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# **LAND ACQUISITIONS FOR AGRIBUSINESS IN TANZANIA: PROSPECTS AND CHALLENGES**

**LAWYERS' ENVIRONMENTAL ACTION TEAM  
(LEAT)**

**November, 2011**

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## TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS .....	vii
ACKNOWLEDGEMENTS .....	ix
EXECUTIVE SUMMARY.....	x
<b>CHAPTER ONE .....</b>	<b>1</b>
Study Rationale and Methodology.....	1
1.0 Introduction .....	1
1.1 Background .....	1
1.2 Objective of the study .....	3
1.3 Guiding Themes and Research Questions .....	3
1.4 Scope of the Study .....	5
1.5 Methodology .....	5
1.5.1 Area of the Study .....	6
1.5.2 Study Population .....	6
1.5.3 Sample Size and Sample Selection Procedures .....	6
1.5.4 Types and Sources of Data and Data Collection Methods .....	7
1.5.5 Data Processing and Analysis .....	7
<b>CHAPTER TWO .....</b>	<b>8</b>
Land Acquisitions and Agribusiness in Tanzania: A Review of Literature .....	8
2.0 Introduction .....	8
2.1 Investment in Production of Biofuel and its Impact on Gender and the Livelihoods of Rural Communities in Tanzania .....	8
2.2 Potential and Real Socio-economic Effects of Biofuel Investments on Livelihood .....	11
2.3 Competition between Food and Energy .....	15
2.4 Conclusion .....	17

<b>CHAPTER THREE .....</b>	<b>18</b>
Legal Framework and the Policy on Land	
Acquisition for Agribusiness in Tanzania .....	18
3.0 Introduction .....	18
3.1 The Macro-Policy Environment .....	18
3.1.1 The Tanzania Vision 2025 .....	18
3.1.2 The National Strategy for Growth and Reduction of Poverty I & II .....	19
3.2 The Sectoral Policy Environment .....	20
3.2.1 The Agricultural and Livestock Policy of 1997.....	20
3.2.2 The National Land Policy of 1995 .....	21
3.2.4 The National Environmental Policy of 1997 .....	23
3.2.5 The National Guidelines on Biofuel Policy of 2008 .....	23
3.3 The Legal Framework .....	25
3.3.1 The Tanzania Investment Act of 1997, Cap. 38 ...	25
3.3.2 The Forest Act of 2002, Cap. 323 .....	28
3.4.2 The Land Act of 1999, Cap 113 .....	29
3.4.2.1 Principles of Land Management .....	29
3.4.2.2 Categories of Public Land .....	32
3.4.2.3 Management of Village Land .....	33
3.4.2.4 Transfer of Village Land .....	37
3.4.2.5 Acquisition of Land in a Village by a Citizen of Tanzania .....	40
3.4.2.6 Acquisition of Land by a Foreigner Living in Tanzania .....	41
3.4.2.6.1 Land Acquisition through the Tanzania Investment Centre .....	42
3.4.2.6.2 Land Acquisition through the Village .....	43
3.4.2.7 Determination of Compensation.....	45
3.4.2.8 The Powers of the President to Acquire Land .....	46
3.4.2.9 Conduct of Village Land Transfer Transactions .....	47
3.5 Conclusion .....	49

<b>CHAPTER FOUR .....</b>	<b>50</b>
Acquisitions of Land for Agribusiness in Selected Regions .....	50
4.0 Introduction .....	50
4.1 The Socio-economic Impact of Land acquisition or Grabbing for Agribusiness .....	50
4.2 The Case of Investments in Kilwa District, Lindi Region .....	51
4.2.1 Land Ownership within the Target Areas .....	52
4.2.2 Forms and Security of Tenure .....	52
4.2.3 Breakdown of Ownership Classes .....	52
4.2.4. Land Use and Drivers for Land Grabbing .....	53
4.2.5 Basic Household Information .....	54
4.2.6 Basic Sub-household Information .....	54
4.2.7 Information on Land Use .....	55
4.2.8 Natural Resources .....	56
4.2.9 Use of Natural Resources in supporting Livelihoods .....	57
4.2.10 Identifying the Poor .....	57
4.2.11 Conclusion .....	61
4.3. Socio-economic Impact of Biofuel Investments in Kisarawe District, Coast Region .....	62
4.3.1 Land Ownership Map within the Target Areas .....	62
4.3.2 Forms and Security of Tenure .....	62
4.3.3. Breakdown of Ownership Classes .....	62
4.3.4 Land Uses and Drivers for Land Grabbing .....	63
4.3.5 Household Basic Information .....	63
4.3.6 Sub-household Basic Information .....	63
4.3.7 Land Use Information .....	64
4.3.8 Natural Resources .....	64
4.3.9 Use of Natural Resources in supporting Livelihoods .....	64
4.3.10 Influence of Natural Resource Management Policies .....	65
4.3.11 Identifying the Poor .....	65

## TABLE OF CONTENTS

---

4.3.12	Impacts of Land Investment in Kisarawe District .....	65
4.3.13	Conclusion .....	67
4.4	Socio-economic Impact of Land Acquisition/Grabbing in Njombe District, Iringa Region .....	67
4.4.1	Drivers of Land Acquisition/Grabbing in the District .....	68
4.4.2	Percentage of Land under Different Types of Ownership Regime in the District .....	69
4.4.3	Household Basic Information .....	69
4.4.4	Land Use Information .....	69
4.4.5	Natural Resources .....	70
4.4.6	Social Capital .....	71
4.4.7	Identifying the Poor .....	71
4.4.8	Conclusion .....	71
4.5	Socio-economic Impacts of Biofuel Investments in Kigoma Rural District, Kigoma Region .....	72
4.5.1	Land ownership Map within the Target Areas .....	73
4.5.2	Forms and Security of Tenure .....	73
4.5.3	Breakdown of Ownership Classes .....	73
4.5.4	Land Uses and Drivers for Land Grabbing .....	73
4.5.5	Household Basic Information .....	74
4.5.6	Land Use Information .....	74
4.5.7	Natural Resources .....	74
4.5.8	Identifying the Poor .....	75
4.5.9	Conclusion .....	75
4.6	Processes and Legality of Investments in Selected Areas .....	76
4.6.1	Procedures of Land Acquisition .....	76
4.6.2	Category of Land Allocated to Investors .....	79
4.6.3	Nature of Investment Contracts .....	80
4.6.4	Procedures and Criteria for Compensation .....	81
4.6.5	Promises and Compliance .....	84
4.6.6	Environmental Concerns .....	87

4.6.7	Implication following Suspension of Production .....	89
<b>CHAPTER FIVE .....</b>		<b>90</b>
	Emerging Issues and Way forward .....	90
5.0	Introduction .....	90
5.1	Gender issues in the processes of Land Acquisition for Agribusiness .....	90
5.2	Abuse of the Trusteeship Role .....	93
5.2	Scope of Investment Contracts.....	94
5.3	Adherence to Social and Environmental Impacts .....	94
5.4	Need for Binding Contracts .....	95
5.5	Need for Land Use Plans .....	95
5.6	Public Participation .....	96
5.7	Motivation of Out-growers .....	98
5.8	Terms of Compensation .....	98
5.9	Conflict between Granted and Customary Tenure .....	101
5.10	Adherence to Procedures .....	102
5.11	Labour Rights .....	102
5.12	Transparency and Clear Articulation of Rights .....	103
5.13	Conflicting Interests .....	103
5.14	Leadership Change .....	104
5.15	Need for Statehood and Simplicity in Contract Language .....	104
5.16	Socio-economic Issues in the Four Case Studies .....	105
<b>REFERENCES .....</b>		<b>111</b>
	Annexes .....	114
	Village Land Forms .....	114
	Village Land Form No. 8 .....	114
	Village Land Form No. 9 .....	115
	Village Land Form No. 10 .....	116
	Village Land Form No. 11 .....	117

TABLE OF CONTENTS

---

Village Land Form No. 12 .....	118
Village Land Form No. 13 .....	119
Village Land Form No. 14 .....	120
Village Land Form No. 15 .....	121
Matrix of Thematic issues related to Land	
Grabbing/Acquisition in selected districts .....	122
List of Study Respondents .....	128

**ABBREVIATIONS AND ACRONYMS**

AG	Attorney General
AIDS	Acquired Immunodeficiency Syndrome
ASDP	Agricultural Sector Development Programme
Cap.	Chapter
CPO	Crude Palm Oil
CSOs	Civil Society Organisations
DCLC	District Council Land Committee
EIA	Environmental Impact Assessment
EMA	Environmental Management Act
FAO	Food and Agriculture Organisation of the United Nations
FELISA	Farming for Energy for Better Livelihoods in Southern Africa
FFB	Fresh Fruit Bunches
FGDs	Focus Group Discussions
FPIC	Free, Prior, Informed Consent
GDP	Gross Domestic Product
G.N.	Government Notice
HIV	Human Immunodeficiency Virus
IDI	In-depth Interview
IFAD	International Fund for Agricultural Development
IIED	International Institute for Environment and Development
LARRRI	Land Rights Research and Resources Institute
LEAT	Lawyers' Environmental Action Team

## ABBREVIATIONS

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MDGs	Millennium Development Goals
MKUKUTA	“Mkakati wa Kukuza Uchumi na Kuondoa Umaskini”
MOU	Memorandum of Understanding
MP	Member of Parliament
NAFCO	National Agriculture and Food Corporation
NBTF	National Biofuel Task Force
NSGRP	National Strategy for Growth and Reduction of Poverty
R/O	Right of Occupancy
REDD	Reduced Emissions from Deforestation and Forest Degradation
STI	Sexually Transmitted Infections
TIC	Tanzania Investment Centre
TZS	Tanzania Shilling
UN	United Nations
URT	The United Republic of Tanzania
VA	Village Assembly
VAT	Value Added Tax
VC	Village Council
VEO	Village Executive Officer
WWF	World Wide Fund for Nature

## Acknowledgements

This research was commissioned by Lawyers' Environmental Action Team (LEAT) in May 2011. It was conducted by two consultants, namely, Mr. Sist Joseph (LL.M, Lecturer at Tumaini University, Dar es Salaam Campus) and Mr. Richard Faustine Sambaiga (M.A., Assistant Lecturer at the University of Dar es Salaam). The consultants were assisted by Sylvia Nestor Daulinge (B.A.) and Lucian Bakari (LL.B).

LEAT wishes to thank sincerely the individuals and institutions that freely provided the information needed at the time of undertaking this research.

First and foremost, we would like to thank the officials of the districts and villages in Kilwa, Kisarawe, Kigoma Rural and Njombe districts for their prodigious help. Particularly, we would like to express our sincere thanks to the District Commissioners and District Administrative Secretaries of the four districts for granting us the permit to undertake the study in their respective districts. Several other district officials readily provided us with invaluable information and support. These include District Executive Directors, District Land Officers, District Agricultural Officers, District Lawyers, District Community Development Officers and District Forestry Officers. Without their ideas, experiences and views, we might not have carried out this study successfully.

Besides these district officials, we also talked to the village leaders and the community members of the villages of Mavuji, Mtamba, Mahembe and Ujindile. These kind people gave us most of the information found in this report. Their willingness to participate in this study is highly appreciated.

We also appreciate the invaluable input we received from various stakeholders during the validation workshop conducted in Dar es Salaam. LEAT conveys its sincere thanks to the Rosa Luxemburg Foundation for financial support which helped to undertake this research. Although many people have contributed to this work, the analytical views, the recommendations and the conclusions are our own; so are the weaknesses.

## EXECUTIVE SUMMARY

Lack of a clear guiding policy for regulating the development of biofuel plantations has led to the rapid increase in biofuel plantations in Tanzania. The increase in these plantations has resulted in infringement of land rights and forest loss and has impacted negatively on the indigenous people's livelihoods. It is against this background that LEAT decided to assess land acquisition for agribusiness in some parts of Tanzania and its socio-economic impact on the communities, focusing largely on issues relating to gender. This report, therefore, is based on the study commissioned by LEAT. The study was conducted in four regions in Tanzania, notably, Kigoma, Iringa, Lindi and Coast regions, between May and June 2011.

The overall objective of the study was to map the land that has been grabbed and document the socio-economic impact of land grabbing on the local communities in Tanzania. In order to achieve this objective, LEAT commissioned two consultants with extensive experience in legal and socio-economic issues relating to natural and environmental resources use and management in Tanzania to undertake the study. The study used qualitative methods of data collection, namely in-depth interviews and focus group discussions. Various village and district stakeholders were involved in the discussions and the interviews. Additionally, relevant documents were reviewed to complement the data in this report.

The findings show that land acquisitions and grabbing in the four case studies have both positive and negative socio-economic impacts. The findings also show that there is an abuse of the trusteeship role. Regardless of the approach used, the findings indicate that in the four case studies land was transferred from village land to general land. Although this process is legal, it is not flawless. It has also been established that decisions are not always made at the lower level

through the principle of subsidiarity. At present, the village governments and the villagers feel that they are being deceived and ignored.

Furthermore, it has been found that there is poor compliance with the social and environmental impact assessments. The Environmental Management Act (EMA) states that before any large scale investment in agriculture is endorsed environmental impact assessment must be carried out. But the findings have indicated that this law was not observed fully. Indeed, the same thing was noted in some of the projects facilitated by the Tanzania Investment Centre (TIC). Investors facilitated by TIC misuse the facilitation they get by committing fraud. Unless the law is enforced, the future generation may incur huge costs so as to restore soil fertility.

In some of the villages, there were no binding contracts. As such, the investors could not be held accountable. Many promises to do with provision of social services, jobs and other forms of benefit were made. But these promises were given orally. What's more, village leaders were not involved in the signing of contracts in some cases.

While the Land Act (1999) was intended to deal with land other than village land, the Village Land Act is specially for village land. The Village Land Act provides for preparation of village land use plans where land can be divided into different uses. However, most villages do not have land use plans. This implies that they do not know the amount of land available in general and the land available for various uses. The central government should facilitate preparation of village land use plans before it transforms land from village land to general land.

While direct foreign investment might be one of the ways of encouraging investment in land, it is still debatable whether or not that is the best way of promoting socio-economic development in the country. Most villagers were of the opinion that the government should think of enabling them to produce for investors, instead of allowing investors to directly engage in agribusiness. To them, if farmers were given all the necessary equipment and training, both they and the country would

benefit more than they do when investors provide temporary jobs and empty promises. As provided for in the Land Act, appropriate local land holders might become co-investors, using land as their equity.

It is important to ensure that villagers who have given their land for investment are compensated fairly. In Kigoma rural district, for instance, the villagers were promised compensation only for the palm trees found on their land. Likewise, it seems that the land valuation in Kisarawe district which was carried out by some experts considered only the planted trees, not the commercial value of the land itself. In addition, the district councils enjoy the lion's share of the compensation on the pretext that the recompense must and will be shared by all villages in the districts. This is contrary to the law which requires that compensation for communal land should be given to the village council and compensation for individual land loss should be given to the individual.

Apart from the legal and procedural irregularities, the study analysed and documented a range of socio-economic impacts of land acquisitions in the four case studies. It was found that socio-economic issues related to land acquisition for agribusiness varied across contexts, although some similarities were also noted. The findings show that investments at different stages of development have both positive and negative impacts on the lives of the local people. These include environmental degradation and poor living conditions of the people in the communities where biofuel projects are conducted. Most important, land acquisitions for biofuel affect men differently from women.

In the four districts, most of the land is owned under customary tenure and is divided into three major categories, notably occupied land, communal land and reserved land. However, depending on the size of land in a village, some villages, such as Mavuji in Kilwa district and Mtamba in Kisarawe district, have more communal and reserved land than others. Indeed, a large percentage of land acquired by investors in such villages falls under the category of communal or reserved land. A

small percentage of the occupied land in Kigoma rural district, Mavuji and Mtamba villages has been given to investors.

Ownership of land under customary tenure seems to vary among the areas surveyed in terms of wealth, gender and age. For instance, in Mavuji village, anybody can have access to and own both communal and reserved village land, provided he or she can clear and regularly cultivate the land, or can plant trees. Men and older people in Matamba, Mahembe and Ujindile villages in Kisarawe, Kigoma Rural and Njome districts own more land and have more access to occupied land than their counterparts in Mavuji village.

Furthermore, population is on the increase in all the communities due to high fertility rates and immigration, except for Ujindile village from which young people migrate to towns. The main sources of livelihood in the communities, notably farming, livestock keeping and harvest of natural resources, are highly dependent on land. Average household incomes remain low, ranging between TZS 700 and TZS 2000 per day, while average household daily expenditures range between TZS 3000 and TZS 10,000 per day. In the communities, the traditional division of labour across age and gender has been altered, due partly to investment in agribusiness. This has resulted in many social problems at the household and community levels, such as marriage breakups and increased vulnerability of women, children and elderly people to poverty.

The impact of land acquisition on household food security is not critical in Kigoma Rural and Njombe districts. However, households in Kilwa and Kisarawe districts have experienced severe food shortages, following land grabbing. It is important to note that the contribution of men and women to the household income and the control and distribution of resource remain gender biased, but with some differences among the communities surveyed. Male dominance is pronounced in Kigoma and Njombe districts, but it is highly challenged in Kilwa and Kisarawe districts.

In the communities, land acquisition for agribusiness has not only denied the local people access to some sections of village land and natural resources, but it has also led to deforestation and alteration of biodiversity. Coupled with climate change, the impact of these environmental problems is shortages of water in Kilwa and Njombe districts, respectively. It is obvious that the state of natural resources in the communities will be dismal in the next three decades of the operation of investors' projects.

# Study Rationale and Methodology

## 1.0 Introduction

This chapter presents the background information on the study. It then outlines the objective of the study, the guiding research questions and the scope of the study. The chapter also presents the research methodology.

## 1.1 Background

In recent years, biofuels have come to be regarded as an important alternative for reducing the consumption of petroleum, following the recent hikes in oil prices and concerns about energy security and global climate change. The use and development of alternative sources of energy is increasingly encouraged in the West, with private and public sources of financial support for biofuel development expanding substantially.

For countries in Africa which are non-oil producers, biofuel production has the potential to provide a partial substitute for costly oil imports, which are one of the major sources of inflation in many African economies. Also, a lot of money is spent on oil imports. It is also thought that biofuels may provide a new source of agricultural income in rural areas and may be a source of local infrastructure development and a source of social income. However, the procedure for acquiring land for biofuel production has been quite controversial in some areas in Tanzania. This has led to poor motivation and heightened grievances between investors, governments and land owners. The situation in Tanzania shows that the general public is not actively involved in the process of land allocation to investors and procedures are not normally followed.<sup>1</sup>

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<sup>1</sup>Sulle, E., and Nelson, F. (2009), *Biofuels, Land Access and Rural Livelihoods in Tanzania*, p. 8.

<sup>2</sup>Cotula, L., Vermeulen, S., Leonard, R., and Keeley, J. (2009), *Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa*, p. 57.

The pursuit of biofuel production in many African countries is driven largely by the low cost of land and labour in rural Africa.<sup>2</sup> Although many investors are targeting land which is perceived as ‘unused’ or ‘marginal land’ in terms of its productivity and agricultural potential prime land is in some cases used for biofuel production. As a result, there is widespread concern about the adverse effects of commercial biofuel production in rural Africa.<sup>3</sup>

The literature documented since mid-2007 shows that some forest areas and huge chunks of village land in Tanzania have been targeted for biofuel projects.<sup>4</sup> Globally, concerns over energy security and climate change have led to a rapid expansion of biofuel projects, often owned by foreign investors. Tanzania with its abundant undeveloped land is poised to become a prime location for biofuel production in the East African region. It is said that foreign investors have already applied for 4% of the country’s land for establishing jatropha, sugarcane and sorghum plantations.<sup>5</sup>

The introduction of biofuel production activities in Tanzania has sparked debate among different groups on the real benefits of these activities and their impact on the environment, biodiversity and local communities. A report by a land rights organisation has revealed that more than 600,000 hectares of fertile land in the country have been hived off to investors for biofuel production.

Land laws are not known to many people. Hence the people are often not aware of their rights. Various reports that communities are experiencing increased pressure from district authorities to surrender their land for biofuel plantations but are paid inadequate compensation. The same reports indicate that persistent weaknesses on the part of the government may lead to the rapid expansion of biofuel plantations, resulting in significant land rights violation, forest loss and negative effects on local livelihoods.

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<sup>3</sup>Sulle, E., & Nelson, F., (2009), *Op.Cit*, p. 8.

<sup>4</sup>Cotula, L. *et al.*, (2009), *Op.Cit*, p. 23 ; Sulle E., and Nelson, F., (2009), *Op.Cit*, p.15 ; Centre for Human Rights and Global Justice, (2010), *Foreign Land Deals and Human Rights: Case Studies on Agricultural and Biofuel Investment*, p. 12 ; WWF (2009), *Biofuel Industry Study, Tanzania: An Assessment of the Current Situation*, p. 13.

<sup>5</sup>Sulle, E., & Nelson, F., (2009), *Op.Cit*, p. 18.

There is a need to assess land grabbing and its socio-economic impact on local communities in Tanzania. This report is on a study which was conducted in four regions in Tanzania, namely Kigoma, Iringa, Lindi and Coast regions between May and June 2011. It is expected that the findings in this report will help stir up efforts to improve management of land and other natural resources in Tanzania. They will additionally help various stakeholders realise that there is a need to give the poor and marginalised people more access to and control over land and other natural resources in order to reduce inequality and injustices in the country.

## 1.2 Objective of the study

The overall objective of this study was to map the land that has been given to investors for agribusiness and document the socio-economic impact of land acquisition for agribusiness on the local communities in Tanzania.

## 1.3 Guiding Themes and Research Questions

- **Land ownership map of all target areas:** to establish which land is owned by individuals, communities, the state and which land is categorised as forest reserve.
- **Forms and security of tenure:** how much land under customary tenure has been affected?
- **Breakdown of ownership classes:** what are the wealth, gender and age differences amongst individuals who access land which is under the different ownership and access regimes?
- **Land uses and drivers for land grabbing:** What are the causes of land grabbing? How is the grabbed land used? What contributes to land grabbing in the communities? Are there drivers of land grabbing in the areas?
- **Household basic information:** Does the number of households in the areas increase or decrease? How many households are there in the areas? What are their main economic activities? What

are the average household incomes earned from their economic activities? What are the ages, education levels and occupations/ means of livelihood of the members of the households?

- **Sub-household basic information:** how do individual households divide labour and income? What proportion of household labour is rewarded with money and from what activities is this money generated? What subsistence activities are important but do not generate money? To what extent do different members of the households rely on land/natural resources for their livelihoods?
- **Land use information:** how much land within the study areas is used for farming or livestock rearing? What methods of livestock keeping are used in the areas, outdoor or indoor? How have the methods been affected by land grabbing? What area in the areas has been affected by land grabbing? What crops are produced and what methods of cultivation are used in the areas?
- **Natural resources:** In what ways has land grabbing affected the local environment and what are the concerns of the people about their environment in the areas? How do the people in the areas use the natural resources currently? What are the sources of natural and environment-related problems and risks?
- **Use of natural resources for supporting livelihoods:** How are natural resources used in income generation activities in the areas? How do livelihood-related activities interact with the environment in the areas?
- **Social capital:** To what extent are livelihood-related activities influenced by the policies and institutional arrangements relating to natural resources in the areas?
- **Identifying the poor:** who are the poor people in the areas and what are the causes of their poverty? What modes of eking out existence are used in the poorest sections of the areas and to what extent do the people in the areas rely on natural resources for their livelihoods? Are there households that are economically and socially marginalised in the areas?

