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Equity in the Loita/Purko Naimina Enkiyio Forest in Kenya: Securing Maasai Rights to and Responsibilities for the Forest

Karanja F., Tessema Y. and Barrow E.



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Equity in the Loita/Purko Naimina Enkiyo Forest in Kenya: Securing Maasai Rights to and Responsibilities for the Forest

By
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December 2002

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Cover photo: The dry upland forest of the Loita/Purko forest (Top) A waterfalls located inside the forest – an important nature-tourist attraction (middle left); one of the many water pools/ponds within the forest – important drinking point for both livestock and wild animals (middle centre); very dry Nguruman area abutting the forest to the west (middle right). One of the many permanent streams originating from the forest and feeding into Ewaso Nyiro river (bottom left); and Ewaso Nyiro river snaking through Nguruman/Magadi area before joining Ewaso Nyiro swamp and into Lake Natron – Tanzania (an important breeding site for flamingos). (Photographs – Francis Karanja, IUCN and Dr. James Kiyiapi of Moi University)

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LIST OF ACRONYMS

ACTS	The African Centre for Technological Studies
CAP.	Chapter
CBD	Convention on Biological Diversity
CBO	Community Based Organisations
DFID	Department for International Development
EAWLS	East Africa Wild Life Society
EU	European Union
FD	Forests Department
GoK	Government of Kenya
IIED	International Institute for Environment and Development
ILIDP	Ilkerin Loita Integral Development Project
IUCN EARO	The World Conservation Union Eastern Africa Regional Office
KENGO	Kenya Environmental Non Government Organisation
KENRIK	Kenya Resource Centre for Indigenous Knowledge
KFMP	Kenya Forests Master Plan
KIFCON	Kenya Indigenous Forest Conservation Programme
LNECTC	Loita/Purko Naimina Enkiyio Conservation Trust Company
MENR	Ministry of Environment and Natural Resources
NCC	Narok County Council
NGOs	Non Governmental Organisations
NMK	National Museums of Kenya
NRI	Natural Resources Institute
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WRI	The World Resources Institute

Important websites on Maasai and Loita/Purko Naimina Enkiyio forest

The following websites has articles about the Maasai people and Loita/Purko Naimina Enkiyio forest.

- <http://www.maasai-infoline.org>
- <http://www.monitoringinternational.org/loita.htm>
- <http://www.unesco.org/most/bpik9.htm>
- http://www.cbr-ug.org/working_papers2.htm
- <http://www.survival-international.org/pdf/maasaibg.pdf>
- <http://www.rbgkew.org.uk/peopleplants/pdf/wp8.pdf>
- <http://www.geocities.com/olmorijo>
- <http://www.nuffic.nl/ciran/ikdm/2-1/articles/sindiga.html>
- <http://www.loita-maasai.com>
- <http://www.morijo-loita.myweb.nl>

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EXECUTIVE SUMMARY

In Kenya, forests cover a total of 1.4 million hectares, or just over 2% of the country. Kenya's forests are significant in terms of their contribution to the national economy, and their provision of indirect environmental benefits such as catchment protection. Although forests cover just over 2% of Kenya's land area they contain 50% of the nation's tree species, 40% of the larger mammals and 30% of the birds. Loita in Kenya lies between the Nguruman - Magadi escarpment and the Maasai Mara National Game Reserve. The Loita/Purko Naimina Enkiyio forest is estimated to cover an area of 330 Km². It is one of the few non-gazetted trust land indigenous forests in Kenya. The forest supports a variety of wildlife, and has great cultural and spiritual value to the local communities living adjacent, especially the Loita Maasai. The forest also acts as source for herbal and traditional medicine, dry seasonal grazing, fruits, etc.

Issues related to stakeholders' needs, rights to, power in decision-making processes, access to, and control over natural resources to large extent determines the success of interventions focused on the sustainable management of natural resources such as Loita/Purko Naimina Enkiyio forest. It is a trust land forest which has a tenurial regime that presupposes that the local community owns such natural resources, with the management functions vested in the Local County Council. The Loita Maasai has always believed that they own, have all the rights to the forest, and have since time immemorial responsibly managed it. This has been through their traditions, culture and unwritten customary laws. This successful customary conservation story has been based on a sound understanding of the sociological, economic, and ecological environments, and manipulating them to meet their needs without degrading the forest. The community assumed that it had secure tenure in terms of both ownership and management of their forest, until the Narok County Council publicly announced that it would gazette the Loita/Purko Naimina Enkiyio forest as a reserve. If this gazette had been successful it, would have extinguished all the rights, interests, and benefits that the Loita community have under African customary law. A change of the forest tenure to a reserve implies that it would be strictly preserved for nature protection, with a limited presence of lodges such as in the Maasai Mara National Game Reserve, and with the prohibition of any access by the local community. If this happened the community would lose their grazing lands, their only water sources, their only source of traditional herbs and medicines, their only source of timber, poles, honey, their sacred sites, their access route for their livestock market in Ngong, and their Laibon. These are the costs that the local Maasai would have to incur. And for what benefits? There would have been some revenue sharing that would not compensate them for their loss.

Based on these fears, the community challenged the Narok County Council's moves, wanting Narok County Council to rescind this decision, while wishing to acquire secure tenure for their sacred forest. Their fight, which has been going on for the last decade, has been for a community-based forest management that gives them rights to use the forest resources, but also delegates to them the right to own, and have authority and responsibility over the forest. The controversy over the ownership and management of the Loita/Purko Naimina Enkiyio forest was exacerbated by a lack of meaningful dialogue, and non-adherence to the required procedures. Denying the local communities, who have little power despite their large stake in the natural resources within Loita, and other interest groups a chance to be involved in the decision-making processes led to a great lack of trust with Narok County Council.

There are a number of lessons that can be learnt from this case. As far as community involvement in forest management is concerned, security of tenure is the single most important factor in the sustainable management of natural resources. Establishing trust amongst all the stakeholders is very important. Forestry management activities have the best chance of succeeding when the costs and responsibilities of each stakeholder are closely related to rights and benefits. Arrangements for the sharing of benefits, costs, and management responsibilities as well as mechanisms for resolving conflicts among groups are more likely to motivate participation if they are widely understood and agreed to by all stakeholders through an open negotiating process. Making sure co-management works requires a sharing authority and responsibility, the participation of all stakeholders, and sometimes external facilitation. Other cases in Kenya are often more concerned with the management of natural resources, rather than the ownership of the natural resources by local communities.

The paper compares three tenure regimes as to how they might affect the local Maasai community, including the local Maasai Community as owners of the Loita/Purko Naimina Enkiyio forest; Local Maasai Community as sole managers of the Loita/Purko Naimina Enkiyio forest/Local Maasai Community as co-managers of the Loita/Purko Naimina Enkiyio forest, and the local Maasai Community with neither access to, nor control over the Loita/Purko Naimina Enkiyio forest. During a Full Narok County Council meeting held in August 2002, the Council rescinded its earlier decision to alienate Loita/Purko Naimina Enkiyio forest. It also decided to opt for an out of court settlement for the court case and to support a community based conservation of the same by the Loita and Purko Maasai communities living adjacent to the forest.

1. INTRODUCTION

Land in Kenya falls into three tenure regimes: government land (13.3%), freehold/leasehold (12.9%), and customary in Trustland (73.8%, see Wily & Mbaya, 2000), and forests fall into these three categories. In Kenya, forests cover a total of 1.4 million hectares, or just over 2% of the country (Wass, 1995). Gazetted Forest Reserves comprises 1.64 million hectares, of which 1.22 million hectares are closed canopy forest (Wass, 1995). Included in this 1.22 million hectares are 1.06 million hectares of indigenous forest and 0.16 million hectares of plantation forests, for the most part established in the high potential areas of the country (Wass, 1995). A further 0.18 million hectares of indigenous forest are located outside of gazetted forest areas (Wass, 1995). Kenya's forests are significant in terms of their contribution to the national economy, and their provision of indirect environmental benefits such as catchment protection, energy, as an important source of food (plant and animal), employment, medicine and many other non-wood forest products. Forests are valuable for cultural and religious purposes as well as some forest areas contain sacred sites, and many contain plant and animal species used in rituals. At present, the Forest Department manages gazetted Forest Reserves on Government land and Trust lands. In addition, the Forest Department on request from the relevant County Councils manages some non-gazetted forests on Trust land. About 20% of the total gazetted area of Forest Reserves occurs on Trust land.

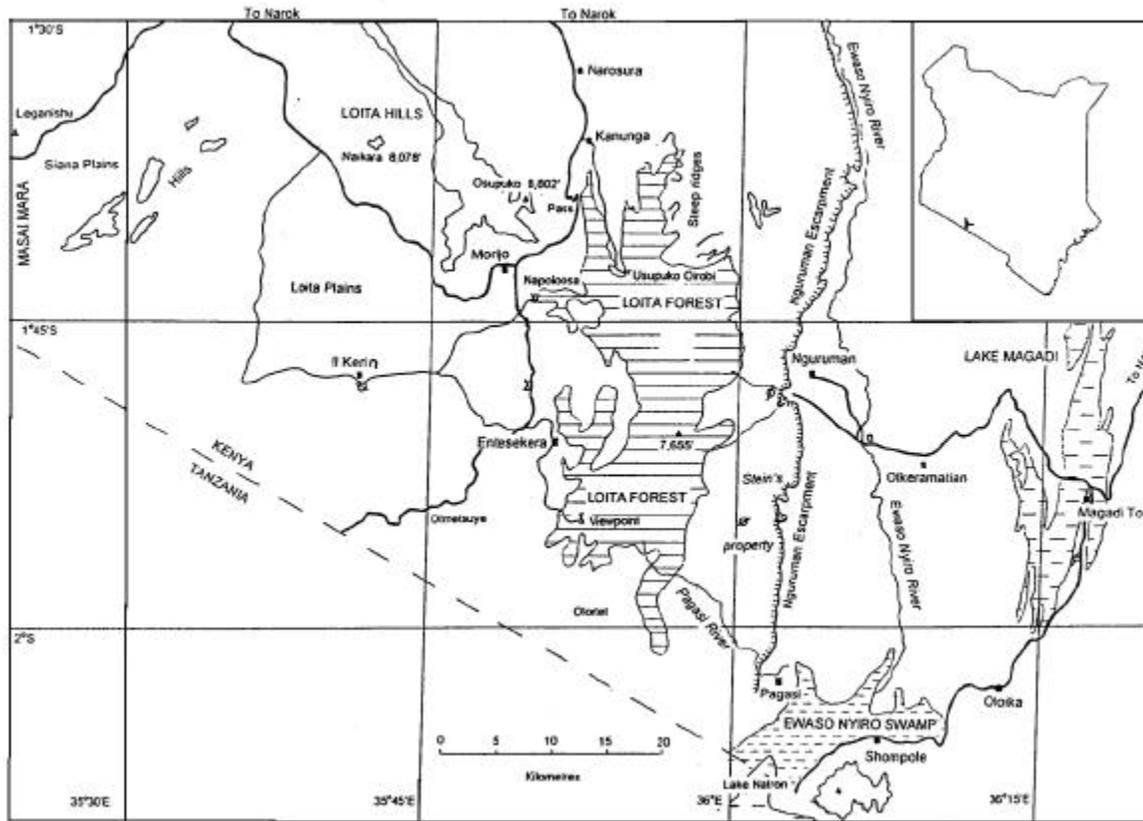
The land area known as Loita in Kenya lies between the Nguruman - Magadi escarpment and the Maasai Mara National Game Reserve (Map 1). It is an area of 1700 square kilometres within Loita Division of Narok District in southern Kenya. Loita land encompasses a variety of ecosystems, and has an average altitude of 2300 feet. The area is comprised of predominantly semi-arid extensive grasslands to the west. The Loita/Purko Naimina Enkiyio forest is estimated to cover an area of 330 square kilometres. It covers part of the land used by the Maasai community whose ancestral lands straddle the border with Tanzania, and is one of the few non-gazetted trustland indigenous forests in Kenya.

The forest can be classified as a "dry upland forest". However, within the forest, three broad categories can be identified. The Afromontane dry conifer forest dominated by the African Pencil tree (*Juniperus procera*) usually on hill tops, and lower down there are mid upland semi-deciduous forests and mixed species low upland forests. Overall, the forest is dominated by the following tree species: *Podocarpus latifolius*, *Cassipourea malosana*, *Olea capensis*, *Olea africana*, *Pavetta gardeniifolia*, *Podocarpus falcatus*, *Juniperus procera*, *Zanthoxylum usambarensis*, *Diospyros abyssinica*, *Teclea nobilis*, and *Warbugia ugandensis*. Dispersed within the extensive closed canopy forest, are bushes, glades and wetland areas. The forest supports a variety of large mammals, and a rich bird life. It has great cultural and spiritual value to the local communities, especially the Loita Maasai.

Most forest management strategies have alienated local community involvement from forest management. The concept of community-based forest resource management is relatively new in Kenya. Thus there are few lessons or experiences to draw from. The aim of initiating community-based natural resources management in the area planning processes is to forge effective partnerships between the local community and resource users with central and local government agencies, and other interested parties. For the sustainable management of indigenous forests, an effective management organisation-local people partnership should be fostered.

One promising strategy is to promote sustainable forest management policies and programmes that enable the active involvement of local communities and indigenous people in forest use and conservation. The rural communities in Loita have no alternative but to live with their forest and other natural resources, and consequently have a large stake in their sustained management. The land in the Loita area has not been adjudicated and is still communal or Trust land, under the trusteeship of the Narok County Council (Trust land Act, CAP. 288). The forest has been reasonably well-maintained to-date. However, the pressures are increasing as demand for forest products increases, due to both expanding human and livestock populations. At the same time, preliminary plans exist for developing tourism and the utilisation of Loita forest. So there is a pressing need to reconcile the differing interests for the conservation and sustainable development of the area.

Map 1: Location of the Loita/Purko Naimina Enkiyo Forest



Source: (adapted from Shelly & Lempaka, 1999).

