



Tanzania Natural Resource Forum

## Key Messages

- ***There is an urgent need to understand, address and find solutions to issues regarding land based investments in Tanzania***
- *Land laws are cumbersome, complex and even contradictory*
- *Growth and development strategies do not adequately address land or the value of citizens' existing and potential contribution to growth*
- *Information about land acquisitions and investments should be more public, accessible, accurate and transparent – for the benefit of the general public and investors*
- *Tanzania should seek a solutions-approach agenda towards quality foreign investments, providing secure and well governed land rights to both communities and investors*

# Understanding Land and Investments in Tanzania

Land conflicts are not new to Tanzania. But with increasing focus on formalization of land ownership and a drive to increase foreign direct investments, tensions over land and disputed land are intensifying. From community, government to investors, a broad range of stakeholders have expressed strong concern over the current unstable situation. These stakeholders are prepared to engage in dialogue, bringing together the various interests in land and address emerging conflicts to find a suitable way forward. This brief is informed by a scoping study and the results of a national workshop. Both made clear that any dialogue on land, must focus on the following: communities need secure land tenure; governance over land, natural resources and investments must be strengthened; and Tanzania should only seek quality foreign investments that contribute to growth and development of the nation.

## Land based investment is an urgent issue needing to be addressed.

There are stories about failed biofuel projects leaving communities landless and jobless. Tourism companies have purchased land leases that communities dispute. There are reports of investors paying 200Tshillings per hectare per year, while displacing residents. And Members of Parliament are accusing high-level politicians of dubiously acquiring land.

Despite these ongoing challenges, strategies for mitigating or resolving such conflicts have yet to be realized, and in turn, tensions are only intensifying. A broad scoping exercise was carried out, with consultations including government, civil society, private sector, development partners, scholars and experts. Although there were many varying views, there was one common ground—there is a need for dialogue among different stakeholders to address land based investments in Tanzania.

### Getting to the root of the problem...

People in Tanzania occupy and use land and for the majority, land and land resources are the source of their livelihood, identity and wellbeing. In an effort to strengthen growth and development, the

*Due to complex and unclear land acquisition laws and processes, security over land tenure at the village level is minimal at best*

Government of Tanzania wants to encourage foreign investments in the country, which often requires land (e.g. mining, tourism and agriculture). Due to complex and unclear land tenure laws and land acquisition processes, security over land tenure at the village level is minimal at best, leaving communities vulnerable to have their land “taken” for investment purposes. Whether the investment followed proper procedure or not, communities tend to lose out on both rights over land and meaningful compensation for this loss.

## Land laws are cumbersome, complex and even contradictory

### Is there really land tenure security in Tanzania?

All land in Tanzania is considered public land, which the President holds as trustee for the people. The President has the ultimate say in land allocation and transfer of rights.

### Types of Land

There are three categories of land in Tanzania: Village Land, General Land and Reserved Land. One of the main challenges (and threats) is the lack of agreement in what constitutes general versus village land. Under the Land Act 1999, general land is defined as all land that is not reserved land or village land and includes

*unoccupied or unused village land.* But the Village Land Act does not state general land as including “all unoccupied or unused village land.” This creates uncertainty and room for interpretation, posing a threat to communities that might actually use “unoccupied or unused village land” (e.g. pastoralists reserve grazing land that is essential for their livelihood, but not used year-round), set aside land for communal use (fuelwood, wildlife, recreational, spiritual) or for future generations.

But even if the majority of land (~70%) is considered village land, tenure is not secure, as it only provides administrative and user rights to the land and it can still be transferred to general land for investment purposes.

**Types of land tenure and administrative rights:**

There are six different types of administrative rights over land, all of which have different steps towards granting and titling. But three types – village land, customary right of occupancy and granted right of occupancy – serve as the basis for land ownership and management in Tanzania. The first two – village land and customary right of occupancy – are particularly important for communities, but often the complex procedures for acquiring formalized rights to these are left incomplete.

Below outlines the steps towards acquiring rights over land and the challenges associated.

