



## The Forgotten Villages – Land Reform in Tanzania

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**Successful implementation of Tanzania's land reform is being held back by a scarcity of resources and a lack of coherence within the land administration system. Ordinary men and women in the villages are losing out, not experiencing any improvement in tenure security. Urgent support is needed to enable village authorities to carry out their task.**

Mainland Tanzania got its land reform in 1999 with the Land Act and the Village Land Act. Like other reforms in the 'new wave of land reforms' which have taken place in Sub-Saharan Africa, Tanzania's reform decentralises land administration in rural areas and encourages land registration and titling. Responsibility is vested in the existing, elected, local village governments, which are heading the process of recognising existing rights and issuing titles. The reform has been highlighted as a model for other countries to follow because it devolves much power downwards.

Implementation, however, is slow, uneven and largely project-driven. Projects deliver short-term results in geographically restricted interventions but have little overall impact. There is an unclear division of labour within the land administration structure, in particular between the district land offices and the Ministry of Lands, Housing and Human Settlements Development. The village authorities rarely get the support they need to make the new village land institutions work as prescribed. In the meanwhile, the benefits promised by the reform – economic growth and improved tenure security – are not materialising.

This calls for more attention towards improving the implementation of the land reform at the local level. Till now the villages, which are supposed to administer land according to the Land Acts, have largely been overlooked.

### UNEVEN IMPLEMENTATION

In 2005 the Strategic Plan for the Implementation of the Land Laws (SPILL) was finalised. However, it did not change much and implementation remained slow and uneven.

The complexity of the legislation is a part of the reason. The correct procedures for how to implement the Village Land Act have been established by trial and

### RECOMMENDATIONS

- Acknowledge that implementation of land policies is a long-term process, taking place at the local level and that there are no quick solutions.
- Systematically strengthen the village institutions and enable their delivery of land services – short-term project implementation is unlikely to deliver viable results in the long run.
- Allow citizens and their elected representatives to define the land reform processes in their villages.
- Improve access to information about how to implement correctly – simplification of existing procedures is necessary.
- Make it a requirement for the districts and for the Ministry of Lands, Housing and Human Settlements Development to facilitate activities in the villages.

error over the years. Some simplifications were made; for instance the number of forms required to apply for and issue a title deed in a village (a Certificate of Customary Rights of Occupancy, CCRO), was reduced by the Ministry and by the Property and Business Formalisation Programme (in Swahili known as MKURABITA) projects.



Some changes were made without changing the laws. Much of the know-how about the proper procedures, however, has not been made public and access to information is restricted. Citizens and stakeholders therefore depend on the Ministry, even where implementation activities are not part of the Ministry's own projects.

In a speech to the National Assembly last year by the then Minister of Lands, Housing and Human Settlements Development, John Zephania Chiligati, he said that only around 110,000 CCROs had been issued by June 2010. Less than half of Tanzania's around 11,000 villages had received a Village Land Certificate, which is the precondition for village authorities to take over responsibility for administering land in the villages, and only 705 villages had a land use plan in place, which is a prerequisite for issuing CCROs.



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## TO TITLE OR NOT TO TITLE?

Land rights scholars are sharply divided over whether land reforms like the Tanzanian one were ever likely to attain their stated goals. In particular, the claim that land titling enhances economic growth is disputed.

A title deed is not worth much if the corresponding institutions and services to enforce the registered rights are not made accessible simultaneously and at the local level. If not enforced, the reforms risk merely adding to the complexity and the number of rules and may reduce tenure security, especially for women and vulnerable groups.

## A DEMAND-DRIVEN LAND REFORM, PLEASE!

A number of different actors have a stake in the Tanzanian land reform agenda. The policy formulation processes were initiated in the late 1980s by Tanzanian decision makers as a response to an increase in the number of conflicts over land and a growing focus on investment promotion. The implementation projects which followed the passing of the reform, on the other hand, have been heavily influenced by donors.

Scholarly research has revealed an increasing demand for land and land registration services. Noticeably, demand has been mainly identified in areas with high population density and increased competition over land, i.e. urban and peri-urban areas. In these areas it has become the norm that some kind of written proof of ownership is required when land is transferred by sale, lease or allocation. Written proof is also used in conflicts over land. Even in remote rural areas a similar pressure for some kind of registration of land is now being observed.

These processes of 'privatisation from below' are currently taking place in many areas of Tanzania, regardless of state policies. The situation, however, is far from uniform across the country. In areas with shared pasture land and with significant forest resources which cannot easily be divided, communal ownership and management is often preferred. In Kiteto District, in cooperation with an NGO, villages have long tried to secure pastoralist grazing rights through the drawing up of land use plans. However, because the pressure on land was too high and land was being grabbed, they started processes of individual titling on parts of the land and soon a combination of the different regimes will prevail there.

Tanzania's Village Land Act could be seen as a response to this demand from below for land services. Potentially, it could make transactions more transparent and the authorities more accountable to the citizens. However, it should not be taken for granted that the reform achieves these goals. In order to do so, it must support solutions which the villages demand.