#### **1.4 Scope of the Study**

- Collecting, analysing and documenting information on land grabbing in the four regions;
- Analysis of social, legal and gender dynamics in relation to land grabbing in the regions;
- Analysis of the impact of land grabbing on the communities in terms of food security and livelihood in general;
- Assessment of the impact of land grabbing on means of livelihood and assessment of the legal implications of land grabbing;
- Assessment of the legal procedures for land acquisition;
- Assessment of the extent to which land is used for agribusiness;
- Assessment of the number of people affected and their current living conditions;
- Assessment of the current land tenure system and the extent to which it gives assurance to land security and
- Documenting possible positive and negative effects of land grabbing in the four regions.

#### **1.5 Methodology**

In order to obtain information on land grabbing and the impact of land grabbing on the local communities in the four regions, this study employed the qualitative approach. The qualitative approach enabled the researchers to obtain information on the people's experiences, values, perceptions and attitudes to land grabbing in the regions. In addition, the researchers reviewed documents pertinent to regional, district and village government records of land issues and reports and proceedings of relevant meetings.

### **1.5.1 Area of the Study**

As pointed out earlier, the study covered four regions, namely Kigoma, Coast, Lindi and Iringa regions. These regions are among those which host biofuel plantations in the country. Since it was not possible to cover all districts in these regions, the researchers chose one district and one village with great magnitude of land grabbing from each region. Specifically, the study was carried out in the villages of Mavuji (Kilwa district), Mtamba (Kisarawe district), Mahembe (Kigoma rural) and Ujindile (Njombe district). The choice of the districts and villages was done purposively after discussions with the local people and authorities in all the districts.

### **1.5.2 Study Population**

The target population for this study included:-

- District officials responsible for land and natural resource management;
- Community leaders: village authorities, religious leaders, traditional leaders, professionals, etc;
- Women (including single parents) who are victims of land grabbing or who are conversant with issues to do with land grabbing;
- Elderly men and women;
- Men who are victims of land grabbing or who are conversant with issues pertinent to land grabbing;
- Investors in the respective districts or villages; and
- Community members.

### **1.5.3 Sample Size and Sample Selection Procedures**

The respondents in this study were selected purposively. A minimum of five informants at the district level were interviewed. These included land officers, agricultural officers, lawyers, district commissioners or their representatives and district executive directors. The actual number of respondents was determined by saturation of information. Community members, both males and females, were

involved in the focus group discussions. In total, 78 respondents participated in this study. These included 28 leaders and government officials (only 2 females) at the district and village levels. The rest (50 participants) were community members, 26 males and 24 females, respectively.

#### **1.5.4 Types and Sources of Data and Data Collection Methods**

Both primary and secondary data were collected. Primary data were collected through focus group discussions and in-depth, face to face interviews with the respondents. The discussions and the interviews were recorded. A total of twelve group discussions were held, three in each district. Secondary data were gathered by reviewing relevant documents.

#### **1.5.5 Data Processing and Analysis**

Data that had been recorded were transcribed. Then, key themes regarding land grabbing and its socio-economic impact on the communities were identified for analysis. The themes were about social, legal and gender dynamics, change of sources of livelihood, food security, among others.

# Land Acquisitions and Agribusiness in Tanzania: A Review of Literature

## 2.0 Introduction

Various studies on investment in biofuel production in Tanzania and issues germane to this business have been carried out. However, a review of literature shows that some pertinent issues, such as issues relating to gender, have not been given significant attention in the studies about land acquisition and biofuel production in Tanzania. So, the present study was undertaken in an attempt to bridge this gap, but focusing specifically on issues to do with the law, the local communities' means of livelihood and gender.

This chapter provides an overview of the literature on the socio-economic aspects embedded in the processes and practices of land acquisitions for agribusiness which focuses on biofuel production in Tanzania. The chapter presents the nature of social organisation of the communities affected by activities related with biofuel production in the country, an industry which proliferates steadily. The chapter explores a range of the socio-economic effects of land acquisition for biofuel production in the country which are reported in previous studies. The chapter also demonstrates the implications of investment in biofuel production on gender and the local communities' sources of livelihood.

## 2.1 Investment in Production of Biofuel and its Impact on Gender and the Livelihoods of Rural Communities in Tanzania

In Tanzania, land acquisitions for biofuel production not only open up opportunities for people, but also affect the livelihoods of the local communities in rural areas. Cotula and colleagues<sup>6</sup> note in this regard that:

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<sup>6</sup> Cotula, L. *et al.*, (2009), *Op.Cit*, p. 6.

The extent to which international land deals seize opportunities and mitigate risks **depends on their terms and conditions**: how are risks assessed and mitigated – for instance through considerations in project location? What business models are favoured in project implementation (from plantations to contract farming, purchase agreements, policy incentives, or joint ventures)? How are costs and benefits shared – for example, in terms of safeguards against arbitrary land takings, or revenue-sharing arrangements? And who decides on these issues and how?

Indeed, the government policy and guidelines on biofuel production in Tanzania need to consider the issues raised by Cotula and colleagues above. Various civil society organisations, such as Lawyers' Environmental Action Team (LEAT) and Land Rights Research and Resource Institute (LARRRI) are concerned about the negative impact of biofuel projects on people's lives and the environment. These organisations want clear policies and laws regulating investment in biofuel production in Tanzania to be made and enforced.

More than 70% of Tanzanians live in rural areas and over 80% earn their livelihoods through farming and livestock keeping.<sup>7</sup> Securing rights to land is therefore an important issue in the rural areas.<sup>8</sup> It is said that the majority of Tanzanians in the rural areas (90%) underutilise the available land, and so the government encourages land acquisition for biofuel production.<sup>9</sup> This implies that more land should be taken from the local communities and given to investors. It is not surprising therefore that land tenure insecurity is a widespread social problem and a source of conflicts in many Tanzanian rural areas.<sup>10</sup>

Likewise, Cotula<sup>11</sup> notes that in most African countries agriculture is the main economic activity and that access to land is a fundamental issue. Many people in Africa generate income and earn existence from land. According to Cotula, the dependence on land applies both to societies where land is used for food production and to societies where crops are produced for commercial purposes.

Furthermore, in Tanzania, limited analysis of the forms of social organisation and their relevance to ways of managing natural resources

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<sup>7</sup> URT (2005), *National Strategy for Growth and Reduction of Poverty* (cited in Sulle, E., and Nelson, F., 2009, *Op.Cit.*, p. 35).

<sup>8</sup> Sulle, E., and Nelson, F., (2009), *Ibid.*

<sup>9</sup> URT (2008), *Guidelines for Sustainable Liquid Biofuels Investments and Development in Tanzania* (draft) (cited in Sulle, E. and Nelson, F., 2009, *Ibid.* p.36).

<sup>10</sup> Sulle, E. and Nelson, F., (2009), *Ibid.*

<sup>11</sup> Cotula L., (Ed), (2007), *Changes in "Customary" Land Tenure Systems in Africa*, p. 107.

has been done. In addition, little is known about the influence of social organisation on the patterns of natural resources use and the consequent implications on the livelihoods of the people who depend on natural resources.<sup>12</sup> The situation is like that even though it is well known that there have always been struggles for needs, such as food, clothing and shelter.<sup>13</sup> These struggles necessitate the emergence of various ways of eking out existence. People use resources found in their environment as their source of livelihood.

People in various places interact with the environment and with one another in numerous ways. The ways of interacting with the environment and with one another are determined by the social, cultural, economic and political situations or institutions that exist in certain communities. Therefore, to establish the way in which different groups of people in a given society will benefit from a particular investment related to natural resources, it is important to understand the kinds of relations and interactions that constitute the social organisation of the society.

The influence of social organisation on shaping the patterns of utilization and management of natural resources in any society is evident through the interplay of social and natural processes in the realization of human existence. This is because people depend directly or indirectly on natural resources for their livelihoods. Whereas the poor depend directly on natural resources, such as land, other people depend on these resources indirectly.<sup>14</sup>

Social organisation refers to relatively stable patterns of social relationships among individuals and groups in society, based on defined social roles, norms and shared meanings that provide regularity in social interaction.<sup>15</sup> It comprises both micro and macro levels of organisation, whereby the macro-level entails the legal, political and other institutional frameworks (national or international) as reflected in wider social and economic relations in society.

The micro-level, on the other hand, includes the local norms, customs, traditions and other socio-cultural rules and regulations. Thus,

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<sup>12</sup>Sambaiga, R.F.,(2007), *Social Organization and the Patterns of Utilization and Management of Coastal Resources: A Case Study of Songosongo Island and Somanga Village*, M.A Thesis, p. 1.

<sup>13</sup>*Ibid.* p. 2.

<sup>14</sup>*Ibid.*

<sup>15</sup>Ridell, *et al.* (1980), *Approaching Sociology* (cited in Sambaiga, 2007, *Op.Cit.*, p. 49).

social organisation defines specific social relationships that, in turn, define the positions and roles of both men and women in society. From these relationships, other relations according to gender, class and other social classifications come into existence.<sup>16</sup> Social organisation also influences the types of tools/productive forces used in the utilization of resources. It shapes patterns of ownership of the means of production, manpower organisation and the constraints and opportunities relating to the utilization of resources.

Resource utilization, therefore, involves issues of power relations between groups of people, between men and women, religious and ethnic groups, among others. These kinds of relations influence the nature of production and distribution of products or resources in a given society.<sup>17</sup>

Therefore, natural resource management, especially processes and rules guiding land acquisition for biofuel production, is an expression of social relations. All social structures, such as the state, the economy, the family, gender, among others constitute social relations. Thus, land- and resource-use patterns, decisions over how, what and where to invest or conserve and what and where to produce only make sense when they are contextualised within the social relations involving individuals, groups, communities and societies<sup>18</sup>.

## **2.2 Potential and Real Socio-economic Effects of Biofuel Investments on Livelihood**

Previous studies have indicated that international land deals are now a global phenomenon with adverse socio-economic effects on the local communities. This is mainly because land is central to people's identity, livelihoods and food security.<sup>19</sup> With the growing demand for land by foreign investors for agribusiness, in particular for biofuel production in African countries like Tanzania, rural communities have witnessed both land losses and opportunities.

Besides, although investment in agribusiness may bring about macro-level benefits (e.g. Gross Domestic Product (GDP) growth and

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<sup>16</sup> *Ibid.*

<sup>17</sup> Liverman *et al.*, (2004), "The Political Ecology of Land-Use change: Affluent Ranchers and Destitute Farmers in the Mexican Municipal of Alamos.", *Human Organization*, Vol. 63. No. 1 (cited in Sambaiga, R.F., 2007, *Op.Cit*, p.83).

<sup>18</sup> Sambaiga, R.F., (2007), *Ibid.* p. 4.

<sup>19</sup> Cotula, L. *et al.*, (2009), *Op.Cit*, p. 3.

increased government revenues) and create opportunities for economic development and livelihood improvement in rural areas, it is important to remember that land acquisition by investors may subject the local people into problems, such as land loss and food insecurity.<sup>20</sup>

Proponents of biofuel investments in Tanzania and other countries in Africa, say that land is abundant in these countries. Looking at the matter with a critical eye, one realises that such arguments are not watertight. In some areas, land is already being used or claimed, yet the existing land uses and claims go unrecognised because land users are ignorant of the law and do not have access to the institutions.<sup>21</sup> And even in countries where land is available in abundance, large-scale land allocations to investors may result in displacement of people as demand for land rises. In addition, it is imperative to take into account demographic issues and their implications on land use and demand.

Although additional investment in agriculture in developing countries by private and public organisations is economically important, it is imperative to point out that the scale, the terms and the speed of land acquisition have impacted negatively on the livelihood of the rural communities.<sup>22</sup> Studies on land issues relating to biofuel investments have shown that the impact of investments in biofuel production on people's livelihoods and food supply and availability in the rural areas has become a vital aspect in the understanding of the biofuel industry.<sup>23</sup>

Other studies have indicated that biofuel production can affect food security and the livelihoods of the people in the rural and urban areas.<sup>24</sup> For instance, Kamanga has cautioned that among the major and real threats of bio-energy are land grabbing, destruction of livelihood and the displacement of the local people.<sup>25</sup> What is surprising, however, is that the previous studies on land acquisitions and biofuel production in Tanzania have not examined adequately the impact of these endeavours on the local communities.

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<sup>20</sup> IFAD (2009), *The Growing Demand for Land: Risks and Opportunities for Small Holder Farmers, Discussion Paper for Round Table 2*, p. 8.

<sup>21</sup> Cotula, L., et al., (2009), *Op.Cit.*, p. 6.

<sup>22</sup> Braun, J., and Meinzen-Dick, R., (2009), "Land Grabbing" by Foreign Investors in Developing Countries - *Risks and Opportunities*, Policy Brief No. 13, p. 1.

<sup>23</sup> Kamanga, K.C., (2008), *The Agrofuel Industry in Tanzania: A Critical Enquiry into Challenges and Opportunities*, A Research Report, p. 50.

<sup>24</sup> Sulle E., and Nelson F., (2009), *Op.Cit.*, p. 46.

<sup>25</sup> Kamanga, K.C., (2008), *Op.Cit.*, p. 53.

A report by the Centre for Human Rights and Global Justice<sup>26</sup> shows that large-scale investments in land deny local land users access to vital natural resources, something which may affect the livelihoods of the local people, jeopardise food security and exacerbate land tenure insecurity. The report further indicates that local land users are in danger of being evicted from the land that they have been cultivating for decades. Crop growers as well as pastoralists are at high risk of losing access to the land that is indispensable to their livelihoods.

Moreover, the report shows that at the community level the pinch is not felt in the same way, but follows the patterns of social stratification embedded in the social organisation. With respect to land acquisition processes, the report shows that women may lose their lands in deals that are typically negotiated by men who serve as heads of households. This is because women are often underrepresented and marginalised from such deals.

It is also shown in the report that the local people experience decreased food security as well as increased competition for water resources. Besides, the report indicates that large-scale investments in land may cause conflict involving the local people and investors. The magnitude of these issues has sparked debate about whether large-scale investments in land can bring about social and economic development, poverty alleviation and improved access to food, or whether they are one-sided deals designed to primarily benefit foreign investors and a small local elite<sup>27</sup>.

According to the report by the Centre for Human Rights and Global Justice<sup>28</sup> shows that large-scale investments in land have the potential to improve the agricultural sector in the developing countries, if well managed. The investments can facilitate the construction of the much-needed infrastructure and creation of jobs. One of the expectations is that investment in agriculture can increase people's income and improve farmers' access to technology and loans. It can also increase production of food crops for local, national, and international consumers.

However, the report also acknowledges that many investments in agriculture are criticised by civil organisations and farmers' organisations.

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<sup>26</sup>Centre for Human Rights and Global Justice, (2010), *Op.Cit*, p. 4.

<sup>27</sup>*Ibid*.p. 5.

<sup>28</sup>Centre for Human Rights and Global Justice, (2010), *Ibid*.

These organisations see the investments as concentrating resources in the hands of a minority at the expense of the poor majority who end up suffering deprivation from their access to land and other environmental resources<sup>29</sup>.

Likewise, Sulle<sup>30</sup> notes that land acquisitions threaten the livelihoods and land rights of the local people. If not well-monitored and regulated, large-scale investments in land can lead to massive land losses on the part of the poor in the future. Indeed, the situation might be even worse for women given their marginalised positions, especially in communities where men predominate in decision making and resource allocation at the household and village levels.

In addition, Cotula and Colleagues note that because of male dominance there is a tendency for control over land to shift from women to men, as land gains commercial value.<sup>31</sup> Generally, little is known about the role of gender in land acquisition processes, particularly in the Tanzanian communities where agribusiness projects are in place.

Production of biofuels in Tanzania raises issues related to availability of water, land rights and livelihoods of the local people. For instance, although investments in biofuel projects can offer small-scale farmers market for their crops and employment opportunities, there may be competition between those who own the projects and small-scale farmers over water resources. Such competition may lead to poor crop yields and problems of water for domestic use.<sup>32</sup> Poor crop yields and problems of water have far reaching implications for women at the household level. But the implications have not been adequately examined by the previous studies of agribusiness and local people's livelihoods in Tanzania.

Furthermore, the arguments put forward in support of investments in biofuel production in Tanzania include its potential contribution to socio-economic growth, provision of employment and generation of income by the local people and poverty reduction in Tanzanian rural

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<sup>29</sup>*ibid.*

<sup>30</sup>Sulle, E., (2010), 'A Hybrid Business Model: The Case of Sugarcane Producers in Tanzania.' In Cotula, L., and Leonard, R., (Eds), *Alternatives to Land Acquisitions: Agricultural Investment and Collaborative Business Models*, p. 77.

<sup>31</sup>Cotula, L., (2009), *Op.Cit.*, p. 15.

<sup>32</sup>Centre for Human Rights and Global Justice (2010), *Op.Cit.*, p. 14.

areas.<sup>33</sup> This kind of thinking is based on the assumption that biofuel production is labour intensive, and hence it can create significant employment opportunities and contribute to poverty alleviation.<sup>34</sup>

Moreover, although the industry is still new and limited in scale, studies have shown that jobs are being created, especially in areas where the land used for biofuel production had been cultivated previously. Whether the total number of the available jobs is small or maybe more jobs are being lost than created, overall the jobs in the industry in question provide poor wages and the workers work under poor working conditions.<sup>35</sup> With respect to gender issues, Mshandete<sup>36</sup> argues that the nature and significance of the impact of biofuel production in Tanzania on women and men depends on the technology used, specific contexts and the local environment or social organisation of a given community.

### 2.3 Competition between Food and Energy

The question of food security in the context of land acquisition for biofuel production has been debated by scholars, land rights activists, national and international policy makers. These concerned individuals have both optimistic and pessimistic views about biofuel projects, with specific reference to food security. On the one hand, land rights activists have strongly argued that biofuel production will undermine food security in Tanzania.

On the other hand, a study by Food and Agriculture Organization of the United Nations (FAO) indicates that biofuel developments can contribute to the improvement of the agricultural sector by bringing in new private, as well as public, investment, hence redress problems of food insecurity.<sup>37</sup> However, environmentalist and conservationists have sharply criticised this point of view<sup>38</sup>.

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<sup>33</sup>Mshandete, M.A., (2011), "Biofuels in Tanzania: Status, Opportunities and Challenges" (Review Paper), *Journal of Applied Biosciences*, 40, p 2691. Available at <http://www.biosciences.elewa.org>. Accessed on 15th July, 2011.

<sup>34</sup>Mshandete, M. A. (2011), *Ibid.*

<sup>35</sup>*Ibid.*

<sup>36</sup>*Ibid.* pp. 2691-2.

<sup>37</sup>Land Rights Research and Resource Institute (2010), *Accumulation by Land Dispossession and Labour Devaluation in Tanzania: The Case of Biofuel and Forestry Investments in Kilwa and Kilolo*, A Research Report, p. 68.

<sup>38</sup>*Ibid.*; Centre for Human Rights and Global Justice (2010), *Op.Cit.*, p.14.

What is clear from the experiences of biofuel investments in Tanzania is that the investments cause competition for resources between investors and the local people. The two groups compete for access to land and labour force. This is to say that land which was or would be used for food production is used for biofuel production. In addition, biofuel plantations make use of the manpower which might have been used for food production. What is missing is an analysis of the effect of food insecurity on the livelihoods of women and other marginalised groups in the local areas.

Mshandete<sup>39</sup> has reviewed the literature on the status, challenges and opportunities of the biofuel industry in Tanzania. He argues that the industry has had diverse effects on the livelihoods of the local communities. He, for instance, notes that scientific evidence is against industrial biofuels (first generation biofuels) and that the link between biofuels and food insecurity is considered to be significant. Highlighting the gender dimension of food insecurity brought about by investment in biofuel production, Mshandete notes, albeit implicitly, that rural women in developing countries produce 60-80% of the household food. The same women in Tanzania produce about 80% of the household food.

In most Tanzanian communities, women own very little land compared to men. Instead, they often use communal land to grow crops, collect nuts and graze animals or to collect firewood. However, the same land has been the target of investors in biofuel production.<sup>40</sup> Thus, compared to men, women are likely to suffer more due to biofuel production in the country. As noted earlier, because of being marginalised in most communities in the country, women may be at great risk of losing their land in deals that are typically negotiated by men who serve as heads of households.<sup>41</sup>

It is also important to note at this juncture that only a few investors have applied for permission to use land for biofuel production and secured the right of occupancy.<sup>42</sup> Therefore, it might be too early to comprehensively establish the magnitude of the impact of investment in biofuel production on the livelihoods of the rural communities in Tanzania. This is to say that most of the effects of biofuel production on

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<sup>39</sup>Mshandete, M.A. (2011), *Op.Cit.*, p. 2690.

<sup>40</sup>*Ibid.* p. 2697.

<sup>41</sup>Centre for Human Rights and Global Justice, (2010), *Op.Cit.*, p.14.

<sup>42</sup>Sulle E., & Nelson F., (2009), *Op.Cit.*, p. 46.

the local people in Tanzania cannot be known now, as more deals are being negotiated.<sup>43</sup>

## **2.4 Conclusion**

To conclude, most previous studies on land grabbing for biofuel production in Tanzania have by and large addressed various issues pertaining to the livelihoods of the local communities, but have only touched on the aspect of gender. Among the issues that have received relatively little attention in the literature are the extent to which women are involved in negotiating land deals and the way in which they are affected by the activities of the biofuel industry in Tanzania. It was crucial, therefore, for the present study to deal with the aspect of gender in relation to the processes and impact of land acquisitions for biofuel production on women in Tanzania.

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<sup>43</sup>*Ibid.*

# **Legal Framework and the Policy on Land Acquisition for Agribusiness in Tanzania**

## **3.0 Introduction**

This chapter examines the legal framework and the policy that regulate land acquisition for agribusiness in Tanzania. It is important to note that investment in biofuel projects in Africa is on the increase. Tanzania has not been left behind in this development. However, if land acquisition for agribusiness is not closely monitored it may result in social problems due to acquisition of village land, leaving the villagers landless or without enough land. It should also be pointed out that land is a lifeline and a source of pride for most communities in Tanzania. Hence, investors in land must take into account the interests of the local communities and integrate such interests in their investments.

This chapter reviews most of the procedures of land acquisition stipulated in the laws and policies. Specifically, the laws and policies that will be reviewed are those that are pertinent to land tenure, land acquisition, compensation and investment in land. The chapter will consider macro-policies and sectoral policies and the manner in which they promote or impact on agribusiness development in Tanzania.

## **3.1 The Macro-Policy Environment**

### **3.1.1 The Tanzania Vision 2025**

The Tanzania Vision 2025 is aimed at achieving a high standard of living for the Tanzanian people and a competitive economy. Among the strategies that are envisioned are developing a diversified and semi-industrialized economy, promoting macro-economic stability manifested by a low inflation economy and basic macro-economic balances and attaining a growth rate of 8% per annum or more.

