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Registration of private interests in land in a community lands policy setting: An exploratory study in Meru district, Tanzania

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ABSTRACT

Current Tanzanian land law offers registration of private interests in land in the form of Certificates of Customary Rights of Occupancy (CCROs) within a broader community lands approach. We conducted qualitative research on the issuance of CCROs along a mountain slope transect in Meru district in northeast Tanzania. This area features intensified smallholder agriculture that evolutionary theory suggests is well adapted for registration of private interests in land. It also features strong customary authorities of the sort that legal pluralism theory suggests may lead to property relations that are not singular and evolving but multiple and co-existing. We found that tenure was highly individualized and local demand for CCROs was expressed in a context of both agricultural intensification and nascent urbanisation. Nevertheless, due to high cost and coordination constraints, this demand did not deliver widespread registration. While CCROs were perceived as useful to resolve land conflicts and put up as collateral for loans, they were not essential as a variety of alternative approaches were in place. In this forum shopping, plurality was not in itself a problem and individuals increasingly chose quasi-formal paper authorisations over customary rituals. Based on our findings, we recommend that land administration systems more explicitly build on existing quasi-formal practice, and that community lands approaches include a diversity of national programmes tailored to different local community circumstances.

1. Introduction

An institutional turn in development policy has led to a renewed interest in property and land rights (Chang, 2006). Consequently, land reforms have become less concerned with land redistribution and more focused on land administration (Lipton, 2009; Sikor and Muller, 2009). The holy grail of the new agenda has been 'tenure security', which is seen as the means by which protection can be extended to the vulnerable, while at the same time maximizing benefits to the economy as a whole (de Soto, 2000d). In sub-Saharan Africa increased competition for land has intensified calls for improved tenure insecurity. Comprehensive land titling programs, however, have achieved limited coverage and only a small minority of citizens in the region hold statutory land rights. Instead, ninety percent of Africa's rural land remains undocumented, with access commonly granted via diverse community based, customary, tenure arrangements (Byamugisha, 2013).

In response to the current situation, there has been a growing consensus amongst policy makers and scholars that attempts to provide tenure security need to be more community-based and to rely more on existing customary systems (Alden Wily, 2018; Sikor and Muller, 2009; Toulmin and Quan, 2000). Therefore, mainstream attempts to achieve tenure security have increasingly been hybrids that recognise both community land rights (often through recognition of customary systems and practice) and private interests in land. Such hybrid systems are often termed as community lands approaches (Alden Wily, 2013; Knight, 2010).

The 1999 land laws in Tanzania, and particularly the Village Land Act (URT, 2001), represent an early prefiguring of the community lands approach. Land management responsibilities are delegated to elected village councils (which are termed customary authorities). Within the land administered by the village, private rights may be registered through the issuance of a Certificate of Customary Right of Occupancy (CCRO). CCROs are a form of land title in the broadest sense – they formalise customary tenure and are registered in state cadastral records. However, they only certify possession and not ownership, and they can only be transferred with the permission of the elected village council. The provision for village level land administration and options for the registration of both group rights and individual rights have led the Tanzanian land laws to be heralded as exemplary models for land tenure and administration reform in sub-Saharan Africa (Hoekema,

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2012; McAuslan, 2013; Tanner & Bicchieri, 2014). McAuslan, who was involved in the drafting of the laws, saw them as being 'localist', in that they enable adaptation to local interests rather than being standardized in favour of national and international actors (McAuslan, 2007). As well as being 'nationalist', in that they enable an alliance of local and national interests to protect the rural poor from the worst effects of globalization (McAuslan, 2009).

In this article, we aim to explore the viability of registering private interests in land in the context of a community lands policy setting. We do so through a qualitative case study of the implementation of the 1999 Village Land Act in Meru district, northeast Tanzania. Meru has been characterised as an island of upland smallholder agricultural intensification (Hillbom, 2011; Widgren and Sutton, 2004). Therefore, it should according to evolutionary theories of property rights be well suited for individualised tenure arrangements and the registration of private interests in land (Platteau, 1996). Our aim is broken down into three lines of inquiry. Firstly, in the absence of a systematic government titling programme, can broad-based registration of private interests in land be achieved through a demand-driven process? Secondly, given the relatively strong presence of customary authorities in Meru, can their presence and strong focus on communal rights and obligations present an obstacle to the registration of private interests? Thirdly, considering the challenges of current land reform, how can the viability of registering private interests in community lands policy settings be further improved?

The article proceeds by describing how two familiar theoretical perspectives, *the evolutionary theory of land tenure* and *legal pluralism*, have shaped our study design and our exploration of the viability of registering private interests in land in a community lands oriented policy regime. After a more detailed presentation of the context and methods, we structure our analysis around three theoretical benefits that are typically associated with the registration of private interests: tenure security, improved access to credit and functioning land markets.

2. Registering private interests in land – evolutionary theory and legal pluralism

2.1. Community lands approaches- potentials and limitations

As land policies have increasingly recognised communal rights and customary systems, an emerging literature has sought to define best practice for community lands approaches. This features a so-called shell approach that involves first, a recognition of the outer boundaries of a community's land. Subsequently, it allows the community discretion to make land management decisions within boundaries, including identification of private holdings that can be registered and titled (Fitzpatrick, 2005; Knight, 2010). Community lands approaches build on long-standing struggles to protect the livelihoods of the poor by preventing state appropriation of commons (Alden Wily, 2008). Notwithstanding, progress made with legislation and/or community organizations, achieving such protection remains an unequal battle, which is exemplified by efforts in Uganda, Liberia and Mozambique. Knight (2019: 36) has concluded that communities "rarely have the power to resist requests for their lands by government officials, international investors, and national elites".

