For Bourdieu (1983), capital is first of all accumulated work in the shape of material or internalised resources. The distribution of capital in a society shapes the society's structure. Bourdieu introduces three forms of capital: economic capital, cultural capital, and social capital. Economic capital is either money or capital that is easily transformed into money. Cultural capital can be shortly described as education, including both formal degrees and knowledge in the broader sense (Bourdieu 1983:196). In contrast with economic capital, cultural capital is accumulated by an individual and cannot easily change owners. Cultural capital has a significant impact on resource access since the knowledge of diverse laws and procedures enables an individual to have a larger choice of strategies for accessing resources.

The third form of capital is social capital, meaning resources that can be mobilised through membership in a group (Bourdieu 1983:191). The social capital of actors depends on the number of their social relationships and their capability to mobilise these relationships. Through the participation of individuals in certain social networks individuals might gain access to water or land. Others may have no social networks at all and thus lack access to resources. This is how social capital can affect resource access.

By using Bourdieu's concept of capital, this work emphasises the many points of departure from which individuals might negotiate resource access in a legal pluralistic setting. Asymmetries of power derived from differing social networks, symbols or economic strength should be kept in mind when analysing an actor's strategies in resource negotiation. For example,

a powerful actor might advance social acknowledgment of new laws and forums while single marginalised actors might not be able to foster this process.

2.3.2. Power

The degree to which laws impact resource access at the local level is connected to power. I will apply Droogers' definition of power: "Power is viewed as the human capacity to influence other people's behaviour, even against their will" (Droogers 2012:132).

A collection of articles edited by Benda-Beckmann, Benda-Beckmann and Griffiths (2009:3) focusses on the ways in which state and non-state actors exercise power in a community. Using the concept of legal pluralism, contributors to the said collection give crucial insights for understanding the nature of transnational, national, and customary law. In a legal pluralistic setting, the focus is on the "different actors who are engaged in contestations over who has the power and authority to generate law and construct meaning" (Benda-Beckmann, Benda-Beckmann, and Griffiths 2009:3).

These power struggles reflect asymmetric power relations among parties and laws. Their outcome ultimately affects the legitimacy and transformation of the law: "This affects the ways in which law's legitimacy is constituted and reconfigured through social processes that frame both its continuity and transformation over time" (Benda-Beckmann, Benda-Beckmann, and Griffiths 2009:3). Power describes a social relationship between actors. Actors can attain power in a variety of ways, such as by holding government office, through economic wealth or through connections in social networks. Power can change over time, and the question of how set a power position is, and how power positions change, is of high interest. In summary, power relations are "relations of inequality that exist at all levels of society and that direct and govern our actions" (Shariff 2008:9). The freedom of actors does not vanish as soon as power is exercised. Rather, power and freedom of action co-exist:

> There is always a possibility that resistance may reverse power for a moment but what is important is that each triumph is only a moment in an ongoing power relation—if the relationship is severed completely or the subordinated individual has no chance of resistance we are no longer talking of power relations. The only thing we can be certain of is that resistance is always present where there is power, the two co-exist. (Shariff 2008:12)

When actors comply or refuse to comply with rules, they actively engage in the making of these rules. The acceptance of a law depends on its acknowledgement by actors. Acknowledgement—of a powerful actor, rule or forum—is understood as the act of allowing oneself to be influenced by

someone, complying with a rule or calling on a forum of conflict settlement and the outer and inner acceptance of the decision of that forum. Giddens describes a "dialectic of control" in which powerful actors influence the behaviour of less powerful ones, but less powerful actors also influence those with more power:

> Power within social systems that enjoy some continuity over time and space presumes regularised relations of autonomy and dependence between actors or collectivities in contexts of social interaction. But all forms of dependence offer some resources whereby those who are subordinate can influence the activities of their superiors. This is what I call the dialectic of control in social systems. (Giddens 1986:16)

When individuals negotiate access to resources, they pursue their interests in a social field with a diversity of power relations. Decision-making over resource access is linked to power. Powerful forums and actors directly influence the behaviour of other actors and create the values and meanings attached to a resource.

Actors and their behaviour might lead to a change of rules and therefore they are important for this study. Some actors directly produce law and hold the power to construct its meaning. Other actors may actively assent power to the people, thus allowing the people to change the way the law is applied. Furthermore, the status or position of actors in the community influences the way they behave in negotiation processes. The connection of actors with social networks—such as the economic elite, women's action groups, and churches—can endow them with a certain power in resource negotiations. Gender, marital status, wealth, and mobility all shape land and water access possibilities. Gender in particular is a crucial factor when discussing land access. Women can have various possibilities for influencing decisions over land depending on their role in society. In some cases, they may be completely excluded from the right to land because of their gender. The mobility of actors can also influence their potential to access land because mobile actors are more likely to collect information on statutory laws such as those related to titling.

On the local level, norms of resource management are negotiated by actors who hold the power to shape resource access or actors who maintain or gain access to resources. The forums by which these concepts are accepted or rejected serve as an arena where power and different claims to legitimacy of laws are played out. These discourses interact and shape behaviours around land and water use in rural Tanzania.

3. Research Process and Research Design

The aim of this chapter is to discuss the research process with reflection on my role as a researcher, the research design, methods, as well as constraints.

The heart of my research concerns the question of how access to and distribution of land and water are governed in a conflict-prone setting. I will use a mixed anthropological method to focus on historically grown legal structures and processes of water and land governance. I will consider conflicts to be a valuable source of information because they make conflicting norms more visible.

In comparison with other methodological approaches (i.e. lawyers who analyse court cases or political scientists who interview state officials) anthropological methods provide deeper insights into people's perceptions of the world as well as the cultural and social dynamics that determine access to resources. Anthropological methods also combine quantitative and qualitative data, which complement each other to provide a holistic view.

3.1. Research Process: Reflection on the Field Site and my Role as a Researcher

3.1.1. Selection of the Field Site—Pre-Study

My fieldwork started with a 6-week pre-study in March 2009 and a 1-year stay from July 2009 to June 2010. Even though I have spent over 10 years in Tanzania and have acquired a detailed knowledge of the country's cultures and languages, I still decided to conduct a pre-study due to ethical considerations, such as participation of the target group and informed consent.

I chose Karatu District in northern Tanzania as my research region because the district is known for diverse land conflicts. According to both the literature and my own interviews, Karatu District has been characterised by frequent disputes over land access since the late 1980s. These disputes have occurred between individuals, households, and interest groups, as well as between the Iraqw and other ethnic groups (Hagborg 2001:9).[6,7] When I reached Karatu in March 2009 for my pre-study, I used my social networks in the Lutheran church to get in contact with influential people from Karatu. Thanks to recommendations I came to know the former ward councillor John L. Mahu, who made it possible for me to meet the member of the parliament (MP) Dr Wilbroad Slaa. After I had informed the ward councillor and MP about the purpose of my study, its

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[6] For reasons of data privacy, the names of interview partners may or may not have been changed.

[7] Also confirmed by interview with Bessi Bombo, Endamarariek, 19.01.2010.

potential impacts, and my limited financial sources, they proposed that I do my research in the village of Endamarariek, where land conflicts arise frequently. They also suggested that the recommendations from my research would be useful to the government in solving conflicts in Endamarariek.

3.1.2. Entering the Field—Exploratory Phase

When I came to Endamarariek for the main study, the former councillor took care of my first contact with the ward and village office and introduced my research project to the ward development committee. He also took care of my accommodation for the first period and introduced me to the priests of the Catholic parish. Together with my husband, I obtained a room in the *Nyumba ya Amani* (Swahili for "house of peace"), a house owned by the Catholic parish. The house was located about 0.2 km from the village centre of Endamarariek. My husband and I shared the house, food and water with a teacher at the Catholic girls' vocational school, the teacher's elderly mother, and a shopkeeper with her daughter.

My social and geographic proximity to the Catholic parish and priests influenced my research since residents of Endamarariek associated me and my work with the Catholic parish. It was easier to interview government officials, headmasters and priests at the village and ward levels and to attend the ward tribunal for land because villagers and officials associated me with the parish, which had a great deal of power in the community and connections with the government. However, obtaining access to the social field controlled by female and male elders was much more challenging.

3.1.3. Door-Opener to the Community

The first phase of my research occurred during a serious drought. The community experienced a poor harvest and water shortages. I had already lived in such circumstances and was used to food and water shortages in everyday life. However, the situation was difficult because the social behaviour of the community differed greatly from other areas of Tanzania. A good friend of mine visiting me in the field said:

> There are only problems here—it is so different from the rest of Tanzania! If I talk to people they either have a broken house, a half-dead cow, a violent husband or no money for school fees. Then they immediately expect you to solve these problems. If you had about ten such conversations from the shop to your home you would think twice about going out again![8]

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[8] Interview with Anet Shekidele, Endamarariek, 02.02.2010.

I grew up among the *Washambaa* and worked among Swahili people who had a warm and welcoming way of interaction, even during times of drought. With the exception of my neighbours, the Catholic priests and my three main informants and their families, the people of the community were quite uncommunicative and difficult to engage in conversation during my first three months in the village. My work proceeded because I attended ward tribunal meetings concerning land matters, did transect walks with my field assistant, and met informants. However, joking relations, friendly and warm Swahili-style greetings and a crate of soda at my place all failed to have the desired impact of breaking through the tense atmosphere.

The breakthrough happend during the third month of my field stay when I was invited to an elder's place. My field assistant accompanied me, and after introducing myself and sitting on a stool, I found myself being interviewed and observed by the female and male elders. On my way home, I asked my field assistant who the family was, and he told me that I had just met the direct descendant of the *Kahamusmo* (Kiiraqw for the first settler of the area). Later I found out that the man I had met was a central figure in the local religious and political order.

According to local beliefs, the role of a person depends on his or her status of pollution (see more on pollution beliefs in chapter 6.5.2.). The community members' behaviour towards me was initially defined by my unknown status—people avoided contact with me because they did not know my state of pollution. This changed after a ritual expert, in my case the descendent of the first settler, determined that my status was not harmful. The meeting with the elder marked the beginning of my acceptance and trust by the people of the village, especially women, and was a precondition for collecting data about sensitive topics such as opinions about certain conflicts. I consider the first months of the field study—which were characterised by participant observation, informal interviews and the willingness to be examined by the elders—as the phase in which I built rapport (Bernard 2006:344).

3.1.4. My Role in the Field

I understand a researcher during the process of data collection and evaluation as an active subject who describes, selects and frames the subject from her or his standpoint (see also Girtler 2001:38). The researcher is a research tool herself and there are a variety of factors that need to be made transparent to understand the validity of the data. These factors include the researcher's own status in the community, language skills and knowledge of does and don'ts at the research site. In addition, I consider continuing reflection and processing of personal experiences to be of major importance.

The field site was a place full of magic, curses and symbols for good or bad luck. Rainfall depended on the behaviour of community members, and my behaviour was closely observed. The land tribunal was viewed as a place of conflicts and curses. My attendance at land tribunal meetings was seen as brave and stupid at the same time since I was a woman of reproductive age and should avoid those places due to the danger of being cursed or having my fertility threatened.

I was not aware that people thought I was in danger until the chairman of the tribunal offered to protect me. He told me that the animal of the wizard clan to which he belonged was the hyena, and that his family had considerable power through their ability to do magic. I responded that I was born in the star sign of the lion and so my heart would be strong like the lion's heart. He said:

> Well—our families might have some similarities. But you don't know what you might put your foot into. I will be there for you when you get cursed or face other problems. Just call me![9]

This offer of protection signalled the building of an alliance between me and the wizard clan. On one hand it alerted me to the unknown challenges I faced in the field, but on the other hand I was reassured by the chairman's solidarity.

My field assistants were also confronted by unexpected local dynamics. They gained new ideas from me, which caused them to mistrust and question some statements by community members. In addition, their perceived financial status changed because people expected them to earn a good salary from working with me. Both of these factors challenged my assistants' positions in the community.

Originally I had planned to analyse the relationship between land access and wealth by measuring fields with GPS. I soon recognised that land rights are such a highly political topic that I stopped measuring fields and even stopped walking around the perimeters of fields and doing transect walks. I was confronted directly by a woman with the fear of the people. She told me that by measuring the fields I would make people think that I wanted to take away the land because then I would have the exact data and my government would write a title like it did in colonial times. The GPS also caused me to be instrumentalised by the elite: they invited me to measure their fields and draw maps to fix their land rights.

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[9] Interview with Kwaslema, Endamarariek, 01.02.2010.

3.1.5. My Conflicts and Reconciliation in the Field

At the beginning of 2010, I was at a friend's house and had some milk with his family (being offered milk is a sign of deep trust, see also Rekdal 1996:367). A neighbour passed at a distance, but then she decided to greet us. When she came close she saw my camera lying in my lap. She started shouting at me: "You should never photograph me! I warn you!" I told her that I would never photograph someone without permission and tried to show her on the camera that I had not photographed her. But she started hitting my camera. I stood and argued with her. She grimly went home. My friend told me that I had argued quite wisely but the woman was unable to understand.

The next time I met her was some weeks later during a parish celebration. She asked me to buy her a soda. I understood that this was a reconciliation strategy and an indirect way of asking whether I had forgiven her. I refused and told her that her behaviour that day was still hurting me. She went away without a word. Just before I left the field I went to see several people in the village to say goodbye. The woman waited for me at a quiet corner, greeted me and told me about her fears of being photographed, and that she did not want to end up in a European magazine where people would laugh at her poverty. I told her that I had never had this intention and that I had not even taken a picture of her. She asked me for forgiveness and we went to drink a soda together. It was only after my direct involvement in this conflict and reconciliation process that I started to understand the strong value of peace and harmony between individuals in the community.

3.2. Methods of Data Collection and Analysis

After I was granted access by state officials, religious leaders and elders, I continued to collect data by diverse methods. The main research phase of thematic-orientated data collection began in December 2009. Mixed anthropological methods were applied: participant observation (Bernard and Ryan 2010:41), interviews of 30 villagers, a wealth ranking of households, and an ethnographic census (Lang and Pauli 2002:5) of 204 households.

Since I was at the field site for a year, I was able to participate and observe the challenges of everyday life and conflict situations in both the rainy and dry seasons. The availability of interview partners, the frequency of land tribunal meetings and the content of conflicts depended greatly on the time of year. During periods of drought, men were absent because of the time-consuming search for household water. At the start of the ploughing period, elders and the land tribunal were consulted to clarify usage rights to land. At the end of the harvest time, more

people could afford fees for opening a case at the land tribunal. I adapted my methods to these circumstances by for example postponing a planned interview when I could attend a reconciliation process with the elders.

3.2.1. Participant Observation and Interviews

I conducted a classic stationary fieldwork by staying in a village for the period of one year. I used participant observation throughout my stay. Participant observation is the basic method of social anthropology (Bernard 2006:342) and it is a central instrument for understanding everyday life and establishing social relationships with a variety of people. It is about adapting to local social circumstances and taking part in community activities so that people continue with their everyday life even when you are present. Participant observation directs the observation and participation to focus on the main questions of the fieldwork (Hauser-Schäublin 2003:46). While some of my other methods of data collection were limited by seasonal events, participant observation was ongoing. It provided a comprehensive dataset that was useful in checking the validity of data collected by other methods. In addition, the insights gained through participant observation allowed me to adjust and improve the application of other methods during my field stay.

Most people could speak Swahili so I was not limited by language deficits and could conduct informal interviews even at the beginning of my field stay (see Bernard 2006:209). My fieldwork started with an adaptation phase and continued with a more thematic phase in which I focused on settings that were likely to answer my research questions. There were several areas of participant observation where I collected data consciously and systematically, and which made up a large part of my data. I wrote a field diary every evening and sometimes directly after or during events. I observed the women of the household I lived in; I took part in meetings of the land tribunal. In addition, I gained good insights from regular attendance at the Lutheran service and participation in the church choir. I also collected data from the families of my main informants (a photographer in the village, a farmer, and a female teacher).

Figure 2. Me singing in the Lutheran choir, 12.08.2009, own image.

My semi-structured interviews (see Mikkelsen 2005:52; Beer 2003:22) comprised a checklist of topics and questions concerning the impact of the land and water reform. Topics ranged from a historical view of governmental intervention to the local interpretation of the latest land and water reform. Interviews were conducted with civil servants on all levels of administration from 10-cell leader, sub-village chairmen and village chairman to members of the district council. Being aware of legal pluralism in the village, I also interviewed male and female elders, church representatives, and Catholic priests.

3.2.2. Ethnographic Census and Wealth Ranking

The ethnographic census is a method that enables the researcher to collect basic systematic information about age, gender, birthplace, ethnic group, family and migration background, networks and income strategies of all household members (Lang and Pauli 2002:5). I extended the census based on Lange and Pauli (Lang and Pauli 2002:5) with open and closed questions concerning how much land households access, which rights they use to access land, and whom they contact if there are conflicts over their land. The sampling frame included the village centre, the secondary school, and the area of the former *Ujamaa* village that was formed during resettlement in 1976. The data were entered into a database and analysed with SPSS.

The *de jure* population of the census was 1,902 individuals who were considered as part of the household by the interviewees. However, this included deceased persons as well as people living in other places. This might be further wives of the same husband with their children or children who had moved away. The *de facto* population that lived in the sampled area in 2010 was 1,284 people.

For the purpose of the census, a household was defined as a house and its inhabitants who cook together. By this definition, 204 households were interviewed. Only 185 households were households in the narrow sense of family households where the occupants are related to

each other, of which 31 were female-headed households. Only four households were run by a single man. The inclusion of the area near Florian Secondary School is the reason why 10 of the households were shared apartments of students. Overall 89 students from Florian Secondary School were recorded. Three households were inhabited by adults sharing a house. In the remaining six cases the relation between the inhabitants was unclear.

At first I planned to conduct an ethnographic census at the beginning of my field stay to get to know the villagers and to gain an overview of the research area. However, I postponed the survey until the fifth month of my field stay for two reasons. First, I had not yet built enough rapport with the community to ask sensitive questions about wealth and land access. Second, I found it challenging to frame my sample. There were no visible landmarks, the last detailed map was from 1959, and Google Earth had only blurred images of the village at the time. It was only after I conducted informal talks about the history of a piece of land that I was able to frame my sample. During the talks, I found out that the former *Ujamaa* village (resettlement area during the socialist era—see chapter 5.5.), now called the sub-village of Ayaraat, could be defined by streets. Sub-village chairmen confirmed a number of about 100 households in that area.

My assistants and I collected data on a total of 204 households during a period of three months from November to January.[10] I then processed and transferred the GPS coordinates of the households to graph paper to create a map of their locations.

The information about the number of cattle owned by a household is not valid because people usually named far fewer cattle than I could count when passing by the place where the cattle were kept at night. This can be explained by the fear of taxation.

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[10] My research assistant Mwalimu Mrema was a teacher at the primary school who had gained experience conducting the 2002 Tanzanian census. She had been working as a primary teacher for 15 years and was well-known among the villagers.

Figure 3. Wealth ranking with one of my main informants, 02.02.2010, own image.

Next I conducted a wealth ranking of all households with the aim of understanding endemic categories of people categorised in the Western world as rich and poor. I also aimed to filter the low-income households to further collect data on how they negotiate access to land and water.

I consulted three informants representing the main social fields I had identified by then in the village: an elder (representing customary legal system), the secretary of the village (representing the statutory system), and the wife of the secretary of the Catholic Church (representing the Catholic parish). The wealth ranking began with a short discussion about how informants defined categories. Informants then arranged cards with the names of 204 households into three separate hats that were labelled as follows: "*watu wenye uwezo mkubwa*" (Swahili for people with a high capacity[11]), "*watu wenye uwezo kati kati*" (Swahili for people with a capacity in-between) and "*watu wenye uwezo kidogo*" (Swahili for people with a low capacity).

3.2.3. Extended Case Method

After identifying conflicts through participant observation, participation at meetings of the land tribunal and main informants, I used the extended case method (ECM) to further study specific and sometimes chained events (see Burawoy 1991:281; Evens 2006:ix; Rössler 2003:153; van Velsen 1978:146).

The goal of ECM is to conduct a detailed investigation of processes in everyday life in which the behaviour of actors and their way of justifying or explaining their behaviour play a major role. Actors interpret rules and social norms differently and may choose to use rules that better support their interests. ECM is a valuable tool for collecting data in a legal pluralistic setting and

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[11] In this case capacity refers to financial ability.

for understanding actors' interpretation and use of laws and, where applicable, forum shopping behaviour.

> It takes the social situation as the point of empirical examination and works with given general concepts and laws about states, economies, legal orders, and the like to understand how those micro situations are shaped by its wider structures. (Burawoy 1991:282)

Social conflicts were seen as the competition of single actors for resources and status in a setting of contradictory and inconsistent rules and norms (Rössler 2003:144). Through documentation of these rules and norms, different concepts of land management were identified. I was also able to collect data about the impact of the land and water reform and how it was adapted to the local arena.

Through ECM I was able to describe the negotiation processes in social conflicts with an actor-oriented approach. One of the forefathers of ECM, van Velsen, points at the active role of actors in forming the law:

> One of the assumptions on which situational analysis rests is that the norms of society do not constitute a consistent and coherent whole. On the contrary, they are often vaguely formulated and discrepant. It is this fact which allows for their manipulation by members of a society in furthering their own aims, without necessarily impairing its apparently enduring structure of social relationships. (Velsen 1978:146)

Actors' behaviour is not solely shaped by the plurality of legal orders in the field. Individuals in conflicts also need to be seen as actors within a social network of power where the actors are endowed with different access possibilities to social networks, monetary capital, labour, and authority. Different individual initial situations shape the strategies of actors (see also Ribot and Peluso 2003:159).

The actor-oriented ECM enabled me to describe the differently endowed individuals and groups engaged in the conflict process. This opened the field for a deeper understanding of why differently endowed actors may employ different conflict-solution strategies. The interviews aimed to explore the actors' interests, strategies, points of view, and roles in the community. Through an actor-centred approach, the actors' concrete ideas about the use and administration of land and water, and the laws used, were made visible.

Even though the research was designed as stationary fieldwork, geographic borders were crossed to follow the actors. Thus my field stay was mostly in Endamarariek village, but in addition I made day trips to Karatu town and to other villages in Endamarariek ward, especially Endallah.

Eight conflict cases were studied by ECM during fieldwork. Information was gathered through participation in crucial events supplemented by planned and coincidental interviews with the actors involved. To receive access to the processes of land conflicts I used both the land tribunal and the immediate social surroundings of my research assistants as points of entry. I participated weekly at ward land tribunal meetings, contacted female and male elders, and talked to priests and other representatives of the government, the churches, and the elders about conflicts in the community. I also focused on water sources, attending water-related gatherings, and spoke with the administrative staff of the piped water scheme.

Inspired by Devereux, I constantly reflected on my own countertransference in the process of observing cases (Freud 1990:128; Devereux 1998:22). Following Freud and Devereux I understand countertransference as the sum of all emotional reactions that are triggered by the encounter with informants, both in conflict situations and after observation when writing notes. Devereux (1998) pointed out the need to apply the psychoanalytic concept of countertransference also in other sciences dealing with human behaviour to prevent (or at least reduce) biases. Applied to my work this means that by analysing my emotional reaction, I separated my personal and cultural mechanisms of understanding. The aim of this reflection is to reduce possible biases in observation, data collection and interpretation caused by fear, irritation, and annoyance.[12] This has a special value for the cases collected through ECM because the researcher can report cases more neutrally.

3.2.4. Archive Material and Other Literature

During the first month of my research in Tanzania I conducted detailed archival research in the Tanzanian National Archive. I searched for historical sources covering the period from the 1910s to the 1960s with the goal of learning more about the history of state interventions and state-implemented land and water management in the former Mbulu District. The archive had just been damaged by water and much of the material was difficult to read or had bleached out.

My discussion of the social order (chapter 5.2.) in the late nineteenth century is based in large part on my own interviews with village elders. The works by historian Yusufu Lawi (1999), (2000), (2007) that are based on a detailed survey of archival material provided the primary

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[12]The methods of ethnopsychoanalytics were applied by Nadig by using a self-reflexive conversation with herself (1997:317).

material for these interviews. The chapter covering the colonial period (chapter 5.3. and 5.4.) is partly based on documents found in the Tanzanian National Archive. These include District Books, ordinances, maps, letters exchanged between governors/officers and the central colonial administration, land titles, legal texts and court records as well as other publications. In many of these publications the British perspective was adapted to local circumstances.

Another important source was the texts of the priest Patrick Winter published in the District Books and in the journals of the Kyoto University of African Studies. The aim of Winter's research on local culture and religion was first to understand it, then to change it (Kinyaiya 2007:33). The District Books for Mbulu District also provided a good overview of the imperialist policies implemented in the research area. Colonial administrative staff collected information on the social, historical, political and economic aspects of the district. The purpose was to maintain continuity of administration since district officers never stayed in one district for long. Early District Books had general headings such "Laws, Manners and Customs", but the headings became more specific in later years.

The district officer Lumley worked for 23 years for the British colonial government and wrote a monograph about his work, published in 1976. His monograph gives insights into the everyday life of a colonial administrator and the way in which district officers perceived themselves and their work. His work contains many misconceptions and prejudices. Nevertheless it is important for its insights into the functioning of the system of indirect rule in Tanganyika. Colonial accounts such as this monograph and other archival material were cross-checked with oral narratives and secondary literature, since some descriptions are certainly biased by the authors' racism and prejudices.

Finally, the fact that many historical accounts minimise or ignore the contributions of women was borne in mind. As several historical sources point out, women were active agents in the making of newly emerging social fields even though they were not engaged in colonial political leadership. Women framed the fields through their role as mothers, elders, and housemaids in European households. Historical material that highlights both genders' perspectives and women's role in resource organisation is rare. Not only was all historical material in the archives produced by men, women in my field site also protected their inner social and political organisation by keeping it secret. I assume this was a reaction to experiences in colonial times (see chapter 5.4.2.).

Figure 4. Women of Endamarariek, 07.11.2009, own image.

3.2.5. Photography and Other Visual Representational Practices

Photography was used as a supportive method to document daily life and conflicts, and as a way to generate data by showing pictures to others. I used my camera to document some meetings as a means of acquiring and verifying research data. Since memories fade quickly after observing a conflict case, photography is a useful method for verifying memories (Rössler 2003:153). For ECM, photography also helped me to remember who was present at certain events. Later on I could show the pictures to my informant and ask for details such as names and relationships. The pictures taken during a conflict hence served as a vehicle to stimulate discussion and to generate more details, names and relationships about the case.

Photography also served to document the social and cultural spheres of the village. The fact that my closest informant was himself a photographer added another dimension: he could take pictures of me during work when I did not use the remote control mode. He also photographed me in diverse interview situations and while participating in meetings.

People in Endamarariek responded to photography in various ways. Since one of my main informants was a well-known photographer in the community, I was often considered an "event photographer". Thus I was invited to celebrations (graduations, reconciliation celebrations and other gatherings) where people asked me to take pictures and print them.

When taking pictures, I always explained that every person had the right to refuse to be photographed. Actually my mentioning of this right had a side effect: in an area where tourism is very common, it served as a kind of empowerment. I witnessed one villager who was very emphatic about refusing to let a tourist in Karatu take his picture, and referred to this right.

The research area was mapped using GPS. Because of the lack of a computer program and the need to create a map during the field stay, I transferred the GPS points to graph paper to get

an overview of households already interviewed and to get an idea of the size of land some people owned.

Table 1. Field research process and methods		
Month and phase	**Method and field of application**	**Purpose**
March 2009 Phase 0: **Pre-study** Place: Karatu town / Tanzania	Meeting with MP Dr Wilbrod Slaa and the councillor of Endamarariek ward as well as religious leaders. Joint discussion about research possibilities and location of the field site.	Ethical considerations (participation of the target group, informed consent, selection of field site).
July 2009 Phase 1: **Preparation phase** Place: Dar es Salaam / Tanzania	Meeting and discussion with Prof. Yanda, Institute of Resource Assessment, Dar es Salaam. Preparation for the field stay. Research at the Tanzanian National Archive.	Research permit, adjustment of my research questions and discussion of my methods with colleagues, quick beginning of the field stay.
August 2009–November 2009 Phase 2: **Exploratory phase** Beginning of field stay Place: Endamarariek / Karatu District / Tanzania	Beginning of participant observation, which was continued throughout the field stay. GPS measurement of fields. Transect walks. Participation in meetings of the ward tribunal on land. Informal interviews.	Finding a role in the social field. Active participation in community life. Acquiring deeper knowledge of the region. Observation of local legal practices. Documentation of cases.
15–25 November 2009 Place: Laanga Research and Publication Institute at the University of Buea / Cameroon	Participation in PhD workshop.	Evaluation and discussion of initial findings.
December 2009–April 2010 Phase 3: **Main research phase** Place: Endamarariek/ Karatu District / Tanzania	Continued participant observation. Expert interviews. Extended case method (ECM). Ethnographic census. Wealth ranking.	Focused data collection on conflict processes, actors and local legal practices. Holistic documentation of cases. To allow a quantitative description of the community.
May 2010 Phase 4: **Final phase** End of field study Place: Endamarariek and Dar es Salaam / Tanzania	End of participant observation. Return to Dar es Salaam. Discussion of findings with scholars at the University of Dar es Salaam.	Contextualisation of data.

3.2.6. Analysing Negotiating Processes on Resources

The analytical framework is based on my theoretical and practical training in anthropology and law, my field data, and my work experience. The ethnography is written like a narrative story that is constructed from field notes. Emerson describes the creation of this text as

> analytically thematised, but often in a relatively loose way; it is also field note centred, that is constructed out of a series of thematically organized units of field notes excerpts and analytic commentary. (Emerson, Fretz, and Shaw 2011:170)

This work aims for holism. In cases of actors engaged in resource conflicts, holism means I examined the actors' behaviour from as many angles as possible. However, I found that an attempt to describe conflicts neutrally was not possible. I always felt sympathy with the oppressed and exploited, the individuals who suffer from structural discrimination. I filtered out as much bias as I could through a constant reflection process and an understanding of my own sense of justice.

My data analysis was guided by a systematic framework consisting of my theoretical concepts about legal anthropology and institutional change that provide the frame for investigating actors' strategies in both, daily life and conflict situations to gain or maintain access to resources. The theory of legal pluralism widens the perspective by bringing attention to the co-existence and possible interaction of multiple legal orders and opens the field for explaining diverse strategies of actors in a legal pluralistic setting. Current legal changes are contextualised by elaborating the local historical situations.

Each chapter has several sub-questions based on my theoretical considerations. When extracting information from the raw data, I emphasised the following: strategies of actors in conflicts, legal orders governing natural resources, and everyday access to resources. Using these concepts as a guide, I organised my data through a process of coding, paraphrasing informants' comments, and comparing and categorising data from field notes, interview transcripts, audio recordings and visual material collected during fieldwork. As I had several data sets collected by different research methods, I was able to cross-check my assumptions.

3.3. Constraints on the Research

3.3.1. Historical and Political Context

Research on access to land and water is a sensitive topic due to the history of the field site and the perception of people towards the researcher as a European. People have vivid memories of the phase of resource exploration when the Germans and British measured plots in order to occupy the most fertile land for producing coffee. They also remember that the colonial governments restricted access to resources through establishing national parks. The way in which people interpret the researcher's behaviour is a mirror of their own personal experiences and the stories they've been told about foreigners' behaviour in the past. People with low incomes were

especially reluctant to communicate with me because of fear that I was a representative of the government or of Europeans who wanted to expropriate land. It took some time to overcome this distrust.

The political struggle between the ruling party Chama Cha Mapinduzi (CCM - Party of the Revolution) and the opposition party Chama cha Demokrasia na Maendeleo (CHADEMA - Party for Democracy and Progress) also influenced my access to interview partners. I agreed upon the research with local political and religious leaders who were CHADEMA members or supporters. My perceived association with CHADEMA hindered access to administrative staff who were appointed by the central government and belonged to CCM. For example, the district water engineer claimed to be unavailable for interviews throughout my field stay.

3.3.2. Constraints Due to Local Taboos

The remote field site and the culture of the Iraqw created special constraints that influenced my ability to collect data. Local beliefs about pollution that apply to women also counted against me. There are several aspects of Iraqw cosmology that keep women away from self-dug wells, swamps and rivers. These include the taboos placed on people in a state of pollution and the fear of pollution spreading through the water in wells. As a consequence, my research assistant kept me away from water sources by pretending he had no time whenever I asked to visit the well with him. When I went alone to wells, people just disappeared because I had broken the taboo against going to the well as a woman. The consequence was that I experienced the exclusion of women from wells and the need for a strong social network of those polluted.

Because of my problems accessing wells, my research was biased toward an investigation of the Catholic-built piped water scheme during the first months of fieldwork. The taboos toward women approaching water sources did not cause a problem when investigating the piped water scheme. Among Catholics it seems to be part of the "good tone" to ignore or overcome "backward traditional taboos" by users of the piped water scheme.

3.3.3. Ethical Considerations

My status as a European woman sent by the government to research access to resources, my use of a GPS tool to measure fields, and my regular presence at land tribunal meetings caused several reactions. I found myself in a complex web of political interests, with actors either trying to use me to ensure a decision in their favour or considering me with caution because of my interest in land.

Actors sometimes exploited me for their own purposes, especially in land conflicts (see also Rössler 2003:153). In most cases I could retreat, but in a few situations I could not. For example, my second trip to a disputed piece of land with the land tribunal concerned a conflict between two parties. The father of the family had died and the sons of the second wife accused the first wife of using land that belonged to them. When we visited the field site on 11 December 2009, I began recording and taking pictures. As I walked around the field with a big crowd of neighbours and friends of the second wife's sons, the first wife called loudly to me and asked me to take a picture of her next to her husband's grave. It was a very symbolic act since she wanted me to freeze the moment when she was standing on her field next to the grave. With that action, she tried to fix her land rights to that field. I could not escape because either I would question her land right by refusing to take the picture or strengthen her land right by documenting it. Finally I took the picture.

Figure 5. Picture of an old woman at the grave of her husband, 16.10.2009.

My presence and behaviour sometimes influenced the process of conflicts. Even though I never willingly interfered in conflict processes and made sure people were aware that I was only observing, my very presence changed the situation. One example is the corruption money in the tribunal and in government offices. Usually it was refused when I was there because the members of the tribunal thought I would interpret it in a negative way or would even report their behaviour. The priest of the Catholic parish spontaneously changed his mind to spell a curse when I showed up. Women quoted me on women's rights to land. People reacted to my presence and my research topic and thus my presence changed the process to a certain extent.

I made a great effort to follow the ethical guidelines of research. Before collecting data, I informed people of the purpose and aim of my research so they could freely decide if they wanted to participate or not. Another aspect of ethics is the data privacy of actors involved in conflicts. For reasons of data privacy, some but not all names of actors have been changed.

I always kept in mind that my behaviour is very important to subsequent researchers. If I do honest and correct research and respect data privacy, later researchers will meet more open

conditions. On the other hand, any ethical issues on my part will cause problems for subsequent researchers. This happened in a neighbouring ward where a researcher investigated NGOs and published names and corruption cases. The result was that the NGOs could no longer access funds. But since the staff of the NGOs consisted of powerful people, they ensured that no researcher would ever again conduct research in that region, and researchers now have a really bad reputation there.

4. Ethnographical Context of the Community in Endamarariek

4.1. Geographical Setting

Map 1. Tanzania and the Research Region, own map
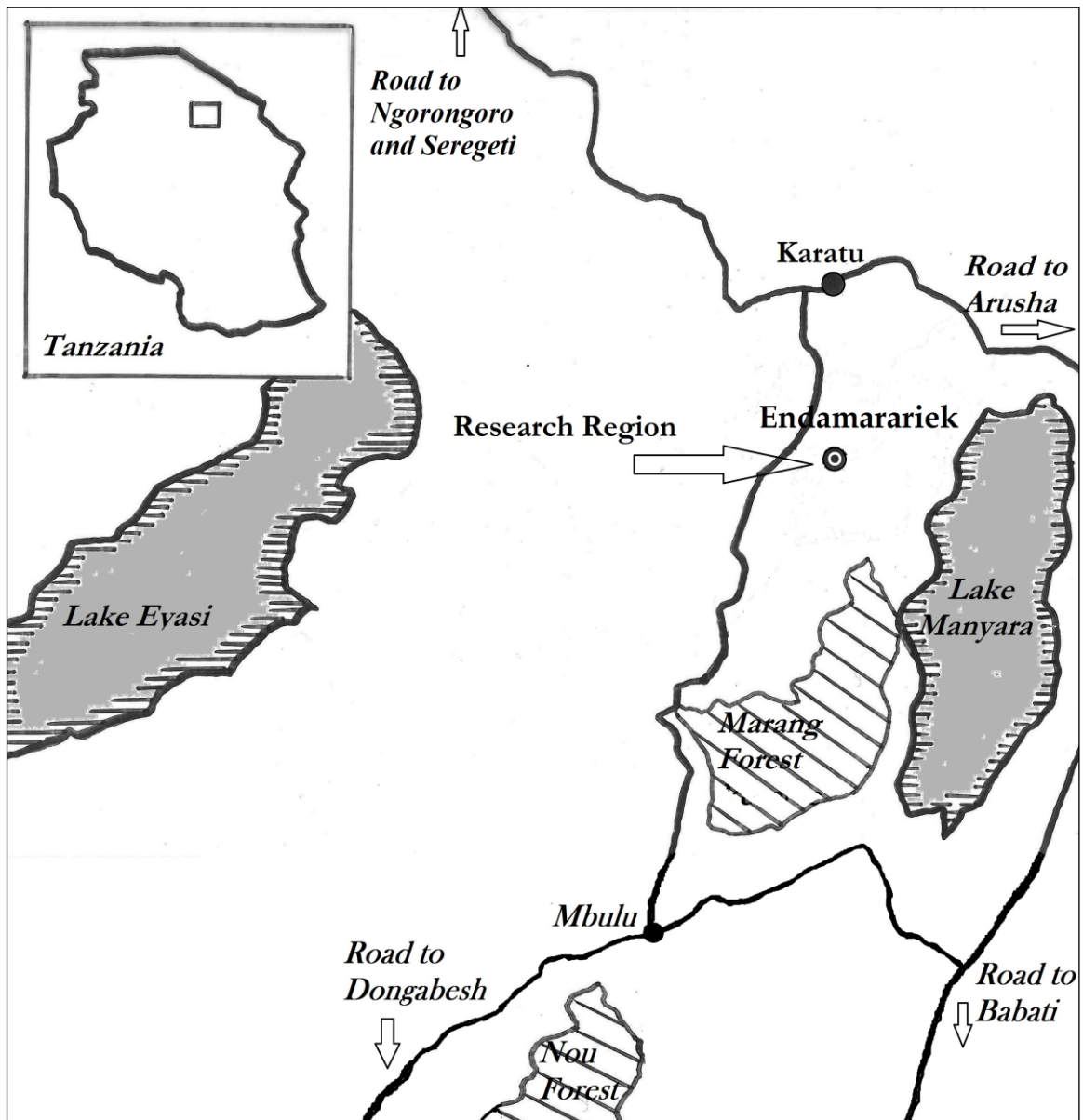
Endamarariek village is located in the north-eastern zone of Karatu District in northern Tanzania. The research area lies within view of the famous Ngorongoro Crater, which is a magnet for tourists and is sometimes called the eighth world wonder. The village has the same name as the ward Endamarariek and the sub-village Endamarariek. Other sub-villages within Endamarariek village are Ayaraat, Shangid, and Baghayu. According to the 2002 national census, the population

of Endamarariek village was 6,854 (United Republic of Tanzania 2003:33). The growth rate in Karatu District is 3.1 percent with an average population density of 52 persons per square km (Melyoki, Mafole, and Urio 2008:30).

Since I conducted a community study, the study area extends beyond the statutory village borders and includes neighbouring villages located in Endamarariek ward, particularly Endallah and Bassodawish. According to the 2012 national census, Endamarariek ward had a total population of 24,996 individuals (United Republic of Tanzania 2013:30)[13].

The research area is located on the plateau of the East African Rift Valley, about 1000–1500 metres above sea level. The landscape is hilly and drops sharply towards Lake Manyara. On the east side, the research area is bordered by the edge of the Rift Valley.

The research region has a semi-arid climate. Hydrologically, the research area is situated in the Lake Manyara sub-basin. Annual rainfall varies between 600 and 900 mm.[14] Rainfall is bimodal; the short rains fall between October and December and the long rains between March and June. The rains are unreliable and in 2009 three harvests failed because of drought. Informants reported that the rains used to be more reliable in the 1980s and 1990s but that recently droughts have become more frequent.

The research area is about 21 km by road from Karatu town, which is the nearest town and capital of the district. Karatu town is located along the main road from Arusha to Ngorongoro Crater and Serengeti. As a result, it has a flourishing tourism sector. The main road is lined by souvenir shops, hotels, bars and restaurants. There are large numbers of both tourist lodges and hotels used by Tanzanians in Karatu. Karatu is also a transport hub for goods moving between Arusha and the Ngorongoro Conservation area and the Serengeti. Karatu has both a permanent food market and many shops located next to the food market. They sell seeds, agricultural implements, and other commodities such as clothes and kitchen implements.

Transport between Endamarariek village and Karatu town consists of a few privately owned Land Rovers that leave from the village centre each morning and return in the late afternoon. The street from Mbulu to Karatu passes 4 km from the village centre. There is also a large number of cars passing between Endabash and Karatu, which stop at Kibaoni (the name of the junction with the main road) to pick up passengers. Passing buses that connect the two cities Mbulu and Karatu can also be taken. However, the price for public transport is about TZS 2,000 (approx. 1 Euro at the average exchange rate from 2007 to 2010) and thus subsistence farmers

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[13] The census was published in December 2015 but did not include village population data.

[14] Rainfall Station in Endamarariek Catholic parish, Karatu District 2011.

with low incomes either cycle or walk to town. The middle-class people such as teachers, shopkeepers, and nurses nearly always take the Land Rover.

During the rainy season, the dirt road to Karatu turns to mud and driving becomes more dangerous. In the dry season, the layer of dust makes the ground slippery for bicycles and pedestrians.

The village was connected to the national electricity network in 2014, four years after my field stay. Nevertheless, up until 2016 very few places actually have electricity, namely major institutions such as schools, the mission, and the hospital.

4.1.1. Land Use in Endamarariek

Four land use categories can be identified in Endamarariek: (1) cultivation, (2) grazing, (3) housing, and (4) village forest.

The village centre was laid out in the 1970s in accordance with the *Ujamaa* village plan, which called for a densely populated village centre. The centre is also called Madukani, which means "the place of the shops". Plots bordering the road measure about 10 × 10 metres, while plots in the second and third row back from the road measure about 30 × 15 metres. The plots were originally planned for housing, but most of the plots along the road are nowadays used for small businesses such as restaurants, tailors or general shops that sell bicycle parts and many other goods.

Many of the plots located farther from the road are still used for housing. A few are fenced by trees or bushes, but most of the houses stand in a line without fencing. The plots are not yet registered at the village office although in March 2010 a group of shopkeepers made an official request for registration at the village secretaries' office.

The figure below shows the village centre (within the circle) and the arable land surroundings the centre. The rectangles indicate Endamarariek Primary School and Florian Secondary School. The road heading south out of the centre passes a little planted village forest, which is used for gathering materials for villagers thatching their roof if their house has burned. The road then continues past a filling station, the village government buildings, and some storage houses for agricultural products. The primary school, health station, and Catholic mission are situated on the southern outskirts of the centre. Florian Secondary School is located north-east of the centre along the access road to the main road leading to Karatu town.

Figure 6. Endamarariek village in 2015, based on Google Earth image with additional geographical data collected with GPS device.
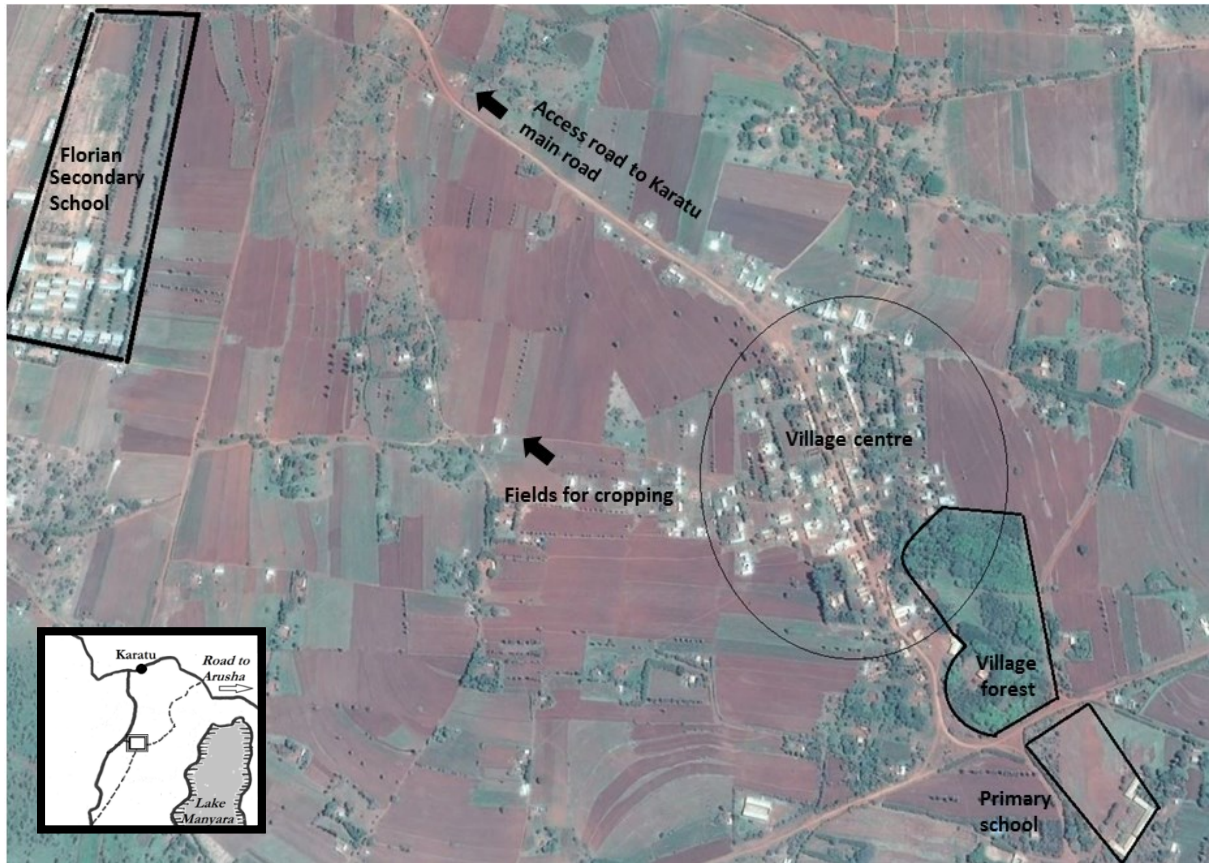
Outside the centre the population is more scattered, with large distances between homesteads. The plots outside the centre include fields for agriculture that are the size of the former *Ujamaa* fields, fenced pastures in valley bottoms, and homesteads surrounded by agricultural plots that differ significantly in size. Valley bottoms are seasonally flooded and therefore are only used temporarily by herders. They serve as water sources during the rainy season and as pastures during the dry season. In the dry season, the sandy dry river beds are used for digging wells and as paths for cattle.

Most fields for cropping retain the size of the former *Ujamaa* fields of more or less three acres. Families plant mostly subsistence crops (maize, millet, sunflower and beans) and also some cash crops such as pigeon peas. The crops are all mixed together rather than being planted separately in separate sections of the field. A hundred kilogrammes of pigeon peas was sold for TZS 100,000 in 2009. People also sell surplus maize and beans for profit, but mostly just in the

local area. According to my informants pigeon peas are exported to India. Global prices for local products enable households to have an extra income.

The area of Karatu District to the north of Endamarariek boasts good conditions for agriculture. Rainfall is reliable, and maize, wheat, beans, sorghum and pigeon peas are common crops. In contrast, the north-eastern part of the district where Endamarariek is situated suffers from frequent droughts. Maize, beans, sunflowers, pigeon peas and sorghum are common crops, and some households also grow watermelons and pumpkins. The landscape is characterised by red soil, bushes and acacia trees.

In March 2009, a local newspaper reported that some 15,000 residents of Karatu District had migrated from their homes in search of food. According to local accounts people were moving to the area where Manyara, Morogoro, and Dodoma Regions meet.[15] It was reported that many people from the Endamarariek area were migrating to that same place. Most of them came from Endamarariek ward, including Endamarariek village. Since 2008, these areas have been facing an acute food shortage due to drought and delayed rains (Mussa Juma 2009:15).

4.1.2. Socio-Economic Setting

The majority of the population in the research area are Cushitic-speaking agro-pastoral Iraqw. According to my ethnographic census conducted in 2010, 93.5% of the people living in Ayaraat, a sub-village of Endamarariek covering the area of the village centre, consider themselves Iraqw.[16] Other ethnic groups are present in small numbers, of which the biggest are Datoga with 2.1% and Chagga with 1.2%. A large proportion of the population is young. The age span is from 0 to 101 years with an average age of 23 years. In all, 47.7 % of the population are 18 years or younger. The gender ratio is 1.04 with 50.9 % female and 49.1 % male.

As can be seen in the population pyramid below, Ayaraat has a high number of individuals aged between 15 and 25 years old. This is due to the vicinity of Florian Secondary School, which attracts many students of that age group. Additionally the school also has a large number of young teachers in the group (or just slightly older, but still younger than 30).

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[15] Informants only give vague descriptions of the place.

[16] These numbers must be treated with caution because land access and ethnic identity are still very closely linked due to colonial times where distribution patterns followed ethnical affiliation. Since I was a European researching land this was a sensitive issue.

Figure 7. Population pyramid of Ayaarat/Endamarariek village, own census of 2010.
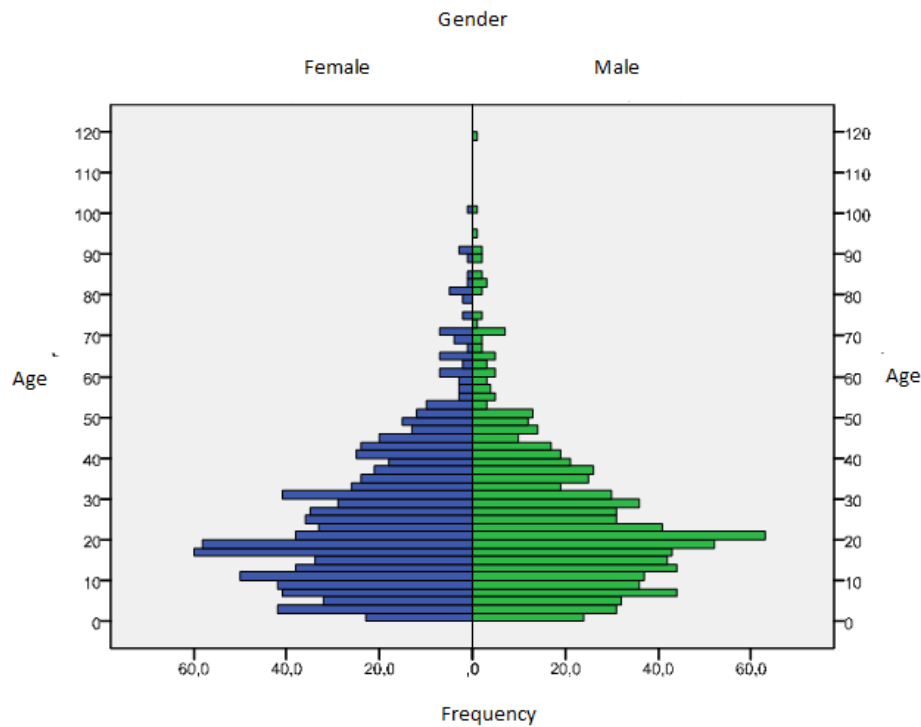
The community is characterised by a high level of socio-economic stratification. While a few wealthy people own large areas of land, huge cattle herds, a private water connection with storage tanks, and sometimes even a guesthouse in the district capital, other villagers depend on small-scale agricultural production for their livelihoods. Of the households covered by the census, 43.6% were considered to have a low capacity by local standarts, 47.9% were seen as average and 8.5% were said to have a high capacity (see chapter 3.2.2. for classification of the wealth groups).

Just to give an example of the extent of wealth: Lelo lives with his wife and three children in the village centre of Endamarariek. He owns a hotel in Karatu town and some other buildings that are rented out for banks etc., three big fields in total sizing 80 acres, 20 cows of a modern breed, 100 cows of the traditional local breed, 300 goats, 300 sheep, and five tractors. Informants reported that those who received big fields during *Ujamaa* (see chapter 5.5.3.) could accumulate a great deal of money due to good farming conditions in the 1980s and 1990s. One land tribunal member who measures fields for the wealthy reported that the wealthy rent 70 to 400 acres of fields in Endamarariek and surroundings in addition to their own land holdings.[17]

On the other hand there are people with low incomes or even no income like Lohay. He is not married, aged about 45 years and lives in a shelter made of cardboard in the village centre. He

[17] Interview with Samuel Bilos, Endamarariek, 21.03.2010.

doesn't own land and has no cattle and no regular employment. He is only temporarily hired by the village secretary to clean the offices.

The analysis of the census conducted in 2010 does not reveal any correlation between the size of farming land owned by a family and their wealth ranking. However, the really wealthy villagers were not recorded in the census. My GPS data shows that the economic elite own plots on the main road of the village centre but use these to run shops or rent them to other businesses. They themselves live outside the centre. This leads to the conclusion that the really wealthy villagers are multi-entrepreneurs; in 2010 the economic elite did not rely solely on farming but had multiple sources of income.

> The rich people talk to each other to agree upon a price for the maize they sell in the shops in Endamarariek. Above that they hold back maize to the point that people would buy maize at a much higher price. But they are hungry—then they would even buy 15 kg for TSZ10,000![18]

The gap between wealthy and low-income families results in a separation of the social fields of these groups.

4.1.3. The Modern Household

Houses in the research area vary significantly and are either clay houses thatched with grass or cement houses with metal roofs. Families have separate buildings for cooking and sleeping. Usually the main house is a rectangle between 20 and 80 m^3 with a living room and several bedrooms. Sometimes livestock live in one room of the main house at night. The kitchen is placed in a separate and mostly round hut. Families with low incomes sometimes just have walls made of old cement bags supported by sticks, but no proper building for the kitchen. Some people cultivate their fields close to the homestead, while others may walk up to 3 km to their fields. For example, a family with a house near Florian Secondary School has to walk 20–30 minutes to get to their fields. Depending on where the land was available when they moved to Endamarariek, they were able to buy fields in one place but had to buy a plot for a house in a distance.

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[18] Interview with Samuel Bilos, Endamarariek, 21.03.2010.

Figure 8. A typical residential area outside the village centre, 13.08.2009.

There is a gender-specific division of household tasks as the following account shows:

> Usually men help to do herding. Only if there is not enough manpower in the household women will do the herding. We all do the cropping together as a family. There is no gender differentiation in tasks. In case there are enough boys they go to crop the fields and the head of the household does the herding. The mother stays home and cooks for the family. Men build the houses and fetch water or go for day labour. Some men go out of their way to help. However, the labour sharing differs between families.[19]

Children of both genders are circumcised when they are between 3 and 5 years old. Circumcision is usually done at home. All boys of one household are circumcised together by the removal of the foreskin. All girls of one household are also circumcised together. A specialist comes to the homestead and removes the very top part of the clitoral hood. Every girl has her own razor blade that is kept as a souvenir. After circumcision the children are well taken care of for at least a whole week by slaughtering a goat or a chicken every day to take care of them. However, there is no big celebration. All female informants I interviewed on this topic were circumcised and described it as an integral part of their lives. "I can remember that it hurt afterwards while urinating. But just for some days. I had children without complications and I have no side effects at all—maybe I'm more sensitive but that is not bad!"[20]

Other women said that circumcision reduces the lust of women because otherwise they would rape men. There are stories about uncircumcised women that rape men in the community.[21] Circumcision of girls is prohibited by law in Tanzania. Therefore people are secretive about this practice and officially claim to have abandoned it. But since circumcision in the

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[19] Interview with Maria Mando, Endamarariek, 24.03.2010.

[20] Interview with Mama Huduma, Endamarariek, 19.01.2010.

[21] Interview with Mama Eliza, Endamarariek, 29.03.2010.

research area is done at home without a big ceremony and before the girls reach school age, the state does not intervene.

Household power and decision-making is based on co-operation between husband and wife. In public, the husband represents the household interests. There are several mechanisms by which women can enforce certain behaviours among the men. Women can protest by leaving the household for a period and the man is thus subject to the disapproval of his neighbours. However, in some cases, neighbours instead disapprove of the wife leaving.

Women have networks through which they access vegetables and other goods for cooking. In many households, I observed that part of the daily needs was brought directly to the kitchen by female relatives related through matrilineage. In other cases, goods needed to be bought. It depends on the dynamics in the household whether women use money provided by their husbands or money that they've made themselves. To access money for the household some women apply for money at the Catholic parish. Usually they apply by writing a letter that exactly formulates the family's needs (for example, a bag of maize meal, money for school fees or a contribution to health care costs). During my field stay I observed up to 13 women waiting in front of the mission station at once to ask for support.

Alternative sources of income for families are the tourism sector, small businesses, teaching, crafts and service delivery in church institutions. Small businesses may include barber shops, sewing, bike repair, selling tea and snacks.

Day labourers are also common in Endamarariek. Usually they are young people who are employed by large-scale farmers. The daily salary is highest just before the rainy season when fields need to be prepared for planting. The economic elite talk frequently to each other and agree upon wages for labourers.

> We work on the farms of the rich people. Of course the harvest is not shared but is the harvest of the rich man. During the high season just before the rain the salary is higher than at other times. This is because we need to prepare the fields fast and therefore you need manpower. Ox ploughing is too slow. All rich men in the village talk to each other and fix the wage.[22]

Day labour is partcularly needed during the weeks when all tractors for ploughing are being used and during the weeding period.

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[22] Interview with Emmanuel Happy, Endamarariek, 02.11.2009.

Small-scale farmers have a multitude of financial obligations. Besides health care, school fees and material and daily needs, farmers must also pay taxes and various one-off contributions to the village council. These requirements are communicated through the sub-village chairman. For example, in 2015 every household in Endamarariek was required to build a brick toilet. The cost of building the toilet (around €350) was very high for low-income families.

To pay back loans or to generate income for other needs, people visit the cattle market in Endabash that takes place once a month at the start of the month. Usually they sell a goat or a cow. At that market they can also buy vegetables, fruit, clothes, and locally brewed beer.

4.1.4. Subsistence Farming and Cattle

Figure 9. Ploughing in Endamarariek, 13.01.2010.

If December is rainy, people plant their fields in January. Fields are ploughed by hand, oxen or tractor depending on the income of the family. A few people own a tractor that they rent out to others. Oxen can also be rented or exchanged among neighbours for ploughing.

Some families plant beans twice, once after the short rains and once during the long rains. In recent years the short rains have been unreliable and it has often been impossible to plant twice. Usually they mix maize, beans and pigeon peas but they also crop sorghum and sunflowers. People sometimes plant pumpkins between the other crops, and they cover the space on the ground between the crops. There is also some sort of gourd used for making containers that people sometimes plant. After two to three weeks the field must be weeded by hoeing the soil. Insects and other pests can reduce the harvest. Maize seeds are bought in Karatu town. The three-month maize in particular is popular among farmers. The seeds come from Kenya (name: Kitake), from Babati in Tanzania (name: TMV 1) or from Zimbabwe (name: Krishna). The bean seeds are either saved from the last harvest and replanted or bought from Mbulu or neighbouring villages. Beans can be harvested after two months.

Farmers must harvest a certain minimum amount of food in order to feed their families during the year. "For my family with two adults and three children seven linen bags of maize are enough to survive until the next harvest."[23] Seven bags are the equivalent of 840 kg. The following table shows the harvest of an average family in Endamarariek.

Table 2. Seed quantity and harvest quantity for an average family in Endamarariek				
Crop	**Year**	**Seeds planted**	**Harvest**	**Date of planting and harvest**
Maize	2009	10 kg	160 kg	08.02.2009–01.07.2009
	2010	10 kg	960 kg	12.01.2010–15.06.2010
Sunflowers	2009	5 kg	60 kg	08.02.2009–06.06.2009
	2010	5 kg	240 kg	12.01.2010–12.05.2010
Pigeon peas	2009	15 kg	20 kg	08.02.2009–05.09.2009
	2010	10 kg	360 kg	12.01.2010–15.08.2010
Beans	2009	10 kg	No harvest	08.02.2009–
	2010	10 kg	40 kg	12.01.2010–15.04.2010

Erosion is a challenge for farmers in Endamarariek and a lack of erosion control can be a source of conflict between neighbours. Heavy rainfall washes the harvest and part of the soil away towards Lake Manyara National Park. Farmers try to control water flow through a drainage system with furrows surroundings the fields. One informant explained that field boundaries are flexible due to the movement of the soil: "We follow our land."[24] This applies especially to fields bordering temporary rivers. The rainwater washes away a part of the field and the natural boundary of the field moves inwards. In river bends earth can be washed up and used by the farmer who cropps the adjacent field.

The dependence of low-income families on agriculture is apparent in the following quote: "In case of a good harvest we are rich—we can sell a sack of maize and go to Dar es Salaam. But in times of drought low-income families die like flies."[25] It is difficult for low-income families to diversify their income sources due to a lack of infrastructure and the absence of other employment possibilities. Even though the flourishing tourism sector is just 20 km away in Karatu town, people with low incomes are excluded due to lack of education and language skills.

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[23] Interview with Emmanuel Happy, Endamarariek, 27.08.2015.

[24] Interview with Josefatti Tla, Endamarariek, 02.11.2009.

[25] Interview with Gabrielli Tlatla, Endamarariek, 19.01.2010.

4.1.5. Way of Life

The way people lived in Endamarariek during the time of the field stay differed so much from the way people live in other parts of Tanzania that I want to briefly summarise some special aspects of daily life.

There is a variety of local beliefs that result in specific, strictly observed behaviours. One example is *mitimani*. *Mitimani* is the Iraqw term for the state a person enters when he or she is polluted. It is a time of social seclusion.[26] People of both genders can enter *mitimani* by losing blood from a wound caused by another person using a metal object. Women also enter *mitimani* by unmarried pregnancy, by having a miscarriage or by the death of a baby still being breastfed.[27][28] "When a person enters into the state of *mitimani*, the head of the household needs to search for a place where the person can go in seclusion. He/She also pays for the daily food."[29]

Mitimani is revoked when female elders contact the male elders of the secluded person's family. In some cases there is a cleansing ritual (which I have never witnessed but have been told of) and the female elders pay an official visit to the male clan elders to ask for the reintegration of the person in *mitimani*. The reintegration is then sealed when the family shares food with the formerly secluded person. Then the person is back "in the hands of the father of the family".[30]

During my fieldwork I encountered only one man in *mitimani*, but six women. I was told that women hold this status either for three years or until they give birth to a healthy child.

People who are in a state of *mitimani* are avoided by the rest of the community. The ones I met had to follow strict rules and taboos concerning visits to places, and even lived separately from their families. Besides that, they could not enter the homesteads of their friends or families or share food or drink with anyone who knew they were in seclusion. As I observed, the information that a person has entered *mitimani* spreads very fast. During my fieldwork I was told that a man was wounded by a metal object on the other side of the village within 15 minutes of the event. This shows how strongly the observance of taboos connected with *mitimani* is controlled by the community.

In case of a death, the funeral depends on the religious background of the family. In some neighbourhood units a meeting of the local residents had decided that the neighbourhood would

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[26]Baker and Wallevik Baker and Wallevik (2008:2) refer to a similar practice in the Mbulu Mountains as *meeta*.

[27]It could be speculated that the time of *mitimani* also serves as a time of retreat after experiencing psychological trauma.

[28]A close informant of mine was in seclusion because she had given birth to a child before marriage. Walking with her meant not crossing the boundaries of homesteads and avoiding valley bottoms and forests.

[29]Interview with Maria Mando, Endamarariek, 24.03.2010.

[30]Interview with Mama Huduma, Endamarariek, 19.01.2010.

visit the family four days after the death. During the visit, neighbours would help with farming or other works and women would help with cooking. However, the procedure was later changed because of the many poisonings that result in additional deaths at ritual meals. An informant explained that the women still cook but the dishes are distributed by young men in a separate house. That is to stop the women from poisoning a certain person.[31]

If a woman has a miscarriage, she also enters a state of seclusion (*mitimani*, described above). Her husband usually moves out until the woman becomes pregnant again. During that time the woman can receive secret male visitors during night. The matrilineage cares for the woman during her seclusion. Unmarried women who get pregnant stay with their mothers.

Women of the neighbourhood traditionally visit a newborn baby, but the practice has been changing in recent years.

> There is a certain individualization going on. Some years ago it was very common that when a child of a neighbour was born women came as a group to see the new baby. The groups used to have a religious leader who prayed and led a ritual. They came with presents like firewood, flour, butter, sugar, body oil or soap. Now the unity has cooled down! Now a child is your own business. Now it is more within religious groups like women in the choir tend to see each other. They plan in the rehearsal where to go and then they go as a group. Though there are still some single women that just make up their mind to visit a recently born baby.[32]

In the social organisation of the community it seems like neighbourhood relations are more a principle of social organisation than kinship. The non-mentioning of kinship in the above quoted interview and other interviews about the social organisation of the community confirms what other authors already mentioned about Iraqw (see for example Thornton 1980:117). Kinship as a principle of social organisation is of minor importance to Iraqw society whereas territorial units like the neighbourhood is central for the life of the people in the research community.

4.2. Religious Setting

The vast majority of people in Ayaraat identify themselves as Christians (42.3% Roman Catholic, 40.1% Lutheran, 11.2% other Christian churches such as Pentecostal, Seventh Day Adventists, Efata). Only 5.9% of people identify themselves as *watu wa asili*—people of the origin (Iraqw religion), and 0.5% are Muslims.

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[31] In one sub-village of Endamarariek, informants told me about a death of two people who were poisoned at such an occasion in 2009.

[32] Interview with Maria Mando, Endamarariek, 24.03.2010.