To achieve these goals, the government has, among other things, opened up the door. This has been done so as to attract more investors to invest in various sectors of the economy, including the agricultural sector.<sup>44</sup> The National Strategy for Growth and Reduction of Poverty (NSGRP) also provides special priority for agricultural development in order to alleviate poverty in the country. The strategy is informed by the aspirations of the Millennium Development Goals (MDGs) and the Vision 2025. One of the goals of the MDGs is eradication of extreme poverty and hunger.<sup>45</sup>

The target under this goal is halving, between 1990 and 2015, the number of people who earn less than \$1 a day.<sup>46</sup> To do so, various interventions are needed, including investing in progressive agriculture and promoting private investment in agriculture. Given that biofuels can be grown on fairly dry and marginal lands, it is assumed that biofuel projects can be undertaken under any programme geared towards promoting development of biofuels. Based on this assumption, the government has spearheaded the production of biofuel-related crops, such as sugarcane, palm oil and jatropha in various parts of the country.

### **3.1.2 The National Strategy for Growth and Reduction of Poverty I & II**

This strategy regards agriculture as the lead sector which has accounted for 45 percent of the GDP and for about 60 percent of export earnings in the past three years.<sup>47</sup> The expected outcome that guides the strategy is to achieve and sustain broad-based and equitable growth. Reduction of poverty requires a sustained growth rate of the GDP of at least 6-8 percent per annum over the next decade.

Therefore, the strategy focuses on scaling up investments for modernising small, medium and large-scale agriculture. The purpose is to increase productivity and profitability, to promote off-farm activities, including small and medium-size enterprises, with particular emphasis on agro-processing.<sup>48</sup>

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<sup>44</sup>The President's Office Planning Commission (URT) (1999), National Development Vision, p. 4.

<sup>45</sup>See Goal I of the Millennium Development Goals.

<sup>46</sup>United Nations (2006), Millennium Development Goals Report, p. 4.

<sup>47</sup>Vice President's Office (URT) (2005), National Strategy for Growth and Reduction of Poverty, p. 6.

<sup>48</sup>*Ibid.*, p. 36.

Cluster I of the strategy concentrates on making the economy grow so as to reduce income poverty. Under this cluster, goals 1 and 2 are relevant to this study. Goal 1 provides for pursuance of sound macro-economic management, while goal 2 is on reduction of income poverty by promoting inclusive, sustainable and employment-enhancing growth.

Based on these two goals, the agricultural sector is expected to grow from 2.7 % in 2009 to 6.3 % by 2015. Production of crops is expected to increase from 2.3% in 2009 to 6.5% by 2015.<sup>49</sup> The strategies to be employed include introducing and strengthening agricultural investments, including mechanisation, undertaking further land reforms to support access to land, expanding land for agriculture and balancing the demands for large- and small-scale farmers.<sup>50</sup>

The strategy points out that growth of the agricultural sector will require approaches, such as those outlined in the Agricultural Sector Development Programme (ASDP) and “Kilimo Kwanza”. But the strategy also states that the focus will be on modernisation and commercialisation of small, medium- and large-scale agriculture for increased productivity, employment, profitability and income, especially in rural areas.<sup>51</sup> It is apparent therefore that the goal of this strategy is to promote investment in agriculture. Biofuel production, one of the recently introduced sources of energy in developed nations fits well into the strategy.

Apart from the macro-policies reviewed above, there are specific policies that are crucial in regulating land use in the country. The policies are reviewed below. It should be pointed out, however, that the National Land Policy is the principal policy that regulates land use in the country.

## **3.2 The Sectoral Policy Environment**

### **3.2.1 The Agricultural and Livestock Policy of 1997**

This policy provides for privatisation of commercial functions to enhance investment resources in agriculture in order to stimulate production. It aims at improving standards of living in the rural areas

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<sup>49</sup>Ministry of Finance & Economic Affairs (URT) (2010a), MKUKUTA II Key Priority Result Areas, p. 3.

<sup>50</sup>Ministry of Finance & Economic Affairs (URT) (2010b), MKUKUTA II, p. 42.

<sup>51</sup>*Ibid.*, p. 42.

through increased income generation from agricultural production, processing and marketing. It also focuses on promoting the production of non-traditional crops whose exports depend on the availability of surpluses. Examples of the non-traditional crops mentioned in the policy are oilseeds and sugarcane.

According to the policy, the impetus to develop the production of crops like these for export stems from the government's desire to diversify sources of foreign exchange earnings to augment the traditional ones. Export of traditional crops seems to be hindered by barriers, such as lack of adequate production and processing know-how and a disorganised marketing system.<sup>52</sup> The private sector is, however, considered a crucial component, as far as production, processing, distribution and marketing of these crops is concerned. Issues of land tenure have also been considered in the policy, but substantial input is taken from the revised Land Policy of 1995.

### **3.2.2 The National Land Policy of 1995**

In 1995, the government through the Ministry of Land and Human Settlement Development formulated a national land policy. One of the motivations for the formulation of the policy was the upsurge in the number of potential investors intending to acquire chunks of land in various parts of the country in line with the national investment policy. Consequently, competition for arable land and conflicts between villagers and investors emerged in some districts in the country.

Although Tanzania has about 48, 710,000 hectares or 407,100 square kilometres of arable land, about 46,000 square kilometres are used by small-scale farmers who cultivate the land mainly under the customary tenure. Most of the large-scale farming has traditionally been done under the granted rights of occupancy.<sup>53</sup> The general objective of the national land policy is to promote and ensure a secure land tenure system, to encourage the optimal use of land resources and to facilitate broad-based social and economic development without endangering the ecological balance of the environment.

Among the specific objectives of the policy are to ensure that land is put to its most productive use and to promote rapid social and

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<sup>52</sup>URT (1997), *The Agricultural and Livestock Policy*, p. 91.

<sup>53</sup>URT (1995), *The National Land Policy*, p. 4.

economic development of Tanzania. Its other objectives are to protect land resources from degradation and to ensure that the existing rights to land, especially customary rights of small holders who constitute the largest part of the population, are recognised, clarified and secured by the law. It further provides for ceilings on land acquisitions. The ceilings were later translated into statutory ceilings to prevent land concentration (land grabbing).

In addition, it calls for involvement of the communities in issues pertinent to land use, planning and conflict resolution. It moreover recognises that land has value and that the rights and interests of citizens in land cannot be taken anyhow. Lastly, full, fair and prompt compensation must be paid to those who own land whenever their land is taken by someone.

It was noted previously that big parcels of land had been allocated to investors, including foreign investors, without considering their ability to develop them. As a result, large parcels of land remain undeveloped or are held for speculative purposes for several years. So, the policy also attempts to prevent the possibility of highly potential areas and peripheral areas of urban centres from being taken by newcomers.

The policy calls for identification of special areas for various investments and allocation to investors. Such areas (pieces of land) can be allocated to investors, based on their ability to develop them without compromising the interests of the citizens of Tanzania. It also recognises the importance of giving compensation to those whose land is taken by an investor, on the opportunity cost basis.

Nevertheless, the policy acknowledges the office of the commissioner as the sole authority responsible for land management in the country. The commissioner can appoint officers to administer land other than village land. In that case, village land is under the administration of the village councils which are supposed to report their decisions to the village assemblies.

The policy also states that land can be allocated to foreigners for investment purposes if they secure the approval of the Tanzania Investment Centre (TIC). Also, no foreign investor can obtain land through transfer or purchase of the customary right of occupancy. It also forbids transfer of customary land rights by citizens to non-citizens. Compensation has to be paid promptly, and if it is not paid in time some interest is charged. These issues will be examined in the light of the

existing legal framework. However, it is also necessary to bear in mind that any investment in land has both negative and positive effects on the land itself. It is therefore important to consider the environmental policy and what it says about agricultural activities.

### **3.2.4 The National Environmental Policy of 1997**

The National Environmental Policy of 1997 says that increased investment in various sectors of the economy will have some impact on the environment. Restructuring and adjusting the economy, including macro-economic changes, will have some impact on the use and allocation of natural resources and on the environment.<sup>54</sup> It also says that promotion of agriculture as the engine of economic growth can also bring about some significant adverse impact on natural resources and the environment.

Expansion of agricultural activities means more land will be used to the extent of destroying the existing forests and woodlands.<sup>55</sup> Sustainable development, integrated land use planning, secure access to land resources and the people's right to participate in decision making relating to the management of these resources.<sup>56</sup> It is clear therefore that this policy is mainly concerned with the impact that investment in agriculture can have on the environment. Hence, there must be some measures to ensure that agricultural expansion neither diminishes the quality and productivity of land nor degrades natural resources.

### **3.2.5 The National Guidelines on Biofuel of 2008**

Being fully aware of the possible impact of the lack of a framework to regulate the biofuel industry, the government in 2008 developed the guidelines for the national biofuel production in Tanzania. In a report by the World Wide Fund for Nature (WWF), the National Biofuel Task Force guidelines state that the biofuel industry will promote sustainable development and improve the livelihoods of Tanzanians, but they are unspecific about the way in which this will happen.<sup>57</sup>

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<sup>54</sup>*Ibid.*, p. 2.

<sup>55</sup>*Ibid.*, p. 8.

<sup>56</sup>*Ibid.*, p. 12.

<sup>57</sup>*Ibid.*, p. 15.

The guidelines also state that the potential benefits of biofuels are immense. They include the following: enhancing energy security, especially in the transport sector; creation of employment and diversification of rural economy; creation of market for agricultural energy crops; saving of foreign exchange earnings; contribution to cleaner environment through reduction of green house gases and other vehicular emissions; potential to halt deforestation and desertification, as they involve production of drought resistant crops like jatropha, sisal, cassava and sweet sorghum; renewability; replacing fossil fuels especially in vehicles; facilitate technology transfer; octane enhancement in petrol engines, and hence replacing (toxic) lead with bioethanol; and enhancing food security.

But it is said that there are companies that are now blamed for causing deforestation and clearing of forests even in areas that are considered to be of high biological value. Social and environmental impacts of large-scale investment in agriculture have been considered. As a result, issues of food security in areas where highly productive land is given to large-scale plantations have not been addressed. For instance, some companies have attempted to invest in rich paddy cultivation areas in the south of Tanzania, thus reducing the areas used for food production. Also, there is no mechanism of addressing the problem of deforestation.<sup>58</sup>

Apart from the goals outlined in the policy, the government has enacted laws for regulating activities pertinent to land in Tanzania. Some of the laws deal with the question of land tenure, management and disposition and others deal with facilitation of investment in land and yet others deal with land acquisitions and compensation. Although there are such laws, their enforcement is faced with a lot of challenges. In so many cases, the laws have been breached and in some cases investors' interests take precedence over local people's interests, mostly in village areas.

So, this study was done so as to find out the manner and the extent to which the laws are breached. The study also sought to establish the effect of breaching these laws on the people's livelihoods. Because investment in biofuel production has to a considerable extent made on village land, the study focused on the procedures that one is required to follow when one wants to invest in designated village land.

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<sup>58</sup> WWF (2009), *Op.Cit.*, p. 16.

### 3.3 The Legal Framework

#### 3.3.1 The Tanzania Investment Act of 1997, Cap. 38

In 1997, the government through the Tanzania Investment Act of 1997 established a centre known as the Tanzania Investment Centre (TIC). The centre was designated a one-stop centre for investors and was mandated to co-ordinate, encourage, promote and facilitate investment in Tanzania and to advise the government on issues relating to the investment policy and related matters.<sup>59</sup> So, the centre has the mandate to do a number of things as per section 5. It can initiate and support measures for improving the investment climate in the country for both local and foreign investors.

The centre can identify investment sites, estates, or land together with the related facilities found in such sites, estates or land to facilitate investment in the country. It can assist investors, including those who are not bound by the provisions of this Act, to obtain all the necessary permits, licences, approvals, consents, authorisation, registration and others required by the law. The law requires an investor to have all these documents before he sets up and operates an investment in Tanzania. The permits or licences issued by the centre cannot have full effect if the processes of issuing such permits or licences contravened the law.<sup>60</sup>

Applications for certificates of incentives and protection are made to the Centre. After receiving such applications, the centre issues a certificate which may be used for establishing a new enterprise<sup>61</sup>, rehabilitating or expanding an existing enterprise or both<sup>62</sup>, or for

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<sup>59</sup>Section 5 Cap. 38

<sup>60</sup>Section 6 Cap. 38

<sup>61</sup>Requirements: (a) the name and address for the proposed business enterprise, its legal form, its bankers, the name and address of each director or partner and the name, address, nationality and shareholding, of each share holder; (b) the qualifications, experience and other relevant particulars of the project management; (c) the nature of the proposed business activity and the proposed location where that activity is to be carried out; (d) the proposed capital structure or the amount of investment and the projected growth over the next five years; (e) how the investment will be financed; (f) evidence of sufficient capital available for investment; (g) an undertaking that the project shall be implemented as indicated in the projections of the project.

<sup>62</sup>Requirements: (a) the name of the existing enterprise, its Articles of Association and Memorandum of Association or partnership agreement; (b) the qualifications of the project management; (c) a statement of audited accounts for the three previous years; (d) the nature of rehabilitation or expansion, (e) the capital structure and projected growth over the next five years; (f) financing of the rehabilitation or expansion of the project, together with evidence of availability of finances; (g) an undertaking that the expansion or rehabilitation of the project shall be implemented as indicated in the projection.

making an equity investment or buying shares or stock<sup>63</sup> in an enterprise<sup>64</sup>. The TIC Board is required to determine the application procedure and the manner in which certificates of incentives are to be issued and registered. It is supposed to ensure that the determination is known to the potential investor and the general public<sup>65</sup>.

In principle, a holder of a certificate has to inform the centre in writing about the date of commencement of an investment. Then the centre shall forthwith verify the commencement of operations.<sup>66</sup> In case the holder of a certificate ceases to operate the investment to which the certificate relates, he is required to notify the centre in writing. If he does so, he will be entitled to all the rights and will be liable to all the obligations fulfilled under the Act up to the date he ceased operation.<sup>67</sup>

With these powers, the centre is supposed to promote investment by facilitating investors who intend to invest in the country. Therefore, the centre has the duty to co-ordinate the establishment of business enterprises to which the Act applies. The tasks involved are incorporation or registration of business enterprises under the Companies Ordinance or under any other law relevant to the establishment of enterprises; completion of Value Added Tax (VAT) Forms; completion of investment Registration Forms as the centre may from time to time prescribe; facilitating the obtaining by investors of the necessary licences, approvals, facilities or services; and completion of Immigration Forms.<sup>68</sup>

Once a business enterprise is granted a certificate under the Act, it is entitled to the benefits which are applicable to that enterprise under the provisions of the Income Tax Act, the Customs Tariff Act of 1976, the Sales Tax Act of 1976, or of any other written law which is in force at a particular time.<sup>69</sup> The Minister of Finance and Economic Affairs may, in addition to the benefits specified under section 19 of the Act, grant specific benefits for any period specified by the Board.<sup>70</sup>

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<sup>63</sup>Requirements: (a) the name of the enterprise in which the equity investment is made or the shares held; (b) constitution of the enterprise or partnership agreement; (c) the amount of equity investment made; (d) the number of shares or stock held by the equity investor, and (e) the currency in which the equity investment is made.

<sup>64</sup>Section 16

<sup>65</sup>Section 17(5)

<sup>66</sup>Section 17(11)

<sup>67</sup>Section 17(9) Cap. 38

<sup>68</sup>Section 18(1) Cap. 38

<sup>69</sup>Section 19(1) Cap. 38

<sup>70</sup>Section 20 Cap. 38

In addition to performing its duties, the centre can help an investor identify land of his choice or assist him acquire land for investment purposes. The centre has an obligation to ensure that investors feel safe to invest in Tanzania and are attracted to the prevailing investment climate in the country. Where investors need to secure permits before investing in the country, the centre also has an obligation to facilitate the processing of such permits.

Therefore, it is possible for the centre to approve investment projects and assist in acquisitions of land by investors. This is further made clear by sections 19 and 20 of the Land Act, Cap. 113. According to section 19, the rights of foreigners to occupy land in Tanzania under the Act include a right of occupancy for purposes of investment approved under the Tanzania Investment Act of 1997; a derivative right for purposes of investment approved under the Tanzania Investment Act of 1997; or an interest in land under a partial transfer of interest by a citizen for purposes of investment approved under the Tanzania Investment Act of 1997 in a joint venture to facilitate compliance with development conditions.<sup>71</sup>

Foreigners cannot be granted land unless they want land for investment purposes under.<sup>72</sup> In that case, land for investment purposes must be identified, gazetted and allocated to the Tanzania Investment Centre which can give derivative rights to investors.<sup>73</sup> A foreign company means a company whose majority shareholders or owners are foreigners.<sup>74</sup> Therefore, the right of foreigners to acquire land in Tanzania is limited to acquisition of land for investment purposes approved by the TIC. Upon expiry, termination or extinction of the right of occupancy or the derivative right granted to a non-citizen or a foreign company, reversion of interests or rights in and over the land shall vest in the Tanzania Investment Centre, or as specified.

Investment companies are required to comply with the contractual and legal requirements. The law provides that where a dispute arises between a foreign investor and the centre or the government in respect of business enterprise efforts shall be made to settle the dispute through negotiations in an amicable manner. If the dispute is not settled, the

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<sup>71</sup>Sect 19(2) of the *Land (Amendment) Act*, No. 2 of 2004

<sup>72</sup>Section 20(1) Cap. 323

<sup>73</sup>Section 20(2) Cap. 323

<sup>74</sup>Section 20(4) Cap. 323

matter may be submitted to arbitration in accordance with any of the following methods, as may be mutually agreed upon by the parties, namely (a) in accordance with the arbitration laws of Tanzania for investors; (b) in accordance with the rules of procedure for arbitration of the International Centre for the Settlement of Investment Disputes; and (c) within the framework of any bilateral or multilateral agreement on investment protection agreed to by the government of the United Republic of Tanzania and the government of the country where the investor comes from.<sup>75</sup>

It is on this basis that most foreign companies which breach their terms of investment cannot be sued in our local courts. A dispute has to be solved through negotiations even if a foreign company is the source of the dispute or conflict. This is a very serious weakness of our investment law.

### **3.3.2 The Forest Act of 2002, Cap. 323**

This Act provides room for community-based forest management and joint forest management. Community-based forest management oversees village land forest reserves, community forest reserves created out of village forests, unreserved forests on village land managed by Village Councils (VCs), private forests on village land held under the customary right of occupancy. It also oversees forests on general or village land where the Right of Occupancy (R/O) or lease has been granted to someone.

Under the joint forest management, communities living around forests may enter into joint land management agreements. Villages may also enter into joint management agreements on behalf of the National or Local Authority Forest Reserves.<sup>76</sup> Thus, this Act provides room for the possible operation of forest plantations on village lands in Reducing Emissions from Deforestation and Forest Degradation (REDD) related projects in the country.

Apart from considering the forestry law, it is vital to consider the principal laws on land management and ownership and the extent to which they provide for investment in land. Generally, there are various land laws, but the Land Act and the Village Land Act are central to land management.

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<sup>75</sup>Section 23 (1) Cap. 323

<sup>76</sup>Sections 4, 16 and 32 of the Act.

### **3.4.2 The Land Act of 1999, Cap 113**

#### **3.4.2.1 Principles of Land Management**

In 1999, the government enacted the Land Act, Cap. 113, following the repeal of the Land Ordinance of 1923. The Act incorporates inter alia the spirit of the Tanzania Investment Act, which is to promote investment in the country. The Act provides legal force to the fundamental principles of national land policy. The principles form the cornerstone of land management in the country. Hence, every person exercising the powers under the Act or applying or interpreting the Act must have regard to the principles.

The principles have been used in the formation of the objectives of the Act in regulating land issues in Tanzania. The Act retains the radical title to land by acknowledging the custodial role of the President of overseeing land on behalf of all citizens of Tanzania. In this view, it centralizes land ownership by reducing all land in Tanzania to public land.<sup>77</sup> This Act, as will be indicated later, enables the President to deal with land in any manner he deems proper in the public interest. It is more administrative than legal<sup>78</sup> and has severe impact on administration, ownership and investment in land, as will be shown later.

The law provides room for the continued existence of rights to land, including recognised long-standing occupation or use of land. So, interest in land has been accorded value and such value must be compensated for whenever the interest is revoked, forfeited or acquired. The payment of compensation has to be full, fair and prompt. In paying compensation, the following elements: (i) the market value of the real property; (ii) disturbance allowance; (iii) transport allowance; (iv) loss of profits or accommodation; (v) cost of acquiring or getting the subject land; (vi) any other costs, losses or money spent on the development of the subject land; and (vii) interest at market rate, will be considered.

The law provides room for the people's participation in planning and decision-making regarding management, use and occupation of land, especially where the decisions taken are likely to affect them. It also emphasises on the use of land productively and on the importance of complying with the principles of sustainable development.

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<sup>77</sup>Tenga, W. R., and Mramba S. J. (2008), *The Theoretical Foundation of Land Law in Tanzania*, chapter 6.

<sup>78</sup>Shivji, I. (1998), *Not Yet Democracy: Reforming Land Tenure in Tanzania*, p. 6.

On land administration, the law states that there is a need to have an efficient, effective, economical and transparent system of land administration. This implies that decisions and plans pertaining to land administration should be transparent and reasonably participatory. This includes making decisions timely and with consideration of possible implications. In making the decisions, the relevant authorities have to strive to mitigate the possible negative effects. It is clearly stated that all citizens shall be enabled to participate in decision making on matters connected with their occupation or use of land.

The law also regulates the operation of the land market so as to ensure that rural and urban small-holders and pastoralists are not disadvantaged. Therefore, measures for controlling possible land hoarding and speculating use of ghost buyers in favour of the rich are needed. The measures will prevent the creation of a category of landed people and another of landless people, particularly in Tanzanian rural areas where a large proportion of land is found. It is obvious that such mechanisms would prevent investors from acquiring land from the villagers without following the legal procedures.<sup>79</sup>

On the status of land and the power of the President over land, the Act states that all land in Tanzania is public, as it was during the British colonial rule and the governor of land in the country shall be the President. The duty of the President is that of trustee. The President can make decisions he deems vital in the interest of the citizens of Tanzania.<sup>80</sup>

Any person vested with the powers under the Act shall all the time exercise his powers and discharge his duties as trustee of all land in Tanzania so as to advance the economic and social welfare of the citizens.<sup>81</sup> In the case of *AG vs. Lohay Akoonay & Joseph Lohay*,<sup>82</sup> it was stated inter alia that, as trustee of public land, the President's power is limited in that he cannot deal with public land in a manner in which he wishes or which is detrimental to the beneficiaries of public land. Section 6(1) of the Ordinance states that the President could deal with public land only 'where it appears to him to be in the general interests of Tanganyika'. Also, as trustee, the President cannot be the beneficiary of public land.

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<sup>79</sup>Section 3(1) Cap. 113

<sup>80</sup>Section 4(1) Cap. 113

<sup>81</sup>Section 4(2) Cap. 113

<sup>82</sup>TLR (1995), 80.

The Act resolves the long time controversy over the status of land in the context of an individual's right to property. According to the case mentioned above, the Court of Appeal of Tanzania stated that "customary or deemed rights to land though by their nature are nothing but rights to occupy and use the land are nevertheless real property protected by the provisions of article 24 of the Constitution. Deprivation of a customary or deemed right of occupancy without fair compensation is prohibited by the Constitution. The prohibition extends to a granted right of occupancy.

What is fair compensation depends on the circumstances of each case. In some cases a reallocation of land may be fair compensation. Fair compensation however is not confined to what is known in law as unexhausted improvements. Obviously where there are unexhausted improvements, the Constitution and the land Act require fair compensation to be paid. Where there are no unexhausted improvements, but some effort has been put into the land by the occupier, that occupier is entitled to protection under article 24(2) and fair compensation is payable for deprivation of property.