Research continues to diagnose the continued presence of long-standing challenges. These include: reliance on customary authorities who may act against the interests of vulnerable groups including women and new arrivals (Ahmed et al., 2018; Akaateba, 2019; Collins and Mitchell, 2018); high level of resources required to prepare both local communities and local officials for devolved land management and administration (Quan et al., 2013; Rubakula et al., 2019); and difficulties to obtain equal recognition for other forms of tenure than private ownership within existing legislative systems (Hull, 2019; Hull and Whittal, 2018).

A more critical perspective is provided by authors arguing that community lands policy framings lack political economy perspectives. They claim that underlying the transition to hybrid policies is a commodification of usufruct rights, which facilitates capital accumulation and social differentiation (Amanor, 2018; Chimhowu, 2019). At a more practical policy level, whilst it is accepted that private rights exist within customary land systems (Chimhowu and Woodhouse, 2006), it has also been suggested that the policy logics of private versus communal approaches may render hybrid approaches impracticable (Biddulph, 2018, p. 48). It is partly this issue of the compatibility of the approaches that inspires our inquiry into the registration of private tenure in a community lands policy context.

2.2. Registering private interests in land in a community lands setting

According to *evolutionary theories of property rights* land transitions over time from abundance to scarcity (Platteau, 1996). This transition results in changes in the social relations around land. Under abundance the central focus of social relations is attracting scarce labour (Chauveau and Colin, 2007), but under land scarcity social relations focus on excluding abundant labour from scarce land. This endogenous institutional development is a pre-requisite for successful registration of private interests in land. In other words, evolutionary theory suggests that registering private interests in land will not transform local institutional practice. Instead, it only has potential to succeed if land scarcity has created endogenous institutional development that resembles the theoretical models that underpin registration (utility-maximising individuals competing for a scarce resource) (Demsetz, 1967). According to evolutionary theory then, a region of smallholder agricultural intensification should be well suited for registration of private interests in land.

A standard set of theoretical propositions has been linked to the advocacy of tenure reform that formally registers private interests in land (Deininger, 2003b; Feder, 1987; Feder and Feeney, 1993; Lipton, 2009). In brief, that secure, state-authorised, private tenure will firstly, give people confidence in their ownership and therefore lead them to invest more and produce more from their land. Secondly, it will enable the use of land as collateral, enabling investments either in agriculture or in other economic activities. Thirdly, it will facilitate land markets, which will allocate land to the most efficient farmers and create the most efficient farm-sizes and therefore improve overall agricultural productivity (e.g. Deininger, 2003a; Deininger et al., 2011, p. 313). Increasingly this third point is modified to include rental markets, which may be facilitated by secure tenure, and which may be better attuned to the needs of poorer households.

Evolutionary theory tends towards portraying a rather simplified institutional context. It suggests that either a region is 'evolved', or it is not. If land has become scarce, the local rules of the game (institutions) change such that exclusive, transferable ownership is the norm, which renders formal state programme of land registration feasible. *Legal pluralism* scholarship, by contrast, points out that the exercise of authority over property in sub-Saharan Africa may be a far more complex and contested process than the formalization discourses imply (Berry, 2017; Meinzen-Dick and Pradhan, 2002).

Different systems and different authorities may exist in parallel. Furthermore, rights holders or rights claimants may be able to make choices between different systems and authorities in a process often referred to as 'forum shopping' (Cotula et al., 2004; Meinzen-Dick and Pradhan, 2002). In its simplest iterations, legal pluralism may refer to a duality: statutory alongside customary systems. However, pluralities can be found in both customary (Lentz, 2007, p. 43) and statutory systems (Meinzen-Dick and Pradhan, 2002, pp. 11–13).

While acknowledging the ambiguities and complexities of legal pluralities, we will use a simplified categorization for the purposes of this study. *Formal* will refer to statutory bodies and processes as authorized by state laws and regulations. *Customary* will refer to the broad

array of social practices that are recognized as belonging to Meru custom, ranging from the structures and responsibilities articulated in the written Meru constitution (Baroin, 2016), to traditional practices such as drinking locally brewed beer and planting boundary plants when land is transacted. Finally, *quasi-formal* will refer to formally appointed or elected state representatives performing functions that are not described or authorized by state regulations. The importance of quasi-formal systems is gradually being acknowledged, as local authorities increasingly improvise solutions in response to local demand, e.g. for an authoritative and inexpensive means of witnessing and authorizing transactions when it is not provided by either statutory or customary systems (e.g. Hendriks et al., 2019).

3. Background, site description and data collection

3.1. Meru district

3.1.1. Agricultural intensification and modernisation

Meru district was established in 2007 and is one of the seven districts in Arusha region in northeast Tanzania. It covers roughly 50 km^2 on the southeastern slopes of Mount Meru. The soils are of volcanic origin with medium to high soil fertility, and the tropical climate is moderated by altitude and a bi-modal rainfall pattern with an average precipitation of more than 1200 mm per annum. The favourable climatic conditions are complemented by gravity irrigation systems established at the turn of the 20th century, which ensure widespread access to water for agricultural purposes (Hillbom, 2012).