Most informants associate Christianity with modernity and would declare themselves as Christians even though they never attend church services.[33] Based on my observations of participation in Sunday services, the Catholic parish has approximately 70 regular participants in each service (the Catholics have an early morning service and another service around mid-morning) and the Lutheran parish has around 40. In contrast, gatherings initiated by the local diviner are attended by about 300 villagers. Some villagers who attend church services secretly also go to gatherings initiated by diviners. The most active religious communities in the village are Catholics and followers of the Iraqw religion.

The Catholic and Lutheran parishes serve as networks for access to resources. Members of the same religious community tend to trust each other and have a feeling of belonging together. This influences loans and business deals. An informant reported:

> The former headmaster of the Florian Secondary School quit the Catholic church and joined a Pentecostal church right around the time that he started building his own private school next to Florian. I'm pretty sure he did it for business reasons.[34]

Furthermore, the churches as institutions directly gather and distribute resources such as money, food, water, and seeds. Every year guests from Europe visit the Catholic mission and leave donations.[35] Villagers with high positions in the hierarchy of the parish may have their houses financed by church resources or receive a cow or funding for education. A concrete house results in higher social esteem and consequently in a powerful position in society. Some community members criticise the mission's method of distributing aid and accuse the priests of establishing a "culture of begging" in Endamarariek.[36]

The religious representatives constantly fight for influence on the community. At first glance the Catholic parish seems to be the most influential. The parish has been based in Endamarariek since 1986 and had 6,432 members in 2010. The church owns more than 30 acres of land in Endamarariek alone.

The priests, monks, and nuns at the Catholic mission are actively engaged in famine relief projects, educational projects and health care. For example, one of the nuns is headmistress of the Catholic-run girls' vocational school, and another nun runs the health station. The parish also runs a shop that provides the neighbourhood with soap, mobile telephone vouchers and other

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[33] Interview with Mwalimu Mrema, Endamarariek, 20.03.2010.

[34] Interview with Mwalimu Kristen, Endamarariek, 28.08.2009.

[35] Interview with Gabirelli Ama, Endamarariek, 19.10.2009.

[36] Interview with Emanuel Happy, Endamarariek, 02.11.2009.

small household needs. According to the shopkeeper, the profit of this shop is TZS300,000 per month.[37] The parish also has a carpentry shop and a mill for grinding corn, which are both important to the local community (and make money for the church).

Positions in the Catholic parish are linked to a higher status in the community. Each sub-parish/outstation/*kigango* (Endamarariek, Khusmay, Kreta, Qaru and Getamok) elects five representatives which then form a larger committee. This committee elects the parish chairman every three years.

Florian Secondary School has a religion period each week, and the Catholic, Lutheran, and Pentecostal churches all send priests to preach at the religion period. Students choose which sermon to attend based on their religion, but they may also be influenced to change religion by peer pressure. The schools in general have the influence of spreading Christianity and students are likely to join a Christian community because of peer pressure and the idea that Christianity is modern while the traditional religion is somehow backward.

Box 1. The struggle for religious influence
Some events that occurred in Endamarariek during March 2010 demonstrate the continued competition between the Catholic parish and the local religion. In March 2010 the election of representatives for the Catholic parish took place. At that meeting a film was shown in which the practices of sorcerers and diviners were exposed as false. Sorcerers were portrayed as quack doctors and diviners as liars. At the same time the *Marmo*—the diviner of the region—had been contacted by two elders from each village for a crisis meeting to discuss the lack of rain. The *Marmo* had predicted rain, and in the following days about 300 villagers (from Getamok, Baghayu, Endallah, Gyekrum Lambo, Qaru, Endabash, and Endamarariek) came to prepare the fields of elders and the diviner for planting. They farmed seven acres of the *Marmo*, eight acres of Dajalo Tluway, six acres of Lawei Ami, three and a half acres of Kwatlema Baha, five acres of Bayo Tluway, three acres of Qarmara Tluway, and one acre of Eduward Danieli.[38] In the evening a big celebration with food and over 1,000 litres of beer was held. The next day the rain started after such a long time of drought. "What a big successes for the diviner!"[39] my Catholic informant commented. After three days of rain the Catholic parish started distributing food aid to their members. The Catholic parish probably decided to distribute food aid at that time because the

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[37] Interview with Teddy Njoa, Endamarariek, 29.10.2009.

[38] One acre of ploughing costs about TZS18,000 if day labour is used.

[39] Interview with Gabrielli Tlatla, Endamarariek, 19.01.2010.

priests were worried about competition from the diviners. These events demonstrate the struggle for influence between religions.

The Catholic parish in Endamarariek has lessened the influence of ritual experts by establishing new values and behavioural norms. However, although the Catholic parish tries to reduce the power of traditional diviners, the cosmology and beliefs of the local religion remain strong. There is a tendency of syncretism, and even active Christians still interpret some aspects of life through the perspective of the local religion. For instance, I observed a prevailing influence of pollution beliefs even within Christian households. This can be explained by both syncretism (the pragmatic adoption of different practices) and social control (see Achterberg-Boness 2012:280).

Two divine beings are central in the local religion. *Looaa* is the single female being. She is associated with the sun, generosity, creative strength, rain and birth. She is thanked for protecting the community against evil spirits and people. Her counterparts are the many male *Neetlaang'w*. At least one being of this kind inhabits each community.

In the local religion, the elders are responsible for mediating between the divine beings and humans. They therefore play a central role in both the religious and political spheres in Endamarariek. Diviners and sorcerers also wield power in the local religion. Diviners are responsible for bringing rain and can withhold rain if they desire. One diviner that is famous all over the reseach area and surroundings in Karatu District is called *Marmo*. Endamarariek also has about two *waganga* (sorcerers that can heal and revoke curses) and 30 to 50 *wachawi* (sorcerers that practise harmful medicine). While the diviner is responsible for the rain and thus general punishment of all people in the region, the sorcerers are important for curses.[40]

In contrast to the Catholic parish, the local religion has a more decentralised organisation but also influences all spheres of life. Rules related to gender roles, resource usage, and mechanisms of social control are still based on the local cosmology to a certain extent. For instance, men rather than women fetch water due to a belief that women can be cursed by *Neetlaang'w* living in water sources. However, in other areas of life such as education, modernity and Christian thoughts prevail.

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[40] Interview with Slaa Tluway, Endamarariek, 15.03.2010.

4.3. Political Setting

4.3.1. Village Government

The village government office is situated in the village centre next to the village forest. The people who spend the most time in the office are the four sub-village chairmen, the secretary and his assistants, and the village chairman.

Figure 10. Distribution of food aid at the village office.

Sub-village chairmen are elected by the residents of the sub-villages every five years. Their main administrative function is to organise meetings for introducing new policies and discussing new projects. These projects may include building school rooms or a change in land use for erosion control. Sub-village chairmen report to the village chairman and the village executive officer. In addition, sub-village chairmen are called in cases of conflicts to recommend a procedure for resolving the conflict.

The village executive officer (VEO) is appointed by the district council. He is responsible for collecting the development levy on the village level, for recording the total development levy collected, and for transfer of the money to the district council. The VEO is also a central figure in land administration. He is in charge of keeping records of all changes in land use and tenure and reporting changes to the district council.

Once a week, the VEO opens his office for villagers to state their concerns. The most common concerns are requests for notarisation of transfers (money loans, land loans, cattle loans, certification of a micro-finance group) and requests for officially forwarding a conflict to the ward tribunal or village chairman. Also food aid from the central government is distributed at the village office with the VEO, the chairman and the sub-village chairmen involved. However, the VEO in consultation with the sub-village chairmen decide how much food goes to which family and he keeps records about the distribution.

The chairman is a central government leader in the village and is elected every five years. The election for village chairman is a party election, with candidates appointed by their respective political parties. The current chairman has been in office since 1999 and was elected for the third time in 2015.[41] He is central not only for political reasons but also for social and economic reasons. I was told several times that people vote for a chairman who is rich and can provide help in case of need, for example by arranging transport of an ill person to the hospital. The current chairman has received over 31 acres of land from the village council and has accumulated wealth through farming and herding.[42]

Figure 11. The village chairman observing the ploughing of his fields.

The current chairman's power is not derived from his wealth only, but also from his family background. The chairman belongs to the Manda clan, which is known for divining ability and ritual expertise. As shown in the chapter about indirect rule (5.4.2.), the Manda clan extended their power during colonial times through engagement with the British. The influence of the Manda clan in village governments throughout the area continues to this day.

Another source of the chairman's power is the fact that his father owned large areas of land, which he received from the first settler. According to the chairman his father owned the land between Endamarariek village centre and Endallah, the neighbouring village approximately 15 km away.[43] During resettlement in 1976, most of the family's land was reallocated to other settlers. The chairman had the right to take back his land after the passage of a law recognising customary land rights in the 1990s, but he chose to let the settlers continue to farm it. As a result, the settlers feel an obligation to him.

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[41] Interview with Katibu Endama, Endamarariek, 13.10.2009.

[42] Interview with Gabirelli Ama, Endamarariek, 21.09. 2009.

[43] Interview with Slaa Tluway, Endamarariek, 15.03.10

The village assembly is called infrequently. It met only once in the period from 2009 to 2010. Meetings of the village assembly are initiated through a letter of the village executive officer to all sub-village chairmen. The sub-village chairmen then call the 10-cell leaders[44] and they spread the news of the date, time, and place. Enforcement strategies originate in customary law. If a head of a family fails to show up, he/she is forced to pay either a fine or a male sheep. The elders are invited to open the meeting with a cleansing ritual. The content of the meetings may include the repair of state buildings, community work or school building repairs.

4.3.2. Council of Male Elders in Endamarariek Centre

The council of elders lost the authority to manage land use during the socialist era when the village government was created. However, the elders still play a major role in dispute settlement on the neighbourhood and village level. In 2010 several elders claimed to settle disputes about three times a week.[45]

The council of elders does not consist of the same elders each time a dispute is settled. Procedurally each disputant (or group of disputants) brings an equal number of elders to the meeting to mediate and settle the conflict. The elders make their decisions in accordance with the taboos and commandments of Iraqw cosmology, many of which are concerned with land use. The elders also hold the authority to impose penalties such as the disposal of a goat.

If a case affects the whole community and the council of elders fails to settle the conflict, community meetings serve as court of second instance. The female elders have the authority to call such meetings in order to compensate for the ineffectiveness of male elders in dealing with moral crises. This moral authority of female elders is deeply rooted in Iraqw culture (see also Snyder 2006:79). All adult members of the *Aya* (the largest social unit in the customary system, see chapter 4.3.2.) have the right to join community meetings, and the meetings are shaped by basis-democratic decision-making. The highest penalty the community meetings can impose is the social exclusion of the person called *baini*.

Four of the elders in my neighbourhood were frequently called to solve conflicts. The four elders are perceived very differently by people and have different personal characteristics. Disputants choose the elders to speak for them based on these characteristics. The four elders solve most cases together. One elder is talented at explaining complex relationships in a simple way. He is called to solve conflicts within marriages and if a thief is caught. The second elder is the

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[44] 10-cell leaders were introduced during socialism. They are the lowest chain of the village administration, elected by a 'cell' which comprises about 10 households.

[45] Interviews with Bessi Bombo, Endamarariek, 13.03.2010, Nade Kahamusmo, Endamarariek, 11.02.2010, Slaa Tluway, Endamarariek, 15.03.2010, Nade Ama, Endamarariek, 21.09.2009.

son of the first settler and has a central position in the council of elders. He is carrying messages to the diviner and knows the history of the place in great detail. That is seen as very helpful in case of land disputes because he knows the history of a piece of land. He is known for never refusing to help and his suggestions always result in peace. The third elder is known for his ability to apply powerful and effective curses. When village assemblies are held he opens them with a blessing. He knows the exact penalty for all offences. He uses very sweet words but he can also talk badly about people. That is why he is less popular and the other three elders are often preferred. The fourth elder is known for his talent in persuading and calming a person who is offended. He can prevent conflicts from escalating. Even though he is a "*mtu wa asili*"—a person that believes in Iraqw cosmology—he is not selective in whom he helps. He does not care whether you are a Christian, which clan you are from or what character you have. He is very mild and faithful and does not like aggressive voices. He often hosts the meetings of the council of elders.

The elders are connected to wider networks through the annual cleansing ritual. The *Masay* rite is conducted by male elders to protect the *Aya* by spreading ritual medicine along the geographical borders of the *Aya*. "Just some weeks ago the elders did the Masay ritual and insisted that every household not use metal objects like knifes for one day".[46] The ritual is very well described by Rekdal (1999:38), Winter (1968:11), and Thornton (Thornton 1980:7). As mentioned by Snyder (Snyder 1997:564) and confirmed by the elders of Endamarariek, the ritual "cleans" the *Aya*, which appeases the spirits and persuades them to allow rain

4.3.3. Customary Institutions of Conflict Management and Justice

During the field study, I observed several institutions of conflict management. *Hayoda* is the alarm cry of the Iraqw, applied when cattle are stolen, a child is lost, a house is on fire or invaders attack a household. All able-bodied Iraqw are obliged to come running in response to the *Hayoda*. Both misuse and failure to follow the alarm are punished according to customary penalties. A customary institution called *wakari* is a way of preventing conflict in the community. As described by Hagborg, *wakari* is a state of silence between two people who have an irreparable conflict, (Hagborg 2001:10). People in *wakari* do not help each other, do not speak with each other, and do not even walk on the same street. *Wakari* is declared by the elders and can only be lifted by the elders. People who violate community norms may be punished through *baini*. *Baini* is a condition declared by a meeting of the community and lifted by the community. It is applied when a person or family refuses the punishment declared by the elders or repeatedly breaks community rules (e.g. notorious thieves). People in *baini* are excluded from the community. They

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[46] Interview with Ama Alley, Endamarariek, 02.09.2009.

receive no help at all and are socially excluded. They have no voice at community meetings and no one talks to them.

Cursing a person is also a way to enforce justice. In Endamarariek this process is called *laana* (the Swahili word for curse). To curse someone, individuals ask for assistance from the two divine beings (*Looaa* and *Neetlaang'w*). Curses may be used in cases of open conflicts, hidden jealousy, or anger about another person's behaviour. Elders use a different type of curse called *mustek* (the Iraqw word for curse)*.* This curse is applied if an offender is unknown. The elders mix honey and beer and pray to make the curse effective.[47]

I've only heard of two curses that were applied during the time of my field visit. One was conducted by a woman sitting on a little hill for three days and nights reciting prayers to *Looaa* and cursing an unknown thief who had repeatedly stolen from her house. The second was a curse applied by some elders against an unknown offender who had destroyed a pond. If a curse is applied unjustly it returns to the one who sent it.

Curses can also be spelled out by girls. In one case a girl in primary school cursed a boy who had hit her. The curse lasted until the boy got married and the girl was in secondary school. During my field study, I witnessed the *suluu*—meeting of female and male elders—which had been called to remove the curse. The elders found that the girl did not even remember the curse. They also concluded that the boy's family were in a poor economic situation as a result of the curse. In addition, his wife only delivered male children, which is believed to be a sign of imbalance. She had also had several miscarriages. To search for a cure, the elders called the girl. Then they removed the curse by finding out the source of the boy's "bad luck". The boy apologised for his behaviour and the girl forgave him in front of the elders. Then the girl and boy had a ritual meal together as a sign of reconciliation.

4.3.4. The Mutual Interference of State and Customary System

In the previous sub-chapters I have described the statutory and customary law as separate social fields. However, in reality there is a mutual interference between those fields and actors act within or belong to several of these fields. Furthermore there is a linkage between positions of power in the customary law and positions of power in the statutory law that combine to form positions of power in the community.

During the socialist era the district government delineated the borders of the village roughly following natural dividing features, such as hills, watercourses and roads. Since the

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[47] Interview with Slaa Tluway, Endamarariek, 15.03.2010.

drawing of borders was conducted in consultation with local elders, the borders of sub-villages are congruent to neighbourhood communities. In customary law an individual had rights and obligations concerning resource access through membership in the neighbourhood community. Some rules and methods of conflict resolution rooted in the precolonial customary law can still be found today. In addition, the land of the four villages in the area covers the land of one *Aya*. This geographical congruency resulted in an institutional bricolage as Cleaver would name it (2002:17).

State representatives may have a position in the customary system as elders and in the state system as administrators. For example, 10-cell leaders (Swahili: *balozi*) act as both state administrators and mediators who apply customary law. In their role as administrators they are responsible for collecting taxes and spreading the news about new policies. In their customary role they are responsible for solving local conflicts and their authority gives them the right to mediate between conflict opponents.[48] In some cases the 10-cell leader is also called for setting a border between agricultural fields. Ten-cell leaders are elected every five years at a meeting of all adults in the sub-village.

The change from a basis-democratic political system in precolonial times to a hierarchical system during and after colonial times resulted in the concentration of power in certain positions. Individuals seek power in both state and customary roles but also in other areas such as school boards, church committees and choir chair positions. As will be described in the historical chapter, some members of the economic elite also hold central positions in the government.

For example, the Manda clan claims positions of authority in both the statutory and customary systems. The diviner called *Marmo* is the brother of the chairman and lives in the vicinity of the community. The diviner's duty is to advise the other elders of the neighbourhood on ritual matters. Diviners supplied elders with ritual medicine and provided instructions concerning the timing of rituals or method of performing them or the characteristics of an animal that should be sacrificed. Although the diviner never shows up in the village centre, he has a helper that is always around gathering stories and knowledge of what is going on in the village to report back to the diviner. The family relationship between the *Marmo* and village chairman is yet another example of the intertwining of the customary and state systems.

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[48] As discussed in the historical chapter, the former acephalous social organisation adapted the hierarchical system of the British colony quickly. Some elders were either elected or put into office to represent the communities. This historically grown partly customary role of state officials is very present in Endamarariek.

> Box 2. Power and rain
>
> In 2010 the government conducted local elections for village chairman and village council. The opposition party CHADEMA started to gain followers in Endamarariek village, most of them Lutheran Christians. As mentioned above, the village was suffering from a drought. One of my informants was campaigning for the CHADEMA candidate. Just two weeks before the election, he told me that the elders had formed an alliance with the village chairman and were spreading the word that it would not rain if people did not vote for CCM. My informant's concerns were realistic. The CCM village chairman was re-elected. Some days afterwards, elders from four adjacent villages (one *Aya*, see chapter 5.2.3.) gathered to hold a meeting with the diviner to make the rain fall. The diviner predicted that rain would start falling in two days and told people to prepare their fields.[49] Above that the elders mobilised some 300 people to prepare the fields of the elders and the diviner. Then—as predicted—the rain started to fall and continued until the harvest.

Compared with the customary system, the state system has fewer checks and balances to remove people who misuse their power. In the customary system only "wise elders" were chosen to settle conflicts. If an elder started behaving "unwisely" he would not be taken into consideration any longer. In contrast, the state system has a certain delay in voting out people from central positions. The influence of the new opposition party on opinion-making has created a certain public pressure, though. For example, in 2003 CHADEMA demonstrated against the misuse of money by the 10-cell leaders and voted for a system in which the 10-cell leaders can only collect money for a specific reason, which must be stated before collecting money. The procedure supported by CHADEMA was later implemented.

Customary power structures were based on both male and female elders. In contrast, the state apparatus has been a male domain since colonial times. The many years of male rule in state positions has caused the female influence to decrease (see also Snyder 2006:88). However, the female influence on common opinion and the power of women to call for *Aya* meetings restrict male power. In addition, the recent land reform and its focus on gender balance in, for example, the tribunal has allowed women to engage again in central positions.

The ongoing drought reinforces the local power of the elders. The elders interpreted the shortage of rain from 2009 to 2010 as the punishment of *Neetlaang'w* for the community's noncompliance to customary law. A revitalisation of customary rules concerning access and

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[49] Of course I checked the weather forecast but could not find any sign of rain for my region.

resource control was noticed by informants. Compliance to customary rules was seen as a way for the community to increase the amount of rain and acquire a sufficient harvest. The community's reaction to the drought can also explain the significant influence of customary law on decision-making, access and management rights.

During 2009 and 2010 the elders were highly active, holding large-scale gatherings with elders from distant villages. It stands to reason that they also watched closely for any violation that might anger the divine beings. Since the drought affected the whole community, the overall atmosphere was tense and social pressure was probably exerted by the whole community. In summary one can say that there was a strong concentration of power in the hands of the elders and ritual specialists. These traditional positions of power are nowerdays linked to the modern positions of power in the community.

5. A Historical Perspective: State Policies and Local Dynamics in Endamarariek and Surroundings

5.1. Introduction

In the previous chaperts I outlined the theoretical background of the study. Then I gave an overview of the methodology and the research objectives to then arrive at the ethnographical context of the community of Endamarariek where my reseach took place. Based on these insights I will now analyse the continuity and change in the rules governing the organisation of access to land and water in the research area and surroundings in today's West Karatu District.[50] I will start with a localised chapter that examines the organisation of access to land and water in the late nineteenth century. The chapters describing the following historical phases are separated into two parts. The first part shows changes on the Mesolevel of the state and then in the second part link them to local dynamics of my research region and surroundings.

At the turn of the 19th century the reseach area and surroundings had been used by herders for sesonal grazing and only few scattered households were found there. However, as will be elaborated in detail in the following chapters, several political interventions of the colonial and independent state encouraged people to move from the Mbulu Mountains into the the reseach area and surroundings (see Map 2).

This chapter covers the spectrum from large-scale land-use planning to localised inheritance law. In the course of the last century, overlapping legal orders organising access to land evolved. The (colonial and national) state, churches, international donors and NGOs have all engaged in the organisation of local resources during the last decades. People started questioning the rules of the customary law that had organised access to land and water in the late nineteenth century. The introduction of other legal orders and the evolution of a legal pluralistic setting created opportunities and limitations for the people in that region.

This chapter traces the dynamic process activated by colonial and national state penetration of local social structure in order to show how legal pluralism emerged. It takes a close look at how state intervention changed or supported patterns of local resource use throughout history. The aim is furthermore to describe rule-making units in the late nineteenth century and

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[50] The western Karatu District is the area in which the research was conducted in 2009/2010, see map 1. However, this chapter also speaks of the Mbulu District as a political unit introduced by the colonial state. In 1992 the Mbulu District (of which the Mbulu Mountains are part of) was devided into two Districts. The Northern Part of the former Mbulu District became Karatu District while the western parts covering the Mbulu Mountains remained to be the Mbulu District.

how they have interacted with the emerging state organisation. I will focus on how these organisations generated and maintained rules that organised access to land and water.

This chapter also discusses the processes of inclusion and exclusion in decision-making when analysing the local negotiation process. The methods by which actors gain, reinforce, or lose their power and their strategies as figureheads of legal orders or "legal brokers" was of central meaning for local resource access and management in the past. In the following chapter I will elaborate on the strategies of these actors and will show why and how some organisational principles were rejected while others remain legitimised ways of organising access to land and water today.

This chapter is divided into chronological sub-chapters starting with the spatial organisation, cosmology, and social order in the late nineteenth century, continuing with German colonial rule (1891–1916) and British colonial rule (1918–1961), African socialism (1962–1981), and finally the transformation phase of liberalisation (1982–2000). These historical phases were distinguished by events that critically influenced land and water management in Tanzania. In addition to the localised focus, the analysis will integrate links to national and international policies as far as they have affected local dynamics.

The aim of the first sub-chapter is to identify social and political organisation that organised land and water access in the late nineteenth century before formal state interventions took place. Each of the following sub-chapters first describes the state policy, legislation, and planned interventions to change resource organisation on a national level. It then considers the *de facto* influence of the state (and other central organisations) on the local level in the reseach area.

Many scholars believe that the effort of the central colonial and postcolonial governments to bring communities under their control changed their socio-political structure. For example, Snyder (2005) argues that political influence (and thus the local organisation of land and water) shifted from community meetings and the elders to the state organs.

> The state has reorganized social and political structures, "improved" indigenous agriculture and land use-practises, and encouraged the integration of local economies into national and international markets. (Snyder 2005:33)

In this chapter I will argue that the change mentioned by Snyder was only a gradual shift and that some rules, power relations and social groups were influenced more strongly than others.

5.2. Organising Access to Land and Water in the Late Nineteenth Century

In the research area and surroundings the first permanent scattered settlements emerged around the turn of the 19th century. Before communities in that area were partly subordinated to colonial rule, clearly shaped social groups that were also spatial units organised access to resources according to customary law in which access was predominantly determined by spatial organisational principles. Individuals and households gained access through membership in social groups that organised access to land and water. The membership and social role legitimated the access and decision-making rights of people living in the reseach area and surroundings, which is now west Karatu District.

The following paragraphs will describe how the Iraqw-speaking agro-pastoralists of the reseach area and surroundings organised and controlled access to land and water at the end of the nineteenth century through customary law. Because there is very little literature on water access and control, the following sub-chapters will focus on land.

The following examination delivers insights into the organisation of the household, the neighbourhood, and the *Aya,* which was the largest socio-political unit. These three spatial units can be understood as rule-generating social groups that shaped access to resources for their members. Land and water laws were strongly embedded in the social and cosmological organisation of Iraqw society. Sanders—writing on rain-making rituals of the Ihanzu of north-central Tanzania—argues that rain-making rituals had a high significance for the management of the social and natural worlds (Sanders 2008:23). For Iraqw speakers, the rain-making ritual also had a central meaning for land and water access and use. The rituals and cosmological aspects will be further elaborated upon below.

5.2.1. Land Use and Organisation of Access on the Household Level

The household was the smallest of the three units that generated and maintained customary law. As mentioned above, customary rules were framed by the social and cosmological organisation of the Iraqw. The typically monogamous homestead "which the Iraqw considered to be distinct, both from its immediate surroundings and from areas located further away" (Lawi 1999:285) was the basic unit that generated and maintained customary law.

People cultivated their fields close to the homestead, but grazed their adult cattle on neighbourhood pastures that were located farther away. The surroundings of the homestead served for both crop husbandry and small livestock (see also Lawi 1999:289). People had distinct areas for calves and small livestock (see below) and adult cattle.

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The Iraqw lived in clusters of houses on ridge tops (Börjeson 2004:106). A household was equipped with a "private" grazing ground around the house mainly to feed weak cattle and calves.[51] This grazing area was used during both rainy and dry seasons. Small livestock and calves fed on it and kept the grass short. Household members took care of these reserves by removing unwanted grass species and controlling ticks and shrubs by periodic burning. Maize, pumpkins, beans, Irish and sweet potatoes, and a variety of green vegetables were grown in small gardens (Lawi 2007:82). People built their houses into the hillside usually on open terrain. The flat and thatched houses were supported by timber (Lumley 1976:79). People used the area around the homestead intensively and shrubs were cleared around the house to let the soft grasses grow. During the daytime old people used that place to rest and the children for playing.

Decision-Making within the Household

In the nineteenth century, postnuptial residence patterns were virilocal. Power structures were as follows. Married sons were under control and supervision of their fathers. After clan exogamous marriage, the youngest son stayed with his wife in the father's home and shared livestock and land with his family of origin.[52] Snyder points out that daughters did not inherit land. Women, though, made decisions about land use and had user rights in land even after the death of their husbands (Snyder 2006:86).

The youngest son cultivated land assigned to him by this father and took care of the livestock he was entrusted with. The distribution of land and livestock served to extend the father's authority and power over his sons. The provision of land or livestock was temporary; if the father was dissatisfied with the behaviour of a son he could take it back.[53] A son who defamed his father would receive the highest possible penalty—exclusion from the community and its resources—by the elders of the neighbourhood.[54] This narrative shows the power elders extended over their sons.

Gender was crucial for the usage and distribution of family land: men had primary control over economic resources such as land and livestock. Women exerted considerable authority at the household and neighbourhood levels and at the initiation and female circumcision (see chapter 5.4.2. for *Marmo* rite) (Snyder 2006:87). The management of household resources—how duties were shared and the way women and men organised the process of decision-making over resources—defined the elders' role in the neighbourhood.

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[51] See also TNA, District Book Mbulu, 1955, Vol. 1, MF. 13, p. 22.

[52] Interview with Awaki Shauri, Endamarariek, 28.01.2010.

[53] Interview with Ama Alley, Endamarariek, 28.01.2010.

[54] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

> Male elders acted for the community as fathers acted for their households; female elders were likewise viewed as mothers, and utilized this role to exert moral authority in the wider community. (Snyder 2006:85)

Cosmology and Gender Roles in the Household

Gender roles in households were shaped by the local cosmology that was based on the belief in two divine entities (Snyder 2005:106–107). These two entities reflected the ideal roles of men and women in the household and in society. In turn, gender roles shaped behaviours in land and water planning within the household.

Looaa was the female deity associated with the sun, generosity, creative strength, rain and birth. *Looaa* was admired and was thanked for protection from evil spirits and avoidance of conflicts. Requests for fertility were also addressed to *Looaa*.[55,56] Her counterpart was *Neetlaang'w*, a spirit that could be angered by choosing the "wrong" way of using a resource (e.g. choosing a "wrong" site for a homestead; Lawi 2007:89). He was the strong male deity and could cause bad luck such as illnesses and drought (Hagborg 2001:29). Snyder calls him the "earth spirit" (2005:141) while Rekdal (1996:367) calls him the "water spirit". Also, independent of this difference in the literature, a statement of the elders indicates that a single element could not be associated with *Neetlaang'w*. A *Neetlaang'w* under a water source in the forest was said to be more harmful and stronger than one under a water source in an open space or in the bed of an intermittent stream outside the forest.[57,58]

Local Beliefs and Household Land

The selection of a site for a new homestead (whether it was on the parents' land or on a new site) was based on a clear procedure with a specific chronology. The belief in the spirit *Neetlaang'w* made it "absolutely necessary to ensure that such a spirit takes a positive disposition towards the location being considered for a new homestead" (Lawi 2007:88).

To ensure that *Neetlaang'w* takes a positive outlook, the settler consulted a ritual expert to find out whether or not a *Neetlaang'w* was located in the stream or forest near the site. If the ritual expert responded positively, either the settler abandoned the site or he asked the expert to perform a ritual to appease the dissenting *Neetlaang'w*. The settler also had to consider whether the new setting had been "polluted" already (e.g. by disease and death associated with

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[55] Interview with Nade Kahamusmo, Endamarariek, 11.02.2010.

[56] Names have been changed for data privacy. I named one elder Kahamusmo to make his expertise in land matters visible for the reader (see chapter 'The *Kahamusmo'* for further information of the role of the *Kahamusmo*).

[57] Interview with Nade Kahamusmo, Endamarariek, 11.02.2010.

[58] Consequently I will use the term *Neetlaang'w* to describe the male divine entity.

Neetlaang'w) because that was also perceived as dangerous. If cosmological aspects were favourable, this meant that the settler also had access rights to the land. Lawi (2007) describes land rules by citing an elder that correspond to the statement of local narratives of the reseach area: "If you cleared a new piece of land, that land was yours. If you obtained a piece of land in exchange for a cow, that piece was yours" (Lawi 2007:83).

At that time fertile land was available in abundance. Local narratives confirm that most grown up children searched for new land to settle within the *Aya* (Alley 2010:1).

Transfer of Household Land

The customary law also provided rules for the transfer of land. Landholders who received their land from the *Kahamusmo* (the first settler of a neighbourhood, see remarks below) or inherited the land could transfer it on a temporary or permanent basis to a person or family.[59]

Customary law provides a land loan system with rules for the transfer of land on a temporary basis. In some cases people had sharecropping arrangements in which the harvest was shared, but in many cases land was just lent for an undated period to someone else.[60] In order to minimise crop failure during dry seasons, households adapted by strategically using fields over a wide area with different topographical and soil conditions and thus suited their agriculture to the unreliable rainfall in the lowlands. In some cases a time limit of the land loan was named in front of the elders of the neighbourhood in which the field was located. The person or family who had lent the land had the right to demand it back at any time (in other words there was a strong right to return to the site of origin). When a family moved away they could lend the homestead to another person and thus prevent elders from redistributing the arable land and the homestead permanently. Furthermore newcomers coming from other *Aya* accessed land through the arrangement described above.

The question of who distributed inheritance and how it is divided after the death of parents shows the variety of land rules. Winter (1968:1) found that patrilineal principles determine inheritance, but he could not find rules that predetermined the division of land upon the death. Daughters had no rights to inheritance while sons did. If a man had no male children, the right to land passed to his brother or to the nearest male relative in his lineage (Winter 1968:26).

The elders in Endamarariek reported that in few cases clan meetings (with all male and female elders of one clan) decided who should receive how much of the land. In all other cases,

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[59]TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the social structure of the Iraqw, 1950ies (exact date unknown), p. 22.

[60] Interview with Bessi Bombo, Endamarariek, 07.03.2010.

the elders of the neighbourhood redistributed the land of the deceased.[61] This confirms Winter's findings that the division of family land was not predetermined after the death of the parents (Winter 1968:26).

Many scholars describe the inheritance system of the Iraqw as ultimogeniture, where the youngest son alone inherited the parents' land and house (see, for example, Winter 1968:1; Patil 2004:190; and Lawi 2007:91). Elders remember that as long as there was enough space, older sons just cleared bush next to their parents' holdings and built their house there (Bessi Bombo 2010b:1). However, it is confirmed that the youngest son was favoured in such a way that he inherited his parents' house and field(s) next to the house. The other sons inherited fields surroundings the parents' house or cleared bush in the vicinity of the parents' house. In other words, my informants talk about a mitigated form of ultimogeniture.

In the event of land scarcity, sons moved to less populated regions (e.g. from the Mbulu Mountains to the expansion areas) or obtained land on a loan basis from neighbours as soon as they reached adulthood or married (Winter 1968:26). Elders of the neighbourhood managed the land if the youngest son was not yet grown up when his parents died (Alley 2010:1). Winter also describes the strong right to land of the original holder: "When a man moves to another area and dies, his sons in their turn have the right to return to the original holding" (Winter 1968:26).

5.2.2. Neighbourhood Unit

In the previouse chapter I described the smallest political unit: the household. In this chapter I will now turn to the second smallest unit: the neighbourhood.

Through membership in the neighbourhood unit, individuals had rights and obligations regarding access to rangeland and other common lands. In addition, the elders of the neighbourhood unit provided conflict resolution and monitored compliance to customary law.

A neighbourhood unit consisted of a cluster of households situated on a ridge. It formed a social group tied together by territorial proximity rather than by kin (Lawi 1999:291). Children and youths played together and slept in any home (Lawi 2007:85). People did a considerable part of the cultivation of household fields in work parties called *Slaqwe*. Neighbours followed a rotational principle, joining forces and working on each other's fields (Rekdal 1996:369).

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[61] Interview with Ama Alley, Endamarariek, 28.01.2010.

Neighbourhood Council of Elders

Both male and female elders held meetings at the neighbourhood level (Hagborg 2001:28). Elders were fined by the council of elders if they did not attend the meetings. The elders served as guardians of tradition and were responsible for settling conflicts to restore peace and harmony within the neighbourhood (Hagborg 2001:91).

Male elders controlled the access to agricultural and grazing land, water and forest because people believed they could interpret behaviour according to cosmological conceptions (see Hagborg 2001:28). Lawi (1999) examines the way in which the perceptions of the natural landscape influenced strategies and choices in using the local natural resources (see below for examples).[62] He describes local beliefs that formed norms of resource organisation among Iraqw-speaking communities. Lawi points out that "common practice in landscape use was consistent with a system of local ecological ideas and beliefs" (1999:285). Rules of customary natural resource management that will be elaborated upon in the following paragraphs were bound to the recognition of several ecological zones (see figure 12) each distinguished by the type and intensity of human activity.

Some ritual matters (see below) were discussed exclusively by female elders. However, male elders held separate meetings about matters involving cattle or land use. Further, male elders handled land allocation within the neighbourhood. The male-only council also discussed permission to use neighbourhood pastures.[63]

Male elders held frequent meetings to discuss neighbourhood and *Aya* affairs, such as punishments for infractions of rules and deliberations about land allocations. According to Snyder, the elders paid great attention to how the behaviour of an individual influenced the health and welfare of the community (Snyder 2006:86). If the council of elders could not settle a conflict, the *Aya* meetings served as the court of appeal.

Conflict resolution was done in mixed-gender meetings where male elders dominated in number. Elders were representatives of their households (see Snyder 2001:130). These meetings "allowed free expression and discussion of various viewpoints among elder men" (Snyder 2001:121). The most important task of the council of elders was conflict resolution.[64] Procedurally each disputant (or group of disputants) brought an equal number of elders to a meeting to mediate and settle a dispute. The elders also held the authority to impose penalties depending on

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[62] Lawi's findings refer to a period between the 1920s and 1950s. However local beliefs that legitimised rules of access to resources were verified by narratives of elders in the field site.

[63] Interview with Bessi Bombo, Endamarariek, 19.01.2010.

[64] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

offences. Precise boundaries of the individual fields were only defined when conflict arose. When elders solved the conflict, they measured the plot and put an identification mark on the border.[65]

The Kahamusmo

Each council had a ritual expert called *Kahamusmo* who was the founder of a particular neighbourhood or a male descendant of the founder. The *Kahamusmo* was the leading ritual expert among the elders of a neighbourhood.[66] He oversaw the neighbourhood's ritual affairs together with the council of elders (Snyder 1997:564). While the *Kahamusmo* did not have more authority or power than the other elders, he did have more duties: he was responsible for calling meetings and for handling all dealings with the diviners (Snyder 2001:130). Hence he was a central figure in the social order.

There is disagreement over the exact role of the *Kahamusmo* in the literature. The Mbulu district book names him as the *primus inter pares* and underlines his responsibility for the allocation of land.[67] Also Hagborg argues that *Kahamusmo* led the elders' meetings (2001:28). Raikes attributes to him the power to determine which land was to be retained for communal grazing (1975a:110). However, interviews and examination of the colonial literature indicate that Snyder's description was more in accordance with the practice in precolonial times. I would argue that the colonial administration staff and the colonial anthropologists could not overcome their pre-assumption of a hierarchical view. This perception was linked to the political need for rulers that could function in the indirect rule system. The colonisers thought that every "tribal" society had leaders, so they overestimated the power of the *Kahamusmo*.

The *Kahamusmo* was also the connecting link between the diviners and elders and the neighbourhood. He delivered messages from the diviner to the meeting of elders. He also delivered the elders' decisions and other news to the households.[68]

The *Kahamusmo* was also an intercultural broker and language translator between Iraqw- and Datoga-speaking elders. My elder informants remember that only two clans held the power to divine in Datoga-speaking communities:

> It was the diviners, for example, the clan of Darmajek or Qao that was contacted because they had special skills. The *Kahamusmo* even spoke some words of Datoga language. Beyond that he was a mediator between the elders of the Iraqw and elders of the Datoga,

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[65] Interview with Bessi Bombo, Endamarariek, 19.01.2010.

[66] Interview with Nade Kahamusmo, Endamarariek, 11.02.2010 and interview with Awaki Shauri, Endamarariek, 10.02.2010.

[67] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the Iraqw, 1920s (exact date unknown), p. 2.

[68] Interview with Awaki Shauri, Endamarariek, 10.02.2010.

> he was a ritual expert and if the land was ill, they tried to solve this problem through rituals together with the Datoga…. It was the illness that came over the land that they tried to heal with the rituals. The *Kahamusmo* was the one that contacted these people when there was a problem. The Datoga diviners are very strong. The *Kahamusmo* told them the problem and they instructed the *Kahamusmo* which sacrifices should be done to heal the problem. Young men were then instructed to conduct the ritual. The information on whether the ritual worked was brought back to the one who instructed.[69]

At that time people understood natural phenomenon as a reflection of their behaviour. The "illness of the land" led to consequences such as drought, which was ascribed to the behaviour of the people (see also Winter 1968; Rekdal 1999).

The elder's comment furthermore shows how closely Datoga- and Iraqw-speaking groups were interlinked in ritual matters and thus in organising the resource usage. Beyond that, it shows the role of the *Kahamusmo* as a mediator and instructor for rituals.

The *Kahamusmo* was the first person settling in an area. Usually the man was sent by a diviner to a particular unsettled site. As the first person at the new site, the *Kahamusmo* controlled access to land. His position allowed him to decide how much and which piece of land would be given to the settlers who followed after him. In exchange, he received a goat, cattle or beer for deciding what land should be used by whom.[70] Furthermore, he determined which land was to be retained for communal grazing. This was important because only a few settlers had private gazing land (Raikes 1975a:110).

The *Kahamusmo*—and later the elders—directly influenced the decision of which plot to use to establish a new homestead. They did this by identifying the places where divine entities resided. This decision was guided by a commonly held belief

> that starting a homestead on a new site without the spirit's approval would provoke a punitive and often fatal reaction. The feared consequences included illness, physical deformity, lightning strikes and loss or decline of the fertility of people and livestock. (Lawi 2007:89)

Consequently, homes were built at a distance from water sources and dense forests. Land usage without the approval of the divine entities was believed to bring harm to the community. After all the land had been distributed, the *Kahamusmo* assigned the control of land access and usage to the elders' council to which he belonged.

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[69] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

[70] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the Iraqw, 1920 (exact date unknown), p. 3.

Access to Land within the Neighbourhood

The elders were responsible for controlling access to resources that were classified as belonging to the neighbourhood. Land rights granted by the council of elders were understood as usufruct rights (Raikes 1975a:109; Rekdal 1996:369; Thornton 1980:7). According to Thornton, temporary usufruct privileges to land were distributed by the consensus of the public meeting of male elders (Thornton 1980:7). The elders also kept watch on, and regulated the use of, neighbourhood resources such as water and communal pastures (see Snyder 2001:3).

The elders of the neighbourhood decided when to open and close public grazing grounds.[71] These meadows were an important supplement during the dry season (Lawi 1999:289). In each neighbourhood unit, large areas of land were set aside for grazing, usually on ridge tops (Lawi 1999:288). Elders prohibited the cultivation of these areas.[72] The news that a public grazing ground was open was spread by young boys who delivered the information to households and herders.[73,74] Communal grazing grounds within the neighbourhood were shared and herding was done in a group with each man doing the herding in turn.[75]

In most cases when a family did not cultivate frequently elders would lend the field to a neighbour. If two parties raised a claim on it, the conflict was settled by an appeal to the original holder in the presence of the elders.[76]

There are different perspectives on the question of whether neighbourhood units were commonly inhabited by only one clan or by several clans at the same time. Raikes observed that land rights in the Mbulu Mountains depended on clan membership (1975a:109). This is also mentioned by Snyder (1993:39); Börjeson (2004:66) and Lawi (2000:64). An elder at the field site confirmed that it was a common practice for sons to build their houses next to their parents' homestead. If space was rare, they instead settled in other neighbourhoods (Bessi Bombo 2010a:1). This image fits with Lawi's assumption that people in one neighbourhood unit were to a high degree descendants of the first settler, the *Kahamusmo* (Lawi 2002:33). However, Thornton (1980:7) and Winter (1968:3) argue that land access is not related to clan membership and therefore land is not distributed by the council of clan elders to members of their clan exclusively. The difference in the literature can probably be explained by a different historical contextualisation, since Winter and Thornton researched during colonial times while the other

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[71] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the Iraqw, 1920 (exact date unknown), p. 2.

[72] TNA, A3/1, Excerpt of the Mbulu District Book, 1955, p. 23.

[73] Interview with Nade Kahamusmo, Endamarariek, 11.02.2010.

[74] See also TNA, A3/1, Excerpt of the Mbulu District Book, 1955, p. 23.

[75] TNA, A3/1, Excerpt of the Mbulu District Book, 1955, p. 22.

[76] TNA, A3/1, Excerpt of the Mbulu District Book, 1955, P. 22

literature refers to a more recent period. Furthermore, there is a difference between the lowlands and the Mbulu Mountains. In the lowlands, individual households were land-holding units (Raikes 1975a:109 consistent with my own findings) and the neighbourhood was a mixture of Iraqw-speaking farmers and Datoga-speaking herders. Land and water access was controlled by the elders of the neighbourhood in contrast to the mountains where elders of one clan managed access to neighbourhood resources. In any case, youngsters had no influence on land and water management.

Sanctioning of Rule Breakers and Prevention of Conflicts

The following sanctioning mechanisms were still observed to be in use in the research area and surroundings at the time of research (see chapter 4.3.3). This section describes their use at the turn of the 19th century. If a member of the neighbourhood repeatedly violated behavioural rules, the person could be excluded from community meetings of the *Aya*. Hagborg describes a social exclusion of rule breakers called *baini.* This was also mentioned by the elders at the field site responding to questions about sanctioning mechanisms practiced at the end of the nineteenth century. *Baini* enforced decisions in interpersonal disputes. It involved a formal declaration of ostracism and "he or she receives neither visitors nor any assistance in farming, house building, or emergencies" (Snyder 2005:41).

Cursing a person was also a method of enforcing the law. The success of a curse depended on assistance from *Looaa*. "Cursing is often conducted at rivers or streams or springs to enlist the aid of the earth spirit, together with *Looaa*, in striking down an offender" (Snyder 2005:141). In cases where the rule breaker was unknown, a curse from the elders was believed to harm the rule breaker and deliver justice.[77]

Wakari was a local institution that prevented eruption of interpersonal disputes. *Wakari* entailed the termination of all social contact between opponents in an irreconcilable dispute and prevented the dispute from escalating (see also Hagborg 2001:9). In addition, it prompted the wrong-doer to seek reconciliation. The central goal of peace and harmony in the neighbourhood was of major importance to all interview partners.

> In Iraqw society there is a strong bias towards unity and harmony. This bias, together with a practical need to maintain working relations within the local community, has produced efficient forms of peace-making. (Hagborg 2001:9)

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[77] Interview with Slaa Tluway, Endamarariek, 15.03.2010.

Local Pasture Management within the Neighbourhood

Lawi describes a local pasture management system, whereby people routinely sent their stock to the pastures and forest glades (Lawi 1999:299). The power to grant access to these glades and pastures was defined spatially. Thus land access was controlled by the council of elders from the neighbourhood. All elders in the neighbourhood belonged to the council whether or not they came from the same clan. As mentioned above, most neighbourhoods in the lowlands consisted of members of different clans.

The power relations in the council were based on the ability to form opinions through persuasion. Elders with a strong ability to formulate arguments were able to influence the prevailing opinion. They could even sway the decisions of the council. [78]

> There are certainly factions and disagreements within the council, but no decision should be enforced until consensus is reached and the differences of opinion are smoothed out. (Snyder 2001:130)

The Foundation of a Neighbourhood through Kahamusmo

In the late nineteenth century, the settlement areas of agro-pastoral Iraqw speakers expanded into the land between the Mbulu Mountains and today's Karatu District. The literature describes a siege-like situation on the mountains that forced people to migrate to new areas (Börjeson 2004:1).

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[78] Interview with Bessi Bombo, Endamarariek, 14.03.2010.
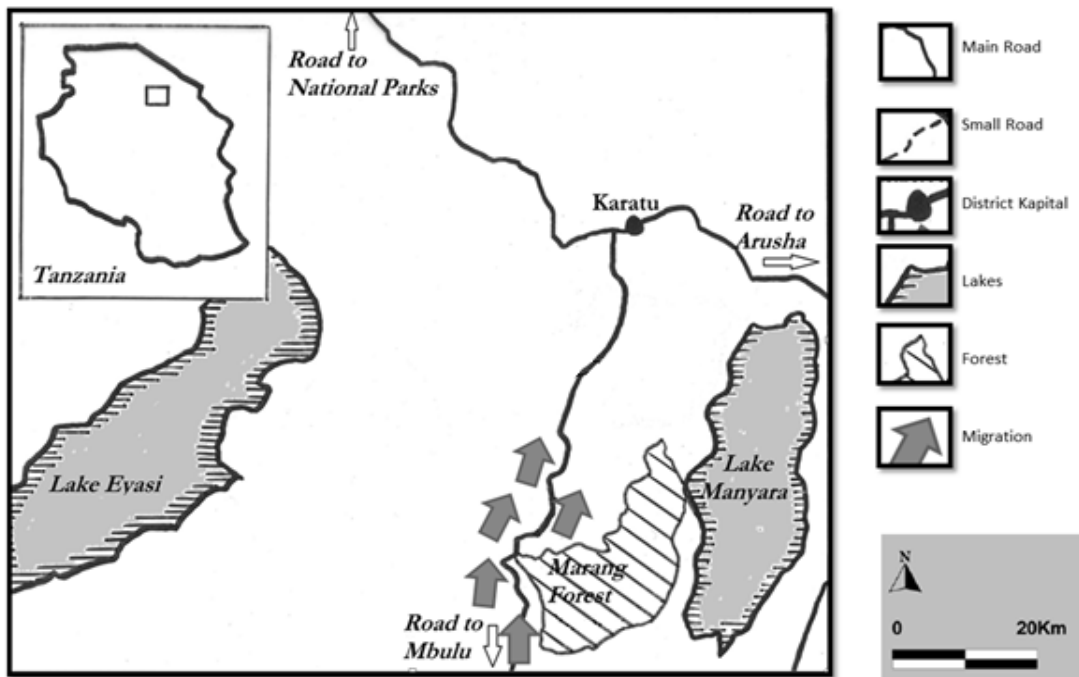
Map 2. Expansion of the Iraqw speakers, own map.

The process of creating a new neighbourhood shows how local beliefs are linked to land access and usage. Before the land could be used, certain rituals needed to be conducted and the land had to be marked. The first settler of a new area also consulted a diviner, who provided him with protection medicine and showed him the place where he should settle. The protection medicine was spread in a circle around the new territory and so marked its boundaries.[79] Land allocation began when the first household was established in an area.

Oral narratives (see Box 3) describe the origin of neighbourhoods in the research site and surroundings. The following interview shows how a conflict between the Datoga and the Iraqw was solved by a joined council of elders, whereas a conflict with Maasai herders was solved through the powerful medicine of a diviner. The Iraqw elders enforced their right to land and hence to land-use planning through a line of argumentation that convinced the elders of the Datoga, while they subordinated the Maasai through divinity. These actions show that the elders have power in both the Iraqw-speaking community and other communities in the region. The history of Endamarariek's origin also shows how land use gradually changed from rangeland to a mixed land used for both range and agriculture.

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[79] Interview with Nade Kahamusmo, Endamarariek, 15.03.2010.

Box 3. Interview with an elder from Endamarariek

"Do you know how we turned this area into Iraqw land? First there were the Datoga and Maasai but also Iraqw grazing their cattle seasonally in that area. All herders watered the cattle at the river or at self-dug wells in temporary river beds without any problems. Then the first Iraqw settlers came from the Mbulu Mountains and built their houses here. The Datoga elders argued that this is grazing area and not a settlement area and that the Datoga were the first people in that place. The conflicts increased, so the elders of both Datoga and Iraqw came together and opened the case to solve the question of who arrived first, and this group will have the right to land. The elders discussed many days but in the end the proof of the Iraqw being first came from pottery that was found at the cultivated fields. This old broken pottery was identified as Iraqw pottery and demonstrated our history in that place. We made peace again with the Datoga and they grazed their cattle farther to the west. Still the contact was peaceful and we had several intermarriages between Datoga and Iraqw.

But with the Maasai we solved our territorial conflicts through medicine. At that time they started building their houses not far from here. But we—instead of fighting openly—went there at night. We were equipped with the medicine of our diviner that had the purpose of chasing them away. You must know that we had powerful diviners! So we went there and we strew our medicine in a circle around the Maasai houses and went away quietly. The next days they left their houses and moved with their cattle northwards. That is how we turned this area to Iraqw land."[80]

5.2.3. The *Aya*—a Spatially-Defined Social Field

This sub-chapter finally describes the biggest political unit on the local level: the *Aya*. *Aya* were political units as well as religious communities that were maintained through rituals and religious beliefs (Snyder 2005:33). The *Aya* consisted of several neighbourhoods (Lawi 1999:291). Each *Aya* was contiguous to the neighbouring *Aya* and included around 800 or more homesteads (Wada 1975:55).

The *Masay* ritual, which is described later, was a symbolic instrument by which the elders of the *Aya* gained control over land and cemented their political power over a spatially defined territory. The ritual legitimised and renewed the *Aya*'s claim to the land. Thornton refers to the *Masay* ritual as the *Aya*'s deed to the land (1980:87). Thus the ritual can be seen as a political instrument by which first settlers and later the elders of the neighbourhood gained control over

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[80] Interview with Bessi Bombo, Endamarariek, 07.03.2010.

land (Thornton 1980:87). In addition to protecting and securing land, this ritual also functioned as a means to draw clear outer borders around the *Aya* (see also Lawi 1999:291). The *Masay* ritual was exclusively determined on a spatial basis and focused on the protection and cleansing of a specific and clearly defined territorial unit, the *Aya* (Rekdal 1999:38).

All people living within the borders of the *Aya* had rights and responsibilities concerning access to pasture land, water and other resources (Snyder 2005:42). Beliefs based on local cosmology limited the resource use by individuals. Thus, underlying religious beliefs were central for both resource access and exclusion. Customary law of the Iraqw provided decision-making forums with rule-making capacity as well as a punishing mechanism to enforce compliance with rules. The customary law corresponded with the cosmological order of the Iraqw in such a way that male elders supported by diviners served as the mediators between the two divine entities—the female goddess *Looaa* and the water/land spirit *Neetlaang'w* (see below).

Decision-Making within the Aya

The political system within the *Aya* can be characterised as a gerontocracy (Snyder 2001:3) based on egalitarian principles (Snyder 2006:88). Decisions concerning land access were consensus-based without any kind of centralised political authority. Meetings were held to negotiate procedures in land conflicts and to mediate between opponents, as well as to monitor issues that influenced the welfare of the community as a whole.

Meetings of all adult *Aya* members were held frequently and had the power to make a decision if the council of male elders failed to resolve a conflict.[81] All adult members of the *Aya* had the right to join, and meetings usually involved between 600 and 1,500 people. The female elders used their moral authority to call such meetings so as to compensate for the ineffectiveness of the male elders in dealing with moral crises (Lawi 2007:79). These community meetings made use of basis -democratic decision-making procedures. The highest penalty the community meetings could impose was the social exclusion of a person from the neighbourhood and the *Aya*. Other fines were certain amounts of beer or the delivery of domestic animals. However, these fines were only imposed if a member repeatedly had violated local rules.

Diviners

Fortes and Evans-Pritchard show that the power of leaders in many African political systems rested partly on the performance of rituals to provide rain (Fortes and Evans-Pritchard 1940:21). In Iraqw-speaking communities, diviners had a central position in leadership and politics. These

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[81] Interview with Bessi Bombo, Endamarariek, 19.01.2010.

diviners both performed and provided instructions for rituals to ensure the fertility of land and people. In other words, politics was played out in the capacity to conduct or to instruct rituals to bring fertility, health and peace to the *Aya*. The legitimacy of the diviners' power rested on their ritual expertise and their ability to analyse natural phenomena as a form of symbolic capital.[82]

As mentioned above, the competence of divining amongst the Iraqw was limited to members of the Manda clan. However, Datoga diviners were also perceived as powerful. Members of the clans of Darmajek or Qao were sometimes consulted by the *Kahamusmo* for instructions, for example with respect to realisation of a particular ritual.[83] This practice shows the link between the social groups: advice on resource use could also be provided by Datoga-speaking diviners.

The authority of diviners was legitimised through their social role to interpret the divine entities.

> Since they have the power to provide medicines that can heal, protect, purify and provide rain, they can also withhold these medicines. Furthermore, some of the qwaslare (diviners) are feared as providers of harmful medicines (kaharmo), and others, if angered, are believed to be able to command leopards to attack people and domestic animals. (Rekdal 1999:38)

The diviners' power depended very much on their ability to serve the needs of the community. Public opinion about their behaviour was central for their reputation and acknowledgement (Rekdal 1999:232). In other words, the power of the diviners was acknowledged by people only if they provided moral guidelines that led to fertility and prosperity of the neighbourhood.

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[82] Håkansson also describes the phenomenon that political legitimization of rainmakers in the south Pare Mountains derived from eminence to conduct rituals to bring rain (Håkansson 1998:279).

[83] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

Land-Use Planning and Rules of Access to Resources in the Late Nineteenth Century

In brief, the power of certain people to influence decisions about land usage was legitimised by their ability to interpret cosmology and local beliefs. The land- and water-use planning effected in the Mbulu Mountains as described by Lawi has some aspects in common with oral history about the time prior to colonial influence. Lawi points out that "common practice in landscape use was consistent with a system of local ecological ideas and beliefs" (1999:283). People differentiated between several ecological zones that were defined and reinforced by elders and ritual experts: "both in practice and articulated beliefs, the Iraqw clearly recognized ridge tops, ridge slopes, valley bottoms, and forested areas as distinct usage zones" (Lawi 1999: 284). These zones had different rules of access. Discussions with elders in Endamarariek supported Lawi's distinction of the different usage zones (see figure 12). Iraqw had a cosmologically based perception of the

Figure 12. Ecological zones recognized by elders based on Lawi (1999:284), own figure.
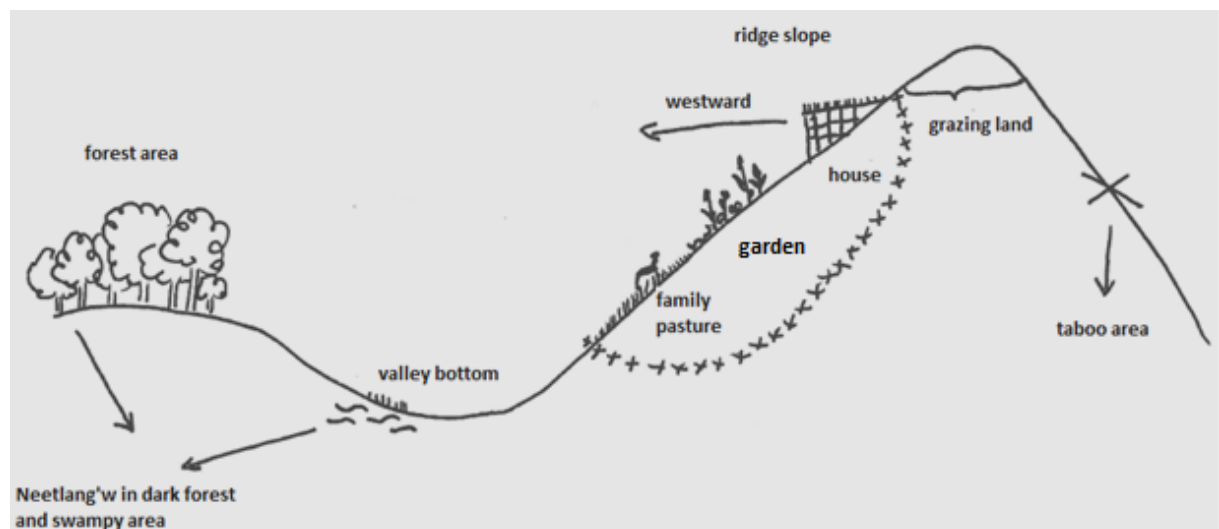
ecology of their area and derived a way to manage and protect it.

Forests were perceived as the residence of *Neetlaang'w*, and hence they were seen as areas that could cause harm. However, if a person wanted to enter a forest because of scarceness of pastures or household water, diviners could provide protection medicine for safety. It can be argued that this local belief protected forest water sources from pollution and destruction by cattle. Additionally the taboo zone prevented overgrazing.

Valley bottoms were used according to the season. During the rainy season, swamps and seasonal rivers appeared in some valleys. Since *Neetlaang'w* was believed to reside under water sources, many people—particularly women—avoided crossing the water. Women were perceived as more vulnerable, physically weaker and purer than men and thus in need of greater protection.

Married women of reproductive age feared going to water sources because they might be harmed and have their fertility threatened by *Neetlaang'w*.[84]

For herders, the valley bottom was an additional pasture during the dry season. Neighbourhood elders closely observed the valley and

> their judgement as to which part (or how much) of a particular valley could be cultivated considered the effects on the common pasturage and availability of thatch grass. (Lawi 1999:306)

Table 3. Rules of access to land and water according to distinct usage zones, own table

Usage zone	Rule	Control
Ridge slope (westwards)	Usufruct right to land for homesteads containing family pasture, vegetable garden and house(s).	*Kahamusmo* assigns land, taking into consideration local beliefs.
Ridge slope (eastwards)	Access not permitted—taboo zone.	Male elders of the neighbourhood.
Hilltop	Open for grazing.	Male elders of the neighbourhood.
Valley bottom	Usage restricted in the rainy season, permitted in the dry season.	Male elders of the neighbourhood.
Forest area	Usage permitted only with ritual medicine	Diviner.
Family pastures at the house	Open for grazing all year for family usage.	Male and female elders of the household.

The house and its surroundings on the ridge slope were also perceived as a distinct usage zone (see below). Houses were exclusively built on westward slopes and access to the garden, pastures and house was controlled by their inhabitants, preferentially by household elders (see also Lawi 2007:87).

Hilltops were perceived as open grazing pastures for the cattle. However, elders kept herders under surveillance. Local pasture was organised by a rotation system, according to which elders instructed herders to send their cattle to different pastures (see also Lawi 1999:299). The eastern side of the hill or ridge was perceived as polluted. Thus usage was restricted—both for building houses and for grazing cattle (see also Lawi 2007:87). Lawi suggests that the eastern side of a hill was uncomfortably cold because it faced windward (2007:87). The classification of the eastern side of the hill as a taboo zone prevented grazing. Pastures were shared within the *Aya*. Access to pastures was controlled by elders in an arrangement with the diviner (see table 3). Each *Aya* provided communal grazing land but herders needed permission from the elders to move in with their cattle. This permission given, herders moved freely within the *Aya* borders.[85][86] The council of elders held decision-making rights over access to neighbourhood and *Aya* pastures.

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[84] Interview with Gabrielli Tlatla, Endamarariek, 19.01.2010.

[85] Interview with Christoph Ama, Endamarariek, 22.01.2010.

[86] Herders that follow this rule are nowadays called "*wafugaji wa mila*" (Kiswahili for "traditional herders").

People who came from other neighbourhoods within the same *Aya* were permitted to extract water at hand-dug wells and streams in their neighbour's territory. Shared water and pastures were especially important in the dry season because neighbourhood resources were often limited. The reciprocity provided by this rule led to risk-sharing and gave the community a strategy to cope with the extreme climate.

In general, borrowed land for cultivation was situated within the boundaries of the *Aya*. The land was transferred in the presence of the elders of a neighbourhood unit. The person who borrowed the land was not expected to give back an equivalent value immediately, but rather when the lender demanded it at a later stage (see chapter 5.2.1. regarding transfer of household land). Money was of no value. Instead, compensation took the form of seeds, crops, and cattle.

> By means of this system of borrowing land a man may come into a community in which all the land is held by various individuals and either obtains all the land he requires from one man, or from several of them, obtaining one agricultural plot here and another there.[87]

5.3. German Colonial Rule, 1891–1916

5.3.1. Motivation and Strategies of the Germans

In the previouse chapter I have examined the way Iraqw speakers organised their access to land and water according to customary law. The arrival of the Germans then marked the onset of a period during which the local units of the Iraqw speakers were linked to the Mesolevel of the colonial state.

The arrival of German traders in 1884 marked the beginning of external European influence on land organisation in the area. In 1885 the German state replaced the private German Colonisation Society and named the territory covering today's Tanzania, Rwanda, Burundi and a small part of Mozambique *Deutsch-Ostafrika* (German East Africa). The following paragraphs present a short review of the process of Germans setting up an administration to then appropriate land and implement the very first step for challenging local power structures by proselytisation.

Ranking first on the agenda of the German state was to establish colonies as a supplier of raw-material for Germany (Schicho 2004:313). The interconnections of world trade and the market for cash crops impacted land use and organisation of fertile land particularly in northern

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[87] TNA, A3/1, Excerpt of the Mbulu District Book, 1955, p. 22.

Tanzania (see Håkansson, Börjeson, and Widgren 2008:372).[88] Due to its distance from the coast, Mbulu is among the regions that had not been the main target area for the development of a cash crop economy and the infrastructure to extract goods. Nevertheless, the first small step for external influence on land management, annexation and infrastructural development was laid by Germans when they set up an administrative post in the Mbulu Mountains.

Installation of Colonial Administration to Subdue Local Rebellions

Karl Peters, the first Imperial High Commissioner, set the first patterns of colonialism in what is now Tanzania. In 1884–1885 he travelled through East Africa to enter into contracts with local leaders. Peters's motivation was to establish the German colony (Klein-Arendt 2005:29). In 1893 he was removed from his position because of his cruelty. Among Tanzanians he was known as the man with *"mkono wa damu"* a blood-stained hand (Taylor and James Clagett 1963:17).

The Germans needed to suppress several rebellions before they could set up an administrative structure. In 1905 the German troops waged war against farmers that had rebelled against their oppressive colonial masters. Rebels from different groups united around a belief in the magical power of water provided by the healer Kinjikitile. After realizing that the holy water did not protect the warriors, the fighters changed their tactic and instead waged a guerrilla war. The Germans responded with a "scorched earth" strategy: they destroyed harvests and burned villages. The German strategy caused famines which caused the death of about 100,000 people. Beez states that the war attracted little interest in the German media because no more than 15 Germans died (Becker and Beez 2005:12).

Karl Peters was one of the main proponents of a racist attitude against Africans. Many German settlers, adventurers, missionaries, soldiers and traders shared a common image of Africa that had been gleaned from the German media. In Germany, the media portrayed Africa as a far off place of adventure for "real men", the dark and mysterious continent. Based on this representation, German immigrants believed that Africans were lazy and lacking independence. Hence German immigrants treated locals strictly, believing that this would help them to work their way up from the lowest step of the cultural hierarchy (Klein-Arendt 2005:36).

The establishment of the German administrative structure marked the beginning of clear administrative borders and a monopoly on violence by a centralist state. In the 1890s, Germany's *de facto* rule covered no more than the coastal area including Bagamoyo and Dar es Salaam. In order to establish its rule, Germany implemented a thoroughly centralised bureaucratic structure

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[88] The Portuguese ruled the coast of East Africa from the time of Vasco da Gama (1498) until the seventeenth century, when the Omani Sultans of Zanzibar took over. The Portuguese made no effort to penetrate the hinterland. The caravans of the Omanis and later European entrepreneurs opened up the East African trade routes. However, today's Karatu District was located off these routes.

on politically heterogeneous societies. Each of the 22 districts was administered by an *Akida* (Swahili-speaking officer) who was responsible for law and order within the district. The smallest administrative unit was the village, where a headman or *Jumbe* was equipped with power to oversee law and order. The *Jumbe* was a position comparable to chieftaincy (see Hobsbawn and Ranger 1983:33). In practice, however, the administration lacked manpower and failed to exercise effective control over the locals (Taylor and James Clagett 1963:21).

