

# **LAWYERS' ENVIRONMENTAL ACTION TEAM (LEAT)**



## **An Analysis of the Legal, Policy and Institutional Framework for Reducing Emissions from Deforestation and Forest Degradation (REDD) Pilot Project in Pugu and Kazimzumbwi Forest Reserves**

**A DETAILED STUDY REPORT**

**December, 2011**

# Table of Contents

List of Abbreviations .....	4
Acknowledgements .....	6
1. Introduction .....	7
2. An Overview of the Forest Sector in Tanzania .....	9
2.1. Overview of the HIMADA PROJECT .....	9
2.2. Overview of the Pugu and Kazimzumbwi Forest Reserves (PKFR) .....	10
2.3. Overview of the Kazimzumbwi Forest Reserve .....	10
2.4. Overview of the Pugu Forest Reserve .....	12
2.5. Deterioration of the PKFR .....	12
3. Overview of the Field Study .....	14
3.1. Methodology .....	14
3.2. Study Area and Sample size .....	15
3.3. Justification of the Field Study .....	16
4. LITERATURE REVIEW .....	16
4.1. Institutional Framework for PKFR .....	16
4.2. Institutions and Governance .....	21
4.3. Policy Framework, PKFR Management and Governance .....	22
4.4. Selected Policies .....	24
4.4.1. The National Forest Policy 1998 .....	24
4.4.2. The National Land Policy 1995 .....	26
4.4.3. The Agriculture and Livestock Policy .....	26
4.4.4. The Environmental Policy of 1998 .....	28
4.4.5. The National Strategy for Growth and Reduction of Poverty, II (NSGRP II), 2010 .....	29
5. The Legal Framework Relating to Pugu and Kazimzumbwi Forest Reserves .....	29

5.1.	Introduction .....	29
5.2.	Governance Aspects in Legislation.....	30
5.2.1.	Background.....	30
5.2.2.	Literature on Laws in PKFRs.....	32
5.2.3.	Legislation .....	34
6.	Findings from the Field.....	47
6.2.	Institutions for PKFRs Management and Conservation.....	47
6.3.	Sustainable PKFRs Conservation .....	48
6.4.	Deforestation and Unsustainable Conservation .....	48
6.5.	Governance.....	49
6.6.	Understanding of REDD Issues among the Local Communities adjacent to PKFRs .....	51
7.	General Conclusions .....	52
8.	General Recommendations .....	53
9.	BIBLIOGRAPHY .....	55
10.	List of Respondents Consulted.....	58
11.	Sample Questionnaire .....	59

## List of Abbreviations

ALP	Agriculture and Livestock Policy
CBFM	Community Based Forest Management
CBOs	Community Based Organizations
CfRN	Coalition of Rainforest Nations
CO <sub>2</sub>	Carbon dioxide
COP	Conference of Parties
DNRAB	District Natural Resources Advisory Bodies
FBD	Forestry and Beekeeping Division
GDP	Gross Domestic Product
Ha.	Hectares
HIMADA	“Hifadhi Mapafu ya Dar-es-Salaam”
IRA	Institute of Resources Assessment
JFM	Joint Forest Management
LEAT	Lawyers’ Environmental Action Team
LGRP	Local Government Reform Programme
MKUHUMI	“Mpango wa Kupunguza Uzalishaji wa Hewa Ukaa kutokana na ukataji Miti hovyoy na uharibifu wa Misisu”
MNRT	Ministry of Natural Resources and Tourism
NEMC	National Environment Management Council
NEP	National Environmental Policy
NFP	National Forest Policy
NGO	Non-Governmental Organizations
NLP	National Land Policy
PKFR	Pugu and Kazimzumbwi Forest Reserves
PMO-RALG	Prime Minister’s Office, the Regional Administration and Local Authorities
PS	Policy Statement
REDD	Reduced Emissions from Deforestation and Forest Degradation
TANAPA	Tanzania National Parks Authority
TFCG	Tanzania Conservation Group

TFS	Tanzania Forest Services
Tsh.	Tanzania Shillings
UNEP	United Nations Environment Program
UNFCCC	United Nations Framework Convention on Climate Change
WAHIPUKA	“Wahifadhi Mazingira ya Pugu na Kazimzumbwi”
WCST	Wildlife Conservation Society of Tanzania
WEO	Ward Executive Officer
WMAs	Wildlife Management Areas
WWF	World Wildlife Fund for Nature

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Although many people have contributed to this detailed study, the analytical views and the conclusions are our own; so are the weaknesses, if any.

## 1. Introduction

It was during the 1992 United Nations Conference on Sustainable Development held in Rio de Janeiro, Brazil that the United Nations Framework Convention on Climate Change (UNFCCC) was passed. The Convention requires Parties to, among other things, initiate and take steps to reduce and reverse the negative impacts of climate change. Article 4 paragraphs (c) and (d) of the Convention exhorts member States to join hands to reduce or prevent anthropogenic emissions in all sectors including forestry. The aim of this is to promote sustainable development including efforts directed at the conservation of forest resources. In 1997 when member countries met in Kyoto, Japan and passed the Kyoto Protocol the call to recognize efforts undertaken by developing countries to conserve forests and combat desertification was rejected by developed country parties and environmental Non-Governmental Organizations (NGOs). They refused to recognize the efforts of what they labeled as “leakage” arguing that it was difficult to measure the emissions reduced by conservation or that there was a possibility that conservation of one area could result into deforestation of another.

In 2005 the Coalition of Rainforest Nations (CfRN) led the world community to start considering, acknowledging, and supporting developing countries’ forest conservation efforts taking into account that deforestation leads to massive emissions of carbons into the atmosphere, on the one hand, and that conserved forests act as sinks for released carbons out of anthropogenic activities, on the other. The UNFCCC 11<sup>th</sup> Conference of Parties that met in Bali, Indonesia in 2007 was of the firm view that parties were ready to support efforts *“to reduce emissions from deforestation and forest degradation on a voluntary basis and to explore a range of actions, identify options, and undertake efforts, including demonstration activities, to address the drivers of deforestation relevant to their national circumstances, with a view to reducing emissions from deforestation and forest degradation.”*<sup>1</sup>

This decision led to the efforts to start Reduced Emissions from Deforestation and Forest Degradation (REDD) in different parts of the developing world. Tanzania has taken steps in

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<sup>1</sup> See COP 11 Decision 2/CP.13.

implementing REDD by establishing a National Task Force for Developing the National REDD Strategy issuing guidelines.

Since then a number of initiatives have been made by the government, NGOs and civil society organizations in the process of piloting/demonstrating REDD in different parts of Tanzania. The Wildlife Conservation Society of Tanzania (WCST) in collaboration with Lawyers' Environmental Action Team (LEAT) and other four partners are implementing a REDD pilot project in Pugu and Kazimzumbwi Forest Reserves (PKFRs). This project aims at Reducing carbon dioxide (CO<sub>2</sub>) emissions by curbing deforestation and forest degradation in the Pugu and Kazimzumbwi Forest Reserves (PKFR) and the surrounding areas as well as improving carbon stock. The project will promote sustainable income generating activities for improving the livelihood conditions of the forest adjacent communities. The success of this project depends mainly on a strategic partnership with organizations and institutions with the capacity to influence the needed action for effective management of the forest. This approach is expected, not only to ensure the success of the project during project period, but also, its sustainability after the completion of the project.

This Study aims at undertaking a comprehensive review of the REDD's legal and institutional framework in the Pugu and Kazimzumbwi Forest Reserves in Tanzania. A legal component will address legal and institutional related issues based on the findings and recommendations from a detailed legal and institutional study to examine issues surrounding governance structure in the management of Pugu and Kazimzumbwi forests. This component is being implemented by LEAT. This study was conducted at the beginning of the project. The study seeks to inform the project and enable an effective and detailed design and planning to ensure that all relevant legal and institutional related issues are adequately addressed during implementation.

## **2. An Overview of the Forest Sector in Tanzania**

Around 40% of the Tanzania land is covered with forests and woodlands. This constitutes about 33.5 million hectares of forests and woodlands, including both unreserved (open forests) and reserved forests. The open forests are at great risk of depletion.<sup>2</sup> The Ministry of Natural Resources and Tourism (MNRT) is the overall manager of the forests in Tanzania. The Forest and Bee Keeping Division (FBD), under MNRT oversees the daily management of the forest sector. The management is also vested to local government authorities, through the Prime Minister's Office, the Regional Administration and Local Authorities (PMO-RALG).

Forests and woodlands support slightly over 80% of the poor population in rural areas. The nature of support that forests and woodlands offer to rural communities include firewood and charcoal for both home consumption and business, poles for construction, water catchments, and many more. It is estimated that more than 90% of the energy in Tanzania is derived from forests. Also, the forest sector contributes 2.3% of the Gross Domestic Product and 10% of the country's registered total exports. It has been noted that the lack of reliable information in the consumption of wood fuels, bee products, catchment and environmental values and other forest products has led to the underestimation of the actual contribution of the sector into the GDP.<sup>3</sup>

### **2.1. Overview of the HIMADA PROJECT**

The WCST in collaboration with Lawyers' Environmental Action Team (LEAT) and four other partners are implementing a REDD a four-year pilot project in Pugu and Kazimzumbwi Forest Reserves (PKFRs). The project started in February 2011. The proposed site is a catchment area of the Kizinga River and one of recharge areas of groundwater in Dar es Salaam region. The two reserves provide home to different plants and animal species making an important habitat of biodiversity and service provider for a peri-urban area.

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<sup>2</sup> <http://www.tanzania.go.tz/naturalresources.html>, visited on August 12, 2011

<sup>3</sup> *ibid*

## 2.2. Overview of the Pugu and Kazimzumbwi Forest Reserves (PKFR)

The Pugu and Kazimzumbwi Forest Reserves (PKFR) were established by the government of Tanganyika (currently Tanzania) through the official Government Gazettes/Notices. The Government Notices above were issued under the Forest Ordinance<sup>4</sup> and later under the Forest Act.<sup>5</sup>

The PKFR covers an area of 7,297 ha in total, with Pugu forest covering 2,410 ha and Kazimzumbwi 4,887 ha<sup>6</sup>. In the early 1960s, the two reserves had a fascinating forest cover, and were home to a variety of tree species and wild animals not limited to leopards, lions, hippos, monkeys and jackals, bush pigs, mongoose and hyenas. Today hardly any of these animals can be seen, especially in the Kazimzumbwi forest reserve. The PKFR have been under serious threat from unfriendly human activities. However, there have been several initiatives by the government to evict local residents who have established settlements in the area. In the year 1998, for example, the government evicted more than 200 invaders from Kazimzumbwi forest reserve. But the area is still facing severe encroachments and illegal human activities which are very unfriendly to both PKFR's fauna and flora. The assessment carried out on the status of the PKFR in 2002, revealed that Pugu was almost intact while Kazimzumbwi was almost a bare land with few shrubs and grasses<sup>7</sup>.

## 2.3. Overview of the Kazimzumbwi Forest Reserve

The Kazimzumbwi forest reserve is located in the Pugu Hills area, about 20 kilometers southwest of Dar-es-Salaam. It covers an area of 4,887 hectares, at an altitude between 120 and 180 meters. The word Kazimzumbwi has its origin from two words; *Mzumbwi* River and a well named *Ng'azi*. Due to pronunciation difficulties, the early European explorers called it Lake *Kazi*,<sup>8</sup> hence, the name Kazimzumbwi. The forest was declared as a Forest Reserve through

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<sup>4</sup> Cap 132

<sup>5</sup> The Forest Act, 2002

<sup>6</sup> ibid

<sup>7</sup> Kandel, (2002)

<sup>8</sup> WCST, TFCG and CARE-Tanzania the Misitu Yetu Project Report on Demarcation of Village Forest Management Areas in Designated Forest Reserves, (September/October 2003), p.6

Government Notice No. 306<sup>9</sup> and is located in Kisarawe district. To the east, the Kazimzumbwi Forest Reserve borders Kisanga, Kazimzumbwi and Kisarawe villages. To the south-east, it borders Pugu, Chanika, and Buyuni villages. Currently, the river is a source of water supply for some of the local people.

The villagers who were residing and occupying land before Kazimzumbwi was gazetted as a forest reserve were compensated by Tanganyika government. Records show four villagers who received their compensation as hereinafter tabulated:-

S/N	Name of the village	Compensation paid (Tsh.)	Date of payment
1	Mahamed Kambi Ubana	70.00	6 <sup>th</sup> October 1954
2	Saidi Mwalim	17.00	6 <sup>th</sup> October 1954
3	Athumani Chanze	223.00	6 <sup>th</sup> October 1954
4	Ramadhani Pembe	12.00	6 <sup>th</sup> October 1954

**Source:** MNRT-FBD (2010)

Some activities were permitted inside forest reserve in the early 1950s and 1960's, when the local villagers were allowed to clear land and to farm for two seasons. In addition to farming, logging of commercial timber was also permitted in the forest reserve. However, logging of commercial timber trees in the forest was banned in the 1970s, because the particular species became too rare to be further exploited on a commercial scale.

