

Variation of Cost, Approaches and Players in Land Tenure Security for Marginalised Communities: A Review of Selected Agro-ecological Zones in Tanzania.

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ABSTRACT

Overhauling land policies and laws in Tanzania have given room for myriad players from Central, Local Government, Civil Societies and Non-Governmental Organizations to implement interventions geared towards land tenure security for marginalized communities. Such operations are characterized by the lack of proper, well-articulated and standardized guidelines. Therefore, resulting in variations on the approaches, required financial resources, and players in village land use planning and issuance of land tenure certificates. Using both qualitative and quantitative data collected in 2017, this study reviews financial costs, approaches and players` variation in securing land for marginalized communities in three agro-ecological zones of Tanzania. Such variation plays a significant role in determining timing and usefulness of the land tenure security intervention to the communities. The longer it takes for the tenure certificate issuance the less useful these certificates are in reaching the goal of securing interests of the communities. Drastic changes can happen in the communities such as death, land parcel subdivision, or planning area declaration (urban center) having negative implication to tenure certificates. Innovative measures such as combining several land use planning stages, involving relevant parties, reducing planning team members and getting the team to work during working hours (to avoid per diem) have proved to drastically reduce the cost in some areas. Such emerging measures to reduce costs both in village land use planning and issuance of tenure certificates are seen as panacea for improving land tenure security for marginalized communities. Given the decreasing trends on financial resources allocation, both from the Government and Civil Society Organizations, the innovative measures for reducing the cost while ensuring land tenure security must be widely disseminated and adopted by players. This will ensure that the majority, but especially the marginalized communities` interest on land are secured.

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1. Introduction

Previous studies have demonstrated the importance of land resource for socio-economic development, food security and poverty reduction in the Sub-Saharan African countries (Muchomba, 2017; Lambretch and Sarah, 2016). In recent years, land in the global south particularly in SSA has become increasingly scarce due to pressures arising from a variety of sources such as demographic growth and influx of large-scale land-based investments (Jayne et al., 2015; van Gelder et al., 2011; Cotula et al., 2009). These pressures have led to an increase in competition for land between multiple users: farmers, herders, urban elites, and foreign investors. Consequently affecting customary rules, practices, and institutions set up that have traditionally administered land access for decades. Large-scale agricultural investments present the risks to smallholder farmers by losing access to and control over fertile land, which they depend for food crop production (see e. g. Ouma, 2015; Hounkonnou et al., 2012; FAO, 2012; Salami et al., 2010; van Braun and Meinzen-Dick, 2009; World Bank, 2008; Hurst et al., 2005).

In Tanzania, land resource contributes a major share of the Gross Domestic Product and supports the livelihoods of more than 67% of the population who lives in rural areas (URT, 2016; FAO, 2011). The 2013 National Land Use Framework Plan indicates that about 70% of all the land in the country is village land, on which the majority of the population depends for their livelihoods. As such, the need to codify tenure rights to mitigate the risk of conflicts and losses of land, have become of great significance, especially for smallholder farmers, miners, and nomad pastoralists (FAO, 2015).

2. A glimpse of land tenure security in Tanzania

Changes in laws and policies in Tanzania especially in the 90s aimed to formalize customary ownership rights and to bring informal land relationships into the legal formal system. Such changes sought to improve land access, use and tenure security to marginalized communities in areas where tenure insecurity was regarded to be high. The program to reform land administration systems and formalize customary land tenure in Tanzania stands out as an example case (Fairley, 2012). The reform was based on the findings of the Presidential Commission on Land Matters (1992), which recommended two forms of tenure rights - the "Granted Rights of Occupancy" for general lands vested to the Land Commissioners and the "Customary Rights" for village lands vested to the villagers (Olengurumwa, 2010; Shivji, 1998). The Land Act, No. 4 of 1999, the Village Land Act, No. 5 of 1999, and the Land Regulations issued in 2001 codified such recommendations. Article 4 (CAP 113) of the Land Act established three categories of public land: general, village, and reserved land. Article 14, 1 (a) (CAP 114) of the Village Land Act provided customary rights of occupancy in village lands (URT, 1999a; URT, 1999b, URT, 2001).

The customary rights aims to protect the interest of marginalized communities, by addressing land related conflicts thus contributing to rural development. A recent report from the National Land Use Planning Commission (NLUPC) indicates that persistent land use conflicts in Morogoro region between pastoralists and farmers have been reduced significantly due to participatory village land use planning and issuance of tenure certificates interventions.