The wide range of stakeholders, together with their interactions and decision-making processes, needs to be understood and used as the building block for community and resource user involvement in forest management. The controversy over the ownership and management of the Loita/Purko Naimina Enkiyo forest was exacerbated by the lack of such meaningful dialogue, and a non-adherence to required procedures. Additionally, denying the local communities, who have little or no power despite their large stake in the natural resources within Loita, and other interest groups a chance to be involved in the decision-making processes has led to great mistrust. The local community living adjacent to the Loita/Purko Naimina Enkiyo forest has the greatest stake in the continued existence of the Loita/Purko Naimina Enkiyo forest. Their livelihoods depend on the goods and services provided by the forest. The reverence attached to the forest, and respect bestowed upon the *Laibon*⁴ institution as the traditional custodian of the forest, has been a key factor in the continued responsible conservation of the forest by these local communities. Any decision that affects the integrity of the forest impacts on their livelihoods and way of living. Some of the effects could be negative, such as desecration of the sacred sites where important cultural and spiritual activities are conducted. The stakeholder groups' relative power in influencing decision-making processes must be commensurate with their stake in the forest, together with their genuine involvement. This paper describes these interactions from an equity perspective, and demonstrates why such forests are important to the Maasai pastoralists, and what processes can be put in place to provide them with the necessary rights and responsibilities for the management of the Loita/Purko Naimina Enkiyo Forest

⁴ Spiritual leaders

2. THE MAASAI AND THEIR LOITA/PURKO NAIMINA ENKIYIO FOREST

The Loita/Purko Naimina Enkiyio forest is a Trustland forest, which presupposes that the local community owns the natural resources, and that the management functions are vested in the local County Council. The Loita Maasai have always believed that they own and have the rights to the forest, and have from time immemorial responsibly managed it. This has been done through their traditions, culture and unwritten customary laws (Box 1). This successful customary conservation story has developed as a result of a sound understanding of their sociological, economic, and ecological environments. The trust land, both the rangeland (1,700 square kilometres) and the forest (330 square kilometres) has been shared by multiple users for grazing, traditional and cultural ceremonies, medicinal plants, construction materials, and source of water with varying levels of access. There are certain resources types and uses that are strictly controlled, while other resources are more freely accessible. The most interesting aspect is how the rights to, and responsibilities for these resources by the users are defined and enforced, and this depends on several factors (Toulmin & Quan, 2000):

1. **Resources type:** Only the *Laibons* (traditional seers and medicine men) are allowed to use certain sacred resources such as the Oltukai (*Phoenix reclinata*) which is used for cultural ceremonies. Certain traditional rituals are carried out within the forest, and require the use of limestone, which is found in very few parts of the forest. Conducting of these ceremonies are carried out deep within the forest, for instance *Enkitainoto Olorrip Olasar lolporror* - the chosen spiritual leader of the new age group. It is only these age-group spiritual leaders who know where this special limestone is located within the forest, and the actual site where these ceremonies are conducted. The Loita Maasai community understands and respects this, their spiritual leaders, and the whole ceremony is greatly revered by all;
2. **Resources use:** grazing is open to all the members of the Loita Maasai community. Each member of the community understands that it is his or her responsibility to ensure that irresponsible actions that might be destructive, such as fires do not take place;
3. **Resources users:** Certain members of the community can use certain resources based on their needs. Women construct houses and collect firewood. Traditional birth attendants use traditional herbs while attending to women during childbirth. These specific resource users have uncontrolled access to such resources. The *Ittorobo* community (honey-gatherers) harvests honey from the forest, which they sell to the other members of the community;
4. **Nature and strength of rights and duties:** There are certain activities, which are the permanent right of the *Laibon* (*Inkidongi* lineage) institution. They have permanent rights and access to certain areas of the forest for their functions; and
5. **Seasonal use:** The use of the forest for grazing and watering is only carried out during the dry-season and drought times. The whole of Loita Division has a semi-arid climate with rainfall between 500-700mm per annum, while the montane forest receives about 1250mm. The Loita Maasai understand the role that the forest plays as a water catchment, as all water sources in Loita emanate from the forest. The forest is a very important drought and dry-season safety-net. Even for the community members living close to the forest, the desire to have the animals graze in the forest where the pastures are good all year-round is resisted, as they graze their livestock based on the traditional wet and dry season grazing areas.

The Loita Maasai understand that the forest is a haven for wildlife that often migrate from the Maasai Mara National Game Reserve, and that it is this wildlife which is the main attraction for the small-scale nature tourism taking place in the area. The most interesting aspect however is how the community has been able to manage their natural resources, and demonstrate that they are capable of responsibly managing an area the size of the Loita/Purko Naimina Enkiyio forest.

Box 1: The Loita Maasai, their culture, and the Loita/Purko Naimina Enkiyio forest.

The Maasai are of Nilotic origin. It is believed that scarcity of grazing land pushed the Maasai southwards from along the Nile, into Abyssinia and later down the Rift Valley to present-day Kenya where they arrived near Lake Turkana during the 1600s. The Maasai lost large tracts of land through the treaties of 1904 and 1911, when the colonial government evicted them from their best grazing grounds in Laikipia and Nakuru, in favour of the European settlers. The Loita Maasai found occupying the Loita hills, estimated to number 20,000, are one of the smallest sections of the Maasai community.

The other Maasai sections (living both in Kenya and in Tanzania) include *Purko*, *Ilkeekonyokie*, *Damat*, *Siria*, *Wuasinkishu*, *Moitanik*, *Loodokilani*, *Kaputiei*, *Matapato*, *Kisonko*, *Arusha*, *Njemps*, *Baruguyo*, *Samburu*, *Sikirari*, *Loitokitok*, and *Laitayok*. Irrespective of the section, his clan and age group identify a Maasai. There are five clans namely *Ilmolelian*, *Ilmakeken*, *Iltaarrosoro*, *Illaiser*, and *Ilkumae*. Within the *Illaiser* clan there exists a sub-clan referred to as *Inkidongi*, which is the *Iloibonok* family (Laibons). The *Iloibonok* are the spiritual leaders, healers, ritual experts, and prophets for the Maasai community. They act as intermediaries between the Maasai people and God. The great *Oloiboni* (*Oloiboni Kitok*) is the spiritual leader of all the Maasai, and is consulted and invoked in major traditional ceremonies. The *Inkidongi* sub-clan are settled at Olng'arua, at the periphery of the Loita/Purko Naimina Enkiyio forest in Loita Division. They are charged with the inherited responsibility of protecting and preserving the sacred Loita/Purko Naimina Enkiyio forest. The present Chief Laibon is known as the keeper and cultural conservator of the forest.

The Loita/Purko Naimina Enkiyio forest is an important catchment forest with rich biodiversity. The local Loita Maasai community uses it for many cultural ceremonies, including

- *Emowuo Olkiteng*: the beginning of a new age group. This is when boys begin their rite of passage as young adults marked by initiation rites. This particular ceremony is conducted at a place known as *Oloitokitok* near Olng'arua, which is a permanent spring source;
- *Enkitainoto Olorrip Olasar lolporror*: the chosen spiritual leader of the new age group, *Olorrip Olasar*, accompanied by one *Olpiron* elder, spends the whole night awake standing motionless under a sacred tree deep within the forest known only to *Olpiron* elders; see annex 2.
- *Emayian oo Nkituak (Olmal)*: periodically the Maasai women are blessed and cleansed to enhance their fertility under sacred trees in the forest. *Oltukai* (*Phoenix reclinata*) and *Sinante* (*Podocarpus falcatus*) twigs are used to signify sanctification; and
- *Ipuli*: morans indulge in secluded meat feasts deep within the forest to convalesce and restore their strength, commune with their Deity, develop group dynamics and brotherliness.

Other than the great spiritual significance of the forest to the Loita community, the forest also acts as a source for herbal and traditional medicines, dry seasonal grazing, honey (collected by the local *Ittorobo*), fruits, etc.

Sources: Rerente, O. (1993); Mol, F. (1977); Maundu et al, (2001); LNECTC (1994); and Kassagam, J & Goosens, H (1998).

Legal notice No. 100 of 1969 declared all the land in the then Cismara (present day Loita) Division an Adjudication area under the Land Adjudication Act. However, to-date the Loita Community has resisted adjudicating their land into group ranches for very practical reasons. They argue that for land as fragile as theirs and with an erratic rainfall, it is more productive to maintain it as one unit. Secondly, they consider their rangeland and the forest as one unit that should be managed jointly. Adjudicating their rangeland into group ranches without assuring the security of tenure for the forest, they argue is meaningless. Third, the Loita Maasai pride themselves as the only area in the Maasai country where outsiders, especially agricultural communities, have not taken over the land. Lastly, the Loita Maasai have learnt from the experiences of other pastoral communities on the privatisation of land, the registering of group ranches, and their subsequent subdivision for private title deeds, which has led to the present landlessness for some of these people. They would therefore like to wait until favourable land reforms are in place so as to be guided on how best to go about their land registration (pers. comm. Mark ole Karbolo).

This brief analysis demonstrates a community that understands its environment, and has competently managed their natural resources sustainably to date. The community assumed that it had security of tenure both in terms of ownership and management of their forest, until Narok County Council publicly announced that it will gazette the Loita/Purko Naimina Enkiyio forest as a reserve. If this were to be successful it would extinguish all the rights, interests, and benefits that the Loita community have under customary law. Changing of the forest into a reserve

implies that it would be strictly preserved for nature protection, and the prohibition of any access by local people. If these were to happen the community would lose their valuable dry season grazing lands, their sources of water, traditional herbs and medicines, and timber, poles, and honey. In addition they would lose their sacred sites, access routes for livestock to the market in Ngong, and their Laibon institution would greatly weakened. These are the costs that the local Maasai would have to incur. The benefits have not been clearly or fully defined, but could in no way compensate for the losses the people would incur. This has pitted a community with demonstrated sound natural resources management skills against a local government authority that has been accused of mismanaging other natural resources within its jurisdiction.

The community contested Narok County Council's move. In addition, to petitioning Narok County Council to rescind this decision, they are also interested in acquiring a secure tenure for their own sacred forest. Their fight has been for community-based forest management that does not only give them rights to use the forest resources, but also delegates to them the right to own, and have the authority and responsibility over the forest.

3. WHOSE STAKE COUNTS IN THE FOREST AND WHY?

3.1. Overall Stakeholder Interests

Table 1 summarises the stakeholder groups and their respective interests. The sections that follow discuss aspects related to stakeholder groups' decision-making processes, and their role in being involved in Loita/Purko Naimina Enkiyio forest management. Some of the stakeholder groups were active in their support for the differing groups (the Narok County Council and the Loita community) during the pre-court and court case periods. Others have been involved at later stages in their efforts or endeavour to contribute to the management of the forest. For the purposes of this paper, a stakeholder or stakeholder group is defined as any individual or group who may be affected by, or expresses a strong interest in the resources or management of forest areas (Borrini-Feyarabend, 1999), and may include:

- Local use communities – forest adjacent communities;
- Local communities having an indirect interest in the management of the resource – relying on some functions of the forest, for instance provision of water;
- Remote user communities who come from a distance to use the resources, for instance tourists who frequently visit the forest;
- Government agencies (local, central, parastatals, national institutions mandated with natural resources management responsibilities in the country); and
- Environmental and conservation organisations at local, national, regional, and international levels.

The analysis of the stakeholder groups and their respective stakes in the management and ownership of the Loita/Purko Naimina Enkiyio forest provides a very important understanding of the complexity of involvement of multiple stakeholders, some of whom have competing, and others complimentary interests. The local community (pastoralists, spiritual leaders, traditional medicine men, traditional birth attendants, honey-gatherers, firewood collectors, etc) has the largest stake in the sustained management of the forest. But they also stand to lose the most, if the forest is mismanaged, and so fail to continue providing the products and services for the all stakeholders at local, national, and global levels. Of great significance to the Loita Maasai would be the losses to their livelihoods and their cultural identity.

Table 1: The stakeholder groups involved in the management of Loita/Purko Naimina Enkiyio forest and their perceived stakes and interests.

STAKEHOLDER GROUP	INTEREST/STAKE in Loita/Purko Naimina Enkiyio forest
Primary Stakeholders – individuals or organizations who have a direct interest in, or impact on, the Loita/Purko Naimina Enkiyio Forest	
<p>The Local Communities: These comprise of the local people and their institutions who depend on the forest for their existence and as a source of livelihood. In Loita, these include various forest user groups, Local Maasai (Loita & Purko sections) community; Community-based organisations such as Loita/Purko Naimina Enkiyio Forest Conservation Trust Company, Ilkerin Loita Integral Development Project, Concerned Loita Citizens, Inkidongi Development Society, Olmaa Development and Welfare Association, Middle Ground Group, Loita Women Council, Loita Youth Association, Osupuko Oirobi Development Group, Loita Council of Elders, and Sub centre Development Committees (six in total).</p>	<ul style="list-style-type: none"> • Ownership of the forest by the local community as provided for under African customary law; • Continued management having access and rights to, and being responsible for the forest as has been since time immemorial; • Uncontrolled access to the forest to practice their traditional and cultural ceremonies in the designated sacred sites, and protect them against any desecration; • Dry-season and drought grazing and source of water in the forest for their livestock; • Continued access to the forest for products such as grass, herbs, building posts, honey, etc. as regulated by their unwritten customary rules; • Benefit from the low-scale tourism activities presently taking place that are in harmony with their culture and traditions; • Conserving their forest for posterity;

	<ul style="list-style-type: none"> Continued regulation of the micro-climate by the forest, for instance, groundwater recharge which ensures flow of water to areas further away from the forest and for long duration over years; and Preserving their cultural identity as their Deity lives in the forest.
<p>Government: Both local and central, mandated with the responsibility of natural resources management policies formulation and implementation, and include the Narok County Council, Ministry of Local Government, Forest Department, National Museums of Kenya (The Kenya Resources Centre for Indigenous Knowledge), Kenya Wildlife Service Provincial Administration (Locational and Divisional Environmental Committees).</p>	<ul style="list-style-type: none"> Revenue generation from tourism and logging activities; Continued conservation and protection of the forest as an important water catchment, and a refuge for wildlife through gazettement; Direct management of the Loita/Purko Naimina Enkiyio forest (“command and control” system) to ensure continued flow of revenue.
<p>Secondary Stakeholders and Interested Parties- Individuals or organisations that have an interest in, or impact on, the Loita/Purko Naimina Enkiyio forest.</p>	
<p>3.1 Non-Government Organisations, and donors: These can be categorised into three subgroups</p> <ul style="list-style-type: none"> International conservation organisations e.g. IUCN – The World Conservation Union, The World Resources Institute (WRI), The African Centre for Technological Studies (ACTS); Donors e.g. Bilance (presently known as CORDAID), UNESCO, and the EU; Local conservation organisations e.g. Kenya Energy and Environment Organisations – KENGO; Bank Monitoring Unit, a policy research institution of the Africa Water Network in Kenya, East Africa Wild Life Society (EAWLS) 	<ul style="list-style-type: none"> Continued conservation of the forest as a very important water catchment; Biological diversity conservation; Local communities benefiting from conservation and using such benefits to improve their conditions of living; Involvement of relevant stakeholders in the management and conservation of the forest; Funding conservation interventions; Raising the capacity of involved stakeholders for the better management of their resources; Raising awareness and lobbying (advocacy) for the rights of the local communities to manage their natural resources; Improvement of gender relations to uplift disempowered groups within the Loita Maasai community such as women; and Playing the role of mediators in case of conflicts between resource-users and decision-makers.
<p>Private Sector: Commercial and Business-oriented firms, mainly tourism companies and groups such as National Outdoor Leadership School, Africa Expeditions, Safaris Unlimited, and Nature Tour Guides,</p>	<ul style="list-style-type: none"> High returns from eco-tourism as a result of the naturalness of the forest and the Maasai culture; Some your firms support community-development projects out of the profits made from the eco-tourism in the Loita forest and environs; Continued use of the forest for cultural activities attracts tourists; and Banning and controlling destructive activities such as logging as these would keep away nature tourists who are environmentally-conscious.

