

**IMPROVING LAND ADMINISTRATION IN MALOLO WARD, TABORA  
MUNICIPAL COUNCIL**

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**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE DEGREE OF MASTER OF COMMUNITY  
ECONOMIC DEVELOPMENT OF THE OPEN UNIVERSITY OF  
TANZANIA**

**2013**

**CERTIFICATION**

I hereby certify that the dissertation titled; **“Improving Land Administration in Malolo Ward, Tabora Municipal Council** is the original and individual work of **Paskali Kilagula**. This has been done under my supervision and is ready for submission for the award of a degree of Master of Community Economic Development of the of the Open University of Tanzania.

-----  
Dr. W. A. Pallangyo

(Supervisor)

Date: -----

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I Paskali Kilagula, hereby declare that this project work is the result of my own investigation and findings except where stated, and this paper has not been presented and will not be presented at any other University for similar or any other degree award.

.....

Signature

.....

Date

**DEDICATION**

I dedicate this work to my wife Monica Yesaya and my children Theresia-ndalo Kilagula and Agustino-masalu Kilagula. Special dedication to my son Victor-maziku Kilagula (Deceased), he has been so tolerant and enduring though you could not see the ultimate yields of my MCED struggles, may the almighty God rest your soul in everlasting peace, Amen.

## **ACKNOWLEDGEMENT**

I Paskali Kilagula do hereby extend my gratitude to the board and staffs of Jamii Salama Development Volunteers-(JSDV) of Tabora, I also extend my gratitude to my parents Clement and Felister Kilagula and my brothers Antony, Boniface, William Richard and Frank Kilagula. You have been always insisting and keen at the progress of my studies.

I deeply officer my sincere gratitude to my daughter and son Theresia and Victor (Deceased) without forgetting my dearest wife Monica for their inner love for me, sustained the loneliness of my absence during all the time I spent for MCED studies. Special gratitude to my son Agustino who came into being at the end of this program, may God bless and grant you wisdom and better health.

Academically, I humbly acknowledge the hard work of my supervisor Dr. William Pallangyo who despite his other duties tirelessly endured to go through my work and without hesitation gave his critical and adversarial opinions without failure. He guided me from the early beginning of this work to the last moment. I am so much thankful to him for his supervision gladly rendered. I am also indebted to other course coordinator Dr. Felician Mutasa, other academic staffs and my fellow MCED students 2011 for their contributory remarks during various stages of MCED program.

Also, I am grateful to all my family associates in Tabora who shared support and soul during the demise of my son Victor around the mid of my MCED program,

their consolation, encouraging words and in-kind support were of a vital contribution to the success of this work, mostly Fausta Masawe and David Abdalah.

## **ABSTRACT**

Land is a very important resource for people's development, we depend on land to produce food, more than 80% of Tanzanians are employed on agricultural sector mainly depending on land in order to achieve their productivity. According to Mwalimu Nyerere, Land is among the paramount requirement for people to develop. Despite of the fact that every individual has an interest to land either direct or indirect, many people residing in Malolo ward does not know the legal aspects under which they own or they can own land, that has been a challenge for the community in using land for economic development especially in rural areas. The author of this work conducted this project in Malolo ward within Tabora Municipality after conducting a participatory Community Needs Assessments in Malolo ward. The main purpose of this project is to provide answers and sustainable solutions to people of Malolo when their land rights are in questions. It is in the researchers believe that, once people of Malolo will fully understand the systems of land administration, they will be able to fully utilize the land for sustainable development. People shall be able to register their land and use it as collateral to acquire capital for development investments. This work enabled the community in various groups of walks to determine their land rights and manners to enforce or claim the rights when violated by individuals as well as the Government. Bodies vested with powers to administer land matters shall also clearly understand their obligations through which the community will be able to mainstream lands in their own development as provided by the laws of Tanzania (Land Act No.4 &5). In order to sustain this efforts and plans, the researcher worked hand in hand with a local based organization (JSDV) with its headquarters in Tabora which has adequate resources and technical capacity.



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Act	A law as passed by the Parliament of Tanzania
CAN	Community Needs Assessment
CBO	Community Based Organizatio
CECD	Centre for Economic and Community Development
CED	Community Economic Development
CESOCE	Center for Social Services
CSO	Civil Society Organization
FBO	Faith Based Organization
IWARTEA	Ilolangulu Resources and Technologies Agecy
JSDV	JamiiSalama Development Volunteers
KMs	Kilometres
MCED	Masters of Community Economic Development
NAFCO	National Food Corporation
NGO	Non-GovernmentalOrganizatio
OUT	The Open University of Tanzania
PADEP	Participatoryagriculture development Program
SPILL	Strategic Plan for Implementantion of Land law
SUDES0	Sustainable Development Solutions
TMC	TaboraMinicipal Council



## **CHAPTER ONE**

### **1.0 PARTICIPATORY NEEDS ASSESSMENT**

#### **1.1 Introduction**

This paper entails the findings of the Community Needs Assessment conducted in Malolo ward in Tabora Municipal district. The purpose of this study was to help the community of Malolo ward and other development stake holders to participatory identify the challenges and opportunities available on using land as a means for community economic development, and develop an action plan for addressing those development needs as identified by this study.

This study involved the village land councils of Malolo, the staff and leaders of an NGO called JSDV, and local community leaders. To ensure sustainability, community response and ownership, the study was done in a participatory manner, where after a study, a plan of action shall be made to implement the findings and recommendations of this study. It is within the assessor's scope that, once the recommendations and plan resulted from this study are well implemented, the community at Malolo ward shall be aware as to their rights regarding land tenure, land conflicts and disputes resolutions hence gain confidence to invest on land, and use their lands as a collateral to obtain financial resources from various financial institutions.

Despite of being historically old and capital of Germany colonial Government during colonial period, Tabora town has been slowly growing, it is claimed that, the combination of Arabs and Nyamwezi cultures, poor infrastructure, unreliable rainfall

distribution as well as lack of tourism industry in the area has been the main reasons which discouraged the growth of the business sector in Tabora, that made the town to remain dormant for several years.

The situation has recently changed due to a number of reasons including: - improved education services, the gradual change of culture and practices of among the Tabora population, as well as advocacy campaigns done by CSOs, FBO, political parties and other development actor. Such advocacy campaign brought a number of positive changes such as improved health services, improved social and infrastructural facilities e.g. town planning, clean and waste water facilities, and increase in number of educational institutions, where since the year 2005, the town started to grow. There is a swift expansion of human settlement around all directions example, the town has in five years reached about 15 kms along nzega road, 13 kms along urambo road, 20 kms along mambari road, and 18kms along ulyankuru road.<sup>1</sup>

The extension of township boundaries resulted to an increase on the acquisition of village lands by the township (Municipal) authority and has been done in an increasing rate, mostly affecting the suburban wards or areas including Malolo ward where the majority of the community are steel holding lands under customary land tenure system. According to the rules governing land matters in Tanzania, there are groups of land, which are:- reserved land, general or National land, and village land.<sup>2</sup> However, the law allows a transfer of land among the groups but subject to fulfilments of certain procedures and conditions among which is to ensure a fare and

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<sup>1</sup>Tabora Municipal township plan, 2005

<sup>2</sup> Section 6 land Act No.4,1999

just compensations on the exorbitant improvements of the land concerned. Therefore according to the law governing the practices of transferring or acquiring lands by the Government, once a certain land has to be acquired for public interests, the community which at that time of acquisition of such land own the said land, should be subject to fair compensations on whatever development they have done to the land and be located another land to accommodate their needs.<sup>3</sup> But there has been always a practice at Tabora municipal council to acquire lands owned by villagers for township settlement purposes without informed, fair and transparent procedures.

It is within the assessors mind that, township authorities are fully aware of the laws and procedures governing land acquisitions, though most of the time the same authority has been acting contrary as it is recently claimed by some people of Uledi Street in Ipuli ward.<sup>4</sup> There is therefore a need to undertake a thoroughly study in order to rectify this situation and make the community around the township benefit from their land resources owned under customary system hence relevance of this study.

## **1.2 Profile of Malolo Community**

This part provides for detailed information of Malolo ward which includes the community profile, the method used to collect the community Needs Assessment as well as the major economic activities in the ward of Malolo. The major economic activities in Malolo ward includes subsistence farming( peasantry), charcoal making, livestock keeping, mining activities( stone quarrying) and petty trade. This chapter

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<sup>3</sup> Land acquisitions Act No.47, 1967.

<sup>4</sup>Uledi community assembly minutes of July, 10th, 2011.

also slightly covering the commitment statement of the village land council of Malolochang'ombe village. Malolo ward is among 24 wards of Tabora municipal district, it is located on the northern west of Tabora town. It is bounded by four wards as follows: Kalunde on the northern, Tumbi on the west, chemchem and Mbugani on the east, where on the southern it is bounded by itetemia, Ng'ambo and Ntalikwa.<sup>5</sup> Malolo ward has a total of 454 households and a population of 2,505 people where 1,210 are male and 1,295 females.<sup>6</sup>

The ward has an estimate area of 9 kilometers square, where human settlement is estimated to cover only 0.9km square. The ward has two faces, the town ship (urban quarters) and village (rural) areas. The township face of the ward (urban quarters) has 321 household with 1,759 peoples, urban quarters alone covers about 70% of the ward's total population. Only 15% of the total land is functionally busy the rest of the land looks dormant thought claimed to be under ownership by some people among the inhabitants, other from Tabora town and other areas of Tanzania. The ward is now facing high level of transformation from village to township due to the growth and expansion of Tabora Township. Thus there is a threat of land tenure security among the indigenous inhabitants of Malolo.

### **1.2.1 Economic Activities**

Basically the economic activities in this ward covers:- peasantry, lumbering, mining/querying, charcoal making, and livestock keeping.

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<sup>5</sup>Tabora Municipal profile, 2010.

<sup>6</sup>2002 Population census.

### **1.2.2 Peasantry Farming**

This is almost like compulsory to the population of Malolo, since almost 95% of the population claims to have at least a portion of land, growing subsistence crops such as vegetables, maize, raise, cassava, sweet potatoes, groundnuts, and tobacco which is the only cash crop produced in this ward. The level of farming is subsistence, thus what is obtained from this kind of occupation is just for curbing part(s) of basic needs at a certain level not satisfactory, this requires the community to involve other economic activities in order to subsidize their needs. Farming though is common in Malolo, but has been facing a number of challenges, some being unfavorable weather or rainfall condition, lack of capital and inputs, draught, and market competition.

### **1.2.3 Lumbering**

This involves harvesting the natural forests surrounding the ward and harvesting of the artificial forest or woodlot managed by the ward authority of Malolo. This kind of activity is suffocating, because there is overharvesting of these kinds of resources to the extent of existing them. Natural forests are perishing; there are no sufficient efforts for conservation and re planting or extension of the artificial forest.

### **1.2.4 Mining/Stone Quarrel**

This was formally done in large and medium scale by private Indian companies though they are currently not at operational. The remained operations are done at small scale by individuals who lack capital and technologies. It is only done through gathering stones around the rocky hills surrounding the wards. The market for this

product depends on individuals from town, who mainly collects stones for construction of dwelling houses.

### **1.2.5 Charcoal Making**

This is practiced throughout the year, as it is for lumbering; this activity is facing challenges on shortage of forests. The law requires those who involves themselves in harvesting the natural forest to have a prove of replacing or conserving the trees that they cut/harvest,<sup>7</sup> most of those involved in this activity does not comply as to the legal and operational requirements, this makes the activity to be commonly marked as illegal though highly performed!.

