

## **Improving Land Sector Governance in Africa: The Case of Tanzania**

Paper prepared for the “Workshop on “Land Governance in support of the MDGs:  
Responding to New Challenges” Washington DC March 9-10 2009

by

J.M. Lusugga Kironde  
Ardhi University  
Dar es Salaam,  
Tanzania  
Email: kironde@aru.ac.tz

---

### **1.0 Introduction**

Land is a primary asset for survival and development in Africa. It supports the livelihoods of most rural people. The importance of land in Africa’s development is underlined by the fact that around 60% of the population derive their livelihoods and incomes from farming, livestock production and related activities. The contribution of agricultural sector to GDP in most sub-saharan countries exceeds 25%. Therefore land remains the most important factor in development in Africa policy principles

In rural areas of most sub-Saharan Africa, land is not only the primary means of generating a livelihood but also often a main vehicle to invest, accumulate wealth, and transfer it between generations. The importance of land resources makes its management critical for agricultural production and for development in general. This includes the way in which access to land is regulated, how rights to it are defined and conflicts around land ownership and use are resolved.

It however must be noted as well that Africa has the highest rates of urbanization in the world, creating land problems in urban and peri-urban areas. Rapid growth of slums and small urban areas is one characteristic of African development. Land problems therefore are critical in both rural and urban areas

### **2.0 Understanding good governance**

Land governance can be understood as “the process by which decisions are made regarding the access to, and use of, land, the manner in which those decisions are implemented, and the way that conflicting interests in land are reconciled.’ Good governance in land matters is of a technical, procedural and political nature. This is because rights over land cannot be separated from civil, political and human rights, and are dependent on political, administrative and professional readiness to ensure fair treatment and equal opportunities for all. In many African countries, control over land rights is a means of accumulating and dispensing political and economic power and privilege through patronage, nepotism and corruption. Addressing these issues is critical

to improving governance. The role of the State is to manage land in the public interest. Its own performance as land owner and regulator is critical to governance. It is important, therefore, that those institutions responsible for land governance (including those with responsibility over land owned by the State) operate in a transparent, accountable and efficient manner. In addition, experience has shown that where such institutions are decentralized (facilitating devolution of decision-making power and authority to local communities and other stakeholders in general), land resources are likely to be more productively used and better preserved<sup>1</sup>.

The FAO has developed guidelines on Good Governance in Land Tenure and Administration (FAO, 2007). Samples embodying good governance values inland tenure and administration are herein reproduced with modification (Table 1) and this gives us some ideas on what to look at when examining the improvements in land sector governance in Tanzania.

**Table 1: Samples embodying good governance values**

<b>Good governance values in land tenure and administration</b>	<b>Examples of practice embodying good governance values</b>
Land administration systems are efficient, effective and competent	Work is accurate and timely, with enquiries being answered within a reasonable period. Work is undertaken by competent persons. Good governance is awarded. Ineffective professionals are disciplined or dismissed.
Land policies that embody value judgments are endorsed by elected politicians after consultation with interested and affected parties	Land use plans are approved by democratically elected politicians after effective public consultation
Land information is freely available subject to the protection of privacy	Land register information can be freely accessed (subject to privacy constraints). Prices paid for properties are available from the land registry; Land tax assessments can be inspected so that taxpayers can challenge the fairness of assessments Decisions on changes to land use are made in meetings that are open to the public and citizens can present arguments to the decision-makers.
Land laws and regulations are freely available, well-drafted in a participatory transparent manner, responsive and consistent and able to be enforced by the government and citizens	Citizens can bring disputes before an independent and impartial judiciary that is supported as appropriate by technical experts. Laws are clear and consistent and translated into local languages. Alternative dispute resolution processes are available so that disputes can be settled by mediation and conciliation as an alternative to court actions. The decision of governments in areas such as land use planning, land taxation, and compulsory purchases can be challenged by citizens in the courts on points of law. Valuations used by governments for taxation and compulsory purchase can be challenged by citizens.
Land administration agencies are independently audited and publish their accounts and performance indicators	Land administration agencies publish their accounts and key performance indicators which are independently audited. Government accounts are kept on an accrual basis.

<sup>1</sup> *Framework and Guidelines on Land Policy in Africa, Draft, November 2008*

Good governance values in land tenure and administration	Examples of practice embodying good governance values
	Professional bodies separate their promotional and disciplinary activities
Land administration services are provided for all without discrimination eg on the basis of gender, ethnicity, religion, age, or political affiliation.	Inheritance laws do not discriminate by gender. Information is accessible for all, including illiterate people. The land rights of minorities are protected by land registration. Indigenous rights to land are recognized. The cost of land registration is affordable. Registration does not require expensive services or examinations
Sustainable land development is encouraged	Regulations to prevent unsustainable development are enforced
Land services should be provided close to the user	Land records can be accessed remotely using internet technology. Service points are accessible for citizens who live far from the registry
Land registration and legal systems provide security of tenure for those with legitimate interest in a land parcel	Registered rights of people are legally protected against claims of others. Records can be altered only by authorized officials according to a law-stipulated process. Back-up systems for land registration allow records to be recreated if destroyed by natural disasters or conflict.
Land administration officials behave with integrity and give independent advice based upon their best professional judgment	Policies exist to prevent and identify corrupt practices, insider trading and favouritism, and to discipline or prosecute those following such practices. Policies protect and provide incentives for “whistle-blowers. Officials and politicians are required to disclose potential conflicts of interest and not to act in such cases. Government property is accounted for. (INCOMPLETE?)

Source: FAO (2007)

### 3.0 Key Land Issues and Challenges in Africa

Africa is faced with many challenges. A recent undertaking to develop a Framework and Guidelines on Land Policy in Africa identified a number of key land issues and challenges. These include: Legal pluralism, land and natural resources degradation, land tenure insecurity, state sovereignty over land, land conflicts, inter- and intra-generational equity issues, and women’s land rights. Emerging issues include the HIV and AIDS Pandemic, global warming and climate change, bio-fuels, food security and environmental concerns, a new scramble for the exploitation of Africa’s land and natural resources.

Many countries in Africa have been undertaking some kind of land reforms through developing land policies and laws and restructuring administrative set-ups and procedures. Given the advantages of good governance, and improvement in governance in the land sector would have positive impact on the efficient, sustainable and equitable use of land resources.

After this introductory information we now shift our focus on Tanzania.

### 4.0 Introduction to Tanzania

#### 4.1 Geography and administration

The United Republic of Tanzania consists of two formerly independent states that is Tanganyika (now also known as Tanzania Mainland) and Zanzibar. These two states united in 1964. Tanzania has an area of 945,087 km<sup>2</sup> out of which 61,500 km<sup>2</sup> is water. Tanzania Mainland is divided into 21 regions (Figure 1), and 106 Administrative Districts. In total there are 25 urban authorities 106 district local authorities, some 10,397 registered villages and 97 designated township authorities. Policy and legislation related to land and natural resources differ between the Mainland and Zanzibar. This paper refers the Mainland only.

