



**Tanzania's Land Law Reform;
the Implementation Challenge**

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ABSTRACT

A new wave of land reforms has passed Sub-Saharan African countries in recent years. Tanzania got its reform in 1999. Though expectations to outcomes are high, not much is known about how reforms affect local governance of land. This working paper provides an overview of implementation projects carried out in Mainland Tanzania and describes experiences gathered so far. It focuses on establishment of formal institutions for land administration and dispute settlement in rural areas. The implementation process is described as slow and uneven. With a few exceptions, implementation has been project-driven, largely controlled by donors and implementing agencies. At the same time the responsible ministry retains some control through its know-how, which is shared with other stakeholders in bits and pieces only. The paper concludes that more resources, more commitment and a freer flow of information is required if reform objectives are to be achieved. Independent research is urgently needed.

I INTRODUCTION

This working paper describes how Tanzania's Village Land Act, the part of the 1999 land law reform regulating land in rural areas, is being implemented. It aims at providing an overview of the major implementation projects carried out in Tanzania so far. It is part of a Ph.D. study which analyses how the land reform affects local governance of land in rural areas in mainland Tanzania.

The paper is based on available written sources. Frequently, however, project documents and project evaluations have been difficult to access. Therefore, interviews with officials in the Ministry of Lands, Housing and Human Settlements Development and with representatives from NGOs and donor organisations, conducted during six months of fieldwork in 2010, are also important sources of information.

The paper consists of three parts: The state of affairs in terms of establishment of local land administrations; the state of affairs in terms of establishment of institutions for dispute settlement; lessons learned from current and previous implementation projects.

Mainland Tanzania got its land reform when the Parliament passed the 1999 Land Act and Village Land Act in 1999-2000. The acts came into force in May 2001. The reform is one out of many in a new wave of land reforms passed by Sub-Saharan African countries during the last couple of decades (Wily 2003b: 4; Lipton 2009: 258).

Tanzania's reform was primarily a response to an increasing number of conflicts over land. Conflicts were difficult to manage and only few rights to land had been registered. By recognising existing rights to land the reform seeks to improve tenure security. It also aims at creating a market in land which is thought to improve agricultural productivity and economic growth. It does not in any way aim at

redistributing land. As such, it is a land law reform which describes how to create better administrative systems to secure those rights and how to facilitate a market in land (Fimbo 2004: 1).

From a legal point of view, the acts were applied from the day they came into force. From that day they were used by courts to settle disputes. The establishment of local institutions to administer land and settle disputes in rural areas has been much slower. The major reason is the lack of plans for implementation on the national level and the lack of resources on the local level after the acts had been passed.

With a significant degree of decentralisation in rural areas, the land reform is in line with general trends in Tanzania during the last two-three decades to gradually decentralise responsibility for delivery of public services to the local level (Max 1991: 100; Tidemand and Msani 2010: 3). Responsibility for management of land rights is vested in existing local governments and institutions at the village level. But the laws merely provide a framework for implementation in rural areas. Implementation is to a large extent left to village and district authorities (Wily 2003a: 1; Sundet 2005: 7).

This flexible approach should make implementation easier at the local level, but has proven to be problematic. The reform is complex and resources and key competences in rural areas are scarce. Access to information about the proper procedures is restricted. Without external funding and without the involvement of the Ministry of Lands, Housing and Human Settlements Development or other government agencies, it has been difficult to carry out even basic implementation activities.

The first title deeds in villages, Certificates of Customary Rights of Occupancy (CCROs), were not issued until during a pilot project in Mbozi District in 2004. By then procedures for how to implement the new law were still

Box I

Facts about the Acts

The Tanzanian land reform consists of two acts:

- The Village Land Act no. 5 which governs land in village areas.
- The Land Act no. 4 which governs land in cities and other areas.

Land is divided into three main categories:

- Village Land which includes all land within the village areas of Tanzania's 11,000 villages.
- Reserved Land which denotes land set aside for special purposes, for instance forest reserves, game parks, land for public utilities and highways.
- General Land which includes urban areas and land earlier allocated by Tanzanian governments.

All land is owned by the president, but rights over land can belong to citizens:

- Granted Right of Occupancy can be held outside of village land, or in village land, if acquired before the land acts came into force. It may last for up to 99 years. Land has to be surveyed before a Certificate of Occupancy can be issued.
- Customary Right of Occupancy can be held when a person has got hold of land in accordance with the customary law applicable in the area. It may be owned for an indefinite period. Full customary rights exist whether or not written certificates are being issued. Certificates of Customary Right of Occupancy (CCROs) are issued in rural areas by village councils. The Customary Right of Occupancy is different from Granted Right of Occupancy, but according to the law the two are given equal effect and status.