### **1.2.6 Livestock Keeping**

This is mostly done by immigrant inhabitants from Shinyanga region. As it is commonly known that, pastoral societies involve shifting settlement, it is therefore not easy to have an actual number of livestock in Malolo. Livestock in this ward faces many challenges including lack of grassing land and shortage of water. Pastoralist societies in this ward enjoy a comparative advantage of enough food production due to availability of manure from their animals. Animal keeping like the expansion of township has caused a number of land disputes and conflicts in Malolo ward.

## **1.3 Community Needs Assessment**

The community needs assessment focused at assessing the Capacity of the land councils in Malolo ward on the management and administration of land issues and

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<sup>7</sup> The forest Act,2002

land conflicts. This also involves the assessment as to the compliance of policy and legal requirement on the entire process of land management in Malolo ward.

### **1.3.1 Objective of the Community Needs Assessment**

The general objective of this Community Needs Assessment is to assess the Capacity and Performance of the Land Councils in the management and adjudication of land matters in Malolo ward.

#### **1.3.1.1 Specific Objectives**

- i. To assess knowledge of individual members of the Councils on the laws governing village land matters.
- ii. To assess the Capacity of the land Councils on the adjudication of land matters in Malolo ward.
- iii. To assess the legality and the legal compliance of the councils on adjudicating land disputes.
- iv. To come up with a participatory manner of solving problems arising on the general administration of land matters in Malolo ward.

### **1.3.2 Community Needs Assessment Questions**

This study shall be guided by the following questions:

What problem hinders the effectiveness of land councils in Malolo ward?

- i. Does performance and actions of land councils adhere to the village land Act No.5, 1999; land registrations Act, Chapter 334, and the land disputes settlement Act, 2002?
- ii. Do the land councils effectively perform its duties?

- iii. Does election and composition of land councils conforms to the legislative requirement?
- iv. Does the municipal council facilitate the land tenure security to the community in sub urban areas?

### **1.3.3 CNA Methodology**

#### **1.3.3.1 Research Design**

This study has a purpose of identifying actual constraints in the legislative frame works and practices as to the general administration of land matters at the community level so as to enhance the community to have a proper utilization of land resources towards improving their standard of living.

The study shall be made in Malolo ward within the Tabora municipality. It will examine the entire system of land administration in terms of land location, land acquisitions, land tenure security, issue and revocation of rights of occupancy, the mortgage financing, gender aspects as related to land matters, and the practices as well as the mechanisms of land disputes settlements.

The study will involve data collection in terms of interviews and questionnaires to members of the community, members of land councils, and leaders from the district councils, and leaders from various stake holders working for land rights. An analysis of data shall be made so as to come up with a comprehensive study report to be disseminated to the Open University of Tanzania for consumptions by various development actors in respects to land rights in Tanzania. It is expected that, this study shall take duration of 30 days since its commencement.



### **1.3.3.2 Sampling Techniques**

The sampling technique employed differs among groups, the study covered 21 out of 28 members of land councils in 4 villages of Malolo ward, the study also involved the randomly selected 4 out of 7 members of the ward land tribunal, and of them 2 are females and 2 males. Other group of people covered were the NGOs and human rights practitioners, where a land rights working NGO was visited (JSDV) where three officials were covered. The district authority was not left behind, where three officials from the district council's land division were covered, also obtained randomly except the District land officer who was specifically targeted.

### **1.3.3.3 Data Collection Methods**

Two methods of collecting data and information were used, the methods include:-

#### **1.3.3.3.1 Semi Structured Questionnaire**

Data were collected using self-administered closed-ended and open-ended structured questionnaire. Explanation will be given in case of difficulties in understanding. The researcher will be responsible for collecting data throughout the period.

#### **1.3.3.3.2 Focus Group Discussion**

In this study the focus group discussion was done at the centre in an open meeting where the discussion was guided by simple structured and both, closed ended questions like those of age, level of education, marital status and line of specialization of respondents, open ended questions which were meant to trigger an open discussion from participants. The aim of the discussion was to find out what were the stresses of the group in the framework of the thematic issue of community

assessment, economic assessment, environmental assessment and assessment on dispensation of justice and application of laws.

#### **1.3.3.3.3 Libraries and Information Centre Search**

The researcher shall exploit information resources available at various centers including the Tabora Regional Library and the students Centre library located at Tabora Catholic Archdiocese so as to obtain what other scholars has done in respect of land matters and community development as concerned with investment to land. The JamiiSalama Development Volunteers (JSDV) and the library at the High Court of Tanzania so as to get squinted with the legal aspects and courts practices as related to the adjudication of land matters. and The Documented information available at the Tabora Municipal Council's community development land division offices so as to acquire the local government framework, practices and plans on the general administration of land in sub urban areas, also knowing the Municipals plans to overcome tensions arises due to shifting of land tenure systems from customary land tenure to granted right of occupancy due to the township growth and expansion.

#### **1.3.3.3.4 Use of Internet and Website Searches**

Internet and websites shall be consulted so as to bring information and practices on land administrations and dispensation of land rights as practically done by other jurisdictions and courts within the United republic of Tanzania, other African countries as well as globally. Useful journals and articles from various scholars and writers available through this means shall also be highly explored.

#### **1.3.3.4 Data Analysis Methods**

The study will be retrospective cross sectional and setting at malolo ward in the Tabora Municipal district. The researcher will collect data which will be analyzed by using computer program (SPSS) to obtain required information, also data collection methods will be used including observation, documentation and discussion.

### **1.4 CNA Findings**

This area presents the overall findings as met by this Community Needs Assessment, where the following list includes the major findings as observed during the assessment:

#### **1.4.1 Lack of knowledge of Individual members of the Councils on the Laws Governing Village Land Matters**

The assessment was planned to cover a total of 28 members, where 21 members were from village land councils, and 7 members were from ward land council, but the actual situation covered only 25 members in total. Among 25 respondents, 3 said they are aware of the laws governing land matters, 10 said they are not aware, while 12 said they don't know as to whether they are aware or not.

The information on table one above therefore entails that, the awareness of members of village land councils concerning the laws governing land matter is still questionable, members does not understand as to what laws should there acts conform hence there is a real likely hood that there is no any justice done to the people of Malolo as far as land matters are concerned. Therefore the decisions of land councils in Malolo wards if members are not aware of the law governing land

matters does not conform to the village land Act, No.5, 1999, land Act No.4,1999, land Act No.4,1999, Land Acquisitions Act No.47, 1967 and the land policy of Tanzania of 1995.

**Table 1: Lack of knowledge of land council members**

<b>Do the Land Councils adhere to the Provisions of Acts? No.4 and 5,1999</b>					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	3	12.0	12.0	12.0
	No	10	40.0	40.0	52.0
	I don't know	12	48.0	48.0	100.0
	Total	25	100.0	100.0	

**Source:** From field work, 2012

#### **1.4.2 Low Capacity of Land Councils to Adjudicate or Administer Land Matters in Malolo Ward**

Following the findings on the assessment of knowledge of individual members of the Councils on the laws governing village land matters, it is revealed that, the major group of member (60%) revealed that, the land councils performs below the requirement hence were not comfortable with the performance of land councils. The above table indicate that, 4 people ( to mean 16% of the respondents) were comfortable with the performance of land councils, where 20% (5 persons said that, the councils performs average, 15 people(60%) said the council's performance performs poorly, and 1 person said he does not actually understand if it performs good or bad. Following that analysis, the majority opinion prevailed, it is therefore

recommended that, land councils in Malolo ward has low capacity to perform its functions.

**Table 2: Low capacity of Land Councils to adjudicate or administer land matters**

<b>How do you rank the performance of the land council in your village</b>					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Good	4	16.0	16.0	16.0
	Average	5	20.0	20.0	36.0
	Bad	15	60.0	60.0	96.0
	i dont know	1	4.0	4.0	100.0
	Total	25	100.0	100.0	

#### 1.4.3 Lack of knowledge on the law governing ward Tribunals

**Table 3: Lack of knowledge on the law governing ward Tribunals**

<b>Do you know what law forms the ward tribunals?</b>					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	yes	2	8.0	8.0	8.0
	no	23	92.0	92.0	100.0
	Total	25	100.0	100.0	

**Source:** From field work, 2012

According to the above table, 92% of respondents who were the members of the village land councils and ward land tribunals were not even aware on the law governing ward tribunals; this brings confusion into the mind of the researcher as to the legitimacy of the said councils on dealing with land issues within their jurisdictions. Only 8% of respondents claimed to have come across with the legislations governing ward tribunals.

#### **1.4.4 Lack of Land Registers for Registering Village Lands**

**Table 4: Lack of Land Registers for Registering Village Lands**

<b>do you have a land registry in your village?</b>					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	no	25	100.0	100.0	100.0

According table number four above, all the respondents entirely confirmed to have no land registry as required by the village land Act, 1999 within their villages. That makes the land tenure of the society be questionable. There is a real likely hood of injustice acts done to the people of Malolo, especially when their lands are subject of being acquired under the land acquisitions Act.

#### **1.4.5. Findings on the Participatory Manner on how to Address the Above Assessment Findings**

Here the assessor had to find a participatory approach on how the above challenges and findings can effectively be addressed. Options were hereby given to the members of the councils themselves to give their determination on what should be

done, however, the assessor remained therein whenever necessary and provided some advisory opinions and technical guidance to the groups. the main purpose was to come up with a comprehensive plan on how to work on the challenges so as to improve performance of the land councils.

- i. Prepare a Land law education program and introduce it to all the community and stake holders in Malolo ward
- ii. Sensitize and train the village Land Councils and ward land tribunal on the village land Act and other laws as related to land administration in the village and referral of land matters to higher jurisdictions.
- iii. To introduce village land registry in all villages of Malolo.
- iv. Provide land law education through preparation and distribution of IEC materials

### 1.5 Community Needs Prioritization

The assessor used the participatory way of setting priority issues as shown on table 5

**Table 5: Priority Needs**

What intervention should be the first to be implemented?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	to train all Malolo community on Village Land Act no 5	6	24.0	24.0	24.0
	sensitize and train the Village Land Act no 5 of 1999	10	40.0	40.0	64.0
	Village Land registry	9	36.0	36.0	100.0
	Total	25	100.0	100.0	

**Source:** From field work, 2012

Based on the above table (Table five), the group proposed sensitization and training for village land councils on the village land Act No.5 be given first priority during implementation

### **1.6 Conclusion**

In conclusion, all the member who participated consensus agreed with that prioritization, however, they called upon the assessor to give his opinions and directives on the availability of the resources and expertise to implement the same, however, they pleaded to have no more resources to facilitate the matter apart from dedicating they time fully, providing if needed venue for trainings or seminars, and everybody was ready to provide manpower and pay self-transport whenever needed. It was also suggested by members that, some CSOs, NGOs, FBOs, CBOs, Government departments and individuals be contacted for further assistance on this matter. Individuals with capacity to deliver expertise were also observed as appropriate source for making this needs successfully met.

The assessor promised to apply whatever means possible to implement the needs of members for the benefit of the entire community, where the community was informed on the presence and readiness of an NGO known as JSDV to provide some resources in terms of equipments, transport, secretarial service, and act as a referee for this important work.