The Germans' main goal was to "develop" the country economically by extracting raw material from the fertile highland regions in the Usambara Mountains and on the slopes of Mount Kilimanjaro. German colonists particularly considered the water–land connection: regions with a guaranteed water supply for farming attracted the most settlers. Fertile mountain regions attracted Germans and Boers from southern Africa, who established farms that produced cash crops such as sisal, rubber, cotton and coffee.

Most of the regions settled by Germans had been connected to far-reaching trading networks before colonial intervention. For example, the people of the Usambara Mountains had been suppliers of vegetables, pottery, and knives to the coastal towns and to the caravans that passed during the slave trade. The geographic position of the Usambaras in combination with fertile land and well-adapted agricultural methods allowed the people to generate a surplus and thus maintain trade with the surroundings.

The Germans prepared the mainland for large-scale extraction of raw material by constructing railways and roads and extending harbours. Taxation measures (essentially a hut tax) were introduced in 1897 to force people into the monetary economy, to produce surpluses for the market and to produce wage-paid labourers (Iliffe 1979:133). As mentioned above, the primary aim of the Germans was not to create a functioning overall administration but to establish a trading colony.

German Land Policy

In some regions the Germans initiated a drastic change in land usage. In the most fertile regions, they appropriated 1,993,600 acres (3,115 square miles) for the purpose of planting cash crops (Taylor and James Clagett 1963:22). Furthermore they had established 15 so-called hunting reserves covering 5% of the colony by 1911 (Baldus 2001:73). German forest management (and a timber industry) was initiated to explore, demark and survey forest reserves. On German East Africa territory Germans had proclaimed 231 forest reserves between 1906 and 1914 (Neumann 1997:50).

The German administration drew maps to aid with territorial acquisition. These maps were used to mark state-granted land rights, especially around white settlers' farms and urban centres. Furthermore, missionaries travelled through the territory in search of spots to build mission stations with bible schools and dispensaries. That is when water taps and cisterns were also built following the German model to supply the mission stations.

The appropriation of land by German settlers was legitimised by their own colonial law: an 1895 decree of the German colonial administration declared all land to be Crown land. The Germans assumed that all land that was "ownerless" in the sense of not having written land titles, thus to be free to be alienated (Englert 2005a:58). Others had a different approach: many missionaries negotiated with local leaders to acquire a plot for their mission station.[89] Nevertheless, the German colonial period marks the first time local land use and rules of access were ignored to a large extent, the introduction of a new system of land administration and the influence on local land and water use and management.

In order to support plantation export-based agriculture, the German administration granted leaseholds for up to 25 years. This procedure served only the interests of the European settler community. The provision of tenure security for land and water use was at the heart of the economic interests, but had political significance as well (Orindi and Huggins 2005:7). In all, 1,300,000 acres of land suitable for agriculture were held as freehold when the British took over the colonial administration after World War I (Englert 2005a:58).

The German colonial policy also aimed at conservation of game and regulation of hunting. Driven by their imagination of a romantic unspoiled nature, Germans introduced 15 game reserves during their time of rule. Governor Hermann von Wissmann advocated the conservation of game despite the lucrative ivory trade (Riedel 2004:30). The *Verordnung, betreffend die Schonung des Wildstandes in Deutsch-Ostafrika*, a decree for conservation of game, was enacted in 1896. The main characteristics of this decree and later ones to follow were the control of hunting excesses by both local and European hunters. Starting in 1903, the local gamekeepers (paid by the German government) controlled the borders of game reserves to prevent Europeans and locals from entering the area for uncontrolled hunting (Freytag and Petzold 2007:241). In 1909 hunting was permitted only to those holding a shooting licence (Riedel 2004:77). In 1912, approximately 7,413,161 acres were declared as wildlife reserves. However, the current

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[89] Examples for that are found in the Usambara Mountains. In Mlalo/Lushoto the missionaries Wohlrab and Johansen went to the local leader to ask for a plot of land. He sent them to a mountain where—according to local beliefs—evil spirits resided (and the soil was quite stony). The two missionaries named the place Hohenfriedeberg and started building a mission station there at the turn of the century. At that time also the first pipes for drinking water and a cistern were constructed to supply the mission station. (This narrative is a source of the oral history in Mlalo where I grew up).

Ngorongoro Conservation area and the Manyara National Park, which are located in the direct vicinity of the settlement area of the Iraqw were not affected by these regulations.

5.3.2. The *German Boma* in Mbulu town

The Germans choose to settle in the Mbulu Mountains (with fertile soil and adequate water access) and established an administrative post (German: *Bezirksnebenstelle*) there. This incident is central for my research region because the vast mayority of settlers in Endamarariek came from the Mbulu Mountains.

The Mbulu *Boma* can be characterised as one of the subsequently established islands of German administrative power in Tanzania, in contrast to the many remote areas that were never influenced by the German colony (Eckert 2007:31). The German administrative post in the Mbulu Mountains—the *Boma*—was finalised in 1905.[90] The *Boma* in Mbulu town had two major impacts on land and water management. First, Germans paved the way for missionary work, which later challenged local power structures on resource management; and second, the annexation of land for farms and the linked development of infrastructure for export.

The interaction between Europeans and Iraqw speakers had set off at the turn of the century with the German colonial administration, and had been quite peaceful compared to the above-mentioned violent suppression. The Mbulu district book refers to a young man called Issara Marmo, from the diviner clan of the Manda, who had been searching for the Germans.[91] As a reward the Germans made Issara an *Akida* (Snyder 2005:45). It was the first time the diviner clan interacted with the state administration, though this hardly changed their position in the local power structure. As this chapter will show, the interaction of the diviner clan with the state administration served as a strategy to maintain the clan's central position among Iraqw speakers.

The Germans in Mbulu did not introduce new administrative units, but rather used the existing ones (*Aya*), and tried to attach new meaning to them. In addition to the *Akida*, the Germans established the *Jumbe.* The *Jumbe* (see chapter 5.3.1) served to enforce German law and administered the *Aya* (see chapter 5.2.3.) as the basic political unit. Most *Jumbe* were young men who longed for power, but had low positions in the customary political system. The Germans attempted to implement policies such as the restriction of mobility and the prohibition of public rituals through the *Jumbe*. However, this had little impact on rural life. In many cases, due to the young age, the *Jumbe* did not hold the respect of the local population. Thus, German rules on land

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[90] The old *German Boma* is still in use as an administrative office, and several other buildings appear to date to the British colonial era.

[91] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the Iraqw, 1920s (exact date unknown), p. 1.

organisation did not exert strong influence on local land-use practices during colonial times. However, appointing single young men as *Jumbe* contradicted the former basis -democratic forces and young *Jumbe* had to be brutal to enforce compliance to tax collection, for example.[92]

Germans also imposed a hut tax and conducted brutal "disciplinary" interventions against both women and men ordered by the *Bezirksamtmann* (the equivalent of the later district commissioner). The herders and first settlers in the lowlands seldom refused to pay taxes because "it was an order from Mbulu".[93] The behaviour of the initial colonial staff was described as cruel. One female elder reported an aggressive and violent procedure of the German administration in dealing with predominantly female elders: "They beat us and chained our hands and feet and locked us up."[94] The punishment of elderly women for practicing rituals, and the voluntary co-operation of Iraqw men, first with German and subsequently with British indirect rule—led to the withdrawal of female elders from the local socio-political organisation.

The Germans paved the way for the arrival of missionaries. By implementing a new religion with particular ideas of gender they started a slow process whose initial stages seemed to have little impact on Iraqw society but nowadays pose a major challenge for Iraqw cosmology and thus the legitimation of elders as land and water managers.

In 1907, German priests of the congregation of the Holy Spirit—a Roman Catholic congregation—started their work in Mbulu with the building of a church in Tlawi (Roman Catholic Diocese of Mbulu 2013:1). Missionaries intensively counteracted local rituals and religion. Furthermore Catholics promoted different gender roles that were in conflict with precolonial roles in society. They promoted a particular idea of male leadership in which women were excluded from public decision-making (as was the case in Germany at that time). For a start these ideas had little impact, but in the long run and with the increasing number of people being baptised, this particular exclusion of women gained ground in households and neighbourhoods. Elders' power was reduced, too, due to the fact that their legitimacy had been based on their ability to interpret the local divinities.

In the Mbulu Mountains the German *Boma* alienated several plots and farmland in the mountains and in the lowland. Where access to the Marang Forest was still under control of the elders and diviners of the bordering *Aya* (see chapter 5.2.3.), the *Bezirksamtmann*[95] granted several lease agreements of white farms (approximately between 2,471 and 7,413 acres)

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[92] Interview with Nade Ama, Endamarariek, 21.09.2009.

[93] Interview with Nade Kahamusmo, 20.01.2010.

[94] Interview with Nade Ama, Endamarariek, 21.09.2009.

[95] The file of the German Records in the TNA concerning the annexation of land during German rule is in most parts illegible because of water damage.

bordering the River Endabash in the lowlands.[96] As described in chapter 5.2.2., the lowlands were used by pastoralists who grazed their cattle there seasonally. The farmland was protected by force (watchmen patrolled at the borders of the farm.[97] The farms produced cash crops such as coffee and tobacco and a road was financed by the German government to connect the remote area of Mbulu to economic centres such as Arusha.

Despite the threat of brutal enforcement strategies, the German colonial government had minimal influence on the forces that framed land and water access in Iraqw-speaking communities. Local decision-making and land-use planning continued to function as described in the previous chapter 5.2.1. In Moore's words: there were no internally generated rules in the community that dictated compliance to instructions by the *Jumbe* and thus to German policies (see Moore 1973:721). The only means to enforce compliance was physical force.

5.4. British Colonial Rule, 1918–1961

Although the Germans had minimal influence on land and water access in the research area around todays Endamarariek, they still paved the way for the British Colonial rule in that area. In this chapter I will again examine first the mesolevel of the colonial state and then zoom into my research area. First, the following paragraphs will identify the politics—motivation, strategies, and procedures— of the British government concerning land access. Second, I will elaborate on the local dynamics of Mbulu District by paying special attention to local actors and their roles in the British administrative system of indirect rule.

After World War I, the League of Nations put German East Africa under a British mandate. From 1919 until independence in 1961, British administrators extended the German administrative structure over today's Tanzanian mainland. The extension of the political system helped the British to increase their control over local communities and to implement a policy of resource exploitation. Two phases can be identified during British rule: until 1945 Britain developed administrative structures, and after the end of the Second World War, programmes reorganising resource management were implemented.

One of the main colonial policies which influenced land and water distribution was the association of all individuals with a tribe. British administrators defined tribes on a basis of language and physical appearance and assigned them to a defined territory. Anthropologists (see, for example, Winter 1968) and missionaries were engaged in describing these tribes and drawing

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[96] TNA, G31/38, German Records, Landgesuche in Umbulu, correspondence of the Bezirksamtmann between 1912–1914.

[97] Interview with Bessi Bombo, Endamarariek, 07.03.2010.

maps that defined the expansion of a group in Tanganyika territory. This policy helped the British to rule the country because they could use these constructed tribal groups to appoint local leaders. Local leaders were required to continue with the strategy of the Germans and "were expected to use the levying of taxes as well as fines and punishments in order to drive local Africans into colonial labour markets and the cash economy" (Beidelman 2012:17).

The British colonial government intensified control over former German East Africa and imposed legal rules related to land and water access on the colony. "Legislation is one of the most common methods by which centralised states attempt to penetrate the social fields which exist within their borders" (Moor 1994:3).

The attempt to impose state rules on local land and water organisation had unexpected side effects. These occurred because colonial state law was not imposed in a vacuum, but rather interacted with already existing local systems of resource access. The implementation of colonial law initiated a dynamic process in which customary rights of access and control changed while other local rules continued to exist. Moore argues that "the various processes that make internally generated rules effective are often also the immediate forces that dictate the mode of compliance or noncompliance to state-made legal rules" (Moore 1973:721).

During the British period, the colonial state had a noticeable influence on local land and water organisation. As the influence of the British increased and local administrative structures developed, the communities in the reseach area and surroundings were subordinated to the government organisation. Colonial land and water policy was framed by the promotion of categories and European assumptions, particularly regarding tribes, chieftaincy, and "customary land law". The invention of these aspects involved both colonial ideologues and African elites. Hence, the process shows ongoing negotiations and compromises between these two groups (Ranger 1983:221).

The British government ascribed particular importance to "customary land law" because of its centrality for local resource administration. That is why the government of Tanganyika employed anthropological researchers to explore aspects of political organisation and land law among the different "tribes". Anthropologists investigated and codificatied customary law. This written customary law lacked a dynamic character due to codification and was often biased by prejudices (see discussion below for Winter and his essay on the political organisation and land tenure among the Iraqw; Winter 1968). So a particular construct of customary law was codified to create a new category of law, state-made customary law. This law was reminiscent of customary law but was shorn of its flexibility and its ability to adapt to changing circumstances (see for

example Achterberg-Boness 2009 for the adaptation of customary law in dry and rainy season for more equal access to water). Furthermore, Colson points out for Tanganyika that

> colonial officers expected the courts to enforce long-established customs rather than current opinions. Common stereotypes about African customary law thus came to be used by colonial officials in assessing the legality of current decisions, and so came to be incorporated in "customary" systems of tenure. (Colson 1988:211)

Basically, the colonial state created a law that suited its own purposes and called it *customary* law. In the following sections, this law is named "state-customary law" to clarify the difference between "state-made customary law" and "local customary law".

State-customary law was applied to a defined spatial territory, that of the "tribe". In customary law the category of an Iraqw speaker was flexible and fluid—intermarriages, and shared resource usage were common. In state-customary law, these categories were inflexible. The British colonial law and its associated categories had several side effects that still affect current land access practices.

Iliffe shows how the government in colonial Tanganyika created tribes because government officials had certain prejudices: "administrators believed that every African belonged to a tribe, just as every European belonged to a nation" (Iliffe 1979:323). The invention of tribes and the belonging of an individual to a tribe and its territory influenced the application of customary land law.

The major difference between the German and British administrations was the implementation of indirect rule. The British strategy of indirect rule led to new administrations and policies, which left a lasting impact on the organisation of land access in the reseach area and surroundings. Local actors likewise had an influence on how colonial administration worked and how politics in the district were conducted. Rekdal (1999:15) shows how the majority of Iraqw-speaking people accepted and internalised externally invented "traditions". It should be highlighted that colonial "chiefs are currently spoken of as great and legitimate Iraqw leaders rather than as the puppets of an oppressive external regime, despite their central role in implementing policies that varied greatly with regard to their general popularity" (Rekdal 1999:15).

In comparison to the German colonial rule, the British system of indirect rule provided political structures for individuals to gain power and influence over resources. These local actors

knew local structures and could actively (and in terms of the Iraqw speakers) successfully negotiate their roles with both the customary and the colonial system.

5.4.1. Motivation and Political Strategies of the British in Tanganyika: Indirect Rule and "Native Authority"

The way Tanganyika[98] was governed on the local level depended very much on the governor's policy since he was the head of administration. In the mid-1920s the colonial government shifted its aims from exploiting raw materials to improving the administration of the country. In the reseach area and surroundings the colonial state administration gained significance during this time. Via the application of state-customary law in the Mbulu District the colonial government impacted on local power structures. Colonial state presence in that area also influenced control over land access and land-use planning. The control over forest resources, wildlife and fertile highlands in favour of British settlers was extended.

In particular, the strategy of indirect rule implemented by the centralistic colonial government impacted on people's lives in the reseach area and surroundings. With the aim of improving the "lives of the indigenous people" (Miklovich 1996:236) Governor Cameron[99] (in office 1925–1932) adapted a strategy of indirect rule[100] and worked to implement local governance. According to Iliffe, Cameron found a colony characterised by a lack of administrative structure but left the country in 1932 covered by "native administration" (Iliffe 1979:320; see also Schicho 2004:315). He pushed forward the establishment of local chiefs and/or councils, a "native treasury" and a native court that provided procedures for claiming land rights based on state-customary law. By the end of the colonial period all of these administrative bodies had been implemented in the research area and surroundings.

The key administrative entity was the "tribe", which the British expected to have its own customs and courts constructed around a tribal language and traditions.[101] The British administration interpreted customary law by assuming that each local belonged to a distinct and exclusive group living in an area that could be demarcated (Berry and Sara 1992:336). The idea of local leaders as chiefs followed a stereotype of hierarchically organised "African" societies that was common among the British administrative staff of that time.[102] The behaviour of colonial staff

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[98] The name Tanganyika was introduced by the British for the mainland of today's Tanzania.

[99] Donald Charles Cameron started working for the British Crown in 1891 as a colonial secretary in British Guinea, and was then transferred to Nigeria in 1908 before becoming governor of Tanganyika.

[100] See also Iliffe (1979), Austen (1987), Graham (1976), Willis (1993).

[101] See *The Invention of 'Tradition' and 'Ethnicity'—A Construct* (Ranger 1983:211).

[102] see e.g. TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the Iraqw, 1920s (exact date unknown), pp. 1–24

was influenced by these oversimplified stereotypes and biased opinions about the "nature" of local societies.

Creation of Chiefs

Following the Native Authority Ordinance of 1926 the district commisioner of Mbulu District, which also covered my research region and suroundings, authorised "traditional chiefs" as rulers. These chiefs were granted rights to decide administrative, executive and judicial issues in their areas of jurisdiction (Rothchild and Donald 1996:62). "Native authorities" also had the right to grant or deny members of the local population access to land (Beidelman 2012:94). Furthermore, the chiefs were responsible for implementing colonial policy (Neumann 1997:49). Local chiefs employed clerks, police, and messengers to help them carry out their work.

The chiefs chosen by the British to administer the "Iraqw territory" in the Mbulu District were on the one hand servants of the British system, but on the other hand they were individuals who followed their own interests. The method of selecting chiefs varied and depended upon the colonial officer who made the choice. In some cases, colonial officers chose political leaders or influential figures. In other cases, as in the Mbulu District, religious leaders were identified and put into office. Usually chiefs were appointed by colonial officials who travelled all over Tanganyika (Eckert 1999:216). While district officers changed their working places, the appointed chiefs stayed in office for several years and could thus consolidate their power.[103]

In many cases chiefs were not affiliated to any "traditional" institution, contrary to the assumptions of the officers who had nominated them (see Eckert 1999:216). Consequently, the British initiated a legal pluralism in which local forums of decision-making competed with chiefs who, in turn, negotiated their spheres of influence and competence. With respect to my research region, this dynamic is described in Box 5.

The power of chiefs depended on their personal creativity in using the system of indirect rule and exploiting the locals. The chiefs themselves were paid by taxes they collected from their people (Iliffe 1979:327). In some cases these agents used their position to pursue their own aims: they played off the ruling British and the locals against each other to gain influence and power (Beidelman 2012:17).

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[103] See for instance TNA, MF. 13, District Book Mbulu: Records of Handing and Taking Over, (exact date unknown), pp. 1–2.

Mandate Agreement and Land Ordinance in the 1920s

The British colonial government passed the first land ordinance in Tanganyika, which remained in force until the turn of the twenty-first century. The 1922 mandate agreement created the framework for this law by directing the British to frame "the laws relating to the holding or transfer of land and natural resources, the administrating authority should take into consideration native laws and customs, and respect the rights … of the native population" (Neumann 1997:47).

Consequently, district officers emphasised the application of so-called customary law in the native courts that regulated land conflicts among the local population.

The Land Ordinance of 1923 was the first state legislation on land in Tanganyika. This law declared all land to be public land (see Land Ordinance of 1923 1923:1). This act granted the "right of occupancy" on public land for the population of Tanganyika "which would remain under local control through customary tenure systems" (Neumann 1997:48). The preamble of the Land Ordinance points out that

> the existing customary rights of the natives of the Tanganyika Territory to use and enjoy the land of the Territory and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves their families and their posterity should be assured protected and preserved. (Tanganyika Territory 1923:1)

Neumann points to a contradiction between the mandate arrangements and the Land Ordinance. The Land Ordinance claimed to respect the land rights of local people, but did not provide any procedures for protecting them against threats such as European settlers extending their holdings. In practice—as shown in the case of the water conflicts between farm owners and herders (see box 7)—different colonial actors had different agendas. Some campaigned for the rights of the local population while others favoured their fellow Europeans

Annexation of Land during British Rule

The British land policy had a long-term impact on today's management of resources in the reseach area and surroundings. There was a *de facto* control of land in fertile regions of the Mbulu district through European farms, forest management and wildlife conservation. In particular the colonial district government entitled European farmers to settle and farm on the slopes of the Ngorongoro Crater. During British rule all land was vested under the governor's control (see above). Even though they proclaimed that land policy should be for the use and benefit of the local people, the British continued to alienate land until independence.

After World War I, the remaining German settlers were deported and replaced by British and other European settlers.[104] After the Second World War the governor started granting land titles, and by the end of British rule the area of alienated farmland had been doubled. In 44 years of rule, approximately 3.5 million acres of land had been granted by the governor in favour of British settlers (Duncan 2014:2).

Furthermore, the British developed further the German state forest management. The British forest policy continued to challenge local forest management and customary law on access and user rights was totally neglected. Neumann even argues that the colonial forest management resulted in a steady erosion of rights of access to forest lands and resources for the local population (Neumann 1997:49). In the years between 1933 and 1953 the area of government forest reserves nearly tripled to be 7,004,800 acres (see Neumann for a detailed breakdown of the data; Neumann 1997:51).

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[104] Few Germans were allowed to stay in Tanganyika and maintained their land titles to their farms. One of the most famous German big game hunters named Margarete Trappe (the founder of Momella Lodge bordering today's Arusha National Park) changed her citizenship from German to British to maintain the land title to her holdings.

Map 3. Protected land held under British control in 1948
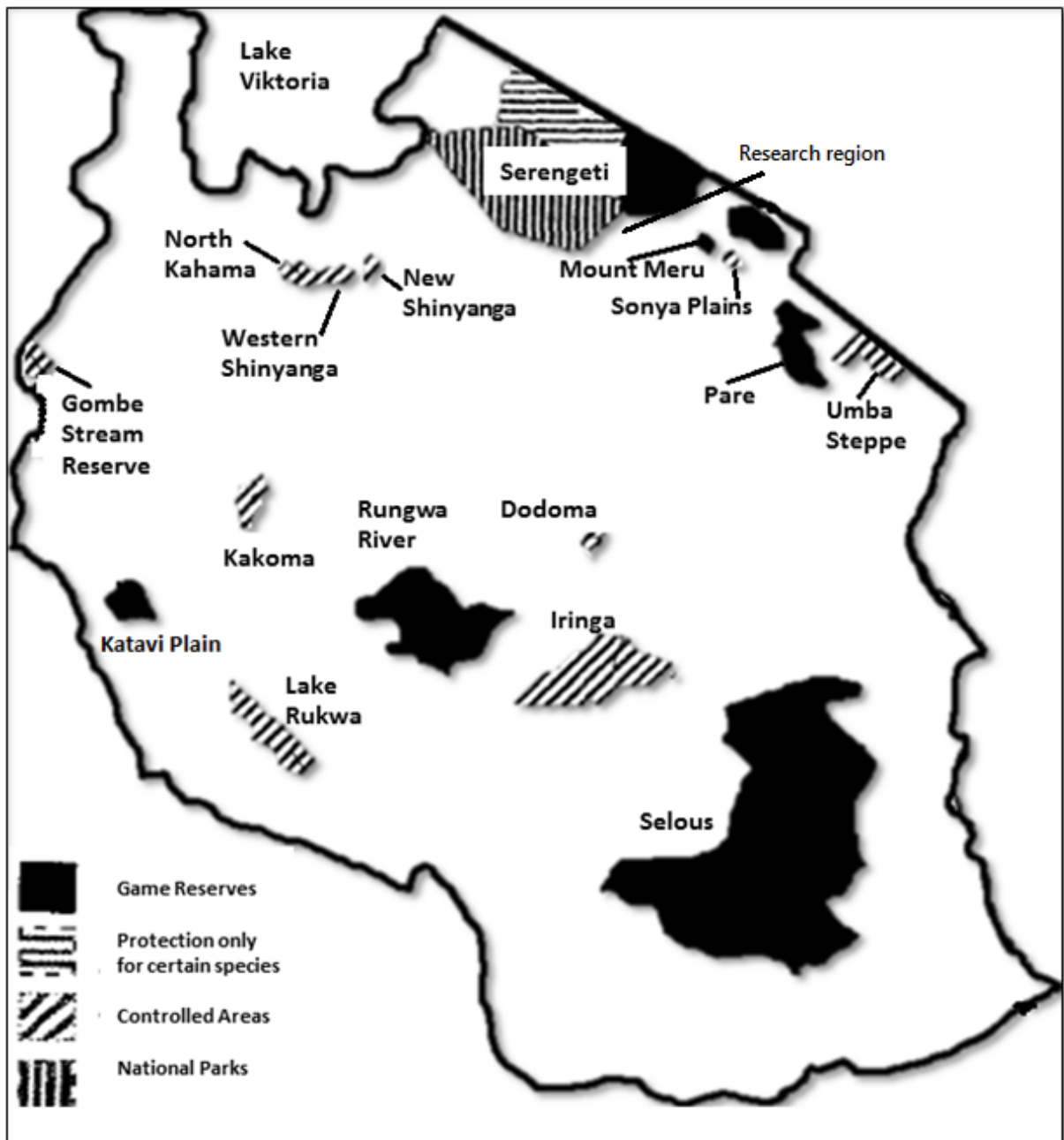
Also by defining certain areas as national parks, the British restricted access to resources and implemented state control by force. The Serengeti National Park is the most prominent example where colonial staff faced continuing conflict with pastoralists that had used the area to graze cattle. By 1948 several game reserves, protected areas, controlled areas, and national parks had

been put under the control of the British colonial government and were often in conflict with customary rights of the population.[105]

British Colonial Water Management: Registration and Fee Collection

As mentioned above, European settlers preferred areas containing fertile land and adequate water access. The presence of Europeans in Mbulu District led to the development of infrastructure such as roads, health services, churches and water supply systems.

The British were the first rulers to introduce centralised legal control over water. On the national level they formed the Department of Water Development (later called Water Development and Irrigation Supplies) to develop and manage domestic water supplies. Water users were required to pay for their use (Nkonya 2006b:26). In the Usambara Mountains there are some cases in which missionaries developed a private water supply system supplying the mission including health station, church and private buildings.

Settlers were supposed to apply for water permits for tap water systems or boreholes at the district office. Usually the district officer granted permits and administered the water register. The register contained detailed information on each water source or extraction point such as water users, uses for the water, point of abstraction, and quantity of abstracted water. Furthermore the district officer was engaged in resolving conflicts between European farm owners and local people (see Box 7 for water conflicts in the reseach area).

The first colonial water law was the Water Ordinance of 1923, which required registration of settlers who wanted to extract water from natural sources. The Water Ordinance declared all water to be vested in the governor as the administering authority. In consequence, the district commissioner (see figure 13) acted as the decision-making authority for European settlers. Selected local water users could participate in decision-making only if they were classified as "duly authorised representatives" by the colonial administration. In conflict with the mandate arrangements to respect local rights, customary laws were solely tolerated when they were not in conflict with the interests of the colonial state (Koppen, Giordano, and Butterworth 2007:54). For my reseach region colonial water law was in particular introduced by the colonial settlers in areas that were acquired for farming (for example, payment of water; see Lumley 1976:93).

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[105] See for detailed studies Neumann (1998:97; 2000:123; 2001:327).

5.4.2. Indirect Rule and Native Courts: Colonial State Control over "the Iraqw Kingdom"?

Despite the presence of a British officer in Mbulu (Schultz 1971:29), colonial administrative staff did little to intervene in rural population affairs until the mid-1930s (see also Lawi 1999:284). However, Catholic missionaries extended their influence: by 1940 they had baptised 3,721 people in Mbulu (Roman Catholic Diocese of Mbulu 2009:1). Approximately one-fifth of the population was baptised, according to a census conducted in the Mbulu Mountains where the population was 17,529 in 1948 (Börjeson 2004:151).[106]

In order to understand the influence of British colonial policies on land and local dynamics, it is important to take a closer look at the British stereotypes of the Iraqw that shaped the emergence of state-customary law, and the way in which local communities were incorporated into the state (see below). According to these stereotypes the district administration redefined positions of decision-making over land access (individualizing decision-making and excluding women) and punished rule breakers.

British District Officer Perceived as "Man of Advice"

In 1926 the Mbulu colonial post was taken over from the Germans. The area was raised from a sub-district to a full district, which administratively belonged to the Northern Province of Tanganyika. The increasing influence of the British administrative staff in Mbulu and the implementation of indirect rule promoted the interconnectivity of the social groups of the *Aya* with the policies and land and water laws of the colonial state.

The colonial administrator in charge of the whole district was the British district officer. On district level, he was subordinate to the district commissioner, only (see figure 13). The people of the district regarded him with appreciation, calling him *Bwana Shauri* (Swahili: man of advice).[107] In Tanganyika, the duties of the district officer were "conferring with chiefs and headmen, checking the work of the Native Courts, hearing appeals, looking into the problems of the tribesmen and studying the tax situation" (Lumley 1976:79).

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[106] The evangelisation of the population decreased the power of the elders and diviners in the communities. As described in chapter 5.2., the elders in Mbulu were central figures in land and water planning and in the dispensation of justice according to customary law. Between 1930 and 1961, 21 different British district officers worked for the colonial government in Mbulu. In the early days of British rule in Mbulu, decisions over land use and access were to a high extent organised by customary law. However, as the policy of indirect rule was implemented, the local power structures were increasingly challenged or incorporated into the state system.

[107] This benevolent image of the British officer was in stark contrast to the image of brutal German colonisers in that region (see box 4, Nade Ama [21.09.09:1]).

The district officer decided on the amount and frequency of tax collection.[108] Furthermore the officer had—within the administration of the state—the final decision over conflicts among the people in the district. The working period of district officers was usually no more than 2 years, which is short in comparison to the paramount chiefs who stayed in office for more than 10 years.[109]

Colonial Land Policies of the Mbulu District

People classified as Iraqw were beneficiaries of district land policy and Iraqw chiefs participated to a higher extent in decision-making than other chiefs. During British rule the "Iraqw Kingdom" expanded into areas that were formerly grazing land of Maasai and Datoga-speaking herders (see Map 4 and also Snyder 2005:24). The Iraqw were explicitly favoured by the British administration in terms of the allocation of additional land for grazing and farming. The colonial staff perceived the Mbulu Mountains as overcrowded and also viewed the Iraqw as potential labourers for newly established coffee farms:

> A specially appointed Land Commissioner, Mr Bageshaw, recommended—and the recommendation was accepted—that all the land lying to the south of the boundary of the Northern Highlands Forest Reserve, already demarcated by the German Government, should with the exception of the alienated farms, be developed as an expansion area for the Iraqw tribe. (Fosbrooke 1972:23)

The Iraqw were prioritised by the colonial administration. The first reason was that the colonial staff perceived the Iraqw as hard workers and obedient people. The second reason was that the Iraqw were farmers, and hence were more easily taxed and supervised than pastoralists such as the Maasai and Datoga (Eklo and Klein 1995:19).

> But the tribal authorities, with the aid and advice of British officers, organised extensive self-help schemes whereby the empty lands were settled, slowly at first, but with increased impetus in the period following World War II. (Fosbrooke 1972:23)

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[108] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

[109] See for example paramount chief Michael Ahho in TNA, MF. 13, District Book Mbulu: Records of Handing and Taking Over, (exact date unknown), pp. 1–2.

The supposedly empty land was settled by people from the Mbulu Mountains and surroundings.

Map 4. Research region and surroundings: migration from 1934 to 1948, own image based on own data and Schultz {Schultz 1971 #183: 105}

Bush-Clearing Programme, 1948

As will be shown in the following paragraphs, the British initiated programmes that lead to a land use change in the research region and surroundings. After the Second World War the British administration was installed so far and the colonial government started to implement schemes in Tanganyika. The Mbulu Development Plan was one of these schemes for the Mbulu District. The Tanganyika government provided a quarter of a million dollars to realise that scheme (Winter and Molyneaux 1963:499).

The presence of tsetse fly in the northern lowlands (elevation 900–1200 meters above sea level, see Map 4) of the Mbulu District was the biggest challenge for the realisation of the Mbulu Development Plan. The fly made huge areas in the district area uninhabitable by causing sleeping sickness in humans and *nagana* (African animal trypanosomiasis) in livestock and thus prevented the usage of the places for agricultural activities. The Mbulu Development Plan had three aims

that covered the opening of new settlement areas, the reduction of the number of cattle in the Mbulu Mountains and the improvement of land use through soil conservation measures in the new settlement areas (Loiske 1995:27). The eradication of the tsetse fly started with the implementation of the plan in 1948.

In order to fight the tsetse fly, a barrier was cut along the western settlement area of the Iraqw. The implementation of the Mbulu Development Plan opened up 1,700 square kilometres (420,079 acres) of pasture land "in order to relieve the congestion of the Iraqw people, who had been pinned against the Rift Valley escarpment by the spread of tsetse". The bush-clearing programme increased the availability of land for cattle owners and grain farmers (Iliffe 1979:473). The land had hardly been settled before this. During the 1920s, the area between the Mbulu Mountains and Karatu town was "barren and for the most part a waterless area and in parts heavily infested with tsetse fly" (District Political Officer 1920:6). From the 1930s until 1948 the tsetse fly expanded to the research area and surroundings and reached Mbulu from the west and south. More than three-fifths of the Mbulu District were infested, forcing pastoralists to retreat. Cattle herds were reduced by 20% due to a shortage of pasture and water (Iliffe 1979:351).

Oral history shows that the areas where elders performed rituals and held meetings were respected by the bush-clearing programme and specific trees were not cut down. Under the supervision of the colonial government huge areas were cleared

> except of our biggest tree. These trees were the places where our ritual experts held rituals. For example they held rituals for rain under that mti wa asili (Swahili: tree of tradition). It was already there when the first settlers came.[110]

Hence the colonial government respected areas, which symbolised male local political organisation.

The initiation of the bush clearing programme between Mbulu and Karatu town led to a gradual change in land use from seasonal grazing to farming in the lowlands. The British district administration in the Mbulu Mountains cleared forests for settlers from the 1940s until 1952.[111] The district officer of the time explained the need for the project by pointing out the high reproduction rate of the Iraqw and their need for more land.[112] However, Börjeson argues that the calculation of population density was based on simplified methods. By comparing Mbulu to

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[110] Interview with Slaa Tluway, Endamarariek, 15.03.2010.

[111] Interview with Nade Kahamusmo, Endamarariek, 11.02.2010.

[112] TNA, MF. 13, District Book Mbulu: Report, (exact date unknown), pp. 1–2.

other regions, he points out that the population density in the mid-nineteenth century was much lower than previously estimated (Börjeson 2004:153).

A public water supply was not developed. Instead, people used the water in the river and from hand-dug wells applying customary law to regulate access to water. The colonial administration only got involved when conflicts between settlers and farms arose (see box 7).

Pull Factor Labour to European Farms

Although the first settlers in Endamarariek and surroundings can be dated back to the turn of the 19th century, a migration took place during the establishment of farms in the surroundings. People from the Mbulu Mountains working on the farms settled in vicinity to their work place and therefor my research area also became more densely populated.

The first coffee estate in Mbulu District on the slope of the Ngorongoro Crater was founded in 1927, and by 1932 there were 66 plantations with 33,000 acres of land and leaseholds of 99 years (see Map 4). The coffee estates located in the northern part of the district were an important step in the expansion of the Iraqw. Farms provided employment for those who needed cash to pay the government tax.

In 1925, the colonial government claimed that all land occupied for farms had previously been "unused" land: "No crown land that has been occupied by natives has been leased to non-natives" (Senior Commissioner in Arusha 1925:1). In contrast to the above-mentioned quote, however, my informant confirmed that the land taken for the coffee farms had been used as seasonal grazing land.[113]

In 1954, 35 farms produced coffee for export (Batchelor 1954:1). Since the coffee plantations in Oldeani (about 10 km northwest of Endamarariek) needed labourers, the British administration encouraged the Iraqw to move to the lowlands. Iraqw families first settled next to the coffee farms but later spread into the present Endamarariek area (Fosbrooke 1972:23). Schultz reports that the Iraqw saw the coffee estates in Oldeani as a border that held back Maasai and that the farms therefore enabled the Iraqw to expand (Schultz 1971:187).

Local British Administration and Their Blurred Picture of "the Iraqw Kingdom"

A crucial point for the system of resource organisation introduced by the British was their understanding of "the Iraqw Kingdom"[114] with its "traditional political organisation".[115] The

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[113] Interview with Bessi Bombo, Endamarariek, 07.03.2010.

[114] There is thus reason to presume that the invented name "Iraqw Kingdom" is based on the assumption of district officers that Iraqw are organised hierarchically like chieftaincy is.

ethnographic record of "the Iraqw" political structure of the 1930s served as a baseline to implement an administration through which the *Ayas* were penetrated by colonial land and water laws. One of the first British officers assumed that the "Iraqw" were "traditionally" organised on three levels that resembled the hierarchical organisation of a chieftaincy:

The entire tribal area forms a unified political unit under the paramount chief or Wawutao. This is divided in a number of sub-chiefdoms, each one being under a Gausmo, the local name for a sub-chief. These areas are again sub-divided into three to eight units, these sections being administered by a minor chief or headman, he is known as a Yabusmo.[116]

Using these insights, an administration (see Figure 13) with a paramount chief, deputies,
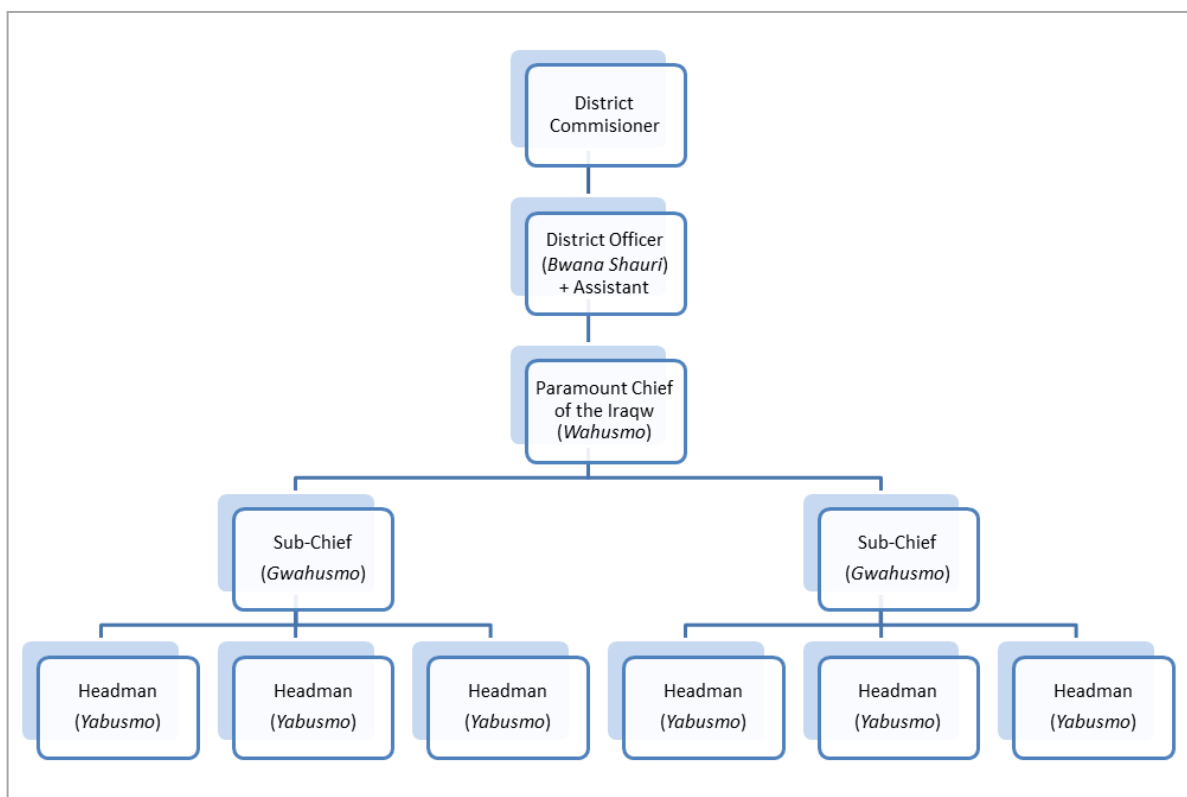
Figure 13. Administrative pyramid in Mbulu, own image

sub-chiefs and headmen was established to rule Mbulu District (see also Snyder. 2005:45). Not all district offices in Tanganyika were staffed identically. Depending on special demands of the district and staff availability, posts were occupied for a period of time. The Mbulu District employed a forest officer for some years in the 1940s (for the bush clearing activities, see chapter 5.4.2.). In Tanganyika the district office was usually staffed with a district commissioner and a

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[115] See Mamdani (2012) who argues that the *colonial state's definition* of "tribes" for administrative purposes was a means to control the local population.

[116] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the social structure of the Iraqw, 1950s (exact date unknown), p. 22.

district officer with an assistant district officer and clerks.[117] Until the mid-1930s the colonial administrative staff in Mbulu was so scarce that not all positions could be filled (see also Lawi 1999:284).

Based on the interviews on local political organisation, the district commissioner at that time had a blurred picture of traditional Iraqw government—let alone the idea of "the Iraqw Kingdom" (see chapter 5.2. on precolonial political organisation). It is unclear whether this picture was stimulated by Iraqw informants who saw a chance to participate in the new political structure, or whether the officer simply expected to see a hierarchical organisation among "the Iraqw".

The fact that most of the British in Mbulu had a positive picture of the locals, created possibilities for local leaders to participate in deciding the resource policies of the colonial state. In April 1922, a British colonial clerk wrote that the relationship between the colonial government and the Iraqw was characterised by "very little trouble and no cause for anxiety".[118] He described the Iraqw as very amenable and disciplined and responsive to suggestions. "I have never known any general lawlessness or any serious degree of passive resistance. Orders are usually quickly and immediately obeyed" (Mbulu District Book 1930-61:5).

The Paramount Chief: Appointment and Political Power

The nomination of male "leaders" to work for the colonial government marked a major challenge to egalitarian decision-making principles in local communities. The chief was selected based on having "reasonable authority" among the people (in view of the British), as well as skills in speaking and writing Swahili.[119] The local population perceived the paramount chief as the representative of *Bwana Shauri*—the district officer—who had also appointed the paramount chief.[120] The administration in Mbulu always appointed an "Iraqw" as district paramount chief. As a result, colonial land-use planning favoured the expansion of "the Iraqw" (see below) (Lawi 2007: 80).

The paramount chief had a central role in the colonial system of indirect rule in Mbulu District. Box 4 contains an example of the paramount chief's power. On one hand he was skillful in communicating with the colonial staff and commanding their respect, on the other hand he had to use force against his countrymen to enforce colonial laws. He acted as the intermediary of

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[117] Source of information is a personal conversation with Reinhard Klein-Arendt on 23.02.15.

[118] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the Iraqw, 1920s (exact date unknown), p. 2.

[119] One interview partner referred to his father who had working relations with Europeans (as a driver for cash crops) during colonial times. There he acquired language skills and was very well-known by the European community; Awaki Shauri (2010b:1).

[120] Interview with Nade Kahamusmo, Rndamarariek, 14.03.2010.

power at the intersection of the colonial administration and the local communities and hence enhanced the penetration of customary organisational principles.

Box 4. Mikael Ahho: the paramount chief, 1925–1935

In 1925, the British chose Mikael Ahho—a Christian—as the first paramount chief of Mbulu District. From 1931 on, Ahho controlled the "Native Treasury" (responsible for spending and raising tax in the district) of Mbulu District.[121] British district officers asked him for advice on colonial policies. Furthermore he formulated the state-customary law (rules under section 15 (1) of Native Authority Ordinance 1926) for application in the first and second courts of the district (Lumley 1927:2).

Ahho used corporal punishment to obtain compliance and acceptance of the authoritative structures in colonial administration. This punishment had been introduced by the Germans and was adopted by Ahho to confirm his position and authority. An elder remembers the enforcement of the British taxation system through Ahho as the worst: "A man called Mikael 'mangi' was called 'the dog' because people didn't like him. He behaved like the president. If someone didn't follow his orders, he was given 25 hits with a stick."[122] In contrast to the opinions of the locals, the British perceived Ahho as a person that "was a man of considerable intelligence and energy. If every Native Authority in the Territory had been equally gifted the story of Indirect Rule would have been very different" (Lumley 1976:77).

The colonial government delegated central administrative duties to the paramount chief (see Figure 13). He controlled all chiefs and headmen within "the Iraqw Kingdom": they paid all their funds to him and received their salary from him.[123] The "Iraqw" chief met with the "Datoga" chief once a month to discuss the problems of the district.[124] The "Iraqw" and "Datoga" paramount chiefs also held the first class court (see below) (Lumley 1927:2). During the 1930s, the "Iraqw" paramount chief became a central figure in the implementation of colonial politics. Depending on the methods of the administrative staff, he was asked for advice in organising land and water access and could also propose policies (see Lumley 1976:93).

Two groups fought for the position of paramount chief: members of the Manda clan and recently converted Christians, most of them employed at European households. Members of the Manda clan were advocates of local cosmology and tradition, and some members were also

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[121] See for instance (TNA, MF. 13, District Book Mbulu: Records of Handing and Taking Over, (exact date unknown), pp. 1–2.

[122] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

[123] TNA, MF. 13, District Book Mbulu: Native Treasuries, 1931, p. 1

[124] "Michael and Dodo, chief of the Gorowa, used to meet at regular monthly conferences to discuss the common problems of their tribes" Lumley (1976:77).

diviners (see also Snyder 2005:128). As shown in chapter 5.2., diviners and ritual experts framed local access and usage of land and water. The Manda traditionalists were challenged by Christians who had adopted different ideas of land usage and were involved in the colonial economy.[125] Hence the struggle for the position of paramount chief was also a struggle for influence on the religions and cosmology in the district.

Box 5. Struggle for power between Ahho and Manda clan

During Ahho's rule, internal struggles for power between him and members of the Manda clan emerged several times. In 1930, members of the Manda clan formulated a claim that Mikael Ahho should resign from his position and sent their claim to the British administrative office in Arusha. Subsequently, the struggle for power between Ahho and members of the Manda clan was discussed in letters between the district officer and the regional government in Arusha. The district officer voted heavily for Ahho, portraying the Manda clan as "mysterious", "dark" and megalomaniac. He legitimised Ahho as a "pure Iraqw" in comparison to the Manda clan who were classified as strangers to "the Iraqw Kingdom" based on anthropological research (see Winter who writes that the Manda Clan is of "alien origin"; Winter 1968:11) as well as a genealogy written by an unknown anthropologist in the district book.[126] The district officer argued that members of the Manda clan were inappropriate for the position of paramount chief. As proof, he cited a quote from one elected chief of the Manda clan:

> This country is ours and we are going ahead with this "case" and we are going to rule whether the people want us or not, and nothing is going to stop us. As for Mikael there are other ways and means and we have not finished yet by long way.[127]

British officials claimed that members of the Manda clan "were dropped (as Rulers) by the people and not by the government".[128] Heavy support from the district officer L. S. Gruning during the challenge by the Manda clan (1931) and from following district officers helped Ahho to stay in his position until he died in 1935.

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[125] Catholics like Ahho who had gained good relations with Europeans. Ahho and Sarwat gained influence through the Catholic Church that was closely connected to the district government.

[126] TNA, MF. 13, District Book Mbulu, Vol. 1: Genealogy of the Iraqw, 1950s (exact date unknown).

[127] TNA, MF. 13, District Book Mbulu, Vol. 1: Chief's Baraza, 1931, p.2.

[128] TNA, MF. 13, District Book Mbulu, Vol. 1: Chief's Baraza, 1931, p.2.

Chiefs, Headmen and Boy Liklik: Appointment and Political Power

The Yabusmo—or headman—was the lowest level in the hierarchy of indirect rule (see Figure 13). Headmen oversaw the daily administration of the settlements[129] (see Snyder 2005:45). They collected taxes, conscripted labour and intervened in land-use practices (Snyder 2005:45). The chiefs exercised political power through their appointment, supervision and control of the headmen. In the late period of British rule, nine headmen were in office in the northern area of Mbulu District to which the Iraqw migrated in the 1930s.[130] They were positioned in Karatu, Oldeani, Rhotia, Endabash, Mang'ola, Endamarariek,[131] Mbulumbulu, Buger, and Kansay (see Map 5).[132]

Map 5. Distribution of headmen (*Yabusmo*) in northern Mbulu district in the 1950s, own data and drawings
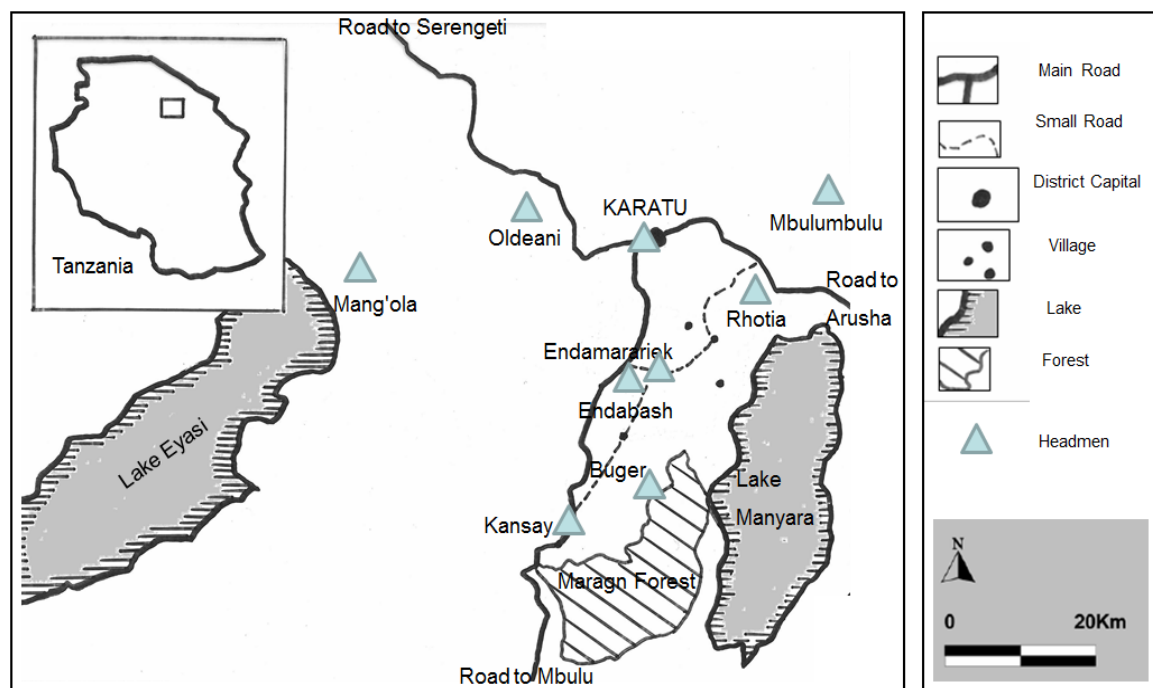
In the lowlands the population distribution was decentralised and settlements were only clusters of houses. This made it important to implement a system of communication for informing the population about, for example, tax payments, new laws or projects of the British administration.

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[129] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

[130] Data are not available about the coverage of headmen of the whole Mbulu District. The informant was uncertain about if and how many headmen were in the Mbulu Mountains.

[131] The father of Bessi Bombo, sub-village chairman in Endamarariek during my research, was the *Yabusmo* of Endamarariek.

[132] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

Headmen used *boy liklik* or *boy kiskis*[133] (the number varied between one and seven depending on the area one headman covered) as messengers to spread information. One boy *liklik* was responsible for about 30 households. Since households were far apart, messengers needed to run fast over long distances.[134] They delivered messages up and down the hierarchical system and down to the household level. Hence headmen transformed the role of boys, who in the late nineteenth century had spread the ritual instructions of the *Kahamusmo* among the households in one *Aya*. Boy *liklik* were ultimately controlled by the *Yabusmo*—the headman. They were used by headmen even though they were not part of the colonial hierarchy.

Native Courts: Dispensing State Customary Law

The native courts of Mbulu District started operation in 1926. The first class court was situated in Mbulu town in the Mbulu Mountains with the "Mbulu chief as the President, three chiefs formed a quorum and they could co-opt elders to assist".[135] Second-class courts were installed in the diverse "tribal areas" of the district. In 1931, Mbulu District was sub-divided into three areas: the Iraqw, the Ufiome and Mbugwe combined, and the Datogaa. The expansion area was also covered by an administrative structure. The Iraqw were the biggest group inhabiting this territory. The main second-class court was in Endabash with Sub-Chief Hhawu Muhhale serving as chairman of the Endabash court. Endabash consisted of four *Aya*—Endamarariek, Ngalaladu, Buger, and Bassodawish. The headman of Endamarariek was at that time Yauto. Native courts dispensed the state-customary law of the Iraqw—a law that had similarities to customary law but was very much affected by colonial law and the expectations of the British administration (see above).

The foundation of the "Iraqw Rules" of 1930 was section 15 of the Native Authority Ordinance, which provided the possibility of enacting legislation. These rules were then implemented by local authorities under the supervision of the British district officer. In the case of Mbulu District, Paramount Chief Mikael Ahho had a significant influence on this so-called customary law.

The annual report of 1924 of the Mbulu district book reports that the court was seldom used by the local population. It was only appealed to in cases of lifestock theft.[136] Nevertheless, by 1931 the area of Mbulu District was covered by native courts. Villages containing sub-chiefs were preferred; the native court in the expansion area was situated in Endabash. In 1961, Ronaldson, the district officer, confirmed that there had only been a few land claims in the district up to that

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[133] The term is a mixture of Iraqw language and English.

[134] Interview with Nade Kahamusmo, 14.03.2010.

[135] TNA, MF. 13, District Book Mbulu: Native Treasuries, 1931, p. 1.

[136] TNA, MF. 13, District Book Mbulu: Minutes of the Iraqw Barazas of Chiefs, 1927, p. 1.

point. They had been concentrated in the densely populated areas of the Mbulu Mountains. The British reasoned that the absence of cases in the lowland courts was due to the opening up of new settlement areas. State programmes had "provided adequate land for everyone" (M. B. Ronaldson 1936–1961:34). I would argue that state courts were rarely used because the local population preferred the council of male elders in the neighbourhood. My informant said that people feared the penalties like beatings and prison sentences given by state courts and preferred the "traditional" way to deal with injustice.[137]

The first recorded cases on land conflicts were heard in 1935. The colonial records have short notes on the dispute, only. A case with file no. 51/49 of Baha Awe versus Gadiye Bura describes a struggle for authority over land distribution: "according to tribal law and custom, land is allocated by *Kahamusmo* (land giver). For this reason, the allocation by sub-chief (Gausmo) Mayambu was invalid."[138] The idea of the *Kahamusmo* as the land giver is furthermore confirmed in the case 3/47 of Francsisko Melkior versus Lulu Amso: "If a man opens up an area and is the first man in that area he is entitled to distribute land, but having done so, he cannot re-allocate the land to others."[139]

The official correspondence between the district officer (and district agricultural officer) and the provincial commissioner of the Northern Provinces in Arusha contained many discussions and decisions about the "customary" rules and orders applied in district and native courts. These rules and orders were either brought in by the district officer or by the chiefs of the district. Many of the papers were countersigned by Mikael Ahho, the paramount chief of the Iraqw. The new rules were announced in meetings attended by all chiefs, sub-chiefs, headmen, and clerks of the native courts. In summary, it can be said that the state-customary law was a main topic discussed in the official correspondence of the British administration, but its *de facto* influence on land and water organisation was small.

Women's Exclusion from the Public Power over Land-Use Planning

With the establishment of the system of chieftainship, women were excluded from colonial decision-making over land distribution and usage. As Snyder argues, the

> leaders that the Germans and the British imposed, together with the nature of the leadership, were entirely different from those of the precolonial system, in which egalitarian principles and consensus-based decision-making were more clearly at work….

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[137] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

[138] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the social structure of the Iraqw, 1950 (exact date unknown), p. 23.

[139] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the social structure of the Iraqw, 1950 (exact date unknown), p. 22.

> Women were excluded from positions of leadership and the political process. Taxation, the introduction of wage labour, the promotion of cash crops, and the introduction of education were all aimed at men. (Snyder 2006:88)

The women's rite called *Marmo*[140][141] was suppressed by the paramount chief. The ritual was performed only by female elders and girls and served as an initiation rite for the exclusively female ritual society.[142] It also emphasised the solidarity among women. The *Marmo* rite was shared by many people over wide areas of northern Tanzania during the nineteenth century, especially in matrilineal communities (Thornton 1980:218). It was conducted in public in the Mbulu Mountains and surroundings.[143]

Suppression of the Marmo Rite

The suppression of the *Marmo* rite was the result of the political struggle between the Christian paramount chief Ahho and members of the Manda clan (see Thornton 1980:220). An interview conducted by Thornton (see Thornton 1980:221) describes a direct conflict between Ahho and the most powerful diviner Nade Bea. The story goes that Bea charged a lot for the permission and ritual medicine that were preconditions for beginning the rite. Ahho's daughter had also planned to be part of the rite, but Ahho refused to contribute to the *Marmo*. He decided to involve the British administration. With the help of colonial soldiers, he took all of the girls out of the *Marmo* and brought them in front of the people. These girls had not completed the rite and thus had a lesser status among women. By decree and on pain of penalties (a very high fine), Ahho stopped the public conduct of the ritual. Thornton writes that this action reflected "the exploitation of external force of power for the settlement of internal disputes" (Thornton 1980:221).

The banning of the *Marmo* resulted in a decline in female participation in community life. The space for women to exchange ideas and voice opinions challenging male elders' decisions over land access was reduced decisively. Snyder states that the "end of this ritual marked the end of an important sphere of women's control outside of the household" (Snyder 2006:88). In

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[140] For a detailed description and interpretation of the ritual procedures connected with the ceremonies of the *Marmo*, see Kamera's article "*Marmo* and Haragasi: Iraqw Folk Theatricals"(Kamera 1984:118).

[141] The Marmo began with the consultation of a diviner, who obtained his/her cue from divinity and shared ritual medicine with the female Marmo leaders. The rite involved a public ceremony in which the female trainers and the initiated girls put on a "spectacular show" (Kamera 1984:107). The rite was limited to a geographical and ritual zone, the Aya, and involved a period of weeks to years in seclusion. This seclusion was linked to the Masay rite (see below) that was meant to protect the Aya. Marmo was an enactment "of social issues with the ultimate purpose of regulating behaviour" (Kamera 1984:107). Marmo was believed to protect girls from external harm (Thornton 1980:220). Furthermore girls were integrated into the community by the ritual. "Symbolically the girls are reborn and through the stages of Marmo they enter into the dignities and secrets of their community" (Kamera 1984:118).

142 The word Marmo may derive from the word murimu which means "secrets" (Thornton 1980:220).

[143] The female circumcision was separately practised. Informants reported that the operation was done at home, separated from the public sphere and was a symbolic slit at the clitoris. Interview with Elisa Amani, Endamarariek, 13.11.2009.

consequence, women's participation in communal decision-making and their ability to control male decisions on land and water access was significantly reduced.

It may be supposed that the prohibition of the *Marmo* rite was a consequence of the adaptation and acknowledgment of the colonial hierarchy by male leaders. Winter, the first missionary conducting anthropological research among Iraqw speakers, concluded that the colonial hierarchy was adopted by the people (Winter 1968:17).[144] However, oral narratives prove that the *Marmo* continued to exist in a secretive nature and that women conducted the ritual in households.[145] Hence it lost its position in the public sphere, but networks between women of one *Aya* continued to exist.

Creativity when Nominating the Kahamusmo as a Sub-Chief

The British viewed the *Kahamusmo* as an authoritative person at the lowest level of the "Iraqw Kingdom" even though they recognised that the search for authoritative structures in Iraqw settlements had its limits. They failed to find a more authoritative person to incorporate in the hierarchical chain of the indirect rule:

> There is no one who occupies a position comparable to that of a chief, although in some cases, particularly when a land giver lives in the village, one man may stand out as having a more authoritative voice than anyone else.[146]

Hence, the need for a representative misled the British to assume that the *Kahamusmo*—the man identified as a "primus inter pares"—was in permanent control over land within the neighbourhood in contrast to the fact that his right for distribution expired after having distributed the land (see also Hagborg 2001:28).[147] The longer the British were in place, the more this assumption was solidified:

> A basic point in this system is the attitude taken by the Iraqw towards the land giver and his rights and duties. The area over which an individual acts as a land giver is not seen as his personal property. He is merely the agent whose duty it is to divide it among the people as a whole.[148]

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[144] Winter and the other missionaries acted like the religious arm of the colonial government in Mbulu. Winter was bishop in Mbulu from 1952 until 1968.

[145] Interview with Elisa Amani, Endamarariek, 12.09.2009.

[146] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the social structure of the Iraqw, 1950 (exact date unknown), p. 22.

[147] TNA, MF. 13, District Book Mbulu, Vol. 1: Report on the social structure of the Iraqw, 1950s (exact date unknown), p. 22.

[148] TNA, A3/1, Excerpt of the Mbulu District Book, 1955, p. 21.

These accounts were called into question by elders. The elders explain that the *Kahamusmo* was a priest, messenger and mediator (see also chapter 5.2.) between the Iraqw elders and the Datoga, and later even with the British rulers.[149] He spread the decisions of the elders concerning the opening and closing of meadows and the selection of plots for new homesteads.[150] The contrasts between the elders' narratives and the British records may show the creativity of how locals played with the authoritative system. On one hand, locals fulfilled the British authorities' requests for a "traditional leader" who was then appointed as a sub-chief or headman. On the other hand, elders and *Aya* meetings continued to control decisions about land use and access.

The actions of the Manda clan reveal how they took advantage of British assumptions about Iraqw authorities. The members of the Manda clan who were not rainmakers took advantage of the colonial policy of indirect rule to extend their power. The British described the diviner clan of the Manda as "not trustful and harmful".[151] Some British officials tried to reduce the influence of the clan members, but failed.

Masay Rite—the Deed to the Land

The *Masay* rite was conducted once a year by male elders. It focussed on the protection and purification of a specific and clearly defined territorial unit, the *Aya* (Rekdal 1999:38; see also 1968:11; 1980:7). The Iraqw believed that the *Masay* ritual was a precondition to receiving the blessing of rains. The ritual was also intended to establish a barrier against pestilence and misfortune (Snyder 1997:564). Farmers depend on rain and in local cosmology the water/land spirit *Neetlaang'w* was responsible for letting rain fall. Droughts occurred when the spirit was angered. Hence the *Masay* ritual focused on "cleaning" the *Aya* in order to appease the *Neetlaang'w* and persuade it to bring rain (Snyder 1997:564). The rite differed between *Ayas* according to the prescription of the diviner.

The *Masay* ritual also served as a political instrument to expand Iraqw territory. Iraqw used the ritual

> as chief political instrument by which to gain control over land and to legitimate their claim to it. Once the Masay ritual has been performed for a piece of land, "creating" it, as it were, out of the bush, the settlers who inhabit it cling to it in the face of repeated raids and adversity. (Thornton 1980:87)

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[149] Interview with Nade Kahamusmo, Endamarariek, 21.09.2009.

[150] Interview with Awaki Shauri, Endamarariek, 13.01.2010.

[151] TNA, A3/1, Excerpt of the Mbulu District Book, 1955, p. 23.

Elders named the *Masay* ritual as decisive for their expansion into the area between Mbulu and Karatu town (Snyder 1997:563; Eklo and Klein 1995:19). The paramount diviner, Nade Bea, sent ritual experts into the lowland to conduct rituals and to distribute the land to the following settlers. In Endamarariek the first neighbourhood dates back to the turn of the nineteenth century. Rekdal reports a case where Nade Bea still sent ritual experts in the beginning of the 1950s by equipping them with ritual medicine (Rekdal 1999:154).

The idea of the *Masay* ritual to define a territorial unit for permanent settlement went in accordance to the plan of the British colonial state to settle and administer the Iraqw in the area between the Mbulu Mountains and Karatu town. The ritual created neighbourhood units and later *Aya*s that were much easier for the government to control than nomadic herders. It also created communities that had their own political organisation in the shape of administrative units (see chapter 5.2. for further information on *Aya* and neighbourhood organisation). Hence, the *Masay* ritual was not only a political instrument of expansion, but also a means to reinforce power structures. The ritual found approval in the colonial land policy and vice versa. To some extent, the *Masay* ritual (see chapter 4.2.3.) supported processes of internal power structures in male-dominated control over land.

Agro-Pastoralism in the Lowlands

While the Iraqw expansion involved a movement into Datoga herding lands, interview material shows that it is inaccurate to say that the "Iraqw" displaced the "Datoga". The land use change from pastoralism to agriculture was gradual. Households conducted cattle herding as well as farming and intermarriages between "Iraqw" and "Datoga" were very common.[152] Elders name the co-operation between farmers and herders an important strategy for surviving in the lowlands:

> The Datoga were experts in herding and knew the grasses, the Iraqw were experts in agriculture. So they worked together when they entered this territory: The herders were searching for the good grounds. Then the area was more and more populated and the heads of the Datoga moved to Mang'ola, Endama'gai and Yaendachini. Also the Iraqw that had cattle already followed.[153]

With the introduction of the oxen plough around 1950, Iraqw-speakers started to engage in agriculture in the area of the present Endamarariek ward.[154] Agricultural practices changed from

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[152] Interview with Mama Huduma, Endamarariek, 21.02.2010.

[153] Interview with Bessi Bombo, Endamarariek, 19.01.2010.

[154] Interview with Nade Kahamusmo, Endamarariek, 14.03.2010.

the intensive agriculture of the Mbulu Mountains to an extensive, less water-intensive agriculture in the lowlands.

