

Land Owners Perception on Land Registration Procedure in Tanzania: Case Study Kilombero, Njombe and wang'ing'ombe

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ABSTRACT

Currently Tanzania faces numerous challenges regarding Land Registration Procedure in Tanzania as reflected in land owners perceptions on the procedure, especially in rural areas. This makes the need to improve the procedure compelling. However, the current Administrative, Financial, Legal, and Institutional aspects need to be taken into the consideration in promoting and improving the process of obtaining CCROs in the country. The findings of a study that assessed the Perceptions land owners on Land Registration Procedure, suggests that there is a need guideline and practice development in order to make the procedure go smoothly. Therefore, the Government should set up some guidelines and provide support, whereby issues such as the land acts; Extensive awareness campaign, Training of villagers to process CCROs, Facilitation of District land department, and Involvement of financial institutions can be the key to improving and assuring smooth pro-

INTRODUCTION

There has always been inadequate access to land by multitudes directly dependent on land and natural resources for their reproduction in Africa (Moyo, 2003, Odgaard, 2010)). One of the fundamental principles of the National Land Policy is ensuring equal access to land by all Tanzanians. This means that, it is the objective of the policy to facilitate an equitable distribution of and access to land by all citizens. This principle is replicated in the Land Act No. 4 and Village Land Act No.5 of 1999. When it comes to access and control over land, early legislation (during colonialism) was biased against indigenous people while later legislation was biased against women. This infringement of indigenous people's land rights during colonialism was simply suppression, while that against women was a combination of economic, legal, social and cultural factors (Carpano,

2010). For example, Ujamaa Villages Act No. 21 of 1975, provided for allocation of land to the head of the household or family unit (who were usually men). As a result, women lacked independent access to land. It was argued that married woman's access to land in Africa is akin to that of a bonded laborer (Jacobs, 2002; Moyo, 2003).

The National Land Policy of 1995 was an aftermath of extensive government consultation and the report prepared by the Presidential Commission of Inquiry into Land Matters (Shivji Commission) which proposed, inter alia, improving security of tenure of land holders in villages through issuing Customary Land Certificates (Geir Sundet, 2006). Land titling programs have been launched throughout developing and transition economies as part of poverty alleviation efforts. (Atuahene:

2006; Domeher & Abdulai: 2012). This is also evident in the huge expenses incurred in implementing these policies and programmes ranging from, US\$300m in Tanzania, US\$20.51m in Ghana, US\$27m in Malawi, US\$106m in Bolivia, US\$140m in the Dominican Republic to US\$195m in Ukraine (URT, 2005; Griffith-Charles, 2004). The main aim of the new land policy was thus to promote and ensure a secure land system, to encourage the optimal use of land resources and to facilitate broad-based social and economic development. The on-going village land titling programmes are also carried out in quest to implement some of the fundamental principles of the Tanzanian National Land Policy of 1995. Some of the principles closely related with these land titling programmes are provided under Section 3 (1) of the Land Act No. 4 and 5 of 1999. These include: To ensure that existing rights in and recognized long standing occupation or use of land are clarified and secured by the law, to ensure that land is used productively and that any such use complies with the principles of sustainable development. Furthermore, the policy takes a strong stance on women land rights which emphasizes fair treatment of women when it comes to access to land. It *says the right of every woman to acquire, hold, use, and deal with; land shall to the same extent and subject to the same restrictions be treated as a right of any man.*

In connection with registration, the policy provides for registration of customary rights in order to safeguard the interests of villagers and that village land should be demarcated and documents witnessing the demarcations be prepared and given to village authorities. This has to do with protecting village land from alienation to foreign investors.