The Maasai’s dependence on the forest is for daily livelihood security. They associate the forest with their cultural identity. They believe that their deity resides in this forest. Other stakeholder groups’ stakes are secondary to those of the Maasai community. Some of these are complimentary to the interests of the local community, for instance, conservation that allows the involvement of the local community as key actors in all stages of designing and implementing such interventions, including transparent decision-making process that would be supportive of the Loita community’s cause. IUCN and other conservation lobbyists have recommended an all-inclusive management

planning process that involves all the relevant stakeholders (Loita Purko Integrated Conservation and Development Forest Project proposal).

Other groups compete with the interests of the local community. Gazetting the forest to develop tourism activities, as proposed by the Narok County Council, would not only jeopardise the source of livelihood for the Maasai community, but would also deny them access to their cultural heritage. Other activities such as revenue generation from extensive tourism development might sound good on the basis of the revenues generated, but it is questionable as to whether the benefits would outweigh the costs. These might include giving up grazing rights in the forest so as to maintain a natural outlook to attract tourists, which could result in increased incidences of human-wildlife conflicts outside.

And who loses? The Loita community stands to lose most. If the Naimina Enkiyio forest is degraded or lost from the local community, their cultural identity would be jeopardised, dry-season grazing areas would be lost, cultural and spiritual sites would be lost and probably desecrated, and the sources of water would dry up causing huge losses for livestock keepers, for example. However, if they do lose rights to, and responsibility for the forest, the ramifications would be great. The forest would have lost its most knowledgeable manager and conservator, and the ecological balance of the forest might be disrupted, thereby comprising the local, national, and global services provided by the forest.

And does the size of the stake match the power? Power to manage the forest? And power to be involved in the decision-making processes? Unfortunately, the Loita community does not have the power commensurate with their stake. Though the local community has managed and conserved the forest since time immemorial, protecting it from any unsustainable destruction, they have often been thought of as secondary stakeholders, where their concerns over the management of the forest are often ignored. In this case, the Narok County Council makes all the decisions concerning the management and ownership of the forest. For instance, when the Narok County Council decided to gazette the Loita/Purko Naimina Enkiyio forest, the local community was hardly consulted. Second, the Narok County Council has issued concessions for campsites in the forest to various parties, where the local communities were not involved or consulted. This has been one of the drawbacks in the saga of the court case where Narok County Council has continued to make all the decisions in line with the Trustland Act which provides sweeping powers to County Councils on the management of communal lands and resources. Instead it could be piloting co-management of the forest that recognises the need to involve the local community in all stages of the forest management. These unbalanced power relations do not contribute to solving the existing misunderstanding. According to the local community, security of tenure for their forest is not likely to change their perspectives for management from the present one of protector to one of over-exploitation, as they have always managed their forests in the past, when they did not know that the Narok County Council could claim a stake in the management. Obtaining secure tenure for their forest would enhance the prevailing management in that they would be in a position to marshal all their resources and time for proper management of the forest.

Gender roles define how women and men perform different tasks for the household, earn income in different ways, have different levels of control over their respective incomes, allocate time differently, have different legal and traditional rights and possess different types of knowledge (Ligunya, 2000). While women normally have multiple, often disproportionate responsibilities, they have little ownership or control over productive resources. This imbalance in the ownership and control over resources places women in a subordinate and disempowered position relative to men. Unequal gender relations intertwine and overlap with inequalities derived from caste, class, and ethnicity. Issues of gender equity cut across the broader issues of equity between the more powerful and marginalized sub-groups within and between communities.

In the case of management of the Loita/Purko Naimina Enkiyio forest, the issue of gender can only be discussed in the context of access, and not ownership, as all land in Loita is communally owned. However, experiences from other Maasai areas show that male groups manage land, and the situation perhaps would be the same if the land in Loita were adjudicated. Women's rights of access to natural resources in Loita hinges on the social relations which link them to those with primary rights over land, namely the men especially their husbands (Ligunya, 2000). The Maasai women carry out time consuming work: milking, tending to livestock, firewood collection, boma (house) building, and fetching water. Other specialised duties include the traditional birth attendants who collect herbal medicines from the forest.

Within the Loita forest area there are a range of equity division including men and women, rich and poor, youth and elders, and the Purko and Loita Maasai communities. Because of their equity divisions, many of the stakeholder groups, whether at community or district level, mistrusted each other on many issues. For example,

- The Loita and Purko communities living around the forest had suspicions of each other;
- With the Loita community, some members were aligned to the Loita/Purko Naimina Enkiyio Forest Conservation Trust whereas others, e.g. the Concerned Loita Citizens supported the Narok County Council; and
- The Kenya Wildlife Service and Narok County Council had difficult relations concerning the management of the Maasai Mara Game Reserve, and could not work together on the Loita/Purko Naimina Enkiyio forest management planning process.

The essence of resolving or managing conflicts over natural resources hinges on having platforms for negotiation, and good communications. In this respect, an external facilitator(s) or mediator(s) would have been important in assisting in this process. Vested interests even at personal levels may have led to this mistrust, as, for example, some local community members were reported to have had interests in acquiring campsites within the forest.

Maasai communities are known to have great respect for their elders. However, in this particular case neither party opted for the Land Disputes Tribunal, which is usually composed of elders, who are conversant and able to guide such conflicts. It has not been possible to establish why this process was not used. Instead, the parties opted for the least appealing and possibly most costly of all alternative dispute resolution methods, namely court adjudication. Though it is now understood that the groups have agreed to take the case out of court, and use some form of mediation.

Since 1998 IUCN The World Conservation Union has been facilitating a planning process that involves the majority of the stakeholders to develop a management system for the forest. In this planning process, the Loita and Purko communities living around the forest have in principle agreed with the Narok County Council for an out-of-court settlement of the pending case. The lawyers of both parties are working on modalities of this settlement, and each party has agreed to meet its own legal costs (see the postscript). The forest management planning envisaged aims at integrating the traditional (by the local communities) management of the forest with modern management approaches (to be spearheaded by conservation organisations) and developing a management system to safeguard the forest against the ever-increasing pressures. Second the planning process aims at developing a sustainable forest management model outside the conventional forestry department management that could be adapted in other forested areas in Kenya. Loita Forest is not a gazetted forest, and there are many other important non-gazetted forests in Kenya that could benefit from Loita forest planning process experiences. This requires resources (technical and financial), which the local communities lack. Conservation organisations, such as IUCN, would play a major role in facilitating the planning process by soliciting financial resources required and provided the technical inputs required.

From this analysis of the stakeholders there are several stakeholder groups interested in the management of the Loita/Purko Naimina Enkiyio forest, and their stakes differ to a lot. Experience has shown that it is important to involve all the stakeholders. Omission, of one or some of the stakeholder(s) may derail the management planning process at a future date.

4. EQUITY AND POWER - WHOSE VIEW COUNTS? AND SHOULD COUNT? - THE COURT CASE

Major types of conflicts in community forestry can be categorised as those among or within the community, between communities, and between local communities and outside organisations. Conflicts arise when there are resources for which decisions have to be made regarding management, access, rights, and benefits. There is nowhere that demonstrates this better than the case of the conflicts surrounding management and ownership of Loita/Purko Naimina Enkiyio forest.

Narok County Council, in 1993, made their intentions to gazette the Loita/Purko Naimina Enkiyio as a Nature Reserve. This decision was made in part to alleviate the tourism pressures on the Maasai Mara National Game Reserve nearby. The Maasai Mara National Game Reserve is controlled by Narok County Council and is one of the highest revenue earners of all tourist attractions in Kenya. Such a move might expose the Loita/Purko Naimina Enkiyio forest to similar threats that face the Maasai Mara, namely the effects of mass tourism and over-exploitation, which could result in the loss of its sacred status to the local communities, access to the forest for dry-season and drought grazing, and harvesting of minor forest products. The move was resisted by the local community. In their endeavour to save their forest, the local community led by their Laibons (spiritual leaders) registered the Loita/Purko Naimina Enkiyio Conservation Trust Company (LNECTC), which is run by the community's elders including the Chief Laibon. The Community through the LNECTC contested the County Council's plan to have the forest gazetted by taking their case to court for adjudication.

Annex 1 provides a detailed historical time line of events of this dispute (summarized in Table 2), and demonstrates that the Loita Maasai community did not seek court adjudication without trying all the other available options. Seeking legal redress was a last resort. A constitutional bench of three puisine Judges of High Court was constituted to preside over the case. Since then, the matter was only heard for two days consecutively, namely the 3rd and 4th October 1996. Several adjournments were made at the insistence of the court. These were mainly due to the failure to have a complete Constitutional bench of the three judges sitting at the same time as required by law. The last date in which this matter was in court was the 9th March 1998. On this day, the suit was adjourned indefinitely. To-date, the matter has not been placed in the court case list.

Table 2: History of the efforts made by the Loita Maasai's against the gazettment of the Loita/Purko Naimina Enkiyio Forest, and the Court case that ensued in 1993.

Date	Newspaper/Publication/Event
Aug. 1992-	Letters, meetings, and communication between the Loita people (through their lawyer) and the Narok County Council, challenging the gazettment
Oct. 9 1992	Letter from the then Director of Forestry to the Ilkerin Loita Integral Development Project (ILIDP) suggesting a draft memorandum of understanding with the Forest Department
Dec. 24 1992	Articles of Association of the Loita/Purko Naimina Enkiyio Forest Conservation Trust Company were made and the Trust incorporated.
July 31 1993	Supplement in the Standard Newspaper by Narok County Council concerning an amendment to the forest gazettment notice.
Aug. 18 1993	A press statement by 28 Loita Maasai elders led by the Chief Laibon in the Kenya Times & the Daily Nation protesting the gazettment
Aug. 20 1993	Letter By the Loita Community's Lawyers to the NCC contending the gazettment
Aug. 24 1993	Article in the Daily Nation citing a letter from the Loita Community to the Narok County Council about the lack of consultation.
Aug. 28 1993	Article in Kenya Times from a press statement by Loita elders petitioning the President of Kenya
Aug. 30 1993	Article in the Kenya Times on discussions about the forest in Narok and Loita.
Aug. 31 1993	Letter by the NCC to the Loita Community Lawyers justifying gazetting the forest.
Sept. 1 1993	Letter By the Olmaa Development and Welfare Association to heed the request by the Loita people to manage their forest.
Sept. 8 1993	Article in the Daily Nation and the Kenya Times, based on KENGO statement to requiring the gazettment to be rescinded.

Sept. 9 1993	A commentary of the Loita forest saga in the Kenya Times, and article in the Kenya Times that highlights the instructions from the Loita elders to their lawyers
Sept. 10 1993	Article in the Standard and Nation Newspapers highlights the local importance of the forest to the Maasai of the area
Sept. 11 1993	Letters to the Editor Daily Nation) by the Middle Ground Group argues that the forest should be left under the stewardship of the local Maasai through a trust.
Sept. 13 1993	Article in the Society Magazine by H. M. Lempaka, argues for better management of the Maasai Mara, and to discuss with the Loita Maasai on what the benefits would be.
Sept. 16 1993	Article in the Kenya Times highlights the allocation of some Loita forest land in 1971 by Narok County Council, which was later sold on to foreigners
Sept. 17 1993	Letter from (Kenya Environment and Energy NGOs) KENGO to the Minister for Local Government arguing that Kenya is a signatory to the CBD (and in particular highlights articles 8j and 10c), which supports the rights of indigenous peoples
Sept. 20 1993	Issue and Facts Report by East Africa Wildlife Society that recommended that the Loita community be supported to own and manage their own forest.
Sept. 21 1993	Article in the Kenya Times discusses some of the internal disagreements amongst the different groups in the Loita area
Sept. 26 1993	Article in the Kenya Times by the ILIDP highlights the role play by the Ilkerin Loita Integrated Development Project
Nov. 1993	Background paper, prepared for the EAWLS by the Middle Ground Group discusses the “pros and cons” of different arrangement for the management of the forest
June 1994	Statement by the ILIDP issued at second session of the Intergovernmental Meeting on the CBD.
June 1994	Flyer/Newsletter issued by Loita/Purko Naimina Enkiyio Conservation Trust Company, second session of the Intergovernmental Meeting on the CBD
June 15 1994	Letter by Loita elders to the President of Kenya, highlighting their problems
June 29 1994	Article in Eco 5, June 29, 1994 argues that the Loita Case highlights what Article 8j and 10c is trying to achieve
1995	The Loita Ethnobotany Project as a community based research project under UNESCO.
1998	The Loita Integrated Conservation and Management Project, Preparatory Phase to initiate a participatory management planning process for the forest

Note: See Annex 1 for further details.