3. Trends in land tenure formalization in Tanzania

Despite the use of robust interventions on land titling from various players, nearly two decades after the late 90s reforms, the number of communities with either title deeds or certificate of customary rights has remained low. Reportedly, more than 60% of the land in Tanzania has not been surveyed and very few tenure certificates have reached the communities (OXFAM, 2015). This implies that the situation is worse in rural areas where the majority of the marginalized population resides. For instance, according to the National Land Use Planning Commission only 1645 villages (13.1%) out of 12,545 villages in Tanzania have land use plans (NLUPC, 2015; Namkwahe, 2015). The consequences are; i) increase in land-related conflicts, ii) multiplication of informal settlements, iii) soil, forest and land degradation, iv) unsolved sanitation issues, and iv) increased outbreak of communicable diseases (MLHSD, 2015).

A major key reason for this low success rate in land formalization is expense and unaffordability of the process that excludes many low-income families especially in rural areas. The titling programme under the Ministry of lands Housing and Human Settlement Development estimated that for titling all village land in the country a total budget of 126,837,002,500 will be required (MLHSD, 2015). A study by the Centre for Global Development (2014) noted the negative implication of cost in land formalization interventions especially in developing countries (Collin,et al., 2014).

4. Methodology

This study adopted a combination of different techniques to capture stakeholders` views, experiences, and suggestions on land tenure formalization processes in selected areas. Qualitative data was collected from the field and complimented by quantitative data from secondary sources. Key Informant Interviews with Government officials, land experts and politicians were conducted in all studied areas. These were complemented with Focus Group Discussions involving Village Council Members, VLUM team members and Non-Governmental Organizations. Other study participants included district level officials responsible for facilitating participatory village land use planning and tenure certificates such as members of the Participatory Land Use Management (PLUM) team, District Land Officers, Town Planners, and District Land Surveyors.

The study areas included the Lake Zone represented by Shinyanga region (Bukangilija village in Maswa district), Northern Zone represented by Manyara region (Hanang district – Dirma and Mreru villages), and the Coastal Zone represented by Morogoro region - Morogoro and Kilosa districts (Gombola and Mtamba villages) where land tenure certificates have been issued to communities under the supervision of different organizations.

Five different players across the three zones took part in the study; HAKIARDHI, MKURABITA, Land Tenure Support Programme (LTSP), OXFAM and MBOZI approach that was supported by the Ministry of Lands, Housing and Human Settlement Development (MLHSD).

5. Results and discussion

5.1 Goal for land tenure formalization across the players in three zones

There is a variation in terms of the goal for tenure security across the three zones studied. In the Lake Zone and Northern Zone, the goal was to improve livelihoods of smallholders, particularly the agro-pastoralists and nomad pastoralists respectively. In the Coastal Zone, the goal was to enhance the access to land and ownership security for women and youth who considered lacking ownership and control over the land.

Across the selected players in land tenure formalization it can be seen that organizations such as OXFAM aim at improving tenure security of the marginalized groups of women and nomad pastoralists. The MKURABITA aims at bringing informal customary land arrangements into a universal formalized land administration. This is regarded as a means to empower the poor majority to use their land for economic prosperity. The LTSP and HAKIARDHI initiatives are directed towards addressing land related conflicts, creating awareness on land rights to the rural communities and enhancing transparency on large-scale land related investments.

5.2 Approaches to participatory village land use planning and tenure certificate issuance

In the study areas, there is a substantial variation in the approaches employed by players for the purpose of facilitating participatory VLUP and issuance of CCROs. While the VLUP Guidelines call for players to liaise with the District Council and Central Government Departments such as the NLUPC and the Survey and Mapping Division (SMD), to ensure that the plans are prepared following land use planning standards, such collaboration and information sharing is rarely seen among the players. This is verified by the fact that the reports of land use plans have not been submitted to the NLUPC, which is the responsible institution for scrutinizing and forwarding the reports to Minister responsible for gazzement.

Oxfam approach to tenure formalization involves Civil Society Organizations (CSOs), which are in principle operating at respective district and village level. CSOs are collaborating with the Local Government Authorities in village land use planning processes and issuances of tenure certificates to communities. Such collaboration between District Authorities, Village Councils and CSOs has tremendous advantages, due to the fact that CSOs are constantly discussing and intervening in the collaboration process. Although it is mutually agreed that more resources are required in terms of finance, approach, timeframe, and team composition. Other approaches (Mbozi, MKURABITA and LTSP) solely depend on the Central Government decisions in determining the village land use planning process and issuance of tenure security. Across all approaches the Village Land Use Management Committee is involved in Participatory Rural Appraisal (PRA), resource mapping and participatory village land use planning.