Figure 1: Tanzania's Geographical Location

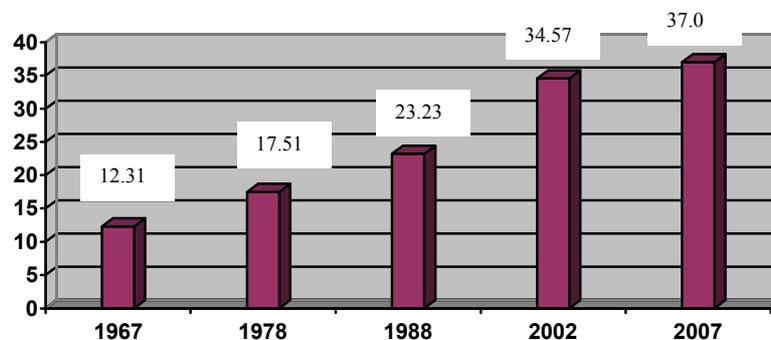


## 4.2 Demographic Trends

Since Tanzania achieved independence in 1961 the population has grown from 12,313,000 persons in the first post-independence census in 1967 to 34,569,000 persons counted in the recent census held in August 2002. The Ministry of Lands estimates the population to be around 37,000,000 people in 2007. Figure 2 shows the trends in the demographic growth.

Over the period from 1967 to 2002 the population has doubled every 20 years and the average rate of growth of the population has been 2.9 percent per year (Tanzania, 2003).

**Figure 2: Population of Tanzania; Census Counts**  
(millions)



Source Tanzania (2003, 2008a)

Tanzania is urbanizing very rapidly. From 1980 to 1997, the urban population grew at a rate of about 10 percent per annum. Around 36 percent of the total population of 34,569,000 is currently living in urban areas, if population living in townships and trade centres is included. Dar-es-Salaam alone, the largest urban area in the country, is said to receive between 100,000 to 300,000 people a year. Most of these migrants live in unserviced parts of the city with environmental conditions, which threaten their own lives and health. Here, land is informally acquired and in most cases it carries no legal evidence of ownership. Studies by the Ministry of Lands and Human Settlements Development have shown that about 80% of people in urban areas live in unplanned settlements. This rapidly growing population means extra stress on land resources.

## 4.3 Land Use Picture

The land use picture in the country is as shown in Table 2

**Table 2: Basic Population and Land Data on Tanzania**

Land Area	881,289 km <sup>2</sup>
Water area	61,495 km <sup>2</sup>
Total Population	33,584,607 (2002 Census)

Population Density	38 people per km <sup>2</sup>
Population Growth p.a. 1988-2002	2.9%
Average household size	4.9

**Table 3: Tanzania Types of Land Use**

Type of Land	Area (millions ha)
Small holder cultivators	4.1
Large-scale agriculture	1.1
Grazing Land	35.0
Forests and Woodland	44.0
Other Land	4.4
Arable Land	3.6

Some 70% of the land is considered to be Village Land supporting 80% of the population (farmers and pastoralists), 28% Reserved land (forests, national parks, game reserves) and 2% general (mainly urban) land supporting 20% of the population.

Remote sensing mapping has suggested that the land cover in Tanzania is as shown in Table 4.

**Table 4: Tanzania: Distribution of Major Land Cover/Use Types**

Land Use/Cover Types	Area ('000 ha)	Proportion (%)
Forest	2,723	2.9
Woodland	37,436	39.6
Bushland	17,316	18.3
Cultivated Land	19,360	20.5
Open Land	139	0.2
Water features	7,352	7.8
Urban Areas	65	0.1

Source: National Reconnaissance Level Land Use and Natural Resources Mapping (1997)

The National land Use Framework Plan 2007-2027 (Tanzania 2008b) gives the main land use types as shown in Table 5.

**Table 5: Main Land Uses in Tanzania**

Land Use Type	Area (2002)	%	Basis for Land Use Categorisation
Settlements, agriculture and mining	161,572	17	Dominated by high population densities, farming, livestock keeping, utilization of natural vegetation and mining
Scattered settlements,	199,717	21	Low population density, low

<b>Land Use Type</b>	<b>Area (2002)</b>	<b>%</b>	<b>Basis for Land Use Categorisation</b>
agriculture and mining			intensity of human activities such as farming, livestock keeping and utilization of natural vegetation
Grazing, hunting and non-woody product harvesting	98,289	10.3	Very low population densities but used for grazing, hunting or harvesting of non-woody products. These are mainly the GCAs
Woody and non-woody production	155,320	16.3	No permanent human settlements but used for harvesting of non-woody including ecological functions and woody products
Water resources uses	63,329	6.7	Fishing, transportation, water supply and conservation in different types of water bodies
Conservation	273,840	28.8	Protected areas including both wild life and forest areas

Source: Tanzania (2008b)

Tanzania is still basically an agricultural economy. In 2007, round 73% of the population lived in rural areas including townships and trading centres. This population depends mainly on traditional agricultural and related activities. Some 9,900,000 people (or 27% of the total population) live in urban areas. Only about 2% of rural land, and 20% of urban land carries titles, or has a potential to have titles (i.e. it is planned).

## **5.0 National Land Policy and Laws**

### **5.1 Formulation of the National Land Policy 1995**

Events towards the National Land Policy 1995 started in the mid-1980's with the 1984 amendments to the Tanzania constitution. This rather famous change towards recognition of citizens' rights to own private property came to be known as the "bill of rights" and states that; "subject to the relevant laws of the land, every person has the right to own or hold any property lawfully acquired". The article further adds that, "a person shall not be arbitrarily deprived of his/her property for the purpose of acquisition, or any other purpose without the authority of law that shall set out conditions for compensation". This article meant that, acquisition of land by the government shall recognize the property rights existing on land and that such rights will be taken into account by the acquisition process. Together with the recognition of property rights, was a rather select move by government to relax its position on villagization and that people could claim their lands acquired during villagization. Later on in 1995, a written Land Policy was formulated, to emphasize on the fundamental principles covering the following key areas: Land ownership rights; land use principles; land administration; participation; and gender considerations.

During the 1980s there was considerable confusion in the spheres of land tenure and administration as well as access to resources and environmental degradation. Complaints and land conflicts grew in number and the increased awareness of the land value led to the development of informal land markets. There was also the need for increased land tenure security for customary land holding, and the need to protect vulnerable land from alienation. In 1989 a policy-making process was initiated aspiring at working out new land legislation. The government set up a Commission in 1991 to look into land matters, particularly focusing on conflicts and land mal-administration. After two years of intense research and discussions on matters of land tenure and land administration, covering all the districts in the country, the Commission submitted its exhaustive Report in 1992 (The Shivji Report, Tanzania 1994). This crucial document called for the development of a national land policy as a backbone for the formulation of the new legislation. In June 1995, after extensive consultations, the National Land Policy was published and formed the foundation for the new Land Laws (Tanzania, 1995).

The National Land Policy, and the Land Laws emanating from it, addressed issues of: Land tenure, promotion of equitable distribution of land access to land by all citizens; improvement of land delivery systems; promotion of sound land information management; recognition of rights in unplanned areas; establishment of cost effective mechanisms of land survey and housing for low income families; improvement of efficiency in land management and administration and land disputes resolution, and protection of land resources from degradation for sustainable development (Silayo, 2004).

Reform in land and other sectors was also necessitated by structural adjustment programmes, economic and social liberalisation, the re-orienting of the country's socio-economic system to embrace private sector investment and management, the need for good governance and the need to deal with national poverty.

## **5.2 The new Land Laws**

After the approval of the National Land Policy by the cabinet, a consultant was brought in to draft a new land tenure legislation to replace the colonial Land Ordinance 1923. After extensive consultations the consultant completed his draft which was then worked upon by the government (Ministry of Lands and the Attorney General).

Originally, the two land laws were drafted as one whole land legislation, but got split up because of its bulkiness. The Land Act should be seen as the chief legislation among the two, covering fundamental principles, such as classifications of land and definition of certain terms used in the acts. Furthermore, issues of mortgage as well as ownership between husband and wife are described only in the Land Act, although it is relevant for the Village Land Act as well. Other than these mutual issues, the Land Act covers land rights in general land, i.e. outside villages or reserved areas. This includes all urban areas. The Village Land Act, on the other hand, deals strictly with land within village areas.