A map based on aerial photography[155] from 1958 shows 105 clustered households on southern hill slopes in the area of the present Endamarariek village. It shows that the area which is now Endamarariek contained clustered households within a distance of more than 100 metres from each other. "Your neighbour was far away and between you and your neighbour might have been over 20 acres. That is how we lived before resettlement".[156] No core village structure existed, but the locations of the clustered households show that the *Kahamusmo* distributed land according to cosmological aspects. The taboo against building houses on eastern slopes continued to be respected**.**

Box 6. Nade Bea's stake in the expansion

After Ahho's death in 1935, the Manda clan regained power in the colonial administration and the expansion into the land between Karatu town and the Mbulu Mountains intensified. The members of the Manda clan who were not rainmakers strove to acquire political power through the system of indirect rule: Winter writes that Manda clan members "tried to convince the authorities that the paramount chieftainship and all the sub-chieftainships should be held by members of their clan. In 1922 there were four members of the clan holding such positions" (Winter 1968:17–18).

Nade Bea was the paramount diviner between the 1930s and the 1950s. In view of the district officers he was the "uncrowned king": someone who exercised tremendous power over headmen and chiefs. While opening up new areas for settlement, the Manda clan extended their influence by putting in office like-minded people who acknowledged their power. Leaders that opened up new areas had a double position in the low lands: that of the *Kahamusmo* in the communities of the *Aya* and that of the chief or headman in the administration of the colonial state. Hence the Manda clan was able to extend their power in both the colonial hierarchy and the customary legal order.

In the beginning of the 1950s the *Kahamusmo* Tua Masay was sent into the area between the Mbulu Mountains and Karatu town by the paramount diviner Nade Bea. He received medicine by Bea to transfer cursed land into land suitable for the expansion (Rekdal 1999:154).

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[155] Map of Oldeani of 1966, Sheet 53/3, Dar es Salaam Directorate of Overseas Surveys for the United Republic of Tanzania (1966:1).

[156] Interview with Nade Kahamusmo, Endamarariek, 14.03.2010.

Water Access and Control

The only permanent water source in the area around Endamarariek was the spring-fed Ndedo River. The springs were located in the Marang Forest Reserve (see map 4).

The water conflict described in box 7 highlights how arbitrary and contingent the decision-making processes were during colonial times. The decision-making process for water access depended to a large extent on individual views and on personal relationships. The official legislation was far from reflecting local realities and implementation of laws. This water conflict also gives a nuanced picture of some colonial officers, who sometimes wanted to protect the rights of the locals, but were then opposed by other officials.

Box 7. Water conflicts between farm owners and herders
In 1954, a rural water pipe system was completed to supply the European coffee farms in Oldeani (Water Development Department of Tanganyika 1955:5). A water permit was granted by the district officer to extract water for agriculture.
The first recorded conflict over water access was described by the district officer Lumley in 1935. Paramount Chief Mikael Ahho called the attention of the officer to the downstream–upstream conflict on the Ndero River. The conflict involved Iraqw and Datoga herders and the German farm owners of Oldiani Coffee Estates. The coffee estate was located upstream from the herders and used the river water for irrigation. As the estate's water consumption increased, the water downstream dwindled to a trickle and was insufficient for the herders to water their cattle.
This case caught the attention of the district officer because he saw the rights of the herders disrespected by his predecessor's decision to grant a water permit to the coffee plantation. In May 1935, Lumley called a meeting in Karatu town where the Germans agreed to stop irrigating their fields at 4 p.m. every day and not restart until 7 a.m. the following day.
In July, Lumley recognised that the arrangement did not have a significant effect on the water availability for the herders. Mikael Ahho, Lumley, and another district official carried out a survey by visiting the intake. They developed the idea of building a concrete dam prior to the settlers' intake and planned a furrow for watering the herders' cattle. The remaining water would be left for the Germans. The only barrier for Lumley was the financial aspect, to which Mikael had an answer: "but the progressive and intelligent Michael said that his people will pay for it out of their own pockets. Assuming that the furrows were dug by voluntary unpaid labour" (Lumley 1976:93).
The provincial commissioner visited Mbulu in August 1935. During that visit Lumley tried to

convince him to give his approval to building the dam: "I cited cases of Irakh cattle owners being compelled to pay tolls to German farmers for permission to water their livestock on German farms; they were thus paying for their own water of which they had been deprived by our administrative action" (Lumley 1976:93).

Lumley applied the principles of the mandate agreement of 1922 to Mbulu District. The agreement had directed the British to administer water by taking into consideration "native laws and customs, and respect the rights … of the native population" (Neumann 1997:47). "At the time it seemed to me ironical that the indigenous people should have to pay in cash and work to retrieve the water that was theirs by right. Where now were the principles of the Mandate?" (Lumley 1976:93).

The provincial commissioner agreed verbally. However, when Lumley informed him later about the progress of the dam, the commissioner instructed him to stop all work immediately. Lumley saw such an injustice in the instruction to stop the building that he said it would be better to be relieved of his charge of the district than to let this happen (Lumley 1976:93). The reaction of the commissioner was to approve the scheme but to relieve Lumley of his position as a district officer.

> The last official function we carried out together was to hold a Water Board meeting at Karatu to approve the erection of the barrage. I could see no need for this, as the water belonged by right to the Irakh tribe. Why should they need a formal Water Board permit to use their own water? (Lumley 1976:93).

The conflict over water shows that district officers acted as the contact persons in case of conflicts between local people and European farmers. Moreover, the settlement of the conflict depended on the approach of the district officer and his interpretation of the mandate agreement, his personal ideology, and his power to enforce the rights of the locals against his lone manager (in this case the provincial commissioner). Information about the conflict was submitted by the paramount chief, who had a powerful position as a mediator between locals and the district officers.

5.5. The Socialist Era, 1961–1981

5.5.1. Tanzania's Path to Independence

The Tanganyika African National Union (TANU), formed in 1954, was the first anticolonial opposition party with an efficient structure including local groups and a central leadership (Iliffe 1979:433). Tanzania's path to independence was peaceful. It began with a process called *Africanisation* in which European bureaucrats left their offices to pave the way for a Tanzanian-ruled country. Julius Nyerere (in office 1961–1985)—the first president of Tanzania after independence—administered the country under the philosophy of "African socialism". Nyerere implemented the *Ujamaa* policy, which had significant effects on land usage in Tanzania.[157] *Ujamaa* aimed at collective agriculture, the nationalisation of banks and industry, and self-reliance at the individual and national level. During this time, the countryside was shaped by "Operation Vijiji", a villagisation programme conducted between 1968 and 1976. Operation Vijiji aimed to settle rural Tanzanians in centralised villages in order to facilitate the provision of schools, hospitals, dispensaries and tap water to the rural population. The operation also involved the creation of new state organs to more efficiently rule the country, for example through the TANU installed village councils. By 1977, 13 million people were registered in 7,684 *Ujamaa* villages (Coulson 1982b:242). Most of the villages in the Karatu hinterland were founded after Tanzania's independence as part of this operation.

The resettlement programme reorganised the settlement structures in some parts of rural Tanzania. Mbulu District is seen as a particularly brutal example of state intervention during Operation Vijiji. According to some authors, houses were burnt to the ground to force people to move into *Ujamaa* villages (see, for example, Lawi 2007:77; Hagborg 2001:78). In several cases the resettlements did not pass smoothly and failed to meet their goals. Lawi describes for example a widespread resistance against the implementation teams by the local people in Mbulu (Lawi 2007:69).

5.5.2. Consequences of Resettlement

The consequences of resettlement are often discussed in relation to current land conflicts and remain controversial to date. Some authors blame *Ujamaa* for the breakdown of the Tanzanian economy. Other authors, like Hundsbæk, criticise the implementation of *Ujamaa* for its brutality (see the blog "Land Affairs", http://land-affairs.typepad.com/, last access 18.11.2014). In his

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[157] *Ujamaa* means familyhood or extended family and describes the social and economic development policies of Julius Nyerere.

article "Nyerere, Operation Vijiji and Violent Land Administration" (Hundsbæk Pedersen 3.23.2012), Pedersen blames Shivji (a professor at the University of Dar es Salaam and an advocate of Nyerere's policy), claiming that he "prefers discussing the vision behind Operation Vijiji and ignoring its fatal consequences" (Hundsbæk Pedersen 3.23.2012:1). As evidence, Pedersen refers to the burning of houses of those who refused to leave their homesteads. He also quotes an article by Lawi (2007) to point out that the widespread resistance among the Iraqw was based on local knowledge about the area's ecology (Hundsbæk Pedersen 3.23.2012:1).

Other authors, such as Chachage, reject Pederson's explanation. A PhD graduate in African Studies at Harvard University, Chachage is editor of the book *Africa's Liberation: The Legacy of Nyerere* (Chachage and Cassam 2010). He accuses Pedersen of reproducing "violence phonographically" and argues that Pederson failed to do a detailed literature review on *Ujamaa* (Chachage 2010:1).

Apart from this discussion, scholars also try to explain why *Ujamaa* failed as a development strategy. Hydén (1980:6) argues that the reasons for African "underdevelopment" are mainly structural constraints at the local level. He further argues that state interventions failed because of the successful resistance of farmers against them (see also Introduction). Hydén puts the farmers into a dichotomy in which they can decide between a moral-based economy and the market system. The farmers opposed state interventions because they actively decided to stay in reciprocal social networks based on the community and the family (the "economy of affection"). In other words, farmers chose a moral-based economy over the market system. Hydén argues that the farmers' opposition has been the most significant factor inhibiting economic development (1980:271). The communalisation of goods and Tanzania's vote against a free market economy contradicted the dominant development ideology of the World Bank and the International Monetary Fund (see below).

Ujamaa can also be seen as a sort of paradox. Nyerere saw familyhood as the basis for economic development and he declared familyhood and socialism as the pillars of the policy of *Ujamaa*. Yet this oversimplified stereotype of an "African family" was enforced in an authoritarian way.

As mentioned above, today's Karatu District is usually named as an example for brutal state interventions. Part of the research in eastern Karatu District aimed to clarify what had happened during *Ujamaa*. Not a single case of houses being burned down was named by oral narratives. Moreover it seems that the burning houses were set as an example to those who expressed views against socialism or criticised the states' policies. I argue in the following

paragraphs that along with a literature review detailed investigation of local history is needed to shed light on the consequences of Operation Vijiji, as well as on the dynamics of local land politics. The chapter will show that people actively negotiated access to power and resources rather than being victimised.

One of the main features of Nyerere's government was the exercise of state control over access to land and water in rural areas in order to enhance state-planned rural development. The resettlement of the rural population dominates the history of negotiations over land and water access in independent Tanzania. During the villagisation programme, the physical relocation of more than 6 million people became a tool for the control and dominance of the state over the rural population (Jennings 2008:33). The extension of state power and the notion that land is vested in the president as trustee for and on behalf of all Tanzanians (the radical title of land) also created opportunities for land grabs in rural areas. Both government clerks and churches profited from these land grabs.

Schneider (2004) points out the paradox of Nyerere's policy for "the rural poor". On one hand, Nyerere promoted development, freedom, empowerment, and participation. On the other hand his policies were implemented through authoritarian rule. The end result was a top-down, compulsory resettlement of the rural population (Schneider 2004:345). Rural councils were introduced and created a new hierarchy in local land and water governance. The concentration of power in the hands of few male leaders discouraged participation and often reduced participation of local institutions such as *Marmo* (see chapter 5.4.2.)

The nomadic pastoralists of Tanzania suffered the most under the compulsory resettlement: "Innumerable grazing lands including cattle routes were enclosed and parcelled out to tillers, creating small ecologically unviable units for the pastoralists without regard for adequate land for seasonal livestock movement" (Gastorn 2008:39). The settlements provided to pastoralists restricted the daily and seasonal movement of cattle. While the settlements contained grazing lands, they were inadequate and unsuitable. The government aimed to strengthen agriculture and cultivation throughout Tanzania, and hence it favoured farmers over pastoralists. Pastoralists were forced to destock due to limited land resources, whereas farmers were provided with additional land for agricultural expansion (see, for instance, Mwaikusa and Jwani 1993:150).

5.5.3. Three Patterns of Land-Use Change

The Presidential Commission of Inquiry into Land Matters which was set up in 1992 aiming at investing land conflicts (see United Republic of Tanzania 1994:51) identified three patterns of land-use change that occurred as an effect of villagisation. Each type of change impacted local people and their access to resources to a different extent.

Kilimanjaro provides an example of the first type of change, in which local settlement patterns and boundaries remained the same because the local people already lived in centralised villages. Second, a dramatic change in settlement patterns happened in Mara Region: entire villages were relocated and households resettled as a redrawing of village boundaries took place. In the third variation, villagisation was used as a programme of land redistribution in addition to a resettlement from scattered households to centralised villages. This is what happened in current Karatu District and my research region in the east. The Presidential Commission pointed to the scale and gravity of the problems with villagisation in Mbulu District and especially in the Karatu District. "In these areas, we received evidence to the effect that the exercise had been arbitrary and many abuses were committed by officials entrusted with re-distribution" (United Republic of Tanzania 1994:51).

The *Ujamaa* program was a turning point in the history of land distribution and local power structures in northern Mbulu. From 1974 to 1976, the state-led resettlement of villagers and the redistribution of land in this area marked a drastic change in land use and control.

5.5.4. Aims and Development Strategies of the Independent State

5.5.4.1. The Path to Independence and the Policies of the Independent State

TANU as a Nation-Wide Organisation

During the late colonial period, incidences of land appropriation in general and colonial land policies in particular provided a rallying point for rural opposition to colonial rule (Sundet 1997:23). In the 1950s, the colony required more Europeans to help expand the infrastructure for raw material extraction. The number of white settlers doubled from approximately 10,000 to 20,000, leading to an increased demand for land by Europeans. The colonial government responded by evicting local households to make room for the new settlers and soon its relationship with the rural people became strained (Schicho 2004:317).

The most prominent example is the Meru land case of 1951 (see Spear 1997:214; Mesaki 2013:15). In this conflict, 300 households were forced to leave their land in favour of 13 European

cattle ranchers (Mesaki 2013:19). The Tanzanian people saw the behaviour of the colonial government as a political injustice, and they reacted by forming a countrywide organisation that later became TANU. Land allocation to white farmers became politically unfeasible as a result (Coulson 1982a:98). By 1958, TANU counted party members in almost every Tanzanian village and advocated for the rural population without opposition from other Tanzanian parties. While TANU members represented the interests of the local people, they were exclusively male and belonged to the educational and economic elite of rural Tanzania.

TANU members soon extended their demands beyond land rights, proclaiming values of freedom and equality. They demanded political participation in the system of parliamentary democracy. At the end of the 1950s, the colonial government responded with the Africanisation programme, in which senior positions in the government were allocated to TANU members (Eckert 2007:231). Africanisation continued until 1961, when independence was declared. TANU took over the local government structure of the colonial state. Many Tanzanian bureaucrats who had been working for the colonial government became members of TANU after independence (Eckert 2007:264).

The new government of Tanganyika—later Tanzania—operated under the Westminster parliamentary model. The National Executive Committee (NEC) of TANU formulated and defined national policies. The National Assembly then decided when, how, and in what order these policies would be implemented (Hydén 1994:92). In 1963, TANU decided to make Tanganyika a constitutional one-party state, in which other parties were outlawed (Nyirabu 2002:100).

TANU—and later CCM (Chama cha Mapinuzi, English: party of the revolution)—followed two key policies manifested in the Arusha Declaration of 1967. The first policy was socialism and the second was "self-reliance" (see below). TANU declared the end of exploitation, the public control of the major means of production, and democracy. The party planned to achieve the eradication of poverty through hard work and education, and considered agriculture as the basis of development and growth (Dunning 1973:796). In 1977, the Afro Shirazi Party of Zanzibar united with TANU to form CCM, which remained the single party of united Tanzania until 1992.

Arusha Declaration

The Arusha Declaration of 1967[158] (together with further elaborations in *Freedom and Development* and *Socialism and Rural Development* published the same year) laid the foundation

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[158] The Arusha Declaration was initially published in Swahili. It contains the following: (1) The TANU Creed, (2) the Policy of Socialism, (3) the Policy of Self-Reliance, (4) TANU Membership, and (5) the Arusha Resolution. The book *Freedom and Socialism* (Nyerere 1968a) includes the Arusha Declaration.

for massive intervention in rural people's access to land and social organisation. This declaration framed *Ujamaa* policy on the village, ward and district level from 1967 until the beginning of the 1980s.

The political ideology formulated in the Arusha Declaration was based on a political theory developed by Julius Nyerere and other members of TANU. Nyerere believed that African countries should fight for international sovereignty, and that they should control their own resources, develop their own educational systems and strive to maintain African values, such as the "traditional African family" (see Nyerere 1966, 1968a, 1968b, 1974). Hence, the Arusha Declaration initiated a change in the ownership of the means of production in the economy—a radical departure from colonial models of development. The declaration covered two main topics: the implementation of African socialism, and the economic self-reliance of the country.

The term *Ujamaa* described the African socialism Nyerere and TANU intended to implement in Tanzania. *Ujamaa* aimed to transfer the concept of a "traditional" African family to the governance of villages and the nation as a whole. It focused on the equality of all citizens, state control over resources, the priority of political action to erase poverty, and the encouragement of co-operative organisations for commerce and production (Schicho 2004:327). One fundamental assumption of *Ujamaa* was the communal ownership of important commodities. In practice—as with land (see below)—the state owned the resource and usage was collective. The idea was that basic goods were held in common and shared among all members of the local community (Stöger-Eising and Viktoria 2000:130).

The concept of self-reliance (Swahili: *kujitegemea*) in part three of the declaration referred to rural development through the efforts of citizens in all sectors (see *Freedom and Socialism: A Selection from Writings and Speeches* Nyerere 1968b:340). External financial aid was rejected—instead Tanzanians were supposed to depend upon their national resources. In practice, the financial aid of international development organisations was rejected if it did not harmonise with the Tanzanian policy of socialism.

Changes in Local Government Structure

In order to remove colonial power structures from land governance, TANU created a new system of councils composed mainly of elected members and some appointed members. In 1962, an amendment officially abolished the chief's functions and roles in the local administrative system inherited from colonial times (see Tanganyika 1962:2).[159]

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[159] The African Chiefs' Ordinance of 1953 was repealed by the 1962 amendment.

The native authority councils were replaced by TANU-dominated councils called Village Development Committees (VDCs). Each VDC contained the local chairmen and secretary of TANU (later CCM) as well as other appointed officials, such as agricultural field officers. The VDC also contained the local 10-cell leaders. A cell was the lowest level of government and served as the grassroots organ of TANU. It consisted of 10 houses grouped together under a single leader, who represented the cell to the VDC (Oxaal, Barnett, and Booth 2011:179).

Under the new government, the provincial and district commissioners gave way to regional and area commissioners. The nine provinces that operated under the colonial government were replaced by 17 regions. Many British government clerks left the country and returned to Britain. A new court system with courts at the ward, district and regional levels was introduced (see Tordoff 1965:64).

Another turning point in the local political structure came in 1972. A number of committees with different responsibilities were established on the village, ward, district and regional levels under TANU leadership. The purpose of this decentralisation was to enable state-planned development and participation by the rural population. *"Decentralization was introduced in Tanzania in 1972 as a logical step in the implementation of the policy of socialism and self-reliance"* (Maro and Mlay 1979:219). In 1977, the village committee was replaced by an elected chairman and 25 representatives of the village.

Eckert (2007) shows that the power structures of the Tanzanian government did not change radically under TANU. Rather, a process of gradual change took place, in which former "cultural brokers" between the British and local communities negotiated their spheres of influence in an administrative structure that remained the same (Eckert 2007:167). Eckert analyses the role of Tanzanian administrators who found themselves negotiating local power structures, religious (Islamic and Christian) norms and an administration that was shaped by British colonial ideologies (see Eckert 2007:167). The actors who gained power in the course of independence were centrally concerned with control over resources. The *Ujamaa* policy and especially the resettlements put state actors in a position to control land distribution.

Tanzania's Land Policy

The land policy of independent Tanzania was formulated in opposition to colonial land policy. Nyerere's approach to socialism and democracy and his ideal of an egalitarian society with an equal wealth distribution guided the land and water policies of the country. Land rights were central to Nyerere because he believed that land was the basis for development. He promoted equal access for all:

> The objective of socialism in the United Republic of Tanzania is to build a society in which all members have equal rights and equal opportunities; in which all can live in peace with their neighbours without suffering or imposing injustice, being exploited, or exploiting; and in which all have a gradually increasing basic level of material welfare before any individual lives in luxury. (Nyerere 1968b:340)

Nyerere's views on land access and use can be traced back to his experiences in childhood—he grew up in an acephalous society (see below). Lineage rather than individuals determined access to land in the community where he grew up. Nyerere's education also influenced his way of thinking. Box 8 shortly reviews aspects of his biography that shaped his political thought.

Nyerere rejected the ownership of land as promoted by Europeans. He believed that land rights could only be user rights (Stöger-Eising 2000:119–21).[160] In 1958 he published the pamphlet *Mali ya Taifa* (English: national wealth) to comment on the colonial government's proposal for new legislation on land holdings. He believed that land should not be a commodity to be bought and sold because it was a gift of God (Nyerere 1974:4; Kamata 2010:57). Nyerere was also convinced that the privatisation of land would lead to class contradictions and social differentiation:

> In a country such as this, where, generally speaking, the Africans are poor and the foreigners are rich, it is quite possible that, within eighty or a hundred years, if the poor African were allowed to sell his land, all the land in Tanganyika would belong to wealthy immigrants, and the local people would be tenants. But even if there were no rich foreigners in this country, there would emerge rich and clever Tanganyikans. If we allow land to be sold like a robe, within a short period there would only be a few Africans possessing land in Tanganyika and all others would be tenants. (Nyerere 1966:176–87)

Nyerere believed that private land ownership would lead to exploitation, defeating his goal of a classless society based on "African tradition". His primary concern was to prevent a situation of dependency between landlords and workers (Kamata 2010:110).

Box 8. Short biography of the most influential Tanzanian politician: Julius Kambarage Nyerere
Julius Kambarage Nyerere's[1] ideas dominated Tanzanian politics in the decades following independence. The figure of Nyerere as an African intellectual, an advocate, a strategist, and one of the greatest African leaders remains in the minds of many Tanzanians until today. Nyerere was born in 1922 near Musoma, in a remote village inhabited by the acephalous Zanaki.

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[160] At the age of 12, Nyerere attended a Catholic mission boarding school where he was confronted with Christianity and a new language—Swahili. He was later chosen to attend University College of Makerere in Uganda where he studied education and was exposed to Western political systems (Stöger-Eising 2000:128–30).

His approach and vision of an independent Tanzania were influenced both by his childhood experiences in an egalitarian community and by his European education. Nyerere studied first at the University College of Makerere in Uganda and later at the University of Edinburgh (Stöger-Eising 2000:129). He became a committed Catholic during his studies. In Edinburgh, he learned political philosophy and practical political ideas regarding women's liberation, individual human rights and formal education. He also developed his dedication to modernisation and progress (Stöger-Eising 2000:139). Back in Tanganyika, he worked as a teacher and became part of the independence movement. He became president of Tanganyika in 1962 and was re-elected four times, in 1965, 1970, 1975 and 1980. In 1964, he promoted the unification of Tanganyika with the islands of Zanzibar (Unguja and Pemba) to form Tanzania. He was chairman of CCM (Chama cha Mapinduzi—the single political party created in 1977 by an association of TANU and the Afro-Shirazi-Party of Zanzibar) until 1990 (Schicho 2004:331). Nyerere resigned from the presidency in 1985. He died in 1999, but his political and ideological heritage had a long-lasting and massive impact on Tanzanians' ideas concerning land and water management. One major influence was the idea that water is a gift of God and should thus be free of charge (see below).

Nyerere's heritage has been criticised in various ways. Usually he is blamed for "wrecking the country's economy" (see for example Ibhawoh and Dibua 2003:59). However, influences cannot be judged by their economic benefits only. Nyerere also built a national identity, unified Tanzania, and left behind a country where many people speak the same language. To this day, Tanzania is one of the few African countries where there is relative peace and stability.

The "Free Water Era"

There is surprisingly little literature about the aims and strategies of the Tanzanian government concerning water organisation during African socialism.[161] Maganga describes the water policy of that time as the "free water era". In 1965 all responsibilities of water development in rural areas were given to local authorities. In 1969, the Tanzanian government decided to meet maintenance and operation costs of all rural water supply projects. In 1971, TANU set the policy terms of providing easy access to potable water for all villagers by 1991 (Maganga, Butterworth, and Moriarty 2002:923).

During Operation Vijiji (1960s and 1970s), the government invested heavily in rural water supply systems. The result was "the proportion of the population with access to improved water supply rising from 12% to 47% in the period from 1971–80" (Cleaver and Toner 2006:214). This

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[161]Today, many international donors and state initiatives aimed at providing drinking water are confronted with a widespread attitude among the rural population that water should be provided free by the state or NGOs. Probably this attitude has its roots in the "free water era".

number must be seen in relation with the resettlement program. Centralised villages were easier to supply with water than scattered farms or nomadic herders. Nyerere wanted to create centralised villages in order to also provide the rural population with services. However, the government's centralised approach to water planning also produced problems. Many rural water systems broke down after a couple of years due to a lack of community participation in planning, maintenance, and management of water pipes (see for instance Achterberg-Boness 2009:67, and Cleaver and Toner 2006:215).

As with the reallocation of land, the socialist government ignored local structures that had managed water in the past. At this point we notice a discrepancy between *Ujamaa* ideology and practice. On one hand, Nyerere wanted to provide access for all, based on African egalitarianism. On the other hand, he gave authority and control over these resources to government officials who had little authority in the community. In many cases, traditional water management was linked to local power structures, yet the new water systems failed to integrate customary laws or power structures. Hence, Nyerere's overgeneralisation of an African egalitarian society resulted in the undermining of long-established and working local forms of participation.

However, the integration of local power structures and customary laws would have weakened state authority. The new water systems helped to expand the authority of the state. For example, in Kilimanjaro the government announced a Rural Water Supply Programme in 1967 that aimed to provide piped water to the people living on Mount Kilimanjaro. The clan-based societies of the area had previously used a furrow system based on gravity, with which they had provided water connections to many households for hundreds of years. The new government water systems established government presence in the villages by providing a daily good. This presence was meant to undermine local forms of authority and strengthen the government's control (for a detailed analysis, see Bender 2008:841).

5.5.4.2. Implementing African Socialism

As part of TANU policy, Tanzania refused any financial aid that was not in line with the political ideals of the country. This resulted in greater influence by faith-based organisations, which were connected to global networks that provided external financial aid in line with TANU policy. Besides the TANU structure, churches and mosques were the only nation-wide organisations that had representatives on all levels from the villages to the centres.

Project Law: Faith-Based Organisations

In many places, faith-based organisations added project law to the local rural setting through providing infrastructure based on faith-based principles, especially in the field of drinking water.[162] These projects influence "existing legal relations and change the conditions under which people are able to use their rights" (Weilenmann 2009:156).

As mentioned above, the policy of self-reliance resulted in the rejection of funds provided by donors with a different ideological orientation than the Tanzanian state. In contrast, faith-based organisations saw themselves as in line with African socialism. An example is the Lutheran Church. In 1968, the Bishop of the Lutheran Church declared that Christianity and *Ujamaa* had many common aims (Simon 2008:195). The Bishop stated that *Ujamaa* socialism and self-reliance—the basic principles of the Arusha Declaration—were the Church's own heritage. The ideological orientation of the churches in agreement with state policy resulted in their strong involvement in the implementation of projects and local initiatives supported by European funds. When the state did not provide infrastructure, churches did: faith-based organisations provided schools and other training centres, clinics and dispensaries, and loan groups. Thus these organisations played an important role in the everyday lives of people after independence. During the 1970s, the Catholic Church was the biggest nongovernmental organisation that aided in implementing local projects (see Jennings 2008:82). The church supported the implementation of government programmes and "church leaders and civil authorities formed part of the same elite and shared many of the same interests" (Jennings 2008:89). Jennings even states that during socialism the faith-based organisations were "the most significant of nonofficial agencies in implementing and managing development in Tanzania" (Jennings 2008:81).

Ujamaa Vijijini—Rural Socialism

Nyerere first spelled out his policy of rural socialism in 1967 in his speech "Socialisms and Rural Development". The policy was implemented between 1968 and 1975. What started as a rural development approach on a voluntary basis became a compulsory campaign in some parts of Tanzania. Key aims were development, freedom, empowerment, and participation of the rural population (Schneider 2004:345). The overall aims

> were to allow a planned utilization of land and other local natural resources, to enable the government to provide social and economic services more efficiently and, above all, to organize communities spatially and politically so that they could engage successfully in collective improvement of their own social and economic wellbeing. (Lawi 2007:69)

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[162] Examples of faith-based organisations shaping access and control to resources will be further discussed in chapter 6.4.2..

In *Socialism and Rural Development* Nyerere states that

> we shall achieve the goals we in this country have set ourselves if the basis of Tanzanian life consists of rural economic and social communities where people live together and work together for the good of all, and which are interlocked so that all of the different communities also work together in cooperation for the common good of the nation as a whole. (Nyerere 1968a:347–48)

In Nyerere's vision, all people work together for the good of the nation and the village. Only *Ujamaa* villages (registered villages based on *Ujamaa* principles, see below) received government support in the form of land to work on and household water, education services and health stations. Centralised villages were easier to develop for delivery of development projects.

In 1973, the ruling party TANU decided that the resettlement policy was no longer voluntary. The compulsory resettlement called "Operation Vijiji" reallocated some 9 million Tanzanians to *Ujamaa* villages. The implementation involved a form of communal land ownership and the registration of villages as co-operative societies (Juma, Sippel, and Wanitzek 2004:229). The effect of the "Operation Vijiji" in the research area will be described in chapter 5.5.5.

5.5.4.3. Land and Water-Related Legislation during Socialism

Land-Related Legislation and Conflict Resolution

During the time of African socialism, land legislation was primarily used as a tool for government initiatives in rural development. As Sundet states, legislation was "tailor-made to facilitate upcoming development policies" (Sundet 1997:27). The British Land Ordinance remained the principal land legislation. It protected land held by so-called customary rights only in the vaguest of terms. The new laws became a set of directives for policy implementers.

Even though the rise of TANU was linked to its advocacy of the local population in land conflicts, there were no major changes in legislation to protect individual and community land rights. TANU embraced the British Land Ordinance of 1923, which established the principle of land tenure (Kamata 2010:111). Colonial land law had regulated land access by private persons and "referred to state control of the public domain and of "vacant" lands" (Moor 1994:2). The normative power to define land as vacant was in the hands of state officials. The first land policy mentioned in Nyerere's inauguration speech was the radical abolishment of freehold—the government took over ultimate control of all land (Sundet 1997:25). In 1963 the freehold was abolished and the leasehold introduced. The colonial farms that made up less than 1% of the

entire land of Tanganyika were turned from freehold titles into leasehold titles not exceeding 99 years (Englert 2005a:59).

Table 4. Evolution of land-related laws in rural Tanzania before and during socialism

Period	Name of the Law (year)	Features
Colonial period	Land Ordinance (1923)	Land ownership and control is vested in the state. Freehold for farmers.
Independence and socialism	Freehold Titles (Conversion) and Government Leases Act (1963) and Rights of Occupancy (Development Conditions) Act (1963)	All land administered by the government and legally vested in the president. Converts existing freeholds into government leaseholds not exceeding 99 years.
	Magistrates Courts Act of 1963	Creation of a hierarchy of courts: Primary Courts, District Courts, Resident Magistrates Court, High Court.
	Range Development and Management Act (1964)	Communalisation of land under the supervision of ranging associations. Ranging associations could hold a granted right of occupancy.
	Land Tenure (Village Settlement) Act (1965)	Regulation of land tenure in the new village settlements established on virgin land. Rights of occupancy granted to a Rural Settlement Commission.
	Rural Lands (Planning and Utilisation) Act No. 14 of 1973 (accompanied by the Arusha Declaration)	State authority over the declaration of any part of the national territory as "specified area". Right of the government to dispossess land.
	Villages and *Ujamaa* Villages (Registration, Designation and Administration) Act No 21 (1975)	Provision of registration and administration of *Ujamaa* villages (min of 250 households, clear defined boundaries). Village council has decision-making rights over planning and distribution of village land, land cannot be sold or bought.

The Villages and *Ujamaa* Villages Act of 1975 had a huge impact on the organisation of land access in villages and its influence remains to this day. This act gave the power of decision-making over land planning and acquisition to the village council after the village had been registered as an *Ujamaa* village.

Two conditions had to be met for registration: the village had to be composed of more than 250 households and its boundaries had to be defined. In *Ujamaa* villages, the village assembly (the village assembly consisted of all adult men and women living in the village) elected the village council, which then had the right to decide over holding and alienating the villagers' land (Juma, Sippel, and Wanitzek 2004:230). Politically, the village was embedded into a hierarchy of units of which the largest was the nation and the smallest the 10-house cell (see above). In between these units, there was the sub-village, the village, the ward, the division, the district and the region.

The present Tanzanian court system was established in 1963 with the Magistrates Courts Act. The Act ended the racist bisection of courts and created a hierarchy of courts. The lowest courts were Primary Courts and their judges were lay people with some training in law. In these state-initiated courts, decisions were made by a majority vote of the judges. Shivji states than in "practice, these courts have proven to be corrupt and to have little legitimacy with the people" (Shivji 1995:166).

The Range Development and Management Act of 1964 was an attempt by the government to more effectively use grazing land. This legally over-elaborated law ended in a debacle: even though it was applied extensively in Simanjiro and Bariadi District, ranging associations were not accepted as legitimate by the people. In these districts "schemes removed land tenure from the domain of customary law; it adopted top-down approach where the land tenure and uses were administered and managed from top through a series of rules, regulations and by-laws" (United Republic of Tanzania 1994:42). Hence, the implementation of the law destabilised and extinguished pastoral land rights (Gastorn 2008:37).

Water-Related Legislation

The independent government adopted the colonial principle that all water was vested in the state in section 8 of the Water Utilisation (Control and Regulation) Act of 1974. A process of decentralisation started in which the ministerial water authority gave up decision-making and controlling functions to the water officers and water management institutions. In agreement with the Water Ordinance of 1959 and the Water Utilisation (Control and Regulation) Act of 1974, the water minister appointed regional water officers in addition to the national principal water officer (van Koppen et al. 2004:4). In terms of allocation and changes of water rights, the law vests almost absolute decision-making power in the national water officer. Both acts oppose Nyerere's belief that water was a gift of God. The water officers have absolute decision-making rights and are only accountable upwards, in clear opposition to the idea that water belongs to all people and is a communal good.

5.5.5. Changing Patterns of Land Access and Control in Endamarariek and Surroundings

5.5.5.1. The Impact of National Policies in Endamarariek and Surroundings

For about 10 years after independence, land distribution and control in Endamarariek and surroundings were still shaped by colonial policy. The goal of the colonial government to include Karatu farmers in national and international markets and the cash economy (see for instance Beidelman 2012:17) had a sustained effect on land use in the region. During the late colonial

period and the first decade after independence, the patterns of agriculture in the lowlands changed gradually from herding to medium- and small-scale farming. The plough was introduced by the British in the late colonial period, and its usage helped to turn grass and bush land into agricultural plots.

During the first 10 years after independence, the political vision of TANU for rural Tanzania (see chapter 5.5.1.) did not reach the local level. In 1963, the offices of chief and sub-chief were officially abolished, and a District Development Committee was established. In practice, however, the leadership and control of land introduced by indirect rule continued to be used. The chiefs and sub-chiefs who had worked for the colonial government remained in office until Nyerere's speech in 1973 (Mbulu District Book 1930–61:55).

As described for the late British colonial period, wage labour on European farms triggered immigration to the area around Karatu town. A group of wheat farmers emerged out of the immigrants. In 1975, northern Mbulu was the largest single wheat-growing area in Tanzania. Wheat was first grown in Mbulu by South African farmers in the 1930s. During the Second World War, these farms increased their production. The government supported wheat production by granting guarantees and mechanised wheat schemes were introduced. However, at end of the war local farmers also started growing wheat. They used oxen at first but later hired tractors and combine harvesters from European settlers (see Coulson 1982a:98). The cash crop was sold in big cities such as Arusha and Dar es Salaam. The commercialisation of agrarian production was also reported by Schultz (1971:213). A transition from subsistence to cash crop production took place between Karatu town and Endabash village. Wheat production more than tripled between 1963 and 1966/67 and Iraqw farmers tripled their land holdings from approximately 6,000 acres to 18,000 acres in the area. The number of tractors doubled and one out of four farmers used an ox plough. In 1967, all arable land in Mbulu was distributed (Schultz 1971:213).

The economic elite of northern Mbulu consisted of large cattle herders and wheat farmers, who had traditionally seen increasing the number of cows as the best way to maximise wealth.[163] After independence, this group changed their strategy of wealth accumulation. Some people from the Mbulu Mountains who had migrated to northern Mbulu during colonial times (see chapter 5.4.2.) had tactically co-operated with European settlers (see also Raikes 1975a:9; Hagborg 2001:72). Local farmers provided the Europeans with easy access to land, while the Europeans helped them to access machines and knowledge about the large-scale cultivation of wheat. One example was the former sub-chief and chairman of the court Hau, who was placed in

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[163] Interview with Awaki Shauri, 14.03.2010.

Endabash during British indirect rule. He had huge land holdings and had managed to enter into good relations with the colonial government on the one hand and with the European farmers on the other hand.[164]

The colonial policy also favoured the expansion of the Catholic Church in Mbulu (see chapter 5.3.2.). This had visible effects on land use because churches and other buildings were built and surroundings fields were used for agriculture to supply the staff. The church also introduced a new system of spiritual thought that contradicted the local cosmology. As shown in chapter 5.2., the elders' position was legitimised by cosmology, and their interpretation of the divine entities supported local beliefs, which decisively shaped land and water use. Bishop Winter enthusiastically worked towards the missionary spreading of the Christian faith, and thus worked towards a questioning of power structures based on local cosmology.[165]

Land Distribution and Patterns of Production in the Reseach Area before Operation Vijiji

After 1961, land in the reseach area and surroundings was cultivated by local farmers on fields with a size of 1,000 acres (some 4 km²) or more. These farmers owned the full range of cultivation equipment such as medium-size trucks and tractors provided by a colonial programme of wheat schemes in that region. In northern Mbulu District "the owners of tractors cultivate about 90 percent of all wheat land either through ownership, under share-cropping agreements or under contract arrangements for those who do not own tractors" (Raikes 1975a:4).

Most entrepreneurs were Christians who had been skilled at selling and buying cattle, others had grown cash crops like onions, and some had worked for European settlers or were government clerks (see also Iliffe 1979:457; Schultz 1971:211).

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[164] Interview with Gabrielli Tlatla, 11.03.2010.

[165] Between 1952 and 1969, Bishop Winter supported the building of 22 primary schools in Mbulu District, four new parishes and a seminar for Catholic priests in Mbulu. During his leadership, 53,950 people converted to Catholicism. In 1969, the leadership of the Catholic Church changed as a result of Africanisation. Bishop Winter left and the Mbulu parish was put under the directive of the diocese of Tabora. All primary schools that had been run by the Catholic mission in Mbulu were nationalised. However, the teachers who had been trained by the missionaries continued to teach (Kinyaiya 2007:36).

Landholdings in the area of today's Karatu District in 1974/75 (before Operation Vijiji)

Figure 14. Landholdings of 2,000 land holders in the area of today's Karatu District before resettlement in 1974/75. Based on data available at the office in Karatu (United Republic of Tanzania 1994:51)
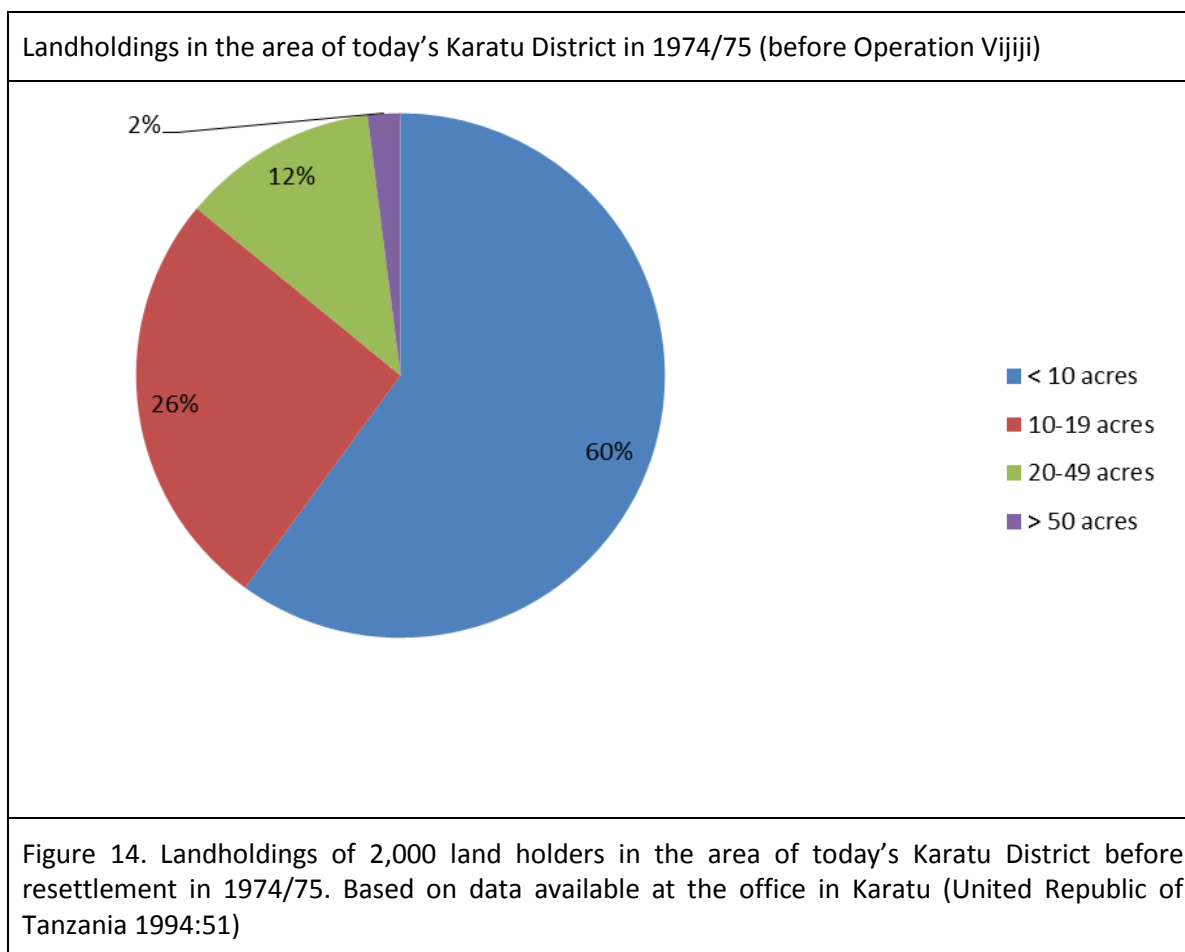
In contrast to European-run farms in Kilimanjaro, privately owned plantations were not nationalised in today's Karatu District. The coffee and wheat schemes run by white farmers in the area continued to produce.

Just before the implementation of Operation Vijiji, the area of today's Karatu District had 17 villages with more than 2,000 landholders who had received land from elders or the sub-chief/*Kahamusmo* (see Figure 14). In all, 60% held less than 10 acres of land, 26% held between 10 and 20 acres, 12% held between 20 and 50 acres, while only 2% had more than 50 acres of land (United Republic of Tanzania 1994:51).

Endabash is located in the north-eastern part of the district. It is the area where the research village emerged during resettlement. This area was too dry for wheat cultivation and had poor soil qualities. The principle food crop in Endabash was maize, usually intercropped with beans. Some people grew potatoes, green vegetables and various legumes as well as pumpkins and gourds around their houses (Raikes 1975a:100). In the decade after independence, patterns of production around Endabash consisted of a mixture of livestock husbandry and maize, sorghum, and millet cultivation. Usually the fields had the shape of a square surrounded by

grazing land. With the extension of farmland, pasture grounds shifted to the western part of the district (see map 4) (Schultz 1971:207).

Nyerere's Speech in Endabash/Mbulu—A Particular Development Strategy, 1973

Nyerere's public speech on 6 November 1973 was the initiating event that heralded the resettlement into *Ujamaa* villages in northern Tanzania.[166] To overcome poverty, Nyerere promoted a particular way of development in rural Mbulu through education, hard work in the agricultural sector and life in *Ujamaa* villages.

During his speech, Nyerere gave the people negative feedback on the way of life he had observed during his travels. Instead he promoted *maendeleo* (English: development). One particular sentence from Nyerere's speech has become part of the district's oral history, and many informants referred to it in their narratives: "Tokeni kwenye mashimo" (English: Leave your holes!)

By the term "holes", Nyerere meant the houses in the region that were built into the sides of hills. He emphasised that change and development could only be achieved by moving into modern houses in modern centralised villages. "Before the resettlement people had lived in houses called tembe with clay on the roof. But the new buildings needed to be built fast so they built these houses with tin on the roof."[167]

The forced change in housing styles was also described by Lawi, who states that government officials pressed people to abandon their "backward" houses and adopt the "modern" style (Lawi 2007:84). The change in housing style can be seen as a symbol of the gradual changes in values that came about under *Ujamaa*.

Translating Nyerere's Speech—A Particular Idea of Modernity

In the years following Nyerere's speech, his discourse on the backwardness of the "traditional" way of life continued to frame local policies. The ward secretary—who officially acted as both party and government head in the area—and the people who had been appointed by him shared the idea that the "backward" style of life needed to be overcome. Education, modern agricultural techniques and bush cleaning to open new settlement areas were seen as the way to overcome poverty in rural Mbulu.

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[166] Nyerere travelled all around Tanzania in those years. Many people honoured him for what he did: travelling to the villages, he took the hoe (Swahili: *jembe*) in hand and worked side-by-side with the people. His fight against the individual enrichment of local officials was also admired by the people. To symbolise state power, a monument was built in Endabash (a village halfway between Mbulu and Karatu) at the spot where Nyerere proclaimed the Arusha Declaration.

[167] Interview with Ama Alley, Endamarariek, 28.01.2010.

The extension of the educational sector was one of the socialist government's main strategies for developing rural Tanzania. Formal education also provided a means to implement particular ideas of modernity and to strengthen government control by teaching children the ideals of the socialist government. A primary school was built in every *Ujamaa* village. It was mandatory for all children to attend four years of primary education to learn how to read and write in Swahili,[168] the language of trade, economy, and the Tanzanian government. For most of the children in the research area, Swahili was a second language.

The first public meeting of the village government of Endamarariek concerned the building of the primary school and the teacher's house. All villagers were encouraged to contribute money. The primary school was placed on a plot that had belonged to the family of a ritual expert.[169] The choice of location symbolised the replacement of Iraqw methods of education by "modern" education.

A school board was formed comprising the village chairman and additional four elders. They supervised the school's construction and spread the message that every child should attend school. In Endamarariek, many people resisted sending their children to primary school. The son of the first chairman remembers:

> Some people even hid their children inside the house when they saw the government coming to convince them to send their children to school. I think parents feared loosing influence on their children. Some even pretended not to have children just to avoid them going to school.[170]

However, a few people who had worked on European farms or were engaged in the trade of cash crops had a more positive view of formal education.

5.5.5.2. Creation of the Ujamaa Village Endamarariek

As shown above, there were no drastic changes in land access and control in northern Mbulu during the first years after independence. However, fundamental changes took place in this area during Operation Vijiji as many centralised villages evolved in the lowlands between 1974 and 1976. People from the Mbulu Mountains and from other areas came to the Endabash ward office

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[168]Kiswahili—the language of the Swahili coast—was the *lingua franca* of traders long before the first European reached East Africa. Nyerere implemented it as the national language. The composition of Kiswahili reflects the history of East Africa. Its grammar is Bantu, but about 30% of the words are Arabic (especially numbers that were introduced by the Arab traders). Some Portuguese, English and German words are also part of the vocabulary.

[169] Interview with Ama Alley, Endamarariek, 02.01.2010.

[170] Interview with Awaki Shauri, Endamarariek, 17.03.2010.

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to ask for land. Some new settlers were former wage labourers from farms in Oldeani and others came from Karatu town (see below for details). Some were already living in households in the lowlands. The majority of the settlers were either Iraqw or Datoga speakers.

As mentioned above, Nyerere's speech in Endabash initiated the foundation of *Ujamaa* villages in the Karatu hinterland, one of which was Endamarariek. New political actors were appointed to implement *Ujamaa* policy. When Nyerere made his speech at the end of 1973, he nominated the ward secretary to oversee the resettlement.

> In the time of Ujamaa resettlement it was the Endabash ward (kata) secretary Kawelu who ordered the division of plots and who was responsible for putting the village officials in office. He chose the ones who were to hold administrative posts. He was there with Nyerere in Endabash in 1973 when Nyerere proclaimed the operation.[171]

As in colonial times (see chapter 5.4.2.), the government used bush clearing and deforestation to create living space and to generate building material—this time for *Ujamaa* villages and *Ujamaa* houses. At the turn of the 19th century, the area around Endamarariek had been bush land used for seasonal grazing with very few scattered households. Oral accounts confirm that by then the area of present Endamarariek[172] village had been mainly covered by forest and inhabited by wild animals such as elephants and leopards. In 1974, the government cut down the forest to create space for the new, nuclear *Ujamaa* village.[173]

Oral history states that a community meeting was held in Endabash after Nyerere's speech to tell the people living there to move to the *Ujamaa* village. In 1973, TANU decided that resettlement was no longer voluntary. Regional administrations were instructed to move the rural population into centralised villages within the next three years (Moore 1979:65). This forced resettlement was known as Operation *Sogeza* (Swahili for "operation move").

According to local narratives, the *Ujamaa* village Endamarariek was jointly planned and implemented by the ward secretary with the local sub-chief or *Kahamusmo*. Even though national policy had officially deprived chiefs of their power, it seems they were still influential. The implementation team for Operation Sogeza in Endamarariek included people who had been chiefs and sub-chiefs during colonial times.[174]

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[171] Interview with Tluway Kwaslema Endamarariek, 21.01.2010.

[172] "*Endamarariek*" (Datoga language) means "river of the leopard".

[173] Interview with Ama Alley, Endamarariek, 28.01.2010 and interview with Tluway Kwaslema, Endamarariek, 21.01.2010.

[174] Interview with Gabrielli Tlatla, Endamarariek, 18.06.2014.

On the first of April 1976, Endamarariek was registered under the number AR.KIJ.72 and received the official status of an *Ujamaa* village. During land distribution, the implementation team used a chain or rope to measure a plot for each family bordering the road that was a branch of the main road between Karatu town and Mbulu. Every family received the same amount of land without regard of the number of family members.[175] Village areas for grazing were set aside on valley bottoms and hill tops.

> The kahamusmo was asked by villagers where they should settle during the planning of the Ujamaa village. He still had the jurisdiction and his family still had one of the biggest plots. The government officials together with the kahamusmo were planning the plots. They planned the whole village. There was the main street and you can see left and right the square plots. These plots were 70 × 70 meters. They had a long rope to measure the plots. People were just planned to live next to each other without knowing each other.[176]

The Resettlement: Operation Vijiji

Operation Vijiji was conducted from 1973 to 1976. In northern Mbulu, landless families, churches, and government clerks were favoured in the allocation of land.[177] However, there are no statistics about land allocation that support this assertion.

The diary of the first chairman of Endamarariek (and later member of the Ward Development Committee (WDC) explains how land was redistributed to households. Before resettlement, the area had been inhabited by 28 households who had received vast areas of land from the sub-chief/*Kahamusmo* and the council of elders. According to the chairman's diary, these lands were redistributed to 346 households. This helped Endamarariek to qualify as an *Ujamaa* village, since *Ujamaa* villages were required to register at least 250 households.

The news that land was being distributed led to a migration from the mountains to the area of today's east Karatu District.[178] This is confirmed by the census data. Of the 14 households still living in the census area whose land ownership dates back to Operation Vijiji, almost half (six heads of households) were born in the Mbulu Mountains. Two were born in Endamarariek. Five were born within a 50 km radius.[179]

Under the supervision of the ward secretary, each family received a small plot (roughly three acres) for their house in the village centre along the main road, as well as three acres of

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[175] Interview with Awaki Shauri, Endamarariek, 17.03.2010.

[176] Interview with Ama Alley, Endamarariek, 28.01.2010.

[177] Interview with Awaki Shauri, Endamarariek, 17.03.2010.

[178] Interview with Bessi Bombo, Endamarariek, 15.12.2009.

[179] The rest came from other places like Arusha or did not state a place of birth.

fields in the surroundings area. The people who had already been living in the area used several strategies to maintain or extend their land holdings. Big households with many male descendants could usually maintain their access to the surroundings fields. The notes of the village chairman show that plots which had been managed by the elder of a family were often distributed to his sons. Unmarried sons received no more than one acre, while married sons received three acres. The government officially gave land titles to the sons, but in the perception of the villagers the land was still in the hands of the elder.

Moving Back

Households who had lived in scattered homes before resettlement moved back to their original sites after one to three years of living in the *Ujamaa* village. The oral narratives gave three reasons for this move. First, people from scattered settlements were not used to living in close proximity to each other and just did not feel comfortable. Second, many conflicts arose because of cattle entering other households' plots. Finally, people were greatly afraid of living next to witch-families.

When settlers moved back to their original sites, they usually kept the fields next to the village centre but abandoned the housing plot. The households' choice to keep or abandon the fields depended on their needs and whether they had the financial ability to buy seeds and labour for two fields. Some households moved far from the *Ujamaa* village. They decided to abandon their fields because it was time-consuming to farm the land.

Figure 15 shows the number of cases of land allocation by the village government. The size of allocated lands varied from one to ten acres with an evarage of 3.35 acres. Land allocation clearly reached a peak during Operation Vijiji. It should be noted that this figure only includes cases of ownership lasting until the 2010 census. Out of the 205 households covered by the census, only 14 still hold land distributed during Operation Vijiji.

Figure 15. Land allocation through the Endamarariek village government
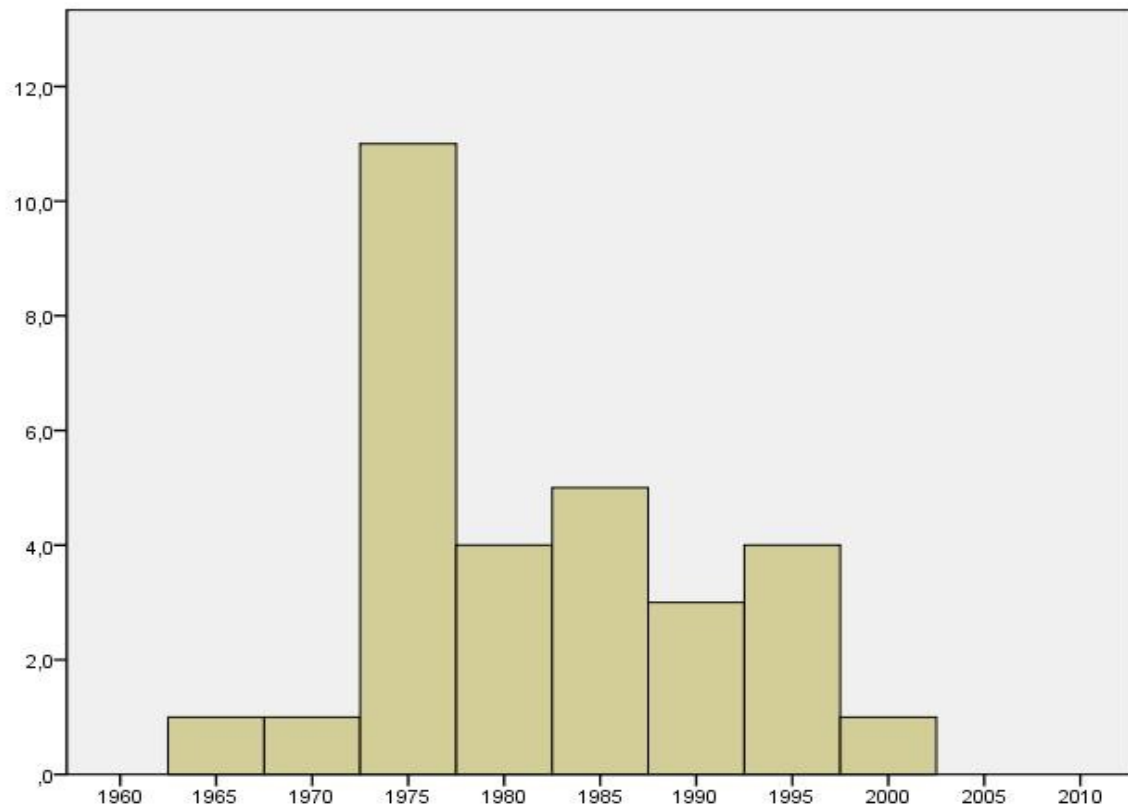
Figure 15. Land allocation (fields and housing plots) through the Endamarariek village government, only including cases of ownership lasting until the census of 2010. Based on data from my census in 2010

This is a small number that can be explained by the fact that 40 years have passed since Operation Vijiji and in many cases the land will have been transferred again through, for example, inheritance.

The households who remained in the *Ujamaa* village entered into a patron–client relationship with the "former" land owner. This can be explained by the interaction of two institutions that regulated access to land: the modern TANU approach of land reallocation (state law) and the land loan system of customary law (see chapter 7.3.3.).

According to state law, the former owners were dispossessed. The state held the radical title of land (see above) and gave user rights to the new settlers. However, according to customary law the land still belonged to the former owner, who lent it to the user and thus became his or her landlord. Wealthy farmers took advantage of this legally pluralistic situation to

profit from the new settlers. While the government claimed that it had redistributed the land, *de facto* relationships of dependency emerged. The former 28 owners acted as landlords and organised the trade of crops according to customary law. These landlords sold goods like wheat and maize and thus accumulated wealth. Because of the sensitive relationship between the land owners and the land users, land users also favoured their landlords in elections. That is why the former large "land owners" had such a strong standing in the community despite the fact that they had supposedly lost their land. The government tried to work towards an equal distribution of wealth but instead ended up creating relationships of dependency that made some people become wealthier.

The *Ujamaa* program also failed to change patterns of agricultural production in Endamarariek. Raikes points out that villagisation in northern Tanzania did not change the cash-crop-orientated colonial production structure. Instead, *Ujamaa* villages were integrated into patterns of production for export (Raikes 1975b:33).

Changes in Control: Shift from "Traditional" Elders to Experts of Modernity

The ward secretary officially oversaw the implementation of *Ujamaa* policy. After resettlement, the people of the newly established villages elected a chairman.[180] The chairman automatically became a member of the Ward Development Committee (WDC). Until 1977, the WDC was composed of only four people, who were TANU representatives. They supervised the implementation of state policies in Endabash ward. One of them had been a sub-chief during British rule (Kalay Akonaay), while another was a Catholic who was later elected as ward councillor (Christopher Gambay, ward councillor between 1990 and 1995). The third person was Herman Daffi, who became chairman of Endamarariek in 1977 and remained chairman of the Catholic parish for about 20 years. The fourth TANU representative was the businessman Shauri Awaki. He had worked for European farmers and later possessed several lorries and tractors. He used the tractors for agriculture and used the lorries to transport purchased wheat, maize, and pigeon peas to Arusha and Dar es Salaam. Only one of the WDC members—Kalay Akonaay—had officially worked for the British. However, the other three were part of the educational elite who grew up under British influence.

The composition of the WDC reflects the continuity and change of power relations in the Endamarariek area, as two large-scale farmers and committed Catholics were now part of the leadership. They followed a particular idea of modernisation and development in their policies:

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[180] The first chairman was Awaki Shauri, who only stayed in office for one year. In 1977, Herman Daffi took over and stayed in office until 1992.

the provision of schools and dispensaries as well as the implementation of "modern" techniques of field cropping with a focus on cash crops, accompanied by a departure from cattle keeping.

This new political elite can be described as competitive, individualistic, and profit-oriented farmers who took advantage of the government reforms to reinforce their own control over land and other resources. The TANU members also oversaw trade in the region. During *Ujamaa*, the North Iraqw Farmers Co-operative purchased goods in two villages in the the reseach area and surroundings. One of them was Endabash. In 1968, the main crops sold were maize and wheat (Schultz 1971:242). The introduction of a local trade centre connected the remote areas of the reseach area and surroundings to national and international markets. This offered some local people new ways to generate income.

The former sub-chiefs (see chapter 5.4.2.) with elders (see chapter 5.2.) of the area maintained their control of land distribution and conflict resolution until the WDC extended its influence. Oral testimonies confirm that "with the implementation of government officials on the ward and village level, the elders as a collective were deprived of their power to manage land".[181]

The Elders' Gradual Loss of Authority

Oral narratives show that the power and authority of the elders as "guardians of customary law" was challenged by three factors: the spread of new ideas about "modernity", the government approach to land rights, and a change in inheritance law.

First**,** there was a growing local discourse on the best ways to achieve modernity and development.[182] In this discourse, a binary opposition was created: development vs. tradition.[183] While development was associated with formal school education, Christianity, and modern agriculture, tradition was associated with "backwardness", poverty, and local cosmological beliefs.[184] Modernity was seen as a way of reducing poverty and achieving development. The new ideas of modernity led people to partly reject local beliefs as guidelines for land use. As a result, the elders' position as the source of knowledge and political acumen in land usage was weakened.[185] The political elite implemented a series of measures in the name of "modernity". The Catholic missionaries not only promoted school education as a means to escape poverty but

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[181] Interview with Nade Ama, Endamarariek, 21.09.2009.

[182] Interview with Awaki Shauri, Endamarariek, 17.03.2010.

[183] Interview with Bessi Bombo, Endamarariek, 15.12.2009.

[184]The author Snyder (2005:13) explores how the ideology of development affects people's everyday life. She describes processes of adaptation and the creativity of local people in coping with new ideological shifts. She also touches upon the shifts in authority and political power that occur. Her analysis confirms the perceptions of my informants.

[185] Interview with Nade Ama, Endamarariek, 21.09.2009.

individual priests also paid school fees for the children of Catholic families.[186] In Catholic-run primary schools, teachers usually came from other areas of Tanzania. Pupils were taught beliefs that rejected local cosmology and instead supported the Catholic faith. In churches and schools, the behaviour of diviners and ritual experts was called into question, both because it contradicted the Catholic worldview and because it hampered development.[187]

Snyder also mentions the Catholic priests' fight against "pagan beliefs and practices". Furthermore she argues that conversion to Christianity was perceived as a step towards modernity (Snyder 2005:125). The spread of Christianity led to a break with local practices of conflict resolution as well as the beliefs about pollution that had guided resource management in the past. These changes weakened the power of the elders and reduced the influence of ritual experts and diviners.

The second factor that diminished the elders' authority was the government's approach to land rights. The ward secretary ignored the usufruct land rights that had been granted by elders under customary law. Instead, a new TANU approach to land distribution and land rights gained ground. The elders lost power because the government ignored their customary right to distribute land (see below).

A final factor that diminished the elders' power was the change of inheritance law (see chapter 5.2.1.). Previously, local inheritance laws had supported the authority of clan elders and of parents over their sons. Sons did not receive land from their fathers until just before the father's death (see chapter 5.2.1.). However a change of inheritance rules took place under *Ujamaa*:

> The inheritance of the families changed. In former times, the son with his wife lived in his father's house. When the father died, the clan was summoned. Among them there was the youngest son who received the plot of the family after he grew up. Until then the elders of the clan were managing the land. They then redistributed the land in a clan meeting. But when Ujamaa started, that rule changed as well. Thenceforeward the sons inherited plots from their last remaining parent a long time before his or her death. [188]

Some big households tried to maintained control over land by distributing three-acre plots to their sons. However, the sons received the state-granted right of land long before their parents' death. Hence, the elders' authority over their sons was weakened.

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[186] Interview with Father Florian, Dar es Salaam, 13.03.2010.

[187] Interview with Paroko Endamarariek, Endamarariek, 06.03.2010.

[188] Interview with Ama Alley, Endamarariek, 28.01.2010.

Changes in the Nature of Community Meetings

Some respondents mentioned an increase in antidemocratic tendencies in community meetings.[189] With the growth of state influence, the nature of community meetings changed. In the past, every adult had possessed the same right to speak and decisions were made by consensus (see chapter 5.2.1.). With the introduction of village governments, community meetings became more hierarchical. Villagers were summoned and had to wait for officials to show up—often for hours. Then there was a clear differentiation between villagers sitting on the ground and male state officials sitting at a table and enjoying drinks. Decisions were not made by consensus: instead, district or ward officials introduced new policies and instructed villagers in how to carry them out. When the meetings were over, villagers were encouraged to follow the instructions (Snyder 2001:132). Hence the formerly democratic system was replaced by concentration of decision-making rights in a few government representatives. Since state officials were exclusively men, this also led to male domination over women.

Limitation of Male Power by Female Protest

However, the new political elite were also limited in their actions by the traditional moral authority of women. As described in chapter 5.2.3., women in the Mbulu Mountains and the reseach area and surroundings had a considerable power to challenge the elders' decisions if they believed these decisions to harm the well-being of the community. The following case describes the way women extended their authority by challenging the power of the village chairman.

As the event mentioned in Box 9 shows, Iraqw women could still exert political power in extreme cases. Whereas the male elders' power was weakened, female elders retained their moral authority. Lawi describes a similar situation that occurred during resettlement and the years after (see Lawi 2007:78). This situation is also an example of the overlapping and mutual interference of the statutory legal order and the local right of women to participate in the public sphere.

Box 9. Female protest in extreme cases
Oral testimonies relate that the first chairman of Endamarariek (Mr Awaki) was removed from his office after women stood up against him. They had initiated an *Aya* meeting that dismissed the behaviour of the chairmen. His legitimacy was not approved in the community afterwards. Mr. Awaki had prohibited beer consumption because he thought it hampered development—people who drank could not work hard enough to achieve a better life. However, a considerable part of

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[189] Interviews with Bessi Bombo, Endamarariek, 15.12.2009 and Nade Kahamusmo, Endamarariek, 21.09.2009.

local life was arranged around brewing and sharing beer. For example, when neighbours had worked together in the fields, the day would be completed by sitting together and drinking beer. Also, after the council of elders had settled a conflict, the outcome was sealed by drinking beer together. Houses where beer was brewed and served were the places where the *zeze* was played and songs were sung. Consequently, chairman Awaki's ban on beer was heavily criticised by villagers. The end of the story was that the chairman was replaced by Herman Daffi. As a Catholic, he was not against drinking and he could implement his policies without too much resistance from the villagers.[190]

The influence of Iraqw women can be compared to that of Maasai women. Dorothy Hodgson describes the power of Maasai women to collectively come to action when community life is in danger. This power was eroded by colonial influences, but in fact it is still present in extreme cases (see Hodgson 2005, 2011).