Records indicate that Kazimzumbwi forest reserve since its inception has been prone to invasion for agricultural activities and human settlements, leave alone sand quarrying<sup>10</sup>. There is further evidence that some of these encroachments were either tolerated or condoned by the government. For example, some of these activities were permitted by the government in different times, for example cultivation of rice was permitted in the reserve in the early 1990's<sup>11</sup>.

<sup>9</sup> G.N. No. 306 of 1954.

<sup>10</sup> Ahrends, A., (2005), Patterns of Degradation in Lowland Coastal Forests in Coastal Region, "A thesis Submitted to the University of Greifswald in Candidacy for Diploma (Master of Science German –Equivalent)." p. 12

<sup>11</sup> This information was obtained from one Mzee Leo, the then Chanika Chairperson, in an exclusive interview conducted on 16 June 2010.

## 2.4. Overview of the Pugu Forest Reserve

The Pugu Forest Reserve is located in the Pugu Hills area, near Dar-es-Salaam, adjacent to the Kazimzumbwi forest reserve. Together with Kazimzumbwi, the Pugu Forest (previously known as *Mogo* Forest) is part of what is considered to be one of the oldest forests in the world. The reserve extends over a large hilly area south-west of Dar es Salaam. The reserve is a source of the Msimbazi River that flows into the Indian Ocean in the surroundings of Dar<sup>12</sup>. It was formerly known as *Kinyanyiko*, the first hill on the way to Kisarawe from Pugu.

Pugu forest reserve was gazetted in 1954 because of its good timber and its value as a catchment area from where streams which supplied water to Dar-es-Salaam flow initially being the main source of the Msimbazi river. However, after construction of Ruvu water supply, the role of Pugu as a reliable catchment for supply water to Dar es Salaam ceased. Today, the forest is protected because of its biodiversity value. The Pugu forest reserve has an area of 2, 179 hectares and is located approximately 25 km south-south-west of Dar-es-Salaam and 20 kilometres inland from the Indian Ocean.<sup>13</sup> The forest was proclaimed to be forest reserve under the provisions of the Forest Ordinance Cap 132 in 1947 and surveyed in 1954. Its map, J.B 606, was drawn in 1967.<sup>14</sup> Notably, the Pugu forest reserve has continued to be prone to mining activities. The reserve is surrounded by Pugu Stesheni, Pugu Kajiungeni and Kisarawe.

## 2.5. Deterioration of the PKFR

The loss of the habitat in the Pugu and Kazimzumbwi Forest Reserves is caused by several factors. Researchers have noted that among these factors are inadequate policies, policy failures and regulatory frameworks.<sup>15</sup> The other contributory factors mapped out by research findings for PKFR deforestation and degradation include socio-economic factors such as population increase, inadequate tenure, non sustainable collection of firewood and other natural resources from the

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<sup>12</sup> [http://en.wikipedia.org/wiki/Pugu\\_Hills\\_Forest\\_Reserve](http://en.wikipedia.org/wiki/Pugu_Hills_Forest_Reserve)

<sup>13</sup> "Coastal Forests in East Africa," accessed at <http://www.puguhills.com/forests/pugu-forest.htm>; An Extract of the study by Hogqvist, Maria, Nummelin, Saara, Stahl Magnus, "*The View of Nature of the villagers in the Kisarawe District, Tanzania*", The Department of Nature and Environment, Karlstad University 651 88 Karlstad, Sweden, 1998.

<sup>14</sup> WCST *et al* (2003), p. 6 supra note 6.

<sup>15</sup> Kaale, B.K (2004); Review of Trade Issues for Management of Tanzania's Coastal Forests, p. 4 (WWF-Eastern Africa Coastal Forest, Programme Development).

forests, fire and human encroachment. Others are lack of alternative employment/source of income and need for arable land as well as the need of wood for timber and firewood.<sup>16</sup>

Poverty amongst community members adjacent to PKFR has forced most of them to rely heavily on the forest products to support their livelihoods. The non-sustainable nature of utilizing forest products and its environment for earning livelihoods plays a major role in the disappearance of resources in the PKFR. Lack of good governance, for example the non-inclusion of community members in participatory forest management plans and lack of an agreed formula for sharing benefits between the government and the community have also complicated efforts to conserve forest resources in this area.

The rapid increase in population growth in Dar es Salaam city and towns along the coast and the increase in industrial activities have attracted more immigrants from the vicinity because of business and employment opportunities. This increase in population has major negative influence on the PKFR and has led to the rapid expansion of infrastructure developments especially in Dar es Salaam city for both residential and commercial purposes. With this trend, PKFR becomes increasingly vulnerable<sup>17</sup>.

Unfriendly court decisions, piling of cases before Kisarawe district and poor case build ups by the police force/prosecution have demoralized the forest managers from seriously managing the forest. The forest destroyers are no longer worrying about conducting illegal activities, knowing that law enforcement agencies and its system are very poor<sup>18</sup>.

The Kazimzumbwi Forest Manager, Mr. Mwanuo for example, observed that complaints of the corrupt elements amongst some police officers and Kisarawe district magistrates, even where unsubstantiated, reflect poorly on efforts to conserve the forest. Allegations that some Police officers assist suspects to run away after been handled to them for custody by PKFR authorities,

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<sup>16</sup> Shauri, V., (2004), Review of the Legal Framework for Management of Tanzania's Coastal Forests p. 7 (WWF EARPO EASTERN AFRICA COASTAL FOREST ECOREGION PROGRAMME, FEBRUARY 2004)

<sup>17</sup> Cosmos Developers Ltd had acquired an area of 75 ha and Bible Believers Church (BBC) had acquired 5 ha. This was according to the contracts signed between the investors and the Ilala Municipal Council whose copies were availed to the author of this work by the Chanika's Ward Executive Officer (WEO).

<sup>18</sup> Mwanuo, M., (2011), Kazimzumbwi Forest Manager.

loss of case files and mishandling of cases are also common to come by. Some of the magistrates, on the other hand have been accused of acquitting the suspects by invoking the provisions of the law unfavourably. It is alleged that corruption is rampant in these two law enforcement agencies, i.e. the police and judiciary.

### **3. Overview of the Field Study**

In course of undertaking the field study, the study team visited three villages (Maguruwe, Kazimzumbwi and Kisarawe, located in Kisarawe district which is in Coast region)<sup>19</sup> and five streets (*Mitaa*) (Nyeburu, Bombani, Mpakani, Stesheni and Mgeule, located in Ilala district which is in Dar es Salaam region).<sup>20</sup> Attempts to visit the communities in Kimwani and Nzasa villages were not very successful, as comparatively few people from these communities were interviewed, due to the apparent animosity between members of the two villages and the Ministry of Natural Resources and Tourism regarding the correct demarcation of the forest border/boundary.

#### **3.1. Methodology**

A number of methodologies were employed in the course of undertaking the study. The team administered questionnaires and used checklists to get information from respondents. Both of these instruments were in Kiswahili. This was necessitated by the fact that most of the respondents' level of education is low. Considering this reality, the team made every effort to ensure that the respondents understood the nature of the questions put to them. In some instances questions from checklists and questionnaires were read to respondents, they responded and the team members jotted down the responses. The team members helped to fill information in questionnaires or checklists where the respondents encountered difficulties in respond effectively or where they failed to translate their thoughts into writing.

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<sup>19</sup> On 16<sup>th</sup> -19<sup>th</sup> September 2011

<sup>20</sup> On 19<sup>th</sup> -20<sup>th</sup> October 2011

### 3.2. Study Area and Sample size

The study was conducted in 8 villages and 8 Streets (*Mitaa*) in Kisarawe district and Ilala municipality, respectively. In the course of conducting the field study, a total of 21 respondents were consulted from villages and *Mitaa* bordering PKFRs. Three out of these respondents preferred to remain anonymous. Those interviewed included the Kisarawe Land, Natural Resources and Environment Officer, Mr. Bayela, Mr. Paul Nyiti, Mr. Mathew Mwanuo and Mr. Secha from WCST, Tanzania Forest Services (TFS) and Ilala Municipal Council, respectively. These were given questionnaires to fill in by themselves. The reason for involving Mr. Nyiti from WCST was that he has implemented *Misitu Yetu* project with CARE Tanzania, and is therefore very experienced and familiar with the PKFRs governance and institutional issues.

All the three Ilala Municipal Council wards bordering PKFRs, Chanika (Nyeburu), Majohe (Mgeule) and Pugu Stesheni (Bombani) were covered in course of the study and selected members from the communities were interviewed. Most of the interviewees were individuals who hold offices in the lowest level of the administration in our local government system. Most of the village or *Mitaa* executive officers, members of the village environmental committees, *Mitaa* chairpersons and members of the village or *Mitaa* governments were interviewed.

As noted earlier, the team failed to interview some people in Nzasa and Kimwani due to their unwillingness to be consulted. However, the team managed to discuss key issues with few individuals and three *Mitaa* leaders who preferred anonymity. Also some of the elders in Kimwani, who have lived there for a long time, also provided relevant information.

The selection of the respondents who participated in the interviews during the field study was based on the following factors:-

- a) Familiar and conversant with PKFRs issues;
- b) Active participation in the protection and conservation PKFRs;
- c) Play a central role in the management of the forest reserves (e.g. forest manager);
- d) Living in proximity and deriving some benefits from the forest reserves;
- e) Interest in the management and conservation of the two reserves;
- f) Being officials who play key roles in the village and *Mitaa* governments; and

- g) Being persons with the responsibility of managing, protection and conservation of the two forest reserves (e.g. district forest officers);

### **3.3. Justification of the Field Study**

Legal, policy, institutional framework and governance matters relating to the management of PKFRs are very important in the smooth implementation of the REDD pilot project in the two reserves. Therefore, this study is important in helping and informing the project on an effective and detailed design and planning to ensure all relevant legal, policy and institutional related issues are adequately addressed during the project implementation.

## **4. LITERATURE REVIEW**

### **4.1. Institutional Framework for PKFR**

Literature that addresses institutional matters related to coastal forest management providing some review of the national institutional framework for reducing emissions from deforestation and forest degradation (REDD) is available. However, it does not address specific institutional issues relating to the management of Pugu and Kazimzumbwi forest reserves. It would be useful to point out at the outset that the institutional framework for forest management in Tanzania is derived from legislation and related policies governing the management of forests in general. But, by and large, the institutions charged with mandate of management of forests, are in line with the categorization of forests.

The institutional arrangement for forest management is broadly divided between central, local and village governments. All the national forest reserves are managed by the Forest and Beekeeping Division under the Ministry of Natural Resources and Tourism. The Director of Forests is charged with the mandate and responsibilities to oversee the management of national forest reserves. The local government forest reserves are managed by local government authorities by using district forest officers. In the like manner, the village forest reserves are managed by village governments through Village Natural Resources Committees. It is worth noting that Pugu and Kazimzumbwi forest reserves were gazetted as forest reserves based on

their biodiversity potential and their role as catchment area for Msimbazi River and other streams flowing from them. Having laid this foundation, it would be prudent now to analyze the literature on governance and institutional issues impacting the management of the two forest reserves:

Shauri (2004) elucidates on institutional issues relating to coastal forest management. He dwelt on institutional conflicts in general, lack of targets for law enforcement and compliance, level of awareness to laws and policies for forest enforcers and decentralization of forest law enforcement and governance.<sup>21</sup> On lack of targets for law enforcement and compliance, he asserts that, institutions involved in forest law enforcement do not set any tangible targets in ensuring compliance with the law. Offenders have always operated with impunity and despite the fact that there might be official figures indicating the percentages of forest loss ensuing from illegal harvesting. These figures should have been used by forest law enforcers to set targets for enforcement.<sup>22</sup> This applies to PKFR as well.

Isaac Malugu (2007) argues that institutions which managed Pugu and Kazimzumbwi forest reserves were undertaking their management responsibilities in a joint management approach. There was the central government, through district forest officers and forest guards, managing the reserves as national forest reserves, Communities through Village Natural Resources Committees under joint forest management (JFM) approach as well as non-governmental organizations (NGOs) and Community Based Organizations (CBOs) under joint forest management approach<sup>23</sup>.

The Forest Policy (1998) envisages the adoption of an institutional framework (for sustainable forest management) during implementation of the Policy, which encompasses arrangement of the necessary human resources and financial inputs to meet the pre-conditions for the desired development.<sup>24</sup> This is still a problem in the forest sector country wide and Pugu and Kazimzumbwi forest reserves are not an exception. Also, the National Forest Programme which

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<sup>21</sup> Shauri, V., (2004), *Review of the Legal Framework for Management of Tanzania's Coastal Forests*, World Wide Fund for Nature, East Africa Region Programme Office (EARPO) Eastern Africa Coastal Forest Ecoregion Programme.