This includes the locally rooted systems for management and administration of village land, as well as land dispute settlement on village level.

In addition to the acts, a few other laws touch on issues of general and village land: the Land Acquisition Act 1967, regulates in which way the state are allowed to acquire private land, including land held by villagers; the Courts (Land Dispute Settlements) Act 2002 gives guidance on land dispute resolution; and the Forest Act 2002 enables villagers to declare their own village forest reserves on land within the village area. On top of these, the Local Government (District Authorities) Act 1982 and the Local Government (Urban Authorities) Act are crucial.

### **5.3 Land categories**

The land acts separate land in three categories; general land, village land and reserved land. Transfer of portions of land between these categories is possible following stated regulations (Land Act 1999: section 4), (Village Land Act 1999: sections 4-5). Additionally, hazardous land is described (LA 1999: s.7), (VLA 1999: s.6) as portions of land within the three categories, being protected mainly for environmental reasons, or to protect people from danger. The law exemplifies hazardous land by mentioning mangrove swamps and coral reefs, wetlands and offshore islands, as well as land on steep slopes or riverbanks, which are likely to be exposed to erosion if not protected.

### **5.4 General Land**

By definition, general land is described as consisting of all land which is neither village land nor reserved land. (LA 1999: s.2) All urban areas fall under this section, except areas that are covered by laws constituting reserved land, or that are considered hazard land. General land is governed by the Land Act and, hence, under the control and jurisdiction of the commissioner for lands. This ministerial key person has delegated much of the powers to the district councils and district land officers in the 132 local authorities.

### **5.5 Village Land**

Village land is declared as being the land falling under the jurisdiction and management of a registered village (Larsson, 2006). As Tanzania consists of a vast countryside with only a few urban areas, most land in the country is village land. In order to fulfil the provisions of the acts, the village first has to acquire a certificate of village land. The certification procedure includes compulsory agreement upon the perimeter borders among neighbouring villages. When consensus is reached and the border is properly demarcated, a formal certificate of village land is issued in the name of the president, and registered in the *National Register of Village Land*. (VLA 1999: s.7), (Wily, 2003:25ff).

Each village is required to define three land-use categories within its own borders: 1) communal village land, 2) individual and family land, 3) reserved land. (VLA 1999: s.12) Reserved land in this context is to be understood as land set aside for future individual or

communal use, and needs to be distinguished from the national land category, "reserved land", mentioned above. (Wily, 2003:28)

## **5.6 Reserved Land**

Reserved land is defined as land being reserved and governed for purposes subject to nine listed laws. (LA 1999: s.6). These include: environmental protection areas, such as national parks, forest reserves and wildlife reserves, including marine parks are gathered, but also areas intended and set aside for spatial planning and future infrastructure development. (Wily, 2003:23)

## **5.7 Land ownership**

One of the main advantages of the 1999 legislation is the move to legally secure customary land rights. Having previously been vaguely defined as deemed rights of occupancy, according to the 1928 amendment of the Land Ordinance, customary land rights are now given equal status to granted rights of occupancy. For the first time, the Village Land Act provides for the possibility to acquire written and registered documentation of customary land rights (Wily, 2003:22). The management of village land is in the hands of the village councils.

A title in village land is called a Customary Right of Occupancy, whereas in general land it is called a Granted Right of Occupancy. Within reserved land, both customary rights and granted rights can be issued, depending on the character and purpose of the reservation. Rights of occupancy within Tanzania are primarily issued to Tanzanian citizens or groups of citizens. Organisations, associations or companies interested in acquiring land are required to show that the majority of the shareholders are Tanzanian citizens. The only legal exception from the prohibition of allocating land to foreign companies or associations is for purposes of investment in accordance with the Tanzanian Investment Act, 1977. (LA 1999: s.19) Allocation of village land is primarily given to residents in the village. Also non-resident persons and non-village organisations may apply for a land right, but will then be submitted to certain conditions. (VLA 1999: s. 22f), (Wily, 2003:36f). These measures were put in the Village Land Act to safeguard village land from passing into the hands of foreigners.

## **6.0 Improving Land Sector Governance in Tanzania:....**

### **6.1 The Analytical Framework**

Tanzania realises the importance of land in national development is facing a plethora of land-related problems and has been taking steps to improve governance in this sector. In order to evaluate these steps it is proposed to use the framework and findings of on the ongoing Pilot study on Governance on Governance in Land Administration. A Land Governance Assessment Framework has been developed. It hinges on a set of 24 Land Governance Indicators grouped into five topics that is: (1) Legal and Institutional Framework, (2) Land Use Planning, Management and Taxation, (3) Acquisition,

Management and Disposal of State Land, (4) Sustainable and cost-effective provision of land-related information and (5) Dispute resolution and conflict management. We look at each indicator, give the current situation in Tanzania and state the steps that have been taken to improve governance. We then look at the achievements of these steps, the bottlenecks and the possible ways forward.

## **6.2. Legal and Institutional Framework**

### **6.2.1 Legal recognition of land rights and their recording**

Both the Land Act and the Village Land Act provide the framework whereby most of the rights held by individuals and groups in both rural and urban areas are recognized either under statutory or under customary tenure. However, procedures for the establishment and management of group land rights in rural areas, particularly those of pastoralists and hunters and gatherers are vague or non-existent. The same can be said of group rights in urban areas which seem to be unrecognized except in the case of areas such as burial grounds.

The National Land Policy 1995 and the Village Land act 1999 make legal provision for securing land for extensive grazing systems. However, these are not widely known or exploited. Efforts to secure land and resource tenure for pastoralists are generally very limited and farmers and private investors continue to appropriate large parts of pastoralists land, often with direct or indirect support from the government or government agents (Kipuri and Sørensen 2008). The general feeling in government is that pastoralists must modernize: reduce their herds and settle in one place. This view is expressed in the Strategic Plan for Implementation of Land Laws (SPILL).

Mattee and Shem (2005) have pointed out how much of pastoralists land is being earmarked for investors, is transformed into game controlled areas, national parks and game reserves. Mining sometimes deprives pastoralists of access to pasture and decentralization arrangements do not address the needs of mobile populations.

A law governing condominium property has recently been enacted (The Unit Titles Act 2008) and its regulations are under preparation. The public will require extensive education to be able to use this law effectively but it will make it possible to own and manage condominium property. The law does not provide clear options for groups to fully or partially individualise their land rights particularly in rural areas, although former group rights in urban areas (eg cooperative villages) have over the years been individualized.

### **6.2.2 Enforcement of Rights**

There has been improvement in enforcement of rights. The Constitution, as well as the land laws makes it clear that any person has the right to own or hold any property lawfully acquired, and that the deprivation of such a right must be done lawfully and compensation paid. However, there has been no surveying or registration of communal

land areas such as those for pastoralists and hunters and gatherers although plans to do so have been expressed now and again. Pastoralists have continued to traverse the whole country or continue to have their land encroached upon, both processes leading to regular conflicts.

Although legal recognition exists, only a small number of land parcels are registered. There are just over 165,000 land parcels registered nationwide and most of these are in urban areas. As a result 90% of Tanzanians cannot be located through a property registration system. The majority therefore lack formal security. Only 2% of rural land is held under statutory tenure. Some 80% of land holdings in urban areas are held informally without any formal title. The number of people who hold some kind of papers related to land is higher since there many who were given “offers” to a right of occupancy and who did not pursue this to the full titling and registration level. There are also those who hold residential licences (most of which however must have expired since they were of a two-year duration and have been allocated since 2004), which are registered as documents.