The court was led by a paragraph by Nyerere in *Freedom and Unity*<sup>83</sup> where he stated, inter alia, that:

When I use my energy and talent to clear a piece of ground for my use it is clear that I am trying to transform this basic gift from God so that it can satisfy a human need. It is true, however, that this land is not mine, but the efforts made by me in clearing that land enable me to lay claim of ownership over the cleared piece of ground. But it is not really the land itself that belongs to me but only the cleared ground which will remain mine as long as I continue to work on it. By clearing that ground I have actually added to its value and have enabled it to be used to satisfy a human need. Whoever then takes this piece of ground must pay me for adding value to it through clearing it by my own labour.

It is these issues that made the legislature state that every lawfully occupation of land is deemed to be property and includes the use of land from time to time for grazing livestock under customary land tenure.<sup>84</sup> This recognition disregards the nature of the occupancy whether granted or customary. What is important is proof that the occupier has been in occupation of the land in question.

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<sup>83</sup>Nyerere, J.K, (1966), *Freedom and Unity*, p. 53.

<sup>84</sup>Section 4(3) Cap. 113

### 3.4.2.2 Categories of Public Land

The Act divides public land in the country into three categories, namely general land, village land and reserved land.<sup>85</sup> The President can transfer land from one category to another.<sup>86</sup> For instance, village land may be transferred to general land in accordance with the provisions of the Village Land Act<sup>87</sup>. The Act defines village land as the land declared to be village land under and in accordance with section 7 of cap 114.<sup>88</sup>

General land means all public land which is not reserved land or village land and includes unoccupied or unused village land.<sup>89</sup> General land is somewhat controversial, as its limits are not well-defined. This is partly because if land in a given area is not used or occupied it is not regarded as village land. So, for one to know what general land is one must be able to define the limits of village land. It becomes easier to know what public land is if a village has village land use plans which indicate various boundaries of land in the village.

Based on the boundaries, one can know where general land is. But where there are no use plans and where villagers have been using land for diverse purposes land will be deemed used land. So, it cannot be general land. In that case, it is not possible for one to know what general land is without consulting the local people. Reserved land means land designated or set aside as reserved under the provisions of any law, or land parcels within a natural drainage system from which water flows, or land reserved for public utilities; and land declared hazardous by the Minister.<sup>90</sup>

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<sup>85</sup>Section 4(4) Cap. 113

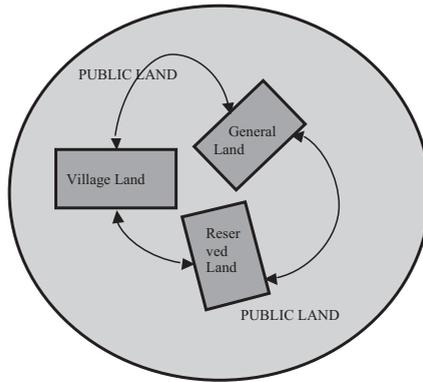
<sup>86</sup>Section 4(7) Cap. 113

<sup>87</sup>Section 4(12) Cap. 114

<sup>88</sup>Sect 2 Cap. 114

<sup>89</sup>Section 2 Cap. 113

<sup>90</sup>Section 6 Cap. 113; see also section 7 of the Act.

**Figure 1: Categories of Public Land and Instances of Transfer**

### 3.4.2.3 Management of Village Land

Generally, the commissioner of land is required to issue a certificate of village land to every village in respect of which the boundaries have been demarcated or agreed upon in accordance with the provisions of Cap. 114 or specified in any law or an administrative procedure legally recognised.<sup>91</sup> The certificate of village land is issued under the name of the President. Once it is issued it confers management functions to the village council and affirms the occupation and use of the land by the villagers; or it affirms the use of land for purposes of pasturing cattle.<sup>92</sup> It is however unfortunate that not all villages have certificates as of now. Besides, some of the villages do not yet know the boundaries of their land.

Essentially, a certificate or other document of registration issued to any village registered under the provisions of section 22 of the Local Government (District Authorities) Act has the same effect and force as regards village land as a certificate of village land issued to a village under this section.<sup>93</sup> The village council is responsible for the management of all village land.<sup>94</sup> In performing its functions the council must apply the principles applicable to trust property in the manner

<sup>91</sup>Section 7(6) Cap. 114, see also Village Land Form No. 16.

<sup>92</sup>Section 7(7) Cap. 114.

<sup>93</sup>Section 7(12) Cap. 114

<sup>94</sup>Section 8(1) Cap. 114

a trustee manages property on behalf of a beneficiary as if it were a trustee of, and the villagers and other persons resident in the village were beneficiaries under a trust of the village land.

The council is required to observe the principle of sustainable development in the management of village land and the relationship between land use, other natural resources and the environment in and contiguous to the village and village land.<sup>95</sup> It must consult the stakeholders and take account of their views and where, it is so provided, comply with any decisions or orders, any public officer or public authority with jurisdiction over any matter in the area where village land is.

Any allocation of land by the village council or grant of a customary right of occupancy must be approved by the village assembly.<sup>96</sup> So the council has to present at every ordinary meeting of the village assembly a report on the management and administration of the village land and get the views of the assembly.<sup>97</sup> It also has to inform the Ward Development Committee and the District Council, with jurisdiction in the area where the village is situated, on the management of the village land.

As an overseer of all land in the country, the commissioner may offer advice, either to all village councils or to a specific village council, on the management of village land which he considers necessary or desirable. All village councils to which such advice is given shall have regard to that advice.<sup>98</sup>

In general, village land can be divided into three categories in terms of use. The first category is land which is occupied and used or available for occupation and use on a community and public basis. This land is known as communal village land. It is for use by all villagers or by persons with a derivative right under an agreement with the village council. The second category is the category of land which is occupied or used by an individual or a family or a group of persons under customary law and the third category is the category of reserved land which may be made available for communal or individual occupation and use through allocation by the village council.

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<sup>95</sup>Section 8(3) Cap. 114

<sup>96</sup>Section 8(5) Cap. 114

<sup>97</sup>Section 8(6) Cap. 114

<sup>98</sup>Section 8(7) Cap. 114

**Figure 2: Diagrammatic Illustration**

The village council is required to recommend to the village assembly the portions of village land to be set aside as communal village land and the purposes thereof.<sup>99</sup> The recommendation may include advice to the assembly to formulate a land use plan for the village or part of it; or specific recommendations on specific portions of village land.<sup>100</sup>

In discharging its functions, under section 13(1) Cap. 114, the council is bound to receive and act upon advice and guidance given by the district council.<sup>101</sup> The village council is required to submit its recommendations to the village assembly which shall approve, approve with modifications, refer back for more action or reject it.<sup>102</sup> Where the village assembly rejects the recommendations, the village council shall submit, as soon as possible, different recommendations.<sup>103</sup> The village council shall maintain a register of communal village land in accordance with any rules which may be prescribed.<sup>104</sup> Land which is or may be held for a customary right of occupancy is any village land, any general land occupied by persons who immediately before the coming into operation of the Act held the land under a deemed right of occupancy.<sup>105</sup>

<sup>99</sup>Section 13(1) Cap. 114.

<sup>100</sup>Section 13(2) Cap. 114.

<sup>101</sup>Section 13(3) Cap. 114.

<sup>102</sup>Section 13(4) Cap. 114.

<sup>103</sup>Section 13(5) Cap. 114.

<sup>104</sup>Section 13(6) Cap. 114.

<sup>105</sup>Section 14(1), deemed right means the title of a Tanzanian citizen of African descent or a community of Tanzanian citizens of African descent using or occupying land under and in accordance with customary law.

The attributes of a customary right of occupancy have been specified in the Village Land Act.<sup>106</sup> The customary right is the right that is equal in status in every respect and effect to a granted right of occupancy. The right can be exercised on village land, general land or reserved land and is regulated by customary laws.<sup>107</sup> All rights in relating to land specified in section 6 of the Forests Act which are lawfully exercisable in any area regarded as a forest reserve are rights originating in a customary right of occupancy.<sup>108</sup>

Reserved land also includes land held under a customary right of occupancy exercisable in the Ngorongoro Conservation Area and the persons traditionally using and occupying land in any national park or land specified in the Preserved Areas Act.<sup>109</sup>

Village<sup>110</sup> land, therefore, refers to land consisting of land within the boundaries of a village registered in accordance with the provisions of section 22 of the Local Government (District Authorities) Act.<sup>111</sup> It may also include land designated as village land under the Land Tenure (Village Settlements) Act (1965).<sup>112</sup> In addition the Act does recognise land, where the boundaries were demarcated as village land under any law or administrative procedure in force at any time before the Act was enacted.<sup>113</sup> It also includes land, the boundaries of which have been agreed upon between the village council with jurisdiction over that land and the respective manager of the contiguous land to that village.<sup>114</sup>

Any land which the villagers had, during the 12 years preceding the enactment of the Act, been regularly occupying and using as village land, in whatever manner, may also be considered village land. Such land might have been fallow at any time during the said twelve years; it might have been used for pasturing cattle belonging to the villagers or to persons using that land or as a passage to land used for pasturing cattle.<sup>115</sup>

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<sup>106</sup>Means a right of occupancy created by means of issuing of a certificate of a customary right of occupancy specified in section 27 of this Act and includes a deemed right of occupancy specified in section 2 of Cap. 114.

<sup>107</sup>Section 18 and section 20(1) Cap. 114

<sup>108</sup>Section 14 Cap. 114

<sup>109</sup>*Ibid.*

<sup>110</sup>A village may be defined as a settlement of people in any given area where the boundaries of that area can be particularly defined.

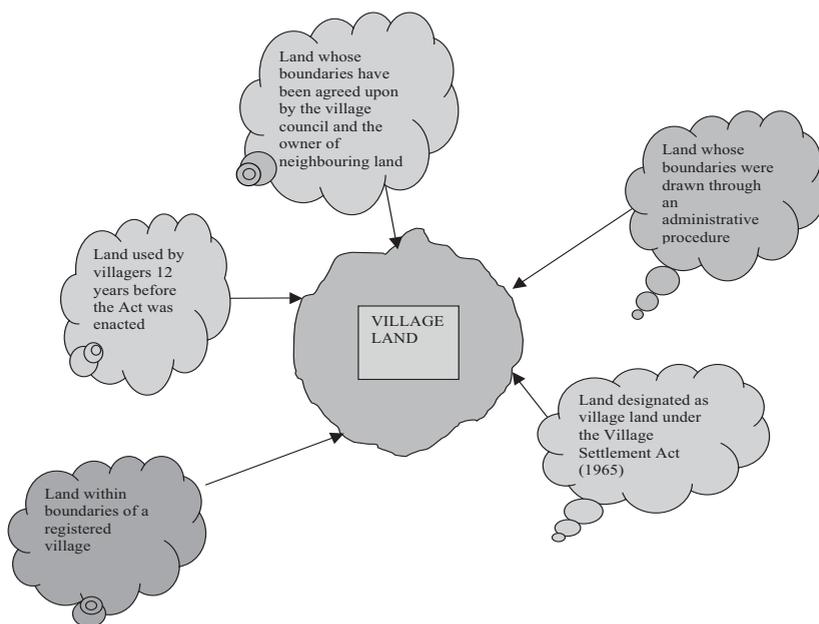
<sup>111</sup>Section 7(1) (a) Cap. 114

<sup>112</sup>Section 7(1) (b) Cap. 114

<sup>113</sup>Section 7(1) (c) Cap. 114

<sup>114</sup>Section 7(1) (d) Cap. 114

<sup>115</sup>Section 7(1) (e) Cap. 114

**Figure 3: Description of Village Land**

#### 3.4.2.4 Transfer of Village Land

Where the President is mindful of transferring any part of village land to general or reserved land in the interest of the public, he may direct the Minister to proceed.<sup>116</sup> Public interest in this context includes investments of national interests.<sup>117</sup> The Minister has to cause the subject of the proposed transfer to be published in the Gazette and sent to the village council.

The notice that the Minister writes has to specify the following: the location of the land to be allocated to someone; the extent and boundaries of the land; a brief statement of the reasons for the proposed transfer; the date, not less than sixty days from the date of the publication of the notice, and the time the President may exercise his powers to transfer the land or part of it.<sup>118</sup>

<sup>116</sup>Section 4(1) Cap. 114

<sup>117</sup>Section 4(2) Cap. 114

<sup>118</sup>Section 4(3) Cap. 114

Where any portion of village land has been allocated to a villager or a group of villagers under a customary right of occupancy or a derivative right or to a person or a group of persons to use it, the village council has the duty to inform the villagers of the contents of the notice.<sup>119</sup> Or where the villagers are absent the council has the duty to inform the family or a member of the family occupying or using the land of the contents of the notice. Any person among the villagers may inform the Commissioner and the village council on the proposed transfer of the land.

The Commissioner and the council have to take the information in question into account in any decisions or recommendations that they may make on the proposed transfer.<sup>120</sup> Where the land to be transferred is (a) less than 250 hectares in extent, the village council is required to prepare and submit recommendations for the proposed transfer to the village assembly for it to approve or refuse.

The village assembly is required to hold a meeting as specified in section 103(3) of the Local Government (District Authorities) Act<sup>121</sup> to consider the recommendations of the village council and any representations made by the district council of the area where the land is situated and decide whether to approve or not to approve the proposed transfer. Where the land to be transferred is greater than 250 hectares, the Minister, after considering any recommendations made by the village assembly through the village council and any representations made by the village and district councils, may approve or not approve the proposed transfer.<sup>122</sup> The recommendations have to be made through resolutions.

The Commissioner or an authorised officer is required to attend a meeting organised by the village council or the village assembly to explain the reasons for the proposed transfer and answer questions. Any person or representative of any organisation that seeks permission to use and occupy a part of village land under a right of occupancy may upon invitation by the village council or the village assembly address the meeting and answer questions, if any, about the proposed use of the land.<sup>123</sup>

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<sup>119</sup>Section 4(4) Cap. 114

<sup>120</sup>Section 4(5) Cap. 114

<sup>121</sup>Cap. 287

<sup>122</sup>Section 4(6) Cap. 114

<sup>123</sup>Section 4(7) Cap. 114

Also, village land cannot be transferred until the type, amount, method and timing of the payment of compensation has also been agreed upon. The agreement may involve the village council and the Commissioner, or the Commissioner and any other interested party. If general or reserved land is to be exchanged with the village land that is to be transferred, the general or reserved land has to be identified first and then it can be allocated to that person.<sup>124</sup> Where the transfer of land has been approved by resolution, the President may exercise his powers to transfer the land or part of it to general or reserved land.<sup>125</sup>

Where the land to be transferred or any part of it is occupied by people, the President shall determine whether such people may continue to occupy and use the land, subject to any terms and conditions, which he may impose, or whether the rights of such people shall be compulsorily acquired, subject to the payment of compensation.<sup>126</sup> The President may also direct that any compensation payable be paid by the person or organisation to whom or which the land has been allocated.<sup>127</sup>

The President may direct the Minister to appoint a committee to hold an inquiry as specified in section 19 of the Land Act into the proposed transfer.<sup>128</sup> A transfer of village land to general or reserved land has to be published in the Gazette and shall come into effect thirty days after the date of the publication of the notice.<sup>129</sup> The President is empowered to direct the transfer of any area of general or reserved land to village land, subject to the provisions of section 6 of the Land Act.<sup>130</sup>

As noted earlier, the President may transfer village land to general or reserved land. If the President does so, the village council will no longer manage it unless by a special mandate from the Commissioner. If the President and the Minister for Lands want to transfer village land to general or reserved land, the following need to be done:-

- Publish the details of the proposed transfer in the Gazette and the same must be given to the village council;

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<sup>124</sup>Section 4(8) Cap. 114

<sup>125</sup>Section 4(9) Cap. 114

<sup>126</sup>Section 4(10) Cap. 114

<sup>127</sup>Section 4(11) Cap. 114

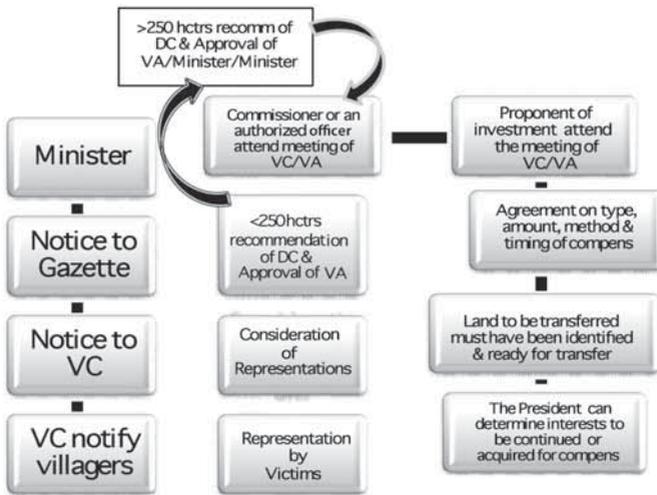
<sup>128</sup>Section 4(12) Cap. 114

<sup>129</sup>Section 4(13) Cap. 114

<sup>130</sup>Section 5 Cap.114

- The Commissioner of Lands to attend a meeting of the village council or village assembly to explain why the land is to be transferred and to answer any questions the villagers may have;
- The type, amount and timing of compensation to be paid to the village must be agreed upon by the Village Council and the Commissioner before village land can be transferred and
- If the Commissioner and the village council cannot agree on the sum to be paid for compensation, then the transfer cannot go ahead until the High Court decides on the amount.

**Figure 4: Village Land Transfer**



- Procedures for Transfer of Village Land to General Land

**3.4.2.5 Acquisition of Land in a Village by a Citizen of Tanzania**

If a villager in a given village wants to acquire land, then he or she has to seek consent from the village council and the village assembly. The villager has to attend various meetings in the village at which minutes are taken, on the basis of which a piece of land can be

allocated to him or her. A registered surveyor must survey the area. The cost of doing survey varies from time to time and depends on the area the survey is to be conducted. After surveying the area, the surveyor prepares a map which is then sent to the Director of Mapping for approval and registration.

The Director then returns the said map to the District Land Office where the authorised District Land Officer writes a letter of offer of the right of occupancy for the intended person or a corporate body in a prescribed form provided for under the Land Act. The said letter of offer together with the registered surveyed plan is thereafter submitted to the Commissioner for Lands for approval.

After the approval of the Commissioner, the said letter of offer together with the surveyed plan is returned to the District Land Office for the preparation of the right of occupancy. All these documents are then submitted to the Commissioner to append his signature to all of them. After the Commissioner has appended his signature to the documents, the right of occupancy is submitted to the Assistant Registrar of Titles Zonal Office for registration. An individual or a corporate body is offered a certificate of the right of occupancy bearing his/her or its name as the registered owner of a certain piece of land in Tanzania after the process has been finalised.

#### **3.4.2.6 Acquisition of Land by a Foreigner Living in Tanzania**

Foreign investors can only hold a granted right of occupancy to general land. Before village land is offered to a foreign investor, it has to be transferred to general land first. Land can only be transferred from village to general land by the President, after the people whose land is to be given to an investor and the Commissioner of Lands have agreed on the amount of compensation to be paid. If the people are not satisfied with the compensation determined by the Ministry of Lands they can appeal to the court for adjudication.

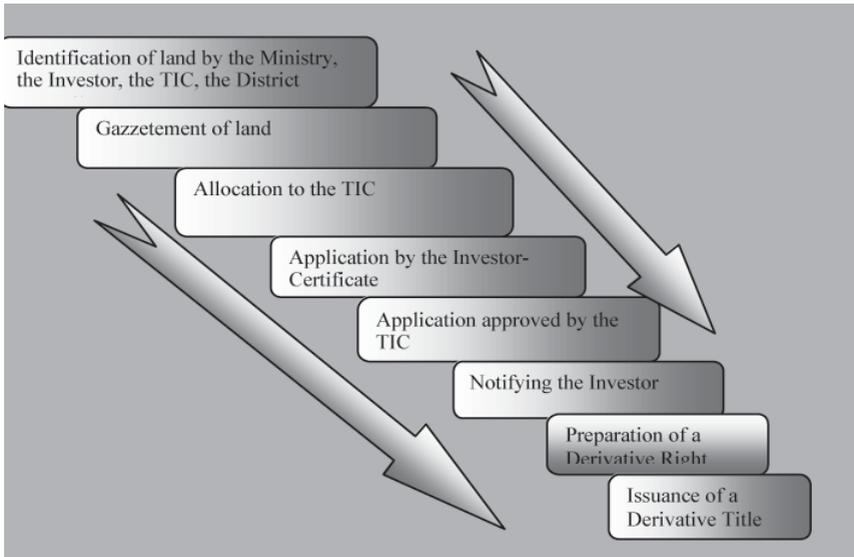
Alternatively, the investor may obtain land which is already regarded as general land. Such land is allocated to an investor by the TIC. In practice, both procedures are used in allocating land to investors for biofuel production in Tanzania. Hence, land acquisition or owning by a foreigner or a foreign company is different altogether from land acquisitions by Tanzanian citizens. Under the Tanzania laws, a foreigner or a foreign company cannot be allocated or granted land

in Tanzania unless that land is for investment purposes. There are two ways whereby a foreigner or a foreign company can acquire land in Tanzania as described below.

#### **3.4.2.6.1 Land Acquisition through the Tanzania Investment Centre**

A foreign investor has to fulfil several requirements of the Tanzania Investment Centre (TIC) so that he can acquire land in Tanzania. After a foreign investor has fulfilled the TIC requirement that requires a foreign investor to invest at least US\$300,000 in a project(s) which he or she owns or which is jointly owned, a certificate of incentives is prepared. Then the investor goes to the ministries responsible for liaising with his project(s). Currently, most foreign investors or foreign companies follow these steps:-

- The investor introduces the business idea to the TIC; after fulfilling all the requirements of the TIC, such as business registration and verification of the investment capital, the investor is given a 'Certificate of Incentives';
- The investor then goes to a district where there is an appropriate quantity and type of land in order to carry out a formal land survey;
- The surveyed land is registered at the Ministry of Lands, Housing and Human Settlements Development;
- The investor's agricultural project is registered and approved by the Ministry of Agriculture and
- The investor applies for a derivative right of occupancy to the TIC.

**Figure 5: Diagrammatic illustration**

#### 3.4.2.6.2 Land Acquisition through the Village

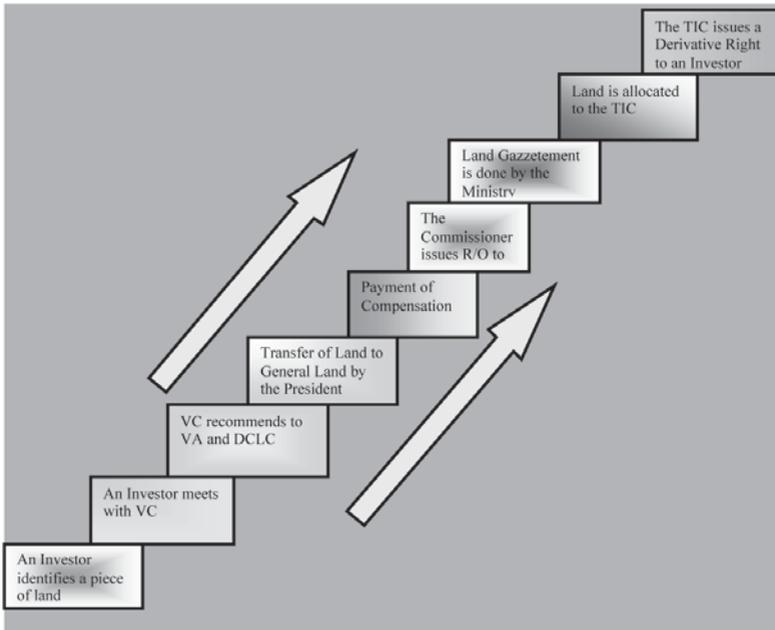
Village land is under the authority of village council and the village assembly. The latter comprises all the residents of a village who are over the age of 18. Procedures for a foreign investor to obtain village land are substantially different from those used to acquire land directly from the TIC. Acquiring land through the village entails the transfer of land from village land to general land and other additional procedures.