Besides pitting the resources users (local communities) against the decision-maker (the Narok County Council), there were other conflicts at different levels, which further compounded the problem. There are conflicts between the two Maasai communities, the Loita and Purko, who live adjacent to the forest over territorial ownership of different parts of the forest, and the sharing of benefits accruing from the existing limited tourism activities. This is due to the inappropriate allocation of parts of the forest parts by the Narok County Council for campsites, and ignoring the laid down procedures (Box 2). The Purko community surrounding the Loita/Purko Naimina Enkiyio forest is estimated to number 1,000, and includes the communities living in Olkijiji, Kirtilikini, Osupuko Oirobi, and Enkutoto. The Purko community living in Kirtilikini owns a campsite within the forest, which has been leased to a tour company. Within the Loita community, there has been polarisation, due to the concentration of power in the hands of a few elite, which hampers transparent decision-making, and results in competition for settlement near, or within the forest. During the court case, there were three differing groups involved comprising the Loita Conservation Trust Company, the Concerned Loita Citizens, and the Middle Ground Group. The last two are informal unregistered groups, who consistently opposed the Loita Conservation Trust Company. Despite the differences amongst these local community groups, they all agreed that the Maasai communities living adjacent to the forest should own and manage the forest.

Box 2: Inequitable distribution of benefits: the case of the Nkonyokie Kanunka campsite

The conflict between the Narok County Council and the Loita community can be traced back to the Council's inappropriate allocation of parts of the forest to outsiders. The Loita community was never consulted as is required by law, and neither did they benefit. That is why, in their letter to the County Council of August 1992, they questioned why parts of the forest were allocated without the approval of the Loita Location Development Committee. As a result, the Loita community feared that they would lose, bit by bit, their forest. This led to soliciting advice on how they could safeguard their forest against such appropriation in future. Accordingly, they were advised to register a legal body in the form of a trust - the Loita Conservation Trust Company.

According to Narok County Council records, only two campsites have ever been allocated in the Loita/Purko Naimina Enkiyio forest area. These are the Nkonyokie Kanunka (through Min. 5/82) and Olalaa Group (through the Council Minutes of 1978, though the specific minute number could not be established) campsites. Twenty two Purko Maasai, based at Kirtilikini own the 22 Ha. Nkonyokie Kanunka campsite, and lies within the forest. The annual lease fee of US \$25 is payable to the Narok County Council. In the late 1980s, the campsite was leased to Africa Expeditions Ltd., who operate under the name of Loita Hills Camp. The Loita Hills camp has 40 - 60 people visiting per year staying 2-3 nights, constituting 100 - 150 bed nights.

The Loita/Purko Naimina Enkiyio forest is considered a very good area for eco-tourism due to its proximity to the Maasai Mara Nature Reserve, the Maasai culture, the biodiversity and nature walks. Based on these attractions, applications for campsites by people from Loita and also from outside, have been made, for example at Oloondapipi and Olayakuji in Osupuko Oirobi.

Benefits to the Kirtilikini community

- The Africa Expeditions Ltd. pay the 22 owners an agreed fixed amount of money (USD \$2,100) per annum, irrespective of the number of visitors who use the camp;
- Each month five members of the community are employed to take care of the camp on rotational basis and are paid by the Africa Expeditions. This accrues a further sum of US \$6,000 per annum to the group. This benefits approximately 200 people, through the 22 shareholders, local employment, and the extended families; and
- The Africa Expeditions also contributes to community welfare activities such as the construction of wells.

From the first two bullets above, the Kirtilikini community obtains US \$8,000 per annum from their arrangement with Africa Expeditions Ltd. In a recent study on the tourism activities in the Loita Forest Area, it was estimated that the total revenue accruing from tourism is US \$14,000. The implication is that the Kirtilikini community who number 200 out of a total population of 20,000 in Loita Division (1% of the total population in the area) benefits with 60% of the total tourism revenue from the area. This inequitable sharing of benefits has been a source of contention between the Loita and Purko Maasai communities, and mechanisms for equitable sharing of any incomes generated out of the forest need to be explored.

Source: Shelley & Lempaka (1999); Pers. Comm. Terry Light of the Africa Expeditions Limited.

4.1. The Legal Case

Annex 1 provides details of the exchanges of opinions, views, ideas, and recommendations made by various interest groups over the management and ownership of the Loita/Purko Naimina Enkiyio forest, and these are summarized in Table 1. The main sources of information come from press statements, and reports of the time (1992-94), when the legal tussle between the Loita community and the Narok County Council began. Other sources include letters and communications from government agencies, community-based organisations (CBOs), Non-Governmental Organisations (NGOs), and International organisations. The letters, press reports, and communications broadly supported the need for a different arrangements for the management and ownership of the forest, either in support of the Loita community or of Narok County Council. Further, Annex 1 highlights some of the projects implemented, which focus on the sustainable management of the forest. Recognising the ecological significance of the forest, and the threats the forest faces from an increased interest in development projects, conservation bodies have been committed to the development of a management system for the forest, which would integrate the traditional management of the forest, as spearheaded by the Laibon institution, with modern conservation and management techniques.

The following facts are clear concerning the Loita Maasai's fight for their forests:

1. When the Loita community learnt about the pending gazettement of their sacred forest long before it was publicly announced, they beseeched the Narok County Council to rescind the decision but the request was ignored. Between August – November 1992 the Loita community sought meetings and held discussions with the Narok County Council over the impeding gazettement;
2. Despite this, Narok County Council proceeded to allocate camp sites within the forest without consulting the Loita community;
3. The Loita community was advised to form a community structure, the Loita/Purko Naimina Enkiyio Forest Conservation Trust Company which was incorporated on December 24 1992. In addition, the Loita Maasai community requested for technical advice and support from the Forest Department in a letter dated October 9 1992, on how to initiate a community-based management of their forest. This was to be in line with what was being elaborated for Arabuko Sokoke, Mau, and Kakamega forests;
4. The Loita/Purko Naimina Enkiyio Conservation Trust Company lobbied against Narok County Council's decision at local, national, and international levels, but met with little success. This included the Ministry for Local Government, Forestry Department, with His Excellency the President of Kenya, as well as at international fora both within and outside the country. The Loita community especially lobbied for their cause during the Inter-Governmental Committee on the Convention of Biological Diversity held in Nairobi in 1994. Most of this lobbying happened in 1993, that, ironically, was the year for the indigenous people, and lobbying at International levels in Vienna and Zurich bore no fruits;
5. The Loita community sought legal redress by taking their grievances to court, a case that has not yet been adjudicated upon;
6. The Loita community recognised the need for integrating modern forestry management systems with their customary ones. Towards this end several conservation initiatives have been carried out to-date in trying to elaborate a community-based management of the forest. These initiatives have been carried out in collaboration with organisations such as the East African Wildlife Society, IUCN, and KIFCON; and
7. The Loita community's struggle to achieve secure tenure for their forest has never waned over the last decade. Discussions are ongoing between the community and conservation organisations so as to embark on interventions aiming at developing a long-term management system for the forest.

The protracted dispute over the management and ownership of the Loita/Purko Naimina Enkiyio forest that has been dragging on for over ten years offers the opportunity to review the problems and issues that lead to such conflicts. The fact that the case has never been settled to-date, despite efforts by various interest groups, at local, national and international levels, demonstrates how conflicts over management and ownership of natural resources can be complex and tricky. Innovative participatory approaches that are able to learn from past experiences, and constructive analyses of available options within the present institutional and legal frameworks can give directions on how to resolve this quagmire, and provides solutions for resolution of the conflict.

Though the gazettement notice for the Loita/Purko Naimina Enkiyio forest was made public in 1993, the boundaries for the proposed nature reserve were demarcated in 1984. However, this was not the first time that Trust land in Loita had been adjudicated. Kamorora Group ranch was registered as a group ranch in the 1970s. The process of setting aside Trust land requires the involvement of the residents at all stages⁵. After the boundary demarcation, the Narok County Council should have presented this proposal to the Loita Location Development

⁵ Section 13, in pursuance with section 117 (1) of the Constitution, the following procedure shall be followed before land is set apart

Sub-section (2): the council shall notify the Chairman of the relative Divisional Board of the proposal to set apart the land, and the Chairman shall fix a day, not less than one and not more than three months from the date of the receipt of the notification, when the Board shall forthwith inform the Council of the day and time of the meeting;

The Council shall bring the proposal to set apart the land to the notice of the people of the area concerned, and shall inform them of the day and time of the meeting of the Divisional Board at which the proposal is considered;

The Divisional Board shall hear and record in writing their representations of all persons concerned who are present at the meeting, and shall submit to the Council its written recommendation concerning the proposal to set apart the land, together with a record of the representations made at the meeting;

The recommendations of the Divisional Board shall be considered by the Council, and the proposal to set apart the land shall not be taken to have been approved by the Council except by a resolution passed by a majority of all the members of the Council; Provided that where the setting apart is not recommended by the Divisional Board concerned, the resolution shall require to be passed by three-quarters majority of all the members of the Council; Where the Council approves a proposal to set apart land in accordance with subsection (2) (d) of this section, the Council shall cause a notice of the setting apart to be published in the Gazette

Board for approval. However, this did not take place. Had the local community been informed and educated about the implications of the gazettement, the legal tussle that ensued later might have been avoided.

The Non-Governmental Organisations (KENGO and EAWLS) echoed their unequivocal support for the local communities to be allowed to manage their sacred forest and strongly opposed the gazettement proposal by the Narok County Council (Annex 1). The EAWLS had in the past made efforts to assist in the development of the management system for the forest in the early 1980s, and supported ecological studies in the forest area (Fayad & Fayad, 1978). Shortly before, and during the court case, it initiated efforts to bring together the parties involved in the battle over the ownership of the forest. However, as this was a good method of resolving the differences, it failed due to some of the groups such, as the Loita Concerned Citizens and Middle Ground Group, boycotting meetings. Despite the interest that the Loita/Purko Naimina Enkiyio forest case has generated, there was little effort made at that time to bring the differing groups together, or offered to bring the two parties together and discuss what options might be available through, for example, mediation. It would have been worthwhile, especially for the advocacy groups, to be non-partisan, and assist in identification and bringing all the stakeholder groups together. Engaging a mediator to guide the negotiation process could have borne better results at a lower cost than the costs incurred so far for legal fees.

A lack of recognition of the role of the traditional knowledge base in natural resources management, and assuming absolute power over the Loita/Purko Naimina Enkiyio forest, combined with a confrontational approach rather than a consultative one has contributed to the increasing problems Narok County Council has had with many communities in the Narok District. The argument that the County Council manages the resources for all the people of a district is under question, as it implies that all the revenues collected from parks and other areas rich in wildlife, such as Loita/Purko Naimina Enkiyio forest, are under the jurisdiction of a County Council, and are re-distributed based on the perceived development needs of the District. This is usually in the form of roads, schools, dispensaries, which are often not close to the areas where the revenues were earned. As a result they do not really benefit the people who bear the costs of neighbouring the wildlife. Communities living near to, and bearing the costs of co-existing with wildlife should be compensated equitably from the benefit accrued from such wildlife. The Ministry of Local Government that has the powers to approve or disapprove proposals from any Local Authority, declined to come to the rescue the Loita community, despite many requests by the Loita community to have the gazettement proposal revoked.

An out-of-court settlement process is in motion. However, reaching consensus on the future management of the Loita/Purko Naimina Enkiyio forest will require in-depth analysis of the issues and problems that led to this seemingly never-ending tussle.

The Loita/Purko Naimina Enkiyio Conservation Trust Company and Narok County Council have agreed for an out-of-court settlement over the management and conservation of the Loita/Purko Naimina Enkiyio forest. At a full Narok County Council meeting held on 6th August 2002, the Narok County Council rescinded its earlier decision to alienate Loita/Purko Naimina Enkiyio forest. It also decided to opt for an out of court settlement for the court case and to support a community based conservation of the same by the Loita and Purko Maasai communities living adjacent to the forest.

4.2. Organisation and mobilisation of local community members

The institutions and groups that have been involved with issues related to Loita/Purko Naimina Enkiyio forest management are highlighted in Table 1. The local communities living adjacent the Loita/Purko Naimina Enkiyio forest area are predominantly the Loita Maasai (estimated at 20,000 and scattered throughout the Loita Division) and the Purko Maasai who number about 1,000 and are found in the settlements at Olkijiji, Kirtilikini, Osupuko Oirobi and Enkutoto. Despite having co-existed for many years, the Purko and Loita communities rarely mix, and they have exclusive settlements for the two communities. However, since 1999 these communities have started interacting, and discussing on the best way to conserve their forest. The two communities are currently involved in an initiative to develop a long-term management system for the forest. Within the Loita community, there are two other distinct groups, namely the much-revered Laibons (Inkidongi) and the often-despised *Ittorrobo* (*Maa-speakers*). The Laibons are very much respected as the spiritual guardians for the forest. The *Ittorrobo* are predominantly hunters and gatherers who harvest honey from the forest. In the past they were not known to place much attachment to livestock, which led to their being despised by their counterpart pastoralists. The *Ittorrobo* no longer wander in the forest looking for honey and hunting – they have settled among the rest of the Maasai, intermarried and become integrated with Maasai culture (Maundu *et al* 2001)

Among the resource users, the timber and honey harvesters are predominantly men. However, women are known to be involved harvesting traditional herbal medicines, especially the traditional birth attendants. In a recent study conducted in the Loita area, Ligunya (2000) highlights that despite not being involved in the formal decision-making processes, women do influence decisions informally, but their role is in the background. Women are not known to be welcome in meetings called by men, or if they attend such meetings they rarely speak in public. While at home men do listen to women. This is the opportunity that women use to raise their concerns or offer their advice. Women have played a major role in crucial decision-making in the past, including decisions on whether or not to engage in warfare. An important mechanism through which women can influence decisions is through the composition and singing of provocative songs (Box 3 provides an example of a song that was very popular among the Loita community, and used to be sang by women when the court case began), as well as influence at the household level.