Persistent Influence of Customary Law in Land Management

In some cases, customary and state law interacted, as is often the case in a legally pluralistic setting. The VDC continued to avoid using taboo zones that—according to customary law—would harm the family living there. The *Ujamaa* village was planned on the westward slope of a hill at a distance from the valleys where wetlands appeared in the rainy season (see chapter 5.2.1.). In addition, village boundaries in the lowlands were drawn according to precolonial spatial principles. Hence, the *Aya* boundaries became the boundaries of the new *Ujamaa* villages.

The persistence of customary law in the reseach area and surroundings provides a contrast to many areas of Tanzania. In most *Ujamaa* villages, customary law was weakened because people from different localities were thrown together (Achterberg-Boness 2009:54).

Box 10. The acquisition of land by the educational elite
One of the representatives in the WDC, Mr Awaki, was among the largest landholders in the research region.[191] He had five wives, each of whom lived in a distinct village between Karatu town and Mbulu town. In British colonial times, he had worked for European farmers driving crops to the market. During British rule, he received land for cultivation from the elders in the area of present Endamarariek.[192] From that base he extended his land holdings to neighbouring villages (Endallah, Getamok, Bassodawish and Khusumay). Before he died, he cultivated cash crops on over 700 acres.[1]

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[190] Interview with Mama Huduma, Endamarariek, 19.01.2010.

[191] Interview with Gabrielli Tlatla, Endamarariek, 12.02. 2014.

[192] Interview with Awaki Shauri, Endamarariek, 15.03.2010.

The acquisition of Mr Awaki's land holdings was controversially discussed among my respondents.

> He didn't take the land by force. Moreover, he had many sharecropping arrangements with people and a wide network of people who wanted to work with him. In case the owner of the land had a sharecropping arrangement with him and the owner migrated to another village, he continued to cultivate the field. He was also respected by the chairmen of other villages and when he asked for land after Operation Vijiji, he got it because he had a tractor and enough money to buy seeds for using the fields. Others worked only with their hands and a hoe; they never had the financial ability to crop big areas. Mr Awaki had a tractor. That is why he worked on so many fields.[193]

However, the successor of a herder takes a different standpoint:

> Most of the land Mr Awaki cultivated was land that the elders decided to reserve for communal grazing. Herders never went to school and didn't know the procedures in court. Thus they failed to get back their land rights. They lost the court cases because they had not sufficient know-how to advocate for their land rights in court. That Mr Awaki took communal grazing land for cultivation happened in Endallah, Endamarariek; Getamok; Basodawish; and Khusumay.
> However, some of Mr Awaki's fields that had been cultivated by his sons were redistributed during the implementation of resettlement. The children of Mr Awaki are educated, they all went to school. They know how they can enforce their rights. They know a lot about the law and how to open cases and win them. In Getamok his son got the land back and built a school named after his father, Shauri Awaki School.[194]

However, in the reseach area and surroundings, the villages mainly consisted of Iraqw speakers, both from scattered households in the area and from the Iraqw homeland in the Mbulu Mountains. This might explain the persistent influence of customary law in local land management.

5.5.5.3. Winners and Losers of Resettlement

The implementation of Operation Vijiji in the reseach area and surroundings made a great deal of land available through dispossession of large-scale land owners and the allotment of formerly fallow land. Landless people, people who had previously worked on European farms, and single-headed households (especially those headed by women) all benefited from the resettlement (see also Hagborg 2001:77). People from these groups who applied to the VDC received a three-acre plot for cropping as well as a plot for a house in the village centre.

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[193] Interview with Gabrielli Tlatla, Endamarariek, 12.02. 2014.

[194] Interview with Bessi Bombo, Endamarariek, 07.03.2010.

Operation Vijiji opened up new opportunities for women to access land. According to my census data, three out of the 14 households that are still holding land, which they had received during Operation Vijiji, are headed by women. Before Operation Vijiji, land rights were a male domain, and women could access land only through male relatives (see chapter 5.2.1.).

Households with many male children also benefited, receiving bigger plots than others. Young men of marriageable age were assigned land bordering their parents' plot. The provision of plots for these households was of advantage for the government officials as well as for the settlers. Government officials wanted to have as many households as possible because the more households a village registered the more government grants the village would eventually receive.

However, the biggest winners were those who attained offices in local government. They used these positions to further their own interests. The fields surrounding the *Ujamaa* village were distributed among the TANU members who had the ability to crop them, either because they had money to pay labour or because they had tractors to plough huge fields.[195] Membership in TANU provided a way to acquire more land. Oral narratives confirm that some households' land was converted into community land that was *de facto* used exclusively by TANU members. "Those who had the means to cultivate had already held big fields—during reallocation they became TANU members and received even more land for cultivation."[196]

The Catholic Church gained land and influence at the expense of local ritual experts. In 1983, the Catholic Church built a parish in Endamarariek. The church's power and its replacement of traditional authorities are manifested in the fact that the nuns' hostel (as well as Endamarariek's primary school) were built on the ground where a famous ritual expert had lived. The ritual expert had moved away with his family.

> The village council took our father's land and gave it to the Catholic mission in the eighties. My father received it from the elders, the *Kahamusmo*. They took seven and a half acres. Now they grow trees on it and they built the sisters' house on the ground of my father's house. In that time the village council was different than these days. It could take away anything and you couldn't say anything and you couldn't even go to court. It was kind of a dictatorship. The government frightened the people.[197]

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[195] Interview with Gabrielli Tlatla, Endamarariek, 12.02. 2014.

[196] Interview with Gabrielli Tlatla, Endamarariek, 12.02. 2014.

[197] Interview with Ama Alley, Endamarariek, 28.01.2010.

This account also shows the close collaboration between the local government and Catholic Church. Hermann Daffi,[198] the chairman of Endamarariek, was also chairman of the Catholic parish in the village. In other words, there was a high degree of entanglement between the Church and the village officials.

Several authors have written that herders were disadvantaged in the redistribution of land during resettlement (see for example Gastorn 2008:39). However, in Endamarariek and surroundings a different story was told:

> At the time of Operation Vijiji—my mother told me—people were forced to move to the planned village centre but could keep their cattle. A family that had only 10 cows was perceived as poor while 70 cows was the normal size. Rich people had about 250 to 300 cattle. The boys of the family took care of them. The rangeland that was used for the cattle was managed by the elders. We grazed our cattle between Endamarariek and Endallah and the government never did interfere in our planning.[199]

This narrative shows that the elders retained their power to manage rangeland, even though the state aimed to take away their traditional authority to allocate household land and agricultural fields. Rangeland was located at the periphery of the village and herders took their cattle there during the day and brought them back at night. Herders with larger cattle herds had outposts where they stayed overnight with the cattle. The system resembled the kraal of the neighbouring Maasai, and cattle were protected in a fenced area at night.

It can be said that the large-scale farmers who formerly owned the land were dispossessed and thus were losers of Operation Vijiji. However, the previous owners did not entirely lose their claim to the land: as was shown above, the new settlers entered into a relationship of dependency with the old owner. In cases when former land owners and new settlers entered into peaceful relationships, both parties could benefit. However, whenever a land conflict was brought to a state court, the wealthier person inevitably won.

Local Perceptions of Operation Vijiji in Endamarariek

When asked about the resettlement, some people in Endamarariek were very critical, pointing out injustice in the way land was redistributed. "During the *Ujamaa* resettlement the implementation team stole our land and gave it to the public."[200] The "public" in this case meant members of TANU and other people who had received a basic education during colonial times.

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[198] Chairmen of Endamarariek: Awaki Shauri 1976–1977, Herman Daffi 1977–1992, Gwandu Tlatlaa 1992–1999, Slaa Tluway 1999–2014.

[199] Interview with Gabrielli Tlatla, Endamarariek, 12.02. 2014.

[200] Interview with Mzee Madukani, Endamarariek, 15.12.2009.

This is further elaborated in the following narrative by a herder:

> The implementation team took all our land away and reallocated it to the educated people. The ones who couldn't write or read were even disregarded. At that time the village government took 100 acres for the public. The educated people of our neighbourhood became TANU members and thus got more land than others. Those who already had big farms even got more. If you tried to claim back your land, you had no chance as a non-educated person. They took you to the primary court in Endabash and the educated person always won the case.[201]

Most of my informants mentioned the inequity in court decisions and the unequal opportunities between "uneducated" and formally educated people. The fact that the educated and wealthy village chairman and his family were not resettled was seen as proof of favouritism towards educated people. The village chairman was able to stay on his land, even though it is quite distant from the *Ujamaa* village.

5.6. From Socialism to Liberal Policies, 1982–2000

5.6.1. Economic Situation and Development Strategies of Tanzania

In the late 1980s and early 1990s, many African countries, including Tanzania, Zambia, Malawi, Namibia, Botswana and Mozambique experienced the same restructuring of policies in accordance with the development strategies of the IMF and World Bank. The state withdrew to allow free-market forces to unfold. NGOs entered Tanzania during this period and became a new actor in the local organisation of resource management. The introduction of economic adjustment policies through the World Bank and IMF aimed at allowing market forces to determine the efficient allocation and use of land (Izumi 1999:9). The following section will describe the new policies and their effects in the reseach area and surroundings. However, policies directly connected to land and water reform will be discussed in a later section.

In Tanzania, Nyerere had successfully rejected global pressure throughout his presidency. This changed when he stepped down and Ali Hassan Mwinyi took over. Mwinyi was supported by a group of entrepreneurs, political leaders, and academics belonging to the Tanzanian elite. Together with Mwinyi, they lobbied for more market-oriented policies and a turn away from socialism.

The period between 1980 and 2000 was a time of transition, in which the government prepared itself for a massive reshaping of patterns of resource access in rural areas. The signing of

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[201] Interview with Bessi Bombo, Endamarariek, 07.03.2010.

the IMF agreement in 1986 marked the beginning of this process (Sundet 1997:74). The new policies led to the beginning of a land market and increasing land scarcity in fertile regions. At the same time, there was a massive increase in influence of national NGOs on land-use planning at the district and village levels. Economic liberalisation led to an increase in competition and conflicts over land (Englert 2005a:61). In Karatu town and the reseach area and surroundings, a new liberal political party, booming tourism, population growth, and growing cash crop production all led to an increase in the demand for land and potable water.

The Economic Crisis

One trigger of the above-mentioned transformation was the economic crisis Tanzania faced in the early 1980s. It was said that the state-controlled economy was not able to serve the needs of the people.[202] The economy lost vitality. The black market grew and the costs of the war against Idi Amin (Uganda) in 1978 caused an explosion of the country's military expenses. However, external factors also played a part in the economic crisis: in 1982 the international debt crisis escalated and the overall terms of trade for so-called Third World countries worsened (Hagborg 2001:80). The break-up of the East African Community in 1977 led to an increase in infrastructure-related imports such as power lines and material for road construction. The doubling of the oil price in 1979/80 only worsened the problem. As government finances suffered, water provision declined, the educational sector lost quality, and the health system faced major problems (Gibbon 1995:11). The difficulties that Tanzania faced in the 1980s resulted in a questioning of socialism and the beginning of reforms of rural land and water management, all within the framework of multiparty politics and economic liberalisation (see Table 5).

Name of programme or policy (year)	Main elements
	Table 5. Programmes and policies relating to water and land laws in Tanzania during the liberalisation period
National Agricultural Policy (1982)	Indirect introduction of individual land rights for investment and development, villages were given titles of 999 years, villagers could apply for subtitles of 33 to 99 years (Shivji 1998:19).
Local Government Act (1982)	The act specifies forms for decision-making and rules on how a village should be organised.
Bill of Rights in the Constitution (1985)	Political opposition allowed, first multiparty elections in 1992.
Parliament Act No. 7 (1985)	Introduction of ward tribunals functioning under the district government.

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[202]I have memories of my childhood in which my family travelled once every three months from northern Tanzania to Nairobi to buy spare car parts, medicine and daily needs like toothpaste. The shops in Tanzania were empty. The only thing that was still available was matches. In my memories, people in rural Tanzania did not complain that the state could not serve their needs. They just recognised that luxury goods were missing. However, the famine in 1984 was a more serious matter in the Usambara Mountains.

Adjustment Programme (1986)	Abandonment of the policy of socialism and self-reliance and a shift towards a liberal policy.
Local Government Reform (1996)	The Local Government Reform Programme gave more responsibility to district councils over financial resources for guiding district development. After the reform, the district operated with greater autonomy from the central government (Snyder 2008:291).
Economic Recovery Programme (1986–89)	Policy with a strong World Bank influence. Liberalisation of the financial sector at all levels, commitment to a free market economy; leading role of the private sector in incomes, growth and employment; production of public goods remained in the hands of the state, state had a regulatory role, facilitation of the leading role of the private sector (Juma, Sippel, and Wanitzek 2004:232).
Regulation of Land Tenure (Established Villages) Act (1992)	Extinguishment of customary land tenure rights for land held prior to Operation Vijiji without compensation[203]; provisions were judicially nullified immediately (Gastorn 2008:42).
Second Economic Recovery Programme (1989-1992)	Liberalisation of imports, reduction in the fiscal deficit, devaluation, elimination of most consumer price controls (World Bank 2000:7).

Liberalisation, Decentralisation and Multiparty System

In 1982, Tanzania began to implement a Structural Adjustment Programme (SAP) in response to the economic crisis (Manji 1998:648). Politicians agreed to the programme due to pressure from the Nordic countries and other Western donors who threatened to cut financial aid (Tripp 1997:75).

Tanzania implemented changes in three phases through agreements with the IMF. All three phases of Tanzanian adjustment put the country on the path to a free-market economy. The first phase focussed on trade liberalisation, the second on foreign investment deregulation, and the third on parastatal and civil service reform (Gibbon 1995:14).

The liberalisation process represents a massive imposition and import of Western concepts such as democracy and civil society (meaning local NGOs and other citizens' initiatives).[204] The dramatic expansion of NGOs was central for local resource management because the new actors influenced decision-making processes in land and water management and planning.

The SAP forced the Tanzanian government to downsize the social sector. In the 1990s, the World Bank promoted good governance (a particular idea of how the government should manage public affairs and resources) and the new role of NGOs in protecting and promoting civil society (Jennings 2008:27). The perceived crisis of the wellfare state and the more general "crisis of development" created a space for NGOs (see below).

The local government reform of 1986 aimed to strengthen local governments by restructuring the bureaucratic organisation of local councils (see Table 5). Municipal councils in

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[204] The concept "civil society" is closely connected to political ideas of liberalisation and capitalism. The term was introduced by the sociologist Adam Ferguson (1782:1).

particular were granted greater decision-making power over the use of finances. Other sector responsibilities were also redefined on the central, regional, and district government levels.[205] Within their area of jurisdiction, village and district councils received the power to make by-laws. The overall implementation was much slower than expected and took more than 20 years (Pallotti 2008:224).

Mukandala points at the immense external pressure to implement the local government reform. The government was

> anchored by tremendous pressure to redefine state functions, reduce the size and role of the state in favour of the market, reduce or eliminate entirely the state enterprise sector, etc. These policies were initially pursued through an intensive engagement between the international forces and the one-party/authoritarian state officials. (Mukandala 2001:7–8)

Mukandala refers to early international forces such as international economic policies to eliminate inflation and reduce budget deficits.

This reform was also the first attempt at social and institutional engineering from the global level to the local level. It was based on "a holistic vision in which all aspects of social life (within the state, the market, cultural relations and the family) are rendered akin to the free-market model" (Harrison 2008:169). The public sector reform attracted a large number of grants, external credit, and technical assistance.

The reform process affected female participation and representation within the state: "The Tanzanian constitution has been amended to reserve fifteen percent of seats in parliament and twenty-five percent of councillor positions at the local government level for women." (Brown 2001:69)

The Tanzanian state approved the change to a democratic multiparty system in 1992. "The decision to adopt a multiparty system again reflected both external donor pressure and attempts to address internal demands, particularly those that grew louder in protest over corruption." (Snyder 2008:289). The first two multiparty elections were conducted in 1995 and 2000. Both times the ruling party CCM won. It took some time until an understanding of democracy and the idea of a multiparty system were established. Discourses on democracy only started to become familiar after the liberalisation policies of the 1990s. The process of democratisation was slow. Snyder (2008:289) notes that democracy was not well understood at the local level. For example she mentions difficulty in disentangling the party from the government (Snyder 2008:290).

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[205] The district authorities included sub-village authorities, village and district councils, township authorities, and ward development committees.

Centralised Power over Land and Village Land Titling

As mentioned previously, the government had gained centralised power over land allocation during the socialist era. After decentralisation and local government reform, land allocation was conducted by several statutory organs. Central and rural administrative bodies had the right to grant land access, but so did the Ministry for Land, the leaders of the ruling party, and the primary courts. The primary courts did not function properly. Their problems included long delays, a lack of transparency, and little consistency in legal decisions (Münker 1998:101).

To overcome the economic crisis, the World Bank and IMF pressured Tanzania to reform its land policies. The first new policy that affected land rights was the National Agricultural Policy (Agripol) of 1982. It declared a new relationship between land and economic growth, stating that an individualised system of land tenure is the most appropriate way to attract investment and hence stimulate the economy. However, economic liberalisation led to land grabs by foreign investors interested in Tanzania's natural resources. Such land grabs accelerated after the implementation of Agripol in the mid-1980s (Igoe 2003:865).

As part of economic liberalisation, CCM tried to register village certificates in the name of tenure security. Boundaries were drawn to define village land, which was then put under control of the village council. Village councils could register for the right of occupancy and a title of 999 years. Villagers could then apply for subtitles (leases from the village council) of 33 to 99 years under the existing legal regime of the Land Ordinance of 1923. The new policy was a step towards individualisation of land use (Sundet 1997:74). It also increased the central government's power over land: land that was outside a village—and hence "unused"—was now under direct control of the central government (Sundet 1997:74).

The titling policy was meant to provide greater land security (Shivji 1998:19). However, in many cases it harmed land security instead. Shivji (1998:20–21) writes that village titling gave non-restrictive powers over land to the village council (and other government institutions controlling the village council). As a result, the council could grant land rights to outsiders behind the backs of villagers and hence exclude the local population from decision-making processes. The title also gave the council the power to abolish customary land rights. Finally, the titling process itself brought forward existing boundary conflicts between villages (Shivji 1998:20–21). Rwegasira (2012:87) mentions additional problems with rural land management at that time, including the failure of dispute settlement by state organs and corrupt practises in land control and management (Rwegasira 2012:88).

The titling process proceeded slowly. In 1987, the government set the goal of completing village titling within five years. However, the titling process required personnel and technical equipment for survey and demarcation. There was no arrangement made to help the villagers and the council handle the costs. By June 1991, only 2% of the villages had been surveyed and demarked for a certificate (Gibbon 1995:67).

In 1992, Tanzania passed the Regulation of Land Tenure (Established Villages) Act. The law extinguished the customary rights that had granted land access before Operation Vijiji. The official reasoning in favour of the act was to avoid conflicts between the state-granted rights from Operation Vijiji and the rights that had existed before. However, Peter (1997:218) assumes that the real reason for the law was to give the state absolute power over land, particularly in conflicts between foreign investors and peasants with customary land rights. He describes the ideological change of politicians towards the credo "that foreign capital in the form of investment is the only solution to all problems that Tanzania is facing" (Peter 1997:218). The Court of Appeal nullified major parts of the Act for being in conflict with the constitution (see Wanitzek 2005:180 and chapter 5.6.2.).

5.6.2. Liberalisation in Endamarariek and Surroundings

In 1995, Endamarariek did no longer belong to the political unit of the Mbulu District but had become part of the Karatu District. Mbulu District was split and Karatu became a district of its own with an area of 3,300 km^2. The modern district of Karatu is located in Arusha Region in northern Tanzania. It borders Ngorongoro District to the north, Mbulu District to the west, Monduli District to the east, and Babati District to the south-east (see map, Introduction). The district is surrounded by national parks (Manyara National Park and Ngorongoro Conservation Area) and other tourist sites such as Lake Eyasi. New administrative borders were also drawn at the ward level: the former Endabash ward was split into Endabash and Endamarariek wards. These administrative changes were a reaction to the fast-growing population and an attempt to bring state governance closer to the people.[206]

In the 1980s, the reseach area and surroundings suffered an economic crisis paired with a number of serious droughts. Many farmers who had settled in less fertile areas during *Ujamaa* lost their cattle during that time.[207]

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[206] Interview with John Luciano Mahu, Endallah, 15.03.2009.

[207] Interview with Bessi Bombo, Endamarariek, 19.01.2010.

In the 1990s, the new trading policies of the central government liberalised and integrated markets. Shops with a variety of products, banks, and restaurants changed the appearance of Karatu town, which had been a small transit town before. The consequences of increasing tourism (see below) also became apparent. Karatu town is situated along the only road connecting Arusha with Ngorongoro Conservation Area and Serengeti National Park. The town is also at a short distance from Manyara National Park. To attract tourists, Karatu improved its infrastructure in terms of road building and the provision of petrol stations as well as garages for tourist cars and hotels. The new market opportunities not only increased investment in land for tourism purposes, they also enabled farmers to sell their fruit to hotels. Tourist development in Karatu had also made land expensive. Thus, many people with low incomes were priced out of buying land in Karatu town.

Economic liberalisation created new opportunities for farmers. Trade and business conditions improved and farmers could sell their products in markets. Local farmers became engaged in wider national and international trade networks (see also Hagborg 2001:81). The District Agriculture and Livestock Development Office began delivering extension services in better methods of farming and livestock rearing. In line with the National Agricultural Policy (see above), which promoted individual rights to land to enhance investment and development (see Shivji 1998:19), the extension officers were to a certain extent involved in the agricultural and livestock planning of villages.

Hagborg (2001:9) states that the welfare of the average peasant improved significantly under the new laws because the improved access to markets enabled farmers to increase their incomes. However, he also mentions that farmers living in areas with less fertile soil and less reliable rainfall did not profit from liberalisation (Hagborg 2001:81). This was certainly true in Karatu District. The highlands around Karatu town (Oldeani and Mbulumbulu) are characterised by fertile soil and can be classified as high potential areas. Farmers living in these areas benefited from the new laws. Economic activities diversified during the 1990s, as land use changed from privately owned coffee plantations to a mixture of large and small-scale agriculture. The increased market opportunities also resulted in the intensification of land usage, as shown by the increased numbers of irrigated plots around the town of Mto wa Mbu (see Rohde and Hilhorst 2001:11). Land became a more valuable resource as farmers' profits increased and a burgeoning land market formed. The number of disputes in which people contested their right to land also increased (Hagborg 2001:81).

However, farmers living in less productive areas did not profit from economic liberalisation. The low-potential areas of Karatu where the the reseach area and surroundings are

located are characterised by low and unreliable rainfall, which limits the diversity of economic activities that can be carried out (see Yanda and Madulu 2003:15). Endamarariek is located in such a region. Due to erosion and seasonal rivers appearing during the rainy season, areas in valley bottoms are difficult to cultivate and the outcome is insecure.[208] Furthermore, rainfall is unreliable and villagers often face food shortages. The government provides maize and beans to support families during those periods.[209]

Rather than benefiting from economic liberalisation, farmers in Endamarariek lost opportunities because of it. As a part of the liberalisation policy, the government reintroduced school fees for primary education.[210] The introduction of fees resulted in a reduction of access to primary education for families that could not generate income through the production of cash crops.[211]

Land Shortage in the Village

In the 1980s, the reseach area and surroundings experienced a rapid population growth of 3.5% per annum. One result was land shortage. The consequences can be seen on the village level in Endamarariek. After *Ujamaa*, the government divided the land into 1.5 acre parcels until all village land was distributed in 1995. The village government also distributed former grazing grounds in the valley bottoms to farmers. Local narratives describe land distribution by the village government as a form of unlimited power: "In the years after socialism the village council was like a dictator. They could take away your land and there was no jurisdiction to claim back your land. Nowadays there are parties like CCM and CHADEMA, if the village council does wrong, they are scolded."[212]

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[208] Interview with Emanuel Happy, Endamarariek, 04.03.2010.

[209] Interview with John Luciano Mahu, Endallah, 15.03.2009.

[210] Primary education is officially free these days, but the schools do not get enough funding from the government so they end up charging various fees to cover their expenses.

[211] Interview with Emanuel Happy, Endamarariek, 04.03.2010.

[212] Interview with Interview with Awaki Shauri, Endamarariek, 28.01.2010.

Figure 16 shows how people gained access to plots for houses and fields in Endamarariek from 1940 to 2010. It shows the effects of *Ujamaa* and the current shortage of land.

Land allocation in Endamarariek from 1940 to 2010
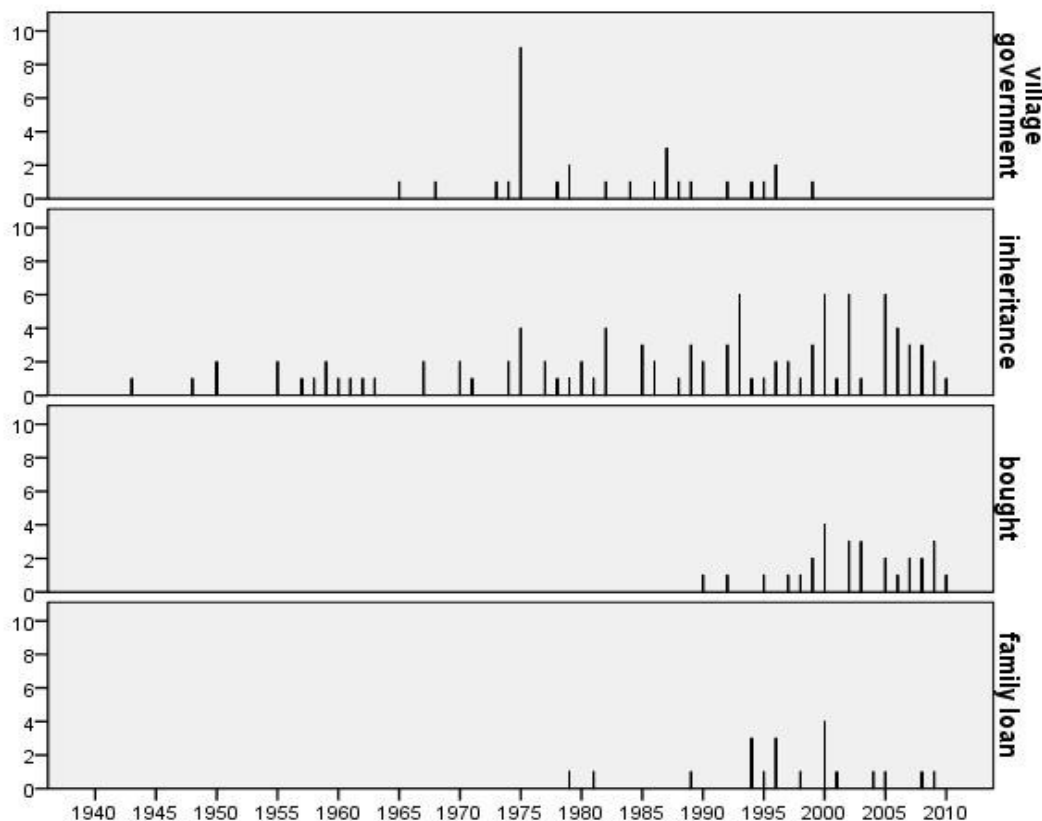
Figure 16. Number of cases of household land allocation (plots and fields) from 1940 until the census of 2010, by method of acquisition

In 1975—during *Ujamaa*—land allocation through the village government reached its peak. More recently, there has been an increase in land acquisition by means of family loans and by buying it from the owner. Acquisition of land applying these methods can be seen as a consequence of land shortages. Matching with national policies, the acquisition of land through money started in the mid-1980s.

Opposition Party in Control

In Karatu District, a strong opposition appeared in the first multiparty election in 1995.[213] Chama cha Demokrasia na Maendeleo (CHADEMA) won the race for Parliament as well as 80% of the elected ward councillor positions (Snyder 2008:291). Whereas the majority of the councils in Tanzania were dominated by the ruling party CCM, the Karatu District council was controlled by the opposition party.

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[213] Elections to district councils are conducted every fifth year.

However, for Karatu District the situation was slightly different: people who had organised themselves in TANU and later CCM tended to change party and became candidates for CHADEMA. The party programme with its anticorruption focus and advocacy of free trade made membership attractive. Businessmen started fighting against corrupt government practices to create a better climate for economic activities.[214]

CHADEMA's party platform was peppered with buzzwords used by international donors such as "rights and freedom of every individual", "accountability on the part of public officials", and "freedom and democracy" (see Moore 1996:589). Furthermore, the party wanted to encourage the private sector through the protection of private property. Moore states that as "far as its text went, the Chadema charter could have been written in Washington" (Moore 1996:589)

During this period, the district government maintained a relatively strong presence in centres like Karatu and even extended its power. Due to bad roads, state presence in remote areas was and still is comparably low.

Increasing Tourism and Land-Use Planning

The building of infrastructure for tourists influenced land-use planning and access to water and other resources in the Karatu area. Tourist hotels and camp sites were built requiring both land and water. In Karatu town, water consumption increased along with the number of tourists.

Tourism started playing a major role in Karatu's local and regional economy during the 1990s. "Tourism, along with mining, horticulture, and agriculture, has been a main source of economic recovery, nationally and particularly in northern Tanzania" (Nelson 2007:107). The tourism sector went through some major changes during the last century, from a focus on hunting during the colonial period to the modern picture safari (and more relevant for coastal areas: beach holidays). Tourism had not been important for politicians during socialism. Parks did exist, but wildlife was managed by the central government.[215] In the 1980s, the international community's interest in wildlife and biodiversity conservation led to a move toward more

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[214]One example is the first chairman of Endamarariek. He changed party because he believed there would be better opportunities for his cash crop business when old structures of socialism were replaced with a free market approach.

[215] The friendship between Nyerere and Bernhard Grzimek (long-time director of the Frankfurt Zoo, Germany) nevertheless laid the foundation for mass tourism in Tanzania. Even though Nyerere himself was not interested in wildlife, he recognised that the state-owned national parks (managed by the TANAPA) and the tourism sector were amongst the biggest income-generating resources in Tanzania (see e.g. Sewig 2009:264).

community-based management[216] and conservation and benefit-sharing schemes (Benjaminsen et al. 2011:4).[217]

However, local narratives in Karatu contradict the official policy of community involvement. The government agency in charge of national parks, named Tanzania National Parks (TANAPA), restricted the entrance to Manyara National Park and Ngorongoro Conservation Area in the 1990s. Women had previously collected firewood or searched for medicinal herbs in the parks, but when tourism increased the boundaries were enforced more strictly. Women particularly feared the penalty of transportation to the next district capital, Babati, because it was 150 km away and they had no cash to buy a ticket home.[218]

Beginning in the 1990s, the tourism industry in Tanzania boomed as private investments streamed into the country and put its many resources to use. In 1998/99, tourism made up 40% of total exports. In 2001, it made up 12% of GDP (see Nelson 2007:105). In Karatu, the district government continues to encourage investments in tourism infrastructure such as roads, hotels, campsites, and restaurants. Tourism has also helped small business owners: people have started shops, restaurants, timber-selling businesses, and hostels for drivers and guides near the hotels (e.g. the Lake Manyara Hotel), camp sites (such as Endallah camp site), and other tourist lodging (such as Gibbs Farm, an old coffee plantation). However, access to jobs at the hotels is limited. Contact with tourists is in English and thus villagers from remote areas with poor schools are excluded from these business opportunities.

NGOs and Development Programmes

From the 1990s onwards, NGOs, development agencies, and other donors started playing a major role in shaping land and agricultural policy in rural Karatu. Tanzania had opened its doors to these agencies as part of the liberalisation process. Shetto and Owenya (Shetto and Owenya 2007:89) count five NGOs working on the improvement of farming conditions in Karatu in 2000. One example is the Karatu Development Association (KDA), which started in 1991. KDA is one of the oldest NGOs in Karatu. It is sponsored by the Danish Association for International Co-operation (Shetto and Owenya 2007:73). Its aim is to alleviate poverty by helping farmers to engage in microfinance and by improving agricultural practices through demonstration fields and other methods. KDA also conducts demonstrations at churches and schools (Shetto and Owenya 2007:73).

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[216] The Serengeti was declared a World Heritage Site in 1979 by the UNESCO.

[217] However, the official government policy was *de facto* contradicted by cases where pastoralists—especially the Maasai—were excluded from national parks. For example, pastoralists were forced out of Mkomazi Game Reserve in 1988 when the Ministry of Natural Resources and Tourism cancelled all previous permits for grazing and residency (Neumann 1995:367).

[218] Interview with Mama Huduma, Endamarariek, 02.01.2010.

The NGOs focused on helping farmers produce for the market to increase their income. Bilateral agencies (e.g. Deutsche Gesellschaft für Technische Zusammenarbeit) and multilateral agencies (e.g. World Bank) began implementing programmes in co-operation with the pro-liberal district government. This was possible because the local government reform enabled district governments to control donor money.

The growing influence of NGOs, development agencies, and other donors on agricultural practices also increased the value of land by connecting it to the income that could be made from cash crops. Hence, it led to more conflicts over land located in high potential areas.

Land and Water Access and the Catholic Church

In contrast to other regions (see e.g. Moore 1996:592), the land of the Catholic Church in Mbulu had not been confiscated and redistributed to peasants during *Ujamaa*. Instead, the Catholic Church maintained and even extended its access to land during the 1980s. In Endamarariek, the Catholic Church of Mbulu used its new land to build a mission centre, a dispensary, a female vocational school, a secondary school, and a drinking water distribution system. In this region, the church continues to provide social services that should be provided by the government. The Catholic Church grew with the village and became a significant power player in the community. Priests acted both as patrons and development brokers. They maintained their position by running the services mentioned above.

The water pipe serving the area was built by Misereor (a German Catholic development agency) in co-operation with the Diocese of Mbulu. The pipes measure more than 60 km and deliver water from the Marang Forest to Endamarariek.[219] The project was started in 1989 and was finished in 1994.[220] A local water administration (ENDAWASO) was established to manage the water system. Until today, ENDAWASO has its own independent legal framework. This sometimes causes conflicts with district leaders in Karatu town, probably because they are afraid of losing influence.[221] The constitution of ENDAWASO also frames water-use planning and controls access to the only piped water available in Endamarariek. The water board members influence the water prices and policies of ENDAWASO. Most board members are elected, but the diocese holds a permanent seat on the board, thus maintaining its influence (see for details chapter 6.4.2.).

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[219] Interview with Father Florian, Dar es Salaam, 13.03.2010.

[220] When the water project was finalised, the guest of honour was Nyerere, Interview with Father Florian, Dar es Salaam, 13.03.2010.

[221] Interview with Father Florian, Dar es Salaam, 13.03.2010.

Allocation of Land and Conflict Resolution

Beginning in the 1990s, farmers and herders who had lost land rights during Operation Vijiji began to claim back their original land in the primary courts in Mbulumbulu, Endabash and Karatu (see also Hagborg 2001:81). These cases are interesting in that a number of people based their claims on customary law, and customary rights were sometimes granted by the courts.

An analysis of land cases stemming from villagisation pending before the primary court of Karatu shows that churches and village governments were also defendants:

> During the first seven months of 1992, 97 suits were filed in this court involving 89 claimants and 565 respondents, of whom five are village governments, three churches, a mosque, one a UWT and one a Vijana plot. The rest of the respondents can be considered to be family heads. The total land claimed amounts to some 1693 acres. The average size of the plots held by respondents is 3 acres. It will be seen that land claims below 10 acres are 43 per cent, between 11 and 40 are 42 per cent and between 40 and 100, 15 per cent. (United Republic of Tanzania 1994:52)[222]

It is especially interesting that courts were increasingly employed to settle conflicts. The gradual shift of using state courts for dispute management instead of elders can be explained by one common practice: the land giver (no matter whether it was the *Kahamusmo* or state officials) was always consulted in the case of a conflict. Since most land in Karatu was redistributed by state officials during *Ujamaa*, these officials are now the ones consulted when conflicts arise.

The Struggle for Customary Land Titles

As mentioned above, large-scale farmers in Karatu initiated a massive flood of lawsuits in which they claimed their customary land rights back. The plaintiffs in the primary courts were exclusively former large-scale farmers. The defendants were predominantly small-scale farmers and village governments having built schools and other public buildings.

The Tanzanian government found itself in a dilemma: it had resettled thousands of villagers without a legal basis and 20 years later the former owners returned to claim their land rights based on customary law. The government's reaction was a preservation of the status quo. It enacted the Regulation of Land Tenure (Established Villages) Act of 1992 (see Table 5) that extinguished all customary land rights for land held prior to Operation Vijiji without compensation. The courts were instructed to reject claims for restitution (Schneeweis 2002:100).

The interference between customary and state land rights found its peak in the case of Attorney General v. Lohay Akonaay and Joseph Lohay. This case ended at the Court of Appeal. In

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[222] UWT is the name of the Tanzanian Women Association (Swahili: *Umoja wa Wanawake*).

its decision, the Court nullified major parts of the Regulation of Land Tenure (Established Villages) Act of 1992 for being in conflict with the Tanzanian constitution (Wanitzek 2005:180).

Lohay Akonaay and Joseph Lohay (father and son) had received land in Mbulu district from the *Kahamusmo* in 1943. During Operation Vijiji, the family was resettled to an *Ujamaa* village called Kambi ya Simba. In 1987, they started a court case to recover their right to their old land. The court arrived at the conclusion that

> customary or deemed rights in land, though by their nature are nothing but rights to occupy and use the land, are nevertheless real property protected by provision of Article 24 (1) of the Constitution and, therefore, that deprivation of a customary or deemed right of occupancy without fair compensation is prohibited by the Constitution. (Rwegasira 2012:87)

This judgment was a cornerstone for the acknowledgement of customary land titles in statutory law. Still, the discussion on how to regulate the numerous conflicts between customary land rights and statutory land rights was a big political topic and resulted in the advent of the land reform process (see chapter 7.1.).

Changes in Inheritance

The scarcity of land in Karatu District resulted in two dynamics. First, inheritance rules changed. In chapter 5.2.1., the inheritance of land was described as follows: usually family land was handed over to the youngest son while all other male children searched for new areas to clear. With the support of the *Kahamusmo* and later the village government, they would obtain land for agricultural purposes. However, the last land in Endamarariek was distributed in 1995. Due to land scarcity, family land is now subdivided to all sons.

Another consequence of land scarcity was that no land was left fallow because otherwise the village government would reallocate it and farmers would risk losing their rights to it (see also (Eklo and Klein 1995:23). Ecologically this caused a lot of problems with soil fertility. The government policy (combined with an increase in population) leads to environmental problems (such as erosion) as well as decreased crop yields.

The conduct of the village council as the institution of absolute power in reallocating land is confirmed by informants in Endamarariek.[223] That is why people increasingly lent their land to other farmers by using the customary institution of land loans, rather than leaving it fallow.

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[223] Interview with Awaki Shauri, Endamarariek, 28.01.2010.

6. The Impact of 2002 State Policies on Negotiating Access to Water

6.1. Introduction

> In Tanzania rich households with a private water connection pay very little in comparison to poor families that every day invest time and a lot of money for water that is not even clean![224]

Motivated by the Millennium Development Goals (MDGs), Tanzania in 2009 passed a law reforming the water sector. This reform, being focussed on the achievement of the MDGs, aimed to fight poverty by improving water access for low-income families, especially in the rural areas. The reform was guided by neo-liberal principles. Key aspects included decentralisation, cost recovery, formalisation of water rights, and privatisation or community ownership of rural water supply schemes (URT 2002:5). The following chapter deals with the local dynamics initiated by the reform and analyses its effect on access to water for low-income families in rural Karatu District.

The sub-chapters seek to answer the following questions: (1) What are the main government strategies for rural Tanzania introduced by the 2002 water reform? (2) How do people obtain domestic water in rural Karatu? (3) Who are the main actors in the field of water supply in rural Karatu? (4) How is water supply organised and practised outside of governmental water programmes? (5) How does this water supply impact access to domestic water for low-income families?

Thus this chapter is about the physical and legal access to domestic water in a community in rural Karatu District. It begins with a short overview of the government strategies for rural Tanzania manifested in the new water reform. In the following sub-chapters, the discussion zooms into a remote community in rural Karatu District in order to reflect on the implementation of the reform in rural areas and to examine the application of the 2002 water management principles. Finally it describes how families with low incomes[225] obtain domestic water and examines the social dynamics initiated by the piped water scheme.

The first sub-chapter is based on a detailed analysis of programmes, policies, and laws relating to the Tanzanian water reform. The subsequent ethnography is based on data collected during fieldwork conducted in 2009/2010 in Endamarariek village and surroundings in northern Tanzania, and, back in Germany, reflections on the topics with my key informants and colleagues

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[224] Interview with Ramadhani Otman, Bonn, 06.10.2015.

[225] Most of my informants that are described as low-income families made it clear that they do not want to be labelled "poor".

from Tanzania during sh ort visits to Tanzania. Since water availability and strategies to obtain water is most challenging for the population in rural Karatu in dry season, the chapter focusses on data collected during that period. The methods used in case studies concerning the exploration of people's actions around hand-dug wells and the piped water scheme and their perceptions of water covered participatory observation, some 30 interviews[226] , and an ethnographic census of 205 households. Expert interviews with water experts of both the customary and piped water supply of the region completed the picture. Information was furthermore gathered through participation in crucial events supplemented by semi-structured and informal interviews with actors involved. These interviews aimed to explore the actors' role in the community, their interests, and strategies.

In contrast to the years before 2010, in which only Cleaver (2001 and 2006), Meinzen-Dick and Nkonya (2006 and 2008) contributed to a detailed social analysis of the rural water management, the literature on the complexities of domestic water management in Tanzania has increased rapidly in recent years. However, for rural Karatu no literature on water access and management can be found, even though Karatu is one of the driest areas in Tanzania, thus my contribution seeks to fill the gap.

Analysis of the water policy in Tanzania shows that the definition of access in official development context, relying exclusively on the distance between household and water source, ignores other aspects of access such as the reliability, quality, quantity, and costs (Smiley 2013:138). It is important to apply a wider concept of access rights, following Ribot and Peluso (Ribot and Peluso 2003:153).

Most studies on the 2002 water reform in Tanzania on the local level concentrate on its impact on improved water sources such as piped water schemes (see for example Sattler 2011:10; Mandara, Butijn, and Niehof 2013:52). Scholars tend to miss the diversity of water sources and strategies people have for domestic water supply. In her paper about gendered livelihoods and the management of water in Tanzania, Cleaver criticises existing water management policies for the inadequacy of their social analysis (Cleaver 1998:293). As Masanyiwa shows, an oversimplified claim to gender equity by policy papers for water committees does not pay attention to the way decentralised arrangements in water governance differ for men and women and in some cases create or reinforce existing inter- and intra-village inequalities (Masanyiwa, Niehof, and Termeer 2015:920). Either state officials ignore customary arrangements or the process of forming positions and institutions in the course of decentralisation has positive effects: the authors found

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[226] For reasons of privacy, in some but not all cases interviewee's names have been changed.

for Nduruma River that the institutional form of a River Committee has bridged customary rules and statute law with respect to water and achieved the most successful and fair water management (Komakech, Condon, and van der Zaag 2012:115). However, a careful analysis of the local situation is a precondition to do what Komakech et al. call institutional nesting (Komakech and van der Zaag 2013:231).

The decentralisation in the government water institutions initiated by the 2002 water reform is a complex process. Mandara, who did his research in the Dodoma region of Tanzania on community management in water service delivery for rural water facilities, investigates the role of the district water department. It is significant that district governments focus on technical support (and all employees' descriptions in the district water office are focussed on technical aspects of water service). Mandara points at the lack of clearly defined roles of the key actors at the district, village, and household levels that hampers service delivery (Mandara, Butijn, and Niehof 2013:52).

This lack of a clear definition of roles might have some implication for the process of negotiating positions and their scope of responsibilities. For communal areas of Namibia, Menestrey Schwieger (2015) demonstrates that power relations and bargaining strategies played a major role in the implementation of recent water reforms. For Tanzania, Nordmann presents a study showing the reluctance to transfer power and particularly control over financial resources to water user associations (Nordmann 2010:9). Studies that have focussed more on processes in the creation of water governance institutions on the meso level (districts, catchments) found that state-led governance structure requires careful analysis of local structures because the existence of a polycentric or nested governance system raises questions of coordination (Komakech and van der Zaag 2013:231). Studies on pro-poor water management are still rare. With respect to Jakarta, Indonesia, Bakker argues that private water supply organisations fail to connect the poor. She concludes by questioning the long-term ability of private sector operators to supply water to the poor (Bakker 2007:866).

6.2. 2002 Water Reform and Water Regulations for Rural Tanzania

6.2.1. Policies and Laws to Improve Water Access for "the Rural Poor"

The process of the reform started in 2002 when the Tanzanian government initiated a far-reaching reform of its water sector. The neighbouring countries of Kenya and Uganda started similar reforms around the same time. The government clearly points to the origin of the

strategies and concepts manifested in the water reform: "In keeping up with the changing global trends in the Water Sector…" (URT 2005:i)

In accordance with these trends, the reform aimed to halve the number of people in mainland Tanzania without access to clean water by 2015. In addition, it was to increase government control over rural water management by framing modes of organisation and formalising customary water rights. The reform emphasised the economic value of water, cost recovery in water supply, and high efficiency as strategies to reduce poverty.

Box 11. Planning the reform: who is participating?

The goal of following global trends in the Tanzanian water sector reform, while still including civil society in the planning process, is a contradiction in terms. In the planning process of the reform, development agencies—mainly the World Bank and the International Monetary Fund—played a central role and were among the most powerful stakeholders of the reform process while civil society actors were marginalised.

The Water Sector Reform and its underlying policies were guided by the Tanzanian equivalent to the Poverty Reduction Strategy Paper [227], called MKUKUTA (MKUKUTA I in 2005 and MKUKUTA II in 2010). MKUKUTA II emphasises the importance of access to clean water for poverty reduction: "Access to water supply and sanitation is very important for improved quality of life and wellbeing, especially when linked with other social services, as well as economic growth." (URT 2010:10)

Goal three of MKUKUTA is "increased access to clean, affordable and safe water" (URT 2010:10). By involving the private sector and delegating management and decision-making to local governments, the reform aims to fight poverty and improve efficiency in water delivery.

In addition to MKUKUTA, the principles of Integrated Water Resources Management (IWRM)[228] guided the water sector reform. Since the late 1990s, development agencies have viewed IWRM as the worldwide solution to problems in water management. It promotes three core elements: equity (via governance), efficiency (via economics) and coordination (via integrated planning), resulting in sustainability. The development of the IWRM concept in the second half of the 1990s was informed by the Dublin Principles of 1992. These principles recognise water as a finite and vulnerable resource and postulate a participatory approach to water development and

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[227] Poverty Reduction Strategy Papers are preconditions for developing countries to receive financing from the World Bank and the IMF.

[228] IWRM is a process which promotes the coordinated development and management of land, water, and related resources. It aims at maximising economic and social welfare in an equitable manner.

management involving users, planners, and policymakers at all scales. They also emphasise that women should play a central part in the provision, management, and safeguarding of water. Finally they stress the idea that water has an economic value in all its competing uses and should therefore be recognised as an economic good (International Conference on Water and Environment 1992:1–6) .

Nordmann's analysis of the Water Sector Reform in Tanzania indicates that the NAWAPO is a blueprint of international principles and "can be understood as an 'amalgam' of external influence and of domestic policy learning and conscious acceptance of the reform strategies" (Nordmann 2010:13).

Even though the Tanzanian government claimed to have included civil society in the planning process, recent investigations argue to the contrary. Sattler (2010:81) argues that public participation during the drafting of the water policy was kept at a minimum level. He also points at the heavy influence of the World Bank and IMF, which supported the Ministry of Water in creating the policy (Sattler 2010:81). Nordmann explains the influence of foreign "experts" who transfer knowledge from the global to the national scale. These experts have an intermediary role that connects global water discourses with national water policies (Nordmann 2010:11). Above that a driving force that made the Ministry of Water comply with the World Bank and IMF advice was their funding of infrastructural investment and capacity development interventions (Nordmann 2010:11). In consequence, the water reform reflects concepts and ideas developed by international development agencies, such as cost recovery, individualisation of water rights, local ownership, and public participation. It does not include concepts from customary law such as collective water rights. In this governmental vision the co-existence of water access and control rights based on customary law, project law etc. was ignored.

The policies and strategies of the water sector reform were stipulated by the National Water Policy (NAWAPO) of 2002, the National Water Sector Development Strategy of 2006 (NWSDS) and finally were laid down in a separate legal framework that results from the National Water Policy. The Water Resources Management Act No. 11 (WRM Act) and the Water Supply and Sanitation Act No. 12 (WSS Act) were enacted by the National Assembly and then accepted by President Kikwete on 12 May 2009. In total these documents provide a comprehensive framework for governing all water sources in mainland Tanzania.

Table 6. Programmes, policies and laws relating to the Tanzanian water reform	
Name of the programme or policy (year)	Main elements
National Water Policy (2002)	Basis of water sector policy
National Water Sector Development Strategy (2005)	Strategy for implementing the water reform to achieve the national sector targets, period 2006–2015
Water Sector Development Programme (2004)	Twenty-year programme that started in 2007
	Transfers the main responsibility for providing water from the government to the local communities
	Mobilises financial resources for local water projects such as quick-win sub-projects to district governments
National Strategy for Growth and Reduction of Poverty I and II, MKUKUTA (2005/2010)	Aims at reducing poverty in Tanzania through growth and a rise in incomes
	Targets at improved quality of life and social well-being as well as good governance and accountability
	Initiates a process in which control over water service delivery is moved to local governments
Water Sector Development Programme 2006–2025	Sector-wide approach
	Defines rules and regulations for management and coordination of water management decisions
Water Resources Management Act No. 12 (2009)	Law reflecting aims and strategies of the water policy (change in the tasks and powers of national authorities), governing the Ministry of Water
Water Supply and Sanitation Act No. 12 (2009)	Law governing the Ministry of Water, provisions to simplify registration of Community Owned Water Supply Organisations (COWSOs)

Rural Tanzania received special attention in the water reform. The new laws define aims, responsibilities, and strategies for rural water management to an extent that had never existed before in statutory water management. The state retreats from the responsibility to provide rural water and hands over the management of water supplies to local communities. A variety of forms of rural water supply management were able to register ranging from private water companies to trustees or community-owned water schemes. The Ministry of Water continued to influence rural water management by framing policies.

The NAWAPO of 2002 provides a "comprehensive framework for sustainable development and management of the Nation's water resources" (URT 2002:5). This policy requires local communities to implement cost sharing, participation of the community, and

community ownership (URT 2002:32). Thus, the government has a significant influence on the management of rural water systems by requiring the implementation of specific concepts.

Despite the government's stated aim of promoting decentralisation, the 2002 water reform followed a neo-liberal agenda that has been implemented in a top-down fashion. A one-sided focus on technically complex piped water systems further resulted in systems that are often cost-intensive and require expert knowledge to run and maintain.[229] Thus water in many cases is too expensive for families with low incomes. As will be shown, families with low incomes continue to have access to mostly unsafe water sources. They spend much more time waiting and walking since these water sources are usually distant from their homes.

In May 2009, the Tanzanian government enacted the Water Resources Management Act No. 12 (WRM Act) repealing the Water Utilisation (Control and Regulation) Act No. 42 of 1974. The WRM Act turns the 2002 water policy into law. The Act outlines changes in the tasks and powers of national authorities. Specifically, it defines the responsibilities of government bodies and establishes Water Supply and Sanitation Authorities as commercial entities.

6.2.2. Administration, Regulations and Implementation

Tanzania is still divided into nine water basins (that typically cover several administrative districts because they follow water catchment areas) managed by basin water boards. However, there are new scales of administration below the basin water boards. Catchment and sub-catchment water committees are located beneath basin water boards that are responsible for the collection of various fees and charges and resolution of water-related conflicts at the basin scale. The lowest administrative layer contains the water user associations that have already been mentioned above. Overall, the water reform is characterised by a more localised management in which the Ministry of Water passes power to local authorities such as municipal, district and town councils, private companies, and rural water user associations. These local authorities are then expected to provide public water and sanitation service (Nordmann 2010:9). The following table shows the responsibilities of institutions according to the NAWAPO (see URT 2002:35).

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[229] One example is a water scheme supplying ten villages in Lushoto District finalised in 2013. Financed by the World Bank, the Lushoto District co-operated with a company called PIVOTECH from Dar es Salaam. The project was part of the implementation of the National Rural Water Supply and Sanitation Programme in Lushoto District. However, the pipes break frequently according to the local population. Since PIVOTECH used a special machine to connect main pipes, the water committee is forced to borrow the machine from Dar es Salaam (a distance of 360 km) each time a pipe is broken. That is cost intensive and results in dependence on the company.

Scale	Institution	Function
Table 7. Institutional set up according to the NAWAPO (see URT 2002:5)		
Scale	**Institution**	**Function**
National	Ministry of Water	Defines the perimeters of basins, sub-basins, groundwater recharge areas, and aquifers.
		Responsible for policy orientation, development and occasional review of policies and legislation, sectorial coordination and integration, sectorial planning, national water assessments and planning; data collection and dissemination, monitoring and evaluation, establishment and maintenance of water resource databases and information management systems, preparation and implementation of training programmes, and preparation of regulations.
Basin	Basin water board	Responsible for data collection, processing and analysis, water allocation, pollution control, preparation of water utilisation plans, collection of various fees and charges, and resolution of water-related conflicts at the basin scale.
Catchment	Catchment water committees and sub-catchment water committees	Preparation and implementation of catchment plans to protect catchment water supplies, and resolution of conflicts within catchments.
District	District Water Department	Responsible for planning and development of water resources in accordance with basin plans, protection and conservation of natural resources in villages and wards, establishment of by-laws on the management of water resources, and conflict resolution in accordance with established laws and regulations.
Community or water user association	Water user associations (WUAs) or water user groups (WUGs)	Responsible for local level management of allocated water resources, mediation of disputes among users and between groups to protect catchment water supplies, collection of data and information, participation in the preparation of water utilisation plans, conservation and protection of water sources, and catchment areas, efficient and effective water use and ensuring return flows, law enforcement and implementation of conditions of water rights, and pollution control.

The WRM Act directly regulates the water supply in rural areas by laying down rules for the registration of water user associations and the appointment of board members on all levels of administration. Water user associations own the taps and infrastructure, collect fees, and make decisions over grants as well as denial of access to water. They are regulated by the basin water board and are required to hand in a constitution to the basin water board (URT 2009:397). Water user associations act on behalf of the basin water board when collecting fees.

Section 52 of the Act gives customary water rights an equal status with granted rights (URT 2009:366). The NAWAPO and the Acts both promote a dualism of rights but emphasise the

integration of customary rights into state law: "Relevant customary law and practice related to water management will be institutionalised into statutes" (URT 2002:29).

This formalisation of customary rights is reminiscent of the colonial period when customary rights were written down to better control the local people (as also shown in chapter 5.4.1., anthropologists induced the codification of customary law during British rule. This written customary state law lacked a dynamic character due to codification and was often biased by prejudices). The fact is ignored that customary law regulates much more than just the water rights of a person or a community. Despite their formal recognition, customary decision-making and control rights are marginalised in practice since they contradict the concepts and strategies of the water reform.

The law also recognises the water–land connection. Basin water boards are responsible for approving water-use permits for land holders holding the right of occupancy (under the Land or the Village Land Act (URT 2009:393). Consequently a land title is a precondition for individuals to receive a water permit. The Act further requires that

> any person who diverts, dams, stores, abstracts or uses water from surface or underground water source, or for any such purpose constructs or maintains any works, shall apply for a Water User Permit in accordance with this Act. (URT 2009:393)

Users must apply for permits at the basin water board. However, the law does not require water permits for land holders who obtain domestic water from hand-dug wells.

Before the reform, the Ministry of Water was responsible for granting water permits. Only registration fees had to be paid before 2002. However, the 2002 water policy introduced a system of cost recovery for water basins through the collection of water fees (see Doering 2005:35). The era of free water during socialism has passed and been replaced by the paradigm of cost recovery.

As the name suggests, the Water Supply and Sanitation Act No. 12 (2009) focusses on sanitation and the provision of drinking water. The Local Government Act of 1982 regulated the responsibilities of districts regarding water supply and management before the reform. The district councils had the function to provide, establish, maintain and control public water supplies, impose water fees, and regulate or prohibit the construction and use of furrows. In addition, they were able to prohibit, regulate, and control the use of water supplies in order to prevent the pollution of water sources (Kabudi 2005:6). From 2009 the responsibilities of the district council changed. The council is represented in the boards and coordinates budgets within the budgets of the council. The council furthermore coordinates physical planning and delegates performance,

monitoring, and regulation of the water sector. However, councils are not responsible for providing public water supply as the National Water Sector Development Strategy, or NWSDS, underlines.

The NWSDS describes how the NAWAPO should be implemented, i.e. a description of the required administrative changes. It covers the period from 2006 to 2015. The NWSDS "sets out how the Ministry of Water and Livestock Development (MoWLD) will implement the National Water Policy to achieve the national sector targets as stipulated in the MDGs and the most recent National Strategy for Growth and Reduction of Poverty (MKUKUTA)" (Doering 2005:36).

As described above, rural water supply schemes follow the new paradigm of transferring ownership and management to beneficiary communities in contrast to the former central system of management. The Water Strategy Paper names communities as the initiators, owners, managers, operators, and maintainers of piped water schemes. They hold the responsibility for covering operational and maintenance costs (URT 2005:56). The Water Sector Development Programme (WSDP), which incorporates all activities undertaken in the water sector, encourages the decentralisation of water resource planning to the district scale (URT 2006:7).

The central state is released from all responsibilities to provide and maintain water infrastructure in rural areas. Nevertheless, the state continues to supervise rural water management. According to the law, community-owned water entities are entrusted with the preparation of guidelines for the establishment of community-owned organisations. The government supervises the development of formal arrangements for the transfer of schemes from the government. Community-owned water management bodies are then expected to carry out awareness-raising and capacity-building activities to help communities take over responsibilities for water management (URT 2005:88).

6.2.3. Community-Owned Water Supply Organisations (COWSO) and Participation

A guiding principle of the NAWAPO is subsidiarity,[230] which means the decentralisation of water supply management and the delegation of decision-making responsibilities to the lowest appropriate level. The NAWAPO directs a change in responsibilities where the Ministry of Water retreats from the responsibility to build and maintain water supplies. Instead it facilitates, monitors, and regulates water entities such as communities and the private sector (see NAWAPO URT 2002:31).

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[230] The origin of the "subsidiarity principle" can be traced back to the Agenda 21 document produced by the 1992 United Nations meeting in Rio de Janeiro. The Agenda emphasised that water management should be performed at the lowest appropriate level (Doering 2005:37).

Rural water supplies receive special attention in section two of NAWAPO. For water management in rural areas, NAWAPO moves away from the village water committees that previously formed a part of the village government system. It replaces them with more autonomous entities called community-owned water supply organisations, or COWSOs. These organisations

> will be responsible for local level management of allocated water resources, mediation of disputes among users and between groups within their areas of jurisdiction, collection of various data and information, participation in the preparation of water utilization plans, conservation and protection of water sources, and catchment areas, efficient and effective water use and ensuring return flows, enforcement of the law and implementation of conditions of water rights, and control of pollution. (URT 2002:21)

According to the policy, the COWSO provide legitimate representatives in basin boards and catchment committees, which are responsible for the resolution of water-related conflicts (URT 2002:21).

COWSOs can take a variety of forms, including water user groups, water user associations, private companies, trusts, and societies. These organisations were assigned to take over water management responsibilities in line with the global trend of cost sharing, community participation and ownership (URT 2002:32). Furthermore, gender equity has been applied in the policy paper: "Participation of both men and women in decision-making, planning, management and implementation of water resources management and development will be enhanced" (URT 2002:25–26).

COWSOs have to meet certain requirements in order to be recognised by the government. For example, a group that runs a hand pump must be registered and obtain a formal land title to the area. The group also needs to open a bank account containing no less than TZS 60,000 or about €30. The group is then responsible for the maintenance of the water source (Nkonya 2010:5). Theoretically, democratic legitimisation is also required to be realised in the constitution of a water entity. However, in practice economic aspects play a more central role, such as regular payment of water fees.[231,232]

Another concept that might influence rural water supply and gender roles is the oversimplified view of women and their role in domestic water supply. NAWAPO assumes that women are responsible for the provision of water everywhere in rural Tanzania: "In the rural

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[231] Interview with Father Florian, Dar es Salaam, 13.03.2010.

[232] For reasons of privacy, in some but not all cases interviewee's names have been changed.

areas women bear the burden of searching for water." (URT 2002:32). Furthermore the government says that "Women play a central role in the use, management and protection of water resources…" (URT 2002:5). Consequently, gender participation is required through a fair representation of women in village management.

Community participation is one main goal of the new water policy: "Participation of both men and women in decision-making, planning, management and implementation of water resources management and development will be enhanced" (URT 2002:25–26).

However, the policy does not require a certain level or intensity of participation. The participatory mechanisms of all levels from sub-catchment to the Ministry of Water are well-defined, with representatives from lower levels present at each higher level. However, it is left to local initiatives to decide how to incorporate community participation into the management of rural piped water schemes. Theoretically, this is an opportunity to incorporate customary mechanisms of participation into the constitutions of water user associations. Rural Tanzania has a diversity of non-statutory basis -democratic decision-making mechanisms where community members gather to decide on central resource management questions. In chapter 5.2.3. I have described the customary institution of the large gathering of the *Aya* in western Karatu. In March 2014, I also witnessed a large gathering of approximately 450 people from diverse social and economic backgrounds at water workshops in the Usambara Mountains that changed the design of the workshop during the first gathering. Women and men started a discussion on who should take part in the workshops since there was space for only 200 (100 women, 100 men, half rich, half low-income, half Muslims, half Christians). People agreed with all other suggestions of the workshop leaders but refused the division of 100 men and 100 women. After debate it was proposed that only 80 men and 120 women should take part. Twenty men then voluntarily retreated and 20 women took their seats.

The previous paragraphs have shown that the 2002 water reform requires certain concepts like cost recovery, community management and formalisation of water rights to be implemented when decentralizing water management. Despite the requirement of these concepts, the government has not defined roles of actors on the district, village, and household level in detail. Furthermore the reform lacks detailed requirements of how/to which extent beneficiaries participate in water management. In consequence, this situation allows a great scope for negotiating roles in the management of rural water. By presenting a detailed ethnography of how a remote community in rural Karatu District manages domestic water, I want to give insights into the ways how people obtain water, which actors organise the water supply and how this situation impacts on access to domestic water for low-income families.

6.3. Access to Domestic Water in Rural Karatu

Since 1953, when the previously government-owned piped water supply scheme was constructed to serve what used to be called the "Karatu settlement area" (today "Karatu township"), a number of improved water supply schemes or small domestic taps have been installed in the different villages.

Water had always been available during most periods of the year since the 1960s for irrigation of coffee plantations run by private businesses at the southern slopes of the Ngorongoro Conservation Area (NCA). Since the 1990s, the plantation owners were able to drill and run deep boreholes or, based on water rights issued during the late colonial era, benefitted for decades from their proximity to the water streams emanating from the upper forest area of the NCA. Some plantations provided and still provide water to people from adjacent villages, e.g in Tloma area, north of Karatu town.[233]

For the majority of the Karatu District population, access to any type of water, whether improved or unimproved, became increasingly difficult the more the households were situated afar from the NCA forest slopes in the northern-central part of the district which – in the past – was mainly served by a much utilised stream in that location, i.e. the Endoro river. Since the 1980s, the population living in the southern part of Karatu District faced seasonal water shortage, especially in the area of Endamarariek, which this research focusses on.

Some of the piped water schemes in Karatu District had been initiated by faith -based organisations such as the Lutheran parish of Karatu, under the Northern Diocese of the Evangelical-Lutheran Church of Tanzania (ELCT), for example, close to the Karatu hospital. Quite a number of them had been constructed—or at least initiated—by Catholic (educational) institutions or parishes—or by direct involvement of the Mbulu Diocese Development Department (DMDD) as a technical service provider.[234]

The public water scheme in Endamarariek, ENDAWASU, was initiated by a Swiss Catholic priest in 1989 and finished in 1994 with funds and personnel from Catholic development agencies.[235] In 1989 a German engineer financed by the Catholic Relief Service (CRS) employed local labour and oversaw the building of the intake in the Kansay ward forest, the laying of over 60 km of pipes, and the construction of public taps. After the foreign engineer left, ENDAWASU employed a local engineer to maintain the scheme.

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[233] Interview with Jörg Hilgers, Bonn, 14.03.2013.

[234] Interview with Jörg Hilgers, Bonn, 14.03.2013.

[235] Interview with Father Florian, Dar es Salaam, 13.03.2010

In 2009 and 2010 residents in rural areas obtained water from various improved and unimproved water sources, depending on the locality and the volatile availability of water due to seasonal effects and often inadequate state of repair of respective piped supply units close-by. Both in rural and urban areas households conduct rainwater harvesting from tin roofs. Rivers and swamps are also a source of domestic water. When these natural water sources dry out, people still depend on a variety of different sources—in Endamarariek it is water from hand-dug wells in the forest and tap water, both from public taps and private connections and in a few cases from water vendors.

My data collected during the dry season demonstrate that water users in the research area can be divided into three groups: households with a private connection, households with enough income to afford clean water from the public taps, and low-income families that depend on the free water from hand-dug wells. Some families switch between the latter two groups depending on the money available to them at a particular time.

The water point mapping conducted in Karatu District in June 2008 confirms a proper functioning of the water scheme in which each water point serves approximately 250 people. In all, 83% of 631 public taps were effective. This is a high ratio compared to some other areas of Tanzania. In Bukoba District, for instance, only 56% of installed taps are in function. Most of the taps in Karatu District work according to the "pay per bucket" system (SNV 2010:7).