For more than a century, Meru has experienced the expansion of non-food cash-crop production (coffee), intensification of farming methods e.g. by intercropping, adaptation of food cash crops (vegetables) and a growing dairy sector based on stall-fed cattle (Hillbom, 2014; Spear, 1997). Intensification has been accelerated by a geographic enclosure caused by the colonial administration's establishment of a forest reserve on the higher slopes of Mount Meru and a settler farmer belt in the lowlands to the south of Meru (Spear, 1997). As farmers could no longer clear virgin land on the higher or lower slopes, intensification became a response to the rising population numbers (Kelsall, 2004, p. 15). Meru district's proximity to the markets of Arusha town and the main road connecting Arusha to both Nairobi and Dar es Salaam has constituted an additional important incentive for increased agricultural productivity and commercialization (Hillbom, 2011, 2014).

Despite the long-term trajectory of governance in Tanzania since independence with state institutions taking over functions previously fulfilled by local and customary authorities (Boone & Nyeme, 2015, pp. 71–72), Meru customary authorities have retained a prominent role. The Meru council of elders consisting of representatives of the 17 Meru clans, supported by a formal constitution, continues to meet regularly, and to have the protection of Meru land as a central part of its mandate. This draws on a long tradition of safeguarding Meru identity and land that includes a variety of resistance in the form of, e.g. hostility towards missionaries in the 19th century, protesting colonial estate settlements in the famous Meru land case in the 1950s and a tax revolt in the late 1990s (Kelsall, 2004, p. 25).

Notwithstanding the endurance of customary identities and institutions, there is ample evidence of modernization. In addition to the local agricultural boom, the growth of the city of Arusha has stimulated demand for land and housing resulting in sales and rentals of Meru land to non-Meru people (Larsson, 2001). Commercialization and economic dynamics have increased the demand for credit meaning that land has increasingly come to be regarded as a potential source of collateral (Dancer, 2017; Hillbom, 2013). Signs of modernization have also been observed in relation to women's land rights and departure from the tradition that only males inherit land (e.g. Dancer, 2017, p. 298).

3.1.2. Land administration and CCRO issuance

According to the 1999 Village Land Act, before a village council can begin issuing CCROs it must obtain a Certificate of Village Land (CVL), which describes the border of the village. According to the 2007 Land Use Planning Law, a Village Land Use Plan (VLUP) must be completed and any communal lands identified before CCROs can be issued (URT, 2007). One factor in the limited issuance of CCROs nationwide has been the limited progress in issuing Certificates of Village Land and in carrying out Village Land Use Plans. By 2017, for example, only 14 % of villages in Tanzania had Village Land Use Plans (URT, 2017)

When Meru district was established in 2007, it consisted of 72 villages. In common with most regions of Tanzania it took upwards of a decade before implementation of the 1999 Village Land Act picked up momentum (Biddulph, 2018; Schreiber, 2017). By February 2017, the number of villages had grown to 90 but only 37 had received a Certificate of Village Land. According to the acting district land officer, boundary disputes and the requirement to re-survey when new villages were formed slowed the process. He estimated that approximately 20 villages had begun with CCRO issuance, and that many of these had not yet completed Village Land Use Plans, which he suggested was because they were not as important in the Meru context:

"…you can say that in some of the villages we do not need because the whole land is full, completely sub-divided and completely owned by individuals, we don't have reserve land or land for nature reserves like in other parts of Tanzania" (Interview, acting District Land and Natural Resources Officer 17 February 2017)

While there has not been a comprehensive systematic titling programme in Meru district, in 2006 one national programme called MKURABITA conducted pilots in two villages just south of our study area. MKURABITA, was run from the President's office and aimed at formalization of property rights to create an improved business environment (see Fairley, 2013; Pedersen, 2012 for more details). It completed survey and registration in the pilot villages but the CCROs were never issued and nobody from the MKURABITA programme has been seen in the area since[1] .

Since 2010, there have been various initiatives to encourage villagers to register private rights to land. During that time the Meru district commissioner was Nyrembere Munasa, a professional land officer who had won acclaim for his work in promoting CCRO issuance in Mbozi district (Fairley, 2013, pp. 114–125). In Meru, he commissioned courses for village volunteers - one man and one women per village - who were trained in land law, surveying and community organization. One such volunteer has established a small company with three employees. They visit villages advertising the possibility of acquiring CCROs. When 30 or more villagers express interest, the company conducts surveys, prepares documents and facilitates meetings at village and district level to enable the CCROs to be approved and issued. They have facilitated the issuing of over 1000 CCROs by this means, which according to our interviews at Meru district office, constitutes over half of the 2007 CCROs issued in the district up to February 2018. Given that the Meru district population was 266,144 at the last census (URT, 2013), this suggests, very roughly (assuming 5 people and two plots of land per household) a coverage of barely 2% of plots. This limited progress nevertheless compares favourably with a national estimate of 0.02 % of plots having received CCROs (Tenga and Mramba, 2015, p. 78)[2] .

During the initial attempts to encourage villagers to apply for CCROs, they were offered for as little as 50,000 Tanzanian shillings

[1] This was not untypical for MKURABITA interventions and may relate to a decline in funding in 2008 (Pedersen, 2010, p. 12).

[2] We have not been able to access national data on CCRO issuance broken down by region. Comprehensive, updated national data on CCRO issuance has been a long-term issue in Tanzania although according to a World Bank Land Governance Assessment Framework report a system is due to come on line at some point in 2020 (Tenga and Mramba, 2015)

Table 1
Village respondents: gender and origins.