## CHAPTER TWO

### 2.0 PROBLEM IDENTIFICATION

#### 2.1 Background to Research Problem

Land conflicts and disputes have been existing within our local communities for a number of years (Tanzania, 2008). Major land conflicts affecting the village lands can be traced from the mid of 1970s where the government of Tanzania planned and implemented a policy called ‘‘Villagellization’’ (Anzela et al, 2007). Under villagelization, the government bonafidely planned and implemented the village structures where people were ordered to stay in the planned villages so as to be supplied with sufficient social services (Larsson P, 2006).

In this assessment, assessor and the community seen to have no dispute with the villagelization policy by itself, the problems can on the overall practices under which the policy was implemented as there was a gross human rights violations during the implementation (Balonzi,2007), people were gravely evicted from their lands without fair and just procedures, the national law requires those whose lands shall be reallocated or acquired by the state for public interest to be treated fairly, get sufficient compensations for exostiful improvement they have done to the land in question.<sup>8</sup> But such were contravened where people were given very short notice to vacate their settlement, living their houses and other investment they had done to land. They were located a mare land to move to without being given sufficient time for even constructing houses. Consequently, some lost their lives especially children due to lack of proper housing.

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<sup>8</sup> Land Acquisitions Act No.47,1967

Since then, the Government has been acting violent on land matters, a good example is the issue of Mulbadaw, Basotu village in Hanang district where the government without considering the state legislations decided to locate a big portion of village land to the public corporation called NAFCO (National Food Corporation), such land was owned by villages in a customary land tenure system (Larsson, 2006). Indigenous people were evicted to their land as a result some again lost their lives due to use of force by the police, some lost their properties and were severely beaten by policemen resulting to seriously bodily harm.<sup>9</sup> However when the villagers filed a case, the court judged on their favour, the Court ordered the government to compensate the villagers accordingly.

Tanzanians have been facing similar problems as regards to land, as we have seen above that, major conflicts and disputes come where there is a change of use of the village lands due to various reasons including: - expansion of cities or towns (Tanzania, 1994), grant by the government to parastatal organization or investors of right of occupancy over large areas of land occupied by peasants under customary tenure (Wilson et al, 2006).<sup>10</sup> However, in practice the court when making its decisions has always been sticking to what is provided by the legislations.

The problem is the lack of understanding of the law at community levels among the land councils and tribunals as well as other government policies implementers and the community at large, hence making the implementation of the identified problems in this assessment relevant and important.

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<sup>9</sup> The case of NAFCO v Villagers of Mulbadaw

<sup>10</sup> The case of Methuselah Paul Nyagwaswa v Christopher Mbote Nyirabu.

## **2.2 Problem Statement**

Increasing land conflicts in Malolo ward due to township expansion where there is a shifting in land tenure systems from customary to granted rights of occupancy.

that leads to increasing land conflicts abusive acts and practices on land matters to the poor community by investors, conflicts among Government and the community in case of land acquisitions takes place, which highly affects the village communities.

### **2.2.1 Previous Studies**

*Husein Sengu* has made an effort to educate the entire community on their rights as regards to land through a series of *articles in newspaper*,<sup>11</sup> despite of the good knowledge he offered, people of Malolo could not benefit due to many reasons including culture, costs and availability of the newspapers.

### **2.2.2 What this Study Shall Do? Or Research Knowledge Gap**

This study shall directly provide capacity building trainings and guidance to the village level on improving the knowledge of the land councils on the administration of land disputes as provided by the law governing land matters.

## **2.3. Project Description**

Project Title: Capacity Building for Land Councils in the administration of land disputes in Malolo ward.

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<sup>11</sup> Sundays Nipashe from 6<sup>th</sup>, June 2010

### **2.3.1 Target Community**

The primary target is the village land council's members in 3 villages of Malolo, as they shall receive direct trainings conducted by experts and the learned in laws and town plans. They shall be enhanced to have copies of relevant legislations into very simple and friendly translations instead of the current ones which are all made in English language. Through the facilitators' inputs, they shall as well be able to develop their plan of actions in addressing their issues of concern.

Secondary beneficiaries shall include the entire community of Malolo, they shall be able to access justice and fair compensations in case their lands becomes subjects to acquisition by the government or any other investors. They shall be capable of investing and conducting their activities as related to land peacefully, they shall also acquire good knowledge on how they can secure even financial loans from financial institutions. The Tabora Municipal council land division and prospective investors on land in Malolo ward shall also benefit in the sense that, they will be dealing with the community which is relevantly knowledgeable hence there shall be no any frictions and conflict.

### **2.3.2 Stake Holders Analysis**

In carrying out this project, there shall be a number of stake holders who shall directly and indirectly be involved as follows:-

First are the land councils in two villages of Maloloward comprising of 7 members each village with equitable representations as to gender. There shall also be the general community who are the subjects of the land councils. They are the recipient

of services which are provided by such councils, since there are the ones whose disputes and conflicts are to be determined and decided by those councils. Second, is the ward land tribunal, this is the appellate tribunal, where a part to a dispute remain unsatisfied with the decisions of village councils, the law requires him or her to refer such matter to the ward tribunal for further determinations.

Third, shall be the Tabora Municipal council, since this is the land acquiring body, the expansion of its boundaries touches the village lands in Malolo. Therefore this is the prospective owner of the surrounding village lands. It is also vested with administrative powers on land matters within its boundaries by the law.<sup>12</sup> Other prospective investors on land including the applicants of land for settlements in Tabora town.

Fourth category of stake holders includes the CSOs working on similar issues within this jurisdiction which is JSDV. They provide human rights and advocacy for development policies in Tabora. Others are:- CESOSE, Uyui District NGOs Network, Tabora NGOs Cluster, and SUDESO, OUT shall be also an important stake holder in making or providing technical guidance so as to make this project successful.

### **2.3.3 Project Goals**

The goal of this project is to raise the awareness and compliance of laws governing land matters in rural areas of Malolo ward in the Municipality of Tabora, so as to enhance the targeted community to effectively benefit from land resources socially

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<sup>12</sup> Land Acts No.4 & 5, 1999.

and economically. The project shall improve the confidence of the community members on investing to land and effectively utilizing the land resources for effective community and economic development. People shall be able to acquire sufficient compensations in case their lands become acquired by the Government for public interests.

The raise in knowledge concerning the land laws shall also help women as the marginalized group since the community in the project area is a male domain by its nature, women are still deprived as to their rights on the ownership of land, where the land Act No. 4 and No.5, 1999 provides for rights of women on land matters also the law of mortgages considers the rights of a woman on making decisions and consent to mortgage a matrimonial house used as a dwelling house, the law requires a woman to give a free consent to mortgage the house.

#### **2.3.4 Project Objectives**

This project has the following objectives

- i. Helping the community benefit socially, economic, and cultural through application of existing legislation relating to land rights
- ii. Enhance equitable benefits among all groups of people among the community concerning land matters.
- iii. Reduce land conflicts and disputes within the local communities.

#### **2.4 Host Organization Profile**

The name of the host organization is JamiiSalama Development Volunteers (JSDV), it is a non-Governmental organization operating in mainland Tanzania under the

NGO Act, 2002. This organization was established for the purpose of contributing efforts to the community to fight for effective access of justice, constitutional rights, combat diseases and poverty. The organizations on conducting its interventions give preference to the marginalized groups such as women, children, people with disabilities and the rural community.

#### **2.4.1 Vision**

JSDV envision an empowered community in which union of trust and communal benefits among the local society inspires community based actions against poverty, ensures justice, equity and rule of law.

#### **2.4.2 Mission**

JSDV strives to build a powerful democratic society which is capable of protecting, providing, and enforce rights, opportunities, and privileges to marginalized societies.

JSDV performs its vision and mission through capacity building of the local community and community leaders, community based groups, while promoting compliance to good governance sustainable planning and utilization of development resources.

#### **2.4.3 Objectives of JSDV Includes**

- i. Promote and maintain exchange of resources and information among development stake holders
- ii. Create a data bank which will include NGOs activities, resources and information on chronic problems which surrounds the community with

special focus on rural communities

- iii. To raise funds and find resources for community development activities
- iv. To organize campaigns, seminars, and trainings on human rights.
- v. To conduct community research and translate findings into actions.
- vi. To cooperate with other organizations, institutions, and stakeholders engaged in or sympathetic with JSDV without compromising its principles, aims and objectives.

#### **2.4.4 JSDV Values Includes**

- i. Accountability
- ii. Cooperation in implementation of activities
- iii. Positivity to objective criticism
- iv. Faithfulness
- v. Transparency
- vi. Punctuality
- vii. Voluntarism
- viii. Maximum discipline in and out of work, action of staffs and members of the management should practically adhere to what JSDV advocates for.

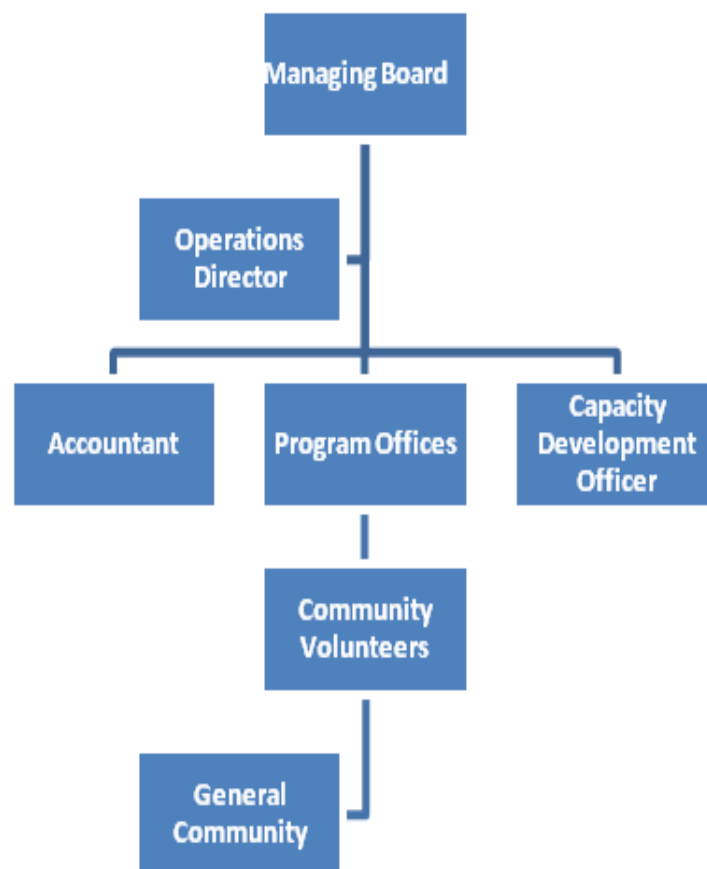
In regards to my study, this organization pledged to have the following contributions as its strength on enhancing this study;-

- i. Playing the role of a grantor and referee for my study to the community
- ii. allow its resources to be used such as transport facilities and computers.
- iii. Link the researcher with other stake holders within the district



- iv. Provide technical and information resources
- v. organize community forums in order to enhance this study
- vi. Provide refreshments and stationeries to all those who shall be involved
- vii. Provide information as necessary to enhance the study
- viii. There are people who are well trained on the subject matter within this organization, competent staffs in the area of development interventions, accountancy, law, and town planning.