<sup>22</sup> *Ibid.*,

<sup>23</sup> Malugu, I., *Infra*, p. 161

<sup>24</sup> United Republic of Tanzania, *The National Forest Policy*, 1998, p. 11

was implemented from 2001 to 2010 envisages the addressing of institutional issues pertaining to forest management in Tanzania. It contains a component on *Institutions and Human Resources Development* which aimed at strengthening institutional set up, coordination of forest management, establishing sustainable forest sector funding and improvement in research, extension services and capacity building through strengthening human resources<sup>25</sup>. Under this component, the forest programme categorically provides that the forest sector administration involves the Forestry and Beekeeping Division (FBD) under the Ministry of Natural Resources and Tourism, and the President's Office Regional Administration and Local Governments. The administration has been weak especially in linking the local governments, regional administration and central levels<sup>26</sup>. Regarding Pugu and Kazimzumbwi forest reserves where management problems are still being witnessed, there is need to analyze institutional linkages, the level and quantity of manpower deployed to see whether it is enough to cater for effective management.

Simon Milledge, *et al* (2007), have addressed at length a number of issues relating to institutional framework, governance and forest management. They underscore the relationship between governance, forest management and national development. Regarding the interplay between governance and institutional arrangement in forest management, the authors point out that 'governance shortfalls are not necessarily an accidental artifact of institutional arrangements or capacity constraints; there is increasing evidence for the more damaging forms of forestry-related corruption that selfishly exploit opportunities availed by decentralization, globalization and delayed completion of forest sector institutional reforms for the gain of both individuals and organized networks.'<sup>27</sup>

Simon Milledge, *et al* (2007), go a step further commending Tanzania for having a well-developed institutional framework for forest management. But they admitted that the existing institutional framework is plagued with shortfalls which erode its effectiveness. The forestry sector has been plagued by poorly controlled, irregular and unsustainable activities. And

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<sup>25</sup> United Republic of Tanzania, (2001), *The National Forest Programme in Tanzania 2001 – 2010*, Ministry of Natural Resources and Tourism, p.31.

<sup>26</sup> *Ibid.*,

<sup>27</sup> Milledge, S. A. H., et al (2007), *Forestry, Governance and National Development: Lessons Learned from a Logging Boom in Southern Tanzania*, TRAFFIC.

amongst the most serious concerns are massive revenue losses, negative social impacts, forest degradation and weakened governance structures. In all cases, poorer people living in rural areas are disproportionately affected, despite ongoing decentralization and a legal framework that promotes broad-based empowerment. The authors underscored the fact that governance shortfalls have played a key role in addressing these concerns.<sup>28</sup>

In a paper on Policy and Institutional Framework for Sustainable Resources Management<sup>29</sup> a number of institutional issues are underscored. One central issue is that resources management is not the responsibility of an individual institution. They went further to highlight on the importance of putting in place a sound and effective institutional framework for sustainable resources management. They gave two schools of thought on institutional framework for sustainable resources management. "... , the first arguing that the State is the overall manager or guardian of resources and should develop mechanisms to ensure that resources are managed sustainably and take responsibility for or pay for the costs associated with resource management. Arising out of the concern that state institutions are weak and therefore incapable of managing resources sustainably, is the second school of thought which suggests that there is no need for the state to take responsibility for resource management as local institutions (traditional) already exist which are experienced and have been managing resources sustainably for many years. However, this school of thought concedes that expecting these traditional institutions to promote sustainable management in their weakened state would be unrealistic and therefore there is need to strengthen and empower them before the responsibility is shifted from the State". Here, emphasis is made on community involvement in resources management with the view of entrenching sustainable management of resources.

The United Nations Environment Programme (UNEP) 2007<sup>30</sup> in their work entitled, "Empowering People and Institutions in Africa: Institutional and Governance Interlinkages,"

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<sup>28</sup> *Ibid*, p. 4

<sup>29</sup> GAIA: Environmental Information System, A paper found at <http://www.ess.co.at/GAIA/CASES/ZIM/policy.html> accessed on 30/08/2011.

<sup>30</sup> United Nations Environment Programme, (2007); "Empowering People and Institutions in Africa: Institutional and Governance Interlinkages" in *Encyclopedia of Earth*, (Ed.) Cutler J. Cleveland, retrieved September 1, 2011 at [http://www.eoearth.org/article/Empowering\\_people\\_and\\_institutions\\_in\\_Africa:\\_institutional\\_and\\_governance\\_interlinkages](http://www.eoearth.org/article/Empowering_people_and_institutions_in_Africa:_institutional_and_governance_interlinkages)

emphasize the need to redress institutional issues by establishing linkages between different institutions. They take a further step of showing how institutional matters and governance are interlinked and pose a number of challenges and impacts to management and development. To quote them, *in extenso*, they provide that “governance regimes impact on environmental management and change, in multiple ways and at different scales, across all environmental sectors. First, environmental governance – and decentralization and devolution of power – affects the opportunities local users have in managing environmental resources and in particular their ability to manage natural resources as productive assets. Second, political governance, and in particular how power is shared between the centre and the local, is particularly important. For example, poor governance, within inadequate levels of transparency and accountability, often results in managerial systems that are vulnerable to corruption and conflict. Conflict has multiple ramifications for economic development and trade, environmental sustainability and human well-being.”

The UNEP highlights the interconnectedness of conflict with the loss of biodiversity, the overharvesting of ecosystems goods and services, the spread of illegal trade in natural assets and population displacement. These are all detrimental to ecosystems health and productivity. Good governance is critical for resolving conflict and building peace, mitigating its ill effects and avoiding conflict. By casting a glance on this we envision the institutional and governance challenges facing the Pugu and Kazimzumbwi forest reserves in terms of management.

The Institute of Resources Assessment (IRA)<sup>31</sup> 2010, in their work on Legal and Institutional Framework Review in the context of REDD intervention in Tanzania, dwelt extensively on national issues relating to institutional framework and gives highlights on institutional linkages. The study sheds light on how best to design a sound and effective institutional framework for implementing REDD initiatives at the national level by borrowing a leaf from different international fora. The study though addresses issues at the national level, its analysis need to precipitate and be replicated at the very local level. In view of this, the Pugu and Kazimzumbwi

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<sup>31</sup> IRA, (2010), *Legal and Institutional Framework Review in the Context of REDD Intervention*, In-depth Study on Reducing Emissions from Deforestation and Forest Degradation (REDD), November 2010.

study needs to address institutional and governance challenges which are peculiar to PKFR and establish a basis of redressing them based on their uniqueness.

## **4.2. Institutions and Governance**

On governance related issues, Shauri (2004) observes that the Forest Act of 2002 has made strides in ensuring that forest governance has been decentralized up to lower levels (village level). However, these provisions are not backed with the necessary financial and human resources. Hence the lower institutional levels lack the necessary capacity to implement their mandates. He urges that there are inadequate sharing of costs and benefits through the decentralized process. Decentralization of powers has resulted in the benefits to the district governments at the costs of villages who are day-to-day managers of the forests<sup>32</sup>.

The author argues that because of limited sources of taxable revenue for local governments, increasingly local governments are becoming more and more dependent on levies and taxes on forest products. Most Districts' governments in the coastal areas (Pugu and Kazimzumbwi are not an exception) have turned coastal forests to be their priority source of revenue-through the collection of levy on timber, charcoal, poles and firewood which are legally mandated to do so under the Local Government (Finance) Act, 1982<sup>33</sup>. This phenomenon has been witnessed in PKFR as well. There is a pertinent need to do thorough analysis of the issues and redress the situation.

In order to put in place an effective governance of forest resources, the government introduced public and local government reforms with the view of providing a platform for decentralization and devolution of management decisions and for enhancing capacity in the respective levels. Decentralized forest management to the local governments, communities and the private sector requires technical guidance through provision of effective extension services with harmonized messages especially regarding those dealing with land use in forestry and coordination in

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<sup>32</sup> Shauri, V., Op. Cit., p. 29

<sup>33</sup> *Ibid.*,

planning and execution of extension services<sup>34</sup>. Decentralization was hinged on shifting management responsibilities, decision-making powers and the provision of services from the central to the local authorities and increasing efficiency at the District level. Nowadays, there is a growing realization that resources management responsibilities should be based at local levels with more participation from rural people who affect the respective resource. Thus decentralization plays a pivotal role towards a greater devolution of power for resources management to the locals. This, if well implemented would promote institutional linkages and increase coordination in the forest sector.

On governance, Simon Milledge, *et al*, underscore the relationship between governance, well-developed and functioning institutional framework and redressing of institutional issues for effective and sustainable forest management. It goes without saying that if we need to have sustainable forest management we need to address all governance and institutional related issues in the forest sector. This applies to Pugu and Kazimzumbwi forest reserves as well. Literature has hinted on governance and institutional issues to be among the shortfalls that undermine sustainable management of both reserves.

### **4.3. Policy Framework, PKFR Management and Governance**

Simon A.H *et al* (2007) submits that Tanzania has a fairly advanced and institutional framework for forest management and governance.<sup>35</sup> This is a result of extensive policy, institutional and legal framework review with a view of improving governance under decentralization process. Simon's work, popularly referred to as the TRAFFIC REPORT, points out that Tanzania policies and institutions in the management of forests are not the cause for forest depletion. The shortfall in governance is singled out as major source for forest depletion<sup>36</sup>.

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<sup>34</sup> United Republic of Tanzania, (2001), *The National Forest Programme in Tanzania 2001 – 2010*, Ministry of Natural Resources and Tourism, November 2001.

<sup>35</sup> Milledge, S. A. H., et al, (2007); *Forestry, Governance and National Development: Lessons Learned from a Logging Boom in Southern Tanzania. An Overview*, TRAFFIC Eastern/Southern Africa/Tanzania Development Partners Group/MNRT, Dar es Salaam, Tanzania.16pp, p. 5.

<sup>36</sup> *Ibid*.

The report acknowledges efforts done by the Ministry of Natural Resources and Tourism (MNRT) in bringing about policy changes in the forest sector management, henceforth improving forest status. The policy issues appreciated by the TRAFFIC REPORT include: procedures for issuing licences for harvesting; empowering of villages to participate in forest government through participatory approaches (JFM for example); banning of exporting all types of logs; issuing of guidelines for harvesting forest products and formation of district harvesting committee<sup>37</sup>; and establishment of forest surveillance unit<sup>38</sup>. The report is, however, skeptical of involvement of individuals who are having interests in the harvesting committees.

WCST, TFCG and CARE-Tanzania in the *Misitu Yetu* Project Report on Demarcation of Village Forest Management Areas in Designated Forest Reserves, September/October 2003<sup>39</sup>, acknowledges that the National Forest Policy (NFP), 1998 has allowed communities neighbouring forests to use and benefit from forests and forest products through different participatory management (JFM).

Participatory approach, in whatever name, is hailed as it may act as an incentive to support conservation of forests and its associated products. The sense of ownership of the forests by the forest neighbouring communities is sensitized and upheld. The literature suggests that the development of rules, regulations, by-laws and management agreements amongst the forest neighbouring communities in order to ensuring proper policy implementation. However, it is argued that some district authorities are not aware or unwilling to implement the participatory forest management. It further echoes on the conflict between Kazimzumbwi forest reserve and Nzasa villagers, who are obviously encroachers to the forest. The government through FBD has attempted three times to evict them unsuccessfully<sup>40</sup>. The conflict is said to be fuelled by a border conflict which is still unresolved.

The Project on Private Forestry and Carbon Trade (MNRT, March 2010), briefs on the policy framework reforms that Tanzania has been undertaking. The project document reveals

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<sup>37</sup> The Committees were established in 2006

<sup>38</sup> *ibid* p.7

<sup>39</sup> September/October 2003.p.18

<sup>40</sup> Evictions in 1998, 2003 and 2011 (MNRT-FBD 2003)

shortcomings in the management of forests and plantations. It notes the need for review of NFP so as to provide a room for private individuals to engage in forest and plantation management and conservation.

Barik K. Kaale, in his case study<sup>41</sup>, shows policy and legal framework reforms and efforts Tanzania has undertaken to conserve forest reserves. He mentions NFP, 1998 and its subsequently fast-tracked Act (The Forest Act, 2002). He is concerned with the failure of the government of Tanzania to implement policy decisions. In line to that, he highlights governance shortfalls and corruption as the stumbling blocks in policy decision implementation for conserving reserved forests.

The World Wide Fund for Nature-WWF Tanzania Programme Office, nowadays Tanzania Country Office, in its work<sup>42</sup> submits that apart from governance and institutional framework gap, the gap in policy framework constitutes a failure to protect exhaustion of forests and biodiversity. The command and control or top-down approaches in policy framework formulation and implementation are pointed out as the core source for failure of policies and strategies in control of forest depletion. Downsizing and decentralization is challenged in context of forest policies as most policies are reported by this work as centrally planned and directed.<sup>43</sup> Moreover, the work emphasizes that lack of effective enforcement of policy decisions and rules coupled by poor penal provisions of forest laws as the cornerstone for failure to control loss of forests.

#### **4.4. Selected Policies**

##### **4.4.1. The National Forest Policy 1998**

The National Forest Policy (NFP) identifies four priority areas for legislation and implementation, namely: forest land management; forest-based industries and products; ecosystem conservation and management; and institutional and human resources.