Village Pseudonym	Gender			*Origin*			Total
	Male	Both	Female	*Local*[a]	*Mixed*	*Non-local*	
Msitu	7	1	2	*10*	–	–	10
Katikati	17	3	12	*29*	–	*3*	32
Barabara	10	–	1	*9*	–	*2*	11
Mali	3	1	5	*4*	*1*	*4*	9
Chini	6	–	1	*6*	–	*1*	7
Total	43	5	21	*58*	*1*	*10*	69

Source: Interview records.
[a] Local = born in Meru district. At least one local respondent regarded themself as a non-local because although they were born in the district their parents had moved there and belonged to non-Meru clans.

(approximately 25 USD), but by 2017, even with bulk orders, the price had risen to 150,000 shillings (75 USD). According to the surveyor, future villages will be more remote and therefore the price is likely to be higher than this.

3.2. The study villages

3.2.1. A mountain slope transect

The selection of specific sites in Meru district was informed by previous research we had conducted there (Hillbom, 2011, 2012, 2013, 2014). We stayed in Katikati village which is a rural village characterized by intense smallholder farming based on intercropping of non-food cash crops, food crops and livestock keeping, and general access to irrigation. To enable cross-checking and triangulation of results, we focused on one sub-village in Katikati. To capture more diverse contexts we selected villages on a transect going down the slopes of the mountain. Above Katikati, Msitu had a more homogenous population with very few non-Meru migrants. Below was Barabara, where the main Arusha-Kilimanjaro road passes through and where there is gradual urbanization as housing is constructed along the road to accommodate migrants, often commuting the 14 km into Arusha city. Further south is Mali where the settler estates that were established in colonial time constitute the lower limit of the intensive smallholder belt. Furthest south is Chini, less densely populated with a drier landscape and more extensive farming practices.

In February 2017, we carried out an in-depth fieldwork conducting semi-structured interviews with 69 villagers representing a variety of stakeholders and experiences with land certification, conflicts, credit access and land transactions. Respondents were identified with the cooperation of an experienced research assistant – an older man who was born and continues to live in Katikati village and who is well connected with both village and clan authorities and who has worked with the lead author and other academic researchers for over twenty years. Purposeful convenience sampling ensured a spread over all villages, a variety of wealth groups and occupations, both men and women of different ages (see Table 1). Complementing the individual interviews, we participated in a meeting of the Meru clan elders, with eight of the elders and about 40 other participants present, and followed up on the observations at the meeting with a focus group with the participating clan elders. The village interviews include 14 representatives of local authorities (11 men and 3 women) and two clan chiefs. We also conducted key informant interviews with a district land officer, a local bank manager, a land agent and the private surveyor mentioned above (all men).

Table 2
CCRO issued in the case study villages by 2016.

Village Pseudonym	Approximate #households	Approximate #CCROs issued	Approximate coverage[a]	Comments
Msitu	250 hh	49	10 %	
Katikati	480 hh	About 50	5 %	CCRO issuance stopped in January 2017 in preparation for Arusha Master Plan 2035
Barabara	978 hh	"a few"	n/a	Village land reclassified as urban and CCRO issuance stopped very soon after it started in 2013
Mali	653 hh	7	0.5 %	Village land reclassified as urban and CCRO issuance stopped very soon after it started in 2013
Chini	450 hh	About 300	30 %	CCRO issuance stopped in January 2017 in preparation for Arusha Master Plan 2035

Sources: Interviews with village authorities and private sector surveyor.
[a] Assuming two plots of land per household in the village area.

Box 1
Illustrative cases of land disputes:

Story of Christina

Christina was a 50-year-old widow who had lived away from the village with her husband who had been a Tanzanite miner. After his death in 1996, she and her children returned to the village, living on family land and trading vegetables at nearby markets. Her father died first, and then, in 2010, her mother. At that point her brothers laid claim to all of the family land and tried to evict her and her sisters. She appealed to clan elders but received no support from them. The sisters had written documents from their parents promising the land to them, and they submitted these to the ward land tribunal. They moved back onto the land once the tribunal had received the documents, and when the tribunal confirmed their rights they began farming the land again. Her brothers are her neighbours now, but she has no problems with them or with the clan elders since the ward tribunal's decision. She says that she bears no ill will to them.

Story of Sara

Sara came to the village from a neighbouring region and married a local man and they had two children together. When her husband died of AIDS in 2006 his uncle tried to get her to leave the two-acre plot. He used the fact that Sara was also infected with HIV to blame her for her husband's death. Initially the family refused to bury the husband until she and the children had left the land. She resorted to the clan elder who supported her right to remain. Her husband's family was divided on the issue, and it took three years before the clan elders finally settled the case in her favour. In 2013, however, she decided to sell some of her land to finance the building of a house. The uncle again intervened and tried to prevent the sale. He tried unsuccessfully to get a court order on the basis that he was the executor of her husband's will. To be absolutely sure of her position she contacted the district commissioner who, in January 2016, confirmed her right to sell the land. Partly on the advice of the clan elder, she decided to also obtain a CCRO to protect herself against any further interventions from the uncle and the purchaser did the same for his portion of land. She paid 150,000 Tsh for the CCRO, and the private surveyor who had arranged it had delivered it to the village council. At the time of the research she reported that she did not yet have the CCRO in her hand, because the council required an administrative payment of 30,000 Tsh to release it.