In contrast to obtaining land through the TIC ‘land bank’, where an investor does not negotiate with the local communities, to obtain land through the village an investor has to start negotiations at the village level. Then he goes to the Ministry of Lands so that the piece of land he or she wants can be transformed from village land to general land. The application must be approved by the President. The process is as follows:-

- The investor identifies the village where there is land that he/she wishes to acquire;
- The investor meets with the village council to obtain its approval;
- The village council and the investor forward the proposed

- investment to the District Council Land Committee, which approves the land for investment purpose in the village;
- The village assembly approves the allocation of the piece of land to the investor;
  - The President transfers the land from village land to general land. Compensation is paid to the affected village based on an agreement between the village and the Commissioner of Lands; and
  - The investor obtains a ‘granted right of occupancy’ (a derivative right) to the land from the Commissioner of Lands at the Ministry of Lands, Housing and Human Settlements Development.

**Figure 6: Diagrammatic Illustration**



Between these two procedures, the first procedure is more convenient than the second, because the land that the investor seeks to acquire is already under the TIC. But the second procedure is more participatory than the first and uses the bottom-up approach. Furthermore, the villagers, through their legal organs, can deliberate on the effects of a project on their lives and make informed decisions.

It has been a tendency, however, that the TIC facilitates the process from the top, which, in a way, usurps the people's power. In any case, all those who are affected by the project must be paid compensation. Payment of compensation has also been one of the critical challenges, with a good number of people complaining that they have not been paid no compensation at all, inadequate compensation, or payment of compensation has taken too long.

#### **3.4.2.7 Determination of Compensation**

There are certain entities and people who may claim compensation in respect of village land which is transferred to general or reserved land as specified in section 4 of the Village Land Act.<sup>131</sup>

- A village council on behalf of the villagers in respect of the loss of communal land, assets and benefits derived from that land; and
- Any villager occupying the land that is being transferred under a customary right of occupancy whether or not that right is registered.<sup>132</sup>

The basis for assessing the value of any land and payment of compensation under the Act is the market value of such land. The market value of any land is determined by using a comparative method by looking at sales of similar properties or by using an income approach or a replacement cost method where the property is of special nature and not saleable. Assessment of the value of land and unexhausted improvement for the purposes of the Act is done by a qualified land valuer.

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<sup>131</sup>Regulation 2 of the *Village Land Regulations*

<sup>132</sup>Regulation 2 G.N. 86/2001

Furthermore, assessment of the value of land and unexhausted improvement for the purposes of paying compensation by the central government or local government authority has to be verified by the government chief land valuer or his representative. Compensation for loss of any interest in land includes the value of unexhausted improvement, disturbance allowance, transport allowance, accommodation allowance and loss of profits. Compensation, as specified in sections 4 and 6 of the Act and regulation 13, may take the form of all or any of the following:-

- Land of comparable quality, extent and productive potential to the land lost;
- A building of comparable quality, extent and use comparable to the building lost, plants and seedlings, access to communal assets;
- A sum of money equal in value to the unexhausted improvements on the land transferred or damaged which can be used for productive purposes or for paying allowances for the disturbance brought about by the transfer of the land;
- Regular supplies of grain and other basic foodstuffs for a specified time; or
- Such other forms of compensation as may be agreed upon by the claimant and the Commissioner.

#### **3.4.2.8 The Powers of the President to Acquire Land**

Sometimes the President may decide to acquire land or part of it in his capacity as trustee of public land. If he decides to acquire land, he has to adhere to the procedures stipulated under the Land Acquisition Act, Cap. 118. According to section 3 of the Land Acquisition Act, Cap. 118, the President has the mandate to acquire any land for any estate or term for public purposes.

Under section 4, public purpose includes but not limited to exclusive use by the government, general public use, use for government scheme, development of agricultural land or provision of sites for industrial, agricultural or commercial development, social services or housing or use by any person or group of persons who, in the opinion of the President, should be granted such land for agricultural

development. If the President resolves that any land is required for public purposes, the Minister has to give notice of intention to acquire the land to the persons interested or claiming to be interested in such land.<sup>133</sup>

The Minister may, by notice, direct the persons upon whom the notice is required to be served to yield possession of such land after the expiration of the period specified in the notice, in a period of not less than six weeks from the date of the publication of the notice in the Gazette.

Where any land is acquired by the President under section 3, the Minister has to pay, in respect thereof, compensation as may be agreed upon or determined in accordance with the provisions of the Act.<sup>134</sup> The President may, with the consent of the person entitled to compensation, make to the person entitled to compensation a grant of public land not exceeding in value the value of the land acquired, for an estate not exceeding the estate acquired and upon the same terms and conditions as the land acquired was held, so far as the same may be practicable, in lieu of or in addition to any compensation payable under this section.<sup>135</sup> Hence, in the event the occupier of the land or the village council refuses to release the land voluntarily, the President can still invoke his powers to compulsorily acquire the land. If the President does so, payment of prompt, full and fair compensation the victims has to be effected.

#### **3.4.2.9 Conduct of Village Land Transfer Transactions**

The Village Land Act provides that the forms to be used in effecting land transactions under the Act are those provided under the 1st schedule to the Act as may be modified.<sup>136</sup> Land Form 8 is notice of intention to transfer village land to general or reserved land. The form states the intention of the President of the United Republic of Tanzania to transfer village land to general or reserved land. It describes the location of the land, boundaries and extent of the said land and reasons/purposes of the transfer of the land. It provides the duration of the notice to be 90 days from the date of publication of the notice in the Gazette, after which it will expire.

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<sup>133</sup>Section 6 Cap. 118

<sup>134</sup>Section 11(1) Cap. 118

<sup>135</sup>Section 11(2) Cap. 118

<sup>136</sup>Sections 79 & 80 Cap. 114

On the form, any person occupying any village land may make representations to the Commissioner of Lands and the village council as to why his or her land should not be part of the land to be transferred or as to why the designated land as a whole should not be transferred.

Form 9 is notice of transfer of village land. It states the period during which the transfer shall take effect (thirty days from the date of its publication in the Gazette). Form 10 is declaration of interest, whereby any member of the village council or a member of the committee of the village council dealing with land in the village may declare the interest he has in the land to avoid conflict of interest.

Form 11 is notice to village council to apply for compensation. On this form, the village council is notified of the right to claim compensation for losses that are likely to be caused by the transfer of communal land and the period of submitting the claim to be within 60 days from the date of getting the notice. Also, any person suffering losses by reason of the proposed transfer may apply to the Commissioner of Lands for compensation using the form headed 'application for compensation for losses caused by land transfer.'

Form 12 is application for compensation by the village council. The form requires the name of the village, the district in which the village is located, the location of the land to be transferred, the subject of the claim, the approximate area/size of the land, the current use of the land, the losses caused by the transfer of the land and the communal rights for which the village council is claiming compensation and the amount of compensation it is claiming. The form has to contain, among others, an attachment of a report explaining the basis for the claim for compensation and the names and signatures of the members of village council.

Form 13 is approval of compensation where the Commissioner indicates the approval, manner or disapproval of compensation and the reason for disapproval, if any. Form 14 is notice to the land occupier to apply for compensation. On this form, upon proposal to transfer village land, occupiers of land whose individual lands have been affected are notified of the right to claim compensation for losses that are likely to be caused by the transfer of communal land. The claim should be submitted within 60 days from the date of getting the notice.

Form 15 is application for compensation by the land occupier. On this form, the occupier must state the name and address, the marital

status and children living with him, the location of the land, the subject of the claim indicating the village and the district, the approximate area of the land, the current use of the land, the losses caused by the transfer of the land, description of the land right for which he is claiming compensation and the amount of compensation claimed. He also has to show the nature of the interests, such as the customary right of occupancy, the amount being claimed for the value of the land, unexhausted improvements on the land, the amount being claimed, the nature of the derivative right, the costs involved in moving from the land.

### **3.5 Conclusion**

Although the laws and policies have laid down the framework that has to be complied with in effecting investment in land or land transfer to facilitate investment, for which Vision 2025 and the NSGRP were formulated, the framework is not used on the ground. It is also disappointing that although the procedures for compliance are clearly stipulated and articulated they have been contravened on several occasions. It is more shocking to see that even government officials and institutions contravene the laws. It should, however, be noted that when the contravention is done so as to fast track a process at the expense of an individual's rights the act deserves the highest condemnation and punishment.

# Acquisitions of Land for Agribusiness in Selected Regions

## 4.0 Introduction

This chapter addresses issues that are salient about land acquisitions, especially in paving the way for the biofuel industry, while the preceding chapter has dealt with the legal and policy requirements and the socio-economic aspects. In particular, the present chapter considers the manner in which and the extent to which the issues pertinent to land acquisitions have been taken into account in the four selected regions, namely Lindi, Coast, Iringa, and Kigoma regions.

With regard to social analysis, the study has considered issues of changes in means of livelihood, income, social organisation of work, demographic trends, access to land, environmental resources, food security and gender. The analysis has enabled us to come up with key issues that need immediate attention. With respect to legal analysis, we focused on the nature of investment, the mode of acquisition of a given piece of land, procedures followed, the modality of land transfer, special principles considered, the parties involved and their roles, the nature of compensation of the victims, contractual terms and performance, the status of legality of the investment and the implications of the acquisitions in question for the lives of the victims.

## 4.1 The Socio-economic Impact of Land acquisition or Grabbing for Agribusiness

Although processes of land acquisition for biofuel and other investments can be manipulated so as to bypass or ignore the participation of local communities, the actual implementation of projects touches directly the everyday life of the people in the communities who lose their land. It is therefore important to acknowledge that land acquisitions for large-scale agribusiness, including investment in biofuel production, have both positive and negative effects. The latter

outweigh the former in most of the recipient communities. The findings from the four case studies are presented below.

## **4.2 The Case of Investments in Kilwa District, Lindi Region**

Kilwa district is located in Lindi region, in southern Tanzania. It has the size of 13,958 square kilometres.<sup>137</sup> Administratively, Kilwa district is subdivided into 6 divisions, 21 wards and 96 villages. Politically, Kilwa is a district council. Kilwa's population rose from 150,212 (71,922 males and 78,290 females) in 1988 to 171,850 (82,817 males 89,033 females) in 2002, living in 36,185 households, with an average size of 4.7.<sup>138</sup> Important to note is the fact that Kilwa's population is dominated by children and youth with the median age of 17.6 and there are more females than males in the district.

Economically, the per capita income of a resident in Kilwa district is TZS 452,000. This is different from the government per capita income of TZS 815,000 per person.<sup>139</sup> The major economic activities in the district include farming, fishing, livestock keeping and small-scale businesses. Among the key cash crops in the district are simsim, cashew nuts, coconut and fruits, such as oranges.

Food crops in Kilwa include maize, sorghum, cassava, paddy and other cereals. With respect to health services, the district has 2 hospitals; one is a public hospital and the other a public hospital run by a religious organisation. There are 5 health centres and 42 dispensaries (40 of them are public). As far as education is concerned, there are 103 and 25 primary and secondary schools.

As stated earlier, Mavuji village was selected as a case study from Kilwa district. The village is the only site, among the four sites, where Bioshape Company Limited started a pilot production of *Jatropha* between 2008 and 2009, before it experienced an economic crisis and stopped production. Thus, it provides an ideal ground for us to learn about the real and potential social and economic impacts emanating from biofuel production. The findings show mixed feelings between different actors, with regard to the impact of the company's investment on the community.

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<sup>137</sup>Lindi Regional Commissioner's Office, Kilwa District Socio-economic Profile, 2011, Available at <http://www.lindi.go.tz/kilwa.html>, accessed on 30th May 2011.

<sup>138</sup>URT (2002), *Population and Housing Census General Report*, p. 20.

<sup>139</sup>Lindi Regional Commissioner's Office, *Op.Cit.*

#### **4.2.1 Land Ownership within the Target Areas**

The actual size of the land in Kilwa district given to Bioshape Tanzania Limited is about 80,000 hectares. However, the company was already operating in Mavuji village where it has been given a total of 16,000 hectares for actual production and 1000 hectares for pilot production. The discussions with the village leaders and the community members have revealed that the aforementioned land was formerly communal and reserved land. The people used to benefit from it in terms of firewood, medicine and building materials and water sources.

At present, the village leaders and the villagers are not aware of the size of their village, because it has not been surveyed. As a result, there is no clear land use plan, although it is known that certain areas in the village are used for farming, pasture, settlement and reserve. It was interesting to discover from the discussion with the community members that one is entitled to a piece of land as long as he or she is capable of cultivating it. If one fails to cultivate the land for a period of three consecutive years then someone else can take it over.

Although this provides an opportunity for women to own land, the daily competing domestic demands on women constrain their capacity to cultivate and own more land even when they wish to do so. Therefore, most of the land in Mavuji village (except for the 17,000 hectares given to the investor) is communally owned. But the tendency of transforming communal land to private land in the interest of the investors further limits the opportunity for women to enjoy land ownership in this matrilineal society.

#### **4.2.2 Forms and Security of Tenure**

A greater portion of the land in the in Kilwa district is held under customary tenure whose security is not only questionable but also debatable, as discussed in the previous chapter. For instance, the land that was given to the investors (17,000 hectares) for biofuel production was under customary tenure. About ten people who had farms with perennial crops or trees were affected and got compensated, following Bioshape's acquisition of their land in the district.

#### **4.2.3 Breakdown of Ownership Classes**

In Mavuji village, any villager can access the communal land

regardless of his or her wealth, age or sex. However, with increased value of land in the areas where people live, access to such land depends very much on one's purchasing power. Just like in other rural communities in Tanzania, women's purchasing power in Mavuji village is lower compared to that of men. Fortunately, both males and females can inherit land from their parents, a phenomenon that increases the possibility for women to own land.

In addition, it has been established that the elderly in the village have much control over the land held under customary tenure. Because of this, they sometimes hire out some portions of the land to different people and sometimes divide the land among their children.

#### **4.2.4. Land Use and Drivers for Land Grabbing**

An interview with the Kilwa District Land Officer shows that 807 square kilometres of the land is used as habitat. About 8868 square kilometres have been set aside for agricultural activities and 2019 square kilometres are covered by forests. On the other hand, an area of 2264 square kilometres is occupied by water bodies. According to Sulle and Nelson<sup>140</sup> biofuel production is particularly favourable in the coastal areas for several reasons.

First, proximity to the coast can facilitate export of the products. Second, coastal areas tend to have relatively high levels of rainfall and water for irrigation from rivers flowing to the sea. Third, coastal areas tend to have soils composed of eroded basement rocks, sediments or coral rag, which are all very low in fertility and tend not to support intensive agricultural production. For this reason, much of the land in coastal areas appears to be relatively unused. The local people depend on shifting farming, harvesting marine and forest resources and limited livestock keeping for their livelihoods. This creates an impression that there is a lot of land for commercial agricultural activities in the areas.

It was also clear from the findings that multiple forces are behind land grabbing in Kilwa district. On the one hand, the availability of productive and fertile land attracts investors. On the other hand, efforts by the TIC and the district authorities to implement the national investment related policies have made it very easier for investors to secure land in the district.

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<sup>140</sup>Sulle, E., and Nelson, F. (2009), *Op.Cit*, p. 31.

#### **4.2.5 Basic Household Information**

The findings show that there is an increase in population in Mavuji village, partly due to the operation of Bioshape Company. As per the 2010 village statistics from the village executive officer, Mavuji village has a total of 443 households with a population of about three thousand and four hundred. The total labour force in the village is 646 people (301 males and 345 females). It was pointed out that the population have decreased, following the closure of Bioshape Company in the village in 2009. But it was also said that the village has witnessed an increase in migrants from other villages seeking plots of land and permits to live in Mavuji village. Some of the migrants are attracted by the fertile land in the village and have been renting pieces of land from the indigenes.

The main economic activities in the village include farming, charcoal production, casual labour and small-scale businesses, including food vending and local beer brewing among women. Although it was difficult for the respondents to estimate their average daily income (it used to be 3000 per day when they were working for Bioshape Company), the average household income was estimated to range between TZS 5000 and TZS 9000 per day.

Most people in most of the households are either standard seven leavers or have never completed primary education, although a few are currently sending their children to ward secondary schools. Both the elderly and the youth (male and female) engage in economic activities. It was pointed out that during the operation of Bioshape Company the people of Mavuji village, regardless of their age and sex, engaged in wage labour offered by the company. The elderly were given less heavy works than other males and females. But the company used to pay its workers meagre salaries, regardless of whether or not the work is heavy.

#### **4.2.6 Basic Sub-household Information**

In Kilwa district, both men and women engage in economic activities, although the traditional division of labour has been changing over time. While it was uncommon for females to engage in paid labour, the operation of Bioshape Company attracted many women just like it did men. In some cases, couples, too, worked for the company. However, FGDs with male and female have shown that women in Mavuji

village have control of their income. Men complained that their wages were used to meet household needs and that their wives' money was not used for the same purpose. They said that this is so because of the belief and custom that men are the breadwinners for the households they head.

It was also pointed out during the discussions that some marriages had broken up when Bioshape Company was in operation in Mavuji village because women gained some sort of economic autonomy and challenged the emerging male dominance at the household level. Important to note is, however, the fact that in the absence of paid work, almost all members of the households in the village depend on land and other natural resources for their livelihoods. It is also clear that women's dependency over land is higher than that of men, since men can easily turn to other activities even outside their communities. Domestic responsibilities prevent women from engaging in other activities within and without their communities.

#### **4.2.7 Information on Land Use**

Kilwa district has a total area of 8868 square kilometres used for agricultural activities. Mavuji Village has at the moment an abundance of land for cultivation and livestock rearing although the size of that land is not known to the villagers and village authority. This poses a serious risk of over estimating land availability versus land use demands. Taking into account the population dynamics discussed in the previous section and the fact that people of Mavuji practice shift cultivation, the sustainability of land abundance is question that is begging.

As far as livestock keeping is concerned, domestic animals like chicken and goats, is common in Mavuji Village. However, there is a growing trend of outdoor livestock rearing practices by the Sukuma and Mang'ati pastoralists. According to village leaders, the pastoralists have migrated into the village seeking settlement and areas for livestock rearing. At the time of this study, four pastoralists had been allocated with land in the village.

Although the existing livestock rearing system is not yet affected by land grabbing for the time being, the potential for it to be negatively affected cannot be underestimated. This also adds to the need to survey the village land in order to establish the availability of land in

the village and deal accordingly with requests for land acquisition from other investors in future given the increasing demand for land from both domestic and foreign investors.

Crops production is the major economic activity in Mavuji village whereby 'simsim' is the key cash crop whereas maize, sorghum and cassava are the sole food crops. As stated earlier, shifting cultivation is the chief method mainly using hand hoe. It was reported in the FGDs with males and females as well as village leaders that the operation of Bioshape Tanzania Limited, in the village created an opportunity for wage labour as a new source of income. This absorbed all the labour force used in crop cultivation so much so that many people abandoned farming. This in turn resulted into shortage of food and people relied on buying food from the shops. As a result, the community faced severe food shortage leading to what they referred to as 'Bioshape Hunger', in 2008/2009.

The above finding is in line with a recent study by Land Rights Research and Resource Institute in the year 2010, which confirmed that one of the main effects of the entrance of Bioshape's investment in the area was a significant drop in food production because many villagers abandoned farming food crops to work for the company. The study further documented that total number of those who were Bioshape's labourers was estimated at 1,750 and majority were from Mavuji<sup>141</sup>.

Important to note, the study, referring to the United Republic of Tanzania's 2010 agricultural statistics on recall food situation at regional and district level back to 2004/2005, the study argued that Bioshape investment contributed towards Kilwa to a food deficit district between 2006/2007 and 2007/2008. Moreover the study linked the improvement in food security in Kilwa district with Bioshape's 'closure of office'<sup>142</sup>.

#### **4.2.8 Natural Resources**

Kilwa is endowed with various natural resources. The forest and woodland area in Kilwa district is estimated to be 11,057 hectares (about 80% of total land area). Over 98% of this area is woodlands. Some 2,194 hectares are reserved as natural forests and important catchment areas, with the rest being natural productive forests. The

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<sup>141</sup>Land Rights Research and Resource Institute, (2010), *Op.Cit*, p. 68.

<sup>142</sup>*Ibid*.

forest of Kilwa district constitutes, Kitope Forest Reserve, Mbinga Forest Reserve, Nangoma Caves, Mitarure Forest Reserve, Mitundumbea Forest Reserve, Rungo Forest Reserve, Ngarama North Forest Reserve, Ngarama South Forest Reserve, Pindiuro Forest Reserve and Mangrove forests<sup>143</sup>.

The deforestation of the 1000 hectares for pilot jatropa plantation in Mavuji was one of the effects of the investment on the local environment. Regardless of the conflicting narratives developed about deforestation, the fact remains that the biodiversity of the area had been altered. Some of the environmental concerns of the people consulted in Mavuji include loss of biodiversity and growing shortage of water from their traditional sources. An old woman in her sixties had the following to say in one of the Focus Group Discussions (FGDs):-

“..we are beginning to see declining flow of water in our rivers...”

**(FGD-Female at Mavuji)**

#### **4.2.9 Use of Natural Resources in supporting Livelihoods**

The quest for meeting livelihood demands necessitates the interaction between people of Kilwa with their environment. People depend on use natural resources to support their livelihood by farming and selling forestry products such as firewood, charcoal, timber and logs. So far, the available environmental resources in Mavuji are matching with the livelihood demands of the people. Community members consulted confirmed that it is not a problem to access firewood, building materials and other forestry products for the time being. However, with the population dynamics and expansion of investments targeting land and natural resources in the area, the livelihood activities in the village are likely to be threatened.

#### **4.2.10 Identifying the Poor**

With regard to poverty, participants in the FGDs considered poor people as those who cannot afford the basic needs. They outlined causes of poverty and the list included laziness, growing older without

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<sup>143</sup>Mesaki, S. (2003), “Access to Social Services”, *Tanzania State of the Coast Report*, Dar es Salaam, Tanzania Coastal Management Partnership Science and Technical Working Group (cited in Sambaiga, R.F., *Op.Cit*, p. 58).

support and reliance on cheap labour. Modes of subsistence within the poorest sections of the community are begging, casual labour and gathering edible roots (Angadi) from the forests and firewood collection. The poor people are not economically and socially excluded. The VEO of Mavuji also provided statistics of the most vulnerable and poor households in the village. The statistics reveal that there are about 90 poor households with a total of 320 people (154 male and 166 female). This is indicative that more women than men in Mavuji are considered to be poor.

Generally, the impacts of biofuel investment in the district are perceived differently by different actors in the districts. On the one hand, discussions with district officials such as the District Commissioner and District Executive Director show that the investment had resulted into more positive than negative impacts to the District. The views were much more influenced by the Bioshape's corporate responsibility policy which focused on some of the challenges facing the education and health sectors in the District. For instance, the mentioned top district official cited that Bioshape Company had for a period of one year construction a dormitory for girls at Mpunyura Secondary School, bought 20 computers for four Secondary Schools, bought school furniture to cater for all students of Ilulu Girls Secondary School.