Tanzania has a gigantic task of registering land titles in the country. The population of the country is estimated to be 40 million and the average household size to be a 4.9 people. If it is assumed that each household would have a land parcel, then there are over 8 million land parcels in the country that need registering

Since most people still live in rural areas there has been a move to survey land in rural areas in order to give certificates of customary rights of occupancy (CCROs) to individual rights owners. This cannot be done unless the villages themselves are surveyed and hold certificates of village land. The picture as of December 2008 was as shown in Table 6.

**Table 6: Status of Village Registration and awarding of CCROs**

<b>Registered Villages</b>	<b>Surveyed villages</b>	<b>Villages with Village Land certificates</b>	<b>CCROs given</b>	<b>Villages with land registries</b>
10,397	8,700	753	14,017	30

Source: Ministerial report on achievements of the Government for the past three years (*Uhuru*, January 13<sup>th</sup> 2009, p. 13-17); also PMO-RALG

Although the number of surveyed villages is high, this must be taken as preliminary survey, whereby a lot of work has still to be done to comply with the requirements of the Village Land Act (eg on adjacent villages agreeing on boundaries) and the Land Surveying Ordinance. This explains why the Certificates of Village Land issued are still few. It may also be noted that CCROs are issued on demand, and this demand is not forthcoming even in cases where village titling projects have been undertaken (Mukandala 2008).

In urban areas some 56,743 new planned land parcels have been surveyed between 2002 and 2008 under a special Project known as the 20,000 Plots Project. Most of these

(40,000) have been in Dar es Salaam (Tanzania 2008) This is a great achievement compared to past efforts, but it is still very much a partial and time bound effort, which is moreover heavily tipped in favour of those in high income brackets leading to further growth of unplanned areas, and the systematic displacement of the poor and native communities from planned land.

Within the urban areas and in realization that many landholders live in informal areas, the Land Act provides for the award of residential licences to those in these informal areas. In 2004, the Ministry in collaboration with the Dar es Salaam Municipalities launched a Project to identify the number of properties in unplanned areas and to allocate residential licences to landowners in these areas. Out of the 500,000 properties identified in the city, 400,000 were in informal (unplanned) areas). The government had planned to give residential licences in two phases over a period of two years from 2004. As of December 2008, some 270,000 properties had been identified and 90,000 residential licences issued. Some 20,000 properties identified were found unfit for the issuance of residential licences since they were constructed on hazard land (though none has been declared by the Minister as is required by law). However, the project seems to have lost steam although there are plans to extend the duration of the licences from 2 to 5 years, and to carry out full regularization undertakings in areas where infrastructure has been upgraded. Studies have pointed to landholders in unplanned areas being lukewarm towards residential licences because of costs, conditionalities, short duration and their reluctance to use titles for securing loans (Mwalugaja 2008).

Clearly Tanzania has a long way to go to register all land parcels in the country. Problems include limited human and financial capacity, a centralized state-centered approach which sidelines communities, landowners and the private sector; inappropriate standards, regulations and procedures for land use planning, regularization and surveying, politicization of land delivery outputs and lack of a long-term well-resourced plan to register land parcels in the country.

### **6.2.3 Women's rights**

The constitution, the land laws and the judiciary recognize equality of both genders as far access to and ownership of land is concerned. The law also required minimum representation of women on institutions dealing with land issues. Customary land tenure which is discriminatory is upheld, but it is shorn of its discriminatory prerogatives. However, women are still under-represented in land ownership. Less than 15% of registered land is in the name of women or is jointly owned. The situation is a bit better in urban areas where in the 20,000 plots Project over 30% of the land parcels were in the name of women or in the joint names of spouses. However, this is fortuitous and there is no positive action to realize increased landownership by women.

### **6.2.4 Extinguishing Land Rights and Compensation**

Both the Constitution and land laws state that land shall be expropriated according to the due process of the law, and that fair and prompt compensation should be paid. The

compensation package in the case of expropriation has been improved and made clear under the Land laws to include the value of land, disturbance, transport assistance and loss of profits. However, there is universal complaints against compulsory acquisition of land because the process of determining the rates used in determining the amount of compensation is not transparent and the affected always complaint that they are being underpaid. Complaints against compensation usually do not succeed and the government has proceeded with project implementation even where there are cases pending in the courts. Compensation is in most cases not paid on time and no remedial measures are taken as provided for under the law. The government which is the one expropriating land determines the rates to be used, carries out and approves the valuation. The valuation is not independently vetted. There are many disputes related to dissatisfaction with compensation.

Compensation is usually in monetary terms (as opposed to alternative land, or naturalization within the relevant land use scheme). This has the potential of putting the affected persons and their families in a worse off situation i.e. making them landless. In rural areas for example alternative land is a must where land is expropriated. Tanzania has no Involuntary Resettlement Policy although one is currently under development.

Cases requiring land expropriation are on the increase for various purposes including urban development, infrastructure provision, expansion of reserved areas (Box 1), minerals exploitation. This has led to numerous cases of people against public authorities over compensation.

#### **BOX 1**

#### **MBARALI EVACUEES DEMAND 16bn/= COMPENSATION**

Some 1600 residents of Mbarali District who were ordered to leave their respective areas to allow the expansion and demarcation of Ruaha National park have sued the government demanding over 16bn/= compensation. They filed the suit at the High Court's Land Division in Mbeya on 27<sup>th</sup> October 2008. This after the land occupiers had been paid some 6.5bn/=, a figure they considered too low. (*Sunday News*, 28<sup>th</sup> September, 2008, p.2)

It is however unlikely that the complainants will win such a case. Besides its conclusion will take very long.

Elsewhere Mbeya villagers were reported to be pleading for compensation from the government after they were removed from their traditional area to pave way for a newly established game park. The villagers told a Parliamentary Committee on Parastatal accounts that they were removed from their traditional villages without any compensation (*This Day* 24<sup>th</sup> February 2009, p. 6)

The affected persons recognized as being entitled to compensation are landowners, and it does not matter whether they are registered or not provided they are recognized locally as the owners. Tenants or migrants are not recognized. The new Involuntary Resettlement

Framework is being developed on the lines of the World Bank Framework and will include tenants and other beneficiaries from the land that is being taken over.

### 6.2.5 Mechanisms for recognition of rights

In both rural and urban areas non-documentary forms of evidence can be used to establish claims to property. This has become clearer in urban and rural areas where, if land rights in informal areas or without CCROs are interfered with, compensation is paid. Long-term unchallenged occupation lasting 12 years gives legal rights on private land but not on public land, where adverse possession principles do not apply.

However, upgrading of tenure on demand is difficult. The requirements are not clear, are difficult to meet and are not enforced. For example upgrading one's tenure in urban areas requires that the land in question fits in a town planning scheme prepared by public authorities without consultation with land owners. Land surveying and the subsequent issuance of title will be frustrated if the landowner's parcel cannot be fit into an official town-planning drawing. Even where communities have come together and sought to upgrade their areas, they have found it difficult to realise their goal.

### 6.2.5 Awareness of Property Rights

A number of studies indicate that there is considerable ignorance of both the law and procedures related to land ownership and development and dispute resolution in both rural and urban areas. The government however has conducted various national awareness campaigns and is continuing to doing so.