### **JSDV Organizational Structure**



**Figure 1: JSDV's Organizational structure**

**Source:** From field research, 2012

**Table 6: SWOT analysis of Host Organization**

	Strengths	Weaknesses	Opportunities	Threats
1	Able to play as a grantor of this study	The organization depends on donor funding for about 90% of its interventions	Good relationship with Government	Phase out of funding agencies.
1	Availability of facilities and equipments such as computers, printers, internet, Hall for meetings and vehicles		Good relationship with other CSOs	Change of organization's policies and attitudes towards field or student staffs.
2	Adequate networking with other stake holders		The organization has funders and good relations with funding agencies	Change of organizations leadership
4	Reputable to the target community			
5	Ability to provide the researcher with meals and refreshments			
6	There are people who are well trained on the subject matter within this organization, competent staffs in the area of development interventions, accountancy, law, and town planning.			
7	Able to provide statutes and policy documents.			

**Source:** From field research, 2012

The opportunities available to this organization includes

- i. Clear link with other development actors
- ii. The organization has a good reputation to the target community
- iii. The organization has funds for activities of the same nature as that of the subject matter.

However, in working with this organization, staff time is in threat, staff are very busy with other organization's commitments hence there is a need to work extra time (hours) so as to benefit from their expertise.

#### **2.4.5 Roles of an Assessor**

During this study, the assessor shall have the following primary duties:-

- i. Primary responsible for the design, management, conduct, analyses and reporting of the study to the standards set out by the Open University of Tanzania.
- ii. Responsible for co-coordinating the investigators who take the lead at each site involved in the study.
- iii. Ensure that the study is conducted to an agreed manner, protocol or proposal.

Role of JSDV during this study shall include:-

- i. Providing legal guidance to the researcher
- ii. Granting, subsidizing and mainstreaming the costs of the study.
- iii. Policy guidance especially local policies.
- iv. Material support for the study.
- v. Provide mentoring skills to enhance performance of the study

#### **2.4.6 Address and Contacts**

JSDV Headquarters,

Plot No.52, Usule area,

Ulyankulu road left side just before railway crossings

P.O.Box 551-Tabora. Email:-jsdv2006@yahoo.com

## **CHAPTER THREE**

### **3.0 LITERATURE REVIEW**

#### **3.1 Introduction**

This chapter entails the position reached by other scholars as far as land rights are concerned in the target area. It highlights the previous efforts made to address similar issues by others and the position what they reached. This chapter contains the theoretical aspects as related to land rights in rural or village areas in accordance to Tanzanian legislations, definitions, explanations, meaning of commonly used terms of terms and concepts. The chapter also reflects to some other projects, researches and studies which are closely related to the work as focused by this project in Tabora and in other places of Tanzania. The chapter also presents the policy positions of Tanzania as regards to land rights. In this chapter, the knowledge gap between this study and the previous effort to address land rights for rural community is clearly highlighted.

#### **3.2 Theoretical Literature**

This part summarizes the theoretical approach on the general administration of land matters as far as the land laws are concerned. It explains various requirements and levels of land management and lands disputes settlement regarding registered and un registered lands as provided by the laws of Tanzania.<sup>13</sup> The main function of this section is to oversee the theoretical position on the land administration issues which include land development, land allocation and land disputes resolution.

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<sup>13</sup> Land Act No.4,1999

### **3.2.1 Categories of Land**

According to the Land Act No.4 of 1999, Land in Tanzania is grouped into three main categories namely:

- i. Village Land
- ii. Reserve Land
- iii. General Land

However, land in Tanzania can be grouped into surveyed and un-surveyed Land (Kironde,2008). In most cases surveyed land fall under General land category and is therefore administered by the Commissioner for Lands. Village land's administration fall under the jurisdiction of the Village Council while reserved land is under the administration on Natural Resources Conservation Authorities (Wily 2003). According to the Land Act No.4, 1999, the distribution of these categories is as follows:

- i. General land 2% of the total sum
- ii. Reserve land 28%
- iii. Village land 80%

The land, which is therefore under the administration of the Commissioner for Land only 2%. However, there is a possibility to convert land from one category to another.

### **3.2.2 Types of Land Tenure**

There are two main types of Land Tenure that are recognized by law in Tanzania (Bruce, 1994), which are:-

- i. Granted Right of Occupancy
- ii. Deemed Right of Occupancy

### **3.2.3 Procedure for the Granting of Rights of Occupancy**

According to the study on land tenure done by the University of Dar es Salaam in 1995 and FAO (2007), Land can be allocated to individuals by the land allocation committees at national, district and township level only after:-

- i. An applicant has applied by filling land application forms
- ii. A directive from the Ministry responsible for lands

#### **Composition of Land Allocation Committees**

At the District, Township, Municipal or City levels, the Land Allocation Committees comprises of the following:-

- i. The District/Township/Municipal/City Executive Director in charge as a Chairman.
- ii. Authorized Officer as Secretary
- iii. Surveyor in charge
- iv. Town Planner in charge
- v. Two councilors one of whom shall be a woman
- vi. Any two other officers representing other sectors that the district/township/municipal/city authority deems appropriate.

At this level, the land allocation committee can allocate plots for uses including:

- i. Plots for central/local government offices
- ii. Plots for residential, commercial/trade and service purposes

- iii. Plots for hotel, heavy and light/small industries
- iv. Plots for religious and charitable purposes
- v. Farms not exceeding five hundred(500)acres
- vi. Farms exceeding five hundred (500) acres subject to the approval of the Minister.

Land allocation committee at the ministry level comprises of:

- i. The Commissioner for Lands as Chairman
- ii. One "authorized officer " and appointed by the Commissioner, who shall be the Secretary; but shall not vote.
- iii. The Director of Surveys and Mapping;
- iv. The Director of Human Settlements (DHS);
- v. Director responsible for gender from the Ministry of Community Development, Women and Children Affairs.
- vi. Director of Local Government from President's Office-Regional Administration and Local Government.
- vii. Director of Livestock from the Ministry of Livestock and Water.
- Viii. Director for Tourism from the Ministry of Natural Resources and Tourism.
- ix. Director responsible for Investment from the President's Office -Planning Commission.
- x. One representative from the Ministry of Defense.

At this level, the land allocation committee can allocate plots for the following uses:

- i. Land for creation of new urban centers
- ii. Plots for foreign missions



- iii. Beach areas and small islands
- iv. Plots for housing estates exceeding an area of five hectares
- v. Land for allocation to the Tanzania Investment Centre for investment purposes under the Tanzania Investment Act, 1997.
- vi. Land for use for activities that are of national interest.

After the successful candidates have been chosen, the land allocation committee will proceed to do the following:-

- i. To issue a notice to successful applicants
- ii. To issued Letters of Offer to successful candidates
- iii. To require successful candidates to pay various fees including land rent and provide proof of such payment through government exchequer receipts to the authorized officer.

#### **3.2.4 Preparing Certificate of Occupancy**

Certificate of occupancy can proceed to be prepared only after the successful candidate has been issued a Letter of Offer and all the fees dues have been paid (Tanzania, 2008). The procedures of Preparation of Certificate of Occupancy are as follows:-

- i. Deed Plans will be prepared
- ii. Certificate of occupancy document will be prepared and to be signed by the occupier witnessed by authorized persons including; A Notary Public, State Attorney, Magistrate or Land Officer
- iii. Certificate of occupancy to be signed and sealed by the Commissioner for

### Lands

- iv. Certificate of occupancy will be registered by the Registrar of Titles at the respective Zonal Office (D'Salaam, Dodoma, Mtwara, Mwanza, Moshi and Mbeya) depending on the location of the plot.

Apart from granting rights of occupancy to individuals, the President may revoke a Right of Occupancy for good cause or in the Public interest where he is satisfied that:

- i. There has been an attempted disposition of a right of occupancy to a non-citizen contrary to the New Land Act, No.4 of 1999 and any other law-governing disposition of a right of occupancy to a non-citizen. The land subject of right of occupancy has been abandoned for not less than two years.
- ii. Where the right of occupancy is of land of an area of not less than five hundred hectares and less than eighty per centum of that area of land has been unused for the purpose for which the right of occupancy was granted for not less than five years.
- iii. There has been a disposition, which does not comply with the provision of the New Land Act, No.4 of 1999.
- iv. Breach of condition contained or implied in the certificate of occupancy.
- v. The land is required for public use

### **3.2.5 The Village Land Act**

Unlike the Land Act, the Village Land Act has in it provisions which bear witness of some attempt to learn from past problems and experiences. Indeed, an optimistic reading of the Act suggests that the major parts of the administration of land has

been decentralized to the village and that there are solid guarantees in place to protect the smallholder security of tenure. Essentially, the Village Land Act vests all village land in the village. The precise distribution of authority between the Village Council and the Village Assembly is not always defined, but the underlying principle is clearly that village land is vested in the Village Assembly, and that the Village Council administers the land through the authority of the Village Assembly.

A more critical reading of the Act exposes several problem areas and ambiguities. The legal provisions of key aspects of the administration of village land are set out in some detail below. We will see that elaborate processes of adjudication, registration and safeguarding of land rights have been put in place (Land Act No 4 & 5, 1999). The provisions are long on protocol and seek to incorporate security of tenure (Palmer, 1999). At the same time, they impose administrative controls to ensure that developmental policy concerns are considered. In other words, ownership of land is not only determined by pre-existing rights but also by the perceived capacity of the landowner to develop the land in question. In order to safeguard against improper manipulation of the bureaucracy required to impose developmental control of land allocation, a complex layer of legal stipulations has been put in place to block potential loopholes from abuse.

### **3.2.6 Conflict Resolution**

The Act makes special provisions for the establishment of a Village Land Council “to mediate between and assist parties to arrive at a mutually acceptable resolution on any matters concerning village land” (S. 60). For some reason, its jurisdiction has

been limited to cases related to land sharing arrangements with other villages (S. 11), or land sharing arrangements between pastoralists and agriculturalists (s. 58). The Village Land Council shall consist of seven people, to be nominated by the Village Council and approved by the Village Assembly. Three of the members shall be women (Matee et al, 2005) and (Kipuri et al, 2008).

The Village Land Council is not a village land court like the Elders' Land Council recommended by the Land Commission (*Baraza la Wazee la Ardhi*). Firstly, its jurisdiction is severely limited, and secondly, it only functions in a mediating capacity (Rutaitika, 2008). Its work is to assist the aggrieved parties to arrive at a mutually acceptable solution. In the event that this is not possible, the conflict may be referred to the courts. In other words, the parties to the dispute are not compelled to follow the recommendation of the Village Land Council. It is also noteworthy that the Act explicitly states that: "No person or non-village organization shall be compelled or required to use the services of the Village Land Council for mediation in any dispute concerning village land." (Land Act No.5,1999).

The latter provisions make it quite clear that the Village Land Council is only to provide the service of arbitration between consenting parties (Mpoki et al, 2006). Strictly speaking, it is not even a quasi-judicial body. It seems surprising that while going to the pains of creating a potentially useful body as the Village Land Council, the Government should choose to delimit its powers to the extent of stripping it of any legal judicial standing. The Land Commission's principal purpose behind establishing the Elders' Land Council, for example, was to bring the judicial system

within the reach of the common villager, and to set it in a context that would be more understandable and legitimate (URT, 1994). The Village Land Council will not serve this bridging function, as long as any party to a dispute can lawfully choose to ignore it.