3.2.2. Land administration in the case study villages

In the absence of comprehensive updated statistics on CCROs issued, we pieced together statistics in the course of the research (see Table 2)[3]. In Barabara one villager who works as a senior executive had sponsored the construction of a strong room and facilities for a village land register in anticipation of CCRO issuance. However, very soon after this, both Barabara and Mali were reclassified as urban and their land as urban land. The possibility of CCRO issuance was thereby halted. On 13th January 2017, as preparation for the Arusha Master Plan 2035, a letter was delivered informing Katikati and Chini that their land would be zoned in the plan and that they should stop issuing CCROs. Whilst we were in the villages, meetings were held to inform citizens about the plan, and that the CCROs they had paid for had (in the words of a district official) "died a natural death". The halting of the CCROs does not undermine our research into the viability of CCRO issuance before January 2017, but it does raise questions about the land rights of people whose land became reclassified (see section 5.2 below).

4. Results

Theoretical justifications for land registration suggest that providing land titles will clarify ownership and therefore reduce conflicts and insecurity. This should both save people from the expense of defending their property and give them the confidence to invest in its improvement. Increased clarity and security of ownership in turn provide the basis for other postulated benefits of land titling, namely collateralization and well-functioning land markets. We organize our presentation of results around these three dimensions: tenure security and conflicts, credit and collateral, and land markets.

4.1. Tenure security and conflicts

While evolutionary theory suggests that a land-scarce smallholder farming region such as Meru district will be well suited to registration of private interests in land, legal pluralism theory warns that multiple sources of authority may undermine the security promised by formal titles such as CCROs.

We found ample evidence that land tenure insecurity and conflicts were a widespread source of difficulties, both for landholders and the various authorities who were called on to solve them. The Katikati ward land tribunal, which supports three villages, had heard 38 cases during 2017 and 36 of them were reported to have been solved. The implied workload of one new case per village per month sounded quite manageable. However, qualitative responses suggested that this statistic did not capture the full scale of the problem. Both customary leaders and members of local authorities talked of land disputes as a major problem that dominated their time. Respondents who were involved in land disputes described them as protracted and carrying broad ramifications. Whilst notionally there may only have been two parties to a conflict, the involvement of extended families meant that many more had vested interests. Meanwhile, threats of violence against people and property created insecurity both during conflicts and after they appeared to have been solved. It became easy to understand how about 10 conflicts per village per year could be experienced as a major, and occasionally overwhelming, problem. This was clearly impinging on investments and productivity on the disputed lands. In extreme cases, crops were burned or destroyed, but more generally parties to conflicts did not dare to farm disputed land until the conflict was resolved.

Whilst there were instances of boundary conflicts between neighbours, the most widespread and intractable conflicts were inheritance-related. Our respondents – older and younger, men and women - expressed clear support for women's land rights. However, many of the inheritance conflicts demonstrated that in practice there is still a strong adherence to the notion that men should be the ones owning land. Women whose husband had died could find their rights to use and to dispose of land challenged either by their eldest son or by their late husband's family. The situation seemed to be particularly acute when the woman was not originally from the village. The cases of Sara and Christina (see Box 1) provide illustrative examples of the experience of land conflicts.

When seeking land dispute resolutions, villagers were able to resort to a variety of formal, customary and quasi-formal mechanisms. We found that the most commonly utilized element of the formal land dispute resolution system were ward land tribunals. However, the first resort tended to be either customary authorities in the form of clan elders, or quasi-formal services, especially sub-village chairs. One sub-village chair's acerbic judgement was that "only stubborn people" end up at the ward tribunal, and that sub-village chairs can solve most conflicts. He gave the example of a recent boundary conflict where a

[3] The Village Land Act specifies that the village have secure storage and a register before it may begin issuing CCROs. In practice this does not always occur. The private sector surveyor holds CCROs for many villages which have no secure storage.

Box 2
Illustrative case of CCRO as collateral

Story of Zackary

He lives in Katikati village where he has only a small plot of 0,5 acre, but further away, outside of Meru district, he has an additional 22 acres. For the village plot he secured a CCRO some five years ago. It was at a time when there was a survey done in the village and others were getting titles. He states that there are two advantages of having a title – one is improved security and the other the opportunity to use the title as collateral and get a loan. A while back, he went to a micro credit organization and secured a loan of 3 million Tsh which he used to set up a small business and pay school fees. The micro credit organization took his CCRO and it is now kept in their office. Zackary reports that having the title speeded up the loan process, however, he has since realized that it was actually not a necessary pre-condition and that he could have obtained the loan without the collateral and with the same conditions.

woman returning to the village found that her neighbour had encroached onto her land when ploughing. For this, the neighbour was fined a head of cattle by the sub-village chair, although it was subsequently negotiated down to two goats, and with that the conflict was settled. In line with other research in rural Tanzania, we found the ward land dispute tribunals to be relatively effective and legitimate institutions. The advantages of solving disputes locally were underscored by a rare case where a dispute had been pursued up to the level of the district court. At the time of our interviews, the dispute was unresolved, but one of the disputant's legal costs had already risen to 9.5 million Tsh, which was approximately equal to the value of the contested piece of land.

Clan elders were recognized as a traditional source of authority for conflict resolution, but this was largely for people of the same clan. Both clan elders themselves and other respondents explained that when two people from different clans were in dispute, this would usually be a matter for formal institutions such as the ward tribunals. The role of clan elders and of traditional values was not always predictable in these cases. The notion of land inheritance being patrilineal is associated with traditional Meru culture, but clan elders also described themselves as having a specific responsibility to take care of the vulnerable in society, including widows and orphans. How active they are to fulfil these obligations, however, depends on the inclination of each individual traditional leader. Thus Sara, when her deceased husband's family tried to force her off family land, received support from the clan elders and was able to remain in place. Meanwhile, Christina, when her brothers tried to force her off family land, received no support from clan elders and was only able to return to that land when she applied to the ward land tribunal.

