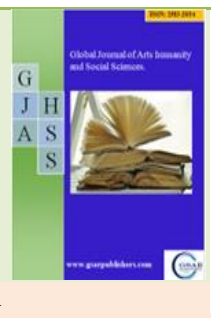


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An Assessment of the Effectiveness of Tanzania's Institutional Framework Governing Land Tenure Systems in Relation to the Protection of Land Rights

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Abstract

Land is a fundamental resource for economic development, social stability, and environmental sustainability in Tanzania. As the principal means of livelihood for the majority of the population, particularly those engaged in agriculture and pastoralism, land requires an effective legal and institutional framework that guarantees security of tenure and protects the rights of all users. Tanzania has undertaken significant land reforms, particularly through the Land Act, Cap. 113 and the Village Land Act, Cap. 114, both enacted in 1999, to strengthen land governance and improve the protection of land rights. Despite these reforms, challenges such as land conflicts, weak institutional capacity, corruption, bureaucratic inefficiencies, and inadequate implementation continue to undermine the effectiveness of the land tenure system. This article examines the institutional framework governing land tenure in Tanzania, evaluates its effectiveness in protecting land rights, identifies the major challenges affecting implementation, and proposes recommendations for improving land governance.

Keywords: Land tenure, land rights, institutional framework, customary land rights, land administration, Tanzania.

1. Introduction

Land occupies a central position in Tanzania's social, political, and economic development. More than seventy per cent of the country's population depends directly on land for agriculture, livestock keeping, forestry, mining, housing, and other livelihood activities. Consequently, effective land governance is essential not only for economic growth but also for poverty reduction, environmental conservation, food security, and social justice.

The legal framework governing land tenure in Tanzania is unique because all land is vested in the President as trustee on behalf of all citizens under Article 24 of the Constitution of the United Republic of Tanzania, 1977, and the Land Act. Individuals therefore acquire rights of occupancy rather than absolute ownership. These rights may be granted under statutory law or recognized under customary law.

To administer these rights effectively, Tanzania has established numerous institutions responsible for land administration, land use planning, registration, dispute resolution, and policy implementation. The effectiveness of these institutions largely

determines the extent to which citizens enjoy secure land tenure and protection from unlawful dispossession.

This article critically assesses Tanzania's institutional framework governing land tenure systems in relation to the protection of land rights.

2. Conceptual Framework

2.1 Land Tenure

Land tenure refers to the legal and customary arrangements through which individuals or groups acquire, hold, use, transfer, inherit, and control land. It determines the rights, responsibilities, and restrictions associated with land ownership or occupation.

There are literatures on land tenure systems in Tanzania. Tenga W.R and Mramba S.J¹ their book addressed the background of land tenure system in Tanzania. The authors traces history of land holding system in Tanzania since pre-colonial period that is before 1885, during colonial period that German and British rule that is from 1885 to 1961, during or/and after independence that is after

¹ TENGA R.W. & MRAMBA S.J., (2014), Op. cit.



1961 to 1999 and the current land tenure from 1999. The authors address that the land during pre-colonial period was owned communally vested to the king, clan elder or kings. During German rule the land was declared crown lands vested to the emperor (German Keisar) was the main forms of tenure are ownership claim and mere right of occupation.² During British rule the entire land in Tanganyika whether occupied land or vacant land was declared public land.³

The British colonial government establishes the concept of Right of occupancy which basically means the right to use and occupation of land which provided under section 2 of the Land Ordinance⁴ this system was adopted during independence where the Land Ordinance of 1923 declares the entire land public land. The title to land was vested to the president as a trustee of the entire land. The current forms of land tenure in the country are the right of occupancy (Leasehold) where the absolute title is vested to the president.

The right of occupancy system in Tanzania is of two which is the Granted Right of Occupancy and the Customary Right of Occupancy. The author successfully addresses two forms of land tenure in Tanzania, the law states that the two forms of tenure to be of equal status as provide under section 18 of the Village Land Act⁵

2.2 Land Rights

Land rights refer to legally recognized interests that allow individuals or communities to own, occupy, use, inherit, lease, transfer, or benefit from land. Effective protection of these rights promotes investment, reduces poverty, encourages sustainable resource management, and minimizes land disputes.

2.3 Institutional Framework

An institutional framework comprises the laws, government agencies, local authorities, judicial bodies, and administrative mechanisms responsible for implementing land policies, regulating land use, enforcing land laws, and resolving disputes.