In study carried out in Dar es Salaam it was found that only 13% of land owners in planned areas were aware that their rights had a time duration and they had to renew the period when it expired. It was also found that 43% held just a letter of offer and did not follow it up to a full title; that 40% had full titles and that 17% had no evidence of ownership (Kaijage, 2005). For most households a full title is not a priority although this has been one of the selling points in the 20,000 Plots, the residential licences, and the village formalisation Projects.

Another study conducted with respect to expropriation found that the majority of the affected households had no knowledge of the stipulations of the law (Table 7)

**Table 7: Knowledge of Land Laws and Procedures**

Policy/Legislation	How knowledgeable (Percentage) (N=200)		
	Know very well	Partly knowledgeable	Do not know at all
Land Policy	3.5	18.5	78.0
Land Act	3.0	14.5	82.5
Land Acquisition Act	3.0	7.5	89.5
Town Planning Ordinance	2.5	12.5	85.0

Source: Kironde (2006)

Many landowners soon forget that they have a duty to pay annual land rent, and have to be so reminded annually. Many soon fall into arrears.

### **6.2.7 Clarity of Mandates and Practice**

Among the recognized problems in land administration is the overlapping roles of the Ministry of Lands and the Prime Minister's Office, Regional Administration and Local Government (PMO-RALG). These two institutions have differing criteria for defining settlements. The Land Act requires the appointment of an Authorised (Land) Officer who operates on behalf of the Commissioner for Lands, but he works within local authorities meaning that he is answerable to two authorities. Both authorities have powers to regulate land uses, to allocate land and to control development. In some respects this creates a situation of laxity on the part of local governments, looking on the Ministry of Lands for land related activities.

Overlapping powers also emanate from various other authorities acting in the areas where the Ministry of Lands and local authorities operate. These include Forestry, Water Resources conservation and National parks and Game Reserves authorities. The Minerals Act gives immense powers to the Ministry responsible for minerals to over-ride any land rights that may be found on land where there are mineral resources.

These various institutions collect information but there is little information sharing. Moreover the kind of information collected is not comparable or using the same format.

### **6.2.7 Equity and non-discrimination in the decision-making process**

The National Land Policy was developed after comprehensive stakeholder consultations and inputs. The resultant legislation was also extensively discussed. One major aspect of the Land Policy and Land laws is to ensure that existing rights in and recognized long standing occupation or use of land are clarified and secured by the law. The Policy and subsequent laws also prohibit discrimination on a gender basis in access to both customary and statutory rights.

The policy and law would seem to be weak on addressing the rights of those who do not own land. It does not seem to address well, inter-generational issues although it purports to put a limit at the amount of land which an individual can hold. Moreover access to land for the poor is not well articulated in National Development Strategies such as the National Strategy for Growth and Poverty Reduction. We therefore have programmes in urban areas which marginalize the poor (Kironde, 2006).

Although there are good programmes to implement land laws, they are not adequately funded. In his study of the rural land title certification programme in Tanzania Mukandala (2008) found that the Ministry of Lands had calculated that the cost of village land title certification over a five year period (2000/2001-2004/2005) was 19.0 bn/= or 3.8 bn/= per annum. The Approved allocation however was 1.012 bn/= or an average of Tsh 203m/= per annum. This represents only 5.3% of the expected cost.

It does not appear that land sector issues regular public reports indicating progress towards meeting given indicators. A regular report is the one to Parliament annually made by the Minister for Lands to the Budget session. A comparison of Ministerial Speeches for four years (2004/05; 2005/06; 2007/08 and 2008/09) revealed that the type of information in these Reports differed between the years and it was not possible to build a progressive picture over the years on Ministerial or other institutional performance.

Sometimes the information is contradictory. For example in his 2008/09 Budget Speech the Minister for Lands said the Ministry had surveyed 9577 villages out of the estimated 13,000 villages in the country (Tanzania 2008a:9). In a later report highlighting three years of the government's performance the number of villages in the country is given as 10,200, the number of villages surveyed, as 8,700<sup>2</sup>. However, the number of CCROs awarded is similar, 14,017 in both reports. It would help a lot if there were directives on the items to be reported upon from year to year

### **6.3. Land Use Planning, Management and Taxation**

#### **6.3.1 Transparency of land use restrictions**

Land Use Planning and Management is governed by the Urban Planning Act 2007 for urban areas and the Land Use Planning Act 2007 for rural areas. Both laws provide for public consultation in the preparation of land use schemes and the making available to the public, all approved schemes. The laws are new and have incorporated provisions which give weight to public consultation compared to the previous legislation.

Past practice however has been thin on public consultation and publication of land use schemes. Partly because of the need to speed up the implementation of these schemes, they are prepared by the public authorities and approved by representatives of the public (eg councilors) without fully involving the public. In the past, this has meant that knowledge about land use schemes was limited to a few officials, which facilitated unprofessional behaviour such as the allocation of open spaces to private use. For the past three years in the city of Dar es Salaam, the Ministry of Lands has been working hard to solve problems in areas of Tegeta and Mbezi, Jangwani Beach, Ununio and Boko which are by and large a result of lack of transparency in land use planning and management.

There are numerous studies that have concluded that the public is not involved in the preparation of planning schemes. In his study of the Kurasini Redevelopment Scheme in Dar es Salaam Ballonzi (2007) found that the landowners were not involved in the pre-planning process and the planning of Kurasini Redevelopment Scheme, although public meetings were called to inform them of the government's decision to re-plan their area and to seek their co-operation.

---

<sup>2</sup> *Uhuru*, 13 January 2009, p.13-18

Mechanisms to allow the public to capture the surplus emanating from land use changes are still evolving. To some extent, this is realised through the collection of land rent and the Ministry has in recent years improved land rent data and land rent collection. In the ongoing 20,000 Plots Project implemented in Dar es Salaam and in other major urban areas, the government has captured a lot of the value growing out of land use planning enabling it to recover all the costs incurred and to beef up the Plot Development Revolving Fund which is meant to facilitate further land use planning. Nevertheless, there is need to generalize and implement processes to ensure that the public benefits from betterment growing out of the public's activities, but at the same time the poor are not marginalised.

### **6.3.2 Public good provision and land delivery in urban and peri-urban**

As pointed out above, the Ministry of Lands has in the past seven years mounted major planned land provision schemes in the city of Dar es Salaam, and in the cities of Mwanza, Mbeya and Morogoro. These have been mainly in peri-urban areas. A number of other local authorities are being enabled to implement schemes for planned urban development. Long-term land use plans are being prepared for many as well. However, the approach is still that of a Project. The number of the lots being delivered is limited and does not cover the whole spectrum of the potential urban land seekers especially those in the lower income categories. As a result, cities are depicting a picture of planned land use islands on a mosaic of informal land use development, where the poor seem to be destined for unplanned areas.

### **6.3.3 Public good provision in rural areas**

The Land Use Planning Act 2007 has created a framework for the planning of rural; land and to that effect a national land use planning framework has been completed by the National Land Use Planning Commission. Village Councils are Planning authorities for their areas and village land use plans are prepared in a transparent and participatory manner. This is a major achievement in Tanzania.

### **6.3.4 Speed and Predictability of Enforcement**

All development in planned areas require a building permit. Once a person is allocated land, he must prepare and submit building plans to planning authorities within six months and the construction must be completed in three years. The documentation for application for a building permit is unduly demanding especially for simple houses. The whole procedure to get a building permit takes very long, a year will be the most optimistic period between application and getting the permit if close follow up is made. Builders who are in a hurry are sometimes required to finance the sittings of the councilors who approve the permits. Consequently, studies have established that that most builders in planned areas carry no permits and where they have the permits, they do not adhere to them. In his study in Dar es Salaam, Minja (2002) found that 67.5% of the developers has no permits. Kamala (2005) in his study of the Kariakoo area of Dar es Salaam concluded that 68% of the developments were carried out contrary to approved plans and without

valid permits. He further found that although the law required that a permit should be issued in three months, only 10% of the applications were approved within that period. Most applications were approved after one year. Kamala (2006) describes the rampant violation of land use and development conditions in urban areas in Tanzania.