The role of customary authorities, in the form of clan elders, was also geographically uneven and dependent largely on the extent to which an area had been subject to in-migration. Among our study villages, Msitu, located the furthest up the mountain, was the only one without substantial in-migration. In other villages there had been a gradual influx of new residents over decades, none more so than in Barabara, the village closest to the main road. Accordingly, in Msitu clan elders had a much larger role in land dispute resolution and providing the authority to support property relations, whilst in Barabara clan elders played a limited role. Some informants in Msitu regarded it as only a matter of time before in-migration would prompt similar changes there.

While the CCROs themselves were not key in dispute resolution processes, due to limited CCRO issuance, people who knew about them expressed confidence in them as a means of preventing conflicts. Each CCRO includes a map of the titled plot on the front with the names and photographs of the registered occupiers on the reverse. These photographs, typically one of the husband and one of the wife, were seen as a particularly powerful way of ensuring that a woman's rights to land would be respected. Respondents explained that with such a title, if the husband died, the woman would be able to use the photographs as evidence that she had the right to the land. Notwithstanding, joint registration supported by photographs cannot be assumed to be prevalent throughout Tanzania. Schreiber (2017) shows in an early pilot that only 28 % of CCROs were jointly issued to a husband and wife.

In addition to being seen as a means of preventing conflicts, there was some evidence that CCROs were seen as a way of confirming the result of a land dispute resolution process. For example, the initiative taken by Sara to obtain a CCRO to prevent her ownership being contested a third time by her husband's relatives, provides an illustration of this.

Overall, we found a more positive institutional environment than that described by Dancer (2018) in other parts of Arusha region. While land conflicts were experienced as a serious and widespread problem, various formal, quasi-formal and customary institutions were somewhat effective in resolving them. This plurality of mechanisms did not in itself seem to create problems as there was generally a consensus about which authority to turn to in any given case. CCROs, meanwhile, were regarded as useful complement to existing mechanisms for preventing and resolving conflicts.

4.2. Credit and collateral

A further theoretical benefit expected to stimulate demand for land titles is the prospect that they can give titleholders improved access to credit. Research on land titling in Tanzania generally has found that this argument is used to promote land registration and CCRO issuance to local people, but that the promise is rarely realized in practice. This is because, on the one hand, a presence of titles will not compensate for a lack of lending institutions. And, on the other hand, that where there is a presence of lending institutions, they will usually find alternative ways of securing loans if there is no land title, usually by getting a signature from the village chair (e.g. Biddulph, 2018; Stein et al., 2016). These previous findings resonate with our data from Meru (see Box 2).

In contrast to many areas of Tanzania, Meru has undergone a century of agricultural growth yielding improved incomes (see Hillbom, 2011, 2012, 2014; Larsson, 2001). Successful coffee, banana, vegetable and dairy producers have been able to send their children to higher education and many of them have in turn gained regular, well-remunerated employment in private and public sectors. This means that in many cases the demand for credit does not come from a rural population seeking to convert from subsistence agriculture to commercial production, but rather from an emerging rural middle class seeking capital for new business ventures. The most common demand for credit expressed by our respondents was by people wishing to convert farmland to residential land and to build rental properties for the growing migrant population. For such projects, the market value of agricultural land was generally insufficient to serve as collateral to provide the capital required for construction projects.

In this respect, some of the wealthier would-be investors expressed particular reservations about the CCROs. These, they suggested, did not provide a sufficiently strong right to enable a borrower to realise the value of their land. This was because the CCRO only allowed land to be sold subject to the approval of the elected village council. If the council refused to allow sales to people outside the village, then a bank seeking to liquidate an asset would not be able to get the best possible price for it. As a result, a number of villagers had the stated ambition of securing

Box 3
Illustrative cases of land market transactions:

Story of Peter:
Peter lives with his wife in Msitu, the highest of the study villages. He inherited an acre of land from his father. Then, some 30 years a relative of his explained that he needed money and asked Peter if he would buy half an acre of land from him. He agreed and the elders in the village together with the neighbours oversaw the transaction. The elders and neighbours signed an informal document testifying to the land transfer, they planted mangale at the boundary and he offered them traditional drinks. In those days there were no lawyers involved or formal judicial documentation of land sales. Although he does not have any title and he does not know the whereabouts of the paper that was signed at the purchase, his right to the land has never been challenged and he perceives his tenure to be secure.

a leasehold title authorized directly by the state and not via the village authorities, a so called Granted Right of Occupancy (GRO). Such rights can only be awarded if the land is first converted to general land and the state generates a land lease. The 1999 Land Act suggests that conversions of land from village to general land would only occur if a settlement is re-classified from rural to urban, or if there is the prospect of major investment that will contribute to national development. However, it appeared that some borrowers had succeeded in securing a generous interpretation of the law and acquired GRO's for themselves, and that others were seeking to follow in their footsteps. These seekers of GROs were, however, the exceptions to the rule and characterized by higher levels of education and wealth. For the majority of villagers, the realistically available land certificate was the CCRO.