### **3.2.7 Women's Rights to Land**

According to Kironde's UNESCO report of 2006, "Security of land tenure is a basic human rights and necessary input for poverty alleviation strategy" Both the Land Act and the Village Land Act have been hailed as a triumph for the women's rights movement in Tanzania. Gender activists have been among the most active lobbyists in the national debates surrounding the land acts. They successfully lobbied for the inclusion in the Acts of provisions to ensure equality before the law for women in both statutory and customary tenure. Land Act states as one of its fundamental principles that:

- i. The right of every woman to acquire, hold, use, and deal with, land shall to the same extent and subject to the same restrictions be treated as a right of any man (s. 3 (2)).
- ii. The same principle is explicitly laid down in the village land Act No.5, 1999 to cover customary rights of land
- iii. Theoretical position of land administration in Tanzania is guided by the land Act No.4, it aims at protecting land interests for Tanzanians while avoiding the practices of locating lands to non-citizens of Tanzania although the law its self contradicts because there some laws and provisions which impliedly allows land locations to non-citizens of

Tanzania.<sup>14</sup>

### 3.3 Empirical Literature

According to Hakikazi Catalyst (2004), Some years has passed since the National land policy was publicized which lead to the inaction of the new land laws though they until today not achieved the desired impact on the social economic growth and poverty reduction due to a number of reasons.<sup>15</sup> Some of that reasons includes;- lack of vertical and horizontal linkage and policy harmonization, under resourcing of land administration mechanisms leading to Land administration support services to be less effective than they could be, consequently at the local level there is high insecurity as to land tenure, thus there is an increasing number of conflicts and disputes than what the court can handle.<sup>16</sup> There is lack of clarity concerning the respective roles of Government officials as a result of the decentralization policy.

The Strategic Plan for the Implementation of the Land Laws (SPILL) was created to tackle these constraints. It is a planning tool with a ten year time frame which outlines ways of implementing the existing laws. It is estimated to cost around 300 billion Tanzanian shillings over the entire period (2005/06 to 2014/15). The SPILL has been designed so that it involves a large and systematic process of consultation and participation to make sure that it meets the needs and concerns of all stakeholders and harmonizing well with other development initiatives which include, amongst many others, the National Strategy for Growth and the Reduction of

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<sup>14</sup> Section 32 Act No.5,1999

<sup>15</sup> Land peace a plain language guide to the Strategic Plan for Implementing Land Laws ( SPILL)

<sup>16</sup>Ibidi above note

Poverty (MKUKUTA), the Local Government Reform Programme (LGRP), the Rural Development Strategy (RDS), the Agriculture Sector Development Strategy and Programme (ASDS and ASDP), and the Property and Business Formalization Programme1 (MKURABITA).

A key feature of the SPILL is the public education, awareness creation and enhancement (PEACE) initiative. This will make sure that all the stakeholders (i.e. land users and the various other people who support implementation) know about, and are committed to, the developments which are outlined in the SPILL. This plain language guide is an important part of the PEACE initiative. The guide outlines the main ideas of the SPILL in a user friendly way and offers footnotes, endnotes, internet links and a glossary so that readers can dig deeper into the topics that interest them most. Everybody is invited to digest the contents of this guide and to dig deeper where it matters so that, together as a nation, we create a deep rooted and abiding LAND PEACE.

### **3.3.1 Customary Land Tenure History**

Most land in Tanzania is held under customary tenure arrangements. Yet under colonial rule and in the first nearly four decades of independence—a total period of more than a century—all land was vested in the government. In 1999, the Land Act and the Village Land Act were passed, recognizing land held under customary tenure arrangement and legally empowering village governments to manage Village Land. While a welcome relief from the past, these laws have several shortcomings. Perhaps most problematic, they are not effectively implemented or enforced. As a result, the Acts have done little to improve the security of customary land for most poor rural

populations.

In the late 19th century, Imperial Germany conquered the regions that are now Rwanda, Burundi and Tanzania (excluding Zanzibar) and incorporated them into German East Africa. Various Anglo-German agreements delineated the British and German spheres of influence in the interior of East Africa. The German East Africa Company was established at the start of German colonization to run the new colony, but in 1891, the German government took over direct administration of the territory and appointed a governor with headquarters at Dar es Salaam. The German authorities promulgated a series of land decrees. The Imperial Decree of 26 November 1895 converted all territorial lands into “Crown Lands” and vested them in the German Empire.

Germany assumed that all lands to which private ownership could not be established by documentary evidence were ownerless. Communities could prove ownership through occupation and use, but land that was not used continuously was considered ownerless. As a result, 1.3 million hectares of land were alienated from communities, thereafter, the German authorities issued freehold grants to settlers along the coast and in the northern highlands. With the defeat of Germany in World War I, the Supreme Council of the League of Nations mandated the United Kingdom in 1920 to administer Tanzania.

Under the League of Nations Mandate, British jurisdiction over Tanzania came with limited authority over land. The Mandate required the British to protect the land rights of the indigenous inhabitants of the territory; no land occupied by an indigene



could be transferred to a non-indigene without the prior consent of the public authorities. The British government passed the Land Ordinance of 1923, which governed Tanzanian land matters for most of the country's modern history.

By the Land Ordinance, all lands, whether occupied or unoccupied, were declared to be public lands "under the control and subject to the disposition of the Governor." It required, however, that public lands "be held and administered for the use and common benefit, direct or indirect, of the natives of the Territory" and that the Governor "have regard to the native laws and customs existing in the district in which such land is situated. The Land Ordinance conferred significant authorities over land to the colonial Governor and effectively centralized land administration. By the Ordinance, "no title to the occupation and use of any such lands shall be valid without the consent of the Governor." The Governor was also given powers to grant the right of occupancy (the right to occupy and use land for a period of up to 99years) to natives and nonnatives, and to demand a rental for the use of any public lands granted to any native or non-native. Though all lands were public lands, the Governor acted as if the British government was the trustee and beneficiary, and he disposed of land virtually at will. In 1928, the Land Ordinance was amended to formally recognize customary law. The right of occupancy was redefined to include, "the title of a native or a native community lawfully using or occupying land in accordance with the native law and custom" (deemed right of occupancy).

Despite this recognition, a dualistic system of land governance evolved, whereby rights granted by the state were functionally superior to customary rights in land. Judicial decisions clarified that the two did not enjoy the same status in courts of

law. Colonial administrators believed that customary land tenure was merely a stage in the historical evolution of societies and “would wither away as Western civilization became progressively dominant in African social relations.” Individualized freehold tenure was considered a good replacement for customary tenure.

### **3.3.2 Post Colonial Land Law**

Following Tanzania’s independence in 1961, the post-colonial government accepted and used many land concepts developed by the colonial authorities without major alterations. Rather than restructure land relations to better recognize the needs of rural communities and protect their customary land, the government re-entrenched and, in some cases, expanded the scope of colonial land policy and law. For example, the independent government simply replaced the word “Governor” with “President” in the 1923 Land Ordinance and inherited the provisions that

Centralized authority in the executive branch. Julius K. Nyerere, Tanzania’s first president, ushered in a series of laws that expanded the domain of “public land” and abolished freehold tenure. The Freehold Titles (Conversion) and Government Leases Act of 1963 converted freehold titles (covering less than one percent of land) to 99-year leaseholds with development conditions. The Rights of Occupancy (Development Conditions) Act of 1963 obligated lessees to pay rent.

The Rural Farmland (Acquisition and Regrant) Act of 1965 empowered the government to acquire undeveloped private land and transfer it to people who would

occupy and develop it (in practice, land was transferred to state corporations parastatals and cooperatives).

The Customary Leaseholds (Enfranchisement) Act of 1968 abolished feudal land tenure systems (e.g., Nyarubanja) that existed in Kagera, West Lake Region. In addition, the Government Leaseholds (Conversion to Rights of Occupancy) Act of 1969 converted leaseholds to rights of occupancy under government leaseholds. From 1967 to 1973, the government implemented a villagization program (Ujamaa) which involved the relocation of about 80% of the rural population to 5,528 villages. The program aimed to create the structures for the establishment of large collective farms and the modernization of agriculture. The government did not create a new tenure regime, and local authorities were not legally vested with the powers to govern land. Often villages were allocated land in public meetings without following any formal procedures. Customary tenure systems were generally ignored and large portions of customary land were alienated. Disputes over existing land rights were disregarded.

In 1992, the Village Act legalized ownership of the land granted to people by the government during the pillarization program. In the mid-1980s, the government ushered in new policies to liberalize the economy and promote foreign investment. This led to a rapid increase in land acquisitions by local, national and foreign investors. Progressively centralized land administration, increasingly inefficient state bureaucracy and past administrative measures had created widespread confusion with regards to land tenure patterns.

In the rural areas, the confusion led to insecure land tenure and a justified fear that alienation of village land would result in landlessness. This, in turn, fuelled widespread rural discontent with land tenure policy and administration. In January 1991, the government established the Presidential Commission of Enquiry into Land Matters to hear complains concerning land, review land policies, assess land institutions and recommend changes. The Commission, which visited every region and all but two districts in mainland Tanzania, presented its report to the President in 1993. Thereafter, the government prepared the country's first ever National Land Policy (1995/1997). The policy was developed with limited public participation and did not incorporate many Commission recommendations, including those regarding land decentralization and democratization.

The National Land Policy led to the enactment of new land legislation—the Land Act of 1999 and the Village Land Act of 1999—which came into force on 1 May 2001. These two Acts provide the overall framework for the exercise and administration of land rights. In some areas, they represent a substantial reform of the prior tenure framework that had been in existence since the Land Ordinance of 1923. For example, by these laws, all Tanzanians above 18 years of age have rights to acquire and own land; all existing property rights are recognized and protected, including customary titles; and land should be used productively and such uses should comply with the principles of sustainable development.

On other matters, however, the land laws retain the basic features and characteristics of the old system. Consistent with the old system, the Land Act places ultimate land

ownership—“radical title”—in the president as a trustee for all Tanzanians, making land tenure a matter of usufruct rights as defined by various leaseholds. It retains rights of occupancy, the imposition of development conditions, landrent, and detailed bureaucratic control of all aspects of land use and ownership.

Under the Land Act, only the Ministry of Lands, through the Commissioner of Lands, has the authority to issue grants of occupancy. It also restricts non-nationals from acquiring land, except acquisitions connected to investments that have approval from the Tanzania Investment Corporation under the Tanzania Investment Act of 1997.

### **3.4 Policy Review**

#### **3.4.1 National Land Policy**

The Government in 1995 promulgated the National Land Policy (NLP). The main objective of the NLP is to promote and ensure wise use of land, guide allocations, prevent degradation and resolve conflicts. On the issues related to land location and disputes management, this policy is one of the major guiding principles to local authorities, which are in dire need of decision making mandates on land use and resources.

Admittedly, land tenure issues are fundamental to the sustainable utilization of land resources. Security of land tenure and resources influences the level of investment on land and conservation of land based natural resources. In other words, land management depends on land tenure and the allocation of specific user rights. In

Tanzania, the President owns the land in trust for present and future generations. The Commissioner for Lands acts on behalf of the President and administers the land. The dual system of land tenure introduced by the colonial regime has been maintained by the NLP. Right of occupancy, which is the main form of tenure, can either be acquired through a grant by the Commissioner for Lands or through customs and tradition. The NLP tries to protect the interests of various groups of people as regards to tenure security.

#### **3.4.1 The need for the National Land Policy**

Since Tanzania attained political independence in 1961, there has been a need to have a comprehensive land policy that would govern land tenure, land use management and administration.<sup>17</sup> The need for a National Land Policy was caused by the following factors:-

- i. Changes in land use and the increase in human population which raised the demand for plots especially in urban areas
- ii. Increase of livestock which raised the need for grazing land also causing serious soil erosion
- iii. Evolution of customary land tenure towards more individualized ownership accompanied by the development of lands markets particularly in areas such as Kilimanjaro, Bukoba, Rungwe and Arumeru where land is scarce and cash crops are grown on an individual basis call for pragmatic land policies in order to accommodate the aspirations of the people and the needs of the

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<sup>17</sup> National Land Policy, 1995

economy.