The requirements to be met in submitting building permit applications, the long bureaucracy before a permit is issued, and the poor follow up after a permit has been granted mean that most developers are driven into informality and do not comply with development conditions.

### **6.3.5 Property Taxes**

Property Taxes are a key source of revenue for local governments. Property Taxes are levied under the Local Governments (Finance) Act 1982, and the Urban Authorities (Rating) Act 1983. Before the valuation is carried out an area has to be declared a rating area by the Minister responsible for local government. A qualified valuer is appointed and valuation is carried out in a transparent manner. There have been efforts to improve consistency by providing rates that could be applied in similar circumstances. The depreciated replacement cost approach is the one used in most cases, since evidence of market transactions is thin. The public is invited to inspect the valuation roll and to lodge objections with the Rating Tribunal before the levying of the taxes. Exemptions are listed in the law and are not excessive.

Because the valuation is expensive, valuation rolls soon become outdated because they do not capture new properties or review values to reflect inflation or changes on the properties. The potential for property tax is considered to be high compared to the collection. Two years ago the government, decided that Dar es Salaam local authorities were not collecting as much revenue as they should so the valuation for determining, and the collection of property tax was moved to the Tanzania Revenue Authority (TRA) to assist these authorities for five years. There are signs however that due to the complexities of property tax, the TRA is not succeeding in realizing collection as had been anticipated. There is a World Bank supported project to revalue all properties in the city of Dar es Salaam but this has been delayed because of the transfer of property tax responsibilities from local governments to TRA.

It can be concluded, from studies carried out in Dar es Salaam and elsewhere that the amount of property tax collected is not close to the potential (Lyoba, 2007) although, given the fact that the collection of property tax is financed from the general council budget, the taxes collected would be above the variable cost of collection. Property tax is a local government tax and is not transferred to the central government. Efforts are required to strengthen the capacity of local governments to improve their efficiency in managing property taxes.

## **6.4 Management of Public Land**

### **6.4.1 Identification and Management of Public land**

Public land would be that which is under the custody of the state, municipality or local authority. There is no comprehensive inventory of public land and its geographical location in Tanzania. Inventorisation sees to be done on an ad hoc basis, eg where divestiture is contemplated. Responsibility to manage public land may rest with different authorities or agencies which may cause a problem in management these assets. In most cases, moreover, there are not adequate resources to manage these lands

#### **6.4.2 Expropriation**

Most land that is expropriated is for public good purposes. Public good however, includes preparation of town planning schemes. Most of the land that is expropriated for town planning purposes ends up being transferred to private developers. The government's stand is that it is easier to implement orderly land development schemes if third party interests (i.e. existing owners) are cleared by way of compensation. In recent schemes the government has been keen to prepare the schemes quickly and sell the land to prospective private developers. Because of lack of resources, the development of such land however, takes too long to realize.

A now growing outcry is why the existing owners should be displaced to give way to new owners. There are complaints in the press and elsewhere that land in official planned schemes is meant for the rich while the poor and 'indigenous' land owners are being pushed out<sup>3</sup>.

#### **6.4.3 Transparency of Expropriation Procedures**

In case of expropriation, compensation is paid to landowners only, not to holders of secondary rights. The relevant legislation includes the Land Acquisition act 1967, the Land Act 1999, the Urban Planning Act 2007.

Various studies show widespread dissatisfaction with the way expropriation is being carried out including the valuation, the amount and the payment of compensation. Anzela *et al* (2007), in a study involving land expropriation in the Kurasini area of Dar es Salaam found that most of those affected complained that the valuation procedure of requiring the affected to fill a form giving account of what they would claim as compensation was not followed, that their properties were undervalued, that they were not given a chance to see what had been assessed for them until the day they were required to take compensation cheques, that they were not allowed to query the amount they were paid and that the compensation was not paid in six months as stipulated by law, and interest of 6% was not paid over the period that the assessed compensation remained unpaid. The affected went to court but their properties were demolished even as the matter was pending in the court<sup>4</sup>. There are some who queried whether the taking over of their land was for public interest since the land was sold to private interests after the existing

---

<sup>3</sup> See for example, *Nipashe*, 22<sup>nd</sup> February 2009, p.

<sup>4</sup> The government has been warning people affected by expropriation not to waste their money hiring lawyers to contest the process. In most cases the affected end up abandoning the case.

buildings had been demolished by the government. Over 80% of the affected persons expressed dissatisfaction with the whole expropriation exercise although 20% were satisfied. Some 20% refused to accept compensation. There were no resettlement arrangements.

Expropriation is increasingly being resisted. In most cases those whose land gets expropriated are dissatisfied, notwithstanding the fact that the compensation package has improved, with the inclusion of the value of land, as well as disturbance allowance. The various rates used are determined by the government and are not subjected to public debate. Once determined many rates (eg for land value, construction, crops) are not reviewed for long.

May be the formulation of the Involuntary Resettlement Framework for Tanzania (Tanzania 2008c) will improve matters because problems of people against government with regard to expropriation are becoming more frequent. There is the need to put the affected in an equivalent or better situation.

#### **6.4.4 Transfers of Ownership or Use rights over state-owned land**

Transfer of public properties to the private sector has taken place mainly in relation to privatization of former public institutions. By and large, this process has been carried out in a transparent manner. The properties are first inventorised, and their characteristics, including boundaries, ascertained. A valuation is usually carried out after which properties are advertised and usually sold to the highest bidder. An exception to this has been the sale of government houses mainly to existing occupying officials. As of March 2005, 7672 government houses had been sold as shown in Table 8.

**Table 8: The Sale of Government Houses**

<b>Former owning institution</b>	<b>No of units sold</b>	<b>Expected revenue over 10 years</b>
Central Government	4,628	35,293,417,235
Tanzania Harbours Authority	1,176	10,872,496,000
State Mining Corporation	29	352,063,000
Tanzania Audit Corporation	19	308,900,000
Tanzania Railways Corp	1,820	9,559,520,000
<b>Total</b>	<b>7,672</b>	<b>56,386,396,235</b>

Source: Tanzania Building Agency Business Plan 2005/2006. Revenue in Tshs.

The houses were sold at their depreciated replacement cost, ignoring the value of the land, which resulted in very low prices compared to what they would have fetched if sold at market prices. Most of these were sited in high value low density neighbourhoods with large land lots. Many have since, been extensively transformed. Masinde (2005) argues that the whole exercise resulted into a huge loss to the nation for the benefit of a small class of people<sup>5</sup>. The idea was to use the money from the sales to build new houses,

<sup>5</sup> See also the *Guardian*, 21 December 2008, p.2, "The controversial government houses auction caused \$200 million loss".

instead of refurbishing the ones which were sold. However, while close to 8,000 houses were sold, so far only 910 houses have been built. There is a general agreement in the country that the sold government houses should have remained in public hands.

## **6.5 Public Provision of Land Information**

### **6.5.1 Information kept by land registries**

Most of private land lots in both rural and urban areas are not registered. There are around 165,000 entries in the land registry nationwide although the potential registrable land lots are estimated to be over 8 million. The registered lots will in most cases have a deed plan which shows the boundaries and area of the registered lot and neighbouring lots. A good number of the encumbrances (eg caveats, liens, mortgages) will be shown in the registry. The registry is searchable on request and payment of a fee, which is not unduly onerous, although getting the results may take some time. It is not yet possible to search the registry using modern ICT.

