

Making land-based investments work for communities in Tanzania

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Key messages

1. Promote land-based investments that center on increasing smallholders' productivity, and providing them with reliable, accessible markets and fair prices for their produce to avoid reliance on sometimes unscrupulous buyers and processors.
2. Review the current compensation approach to allow communities to be stakeholders and beneficiaries in the whole investment life cycle instead of the current approach where they lose access to use, control and own land for good.
3. Promote business models that allow communities to be lead producers and/or partners and that give them the power to participate in production and decision-making, and henceforth protect their business interests. This can be done by enhancing farmers' cooperatives.
4. Put in place mechanisms that will ensure meaningful and engendered community participation and inclusion in the entire life cycle of land-based investments.
5. Protect women's land rights during the land acquisition process and the investment life cycle. This will help decision makers put mitigation measures in place to avoid violations of women's land rights and ensure women's security of land tenure and the associated assets.
6. Prioritise policies and laws that provide domestic mechanisms to handle land-based investment-related disputes to protect national interests and ensure investment contracts avoid stabilisation clauses which weaken communities and the state which host large-scale land-based investments.
7. Create mechanism that enable communities, CSOs and academics to review, audit and monitor land-based investments to ensure that the objectives for investments are realised.

Summary

Tanzanian policy makers have an opportunity to spearhead the implementation of the country's industrialisation agenda through integrated and people-centered land-based investments. In a country where most people depend on land to derive their daily subsistence, it is critical that legitimate land owners are given a central focus in land-based investments that include but are not limited to agriculture, livestock keeping, tourism, and forestry. Evidence shows that existing large-scale land-based investment in many places in the country either marginalise or exclude small producers, particularly women. Small producers are often less engaged in designing, implementing and monitoring land-based investments. Current arrangements on compensation and benefit-sharing from land-investment further marginalise communities who give up their land for the development of such investments. This policy brief provides key messages, updates the state of land-based investments in the country, and makes recommendations to make the sector viable and beneficial for diverse community groups.

Context

The impact of large-scale land-based investments on communities' land rights remains at the centre stage of debate in Tanzania's quest to increase agricultural investments. Cases from Kilwa, Bagamoyo, Kilolo and Kilombero as studied through the National Engagement Strategy initiative (NES) of the International Land Coalition and implemented by among others, the Land Based Investment Working Group coordinated by the Tanzania Natural Resource Forum (TNRF) show how different perceptions among communities trigger clashes between stakeholders. Clear information flows among and between stakeholders in land-investment is important for communities to benefit from large-scale land-based investments. In this brief we explore four key areas surrounding land-based investments in Tanzania, including meaningful community consultation and participation; land-based compensation approaches; gender implications of large-scale land-based investments, and the wider policy implications of various available tools and alternatives.



Meaningful community consultation and participation

Community consultation and participation in large-scale land-based investments needs to consider existing power imbalances between different parties and ensure active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes¹. Community consultation and participation in decision making for matters affecting their rights including those related to property is both a constitutional and statutory² requirement in Tanzania. However, experiences from Kilwa, Kilombero, Bagamoyo, Kilolo districts among others show that communities are not meaningfully engaged to effectively participate in the entire investment life cycle and, therefore, stand at the receiving end of the process. In Kilombero valley where the sugar production takes place, cane out-growers are not integrated into the business chain to realise their legitimate full potential in the sugar industry.

Elsewhere, in Kilwa District, communities from the four villages of Mavuji, Migeregere, Nainokwe and Liwiti were badly affected by the Dutch Company – BioShape which irregularly acquired 34,000 hectares of land to produce biofuels from *Jatropha*. Although BioShape as a company does not operate any piece of the farmland, and the whole investment failed to take off, communities are still struggling to assert their land and other resource rights on this acquired land. Their failure to obtain redress in the face of unsuccessful large-scale investment is largely due to their inadequate consultation, participation and inclusion in the company's proposal land acquisition, business plan and investment model.³

Land-based compensation approach

Both the Tanzania's Land Act No. 4 and the Village Land Act No.5 of 1999 require landholders to be accorded full, fair and prompt compensation⁴. Compensation is payable to the individual or entity such as the Village Council for land not owned by individuals within the village boundary. Moreover, the law requires a land valuer to value the land, guided by the market value and to pay compensation to landholders.⁵ While land laws have improved the compensation package compared to the previous Land Ordinance of 1923, some grey areas exist on the standards it provides.^{6,7}

Studies conducted in areas with large-scale land based investments such as Kilwa⁸, Kisarawe⁹ and Bagamoyo¹⁰ highlight the compensation challenges landholders face, which include unfair and delayed compensation, conflicts of interest in computing compensations, paying compensation to individuals or entities not entitled to it, and using outdated compensation models, hence little was paid.