Map 6. Domestic water availability in Endamarariek centre in 2010, own map
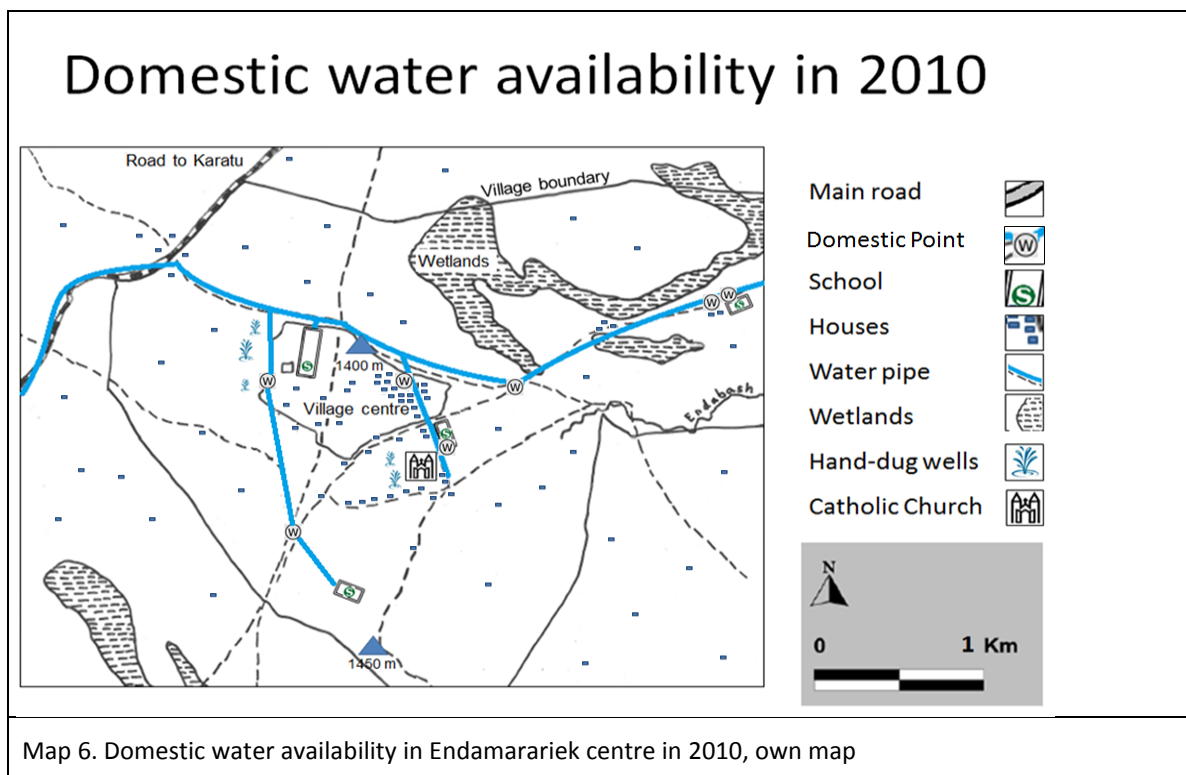
In Endamarariek village, in the dry season the residents fetch water both from the piped supply scheme Endabash Endamarariek Water Supply (ENDAWASU) initiated by the Catholic parish which charges water users, as well as unimproved water from free of charge sources such as hand-dug wells (see map 6).

The piped water scheme provides both public taps and private connections (see figure 18 and 19). Public taps are situated in the village centre or along the main road (see map 6). Some domestic points are named after a nearby neighbour, for example, *kwa Amo Mayo*—at Amo Mayo's. People with high incomes can install a private connection to their houses.

Private taps are affordable for richer people only. Material and installation costs, as well as a one-time connection fee must be paid by the private person. In addition, water used from a private connection costs twice as much as water from a public water point (TZS40 per 20 litres for private connections compared to TZS20 per 20 litres for public taps). The list of names with private connections is essentially a list of the most influential people in Endamarariek: former and current village chairmen, the medical doctor, as well as the economic and religious elite.

Pictures of the ENDAWASU scheme, own images

Figure 17. Waiting for water in the dry season, ENDAWASU water point, 20.10.2015

Figure 18. A domestic water point in Endamarariek, 15.09.2009

Figure 19. A private water connection with a concrete lined tank in Endamarariek, 03.01.2010

Water users not only differ in where they fetch water, but also in how much they can store. The economic elite usually have a concrete lined tank with a volume of several thousand litres. Some middle class families own a plastic tank that holds up to 500 litres and is filled with buckets carried

from public taps. Low-income families only own a handful of buckets and canisters and thus have to fetch water every day at a public tap or hand-dug well. During the dry season men from low-income families spend up to 12 hours per day fetching water from far off hand-dug wells in the woods that still provide water.

In Endamarariek, the users of the domestic taps are usually men who fetch water for their households. Women usually do not fetch water for two reasons. First, many households are quite far from the public water point and riding a bicycle on sandy and rutted paths is a physical strain. The second reason is that local beliefs prevent women of reproductive age from staying at water sources (see Achterberg-Boness 2012:280).

Hand-dug wells are especially important because of problems with the price and availability of ENDAWASU water. From 2008 to 2015 the water supply of ENDAWASU was unreliable in the dry season. Water was available only in the early morning and costly, as viewed by local people. During my research in 2009/10 I have witnessed a period of extreme water shortage due to an extensive drought. In September and October, the area faced the most extreme water shortage. Water from all public water points ran for only a few hours per day, and sometimes the water flow was cut off altogether.

Furthermore, my principal informants were not available for interviews as they were responsible for fetching water for their households. One informant reported that he got up each morning at three o'clock for nearly a month to wait with other villagers at the self-dug well and often spent the whole day again waiting until it got dark.[236]

The official description of the ENDAWASU does not consider these seasonal variations. According to the ENDAWASU secretary, in 2009 the scheme provided water for seven villages with 653 public taps and 53 private connections.[237] In the sub-village of the study, the piped water scheme is not extensive. Thirteen public taps exist in the whole village. Five of the taps were clustered within a 2 km radius off the village centre. The most remote part of the village was an 8 km walk from the closest water point.

Although official statistics of the water point mapping suggest that each tap serves approximately 250 households, this statistic obscures the number of water users (see SNV 2010:7 for water point mapping of Karatu District). During the period of extreme drought the caretaker of the southernmost water point had noted 29 water users that received between 20 litres and 160 litres on the 15 September 2009 (see map). Other water taps failed completely to serve water.

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[236] Interview with Gabirelli Ama, Endamarariek, 09.03.2010.

[237] Interview with Florian Joni, Endamarariek, 10.03.2010.

Water vendors that provide an important service for households in Karatu town are a scarcely seen phenomenon in Endamarariek. Water vendors buy water at the taps and transport it to customers by bicycle. Customers are some few families with some income such as primary school teachers or shopkeepers. "You know these young men, they do water vending. But only the people that own cafes and shops in the village centre buy water from water vendors during the extreme dry months. Some of them can afford to let people fetch the water from the tap. Then it is used for cleaning and cooking"[238]

The water is delivered directly to the door of the building and the price of a bucket can vary between TZS50 and TZS100. This was not affordable for most of the families in Endamarariek.[239] The other main sources of domestic water are hand-dug wells. Two categories can be distinguished: seasonal wells and permanent wells. Seasonal wells are filled by water that flows under the soil of the riverbed, they tap water from alluvial aquivers (see figure 20). Thus these wells are located in dry riverbeds at valley bottoms, which only carry water following heavy rainfall (see figure 22). These riverbeds seasonally drain rainwater from the catchment area. They frequently change their course since the storms that create them wash away fields, bushes and sometimes even houses.

Pictures taken in Endamarariek and surroundings, own images

Figure 20. A permanent hand-dug well in the forest during the peak of the dry season, 16.10.2009

Figure 21. Fetching water for two households with the bike, 16.10.2009

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[238] Interview with Gabrielli Ama, Endamarariek, 09.03.2010.

[239] Interview with Emanuel Happy, Endamarariek, 02.11.2009.

Figure 22. A seasonal hand-dug well in a sandy river bed, 21.01.2010

Figure 23. A man draws water form a permanent well, 03.02.2010

The top layer of the riverbeds is sandy. Below the sand, a clay layer appears. Men construct wells by digging through the sandy layer until the well fills with water. The wells are deepened each time the water level goes down. When the black clay layer of soil is reached, no further water is accessible and the men start digging at another site.

The number of wells dug depends on the demand for water. I have observed up to seven wells being dug at one spot. The wells have a depth ranging from 1 to 5 metres, and a diameter of 1 to 3 metres. Their capacity varies and can range from 200 litres to 2,500 litres. In October 2009, during the peak of the dry season, men were observed taking about 260 litres a day from one well. The wells also serve as reservoirs, since they fill up again at night.

Permanent wells in forests that are fed by ground water were observed as the only remaining free of charge water source during the extreme drought of 2009/2010. Figure 20 shows such a well in the forest. It was 3 metres deep. Two other wells compared to this were located on one spot that was about 8 km from Endamarariek centre.

In both wells water is fetched either using a long stick attached to a plastic bucket or by a man passing up the water. As more buckets are filled, the water becomes muddier. The domestic water is transported and stored in plastic containers holding around 20 litres. Bicycles are shared within the neighbourhood as a means of transport. Typically, a man fills four containers, loads them onto a bicycle and hands these containers to his wife or other family members at the door of the kitchen house where they are stored (see figure 21).

In the rainy season hand-dug wells are predominantly reserved for households, and cattle are watered in the swamps. In the dry season the morning hours are reserved for fetching water for surrounding households. At around ten o'clock small herds composed of up to 10 cows are watered. The number of herds decreases as the water supply of the well goes down.

However, the use of water from hand-dug wells poses a health risk. According to a nurse, water-related diseases are among the most common diseases in low-income families of Endamarariek.[240] As the following quote shows it is common knowledge among low-income families that water should be boiled to minimise the health risk, but they also explain that firewood is so rare that they cannot afford to use it for boiling drinking water.

> The only challenge is that the water we withdraw from these wells and drink is dirty and causes illnesses like diarrhoea. The taps of the water scheme are too far away and are costly. The water supply has been infrequent from September to December from when the public water point was built until 2015.[241]

6.4. Relevant Actors in Rural Water Supply in the Research Region

6.4.1. Customary Water Law and its Actors

As the historical analysis showed, the state had played only a marginal role in building and managing water in the research region. It was shown how communities in southwest Karatu District managed the water supply without government support. Two different sets of rules are applied in the management of water sources that define roles and decision-making structures in Endamarariek. While management of the taps is influenced by the Catholic parish, management of the hand-dug wells is based on Iraqw cosmology. The piped water scheme and its taps are managed based on project law and the constitution follows the requirements of the new water policy. Following the NAWAPO, the constitution of ENDAWASU follows principles of the Tanzanian water policy such as cost sharing, participation of the community, and community ownership. In contrast, unimproved sources such as rivers, seasonal ponds, swamps, and hand-dug wells are managed based on local beliefs.

Local beliefs lay down rules of resource management that greatly influence the daily practice of fetching household water. Even though the integration of customary law is required by the regulations of the water reform, none of the rules could be found in the constitution of ENDAWASU.

A user community of hand-dug wells is defined by geographic features. All the households on one ridge make up a user community, and the people living there have the right to extract water from hand-dug wells placed within the community area. Based on the organisational principles of the precolonial period, people have access rights to all water sources, whether rivers, swamps or

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[240] Interview with Elisa Joram, Endamarariek, 21.07.2009.

[241] Interview with Emanuel Happy, Endamarariek, 02.11.2009.

hand-dug wells. Men have the knowledge needed to choose where to dig wells, and can locate places where the alluvial aquifer level is high.

Nowadays the geographic zone of the *Aya* consists of more than two villages. Some communities that were part of the *Aya* in the past are currently regarded as sub-villages, and thus are part of Endamarariek. However, other communities are part of neighbouring villages. Therefore, people who come from neighbouring villages within the reach of the *Aya* are permitted to extract water from hand-dug wells in Endamarariek, and vice versa. In figure 21 my informant is fetching water at a distance of about 5 km from his home, still within the radius of his *Aya*. Had it not been for the drought, he would find water some 500 metres from his home.

Social control is exerted by the council of elders and the community as a whole. The council of male elders monitors the behaviour of individuals. According to Snyder (2005:42), and confirmed by the elders of Endamarariek, the elders pay great attention to how the behaviour of an individual influences the health and welfare of the community. During my research I did not record a conflict over water, but in general elders are also responsible for handling conflicts that occur when a water spirit is angered.[242] As mentioned above, divine beings can harm the community by holding back the rains if rules are violated. The elders are responsible for mediating between the divine beings and humans. At the time of my research, three consecutive sowings had failed due to drought. Consequently, the elders were highly active, holding large-scale gatherings with elders from distant villages. It stands to reason that they also watched closely for any violation that might anger the divine beings. Since the drought affected the whole community, the atmosphere was tense and social pressure was probably exerted by the whole community.

According to Iraqw cosmological principles, settlement close to water wells and streams is prohibited. Local beliefs also prohibit cutting trees and conducting agriculture next to water sources. This management rule protects the hand-dug wells in the forest that serve as a water source for low-income families, but also prevents people from undertaking irrigation farming next to the water sources.

An important difference between the more commonly known permanent wells in other regions and the hand-dug wells in Endamarariek is that the latter do not serve primarily as a social space. I have observed that conversations were carried out at a distance from the well. People purposely avoid chatting at wells because of local beliefs that classify the area around the well as a taboo zone (see for further explanation chapter 6.5.2.).

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[242] Interview with Nade Kahamusmo, Endamarariek, 19.03.2010.

The stereotype of a rural female water user who is "traditionally" responsible for fetching domestic water (as described in the NAWAPO) is challenged by describing the daily practice in rural Karatu District. Men are responsible for fetching domestic water and thus are main actors that access water and are responsible for the maintenance of, for example, hand-dug wells.

This gender specific division of household tasks results in the absence of women from water sources, but it does not mean that women are excluded from managing water resources. Rather, women participate in decision-making and conflict resolution indirectly through elders, as described later in this chapter.

The customary water management system in Endamarariek is well-adapted to the local ecological and social context. The fact that women receive domestic water from men who fetch it in a rough environment is a labour-sharing mechanism that reduces the workload of women. This system is only feasible in a community in which the units of the household and the neighbourhood have the customary institution of labour sharing. Thinking in terms of individual access rights, one could argue that women are excluded from public water sources. However, even single-headed households are supplied with water through the institution of a good neighbourliness (see above). Every member of the community has the right to water from hand-dug wells and other water sources managed by customary law.

Women participate in *Aya* meetings. *Aya* meetings are institutions where women are part of the decision-making process on resource management. The participation of women in these meetings is facilitated through a ritual cleansing prayer held by the *Kahamusmo* or another ritual expert prior to the meeting. The *Aya* meeting in a neighbouring village in April 2009 was also opened by a ritual prayer. The purpose of this prayer was to purify the place of the meeting from "evil spirits" as one of the bystanders explained.

Many women in Endamarariek keep away from public places like the village centre or the monthly cattle market and from bigger cities as these are perceived as dangerous. They tend to stay at home or to visit female friends and relatives.[243] The usually separately placed cooking hut in a homestead serves as a meeting place where news and goods are exchanged between women. Some Christian women go to church or to weekly choir practices.

The customary method of purifying the place through prayers has been successfully transferred to village meetings held under the auspices of the village chairman who is a member of the diviner clan. There are also female members of the ward tribunal on land. Each meeting of this tribunal opens with a prayer containing syncretistic elements of Christianity and Iraqw

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[243] Interview with Ama Mandoo, Endamarariek, 21.02.2010

cosmology. These examples show that it is possible to open the space for women to participate directly in decision-making processes. Women could be part of the management structure of ENDAWASU as the water reform requires. However, the public meetings of ENDAWASU are not opened with any kind of ritual cleansing. This may be due to the influence of the Catholic mission, which is opposed to "pagan rituals". It could also be a strategy to minimise the influence of elders and women on decision-making within ENDAWASU.

6.4.2. ENDAWASU in Rules and Practice

The main actors that hold positions in the organisational structure of ENDAWASU are the secretary of ENDAWASU, the engineer, a DMDD representative, village chairmen and secretaries of the diverse villages supplied by the scheme and domestic point (DP) caretakers.

The constitution available at the main office of ENDAWASU describes the positions, objectives, responsibilities, and dispute mechanisms of the piped water scheme. The constitution fulfils the requirements of the NAWAPO: ownership and management are in the hands of the beneficiary communities that are registered as a water user association. The constitution clearly underlines the non-profit character of ENDAWASU. It furthermore promotes conformity to the new water policy. Besides the provision of clean and safe water for domestic purposes, one objective is "to ensure that the water supplied is continuous, reliable, affordable and self-financing through the consumer contributing revenue to cover the costs of operation, maintenance and expansion" (ENDAWASU 2000:3). Thus the constitution is in accordance with the principle of cost recovery that is required by the water policy. The principle of participation is also further developed. According to the constitution, ENDAWASU has in theory three operational levels to ensure community participation: a board of trustees, a village water committee (VWC) for each village, and water user groups at each public water point.

The board of trustees is the highest authority in the management structure and is responsible for managing the water supply on behalf of the water users (ENDAWASU 2000:2). According to the constitution, the board should meet at least twice a year. It should be composed of two representatives from each ENDAWASU village, plus the district executive director (to represent the district government). One permanent seat should be reserved for the Diocese of Mbulu Development Department (DMDD). The village representatives should be elected by the assemblies of their respective villages.

In practice, the board of trustees of ENDAWASU meets infrequently and only when the DMDD initiates it (own observations but also confirmed by DMDD consultant Hilgers). The village

representatives on the board were not elected by water users. Instead, participation in board meetings is linked to the position of chairman and secretary in each village government. The chairmen and/or secretaries attend the meetings or send other members of the village government in their place.

Apart from the main board of trustees there should be a village water committee (VWC) for each village, to represent the water users. VWC members should be elected by the village assembly to make sure that water users have a contact person for discussing their concerns. In practice, the VWCs that should have been elected by each supplied village do not exist. They were never elected and have never met.

The public taps are managed by an appointed DP caretaker who usually lives close by. Usually taps are managed by a man, with only one water point managed by a woman. The DP caretakers collect water fees and document water users. The caretaker is paid a salary consisting of 10% of the water fees.[244] When a person fetches water, the caretaker notes his or her name, the amount of water taken, and the fees paid in a book. The book is delivered to the ENDAWASU office at the end of each week. In 2007, the ENDAWASU engineer also installed meters at all public taps to verify the amount of water withdrawn.

The water user association allows for community participation through the election of a DP caretaker for each public water point each year. He is designated to collect water fees. In practice, the distribution point caretakers do not necessarily represent the users of each water point. While some of the caretakers were actually elected by the user community as is laid down in the ENDAWASU constitution, others were appointed by the secretary of ENDAWASU without any democratic election process.

When talking about how DP caretakers distribute the water, I used to hear: "*Uchotaji unatofautiana*" ("Fetching varies").[245] This sentence describes how rules differ at each DP. Some of the caretakers are known for their habit of prefering those who "offer them a drink" during dry season.[246] In other words, at some places the DP caretaker is open to bribery. In contrast to that, other DPs have an active user community that meet regularly to agree upon, for example, distribution key. For example the water user community of westernmost point (see map 6) has agreed upon the distribution key of 24 buckets for each bigger mobile plastic tank that has a volume of 160 litres.

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[244] Interview with Gabirelli Ama, Endamarariek, 21.03.2010.

[245] Interview with Gabirelli Ama, Endamarariek, 09.03.2010.

[246] Interview with Emanuel Happy, Endamarariek, 02.11.2009.

The ENDAWASU constitution generally treats water users as consumers rather than active participants in managing the piped water scheme. The constitution does not provide rules on how to call a general meeting or who should be present. It also lacks rules about who enforces the meeting's decisions and by what means. The constitution gives users the right to extract water from domestic taps by paying per bucket. However, it does not assign them duties like cleaning the intake, maintaining a clean environment around taps, taking part in elections, or guarding pipes and taps. *De facto* this puts them in the role of clients.

In practice, two positions are central to the running of ENDAWASU: the secretary who is responsible for the collection and management of fees and application for funds, and the engineer who is responsible for the construction, maintenance, and operation of the system. The current secretary was put into office by the DMDD and has held this position for ten years. The current engineer is an employee who was trained as a successor to the German engineer who rehabilitated the water system in the 1990s. In the absence of another working administrative structure, these two people run ENDAWASU.

The practical reality of how ENDAWASU was run did not accord with the original intention of the Catholic parish that placed great importance on participation and the supply of low-income families. The following positive showcase serves as an example for how participatory structures are implemented in practice. Through comparing the two piped schemes that were initiated by the same faith-based organisation in the same area, reasons for the lack of participation in ENDAWASU can be elaborated.

Box 12. Positive showcase in participation: Karatu Villages Water Supply (KAVIWASU)
Another project located in the same district as ENDAWASU shows that the principles of participation and gender equity can be implemented. KAVIWASU is a piped water scheme located only 20 km from Endamarariek, which supplies water to six villages and parts of Karatu town. It serves as a positive showcase of the DMDD with full participation of the beneficiary communities in construction, implementation and maintenance of the project.[247] KAVIWASU is a public-private service utility, independent from the chain of command of both the Tanzanian Ministry of Water, and the Karatu District council administration. The company is licensed by the central government to supply water as a registered board of trustees who are

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[247] Interview with Jörg Hilgers, Bonn, 14.03.2013.

either elected by the village communities served, or seconded from the Karatu District council and the diocesan development office (Mbulu).[248] Misereor, a German Catholic NGO, provided 75% of the funds for the scheme allocated also from German taxpayers' money[249] and the European Commission. The households contributed 25% of the budget, through casual labour, provision of local construction material, and cash. The infrastructure is maintained through fees collected at public taps and private connections. The former chairman of KAVIWASU emphasised that the cost-recovery principle was fulfilled by the villagers themselves.[250] The villagers agreed on tariffs for water at meetings to which all community members were invited.

Under the auspices of the former district's member of parliament, Dr Willbroad Slaa, the DMDD in co-operation with elected representatives from the six project villages developed management structures to ensure the smooth operation of KAVIWASU. Local (decentralised) water committees were elected by village assemblies as representatives of the villages.[251] Capacity-building seminars were conducted to ensure community participation in all stages of project implementation. These seminars also raised awareness of the need for good governance and water fees for cost recovery.[252] In these workshops the procedures for electing village water boards and a tariff agreement were agreed upon. District officials participated in all stages of the process.[253]

KAVIWASU survived some serious power conflicts with the staff of the district government. The introduction of participatory principles where power is shared with representatives elected by village assemblies challenged previous power structures in the district. Local officials were accustomed to a centralised system in which the district government controlled decision-making and allocation of funds. Political differences between KAVIWASU and the district government exacerbated this conflict. The district government was controlled by the ruling CCM party, while KAVIWASU was associated with a member of parliament from the opposition CHADEMA party. As a result, the district government did not support the project and instead attempted to sabotage it.

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[248]Just to mention as a side note—coffee farms situated upstream use a great deal of the water from the river that serves KAVIWASU (Sattler 2011:10). This is why the water supply needed additional sources such as a borehole to obtain enough water. The withdrawal of water by coffee farms remains a source of competing water rights, just as it was in colonial times.

[249]Administered by Katholische Zentralstelle für Entwicklungshilfe, the technical body of the Catholic Church that receives development aid from the German Government's Ministry for Economic Co-operation and Development (BMZ).

[250] Interview with Jubilate Mnyenye, Endamarariek, 17.04.2015.

[251]For the first time in the democratisation process in this particular area of Northern Tanzania, most of the assemblies decided to apply an election process copied from Kenya: identified candidates stood up in a row in public, and those voters supporting this particular candidacy lined-up behind their favourite representative. As there is no need to count (and probably, forge) votes e.g. from ballot papers, and everybody can actually see the numbers of people who favour their respective candidate, there is no reason, and no opportunity to start a rumour downplaying the validity of the election's outcome. During the time of the set-up of KAVIWASU, this was an important measure to counter allegations by the local CCM party members claiming CHADEMA and MP W. Slaa in particular, had hijacked the process. Interview with Jörg Hilgers, Bonn, 14.07.2015.

[252] Interview with Jörg Hilgers, Bonn, 14.07.2015.

[253] Interview with Jubilate Mnyenye, Endamarariek, 17.04.2015.

> The former Karatu member of parliament, Dr Wilbroad Slaa (CHADEMA), emphasised the conflicts between KAVIWASU and the government in a parliamentary debate in 2009.
>
> In this debate, Slaa pointed out that KAVIWASU never received funds for capacity building or recovery costs from the district government. He argues that a "war" was being fought by the staff of the district council against KAVIWASU by excluding them.[254] This war threatened the very survival of the project. In 2004, after the finalisation of the project, the prime minister (CCM) ordered the arrest of 15 CHADEMA members because they were accused of damaging water taps after CCM members damaged KAWIWASU's equipment. A second conflict arose when district civil servants tried "to destroy the project by revising the pricing structure from per-unit user fees to a monthly flat fee that would not cover the operational costs." (Hoffman 2006:113)

KAVIWASU not only survived its conflict with the district government, it successfully implemented community participation despite strong political opposition. Up to this point, two aspects have been identified that allowed KAWIWASU to implement participation despite strong "headwinds". First, the project had the political support of the local member of parliament, which helped buffer it against opposition from the district government. Second, the project conducted capacity-building workshops that allowed water users to participate and take ownership of the piped water scheme.

The success of the KAVIWASU project in implementing participatory principles provides a stark contrast to ENDAWASU. While KAVIWASU gave water users a voice in every stage of the project, from construction to implementation and maintenance, ENDAWASU is constantly criticised by both experts and villagers for its dysfunctional administration and lack of community participation.

In the case of ENDAWASU the implementation of the 2002 water reform could't change long established management rules. However, the case of KAVIWASU shows that the 2002 water reform allows for building bridges between a customary forum of participation (the *Aya* meeting) and the idea of participation manifested in the 2002 water reform. The possibility for COWSOs to establish rules through a constitution in a participatory manner allows matching customary, project and statutory law.

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[254] Interview with Slaa Tluway, Endamarariek, 21.10.2009.

6.5. Organisation and Practice of Water Supply

6.5.1. Hand-Dug Wells in Rules and Practice

The management of hand-dug wells in Endamarariek provides a successful example of community participation and contrasts sharply with ENDAWASU's top-down management. As will be shown in this sub-chapter, the water reform has no influence on the management of hand-dug wells. However, the principles of decentralisation, community participation, pro-poor management, and even gender equity are achieved in the customary management of these wells.

Statutory village authorities in Endamarariek claim to manage intermittent streams—and the wells placed upon them—because they have been classified as village land since the land reform (Village Land Act 1999).[255] Despite this claim, my data show a much stronger influence of customary law on daily water practices especially on hand-dug wells. In accordance with customary law, hand-dug wells are managed based on cosmological principles, i.e. local beliefs and values shared by the user community. The council of male elders has decision-making power and both controls access to wells and resolves conflicts.

The management of hand-dug wells exemplifies the principles of decentralisation and community participation. In contrast to taps, the management of hand-dug wells is localised since wells are usually used by only one neighbourhood or—if the well is large—within the *Aya* (in contrast to taps at which availability for low income families is limited though a pay-per bucket system, see chapter 6.6.). The participating entities are not individuals but households. Water users participate in the well's management, with each household sending an elder to the male council of elders on the neighbourhood and *Aya* levels. Customary law provides an effective structure for participation and gives all households a voice in resource management.

The significance of customary law and the role of the council of elders can only be understood in light of Iraqw cosmological beliefs. The ideological perception of natural resources described for the period around the nineteenth century (chapter 5.2.3.) has some aspects in common with perceptions of water sources in Endamarariek in 2010. *Neetlaang'w* (divine beings in Iraqw cosmology) are central to behaviour around hand-dug wells because they are believed to dwell under water sources such as swamps and wells. A *Neetlaang'w* under a water source in the forest is said to be more harmful and stronger than one under a water source in an open space or in the bed of an intermittent stream outside the forest (Samuel Mayo 2009:1). *Neetlaang'w* are strong male beings that can be angered by the violation of rules and taboos. In retaliation, they

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[255] Interview with Sakaria Nade, Endamarariek, 15.08.2009.

cause bad luck such as infertility, illness and drought. The drying up of wells is also caused by an angry *Neetlaang'w*.[256,257] Only ritual experts (mostly old men) are able to identify the places where *Neetlaang'w* reside. The council of male elders of a neighbourhood community is responsible for interpreting the signs of the divine being, determining necessary actions and guiding the behaviour of water users to avoid angering *Neetlaang'w.*

Pollution Beliefs and Avoidance of Water Sources

Taboos connected to water access are derived from pollution beliefs that are very strong in the community of the case study. Water is seen as a carrier of pollution that can spread illnesses. It is commonly believed that people in a state of pollution (*mitimani*, see chapter 4.1.5.), as well as those with a special interest in preventing themselves from becoming polluted, should keep away from public water sources. There are three reasons for this: to avoid angering *Neetlaang'w*, to avoid spreading the pollution to the community, and to avoid becoming polluted oneself.

First, individuals in a state of pollution are prohibited from coming close to water sources because it is believed that this would anger *Neetlaang'w*. The angered *Neetlaang'w* can then cause calamities like droughts, diseases and infertility for humans, land and livestock.

Second, it is believed that by sharing water with someone who is polluted, people take the risk of spreading the pollution and illness to themselves, their families and the whole community.[258] Hence, one polluted person going to a well could cause the infection of a whole neighbourhood. People in a state of pollution receive water either from their neighbours or from convinced Christians. It appears that neighbours who fear the spread of pollution send their children to take water to the polluted. The polluted person places a vessel at the boundary of his or her homestead; the child fills the vessel and leaves before the polluted person takes it. One informant told me that Christians who do not believe in pollution can also give a polluted person water without fear of contact.[259]

Third, the belief that pollution may be spread by sharing water with a polluted person is the reason why anyone with a special interest in preventing themselves from becoming polluted avoids water sources. This applies especially to women of reproductive age, as pollution may cause infertility.

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[256] Interview with Samuel Mayo, Endamarariek, 25.11.2009.

[257] Similar beliefs are described by Lawi (1999:294).

[258] This belief is mentioned also by Snyder (2005:141) and Baker and Wallevik (2008:2) for the Mbulu Mountains.

[259] Interview with Samuel Mayo, Endamarariek, 25.11.2009.

There are striking parallels between the gender-specific division of tasks I observed concerning domestic water and some aspects of Iraqw cosmology. It has been mentioned that it is not a female task to fetch domestic water. Managing water sources and fetching water are an exclusively male domain. This results in the concentration of expert knowledge about building and maintaining wells with men.

Customary Law and Legitimation in the Face of Christian Influence

Only Iraqw who see themselves as *watu wa asili* (Swahili, "people of origin") bear open witness to the divine beings and pollution beliefs described above. In 2009/2010 I conducted an ethnographic census of 205 households in Endamarariek. It showed that only 6.4% of respondents declared their household members to be *watu wa asili* (Catholic 39.1%, Lutheran 39.1%, *Asili* 6.4%, others 15.6%). This presents a paradox: if Christians are the clear majority, then how can local beliefs and the customary law that derives from them govern the management of water sources? Yet there appears to be no conflict over the use of customary law. In 2009/10 I did not observe any conflicts over access to hand-dug wells and none were reported by my informants. Access rules for hand-dug wells seemed to be quite clear and people followed them without challenge. I see two possible explanations for this. One is the pragmatic adoption of different practices, which combines Christian and local beliefs, and the other is social control.

Restrictions around wells may be maintained through a pragmatic adoption of different practices. In the families of both my main informants, it was beyond doubt a man's task to fetch water. The Lutheran informant explained this with "customs".[260],[261] When I asked the Catholic informant about this behaviour, he said that in a marriage it is important to share the work and not only let the women do everything. He described women as vulnerable and the "outside" of the homestead as dangerous.[262] His answer greatly resembles the perception of gender roles in Iraqw cosmology.

The pragmatic adoption of different practices is reflected in the tendency of Christians to reinterpret and adapt local beliefs. When I asked a local person to tell me who was monitoring a hand-dug well, he responded "*imelindwa na shetani*" ("it is guarded by the devil" in Swahili). My informant translated the sentence and its meaning from the Iraqw language to Swahili: *shetani*

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[260] Interview with Emanuel Happy, Endamarariek, 02.11.2009.

[261] Baker and Wallevik, who conducted research on seclusion practices among the Iraqw in the Mbulu Mountains, argue that many Christians have a tendency towards parallel beliefs affecting their day-to-day lives (Baker and Wallevik 2008:2). Snyder also concludes that Christians in the Iraqw area do not completely abandon the beliefs and practices of the past and that these days practices labelled as "tradition" are gaining in salience (Snyder 2005:141).

[262] Interview with Gabrielli Ama, Endamarariek, 21.03.2010.

(English "devil") is the Swahili equivalent of *Neetlaang'w.* In this case syncretistic elements are clearly present.

Social control may also aid in preserving customary law despite the spread of Christianity. Social control over behaviour that affects hand-dug wells and swamps is exerted by the council of elders and by the community as a whole. As shown in the case described in box 13, the behaviour of individuals is monitored and sanctioned by a council of male elders.

Box 13. The curse and the management of seasonal ponds
At the end of the rainy season, swamps appear in valley bottoms and are used by herders to water cattle. The water usually lasts for several months after the end of the rainy season. In 2009, one swamp located close to the Catholic mission swelled up to such an extent that it threatened several homes. One night someone dug a drain to let the water run off. That displeased several herders from the neighbourhood. Some of them went to the village office to complain and to ask for help in finding the culprit. As the village office was unable to provide help, the elders of the neighbourhood held a meeting. They laid a curse on the unknown culprit. On one hand this satisfied the herders' desire for justice and on the other hand it confirmed the elders' authority to decide how to manage seasonal ponds.

According to the findings, and confirmed by the elders of Endamarariek, the elders pay close attention to the way the behaviour of an individual influences the health and welfare of the community. They are also responsible for handling conflicts that arise when the water spirit is angered. Those who break local rules of behaviour might face mechanisms of social control, such as social exclusion. This motivates even people who do not share the local beliefs to follow the rules of customary law in the use of wells and seasonal swamps.

6.5.2. The Discrepancy between *De Jure* and *De Facto* Management in ENDAWASU

The constitution of ENDAWASU provides structures that could enable beneficiaries to participate in decision-making processes. However, in practice the village water boards have never met and the DP caretakers in Endamarariek are usually named by the head offices instead of being elected by water users. Why is the constitution that is in accordance with the water law not implemented? This section will discuss why ENDAWASU failed to implement participatory principles while the nearby KAVIWASU project succeeded. Among the reasons paternalistic power structures may be named, as well as the reluctance of government officials to give up power, political conflicts, lack of a powerful figurehead, and the use or non-use of traditional democratic decision-making mechanisms.

First, I wish to reflect on the history of ENDAWASU, since power structures have historically evolved. From the 1980s to 2010, the DMDD (Diocese of Mbulu Development Department) water programme was the driving force behind several water projects in Karatu, Babati, Hanang and Mbulu Districts. The management of these projects was heavily influenced by project law. The use of project law is due to a historically grown co-operation between communities in Karatu, the Diocese of Mbulu and faith-based development agencies from Europe.

Contemporary project law is to a large extent congruent or compatible with the guidelines of the new water policy and its associated laws. Gender equity and community participation have been seen as preconditions for sustainable management since 2000 and have been implemented as project law in the management structures of all Catholic Church's water projects in Karatu since that time. In this case, project law is produced by donors such as the German Catholic development agency Misereor. These agencies require certain principles, rules, and procedures to be implemented before granting money for projects. The required rules and procedures thus become *de facto* law for all projects funded by the agency. For project law, see also Weilemann (2005:233). Due to new requirements from donor organisations, the Catholic Church implemented participatory principles in its projects even without pressure from the government.

Table 8. Projects of the DMDD based on own data and a DMDD report[263]

Name (year)	Scope of the measures	Source of finance	Paradigms	Characteristics of project law
Endamarariek Endabash Water Supply (1989)	Water supply for seven villages (Kambifaru, Endabash, Qaru, Khusuma, Bassodawish, Endallah, Endamarariek) intake in the Kansay ward forest, the laying of over 60 km of pipes, and the construction of public taps	• Catholic Relief • Service Misereor	• Providence of water supply by technical means • Cost recovery since 2000 • Formalisation of water right	• Decision-making at the parish in Endamarariek and the foreign engineer • Participation through establishment of a board in 1994 with representatives of the local governments and a representative of the DMDD since 2000 • Participation through village water committees and main board • Control through usage of water meter • Formal water right
Karatu Villages Water Supply (1999)	Water supply for six villages (Tloma, Ayalabe, Gyekurum-Arusha, Gyekurum-Lambo, Gongali and Karatu Mjini) Workshop "Capacity	• Misereor (75% of the costs; channelling German & EC ODA) • In kind and cash by the communities (25%)	• Sustainability • Cost recovery • Community participation • Gender balance • Villagers' contribution in	• Provide water supply that is continuously reliable, affordable and self-financing • Control through water metering • Conformity with the

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[263] Report from Alexander Massay (2007:2).

	Building, Project Management and Office Set-Up" for strengthening of the water supply supervisory capacities in 2001 Connection of the borehole	• Connection of the borehole through Misereor, Catholic Central Agency for Development Aid and KAVIWASU board	cash and kind	national water policy • Participation through main board (each village has one member, two special seats for women, DMDD and district council one seat) • Participation through village water committees • Advocacy and lobbying campaign for awareness of cost sharing • Pay-per-bucket system or monthly billing on DPs • Private connections allowed • Formal water right
Silaloda Water Supply (2004)	Water supply for Sialoda village (supply for villagers and livestock) Intake, 20 km line, two storage tanks, 25 valve chambers, 18 wash outs, 14 air value chambers, etc.	• Misereor (Development Agency of the German Catholic Bishops), villagers cash contribution in kind, and Tanzanian Social Action Fund	• Sustainability • Gender-balanced participation • Villagers contribution in cash and kind	• Villagers provide cash contribution and local labour • Participation through the water board • Flat rate per individual/livestock per year TZS1,000 • Formal water right
Gyetighi Water Supply Trust (2005)	Water supply for four villages (Bashay, Changarawe, Qurus and Oldeani) 1st phase: construction of the intake weir and the 4 km mainline from the intake to the forest fire line 2nd phase: pipeline construction from the division box to the storage tanks in each village 3rd and 4th phases: construction and distribution network in each village and DPs	• 1st phase: Dutch government supported Karatu District Rural Development Programme, communities in cash and local labour and central government • 2nd phase: Dutch programme, communities in cash and kind and Karatu District council • 3rd and 4th phases: Caritas Australia	• Participation • Cost recovery • Gender balance	• Participation through a board with members that are elected in village assemblies • Participation through DP committees and village water committees • Board reporting back to the water users (village assembly) on a half-year basis • Private connections allowed • Pay-per-bucket system • Formal water right

As Table 8 shows, project law changes over time and the diversity of management structures in Karatu piped water schemes reflects this change of paradigms. ENDAWASU was built in the 1980s. The water project was a child of its time reflecting contemporary paradigms of faith-based development aid. The planning, construction, and management of the project did not involve the community, but was instead in the hands of few experts from abroad and the personnel of the

Catholic mission in Endamarariek.[264] During the genesis of ENDAWASU, the focus was on building pipes and supplying water, not on developing organisational structures to maintain the project.[265] The absence of management principles resulted in a concentration of power in the personnel of the Diocese of Mbulu and the mission station in Endamarariek.

During the 1990s, water policy changed and the DMDD started involving the community in decision-making and as contributors of cash and kind (see table 8). In 1994 ENDAWASU received a constitution, and a water board was founded to manage the scheme. The Diocese of Mbulu maintained influence on the main board of trustees by having one permanent seat. Personnel of the parish in Endamarariek retreated but still provided a garage for small metal repairs and thus maintained economic interactions with ENDAWASU.

ENDAWASU as a registered trustee received a revised constitution in 2000 that follows participatory principles and gender equity (ENDAWASU 2000:2). After water rights were formalised as part of the water reform of 2002, ENDAWASU applied for a water permit at the basin water board. In 2007 the organisation was registered as a board of trustees in the Ministry of Water. Through the water permit it received the formal water right to take over responsibility for managing the scheme in accordance with its constitution. However, ENDAWASU is not really managed as its constitution requires. As explained previously, the board of trustees and village water boards do not meet frequently and do not provide a meaningful mechanism for community participation. Instead, ENDAWASU continues to follow a paternalistic approach. Most decisions are not made by water users, but rather by the unelected secretary and the engineer of the project.

In contrast to ENDAWASU, KAVIWASU is not based on paternalistic principles. When the project was founded in 1999, participation of beneficiaries was already a common practice. Good governance, community participation, and gender equity were integral parts of the agenda of project personnel of the DMDD. Consequently, project law concerning community participation was introduced to projects by single actors or by a team conducting workshops and working for the DMDD. KAVIWASU succeeded in enabling community participation because its power structure was built to allow participation from the start.

The history of ENDAWASU shows how power structures grow. It is no wonder that these power structures cannot be challenged by the formal act of receiving a constitution. Even when ENDAWASU tried to implement community participation, it did so in a top-down, paternalistic

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[264] Interview with Jörg Hilgers, Bonn, 14.07.2015.

[265] The water scheme even attracted the attention of the socialist government: for the opening of the scheme, former president Julius Nyerere joined the celebration; Interview with Father Florian, Dar es Salaam, 21.12.2009.

manner. The constitution claimed to incorporate participatory principles, yet beneficiaries did not take part in writing the constitution. Even later on, no capacity building workshops were conducted to inform water users about their rights to participate in decision-making. Nor were public meetings held to discuss the participatory structures with the community. Consequently, the participatory structures of ENDAWASU just exist on paper. ENDAWASU remains a product of its roots: a centrally managed and paternalistic administration which pays only lip service to community participation. This observed "blueprint effect" may indicate that in other contexts as well structures recorded on paper might not mirror the *de facto* management of resources.

Political Power Play in Water Governance

A second reason for the failure of participatory water policies is the reluctance of government officials to give up power. According to the NAWAPO, the district government, private companies and water user associations should work together to manage rural water supplies. However, as we have learned from Nordmann, the Ministry of Water and Sanitation is not committed to the water policy's goal of transferring power, resources, and responsibility for service delivery from the central government to local administrations. The case presented in chapter 6.6. (see box 15) also shows that actors within the water departments of district governments are reluctant to transfer power, and control over financial resources in particular, to water user associations. The weak commitment of government officials to giving up power has hindered attempts at localised management and service delivery. As a result, the implementation of decentralisation in the water sector has not met expectations (Nordmann 2010:9).

Because of its reluctance to give up power, the Tanzanian government has prioritised infrastructure development over the implementation of participatory management structures. From 2007 to 2010, the Rural Water Supply and Sanitation Program Phase I (RWSSP I) spent USD83,503,200 to improve access to clean water by constructing more taps and improving local infrastructure (African Development Bank Group 2010:iii). However, the programme did not create participatory institutions to manage the new infrastructure. This one-sided focus on infrastructure is reflected in the history of ENDAWASU.

ENDAWASU is not the only project that has failed to implement participatory principles. Rather, it is an example of a larger problem that extends to district and regional governments. As Nordmann has noted (Nordmann 2010:9), regional and district water departments are not decentralising water management, but are instead keeping the decision-making power on monetary flows. During one interview, an expert from the Regional Water Department in Arusha

described the decentralisation process as follows: "Everything stayed the same—just the name changed" (Ndutu 2010:1).

Like ENDAWASU, the regional government of Arusha has transferred power on paper only.

It is worth noting that donor organisations often allocate funds on the assumption that decentralisation has occurred, even when it only exists on paper. Donors such as the World Bank have changed their strategies of water block grants and turned to distribute funds directly to district governments, rather than distributing funds to the central government. However, in cases where decentralisation has not actually occurred, the new distribution method may not be effective, but instead provide more opportunities for embezzlement of funds by local government officials.

Political Competition between CHADEMA and CCM as a Hampering Factor

Conflict between political parties is another factor hampering community participation. As described previously, the Tanzanian government is controlled by the CCM party, but Karatu District council is dominated by the opposition CHADEMA party. This political competition disables efficient water service delivery and hinders Karatu District from achieving the water reform's target of providing water to the villages.

Karatu District is an example of a district government, and especially an opposition party, gaining authority through providing infrastructure. CHADEMA gained support in Karatu due to its success in supplying water through the KAVIWASU project. However, the ascendancy of CHADEMA also led to power conflicts between the elected district government and the civil servants appointed by the central government. The councillors of the district government are members of CHADEMA while the civil servants are members of CCM. Even though the civil servants should serve the district council, they instead support CCM in its power struggle against CHADEMA. The district water engineer and other civil servants tried several times to sabotage the water projects initiated by CHADEMA and mostly funded by faith-based development organisations like Misereor. In addition, the central government has denied funds for infrastructure development projects in Karatu on several occasions and has excluded the district from larger countrywide and regional projects.[266]

Both piped water schemes in the research area, KAVIWASU and ENDAWASU, have been used as a playground for power between the opposition party and the CCM. These power conflicts have hindered the projects and even threatened their survival.

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[266] One example is the planning of the road from the coast to Mwanza. The central government turned down a plan that would have routed the road through the Karatu District. Rumours have it that CCM did not want to support the CHADEMA-ruled district.

An Influential Figurehead with Political Authority

KAVIWASU's success is not only due to its use of community participation as a founding principle. In addition, the project is supported by a powerful figurehead. In contrast to ENDAWASU, KAVIWASU is supported by the Karatu member of parliament, Dr Wilbroad Slaa. His political position and his knowledge as a lawyer enable him to work effectively against sabotage attempts by district authorities (see above), for example by bringing the problems into parliamentary debates.

Other successful water projects in Tanzania also benefit from the support of influential leaders. In successful water projects in the Usambara Mountains, two Lutheran pastors serve as figureheads, much like Dr Slaa for KAVIWASU. Figureheads may hold a variety of positions in the community. Often they are politicians or religious leaders. In all cases, they are motivated to help the project succeed and take the role of cultural brokers who translate donor preconditions for funding to local communities. They are charismatic personalities and command respect from the community. This gives them the competence to advance the implementation of participatory structures.

As demonstrated by the examples given above, community participation is implemented using a top-down approach. The principle of participation is initially introduced because it is a precondition for donor funding. The successful implementation of participatory structures requires a respected figurehead to relay the principle from the donor to the water project's beneficiaries. ENDAWASU's failure to implement participatory principles may be due in part to the lack of a central figure to implement the democratic structures written in its constitution.

Adoption of Rule-Setting Customary Institutions

KAVIWASU's success in achieving community participation may also stem from its ability to adapt existing democratic decision-making mechanisms. The *Aya* is an institution of customary law that also sets rules on resource usage. KAVIWASU used several village assemblies to involve the local community in planning the project and setting rules for water usage. The similarities between these assemblies and *Aya* meetings probably helped promote the acceptance of KAVIWASU's structures and rules. The act of discussing participatory structures in public served to legitimise them in the same way that discussions at *Aya* meetings legitimise rules for resource usage.

In a legal pluralistic setting, in which parallel structures of resource management exist, there is a fine line between excluding a social group by non-acknowledgement of decision-making structures (as is happening with customary law) and integrating these institutions in a way that enables participation. When customary institutions are integrated into the management of

projects, community members are actively engaged in the making of rules by compliance or refusal.

For example, KAVIWASU beneficiaries agreed upon tariff agreements in public meetings. As stated by a former employee of KAVIWASU: "Through awareness raising, village assemblies and workshops tariff agreements were agreed upon."[267] The establishment of tariff agreements through public meetings helped make the tariffs acceptable to water users. It also set the precedent of including community members in resource management decisions, and helped the community members to view the participatory structures of KAVIWASU as legitimate and effective.

In contrast, ENDAWASU did not hold meetings to discuss tariffs with water users. The board of trustees introduced tariff agreements without asking for input from the beneficiaries. This may be one reason for ENDAWASU's failure to implement community participation in its management. Water users were not involved in deciding on the tariffs, which are the most important aspect of water management. The precedent of ignoring the water users' input was thus established and continues to this day.

6.6. Water Access for Low-Income Families

Low-income families in the southern part of rural Karatu District obtain water mainly from unimproved sources that are free of charge, predominantly from hand-dug wells governed by customary law. The government reform does not finance these unimproved water sources but instead provides funding for highly technical piped water schemes. Hence, the question arises as to what extent the government strategies impact water access for low-income rural families and as to the fairness of the faith-based water supply in Endamarariek.

The co-existence of public taps with the pay-per-bucket system and hand-dug wells results in a mixed strategy for water users. Depending on the financial situation of a family, water is sometimes fetched at public taps and sometimes at hand-dug wells. Families thus participate in two different water management systems (and in two different semi-autonomous fields).

Some neighbourhood communities organise themselves based on the institution of good neighbourliness, which ties households together and encourages labour sharing between two to four households. Normally a man from one of the households fetches water every day. "Our good

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[267] Interview with Jubilate Mnyenye, Endamarariek, 17.04.2015.

neighbourliness relations also enable us to ask for a little portion of water. When my household runs out of water at night, I used to visit my neighbour to request for some litres of water."[268]

One of the initiators of ENDAWASU named a pro-poor orientation as a major goal of the scheme. The aim is to provide affordable water for all and prioritises public DPs over private connection in cases of water shortage. In practice, low-income families do not fetch water from the DPs of ENDAWASU.[269] However, the constitution fails to provide low-income families with access to water. It states no rules that allow families without cash money to acquire clean water from the scheme. Thus, income is the separating factor that dictates whether households have access to clean water. This is despite the fact that the NAWAPO aims to alleviate poverty through access to water. Chapter 6.3. described the drastic difference in water access between different groups of water users depending on their economic status. Poorly managed piped water schemes such as ENDAWASU enhance this stratification.

The planning process of ENDAWASU did not involve a profound community involvement. Instead, the location of public taps was chosen by a Swiss water engineer and a group of people seconded from the Catholic parish council of Endamarariek, including the missionary parish priest, and some members of the village councils of the two villages in the area. The routing of the pipes was heavily influenced by the local elite who had connections with the Catholic Church and could speak Swahili or even English to make their concerns heard by the foreign engineer. As expressed in the words of Ensminger (1997:1), these actors have a high bargaining power due to their social ties and thus could influence the decisions on where the pipe was routed in favour of their own interests. As a result, the location of public taps favours the best-off families. The taps in Endamarariek are concentrated around the village centre, Catholic mission, and schools built by the Catholic Church.

The unequal distribution of public taps remained a challenge for low-income families in 2010 as the following quote shows:

> While the pipe passes the rich people and the Catholic institutions our settlement has just one public water point that even dries out faster in the dry season. We need to walk far anyway, but we were excluded when the water routing was made.[270]

ENDAWASU management also disadvantages low-income water users by favouring private connections over public ones. The constitution of ENDAWASU clearly states that in case of

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[268] Interview with Gabirelli Ama, Endamarariek, 21.03.2010.

[269] Interview with Father Florian, Dar es Salaam, 13.03.2010.

[270] Interview with Emmanuel Happy, Endamarariek, 02.11.2009.

drought, private connections "should be highly controlled" (ENDAWASU 2000:2). Yet the lack of functioning control mechanisms within ENDAWASU results in corrupt practices that sabotage this objective. The following case study gives an example of such practice.

Box 14. "An empty hand cannot be licked"

The Swahili proverb *Mkono mtupu haulambwi* literally means "An empty hand is not (i.e. cannot be) licked". The proverb indicates that you have to give something in order to receive something. It was cited by one of my main respondents about water prices, distribution and participation in decision-making by low-income families. My informant used the proverb to explain the behaviour of the ENDAWASU engineer to favour the economic elite during the dry season when water is scarce. It is the engineer's responsibility to regulate the water flow by opening and closing branches of the supply system. In the dry season he is supposed to shut down the flow at night to allow the reservoir tank to refill. This ensures that public distributions points will have a sufficient water supply in the morning. The taps of the branches are locked in metal containers, and the engineer only has the key to open them. This opens the floor for corrupt practices:

> Of course there are ways for richer people to receive preferential treatment during the dry season. The engineer of ENDAWASU is in charge of opening and closing the pipe branches when water is scarce. In the dry season it became a common practice that the engineer got some TZS30,000 Tsh to open a certain branch at night to supply private households with water. They can store the water in the tank and sell it the next morning for TZS100 to TZS250 per bucket.[271]

As a result of this practice, the private tanks of the village elite fill at night instead of the reservoir tank of the supply system. Consequently, the public taps where water costs only TZS20 per bucket run dry in the morning. Low-income families had to pay extra to buy water from people with private connections. This system is very profitable for both the engineer and the private tap holders.

I tried to meet with the ENDAWASU engineer, but he failed to show up at the only meeting of the water committee during my field stay. He was also hard to contact since he lived in another village. The engineer's non-availability may have been a strategy to avoid conflict. With the engineer absent from meetings, low-income families are powerless to fight the unequal distribution of water that disadvantages public taps.

When public taps run dry, well-off households with private connections and storage tanks make a profit by selling water. As a result, the price of water for families who cannot afford private

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[271] Interview with Gabirelli Ama, Endamarariek, 21.02.2010.

connections increases by as much as 1250%, from TZS20 per bucket at public taps to up to TZS250 per bucket from private businessmen. Water users who cannot pay this price are forced to fetch water at hand-dug wells instead.

The case of ENDAWASU shows that decentralisation of water management is a necessary but not sufficient precondition for improving the quality of governance. A local organisation might have better information and more incentives about local needs and preferences than the central government,[272] but this does not mean that the goal of equity of access to water will be met.

The comparison between KAVIWASU and ENDAWASU showed that the figures involved are of central importance. If they are orientated towards the common good they push forward the fair distribution of DPs that also supply other settlements. Achieving equity of access requires participatory structures and democratic control mechanisms including all members of the community (like *Aya* meetings). Such mechanisms were used successfully in the case of the Black Mountain (see chapter 7.5.3.).

The ENDAWASU constitution fulfils the requirements of the NAWAPO: ownership and management are in the hands of the beneficiary community that is registered as a water user association. However, this does not mean that the beneficiary communities *de facto* participate in decision-making and management. The ENDAWASU scheme that supplies water to Endamarariek is an example of minimum participation. The constitution of ENDAWASU provides for the election of a board of trustees through village assemblies and for the election of distribution point caretakers by water users. In theory, these elections act as a vehicle by which communities can participate in the management of the piped water scheme. However, decisions are actually made by two not-democratically elected persons.

However, they have little influence on decisions made about the water system, as the following case shows.

Box 15. Purchase of spare parts for the broken water pump

In 2010 a conflict escalated between the village councillor of Endamarariek, the ENDAWASU secretary and the district water engineer. In 2008 the water pump that is meant to pump water from a distance of approximately 20 km to Endamarariek village gradually lost power due to material fatigue. As a result, the water flow to the village decreased.

The secretary of ENDAWASU is in charge of applying for, documenting, and administering the organisation's funds. He was born in Endamarariek and is an active Catholic with close ties to the

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[272] See Palencia and Pérez-Foguet (2011:38) for arguments by supporters of decentralisation for pro-poor rural water management.

DMDD. After the water flow decreased, he wrote an official letter to the district water department to apply for funds to repair taps, buy new water pipes and above all acquire a new pump.[273]

The district water engineer of Karatu District, who is in charge of allocating funds to water projects, has been working for the district since 2005 but also spends some time abroad studying in the Netherlands. In response to the secretary's letter, he invited the water engineer of Pangani Water Basin to analyse the situation. In his report of 28 August 2008, the Pangani engineer recorded that the scheme was inoperative due to the breaking down of the pumping unit. He therefore recommended the installation of a new pump (Shauri 2008:2). Based on this report, the district water department granted ENDAWASU a sum of TZS133,806,500 for repairs. These funds came from the Quick-Wins programme that is part of the WSDP for implementing the NAWAPO. For smaller works the board received TZS4,326,000 directly that was part of the grant from Quick-Wins (Karatu District Council 2006/2007:1). In all, TZS15,000,000 (also a part of the grant) were allocated for the new pump. The district water engineer was put in charge of buying and installing the pump.

In his letters, the ENDAWASU secretary clearly described the type of pump and pipes necessary. However, neither the secretary nor the board of trustees of ENDAWASU were involved in buying the materials. This was done by the district water engineer alone. After a year, the district water engineer installed a pump that lacked sufficient power to pump water to all the villages and overheated after one hour of operation. In addition, he delivered pipes that were incompatible with the ones ENDAWASU uses.

In 2010, the DMDD called a public meeting of the board of trustees of ENDAWASU to discuss the situation. The district water engineer was supposed to attend the meeting, but he did not show up. He was criticised by the DMDD personnel for refusing to co-operate.[274] According to rumours, he was absent because board members would have asked directly about his failure to provide the required equipment. He is accountable to his superior in the district government and also through reports to donors.

The village chairman of Endamarariek resigned from his position on the board of trustees of ENDAWASU in reaction to these proceedings. He is a member of the diviner clan and has been the village chairman since the 1990s. He blames the district personnel for the conflict:

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[273]The case of the water pump is well-documented through participant observation, letters between the ENDAWASU secretary and the district water department, the minutes of the board of trustees of ENDAWASU, and reports by ENDAWASU secretary.

[274]I was not able to interview him because he was not in his office on at least five occasions. In addition, he did not respond to emails.

> Why they are all thieves? Because the district water engineer wrote on the report that he will involve the water board but when he bought the material he didn't involve the water board. Then the wrong pump and wrong pipes were bought. The problem remained the same. That is why the village government had a big argument with the district council.[275]
>
> In the interview, the chairman further explained that the board of trustees had no influence on the management of ENDAWASU. He refused to remain a member of a powerless board that only pretends to be a medium of community participation.
>
> When I left the field in April 2010 there was no change in the situation. The water flow was still low due to the small pump. The problem with the management of ENDAWASU also explains the big problem with its water supply at the Florian Secondary School in 2009–2012. Because of water shortage for the taps, the school had to bring water in by truck.[276] In fact, the district government's incompetence ended up indirectly costing the villagers who had children at Florian, because they had to pay extra school fees to cover the costs of renting the water truck. The district water engineer was not available and only a few buckets per day could be filled at public taps in the village.

The investigation in Endamarariek shows that there can be a gap between the participation mechanisms in constitutions of rural water schemes—which are a precondition to obtaining a water permit—and the *de facto* management. What is written on paper and what is happening on the ground might differ greatly. One reason for that might be a practice I witnessed in the Usambara Mountains: one constitution that had been written by a lawyer for a certain community-based project was used as a blueprint for all other water projects because it had already been approved for a permit by the water basin board. However, water supplied via hand-dug wells in practice continued to be managed according to customary law. Customary law provides two means of participation: the representation of interests by elders of the neighbourhood in the council of elders, and if that failed the women's march (see chapter 7.4.) to obtain an *Aya* meeting. Overall we can say that it is important to give greater attention to the gap between official and *de facto* forms of water management. In the case of ENDAWASU, the legal document was a mere formality in order to gain the state water permit. Above that the ignorance of customary law and the failure to incorporate customary rules into the scheme management resulted in an exclusion of low-income families.

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[275] Interview with Slaa Tluway, Endamarariek, 15.03.2010.

[276] Interview with Mwalimu Kristen, Endamarariek, 28.08.2009.

7. Access to and Distribution of Land after Implementation of the 1999 Land Reform

7.1. Introduction

While the previous chapter outlined the local dynamics of the implementation of the water reform, the following chapter will analyse the land reform, in particular VLA.

This chapter elaborates from a legal pluralistic perspective the role of state legislation on the negotiation of land access and distribution among small-scale farmers in rural Karatu District. The chapter will shed light on the rules that were implemented during the 1999 land reform and will discuss the effect of these rules on land rights, conflict negotiation and land access.

The Tanzanian central government started the new millennium with a "modernising vision" concerning land management. The main goal of the government in regard to the land reform was to reduce conflict, increase tenure security, and empower "the poor" by formalising land rights (see Makwarimba and Ngowi 2012:4). Therefore this chapter analyses the cases with a focuss on security of land tenure, the forums of the VLA and their ability to reduce conflicts in the community, and community participation in land management as a means to reduce poverty.

The 1999 land reform shares several characteristics of the 2002 water reform: both reforms decentralised management and conflict resolution; they extended responsibilities at the village level and they impacted statutory administrative structures on the village and ward levels. Both reforms are significant in that they provide a comprehensive and detailed framework of water and land management that had never hitherto been defined so concretely by the state. In addition, both reforms were expected to have a major impact on the organisation of access to resources on the local level (Pallotti 2008:221).

The chapter poses the following questions: (1) What are the main government strategies for rural Tanzania introduced by the 1999 land reform? (2) How do people gain access to land in a conflict-prone setting like rural Karatu? (3) What are the main existing forums of land dispute management? (4) Which local effects can be observed regarding tenure security, empowerment of the "the poor", and reduction of conflict as intendet goals by the VLA?

The chapter is arranged as follows. The first sub-chapter is based on a detailed analysis of programmes, policies, and laws relating to the Tanzanian 1999 land reform. The subsequent ethnography on distribution and access to land in Endamarariek is based on data collected during fieldwork conducted in 2009/2010 in Endamarariek village and surroundings in northern Tanzania.

The next sub-chapter analyses the forums and practices of conflict resolution in Endamarariek. Finally, the main findings are discussed along with four cases I collected during my field stay. The analysis of local land cases serves as a tool to examine actors' behaviour according to their socio-economic wealth, their interests and the networks they are embedded in.

With regard to data collection, the conflict cases in this chapter were gathered applying a mixture of anthropological methods with a focus on participant observation. Information was gathered through participation in crucial events and supplemented by semi-structured and informal interviews with the actors involved. Cases were recorded using the extended case method during my field stay. Peace and harmony are highly valued in rural Karatu. Therefore, people are not likely to talk about conflicts involving their families or neighbours. Thus, I was able to access the cases only after building rapport with local people.

After I had built rapport with local people, they also brought cases to me. Ama Alley brought me the case of the effect of microfinance on land confiscation. Ama was a very sociable individual whom I shared food with and from whom I learned a lot about the history of Endamarariek. He came to me one day to share his suffering. Awaki Shauri brought me the case of his conflict with Barnabas Daffi and Christopher Gwandu. Awaki is the former chairman of Endamarariek village and that is why I interviewed him. After we built up rapport, he showed me his well-organised files of his court cases and gave me parts of his diary covering the villagisation period of 1976–1978.

Another entry point to conflicts was regular participation in meetings of the ward land tribunal and reading the documents of the cases recorded there. The case of Ama Daghalo vs. Gwarihhi Daghalo was chosen here because it was the only judgement passed during my presence.

The Black Mountain case, parts of which were described in the introduction to this thesis, was the only one that I followed because of its significance in the community. So many people were engaged in the conflict that I could not possibly miss it.

The following table summarises the land cases collected and should help the reader to see links between the cases and highlight, which issues show up in several different cases.

Box	Name of the case	Main insights
Box 17	Interaction between the tribunal and the village executive officer of Endallah	• VEOs power over the ward land tribunal • Vulnerability of the tribunal to corruption
Box 18	Inheritance of Surumbu's land	• Example of application of customary inheritance rules • Women's inheritance of land • Flexibility of customary inheritance system • Change of means of access to land • Access to land for low-income families
Box 19	Maintaining access to land and land-use change during resettlement	• Effect of the government intervention in weakening customary inheritance procedures • Strategy of actors with power to resist redistribution
Box 20	Land access of a family in the third generation	• Means of access to land for low-income families
Box 21	Extension of land holdings	• Contestation of borders between fields and paths
Box 22	Forum shopping in brothers' fight over inheritance	• Behaviour of low-income farmers in conflict cases • Influence of customary mechanisms of social control on conflict process • Strategy of wealthy parties to gain access to land
Box 23	How microfinance results in land grabbing	• Formalisation of land • Loans and low-income families
Box 24	The struggle for land on Black Mountain	• Forum shopping • Conflict between customary and statutory forums • Lack of participatory land-use planning • Power of women to control corruption in land deals involving the village council

Table 9. Summary of the land cases and the main insights

Other research on conflicts in the Karatu District exists: As discussed in previous chapters, Karatu District is known as a conflict-prone setting, particularly in relation to land. The causes of these conflicts are important to understand when analysing the impact of the land reform. The literature about the region gives various explanations as to why so many land conflicts arise. In *A History under Siege*, the geographer Börjeson examines the environmental history of the Iraqw homeland (2004). He mentions the growing influence of state power and a new means of claiming land through courts in addition to local dispute management. The situation is worsened by contradicting rights. Iraqw speakers have the practice of borrowing land over a period of many years. Original landholders can reclaim their land even after a period of several generations to pass the land to their children (Börjeson 2004:111). However, this practice is contradicted by the current state right to receive a land title if one can prove to have used the land for more than 10 years; in such cases, land users have the potential to attain a permanent land right from the village government. Börjeson blames this complication of land rights for the increase in land disputes (Börjeson 2004:113). Hagborg investigated customary institutions of conflict resolution in Karatu District and found that government interventions and the attaining of rights to land

from the village government is one of the reasons for the many land conflicts in Karatu District. Government officials, so Hagborg describes, actually add fuel to conflicts rather than solving them (Hagborg 2001:182). Like Börjeson, he argues that some land disputes are rooted in the national agricultural policy of 1982, giving farmers the right to land if they have cultivated it for more than 10 years. The other reason for the many land conflicts in Karatu District is the redistribution of land during resettlement (Hagborg 2001:68).

7.2. 1999 Land Reform and Land Regulations for Rural Tanzania

At the turn of the millennium, Tanzania was involved in a land-reform process like many other African countries had been during the preceding decades (e.g. Uganda [1998] and Zimbabwe [2000]). The Tanzanian land law consists of two Acts that separately manage village and urban land, which came into force in 2002. However, the change from socialist principles to liberal reforms in rural land and water management had already started in the 1980s and 1990s (see chapter 5.6.).