Box 3: A song by the Loita women in fight for their forest.

We belong to the illuminated highlands, Our highlands of Karsayia which
Our culture and education shall defend, Or together we perish
We belong to the illuminated highlands, Where Mokompo* resides
We shall never cede you to outsiders

Regions and regions have disappeared, The hot plains of the Mara
The cool highlands of Mau, Let us hold onto that of Loita
Regions and regions have disappeared, I hear of unpleasantly,
The well-lit Loita highlands, You only equal my eyes

We the Loita Community have counselled our messenger ole Sonkoi**,
To communicate with those of ill hopes and motives,
And tell them to swallow their pride and
Desire to conquer the Loita highlands

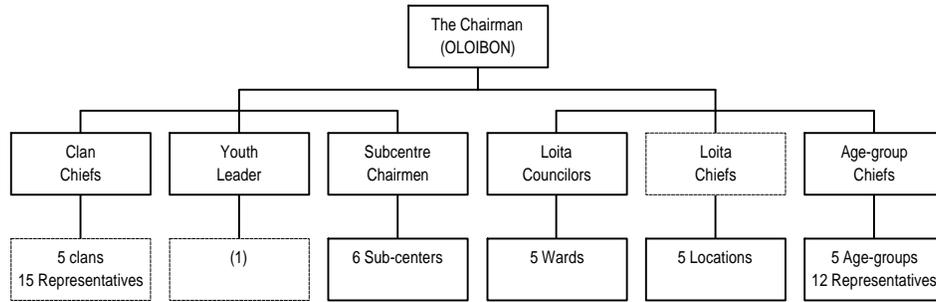
Source: LNECTC, 1994. Forest of the Lost Child: A Maasai Conservation Success Threatened by Greed.

**Chief Laibon of all Maasais in Kenya and Tanzania **Loita Maasai elder and leader*

The ILIDP was instrumental in providing funds for the establishment and running of the LNECTC. The Osupuko Oirobi Development Group (an informal and unregistered group) comprises of the Purko Maasai community whose support for the LNECTC was crucial, so as to avoid being accused of being solely a Loita Maasai affair that did not recognise other Maasai communities living adjacent to the forest. Though the Loita Women's Council has been in existence for a long time, it has been dormant until recently, as the women had very little to do with the court case, other than composing and singing emotionally-charged songs espousing the great significance of the forest to the Loita Maasai.

The Loita Council of Elders is the most powerful institution in Loita Division, and is the advisory body for the LNECTC. Their power stems from drawing its members from all relevant customary, government, and elected leaders in Loita. This forms a very strong basis for enacting resolutions that are passed in the Council of Elders meetings. It also sanctions the major decisions in Loita, including land and natural resources issues. One striking feature of the Elders Council is how it has managed to bring together the traditional elders with modern leaders such as the Locational Chiefs (Figure 1). The strength of this group is its ability to combine the traditional skills of the clan and age-group leaders, with modern knowledge from the elected local government and government officers. The local community that hitherto had little exposure to the outside world beyond their ancestral land was able to mobilise its people and resources, and form a community-run structure. This structure has put up a spirited fight for their ancestral forest against a very rich and powerful County Council, and lobbied at all levels.

Figure 1: The organisational structure of the Loita Maasai Council of Elders



The Loita Council of Elders sanctions all decisions related to issues in Loita Division. The Provincial Administration under the Office of the President employs the 5 Chiefs for the Locations. The 5 councillors are elected every 5 years, and represent the Loita community in the 55-councillor Narok County Council. The 6 sub-centres are the focal development areas for the Ilkerin Loita Integral Development Project and are based on the 5 locations except for one location (Morijo) which has two sub-centres (Olng'arua and Morijo). The 15 representatives are from the 5 clans highlighted in Box 1. The 12 representatives of the age-groups are selected from the existing age-groups ranging from the new-initiates to the oldest. This very inclusive structure integrates all the social classes of the Loita Maasai community such as clans, age groups, educated members of the government, traditional chiefs, government chiefs, and the youth. By the virtue of its being an all-men-institution, it has not improved gender relations in Loita. Efforts are being made to include representatives from the Loita Women Council, and in three Loita Council of Elders meetings two representative of the Loita Women Council had been invited.

4.3. Weak enabling policy and legal framework

Kenya has many experiences concerning legally protected forests being degazetted indiscriminately (Wass 1995; Matiru 2000). The beneficiaries of such appropriations are rarely the poor, landless forest adjacent dwellers. It was because of this past experience that the Loita community had a very genuine fear that they might lose their forest. Other than witnessing, the Ogiek being evicted from the Mau forest, their own forest was also being allocated without their knowledge (Alden-Wily & Mbaya 2000; pers. comm. Ole Karbolo.). County Councils have immense powers to approve plans even if they have been rejected by Locational Development Boards, as long as there are a three-quarter majority during the voting. So, even if the right procedures were followed in land adjudication. Narok County Council would have still won, as the Loita people only had one councillor at the time, though they now have five, who constitute less than the 25% of the councillors of the district. Securing the tenure of the forest and surrounding lands is vital for the future integrity of land use management and livelihood security. This security needs to be at the community level. It is essential for the concerned parties to explore the available options for a more secure tenure for the forest, bearing in mind the role that the local community has played, and should continue to play in future over the sustainable management of this forest.

Kenya policies and legislation are weak when it comes to natural resources management and ownership (Wass, 1995). Other than the Trustland Act which recognises customary rights, the only other policy that comes close to recognising the management and ownership of natural resources by local communities is the Draft Forestry Bill (Government of Kenya 2002). But none of these arrangements allow for a title deed to indicate community ownership. The only other legislation that allows a community to own a resource is the Land (Group Representatives) Act. Based on past experiences with the subdivision of group ranches (where Maasai community members in the neighbouring district ended up selling their land, and some of them are now landless or with inadequate areas of land to support their livestock), it would not seem to be a good recommendation for the Loita/Purko Naimina Enkiyio forest. The inadequacy of policies and legislation has partly been the reason why the court case has dragged on for so long, since the court can only interpret the customary rights under the Trust land Act, and the Constitution. Some stakeholder groups (KENGO) had recommended for the gazettelement of the Loita/Purko Naimina Enkiyio forest as a monument, under the Antiquities and Monuments Act similar to the Kaya forests along the Kenyan coast. In the past, Kaya forests that are rich in biodiversity and of cultural and spiritual significance have been gazetted as national monuments (Wass 1995). Such gazettelement places the forest under the immediate management of the National Museums of Kenya. This would protect the forest from degazettelement as has happened with some Forest Department and Local Authority Reserves. In the absence of other forest protection

mechanisms, gazettement the Loita/Purko Naimina Enkiyio forest would be an option, though Kaya gazettement in the Coast has not fully curtailed encroachment.

The current ecological status of the Loita/Purko Naimina Enkiyio forest where there has been little or no degradation is commendable, given the overall degradation of Kenya's forests over the past two decades and more. This is attributed to the value and reverence attached to the forest by the local community. A few selected people from the Laibon family and maybe one age-group representative only know the location of the sacred sites. It is disappointing to note that during the boundary demarcation for the nature reserve no consideration was given to the sacred sites located within the forest. The Narok County Council erred on not taking into account the significance of such sacred sites to the continued protection of the forest by the local community. With tourism development activities being proposed, the chances of desecrating such sites are high. It is made worse by the fact that the locations of some of the sacred sites are a closely guarded secret with only one person per age-group being shown their location.

4.4 Inequitable distribution of benefits from the forest

The Loita/Purko Naimina Enkiyio forest is of great economic value. Other than being an important water catchment area, of great cultural and spiritual value, harbouring rich biodiversity, it also provides tangible benefits to some stakeholder groups. However, these benefits are not equitably distributed amongst all the members of the community.

Tourism is the main source of tangible benefits. This is the reason why the Ministerial Working Committee of 1970, the Narok County Council in its 1994-1998 Development Plan, and the Loita Community in the Articles of Association of LNECTC, all discuss developing tourism activities in the area. Presently, only two communities are benefiting from US\$ 13,500.00 p.a. tourism industry in Loita (Box 2 & 4). These are the community at Kirtilikini and at Napoolosa. The allocation of some parts of the forest for a campsite was the beginning of the acrimony between the local communities and Narok County Council. Benefits accruing from natural resources such as the Loita/Purko Naimina Enkiyio forest should be equitably distributed amongst all the members of communities living and protecting such an area. Mogaka *et al* (2001) reports that sustainable forest management needs to improve local economic welfare, and generate local economic benefits to sufficient levels and in appropriate forms to counterbalance the opportunity costs incurred by sustainable forest management. This study gives several examples demonstrating that, where economic incentive and benefit sharing mechanisms have been put in place, communities can embrace conservation interventions. A good example is the Arabuko Sokoke forest butterflies farming which since 1993 has raised US \$200,000, expanded local income and employment opportunities, reduced forest damaging activities, and now local communities have positive perceptions on forest conservation.

Box 4: Tourism activities in the Loita/Purko Naimina Enkiyo Forest area

There are a number of tourism activities being undertaken in the Loita/Purko Naimina Enkiyo Forest area, which differ substantially from mainstream tourism elsewhere in Kenya. These include hill walking and hiking in the forest, outdoor survival, map reading and navigation, horse riding, donkey trails, and cultural exchanges. Twelve tour operators and educational institutions currently run 40-50 trips per year to Loita, with a group size of between 3-20, a total number of visitors per year of about 600. These and tourism related revenues are estimated in the region of about US \$14,000 per annum. The following companies make use of the area:-

Commercial operators: Safaris Unlimited (horseback safaris), Cottars Safaris (luxury mobile camps and foot safaris), Africa Expeditions (fixed forest camp), Sagra Safaris (donkey trails), Africa Latitude (donkey trails), Tropical Ice (hiking trails), and Baobab Reizen of the Netherlands (hiking and cultural exchange).

Educational institutions: National Outdoor Leadership School (hiking trails), International School of Kenya (cultural exchange and short hiking trails), University of Nairobi (occasional research expeditions), and various Nairobi based secondary schools (cultural exchange and hiking trails).

All of these organisations bring their own equipment and use base camps in consultation with local guides. Africa Expeditions is the only company to have established a permanent structure within the forest, at Kirtilikini in a valley above Napoloosa (Box 2). This consists of a timber and thatched communal area with a single guest tent. Others are erected based on demand. The cross-cultural experience may include one or more of the following Maasai activities overnight Maasai homestead stays, cookery, song and dance, beadwork, medicinal plants, and herbal medicine, house building, wood carving, fire making, milking, cow bleeding, and bee keeping.

As a tourist attraction, there is a significant growth potential. But Loita is at a stage when the wider Loita community needs to be involved and with greater equity in benefit sharing. Estimates suggest a growth potential of three times current tourism numbers, giving a direct revenue potential of up to US\$ 40,000.00 p.a. in line with comparable projects elsewhere in Kenya. Evidence and experience from other community based tourist enterprises in Kenya suggests that the involvement of donors, NGOs and private sector partners is essential, as conventional commercial viability may be hard to achieve.

Source: Shelley, S., & Lempaka, I. 1999.

5. LESSONS LEARNT

There are a number of lessons that can be learnt from this case study on the ownership and management of Loita/Purko Naimina Enkiyio forest as far as community involvement in forest management is concerned, including:

Stakeholder analysis and consultation: The essence of involving multiple stakeholders in recognition of the fact that no single entity can effectively handle issues related to the management of natural resources is complex and requires a large input of resources and time. Also, the levels of expertise in terms of skills can be limited, both within the local community and with other stakeholders such as Narok County Council. Commitment by the stakeholders to the conservation and sustainable management of the forest resources can be enhanced through a carefully designed balance of sharing authority and responsibility for the management of the resources amongst the different stakeholder groups. The best chances for success in community-based forest management are likely to be those approaches that involve a multiplicity of ideas, interests, and are based on the knowledge of individuals and organisations who have a stake in Loita/Purko Naimina Enkiyio forest.

Establishing trust is very important in circumstances associated with conflicts over management and ownership of natural resources such as Loita/Purko Naimina Enkiyio forest. Such trust takes a long time to cultivate, and stakeholder groups involved are very cautious when dealing with others, especially outsiders. Without trust no practical decisions can be reached. It is very important to invest the time and resources towards building trust to ensure the active participation of all stakeholder groups.

Security of tenure is the single most important factor in the sustainable management of natural resources. Whether discussing management or ownership, the tenure regime will dictate the rights and responsibilities of the various stakeholder groups. Embarking on discussions over the management of a natural resource where the existing tenure is insecure or unclear can only make things more difficult in the long term. Whenever, a change of tenure is being discussed, stakeholder groups are usually very apprehensive especially if it is not clear as to what rights and benefits they will have. For instance, in the case of the Loita/Purko Naimina Enkiyio forest management, any tenure that denies local communities assured access to the forest for the various goods and services they have been acquiring, will be received with great resistance. If such rights are not assured, this can result in loss of livelihoods for the Maasai who graze, hunt, and harvest honey in the forest, as a water source, and lack of access for timber resources, and so contribute to an increase in poverty levels.

There has been emphasis on the privatisation of rangelands (mainly arid and semi-arid areas), which has meant fragmentation of community resources to a point where ecosystem support for extensive pastoral production systems is no longer viable (Barrow *et al* 2000). The Loita Maasai community is a pastoral community with limited land, and even in times of drought their neighbouring communities do not allow them to graze their livestock in neighbouring areas. Their only refuge is the Loita/Purko Naimina Enkiyio forest. This dependence on the rangeland for wet season grazing and the forest for the dry season grazing has been successful to date. Therefore, both the forest and land in Loita should be treated as one unit, and the Loita community understand this inter-dependence. In addition, the Loita Maasai have resisted registering and sub-dividing their land into group ranches because of this interdependence of wet and dry season grazing management. They understand the implications of land fragmentation on pastoral production systems.