3. Legal Framework Governing Land Tenure

Tanzania's land governance system is founded upon several legal instruments.

3.1 Constitution of the United Republic of Tanzania, 1977

The Constitution recognizes the right to own property and protects individuals against arbitrary deprivation of property except in accordance with the law and upon payment of fair compensation. This has been provided under Article 24 of the constitution of the

United Republic of Tanzania⁶ the article allows an individual to own property including land.

3.2 The Land Act, Cap. 113

The Land Act regulates general land, rights of occupancy, land registration, transfers, mortgages, leases, compulsory acquisition, and land administration. It establishes the office of the Commissioner for Lands and provides procedures for granting and managing rights of occupancy.

3.3 Village Land Act, Cap. 114

The Village Land Act governs village land and recognizes customary rights of occupancy as having equal legal status with granted rights of occupancy. It empowers Village Councils and Village Assemblies to administer village land and encourages participatory decision-making.

3.4 Land Disputes Courts Act, Cap. 216

The Act establishes specialized institutions for resolving land disputes, including Village Land Councils, Ward Tribunals, District Land and Housing Tribunals, the High Court (Land Division), and the Court of Appeal.

3.5 National Land Policy

The National Land Policy of 1995, revised in 2023, provides policy guidance for sustainable land administration, equitable access to land, protection of customary rights, gender equality, investment promotion, and environmental conservation.

4. Institutional Framework Governing Land Tenure

4.1 Ministry Responsible for Lands

The Ministry is responsible for developing land policies, supervising land administration, coordinating reforms, and monitoring implementation of land legislation. The Ministry has played an important role in policy formulation, land registration program and institutional reforms. However, inadequate financial resources, shortage of skilled personnel, and administrative inefficiencies continue to affect service delivery.

4.2 Commissioner for Lands

The Commissioner for Lands administers general land, grants rights of occupancy, approves land transactions, supervises land registration, and advises the government on land administration. The office ensures uniform administration of land across the country. Nevertheless, excessive centralization often causes delays in processing applications, issuing title deeds, and approving land transactions.

4.3 Village Councils and Village Assemblies

Village institutions administer village land under the Village Land Act.

Their responsibilities include:

- i. Allocation of customary rights of occupancy;
- ii. Maintenance of village land registers;
- iii. Preparation of village land use plans;

⁶ Of 1977 as amended time to time.

² The imperial Decree of 26th November 1895 and 1896 Circular/Rules to implement the decree published on November 1895.

³ This declaration was made through TOC of 1920 and section 2 of land ordinance of 1923.

⁴ Act No 4 of 1923.

⁵ [Cap 114 R.E 2023].



- iv. Protection of communal land; and
- v. Resolution of minor land disputes.

The decentralization of land administration has strengthened community participation and enhanced recognition of customary land rights. However, many Village Councils lack adequate technical expertise, financial resources, and proper record-keeping systems.

4.4 National Land Use Planning Commission

The Commission coordinates national land use planning, prepares land use plans, advises the Government, and promotes sustainable utilization of land resources.

Although the Commission has contributed significantly to reducing land-use conflicts, implementation remains slow due to inadequate funding and limited technical capacity.

4.5 Land Registry

The Land Registry records ownership rights and other interests affecting land. Registration provides certainty of ownership, facilitates investment, reduces fraud, and supports access to credit. Despite these benefits, many rural areas remain unregistered, while manual record systems continue to expose land administration to errors and corruption.

4.6 Land Dispute Resolution Institutions

The specialized dispute resolution system consists of:
Village Land Councils

Ward Tribunals

District Land and Housing Tribunals

High Court (Land Division) and

Court of Appeal.

These institutions have improved access to justice by allowing disputes to be resolved at different administrative levels. Nevertheless, delays, inadequate staffing, limited legal knowledge, and poor enforcement of decisions continue to undermine their effectiveness.

5. Assessment of Institutional Effectiveness

5.1 Recognition of Customary Land Rights

One of the greatest achievements of Tanzania's land reforms has been the legal recognition of customary rights of occupancy. This reform has enhanced tenure security for millions of rural residents by giving customary ownership equal legal recognition with statutory ownership as provided under section 18 of the Village Land Act⁷. Communities are now better protected against arbitrary eviction and unlawful acquisition.

However, many customary rights remain undocumented, making rural communities vulnerable to land grabbing and disputes.