Moreover, the company had constructed a modern kitchen and supplied food for children at Mavuji Primary School. With respect to the health sector, the company availed funds for construction of a Maternity Ward at the District Hospital located at Kilwa Kivinje. These are among other projects that were supported by Bioshape Company within its corporate social responsibility. The district officials also mentioned the fact that the investment had created employment opportunities for local people not only in Mavuji but also the neighbouring villages and towns such as Kilwa Masoko, the capital town of Kilwa District. Importantly, was the contribution of Bioshape Company to both Village and District Council revenues. This was based on the TZS 200 million paid on annual basis (was paid only once in 2009), whereby Mavuji Village received TZS 89 million.

Nevertheless, the village had bought a lorry and constructed a village market out of the funds. During the discussion with the village leaders, it was noted that the truck project have been mismanaged

and the village assembly has decided that the truck should be sold so that the money obtained can be used for other development project. Likewise, community leaders reiterated the above benefits and added that the company also constructed the village office and furnished it with modern office furniture (the researchers conducted FGDs in the office and witnessed the furniture). Below is one of the statements appraising the investor as articulated in the FGD with community leaders:-

“...if the company would be in operation to date, our village would have been far better in terms of social services...”

**(FGD-Village Leaders at Mavuji)**

Similarly, community members who participated in the FGDs with males and females in Mavuji village highlighted some positive impacts of the investments. These include employment opportunities for both male and females, alternative income generating activities such as food vending, renting houses to immigrants, reduced contributions to development projects which used to come from their pockets, provision of food to school children and construction of better houses among others:-

“...we used to cook more food and we could sell it up....we were getting enough for us and our kids...”

**(FGD-Female at Mavuji).**

“...the investment opened up many economic opportunities, many people were employed as casual labour and some managed to mobilise resources and started construction of better houses...”

**(FGD-Male at Mavuji).**

On the other hand, the community members highlighted a range of negative impacts. These include, denied access to the invested land even though it is not yet developed. Food insecurity especially with the sudden stoppage of the company’s operation which meant no more reliable sources of income coupled with the fact that people did not engage in food production expecting to buy food using their earnings from the company. In other words, the investment attracted people of different ages to engage in casual labour thereby abandoning food production.

The statement below reflects this point:-

“...farming of food crops stopped because people relied on buying food in shops...we really suffered when the operation of the company stopped...”

**(FGD-Female at Mavuji).**

Interesting to note, is the unintended consequences of the investment at the community level. These include increased incidences of divorce in the local community. This was articulated in by both male and female participants in the FGDs as well as the community leaders. Breakdown of marriages was attributed to women’s access to reliable sources of income through wage labour and petty business as result they ignored their husbands especially when the husband was earning less than his wife.

In addition, intermarriages were between the people of Mavuji and immigrants from other villages and districts. There was also an increase in the number of children raised by single mothers in the village because their fathers were migrants who left soon after the investor stopped operations. Hence, women’s burden in terms of child rearing and household responsibilities increased.

“...Our daughters got husbands and many children were born when the investment was in full swing...”

**(FGD –Females at Mavuji).**

It was also clear from the discussions with community leaders that the population of the village increased following the influx of migrants who came to seek for employment in the company. While many left after the crisis others have remained as residences in the village. The village is also attracting people from the neighbouring villages and from other regions including the pastoralists. The population trends need to match with the available land and other resources. However, the village leaders confirmed that the village in not surveyed so they were not even aware of how much land is available and whether that would still meet the needs of the village population in future.

Importantly, the people of Mavuji both male and females together with their leaders voiced the fact that they have encountered loss since the land leased to the investor cannot be used for anything without the consent of the investor while at the sometime they are not receiving any fee from the investor since 2009. Unfortunately it was not clear to them as to what the law says about such a situation.

Some health problems were also mentioned to be among the impacts of biofuel investments to the lives of the local people. The most definite was chest pains due to tough work with meagre wages (TZS 3000 per day). One of the participants in the FGD with males expressed that his job as a cook at the Bioshape Company was terminated when he encountered chest problems and has never been compensated. This signals the importance of advocating for health insurance among workers in biofuel companies in Tanzania.

Lastly but not least, is the conflict between the former employees of Bioshape with the Company. As stated in the previous chapters, several people both male and female who were former employees to the Company have not been paid their due compensations following Bioshape's breach of employment contracts with the employees. As the matter is still in court, the former employees have organised themselves to guard the properties of Bioshape fearing that the Company could silently collect them and disappear.

During the fieldwork in Mavuji, men and women were observed in temporal grass shelters in front of the main gate of Bioshape's factory in Mavuji. Interview with one of them revealed that they have decided to persevere the hardship of having to sleep outside in order to ensure that justice is done and receive their due payments.

#### **4.2.11 Conclusion**

Bioshape's acquisition of land for jatropha production in Kilwa district has resulted into both positive and negative socio-economic impacts. Although the company has dubiously ceased operations (which lasted for only one year) in the district since 2009, local people can still talk about the past and ongoing impacts marked upon their livelihood. Apart from the development projects that can be sustained by the relevant authorities such as the building of maternal ward at Kinyonga District Hospital, and market building at Mavuji Village, most of the benefits such as employment opportunities and revenues to the district councils and respective villages were short lived. Even if the Bioshape Company decides to disappear some of the impacts shall remain for a couple of decades to come. One of the long term impacts is change in biodiversity following massive deforestation and environmental problems with adds more burden to women in the respective communities.

### **4.3. Socio-economic Impact of Biofuel Investments in Kisarawe District, Coast Region**

Kisarawe district has also attracted biofuel investments. SunBiofuels Company has been granted derivative rights over 9,000 hectares in the district and it is already undertaking jatropha production. As stated in the previous chapter, 10 villages are covered by the investment but this study focused on Mtamba village. Thus it is also an ideal case study for learning about land grabbing and its social and economic implications.

#### **4.3.1 Land Ownership Map within the Target Areas**

In its totality, Kisarawe has about 353,500 hectares of land<sup>144</sup>. Interview with the district statistician and land officer show that, land which is privately owned is 9000 hectares, communally owned is 110,201 hectares, while state and forest reserve is 243,299 hectares

#### **4.3.2 Forms and Security of Tenure**

A greater portion of land in Kisarawe district is held under customary tenure whose security is questionable as discussed in the previous chapter. For instance the land that was given to the investors (9000 hectares) for Sun-biofuel Company was under customary tenure. A total of 400 people were affected by such acquisition in the District.

#### **4.3.3. Breakdown of Ownership Classes**

Elderly people own and access large portion of land which they rent to different people and sometime divide the land to their children. By and large men and women have equal access to land under different ownership and access regime. It is common for women to inherit land from their parents as noted by one of the participants in FGD at Mtamba Village:-

“...I am doing farming activities to the land left by my late father...”

**(FGD-Female at Mtamba Village).**

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<sup>144</sup>National Bureau of Statistics & Coastal Regional Commissioner's Office, (2007), *Coast Region Socio-economic Profile*, p. 2.

#### **4.3.4 Land Use and Drivers for Land Grabbing**

It was clear from the findings that multiple forces are behind land grabbing in Kisarawe district. On the one hand, the availability of productive and fertile land has attracted the investors while on the other hand, efforts by the district authorities to implement the national investment related policies have made it very easier for investors to secure land in the district even through by-passing the villages whose land is to be given to the investor. Last but not least, is the low level of education to the majority of the community members and lack of genuine mechanism to sensitize local communities with regard to investments that touch their land.

#### **4.3.5 Household Basic Information**

Kisarawe district has a population of 95,323 people according to the 2002 national population census<sup>145</sup>. Findings of this study show that population in the villages targeted by SunBiofuels have been increasing compared to how it was before land investment. At Mtamba village there are 195 households with 643 men and 616 women. With the establishment of biofuel investments, the village have witnessed an increase of migrants from other villages seeking for job opportunities.

The main economic activities in the village include charcoal making and cassava farming. The average household income is TZS 1200 per day. Most people in the households are either standard seven leavers or have never completed primary education. Both elderly and youth engage in economic activities, but farming activities are done mainly by women and elderly people while other groups engage in wood chopping, charcoal making and cassava selling.

#### **4.3.6 Sub-household Basic Information**

In Kisarawe district, men get large share of income with regard to their tendency of having more than one woman, so he can have share from the two or more wives. It is surprising to learn that in Kisarawe, elderly people are the ones engaging in farming. To a large extent all members of the household rely on land/natural resources for their livelihood strategies such as charcoal making and cassava production.

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<sup>145</sup>*Ibid*, p. 8.

#### 4.3.7 Land Use Information

Kisarawe district has a total of 697,140 hectares. Crop cultivation, forestry related activities and livestock constitute the major land use in the district. There are 309,000<sup>146</sup> hectares of arable land out of which 30,000 hectares of land is under cultivation. Crops produced within the area are cashew nuts, coconut, oranges, pineapples and cassava as cash crops while food crops includes cassava, maize, rice, sweet potatoes and sorghum. To a large extent, Kisarawe district is not famous in livestock keeping whereby very few people engage in outdoor and indoor rearing. Livestock held are chicken, goats and pig<sup>147</sup>. SunBiofuels investments in *Jatropha* production have affected access to land for villagers in Mtamba, Muhaga, Marumbo, Paraka, Kidugalo, Kului, Mtakayo, Vilabwa, Mitengwe, Mzenga 'A' and Chakaye village.

#### 4.3.8 Natural Resources

Major natural resources in the district/village include land, forest and river (Ruvu). In Kisarawe district environment have been affected since ten years ago due to the process deforestation. In one way or another land grabbing added problems to the affected areas through clearing land for *jatropha* production hence it increases the level of deforestation and water depletion. People are using natural resources for water sources, firewood collection, building materials as well as charcoal making. By leaving the area to SunBiofuels means creating shocks and risks to livelihood as pointed out by one of the participants in FGD:

“... My family and I depend of cassava production so that to get food and sell some for other activities ...”

(FGD-Males at Mtamba Village).

#### 4.3.9 Use of Natural Resources in supporting Livelihoods

By and large, livelihood activities necessitate the interaction between people of Kisarawe with their environment. People depend on the use natural resources to support their livelihood by farming, selling

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<sup>146</sup>*Ibid.*, p. 14.

<sup>147</sup>*Ibid.*, pp. 22-29.

forestry products such as firewood, charcoal, and timber and logs. The harvest or rather the money obtained from those activities is vital to the people's daily survival. Importantly, people use some of their earning to carter for social services such as education for their children and health services for them and their families.

#### **4.3.10 Influence of Natural Resource Management Policies**

National Forest policy requires that each village to have a forest reserve that can be also used for harvesting. The policy is already implemented in eight villages in Kisarawe district which have put into place an effective land use plan. These villages heavily depend on forest products and contribute the largest share to the district revenue<sup>148</sup>. As one official said during an in-depth interview that was held in Kisarawe as follows:

“...Forest products contribute large share of district revenue ... as a district we don't have sound sources of income rather than forest products...”

#### **4.3.11 Identifying the Poor**

With regard to poverty, participants in FGDs identified a poor person as someone with no piece of land for farming and wood chopping. They outlined causes of poverty and the list included laziness, getting older without support and reliance on cheap labour. The Modes of subsistence within the poorest sections of the community are firewood collection and food vending. The poor people are not economically and socially excluded although some find it difficult to tap economic opportunities offered by SunBiofuels Company as reported by a male FGD participant:

“SunBiofuels activities versed with lots and tough works.” My work here in the village is firewood collection only”

**(FGD-Males at Mtamba Village).**

#### **4.3.12 Impacts of Land Investment in Kisarawe District**

Findings from the district show that the current biofuel investment in Kilwa district have resulted into more negative than

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<sup>148</sup>*ibid.*, p. 38.

positive socio-economic impacts. Participants in FGDs and interviews at Mtamba village complained against investor's blockade of the land that has denied them access to water sources, firewood collection, shortcut to neighbourhood villages, access to ancestral burial grounds and wood chopping. This is despite the fact that promises by SunBiofuels Company to the concerned villages has not been fulfilled. These included the improvement of water and health services as well as provision of agricultural equipments to the respective villages in the district.

"SunBiofuels took our land which was formerly used for fetching water, charcoal making and firewood collection"

**(FGD-Males at Mtamba Village).**

Furthermore, the establishment of *Jatropha* plantations in the targeted villages such as Mtamba, has attracted local people to engage in wage labour and other forms of employment. This in turn has reduced manpower directed towards food production which makes these communities more vulnerable to food insecurity. In addition, individuals who are employed by Sunbiofuel company receive meagre wages or salaries which do not cater for their basic livelihood demands. Worse still, the investor has opened up shops for the employees consequently limiting the cash flow and other spill over effects of the investment. For women, this not only the means by which their husbands bring home the little that can be purchased by the incomes earned. The following statements were articulated in the FGDs at Mtamba village:

"...People moved to cheap labour and ignored cassava farming..."

**(FGD-Females at Mtamba Village).**

"...In our village only 6 out of many people who want employment have been employed by SunBiofuels..."

**(FGD-Village Leaders at Mtamba Village).**

"...The investor has established a shop in his compound that means our customers decreases and our businesses ruined..."

**(FGD-Females at Mtamba Village).**

### 4.3.13 Conclusion

The process of land acquisition by SunBiofuels and its subsequent establishment of jatropha plantation in Kisarawe District have resulted into serious alienation of land rights and access of the land to the local communities. An absolute mismatch between promises and practices has disappointed the local people so much so that they do not see the value of the investment. Potential for food insecurity and environmental degradation has been widely voiced by the people we consulted at the local and district level. Although many community members confirmed more negative than positive impacts, leaders at the District level are of the opinion that the SunBiofuels investment has positively benefited the district in terms of increased revenues from the annual compensations.

## 4.4 Socio-economic Impact of Land Acquisition/Grabbing in Njombe District, Iringa Region

Njombe District is located in the Southern Highlands of Tanzania, Iringa region. The district area is 10,668 square kilometres, which is equivalent to 1,066,800 hectares<sup>149</sup>. Out of these, 768,075 hectares is used for cultivation and grazing. The remaining 298,725 hectares are for other uses<sup>150</sup>.

Administratively the district is divided into 7 divisions, 25 wards and 208 villages. Population-wise, the district has a total of 501,096 people that is 238,558 males and 262,538 females<sup>151</sup>. According to the district officials we consulted, the population of Njombe district has increased by 2.1 percent, and migration fuelled by investments is one of the contributing factors. Currently there are 76,143 households with a total of 362,061 people (168,989 male and 183,172 female). Farming constitutes the main economic activity engaging up to 98% of the population<sup>152</sup>.

“...Outsiders are coming for employment and small business...”

**(In-depth Interview-Njombe District official).**

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<sup>149</sup>National Bureau of Statistics & Iringa Regional Commissioner’s Office,(2007), *Iringa Region Socio-economic Profile*, p. 5.

<sup>150</sup>*Ibid.*, p. 36.

<sup>151</sup>*Ibid.*, p. 9.

<sup>152</sup>*Ibid.*, p. 41.

Although the district has attracted the interest of investors in biofuels, much has not been done in terms of land acquisition for biofuels apart from the sensitization of communities to plant more jatropha. In the District, Jatropha grows very well and has been widely used for fencing farms and households. At the time of this study, the researchers were informed that JASEFE Consultant, a local company had shown interest to invest in Jatropha using the modal of contracting farmers and independent suppliers and focused on smallholder farmers. Interestingly, the response from the community has not been positive mainly because they are not assured of the market. Essentially, the district authorities have not promoted the investment in the district.

#### **4.4.1 Drivers of Land Acquisition/Grabbing in the District**

The district has not been free from land acquisition/grabbing deals. According to the discussions with district officials, there are five (5) investors dealing with land related investment projects which have acquired land for agribusiness. These include, Kibena Tea Company, Mufindi Tea Company, Tanganyika Wattle Company (tree plantation), Lupembe Tea and Dhow Mercantile (tea). Other investors are still in the processes of acquiring land, these include Miliga, Unilever Tea Company and Ikanga Tea Companies.

It is clear that the district's ideal climate and fertile land allows the growth of perennial crops such as tea has attracted the investments in tea production. It is also important to bear in mind that the district has an ideal climate for tree plantation. With respect to the growing demand for Reduced Emissions from Deforestation and Forest Degradation (REDD) projects, we should expect more demand for land in the District. Ujindile village was selected to be a study area for the potential impact of land acquisitions on the environment and livelihood of the local people. Unlike in the selected villages, in other districts population is not growing fast in Ujindile. This is because the village has not been able to attract immigrants, instead, even the youth from the village are running to town in search for wage labour and engage in small businesses.

As far as demographic issues are concerned, it was reported by the Village Executive Officer that, there are 854 residents, male being 395 and female being 459, living in a total of 124 household. Main economic activities are agriculture and livestock keeping. Average household income from their economic activities is TZS 2000 per day.

#### **4.4.2 Percentage of Land under Different Types of Ownership Regime in the District**

According to the district land officer, about 90% of land in the district is under private ownership including that of the companies investing in agribusiness. State and Forest reserve constitutes 18,884 hectares, while public land (woodland and/grassland) is 189,000 hectares. It is estimated by the district officials that about 1% of the land which is under customary tenure has been taken by biofuel investors.

“...Normally there is traditional ownership; investors took not less than one percent of the land which was under customary tenure...”

**(In-depth Interview-Njombe district land Officer).**

#### **4.4.3 Household Basic Information**

Farming constitutes the main economic activities engaging up to 98% of the population. Other economic activities include livestock keeping, small business and formal employment. The average per capita income for Njombe residents is TZS 250,000 per year. Most people in the district are standard seven leavers, and all people in the household engage in agriculture activities with women and elderly being the dominant group while men dominate business activities. Some are engaged in livestock rearing regardless of sex and age.

#### **4.4.4 Land Use Information**

The area under cultivation in the district is 168,600 hectares while the area used for livestock rearing is 654,037 hectares. Types of livestock held are cows, pigs, goats, sheep and chickens. These graze outdoors except for milk cows which are held indoor. Outdoor rearing is the method of livestock keeping dominant in the district. At the moment, the outdoor rearing has not been affected by land investment because the area for livestock rearing is still plenty. However, the pace of land acquisition for agribusiness in the district is likely to affect this type of livestock rearing. Although the exact figure for areas affected by land investment could not be established from district official consulted, Lupembe is one of the areas affect as pointed out by the district forestry officer:

“Lupembe is the only one I know and it has 16,000 hectares”. Agriculture officer said. “Many Investors have been here for a long time ago before my presence in the office”

**(In-depth interview-Njombe District Forestry officer).**

As stated earlier, crop cultivation is the major economic activity for the majority population in Njombe district. Crops produced within the district are maize, wheat, barley, finger millet, sunflower, beans, and pyrethrum, round potatoes and sweat potatoes as food crops where tea, coffee and rye as cash crops. The method of cultivation practiced is mixed crop farming with maize being the main crop mixed with sunflower. Maize-average production per hectare is 4.5-6.7 tons. The impact of land acquisition for crop production in the district has not yet been pronounced though the potential is there in future given the population dynamics. As population increases, it is possible that some people will not have access to land for cultivation.

#### **4.4.5 Natural Resources**

Major natural resources in Njombe district are land, forests, rivers and wetlands. As the rate of land acquisition and grabbing for agribusiness increases in the district, some impact on the local environment has been felt. It was reported by the district official consulted in Njombe that people have started experiencing water depletion in the areas around Kibena Tea Investment whereby the actual water level within the Dam is decreasing. This has been one of the key environmental concerns of the people who depend on the dam for water. Majority of the people in Njombe district engage in farming and livestock keeping, activities that have a direct effect to the environment in the quest for land, water and pasture. Community members consulted in Ujindile Village also mentioned hand craft activities like basket making whose raw materials come from the forestry resources.

Prolonged drought caused by absence of rainfall and deforestation, are among stated sources of natural and environment-related risks to livelihood in Ujindile Village. Over utilization of water resources for agribusiness investments was also considered with reference to Kibena Tea Company. Moreover, other informants consulted, highlighted the risk of environmental pollution and communicable diseases as result of poor handling of wastes from the investors processing industries to community residing areas.

#### **4.4.6 Social Capital**

In the village there are rules and procedures for natural resource uses. For instance, it was reported that there are rules to be observed if an individual wants to cut trees. In other words, natural resource management rules and regulation are there to guide people on adequate use of natural resources and anyone who abuses the rules is punished accordingly.

#### **4.4.7 Identifying the Poor**

The poor in Ujindile village include people with no access to basic needs and they normally eat one meal per day. For the people of Ujindile, contributing factors to poverty include prolonged draught, getting older and having many orphan and elderly people to care for (have large group of dependants). The poorest section of the community ekes out a living through assisting small works to other community members. The assignments include fetching water and grazing livestock.

#### **4.4.8 Conclusion**

Overall, land acquisition poses both opportunities and challenges. Employment opportunities to the local people as well as revenues to the district council were among the key positive impacts of the investments. Environmental problems and the potential for limited access to land for the local people constitute the negative impacts. Other negative impacts of the investments include, spread of diseases like HIV/AIDS and Sexually Transmitted Infections (STI's) as reported by the District Community Development Officer.

Last but not least, there is an emerging conflict between residents and investors mainly because of the tendency of investors to exchange contracts among themselves without negotiating with the local people. Interestingly, district officials outlined some strategies as a way to address the existing and potential challenges related to investments in agribusiness. These include, support tree planting to address deforestation, make impact assessment before allowing an investor to take any piece of land, promote sustainable utilization of natural resources in the district to sustain people's livelihood and revenue to the government including the council. The district is in process of preparing an Investment Profile.

#### **4.5 Socio-economic Impacts of Biofuel Investments in Kigoma Rural District, Kigoma Region**

Kigoma Rural district is found in Kigoma Region in the Western part of Tanzania. It occupies an area of 19,574 square kilometre of which 11,545 square kilometres constitutes the dry land surface while 8,029 square kilometres are covered by water<sup>153</sup>. According to the 2002 population census, the district has a total population of 489,271 people of which 236,360 were male and 252,911 were females. There are more females than males in Kigoma district. With an arable land of 1,015,630 hectares<sup>154</sup>, the district has also attracted land acquisition/grabbing for agribusiness.

‘Farming for Energy for better Livelihoods in Southern Africa’ (FELISA) or ‘Kilimo cha Nishati’ Company Ltd, based in Kigoma town, is one of the main investors in Kigoma Rural District. The company cultivates oil palm trees (*Elaeis guineensis*) and processes fresh fruit bunches (FFB) to produce crude palm oil (CPO), edible oil used for cooking, cosmetics and pharmaceuticals. FELISA is self-financing company with 24 (majority Belgian) shareholders.

FELISA has a 100 hectare oil palm plantation 75km from Kigoma town. They have recently obtained another 4,258 hectares of land 150km from Kigoma, where they plan to also plant oil palm. It was incorporated in April 2005 and started operation in November 2005 (first crop of seedlings), and a second in January 2007. Oil palm trees take four to five years to mature to fruition, and the production of CPO was planned to begin in 2009. FELISA also aims at purchasing FFB from local small-scale farmers as part of a proposed out grower scheme. They estimate that a total of 500 hectares under local cultivation will meet their demand once their own plantations bear fruit.