In the Lake Zone, where the District Commissioner's (DCs) office has been involved especially in resource mobilization and awareness creation, a significant high number of community supports were reported. Both, village land use planning and issuance of tenure certificates have been successful. A notable example of such collaboration was reported in the Lake Zone

(Shinyanga and Maswa districts) where District Commissioners teamed up with CSOs and NGOs (SHDEPHA+, RUDI and REDESO) in creating awareness and resolving land related conflicts.

5.3 Cost and timeframe in village land use planning and issuance of tenure security

In the investigated areas, the variation in timeframe and required cost to facilitate village land use planning across partner organizations were prominent (Table. 1). Financial resources required for facilitating preparation of a village land use plan in the Coastal Zone (Morogoro region) and Northern Zone (Arusha and Manyara) ranged from TZS 10,000,000 to TZS 12,000,000 for the period of 12 and 20 days, respectively. In comparison, costs for funding the same intervention in Shinyanga region were significantly lower TZS 3,250,000 for village land use planning, for a period of seven days. While Village Land Use Planning Guidelines for participatory village land use planning are known to most of the Local Government authorities at district level, in Shinyanga, the shortage of resources has compelled these planning authorities to be innovative by combining some of the land use planning activities that demanded both time and financial resources¹. Such innovations included a reduction on the number of District Officials engaged in the village land use planning and ensuring that the process is undertaken only within the official working hours which implies that the PLUM team are not paid extra-duty allowance.

Table 1. Cost and timeframe for VLUP process in Oxfam Programs

SN	Criteria	Lake Zone	Northern Zone	Coastal Zone
1	Common players	RUDI, SHIDEPHA+ and REDESO	UCRT and CORD	Morogoro PARALEGAL and WOPATA
2	Cost for preparing land use plan	3,250,000	10,998,650 to 12,925,500	7,008,000 to 12,460,000,
3	Costs (TZS)	15,000 per acre	0.1-5 acre 100,000 5-10 acre 300,000 11-15 acre 200,000	4000 (per beacon) ⁱⁱ
4	Remarks	The cost is within majorities` reach	The cost is relatively high, not affordable by majority	Affordable
5	Days per village	7 to 20	44 days	20 Days

(Source: Fieldwork - March, 2017).

The number of days required for preparing a single village land use plan varies. This variation has ultimately determined financial resources allocation for intervention implementation. Further, the variation have been observed in land parcel's adjudication process. While spot adjudication process in selected land parcels of the village are recorded and processed to tenure certificates is common in NGOs led interventions (OXFAM and HAKIARDHI), systematic adjudication is common in all central government led innervations (MKURABITA and LTSP).

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By comparing adjudication approaches in terms of CCROs preparation and issuance, it can be concluded that spot adjudication process rendered few tenure certificates but facilitated to get to the targeted group in the communities. However, the systematic approach on the other hand though has resulted into more tenure certificates preparation, and fewer have reached the rural communities.

Furthermore, in some interventions, village, land titling was taking longer than expected. Findings from Gongoni Village in Kilosa District showed that about 140 CCROs were prepared but they were not yet delivered to communities. Lack of qualified District Land Officers to sign such certificates and fractured certification seal have delayed the intervention. When more time is needed for preparing tenure certificates (from initial consultation, resource mobilization and issuance of tenure certificates) raises serious concerns. Given the fact that land ownership changes over time due to either selling, death of owner, sub-division (inheritance, for instance) and changes in administrative boundaries/status (declaration of planning areas). This means that, if the intervention is not done within a reasonable period of time, tenure certificates become obsolete even before they are issued to owners.

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Table 2. Variation in land use planning and tenure certificate preparation among players

SN	Step	?	Approach				
			OXFAM	MBOZI	MKURABITA	LTSP	HAKIARDHI
1	Goal for tenure formalization	Criteria/ indicator	Improve smallholders and pastoralists` livelihoods through land tenure security	Bringing informal, customary land arrangements into a universal formalized land administration	Formalization of property and business assets, empower property owners to access loans from financial institutions	Land related Conflicts` resolution, enhancing transparency in large-scale land deals	Educating the public about land rights of marginalized groups, facilitating inclusion of representatives
2	VLUP process and approach	Preparations at District and village level	Civil society organizations are involved e.g. SHDEPHA+, CORDS, LGA (DC) officials, VC	Typical Local and central government officials	Mostly are Local government officials at district and Ward level	Mostly are Local and central government officials	Very few local government officials, HAKIARDHI
		Participatory Rural Appraisal for Participatory Land Use Management	Selected PLUM team, VLUM committee	Not Necessary	VLUM and WC (technical experts at ward level	VLUM committee	VLUM committee
		Mapping of existing village land use	Security of resource tenure and reduction of land use conflicts considered	Not applicable	Security of resource tenure	Factors such as equity, sustainability are considered	Some members of the Village Council and PLUM
		Participatory land use planning	Brought into consideration	Not applicable Not applicable	VC, all PLUM team members and technicians at	Village Council and all PLUM team members	Some members of the Village Council and