The registry is out of date in cases of the death of the registered owner but in the case of sale or , it is quickly adjusted.

The government has in recent times taken measures to improve the services of the land registry. One of these has been the establishment of 5 zonal registries in the country. The other one is the publication of a Clients' Service Charter which spells out the time it would take for a certain service to be performed, generally by the Ministry of Lands including the land registry (Tanzania, undated, but around 2008). It is doubtful however, whether the standards set in the charter were discussed with stakeholders since the time set for some activities is unduly long. Some of the time limits have been like that for a long time and have not been adhered to. For example Preparation of a Certificate of Occupancy within one month after accepting the letter of offer has been like that for decades and it has not been adhered to. Also the time set in a number of cases does not seem to take into account conditions required for performing an activity. For example it says a letter of offer would be issued within 1 week from the date the request is made. There is a lot of preparatory work that is required before a letter of offer can be issued and experience shows that 1 week is completely inadequate. On the other hand there is no justification why Registration of a certificate of title should take one month, or why inspection and verification of ownership should take two weeks after application.

The Charter is silent on the remedies that clients have if its provisions are not adhered to. However, the Ministry has a front desk which addresses many clients' problems. Charges levied for various services are published, and under the counter payments are discouraged.

### **6.5.2 Cost effectiveness and sustainability of the Registry**

The running of the registry is from the general Ministry budget. The cost of registration is low and there are no calculations that would reflect cost recovery. However, the major

part of the cost of running the registry is not from user fees. There is a major need for capital investment to improve the land registry, but short of government and donors' interventions the long-term sustainability of the land registry is in jeopardy. This is an area where the land sector needs to take remedial action.

## **6.6 Dispute Resolution and Conflict Management**

### **6.6.1 Assignment of Responsibilities**

In order to speed up the settlement of land disputes the government set up, under the Courts (Land Disputes Settlements) Act 2002, a distinct dispute resolution establishment consisting of the Village Council, the Ward Tribunal, the District Land and Housing Tribunal, the Land Division of the high Court and the Court of Appeal. Various studies suggest that this machinery has not helped significantly in speeding up dispute resolution. The machinery is poorly resourced, and has tended to adopt court-type of proceedings which take long to settle disputes, and is expensive for those with conflicts.

The machinery does not fit well into the existing justice delivery mechanism since the village and ward tribunals are under local governments; the District Land and Housing Tribunals are under the Ministry of Lands, while the Land Division of the High Court is under the Judiciary. This has created problems of accountability.

Accommodation of informal and alternative dispute resolution mechanisms is poor and forum shopping takes place especially when recourse is taken to primary courts, or to local government leaders.

### **6.6.2 Low level of pending conflicts**

Data at the District Land and Housing Tribunal level indicate that disputes are increasing from year to year and those which are not settled in one year are increasing as well (Table 9).

**Table 9: Disputes at District Land and Housing Tribunals**

<b>Year</b>	<b>Disputes in the Tribunals (brought over and new)</b>	<b>Disputes cases decided upon</b>	<b>Dispute cases carried over</b>	<b>% carried over</b>
2006/07	10382	4180	6202	60%
2007/08	15,422	6770	8652	56%

Source Ministerial Speeches to Parliament, relevant years

In the three years December 2005 to December 2008, 33,163 cases were lodged with the District Land and Housing Tribunals. Out of these 15,149 (48%) were heard and decided upon. This indicates that the backlog is growing.

These disputes involve individual legal personalities. However, conflicts involving communities, particularly those involving pastoralists and farmers are a major headache.

They flash now and then leading to loss of life and property. The government seems to be of the opinion that pastoralists are the major culprits since they keep too many cattle, and move from place to place<sup>6</sup>. Pastoralists are now being forced out of, or prohibited from entering, various districts and there are reports of livestock being impounded indiscriminately to force pastoralists of certain areas.

Conflicts involving communities and the state (urban development, mining, expansion of reserved areas, road expansion etc) are on the increase.

### 6.6.3 Special Presidential Committees to Solve Land Problems

In an effort to solve land problems the newly elected government of President Kikwete required all local authorities to set up ad-hoc committees to receive and address land problems from the public within four weeks from 4<sup>th</sup> May to 1<sup>st</sup> June 2006.

The Committee was directed to perform the work by considering the following terms

- To listen and analyse citizen's complaints in order to understand problems
- To direct what should be done in order to solve the problem
- To prepare a list of all officials who were responsible for creating the land conflicts especially in land allocation so that legal action can be taken against them.
- To find and give plots to those adversely affected by double allocation.
- To find alternative plots and allocate them free of charge to those whom the Committees would find to have been inadvertently charged land rent.

Table 10 summarises the nature of the disputes submitted to these Committees nationwide.

**Table 10: Disputes submitted to the Presidential Ac-hoc Committees, May-2006**

Nature of the Dispute	Numbers	Percentage
Double Allocation	1355	
Claims for compensation or alternative land in cases of compulsory acquisition	2717	
Boundary changes by surveyors	156	
Failure to give letters of offer after plot allocation	202	
Levying of land rent without following procedures	15	
Invasion of open or other public spaces	714	
Plot allocation without following proper procedures	167	
Showing prospective owner the wrong plot	348	
Change in land uses without following proper procedures	469	
Wealthier people taking over farms belonging to poorer people	81	
Taking Plots without following proper procedures	605	
Estopped from developing the plots	936	

<sup>6</sup> See for example the *Guardian*, February 6 2009, p. 5: "Pinda (the Prime Minister) blames pastoraslists for land conflicts in the regions"; and the *Nipashe*, January 16 2009, p. 15" "Pastoralists sent out of Bagamoyo District".

Boundary disputes	179	
Failure to develop the plots	639	
Plots and farms invasion	1225	
Plots and farms being taken	453	
Surveying of squatter areas	44	
Other disputes	3453	
Total	13758	

On the whole, there were more disputes in urban areas compared to rural areas. In her study of the Kinondoni Municipality which had 71.5% of the 1437 disputes reported in the city of Dar es Salaam, Rutaitika (2008) found that only 26% of the cases were attended to leaving a backlog of 760 cases. Of the 268 cases attended only 69 (i.e. 26% (or 7% of the total cases submitted)) were solved; 188 (70%) were left incomplete (at the time the committee wound up) 6 cases were referred to the Ministry of Lands and 5 were referred to the courts.

Thus, much as the President had the good intentions of solving citizens' land disputes in as short a time as possible at least cost, most disputes remained unsolved by the time the Committees wound up their work. According to the conclusions of the Committees, over 75% of the disputes emanated from the action of public officials, meaning that action to improve efficiency, transparency and accountability among these officials can greatly reduce the incidences of land disputes.

As pointed out above conflict submitted to dispute resolution machinery are mainly between individuals. Those involving different communities, or communities and the state have been difficult to resolve as is demonstrated in Box 2 in the case of pastoralists.