As stated in the previous chapter, several villages are covered by FELISA investment. However, this study focused on Mahembe village in order to learn about the social and economic implications of such investment.

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<sup>153</sup>National Bureau of Statistics & Kigoma Regional Commissioner’s Office, (2008), *Kigoma Region Socio-economic Profile*, p. 2.

<sup>154</sup>*Ibid.*, p.20.

#### **4.5.1 Land ownership Map within the Target Areas**

Most of the land is owned under customary land tenure and many villages in the district are not surveyed. Interviews with the district officials show that, land which is privately owned and surveyed is 19,000 hectares, while natural forest reserve is 120,343 hectares and Forest plantation of about 300 hectares.

#### **4.5.2 Forms and Security of Tenure**

A greater portion of land in Kigoma rural is held under customary tenure whose security is questionable as discussed in the previous chapter. For instance the land that was given to the investors (100 hectares) for palm oil plantation was under customary tenure while 4,258 hectares that FELISA acquired recently is said to be on the general land.

#### **4.5.3 Breakdown of Ownership Classes**

Most of the land owners under customary land tenure are normal peasants mainly men and very few women. For the married couple, household land is under the ownership of men. Ownership of land in surveyed areas depends on the financial capacity of individuals applying for the land since the surveying exercise requires money which the majority of the people cannot afford.

#### **4.5.4 Land Use and Drivers for Land Grabbing**

It was clear from the findings that multiple forces are behind land grabbing in Kigoma rural district. On the one hand, the availability of productive and fertile land that support the growth of palm oil has attracted the investors in oil palm tree production for both energy and non energy products. While on the other hand, efforts by the district authorities to implement the national investment related policies have been promoting opportunities for investments in the districts. For instance, Kigoma rural had a land ban of 11,000 hectares as of 2006<sup>155</sup>.

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<sup>155</sup>*ibid.*, p. 21.

#### **4.5.5 Household Basic Information**

The population of Kigoma rural district has been growing at the rate of 4.1 since the 1988 census with a population density of about 42 people per square kilometre (almost doubled from 24.0 in 1988<sup>156</sup>. Findings from Mahembe Village show that there has been an increase in population in the villages due to high fertility and immigration from the neighbouring villages and districts. The main economic activities include farming, livestock keeping, small business, Charcoal burning and selling. Their average household income is between TZS 700 and TZS 1000 per day. Most people in the household are either standard seven leavers or have never completed primary education. So far, the village has produced three teachers and one nurse. With regard to division of labour women are highly engaged in crop cultivation activities while men are engaging in small business activities. Whatever is being obtained at the household, men have the last decision with regard to how distribution is made and who should get what.

#### **4.5.6 Land Use Information**

Out of 1,015,630 hectares of arable land in Kigoma rural district, more than 143,834 hectares are under food cultivation while 160,000 hectares are used for grazing<sup>157</sup>. The district is among the food production zones in the region, whereby, the major food crops produced include maize, cassava, banana, beans, sweet potatoes and paddy. On the other hand cash crops are also produced in the district. These include cotton, tobacco, coffee, oil palm, ginger, groundnuts, Irish potatoes, and horticulture. Livestock keeping in the district include cattle, goats, sheep, pigs and poultry. The main livestock keeping method especially for cattle, goats and poultry is outdoor-grazing while pigs are kept on indoor basis.

#### **4.5.7 Natural Resources**

The Major Natural Resources in the district/villages include land, forest and water bodies. In Kigoma rural district environmental resource are at the heart of the livelihood of the local people. Majority of the

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<sup>156</sup>*Ibid.*, p. 5.

<sup>157</sup>*Ibid.*, p. 23.

populace depend on the land for their livelihood, on natural resources like forestry for woods, charcoal as source of energy, making bricks for building houses, stones for making gravels which are also sold to earn them an income. The trend of land acquisition for palm oil plantation is associated with clearing of forests to allow palm oil cultivation. However, it was voiced by the consulted villagers at Mahembe village that villagers have no more access of the entire land since it is under the investors' control.

#### **4.5.8 Identifying the Poor**

With regard to poverty, participants in FGDs in Mahembe village consider poor people as those who are unable to get something to eat, no access to treatment, no ability to meet other basic household demands. They believe that poverty is caused by lack of education, Poor farming equipment and fluctuation of market price for products which affects small producers. The poor section of the communities subsist themselves by engaging in farming activities and small business within the village.

#### **4.5.9 Conclusion**

Findings from the district show that the current FELISA's investment in district have resulted into both negative and positive socio-economic impacts. Participants in FGDs and interviews at Mahembe village confirmed that the investment offers employment opportunities both temporary (wage labour) and permanent (skilled salaried labour). It was also acknowledged that with the operation of FELISA there is a potential for assurance of market for palm oil produced by local peasants. FELISA has yet to begin large-scale production of CPO or biodiesel still, about 990 farmers have received seedlings, and a large number of individuals who currently farm palm oil trees are potential suppliers to FELISA.

Therefore along with their households the employees of the company are beneficiaries as suppliers of an emerging market. It was also noted that FELISA is planning to support palm farmers by offering technical support in farming methods through conducting extension services together with the government. FELISA's solution is to introduce an out grower scheme based on demonstration plots

where an extension officer will train small-scale suppliers on modern oil palm production and provide palm farmers with high yield hybrid seedlings. In the long run they hope to help palm farmers establish their own processing plants.

On the other hand, FELISA's acquisition of land for palm plantation has led to deforestation of the acquired land and denial of ownership of land for local people who owned the land by customary land tenure. People do not see whether the compensation received matched the value of the land disposed.

As FELISA aspires for expansion of production through both plantation and contracting smallholder growers, there is a potential for more people to lose access to land. It is also possible for local people to concentrate on palm oil production at the expense of food production (FELISA's incentives of high wages or high prices). This has far reaching implication in terms of food security and the general livelihood of the people in Kigoma rural district taking into account the experiences of the impact of Bioshape's investment in Kilwa district in the year 2008/2009.

In addition, there is a potential for other environmental problems due to Palm oil plantations in Kigoma rural District. Sulle and Nelson<sup>158</sup>, have pointed out that water is one of the major resources used by certain biofuel crops. In all areas where there are companies investing in palm oil and sugarcane production one of the first issues these companies consider is the availability of water for irrigation. Water may be acquired from both flowing sources (from rivers) and underground aquifers. The extraction of water by these companies may cause competition over the use of this scarce resource – for example, with local domestic consumption as well as for ecosystem functions.

## **4.6 Processes and Legality of Investments in Selected Areas**

### **4.6.1 Procedures of Land Acquisition**

Despite the steps taken in some countries to streamline procedures, the process to acquire land is usually complicated and often unclear to those involved. Investors among other things visit the land in question and undertake official procedures. However, land tenure contexts in many developing countries are not always so clear-

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<sup>158</sup>Sulle E., & Nelson F., (2009), *Op.Cit*, p. 30.

cut.<sup>159</sup> The deal may not account for the broader value of the land, perhaps in terms of environmental services, or to a particular social or ethnic group not represented in negotiations. There may be significant problems in identifying the multiple land claims at stake, even where the land is classified as privately held and land certificate documents are produced.

For a variety of reasons, including ethical concerns and the need for risk management in long-term ventures, most investors will be motivated to ensure that deals are concluded to the broader satisfaction of all stakeholders, with appropriate levels of consultation and compensation. One of the main complaints among investors is the cumbersome and uncertain period of time required for project negotiation; a factor that has material impacts on the attractiveness of the investment for their financial backers.<sup>160</sup>

Furthermore, of concern is the extent and depth of engagement with directly affected people in the planning, approval and establishment of large-scale agricultural projects. In Mavuji, villagers complained that they were not involved in the process of leasing of their land. Village officials were involved in the process but did not understand the laws and legal processes in acquiring and disposing of land. Local officials were not adequately advised on the required steps and legal implications of land transfer and acquisition. There was a copy of contract with regard to the land transfer but this contract was not signed by the parties as required by the law. The lease contract is for 30 years.

The contract was entered between 27th and 30th August, 2006. The contract indicated that 200 million shillings were paid by the Bioshape Company. Mavuji village received 89 million shillings which is 40% of the total sum. The Village Executive Officer revealed that 60% was given to the District Council.

The company made consultations with the TIC before going to the village. The TIC issued it with the permit to travel to Kilwa to see if there was land suitable for the investment. After approaching the District Executive Director, it was directed to go to the Village Council to get the consent. As a result, meetings were held at Mavuji Village Office on the same. The Company mentioned the benefits that the local community was going to get which included jobs, schools, roads, dispensaries,

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<sup>159</sup>Cotula, L. *et al.*, (2009), *Op.Cit.*, p. 68.

<sup>160</sup>*Ibid.*, p. 68.

water, which enticed the villagers to accept the project. Later on, land officers surveyed the Mavuji village to know the size of the land.

The Village Council also sat down to consent on the investment and the minutes were submitted to the village Assembly for approval. After approval by the Village Assembly, the minutes and all necessary documents from Kilwa District land office were taken to TIC. The latter issued a temporary certificate to the Bioshape Company Limited. As far as gender is concerned, discussions with women in Mavuji revealed that, women attended the village meeting but their voices could not be heard since men dominated the talk.

It would seem that the approach in Kisarawe District was different. The investor allegedly started negotiation with the Member of Parliament for Kisarawe before being taken to the villages. So by the time SunBiofuels approached villages it had the support of the local Member of Parliament. According to district officials, 12 villages in five wards have given part of their land to the company, with a total area of 8,211 hectares granted and transferred from Village to General Land. The land allocation process involved Village Council and Village Assembly meetings in which the villages agreed to grant land to the company.

The area of land given to the company and the number of people paid compensation varies from village to village. But by virtue of a Government Notice published in the official gazette in February 2009, the land has now been transferred from Village Land to General Land.

Interviews with villagers from Mtamba village suggest that they do not know how much of their land has been given to the company but also the village land documents seem not to have been used as required by the law as no records of any transaction was found at the village council. The VEO was also not aware of the documentation that were supposed to have been filled by the village council or copied to them. It is obvious also that lack of checks and balances and of transparency in negotiations creates the breeding ground for corruption and for deals that are not in the best interest of the public.<sup>161</sup>

In Iringa, the area that was visited is the Njombe District. But according to the District Agriculture and livestock Development Officer, there was no investment based on Biofuel. As a result, issues pertaining to acquisitions could not be mapped out well. Most of the investments

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<sup>161</sup>*Ibid.*, p. 69.

in Njombe District were based on tea and trees factories. These investments occupied a large size of land within the district.

‘...we have these trees which are naturally available in some of the villages within the Njombe District among of these being Ujindile. The climate within such zone is conducive for such type of trees. Most of the villagers used these trees to fence their plantations and protect crops in their farms against animals...’

**(In-depth Interview-District Official in Njombe).**

#### **4.6.2 Category of Land Allocated to Investors**

There were different views concerning type of land acquired by investors from Mavuji village. We conducted three insightful discussions on the matter; these included men, women, and village government officials. On the one hand, women pointed out that, such land were reserved and was located far away from the village. Due to this, it became very difficult for them to be engaged in any activity on the land. The Kilwa district land officer also confirmed the same. Village government officials on the other hand contended that, it was a communal and a reserved land. Because it was used communally, the land housed various functions such as, firewood, medicine, and ropes.

Due to the views from the above different groups, it seems that the community at large are not aware about the type of land allocated to the investors. This is because the village was never surveyed and no land use planning was attempted. Therefore it became difficult for them to say which land falls under what category.

For Kisarawe, the district has a total of 353,500 hectares. The affected area for land grabbing includes Mtamba, Muhaga, Marumbo, Paraka, Kidugalo, Kului, Mtakayo, Vilabwa, Mitengwe, Mzenge ‘A’ and Chakaye villages. Officials from district level to the community level did not have the actual figure of land ownership, except statisticians and land officers who provided few data. In the meantime therefore, land which is privately owned is 9,000 hectares, communally owned is 110,201 hectares, while state and forest reserve is 243,299 hectares.

“... the area owned by Sun Biofuel is 9,000 hectares, State and Forest reserve is 110,201 hectares. Among the 10 villages there is no exact figure how much land was taken from each village in making the total of 9,000 hectares...”

**(In-depth Interview-Land officer, Kisarawe District).**

In Kisarawe district there are two investors namely, SunBiofuels Company and Kisarawe Cement Factory. The Proportion of land held under customary tenure which was taken by the investor is 9,000 hectares for the biofuel company and for Kisarawe Cement Factory the proportion is not yet known. However, the number of people affected by such investments is 400.

“...I know nothing, I’m not in the district land committee, it is 8112 hectares, and SunBiofuels was given 9000 hectares...”

**(In-depth Interview-Kisarawe District office)**

Discussions with community members at Mtamba village revealed that a Member of Parliament initiated the land transfer but again district officials insisted that it was in the implementation of the investment policy. This is partly because of the fact that Kisarawe district has limited sources of revenue so the investment added to the sources of income.

“..As the district doesn’t have enough money for district activities, they have no option for any investor said one district official...”

**(In-depth Interview-Kisarawe District Official).**

### **4.6.3 Nature of Investment Contracts**

According to the village government, the contract was signed between Bioshape Company Limited, the Investor and the Village Executive Officer / Village Chairman. Among the terms of that contract was that, 75% of the employees of such project would be people from Mavuji Village. Such term was not implemented because the investor employed most people from different areas, and this is because Mavuji villagers lacked skills on the relevant field an aspect that made them to fall under manual labour works with low salaries compared to works performed.

Also the contract stated that, 20% of each product will be given to the Village but as usual nothing was given. Worse still, villagers were not certain whether the investor had already harvested such products or not. Instead, they were just debating among themselves. Some were of the opinion that the company had already harvested, some said not yet, and others knew nothing about it. The general feeling however was that the contract was not transparent, and most of them, especially

women, were completely unaware of the contractual issues compared to men.

It was apparent that the village council signed the contract without comprehending well all the terms and their implication. As a result, this state of affairs has raised a lot of complaints among community members. All necessary documents including the contract were later on taken by the officials from the National Anti Corruption Bureau. According to the Kilwa District Lawyer, there was a contract signed between the investor and Mavuji Village Government.

Again, there was also a contract signed between Kilwa District Council and the village government on benefit sharing obtained from Bioshape Ltd investment. It was agreed that 60% of benefits was to be taken by the District and the remaining 40% for the village. For Kisarawe it was noted that, there was no formal contract that was entered into between Bioshape Company Limited Investment and the District Council. Again, the village council did not take part in it and knew nothing about it. The only document the village had is the minutes of the village council which contain the promises of the investor. These promises however did not stipulate the time when they were going to be implemented. Further, there was no any mechanism in place to ensure the deliverance of those promises since there was no legally binding contract.

#### **4.6.4 Procedures and Criteria for Compensation**

Tanzania Bioshape Company Limited was allocated 1,000 hectares to pilot jatropa production in Mavuji Village but was to be allocated 80,000 hectares for 10 years to make a total of 81,000 hectare within Kilwa District. The land identified for the investor constitutes of four villages which are Mavuji, Migeregere, Nainokwe, and Liwiti. However, until 2009, when Bioshape Company Limited stopped its operations in the district, production had started in Mavuji village. The size of the land that was acquired by the investors from Mavuji was 16,000 hectares. The amount paid over all the land was 200 million. Mavuji village government received 89.3 million and the remaining sum went to the District Council. Determination of benefits was based on value of the land and trees available.

Initially it was advised by the TIC that the charge per hectare allocated to the investor should be 8,000/- but it was not accepted by the Kilwa District which allocated a hectare for 15,000/-. The village

community was complaining about the amount received by the village government for being too small compared to the money that went to the District Council. According to them, the Mavuji community deserved more, because such land is within their village.

According to the Executive Director of Kilwa District, the land compensation fee was paid to Villages through the District Council. The Council determined the beneficiaries of compensation because the contact was between Bioshape and the Kilwa District Council. It was noted from the Land Allocation and Compensation Agreement between the Village Council of Mavuji Village and Bioshape Tanzania Limited that compensation of TZS 200,000,000 was to be paid as down payment to the Kilwa District council as part payment of the total compensation. Later 823, 759,000 million was paid as final payment to make a total of 1,023,759,000 (1.23 billion shillings).

The Compensation agreed to be paid by Bioshape to the Kilwa District Council (on behalf of Mavuji village) was to be paid on the terms of the Memorandum of Understanding (MoU) entered into by the Villages and the Kilwa District Council dated 16 May 2008.<sup>162</sup> Regarding the appropriateness of such payments to the district council and the division of the benefits, the District Executive Director and District Administrative Secretary had views that it is not proper to give much revenue to one village while there are other villages which depended on the same. This is because the district development projects and provision of social services depends on revenue from various source including such investment.

According to the village government there were few people about 10 who were affected by the Bioshape investment. They were compensated in cash and the amount was calculated basing on trees and other products on the farm. In Kisarawe, the complaints were that, the process of land acquisition was not participatory. It did not bear meaningful participation and the village organs were mainly used as rubber stamps for the investment.

After the survey it was found that many people had been affected. Some of the interests that had been affected included loss of mango trees and palm trees, loss of access to ancestral tombs, firewood collection, and charcoal burning, water and clay soil for pottery. It was learnt from the village executive officer of Mtamba Village that 11 people

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<sup>162</sup>Clause 3.1 of the Bioshape Agreement

were affected but only 2 were compensated. The district legal officer however, challenged the allegation saying that those who were not paid were not entitled to compensation.

Suffice to be pointed out that although burial sites and denial of access to areas of vital amenity may seem superfluous, to most communities is a great loss. Burial sites as was alleged are the source of identity and forms part of their history. With the tombs under the control of the investor they are denied access to pay homage to their historical roots which cannot be compensate in monetary terms. Refusal of access to collect clay soil for instance is an economic activity stifled. To them, especially women, it meant more than soil. It was money and a means of livelihood while to the investor it is land just like any other land. Such issues though simple require consideration by the land valuers.

Quite often, local communities are neglected because the government wants to attract investors at the expense of the people irrespective of the loss. The modality of the land investment plans was not open for discussion and amount of compensation was hardly available. It was noted however that provided the village had no land use plans, it was not easy for them to know the size of the land that was taken.

It also appeared that those who lost interests were not many. It was difficult for instance for people to prove loss of right of access to firewood, charcoal burning, water fetching, clay soil and the ancestral tombs. This was difficult because the land was unoccupied although used. It formed part of the general village land which was not allocated to individual occupiers.

As for the village council they could not have much to say due to lack of land use plans. It was as if the land was idle, unused, and wasted. It is not clear if the surveying and mapping took into account the overall size of the land, prospects of future plans of the village, size of the population and the growth rate.

Although the village council has tried to press the district council to be compensated, the question that has always surfaced is the nature of loss that the village incurred taking into account that the village was not using the land at the time and had not specified the actual plans for the land. Provided it was not involved in the survey and mapping, it did not know the amount of land it contributed to the investor. The district

officials have asked them to state the amount of land that they think they lost to the investor but unfortunately they do not know since they were not involved in the surveying. Also they are considered not to be qualified for compensation because the land was not in use.

According to the district legal officer, normally village are entitled to 20% of any proceeds that the district council has raised. To him the investor paid around 700million shillings and the respective villages are entitled to 20%. However, it would appear that the amount has not been paid so far. According to the Mtamba village executive officer, two people were compensated in his village for the loss they suffered. He could not however, provide the consideration in calculating the compensation and the adequacy of the payment. It seemed though that it took over a year for them to be paid and the payment was effected through their bank accounts.

#### **4.6.5 Promises and Compliance**

The promises that were made by the Bioshape Company Limited include road construction around the project area, generation of electricity, payment of tax, provision of farm inputs, expansion of the port, provision of 500 jobs, support children, construction of maternity ward at Kivinje and support in provision of pharmaceuticals, expansion of health centre at Masoko, support girls in education, construction of a diesel factory. Some of the promises that were fulfilled include, provision of money for the construction of offices for 5 village councils, 1,500,000/- for constructing of a girls dormitory at Ilulu and donation of desks for Ilulu girls secondary school. The rest of the promises have not been met so far.

In addition, out of 89 million shillings received by the village, 48 million shillings has been used to buy an old lorry. This lorry is in bad shape and runs with difficulties. The decision to buy a lorry was reached at the village assembly but with a clout of few powerful men in the village.

There is also conflict between the investor and employees because the latter were not paid some of their salary and other due benefits. The case reached to the High court labour division and employees won the case whereby the court ordered Bioshape to pay the employees. Bioshape failed to pay within the timeframe and the court sent Yono Auction Mart (court broker) for the public auction of

the Bioshape properties. As a result, Bioshape filed a court injunction and accepted to pay the employees but until the time of this study, the employees were not yet paid.

Furthermore, the Mavuji community complained that some of the terms of the contract were breached. It was agreed that about 75% of employees of the Bioshape would be from the village but it was not fulfilled allegedly due to lack of skill. This by itself is disturbing because when the investor was negotiating he knew the ability and skill of the villagers why did he give such promise? It is more of a dubious deal to pursue them to a deal while knowing that it was not going to work.

This is the reason it is emphasized in this report that the government must be responsible for the people's welfare. It must ensure the people get a good deal out of the negotiations. If otherwise the government stands on the fence and watch its people negotiating the terms with the investors, the outcome of this will always translate into controversy as has been noted in the mining sector. So far, people from Mavuji Village were hired to do manual work like bush clearing which is very difficult work compared to the wage, which was TZS 30,000 for two weeks. An average of TZS 3,000/- per day.

Lastly, the investor started to engage in timber harvesting from the allocated land, which was not part of the contract or the investment. It was reported that the District council took action against them by requiring them to pay fine and follow procedures to conducting timber business. Villagers feel cheated and ignored, very unhappy with the entire process. The feeling is that the company used jatropha farming as a means to acquire land and timber resources. They also wonder why the village council did lease out 1000 hectares for free to the Company as a test farm without involving them as required by the land laws.

The situation was not different for SunBiofuels Company in Kisarawe. According to the Mtamba village chairman, the village council was given a brief narration of the project by the Member of Parliament and the investor. It was promised during such meetings that the investors would help drilling of wells, provide jobs, construction of dispensary, provision of modern farming implements, seed, fertilizer and pesticides, construction of houses for extension officers, village land registry office, milling machine, residential houses for teachers in the village, classrooms and ten pit latrine, solar energy for schools, technical school, students dormitories, secondary schools, sports facilities, library and compensation to affected victims.

The four priorities were water wells, dispensary, farming implement and education related projects. Thereafter they were supposed to sit down as a village government to deliberate on the investor and put their consent in writing. While such discussions were going on, land officers from the district land office started the process of surveying and mapping of the areas to be acquired for the investment. Due to the influence of the political figure it would seem that the village government heeded the requirements without challenge. The minutes of the village council meeting, were written and submitted to the village assembly for approval. Although these were submitted to the district council, the process to apportion the land to the investor went on unhindered.

The SunBiofuels Company has been taking some manpower especially men from the village to work on the project. Although all of them were doing manual work as casual labourers, it was better than nothing. To them, when it started they thought it was the commencement of the promised manna from the company. Provided there was no formal binding contract, the promises remain to be wishful dreams. The villagers complained that no roads have been constructed or even repaired, no dispensary has been built and no wells have been drilled.