- iv. Adoption of political pluralism., new economic and social policies and uncertainty in land rights calls for a different approach for protecting land rights of individuals and organizations to ensure continuity
- v. Finally, recent court of appeal decisions affirming customary tenure rights in areas affected by villagization provided guidance for addressing such land tenure problems in an approach compatible with the basic values and ideals of the nation.

The national Land Policy therefore calls for a comprehensive policy which would not only guide the allocation, ownership, and use of land but also help resolve any recurring disputes. However the policy reiterates and retains the four central land tenure tanets in a modified form that;-

- i. Land is publicly owned and vested in the President's hand on behalf of the citizens.
- ii. Speculations in land will be controlled
- iii. Customary and statutory rights of occupancy shall continue to be legally recognized types of land tenure.
- iv. Rights and tittle to lands will continue to be based on the use and occupation.

### **3.4.2 Objectives of the National Land Policy**

The overall aim of the National Land Policy is to promote and ensure security of land tenure system, encourage optimal use of land resources and to facilitate broad based social and economic development without upsetting or endangering the

ecological balance of the environment. The specific objectives of the National Land Policy includes;-

- i. Promote an equitable distribution of and access to land by citizens
- ii. Ensure that, existing rights in land particularly customary rights of small holders are recognized, clarified and are secured in law.
- iii. Set ceilings on land ownership which will later be translated into statutory ceilings to avoid land grabbing.
- iv. Ensure that, land is put to its most productive use and promote rapid social and economic development of the country.
- v. Modify and steam line the existing land management system and improve the efficiency o land delivery systems
- vi. Streamline the institutional arrangements in land administration and land disputes adjudication and make them more transparent.
- vii. Promote a sound land information management.
- viii. Promote land resources from degradation for suitable development.<sup>18</sup>

In brief, the policy recognizes that land problems are not confined to individual claims to tenure but involve issues such as the economic use of land, rural and urban development, housing, squatting, the quality and security of title, advancement of agriculture and the protection of the environment which all call for a policy that is holistic and aimed at giving substance to the government's development objective.<sup>19</sup>

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<sup>18</sup>National Land Policy, 1995.

<sup>19</sup>Hakiardhi, a critical analysis of Land Laws, September, 2004.



### **3.5 Literature Review Summary**

In a nutshell, the policy and statutes to a great extent favors equitably and affordable conditions for all groups of walks to own and use land for social and economic development, however such opportunity can't be fully utilized by the rural community of Tabora District due to minimum understanding of the community on the policy and the laws in question.<sup>20</sup>

To fulfill the purposes of the National Land Policy, sound interventions should be done on improving the knowledge of the land councils on the administration of land disputes at village levels hence relevance of this study.

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<sup>20</sup> JSDV Report on Land Management Sep, 2011.

## **CHAPTER FOUR**

### **4.0 PROJECT IMPLEMENTATION**

#### **4.1 Introduction**

This chapter presents a planned and actual implementation status of the project its deliverables and inputs. The chapter gives clear views on Products and outputs, Project Planning implementation plan, inputs, staffing pattern, project budget, project implementation, project implementation Report as well as project implementation Gantt chart.

#### **4.1 Products and Outputs**

For duration of 12 months, the project achieved the following products and outputs

- a) **Output:** the output of the project includes:-
  - (i) Increased awareness of the community on the laws governing village land.<sup>21</sup>
  - (ii) Increased knowledge of village land councils on their legal roles and responsibilities
  - (iii) Village land and individual lands well demarcated.
  - (iv) Initiation of village land registry.

#### **b) Products**

The products of the project includes:-

- (i) 130 Persons reached with education
- (ii) 12 Person representatives from village land councils are trained on the administration of land matters in accordance with the Act N.5, 1999

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<sup>21</sup> Village Land Act No.5, 1999

- (iii) 5 disputes were successfully resolved in malolo village.
- (iv) Preparations to establish land registry accomplished
- (v) The village has set down an action plan, intelling activities to be done for proper land management and rights in their villages.
- (vi) The village is now working out to recover its registration certificate which was misplaced or lost.

## 4.2 Project Planning

The life of project as planned was 12 month

**Table 7: Project Planning**

Objectives	Project month JULY 2011-JUNE 2012												Resources needed	Person responsible
<b>Objective 1:</b> To increase the awareness and application of laws governing land matters in accordance to the Land Act No.5,1999														
<b>Activity</b>	1	2	3	4	5	6	7	8	9	10	11	12		
Identify people to be trained	√	√											Transport stationery and communication	Student, JSDV officer and Village Executive Officer
Prepare a tailor made training guide/training manual			√	√	√								Stationery, computer and photocopy	Student, JSDV officer and Village Executive Officer
Conduct training						√	√						Venue, stationery, LCD Projector and compuer	Student, JSDV officer and Village Executive Officer

Objectives	Project month JULY 2011-JUNE 2012										Resources needed	Person responsible	
Provide simplified legislative documents								√	√			Computer, Printer and stationery	Student, JSDV officer and Village Executive Officer
Objective 2: Introduce land registry for registering customary acquired titles										√	√	Transport and meal/incidental allowance	Student, JSDV officer and Village Executive Officer
Conduct consultative session with local authorities for the frame work of the registers									√			Venue, refreshments, LCD Projector	Student, JSDV officer and Village Executive Officer
Conduct orientation seminar to village executive officer on the operationalization of land registers											√	Venue, Transport and incidental allowance	Student, JSDV officer and Village Executive Officer
Objective 3: Inform the public on their rights concerning land tenure											√	LCD Projector, Venue, refreshments	Student, JSDV officer and Village Executive Officer
Conduct public dialogue on village land rights											√	Student, JSDV officer and Village Executive Officer	Student and Fisheries Officer
Design and distribute land rights educational materials											√	Computer, printer and photocopier	Student, JSDV officer and Village Executive Officer

**Source:** From field research, 2012

#### 4.2.1 Implementation Plan

**Table 8: Logical Framework**

S/N	Project elements	Indicators	Means of verification	Assumptions
1	GOAL: To reduce conflicts of interests to land among the target community	<ul style="list-style-type: none"> <li>• members of Village land council trained on land management and are operating effectively by July 2012</li> <li>• People understand the two systems of land tenure and applying them effectively by July 2012</li> <li>• Village Land registry is established and operating effectively by July 2012.</li> </ul>	Group members interviews Community interviews Project reports Reports from the village council	Weather condition won't change
2 i	SPECIFIC OBJECTIVE To mobilize the village leadership to initiate land registry	age land registry is established by July 2012	Group members interviews Report from village council Project report Community interview	Sensitization of community carried out on time
ii	To train members of the village land councils and the village executive on how to fill the land register	of 10 People trained on how to operate the register by July,2012.	Training report Group interviews	
iii	To train the village land Council on the Law Governing village land matters	of 10 People trained on the law Governing land matters (Act. No.5, 1999 by July,2012.	Training reports Group interviews	Trainer available on time

S/N	Project elements	Indicators	Means of verification	Assumptions
Iv	To provide land legislations to the land council in a simplified version	a total of 20 copies of simplified legislations by July 2012.	Site visit Procurement receipts Community interviews Village council and Fisheries Officer reports	Resources shall be timely available.
3.	OUTPUT			
I	(i) Increased awareness of the community on the laws governing village land. <sup>22</sup>	ed knowledge of the community on the Act.No.5,1999	Group interviews Village council and Fisheries Officer reports	Trained members on the land law performs in their villages accordingly
ii	(ii) Increased knowledge of village land councils on their legal roles and responsibilities	ation of Act No.5,1999 by village councils	Community interviews Production records books Village council	Trained members of village land councils perform well
	(iii) Village land and individual lands well demarcated	bility of land boundaries	Observation & interview of community members	Trained members of village land councils perform well
	ACTIVITIES			
	Identify people to be trained	al of 10 people identified from the community by July 2011	Group interview Project report Village council reports	Supportive environment from local leaders available

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<sup>22</sup> Village Land Act No.5,1999

S/N	Project elements	Indicators	Means of verification	Assumptions
	Prepare a tailor made training guide/training manual	Comprehensive training manual on land management is on place by August 2011	A manual is in place Leaders interview	Availability of trained lawyers at JSDV
	Conduct training	Identified trainees are covered with training by July 2012	Training report and trainees interview	People devote their time for training
	Provide simplified legislative documents	Copies of simplified legislations prepared and distributed to members of village land council by July 2012	A copy of a simplified version in place	JSDV shall provide technical and financial support

#### 4.2.2 Inputs

**Table 9: Inputs**

S/N	TYPES OF INPUTS/RESOURCES	QUANTITIES	COSTS
1	Trainers	2	500,000
2	Driver	1	150,000
3	Refreshments	12	120,000
4	Training manual	5	50,000
5	Flip chart	3	30,000
6	Masking tape	10	6,000
7	Marker pen	5	7,500
8	Exercise book	12	24,000
9	Ball pen	12	12,000
10	Fuel (diesel)	80 Lts	184,000
11	Hire of LCD Projector	1	200,000
12	Equipments and experts	Lump sum	1,200,000
TOTAL			2,483,000

**Source:** From field work, 2012

### 4.2.3 Staffing Pattern

The host organization has staff with different skills and professionals including:-

Accountants, Social workers and lawyers. In that regards, there is no need of new staffing however, the head of trainings and legal services who is a lawyer & high court advocate shall be the supervisor of this project.

**Table 10: Participatory Monitoring Plan**

<b>4.2.4 Project budget</b>	<b>Planned activities</b>	<b>Actual implementation</b>	<b>Planned time line</b>	<b>Actual time line</b>
The project direct budget was Tshs. 1,283,000; however, material contribution countered from use of equipment i.e vehicles, computers, communications and experts was estimated to be Tshs 1,200,000. Such was countered as in-kind contribution from the host organization, therefore making the total project budget to be Tshs. 2,483,000/=.				
To increase the awareness and application of laws governing land matters in rural areas of Tabora in accordance to the Land Act No.5,1999	Identify people to be trained	12 People were identified as trainees	One week	Two weeks
	Prepare a tailor made training guide/training manual	One training manual was prepared	One month	Two months



<b>4.2.4 Project budget</b>	<b>Planned activities</b>	<b>Actual implementation</b>	<b>Planned time line</b>	<b>Actual time line</b>
	Conduct training	A training was conducted for 12 identified trainees	Three days	One week
	Provide simplified legislative documents	A simplified legislative document was prepared and provides to land councils member	One month	Two month
Introduce land registry for registering customary acquired titles	Conduct consultative session with local authorities for the frame work of the registers	A consultative session with local authority was made	One week	Three weeks
	Conduct orientation seminar to village executive officer on the operationalization of land registers	A seminar to orient members of the village land council on the operations of the land register	Three days	Five days
Inform the public on their rights concerning land tenure	Conduct public dialogue on village land rights	A public dialogue was conducted to gather public opinion on the community's rights on land matters	Three days	Three days
	Design and distribute land rights educational materials	One version of land rights educational material was prepared and distributed to the land council's members	Two month	Three month

**Source: From field research, 2012**

#### **4.3.1 Project Implementation Report**

The project was conducted according to the activities planned to achieve stated objectives as discussed in the following paragraphs.