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<sup>41</sup> Kaale, B.K (2003); Implementing Policy Decisions to Conserve Forest Reserves in Tanzania, p. 18

<sup>42</sup> A social-Economic Review of Coastal Forests in Tanzania, March 2004 p.18

<sup>43</sup> *ibid* p.18

The policy further calls for and encourages Joint Participatory Forest Management (JFM). This is done through setting up a framework for joint forest management within forest reserves and for community-based forest management outside the reserves. The aim of JFM (See policy statements below) is to create an enabling environment for the development of the forestry sector by decentralising responsibilities for forest management to local communities and district councils. It creates a political space for a wider participation of a larger section of Tanzanian population in the management of forest resources and their products.

With this increase in political space for public participation in forest management and conservation, the REDD project is placed in a better place in terms of implementation. It should be clearly noted that, REDD is not mentioned anywhere in the policy. However, conservation measures referred to in the National Forest Policy may be interpreted to encompass REDD initiatives.

#### **Forest Policy Statements (PS) in Support of Participatory Forest Management**

PS 3: To enable participation of all stakeholders in forest management and conservation, joint management agreements, with appropriate user rights and benefits, will be established. The agreement will be between the central government, specialized executive agencies, private sector or local governments as appropriate in each case and organized local communities or other organizations of people living adjacent to the forest.

PS 5: To enable sustainable management of forests on public lands, clear ownership for all forests and trees on those lands will be defined. The allocation of forests and their management responsibility to villages, private individuals or to the government will be promoted. Central, local and village governments may demarcate and establish new forest reserves.

PS 6: Village forest reserves will be managed by the village governments or other entities designated by village governments for this purpose. They will be managed for production and/or protection based on sustainable management objectives defined for each forest reserve. The management will be based on forest management plans.

PS 7: Private and community forestry activities will be supported through harmonized extension services and financial incentives. The extension package and incentives will be designed in a gender sensitive manner. Extension services and financial incentives will be provided in support of “forestry activities” *per se*.

#### **4.4.2. The National Land Policy 1995**

The National Land Policy (NLP) embraces considerable changes to the manner of acquisition, holding and transfer of land. Furthermore, it maintains the radical title, a concept that discourages community engagements in conservation of the forests as the president may, at any time, revoke the individual ownership of land or forests and conservation initiatives. So, the concept of private ownership of land, so forests is missing. The wise use of land, conflicts arising from ownership of land and mechanism to prevent land degradation, are also stated in detail.

The issues of sustainable utilization of land for facilitating socio-economic development are encouraged whilst precautionary measures are taken into account, so that the ecological balance of environment is not harmed irreversibly. The NLP advocates for conservation of sensitive lands and areas of ecological importance.

#### **Forest Policy Statements (PS) in Support of REDD initiatives**

PS: 1 Mechanisms for protecting sensitive areas will be created. Sensitive areas included water catchment areas, small islands, boarder areas, mountains, **forests**, national parks, rivers, river basins and banks, seasonal migration routes of wildlife, national heritage and areas of biodiversity. These areas or parts of them should not be allocated to individuals.

The NLP, has not, however, devised mechanisms for protecting sensitive areas as it promulgates. The policy also calls for the protection of land resources for sustainable development<sup>44</sup>. It is our submission that, REDD initiatives may be housed in this broad category of the conservation concept under NLP.

#### **4.4.3. The Agriculture and Livestock Policy**

The ALP 1997 recognizes the role that the agriculture and livestock sectors play in the national development. In its introductory part, the ALP hails the two sectors in providing employment to most of the Tanzanian population<sup>45</sup>. The policy acknowledges that agriculture and livestock

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<sup>44</sup> Objective 2.8 of the National Land Policy, 1995

<sup>45</sup> Page 5 of the ALP

depend on several other sectors like land, environment, water and forest. It is apparent therefore that in the context of recognizing the need of a balanced policy, the ALP calls for the need to conform to the cross cutting sectoral policies.

The policy sets out several objectives. Interestingly, the policy embraces in its objectives sustainable utilization of environment initiatives (See the PS hereinafter).

PS:

(F) To promote integrated and sustainable use and management of natural resources such as land, soil, water and vegetation in order to conserve the environment

It further calls for integrated approach in developing agriculture and livestock sectors. The policy emphasizes on incorporating environmental issues in agricultural and livestock undertakings. It takes into account the fact that agriculture and livestock play a major role in distorting the environment, if not well managed and interlinked.

A courtesy call is made for the importance of interlinking these two sectors with other related sectors for sustainable utilization of shared resources among cross sectors (see the text bellow).

Page 24 of the ALP

Agriculture involves the use of natural resources. High in the agenda is land. Land has to be managed in such a way that agricultural production is sustainable, even in the long term and that negative environmental externalities are avoided or at least kept to a minimum. Nutrients extracted from the soils should be replaced, **forests replanted**, soil degradation and **overgrazing reversed**.

The overall coverage of the policy strongly suggests that REDD mechanisms and initiatives may find a hosting place in this policy. It should pointed out, however, that the policy's focus on commercialization of agriculture may somehow discourage conservation initiatives, which has a bearing on REDD.

#### 4.4.4. The National Environmental Policy of 1998

The policy re-echoes the fact that human life is connected to environment. It sets out the main six environmental problems that need serious attention, namely: land degradation; lack of accessible water quality water for both urban and rural inhabitants; environmental pollution; loss of wildlife habitats and biodiversity; deterioration of aquatic; and deforestation<sup>46</sup>.

It enumerates reasons such as rapid growth of population in rural and urban and inadequate land and water management at various as the underline reasons for environment deterioration in Tanzania.

The policy calls for integrated policies, strategies and programmes for conservation of biological diversity and sustainable use of biological and genetic resources as biodiversity issues cut across various sectors.

#### **PS: Paragraph 33**

Biodiversity policies, strategies and programmes are only meaningful in relation to other national policies, strategies and programmes. Therefore, policies, strategies and programmes for the conservation of biological diversity and sustainable use of biological and genetic resources shall be integrated into relevant sectoral/cross-sectoral policies, strategies and programmes.

Like the NFP, the NEP underscores an important role that local government authorities can play in the management of environment. Moreover, it mandates the local government authorities to oversee planning processes and establishment of local environmental policies and regulations.<sup>47</sup> It calls for the establishment of Regional Environmental Committees, under the facilitation of the District, Ward and Village Councils.<sup>48</sup> Further, like NFP, the mandate conferred by NEP to local government authorities decentralizes and devolves the power of the central government in management of environment.

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<sup>46</sup> The National Environmental Policy 1998, p. 9

<sup>47</sup> *ibid* para. 101-102

<sup>48</sup> *ibid* para 103

#### **4.4.5. The National Strategy for Growth and Reduction of Poverty, II (NSGRP II), 2010**

The NSGRP is dedicated in accelerating economic growth, reducing poverty, improving the standard of living and social welfare of the people of Tanzania as well as good governance and accountability. It addresses the social challenges ranging from health, education and the environment. The wording of NSGRP II makes it clear that most of the core issues addressed have either drawn their originality from the Millennium Development Goals, NSGRP I or the ruling party's Manifesto.

The NSGRP recognizes that sustainable development cannot be attained without considering sustainable utilization of the environment. It articulates in a very brief form the need for good governance for the attainment of the national development.<sup>49</sup> The strategy, however, does not directly address issues of conserving the environment and biodiversity in ensuring sustainable development. There is, however, some implied reference to this important aspect, since growth cannot be achieved without sustainable conservation of natural resources. This is where the connection between the NSGRP and REDD could be located.

## **5. The Legal Framework Relating to Pugu and Kazimzumbwi Forest Reserves**

### **5.1. Introduction**

The implication of the gazettelement of the PKFRs since the colonial era is that the PKFRs have been subject to the control and management of the central Government as opposed to being under that of the local government. Under the local government's control, local communities would be better placed to exert direct influence in their management and governance. It must also be pointed out at the outset that more studies have been conducted on the forest conservation and management and other related issues in the Kazimzumbwi Forest Reserve compared to the Pugu-Forest Reserve. More specifically, the literature that has some inclination on the governance and legislative frameworks in the PKFRs has focused more on the Kazimzumbwi

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<sup>49</sup> The National Strategy For Growth And Reduction Of Poverty II (NSGRP II), July 2010

Forest Reserve. The underlying assumption of such focus is partly attributed to the fact that conservation initiatives must be focused on both due to the relationship of the bionetwork that supports the Reserves and the surrounding communities. Also, compared to Pugu Forest Reserve, there has been reported more conflicts among local communities and the Central government on issues relating to access resources and boundaries in the Kazimzumbwi Forest Reserve.<sup>50</sup> These conflicts have been manifested in increased rates in deforestation and plundering of forest resources at alarming rates in the Kazimzumbwi, making it attract comparatively more interest in this regard.<sup>51</sup> The following review espouses this reality and it will therefore be evident that the review is more inclined on literature on Kazimzumbwi.

## **5.2. Governance Aspects in Legislation**

### **5.2.1. Background**

Issues of governance have an intertwined relationship with the smooth operation of the supporting legislative framework. This is equally true in relation to the management of natural resources regimes in general and the PKFRs in particular. Governance issues have been analyzed from the point of view of the use of local governments in the administrative scheme in Tanzania in general. The analysis also has some bearing on the context of the legal framework of the PKFRs, especially since they have been placed under the Central government.

Authorities have traced the genesis of governance and its relationship to law to the colonial era with the enactment of laws such as the Native Authority Ordinance in 1926 and the Local Government Ordinance in 1953. These colonial pieces of legislation were intended to introduce an electoral system at the local level and give political legitimacy to the local leaders.<sup>52</sup>

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<sup>50</sup> See, Mchome, S. E., (2001), *“The Problem of Using Law by Government Officials in Support of the Course of Development: A Case Study of the Mkomazi Game Reserve and Kazimzumbwi Forest Reserve,”* Ph.D. dissertation, University of Dar-es-Salaam.

<sup>51</sup> See, Tang’are, J., (2008), *“Local Community Perceptions of the Forest Management Regime in Kazimzumbwi Forest Reserve, Coast Region, Tanzania,”* MA (Geography and Environmental Management) University of Dar-es-Salaam, Chapter One and generally Ndumbaru, (1999) *“Resource Use Conflicts: The Case of Kazimzumbwi Forest Reserve,”* University of Science and Technology, Norway.

<sup>52</sup> See, Max, M. A. O., (1991); *The Development of Local Government in Tanzania*, Education Publishers and Distributors Ltd, Dar-es-Salaam, p. 24.

The independence government adopted the local government system put in place by the colonial regime. In the early 1970's the government reorganized its administrative system through the Decentralization of Government Administration (Interim Provisions) Act of 1972. This Act abolished local government authorities and created much larger District and Regional Development Councils. Local representative Councils were also shelved and replaced by organs of the ruling Party. Max notes that this approach to decentralization turned the District Councils into "*rapid bureaucratic organizations dominated by officials...*"<sup>53</sup>

Local governments resurfaced in Tanzania between 1982 through the Local Government Acts discussed in greater detail below and the Decentralization of Local Government Administration (Interim Provisions) [Amendment] Act. Most of the works on local governance issues attribute the resurgence of the local governments to poor administrative systems and mismanagement. Local government authorities were constitutionally recognized in 1984 when the Constitution of the United Republic of Tanzania, 1977 was amended particularly for this purpose.<sup>54</sup> In 1997 the Regional Administration Act effectively activated the decentralization process by trimming down the roles and duties at the regional level. The law permitted urban and district authorities to network openly and directly with the central government on a number of issues within their areas of jurisdiction. Matters related to the environment in general, and forests in particular were among those which were placed in the jurisdiction of the local government authorities.

The introduction of the Local Government Reform Programme (LGRP) in the 1990's provided a catalyst to the decentralization process in Tanzania.<sup>55</sup> The Programme basically lays emphasis on the need to shift management responsibilities and the provision of services from the central to the local authorities and increasing efficiency at the District level. The main aim of the Programme was to increase accountability and responsibility in managing and directing development schemes. The Programme also places emphasis on the need to devolve matters related to management of environmental resources, including forests, unto local government authorities.

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<sup>53</sup> *Ibid.*, p. 88.

<sup>54</sup> See, Articles 145 and 146 of the Constitution of the United Republic of Tanzania.

<sup>55</sup> Decentralization as used in this context refers to the transfer of legal and political authority from the central government and its agencies to organizations and institutions in the field. The authority transferred includes the planning and management of public affairs as well as decision-making.

### 5.2.2. Literature on Laws in PKFRs

Literature on the application of existing natural resources management laws in general and forest legislation in particular in the context of resource use in the PKFRs is also in abundance.