Where land tenure, though customarily recognised, is vested with local authorities, and not local communities, successful community based management enterprises are difficult, since the benefits are more likely to accrue to the local authority through leases, and not to local people (Barrow *et al* 2000). The only secure land tenure that the Loita Maasai can be accorded is the right to own and manage their resources, including the Loita/Purko Naimina Enkiyio forest and the surrounding rangeland. Table 3 summarizes the different options as to how the Loita/Purko Naimina Enkiyio forest could be managed. There should be no separation of the management of rangeland from that of the forest. Security of tenure will require clarification on the rights that will be extended to the local Maasai community. Rights such as use, access in terms of exclusion and inclusion, and who to allow or disallow access to the forest resources, the ability of the community to transfer some of these rights where they are unable to utilise them (for instance eco-tourism development), and enforcement procedures are all necessary, and due consideration should be given in elaborating them. Even if the community does not own the forest outright, the security of statutory security of access could flow from the elaboration and practical implementation of the rights discussed above.

Long-term versus short-term interests: A natural resource of the magnitude of Loita/Purko Naimina Enkiyio forest is of local, national, regional, and indeed international significance. Some of the goods and services provided by the forest are of immense value. Continued conservation and management of the forest for provision of these goods and services is threatened by the interest of some stakeholder groups for short-term gains. For instance, at present the dominant interest for the forest is tourism which could earn up to US\$ 40,000 per annum (Shelly & Lempaka, 1999). This compares unfavourably with the forest's catchment protection value of US\$ 1.4 million and its existence value of US\$ 80,000 per annum (Ministry of Environment and Natural Resources, 1994). This demonstrates that the forest is of great significance at national and global level as most of the water from the forest drains into the Ewaso Nyiro swamp and on to Lake Natron. At a national level, the government should design mechanisms for developing financing mechanisms for services provided by forests such as watershed protection and carbon sequestration. The forest provides other services that have not been quantified such as spiritual and cultural values, minor forest products, and grazing. The direct and indirect values to the Loita Maasai need to be valued and understood in terms of the livestock management systems, as a safety net and for its cultural values. That is why it is important to have an integrated management system, that recognises all these aspects, and ensures that the forest's importance in providing goods and services is not dominated by short-term activities which might not be sustainable in the long run.

Equitable rules and incentives: Forestry management activities have the best chance of succeeding when the costs and responsibilities of each stakeholder are closely related to the rights and benefits. Arrangements for the sharing of benefits, costs, and management responsibilities as well as mechanisms for resolving conflicts among groups are most likely to motivate participation if they are widely understood and agreed to by all stakeholders through an open negotiating process. The Loita Maasai community stand to lose most, if the forest was to be mismanaged, and therefore should have a greater control of the benefits that accrue from the forest, and their rights to the forest has to be commensurate with the responsibilities they have over the forest.

Establishing local institutional arrangements is crucial: When the Loita community was besieged by the Narok County Council's plans of gazetting their forest into a nature reserve, they formed a local community-based organisation to champion their case. This community-based organisation was meant to source for technical assistance on modern natural resources management approaches with the aim of becoming the community's mechanism for managing the forest. The organisation was to act as the Trustee for the Loita Maasai community by holding the rights on behalf of the community. For any such organisation to succeed it must enjoy the support from the community members that it represents and win the trust of other stakeholders groups. Further, it must establish transparent decision-making processes that allow the members to contribute ideas, and also obtain feedback. Of great interest, in the case of the Loita Trust, is the Chairperson, who is also the Chief Laibon for all Maasai sections in Tanzania and Kenya. Having the Chief Laibon as the Chairperson, boosted the acceptability of the Loita Trust to majority of the stakeholders. In addition, this meant that they had access to a repository of traditional knowledge both on how the forest has been managed and on how to handle the present tricky situation. Though the Loita Trust was not perfect as it was formed in anticipation of their forest being taken away, without it, the outcome could have been disastrous for the local Maasai communities. The first step is to reform the organisation, and improve its performance and management structures. Establishing the Trust gave the powerless Loita a voice to counter the proposals by the Narok County Council.

Table 3: Summary of the opportunities and constraints associated with the available tenure options for the ownership and management of Loita Forest by the Local Maasai

Tenurial regime	Opportunities	Constraints
<p>a) Customary Ownership Of The Loita Forest (Common Property)- Local Maasai Community as the owners of the Loita/Purko Naimina Enkiyio forest. Under customary law the local Maasai community owns the forest, with the Narok County Council as the trustee. Under this tenure arrangement the Loita community would own and manage their forest without interference from the Council. The security of tenure would have a positive impact and they would continue protecting their forest.</p>	<p>There are some existing policies that would allow for this arrangement. These include</p> <ul style="list-style-type: none"> • Declaration of Loita/Purko Naimina Enkiyio forest as a community forest: section 36(2) stipulates that on among other lands, in trust land where adjudication has not taken place (Loita qualifies under this) a local authority may set aside riverine forests, hilltops, areas of cultural significance for the use by community as a community forest. Section 36(5) indicates that this is on the condition that no community forest shall be sub-divided into individual titles, and no member of the community may settle in a community forest. Section 36(4) underscores that community members shall hold community forests as tenants in common and enter into a joint forest management agreement with the local authority. Section 36(3) stipulates that the community shall be entitled to the use of a community forest without hindrance by any authority provided that guidelines jointly agreed upon between the community and the local authority is strictly adhered to; • Willingness of conservation organisations to assist such local communities to manage their resources through capacity building, sourcing for funding; • Existence of conservation funds from donors, for instance environmental funds, conservation funds that would allow the communities to develop and implement management systems; and • Experiences from other parts of the country and globally, of community-based organisations and trusts that foresee the management of such resources on behalf and for the benefit of local community. This could be in form of a trust, or a conservancy, for example. 	<ul style="list-style-type: none"> • Politicisation of community-based ownership of the forest by the leaders (mainly external) with interest in tourism activities in the forest and its environs; and • Employment of policies and legislation such as Local Government Authority Act that might restrict the community's interest, instead of supporting the enabling ones.
<p>b) Private/Freehold Ownership Of The Forest By The Local Community – The Local Maasai community would have absolute ownership and management rights of their forest.</p>	<ul style="list-style-type: none"> • Declaration of the forest as a group ranch under the Lands (Group Representatives) Act. Land in Loita is still un-adjudicated. Plans are underway to have the land adjudicated into six group ranches with the Loita/Purko Naimina Enkiyio forest as the seventh one. Such a group ranch could be registered as a wildlife association or forum. There is a lot of experience concerning such community groupings, which would be very useful for the local community to learn from; • Possibilities of forming a Trust to oversee the management of the forest, and access to Environment and Trust funds would be high. 	<ul style="list-style-type: none"> • Past experiences on Group Ranches management has not been very positive. This has been exacerbated by pressure to sub-divide group ranches into individual plots; • Selfish leaders could mislead the local community members and apportion parts of the forest; and

		<ul style="list-style-type: none"> • Sharing of benefits might cause polarisation of the community members and so hamper the sustainable management of the forest.
<p>State Ownership c. Local Maasai Community as the sole managers of the Loita/Purko Naimina Enkiyio forest. If the local community is unable to gain ownership of the forest, the next tenure arrangement could be to allow them to manage the forest. This would not only offer the local community a chance to demonstrate that they can responsibly manage the forest, and probably contribute to policy influencing to allow for community ownership of such natural resources.</p>	<ul style="list-style-type: none"> • Declaration of Loita/Purko Naimina Enkiyio forest as Local Authority Forest: Section 34 of the Forestry Act stipulates that any trust land can be declared to be a Local Authority Forest where the land is an important water catchment, rich in biodiversity, the forest is of cultural and scientific significance, or the forest is a major source of livelihood for the local community. Management requirements for such forests are discussed in section 45. Of relevance to this paper is that section 44 allows the Local Authority to lease part or parts to a person or body corporate. The argument by the Narok County Council has been that the local community does not have the managerial skills for forest conservation. This arrangement could be tried whereby the local communities lease the forest, with an agreement with the County Council that if they prove capable of managing the forest then the County Council would allow them to own the forest. Such a lease could be for 10-20 years to allow developing and implementing a management system. 	<ul style="list-style-type: none"> • The right to manage the forest is a better tenure option when compared to the present arrangement whereby the County Council has absolute right to manage. It is still clear that the most secure form of tenure to the “powerless” community would be ownership; • Possibility of such a lease being revoked for political reasons could be high; • Where the local communities do not have complete control of natural resources, this may lead to destructive activities. This is especially so when the local community is not certain whether such a lease will be renewed, and under what conditions.
<p>State Ownership d). Loita Maasai Community as co-managers of the Loita/Purko Naimina Enkiyio forest. Loita Maasai Community having rights to use of Loita/Purko Naimina Enkiyio forest resources. This arrangement requires a agreement between a decision-making body and the resource-users (local community), where the resources that the local community will harvest or access to or from the forest are spelt out, with aspects such as how, when, by whom, and for how long are covered.</p>	<ul style="list-style-type: none"> • Declaration of the Loita/Purko Naimina Enkiyio forest as a Monument. Under the Antiquities and Monuments Act (CAP 215). This form of protection of forests has been employed for the sacred Kayas, and the Kitale riverine forest. By the virtue of its strong cultural and spiritual values, the Loita/Purko Naimina Enkiyio forest could be categorised as a Monument of the same calibre as the Kayas. This kind of gazettelement places the forest under the immediate management of the National Museums of Kenya, and would offer protection of the forest, as the National Museums of Kenya is not known for degazettelement. • The co-management arrangement would flow from the tenure the forest assumes in future. If it is under the Forest Department, then the agreement would be with the Forest Department. Similarly, if the forest remains a Trustland forest, the agreement would be with the Narok County Council. 	<ul style="list-style-type: none"> • Though termed as co-management, most of the times the local communities are not fully involved in the decision-making processes; • The local communities would be disadvantaged, in that they might not have the capacity to negotiate with decision-making institutions; and • The local community would have no control over changes of tenure of the forest. For instance, if any of the decision-making organisations involved decided to degazette a part of the forest, then the local communities would have no means of countering this.

<p>e). Local Maasai Community with neither access nor control to the Loita/Purko Naimina Enkiyo forest. This is what would happen if the present proposal of the forest gazettement succeeds. Forest reserves are protected areas with no access or use allowed at all. They are purely for preservation and scientific use only.</p>	<ul style="list-style-type: none"> • There is no community advantage 	<ul style="list-style-type: none"> • This would deny the local community a source of livelihood and their cultural identity; • The forest would have lost its most ardent protector, the local community. This could lead to serious destruction that would lead to a loss of the ecological services and goods provided by the forest.
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6. OPTIONS AND IDEAS FOR EQUITY AND COMMUNITY INVOLVEMENT IN THE MANAGEMENT OF THE LOITA FOREST

6.1. Introduction

Alden-Wily & Mbaya (200a) discuss different ways how local communities could be involved in forest management. This could be as beneficiaries through access rights, product sharing, and benefit sharing. Alternatively, communities could be involved in management, and have significant input into decision-making as to the status, future, and use of the forest. This could take many forms from officially co-managing the forest as a partner with the state or another agency, or as designated managers of the forest, or as owners and managers of the forest.

Most of the experiences from East Africa are from collaborative management, where the resource users and the decision-makers enter into agreements to collaboratively manage one or more resources in a reserved area, or as part of overall management. Making co-management work requires the real sharing of authority and responsibility, and the participation by all stakeholders. The few cases in Kenya are more concerned with management aspects as opposed to ownership of the natural resources. Examples here include the Arabuko Sokoke, Kakamega, Taita Hills forests conservation initiatives.

This section discusses options and requirements for the future management and conservation of the Loita/Purko Naimina Enkiyio forest. The court case over the management and ownership of the forest has been dragging on now for close to a decade. The two parties involved have, in principle, agreed to an out-of-court settlement. Failure to analyse and address the shortcomings that led to the court case, and involving all the stakeholder groups in a genuine manner will be counter-productive in the long term. Two major areas need to be addressed in a responsible and embracing manner, namely:

- **Mediation** - so that the parties can agree on the way forward, and resolve the issues which resulted in the court case in the first place; and
- **Securing tenure rights and responsibilities** - so that the Forest's integrity can be secured in a manner that ensures that the people who have managed and depended on the forest have those rights and responsibilities.

6.2. Mediation as a tool for equity in rights and responsibilities

Mediation centres on trust building amongst the stakeholders, and places emphasis on relationships, power sharing, open communication, and mutual gain. The issue will not so much be on how to avoid or solve the conflicts but rather how to manage them constructively. For a conflict management process to be successful three elements need to be considered, namely the voluntary participation of the involved parties, direct group participation of the parties or their representatives, and mutual agreement on procedures to be followed. Such conflicts often occur because, for example local communities are not involved adequately in decision-making processes. Here conflict management would aim to empower such parties to be able to negotiate with decision makers.

Once the interests are identified and addressed, it is often possible to discover that the parties in the dispute have similar interests. It is then easier to reach consensus. For instance, the parties might indicate that their interest is the continued conservation of the Loita forest for the continued provision of benefits and services. Stakeholders can brainstorm on options that are favourable and acceptable to all parties. For mediation to be successful, it has to be equitable with all the parties getting a fair hearing, and no party should dominate. Therefore, it is desirable that the two parties engage a neutral organization or person to provide technical assistance on the process to ensure that the agreed-to-outcome is legally binding and will not be revoked in future.