(For more information, see URT 1999a, 1999b; Wily 2003a)

Box 2**Other laws affecting governance of land in Tanzania**

Besides the land acts, numerous laws and policies influence how land is governed in Tanzania.

Some of the most important are the Land Use Planning Act, 2007; the Urban Planning Act, 2007; the Courts (Land Disputes Settlements), 2002; the Investment Act, 1997; the Law of Marriage Act, 1971; and the Land Acquisition Act, 1967.

(Wily 2003a; Odgaard 2006; Ikdhahl in Englert and Daley 2008)

being modified. They still are, though much has become clearer.

In 2005 the Strategic Plan for the Implementation of the Land Laws, SPILL, was finalised. Currently new pilot projects are being carried out and new approaches tested. In June 2010 only around 110,000 CCROs had been issued (Ministry of Lands 2010, Section 9). Implementation is envisaged to last for decades.

1.1 Strategic Plan for Implementation of the Land Laws

The Strategic Plan for Implementation of the Land Laws (SPILL) was finished in 2005, five years after the passing of the land acts in Parliament. It was made by a group of consultants engaged with financial support from the European Commission. SPILL was the response to a need for land titling, which had been identified during the implementation of an Agricultural Sector Development Programme under the Ministry of Agriculture. It was, however, made under the auspices of the Ministry of

Lands, Housing and Human Settlements Development.

SPILL is basically a mapping of activities which should be carried out in order to implement the laws. It is a planning tool with a ten year time frame, which indicates how these activities should be prioritized according to low, medium and high priorities. It identifies 9 key areas, 39 strategic principles and 92 activities. The completed SPILL from April 2005 contains a 10 year Action Plan covering the period from 2005/06 until 2014/15 and an investment plan. It is estimated that SPILL will cost over 300 billion TSH, of which only about 3 billion are foreseen to come from the ordinary government budget. Consequently, the remaining 297 billion will have to come from outside the government budget (Hakikazi 2006). It is not clear whether the implementation of SPILL is on schedule, but it is not very likely.

Whereas the land acts emphasise recognition of all existing rights to land, SPILL has been criticised for being too focused on enhancing economic growth. The plan states that the objective is to contribute to the achievement of the National Strategy for Growth and Reduction of Poverty or MKUKUTA. It will enhance the productivity and profitability of

the agriculture sector as stated in the Agriculture Sector Development Strategy and the Agriculture Sector Programme which call for commercialization of agriculture and identification, demarcation, and survey of agricultural and livestock investment zones. The focus on economic growth, some critics point out, may be incompatible with improved tenure security. For instance, SPILL criticises pastoralists and small-scale farmers for not contributing to agricultural productivity and economic growth. Such views, the critics fear, could lead to further expropriation of land for investment purposes (Odgaard 2006: 22ff).

2 IMPLEMENTATION ACTIVITIES; SETTING UP LOCAL LAND ADMINISTRATIONS

Though the Strategic Plan for the Implementation of the Land Laws was finalised in 2005, implementation appears random and project-driven, partly due to insufficient funding. SPILL was estimated to cost 300 billion TSH over a ten year period, of which only three billion TSH would come from the ordinary government budget (Hakikazi 2006: 19). Availability of donor money seems decisive for implementation activities.

Initially, the implementation process was characterized by uncertainty. The correct procedures for how to implement the Village Land Act have been established by trial and error processes over the years. During the last decade, the Ministry of Lands has accumulated know-how through various projects. Much of this knowledge, however, cannot be learned by reading laws and regulations and has not been made public. Citizens and stakeholders therefore depend on the Ministry, even implementation activities are not part of the Ministry's own projects.

The section below provides an overview of some of the main projects which have been carried out and the lessons which have been learned about proper implementation of the Village Land Act.

2.1 Initial Activities and the Mbozi Pilot

After the passing of the land acts in 1999, implementation activities only slowly gained pace. The acts were translated from English into Swahili, and basic guidelines with information about the reform were produced. Still, implementation in rural areas was slow or non-existent.