Interviews with a rural bank manager confirmed the villagers' perspective represented by Zackary's reflection that CCROs did not lead to improved credit access. He explained that in the branch's portfolio of 800 rural loans only five were secured by a CCRO. Furthermore, that the CCRO itself made no difference to the terms of credit offered even in those five cases, because the ultimate determinant of rural creditworthiness was a letter of authorization from the chairperson of the borrower's village council. This applied to loans of up to 10,000,000 Ts h, or 5000 US dollars. Above this level, some form of collateral would be required, but this would need to be arranged through an urban branch in Arusha, not a local, rural branch. Thus, while many respondents had understood that a CCRO would provide access to credit the experience of those who had obtained CCROs was that they had not made any discernible difference either to the accessibility of credit or the terms on which it was provided. The understanding that for larger loans banks would not recognize a CCRO did, however, motivate some wealthier landholders to try and obtain GRO leasehold titles.

In conclusion, several respondents referred to the argument commonly found in the property rights literature (see e.g. de Soto, 2000d) that formal titling open up for smallholders to access capital as they can use their land assets as collateral and therefore CCROs were desirable. In reality, however, few, if any, of them actually perused such a strategy. Partly because the CCROs do not represent the type of rights or the value assumed in the theorization and partly because local people are already actively developing a variety of business endeavors and drawing from existing sources of credit.

4.3. Land markets

Proponents of formal property rights to land see them as being fundamental to land transfers in effective and well-functioning land markets (de Soto, 2000d; North, 2005). Evolutionary theory suggests that in a densely populated region such as Meru there will already be somewhat functioning land markets in place, and that formalizing these should be relatively straightforward. Meanwhile, legal pluralism perspectives suggest that multiple systems for land transfer may persist after formalization, which may complicate rather than facilitate the operation of land markets (c.f. Ekpodessi and Nakamura, 2018; Ensminger, 1997).

Looking back in time in the study area and, to some degree, looking further up the slopes of the mountain to Msitu village, there has been a tendency to rely on traditional ceremonies to secure land transactions. These involved the seller inviting neighbours and clan elders to a ceremony of demarcating the land by planting *mangale* at the boundary. This would be followed by drinking of local beer, which the buyer would present to the elders who would share with everyone present. Variations on this ceremony were also used when land was transferred from parents to children while the parents were still alive. Whilst both the *mangale* and the ritual drinking are still common amongst people born and brought up in Meru, today they are less likely to be considered sufficient in themselves. More frequently, they are supplemented by agreements signed by the transacting parties and witnessed by elders and/or neighbours (see Box 3).

In cases where land is sold to non-Meru newcomers, the use of signed and witnessed documents is less a complement and more a replacement for the planting of *mangale* and the ritual drinking. Depending on the level of trust and the perceived need for security, other actors beyond the transacting parties and their invited witnesses may be incorporated in the transaction. In some cases, village authorities are invited to witness transactions. At the village offices in Katikati and Barabara, we were shown locally improvised formal looking documents without clear judicial status that were being used to witness land transactions. These documents fitted with our definition of quasi-formal, because they were informal arrangements implemented by people in positions of formal authority. In contrast, the full, formal process for a land transfer would have involved the seller having a title, taking that to the village office to get the transfer authorized, and then taking it to the district office to have the cadastral record updated and the name on the title changed.

The range of customary and quasi-formal arrangements for land transfers had a spatial dimension reflecting the degree of penetration of outside interests. Higher up the mountain in Msitu where Peter resides, the population was more homogenous, there was a greater chance of paperless transactions, and of ritual ceremonies. Further down the mountain, there was a greater chance that transactions would be secured through signed, witnessed agreements often with the quasi-formal engagement of the village chair, and occasionally with solicitors being involved in drawing up formal papers. While we met no villagers who had CCROs to land when it was being sold or bought, the private surveyor stated that he had occasionally assisted with transactions that required an up-date of the CCRO, and that he had been able to facilitate the transfer of land titles with the district office at a reasonable price.

In contrast with the case of land conflicts, where many respondents expressed the opinion that CCROs would have been valuable in preventing and settling disagreements, we did not find a strong expression of demand for CCROs to assist in facilitating land sales. It appeared that 'forum shopping' between customary arrangements, informal witnessed agreements, and quasi-formal agreements witnessed by local authorities was providing sufficient security to enable people, such as Peter, to transact land with confidence. One of the concerns about community lands approaches is that they might restrict the working of markets within the community, but present a barrier to broader integration into

wider land markets. For better or worse, this did not seem to be an issue in Meru district. In practice, neither the clan elders nor the village councils (framed as customary authorities in the land law) have prevented outsiders from buying Meru land. Indeed village councils, in either formal or quasi-formal roles, have authorized and secured the transactions transferring land to outsiders. So despite an unusually strong traditional attachment of Meru people to Meru land, and despite the powers vested in village authorities to keep land within the community, migrants have continued to flow into the area and to buy and rent property. This has been most apparent near the main road, but is now increasingly occurring also further up the mountain.

Consequently, land markets in Meru do not depend on the CCROs, although the additional document may smooth the transfer. During the long history of land scarcity and of immigration, a combination of traditions and quasi-formal documentation supported by local authorities have together developed a system for overall secure land transactions.

5. Conclusion and discussion

This study explored the viability of registering private interests in land (in the form of CCROs) in Meru district of northern Tanzania, where we expected the dominance of smallholder farming to create favourable conditions for land registration. We followed three specific lines of inquiry: (1) whether, in the absence of a systematic government titling programme, broad-based registration of private interests in land could be achieved through a demand-driven process; (2) whether relatively strong customary institutions might prove an obstacle to formal registration of private interests in land ; and (3) if the current system of registering of interests could be improved. We discuss our findings and end with suggesting future research.