6.3. Secure tenure for the Loita/Purko Naimina Enkiyio forest and land in Loita as a basis for equity

If the negotiating parties reach consensus, one of the outcomes has to concern the tenure of the forest. This requires a legally binding agreement that ensures it will not be easily revoked, and one that is based on a management plan for the long term conservation of the forest and its surrounds. Given that the local community has the greatest stake in the continued existence of the Loita/Purko Naimina Enkiyio forest, the options discussed are biased towards those that

either provide for community ownership, or ensure their active involvement in the management, or guarantee them continued access to the forest, with its associated goods and services, especially those related to socio-economic, cultural and spiritual aspects. The options available under the present legal and policy framework, ranges from where the local communities could secure full ownership of the forest or partly own the forest, to an arrangement where they only have rights of access and use. In summary, three options can be considered, namely:

1. **State property ownership** whereby the rights of management and ownership rests with state agencies. In Kenya this has largely been the *status quo*, where different government institutions are charged with the ownership and management of natural resources such as forests. This would mean that the forest becomes a reserve or a national park, and becomes the responsibility of the State to manage and conserve, whether in formal collaboration with the communities, or not;
2. **Common property (customary ownership)** whereby the management and ownership rights rests with a clearly defined group with specific rules articulating rights to access, management and use. These are the trust lands of Kenya, and the Loita forest falls in this category. Such trust lands are vested in the county council, and this has clearly been a drawback in the Loita case. Legally they are trustees, but the practical interpretation is usually one of owner and manager. This has led to demarcation of many customarily-owned natural resources in the land titling and registration process that has been going on in Kenya since independence, namely the privatisation of land ownership from communal to private or individual ownership); and
3. **Private/Freehold tenure** regime whereby the local Maasai community would own the forest and even acquire a title deed for it. This would mean absolute ownership of the forest by a defined local community and exclusive rights to access and use the forest. Here the people would have to form some sort of registered association, or even a company which could then gain legal ownership of the forest and its surrounds.

The opportunities and constraints associated with these tenure options are discussed in Table 3. From this analysis, some form of private (or group) free hold tenure for the forest, vested in a defined group of people who border and depend on that forest as part of their natural resource management and livelihood security system, would seem to be the most appropriate system.

7. CONCLUSIONS

The circumstances surrounding the management of the Loita/Purko Naimina Enkiyio forest that culminated in the court case have been analysed in the context of the various stakeholder groups and equity issues. Despite the many stakeholder groups involved, gender considerations have been minimal at best and need to be better integrated in future if adequate management of the forest has to be achieved. Equity and gender issues need to be integrated into participatory forest management from the stage of conceptualising policy and projects through detailed planning, design of institutional mechanisms, implementation, and monitoring and evaluation.

Chapter 5 summarises some of the lessons learned, where the active involvement of the local community members is crucial for the continued conservation of the forest, through participatory management planning processes. This could be achieved through making membership of village institutions open to all adults, irrespective of gender, of the village instead of using the household as the unit. This would not only enable all women and men to participate in decision-making, but would also entitle them to equal rights and benefits. Provisions should be made to ensure the representation of forest-dependent women and men in the management committees of village institutions. Strategies for increasing the self-confidence and empowerment of women and other marginalized groups need to be developed. Promoting women's groups and organisations as a mechanism to increase their self-confidence and empowerment, combined with motivating leaders to advocate for women's equal rights and participation through Community Based Organisations are important components to incorporate.

Issues related to security of tenure for the forest; balancing long-term and short-term interests; trust building; developing appropriate incentives; and establishing local institutions is critical for the future management of the forest. In the past, lack or inadequacy of these aspects has hampered the management of the forests. Ways of overcoming them, and moving forward are suggested in Chapter 6.

Chapter 6 suggests a range of options as to the way forward. Mediation should be encouraged as tool for establishing equity in rights and responsibilities, and security of tenure that employs a multi-stakeholder approach, and recognises the rights and responsibilities of the various stakeholder groups in the management planning process. The involvement of local community-based organisations has proved successful in other areas, and should be integrated into Loita activities. This helps ensure that the role local knowledge plays in the management of natural resources is appreciated. It also enables such approaches to be better integrated with modern management approaches involving government and non-governmental organisation.

Benefits accruing from the forest should not only be shared equitably but also contribute to conservation activities. Without adequate financing for conservation work, achieving sustainable management and conservation of the forest might be difficult. The creation of a conservation trust fund, which has been practised in the neighbouring countries, might be useful. Ultimately the success or failure of the conservation of the Loita/Purko Naimina Enkiyio forest will depend on the Maasai people who depend on the forest. Securing their rights to, and responsibilities for the forest in a manner that is equitable to the different stakeholders is key to the long-term conservation of the forest. Should such right and responsibilities be downgraded or ignored, the long-term conservation status of the forest is likely to be compromised.

POSTSCRIPT

In a Full Council Meeting held on 16th October 2002, the Narok County Council resolved unanimously to transfer ownership of the Loita forest to the local Purko/Loita Maasai Communities residing adjacent to forest subject to the ratification of the forest's boundary by the Narok County Council. This is recorded as Min. 71/2002 arising from Min. 61/2002 on Loita/Purko Naimina Enkiyio forest.

The Narok County Council and the local community deliberated and agreed that each party should meet their own legal court case costs.

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ANNEX 1: HISTORY OF THE EFFORTS MADE BY THE LOITA MAASAI'S IN THE FIGHT AGAINST THE GAZETTEMMENT OF THE LOITA/PURKO NAIMINA ENKIYIO FOREST AND THE COURT CASE THAT ENSUED IN 1993.

Date	Newspaper, Publication, Event	Issues Raised
August 1992-	Letters, meetings-Communication between the Loita people (through their lawyer) and the Narok County Council.	In the period between August 1992 and November 1992 there were communications between the Loita people and the Narok County Council (NCC). The Loita people engaged a lawyer on or about August 1992 to advise them on how they could safeguard their forest. This was especially after they learnt that the NCC had allocated part of the forest to a group known as Nkonyokie Kanunka Campsite Ltd (see Box 2). This allocation was through a letter from the NCC Ref: NCC/T/CA/Vol. III/W6. The Loita people contended that the allocation of any land within Loita for development projects had to be approved by the Loita Location Development Committee, which never happened in the case of the above campsite. Further they learnt that the NCC was planning to gazette the Loita/Purko Naimina Enkiyio forest into a Nature Reserve. Based on the fact that they feared losing their sacred forest, the Loita community sought legal advice on how they could own and manage their forest. Initially a legal entity in form of a TRUST was to be established under the Land (Perpetual Succession) Act. However, they were advised to form the Loita/Purko Naimina Enkiyio Conservation Trust Company (registered in May 31 1993). This Company was poised to promote and incorporate the Loita/Purko Naimina Enkiyio Conservation Trust, which would hold and conserve the Loita/Purko Naimina Enkiyio forest in perpetuity in trust for the Loita people, and Kenya in general.
October 9 1992	Letter from the then Director of Forestry to the Ilkerin Loita Integral Development Project (ILIDP)	This communication highlights a visit by KIFCON officers to Loita on 25-27 September 1992 and a follow-up visit by the Loita elders to the KIFCON offices. The points of discussion were on the management of the Loita/Purko Naimina Enkiyio forest outside the framework of formal gazettement as a forest reserve. The FD advised on the need of developing a draft Memorandum of Agreement between the Forestry Department, KIFCON, and the Loita Community to determine the objectives and principles of the proposed strategies and working relationship between the three signatories. Later a Memorandum of Understanding on this was developed between the KIFCON and the ILIDP. KIFCON also commissioned aerial photography of the Loita forest in October 1992, as the first step towards developing a management plan for the forest.
December 24 1992	Articles of Association of the Loita/Purko Naimina Enkiyio Forest Conservation Trust Company.	Based on advice from various environmental organisations, and with the support of the ILIDP, the Loita community incorporated the Trust Company on December 24 1992, and was registered on May 31 1993. The purpose was to have a community-based institution that would represent the community's interests in the conservation and management of the Loita/Purko Naimina Enkiyio forest. Among some of the activities that the Trust was to embark on was low tourism
July 31 1993	Supplement in the Standard Newspaper by Narok County Council	Announcement of the gazettement of the Loita/Purko Naimina Enkiyio Forest as part of the 1994-1998 Narok County Council's Development Plan. In part the plan stated' "In order to ease tourist pressure into the Maasai Mara, the plan will extend to propose development of three other areas of touristic, education and research purposes. These are the Maasai Mau forest, the Loita forest, and Suswa caves. These are areas of varied excellence in flora, fauna and scenes, that are vital for posterity."

August 18 1993	A press statement by 28 Loita Maasai elders led by the Chief Laibon in the Kenya Times & the Daily Nation	Protesting the proposed gazettement of the Loita/Purko Naimina Enkiyio Forest by the Narok County Council
August 20 1993	Letter By the Loita Community's Lawyers to the NCC	The Loita community highlighted section 69 of the Trust Land Act as read with section 115 of the Constitution of Kenya, contending that this section preserves the peoples' customary rights in Trust Land. This was in the fear that the NCC was just about to embark on making it public their intention to gazette the Loita/Purko Naimina Enkiyio forest.
August 24 1993	Article in the Daily Nation citing a letter from the Loita Community to the Narok County Council	The letter also copied to the Minister of Local Government and the Attorney General highlighted the fact that the Narok County Council made the decision of gazetting the Loita/Purko Naimina Enkiyio Forest without consulting the Loita Community contrary to section 69 of the Trust Land Act. Further to this, the Loita community argued that the decision to alienate the forest had been suspended after discussions between the Council, the Forestry Department, and the then KIFCON.
August 28 1993	Article in Kenya Times based on a press statement by 30 Loita elders	The article petitioned the President to prevail upon the NCC not to gazette the forest The NCC Clerk when reacting to this indicated that the NCC has in the past held many meetings with the leaders from the area since 1985. Thus, the issue of the community not being aware of the plan was false and a breach of trust by the elders who were only too aware of the NCC's intentions. He further argues that introduction of tourism in the area was meant to generate revenue for both the community and the NCC.
August 30 1993	Article in the Kenya Times	Attributed to remarks made by representatives of Loita Location Chairman, Inkidongi Development Society Chairman, and Deputy Project Leader of the Ilkerin Loita Integral Development Project. These leaders refuted claims by the NCC that NCC had discussed the matter with the elected, clan, and spiritual leaders of the Loita community. They added that the only time the Clerk and other Council members visited Loita location was in 1984 when they over-flew the forest. They further refuted that there have been any consultations since 1985.
August 31 1993	Letter by the NCC to the Loita Community Lawyers	The NCC justified their plan gazetting the forest by alluding to the fact that they are established under Kenyan Laws; they have acted within the Laws of the land.
September 1 1993	Letter By the Olmaa Development and Welfare Association.	The letter requests the NCC to heed the requests by the Loita people to be allowed to own and manage the Loita/Purko Naimina Enkiyio forest referring to section 69 of the Trustland Act which gives the local people absolute right to use their land.
September 8 1993	Article in the Daily Nation and the Kenya Times.	Based on a statement by KENGO issued on September 7 1993. The statement requested the Kenyan Government to rescind the decision by the Narok County Council to gazette the Loita/Purko Naimina Enkiyio forest citing that the forest is rare and unique and has always been managed by the indigenous local Maasai. Further the statement argues that the decision to wrest control of the forest away from the Loita Maasai goes directly against the principles of the Agenda 21.
September 9 1993	A commentary of the Loita forest saga in the Kenya Times.	This commentary quotes the Loita elders saying that in 1984 a team of senior council officials conducted an aerial survey of the forest and talked to people in the area as they sought for information. The elders further comment that they later held a meeting with the then District Commissioner (DC) in the area to discuss the intentions of the Narok County Council's plans of turning their forest into a tourism resort. In the same commentary, the NCC's Chairman is quoted as saying that full

		consultations with local leaders in regard to NCC's intentions have been maintained since 1984. He further claimed that the gazette plan was prepared in complete agreement of two senior Loita leaders (now –1993 in the Loita/Purko Naimina Enkiyio Forest Conservation Trust as Directors). The Chairman further contends that the leaders helped identify the boundaries of the nature reserve in 1984. The commentary further quotes the then Project Manager of the KIFCON, confirming that Loita elders had approached KIFCON seeking technical advice from KIFCON. The Project Manager supports the initiative by the Loita Community to conserve their forest highlighting that community involvement in forest management is gaining currency world over. KENGO is also quoted as supporting the Loita community in their efforts to own and manage the forest. Finally, the article quotes a member of the Inkidongi clan, opposed to the Loita/Purko Naimina Enkiyio Forest Conservation Trust Company, but favouring and supporting the NCC's plan as long as the Loita people are told properly how they will benefit from the tourism. Further, the Loita people should be guaranteed as to preserving their shrines, which should not be part of the nature reserve.
September 9 1993	Article in the Kenya Times	Based on the Loita elders instructing their lawyers to challenge NCC, the article highlights the instruction by the Loita elders to their lawyers to challenge the decision by the NCC's to gazette the Loita forest into a nature reserve. In declaring the forest into a nature reserve the NCC cited CAP. 288 of the Trustland Act as read with Section 117 of the Constitution. However, the Loita people contend that the NCC should have consulted them first. The NCC consistently insists on several consultations with the Loita community since 1984.
September 10 1993	Article in the Standard and Nation Newspapers.	Based on a press statement by the Bank Monitoring Unit, a policy research unit of the Africa Water Network in Kenya, the article highlights the fact the Loita Forest is a sacred forest used by the Maasai community since time immemorial. Placing the forest in the hands of the NCC will lead to the lamentable ecological status of the Maasai Mara National Game Reserve, that tourist considerations, which are primarily financial should be optimised in the efforts to conserve the forest. The Bank Monitoring Unit placed an article in the Internet dated October 1993 calling for protest letters against the NCC's proposal to be addressed to the Minister for Local Government.
September 11 1993	Letters to the Editor (Daily Nation) by the Middle Ground Group.	The article notes that the Loita Maasai have been fighting the annexation of the Loita forest since a former Councillor tentatively suggested it in 1992. The article argues that the forest should be left under the stewardship of the Maasai perhaps through a private trust arrangement. It further suggests that the Loita Maasai may even agree to permit low-impact tourism such as walking safaris within the area. Any financial gains from such tourism activities should be directed back to the protection of the forest and the Loita people and not to Narok County Council.
September 13 1993	Article in the Society Magazine by H. M. Lempaka.	The article argues that rather than the Narok County Council acquire more land for intended generation of income and decongesting the Maasai Mara, they should aim at better management of the Maasai Mara National Game Reserve for maximum benefits. The article further argues that the NCC should hold meetings with the Loita community and explain to them on what benefits they stand to accrue from the planned development. The article further alleges that a powerful politician and investors from South Africa have earmarked the forest for tourism development.
September 16 1993	Article in the Kenya Times.	The 6-member Middle Ground Group highlight that the NCC allocated 60,000 acres to 14 Loita people in 1971 and that the land was later sold to "foreigners".
September 17 1993	Letter from (Kenya Environment and Energy NGOs) KENGO to the Minister for Local Government	KENGO requested the Ministry of Local Government to intervene against the NCC's decision to gazette the Loita/Purko Naimina Enkiyio forest. Apart from highlighting the importance of the forest to the livelihood of the Maasai community, KENGO argued out that Kenya being a signatory to the Global Convention on Biological Diversity is obliged under Articles 8(j) and 10(c) to support the rights of the indigenous people. KENGO proposed that since Loita/Purko Naimina Enkiyio forest is of great biological and cultural significance, it should be treated like the Kaya forests in the Coast and