An assessment of perceptions of local communities in the Kazimzumbwi Forest Reserve in the context of governance which has a bearing on its management has been made by Tang'are.<sup>56</sup> She observes that the centralization of decision-making processes relating to the management of the Reserve has led to negative perceptions leading to increased deforestation and conflicts between local communities in the proximity of the Reserve and the central government. The author notes that lack of effective involvement of local community members in the management of the Reserve and the application of strict laws that deny access to forest resources are a contributing factor to the state of affairs. She calls for the establishment of an active joint forest management organ where the central government will involve local community members and the creation of a buffer zone to halt the deforestation in the Reserve. She provides a generalized overview of some of the laws regulating forests in Tanzania and other jurisdictions.<sup>57</sup> There is no analysis of the provisions of these laws as they relate to deforestation in general and in the context of REDD in particular.

Meliyo on the other hand identifies strategies for improving local community participation in environmental management to achieve sustainable forest management and reduce environmental problems in Kazimzumbwi Forest Reserve.<sup>58</sup> The author's analysis also has some significant bearing on the governance issues when he advocates for the need to involve local community members in the conservation and management of the forest resources found in the Reserve. The author makes some inference on the relationship of legislation in the context of the theme of the thesis where he recommends for the need to reform the legal procedures to ensure effective participation of communities living in proximity to the Reserve.<sup>59</sup> Despite this recommendation, it is surprising that the author does not make any analysis or review of any of the legislation in

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<sup>56</sup> Tang'are *Op. Cit.*

<sup>57</sup> *Ibid*, see pp. 20-21.

<sup>58</sup> Meliyo, G., (2008), "*Improving Local Community Participation in Environmental Management for Sustainable Forest Management in Tanzania: A Case Study of Kazimzumbwi Forest Reserve*," M. A. Thesis (Integrated Environmental Management), University of Dar-es-Salaam.

<sup>59</sup> *Ibid*, p. 18.

the thesis. He calls upon authorities to decentralize decision-making process in order to effectively take on board the views of local community members.<sup>60</sup> Meliyo makes reference to the United Nations Framework Convention on Climate Change in passing but does not analyze it in the context of the recommendation to review the laws nor in the implementation of REDD programs in the Reserve.<sup>61</sup>

An enlightening analysis of the history of the legal regulatory framework governing the Kazimzumbwi is provided for by Mchome.<sup>62</sup> His theme is focused on the law and development paradigm in the context of natural resources management and conservation with a focus on Forest Reserves. In the Chapter 8 of the dissertation, Mchome transcends issues of governance in Kazimzumbwi Forest Reserve where he discusses the evictions of local community due to conflict over the Reserve's boundaries between the government and the local communities. Mchome argues that the law could be effectively used to attain provides a general overview of the use of law to attain development without causing misery to those that it targets. Like Meliyo and Tang'are, Mchome does not analyze the legal framework in Kazimzumbwi Forest Reserve in the context of REDD. Understandably, this was not the focus of the dissertation, which is nevertheless a good source for laying a foundation for understanding the complexities in governance that have plagued the Reserve.

Other notable literature that provides some useful information on the theme of this study but do not address the topical themes in the context of REDD initiatives in the Kazimzumbwi Forest Reserve include Mun'gongo *et al*,<sup>63</sup> and Sechambo.<sup>64</sup> Another important literature in this regard is the study on the Legal and Institutional Framework Review in the Context of REDD Intervention which provides a holistic coverage on REDD related legislation. These studies, however, do not specifically address forest and governance issues in the PKFRs.

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<sup>60</sup> *Ibid.*, p. 20

<sup>61</sup> *Ibid.*, see p. 26

<sup>62</sup> Mchome, S.E. *Op. Cit.*

<sup>63</sup> Institute of Resources Assessment, (1997), "*Sources of Socio-economic Pressure on Coastal Forests: Observations from Vikindu and Kazimzumbwi Forest Reserves,*" Institute of Resource Assessment, University of Dar-es-Salam, 1997.

<sup>64</sup> "*Encroachment onto Reserved Public Land: A Case of Kazimzumbwi and Pugu Forest Reserves,*" LL.B. Dissertation, University of Dar-es-Salaam, 2001

### **5.2.3. Legislation**

Various natural resources sector legislation directly or indirectly provide for the regulation of forest activities and the management of forest resources by the central and local government authorities. The forest management related provisions of some of these laws are comparatively more pronounced than others. In this part, we undertake an examination of selected laws which in our view have a comparatively closer bearing and relationship to forest related activities, good governance and the process of decentralization by devolution with respect to forest management than others. As noted above, the Constitution of the United Republic of Tanzania, the fundamental law of the land directs every region, municipality, town and village to establish local government authorities. In this regard therefore, to the extent of focusing on local government authorities' role in forest management as a key component of good governance, the laws analyzed in this part reflect the spirit behind the fundamental law of the land.

#### **5.2.3.1. Forest Act, No. 14 of 2002**

In 2002, the government introduced reforms with a view to improving forest management in Tanzania. It did this by repealing the colonial Forest Ordinance and replacing it with the Forest Act, 2002. The colonial piece of law was premised on a “command and control” approach to the management of forest resources. The Forest Act is the principle legislation that provides for the general framework for the law relating to the conservation and management of forests. It contains provisions that seek to improve forest governance at the level of local communities in an attempt to do away with the “control and command approach.” In an effort to reflect the Forest Policy (1998) and the concept of decentralization, the Forest Act seeks to devolve powers to local government authorities and local communities. Section 22 (1) of this law empowers the Minister to declare, by Order published in the *gazette*, any area rich in biodiversity to be a local authority reserve.

It is also important to note here that two of the main objectives of this Act have a direct bearing to the theme of this study; The first being “*to delegate responsibility for management of forest resources to the lowest possible level of local management consistent with the furtherance of*

*national policies”<sup>65</sup> and the second; “to promote coordination and cooperation between the forest sector and other agencies and bodies in the public and private sector in respect of the management of natural resources.”<sup>66</sup>*

The first objective reflects the spirit of devolution of power to local government authorities and the second seeks to address situations where potential conflicts may arise in the course of implementing cross-sector natural resources management processes or activities. The Act lays emphasis on consultation amongst institutions in order to reconcile and resolve conflicts over the management plans and policies relating to forest reserves at the local level.<sup>67</sup>

The Director of Forestry, the principal advisor to the Government on all matters related to the management of forests, is charged with the task of ensuring that all local government authorities and associations of local authorities and other forest management authorities are consulted and kept informed about the management of forests.<sup>68</sup>

The Act also makes, albeit indirectly, some cross-reference to the provisions of other natural resources sector legislation with a view to avoid conflicts in the management of forest resources. For example, section 14 makes reference to the need for Village Councils established under the Local Government (District Authorities) Act to consult in preparing village land forest management plans and manage forests in accordance with the plans. Cross reference of the Act to the Environmental Management Act, 2004 is also implied in section 18 (1) which requires conducting environmental impact assessment in any proposed development project in forest areas. Sections 68 and 87 of the Act make direct reference to the provisions of the Wildlife Conservation Act in relation to forest issues that have a bearing on wildlife.

Also, in an apparent move to avoid conflicts, the Act makes provision for the establishment of Joint Management Agreements between District Councils and Village Councils on the one hand

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<sup>65</sup> Section 3 (d) of the Forest Act

<sup>66</sup> Section 3 (g)

<sup>67</sup> Section 8 (2) – (5) of the Forest Act

<sup>68</sup> Section 8 (1)

and Village Councils and Community Groups formed under sections 42 and recognized under section 43 of the Act, on the other.<sup>69</sup>

The by-law making powers of local authorities (district and urban), provided for under the Local Government (District and Urban) Authorities Acts, have been subjected to conditions in the event the proposed by-laws relate to the management of forest reserves. Draft copies of proposed by-laws on forest management must be submitted to the Director of Forestry for scrutiny, guidance and recommendations.<sup>70</sup> Unlike the requirement for uniform by-laws made under the provisions of the Local Government (Urban and District) Authorities Acts, the village by-laws for forest management need not be routed through District Councils where they follow the format prescribed by the Director of Forestry.<sup>71</sup>

The Director of Forestry may also prepare and publish model by-laws for forest reserves to be managed by local authorities. The incentive to adopt such model by-laws by local government authorities is great as this will make them avoid the stringent requirements of submitting proposals of by-laws to the Director of Forestry and thereafter having to comply with directions, recommendations and comments issued by him.<sup>72</sup>

Where a village forms a Village Land Forest Committee, then the Committee automatically becomes the principal village body for matters related to any village land forest reserve.<sup>73</sup> Section 34 (4) (e) provides that Village Land Forest Reserves shall be governed by customary rules and practices applicable to forest use and management within the area. It may be important to emphasize here that this provision is mandatory. The phrase used is “shall” not “may.” The provision does not provide for what would happen where a customary rule or practice is inconsistent or does not augur well with the objectives of the Act. This leaves room for potential conflicts, especially where a local authority decides to enact by-laws to give effect to such customary practice or rule.

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<sup>69</sup> Section 16

<sup>70</sup> See section 31 of the Forest Act

<sup>71</sup> Compare with section 37 (1) (a) of the Forest Act where by-laws in respect of village land forest reserves must be routed through the District Council.

<sup>72</sup> Section 31(5) exempts local authorities from the conditions where they adopt the model by-laws.

<sup>73</sup> Section 33 (2)

### **5.2.3.2. Wildlife Conservation Act, 2009<sup>74</sup>**

The preamble to this law provides that it was enacted to make provision for the conservation, management and sustainable utilization of wildlife and wildlife products. The definition of “conservation” provided for in this law covers wildlife, its habitat and ecosystems necessary for their survival in the broad sense. This may be construed to imply that even those wildlife resources found in areas where REDD programs would be carried out. This holistic approach of applying the coverage of this Act is necessary to include the protection of wildlife where REDD activities are to be undertaken to ensure the continued survival of wildlife species in the vicinity of REDD related processes. This includes wildlife in Forest Reserves.

The Act also makes provision for cross-cutting issues which have a bearing on REDD. These include taking on board local communities in Wildlife Management Areas to be established in village lands, recognizing the intrinsic relationship between wildlife and forest resources and the need to cooperate and coordinate in ensuring their sustainable utilization. Section 31 (5) of the Act provides that the activities to be undertaken in the WMAs must be conducted in conformity with the Forest, Beekeeping, Fisheries, Environmental Management Acts, and any other relevant and REDD related laws.<sup>75</sup>

The wildlife sector in Tanzania is managed under three major legislative regimes governing the wildlife protected areas network, the Wildlife Conservation Act, the Ngorongoro Conservation Area Act and Tanzania National Parks Act.<sup>76</sup> The Ngorongoro Conservation Area Act makes provision for the conservation and management of natural resources in the Ngorongoro Crater Highland areas.<sup>77</sup> Since there exists resources which have a bearing on REDD activities in the Ngorongoro, then the call for the conservation of natural resources in this area, also includes the wise use and management of forest coverage – a component of the Crater’s unique resources, which is of great significance to REDD.

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<sup>74</sup> Act, No. 5 of 2009. The processes of promulgating most Regulations under this Act to make it fully operational were still underway at the time of conducting this study.

<sup>75</sup> Section 31 (1) of the Act provides for the establishment of Wildlife Management Areas. These were established by G.N. No. 283 of 2005 and their classification is contained in these Regulations.

<sup>76</sup> Cap. 284 and 282 [R.E. 2002], respectively

<sup>77</sup> See the preamble to the Act

The National Parks Act provides for the establishment, management and control of national parks. As is the case with the Forest Act, all forest resources located in National Parks are conserved and managed under the National Parks Act by the Tanzania National Parks Authority (TANAPA). In fact, in national parks, there is total conservation of natural resources found therein because there is no consumptive utilization of the resources, including those found in forests.

The National Parks Regulations of 1970, which were promulgated under section 18 of the National Parks Act, facilitate more effective management of National Parks and consequently the forest resources found in them.<sup>78</sup> Regulations made under this Act have a significant bearing on the theme of this study. The promulgation of the Wildlife Management Areas (WMAs) envisaged by the Wildlife Policy has ushered in a new paradigm in the devolution of power to local communities through local government authorities. As noted earlier, the WMA Regulations came into force in 2002 after a lengthy and relatively expensive participatory process involving virtually all stakeholders.<sup>79</sup>

The administration of WMAs entails, among other activities, planning and managing resources found in forest areas where wildlife abounds. The activities in WMAs therefore have a significant bearing on forest management. In this respect, it is important that enforcement of the provisions of the WMAs Regulations take into account those of the law relating to the management of forest resources by devolving powers to manage forest and resources found in them to the local authorities.