5.1. Demand-driven broad-based registration

Interviews confirmed our expectations of a landscape of individualized smallholdings with very few commons. Thus, the complex tenure arrangements associated with pastoralism, community forests and participatory conservation management which might explain lack of progress with private registration elsewere in the country, did not apply in the study areas. The two villages nearest the main road were converted to urban land in 2013 just after the authorities had started to encourage registration of private plots. This explained the limited registration of private interests in land in those villages, but not in the other three villages. Many respondents expressed enthusiasm for registration particularly as a means of preventing conflict, but also (less realistically) as a means of improving short-term access to credit. Notwithstanding these expressions of enthusiasm, only a minority of households had applied for CCROs.

Two main factors appeared to explain the limited extent of titling. The first was cost. Even with an efficient private sector intermediary coordinating sporadic applications, the cost of a CCRO for households in Meru was in the region of 75 USD. This compares with systematic titling programmes elsewhere in sub-Saharan Africa that, through economies of scale and standardized work routines, have been able to deliver titles at a cost of 5–10 USD (Byamugisha, 2013). A much lower price would be required if households are to pay for CCROs. The second factor was information. There had been campaigns of radio adverts and village meetings to encourage CCRO applications, and the villages are relatively densely populated and amenable to good internal communication. Nevertheless, a substantial minority of respondents still reported not knowing what a CCRO was.

If demand-driven titling does not occur in a relatively prosperous island of intensification such as Meru, with a large share of the population expressing an interest in titles and a well-publicised delivery system in place, this strongly suggests that demand-driven registration is not likely to generate broad coverage. This presents challenges for community lands policy regimes, which are fundamentally bottom-up and demand-oriented.

5.2. Legal plurality: customary institutions as a barrier to private land registration

We did not find that multiple systems of authority over village land – customary, formal and quasi-formal – hindered registration in particular or effective land administration in general. Landholders seeking to provide evidence of tenure, solve conflicts, or secure transactions were able to forum shop. There appeared to be sufficient consensus about which system to use in any given case for this to be relatively unproblematic. Where all parties were from the same clan, traditional elders and traditional ceremonies retained some authority. However, generally there is a transition towards use of formal or quasi-formal authorities and written documentation.

The specific issue where plurality did appear to be problematic, however, was within the formal system. It appeared that some wealthier landholders had identified opportunities to convert their village land to general land, and then for a higher fee (about 500 USD rather than 75 USD) to obtain a leasehold title, GRO, which allows transfer without reference to the village council. It was beyond the scope of our study to investigate these processes in detail. However, they did not appear to follow the principles of the Village Land Act, and they did seem to constitute a way that a wealthier class might seek to opt out of a village lands regime and thereby create a dual system. This is clearly worthy of further investigation to better understand the challenges of implementing community lands approaches in practice.

5.3. Improving the viability of current policy

Internationally, low-cost high-coverage registration of private interests in land has been achieved through supply driven programmes of systematic registration and titling, e.g. in Rwanda and Ethiopia. These mass produced one-size-fits all approaches seem antithetical to a community lands approach with its adaptation to specific local circumstances. However, if widespread registration of private interests in land is to be achieved within community lands approaches, it will be necessary to integrate supply-driven programmes of systematic registration into community lands regimes to ensure that issues of cost and information dissemination are overcome. Adoption of mobile technologies in CCRO registration in Tanzania beginning in Iringa region in 2014 suggests that supply driven programmes in Tanzania may also be able to achieve unit costs of 13 USD per plot, which would address the high costs experienced in the demand-driven sporadic model experienced in Meru (Sullivan et al., 2019).

In many contexts, inserting systematic registration programmes into a community lands oriented process will come with high risks. Past research in Tanzania has been critical of pilot registration programmes that have prioritized mass registration over supporting local solutions to complex land management issues involving pastoralist land uses, forest commons and conservation areas (e.g. Stein et al., 2016). Meru district appears to represent the opposite scenario: land-uses are simple and well-established, and therefore systematic titling would not undermine the localist principles of the community lands approach. However, resources for systematic titling have not been allocated here. Our results suggest that more research and policy attention could usefully be devoted to supporting strategic planning within community lands approaches. These would seek to encourage a more gradual, process-oriented approach in districts with complex land-use questions, and enable a swifter move to supply-driven systematic titling in districts where land-uses are well-established and uncontroversial.

5.4. Future research

In addition to the issues discussed above, the results of this study also suggest other lines of inquiry. We conclude by highlighting two of these. First is the question of what happens to rural land rights under urbanisation. The upland rural villages in the study area were gradually becoming more cosmopolitan, more gentrified, and more integrated into the Arusha city economy. This clearly demanded adaptation in local governance (c.f.Tacoli, 2007). However, process of land conversion related to the Arusha 2035 Master Plan effectively eradicated the rural land rights that we were studying at the stroke of a pen and ruptured the relation between citizens and state authority that is recursively developed through property relations (Lund and Boone, 2013). Future research can both attend to local responses to such ruptures (c.f. Akaateba, 2019) and seek to explore ways in which reclassification of land from rural to urban can occur without creating such ruptures (c.f. Nuhu, 2019).

Secondly, we recorded how quasi-formal solutions to the updating of cadastral records following subsequent transactions were consistently improvised. The issue of obsolete records and unreliable formal titles is gradually gaining attention in global land administration discussions (e.g. Ali et al., 2017). Future research might look at how the quasi-formal processes at village level could be formalized and linked to the cadastral register (c.f. Hendriks et al., 2019).

Declaration of Competing Interest

None.

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Appendix A. Supplementary data

Supplementary material related to this article can be found, in the online version, at doi:https://doi.org/10.1016/j.landusepol.2020.104830.

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