The new land law in Tanzania is a comprehensive and profoundly transforming law which holds the radical title for land within the state but also recognises so-called customary rights. Central to the administration of village land is the introduction of local land dispute adjudication and the expansion of the jurisdiction of the village council and the VEO that is responsible for record keeping of the village land register. These new bodies have the ability to reshape patterns of access to land on the local level. Global legal principles even add new concepts to the local setting: These global legal principles can be identified in the new land law that introduces individualisation and the stimulation of a land market as a means of reducing poverty.

Table 10. Programmes, policies and laws relating to the Tanzanian land reform	
Local Government Act No. 7 (1982)	Village-level by-laws introduced by the village council are tools to enforce specific local-level agreements, the village land-use plans, and access to other natural resources.
The National Land Policy (1997)	Ensure land tenure security, optimal land use and sustainable development of land by supporting equitable access to land for all, formalisation of land rights.
Guidelines for Participatory Village Land Use Management in Tanzania (1998)	Introducing the National Land Use Planning Commission and set guidelines for the institutionalisation of participatory land-use planning and management of village land.
Village Land Act No. 5 (1999) and the Land Act No. 4 (1999)	Main pieces of legislation for land administration in Tanzania. The Acts cover the management, administration and conflict management of land on the Tanzania mainland.
The Courts (Land Disputes Settlements) Act (2003)	Provides a land courts structure.
Agricultural Land Management Act (2013)	Gives legal definition to terms such as agricultural land management, agricultural land reserve, and agricultural land-use planning and thus is important for administrative purposes of village land. The Act furthermore established a National Agricultural Land Management Advisory Committee.

Following the Land Policy in 1995, the government of Tanzania passed two Acts, the Land Act and the Village Land Act of 1999, which are applied throughout the country. However, the planning process of the land acts turned out to be turbulent. The drafting of the land law was a process of negotiating objectives. The input for the process of drafting new legislation shifted from the draft of a commission that had summarised local perspectives on land management (see below) and its recommendations, to a foreign lawyer who finally drafted the law. The planning process of the land reform shows quite obviously how global objectives of land management were pushed into national land law.

Box 16. The planning process of the land law
The development of new land laws for Tanzania was based on two forces: the "rising number of land conflicts from part of the rural population, and pressure for the liberalisation of the land market from part of businessmen and the government, itself apparently under pressure from the World Bank and the International Monetary Fund" (Englert 2003:75). According to Englert (2003), the whole reform started in a participatory manner, but in the end was finalised secretly.[277] In 1992, the government appointed the Commission of Land Inquiry into Land Matters. The Presidential Commission of Inquiry into Land Matters, chaired by Issa G. Shivji, a law professor from the University of Dar es Salaam, consisted of 12 people and began their work in 1991 (Englert 2005a:62). After an extended survey to grasp opinions from the local population, the commission proposed that village land should be administrated directly by the people who use it. The village land should be managed by the village assembly, comprising all adults of a village. Furthermore, village land should not be given to foreigners (Shivji 1998:52). However, the Tanzanian government was not willing to implement these recommendations and neglected these administrative suggestions. Manji (1998) states that   the government was not prepared to implement a recommendation which, by abolishing its monopoly of the radical title to land, would have substantially altered the structure of the state. Neither did it look gladly upon recommendations which were not designed to operationalise a land market, but on the contrary to stem land alienation and ensure security of tenure for the peasant producer. (Manji 1998:648) The Land Act (LA) and the Village Land Act (VLA) were finally written by the legal expert Patric McAuslan, a consultant from an American consulting firm. The foreign legal draftsman was hired by the Tanzanian government and financed by the World Bank. Manji (1998) points at the

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[277] That is why in newspapers the word *serekali* (Kiswahili: government) was playful changed into *sirikali* (Kiswahili: *siri*—secret, and *kali*—strict) during drafting of the land law.

substantive differences between the commission, and McAuslan in the purpose of the land reform: McAuslan and his supporters' objective was to "create a suitable environment for investment in land by large-scale buyers and to set up an efficient system for a market in land" (Manji 1998:658).

As the drafting process of the land law shows, the idea has established itself that privatisation and formalisation of property rights and the recognition of property rights in natural resource management, especially for families with low incomes, has a central role in their participation in the global economy (as proposed by de Soto 2000 and Deininger 2003, see Introduction) and may reduce poverty. However, an alternative to the standardised land administration through the state would be the creation of forums on the local level that allow for flexible and diverse means of land access, in which legal pluralism is acknowledged and accepted.

Strong global influences on statutory legal drafting can be identified in both the land and water reform processes. Global neo-liberal concepts such as titling and land market can be identified in the local narratives of the political and economic elite in Karatu District. They are therefore of major importance to understanding the impact of the reforms on the local level. These global concepts have a direct effect on local resource usage where the concepts of land tenure, mortgaging and an emerging land market are negotiated.

7.2.1. Tanzania's Village Land Act and Categories of Land

Regulations for the land sector are now laid down in the Land Act, which manages reserved land and general land[278] (inclusive of urban land) and the Village Land Act (1999) managing village land. Both acts were enacted in 2002.

The Acts cover three categories of land: (1) general land (under the Commissioner of Lands); (2) reserved land (again under the ultimate power of the Commissioner); and (3) village land that falls under the competence of the village council.

General land is a residual category in the VLA and defines any land which is not village land or reserved land. Reserved land is defined as all land set aside for special purposes (including forest reserves, game parks, game reserves, land reserved for public utilities and highways, hazardous land, and land designated under the Town and Country Planning Ordinance).

Under the VLA, village land is defined as either all land within the boundaries of the registered villages established by the Local Government (District Authorities) Act of 1982, or land

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[278] Wily (2003) provides a good overview of the land administration and management laid down in the new land reform.

according to agreement between that village and its neighbours, or any land which has been used or occupied by villagers for the past 12 years (Land and Natural Resource Tenure in Africa Program 2010:3).

> The village council shall, subject to the provisions of this Act, be responsible for the management of all village land…. The village council shall exercise the functions of management in accordance with the principles applicable to a trustee managing property on behalf of a beneficiary as if the council were a trustee of, and the villagers and other persons resident in the village were beneficiaries under a trust of the village land. (The United Republic of Tanzania:52)

Although the council is responsible for registration of land titles in the village land register, the land commissioner may supervise the village council on the management of land. However, as Englert states, the village council is essentially an agent of the commissioner (Englert 2005a:62).

The law provides three concepts of rights: the radical title—introduced by the British in the colonial era—is held by the state (see chapter 7.2.1.). All land is vested in the president as a trustee on behalf of the citizens of Tanzania. The right of occupancy as the second category can be held by citizens or investors that are non-citizens.

In comparison to the attempt in 1992 to cancel all customary rights, the VLA recognises the multiplicity of laws by providing land tenure for individuals either by the statutory granted right of occupancy or under the respective customary law—the deemed right of occupancy. Either the commissioner for land or the village councils may grant them. The third category contains derivative rights that can be granted by the right holders of the second category (individuals that hold the right of occupancy), i.e. lease land (Gastorn 2008:79).

The VLA declares that all land rights held prior to Operation Vijiji are extinguished and that any allocation of land granted under Operation Vijiji (from 1970 to 1977) is valid (United Republic of Tanzania 1999:18).

The Ministry of Land and associated state organs have been responsible for the implementation of the LA and VLA at all levels of administration. In 2006 the ministry initiated a manual for implementing the VLA named SPILL. This manual of activities focuses on economic aspects of land management only. Land-related institutions are directed to stimulate economic growth by security of land titles. Training for members of village land committees is only focused on titling (Hakikazi 2006:17).

In June 2006 the World Bank granted a loan of TZS30 billion for the implementation of SPILL. The loan was used for public awareness raising, surveying villages' boundaries and

providing the right of occupancy for land titles, and building land registries at the district and village levels (Hakikazi 2006:20).

7.2.2. Rural Land Management

Prior to the formal implementation of the new dispute-settlement mechanisms in land conflicts, statutory dispute settlement was shaped by multiple co-existing authorities. Historically grown decision-making bodies such as primary courts, district courts, the High Court and tribunals under the Ministry of Land overlapped in their legitimacy (see Ministry of Lands 1994:101). The overlapping of jurisdiction sometimes led to conflicting decisions.

The 1999 land law creates new and separate land-dispute adjudication. The lowest stage of appeal is supposed to be the village land council (composed of seven members that are nominated by the village council), followed by the ward tribunal. The third stage of appeal is the District Land and Housing Tribunal and thereafter the land division of the High Court, and finally the Court of Appeal (Gastorn 2008:65).

Through the VLA, village councils experienced an expansion of their jurisdiction.[279] The village council holds the village land as a trustee on behalf of the villagers.

> In terms of the new land legislation, a village council has power to advise and make recommendations to it regarding the management of village land, enact village by-laws, keep certificates of village land, enter joint land use agreements with another village land council, issue directives as far as land use and control are concerned and maintain the register of communal village land. The village council is also responsible for village land adjudication. (Gastorn 2008:72)

In practice this means that the decision-making power about land categorisation, land rights and management of village land very much lies in the hands of the village council that is responsible for the preparation of a village land-use plan and the registration.

The Local Government Act of 1982 is the basis on which village governments can pass by-laws such as the land-use plan. The two main organs that can pass by-laws are the elected village council and the village assembly consisting of all villagers over 18 years. It can be expected that the implementation of land titles and the decision-making rights of the village council will be a

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[279] A village council consists of 25 members elected by the village community every 5 years. Sub-village chairpersons that are elected by the sub-villages as the lowest administrative level are connected as members by virtue of position (ex officio) to the village council. The council has several sub-committees for natural resources, education, finances, and so forth.

turning point in people's understandings of their land rights. The new laws will strengthen the presence and dependence of the village council in villagers' everyday lives.

7.2.3. Poverty Reduction and the Land Reform

Discourses around the reform focus on the question of poverty alleviation. As already described in the Introduction, the most influential idea was introduced by De Soto (2000). He argues that the recognition of property rights in natural resource management plays a central role for participation in the global economy, particularly for people with low incomes. He sees the transformation of "informal arrangements" into formalised property rights as the key to reducing poverty. By formalising the rights of "the poor", the argument goes, capitalism can reduce poverty because it will increase productivity and access to credit (see also Deininger 2003:ix). His idea is supported by the World Bank, which argues that poverty reduction can be achieved through a statutory land tenure policy that provides transparent and easy land access for all (McLaren, Enemark, and van der Molen 2010:8); see also the UN Habitat publication *Secure Land Tenure for All* (UN Habitat 2008:1).

There is strong international opposition to this approach from NGOs and other international land institutions such as the International Land Coalition. However, for the micro-level in Tanzania, Pallotti (2008) outlines the relationships between the decentralisation reform and the implementation of the 1999 land laws for rural areas in Tanzania. He argues that a government effort to promote a market model of citizenship like De Soto's idea in the rural areas is hidden behind the rhetoric of poverty reduction and community development used in the context of the work of international organisations. These "neo-liberal reforms, which try to reshape patterns of resource access in the rural area of the country, will have a major impact on the nature of an emergent post-socialist citizenship at the local level" (Pallotti 2008:221). Furthermore he states:

> Mainstream analyses downplay the risk that neo-liberal institutional reforms aimed at fostering social inclusion and local participatory development may paradoxically deepen the economic and social marginalisation of individuals and groups and foster political apathy in the countryside. (Pallotti 2008:223)

Englert (2005b) also argues in her critical analysis responding to the above-mentioned World Bank's Policy Research Report on Land written by Klaus Deininger (2003) that it

supports the hypothesis that the unsystematic and intransparent way of writing and the blurring language used are a conscious strategy chosen to strengthen the acceptability of the main ideas which have basically not changed: titling of land and the use of titles as collateral for loans. It remains doubtful whether this policy will be of any use for the alleviation of poverty. (Englert 2005b:24)

As will be shown later in this chapter, the land reforms have not succeeded in empowering "the poor", providing secure land tenure and reducing conflict in Endamarariek.

7.2.4. Legal Pluralism in Land Law

With the initial impression that customary land titles are acknowledged in the VLA, it seems that legal pluralism is integrated into state law, and thus a harmonisation of former contradictory modes of land access are now summarised and streamlined in state law. The new land law recognises so-called customary rights by granting a deemed right of occupancy if a person has got holds on the land in accordance with the customary law that is applicable in the particular area. Written certificates are not a precondition and the land can be held for an indefinite period. However, the village council can provide certificates of customary right of occupancy (Hundsbæk Pedersen 2010:6).

Schneeweis discovered that, *de facto*, the customary rights to land have a marginal function in the application of land laws while the state-granted right of occupancy is clearly favoured in Tanzanian courts (Schneeweis 2002:220). Brown et al. (2009:5–6) argued that behind the asymmetry in recognising or favouring "modern" land rights, power dynamics and the fight for the legitimisation of the state are hidden. The state influences the values that are favoured. "These power dynamics are reflected in institutional biases that tend to privilege the 'modern' state apparatus but render customary laws inferior in the process" (Brown et al. 2009:5–6). They argue that "these imbalances can be linked to the persistence of land conflicts in Tanzania, and that these conflicts are manifestations of legitimacy crises suffered by institutions that require reform" (Brown et al. 2009:5–6). Brown describes a negotiation process on the prerogative of decision-making on the local level. Two forums, the village government and customary forums, fight for the power to decide.

However, especially with the introduction of global legal principles that are found in the new land law, such as individualisation of rights and the furthering of foreign investment in land, an additional understanding of land rights is added to the local arena. Consequently, legal pluralism not only continues to exist (Juma, Sippel, and Wanitzek 2004:316), but global legal principles even add new concepts to the local setting, in which land laws are negotiated. In this

respect, globalisation does not have a homogenising effect on Tanzania's local land law, but instead creates diversification by adding new principles.

7.3. Distribution and Access to Land in Endamarariek after the Implementation of the 1999 Land Reform

7.3.1. Distribution of Land in Endamarariek

The main land uses in the village are agriculture, forests, livestock, and housing (see chapter 4.1.1.). While agricultural land and grazing areas are all individualised, the village forest is under the control of the village government.

The planted village forest located next to the village office (see figure 6) is protected by a watchman paid by the village office. He controls the forest to prevent unauthorised cutting of trees and oversees the gathering of materials from the forest for villagers thatching their roofs if they acquire permission from the VEO.

Figure 24. Distribution of land ownership
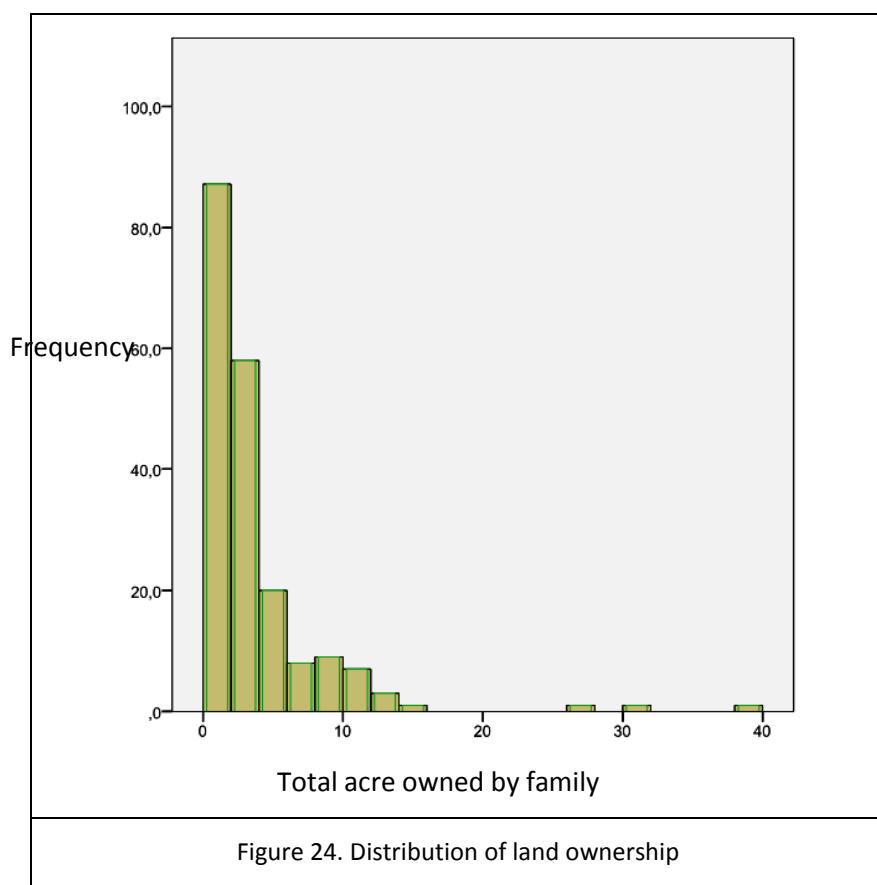
An ethnographic census was conducted to gather basic information about land access in the village. Of the 204 interviewees, 196 responded to the question on land ownership. The data showed that households own an average of 3.3 acres[280] of land including farmland and housing plot (see Table 11).[281] In all, 82% of respondents reported owning 4 acres or less (see Figure 1). Only three families (1.5%)

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[280] The standard deviation equals 4.65; the range is 0–38 acres.

own more than 15 acres of land and 23 families (11.7%) reported not owning any land. It is obvious that the vast majority of the population are small-scale farmers.

The housing plots differ in size and residence patterns, depending on whether they are located in the village centre or in the surrounding areas. The impact of historical land-use policies on distribution patterns is evident. While the size and shape of housing plots in the village centre was set during resettlement in the *Ujamaa* period, the housing plots in the surrounding areas follow precolonial scattered settlement patterns.
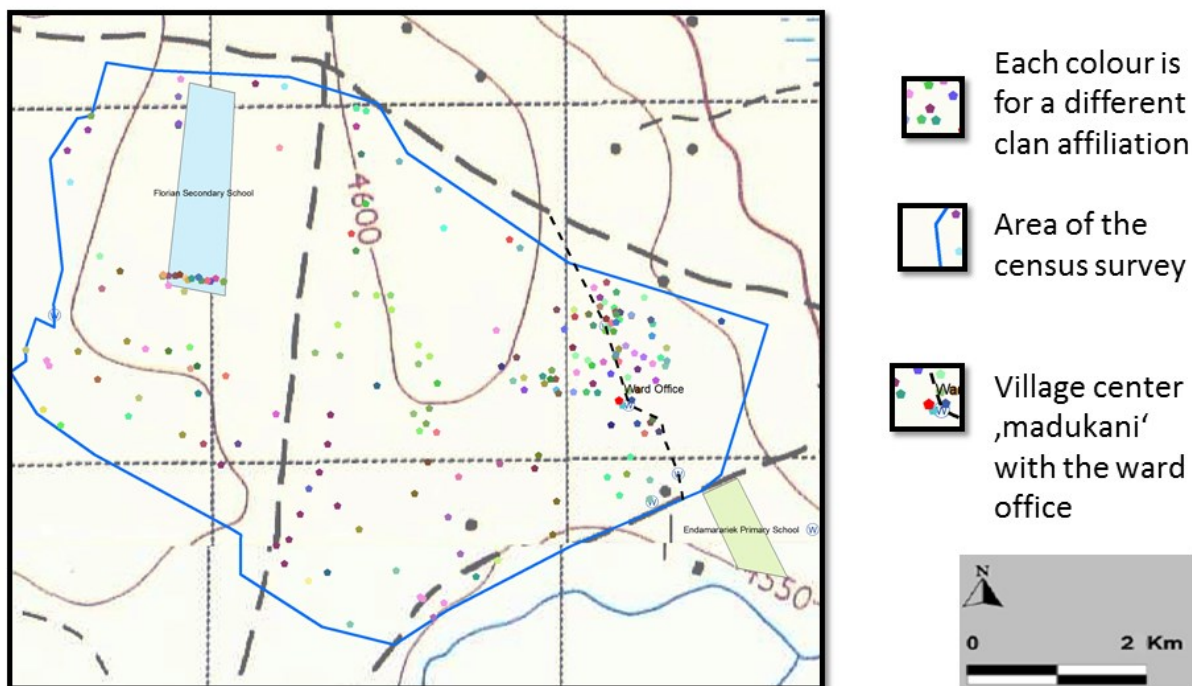
Map 7 based on a map from 1966 (Directorate of Overseas Surveys for the United Republic of Tanzania 1966:1) with own modifications

The social composition of neighbourhoods differs between the centre and surroundings. Map 7 combines census data and GPS measurements in order to show the location of houses and their clan affiliations. In areas outside the village centre, the neighbourhoods are clan-based. Fields bordering each other usually belong to siblings, and houses are spread all over the hillside. In the census of 2010, 110 clans were counted in that area. The composition of neighbourhoods is important because they serve as a social and political unit in customary law.

Land allocation in Endamarariek follows a combination of state and customary rules. Strategies to gain and maintain access to land are framed by local history and the recent policies of the Tanzanian state. Basically, people can access land through inheritance, purchase, or temporary loans. In the past land was also distributed by the village government. According to my census, the last recorded case was in 1999.

Table 11. Means of access to land for the different wealth groups, based on own census 2010			
Wealth groups	People with low capacity	People with capacity in between	People with a high capacity
Number of cases	82	90	16
Method of land access for the first piece of land			
Village government	19.5%	11.1%	6.3%
Inheritance	52.4%	48.9%	56.3%
Bought	6.1%	15.6%	12.5%
Family loan	12.2%	8.9%	0
Missing data / no land	9.8%	15.6%	25%
Method of access for the second piece of land			
Village government	3.7%	2.2%	0%
Inheritance	0%	3.3%	12.5%
Bought	2.4%	11.1%	12.5%
Family loan	2.4%	1.1%	0%
Missing data / no land	91.5%	82.2%	73.3%
Land rented for money in 2009/2010	19.5%[282]	21.1%[283]	25%

Table 11 shows the means of access to land for the different wealth groups. Some of the respondents owned more than one piece of land and methods of access were recorded separately. It can be seen that the main method of access across all wealth groups is inheritance.

For people with low capacity, the second most important method of acquiring their first land is from the village government. This is probably a remains of the socialist *Ujamaa* policy in which land was given to the landless (see chapter 5.5.3.).

Among the villagers it is common that children are given usufruct right to land from their parents. This is classified as "family loan" in Table 11. Interestingly, people with a high capacity do

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[282] For two of these families (2.4%) the rented land was their only agricultural land.

[283] For three of these families (3.3%) the rented land was their only agricultural land.

not access land through family loans according to my census data. People with a high capacity mostly access land through statutory institution of loans and rent land for money.

People of all wealth groups bought land. There is no large difference between people with high capacity (12.5%) and in-between capacity (15.6%) in this respect. People with low capacity also acquire land through purchase but not so often (6.1%). As mentioned earlier, the creation of a land market via the land reform is supposed to help low-income families. In Endamarariek, however, the land market does not help low-income families because they rarely buy land. They also rarely sell land (2.4%).

In all, 26.6% of people with a high capacity have a second piece of land. However, only 8.4% of people with low capacity have access to a second piece of land. Additional land may be accessed by renting fields for a season. This is done by people of all wealth groups with no obvious difference in frequency (see Table 11). However, the size of the rented land differs greatly. People of high capacity rented 3 to 20 acres while people of low and in between capacity rented 0.5 to 4 acres and 0.25 to 6 acres respectively. The differences in rented land size between the people with a high capacity on one hand and the other two wealth groups on the other hand are statistically significant ($p < .05$) after application of a Bonferroni correction for multiple t-tests.

The only people in Endamarariek with an official land title (Kiswahili: *hati miliki ya shamba*) are the economic elite and the Catholic parish. Wealthy villagers often acquire a land title as a strategy to underpin their right to land. "I have a title and I pay regular tax to the district office—that is why the land is officially mine!".[284]

Every villager who has registered his/her land at the district office must pay an annual land tax to the district government. Twenty percent of the tax will be used to cover expenses of the district while 80% goes to the national Ministry of Land. The amount of the tax depends on the size of the field.

Land of low-income families is usually not registered and thus they don't pay the land tax.[285] "Why should I register my land? As soon as you get engaged with the government, you pay tax. And you never know—they can also suddenly decide to raise the tax. No—this is too risky!"[286] However, I did not hear of any cases where a wealthy person with a title tried to take land from a poorer person without registration.

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[284] Interview with Barnabas Sitole, Endamarariek, 02.02.2010.

[285] Interview with Gabrielli Tlatla, Endamarariek, 19.01.2010.

[286] Interview with Gabrielli Tlatla, Endamarariek, 19.01.2010.

7.3.2. Inheritance and Women's Access to Land

As described in previous chapters, control over family land and decisions over inheritance were traditionally in the hands of the elders. During lifetime of the parents, the father was entitled to decide on the amount of land each son could use. A final decision on inheritance was made before the death of the last remaining parent. When conflicts occurred, neighbourhood or clan elders were called upon to enforce the parents' decision. However, when the government distributed 3-acre plots during the resettlement, the power of elders over their sons was eroded due to the outside interference of the local government. In order to maintain clan land while still following *Ujamaa* policy, the elders began to distribute equal 3-acre plots among their children. This diminished the power of the elders because parents could no longer extend power over their children by redistributing the land each cropping period based on their children's conduct. While families left their *Ujamaa* plots after a few years and moved back to their fields of origin, the effect of the government intervention in weakening customary inheritance procedures remained. As will be exemplatory shown in the following case in Box 22, control over inheritance is one of the main sources of conflicts within families in the study area.

Women who have not inherited land can access it through marriage. However, the land does not legally belong to the woman when she is married. Households are the basic economic unit and usually the male head of the household controls the land and the crops produced on it. Only the man can sell or lend out land. The marriage practices in the community demonstrate the male control of land. The woman moves to her husband's place when she marries. She may receive marriage gifts of cattle that are considered her possessions, but land is not given.

If access to land was only understood as individual property right, a woman's land rights in the community would exclusively be defined through her relationship to a man. In public, men are named as the landholders of a family, while women are called landowners only if they are widowed or not married. When asking about land in interviews, however, I found that the owners were men, but the description of the land referred to the women who lived on or next to it. Land was named as *kwa mama mdogo* (English: at the young mother's house) or *kwa Elizabeth Tarmo* (English: at Elizabeth Tarmo's house). This naming practice indicates that women are associated with land in the community in practise.

Although married women do not officially own land, they have a variety of possibilities to access land through their role as users and protectors of farmland. Married women usually share decisions about cropping and harvesting with their husbands. Women also protect and care for land. The role of women as protectors of land is especially evident in polygamous marriages.

Polygyny is accepted in the community and seems to be a strategy of rich men to maintain land access. Men with several wives usually keep them living at a distance from each other, on different pieces of land. This is done for reasons of jealousy, but also so the wives can care for the landholdings. "A house next to a field means that the family living there is taking care of the land and farming this land. They automatically assure that the boundaries are kept where they used to be."[287] As will be shown in Box 18, unmarried women as well as married women without children can inherit land from their family of origin.

7.3.3. Loans and Boundaries

Rights to land may be temporarily transferred through loans. Loans are either managed through a customary or statutory institution. Not everyone has equal access to every form of land allocation. Access can vary depending on social and economic position, and in some cases access is narrowed down to only one of these possibilities.

Land loans have a long tradition in the community and in some cases they still follow the rules of the customary land loan system. Under the customary law, landowners can transfer temporary rights to land but can claim the land back at any time (see also Raikes 1975:111 and Börjeson 2004:111). Loans are made based on friendship or family ties, and the land is transferred in the presence of the elders of a neighbourhood unit. The person who borrows the land is not expected to pay compensation immediately, but rather when the lender demands it at a later stage. Compensation may be paid in seeds, crops, or cattle.

While land loans outside the village centre often follow customary law, land renters who live close to the village centre usually follow statutory law and demand payment in cash. This makes it difficult for low-income families to access land. For example, one father of a low-income family explained the difficulties in accessing land: it is only possible to access land loans if you have entered into a patron–client relationship with a wealthy person such as a doctor or teacher. Landowners usually offer loans only to wealthy people who are likely to have the money to pay for them.[288]

In some cases the lender extracts no rent from the borrower. According to customary law, original landholders can claim their land back even after several generations have passed the land to their children. This practice contradicts the statutory law, which gives land rights to farmers after they have cultivated land for over 10 years.

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[287] Interview with Samuel Bilos, Endamarariek, 12.02.2010.

[288] Interview with Emanuel Happy, Endamarariek, 03.07.2015.

User rights to a certain piece of land can be expressed through boundaries. Usually boundaries are drawn only if farmland is contested. Boundaries may be marked with sisal plants, trees or big stones.

The land scarcity in the study area has resulted in an increase of fixed demarcations. These days it is common for neighbourhood elders, church leaders or statutory institutions of appeal to be called upon to decide about the demarcation of land holdings. There is a shift from land use socially agreed on among neighbours to a new idea of borders that are understood as barriers. The use of physical demarcations between neighbours is a recent development within the last 10 years. Bessi Bombo, the former sub-village chairman and a descendent of the first settler of Endamarariek village, states:

> In former times the main and important border was the border of a neighbourhood that was demarcated by the rituals of the elders. Borders inside the neighbourhood were only demarcated when people had a conflict. But some years ago that was a rare incident. Leaders these days solve a conflict through measuring the plot and putting identification marks on the border.[289]

The increase in conflicts over borders necessitates decision-making on borders. Commonly acknowledged borders marked by stones, brushwood or sisal plants legitimate and ensure access to land. In the research region, the trend toward demarcations resulted in an increase of leasehold, granting of credits, and land sales possible—thus furthering the goals of the 1999 land reform.

7.4. Forums and Practices of Conflict Resolution

In the previous sub-chapters I have described the legal perspective of the VLA, meaning the way that the VLA is supposed to work as well as the situation in my research region expressed in terms of the distribution of and access to land. In the following chapter I will show the effects of the VLA on the research region. The main findings will be exemplified by the Land cases described in chapter 7.5. Before turning to the cases I will briefly give a general overview of the pluralistic institutional and its forums that can be found in 2009/2010 in Endamarariek partially as a result of the VLA and partially historically grown.

There is a variety of actors in the community engaged in conflict resolution. Depending on the subject of the conflict and the actors involved, dispute settlement is managed by

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[289] Interview with Bessi Bombo, Endamarariek, 19.01.2010.

representatives of religious communities, i.e. Catholic priests, Pentecostal and Lutheran priests, the *Kahamusmo*, traditional organs such as female and male elders, and *Aya* meetings or statutory organs such as courts.

As the following table shows, disputants use different forums of dispute management at different administrative levels. There is a legal pluralistic situation at all administrative layers below the district level.

Table 12. Forums of conflict resolution on different administrative levels in March 2010		
Administrative level	**Forum of dispute settlement**	**Disputants**
Household	Clan or neighbourhood elders	Individuals
	Religious leaders (Catholic, Lutheran, or Free Church priests)	Individuals
	Ward tribunal	Individuals
Neighbourhood	Council of elders	Individuals
	10-cell leader	Individuals
Sub-village	Council of elders	Individuals and interest groups such as herders and farmers
	Sub-village chairman	Individuals
Village	Council of elders	Individuals and interest groups such as herders and farmers
	Village chairman and village executive officer	Individuals
Ward	*Aya* meetings	Individuals and interest groups such as herders, farmers and women's groups
	Ward land tribunal	Individuals

The table is just a snapshot of the situation to demonstrate the variety of options actors use for claiming access to land. The census took about three months, during which the preferences of many villagers for a forum shifted from the tribunal to the elders of the community.

About two-thirds of the way through the census interviews, my research assistant informed me that the reputation of the ward land tribunal had diminished because cases of corruption had become public. As a result, the tribunal lost its reputation within three months and people searched for other actors that they perceived to be more effective in solving their conflicts.

The former sub-village chairman came from a prominent family of one of the sub-chiefs during colonial rule and held several positions in diverse organisations. He also had a reputation of being able to settle conflicts. He found an efficient and prompt solution to the conflict, and thereby ensured it did not escalate further. In the same way that forums can lose their reputations, individual actors can gain and maintain their reputations by the accumulation of positions in religious, customary or statutory organisations. Each time an actor effectively solves a

conflict, his or her reputation in the community increases. Rules derived from different laws are not always mutually exclusive.

Village council and ward tribunal

The 1999 land reform aimed to solve conflicts over land by implementing community-based land management controlled by the village council. Two aspects of the reform are central for control over village land: the extension of the powers of the village council in land matters and the responsibilities of the village and ward tribunals in resolving land conflicts.

According to the law, the village council acts "as the manager of land within the range of its respective village area. Adjudication, registration, entitlement, and land dispute resolution will all take place within, and by, each community, following the procedures set out in the Village Land Act (1999)" (Wily 2001:89). The village council is capable of awarding certificates of customary right of occupancy, which is the only form of land ownership that may be registered and titled through village councils. The VLA provides the customary right of occupancy for titles that are issued through the village government on village land.

The village council should develop land-use plans to enable sustainable land management (United Republic of Tanzania:71). As the following table shows, the village government of Endamarariek has not yet fully implemented the reform.

Level	Policy	Practice
Table 13. Responsibilities on the village level according to the land policy and the *de facto* situation in Endamarariek village in March 2010		
Village	Create and register a land-use plan By-laws Land titling and certification Village land register The village executive officer (VEO) will be in charge of keeping records of all changes in land tenure and use	➔ Land-use plan non-existent, not registered ➔ By-laws exist only for regulations of the village forest ➔ Village land register non-existent ➔ VEO keeps records of only some land loans and changes in land tenure
Sub-village (hamlet)	Sub-village chairmen organise meetings in sub-villages to communicate the village council's policies about land use	➔ No meetings have been observed concerning land-use planning

The village council is supposed to offer a community-based method of sustainable land management. In this case, community-based means that individual representatives elected every five years decide who has access to land and who is excluded. Compared to customary mechanisms, this is an inflexible situation in which representatives might stay in office even though their reputation in the community has diminished. As is shown by the case of the ward tribunal, the people in Endamarariek communicate well and a change in public opinion might result in the ostracism of a forum.

As described in chapter 7.2.1., the VLA aimed to set a clear dispute settlement structure at the local level and to create institutions that hold the exclusive right of jurisdiction to hear and rule on land disputes. It can be assumed that this law is also a means for the state to gain more legitimacy in rural areas by increasing its political and jurisdictional absolutism. According to the law, the village land tribunal is the lowest land court that is mandated to deal with all land disputes in a particular village. Appeals from the village land tribunal go to the ward tribunal (United Republic of Tanzania 2007:85).

In Endamarariek ward, village land tribunals have not yet been implemented. However, the ward land tribunal (*baraza la ardhi ya kata*) was implemented after it was promoted in the district council by members of the opposition party CHADEMA. CHADEMA members supported the tribunal due to an increase in land conflicts and the ineffectiveness and corruption of the personnel appointed to local governments by the ruling party CCM.[290] The tribunal originally had a good reputation in the community and was considered honest. However, as mentioned above, it later lost its reputation due to allegations of corruption. The ward tribunal took up its work in 2006 and replaced all other statutory dispute-settlement mechanisms at the village and ward level (such as the land committees on the village government level). In 2010, the ward land tribunal in Endamarariek was the lowest statutory institution for solving land conflicts.

The ward land tribunal consists of one man and one woman from each of the five villages in the ward. All members are appointed by either the village chairman or the ward councillor and serve a 5-year term. In 2010, members of the tribunal attended a 1-week training course organised by the Karatu District government, in which they learned the legal regulations of the Village Land Act. Following this workshop, the secretary of the ward tribunal has kept a copy of the workshop papers that is consulted frequently during meetings.

The tribunal has seasonal variations in caseload. More cases are opened at the beginning of the rainy season because that is when people decide who can plant which field. The number of cases also varies from year to year. In 2007 and 2008, the tribunal was highly frequented and met thrice a week to negotiate cases.[291] In 2009, the tribunal officially met only once a week; the number of cases obviously having dropped. This may be because the good harvests of the previous 2 years allowed people to spend more money on court cases, whereas in 2009 the harvest almost failed completely. In general, the intensity of conflicts rises during cropping

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[290] Interview with John Luciano Mahu, Endamarariek, 15.03.2009.

[291] Interview with Samuel Bilos, Endamarariek, 12.02.2010.

season: "Only during planting time violent conflicts arise here. The highest amount of injuries was three people in that time."[292]

Another possible reason for the drop in cases is that people may have stopped using the tribunal as much due to allegations of corruption. I have witnessed that people do not only call on the tribunal about land matters. The presence of women on the board attracts other women who have faced injustices such as domestic violence. However, all cases not touching upon the matter of land are not documented by the secretary of the tribunal. People who call on the tribunal concerning land conflicts are mostly men with a high level of education and financial resources. Low-income families are less likely to call on the tribunal. The following quote represents the opinion of low-income villagers about their chances of winning a case at the tribunal: "*Mtu mwenye pesa anakumaliza mahakamani!*": "A man with money will finish you in court!"[293]

All members of the tribunal are experienced in land questions or conflict resolution. For example, the previous experience of a female member was that she was experienced in mediating conflicts within her Lutheran parish. She is well-connected to other female elders in her village and was engaged in calling *Aya* meetings for conflict resolution on land. One male member had been a village chairman for over 10 years. In fact all male members have held positions such as chairman or member of the village land committee.

Two actors have a strong *de facto* influence on the tribunal's decisions even though they do not take part in meetings. The *mlezi wa baraza* (English: guardian of the tribunal) is the village chairman of Endamarariek and can interfere if there is an unsolved conflict within the tribunal. He has the right of final decision in case the members of the tribunal are unable to solve a case via consensus.[294] The second actor is the village executive officer of a neighbouring village who interfered with at least one of the tribunal's field site visits (see Box 17).

Box 17. Interaction between the tribunal and the village executive officer of Endallah

On 12.12.2009, the tribunal went on a field trip to four sites in Endallah and Endamarariek. Before going to the sites, the tribunal members informed the village chairman of Endallah that they planned to visit two fields in Endallah and asked the village executive officer (VEO) to escort them. The VEO knew which fields the tribunal planned to visit. He refused to escort the tribunal and persistently warned them not to visit a certain field of a person who had worked in Mang'ola for several years but was born in Endallah. The conflict began when the man returned from

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[292] Interview with Dr. Patia Mungi, Endamarariek, 09.03.2010.

[293] Interview with Mlinzi Saco, Endamarariek, 31.02.2010.

[294] Interview with Samuel Bilos, Endamarariek, 21.08.2009.

Mang'ola and found his fields being used by someone else. He went to the tribunal to claim back the fields that his parents had received during *Ujamaa*—the fields where his parents were buried. The tribunal argued to the chairman that this was the third attempt to see the field. In response, the chairman said he would have a meeting with other VEOs and ward chairmen at district headquarters to decide who would continue to be a judge on the tribunal. He then left very suddenly.

This situation left the whole tribunal with a tense atmosphere. Mama Huduma, one of the members who represents Endallah, was very discontented:

> This unfair case was meant to end after such a long period of conflicts. We planned to pass judgement in three days! Now his parents are dead, his land was forcefully taken and he is basically left with nothing!

Both members of the tribunal whom I was sitting with speculated that the VEO had been bribed. In the end the tribunal decided not to visit the field of the person who had worked in Mang'ola for several years.

The case in Box 17 shows how a VEO can execute power over tribunal members and undermine their work. The VEO sent an indirect warning to the tribunal members by underlining that he is part of the committee, which will determine who remains on the tribunal. The warning caused the tribunal to change its decision. This type of situation may also cause the tribunal to lose its reputation and lead people to instead choose different forums of conflict settlement, such as calling on neighbourhood elders and at the end conducting forum shopping.

The case also shows that the way in which the tribunal is chosen makes it vulnerable to corruption. Members are appointed and not elected, and the people who appointed them can be bribed. Also, the tribunal members enter into a relationship that depends on the government officials that had put them into office. If instead tribunal members were elected by village assemblies this vulnerability and dependency could have been prevented.

7.4.1. Customary Control over Land

The council of elders is a forum of dispute settlement under customary law and its decisions are acknowledged in the community. As described in chapter 4.2.3., the council does not consist of the same elders each time a dispute is settled. Usually a case is opened with the offended party seeking the support of one to three *barise* (Iraqw language: male elders). *Barise* are elders esteemed for their oral skill and wise judgement, and sometimes elders even come from the Mbulu Mountains to join a meeting. In some cases, the religion of the conflicting parties is a search criterion when choosing *barise*.

After the elders have been chosen, they call a meeting to discuss the issue. The meeting is attended by both conflicting parties and the elders as their advocates. The matter is discussed until an agreement is reached. Depending on the harm done, the agreement may include a fine to pay reparation for the damage. In addition, the party that caused the conflict may have to pay a cow, bull, goat or chicken to the elders.

If no understanding is arrived at, the elders declare *wakari.* As described in chapter 4.3.3., *wakari* is a state of silence between two people who have an irreparable conflict. If only one party refuses the judgement, he may be sent to the village executive officer or the ward tribunal. In this case the elders often serve as witnesses. If someone calls on the village executive officer or the ward tribunal without first talking to the elders, he will often be sent back to the elders. However, this is not usually a problem. People prefer to contact the elders because (a) the punishment of the elders is not as bad as the punishment of the statutory tribunal; (b) it is free of charge to contact the elders, and presents (such as chickens) are given only after the conflict is solved; and (c) the elders are known to solve land conflicts efficiently.

The *suluu* ceremony associated with conflict resolution has changed since the Catholic and Lutheran religions gained followers in the community. In former times, beer drinking and a ritual meal, as described by Rekdal, were the central elements expressing the reconciliation of the conflicting parties (Rekdal 1996:370). The *suluu* has been modernised, with the beer replaced by soda. I witnessed a *suluu* on 13 March 2010 where elders—both Christians and followers of the local religion—shared soda after reconciliation. The method of choosing a chairman for the council of elders has also changed. While the *Kahamusmo* formerly served as chairman, the council now appoints a chairperson to moderate the discussion.

In the diverse *suluu* I witnessed, the youngsters talked much more and with much more energy than the elders. The elders usually posed questions or commented briefly. Female elders were more active in tracking down reasons for conflict and could easily find curses and other supernatural causes. When the source of the conflict was found (e.g. a curse or a misbehaviour), the conflicting parties summarised the findings. A penalty was fixed (e.g. a goat or a cow) to be given to the offended party. The offending party then asked for forgiveness, and the offended party accepted. Then both parties shook hands first with each other and then with the elders, and drinks and a meal were served.

In the past, the council of elders was the main forum for resolving land conflicts in the community. However, the power of the elders in land matters has diminished during the past

decades as state officials and religious leaders have become powerful actors in conflict resolution. The diminishing power of the elders is seen as one source of conflict:

> Before the state engaged in conflict management, most of the conflicts didn't even break out because the elders had a good instinct for conflicts. They interfered earlier or—in case a conflict broke out—were there the same day! The ward land tribunal is very slow. They just come when the conflict has already escalated![295]

Female elders play a central role in customary law: they are responsible for monitoring the effectiveness of the male elders.[296] In cases where male elders are unable to resolve a conflict, female elders have the authority to call an *Aya* meeting. Through their role as mothers in the community, female elders are empowered to point at the ineffectiveness of male elders in managing resources such as land.

As described above, the male elders have formed an alliance with the ward tribunal rather than letting female elders judge the effectiveness of their decisions. Nevertheless, I recorded one case during my field stay in which the women actively interfered and called for an *Aya* meeting to solve a conflict (see Box 24). The historical analysis also showed that women had engaged in politics several times in the past (see box 9). The power of women under customary law has been recently adapted to new circumstances. Since the village council gained the power to manage land, women have monitored the behaviour of the village council as well (see Box 24). However, women do not see their activism as a "traditional thing".[297] One quote of a woman provides evidence for this: "When we called the community meeting, we were applying democratic principles!"[298] Rather, they see their action as a modern way to keep peace in the community by adopting democratic principles.

Aya meetings are community-wide meetings open to every adult in the geographic area defined by the *Aya*. These community meetings are shaped by basis-democratic decision-making, and they express local needs and strategies concerning the whole community. *Aya* meetings act as mechanisms of bottom-up feedback to the village council, ward tribunal, and male council of elders. In 2009 and 2010, *Aya* meetings were used to control corruption in land deals involving the village council (see Box 24). *Aya* meetings may also impose penalties on community members

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[295] Interview with Mama Happyness, Endamarariek, 03.02.2010.

[296] Snyder (2006) also refers to the social phenomenon that women have recently reclaimed their moral authority through protest marches.

[297] Interview with Mama Huduma, Endamarariek, 19.01.2010.

[298] Interview with Julia Ama, Endamarariek, 07.03.2009.

whose actions harm the community. The highest penalty the meetings can impose is *baini*, which is the social exclusion of a person from the *Aya*.

Religious authorities may also be involved in solving conflicts. Catholic priests who do counselling within families estimate that half the conflicts they discuss are about land:

> Conflicts on land are to a high extent within families. We as priests have experienced that about 50% of the counselling cases are about land. Some are about the border with neighbouring fields and some are about inheritance between siblings.[299]

Counselling by priests takes the form of a confidential conversation, in which one priest is asked to mediate between a married couple, neighbours or siblings. The confidential character of these conversations made it impossible for me to attend them and to collect data about their impact on processes of conflict resolution. However, my informant Gabrielli told me that the priests empower women and give them legal advice on statutory administrative procedures for claiming their land rights in case of conflicts.[300]

7.5. Main Findings on Land Cases in Endamarariek

The following case studies illustrate social and cultural dynamics caused by the implementation of the VLA in one particular rural setting in an actor-centred, process-oriented way. The analysis uses an inductive approach. While the cases take place in one specific community, the discussion uses the insights gained from each case to raise broader questions about the dynamics that occur during the processes of negotiating between different rules and forums in conflicts over land. The validity of the inductive method is supported by the inner logic of these negotiating mechanisms, which makes it reasonable to assume that they apply in many situations and not only in the cases discussed.

Land is a frequent source of conflict in Endamarariek ward. An intense competition for land occurs because farmland is scarce and farming is the main source of income for most of the inhabitants of the ward. While wealthier villagers are often entrepreneurs who can generate income through various other activities, low-income families rely on access to farmland to accumulate income.

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[299] Interview with Paroko Endama, Endamarariek, 11.09.2009.

[300] Interview with Gabrielli Sulle, Endamarariek, 12.09.2009.

My findings do not support the common assumption that the high number of land conflicts in Karatu District is due to people reclaiming land that was taken from them during *Ujamaa* (see for example United Republic of Tanzania 1994:51).

Rarely conflicts appear on the fields that were distributed during *Ujamaa*. People continue to cultivate on their clan land because they don't accept the decisions made during resettlement. This behaviour is commonly accepted…[301]

The analysis of land loans in the previous chapter showed that people from the study region have a strong right to land if it was virgin land that was settled by them or by their ancestors. This is true even if the land was temporarily used by someone else. The strong right of the first settler to land may explain why the reclamation of the customary right to land does not result in conflicts in the study area, even in cases where the land was distributed to and used by other people during *Ujamaa*. However, the resettlement had an indirect influence in that it undermined the power of the elders in land allocation (see chapter 5.5.3.1.).

The following sub-chapter will deepen the insights into which forums are used to settle conflicts in rural Karatu but will also answer the question of how power and forum shopping enters the process of negotiating solutions of conflicts. During the analysis of the cases, a general understanding of the impact of the implementation of the 1999 land reform on land rights of farmers in rural Karatu is also reached.

The cases in this chapter have been divided into the following sections (1) the means of access to land in an exemplary family land biography and in particular a conflict on inheritance discussing the impact of the 1999 Land reform: (2) case involving low-income families and microfinance that shows land loss as a result of the implementation of 1999 land reform; and (3) a case involving several hundred people that use forum shopping against the village council that is entitled by the 1999 land reform to make land-use decisions.

7.5.1. Most Common Conflicts: Family Conflicts on Land and Inheritance

The following set of conflict cases illustrates two unitended outcomes of the implementation of the VLA. Firstly, it shows the the statutory structure of forums provided by the VLA serving by high percentage the wealthier actors because they can easily take advantage of the statutory forum structure of the VLA. This is effected especially by climbing up the statutory structure and thus

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[301] Interview with Kwaslema, Endamarariek, 26.01.2010.

delocalising the conflict. Secondly, it shows how the application of the rules generated by the social field of the VLA is inhibited by another social field, which is the customary law. And thirdly, it underlines that a peaceful solution could only be obtained by forum shopping with reference to the customary forum. In fact the VLA is another step in the continuity of developments of state based land management beginning with socialistic peroide that increases tension between family members on inheritance.

The following set of conflict cases all occurred within the Surumbu family. The family tree gives an overview of the relationships between the main actors in the conflicts and shows how the family's land was distributed from generation to generation in accordance with customary law.

The land of the late Surumbu, who belonged to the Diyami clan, is located some 3 kilometres outside the village centre of Endamarariek. In 2010, the people living on the land formed a typical ridge community also called *dawa* in Kiiraqw. Most of the families living on that land and using its resources are descendants of Surumbu.

Figure 25. Kinship relations of relevant actors in the family of the late Surumbu
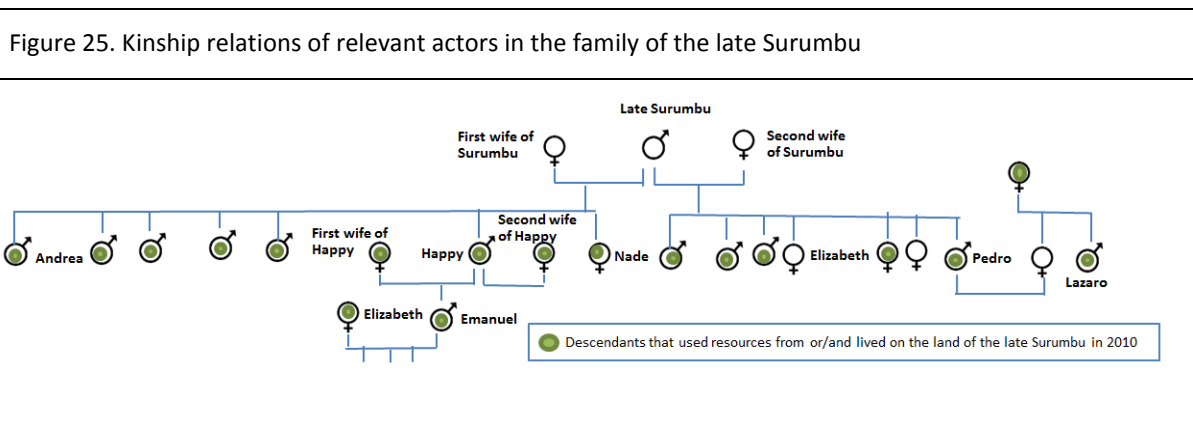
Surumbu was born in the Mbulu Mountains and came to the area of Endamarariek to graze his cattle in the 1930s. During British rule, the *Kahamusmo* distributed a huge area of land to Surumbu including forests, meadows, and part of a river (see Figure 26). Surumbu's brother followed him and also received a huge area bordering Surumbu's land.

Figure 26. Part of Surumbu's land, own image, 13.02.2010

During the 1940s, Surumbu's first wife moved to Endamarariek. She delivered seven children, six males and one female, who all remained in Endamarariek as of 2010. Surumbu's second wife also lived in Endamarariek and gave birth to seven children, four males and three females. The four male children still live in Endamarariek.

Box 18. Inheritance of Surumbu's land

As of 2010, two female and all male children of Surumbu still used resources from and/or lived on their late father's land. The distribution of Surumbu's land among his children followed usufruct rights given during his lifetime:

> In my family land was distributed through usufruct rights from the late Surumbu to all his male children and two female children. The usufruct rights that Surumbu distributed changed during his lifetime but when he died they were not changed by his wives. When the wives died the usufruct rights turned into inheritance.[302]

The land inheritance in Surumbu's family followed the customary land law with the youngest son inheriting the parents' house and cattle. Pedro, the last-born child of Surumbu's first wife, inherited her house, 6 acres of agricultural fields and the cattle of his mother and father. The same happened to Andrea, the last-born male child of the second wife: he took care of the cattle, the land and his mother during her lifetime, then inherited her house, 6 acres of agricultural fields, and seven cows when she died.

Surumbu's children all inherited very different amounts of land from their father.[303] The largest inheritance consists of 9 acres of agricultural fields, forest and meadows, and a 3-acre housing plot. In contrast, the smallest inheritance consists of 2 acres of agricultural land including the

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[302] Interview with Andrea Surumbu, Endamarariek, 12.01.2010.
[303] To avoid further conflicts in the family no comprehensive listing of the size of inheritance will be made. Although I changed names for reasons of privacy, people living in Endamarariek or family members themselves would probably recognise the family.

housing plot. This unequal distribution is a common phenomenon since inheritance is distributed by the last remaining parent according to the conduct of the children towards their parents.

One of Surumbu's grandchildren explained why his father received less land than Surumbu's other sons:

> It is said that all received a similar number of acres on Surumbu's land. In practice the size of farming land differed greatly. The first-born child of his first wife named Tarmo for example received in total 9 acres of land, while my father Happy, the third born of Surumbu's first wife, just received 2 acres of agricultural land. I think the reason for that lies in the fact that Tarmo cursed Happy[304] in 1976 because he was jealous of his herding skills and scared that he would receive many more cattle from his father than Tarmo. The curse was about that Happy should not marry and should continue with herding far away from home. My father went crazy and left home. He wandered around aimlessly until a good friend brought him to a traditional healer. He swallowed medicine and after he vomited he was cured and came back home. That was when Surumbu already had distributed land to his male children. My father married soon after and then I was born. That is why Happy and his first wife only inherited 2 acres of farmland.[305]

Only two of Surumbu's female children received land. Nade Surumbu was given a housing plot and a small field of less than 1 acre on Surumbu's land because she did not marry. Elizabeth Surumbu, the daughter of Surumbu's second wife, inherited 2 acres and a housing plot.

Elizabeth originally did not ask for land from her father because she had married and moved to another village. However, it turned out that she could not deliver children and so she decided—together with her husband—that he should take a second wife and she would move back to Endamarariek. At this point, Surumbu had already distributed all his fields. Elizabeth therefore asked Surumbu's younger brother for land, and he gave her usufruct rights to land bordering Surumbu's fields. In 1985 Surumbu's brother died and Elizabeth inherited the land. "Her husband is still visiting her but he comes and goes. They get along well but he sleeps at home."[306]

Before his death, Surumbu also gave usufruct rights to all of his sons for cultivation. However, not everyone living on Surumbu's land is descended from him. In 1971, Surumbu gave usufruct rights to a widow whose daughter was married to Pedro, the last-born child of his second wife. This arrangement was done under the customary land loan arrangement (Kiiraqw: *qasara*). However, when inheritance was distributed, this land was later passed on to her son, Lazaro.

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[304] This curse is called *mafakara*. The person who wants to curse someone else goes to the *mganga wa kienyeji* (Kiswahili: local healer/witchdoctor) and asks him for a medicine. Most of the time it is an organic powder mix. The person then puts the powder into the food of the one he wants to curse. Then things happen that the cursing person intended to reach. Only another *mganga wa kienyeji* can cure this!

[305] Interview with Emanuel Happy, Endamarariek, 03.07.2015.

[306] Interview with Emanuel Happy, Endamarariek, 03.07.2015.

This case provides a good illustration of the application of customary inheritance rules in the study area. In accordance with customary rules, the youngest son inherited a larger amount of land and livestock than the others. Even after Operation Vijiji, the late Surumbu still had the power to change the distribution of land among his children. However, during his lifetime he distributed land on a usufruct basis. The children inherited land only after both parents died.

This account also shows that women can inherit land. As the cases of Elizabeth and Nade show, women who do not live in a marriage can ask for land from the elders of the family. However, women's inheritance is not equal to that of men as women receive smaller plots of land than their male siblings.

Finally, this case shows that there are no fixed inheritance rules in the study area. Instead, land is distributed adaptively amongst those perceived as close relatives. This may include people who are not directly related by blood. In the case of the Surumbu family, Lazaro received land even though he was the brother of Surumbu's daughter-in-law and not one of Surumbu's children.

Fate of Surumbu's Land under Ujamaa

In the mid-1970s, the inhabitants of Endamarariek elected a village government, which officially took over the power of land allocation from the elders and the *Kahamusmo*. While the new government was supposed to redistribute land in accordance with the *Ujamaa* policy, wealthy people and those who were part of the government structure had the power to resist redistribution. Surumbu is one pertinent example. His powerful position acquired through wealth in cattle and land and his good networks with the village government allowed him to maintain his full customary land rights given by the *Kahamusmo*.

Box 19. Maintaining access to land and land-use change during resettlement

Surumbu's land was inside the boundaries of the village land-use plan, yet it remained untouched by the government. Although other villagers' lands were taken to form residential areas, grazing areas, a village field controlled by TANU, and plots for schools, a health clinic, and the Catholic parish, Surumbu's land was classified as a private cultivation area for him and his successors. Surumbu's grandson explains the reason for this:

> The village government respected the late Surumbu's land rights because he was well known by everyone, even in the village government, and he was rich! You know, during

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those days the rich people were respected very much. He was rich in cattle, land and goats and thus he was respected—he was even feared![307]

The village land policy had the impact of temporarily extending and freezing the formerly dynamic usufruct rights of Surumbu's children. Since the land-use plan called for every family to receive a housing plot in the village centre and a 3-acre plot for cultivation, Surumbu's land was cut into fields of approximately 3 acres each. The *kamati ya usimamizi wa hamia vijijini* (English: committee for management of movement to villages) then officially assigned these fields to Surumbu's children.

A severe drought in 1974–1975 decreased the number of cattle in Endamarariek: "Before villagisation, clans in Endamarariek had 100 to 300 cows. Because of the drought in 1974/5 they either moved to other grounds permanently or lost a huge number of cattle!"[308]

During the drought, the size of Surumbu's cattle herd decreased from about 60 cows to eight. The drought played directly into the hands of the *Ujamaa* policy to concentrate on cultivation. Surumbu's family began to plant more acres and the remaining cattle were used to plough the fields. The registration of agricultural land of Surumbu's successors shows an increase in cultivation area from approximately 1 acre before the government intervention to 3 or 4 acres after it. Unfortunately the first harvest failed due to the drought.[309]

In 1976 the whole family moved out of their houses on the hill to live in the *Ujamaa* village centre, but they continued to use their original land for grazing and cropping. After Operation Vijiji, they left the village centre and moved back to their original land. Also (as mentioned in Box 18) Surumbu's children did not make use of their statutory land titles but submitted to the decisions of the late Surumbu according to customary law.

The resettlement had both temporary and permanent effects on Surumbu's land use. While Surumbu maintained the customary right to his land, the land use of his family changed as they began to focus more on cultivation. The resettlement also temporarily changed the way in which Surumbu distributed usufruct rights among his children. However, Surumbu later returned to the customary practice of distributing land based on his children's conduct. In this case, customary inheritance rules overruled statutory interventions in the distribution of land.

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[307] Interview with Emanuel Happy, Endamarariek, 03.07.2015.

[308] Interview with Andrea Surumbu, Endamarariek, 12.01.2010.

[309] This drought is also reported by Loiske. My informants confirm his report, saying that these were the worst years of their lives.

This case also shows the limits of the government's power over land distribution during the resettlement. The wealth and social networks of the late Surumbu gave him power in the community. As a result, the government respected his customary rights to land holding and his power to rule over his land and to distribute it among his sons.

Grandchildren of Surumbu: Emanuel Happy

Emanuel Happy, a grandson of Surumbu, is one of my main informants about narratives and conflicts in the Surumbu family. Emanuel was born in 1979 as the child of Happy Surumbu, who was the second son of Surumbu's first wife. Emanuel belongs to the third generation of the Diyami clan living in Endamarariek. Emanuel's wife, Elizabeth Shauri, was born in a neighbouring village in 1980. She married Emanuel in 2003 at the Lutheran Church in Endamarariek and became Elizabeth Happy. Emanuel and Elizabeth lived in the house of Emanuel's father for a year until they finished building their own clay house.

As of 2010, the Happy family had three children. Emanuel's first daughter was born in 2004 and the second in 2006. The third child, a baby boy, was born in 2010.

Emanuel generates much of his income by working as a day labourer. In the past, he and his wife worked together on wealthy landowners' fields:

> In former times my wife and I worked on the fields of the rich farmers to get some income. That was romantic! She cooked some tea in a thermos flask and some bites and we went there in the early morning to help harvest maize or beans. Through this day labour we could make a living together. Now she has this dust allergy and mostly stays at home. Now it is my responsibility alone to organise some income for school fees, health costs and small needs like soap, school material and uniforms as well as oil and salt for cooking.[310]

Elizabeth Happy now stays at home most of the time. Her sphere is the distinct round cooking hut that is made of clay and thatched with grasses. Only children and female relatives and friends are allowed to enter this hut. News is exchanged and female relatives provide the household with vegetables, grains and seeds.

Emanuel starts a typical day by fetching water in the morning and then goes to the village centre to chat with his friends or search for day labour. He generates most of his income with small jobs at the medical doctor's house and fields. He also cultivates the field around his house

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[310] Interview with Emanuel Happy, Endamarariek, 04.03.2010.

which is about half an acre. Additionally he rents an average of 2 acres each year to cultivate food for his family.

Emanuel is engaged in politics and serves as the secretary of the opposition party CHADEMA in his sub-village. Every Sunday he attends the service at the Lutheran Church with his wife and they both sing in the choir during service.

Box 20. Land access of a family in the third generation
The Happy family now lives on a three-quarter acre plot in the valley floor. Emanuel received the plot as a marriage gift from his father, Happy Surumbu. Happy had received the land from the village government in 1993. The housing plot is located beside a temporary riverbed and most other plots in that area are used as grazing ground due to seasonal floods. Emanuel does not believe that *Neetlaang'w* lives in the valley bottoms and that they should therefore not be used for housing. However, his clay house frequently gets flooded and he has to undertake a great deal of work to fix the walls that have been damaged by the water.   When asking him about a statutory land title to his land, he just shakes his head: "This is a thing only weathier people acquire. Above that I need to pay a yearly tax to the District that I can not afford."[311]

As mentioned previously, the land reform aims to increase tenure security through the use of statutory land titles. However, I found that low-income farmers in Karatu generally avoid acquiring statutory land titles because they cannot afford the land tax.[312]

The insights presented into the inheritance of Surumbu's land show that inheritance follows customary rules as long as state officials do not interfere. Land use has changed gradually from herding to farming in the region after resettlement.

The land biography of the Surumbu family also gives insights into the way the generations access land. Happy originally received the land from a statutory authority. When all land was distributed, means of access were inheritance and land was a wedding gift, in the way Emanuel received it from his father.

Emanuel's situation is typical for many low-income families of Endamarariek. Emanuel has access to very little land and has to rent some to generate enough income for his family. Also, Emanuel has low quality land to live on—this is also a common problem for low-income people in Endamarariek.

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[311] Interview with Emanuel Happy, Endamarariek, 04.03.2010.
[312] Manji, who analysed the impact of land reforms in Tanzania and Uganda, also found that farmers have good reasons not to favour statutory land titles, such as to avoid taxes (Manji 2006:149).

Sons of Surumbu: Andrea, Happy and Philipo

Andrea, Happy and Philipo Surumbu are sons of Surumbu. Happy and Philipo are involved in several land conflicts, and Andrea served as an informant for my research into these conflicts.

Andrea Surumbu, a Lutheran, is the last-born son of Surumbu's first wife. The family followed the procedures of customary law in which the youngest son cares for the parents and then inherits their land and cattle. When Surumbu died, Andrea remained in his father's house and took care of the cattle belonging to his father and mother. He also received the land his father cultivated in 1979 so that the harvest would be invested in his school uniform. When Andrea's mother died, he inherited 6 acres of agricultural land and seven cows. In 1992, he received a 1-acre grazing plot when the village government distributed the land in the valley bottom.

Andrea's wife is considered a magician in the community. She has a huge knowledge of local medicinal plants but neighbours are reluctant to approach her. My informant warned me not to touch her and not to eat in her house.

Happy Surumbu is involved in several conflicts over land. He is the third son of Surumbu's first wife (see Figure 25). He was born in 1950 and inherited about 2 acres of agricultural fields and some cattle when his father died. Happy's right to these fields was reconfirmed by the village land committee in 1976. Happy lived for two years in the *Ujamaa* village but then moved back to his inherited land.

Happy is a follower of the local Iraqw religion and cosmology. He is a well-known wedding broker in the *Aya* and is well acquainted with various clan histories. He is frequently asked for advice when young couples marry to make sure that they do not anger *Neetlaang'w* by breaking a wedding rule. Over the years he has accumulated a herd of approximately 20 animals of which more than half were presents from the married and happy couples.

Table 14. Overview of the land rights of Philipo and Happy		
Year	**Philipo Surumbu**	**Happy Surumbu**
1972	3.5 acre usufruct rights from his father	3-acre usufruct rights from his father
1976	¾ acre plot from the village government	
1980	Inherited the 3.5 from his mother	Inherited 3 acres (usufruct rights Happy received in 1972) and a housing plot together with first wife
1990	15m by 30m plot from the village land committee	

1992	1 acre in the valley bottom from the village land committee	1 acre in the valley bottom from the village land committee
1999		1 ¾ acres with housing plot from his brother Tarmo in exchange for a bull

As of 2010, Happy had two wives. He married the first wife in 1978 and the second in 1999. His second wife, Hhando Tlatlaa, lives on a housing plot with bordering fields of 1 ¾ acres that are a matter of dispute between Happy and his brother Philipo (see below). Happy received this field from his brother Tarmo in exchange for a bull.

Today the houses of Happy's two wives are located about 300 m from each other close to the peak of a hill.

Like his father Surumbu, Happy generates income through herding. He did not shift to cultivation in the socialist era. His brothers inherited big fields while he received just 3 acres with a plot for housing. Happy's son Emanuel explains why his father is poorer than some of his brothers:

> My father didn't want to give up herding even though his cattle decreased after several droughts. He shifted too late to agriculture and failed to engage in the local trade with the harvest. His brothers were smarter in this regard and made a lot of money in the last decades. Now he is too old to change his strategy.[313]

Happy is involved in several land conflicts. Since he is illiterate, he has a paid helper named Alfred who gives him legal advice in the court cases he is involved in.

One of Happy's land conflicts is with his brother, Philipo Surumbu. Philipo was born in 1948 and is a Lutheran Christian. He is a second son of Surumbu's first wife. He first married in 1972 but later left his wife and remarried. Since 1972, he has farmed a 3.5-acre field that he received from his father. This field borders the fields of his brothers Amsi and Tarmo. In 1976, Philipo also received a three-quarter acre plot from the village government bordering his inherited field.