The WMA Regulations have placed an important role of management of WMAs on local government structures. The Village Council is responsible for coordinating natural resources activities at the village level, formulating natural resources management by-laws and overseeing the implementation of sector policies while entering agreements in the management of or

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<sup>78</sup> G.N. No. 255 of 1970

<sup>79</sup> Government Notice No.283 of 2005

investment in a WMA.<sup>80</sup> District Councils also have responsibilities under the WMA Regulations. They are required to facilitate the District Natural Resources Advisory Bodies (DNRAB) in carrying out their functions, which include arbitration and conflict resolution and administering cross-sectoral issues. The DNRABs are to be established in every District and the District Forest Officers are members of the Bodies.<sup>81</sup>

### **5.2.3.3. The Land Act Cap. 113 R.E. 2002 & the Village Land Act Cap. 114 R.E. 2002**

The Land and Village Land Acts are the two main pieces of legislation that govern land in Tanzania. The Land Act is the basic law that governs matters related to the administration of all land other than village land. The Act reflects the fundamental principles of the National Land Policy and specifically the principle that seeks to enable participation of all citizens in decision making in matters connected with their occupancy and use of land and resources found therein.<sup>82</sup> The legislation provides for three main categories of public land, namely, general, village and reserve land and empowers the President to transfer any one of these categories into another.<sup>83</sup> The Act also provides for the functions and roles of local government authorities in the administration and management of land. District Councils may provide advice and guidance to Village Councils in the administration of village land when requested or on its own motion.<sup>84</sup>

The Village Land Act on the other hand provides for the management and administration of land in villages. It also addresses land tenure issues in relation to village land, an important component in the management of forest resource in the village lands. The Act empowers the Village Councils to manage land, as trustees, on behalf of the villagers and those persons who are resident in village lands.<sup>85</sup> To a great extent this has brought an end to the uncertainty that surrounded the legal ability of village to protect and manage forests found in their lands. Forest land and other natural resources fall in the category of reserve land.<sup>86</sup>

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<sup>80</sup> See Regulation 21 (d) and (h) of the WMA Regulations

<sup>81</sup> See Regulations 26, 27 and 30

<sup>82</sup> Section 3 (i)

<sup>83</sup> Section 4 (4) and (7), respectively

<sup>84</sup> Section 14

<sup>85</sup> Section 8

<sup>86</sup> Section 6 (1) (a) (i)

In the course of managing village lands, Village Councils are required to maintain the principle of sustainable development and the relationship between land use and other natural resources and the environment in and around the village and village land. They are also required to consult with local authorities having jurisdiction in the area to avoid conflicts.<sup>87</sup> The Act sets up and adjudication mechanism to address land disputes. The underlying principles behind these ought to be considered in the course of making by-laws at the local government level, especially the village level.<sup>88</sup>

#### **5.2.3.4. Local Government (Urban Authorities) Act Cap. 288 R.E. 2002**

This Act provides for the establishment, legislative powers and composition of urban based local government authorities (urban councils) which are under the jurisdiction of the Minister responsible for local government affairs. The Councils are required to furnish the Minister with information relating to their functions under the Act.<sup>89</sup> The urban councils are made of governing organs in charge of townships, municipalities and city councils.

Section 61 of the Act provides for the relationship between the local government authorities and the central government. Accordingly, the central government is required to recognize the autonomy of local government authorities. It is also required to coordinate and monitor the performance of urban authorities for compliance with national policies, guidelines and standards over a wide range of issues.<sup>90</sup> The powers and duties of urban authorities as stated in the Act also have a bearing on the management of forests. Items 5, 94 and 95 of the schedule to the Act make reference to forest related activities. These provisions provide for the powers of the authorities to declare land to be reserved for reconditioning for planting with vegetation cover, to prevent water pollution in water bodies and control the use of areas where forest cover is required.

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<sup>87</sup> Section 8 (3) (a) and (b)

<sup>88</sup> See sections 48 and 60-62. The importance of reflecting gender balance is one of the principles that the Act lays emphasis on.

<sup>89</sup> See section 86 of the Act.

<sup>90</sup> Section 61 (a) and (c)

Also, one of the primary functions and objectives of the urban authorities is to take necessary measures to protect and enhance the environment in order to promote sustainable development in a manner that promotes and ensures democratic participation.<sup>91</sup> Section 47 (1) (c) compels urban authorities to establish standing committees for urban planning and environment, of which forests are part and parcel of. The urban authorities may also agree with local government authorities to form joint committees for purposes in which they are jointly interested. It is important to point out here that the urban authorities are not precluded from performing any functions which is not the exclusive responsibility of the central government or of any other local government authority.<sup>92</sup>

The Act also empowers urban authorities to make by-laws. The by-law making power of the authorities, including regulating forest related activities is subjected to the consent of the Minister responsible for local governments. The provisions of the Act also provide for other conditions which must be complied with in order for the by-laws made by urban authorities to have the force of law. Accordingly, the by-law that is contemplated by an authority must be consistent with the provisions of the Act and any other written law and it may apply to either the whole or a part of any area under the jurisdiction of an urban authority.<sup>93</sup>

A by-law made by an urban authority must be published before it is made to allow members of the public who may be affected by it to air their views. After the expiration of two weeks after a notice has been duly issued, the draft by-laws must be presented to the Minister responsible for local government for approval and *gazettement*. Where there are complaints, the urban authority may be required to make personal appearance before the Minister to make presentations of the complaints.<sup>94</sup> The law also allows the Minister to make uniform by-laws where he considered it desirable for purposes of, among other activities, better development of forest management.<sup>95</sup> The Minister has also been given the discretion to alter any by-law prior to approving it.<sup>96</sup> Sanctions for violation of by-laws made by an urban authority include the imposition of a fine,

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<sup>91</sup> Section 60(1) (d) and (f)

<sup>92</sup> Section 60 (3)

<sup>93</sup> See section 89 (1) – (3)

<sup>94</sup> Section 92

<sup>95</sup> Section 91

<sup>96</sup> Section 90. On the requirement of publication see also section 118.

cancellation of permit or license and compounding.<sup>97</sup> Compounding as a sanction provides room for enforcement officers to fine an offender on the spot upon admission of having committed an offence. The officer is required to issue a receipt of the exact amount paid, which should not be less than the total value of the product acquired illegal. The product is confiscated. The procedure may assist in the provision of justice and is intended to overcome the problems of delays in the delivery of justice occasioned sometimes by the back log of cases in courts.

#### **5.2.3.5. Local Government (District Authorities) Act, Cap. 287 R.E. 2002**

This Act establishes local government authorities at the level of the District. It provides for, among other things, the establishment, law making powers, functions and composition of district and township councils and those of the village. The Act directs every village to establish a Village Assembly and a Village Council.<sup>98</sup> While the Village Assembly is the supreme authority in relation to all matters of general policy making, the Village Council wields the executive power in relation to all other affairs and businesses of the village.<sup>99</sup> One of the functions of the Village Government is to plan and coordinate activities and render assistance and advice to villages engaged in forestry activities.<sup>100</sup> Forest management matters are to be governed by the Economic Affairs, Works and Environment Standing Committee as directed under the provisions of section 75 (c) of the Act.

The District Councils are empowered to make by-laws under the Act. The procedure and conditions that have to be adhered to are basically similar to those stipulated for urban authorities discussed above.<sup>101</sup> Similarly, Village Councils have also been given the mandate to make by-laws under the Act. The by-laws are to be approved by the District Council after being satisfied that all requirements provided by the law have been complied with. Also, as is the case with urban authorities, the Minister responsible for local governments may make uniform by-laws to be applied by the villages. Upon publication of the proposed uniform by-laws by the Minister,

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<sup>97</sup> Section 97

<sup>98</sup> See sections 24 and 25 of the Act

<sup>99</sup> See sections 146 and 147, respectively

<sup>100</sup> Section 147 (2) (c)

<sup>101</sup> See sections 153 – 155.

villages can only lodge complaints, if any, only through the District Council.<sup>102</sup> The provisions of this Act prohibit the imposition of imprisonment as penalty for violation of village by-laws. The law also places a maximum ceiling of 50,000/- shillings for violation of village by-laws. This limit may provide an incentive to commit crimes as in some cases, the value of the forest produce obtained in contravention of the by-laws may exceed the maximum amount of fine that by-laws are permitted to impose.

Part VII of the Act seeks to ensure that there exists a tranquil atmosphere and relationship between the central government and local government organs and officers in the course of performing their tasks. It empowers the Minister responsible for local government to modify development plans and transfer functions from one organ to another. In a similar move, Part VIII provides for the functions of the central government in relation to local government authorities.

#### **5.2.3.6. The Environmental Management Act, No. 20 of 2004, Cap. 191**

This law is the framework law that governs the management of all environmental affairs in Tanzania. Environment being a cross-cutting issue in all natural resources related sectors, the enactment of a framework law was long overdue.<sup>103</sup> The Act provides for the legal and institutional arrangement for sustainable management of the environment. It provides in very clear terms that where any law is in conflict with the Act on any matter relating to environmental management, then such law would be void to the extent of the inconsistency.

The Act provides that that the Minister responsible for environment shall be responsible for the coordination of environmental issues between the Central Government and local government authorities.<sup>104</sup> Further, the Minister is empowered to issue guidelines of a general nature to sector Ministries, government departments, District Environmental Committees and other local authorities.<sup>105</sup> The Act re-echoes the concept of devolution of powers in matters relating to the

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<sup>102</sup> See sections 168-170

<sup>103</sup> Before the enactment of this Act, environmental issues were covered in a fragmented manner creating loopholes for institutional and administrative conflicts across various natural resources sectors at the level of the central and local governments.

<sup>104</sup> Section 7 (3) and (4) of the Act

<sup>105</sup> See section 13

environment when it provides that the development of environmental management policies and processes should take into account the principle of public participation. It further directs local government authorities to have regard to environmental management principles and promote the National Environmental Policy.

The Act makes an attempt to address potential conflicts that may arise as a result of different sectors managing environmental resources in their jurisdiction. In this respect, section 32 of the Act requires sector environmental coordinators to be appointed in every sector Ministry. These coordinators are to be the link persons and would, among other responsibilities, bringing to the attention of the Director General of the National Environment Management Council (NEMC) and the relevant sector Ministry any contradiction of an environmental law beyond the Ministry's line of responsibility.<sup>106</sup>

The Minister responsible for regional administration is required to appoint Regional Environmental Management Experts to advise local authorities on the implementation of the Act. These experts are to be the main link between regions and the Director of Environment and the Director General (NEMC), the main authorities charged with implementation of the Act.<sup>107</sup> Local government authorities, that is City, District and Town Councils are also directed to appoint or designate Environmental Management Officers. The duties of these officers include the provision of advice to environmental management committees, preparation of periodic reports on the state of local environment, review of by-laws on environmental management and on sector specific activities related to the environment.<sup>108</sup>

The cross-reference to the Local Government District and Urban Authorities Acts by the Environmental Management Act is commendable in some aspects. The Act provides that the Standing Committees for Urban Planning and Environment and Economic Affairs Work and Environment established under the Local Government Acts would be the District Environmental Management Committees.<sup>109</sup> The same applies to the Ward Development Committees which are

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<sup>106</sup> Section 32 (1) and (2)

<sup>107</sup> Section 35

<sup>108</sup> See section 36 (1) and (3)

<sup>109</sup> Section 37

charged with the responsibility for the management of environment in the area in which they are established. The Act's reference to Village Development Committees seems to have been an oversight, as the Local Government Acts do not make reference to these.<sup>110</sup> Section 39 requires every District Council to designate for each Ward, Village, *Mtaa* and *Kitongoji* a public officer to be known as an Environmental Management Officer who would coordinate functions and activities for protecting the environment.

With regard to environmental planning, section 42 the Act provides that each local government authority must prepare an environmental action plan. The authority's plan must be in accordance with the National Environmental Management Action Plan as prepared every five years by the Director of Environment in accordance with the provisions of section 44 of the Act. Sector Ministries are also required to prepare environmental plans at sector level in accordance with rules made by the Minister responsible for environment.<sup>111</sup>

The management and utilization of land usually impacts on the environment. Since there are separate policies and legislation governing land matters, the Act directs that in the event of a conflict relating to the environmental aspect of land, then its provisions will prevail.<sup>112</sup> Similarly, forests are to be managed in accordance with the laws relating to forests but where there is a conflict the provisions of the Environmental Management Act shall prevail. The Minister responsible for environment is required to consult the Minister responsible for forestry when making rules on environmental management of natural resources.<sup>113</sup> The requirement for consultation with line Ministries in other natural resources sectors is evidently absent, leaving room for conflicts in the management of environmental resources in general and forests in particular.<sup>114</sup>

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<sup>110</sup> Section 38 (1) and (2)

<sup>111</sup> The rules are yet to be made.

<sup>112</sup> Section 50

<sup>113</sup> Section 63 (3)

<sup>114</sup> See section 65 which makes reference to fisheries, wildlife, tourism and Marine Parks and Reserves.

The Environmental Management Act further provides for compliance with Environmental Impact Assessment Regulations.<sup>115</sup> The Act provides for the kind of activities and developments that require Environmental Impact Assessment (EIA). Accordingly, any forest related activity or development must have an EIA approval.<sup>116</sup>

### **5.2.3.7. Conclusion**

It is apparent from the above review that literature that has a bearing on issues related to the conservation and governance of forests of the PKFRs and its environs is plenty. Such literature has transcended issues relating to local community participation, climate change and the general history of the reserve in the context of conflicts between government and local community members relating to access of resources in the PKFRs, to mention but a few. Literature relating to the legislative and institutional framework of the PKFRs is admittedly also available. This literature has, however, confined itself to the themes discussed above. There has been no specific focus on an analysis of the legislative, policy and institutional issues on management and governance issues in the context of implementing the programme on Reducing Emissions from Deforestation and Forest Degradation (REDD) in the PKFRs.