The first pilot project for the implementation of the Village Land Act was carried out in Mbozi District in the Mbeya Region (World Bank 2005: 4). Mbozi was selected as a pilot project site because it was deemed to have commercial farming potential. It was the first time attempts were made to translate the law into action and progress was slow. A few parcels were adjudicated in 2002 and 2003, but it was not until March 2004 that the first CCROs were issued (Ministry of Lands 2007a).

During the pilot a public awareness campaign on the relevance of CCROs was carried out. Most activities were left to the local authorities to take care of after the implementation of the project. Officials from the Ministry for Lands and Human Settlement Developments insisted – and still do – that the Ministry is an organ for policy making, not for adjudication; the ones to adjudicate and implement the acts are the villagers and local authorities.

Later EU supported further registration activities in Mbozi District, as described in the section below. Today Mbozi is among the districts which have issued most CCROs (in

March 2010 almost 25 percent of all CCROs issued in Tanzania).

Important experiences were gathered during the Mbozi pilot, which were to guide later implementation activities. At the beginning of the pilot project, aerial photos of the district were taken for demarcation and surveying purposes and usage of aerial photos is still among the methods being used for surveying the villages' boundaries. During the first pilots, boundaries between individual plots for the first CCROs in Mbozi were also drawn using aerial photos, the so-called Photogrammetric Method (Ministry of Lands 2007a). In later projects this approach seems to have been replaced by the use of GPS.

2.2 Other EU-Financed Activities

After SPILL had been completed, EU financed a Follow Up Project which was carried out by the Ministry of Lands, Housing and Human Settlements Development. With a budget of around 1 million EUR, the project significantly expanded the activities carried out by the Ministry in Mbozi at the beginning of the millennium (Ministry of Lands 2007a, 2007b).

The pilot project covered 15 districts, which were selected for their 'high potential' for agricultural and livestock development. It focused quite narrowly on titling. In each district eight villages were chosen for titling demonstration exercises. Village councils were asked to identify individual plots for titling in all sub-villages, after which demarcation and surveying took place. A total of around 5,000 CCROs were issued, two thirds in Mbozi District, which probably had been chosen because of the availability of aerial photos from previous activities, as described above (Ministry of Lands 2007a, 2007b, 2008a).

Different methods were introduced during this EU-financed pilot. The use of GPS and computers appears to have become the pri-

mary method of surveying in Tanzania during this project. Dissemination of information about the land laws and regulations was also part of the project. The main aim, however, was economic; to make land available as collateral for loans through titling and, thereby, to contribute to economic growth and poverty reduction.

The project expired in 2008. According to officials in the Ministry of Lands some important conclusions were drawn from this EU-funded pilot project. First, it was realised that village land registries for storing documents and registers were required, before CCROs at village level should be issued. Second, equipment in terms of GPS units and computers were required at district level. Finally, it was realised that villagers needed far more information about the new land acts; about their purpose and about how they could be used to increase security of tenure (Ministry of Lands 2007a, 2007b, 2008a). No comprehensive evaluation of the project was carried out after its completion.

2.3 Implementation Financed by the World Bank and Other Donors

By far the largest implementation project since the passing of the land acts is carried out by the Ministry for Lands and Human Settlements Development. It started in 2006, but activities in rural areas did not begin until a couple of years later. It is funded jointly by a credit from the World Bank and by DFID, SIDA, Danida, and the Government of the Netherlands as a part of the Business Environment Strengthening for Tanzania (BEST) Program.

The purpose of the program is to reduce the burden on businesses by eradicating as many procedural and administrative barriers as possible and to improve the quality of services provided by the government to the private sector. Implementation of the land reform is among

Box 3**Districts in the EU-Financed Pilot Project**

15 districts were chosen:

Mbozi, Kilombero, Korogwe, Njombe, Mbinga, Newala, Rungwe, Ileje, Karatu, Arumeru, Ngorongoro, Magu, Serengeti, Monduli, and Simanjiro.

(Ministry of Lands 2007a, 2007b, 2008a)

its main activities (World Bank 2005; Ministry of Lands 2008b).

The project is scheduled to be carried out in 15 rural districts and in unplanned settlements in Dar es Salaam and Mwanza. Whereas the practice in earlier pilot projects was to adjudicate and issue certificates for individual applicants (spot adjudication), this project applies a comprehensive approach aiming at adjudicating all parcels in a given area (systematic adjudication). The change follows some of the lessons that the World Bank has drawn from past experiences in the land sector. Both approaches are provided for in the Village Land Act.