## A DECOUPLED LAND ADMINISTRATION STRUCTURE

Tanzania's choice to vest power over land in existing village authorities has been lauded for enhancing the prospects for a successful implementation. According to scholars, local authorities have a good understanding of the complex distribution of land and natural resources at local level. The model also ensures a high degree of downwards accountability; if people are not satisfied with the leaders they can elect someone else.

This is all, however, just theory. The Tanzanian reality is a different story. As described above, there has been an abundance of projects to implement the Village Land Act in geographically-limited pilot project districts. The general administrative structure, on the other hand, is marked by decoupling, a phenomenon caused by a combination

of a lack of resources, a lack of coherence within the land administration structure and an absence of mechanisms of enforcement. Therefore, legal changes are not becoming institutionalised.

In Tanzania decoupling can be observed at all levels: the village authorities at the local level do not have the resources to establish and maintain land institutions on their own while the districts and the Ministry of Lands seem unwilling to take on responsibility for implementing the reform. More money alone, in other words, will not solve the problem. Similar problems with implementing decentralised administration over land and natural resources have been observed elsewhere in Sub-Saharan Africa.

The novelty of decentralisation challenges the way land administrations work. Although new institutions are prescribed at the local level, the offices at the district and ministry levels tend to continue to work as they did before. But implementation does not happen automatically. There is, thus, still some work to do to find out how to make decentralisation function in practice.

#### **DON'T FORGET THE VILLAGES**

Tanzania's Village Land Act gives the villages the responsibility to administer land in law. Now the time has come to do so in practice. More efforts are required to enable village authorities to accomplish the new tasks they have been assigned with.

Pilot projects so far have usually focused on only one aspect of the land reform package. The Ministry of Lands has focused on facilitating short-term titling projects in cooperation with the districts and NGOs have preferred

#### **PROJECT IMPLEMENTATION**

**The Strategic Plan for the Implementation of the Land Laws (SPILL)** was finalised in 2005. It is not likely that the implementation of SPILL is on schedule. Instead, a number of pilot projects for the implementation of the Village Land Act have been carried out.

The first pilot project was carried out in **Mbozi District** by the Ministry of Lands. In March 2004, the first CCROs (Certificates of Customary Rights of Occupancy) were issued. Then a **Follow Up Project** was carried out which focused narrowly on titling.

The Property and Business Formalisation Programme, in Swahili known as **MKURABITA**, also focuses on titling. MKURABITA has carried out two major pilot projects in rural areas: in Handeni (2006-7) and in Bagamoyo (2007-8).

**The largest pilot project to date has started** and is being carried out by the **Ministry of Lands** and is funded by donors as a part of the **Business Environment Strengthening for Tanzania (BEST)** Program. Unlike previous projects, this project is applying a comprehensive approach aimed at adjudicating all land parcels in the chosen project areas.

#### **TANZANIA'S NEW WAVE LAND REFORM**

Tanzania's 1999 land reform consists of two acts: the Village Land Act which governs land in village areas; and the Land Act which governs land in cities and other areas. The Village Land Act provides the legal framework for how existing rights to land can be registered and titled, and how to set up a system for handling land conflicts in rural areas.

From a legal point of view, the Tanzanian Land Acts were applied from the day they came into force in May 2001. From that day they were used by courts to settle disputes. The reform also aims at setting up a new land administration structure at the local level by vesting power over land in the villages. As such, it is a typical 'new wave land reform'.

The first generation of post-colonial land reforms, in the 1960s and 1970s, viewed customary land systems as being ineffective in providing the security of tenure required to ensure a productive use of land. Consequently policies were aimed at strengthening the

role of the state in establishing enforceable land rights, but with little success.

The 'new wave of land reforms' vary quite substantially, but usually include: decentralisation of the responsibility for managing land to the local level; recognition, registration and titling of existing rights; and the promotion of markets in land.

Among scholars there seems to be a consensus that what characterises them is a reluctance to centralise and override land markets and a will to simplify complex mixes of tenurial regimes.

Other scattered initiatives to implement parts of the Village Land Act can be found all over Tanzania. Typically, they are carried out by districts using funds from the President's Kilimo Kwanza ('Agriculture First') initiative or by NGOs. NGOs often work with a rights-based approach, support dissemination of information, and the establishment of institutions to handle land conflicts.



to focus on disseminating information about rights to the citizens in the villages. Both approaches are short-sighted because they tend to forget the authorities – the village councils and the village assemblies – who are the ones carrying out implementation in the villages. These authorities need more information and training to make informed choices. In doing so, all aspects of implementation at the local level should be addressed: The citizens' knowledge about the laws; the establishment of village land institutions; and the continuous delivery of land services year after year, not only in a short project implementation period. No quick solutions are available.

With the land reform in Tanzania, ordinary villagers are expected to take control over the administration of land. To succeed, this requires the rest of Tanzania's land administration structure to change accordingly. Much could be achieved if the existing institutions change their mode of operation: if district land offices put greater emphasis on training villagers, strengthening village institutions and facilitating consistent delivery of services; and if the Ministry of Lands and the Ministry of Regional Administration and Local Governance do more to coordinate activities aimed at implementing the Village Land Act in the villages. There is an urgent need to help establish viable village land administration institutions.



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