5.2 Protection of Women's Land Rights

The legal framework guarantees equality before the law and prohibits discrimination in land ownership. Women are legally

entitled to own, inherit, lease, and transfer land. Village institutions are also required to include women in land administration. Despite these legal protections, cultural norms, discriminatory inheritance practices, and limited legal awareness continue to restrict women's effective enjoyment of land rights.

5.3 Security of Tenure

The issuance of Certificates of Customary Right of Occupancy (CCROs) and Certificates of Granted Right of Occupancy has significantly improved security of tenure. Secure land tenure encourages agricultural investment, facilitates access to bank credit, reduces land disputes, and promotes long-term land development. However, land registration remains expensive, slow, and inaccessible to many rural citizens.

5.4 Accessibility of Land Administration

The establishment of village level institutions has brought land administration closer to local communities. Nonetheless, administrative delays, bureaucratic procedures, corruption, and inadequate staffing continue to discourage citizens from seeking formal registration of their land rights.

5.5 Resolution of Land Disputes

The establishment of specialized land courts has improved dispute resolution compared to ordinary courts. Village Land Councils provide affordable and accessible forums for resolving disputes within communities. Moreover, the increasing numbers of land disputes have resulted in significant case backlogs. Many tribunals lack trained personnel, while enforcement of judgments remains weak.

5.6 Compensation for Compulsory Acquisition

The law requires fair, prompt, and adequate compensation whenever land is compulsorily acquired for public purposes. Although the legal framework is comprehensive, implementation has frequently been criticized because compensation is often delayed, valuation methods are disputed, and affected communities experience prolonged litigation before receiving payment.

6.1 Challenges Affecting Institutional Effectiveness

Several factors continue to limit the effectiveness of Tanzania's institutional framework.

6.1.1 Administrative Inefficiency

Lengthy procedures for surveying land, issuing title deeds, registering transactions, and resolving disputes create unnecessary delays.

6.1.2 Corruption

Corruption remains a major challenge in land administration. Bribery, fraudulent title deeds, illegal land allocations, and abuse of discretionary powers undermine public confidence.

6.1.3 Inadequate Resources

Many land institutions lack sufficient funding, vehicles, surveying equipment, computers, and qualified personnel to perform their statutory responsibilities effectively.

⁷ [Cap 114 R.E 2023].

6.1.4 Overlapping Institutional Mandates

Some land administration functions overlap among government agencies, creating uncertainty, duplication of responsibilities, and delays in decision-making.

6.1.5 Rapid Urbanization

Urban expansion has increased demand for land, leading to informal settlements, unlawful occupations, and escalating land disputes.

6.1.6 Conflicts Between Competing Land Users

Conflicts frequently arise between farmers and pastoralists, investors and local communities, conservation authorities and villagers, and neighboring villages with unclear boundaries.

6.1.7 Limited Public Awareness

Many Tanzanians remain unfamiliar with land laws, registration procedures, inheritance rights, and dispute resolution mechanisms. Consequently, numerous citizens continue to rely on informal arrangements that provide weak legal protection.

7. Recommendations

To improve the protection of land rights, the following measures should be implemented:

Accelerate nationwide systematic land registration.

Complete village land use planning and boundary demarcation.

Digitize land records and establish integrated land information systems.

Increase budgetary allocation to land administration institutions.

Recruit and train more surveyors, valuers, registrars, and tribunal members.

Strengthen anti-corruption mechanisms and improve transparency in land administration.

Enhance public legal education on land rights and registration procedures.

Promote women's access to land through effective enforcement of gender equality laws.

Improve coordination among land administration institutions.

Strengthen monitoring and evaluation of land governance programs.

8. Conclusion

Tanzania has established one of the most comprehensive legal and institutional frameworks for land governance in Africa. The recognition of customary rights of occupancy, decentralization of land administration, establishment of specialized land dispute institutions, and enactment of progressive land legislation have significantly strengthened the protection of land rights.

Despite these achievements, the effectiveness of the institutional framework remains constrained by administrative inefficiency, inadequate financial and human resources, corruption, overlapping institutional mandates, slow land registration, and persistent land conflicts. Addressing these challenges requires sustained political commitment, increased investment in institutional capacity, modernization of land administration systems, and stronger enforcement of existing laws.

Ultimately, secure land rights are indispensable for promoting economic development, reducing poverty, ensuring social justice, attracting investment, and achieving sustainable management of Tanzania's land resources. Continued reforms aimed at strengthening institutions and improving implementation will be essential for ensuring that every Tanzanian enjoys secure, equitable, and legally protected access to land.

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