Because of scale, systematic adjudication is thought cheaper and faster in the long run. By registering all rights to land simultaneously it is also thought to provide better safeguards for the rights of poor and vulnerable groups.

Rural implementation is currently carried out as pilot projects in nine villages in Babati and Bariadi districts, respectively. Each village has an average of 4,000 land parcels. Altogether, about 70,000 land parcels were to be surveyed and registered and CCROs were to be issued (Ministry of Lands 2008b). Based on the experiences from these villages, the project will be evaluated and scaled up to cover all villages in the districts and be expanded to the

remaining 13 districts. The exact scale of the next phase, however, is unknown.

Besides registration and titling the project also aims at providing capacity building in order to develop efficient land registration and administration; improving the infrastructure for surveying, mapping, and registration, decentralizing land administration services in the 15 districts by, among other things, establishing district registries; facilitating the resolution of land disputes by strengthening the district land and housing tribunals; and building capacity and providing support for the project management and monitoring and evaluation in the Ministry of Lands, Housing and Human Settlements Development (World Bank 2005: 62).

2.4 MKURABITA

One of the best known initiatives to implement the land acts is the Property and Business Formalisation Programme, in Swahili known as MKURABITA (Mpango wa Kurasimisha Rasilimali na Biashara Tanzania).

The main purpose of the programme is to empower the poor majority of the population in Tanzania by improving access to formal financial markets and other services through formalisation of property rights and business-

Box 4

Districts in the World Bank Financed Project

15 districts were proposed for support from the World Bank project;

Mbarali, Urambo, Maswa, Kasulu, Babati, Kilosa, Sumbawanga Rural, Songea Rural, Nantumbo, Hai, Lushoto, Bariadi, Handeni, Liwale, and Tunduru.

(World Bank 2005: 64)

es. Though implementation of the land acts is not the only goal of MKURABITA, it has been among its major activities. If poor people get titles to their land, they are thought to be able to use it as collateral to get loans.

The programme is based on the ideas of the Peruvian economist Hernando de Soto and it was initiated by the Tanzanian governments and his Institute of Liberty and Democracy. Its institutional home is the President's Office, but it is an autonomous body operating in line with ministries and agencies. It was decided upon in 2004 and funded by Norway in the first years of its existence.

MKURABITA has carried out a number of projects using the land acts as the framework for formalisation. In rural areas it has carried out two major pilot projects; in Handeni at the end of 2006 and in Bagamoyo 2007-8 (NORAD, URT et al. 2008; Kosyando 2007, 2008).

The purpose of the Handeni pilot study was to test innovations within land use planning and registration of rights in order to come up with a more efficient methodology for implementation of the Village Land Act.

Handeni District was chosen because the basic infrastructure was there; the District had prepared the District Land Use Framework Plan, it had a District Land Registry and it had obtained the necessary equipment, like

computers and GPS. Some villages in the district had even started implementing the Village Land Act and a few (9) CCROs had been issued. The pilot was carried out in 7 villages and 617 CCROs had been prepared at the end of the three-month long project (Kosyando 2007).

The pilot has been criticised for rushing through the implementation and for insufficient local participation in the process. The outcome, reportedly, was irregularities, land grabbing, and vulnerable groups being left out (Kosyando 2007; Sundet 2008). But important lessons were also learned about how to simplify implementation processes. It was concluded that the process of spot adjudication was slow and inefficient and the approach was changed in the next pilot (Kosyando 2008).

The second pilot was carried out in Bagamoyo District not far from Dar es Salaam. The six villages selected for the pilot project in Bagamoyo had already been surveyed and their village boundaries had been established. Otherwise, the district was far less prepared than Handeni in terms of land administration infrastructure for issuance of CCROs. The project aimed at testing a more streamlined approach to implementation: systematic adjudication.

While the project aimed at preparing the certificates, it was left to the villages to finish the project and to villagers to apply for and pay

for CCROs. However, due to financial constraints it was scaled down. At the end of the project in February 2008 no CCROs had been issued, neither had the District Land Registry and Village Land Registries been finalised, and the Village Land Certificates had not been approved by the Ministry (Kosyando 2008).

Since the pilots, MKURABITA has stopped carrying out full implementation. Now, the organisation carries out training and capacity building and provides equipment like GPS and computers for the districts it is engaged in. When it enters a district it chooses 1-2 pilot villages, and it prepares a plan for how to finish implementation in the district. It is currently engaged in 10 districts and it expects to start in another 14 later this year.