#### **BOX 2: CALAMITY AS FARMERS AND PASTORALISTS FIGHT OVER LAND**

In September 2008 three people were injured after a dispute between farmers and pastoralists in Iringa Districts. The pastoralists had been ordered by the government to move out of the Ihefu valley and go to Lindi, but some decided to move to Iringa where they are now in conflict with farmers (*Tanzania Daima*, 25<sup>th</sup> September 2008, p. 3). Meanwhile two farmers were hacked to death by pastoralists in Ngara District, Kagera Region in a fight over a well (*Majira*, September 22<sup>nd</sup> 2008, p. 8)

In October 2008, seven people were reported dead and many houses burnt after a brawl between pastoralists and farmers fighting over land use in Kilosa District Morogoro Region. Farmers alleged that pastoralists had let their animals destroy farmers' crops while the pastoralists claimed that farmers had grown these crops in a valley belonging to pastoralists. Six years later in 2002, 12 people died in a fight over land in similar circumstances (*Majira* 19<sup>th</sup> December 2008, p. 11). A legal battle has been going on for three years contesting the establishment of separate villages for farmers and pastoralists but the High Court has so far not delivered its verdict. "Farmers are unhappy the way the issue is being handled and are suspecting corruption among local government leaders and

justice dispensation claiming that it was rare in Kilosa District for a farmer to win a case in court if it involved pastoralists” (*Guardian*, November 16, 2008, p.5)

Four people were killed in January 2009 in fighting over land that broke out between farmers of the Kaguru tribe and Maasai pastoralists in Kilindi District, Tanga Region. Some 800 people were left homeless, 45 houses torched and 200 heads of cattle went missing (*Citizen* 20<sup>th</sup> January 2009, p. 2)

This kind of news is now regular, coming from various parts of the country.

Government promises to solve this problem by demarcating separate areas for farmers and pastoralists but these promises have largely remained unimplemented. The relationship between pastoralists and farmers are getting more and more strained

## **7.0 Conclusions**

As a developing country Tanzania is suffering from problems of poor land governance in the land sector. However, the government has taken a number of steps to improve this situation. Tanzania is doing well in areas of recognition of rights (with the exception of communal rights in rural and urban areas), recognition of the rights for women and stakeholder involvement in developing land policies and laws. Tanzania however, has a long way to go in terms of registering land and improving land information systems, urban land management, the management of public land, expropriation and dispute resolution. Given the fact that the population is growing and the demand on land resources in both the rural and urban areas is increasing, there is an urgent need to improve governance in the land sector to ensure economic sustainability, poverty alleviation and peace and security.

## REFERENCES

Tanzania (undated but around 2008), *Clients Service Charter*, Ministry of Lands, Housing and Human Settlements Development.

Masinde, S.M. (2005), Reflections on the selling of government houses in Tanzania: The Dar es Salaam City Case Study, Postgraduate Diploma in Valuation, Department of Land Management and Valuation, UCLAS.

FAO (2007), *Good Governance in Land Tenure and Administration*, *FAO Land Tenure Studies 9*, Rome

Rutaitika, D. (2008), Land Disputes Resolution in Tanzania: The Efficacy of the Presidential Land Disputes Settlements Committees of 2006, the Case of Kinondoni Municipality, Msc Thesis, School of Real Estate Studies, Ardhi University, Dar es Salaam, Tanzania.

Mpoki, D., Heguye, N., Izina, W., Matotola, U., Mrema, L., Simiyu, G. and Timothy, J., (2006), Effectiveness of Land Disputes Settlement Machinery in Urban Land Disputes, Unpublished Semester Project, LMV Department, UCLAS, Dar es Salaam, Tanzania.

Ojalammi, S. (2006), Contested Lands: Land Disputes in Semi-arid parts of Northern Tanzania, Department of Geography, Faculty of Science, University of Helsinki.

Tanzania (2008a), *Speech by the Minister for Lands, Housing and Human Settlements Development to the Budget Session of Parliament, for the financial year 2008/2009*, Dar es Salaam Government Printer

Tanzania (2008b), *National Land Use Framework Plan 2007-2027*, Vol. I, Ministry of Lands, Housing and Human Settlements Development.

Tanzania (2008c), *Resettlement Policy Framework*, Ministry of Lands, Housing and Human Settlement Development, in collaboration with the President's Office Planning Commission, Dar es Salaam

Anzela, A., Hot-Oswin, P., Said, J., Malisa, D., Goodluck, W. and Baltazari, J. (2007), Dissatisfaction in Land Acquisition and Compensation in Tanzania: The Case of Kurasini Redevelopment Scheme and Mkorea Church University, Year IV Semester Project, Department of Land Management and Valuation, Ardhi University, Dar es Salaam, Tanzania

Kamala O. K (2006), Problems of Land Use and Development Control in Urban areas: The Case of Mwenge Village, Kinondoni Municipality, Dar es Salaam City, MSc Dissertation, University of Dar es Salaam

Kamala O. K (2005), Compliance with development conditions: The Case Study of the Kariakoo area, Dar es Salaam City, Postgraduate Diploma Project, LMV Department, UCLAS

Ballonzi (2007), Urban Local Governance and Management Challenges: A Study on transparency and accountability in urban planning practice in Tanzania: Evidence from Kurasini Dar es Salaam, Msc Thesis, Urban Planning, Ardhi University.

Lyoba, H.M. (2007), An Evaluation of the World Bnk support in improving property tax management in Tanzania: The Case of Morogoro Municipal Council, MSc (Real Estate) Dissertation, Ardhi University.

Kironde, J.M.L. (2006), Security of Tenure as a Basic Human Right and Necessary Input into Poverty Alleviation Strategies: the Case of Urban Tanzania, Research Report, UNESCO Small Grants Programme for Poverty Eradication,

Kaijage, A. (2005), Legal Title to Land and Access to Formal Finance by Low income households: The Case of Sinza C and Miburani Neighbourhoods in Dar es Salaam, MSc Dissertation, Urban Planning and Management, University of Dar es Salaam.

Mukandala I.M. (2008), An Evaluation of the Effectiveness of Rural Land Title Certification Programme in Tanzania: The Case of Mbozi District, Mbeya Region, MSc (Real Estate) Dissertation, Ardhi University.

Kipuri, N. Sorensen C (2008), *Poverty Pastoralism and Policy in Ngorongoro*, ERETO, NPP (Government of Tanzania)

Matee, A.Z. and Shem, M. (2005), A Review of current policies and laws that touch on pastoralism in Tanzania (Commissioned by ERETO II)

Kironde, J.M.L. (2006), *Issuing of Residential Licences in Unplanned Settlements in Dar es Salaam*, Report Prepared for UN-HABITAT (Shelter Branch).

Larsson, P. (2006); *The Challenging Tanzanian Land Law Reform: A Study of the Implementation of the Village Land Act*, Royal Technical College, Stockholm.

Silayo, E.H. (2004) "The Role of the Cadastral System in Poverty Alleviation in Tanzania", Paper presented at the Conference of the Commonwealth Association of Surveying and Land Economy (CASLE), Danbury Park Conference Centre, Chelmsford UK, 21-24 April.

Tanzania (1994), *Report of the Presidential Commission of Inquiry into Land Matters Vol. I: Land Policy and Tenure Structure*, Dar es Salaam, Tanzania (Shivji Report)

Tanzania (1995), *National Land Policy*, Government Printer, Dar es Salaam.

Tanzania (2003), *2002 Population and Housing Census: General Report*: National Bureau of Statistics, Dar es Salaam

Wilson, P., Mwasa, S., Wasswa, D., Ndassiwa, N., Geoffrey, M., Massunga, D. and Alinaitwe, S. (2006), *Compensation in Compulsory Land Acquisition: The Case of Resettlement: Case Study: Expansion Project of the Mwalimu Julius Kambarage Nyerere International Airport in Kipawa, Dar es Salaam*, Year IV Semester Report, UCLAS.

Wily, A.L. (2003), *Community-based Land Tenure Management*, International Institute for Environment and Development (IIED), Issue No. 120, Tanzania.