It must be admitted that some of the available literature on the subject has made some reference to REDD issues in the PKFRs. However, this has not been analyzed in the context of the legislative, policy, institutional and the governance framework in relation to the PKFRs in the perspective of implementing REDD in the Reserves. A review of the selected literature that somehow has a close bearing on the theme of this study has revealed a lacuna in this gap. The findings from this reviews has provided a framework for contextualizing the field study findings of the overall study.

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<sup>115</sup> See The Environmental Impact Assessment and Audit Regulations, 2005, G.N No. 349 of 2005 and the Environmental (Registration of Environmental Experts) Regulations, 2005, G.N No. 348 of 2005

<sup>116</sup> See item 7 of the 3<sup>rd</sup> Schedule to the Act and sections 81 and 82

## **6. Findings from the Field**

After collecting and analyzing the field data, the field team came up with the following findings:-

### **6.1. On Legal and Policy Matters**

The team noted that there is little knowledge on laws and policies that are used to regulate and manage the two forest reserves. The respondents interviewed were of the view that legislation and policies are good and have provisions which provide for effective management and regulation of PKFRs activities. They hinted that there is a pertinent problem of enforcing the laws and implementing the policies. Accordingly, this leads to illegal activities to continue being carried out with most perpetrators left to go scot free.

Based on the foregoing, some respondents suggested that trainings on the laws and policies that regulate forest reserves should be conducted. Further, it was suggested that friendly Swahili versions of the laws and policies be made available to the communities. The communities also suggested that fines charged for breaching forest law provisions need to be reviewed because most of the suspects usually paid fines imposed on them, only to commit similar offences later. They observed that this situation has been encouraging illegal activities in the two forests reserves.

### **6.2. Institutions for PKFRs Management and Conservation**

The inadequacy of forest officers, forest guards and poor governance at the district (Forest and Beekeeping Division/TFS) and the Ministry of Natural Resources and Tourism level were listed as one of the main reasons for the deterioration state of PKFRs. Respondents from the villages and *mitaa* neighboring PKFRs pointed out that poor enforcement of the forest laws is the main driver of deforestation and forest degradation of the two forest reserves. Respondents specifically pointed out that Ministry has not made sufficient efforts to make the community members appreciate the value of the PKFRs<sup>117</sup>.

Most of the respondents also noted that they do not see any problems with the model of institutional arrangement or the institutions which have the mandate to manage the PKFRs. They

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<sup>117</sup> Exclusive interview between LEAT team and Kasimu R. Uchuro, Nyeburu chairman on September 16, 2011.

did not propose any changes because to them the institutional arrangement is good. They noted that the PKFRs are being managed by MNRT through FBD/TFS. At the district level, the district forest officers are involved in conservation and management work. However, they observed that there is very little involvement of environmental and natural resources committees from neighbouring villages in forest management in PKFRs. Some respondents from WAHIPUKA substantiated this fact by emphasizing that they have been taking part in some forest management activities.

### **6.3. Sustainable PKFRs Conservation**

Most respondents mentioned several threats that hinder sustainable PKFRs conservation. The common threats listed included; fire outbreaks, charcoal making, agriculture, sand quarrying, tree cutting and erection of residential houses within the PKFRs.<sup>118</sup> Some of the respondents were of the view that there should be a review of the fines charged those who breach forest law because they seem to be small to perpetrators. They also noted that cases take a relatively longer time to be determined and that this affects the evidence and in some cases it leads to setting free culprits because at the end of the day the evidence is either destroyed or considered inadequate to convict offenders.<sup>119</sup>

### **6.4. Deforestation and Unsustainable Conservation**

The team noted, with concern, that a substantial part of Kazimzumbwi forest reserve is now almost bare land due to different illegal activities which have been undertaken on the forest landscape. Small trees and the vegetation have increasingly disappeared. Pugu forest reserve's status is, however, encouraging despite the few illegal activities being carried on in the forest<sup>120</sup>.

Through observation and respondents responses, the team identified several reasons for PKFRs deforestation and forest degradation. These include: poverty, existence of inadequate alternative

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<sup>118</sup> Exclusive interview between LEAT team and Kisagazi R.Kisagazi, Mgeule resident in Ilala district on September 16, 2011.

<sup>119</sup> Ibid.

<sup>120</sup> Exclusive interview between LEAT and Edith Ramadhani, WAHIPUKA/Kimwani resident on 25/11/2011

income generating activities, poor governance of PKFRs, non-participatory conservation initiatives and corruption among forest officers and district officials.<sup>121</sup> Some of the respondents pointed out that the CARE/WCST project implemented in early 2000, although quite successful, become unsustainable for conserving PKFRs due to a lack of a clear exit strategy. They noted that after the funding period ended, nothing remained for sustaining activities for conserving PKFRs.

The team also noted that the community members concern for the sustenance of the PKFRs has partly been eroded due to the concept of projects. Respondents consider the “project approach” to addressing the concerns as not being adequate. Respondents noted that the CARE/WCST project addressed issues pertaining to joint forest management (JFM) and community based forest management (CBFM) quite successfully at the initial stages. They noted that with time, however, the JFM and CBFM failed to materialize as anticipated the MNRT was uncomfortable with the benefit sharing scheme.

## **6.5. Governance**

Findings from the field reveal that although the PKFRs have been under the governance of MNRT since its gazettelement,<sup>122</sup> local community members in the proximity to PKFRs have not been part of the governance and management structure despite of several attempts initiated by the WCST. This scenario divorced the community members from being part of the PKFRs management and governance. However, it was noted that in 2004, through CARE/WCST interventions, communities were involved in managing the forest through JFM and CBFM, although it ended up in vain because JFM agreements could not be signed<sup>123</sup>.

Findings also reveal that there is longstanding boarder conflict between Nzasa and Kimwani villagers/residents who identify themselves as legal owners of the land claimed to be within Kazimzumbwi forest landscape. The conflict is fueled by interventions from the central government whereby it is alleged that the Government has ordered a group of alleged illegal

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<sup>121</sup> Ibid

<sup>122</sup> 1947 and 1954 respectively.

<sup>123</sup> Exclusive interview between LEAT and Athumani Nyangula, WAHIPUKA member on 25/11/2011.

dwellers out of the forest until it resolves the conflict. Respondents were concerned, however, that the government has been lax in addressing the border conflict. Respondents pointed out that the conflict started in the early 1990's when the Chanika villagers (now Ilala has no villages, but has *mitaa*/streets) through its chairman, one Mr. Peter Leo, officially requested the MNRT to allow villagers to cultivate seasonal crops in Kazimzumbwi forest reserve. The request was accepted under three conditions. The conditions were:-

- a. Firstly, only Chanika villagers were to be allowed to have plots in the forest,
- b. Secondly, crops to be planted were to be seasonal ones, and
- c. Lastly, the villagers were to be given plots in the forest free of charge.

It appears that that the conditions were violated as some villagers allegedly started to sell plots even to non-Chanika residents in the forest contrary to the wishes of the MNRT. This was the genesis of the conflict between the two parties<sup>124</sup>. It was observed that despite of the depletion of PKFRs, their boundaries are clearly known by the neighboring communities. The boundaries are highly recognized especially in all wards in Ilala except in Nzasa and Kimwani. The communities, especially elders, are very familiar with almost all forest beacons. It was also pointed out that some people were permitted to reside in the reserves conducting unpermitted activities by the government in early 2000's. This activated more encroachments.

The Kimwani chairperson informed the team that the Ministry of Land, Housing and Human settlements visited the contested area for sometime on July 16, 2011. In her opinion, the contested area is legally owned by Kimwani and Nzasa residents. She noted that the conflict has also gone further by spreading to Nzasa-Maguruwe, leading to misunderstanding between the two villages. Maguruwe villagers alleged to have been beaten up by Nzasa residents in the course of the conflicts on the forest borderline nearby.<sup>125</sup>

The team also noted that some Nzasa residents purposefully set bush-fires irregularly with the intention of destroying Kazimzumbwi forest. Respondents also alleged that some officers at the Ilala Municipality permitted some Nzasa residents to live in the forest under the Municipality's

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<sup>124</sup> Exclusive interview between LEAT and Peter Leo, then the Village chairman in 1990's on November 22, 2011.

<sup>125</sup> Exclusive interview between LEAT team and Shabani S. Kulinyangwa, Environmental Committee secretary-Maguruwe village-Kisarawe on September 16, 2011

development plan map (which the team members did not see) which allegedly indicates that the PKFRs borders have been altered to accommodate the residents. Some elders (three) who preferred anonymity (for security reasons) argued that the area in a dispute is a national forest reserve (Kazimzumbwi). They informed the team that there are about 6 individuals who were selling the forest land claiming to be their own lands owned under customary right of occupancy. The names of the individuals were availed to the team.

## **6.6. Understanding of REDD Issues among the Local Communities adjacent to PKFRs**

The overall findings of the study reveals that the REDD concept is basically unfamiliar to the members of the community in the proximity of the PKFRs and also to most of the local government officials in Ilala and Kisarawe districts who are directly or indirectly responsible for conserving and managing the forest reserves. The REDD concept needs to be elaborated to communities adjacent to PKFRs and local government officials so that they may actively and effectively participate in the project implementation with clear understanding of the REDD mechanisms, its benefits and disadvantages thereof, if any.

In this regard, there is an urgent need to conduct awareness raising and capacity building trainings and make the communities adjacent to PKFRs to be well informed on the project and REDD issues. If the communities and local government officials located close to PKFRs are not well informed about the HIMADA project and REDD issues, they will not be in a position to effectively participate in implementing the HIMADA project. This is one of the pre-requisites for the successful implementation of the HIMADA project in Pugu and Kazimzumbwi forest reserves.

## **6.7. Benefits to Communities Proximity to PKFRs**

Almost all respondents admitted that they never have any direct benefits from the PKFRs in monetary terms. This suggests that, their involvement in conservation is very minimal and this state of affairs cannot motivate the communities to participate effectively in conserving and managing the two forests. Findings reveal that the communities adjacent to PKFRs have been

accruing benefits from the forest reserves in terms of medicinal plants, collecting mushrooms, tourism/entrepreneurial activities, clean and fresh air because the forest is a carbon sink and water source from the streams and rivers flowing from the forest reserves.

Pugu and Kazimzumbwi forest reserves are catchment forests. They are nature reserves which are not meant for timber or fuel wood production. In this regard, if there will be a joint agreement to own and manage the reserves between the government (MNRT/TFS) and the communities adjacent to the reserves there will not be any direct financial gain or sharing of proceeds. This is because there will not be any forest products for sale. The joint agreement should be based on the non-monetary indirect benefits which the communities are, or will be deriving from the two reserves. In order to scale up PKFRs management and increase tree coverage in the current deforested reserves, joint forest management cannot be avoided.

## **7. General Conclusions**

Specific findings of this detailed study have basically been provided for in different parts of this report. From the literature reviewed, it is apparent that this study has provided new perspectives by analyzing legal, policy and institutional framework on the management and governance mechanism upon which REDD programme can be successful implemented in PKFRs. It is apparent from the review that literature that has a bearing on issues related to the conservation and governance of the PKFRs and its environs is plenty. Such literature has transcended issues relating to local community participation, climate change and the general history of the reserves in the context of conflicts between government and local community members relating to access of resources in the PKFRs.

Literature relating to the legislative and institutional framework of the PKFRs is admittedly also available. It has been noted that in this literature there has been no specific focus on an analysis of the legislative, policy and institutional aspects on management and governance issues in the context of implementing the programme on Reducing Emissions from Deforestation and Forest Degradation (REDD) in the PKFRs. It must be admitted that some of the available literature on the subject has made some reference to REDD issues in the PKFRs. However, this has not been

analyzed in the context of the legislative, policy, institutional and the governance framework in relation to the PKFRs in the perspective of implementing REDD in the Reserves. The findings from these reviews have provided a framework for contextualizing the field study findings of the overall study.

Field survey findings indicate that some of the stakeholders in PKFR are not fully conversant with the legal framework governing REDD. Some local communities have expressed reservations on the REDD project, equating it with other projects which were previously implemented in the PKFRs, but failed to deliver. At the institutional level, the finding of this study points out that the PKFR management and governance structure need to be revisited in order to assign some forest management responsibilities to local communities adjacent to PKFRs. This is in line with the fact that the Division of Forestry and Beekeeping is charged with management of national forest reserves and has powers to allocate them to public and private organizations.

On legal point of view, it was found out that there is a pertinent problem of effectively enforcing the laws and implementing the policies in the Pugu and Kazimzumbwi forest reserves. As a result, this leads to illegal activities to continue being carried out unabated with most perpetrators left to go scot free.