A review carried out by a team of consultants for the President's Office and the Norwegian Agency for Development Cooperation in 2008 delivered a rather mixed message for the programme. The review criticises the main assumption behind the programme, that formalisation leads to growth and poverty alleviation, for being unsubstantiated. It also criticises the way MKURABITA had carried out some of its activities. A main purpose of MKURABITA was to develop reform packages for how to reduce barriers and discouraging opportunity costs for formalisation. However, the report states, "the institutions that will eventually implement the reforms have not actively participated in formulating the reform "packages"" (NORAD, URT et al. 2008). No wonder, then, that officials in the Ministry of Lands air some scepticism towards MKURABITA.

After the review the Norwegian Government pulled out. The funding of MKURA-

BITA and the scope of its activities today are unclear.

2.5 Other Projects Involving Government Institutions Directly

Scattered initiatives in rural areas in Tanzania to implement the land acts can be observed. They may aim at implementing parts of the Village Land Act, for instance by facilitating surveying of boundaries to acquire Village Land Certificate, or they may aim at implementing the Act in its entirety. The Ministry supports such local initiatives with manuals and advice. Below are a couple of examples of this kind of implementation projects.

Reportedly, money from Kilimo Kwanza is now being channelled into implementation activities. Kilimo Kwanza is Tanzania's president Jakaya Kikwete's plan for how the agricultural sector can contribute to economic growth in the country. Pillar number 5 in the plan concerns land (Tanzania National Business Council 2009). In particular the issuance of titles is highlighted. Titles are thought to enhance growth because they can be used as collateral for loans, which can then be used for investments.

In February 2010 the Tanzanian newspaper the Citizen reported that seven villages in Korogwe would be surveyed and 1,000 title deeds issued as part of Kilimo Kwanza. Handeni District is also under way with some activities financed by money from Kilimo Kwanza. It is not clear, however, how much money from Kilimo Kwanza is allocated to implementation of the Village Land Act and to what extent other districts will benefit.

LAMP (the Land Management Programme) is another project which affected implementation of the land acts. It has facilitated village land use plans and village land certificates and has carried out training in four districts in the northern part of Tanzania. Initially the programme focused on natural resource manage-

Box 5**MKURABITA Districts**

Besides Handeni MKURABITA has been present in 10 districts;

Rufiji, Nachingwea, Makete, Njombe, Manyoni, Serengeti, Musoma, Mpwapwa, Mvomero and Wete (Pemba Island).

From May 2010 MKURABITA moves to another 14 districts;

Meru, Moshi Rural, Mwanga, Masasi, Mbinga, Sikonge, Sumbawanga, Mbarali, Kasulu, Kahama, Geita, Muleba, Mkoani (Pemba) and Kaskazini 'A' (Zanzibar).

(Information obtained from MKURABITA, personal communication 2010)

ment, with an emphasis on participatory forest management to conserve forest cover. LAMP then concentrated on land management to find ways of utilising land and water resources in a sustainable manner.

LAMP was coordinated by the Department for Regional Administration and Local Government at the Prime Minister's Office and implemented by the District Councils and lower local government levels in the concerned districts. It was financed by SIDA (the Swedish International Development Cooperation Agency) (See www.orgut.se/sida.aspx?id=58, Kosyando undated).

2.6 Other Actors; NGOs and the Ministry of Agriculture

Besides state-sanctioned implementation activities carried out under the auspices of the Ministry of Lands and Human Settlements Development, a number of organisations are actively engaged in implementing the land acts in rural areas all over Tanzania. Several NGOs carried out similar activities before the passing of the reform in 1999 and they were often on the forefront with the attempts to make the new legislation operative in the early years

until the Ministry had established procedures for how to implement properly.

The scope of NGO activities and the approaches applied vary according to each organisation's particular profile. Usually an NGO working with land rights is limited to working in a few districts. NGOs typically see dissemination of information about the legislation and about citizens' rights as key, and rarely aim at implementing the full reform package (Kosyando undated).

No comprehensive survey of NGOs and their activities exists, but the number of organisations and the scope of their activities is on the increase. Below are listed some of the most important NGOs and examples of their activities.