## **CHAPTER FIVE**

### **5.0 PROJECT PARTICIPATORY MONITORING EVALUATION AND SUSTAINABILITY**

#### **5.1 Introduction**

This chapter discusses the participatory monitoring, evaluation and sustainability undertaken during implementation of the project. This stage was very important because it enabled the beneficiaries and stakeholders to assess the ongoing project activities, to assess whether or not the project are being implemented as planned, to assess progress in meeting the project objectives and to assess the success of the project and strategies under taken to make the project sustainability. The main goal of participatory monitoring and evaluation conducted was to track the progress of the project.

#### **5.1 Participatory Monitoring**

The beneficiaries and host organization conducted a participatory monitoring in order to collect and analyze the information to compare progress of an activity with original implementation plan .The data collected enabled the group members to make decisions about what was working well, what was not working well and how to proceed with next activity.

##### **5.1.1 Monitoring Information System**

The data collected were recorded and kept into hard copy and soft copy. The information was distributed during the group members meeting and through group leaders. The method used for collecting information includes group discussion

among group members, direct observation of site activities, interviewing individuals, group meeting and round table with group leaders

### **5.1.2 Participatory Monitoring Methods used to Engage Community in the Monitoring**

The method used to engage group members in the monitoring of project activities includes:

- (i) Group discussion among group members was used to obtain information through discussions. The semi-structured and open-ended questions were used during group discussion to track the problems or successes of the project.
- (ii) Direct observation of site activities: Field visit was conducted during the implementation of project activities to observe and collect information about the real situation of progress of the project.
- (iii) Interviewing individuals: simple questions were used as a monitoring checklist during the interview, where group members were asked to
- (iv) Respond to some questions which provided the implementation process and on problems faced.
- (v) Group meeting and round table with group leaders. The discussions were conducted with group members and leaders of the group aimed at understanding the project problem or successes.

### 5.1.3 Participatory Monitoring Plan

<i>Objective</i>	<i>Activities</i>	<i>Indicator</i>	<i>Monitoring results</i>
To increase the awareness and application of laws governing land matters in rural areas of Tabora in accordance to the Land Act No.5,1999	Identify people to be trained	12 people from land council identified.	One meeting of identification conducted in malolo village
	Prepare a tailor made training guide/training manual	Training manual in place	Consultative meeting to discuss the manual conducted at JSDV
	Conduct training	12 land councils member attended	Five days training workshop conducted
	Provide simplified legislative documents	A simplified manual in place	12 members of land councils supplied with the manual
Introduce land registry for registering customary acquired titles	Conduct consultative session with local authorities for the frame work of the registers	24 members attended	Oneday consultative session conducted
	Conduct orientation seminar to village executive officer on the operationalization of land registers	12 local leaders attended	One day session conducted in malolo ward
Inform the public on their rights concerning land tenure	Conduct public dialogue on village land rights	Land councils to conduct public discussion at village level	One open session conducted at village level
	Design and distribute land rights educational materials	One version of educational material prepared	Total of 130 copies of land rights educational materials distributed

**Source:** Field research, 2013

## **5.2 Participatory Evaluation**

Participatory evaluation was conducted in order to collect and analyze information to determine whether the project carried out its planned activities and extent to which the project was achieved its stated objectives. A formative evaluation was carried out during project implementation while summative was expected to be done at the end of a project.

### **5.2.1 Performance Indicators**

Performance indicators are performance standards to be reached in order to achieve an objective (this means indicators are obtained from objectives).<sup>23</sup> Indicators are quantitative or qualitative criteria for success that enable one to measure or assess the achievement of project objectives (CEDPA, 1994). Three types of indicator were developed in order to assess the success of the project objectives. These are inputs indicators, output indicators and impact indicators.

The objective of this project was to increase the awareness and application of laws governing land matters in rural areas of Tabora in accordance to the Land Act No.5,1999

### **5.2.2 Participatory Evaluation Methods**

The method used in the evaluation of project activities includes:

- (i) Group discussion in order to obtain information. The semi-structured and open-ended questions were used during group discussion to track the problems or successes of the project.

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<sup>23</sup> PADEP (2003)

- (ii) Observation: Field visit was conducted during the implementation of project activities to observe and collect information about the real situation of project progress.
- (iii) Interviews: a checklist of simple question was prepared to provide guidance.

### 5.2.3 Project Evaluation Summary

Goal/objective	Performance indicator	Expected/actual outcome	Method/tools used
To increase the awareness and application of laws governing land matters in rural areas of Tabora in accordance to the Land Act No.5,1999	7 members of the village land council and 5 members from the village trained on land Act No.5, 1999 by July 2012.	12 Members trained	Documentary review and interview
	20 Copies of Act No.5, 1999 made simple designed and distributed by July 2012.	20 Copies distributed	Interview and direct observation
Introduce land registry for registering customary acquired titles	Format of land register introduced by June, 2012	1 format version inplace	Direct observation
	Two village leaders trained on the operationalization of the land register by June, 2012.	2 leaders trained	Documentary review & Interview
Inform the public on their rights concerning land tenure	One public talk session on land rights conducted at malolo village by June 2012.	1 Dialugue conducted	Documentary review

**Source:** Field research, 2013

### 5.3 Project Sustainability

The word sustainability is derived from the Latin term “*sustinere*”. Dictionaries provide more than ten meanings for *sustain*, the main ones being to “maintain”, “support”, or “endure”.<sup>24</sup>

#### 5.3.1 Strategies for sustainability

This project applied the following strategies to ensure continuous and scale up of the outcomes:-

First, ensure availability of community based trained person so as to afford local discussions on land rights. This is done through training of 5 members of the village government and 7 members of village land council. These shall be fully available to support other community members.

Secondly, mainstreaming land law rights education into the day to day activities of village leaders, and during various development activities and meetings done at the village in different time. Third, the host organization (JSDV) has set aside a room space, equipment i.e. computers, furniture as well as experts time to continue supporting the community on land rights affairs. There is there for a land rights and legal information Centre to continue providing education to the entire community.

### 5.4 Chapter Conclusion

The participatory monitoring was conducted in order to collect and analyse information to compare progress of an activity with the implementation plan. The

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<sup>24</sup><http://en.wikipedia.org/wiki/Sustainability#Definition>

methods used for monitoring the projects includes: group discussion, direct observation, interview, plenary discussion during meetings.

A sustainability plan was established to ensure sustainability of the project activities and impact. The strategies for sustainability include: Training and capacity building of the local community's leaders, decentralization of information system, improve community ownership of activities and mainstreams of land rights campaigns into the day to day activities of village leaders as well as into the plans of the host institution



## **CHAPTER SIX**

### **6.0 CONCLUSION AND RECOMMENDATION**

#### **6.1 Introduction**

This chapter is about the conclusion and suggested recommendations or maximum effects and output of the project.

The chapter summarizes all the findings on participatory assessment, literature review, and the motive which lead the choice of the project, report on the implementation of the project, participatory monitoring findings also evaluation and the sustainability plans.

#### **6.2 Conclusions**

In a nutshell, this project has managed to reach its objectives at a great extent, there should be a timely review and supervision of the community's practices as regards to the trainings and knowledge dispensed by the host organization (JSDV ), it should work on the recommendations on its future plans as a way forward for improving people's or community welfare.

#### **6.3 Recommendations**

In making the community sustainably benefit with this project, also affording the community of malolo village opportunities to claim, enforce and provide other legal rights and conduct their affairs in accordance with the National Policies and laws, the village leadership should work in hands with the host organization and focus in the following areas:-

- i. Train paralegals on land law who shall continuously provide legal education even in the circumstances where the councils or tribunal's term expires.
- ii. Train the ward tribunals on Laws related to matrimonial (Law of marriage & Inheritance), and the law of the child.
- iii. The host organization should focus on providing supportive legal education and clinic to the rural community.
- iv. Address issues on GBV (Gender Based Violence) in rural areas.
- v. Avail all the necessary legislations for local community in reasonable and simplified versions.
- vi. Educate the community on constitutional matters so as to enable the society understand their constitutional rights and obligations.
- vii. Lead the community in litigating matters of common concern so as to acquire court orders and remedies for public interest (benefit of the public).
- viii. Strengthen legal information center so as to provide the community with effective base for legal information.
- ix. Plan for sustainable source of income to finance the project costs and ensure sustainability.

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## APPENDICES

### Appendix i: Fomu ya Tathmini

JSDV .

P.O.Box 551

Jamii Salama Development Volunteers Tabora-  
TANZANIA

### FOMU YA TATHIMINI

Tafadhari jaza fomu ya tathimini ya mafunzo ili kutuwezesha kupima ufanisi wa mafunzo na shughuli zetu. Alama za viwango vya ufaulu ni 1 hadi 4. ambapo (1 =Dhaifu, 2=Wastani, 3= Nzuri, 4= Nzuri sana)

		1	2	3	4
1	Mpango wa mawasiliano na jinsi mlivopewa taarifa kuhusu kuhudhulia mafunzo ulieleweka kwa kiasi gini?				
2	Muda wa kujiandaa kuja katika mafunzo ulitosha kwa kiwango gain?				
3	Ukumbi na mahala pa kufanyia mafunzo.				
4	Vifaa vya kufundishia				
5	Vifaa vya mwanafunzi				
6	Uwezo wa wakufunzi kuelezea mada ama somo husika				
7	Umuhimu wa mafunzo kulingana na kazi zetu kama baraza la ardhi la kijiji				
8	Muda/siku za mafunzo				
9	Je? Mafunzo yamekidhi matarajio yako kwa kiwango gain?				
10	Huduma/posho ya kujikimu				

Toa maoni yako ya ziada kuhusu uboreshaji wa mafunzo kwa siku

zijazo.....

.....

.....

.....

.....

.....

.....

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**Appendix ii: Dodoso Kuhusu Upatikanaji wa Haki za Umiliki na Matumizi ya Ardhi Katika Kata ya Malolo**

JSDV .

P.O.Box 551

Jamii Salama Development Volunteers

Tabora-TANZANIA

**Dodoso Kuhusu upatikanaji wa haki ya umiliki na matumizi ya ardhi katika kata ya malolo.**

Dodoso huli linalengo la kuangalia jinsi sheria zinavyo fuatwa na kutumika katika kumiliki ardhi katika vijiji vya kata ya malolo.

Tafadhari jibu maswali yote katika dodoso hili kwa kuweka alama ya vema katika kisanduku kinachohusika.

**Maswali**

1. Je?, unauonaje utendaji kazi wa baraza la ardhi katika kijiji chako?
  - a. Mzuri
  - b. Mbaya
  - c. Sifahamu
2. Je? Utendaji kazi wa baraza la ardhi katika kijiji chako unazingatia sheria za ardhi No.4 na No.5 za mwaka 1999?
  - a. Ndiyo
  - b. Hapana
  - c. Sifahamu
3. Je?, unaifahamu sheria inayounda mabaraza ya kata?
  - a. Hapana
  - b. Ndiyo
4. Je?, halmashauri imekwisha kuwapatieni mafunzo yoyote kuhusiana na usimsmizi na uamuzi ya mashauri yanayohusu ardhi?
  - a. Hapana

b. Ndiyo

5. Kama ndiyo, elezea mafunzo hayo.....

.....  
.....

6. Katika shughuli zifuatazo ni shughuli ipi ungependa iwe ya kwanza kufanyika?

- a. Kuipatia jamii nzima ya malolo mafunzo kuhusu sheria ya ardhi.
- b. Kuhamasisha na kufundisha mabaraza ya ardhi yaifahamu vizuri sheria ya ardhi ya kijiji
- c. Kumsaidia kila mmoja wetu atomize matakwa yakisheria kuhusiana na ardhi anayoimiliki

Asante sana kwa majibu uliyotupatia, pia tunakushukuru kwa kujitolea muda wako.