		gazetted under the Antiquities and Monuments Act. After gazettelement, the National Museums of Kenya, ILIDP, and the Loita/Purko Naimina Enkiyo Conservation Trust are charged with the responsibilities of developing a long-term management plan. Under this arrangement the NCC and the Central Government agencies charged with the forest management were omitted.
September 20 1993	Issue and Facts Report by East Africa Wildlife Society.	Based on a field trip by two members of the East Africa Wild Life Society's (EAWLS) Scientific and Technical Committee to Loita and Narok. The EAWLS had been requested by various parties to act as the facilitator between the various groups involved in the tussle over the ownership over the Loita/Purko Naimina Enkiyo forest, based on it's experience in playing a similar role in the Tana delta fiasco. The two members met with the government officials in Narok, and the elders in Loita. However, they were unsuccessful in meeting with the NCC officials. The report recommends that the Loita community be supported in their efforts to own and manage their sacred forest.
September 21 1993	Article in the Kenya Times	The article written by the 6 members of the Loita (5) and Purko (1) Community associated with Concerned Loita Citizen group dismisses the Loita/Purko Naimina Enkiyo Forest Conservation Trust Company as not representative of all the communities living adjacent to the forest, and argues that since the land is still un-demarcated then it is still under the trusteeship of the NCC. They further contend that the NCC is capable of safeguarding the interests of all the Maasai groups, since two Maasai sections – the Loita and the Purko, surround the forest.
September 26 1993	Article in the Kenya Times by the ILIDP.	The article highlights the role played by this community based, and managed project by the Loita Maasai, and demonstrates that the Loita area remains as the only area in the country where the pastoralists have not lost their land as a result of awareness and education proffered by the project. Thus, ILIDP cannot distance itself from the present battle for the forest, which they stand to lose.
November 1993	Background paper on the Loita Maasai and their forest, prepared for the EAWLS by the Middle Ground Group	The Middle Ground Group mainly consisting of young graduates from Loita proposed a “Middle Ground” option over the deadlock between the Loita/Purko Naimina Enkiyo Forest Conservation Trust and the NCC. It argues out on the pros and cons of allowing the forest to be managed by single entities, whether the Loita Trust, the NCC, or the traditional owners (local communities). The Group made the following recommendations: 1) Take the best part of the Loita/Purko Naimina Enkiyo Forest Conservation Trust Company (from its Articles of Association) and match it with FULL community representation, and 2) assess the potential for the involvement by the Narok County Council and a minimum of two NGOs, and a sponsor/donor. The Group further recommended a full environmental impact assessment be undertaken first, and along with it a Steering Committee to work with all community members on the development of a master plan for the forest. Tourism is quoted as one means of local community benefiting from the forest.
June 1994	Statement by the ILIDP.	Issued during the Second Session of the Inter Governmental Committee on the Convention on Biological Diversity in Nairobi – June/July 1994. The statement aimed at discrediting the Loita/Purko Naimina Enkiyo Conservation Trust Company especially its Articles of Association that touches on handling property.
June 1994	Flyer/Newsletter issued by Loita/Purko Naimina Enkiyo Conservation Trust Company.	The flier was issued during the Second Session of the Inter Governmental Committee on the CBD in Nairobi – June/July 1994. The flier titled “ Forest of the Lost Child: A Maasai Conservation Success Threatened by Greed” chronicled the importance of the Loita/Purko Naimina Enkiyo forest to the Loita people, their battle with the Narok County Council over the ownership and management of this forest. Also the provisions of CBD that safeguard the rights and practices of indigenous peoples as far as biodiversity conservation is concerned.

June 15 1994	Letter	By the Loita elders to His Excellency the President. The letter highlighted the problems the Loita community were experiencing in their battle to retain their sacred forest, requesting for the Head of State to intervene
June 29 1994	Article in Eco 5, June 29, 1994.	The article titled "Community based ownership and conservation of the Forest of the Lost Child: a test case for Kenya's commitment to CBD" argues that the Loita/Purko Naimina Enkiyo forest case is a classic example of what Articles ⁶ 8(j) and 10(c) seek to achieve. It profiles the circumstances that led to the Loita community to seek legal redress over the management and ownership of their sacred forest.
1995	The Loita Ethnobotany Project	This project was initiated in 1995 as a community-based Ethnobotany research project in collaboration with the Loita Maasai. The ILIDP, in collaboration with the National Museums of Kenya (Kenya Resource Centre for Indigenous Knowledge – KENRIK) implemented the Project, which was funded by the UNESCO's People and Plants Initiative.
1998	The Loita Integrated Conservation and Management Project, Preparatory Phase	The IUCN EARO provided technical assistance for a one-year preparatory project that began in September 1998, on the management and conservation of the Loita Forest. During the one-year preparatory-phase, emphasis was on initiating a planning process through consultation with stakeholders, on collecting information through short-term studies, and on exploring possibilities of an appropriate structure and methodology for the management planning process. A second phase that will emphasise on developing the management system and on implementing management activities is under discussion with the Loita community.

⁶ Article 8 (*In situ* Conservation): Each Contracting Party shall, as far as possible and as appropriate; (j) subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.

ANNEX 2. A SAMPLE OF THE UNWRITTEN TRADITIONAL RULES AND REGULATIONS GOVERNING THE USE AND MANAGEMENT OF THE LOITA/PURKO NAIMINA ENKIYIO FOREST RESOURCES

The local Loita Maasai has managed the Loita/Purko Naimina Enkiyio forest since time immemorial. This has been through customary management through the institution of the chief Laibon. The chief Laibon is considered as the chief conservator/guardian of the forest. Due to the great reverence placed upon the Laibon, this extended to anything related or touching on him or his powers, and includes the forest. The chief Laibon is believed to communicate directly with the Maasai God (Enkai), and is respected by all. The Loita/Purko Naimina Enkiyio forest is part and parcel of the life of the local Maasai with many rites of passage conducted in the forest. This forms the bond between the Maasai and the forest at a very early when the boys are first initiated. Additionally, most of the cultural ceremonies are held in the forest and uses some of the trees/shrubs found within the forest. The Loita Maasai have a strong cultural identity, which with close identification with forest, has ensured that the forest is well managed.

There are several unwritten rules and regulations that govern the use and management of the forest. Though unwritten, these rules and regulations are adhered to by all and sundry. Some resources are free for all; usage of others is restricted to a certain group of the local community, whereas usage of others is governed by the village elders or in some villages the natural resources management committees.

The rules and regulations depend on the resources in question. The discussion below highlights these rules and regulations with respectful to certain resources. This list is by no means exhaustive, and there could be additional rules and regulations.

1. **Herbal medicines:** specialists who understand the species cure what ailments collect the herbal medicines. It is passed from one generation to another in the families that practice it. The herbs collected cure several ailments. Both men and women practise it. Majority of the women who practise this are the traditional birth attendants. One of the rules guiding collection of the herbs is that no one should uproot the whole plant. It is the lateral roots that are harvested and the taproot is never uprooted. After harvesting the roots the soil is returned so that the plant can continue growing. In the case of debarking, all-round debarking is prohibited, and only a vertical strip is removed. After debarking the exposed part is smeared with wet soil to allow quick healing process.
2. **Traditional rituals:** there are certain tree species that are respected as they are used during certain traditional rituals. Such tree species include Podo, Ficus, Olive, and *Phoenix reclinata*, and are used in ceremonies such as *Olkiteng Loolbaa*, *Emowuo olkiteng*, and *Olmal* to mention a few. These tree species are hardly ever cut, and their usage is mainly for these rituals.
3. **Firewood:** Nobody is allowed to cut standing trees for firewood. All the firewood used is from fallen deadwood.
4. **Fencing poles:** Mostly cedar posts, which are durable and termite-resistant, are used. Again nobody is allowed to cut standing live trees. If anybody has need for fencing their boma or kraal they usually use the Acacias found in the rangeland. Members of the local community close to the forest are allowed to harvest fencing poles from the forest, but only from deadwood.
5. **Water sources:** Loita/Purko Naimina Enkiyio forest is a very important water catchment forest. These water sources are protected, as the local community understand their importance for acting as water sources for the streams that take water to far-off from the forest communities, dry-season and drought watering for animals. Cultivation and grazing around the water points is prohibited. There are special points from which the livestock are watered.
6. **Honey:** the Ittorrobo mainly carries out honey harvesting. Placing of beehives in the forest is allowed. However cutting trees or using fire to harvest honey is prohibited.
7. **Timber:** Timber-sawing is carried out in the forest. In this case, the personal interested in obtaining timber from the forest has to have permission from the village elders or the village forest committee. Construction using timber or for furniture is still limited, and the timber-harvesting taking place presently is mainly for community-related projects such as construction of classrooms, development projects, and administration offices. Outsiders are prohibited from harvesting timber.

8. **Spiritual medicine men (Illoibonok's) herbs (Intasimi):** The Laibon lineage has traditional medicine men, specialists in treating and curing many diseases. They are respected medicine men, and are the sole collectors of certain plant species from the forest that they use for this purpose. Normally they do not reveal the plants they use to treat which diseases, but their medicines are known for efficacy. They too are not allowed to uproot, or remove all leaves, or complete debarking.
9. **Cultivation:** In the last 10 years, the Loita Maasai has embraced cultivation along with rearing livestock. Cultivation is carried out close to the homesteads, and it is illegal to practice cultivation in the forested areas. Fortunately for the Loita Maasai the agricultural-inclined communities have not been able to find their way to Loita.
10. **Grazing:** Forest grazing is open to all the local community members and is usually very important during the dry-season/drought.
11. **Cultural sites:** there are several cultural sites within the forest that are used for several cultural ceremonies. These range from initiation for instance of morans, women blessing (for continued fertility), selection of age-group leaders, to offering sacrifices. Some of these ceremonies are held in any part of the forest. For instance the meat-eating festivals of certain age groups are held in any place convenient to the group, whereas others are held in very discreet places known to just a few elders.

The above section highlights a few of the rules and regulations governing use and management of the natural resources in Loita. The intention is to provide an insight into these rules, though they are not written. Majority of them are effected through the elders, while others are passed from generation to generation. Further, there are some that are held as a result of fear of being cursed if anybody broke them.

IUCN - Eastern African Regional Programme

IUCN established the Eastern Africa Regional Office (EARO) in Nairobi in 1986. EARO facilitates the implementation of the IUCN Programme in Sudan, Eritrea, Djibouti, Somalia, Kenya, Tanzania, Comoros, Seychelles, Uganda and Ethiopia. Through its technical group, established in the early 1990s, the IUCN Programme assists members and partners in the region with capacity building through the implementation of programmes and projects, networking, and technical advice. Specific areas of expertise include: protected areas, ecosystem management, biodiversity conservation, environmental planning and strategies, and support to environmental NGOs.

IUCN – Eastern African Activities with Tree Dominated Landscapes

EARO's Forest Conservation activities evolved as a discrete theme in 1993, as part of IUCN's global Forest Conservation Programme, to assist the conservation and forest authorities in the region, and address some of these needs by building on the expertise of the Union and its membership so as to contribute to the overall regional programme. The work focuses on practical methods for conserving forests and promoting sustainable forest use and management. Through this IUCN hopes to help in influencing, encouraging and assisting the countries of Eastern Africa to conserve the integrity and diversity of forest resources and to ensure that the use of these resources is equitable locally, nationally and globally. This will be done through partnerships cooperating to address the priority themes of forest conservation and sustainable management in the region.

Tree-dominated landscapes play an important role in the provision of goods and services to local resource users, communities, and countries in the region. IUCN will work with members and partners to develop the knowledge base about these ecosystems, their importance for both biodiversity conservation and in the livelihoods of rural people. Within conservation areas, sustainable use of trees will continue to be explored through collaborative forest management. Lessons about balancing sustainable use with biodiversity conservation, will be used to inform and influence both conservation and livelihood policy processes in wider and more integrated land use.

IUCN – Eastern African Activities with Social Perspectives in Conservation

It is only recently that IUCN in Eastern Africa has become more involved in work with social issues. The range of social issues are being integrated into the IUCN portfolio of projects as part of implementation and this will enable lessons to be learnt in different ecological and social systems in the region. Such issues include, gender and stakeholders, participatory processes and tools, tenure of land and resources, economics (implemented by the Economics and Biodiversity unit), capacity building for addressing social issues, and the integration of social issues into conservation and natural resource management in the region.

Increasingly conservation has to be seen as a component of land and landscape planning. If this does not take place, conservation resources and areas are likely to be further excluded from mainstream national and local land use planning and land use. Local people and resource users need to have greater responsibility for their natural resources, and not be in conflict with natural resource managers. To achieve this they must benefit from, and have some degree of proprietorship for such resources.