## **8. General Recommendations**

From the interviews conducted, questionnaires administered and observation made, the team makes the following recommendations which are geared towards sustainable PKFRs management:-

- a) Participatory forest management and programs whereby sharing of forest benefits and products between the government and the local communities neighboring PKFRs should be encouraged and carried out jointly;
- b) There is a need to increase the capacity of the Kisarawe district court to handle cases and dispense justice. This should go-hand-in-hand with regular screening and scanning of

corrupt practices in ordinary courts at the district level and foolproof all corruption loopholes;

- c) There is a need of establishing inspection gates for checking and tracing the source of the forest products (especially timber, poles and charcoal) that are harvested from production forests found in Kisarawe district. This can greatly reduce any illegal harvesting of Pugu and Kazimzumbwi trees;
- d) It is recommended that fines charged for breaching forest law provisions need to be reviewed because most of the suspects usually pay fines imposed on them, only to commit similar offences later.
- e) The procedure for issuing licenses must be reviewed to ensure that only one designated authority is vested with the power to issue licenses for activities in the Reserves;<sup>126</sup>
- f) Alternative income generating activities friendly to the forest and environment should be established in order to reduce poverty among the communities neighboring PKFRs and reduce stress on the PKFRs;
- g) FBD/TFS staff that is responsible for the conservation and management of the PKFR should be living at or nearby the forest reserves for effective supervision, management and patrolling. This would highly boost forest reserves management all the time as all illegal activities like sand mining, forest fires, charcoal making, and timber harvesting would be easily controlled and contained;
- h) FBD/TFS should employ enough competent employees who are willing to live and work in the forest reserves for PKFRs management;
- i) Field equipment like fire extinguishing gears, motorcycles, vehicles, guns and other necessary gears for patrolling the PKFRs should be made available; and
- j) *Mitaa* and villages in the proximity of the PKFRs should have effective by-laws which must be implemented and enforced in order to enable them to effectively take part in protection, management and conserving the two forests.

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<sup>126</sup> The team was informed that sometime in 2008, there were people who obtained sand mining permits from the Ministry of Minerals and Energy. At the same time, the Ilala Municipal Council was issuing the same licenses for the same purpose.

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## 10. List of Respondents Consulted

S/N	NAME	GENDER	POSITION	CONTACT
1.	Gido Benard	MALE	Member of the Bombani Street (Mtaa) Government	0653298681
2.	Mwashamba M. Genda	FEMALE	VEO - Kisarawe Village	0658137160
3.	Edfasi Bayela	MALE	Land, Natural Resources And Environment Officer - Kisarawe Council	0787559671
4.	Paul Nyiti	MALE	Conservation Officer, WCST	-
5.	Charles Sanga	MALE	Chairperson - Pugu Station	-
6.	Zaituni Ally Kifyanga	FEMALE	Secretary Environmental Committee –Kazimzumbwi	0719286015
7.	Kisagazi R. Kisagazi	MALE	Member of The Environment Committee-Mgeule	-
8.	Shabani S. Kulinyangwa	MALE	Environmental Committee Secretary –Maguruwe	-
9.	Kasimu R. Uchuro	MALE	Mtaa Chairman – Nyeburu	0715982619
10.	Ramadhani Fundi	MALE	Long Stayed Resident/Elder In Nyeburu	0659262164
11.	John Zumba	MALE	Resident/Elder In Nyeburu	0714982698
12.	Naomi Mgallah	FEMALE	Chairwoman – Kimwani	0787786054
13.	Mathew Mwanuo	MALE	Manager, Pugu and Kazimzumbwi Forest Reserves	0715651496
14.	Mr. Peter Leo	MALE	Resident/Elder-Chanika	0786803737
15.	Athumani A. Nyangula	MALE	Kigogo Freshi/WAHIPUKA	07850555347
16.	Edith Ramadhani	FEMALE	Kimwani/WAHIPUKA	0783337037
17.	Charles A. M. Secha	MALE	Natural Resources Officer-Ilala	0784283827

## 11. Sample Questionnaire

### Utangulizi

Sisi ni Wanasheria toka Chama cha Wanasheria Watetezi wa Mazingira (LEAT). LEAT wanafanya utafiti juu ya sheria, sera na taasisi zinazojishughulisha na misitu kupitia Mpango wa Kupunguza Uzalishaji wa Hewa Ukaa kutokana na ukataji miti hovyoyote na uharibifu wa Misitu (MKUHUMI) katika hifadhi za misitu ya Pugu na Kazimzumbwi.

LEAT inafanya utafiti huo kwa lengo la kupitia Sera na Sheria zilizopo kujua kama zinakidhi malengo ya MKUHUMI na kufanya marekebisha na kutoa mapendekezo juu ya Sera na Sheria hizo ili ziweze kusaidia kupunguza uzalishaji wa hewa ya ukaa na uharibifu wa misitu katika hifadhi hizo.

MKUHUMI ni neno lenye maana rahisi sana. Ni kifupi cha maneno yafuatayo: **M**kakati wa **K**upunguza **U**zalishaji wa **H**ewa **U**kaa kutokana na ukataji miti ovyoyote na uharibifu wa **M**isitu. Kwa lugha ya Kiingereza linajulikana kama *Reduced Emissions from Deforestation and Forest Degradation*, kwa kifupi REDD. Ni mfumo utakaoweza kuwalipa wale wanaopunguza upoteaji wa misitu kwa huduma wanayoitoa ya kupunguza ongezeko la mabadiliko ya tabia nchi kwa kuwepo misitu.

**Jina la Mhojiwa:** \_\_\_\_\_

**Taasisi Unayotoka:** \_\_\_\_\_

**Nafasi yako katika taasisi:** : \_\_\_\_\_

**Wilaya:** \_\_\_\_\_ **Namba ya simu/anwani:** \_\_\_\_\_

Weka alama ya vema (V) sehemu sahihi

1. Je, kuna faida yoyote ya fedha mnayopata kutokana na uhifadhi wa misitu ya Pugu na Kazimzumbwi?

(a)Ndiyo  (b)Hapana

(i) Je, waweza kutaja ni kwa namna gani mnapata faida hiyo? (kwa mfano, kuuza mkaa, n.k.)

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2. Je, kuna faida nyingine zozote mzipatazo kutokana na misitu ya Pugu na Kazimzumbwi?

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3. Je, kuna wataalam wa kutosha kusimamia uhifadhi wa misitu ya Pugu na Kazimzumbwi?

(a) Ndiyo  (b) Hapana

4. Je, kuna haja ya kuwa na mifumo ya uwazi na uwajibikaji katika masuala ya kuhifadhi misitu ya Pugu na Kazimzumbwi?

(a) Ndiyo  (b) Hapana

5. Je kuna motisha zozote zinazotolewa ili kuwawezesha wananchi kushiriki kikamilifu katika uhifadhi wa misitu?

(a) Ndiyo  (b) Hapana

(i) Kama jibu ni ndiyo, ni motisha za namna gani hutolewa?

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6. Je, kuna usimamizi au uhifadhi shirikishi kati ya taasisi za serikali na wananchi katika kuhifadhi misitu ya Pugu na Kazimzumbwi?

(a) Ndiyo

(b) Hapana

7. Taasisi za serikali zinazosimamia uhifadhi wa misitu ya Pugu na Kazimzumbwi zinajitosheleza kiutendaji?

(a) Ndiyo

(b) Hapana

(i) Je, kuna changamoto zozote zinazozikumba taasisi hizo? Zitaje

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8. Je, ni nini kifanyike ili kuboresha zaidi shughuli za usimamiaji na kuhifadhi misitu ya Pugu na Kazimzumbwi ili kuilinda isitoweke?

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9. Je kuna ushirikishwaji wa wananchi wa aina yoyote ila katika masuala yanayohusu misitu ya Pugu na Kazimzubwi?

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10. Je, kuna migogoro inayotokea kati ya wadau wa misitu?

(i) Mnaitatuaje migogoro hiyo?

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11. Katika uuzaji wa maeneo ya hifadhi ya misitu katika kipindi cha mwaka 2009 hadi 2011, ni nani alihusika? Kwa kiongozi ambaye alihusika, weka alama 1 hadi 5 kulingana na namna ulivyoona kuwa kiongozi mtajwa alihusika. Alama 5 ina maana alihusika sana na 1 alihusika kidogo sana:-

- a. Mjumbe wa shina lako. **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- b. Mjumbe wa shina tofauti (litaje). **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- c. Mwenyekiti wa serikali ya mtaa wako/kijiji chako. **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- d. Mwenyekiti wa serikali ya mtaa/kijiji tofauti (kitaje). **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- e. Afisa Mtendaji wa kijiji chako. **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- f. Afisa mtendaji wa kijiji tofauti (kitaje). **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- g. Afisa kata yako. **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- h. Afisa kata tofauti (itaje). **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- i. Afisa mali asili. **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_

- j. Askari polisi. **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_
- k. Kiongozi mwingine (mtaje kwa wadhifa). **Ndiyo** au **Hapana**. Kama **Ndiyo** weka alama \_\_\_\_\_

12. Je unadhani kuna mwananchi katika mtaa wako/kijiji chako ambaye hajui mipaka ya hifadhi ya Pugu na Kazimzumbwi?

13. Je unadhani sheria za kudhibiti watu kuvamia na kuharibu hifadhi ya Pugu na Kazimzumbwi ina faida kwa wakazi wanaozunguka hifadhi hiyo. Ni zipi hizo faida?

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14. Je unadhani sheria za kudhibiti watu kuvamia na kuharibu hifadhi ya Pugu na Kazimzumbwi ina hasara kwa wakazi wanaozunguka hifadhi hiyo. Ni zipi hizo hasara?

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15. Je unatambua kuwa mtaa wako/kijiji chako kina sheria ndogo ya kuhifadhi mazingira. Je sheria hiyo inafanya kazi? Kama haifanyi kazi, ni sababu gani zinapelekea ishindwe kufanya kazi? Waweza kuzitaja?

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16. Toa tathmini yako kuhusu utendaji wa watu wafuatao kwa namna wanavyochangia uhifadhi wa misitu ya Pugu na Kazimzumbwi. Weka alama 1 hadi 5 kulingana na namna ulivyoona kuwa kiongozi mtajwa alihusika. Alama 5 ina maana alihusika sana na 1 alihusika kidogo sana:-

- i. Nini maoni yako kuhusu utendaji wa serikali ya mtaa/kijiji katika usimamizi wa hifadhi ya Pugu na Kazimzumbwi 1 2 3 4 5.
- ii. Nini maoni yako kuhusu utendaji wa kamati ya mazingira ya mtaa/kijiji katika usimamizi wa hifadhi ya Pugu na Kazimzumbwi 1 2 3 4 5.
- iii. Nini maoni yako kuhusu utendaji kikosi cha doria ya mtaa/kijiji katika usimamizi wa hifadhi ya Pugu na Kazimzumbwi 1 2 3 4 5.
- iv. Nini maoni yako kuhusu utendaji ofisi za mali asili (serikali ya wilaya na serikali kuu) katika usimamizi wa hifadhi ya Pugu na Kazimzumbwi 1 2 3 4 5.

17. Kumekuwa na uchimbaji wa mchanga na kokoto ndani ya hifadhi ya Pugu na Kazimzumbwi.

- l. Nani wamekuwa wahusika wakuu katika uvamizi huu?
- m. Mikakati gani itaweza kuzuia uvamizi huo usitokee tena?

18. Kuna taarifa kuwa kumekuwa na uchomaji au utengenezaji wa mkaa ndani ya misitu ya Pugu na Kazimzumbwi. Je, kuna vibali vilitolewa kwa shughuli hii?

- (i) Kama vibali vilitolewa ni taasisi au mamlaka ipi ilihusika?
- (ii) Je, huwa wachoma mkaa wanalipa ushuru kwa serikali?

19. Je ni sawa kwa watu wenye maeneo yanayopakana na hifadhi ya Pugu na Kazimzumbwi kuwa na wajibu wa kuzuia njia zinazolingia ndani ya hifadhi. Je ikiwa wataziacha njia hizo ziendeleo kutumika kufanya uharibifu, wanastahiki kuadhibiwa.

20. Una taarifa zozote juu ya wanachi ambao maeneo yao yameingizwa kuwa hifadhi ya Pugu na Kazimzumbwi kimakosa?/Je wewe una eneo lako liloingizwa kuwa hifadhi ya Pugu na Kazimzumbwi kimakosa.

21. Unavyoelewa, madai yao yana ukweli au ni ya uongo?/Unavyoelewa, madai yako yana ushahidi gani ?

22. Ikiwa wanatoa madai ya uwongo, je unadhani wanafahamu kuwa wanaweza kukabiliwa na mashtaka kwa kosa la kudanganya/Ikiwa unatoa madai ya uwongo, unafahamu kuwa unaweza kukabiliwa na mashtaka kwa kosa la kudanganya.

23. Ni mambo gani ya kisheria yanayohusiana na MKUHUMI ambayo ni muhimu kwa wananchi wanaozunguka hifadhi ya Pugu na Kazimzumbwi kufundishwa?

- a. Umiliki wa ardhi;
- b. Mkataba wa serikali na wananchi;
- c. Mfumo wa ugawanaji wa faida zitokanazo na uhifadhi.

***Ahsante kwa ushirikiano!!!***