In Kilwa, only 40% of the compensation paid by BioShape was received by landholders, i.e. villagers from the four affected villages; 60% of the total compensation was taken by the district council.¹¹ In Kisarawe, compensation for bare land was delayed more than seven years and even when it was paid, a chunk of it was taken by the district council.¹² In Bagamoyo, some communities have not been compensated to date.¹³

Addressing these challenges requires changes in the law and practices. Moreover, compensation alone does not guarantee the restoration or improvement of the livelihood and social welfare of displaced persons and communities. IFC Performance Standard 5¹⁴ requires that, apart from compensation in terms of cash, projects should ensure landholders receive access to social networks, fallow and pasture land, as well as access to social services such as education. In addition, it is time for Tanzanian policy makers to revisit existing compensation provisions and allow people to be part and parcel of land-based investments through shareholding and using their land as an initial investment asset.¹⁵

Gender implications of large-scale land-based investments

Large-scale land-based investments are supposed to benefit local communities in the villages that host investments. However, from experience, investment impacts are disproportionately borne by women. Customs and traditions predominant in Tanzania give women access land through their male relatives or clan heads. Despite land laws providing equal rights between men and women to access, control and use land, implementation has been inadequate which results in women failing to influence investment and land acquisition processes.¹⁶

Evidence from around southern Africa shows that while plantations create some jobs, such jobs are often limited and of low quality. Instead, commercial farming and outgrowing have some significant local economic impact and within these arrangements there are winners and losers.^{17,18} Findings from the Tanzania's large-scale sugarcane plantation in Kilombero confirm the observations from other African countries. Succinct longitudinal analysis comparing employment data gathered in 1992 and 2013¹⁹ show that many more people were employed by the company in 1992 than in 2013, with a total of 4,008 men and 495 women permanent employees in 1992, compared with 760 men and 110 women in 2013.

In Kisarawe too, a 2011 study conducted by Lawyers Environmental Action Team (LEAT)²⁰ found that women in the district are experiencing water shortages and have been denied access to firewood, herbs, and other natural resources vital for sustaining their livelihood.²¹ The study also²² found out that women have not been meaningfully involved during land acquisition. The study thus recommended a need to village-level model bylaws to guide women's engagement and participation around land-based investments.

Significant gendered implications are caused by land and water enclosures in Bagamoyo district, where large-scale agriculture in sugarcane is ongoing.²³ In addition, in areas where there are significant land use conflicts there are women greatly struggle to make claims on their land rights. In many ways, these struggles are also shaped by civil society organisations.



Wider policy implications of various available tools and alternatives

The current Industrialization Agenda promoted by the Tanzanian government can hardly materialise without service and infrastructure development, and substantial investment directed towards the agricultural sector. Industries that are not linked to the agricultural sector can barely bring economic improvement to the livelihood of the majority of small producers.²⁴

The required reforms in agriculture and other sectors such as tourism can be informed by recent systematic reforms in the extractive sector giving the state permanent sovereignty over the natural resources.²⁵ Further reforms to enhance the business environment²⁶, boost tourism, and land tenure have just been completed or are underway.²⁷ Moreover, there has been a nationalistic approach to address natural resources and land questions.²⁸ Furthermore, the government has taken measures to address corruption and resolve some longstanding land conflicts, especially those that involve communities and reserved lands.

Although these are promising changes, many challenges face the land sector, including the slow pace in implementing land laws, conflicting legislation and un-coordinated land governing institutions, growing land use conflicts, and increasing encroachment on rural land due to growing urbanisation. The existing policy, legal and institutional framework, further favours investors although, in theory, they all tend to protect the citizens' land rights.²⁹

Indeed, as Tanzania moves to execute reforms in agricultural land sector it should use existing regional and global tools such as the African Union (AU) Framework and Guidelines on Land Policy in Africa (AU F&G) in 2009, AU Policy Framework for Pastoralism in Africa of 2010, and the United Nations Food and Agriculture Organization Voluntary Guidelines for the Responsible Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security of 2012. All of these be adopted and implemented at the country level to improve governance of land-based investments. These regional guidelines provide guidance on how African states should design legal and institutional frameworks to govern land, which guarantee secure land rights for existing customary owners, land-based investments models, and protection and governance of pastoral rangelands.

Tanzania has signed all of these frameworks but is moving slowly in adopting and implementing compared to other countries in the region. Importantly, the guidelines to ensure equitable participation of the population in land-based investments while addressing equitable access, gender and land-based investments conflicts. Therefore, land-based investments must be framed using models that enable rural communities to partner with investors to improve land use, productivity and access to technology and markets, without losing access to control and own their land, and that do not lead to 'large-scale transfer of tenure rights to investors', but rather create partnerships with local resource right-bearers.³⁰

Recommendations

In order to ensure the concerns raised above are fully addressed, this brief provides a number of practical recommendations for action by the Tanzanian government and other stakeholders in land sector as follows:

- The government should ensure land-based investments focus on legitimate land users – that is small producers, especially through direct funding to support soft and hard infrastructure development, i.e. extension services, roads and irrigation schemes.
- Communities need to have timely and reliable information about land-based investments and be made aware of their rights and responsibilities in land-based investments issues.
- Policy makers, CSOs and other stakeholders need to support the implementation of regional and international frameworks and guidelines such as AU F&G and FAO VGGT in Tanzania. CSOs can champion the process by conducting awareness-raising campaigns/workshops to promote the frameworks and guidelines, alongside other national and local guidelines, especially in areas where land-based investments are promoted and/or implemented.
- Frame land-based investments on models that enable rural communities to partner with investors to improve land use, productivity and access to technology and markets, without losing access to, control over and ownership of their land, and that do not lead to the 'large-scale transfer of tenure rights to investors', but rather create partnerships with local resource rights-bearers.
- Improve transparency and accountability in land-based investments by facilitating the participation of overseeing institutions such as village councils, parliament and NGOs to effectively audit, monitor and evaluate investments.
- The government and CSOs should ensure that land-based investments are implemented in an inclusive and sustainable manner and that they do not lead to rural communities being displaced and denied their access to, control and ownership of land and other vital resources such as water, fisheries, forests, livestock pasture and migratory corridors.
- The government needs to develop clear Policy Statements as it reviews the National Land Policy to recognise and ensure rural communities' participation in the design, implementation and monitoring of land based investments.



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