Types of land rights	What is it	What does it mean	How is it “Official”	Challenges
Certificate of Village Land (on Village Land)	Land falling under jurisdiction and management of a registered village (Village Land Act 1999)	Villages have the right to the land that their residents have traditionally used and managed under customary principles (administrative rights and user rights)	Villages have demarcated their land, registered their rights and obtained certificates evidencing their rights: “Certificate of Village Land.” This is held in the Village Land Register	<ul style="list-style-type: none"> <li>This is not considered tenure, instead it is recognition of administrative rights and occupational use of land, which can leave a community vulnerable without secure ownership.</li> <li>Certification requires agreement upon the boundaries with neighboring villages, which can be complicated due to the historical context in which villages were established in Tanzania.</li> <li>The Land Use Planning Act 2007, requires a village to produce land use plans before it can allocate land<sup>1</sup>. Village Council is considered to be the authority for land use planning, and the Department of Physical Planning is supposed to assist with this, but the process is often expensive, technical and complicated. To date, only ~850 villages have Village Land Certificates (of ~11-14,000 villages).</li> </ul>
Certificate of Customary Right of Occupancy (on Village Land)	Right of occupancy, which is created by a Certificate of Customary Right of Occupancy (CCRO), including deemed right of occupancy (Village Land Act 1999, Section 2)	A person/group of persons (residents or non-residents of the village - not foreign) can apply for a CCRO for Village Land that they hold under customary law (they can sell or lease this land) – a foreign investor can only access such land if as a minority shareholder in a Tanzanian company	A CCRO is only granted if fully agreed by village government (and in some instances District Council or Commissioner must approve allocation)	<ul style="list-style-type: none"> <li>In theory, CCROs can be leased and sold (with Village Council approval), but they are essentially null and void as banks rarely accept them in practice.</li> <li>Similar to Village Land, CCROs are complicated to acquire as they are carried out and managed at the village level, which must have a land use plan and a solid understanding of land laws and procedures. Often this capacity is limited.</li> <li>Figures suggest anywhere between 14,000 and 165,000 CCROs in Tanzania of an estimated potential 8 million (and pilot programs estimate up to 40 million CCROs)</li> </ul>
Granted Right of Occupancy (on General or Reserved Land)	Right of occupancy for up to 99 years, which allows foreign investors to acquire rights to land on general and reserved land	Foreign and large-scale investors can acquire land rights	The Commissioner of Lands is the authority for these decisions (local level government is not involved)	<ul style="list-style-type: none"> <li>Village Land can be transferred to General Land for GROs, where communities often lose out</li> <li>Annual leaseholds are costly</li> <li>Leaseholds have been contested with questions of multiple issuances</li> </ul>

Table 1: Overview of types of land rights

<sup>1</sup> The regulations under LUPA 2007 have yet to be passed, so it is unclear if this is a legal requirement now.

*Dilapidated equipment at the site of a failed biofuel project in Southern Tanzania*



In order for this structure to work, local level administration of land must be strengthened. But due to complexities and challenges with this structure, land acquisition for large-scale investment can fall to the authority of the President, who can transfer village land to general land for investment purposes. When doing so, communities not only lose their land, but they also lose out on financial gains from the lease or sale of the land. And, if an investment fails, it is not clear who has ownership of this land that was transferred for the “public interest.”

### **Information about Land Acquisitions and Investments should be more public, accessible, accurate and transparent – for the benefit of the general public and investors**

“Land grabs” is a popular headline in Tanzanian newspapers. However, there remains a real gap in information available on such grabs—by whom, how much and why. It’s obvious that there is a challenge with land and investment, but it’s not well understood how big this challenge is or why it is here. This is mostly due to a general lack of information about how much land is really “available,” clear procedures and transparency in the investment and land acquisition process in Tanzania. Village certificates can go missing and land use plans have disappeared.

The Tanzanian government is actively seeking investors in agriculture and other sectors as part of its development and economic strategies. This is based on an assumption that there is an abundance of land available for investment in Tanzania. Yet, the amount of land actually available is not all that clear, nor is it known how much land is acquired by local or foreign investors each year. It’s impossible to keep investors accountable without publically accessible information regarding investments. Likewise, it’s unattractive for investors to engage in Tanzania without understanding all the possible investment opportunities (i.e. land) available. Indeed, some investors consulted during the scoping study noted the challenge in accessing information about adequate and ready to use land.