In the 2000s, Philipo built a brick house and generated enough income with his fields and cattle to pay for school fees and a lifestyle above average in the village. He generates additional cash from a house he built in the village centre. The house is located on a 15m by 30m plot that

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[313] Interview with Emanuel Happy, Endamarariek, 04.03.2010.

he received from the village land committee in 1990. At first he ran a little shop in that house where he himself was behind the counter, but now it is a restaurant run by his daughter.

Philipo is an active Christian and is close friends with several government officials. Some people describe him as a gossiper who likes to talk badly about low-income families of the community. "Anawadharau watu!" – "He is contemptuous of people!"[314] Philipo has 12 oxen and rents them to other farmers for preparing their fields. In some cases the farmers pay him with a portion of their crops and in other cases he takes some money for his service. Philipo is friends with Lazaro (see below) and Pedro (his youngest full brother). "They are just friends with people who are equally rich!"[315]

Lazaro, a Catholic, is the son of a widow who came to Endamarariek in 1971 from a neighbouring village. The widow's daughter, Lazaro's sister, became the wife of Pedro Surumbu. The late Surumbu lent Lazaro's mother a housing plot and a field for agriculture. When she died, Lazaro received the land right to the housing plot and the bordering fields. Lazaro is a good friend of Philipo. They used to attend the Lutheran service together.

Lazaro's first wife from Endamararariek that he married in the 1980s died. He divorced his second wife, who came from Chemchem. His third wife is from Bugeri and was still married to him as of 2010. Lazaro changed his religion from Lutheran to Catholic because his wife was a Catholic and she convinced him to change the religion. Citing one member of the Surumbu family: "Lazaro is the source of all conflicts in our family!"[316]

Isaya is Lazaro's friend, and when he was 10-cell leader[317] he set borders in favour of Lazaro.

Conflict on Borders and Furrows for Run-off water

The following case shows how conflicts start that concern the maintenance of borders between fields and paths. The case shows an attempt to extend land holdings by planting areas beyond the borders of the land.

Box 21. Extension of land holdings
One of Happy's land conflicts concerns the cattle road to his house. Out of the seven children of Surumbu and his first wife, Happy is the last remaining pastoralist. The cattle path is his access road to his house and the place where he keeps the cattle overnight. This road was planned by

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[314] Interview with Gabrielli Ama, Endamarariek, 19.10.2009.

[315] Interview with Emanuel Happy, Endamarariek, 04.03.2010.

[316] Interview with Andrea Surumbu, Endamarariek, 12.01.2010.

[317] A cell was the lowest level of government and served as the grassroots organ of the socialist party. It consisted of 10 houses grouped together under a single leader, who represented the cell to the VDC.

the village council in the 2000s when the surrounding land was increasingly used for agriculture.

The conflict began in early 2010. It had just started to rain and all over Endamarariek people were preparing their fields for planting. During this time the borders are most variable and on some occasions people extend their borders to maximise their harvest. According to Happy, Lazaro extended his fields and narrowed the path to Happy's house. Happy explains: "If the road is not big enough my cattle can destroy the harvest of Lazaro and this would result in a conflict even worse than now!"[318,319]

Both Lazaro and Philipo exerted pressure on Happy. "They want to make me run out of money and make me tired. Lazaro and Philipo have an alliance. They fight against me on various borders to make me give up."[320]

Emanuel, Happy's son, has friendship ties to the sub-village chairman because they both sing in the choir of the Lutheran church. On 12 January 2010 the sub-village chairman and the 10-cell leader met with Lazaro and Happy to solve the conflict. The opponents were each accompanied by their youngest sons who were friendly and open with each other. The only dissonance was between the two opponents, Lazaro and Happy.

The sub-village chairman opened the meeting by greeting everybody and asked Happy to talk about the conflict. During this talk the elders of the neighbourhood (nine males and one female) appeared but kept quiet throughout the whole process. It was explained to me that they were witnesses. The sub-village chairman summarised Happy's story and recalled that the path had been in Happy's hands since the former sub-village chairman fixed it in 2002. The 10-cell leader took action and measured the path. He found that it had been narrowed down from seven to six or in some places to five metres by Lazaro extending his fields. The 10-cell leader and sub-village chairman then marked the borders of the path by planting sisal. Using his feet to measure the field, the 10-cell leader walked along the border of Lazaro's field with all others following him. Emanuel handed over a hoe (Kiswahili: *jembe*) for the sub-village chairman to plant sisal along the border. The sub-village chairman put a plant every ten meters. The sons of the opponents provided the sisal plants.

Lazaro and Happy continued arguing during this procedure. Lazaro said to Happy, "*Unanitukana?*"—"Are you insulting me?".[321] Being asked this question in front of the others

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made Happy very angry and he responded: "Your bull should never again put a foot on my earth!".[322] The sons tried to contain the conflict and assured Happy and Lazaro that the words were not meant so harshly. Later Emanuel told me that his father had another case with Lazaro which had been running since 2006 (see below).

After the borders of the path were finalised, the conversation moved to the next conflict topic: the drainage furrows for the runoff of water during the rainy season. One neighbour had built a drainage furrow to prevent the heavy rain from washing away his crops on his field uphill. This water now drained along a path and flooded Lazaro's fields. Lazaro complained that this path should also be fixed. The sub-village chairman refused because the person concerned was not present and no conflict had been reported on that path. Then Lazaro's son started singing: "*Acha kulia-a shida za dunia-a!*"—"Stop crying about the problems of the world!"[323,324]

Finally the sub-village chairman wrote down the names of the people present. The final talk was again between Happy and Lazaro. Lazaro threatened Happy while leaving the scene: "I will bring this case in front of the tribunal. We are not yet done!"[325]

This case shows that the land-use planning of village government officials is not effective at preventing conflicts. The decisions made by the sub-village chairman regarding the width of the path are not acknowledged by a farmer with land bordering the path, and no planning is done to avoid conflicts over furrows for run-off water. The participatory land-use planning proposed by the 1999 land reform has not been implemented, and conflicts occur as a result. It is significant that I came across two conflicts that concerned land-use planning. This is clear evidence that land-use planning by the government is not working well.

Happy, who is classified as a low-income pastoralist, chose to call upon the statutory authority instead of the elders. He may have done so because of the social networks of his son (Emanuel's friendship with the sub-village chairman) or because the statutory authority planned the path in the first case. This case shows that actors in a conflict choose one forum over another that is more likely to fulfil their aim.

Forum Shopping in Conflicts within the Surumbu Family

The following case touches upon several topics that are central to this work. These include the struggle of people with low incomes in conflict situations, the fact that customary institutions very

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[322] Interview with Happy Surumbu, Endamarariek, 12.01.2010.

[323] Interview with Lazaro Mdogo, Endamarariek, 12.02.2010.

[324] This song is a famous Bongo Flavour hit written and performed by Jose Chameleone called "Shida za Dunia".

[325] Interview with Lazaro Surumbu, Endamarariek, 12.02.2010.

much influence the conflict process but elders have lost influence, and the strategies that wealthy opponents use to win conflicts (choosing the forum and appealing constantly until the opponent runs out of money). In addition, the case shows the role of customary mechanisms of social control such as curses and *wakari*.

Box 22. Forum shopping in brothers' fight over inheritance
Happy and Philipo had a conflict over a three-quarters acre plot that had belonged to their father Surumbu. The conflict officially started in 2006 when Philipo accused Happy of trespassing on his land. However, the roots of the conflict date back to the 1970s. Those roots of the conflict are very important in order to understand how customary institutions very much influenced the conflict process but are not mentioned in the minutes of courts. Therefore I resume the entire conflict dating back to 1972. ***Historical and current developments of the conflict case*** The core question discussed in the ward land tribunal (Case No. 76 of 2007 at the ward tribunal) was the issue of who passed which land right to whom. In the tribunal notes, Philipo argues that his father gave him the land in 1972 during Happy's absence. Following customary law, this would be a usufruct right in which the father has the right to change his decision. At that time Happy was grazing his cattle permanently in a neighbouring village. When Surumbu died in 1980, the inheritance was distributed by a clan meeting. Happy says he received a permanent right to the land at that time. Witnesses report that after Philipo received the right to cultivate the disputed land in 1972, one crop period passed without conflicts. Philipo's father, Surumbu, then divided the field into two pieces. One piece was distributed to Philipo and one to Lazaro (the son of the widow who had been living on Surumbu's land). Philipo did not accept this decision and called the neighbourhood elders and his father to discuss the issue. The elders instructed Philipo to accept and follow his father's decision. Philipo reports on what happened at the meeting: "*Baba akanipiga palepale!*" – "My father hit me right there"[326] In his statement to the Ward Tribunal, Philipo reported that he then took the case to the village government (Ward Tribunal 2007:2). The next day he went to the 10-cell leader to ask for a letter to bring the case to the village development committee of TANU. The committee decided that the sole right to the land was Philipo's. The neighbourhood elders were informed of this

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[326] Interview with Philipo Surumbu, Endamarariek, 01.02.2010.

decision.

Happy Surumbu returned that year and received a housing plot from his father on his father's land. Happy's plot bordered the piece of land Philipo was cultivating. Philipo often complained that Happy would walk through his field with cattle. Philipo's complaining attitude and behaviour resulted in *wakari*[327] between Philipo and his father in 1973.

In 1975, Philipo cultivated and harvested fields that had been given to him by the village government. Using grain from the harvest, he brewed the local beer (Kiswahili: *pombe*) for a reconciliation ceremony to end *wakari* with his father. He also gave a female calf to his father for reconciliation. In his statement to the ward tribunal, Philipo reported that his father finally agreed with the village committee's decision to give Philipo the disputed piece of land. On the day of reconciliation, elders of the neighbourhood, Philipo, and his father demarked the boundaries of the land so as to no longer fight about it.

In 2004, Philipo accused his brother Happy of trespassing on his land and said Happy had been cutting down trees to expand his second wife's land. In 2005, Happy started cultivating the cleared land. In 2006, Happy drew a border between his plot and Philipo's plot. Philipo disagreed with the border and responded by calling the sub-village chairman. The sub-village chairman investigated the case and sent the brothers to the village land committee. Philipo brought the case to the village land committee.

On 2 November 2006, the committee members went to the disputed site to solve the conflict. On that day, Lazaro was a witness but he refused to show the location of any borders. This can be explained by Lazaro's close ties with Philipo—he did not want to be seen stabbing Philipo in the back. Nevertheless the committee marked the boundaries of the land with 17 sisal plants.

Happy did not accept the village land committee's decision and argued that his land was broader. He further accused the committee of unfairly favouring Philipo. In his testimony to the ward tribunal, the former village executive officer stated that 23 neighbourhood elders had been present when the land committee fixed the boundaries and that the elders were interviewed by the members of the land committee. However, Happy's brother Andrea argues that the land committee ignored the elders' testimony: "These days the power of the village government is stronger than that of the elders. In that case it was on purpose that Philipo called the committee which contains a few people whom he is friends with and others he could bribe.

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[327] *Wakari* is a local institution that prevents eruption of interpersonal disputes. People who are in wakari cut all social ties to each other (see chapter 4.1.5.).

The elders were definite that this land was Happy's but their testimony didn't change the situation."[328] Happy and Andrea argue that Philipo had good connections to the village land committee. The committee chairman was a good friend of Lazaro and Philipo, and so the committee ruled in favour of Philipo. Andrea confirms this friendship: "Philipo had a friendship with the chairman of the village land committee. Only three members of the committee came to see the site. Then they decided in favour of Philipo. There was a friendship thing going on."[329] In Happy's narrative the story is different. He said that he called the neighbourhood elders and that they held a meeting where both opponents were present. According to Happy, the elders ruled that Happy had drawn the border correctly. But Philipo refused the elders' decision and only then went to the village land committee. In the hearing, the committee decided in favour of Philipo. "Ilikuwa uamuzi wa upande moja"—"It was a one-sided decision".[330]

Conflict solution by the VLA bodies and subsequent erosion of the decision

Happy did not accept the village land committee's decision. As soon as he had enough money (which he accessed through diverse social networks) and a legal advisor he opened a case at the ward land tribunal. The tribunal visited the site and interviewed six elders from the neighbourhood as witnesses. In 2007 the tribunal declared the border set by the village land committee as invalid and gave Happy the right to the land.

Philipo Surumbu appealed to the District Land and Housing Tribunal on 15 January 2008. In its decision, the district tribunal mentions that Philipo purposely drew a different map of the disputed land than the ward tribunal and accuses him of trying to "hide the truth". The district tribunal visited the site on 21 August 2008. The disputing parties contradicted each other on one point: Philipo argues that the land was owned by Lazaro, and Happy argues that the land was his father's and he inherited it. The district tribunal endorsed the decision of the ward tribunal that Happy Surumbu holds the right to the land (District Land and Housing Tribunal of Karatu 2008:1).

Philipo then went on and claimed his right in front of the High Court in Arusha. This time Philipo won the case. Rumours said that he used his contacts in the Lutheran Church and the local political elite and went to Arusha before the process started and bribed the judges to decide in his favour.

The court decision was postponed several times. On 4 March 2010, Emanuel was very angry

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[328] Interview with Andrea Surumbu, Endamarariek, 12.01.2010.

[329] Interview with Andrea Surumbu, Endamarariek, 12.01.2010.

[330] Interview with Emanuel Happy, Endamarariek, 03.07.2015.

when the decision was again postponed. "My father will lose this case just because the transport is so expensive! Philipo was there already two days before the date the judge had fixed for the pronouncement of judgement. I'm sure Philipo bribed the judge!"[331]

Conflict solution in the social field of customary law

It might be assumed that the conflict was resolved after the decision was made. But then Philipo's cows began to die of unknown causes. When his most precious bull died, Philipo called the elders. In this meeting the elders attributed the calamities to the disharmony in the family and to Philipo's refusal to accept his father's words. The elders underlined the local inheritance rule, which stipulated that the father distributes land based on his own will. During the meeting it was decided that the land should be handed back to Happy. By the time I left Endamarariek, Happy was cultivating the land and the conflict was settled.

This case highlights several important points about the role of customary social control mechanisms in the context of statutory forums, the strategies that wealthier opponents use to win conflicts in the statutory forums, and the reduced influcene of the elders in statutory land distribution.

Peaceful solution by forum shopping

The final sustainable solution of the conflict took place in the social field of customary law as a decision of the elders, after all viable court levels of the statutory law had been passed.

The reduced influence of the elders is already shown historically by Philipo's means of access to land: Philipo was able to gain land rights against his father's will by going to the village government.

Furthermore, the reduced influence of elders is shown by the behaviour of the village land committee which ignored the elders' testimony in the conflict between Philipo and Happy. Finally, Andrea's observation about the power of the village government being stronger than that of the elders, highlights the loss of power of the elders.

The erosion of the elders' power, and therefore the influence of the customary social field, may be one reason for the prevalence of land conflicts in Karatu District. Whereas the elders' aim in conflict resolution is to restore peace and harmony in the neighbourhood, government officials have a different focus in their decisions. Sometimes corruption also plays a role. Government officials are more susceptible to bribery—as is shown by Philipo's success in winning the case with both the village land committee and the High Court in Arusha. As Hagborg

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[331] Interview with Emanuel Happy, Endamarariek, 04.03.2010.

(Hagborg 2001:182) describes in his study on conflicts in a village neighbouring the study area, the government interventions often add fuel to disputes rather than solving them.

Strategy of powerful actors

This case shows a strategy that wealthy parties use to gain rights to land: they continuously appeal the case until the low-income opponent runs out of money. Only the social networks of Happy and his son made it possible for them to continue fighting in court. Other low-income villagers may not have such an extensive social network and may simply give up their land after losing a case. In this way, the availability of money can restrict low-income villagers' land rights.

The wealthier party in the conflict may also set the direction of the conflict by conducting forum shopping. In this case, Philipo went to the village land committee and later to the district tribunal and High Court. The less wealthy opponent, Happy, had no choice but to follow. However, Happy also chose a forum when he appealed to the ward tribunal (although in a way he was still bound by Philipo's choice of the village land committee, since he just appealed to the next level up from the land committee).

Mechanisms of social control

A final important aspect in this case is the influence of customary mechanisms of social control such as sacrifices, curses and *wakari*. An elder in the village involved with the case mentioned the influence of curses and magic on conflicts:

> Sacrifices, curses and *wakari* very much influence the process of land conflicts. Whether the conflict is on the distribution of inheritance, borders or land loans, the activation of rituals and the prevention of being hit by a curse or other magical things is very time-consuming for the opponents. I don't know of any conflict, in which these things didn't play a role. In the conflict between Philipo and Happy it also influenced the conflict process.[332]

Intimidation of opponents and witnesses through customary mechanisms such as curses are central aspects in court cases because they might alter the decision. There are far too little studies on them as means to gain land rights but they can unfold power that can change decisions and direct witnesses' and opponents' behaviour in a conflict process even against their will. Customary mechanisms are a way for low-income people to gain more power in the conflict process.

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[332] Interview with Bessi Bombo, Endamarariek, 03.02.2010.

Regarding the three main objectives of the VLA, that is to increase tenure security, to empower "the poor", and to reduce conflicts over land, the case shows the following: The implementation of the land reform did not reduce conflicts over land in the most common field of conflicts, this being conflicts on the distribution of inheritance within families. Furthermore the the empowerement of low-income families can easily be bypassed by wealthier actors by taking the conflict cases to higher court levels.

7.5.2. The Effect of Microfinance on Land Confiscation

As discussed in the introduction of the thesis, De Soto (2000), on whom the land reform is based, argues that the recognition of property rights in natural resource management plays a central role for the participation of low-income families in the economy, and that formalising land rights therefore reduces poverty.

The following case shows how the land reform resulted - in connection with changes in the mircrofinance system – in land loss for low-income people.

Box 23. How microfinance results in land grabbing
The case concerns a loan from SACCOS, a local savings and credit co-operative society that could not be repaid on time by Ama Alley, one of the founding members of the society and a member of its committee for three years. As a consequence, SACCOS threatened Alley with the confiscation of his housing plot and his last remaining field. Alley is very much troubled by this process and came to see me on 2 February 2010 to tell me his story.
Ama Alley was born in 1967 in Endamarariek. His father was a famous magician and fortune teller. His clan is known for their ability to "blow out fire". All members of the clan are respected people in the community and some of them hold important positions on school boards or other respected positions.
SACCOS is a local microfinance bank that was established in January 2006. It started with 75 members in 2006 and had 245 members (139 men and 106 women) in 2010. The reasons for borrowing money differ between women and men. Men usually borrow money for house-building material, land loans, and businesses. Women tend to borrow money for school fees.[333] However, Alley received a loan for his wife to pay for her school fees.
On 24 January 2008, Alley signed a contract with SACCOS Endamarariek for a loan of TZS1,000,000. To receive a loan, borrowers must be SACCOS members by sharehold through a

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[333] Interview with Richard Tluwa, Endamarariek, 08.03.2010.

once-only payment of between TZS5,000 and TZS25,000. Members can only receive a microloan after opening a savings account. The amount of the loan can be two-thirds higher than the amount of money deposited in the account. The interest rate for a loan of TZS1 million is 12.8% in the first year and 7% per month in the subsequent period.

In 2009, SACCOS Endamarariek took a loan of over TZS71 million from CRDB bank, a commercial bank in Tanzania. SACCOS then redistributed the money to people in Endamarariek, one of whom was Alley. Alley took a loan of TZS1 million after he deposited TZS334,000 in his account in February 2007. When he took the loan he expected a normal harvest. With his profits from the harvest, he could have repaid the loan within a year. But unfortunately there was a serious drought in 2008 and 2009. In February 2009, the deadline to repay the loan passed and Alley was then forced to pay an interest rate of 7% per month. Without paying the loan and interest back, the interest and compounded interest amounted to about 125% per year.

Alley said that the money he paid back was only used for the interest.

There is also a loan system in customary law. Based on friendship, loans are given to pay for health care, seeds or school fees. The lender and borrower discuss the loan terms in front of some selected elders of the neighbourhood and agree upon a deadline for repaying the loan. It is possible to ask for a postponement of the deadline. However, if you do not pay back you lose your reputation in the neighbourhood and you might never get a loan again.

Some aspects of this could also be found in this particular case.

Although Alley had failed to repay his loan, he had not yet been taken to court because he was a respected man in the village. According to one villager:

> Alley was highly respected and commanded authority in the community. This is why the committee gave him more time to pay back the loan than the others. According to the protocol, he should have been within the first row of accused that were reported in Karatu.[334]

Rumours said that the former chairman of SACCOS was helping Alley.

Although Alley was not immediately brought to court, in 2010 he was called every day to the SACCOS office to remind him of his obligation to repay the loan. "Now the children eat their parents!"[335] he said that day. He explained that before SACCOS got the loan from CRDB, the conditions of the contracts were not followed that strictly. In 2010 a new board was elected that decided to take Alley to court for his failure to repay the loan.

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[334] Interview with Awaki Shauri, Endamarariek, 11.02.2010.

[335] Interview with Alley, Endamarariek, 02.02.2010.

Soon after I left the field, Alley got a call summoning him to appear before the Karatu District and Housing Court. Observers of the case predicted that Alley would lose his land.

Alley's case is not a single one; several other people from the village have faced the same problem. In 2009, SACCOS took 19 people to the Karatu District and Housing Court because they could not repay their loans for the same reason as Alley. The court decided to mortgage the people's land.

This case shows potential consequences of the formalisation of customary land rights into statutory property rights: land may be used as collateral for loans. But especially for low-income families, a loan may become a trap that costs them the land, which is their main source of income.

When comparing the statutory and the customary loan arrangements, the customary arrangements do not take such harsh measures. The customary loan system cannot withdraw the land as the basis for livelihood, even when loans are not paid back. The highest penalty in customary law for not paying back a loan would be the loss of reputation in the community and exclusion from further exchange.

As in the Surumbu-case, the customary social fields interfered with the statutory processes. However, as opposed to the former case, the customary social fields could only postpone the effects of statutory law enforcement, they could not prevent them.

The case furthermore highlights the contradictions between the customary and the statutory social fields in the context of land rights:

From the perspective of the bank in connection with the statutory law (VLA) Alley has the full statetory ownership to the land. In other words the asset of the land is backed by a value that belongs to him as a person, that is equity. It serves as collateral for the bank. Apparently, it is this collateral that made the high loan possible in first place.

In the social field of the customary law, Alley's "ownership" appears to be very different. As outlined in chapter 7.3.1., Alley's "ownership" is understood simply as usufruct rights that are temporarily allocated to him through the elders. His access to land is based on what has been categorised in tabel 11 in in chapter 7.3.1. as a "family loan". As underlined earlier, this method of land acquisition is import for low-income households. In this social field, the land is rather a form of debt, that is liability, that cannot serve as as collateral easily.

7.5.3. Forum Shopping to Make Community Participation in Land Planning Work

The following case shows how a group of women enforced participation in decisions about village land distribution. The land reform aimed to solve conflicts over land by enacting community-based land management in the hands of the village council. In the case below, however, the village council does not listen to the peoples' views and its decisions are not accepted by most of the people in the village. The villagers therefore use the forums of customary law to block the village council's action. The use of customary forums in this case suggests that in rural Karatu the government currently does not provide forums of decision-making that provide structures of participation in terms of land issues. As long as the actors cannot address their claims they will conduct forum shopping.

Box 24. The struggle for land on Black Mountain
The conflict concerns a piece of land on a mountain situated on the upper edge of the East African Rift Valley facing the famous Lake Manyara National Park. A group of people tied together by the customary unit of the *Aya* challenged the newly gained power of the village council to decide on the use of land within village boundaries. People revolted against the implementation of the 1999 land reform because they refused to accept the village council's power as decision-maker over land access. They specifically rejected the power of the village council to award land titles covering an area far larger than the land of the other families in the village. The story begins with Ama, an investor who attempted to gain exclusive access rights to an area claimed as communal *Aya* land by most villagers. Ama owns a tourist campsite on Black Mountain and wanted to extend his holdings by turning the campsite into a lodge. At age 45, Ama is already experienced and well-established in the Tanzanian tourism sector. Ama was born in the village where the conflict took place. His parents were local farmers and exceptionally good cattle keepers. They sold a cow every year to finance his education, thus laying the foundation of his career. After finishing his secondary school education in the Tanzanian capital Dodoma, Ama first worked at Olduvai Gorge, a place about 150 kilometres away from his hometown and highly frequented by archaeologists and tourists. He then studied Cultural Heritage Management from 2006 to 2008 in Dar es Salaam, about 500 kilometres away. As of 2009, he was continuing his studies in the field of tourism management. With the money he earned in the tourism sector, Ama built a hotel with a restaurant in the district capital not far from his home village. The place is doing well and serves as a meeting point where the local political elite exchange ideas and "do business". Ama uses his hotel to

cultivate his contacts and friendships with village and district councillors despite his high mobility. Through his contacts, he has learned the statutory way of gaining exclusive rights to plots for business purposes.

Ama considers a good education to be of the utmost importance. He is the father of three daughters, who presently study at the University of Dar es Salaam or secondary school. He wants his home area to progress economically and his people to be educated. He states: "Culture is a resource—one can make money out of it! … You just need to educate people, and then they will understand that a hotel is a benefit for them!"[336]

This is the philosophy under which Ama set up his tourism company in Karatu. Through his company, he aims to implement his idea of sustainable cultural tourism.

One of Ama's main supportors is Emanuel, the village chairman at the time of the conflict. When the conflict began in 2009, Emanuel had been in office for four years. He is an active member of CCM and lives in the village. Rumour has it that his new house was built with financial support from his good friend Ama. The fact that the population is against the construction of a hotel is irrelevant to him. "We carried out the necessary procedures for anybody to lease land for their business, everything was done the right way."[337]

Emanuel was very reserved with me. For instance he was careful not to give personal information, such as details about his family situation. He repeatedly emphasised the correctness of the procedure followed by the village government.

Ama's opponents include local farmers, herders and elders. Julia, one of Ama's main opponents, is the mother of seven children and more or less a single parent. Her husband is rarely at home; he has two other wives. Julia's main tasks are farming, running the household, and taking care of the younger children. She lives near the village centre, presumably on a plot given to the family in the *Ujamaa* era.

To Julia's regret, her education ended abruptly. Her parents were poor and could only afford to send her to school for a few years. In order to earn money for necessities and school fees, she has run a tea and bites business opposite the village office on the main street for some years. The round, straw-thatched pavilion is a place for villagers to meet and exchange news. Julia is an active member of the Free Church and attends services every Sunday. She has many friends, among them a member of the new land tribunal. They exchange ideas and information about the new land reform and women's land rights.

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[336] Interview with Ama Invest, Karatu, 19.08.2009.

[337] Interview with Emmanuel Endallah, Endamarariek, 25.03.2009.

Bessi, a small-scale farmer from Endamarariek, was chosen as representative of the herders in that area. He is the father of four children and a practising Roman Catholic in the parish where he was baptised. His family has three cows and a couple of goats in addition to the fields that he cultivates with his family. He also borrows one cow from his mother who lives next to his house. In the dry season, his wife collects and cuts grass from Black Mountain to sell in the village or to thatch her kitchen hut. Bessi also uses the land on the mountain to search for fertile pasture during the dry season. At night, he sometimes lets his cattle sleep at a friend's place near the mountain.

Kwaslema is an elder from Endamarariek. The son of the *Kahamusmo* of the area, he practises the Iraqw religion and lives approximately an hour's walking distance from the mountain. He is called several times a week to discuss and solve domestic quarrels or land disputes with other elders. He frequently receives fruit or chickens as a sign of gratitude for his services. He has 12 children and several grandchildren. Kwaslema is one of the elders who perform ritual prayers on the mountain. He explains that for the place to be suitable for rituals, nothing may be built on its eastern side. He describes his additional duties as discussing community matters with the local diviner and the other elders.

John, the ward councillor, was also involved in the conflict. He is the father of three children and a member of the opposition party CHADEMA. As ward councillor, he was greatly involved in district policy at the time of the conflict. John is an active member of the Lutheran church and says that his morals motivated him to become involved in community development and to aid marginalised people. He greatly values education. John lives in the village next to Black Mountain and at first observed the conflict from a distance. However, he was later involved in an *Aya* meeting related to the conflict. He also organised my participation in this meeting.

The following table summarises the actors involved in the conflict. It shows that people with different social classes and economic backgrounds were involved and that the actors had a variety of different aims.

Actor	Economic status	Social networks	Aim in the conflict
Table 15. Overview of the actors involved in the Black Mountain conflict			
Ama	Middle class of Tanzania, and economic elite in the village.	Highly mobile and thus has Tanzania-wide social networks.	To receive the right to use the land for building a hotel. To appropriate village land and use it for tourism purposes.
Julia	Low-income single mother.	Women within the *Aya* boundaries.	To preserve access to the land for the community and later for the young men of the village.
Emanuel	Political elite within the village, middle-class.	District-wide CCM membership.	To keep a low profile but support Ama in receiving the land.
Bessi	Low-income small-	Church member, *Aya*-wide	To preserve access to the land for cattle

	scale farmer.	social networks.	grazing in the dry season.
Kwaslema	Low-income elder	Widely known as an arbiter and respected elder in the *Aya.*	To preserve access to the land as a place for rituals.
John	Middle-class of Tanzania, and economic elite in the village.	Members of CHADEMA, Lutheran church.	To ensure a peaceful and fair distribution of land in his ward.

Black Mountain—a translation of the Iraqw name—is located on village land demarcated by the state, i.e. it lies within the village borders established by the government and thus is supposed to be managed by the village council according to state law. As far as customary law is concerned, it lies within the *Aya* boundaries and the elders are responsible for managing it in accordance with the restrictions based on Iraqw cosmology.

As of 2010, the slopes of Black Mountain were covered with scrubland and forest. The land was dynamicly used in various ways until 2009. Elders carried out rituals on the mountain, while women collected firewood and cut grass for thatching their houses or to sell to their neighbours. In the dry season of 2009, cattle herders from nearby villages used the mountain to graze their cattle, as it was the last remaining pasture in the *Aya*. In 2002, the village council leased a small area (about 2 acres) to Ama to set up a campsite with shower cubicles and cooking places. The decision to lease the land did not provoke any significant opposition at the time. The elders continued their ritual activities on the mountain unimpaired.

Although the usage of the campsite was governed by statutory law overseen by the village government, the rest of Black Mountain was used without state regulations or by-laws. The fact that different sources of law set rules for one piece of land predominantly appears in rural areas where land has not yet been individualised. Most of the land on Black Mountain is claimed as village land by the government, but regulations like by-laws for usage have not been written or enforced.

Under customary law, all people living within the *Aya* boundaries—including those beyond the statutory village boundaries—have the right to use Black Mountain. The herders that are called *wafugaji wa asili* graze cattle and goats on the mountain slopes. Social networks within the *Aya* provide herders with the possibility of keeping their cattle overnight in homesteads near the mountain. Elders from nearby villages monitor the herders' use of the mountain, and herders bring their cattle from a range of about 15 kilometres to the area. Until 2009, the village government had just marginal influence by granting a temporary right for Ama to run his campsite. Thus the village council's influence was only selective, but customary and statutory arrangements of usage existed site by site. This is a typical situation of legal pluralism that is business as usual for people living in rural Tanzania.

In 2009 and 2010, Black Mountain became the object of fierce conflict. There were more than 500 people involved who came from different villages, but all belonged to one *Aya*. The conflict began in December 2008 when Ama applied for a lease to an area 12 times that of the campsite in order to build a hotel with European standards. Rumours started circulating that Ama had given the village chairman significant financial help with his new house and that he had slaughtered a goat on the mountain for the elders to obtain their goodwill.

At the beginning of March 2009, a man went missing and a *hayoda* was called to look for him.[338] The search took three days and the men did the searching while the women cooked food for them. According to customary law, it is obligatory to participate in a search following a *hayoda* until the lost person is found. However, some members of the village council participated only on the first day.

While cooking for the searching men, the women, including Julia, exchanged views, ideas and their displeasure about the village council's behaviour. The women assumed that the village council had discussed and approved the investor's application for the land on Black Mountain instead of participating in the search. Julia articulates the women's concerns: "Our children won't be able to feed their families if the land is given to the investor!"[339]

Julia is confident that people will suffer without the land on Black Mountain because it is a key resource for small cattle herds, firewood, and grasses. Even though she is a Christian, she also wants the place to be protected for the elders to use for rituals.

In the context of this conflict, Julia acts together with at least 30 other mothers from the *Aya*. What they have in common is that they have spent their lives in the Iraqw residential area and have children. By developing common positions and ideas, the women effectively joined together as a group. They appear as a closed group—the individual remains hidden behind the group's opinion.

Julia interprets the actions of the women's group as a contribution to democratic decision-making instead of referring to the customary mechanisms of action by women to protect resources: "When we called the community meeting, we were applying democratic principles!"[340]

In her opinion, the well-being of the community is linked to democracy and equal access to

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[338] The alarm cry *hayoda* is called by a person if he needs help. It is a vocal signal of the Iraqw that is used in cases of cattle theft, disappearance of persons, invasion by enemies and houses on fire. When *hayoda* is called, it is obligatory for all adults within hearing range to respond.

[339] Interview with Julia Ama, Endamarariek, 07.03.2009.

[340] Interview with Julia Ama, Endamarariek, 07.03.2009.

resources. Her ideals for the community are peace and respectful contact between people without ignoring the less powerful.

After the search, the elders discussed the behaviour of the village council. They met several times and finally decided to fine the perpetrators one cow each. This fine is considered as the second highest fine in customary law. Only the village chairman refused to pay the fine. The women's group that had formed during the search then initiated an *Aya* meeting to discuss the chairman's behaviour.

Several women who initiated the discussion walked from house to house to talk to other women in their kitchens (which is a distinct women's place). In this process the women agreed upon a strategy to initiate an *Aya* meeting on a particular day. At this meeting, the presence of more than 500 women and men was observed who quietly sat in the shade of trees following the proceedings.

John, the ward councillor, officially opened the meeting. An elderly man from the village then summarised the case: some weeks earlier, *hayoda*—an alarm cry obligatory for everyone to respond to—was cried out because a man had been missing from the village for some days. On that day, even people from a radius of up to 7 kilometres away had responded to the *hayoda* to support their neighbours. But some members of the local village council, notably the chairman and the sub-village chairmen, supported the search only on the first day. Rumour had it that on the second day, they had instead discussed an investor's application for 23 acres of land. After the corpse of the lost man was retrieved, the search participants had called for a meeting to discuss the behaviour of the village councillors.

The community elders, in accord with the people present, had meted out one of the highest fines: handing over one cow per person to the elders. This fine had been paid by all the accused except one. Only the village chairman—now sitting on a bench on the meadow opposite the villagers—had opposed the village community. The meeting would discuss how to handle this behaviour.

After the case was explained in more detail, the village chairman spoke. He claimed that the topic of the meeting on the second day of the search had not been about any land questions. He proclaimed that it was about the disappearance of the man and therefore he had merely complied with his duties as village chairman. The result of the meeting was the social exclusion of the village chairman from the community—a customary Iraqw punishment called *baini*.

Although the chairman had been punished, the conflict over Black Mountain still was not resolved. The women's group worked out a strategy to prevent a hotel from being built there.

Knowing that only individuals can lease land according to national law, in September 2009 they suggested to 40 young men that they apply to the village council for the land on the mountain.

The young men's application for the land was not successful. The village council nevertheless decided to give the land to Ama for building a hotel. In October 2009, Ama started marking the land awarded to him by the village council. After that, a *hayoda* that spread quickly beyond the village boundaries was called by a woman living on a nearby farm. Some herders with their livestock were already there anyway. Also, Bessi had just put his animals out to graze. Julia and her friends came to the mountain, some of them with small children on their backs. When several hundred Iraqw had arrived from the surroundings villages, they decided to block the road. They articulated a common position that their children would not be able to feed their families if important village land was allocated to an investor. Herders and women saw little chance of the hotel bringing them any profit in the future. Only people with a secondary school education would have the required knowledge of English to be employed in a tourist hotel. This would include only a few of the young people in the village.

The district council heard of the demonstration through a call by mobile telephone on the same day and promptly imposed a construction freeze until the next elections. In these elections, all members of the village council except one were voted out of office. The new village council allocated the land to the young men. For the time being, the mountain is hardly used by the new "owners" since the choice of residential areas is substantially determined by ritual experts who use the mountain themselves for rituals. In 2015 the people living in the *Aya* continued to use the slopes of the mountain for grazing and for gathering grasses.

Forum Shopping to Make Participation Work

In the Black Mountain case, land usage is framed by two competing laws: the statutory forum of the village council and the customary forums of the elders' council and *Aya* meeting. After the 1999 land reform, the village council and ward tribunal hold the exclusive right of jurisdiction to hear and determine land disputes. However, these statutory forums compete with customary forums for decision-making power. In the case of Black Mountain, the customary forums are more powerful: the village chairman is submitted to the punishment of customary law and the village council is denied authority to decide on the usage of the Black Mountain.

The Black Mountain case is a typical example of forum shopping. Equipped with different economic capital, information, and social networks, the actors have different strategies and address different forums to struggle for power and the accomplishment of their goals. In order to achieve his aims, the single actor Ama used several forums. He submitted his application for land

to the statutory forum of the village council and attempted to influence the village chairman by helping him build a house. According to rumour, he gave a gift of a goat to the elders. This behaviour shows that Ama recognises the power of elders and the customary law. Even though he applied to the statutory forum of the village council for land rights, he realises that he can only succeed in gaining those land rights if he also has the support of customary authorities.

The villagers claiming usufruct rights to the slopes of the mountain through customary law had no statutory forum for claiming their rights. The ward tribunal for land should have been responsible for solving the conflict, but it was not seen as a point of contact for the villagers. The tribunal was only known for cases of individuals. Therefore, the villagers turned to customary forums such as the elders' council and *Aya* meeting.

The group of women used several different laws and forums. First, *hayoda* was used for the effective blockade. Next, the decision of the council of elders on the punishment for the village chairman was supported with an *Aya* meeting. Finally, the protestors' children applied for land at the village council. As the main actors opposing Ama were the women of the group, one can conclude that in this case the existence of different forums enhanced women's empowerment strategies. It seems the customary forums are viewed as most effective for protest, but the statutory forum is still seen as the most powerful way of guaranteeing land rights for the future. The women recognise the power of the state in distributing land rights but also recognise that customary forums are a more effective way to make their voices heard.

The case also shows the flexibility of customary law. One major forum used by the women was the community meeting. These meetings, as well as the elders' council, are rooted in the customary law of the Iraqw. Christian actors like Julia revive the community meetings but label them with the modern term "democratic", thus reinterpreting this forum. This shows how customary law adapts over time to changing circumstances.

As mentioned earlier in this chapter, the Shivji Commission on land reform suggested deciding on important questions of village land use through village assemblies. This is what happened in this case: people brought their request and their protest against the decision of the village government in front of the *Aya* meeting. This case provides evidence to show that the statutory forums introduced by the land reform are not participatory. The participation of representatives of all interest groups could have prevented the conflict from escalating. All villagers should be an active part of the land reform process. If people perceive the village council to be representing their concerns, there is greater potential for dealing with conflicts peacefully. In comparison to statutory control, the customary decision-making over land use is more

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participatory. The *Aya* meeting showed that it is a forum where people can give a voice to their concerns.

The different strategies used by Ama and the women's group show the effects of economic capital, information, and social networks on choice of forum. Ama was endowed with economic capital that allowed him to go to college and maintain good contacts with the village council. Additionally, he was integrated in networks geographically beyond the village community, which further generated social contacts with the local political elite. He acquired knowledge about utilising the statutory law to serve his economic interests. He adopted an economic ideology of growth and deliberately ignored local values. By attempting to expand his holdings on Black Mountain, he broke the local norm on land access. This alienated him from the people of his village of origin.

Ama's opponents had considerably less economic capital. However, they were equipped with a strong network characterised by a common language and belonging to the local community. They primarily used their social networks and their knowledge of customary law to achieve their aims. They also used their knowledge of statutory law: their knowledge of interacting with the village council combined with the low application costs enabled several young men to acquire statutory rights, and they succeeded with their applications to land on Black Mountain.

Regarding the three main objectives of the VLA, that is to increase tenure security, to empower "the poor", and to reduce conflicts over land, the case shows the following: The case highlights that the VLA does not provide tenure security for community land, which is still under thread of irregular privatisation (of land). Secondly, wealthy actors can still obtain land in the VLA strurture against the community that is comparibly less wealthy as an avarage. Furthermore the community overruled the VLA structure through a customary forum to solve the conflict.

8. Conclusion and Outlook

8.1. Research Results

8.1.1. Aims, Questions and Theoretical Contribution of the Research

This thesis has dealt with the question of how Tanzania's land (1999) and water (2002) reforms have impacted local dynamics of negotiating access to, and control over, land and water in Endamarariek, Karatu District. I have carried out 12 months of ethnographic fieldwork in 2009 and 2010, during which I examined those dynamics of negotiation. The main methodology used was the extended case method, which I have complemented with participant observation, interviews, ethnographic census, and wealth ranking. In order to place my results in a historical perspective, I also examined the history of resource control and access in the study area.

The overall aim of my research has been to contribute to an understanding of the impact of formalisation and decentralisation on resource access and control. The Tanzanian land and water reforms were designed within the framework of the Millennium Development Goals and were aimed at eradicating poverty and preventing conflicts over land. With my research I have brought to light the discrepancies between the intentions of the policies and their achieved results. Formalisation of land and water rights has not reduced poverty and conflicts while in some cases even worsening them.

I argue that the failure of the reforms to reduce poverty attests to the fact that the international development agenda does not always resonate with the realities existing at the local level. The situation at the local level is characterised by the exisistence of various social fields with their own forums, rules, and laws. The ignorance of those fields leads to outcomes where practices from the customary fields inhibit the implementation of the law, statutory laws are overruled by forum shopping, broad land loss takes place, conflicts become worse, and final solutions are found only on a customary field.

In the fields of law and political science, conflict resolution and access to resources are approached by statutory law and administration. In accordance with this perspective, the methodology of these fields has been largely grounded upon a narrow frame, with research based only on official texts and interviews with representatives of statutory bodies. By examining only the statutory order, a one-sided and incomplete picture of local realities emerges. This work has strived to provide a broader and more balanced picture using the methodologies of legal anthropology. I have used legal anthropology and institutional theory as a framework for

investigating the strategies that actors use in negotiating, gaining, and maintaining access to resources, both in daily life and in conflicts. Furthermore, I have used the concept of legal pluralism as an analytical frame to understand the diversity and the multifaceted nature of the rules applied in resource negotiation at the local level.

The theory of legal pluralism has enriched this work by calling attention to the co-existence and interaction of multiple rules and laws. For example, the idea of co-existing laws in a community suggests that actors' claims of legitimacy can be easily assigned to a specific law; for example, a village chairman may derive legitimacy from statutory law. However, my findings show that in resource distribution, the legitimacy and authority of a person to settle a conflict does not necessarily derive from the official position he/she holds at the moment, but should rather be understood as an accumulation of experiences rooted in different positions in customary law, church, projects, and state offices—all of which work together to form reputation and acknowledgement in the community. In other words, people's power to negotiate resource access and settle conflicts is by and large related to their social capital within society.

As the ethnographical chapter showed, the majority of the population in the research community are Southern Cushitic-speaking agro-pastoral Iraqw. The community is highly stratified with a few wealthy villagers who are successful entrepreneurs, in contrast to the vast majority who depend on small-scale agriculture and daily labour for their livelihoods.

In chapter 4.2. I described the religion and the local cosmology that play a central role in negotiating access to resources. There is a struggle for religious influence, in which the Christian churches fight for influence against the local religion that consists of sorcerers, diviners, the Manda clan, and the two divine beings, *Looaa* (female) and *Neetlaang'w* (male). Furthermore, the research showed that state and customary control over resources also co-exist and interfere with each other.

By taking an ethnographic approach, this work has contributed to the larger field of legal anthropology. The main pitfall of legal scholars and political scientists who investigate the impact of land reform on conflict resolution is that they focus solely on the state, and their methodological entry point is by and large guided by records of court cases. This thesis has taken a different perspective, and as such has come to contrary conclusions. This highlights the point that in order to understand legal mechanisms, we need to take into account the local power structures and control mechanisms that are based on non-statutory sources of law.

The rest of this conclusion summarises the interactions between statutory rules and customary rules based on the local cosmology. By summerizing the main findings of the historical

analysis and the analysis of the current local dynamics caused by the implementation of the land and water reform I will outline the key mesaages that derive from the combined application of those two approaches. Finally, I give suggestions for improving the implementation of the reforms in order to give a voice to all members of the community in resource management and I put my results in a broader perspective.

8.1.2. Results of the Analysis and Overall View

The analysis performed in the present thesis has been grounded on two approaches: a historical analysis and an analysis of the current situation in 2009/2010. The reason of this double approchach is the following:

New legal reforms are not implemented in a historical vacuum. Therefore it is essential for a comprehensive analysis to take into account both how the legal pluralistic situation in Endamarariek developed and how it then affected the implementation of the water and land Act in 2009/2010.

On one hand, the approach to analysis of the actual situation in 2009/2010 can explain, for instance, how women are empowered by forum shopping to transfer the decision power from one forum, the village council, to another, the Aya meeting. The historical approach, on the other hand, is necessary to explain where those means applied by the women to enforce their rights evolved from. The detailed results of the analysis are the following:

Historical View on Access and Control over Resources

Four historical periods were examined: the late nineteenth century, the colonial era, African socialism, and liberalisation. The chapters examined how, in each period, state interventions impacted local patterns of resource organisation. The historical perspective revealed how local communities reacted to state interventions and highlighted both continuities and discontinuities in access to resources for different groups in society.

At the turn of the nineteenth century, control and use of resources was strongly influenced by cosmological aspects of the Iraqw religion. The main actors in resource control were the elders, sorcerers and diviners, who had central positions in the political and religious order. Their power was rooted in Iraqw cosmology and derived from their ability to interpret the divine entities.

Under the customary law, the elders' decisions about the distribution of usufruct rights to their children were highly flexible and adaptive. The elders controlled decision-making rights on the usage of agricultural fields within a neighbourhood, which meant that they could change their

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decision with each season. In some years, an elder could give his son usufruct rights, while in another year he could withdraw those rights when a son misbehaved. This practice reinforced the elders' power because children were dependent on the goodwill of their parents.

In contrast to the common view that women lacked a voice in resource management under customary law, my research shows that women could make their concerns about land and water usage heard. By forming an alliance with other women and initiating *Aya* meetings, women could force the community to discuss a certain conflict or make a decision about land use. The *Aya*, which today includes several villages, was the biggest social and political unit under customary law. To adapt Moore's (Moore 1973:722) concept, the *Aya* was a semi-autonomous social field that could maintain rules of resource organisation.

During the colonial period, male elders played a central role in the negotiation between statutory and customary law and concepts. I have used Ensminger's bargaining theory of institutional change as a framework for understanding these dynamics. Ensminger argues that a change of institutions is explained by a change in the aims or possibilities of single actors. She shows that the power of single individuals can lead to the change or retention of institutions if these outcomes are in the interest of the individuals themselves (Ensminger 1990:672). During the colonial period, institutional arrangements changed towards a setting that favoured individual male elders, as decision-making rights shifted toward a male individualised ruling. This change resulted from the bargaining power of the male elders during the colonial era. The way the colonial law was manifested in the local arena was very much influenced by the tactics of some elders, who combined the intention of the colonial state interventions (to gain direct and repressive control over resource access) and the continuity of customary rules that granted elders power over their communities. Some elders took positions as sub-chiefs and thus gained control over land-use planning by combining their power as elders and their power as state officials, in other words they applied forum shopping. The elders were seldom instrumentalised and restricted by the colonial regime. Rather, they had a lot of power to navigate their interests due to their good reputation among the colonial staff, who saw them as benevolent, intelligent and reliable leaders. The elders' social and political position was thus embedded within and reinforced by multiple institutional layers of society. The strategic use of the elders' power to influence colonial decisions resulted in an extension of land and resource access for their own people.

While male elders gained power during colonial rule, women's participation in communal decision-making and their ability to control male decisions on land and water access was significantly reduced. Female elders could not form an alliance with the colonial administrative staff and thus lost their influence in the public sphere to a great extent. My findings on the role of

female elders (see box 9) support Snyder's findings that women's influence on the public sphere retreated during colonial and socialist times, but has increased more recently as women reassert their power to call *Aya* meetings over resource control (Snyder 2006:88).

The period of African socialism began with Tanzania's independence in the 1960s. The socialist policies of the independent state and the *Ujamaa* policy of Operation Vijiji were only felt in the study area in the mid-1970s. As socialist policies took effect, they changed local patterns of control over land and, to some degree, water resources. However, the impacts on land distribution in particular were much more noticeable than in the colonial period. By that time, land distribution in Endamarariek began to shift from the elders to state organs because resettlement was enforced. The main actors in the newly established governments were competitive, individualistic, and profit-oriented farmers who took advantage of the government reforms to reinforce their own control over land and other resources. The resettlement greatly weakened the former means of distributing land. Customary inheritance rules were ignored and the borders of family land were rearranged. Although some elders maintained access to their land by having it distributed to their own male children, the intervention decreased the power of neighbourhood elders by causing in some families a freezing of the formerly flexible usufruct rights. Elders were less able to control the actions of their children by redistributing land according to the children's behaviour. Two or three years after the redistribution, many farmers returned to their original fields. This process led to a regaining of power by the elders, but they did not recover their former power. Land distribution by the village government ended only after all land had been distributed. After this point, the means of accessing land shifted back to inheritance and therefore empowered the elders of the families again. However, the village government that had been established during *Ujamaa* maintained its power to register and legitimate claims to land.

In contrast to land, access rights to water were still managed according to customary law during the colonial and socialist period. A user community of hand-dug wells was defined by geographic features, as was decided upon by the first settlers: all households on one ridge formed a user community, and the people living there held the right to extract water from all water sources. However, the initiation of a water scheme through the Catholic Church changed water availability and introduced new actors and organisational principles in the provision of water. New actors were those who build water shemes and were to a large extent put into office by the Catholic Church.

The final historical period of liberalisation began in 1982**.** Conflicts over land became more common and statutory courts were increasingly employed to settle conflicts. The gradual shift to

using state courts for dispute settlement instead of elders can partly even be explained by a practice in customary law. According to customary law, conflicting parties in a land dispute consult those parties from which they received the land, in this case the state officals and not the elders. Another reason for the shift might be that the elders' power has decreased (as mentioned above) while the power of the state has increased. Some people choose to go to the courts because they believe the courts to have the most power to enforce their decisions (see box 26).

In a nutschell, this historical development from the turn of the century resulted in a situation which can be best explained as a legal pluralistic setting. Those legal fields manifested themselfes very clearly in the context of access to land and water.

On the basis of this historical knowledge I then explained how both the 2002 water reform and the 1999 land reform created effects on the local level, which were far from the original intentions of policy makers.

Analysis of the implementation of the 2002 water reform

The NAWAPO aims to reduce poverty by improving access to domestic water for low-income families, but does not propose concepts such as a certain amount of free water for those families who are unable to afford water. Instead, the reform proposes strategies for improving water access, which include decentralisation, cost recovery, formalisation of water rights, and participation of water users. These concepts are buzzwords that circulate in international development agencies, but their *de facto* implementation is often very different from what the development agencies intended. Strategies are very well formulated in detail while roles in the district water department, village level, and household levels are not further defined, as Mandara (2013:52) also found. At the end, COWSOs with a formal water right are responsible for negotiating roles and responsibilities. This situation opens the opportunity to bridge customary management rights and state-led governance structure. Komakech (Komakech and van der Zaag 2013:231) showed this for a River Committee in Tanzania but it can also be applied in COWSO.

In rural Karatu people obtain domestic water from a variation of improved and unimproved sources. Improved water supply is provided by faith-based organisations, all being private companies that orientate themselves on project law framed by Christian values.

The water point mapping of rural Karatu does not reflect reality in Endamarariek village and gives a false impression of water supply in the village. Most domestic points cannot serve 250 people on average, especially not in the dry season, because of problems with water delivery. This finding underlines Smiley's thesis that access is broader than the measured distance of a household from the house (Smiley 2013:138). My results show that besides reliability, quality,

quantity, and costs the local beliefs, gender and historically grown power asymmetries are further aspects that need to be taken into account when analysing domestic water.

In rural Karatu, the management of these piped water schemes differs greatly. Reasons for that included paternalistic power structures, the reluctance of government officials to give up power, political conflicts, lack of a powerful figurehead, and the use or non-use of customary democratic decision-making mechanisms.

The principle of decentralisation was implemented in the study area, at least on paper. The organisation that manages the piped water scheme, ENDAWASU, acquired a formal water permit and a constitution that established participatory and democratic structures. However, the participatory structures laid down in the ENDAWASU constitution and the *de facto* management differ to a great extent. As the case of the water pump showed, the water board members have no control over the management of the scheme. Instead, a few people within the administration hold decision-making power because of a historically developed concentration of power in certain positions within the scheme and the district administration.

Even though the strategies required by the NAWAPO were partially implemented in the research area, domestic water access for low-income families did not improve. Instead, the local piped water scheme most directly benefited the economic elite of the community.The principle of cost recovery was implemented in the piped water scheme via a pay-per-bucket system at domestic taps and a charge per litre for private connections. The absence of a social price policy (i.e. fulfilment of basic water needs free of charge) *de facto* excludes low-income families from the use of the piped water scheme. Instead, low-income families access water at wells that are constructed and maintained by shared labour, but have a low water quality.

In contrast to state-controlled piped water schemes in the study area, the management of hand-dug wells is based on customary law and follows participatory principles. Customary water law is part of the comprehensive customary law derived from local beliefs and Iraqw cosmology and cannot be integrated into the statutory water management that is based on different basic assumptions. For example, statutory law is based on property rights, whereas customary law is based on usufruct rights. Also, flexibility is a basic characteristic of customary water management and is contradictory to the formalisation of written law. For example, the user group of a well is widened to the whole *Aya* in case of drought. This shows that the shared labour to build and maintain a well cannot be seen as parallel to the pay-per-bucket system of cost recovery, because people who did not share the labour are allowed access in case of need. Actually the shared labour system is much more similar to a social pricing system where the poorest and most needy

people are not required to pay (just as people who did not build the well are allowed to take water when they badly need it). The goal of customary law is to preserve the health and welfare of the entire community whereas statutory law sets static definitions of the rights of individuals or groups.

A core finding of chapter 6 is that ENDAWASU scheme serves as the main water source for the economic elite and the public institutions such as church buildings, dispensaries, and schools, both government- and church-owned. This piped scheme also provides public taps that serve local households. The public taps are governed by project law that follows the principles of the 2002 water reform. These principles reflect international water management strategies and were implemented through project law even before the national water policy was launched.

To analyse the impact of state reforms on local water management, especially when they intend to reorganise roles and responsibilities on the scope of the district, the organisations that provide water, and the water user, anthropologists can add another perspective to help integrating local structures. They add another perspective to the debates on global concepts to improve water access for low-income families for the sake of "alienating poverty". This chapter has shown that water is not only a resource but also a substance that connects many realms of social life, as to put it in Orlove and Caton's words (Orlove and Caton 2010:401). The insight of unequal distribution of water in Endamarariek is partly provoked by the discrepancy between statutory models for rural water management in the water policy that are framed by "buzzword concepts" and "development blueprints", and the *de facto* local water management. The improvement of access for low-income families and the equitable water access are contradicted by the ignorance of customary decision-making forums and customary rules. The Tanzanian state should consider employing more sociologists and anthropologists in the district water departments to take into consideration the complex local scenario. Unimproved sources could thus be recognised as well as appropriate rules that ensure a basic access to clean water for low-income families.

Results of the analysis of the implementation of 1999 land reform

As stated in the introduction of chapter 7, the 1999 land reform has three main goals: to empower "the poor", to increase tenure security, and to reduce conflicts over land. Based on three land cases in this study, I showed that the implementation of the VLA in the research area initiated other dynamics than intended.

The first case of a land biography of the Surumbu family concerning family conflicts on land and inheritance (chapter 7.5.1.) shows the way the generations access land through both

customary and statutory law. The analysis of the land conflicts in the second generation then exemplarily shows unintended outcomes of the implementation of the VLA in the field of inheritance. The inequity of wealth leads to the disadvantage of low-income actors in the statutory system: Unaffordable transport costs and a lack of knowledge on procedures in statutory courts are in this case the reason why the low-income actor nearly lost his access to inherited land. However, the case also shows how the application of the rules generated by the social field of the VLA are inhibited by customary law and finally result in a peaceful solution that only could be obtained by forum shopping with reference to the customary forum.

The second case (chapter 7.5.2.) describes the linkage between microfinance and insecurity of land tenure of low-income families. Through the implementation of the VLA an understanding of land as collateral for loans is promoted that appears in harsh contrast to the understanding of customary law that understands access to land as temporary allocated usufruct rights. The clash of these different understandings of land rights in Endamarariek shows another unintended dynamic of the 1999 land reform: "Family loans" are still a common way to access land that stands in conflict with the understanding of land rights promoted in the VLA. This contradictory understanding of "ownership" resulted in – from the actor's perspective – unexpected loss of land.

This case raises clear doubts that the policy of formalising land rights will achieve the intended goal of helping "the poor" by providing collateral for loans that can be used for investment in, for example, small businesses. Instead, the formalisation of land rights and the use of land as collateral have caused many farmers in Endamarariek to lose their land. This supports the argument by Musembi (2007:1473) that land titles spell both security and insecurity: for the economic elite they spell security, but for low-income farmers they spell insecurity.

The third case (7.5.3.) shows that the introduction of the VLA led to a concentration of power in the village council without adequate control mechanisms for the villagers. In contrast to statutory forums, the customary forums in the research area provide a voice to marginalised groups in land-use planning. As the case shows, *Aya* meetings integrate a variety of groups (e.g., single parents, herders and elders) and are acknowledged by the majority of the people.

Thus, the land reform has not empowered marginalised groups to make decisions over the management of communal land, but has instead concentrated power in the hands of a few statutory bodies.

As a result of this analysis I can say that tenure security has not increased for low-income farmers, and neither the introduction of a land market nor the formalisation of land rights has helped to reduce poverty.

The key point, which I have made throughout this thesis, is that external interventions, which at first glance try to reduce poverty, can in fact reinforce and deepen existing stratifications 0f society. My findings show that the land reforms have not met their stated goals of reducing land conflicts, increasing tenure security, and empowering the "poor". Instead, they have worsened the land insecurity of the poor, exacerbated land conflicts, and reduced the power of the poor in decision-making over management of communal land and water resources. The results suggest that the registration and heavy regulation that is the current *lingua franca* in land policies in many African countries should be given further thought if the aim of these reforms is truly to reduce poverty and enhance local participation.

Overall View on the Analysis

With this thesis I have brought to light the discrepancies between the intentions of the policies and their achieved results.

In almost every case that has been analysed the outcomes of the implementation of the water reform and the land reform fell short of exspectations. However, the case of KAVIWASU stands out from the rest as an example that is comparably successful in reaching its goals. It succeeded to create tariff aggreements on water usage that were acceptable to water users. Furthermore, KAVIWASU organisation achived to be viewed as legitimate and effective by community members. This thesis showed that the reason for this was that KAVIWASU – even though unintended – took into account the existence of other social fields and their forums, in this case the *Aya* meeting.

In constrast to that, all conflict cases from the land reform implementation as well as the ENDAWASU case and the pay-per-bucket system created situations that were not intended by policy makers. In each case the shortcomings could be attributed to tensions with rules and laws from the social field of customary law.

In the conflict case on inheritance the legal statutory mechanisms are inhibited by mechanisms of social control of the custmary law and the statutory process led to an even more conflict ridden outcome. A sustainable solution could only be obtained by forum shopping. In the microfinance case, the neglected understanding of the traditional access to land via the distribution of usufruct rights led to broad land loss. In the black mountain case, the primary

statutory body, the village council, privatised community land. This decision was later reversed by a group of women who used forum shopping to move the decision making power to Aya meeting.

Finally the ENDAWASU case did not share the participatory approach of KAWIWASU. The decision making power about access to water remains in the hands of a few individuals. The pay-per-bucket system resulted in a situation, which urged families to participate in two different water management systems (and in two different semi-autonomous fields).

The historical perspective underlined the deep roots of the legal pluralistic setting and highlighted why knowledge of the totality of social fields in Endamarariek is of great importance.

8.1.3. Recommendations

Before turning to the outlook, I will mention two short recommendations which can be derived from the research results mentioned above.

Tenure Shells

I showed that particular points in the implementation of a law in Endamarariek led to tensions with the laws of other social fields. This could be avoided by transferring the right to organise particular aspect of the law implementation on a local level.

This has been already seen in the water reform where the community-owned water entities are entrusted with the preparation of guidelines for the establishment of community-owned organisations.

The concept behind this recommendation is a "tenure shell". A "tenure shell" provides a way to incorporate customary forums and institutions into statutory law. As defined by Fitzpatrick (2005:458) and Hanna and Munasinghe (1995:125), the "tenure shell" is a social field that controls land within a national framework. The shell would include the existing power structures in the community and would give official legitimacy for land-use planning to *Aya* meetings, neighbourhood elders, church elders, local government councils, and other stakeholders. The "tenure shell" is especially suitable for rural Karatu because there are already semi-autonomous social fields that can mobilise many people in that region.

This would mean a limitation of state power but would improve local control over land and give a voice to regionally marginalised groups.

In the case of access to land, implementing a right to co-decision would first require eradicating the state's radical title to land, which gives power to state officials who can even misuse it. In the end, actors themselves should have the right to acknowledge a forum that is

suitable for local resource control, like the women in the Black Mountain case nominating the *Aya* meeting as the forum of choice to deal with land-use planning (see chapter 7.5.3.).

Further, the customary structures are very present when it comes to land-use planning. Church leaders are also part of the legal pluralistic setting controlling land use and access. If the Tanzanian government, instead of formalising and regulating customary rules, would officially acknowledge the role of *Aya* meetings, elders and religious leaders in rural land control, it could help build bridges between customary, religious and statutory law and enable all people to participate in decision-making over land-use planning and access.

Creating institutions that take various interests into account

The 1999 Tanzanian land reform and the 2002 Water reform act as channels through which international development concepts flow to the local level. One point that my analysis highlights is that there are no bodies that take the role of reconciling different and contradicting laws from different social fiels. This is in particularly true for the context of inheritance.

The increase in conflicts over inheritance is ultimately due to the loss of the elders' power. The behaviour of state officials in their struggle for legitimacy against elders has weakened the power of the elders. Prior to the interference of the government, the elders of a neighbourhood had absolute power and control over land distribution and could handle distribution in a flexible manner (which also included distributing land to women and other low-income farmers in need, see Box 18). The repetitive enforcement of the power of elders through, for example, the *Maasay* ritual and the acknowledged punishment of young men who disrespected the elders' decision maintained the elders' power. However, the position of the elders continues to decline due to the fact that village, ward, and district officials do not recognise their legitimacy. This is an underlying dynamic that will be pushed further by the 1999 land reform, and that in the end will result in more conflicts.

The government could solve this problem by creating space for a more comprehensive forum including all elders, local state officials and church representatives.

This thesis provides a framework to understand which conflicting interest groups exist based on the concept of social fields and highlighted what their interests are and where their sources of conflicts in water and land management lays. The state could create a bodie that integrates the following properties: having a position of the elders that respects their power, providing a voice for church officials (as far as this is constitutionally feasible) and a balance of the power of the village council and the Aya meeting as previously recommended by the th Shivji

commission (Shivji 1998:52). On a more general level, I argue in favour of some minor amendments of state law on the district level.

8.2. Outlook

Three points are important here: (1) the research applies only to a specific setting and should not be used to generalise, although certain insights can be generalised; (2) the concept of a tenure shell is a way to incorporate non-statutory forums and leaders and therefore to give people a greater voice; (3) the idea that recognising customary sources of law can reduce conflicts, both between individual villagers and between customary and statutory institutions.

Considering the fact that this research has demonstrated that marginalised groups, who have less bargaining power, are largely excluded from access to basic resources such as land and water, I feel inclined to probe into the future of local resource management and to suggest ways of improving it. I believe my research findings can serve as an invaluable lesson for all institutions and organisations that aim to change and influence control over resources on the local level. Whether projects are initiated by foreign donors or by the Tanzanian government, these findings form an important basis for reflecting on local dynamics of access to, and control over, land and water. This reflection of local dynamics is necessary to prevent unintended effects of policies, such as the futher marginalisation of low-income people and women.

However, I also want to underline that my findings apply to a specific setting and time—that of rural Karatu district in 2009–2010. Although the findings can provide insight into the dynamics of resource management in other areas, they should not be used as blueprints or as a basis for design principles that can be applied in all of rural east Africa. Local realities are very complex and vary greatly between locations. For example, the generalised view adopted by the Tanzanian National Water Policy that "women play a central role in the use, management and protection of water resources" (National Water Policy 2002: 15) is not applicable to the research region. Another example is the customary land loan system that is very specific to the region and interferres with national land law. The national law does not leave space for local specialities such as these. This creates or intensivies conflicts. That is why I argue that the local population themselves are the best experts regarding their social structure and local conditions. They should participate fully in the process of framing local access and conflict resolution.

While I do not want to make specific recommendations for east Africa as a whole, I generally recommend the acknowledgement of legal pluralism in rural Tanzania. As the research shows, state law only has a gradual influence on decision-making over land and water. In order to

improve resource management and reconcile statutory and customary laws and institutions, the idea of a "tenure shell" should be given further thought. According to Fitzpatrick, the idea of a tenure shell is for the state to define certain areas as customary land. These areas are controlled by customary law without state interventions. This means that the state does not attempt to define the groups that hold rights or to register land ownership or to keep records. The state would only define and defend the outer borders of the tenure shell (see Fitzpatrick 2005:458). I suggest expanding the idea of a tenure shell to include all local leaders of the diverse laws. This would enable the participation of all groups in the villages in the resource reform process on the local level. The acknowledgement and incorporation of customary forums of public opinion-making into state law would build bridges between laws and worldviews, and would avert a power struggle between customary and statutory leaders. Furthermore, recognition of customary institutions would increase participation of representatives from all interest groups and allow all villagers to be an active part of the reform process. As a result, people will perceive the village council as representative of their concerns, and there will be a greater chance of dealing with conflicts peacefully.

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