These programmes also implement other articles

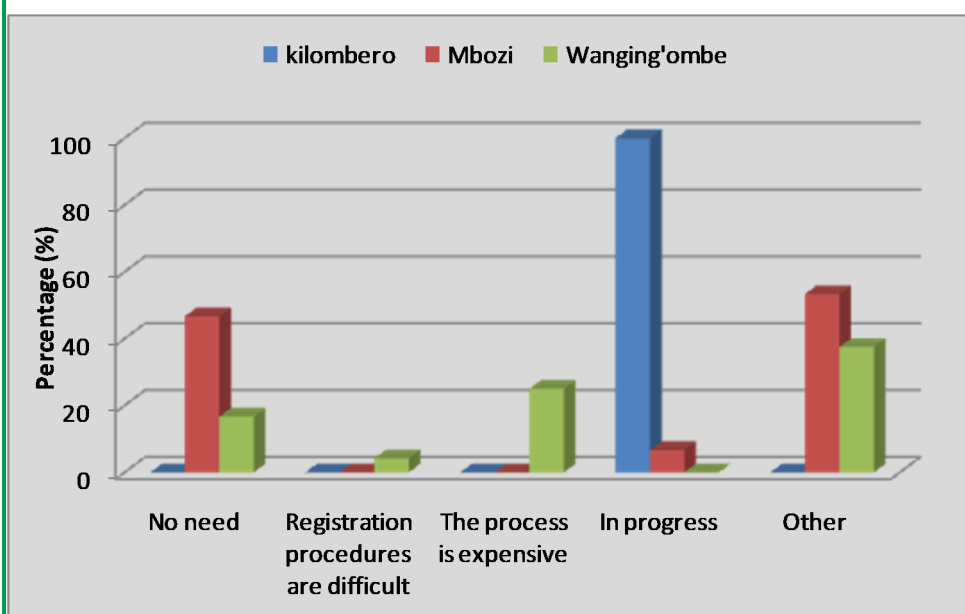
of the policy. The Land Policy requires all customary rights to be registered so as to safeguard the interests of the villagers and that village land is provided with documents to ensure protection of village land from alienation to foreign investors. But any titling is to be preceded by land use planning. The policy advocates for specific property resources to be titled to the village. On individual village titles, the policy directs that titling should be done upon request by an individual village, but if the government feels that systematic demarcation is required, it should bear the costs for the same.

The Village Land Act No.5 provides for the maintenance of a register of village land which shall be kept by the Village Executive Officer. This means that, the officer is the authority in charge of the village branch of the District Land Registry (Village Land Registry).

Some of the conditions of a customary right of occupancy include payment of rent (and any costs as determined by the village council, e.g. charges, fees, taxes, etc), maintaining land in good state, observe requirements pertaining to permission when required, comply with customary laws and by-laws, keeping boundary marks, and general proper management. Breach of any condition of customary right of occupancy may call for several measures including fine and temporary assignment of a right to another person. The law also allows exercise of remedies available under customary law.

PERCEPTION ON LAND REGISTRATION PROCEDURE IN KILOMBERO, MBOZI AND WANG'ING'OMBE

- With regard to perception of individuals on land registration procedure, about 45% of the Right of Occupancy (CCROs) .



total respondents perceived the procedure to be easy due to availability of information and it took short period of time, i.e., less than three months to acquire Certificate of Customary.

The majority (55%) reported the procedure to be cumbersome; this is ascribed by inadequate information a propos the CCRO procedures, insufficient fund and availability of limited expertise to handle the process. And various reasons were given by the respondents who reported not having registered their land across districts. These included:

- No need (19%);
- Insufficient funds to cover the cost of registration (10%);
- Certificate of Customary Right of Occupancy (CCRO) procedures too complicated (2%);
- In progress to register their land (36%);
- Other reasons-29%.

Significant differences existed between villages in these reasons. For example, in Kilombero district, in progress to register their land reasons

was more pronounced than the other reasons while in Mbozi district, the no need reason outweighed the other reasons. Statistically, with the exception of “Certificate of Customary Right of Occupancy (CCRO) procedures too complicated.

CHALLENGES FACING ACQUIRING OF CCRO

A number of challenges have been identified, the biggest being drop of morale for villagers to apply for CCROs either by taking longer time or denial of CCROs as collateral by financial institutions. This has been brought about by the fact that during sensitisation, there was over-emphasis on CCROs being able to help farmers secure loans from banks. This has not been the case in all study villages. For quite some time, banks have been reluctant to advance loans to CCRO holders, giving a number of excuses one being section 30 of the Village Land Act No.5 of 1999 which restricts sale of defaulter’s land to buyers resident in the same village. The village leaders therefore find themselves in a very difficult position to convince farmers apply for CCROs. Some farmers had applied but don’t even want go to village offices to pick their CCROs when notified that the CCROs are ready. They claim that the exercise was politically motivated to achieve some political end unknown to them.

- Inadequate Information and procedures took more time

ESRF POLICY BRIEF

- Few experts
- Procedures are too long
- Establishment of the boundaries is difficult
- Other challenges include boundary conflicts and lack of education amongst villagers resulted into very slow adjudication

RECOMMENDATIONS AND THE WAY FORWARD

- For the district authorities to effectively implement the land acts; it's necessary for government to make sure all key staffs are always present. Whenever a person is transferred or resigns from the position, replacement should not be prolonged.
- District authorities need to prepare short term and long term Land Act implementation plan which will provide continuation for donors and government funded short term plans.
- The districts have to design financing mechanisms of Village Land Act implementation from internal sources and from outside (national and international agencies), as it was noted that, districts do not take initiatives to source funds from donors.
- Existing National Land Policy, 1995 has covered a wide range of issues which are not fully reflected in the Land Acts No. 4 and 5, therefore land laws reform need to address this.

Existing Land Acts No. 4 and 5 originated from British legal system rather than Tanzania common practices and also have over centralized land administration, therefore land reform has to take onboard these shortcomings.

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