#### **Where can investors invest?**

The Tanzanian Investment Center developed a Land Bank to ease land acquisition processes for investors. But with the current chaotic situation in land administration,

where information about land is either unavailable or contested, it is unable to serve its purpose.

Research informing this brief has proved it is extremely challenging to readily access any data that shows how much land is available or has been acquired and granted to local or foreign investors.

### **Growth and Development Strategies: needing a new lens**

The vehicle for realizing Tanzania’s Development Vision 2025 is the National Strategy for Growth and Reduction of Poverty (i.e. MKUKUTA). It mainly focuses on accelerating economic growth, reducing poverty and improving the standard of living and social welfare of Tanzanians. It emphasizes active private sector participation, specifically pointing to agriculture and mining as main potential drivers. Despite this, the Strategy fails to provide necessary safeguards to manage risks, particularly with respect to land rights, which is essential to both industries.

#### **Big is beating out small**

MKUKUTA recognizes that 80% of Tanzania’s labor force is supported by agriculture, mainly small-scale farming. Yet it focuses on strategies (e.g. Agricultural Sector Development Program and Kilimo Kwanza) that look to reduce dependence on rain-fed agriculture through modernization and commercialization of private sector based small to large-scale agriculture.

The National Land Use Framework Policy 2009-2029 proposes an increase of commercial farming and ranching land from 2% to 18%. And up to 12 million hectares of prime grazing and settlement land is slotted for replacement by ranches. These



*Disputed land between investors and communities in Northern Tanzania*

strategies do not recognize that small-scale farmers and pastoralist are also investors, and there is no plan to support micro-investment opportunities that encourage the growth and expansion of those who provide food and important resources to the national economy.

***Taking another look at strategies and priorities for Tanzania***

Today, with issues of climate change and a growing population, existing strategies may not be sustainable or realistic. Local livelihood development opportunities and local adaptive capacity of small-scale agriculture and livestock producers needs to be considered and emphasized in development priorities. But most importantly, land, the number one ingredient for all of this to work, must sit at the center of strategies for Tanzania to achieve its sustainable development goals.

*Investments should be seen as an opportunity to Tanzanians, but they will only be viewed that way if they are transparent, fair and actually benefiting Tanzanian citizens.*

**A Solutions-Approach Agenda**

***Promoting Good and Quality Investments, and rights of citizens and investors***

Governance over land and land tenure in Tanzania needs to be addressed and improved, but so does the investment setting.

There are a number of international instruments and initiatives that could be leveraged to encourage investors—both national and foreign—to act more responsibly in matters associated with land acquisition. Where local and national governance fails, these instruments can provide mechanisms to pressurize business and its investors, if not legal action. These could include existing frameworks

developed by UN, OECD and the African Union. Tanzania also could strengthen existing national instruments for regulating corporate behavior, but also promote existing quality investments and seek opportunities for sustainable financing activities.

Investments should be seen as an opportunity to Tanzanians, but they will only be viewed that way if they are transparent, fair and actually benefiting Tanzanian citizens. During consultations, politicians noted that there must be meaningful benefits for citizens. Clear investment procedures and safeguards can help ensure this occurs, as can better information for investors about land that is suitable, accessible and truly available.

**Conclusion**

The many and often divergent interests in land need to come together and engage in open and honest dialogue about the land crisis in Tanzania. And citizens must be an integral part of this dialogue. Discussions should focus on strengthening local rights and participation in decision making; making investment work for Tanzania and Tanzanians; ensuring investments support sustainable development needs of Tanzania; and recognizing the significance of rural citizens, although small-scale, as major investors in a secure future for Tanzania.



This briefing is based on a report available at [www.tnrf.org/LBI-report.pdf](http://www.tnrf.org/LBI-report.pdf). It also draws on discussions and outcomes of a stakeholder workshop on land based investments in Tanzania, which was hosted by TNRF, IIED and REPOA in March, 2012.