### Appendix iii: Events Pictures



The researcher Mr. Paskali Kilagula, addressing a topic In the class during training of land councils- Malolo in



The researcher Mr. Paschal, organizing training materials during land council's trainings



Members of Malolo Land Council sitting in a class during training



Members of Malolo Land Council pausing for group work during training. (In a cap is the WEO Mr, Gregory)

**Appendices iv: Training Manual**

**THE OPEN UNIVERSITY OF TANZANIA**



**FACULTY OF ARTS AND SOCIAL SCIENCES**

**CENTRE FOR ECONOMICS AND COMMUNITY ECONOMIC  
DEVELOPMENT (CECD)**

**Training Manual for Trainers of Village and Ward Land Councils**

**August, 2011**

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### Abstract.

Land is a major means of production in all forms of production. Without land, many of the investments can not operate especially in Tanzania, where the majority of the populations are peasants, where peasantry and agriculture contributes about 85% of the total national exports and employs about 80% of Tanzanians.<sup>25</sup> Therefore, land is a source of wealth, from land we manage to get food, cloths, energy, settlement, and minerals. All these marks the importance of land to human been.

Despite of all the importance of land to the general life of a person, the entire system of land tenure and security of land ownership is still not known to the majority of Tanzanians, although there are some clearly laid down laws and procedure entailing the same. Many Tanzanians conducts their activities on a land that they even don't own it legally though they may think that they own legal, this is due to the ignorance of laws caused by many factors such as poverty, illiteracy and customary practices.

Tanzania is now forced to join the world modes of economy, it can no longer conduct its affairs on isolation, it has to accept some global policies and fashions of the world economy influenced by globalization. Tanzanians can not easily cope with globalization if they will remain un told about their land rights and how they can lawfully acquire land tenure security. This manual is therefore designed to suit the requirements of the community based land councils on the general administration of

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<sup>25</sup> [http://tanzaniacorruption.webnode.com/kiuchumi-hali-ya Tanzania-economicstate of Tanzania](http://tanzaniacorruption.webnode.com/kiuchumi-hali-ya-Tanzania-economicstate-of-Tanzania) accessed on june 11<sup>th</sup>,2011

land matters within their localities as so provided by the laws of Tanzania.<sup>26</sup> Through this manual, the land councils shall be able to know the legal requirements on land disputes settlements at village levels, the land councils shall also know the limits of their jurisdictions and the procedure for communicating and file appeals at superior bodies of competent jurisdictions as regards to land matters, hence relevance of this manual and trainings.

This manual provides for a roadmaps of trainers of land councils, can be used to train the village land councils and the ward land tribunals. Trainers needs to consider other factors relevant for their audience to effectively conceive the knowledge in this manual such as conducive venue, prerequisite knowledge of trainees as regards to dispute settlement, good facilitation skills and writing as well as instruction materials such as note books, marker pens, LCD projectors, and flip chart.

Facilitators applying this manual should be well learned and trained in the field of law especially land law, so as they can be able to exploit the other areas which are partially covered by this manual for the benefit of the trainees.

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<sup>26</sup> Act No.5,1999

## **Introduction**

In order to maintain standards and quality of trainings, the researcher developed this *training manual which is suitable to bring positive results and actions towards the general administration of land disputes at community levels* as provides by the laws of Tanzania.<sup>27</sup> The primary beneficiaries of this manual are the land councils at village and ward levels, Local Government authorities, however, the general community, university students and other stake holders including current and prospective investors with interests on lands at different levels can benefit from this manual.

This manual consists of eleven sections or topics apart from this introduction, the table of contents and the schedule of references. Those parts or topics are topics on:- Definition of land, Land reforms in Tanzania, Laws governing land matters in Tanzania, Tension between customary and granted rights of occupancy, transfer of land under act No.5, 1999, Revocation of rights of occupancy under Act No.5, 1999, Land tenure security, Gender perspectives as regards to land, Land dispute settlement system in Tanzania and the conclusion.

### **1. Definition/meaning of land**

Land is a composition of soil, sand, and any other things which are permanently attached to soil irrespective of minerals.<sup>28</sup> Land is a source of worth, and it is from land where we get food, clothes, settlement, and other minerals. Land provides for fundamental necessities for human been, it is a very important thing for human life.

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<sup>27</sup> The courts ( land Disputes settlements) Act, 2002.

<sup>28</sup> JSDV presentation on land, April 2011.



## 2. Reforms on land laws in Tanzania

In Tanzania, major changes on land laws were made during the second phase Government, such changes or reforms were preceded and emanated from two land mark documents and reports. These are the report of the presidential commission for enquiry on land matters lead by *prof. Issa shivji*,<sup>29</sup> and the national policy on land.<sup>30</sup> Where the existing land laws adopted some of the recommendations of the said commission's report, however many other issues are reported to be still un implemented. From those reforms on land laws, two systems of land tenure are confirmed to exist in Tanzania, which are the granted right of occupancy and the customary rights of occupancy as provided by Acts No.4 and 5.<sup>31</sup> The reforms on land laws were facilitated and advocated by external stake holders lead by the World Bank and internal stake holders who wanted their security of land tenure be defined.

## 3. Laws applicable on land matters

The laws governing land matters as mentioned by the *courts (land Disputes settlements) Act, 2002*. are the Constitution of the United republic of Tanzania, the land law, other written laws, customary laws of Tanzania, and the common law as adopted from England. The law also highlights that, should there be any other laws contradicting the land law No.4, 1999, such laws shall be inoperative.

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<sup>29</sup> presidential commission for enquiry on land matters, 1992

<sup>30</sup> National land policy, 1995

<sup>31</sup> Village Land Act No.4 and 5, 1999.

#### 4. Customary land tenure

Customary laws are among the laws agreed by the laws of Tanzania,<sup>32</sup> also the village land law.<sup>33</sup> Where the land laws still acknowledge that, all the lands in Tanzania remain public property vested under the trust ship of the President of the United Republic of Tanzania.

The land is divided into three groups as mentioned bellow:

- I. General land
- II. Village land
- III. Reserved land.( This includes forest reserves, game reserves, reserves of water sources and other reserves.<sup>34</sup>

The law allows transfer of lands from one group to another.<sup>35</sup> The law divides the village land into two groups, being the village land and personal lands which are normally owned by individuals, clans, groups of people and families.

#### 5. Acquisition of land in the village

Application of land is clearly provided by the law,<sup>36</sup> where a person owning land is entitled to compensation when his or her land is subject of being taken by any authority or government. The village land law<sup>37</sup> explains more on the ownership of

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<sup>32</sup> Land Act. No.4, 1999

<sup>33</sup> Act No.5,1999

<sup>34</sup> Section 6, Act No.4, 1999.

<sup>35</sup> Section 5, Act No. 4, 1999.

<sup>36</sup> Section 14(1) Act No.5,1999.

<sup>37</sup> Section 18, Act No.5,1999

land in the village, and both, the granted and customary rights of occupancy carries equal weights.

## **6. Tension between customary and granted rights of occupancy**

Tension between granted and customary rights of occupancy mostly occurs under the following circumstances:-

- i. Where the Government locates a large scale of lands owned by several individuals to a parastatal or any corporation.
- ii. Where there is expansion of township and or cities.

It was made clear that, growth or expansion of township leading to issue of granted right of occupancy does not automatically extinguish the customary rights of occupancy which are lawfully issued, that was so decided by the court of law during its practices.<sup>38</sup> Therefore, a person's land can only be acquired under the provisions as provided by the land acquisitions Act.<sup>39</sup> Where a president is lawful permitted to acquire any land subject to conditions as laid down by the land acquisitions act.

## **7. Revocation of rights of occupancy in accordance with Act. No.5, 1999**

The village land law does not expressly provide for procedures for revocation of customary right of occupancy, however, such can be done where the laws of a particular customs provides so. The important things to be noted is that, there must be a breach of rules on the ownership of land in accordance with the customs in question, and the following procedures shall be followed:-

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<sup>38</sup> Methusela paul Nyagwasa Vs Christopher Mbote Nyirabu, 1985 (TLR) 103.

<sup>39</sup> Land acquisitions Act, No.47, 1967.

- i. The village council shall issue a note of warning to a person in breach of the customary rule.
- ii. The person issued a notice shall give his statement within 14 days.
- iii. The land council shall then act in accordance with the customs in question.
- iv. Commissioner for lands shall issue his consent to the action of the land council as provided by the land laws.<sup>40</sup>

## **8. Land tenure security**

In Tanzania, the land tenure security is clearly provided by the law. The law provides adequate security for those who lawfully own land either under customary system or under granted rights of occupancy. However, the practices show the contrary, to some extent courts have been highly prudent and careful in dispensing justice as regards to land.<sup>41</sup>

## **9. Gender on land ownership**

The land laws of Tanzania respect gender equity in the ownership of land. The law allows any person irrespective of gender to file a case or complaints regarding lands at any court or body of competent jurisdiction. The land law in order to recognize the land rights of both parties to a marriage, assumes that, any land owned by spouses, is jointly owned by both parties no matter that land shall be registered in the name of one party.<sup>42</sup> Also the law does not allow transfer of any right of occupancy for the

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<sup>40</sup> Section 39, Act No.5,1999.

<sup>41</sup> See the case of NAFCO Vs Villagers of Mulbadaw

<sup>42</sup> Section 161 (2) , Act No.4,1999

land owned by spouses without the consent of either a husband or a wife.<sup>43</sup> That ensures that, no person among the married couple can be deprived her or his rights regarding land.

#### **10. Mechanisms for land dispute settlement in Tanzania**

Different to other issues regarding properties, disputes on land matters are administered differently. The law has vested the village land council with compulsory original or registrative jurisdiction regarding land disputes where such dispute involves unregistered or village land.<sup>44</sup> The law has laid down the following courts to deal with land disputes;-

##### **i. The Village land Council**

This is vested powers to try or mediate land cases at first instances. No complaints can be received by the ward tribunal or other superior courts without being firstly heard by this body.

##### **ii. The ward land tribunal**

This receives appeals and complaints against the village land council's decisions. Should a person remain unsatisfied with the decisions of the village land council, then he or she can refer the matter to the ward land tribunal.

##### **iii. District Land and Housing Tribunal**

This is an appellate body, receiving complaints and cases from the ward tribunal. It has powers to examine the decisions and technicalities applied by ward tribunals in

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<sup>43</sup> Section 161 (3) Act No.4,1999.

<sup>44</sup> Sections 48-59, Act No.4,1999.

determining land disputes.

iv. The High Court of Tanzania land division and

This receives appeals and complaints from the district land and housing tribunals within its area of jurisdiction.

v. The Court of appeal of Tanzania.

This has appellate powers over the decisions regarding land matters as made by lower courts.

## **11. Conclusion**

In a nutshell, land matters are very sensitive issues, society should well understand the entire systems of land administration since there is no one who can real claim to have no any interest or connection to the use or ownership of land. And ownership of land does not necessarily mean to be a registered owner of a title to land, its meaning includes those who own lands under other contractual terms such as letting (tenants), leaseholders, and those who owns just parts to the bigger buildings or apartments.

Tanzanians should work hard to define their land rights so as to find better positions of their economy especially at this time where Tanzania has joined membership to various network and federations such as the East African Community. It is only the law and adherence to the law that shall give liberty for Tanzanian to excel economically and avoid concurrency of outsiders to their lands.