CORDS (Community Research and Development Services) has been present in five districts in the northern part of Tanzania, traditionally dominated by Maasai pastoralists, since year 2000. In an attempt to secure pastoralists' rights to land the NGO initially facilitated preparation of land use plans and village land certificates at village level. Since encroaching on pastoralist land continued nonetheless, CORDS now also facilitates vil-

lages in issuing individual CCROs for citizens in the affected areas (see www.cordstz.org, Kosyando undated).

HakiArdhi (the Land Rights Research and Resources Institute) carries out research and conducts training in land rights and village governance, primarily through district and grassroot-level workshops (www.hakiardhi.org, Kosyando undated).

UCRT (Ujamaa Community Resource Trust) and FARM Africa (Food and Agricultural Research Management – Africa) are other examples of organisations supporting land use plans and issuance of village land certificates in pastoralist areas (Kosyando undated).

3 IMPLEMENTATION ACTIVITIES; SETTING UP DISPUTE SETTLEMENT MECHANISMS

A major feature of the Tanzanian land law reform is the establishment of a system of councils, tribunals and courts to settle land disputes. Besides reforming the administration of land, the Land Act and the Village Land Act provided a framework for further reforms, including a new land courts structure, which was passed as the Courts (Land Disputes Settlements) Act by Parliament in 2002 (URT 1999b, 2002).

The reform came as a response to an increase in conflicts over land in the late 1980's. By then the judiciary was incapable of dealing with the large number of conflicts over land. Courts were therefore slow and hardly accessible to most people (Presidential Commission 1994: 101; Fimbo 2004: 42).

The Courts (Land Disputes Settlements) Act came into force in 2003 and, as was the case with the land acts, implementation of the Courts Act was slow the first couple of years.

Implementation has however gained speed in recent years.

Whereas the setup of the administrative infrastructure on the local level requires financial and human resources, the establishment of village land councils and ward tribunals requires fewer resources and have often been ordered by ministerial circulars. Still the organisation of the land court system is extremely complex; responsibility for establishing the prescribed councils, tribunals, and courts, is split between several ministries (Gastorn 2007: 172).

The following section describes how a number of institutions have been set up at various levels to handle disputes. They primarily deal with disputes over ownership of land. Criminal cases involving trespass, and family affairs involving divorce and inheritance may also involve disputes over land, but they are defined differently and may therefore still be filed at normal courts.

3.1 The Role of Ministries

The Permanent Secretary for Regional Administration and Local Government in the Prime Minister's Office issued the circular ordering the establishment of *village land councils and ward tribunals* in 2004-5. The circular ordered district authorities to make sure that all villages had established village land councils. In 2005 only 40 percent of villages had a Village Land Council and only 20 percent were functional (Gastorn 2007: 173).

The Ministry of Lands is responsible for establishing the *District Land and Housing Tribunals*. Whereas the cost to establish village land councils and ward tribunal is low, the District Land and Housing Tribunals are costly. At the outset, in 2004, only 23 tribunals were established. In the year 2010 the number is expected to reach 39 and more are planned. At the moment the ones already established have to cover several districts, but with time each

Box 6

Institutions with Jurisdiction to Hear and Determine Land Disputes;

- The Village Land Council, which is not, however, a court. Its jurisdiction is limited and, according to the Act, it only functions as a mediating body.
- The Ward Tribunal, which is empowered to mediate and determine in all disputes concerning land in the area. It is only allowed to accept cases involving property valued less than 3 million TSH and advocates are not allowed before the tribunal.
- The District Land and Housing Tribunal is the first land court body in which a professional, a lawyer appointed by the Minister of Lands, can be found along with the assessors. The tribunal is restricted to cases involving property valued less than 40-50 million TSH. Lawyers are permitted but not required.
- The High Court (Land Division) receives cases involving property valued more than 40-50 million TSH and receives appeals from both ward and district land and housing tribunals.
- The Court of Appeal is the Supreme Court in Tanzania and its decisions are final.

(URT 2002)

of mainland Tanzania's around 120 districts is supposed to get a tribunal.

The *High Court Land Division* and the *Court of Appeal* are situated under the Ministry of Justice and Constitution Affairs.

The land court system is gradually becoming more effective. The number of institutions is increasing and the number of cases they are handling has exploded. From their establishment until mid-2010 around 20000 cases had been resolved at the district land and housing tribunal. Still, the system is constrained by lack of resources.

- Long waiting lists, especially at the higher level institutions, before hearing of cases can be observed.
- The quality of village land councils and ward tribunals is mixed. At best, training of members of the bodies is carried out by

local authorities and NGOs, at worst, it is nonexistent.