		ward level				PLUM	
		Average Cost for single VLUP	8.8 Million	NA	14 Million	13 Million	6.2 Million*
		Timing days per village	Ranges between 7 to 20	NA	44 days	20 Days	16 days
3	Land tenure security	land adjudication process	SPOT	MIXED	SYSTEMATIC	SYSTEMATIC	SPOT
		Number of CCRO prepared per village	433 in four villages	12,000 CCROs in 5 years	Not established	650 CCROs in two villages for 4 months	Not established
4	Sustainability aspects	Measures to agricultural productivity	Considered	Through improving access to financial credits	Not considered	Not considered	Not applicable
		Cost recovery mechanisms	Considered in some areas	Considered	Not considered	Not considered	Not considered
		Ecosystem conservation protection	Not considered	Not considered	Not considered	Considered	Not applicable
		Gender and social dimensions	considered	Initially was considered	Gender is not very much considered	Gender is not very much considered	Considered

(Source: Fieldwork - March, 2017).

* This is direct cost for members of the Village Council, VLUM and land use sign posts. Other costs such as payment to PLUM team, preparations of maps were not factored-in.

5.4 Cost Recovery Mechanism

Across the five approaches on tenure formalization selected, the OXFAM and HAKIARDHI approaches on land tenure security do not require communities to contribute for funding the intervention. In Arusha for example, a total number of 15 and 1 tenure certificates were issued to Masai women and for the joint pastoral area for nomad pastoralists respectively. However, it was noticed that upon intervention completion, continuation of activities were handled to the Local Government Authority (i.e. the district council). The Local Government charges in terms of contribution, and every individual independently of its status is supposed to pay for the tenure certificate. The amount is usually determined by the District Land Department in consultation with the District Council. Variations in cost occurred sometimes within the same district. They demoralize the communities to apply for tenure certificate or contribute to corruption among the land officials.

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In the Central Government led interventions (MBOZI, MKURABITA and LTSP), a standardized cost system is normally set which amounts to TZS 4,800 and every individual is supposed to pay in the process of issuing the tenure certificates (NLUPC, 2013).

5.5 Gender and Social Dimensions in VLUM and issuance of CCROs

The spot adjudication approach that has been contested by the Civil Society Organizations such as OXFAM has proven to be sensitive in addressing land tenure security across marginalized communities. By considering women's economic capacity across the zones, the interventions that employed spot adjudication approach ensured that all marginalized women can have access to tenure certificates. In some villages such as Mtamba-Kisemu in Morogoro region, women have used their tenure certificates as collateral in financial institutions. On the other hand, the MBOZI, MKURABITA and LTSP interventions employed systematic adjudication approach which is driven by land tenure policy frameworks that explicitly call for addressing gender inclusive. Although these programs rarely take these issues serious into consideration especially when it comes to implementation process. The systematic approach applied focuses on insuring that tenure certificates are prepared from all land parcels in the given area (village), no records are kept or more supportive scenario are there to ensure that women are given priority unless conflict over the land arises.

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6. Conclusion

Findings from this research have shown that, while pressure on land continues to increase, cost for securing land for marginalized communities varies from one player to another. Consequently, slowing down intervention on enhancing land tenure security. Additionally, lessons from land titling experiments in different parts of the county have shown that it is possible to leverage costs.

A careful combination of practices such as reducing the district PLUM team members, ensuring the technical team only works during working hours (to avoid extra-duty fees) and combining

preliminary stages of the land use planning process are promising innovations that need to be considered.

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Besides, resources for conducting land titling exercise from both government and foreign donors continue to decrease. As such, cost sharing is becoming increasingly important as is evident from the Lake Zone.

It is important to note that, due to high costs of facilitating land use planning and issuing of tenure security, sensitization efforts from many actors lean towards the potential /of using tenure certificates as collateral in financial institutions.

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End note

ⁱ Activities combined include awareness campaign and existing land use preparation, social economic data collection and land use proposal development

ⁱⁱ Beacons are permanent mark placed in every corner of the land parcel to mark the boundary of the farm or a property.