3.2 NGO-Driven Activities

NGOs have been particularly engaged in supporting the dispute settlement mechanisms provided for by the land acts and the Courts Act. Often these organisations work with a rights-based approach aiming at empowering individuals and local communities through enhanced awareness of rights. Therefore, the institutions, which can enforce these rights, are key.

No comprehensive survey of NGOs and their activities exist, but the number of organisations and the scope of their activities is on the increase. Below are listed a few examples of

some of the most important NGOs and their activities.

TAWLA (Tanzania Women Lawyer Association) and WLAC (Women's Legal Aid Centre) are two organisations which primarily have aimed at sensitising about women's land rights. Both organisations have carried out training sessions for local leaders and paralegals in rural areas. TAWLA has also supported establishment of Village Land Councils and Ward Tribunals and provided legal aid in a number of cases. Similarly, CORDS (Community Research and Development Services) has trained members of Village Land Councils and Ward Tribunals (Kosyando, undated).

RUDDO (Rulenge Diocesan Development Office), LHRC (Legal and Human Rights Centre), and DONET (Dodoma Environmental Network) are other examples of organisations sensitising about land rights and training villagers and local leaders (Kosyando, undated).

4 LESSONS LEARNED AND CHALLENGES AHEAD

4.1 Lessons Learned

The implementation of the Village Land Act has been a process of trial and error for the Ministry of Lands. The Act provided a framework for how land should be managed in rural areas, but important lessons have been learned along the way. Below some of the most important ones are listed.

- *A Village Land Certificate is required before a village can issue CCROs.* A Village Registry and a District Land Registry are also required to keep the copies.
- *Land use plans are required before issuance of certificates for individuals.* During the first pilots it was realised that without land use plans in place, issuance of CCROs could cause irregularities and hinder future

planning exercises. With the Land Use Planning Act of 2007 it became law that land use plans are prerequisites for issuing CCROs (URT 2007).

- *Forms have been simplified.* Both MKURABITA and the Ministry of Lands realised that the forms to apply for CCROs were too complex. Now some forms and procedures have been simplified.

4.2 Remaining Challenges

Tanzania's land acts decentralise responsibility for management of land to existing local governments and institutions in the villages. This approach was thought to make implementation easier at the local level, but has proven to be problematic. The reform is complex and resources and competences are scarce in rural areas. Various stakeholders point out different challenges if the reform is to be implemented countrywide.

NGOs report of a number of challenges:

- *A Changing Legal Framework.* Laws and procedures have been changed since the passing of the Village Land Act. For example the legal framework for Land Use Plans has been changed several times, each time causing delays and confusion.
- *Restricted Access to Information.* The Ministry of Lands possesses know-how about how to implement correctly, but the information is difficult to access for citizens and stakeholders.
- *Engagement of Public Authorities is key.* The Ministry of Lands sees itself as a body for policymaking, not for implementation. However, without the Ministry's engagement implementation has proved difficult. Similarly, involvement of district authorities is important. The districts are required to approve land use plans and establish dis-

strict registries before villages can proceed with registering rights and issue CCROs.

Ministry and district officials emphasise:

- *Lack of Resources.* Lack of resources is a major constraint on implementation.
- *Too narrow Focus on Output rather than Capacity Building.* Donors and politicians want measurable outputs, which partly explains why the Ministry of Lands tends to focus narrowly on titling during implementation projects.

4.3 Need for Documentation and Independent Research

Basic information about implementation projects and the land reform implementation in general has proved hard to find. This indicates a real need for more documentation and independent research. For instance, research could play a bigger role in increasing our understanding of how implementation affects land markets and tenure security in rural areas:

- Does implementation of the Tanzanian land reform through titling, as claimed by the Ministry of Lands, MKURABITA and the World Bank, enhance economic growth?
- Can the reform, through dissemination of information about rights and empowerment of villagers, as claimed by some NGOs, improve security of rights to land?

Both approaches may be required if implementation at the local level is to produce sustainable outcomes. The problem is that we do not know.

The need for independent research is more urgent than ever. The World Bank project mentioned in this working paper is on a far bigger scale than any previous projects. It may herald a speeding up of implementation activities in Tanzania. In the light of the experiences from the MKURABITA pilots, also mentioned in this working paper, two issues are particularly important to address: whether equity in access to land administration services is ensured and whether the rights of vulnerable groups are sufficiently protected.

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