Even those who managed to secure jobs, complained for breach of labour standards and lack of adherence to occupation health and safety. They complained of lack of necessary gear like gloves, overalls and gumboots. Most of those who worked in the area raised concern over infections caused by the excessive chemicals applied. It was reported by the community members that a minor bruise may result into severe wound for people working for the company. Although this could not be independently verified it was alleged to be caused by the chemicals used.

On labour standards, most of them complained about working extra hours without payment of overtime, frequent layoffs, denial of medical leave, maternity and paternity leave. There is no worker's trade union at the company. Although low wage was also a question of concern, it appeared however that the 120,000/- wage was based on their low skill, manual work. So far, six people from Mtamba village have permanent employment while the rest are casual labourers. It was also learnt that most of the company employees, about 800 people are from different villages surrounding the project. For positions requiring skill, the company has been hiring from different place including Dar Es Salaam.

Villagers were also complained against the investor's blockade by saying that it denies them access to water sources, firewood collection, shortcut to neighbourhood villages, access to ancestral burial grounds and wood chopping as well. Given their position in the household division of labour, women are highly affected than men. The promised services like wells construction, hospital building and agriculture incentives were not fulfilled. But again people were running to the production areas seeking for employment henceforth leaving behind their normal way of living like farming activities. In a response by the villagers at Mtamba village,

"People moved to cheap labour and ignored cassava farming, Sunbiofuel took land which was formerly used for fetching water, charcoal making and firewood collection, the investor established a shop in his compound that means our customers decreases"

**(FGD -Females Mtamba Village, Kisarawe).**

#### **4.6.6 Environmental Concerns**

The Environmental Management Act (EMA) provides that any proponent of a project of a type specified in the third schedule to the Act shall undertake or cause to be undertaken at his cost and environmental impact assessment study.<sup>163</sup> Among the projects which require Environmental Impact Assessment (EIA) under the third schedule to the Act is agriculture. It is mandatory requirement therefore for big investors like the ones investing in biofuels, to ensure that EIA has been conducted and approved before commencing operations.<sup>164</sup> A permit for carrying out any project can only be issued after an environmental impact assessment certificate has been issued.<sup>165</sup> Any contravention by the proponent is an offence.<sup>166</sup>

According to Cotula and colleagues, expansion of biofuel production may lead to other negative impacts such as environmental damage, for example, deforestation or industrial pollution, directly causes rising food prices where food crops are cultivated for biofuel production.<sup>167</sup> It was complained that the Bioshape Company harvested

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<sup>163</sup>Section 81(1) of the EMA

<sup>164</sup>Section 81(2)

<sup>165</sup>Section 81(3)

<sup>166</sup>Section 81(4)

<sup>167</sup>Cotula, L. *et al.*, (2009), *Op.Cit.*, p. 110.

tons of quality soft and hard wood timbers from the project area which was transported to Arusha where the Company had a timber factory. However, the agreement that gave them such land provided, *inter alia*, that:

“The Mavuji Village Council shall allocate and Bioshape shall take over and accept the allocation, all that Land amounting to 16,464.89 Acres situated at Mavuji Village at Kilwa Masoko in Kilwa District, together with all crops, plants, trees, exhausted and unexhausted improvements, developments and appurtenances therein contained.”<sup>168</sup>

Although the Bioshape states to have conducted EIA the villagers were not aware of any such process as requires by the EMA. The agreement provided further that allocation includes all crops, plants, trees, developments, exhausted and unexhausted improvements, developments and appurtenances forming part of the Land.<sup>169</sup> Bioshape is deemed to know the actual physical state and condition of the Land and shall take possession of the land immediately upon execution of this Agreement on ‘as is’ basis.<sup>170</sup> The implication of these clauses was to give the company an outright control over the land together with all that was found thereon at the time of the contract including the alleged trees.

It is not by mistake that the contract bore such terms but with an aforethought. So, since the value of the land taken included the trees, it was upon the investor to put them into his best use which turned out to be the timber factory. After complaints were aired regarding the timber works, the government required the investor to ensure adherence with the laws of the country. This implied securing permit like any other company which is however quite unusual to a foreign investor to have such permit.

As could be noted the permitted investment for the investor was biofuel production and not timber production. The certificate of incentive was one for an investor in biofuel but the timber licence was a mere bending of the solemn provisions of the law on the fear of losing the investor. It is likely also that such apparent disregard to the law was caused by the original failure by the government to spot the loopholes

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<sup>168</sup>Clause 2.0 (2.1) of the AGREEMENT made between the Village Council of Mavuji Village in Kilwa District and BIOSHAPE TANZANIA LIMITED (undated)

<sup>169</sup>Clause 2.4

<sup>170</sup>Clause 2.5

in the contract between the investor and the villages resulting into environmental degradation.

In Kisarawe, major natural resources in the district/village include land, forest and river (Ruvu). The environment has been affected for ten years due to deforestation. In one way or another land grabbing added problems to the affected areas through clearing land for jatropha production hence increasing the level of deforestation and water depletion. People are using natural resources for obtaining water, collecting firewood, building materials as well as charcoal making. Blocking the area means that the related risks to livelihood due to the fact that the area which was formerly used by indigenous people for charcoal making, firewood collection and wood chopping translate into the reduction of their income.

#### **4.6.7 Implication following Suspension of Production**

The Bioshape Company conducted the project for about a year before it started to underperform. According to the TIC rules the Bioshape was supposed to provide progressive report after every one year. Bioshape was not delivering the progressive reports as required to the TIC. This led TIC to write a letter to the Bioshape asking the company to give reason as to why it had not been delivering the same.

If the Bioshape continue not respond the TIC can take the land and allocate to another investor if present. As has been noted due to the breaches by the Bioshape it is not possible to sue them in court for breach of contract due to the protections under the Investment Act. In case of any dispute the matter can only be resolved through negotiations or arbitration.

## Emerging Issues and Way forward

### 5.0 Introduction

This chapter looks at the emerging issues from the case study and the way forward. It attempts to provide recommendations on the basis of the lessons learnt in the study. From the very beginning, it is obvious that the land that was acquired was used in furtherance of large scale commercial farming. In all the areas that were visited the agro-farming was related to biofuel. People had to give way for the investment in return for meagre compensation and empty promises which are besieged with inadequacies especially at the implementation level.

### 5.1 Gender issues in the processes of Land Acquisition for Agribusiness

Gender plays a key role in the organization of resource use and management. In most societies, there are varied gender differences in ownership, control, access to, and utilization of natural resources<sup>171</sup>. Gender-based inequities of access to natural resources are deep rooted into the forms of social organization (socio-cultural, political and legal) existing in a particular society.

Furthermore, key gender-related processes shape an individual's opportunities to benefit from resource management. These include: division of labour, resource ownership, rights and entitlements. In most cases the sexual division of labour inherently disadvantages women. As far as rights and entitlements are concerned, women's time burden, their limited access to resources and productive assets has limited their ability to access or take advantage of some economic opportunities.

Despite of being the majority of the workforce in rural lands, women are rarely involved in the consultation processes and they almost never consent for the respective deals<sup>172</sup>. In most of the studied

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<sup>171</sup>Sambaiga F. R., (2007), *Op.Cit*, p. 28.

<sup>172</sup>Cotula, L.*et al.*, (2009), *Op.Cit*, p. 72.

communities men are the sole decision makers in the households with few exceptions. Among the key decisions that men must endorse include household's resource allocation and utilization. This corroborates the contention that because of man dominance in some communities, there is a tendency for power and control over land to shift from women to men as land gains in commercial value<sup>173</sup>.

Biofuel investments have become an alternative source of income for women in many places. However, it has been noted that in the longer term, changes in land access may still occur within the communities along gender, age, income, status or other lines. This is because of the growing commercialisation of agriculture and the increasing land values, and as more successful farmers are better able to exploit the economic opportunities created by biofuel production<sup>174</sup>. It is also important to take note of the fact that women are more likely to be negatively affected given their marginalised positions in most communities.

In our case studies, it was clear that all unpaid domestic activities are left in the hands of women. Indeed, daily work load of women and their energy expenditure far exceeds that of men in most of the studied communities in particular and rural communities in Tanzania in general. Food insecurities, restricted access to land, forestry and water resources due to the impacts of land acquisition/grabbing for agribusiness, affect more women than men. In other words, women constitute the number one victim of the socio-economic and environmental impacts of land grabbing because of their position in the social organisation of their communities.

The contribution offered by men and women to the household and the control and distribution of resource remains gendered but with some variations across case studies. Male dominance is more pronounced in Kigoma and Njombe districts but it has been highly challenged in Kilwa and Kisarawe district. This is especially when women have access to regular incomes coupled with the beliefs and customs that it is the role of men as breadwinners to provide for the household. Consequently, women are not obliged to use their income to cater for household needs. This explains why in Mavuji, both men and women

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<sup>173</sup>*Ibid.* p.15.

<sup>174</sup>Sulle E., & Nelson F.,(2009), *Op.Cit.*, pp. 22-23.

engage in production but women have control of their own incomes and yet they remain responsible for domestic activities. In Mtamba, the division of labour is gendered with male dominance in distribution of resources. In Mahembe and Ujindile there is even stronger gendered division of labour and male dominance in resource control both at the household and community level.

Coupled with climate change, the environmental problems related to biofuel investments in the four case studies have been signalled by shortages of water from the traditional sources in Kilwa and Njombe. The situation is likely to be worse after three decades of the investors' operation. As voiced in the validation workshop, the situation increases women's socio-economic burdens. They will have to fetch water and firewood from a longer distance, strive for alternative income generation to eke out a living in a context of food insecurity.

Nevertheless, participants in the validation workshop emphasized that in Tanzania, land is controlled by men so much so that when it comes to acquisition by investors for agribusiness, women are not involved and even when they get involved their voices are not heard. Because women are marginalised in the process of acquisitions, they also do not benefit from the compensations.

For instance, in Mavuji, men decided to use the compensation funds to buy a truck, a need that suits men's preferences. Discussions with women during field work also confirmed that if women had a clout to determine allocation of the funds, they would have suggested funding water projects because women consider water as a critical problem in the village.

Moreover, women are more likely to become victims of cheap labour which is preferred by the investors mainly because of their passiveness. It was evident in Mavuji whereby many women from within and outside the village were recruited in Bioshape's jatropha plantation. Just like men, they work long hours, up to ten hours, for a meagre wage of TZS 3000. Though the majority worked for Bioshape for almost one year, they were regarded as temporary workers with no contract neither were they covered with any form of insurance. The abuse of labour laws in these types of investments is likely to continue given the laxity in law enforcement in the name of creating conducive environment for investors.

Furthermore, participants of the validation workshop voiced the potential for child abuse related to agribusiness investments. The need for cheap labour coupled with the abject poverty in most of the rural communities where agribusiness is undertaken, is likely to culminate into increased cases of child abuse including child labour.

In order to reduce or get rid of the challenges faced by women and other marginalised groups in the processes and practices of land acquisitions for agribusiness in Tanzania, the following should be considered:-

- Community sensitization on the essence of land acquisitions for agribusiness and the implications on their livelihood.
- It is also important to raise awareness of the community members both male and female on the major laws pertaining to land and agribusiness investments in order for them to make informed decisions and demand for their rights.
- It is high time for Civil Society Organisations (CSOs) and government departments responsible for community development and welfare to play the intermediary role in favour of the interests of marginalised groups (women, children and minorities) and communities at large.
- Advocate for women's genuine involvement in decision making at the household, community and village government levels.

## **5.2 Abuse of the Trusteeship Role**

By the use of the custodial power under the land laws, the President has been dispossessing land from village lands to general land. Unfortunately this is exercised while the villagers do not know the actual benefits of the investment. In cases where there have been promising prospects, the Government was incapable of striking a profitable deal to benefit the villagers whose land has been taken. While decisions are best made at the lowest possible level, the process of dispossession has been largely un-participatory. At present, village governments and villagers feel cheated and ignored in respective villages where this process has taken place. Much as the government is striving to attract foreign investors to invest in lands, this intention should not compromise the rights and lifelines of the local communities. The

above state of affairs was noted for instance, in the case of Bioshape Company which was facilitated by TIC to acquire land at the rate of 8,000/- per hectare, the recommendation which was rejected by the District Council

## **5.2 Scope of Investment Contracts**

The Bioshape Company Limited for instance is no longer operating but it was learnt that soon after signing the contract with the district council and the TIC, it started cutting down trees. Not only did it cut down trees to pave way for the actual investment but also bought a sawing machine and started engaging in timber business which is critical. While the villagers were restricted to abuse the forest and spent years protecting the forest the investor came in and cleared it out with impunity. It is however, disheartening as the contracts did not specify what the investor was not allowed to do including cutting down the trees.

## **5.3 Adherence to Social and Environmental Impacts**

The Environmental Management Act (EMA) is very clear that before any large scale investment in agriculture is permitted, Environmental Impact Assessment (EIA) must be conducted. It is apparent that this requirement was not discharged meticulously as required by the law. Indeed it has been noted in some of the projects that have the facilitation of the TIC, investors have used that facilitative process as a haven for committing fraud.

The same took place in Kisarawe where SunBiofuels seem to have ignored the requirement of conducting EIA. In case it was carried out it lacked the essential attribute of community participation. Unless investors are forced to comply with the postulates of the law, the public will be rendered slaves in their own land. It is incomprehensible that what a citizen cannot do should be done by a foreigner with impunity. The impacts of large scale investments may be immense. Unless the law is enforced to the letter and spirit, the future generation may find itself incurring unspeakable cost to restore the soil to its normalcy.

## 5.4 Need for Binding Contracts

In some of the villages there were no binding contracts upon which the village community to hold the investor responsible. Many promises were made to the villages regarding social service provision, employment and other forms of benefits but, to our knowledge, these promises were never put into a written contract based on a formal partnership between the villages and the investor.

Yet in other cases the village government was not part to the contract. Although the president has the power to transfer land from one category to another such power is not to be used without diligence. The welfare of the people is primary and their concerns must be well addressed. Where the process of due consultation is flawed to fast track the investment it often lead to discrepancies.

The process of negotiation over village land tends to be slow, in large part because of the lack of precedent and guidance. In one case, for instance, the investor FELISA completed the process, securing approval for 350 hectares from two Village Assemblies, but was later sent a message from one of the villages withdrawing the offer as the land had apparently already been allocated to another individual. Intervention by local authorities resolved the issue in FELISA's favour, and arrangements were made for community infrastructure investment and an oil palm outgrowing scheme, which convinced villagers of the value of the investment.

However, there are no formal documents to bind either party to these agreements. Of recent, AgriSol has been working with the government to acquire 800,000 acres of land for 99 years lease to pave way for a massive project which will result in resettling of refugees to give way for the project<sup>175</sup>. Although the land occupied by the refugees might not be acquired immediately care must be taken to ensure their rights shall not be compromised.

## 5.5 Need for Land Use Plans

While the Land Act was intended to deal with land other than village land, the Village land Act is specific for village land. The Village Land Act has provided for preparation of village land use plans where

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<sup>175</sup>Brasher P., (9 June 14th 2011), *Iowan Rastettters Leads Tanzanian Agricultural Project* at <http://farmlandgrab.org/post/view/18802>.

land can be divided into different uses. The uses include communal land, individual land and reserved or future land. Apart from these divisions there may also be other uses like village forest, farming land, grazing land, woodland, open spaces and recreation etc.

Under normal circumstances the land to be transferred should come from the reserved land. However, it is not surprising that most villages do not have land use plans up to now. It means they do not know the amount of land available in general and the land available for various uses.

It is required therefore that before the government decides to transfer land from village land to general land, it must facilitate the preparation of village land use plan. This will ensure that the village has enough land for its various uses and any transfer of land should not cause shortage of land in the near future or the most fertile land should not be given to investors leaving the village with marginal and unproductive land. This seems not to have been taking place. As a result the transfer of land and acquisition of village land for investment purposes has no strong footing.

Consequently, this trend has posed a risk on the security of land tenure and access or use rights on the part of local resident communities across rural African landscapes. There has also been a potential of dispossession of customary lands belonging to rural communities.

## **5.6 Public Participation**

As it has been noted, two approaches have been used to obtain land for investment purposes with limited participation of community members especially women. The first is where the process commences at TIC and it facilitates all the processes. The second is where the TIC introduced the investor to the Local Government Authority to have them negotiate the deal and let the rest of the procedure follow.

Although it was intended that TIC should be an investor one stop centre, its operation and modality waters down the participation of local government authorities and local communities. Projects that started with TIC have not been free from hassles. Most of these investments lack genuine public participation. Governance institutions at the local level are left to rubber stamp the deal. This makes the investor feel not accountable to the local institutions; therefore the degree of trust that exists between the investor and the surround communities is decimal.

Where the land was obtained with effective involvement of local community institutions, it had more acceptance compared to the investment that was promoted from above. In any case contracts with investors should be tripartite with some of the parties playing intermediary role while others play active and passive role. This will largely reduce the cost of operation and make the investment sustainable. Neglecting the role of local community does not only render them third parties but also incompetent to claim rights ensuing from the contract.

As has been noted the role of the Village Council and Village Assembly has been obscured. The TIC and District Council have featured prominently in most cases. In some areas the Village Council and the Village Assembly were simply used to give consent to the process which is improper. At the international level, the strongest guidance on consultation and consent is the principle of Free Prior Informed Consent (FPIC) and the methodologies and policies that are emerging around this principle. FPIC is formalised through article 32 of the 2007 United Nations Declaration on the Rights of Indigenous Peoples.

The basic principle of FPIC is that indigenous people have the right to say yes or no to proposed developments on their lands. The consent needs to respect people's cultures, customary systems and practices and be secured through interactive negotiation with people's own representative institutions.<sup>176</sup>

Several countries are incorporating the principle of FPIC into their legislation. Also, while FPIC emerged in its original sense in relation to indigenous peoples as defined through the United Nations process, its key tenets can in principle be applied to any local rights holders and resource users. Sometimes though what is defined as community consultation may be confined to village elders, officials and elites.

- It has generally been noted that: Communities do not receive relevant information in advance of consultation meetings;
- Consultation meetings are generally attended by community leaders, local party leaders), whose opinions are usually dominant. Preliminary meetings are held with the traditional

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<sup>176</sup>Cotula, L. *et al.*, (2009), *Op.Cit.*, p. 39.

leaders to ensure that the consultations meeting will produce an outcome favourable to the investor;

- Despite being the majority of the workforce in rural lands, women and most youth are rarely involved in the consultation processes and they almost never sign the respective reports. Consultation records often do not accurately reflect community opinions and Viewpoints;
- The provisions of consultation records concerning benefit-sharing are generally vague. There are seldom time-bound targets or measurable indicators of progress.

### **5.7 Motivation of Out-growers**

While foreign investor might be one way of encouraging investment in land, it is still debatable if that is the best way to promote socio-economic development in the country. Most villagers were concerned that the government should think of facilitating them to produce for the investor and not to let the investor direct to the farming business. To them if farmers will be given the necessary equipments and training they will benefit more comparing to when the investor comes with empty promises. It will also do away with the problems associated with nature of employments created.

The model was also supported by the development officer for Kisarawe who was of the view that most of the investments in land lacked adequate research based on socio-economic impacts to find out the best alternative. It could also do away with forced displacement of people in biofuel development areas.

The government should therefore encourage out-growers to form associations and cooperatives that can enter into contract agreements. In that case investors should be required to outline how out-growers will be engaged in their projects. As provided in the Land Act appropriate, local land holders might become co-investors, using land as their equity.

### **5.8 Terms of Compensation**

It is important to ensure that any benefits or proceeds resulting from investment in land where villages have lost their land for the

investment should be compensated fairly. Apparently, the law requires compensation to take into account; (i) market value of the real property; (ii) disturbance allowance; (iii) transport allowance; (iv) loss of profits or accommodation; (v) cost of acquiring or getting the subject land; (vi) any other cost loss or capital expenditure incurred to the development of the subject land; and (vii) interest at market rate.

It is doubtful though if such criteria have been employed in calculating compensation to any of the victims. In Kigoma Rural District, for instance, villagers were promised compensation payment only for the palm trees found on their land. Likewise, in Kisarawe District, the land valuation was carried out by experts from Ardhi University, but it seems to have based on planted trees and not on the commercial value of the land being taken. Even these estimates, excluding any value attached to land itself, do not appear to take any account of the opportunity costs villages face in divesting their rights over Miombo woodlands used for various economic activities.

According to the World Bank, informal local forest uses can amount to US\$ 35-50 per capita annually, and may make up as much as 10-15% of total GDP in Tanzania.<sup>177</sup> In addition, villagers with forests and woodlands have substantial economic opportunities, potentially, to develop income streams from sustainable timber production<sup>178</sup>. According to Nelson and Blomley, the commercial value of sustainably harvested timber from Miombo woodlands is around TZS 35,000 (US\$ 28) per hectare per year.<sup>179</sup> For the 8,211 hectares granted to SunBiofuels at Kisarawe, it would amount to about TZS 287 million (US\$ 223,312) for only one year's worth of production, assuming the presence of harvestable timber trees in the area.

Also the district council should not abuse the resulting proceeds on the pretext that it must be shared by all villages in the respective district because the essence of the compensation is the loss of land and other benefits suffered by the specific village and not money to

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<sup>177</sup>World Bank (2008), *Putting Tanzania's Hidden Economy to Work: Reform, Management and Protection of its Natural Resource Sector* (cited in Sulle E., & Nelson F., 2009, *Op.Cit*, p. 62).

<sup>178</sup>Blomley, T., Ramadhani, H., Mkwizu, Y. & Böhringer, A., (2008), *Hidden Harvest: Unlocking The Economic Potential of Community Based Forest Management In Tanzania. Paper presented at CIFOR Conference on Forest Governance and Decentralisation in Africa*. Durban, 8-11 April 2008 (cited in Sulle E., & Nelson F., 2009, *Ibid.*).

<sup>179</sup>Nelson, F. and Blomley, T. (2007), 'Eating from the same plate: integrating community-based wildlife and forest management', *The Arc Journal* 21: 11-13 (cited in Sulle E., & Nelson F., 2009, *Ibid.*).

subsidise their plans. This has been found to be unfair. Even in cases where the share has been 40% to the village and 60% to the district it is still questionable as to the rationale of such retention. The money should be channelled to the affected village in return for the loss they have incurred. The district council should find other means of raising funds.

The situation could be different if proceeds results from renewable resources like forest resources, but where the source is compensation for loss incurred it should not be retained by the district council. This will otherwise amount to land grabbing. The Government should make sure there is monitoring mechanisms to ensure that the investor benefits the nation and the surrounding community. It has been noted however that there is no monitoring mechanisms in place. Once the investor has been allowed to commence operation he is at liberty to do what is best to him which in most cases result into loss of significant revenue.

The law makes it clear that compensation for communal land should be paid to the respective village council while compensation for individual loss should be paid to the affected individuals. The trend however is different as village councils have not been receiving such sum instead it is paid to the district council. As for the individuals only few were paid. The distribution of compensation amounts paid by investors has been appropriated at the expense of the local communities.

Apparently, for Kilwa 60% of the compensation paid went to Kilwa District Council and only 40% to the villagers. Villages attempted to secure a higher proportion but were reportedly rebuffed by the District, which will now use the funds to support service provision to the rest of Kilwa District's population. This occurrence is highly unusual, as villages, not district governments, are the legally appointed land managers of Village Lands held under customary rights of occupancy. District Councils are not legally responsible for direct management of village lands and do not exercise customary rights in land on behalf of villagers.

Thus, there is little rationale for compensating district government, except perhaps for political expediency. Paying 60% of compensation to district government does not accurately reflect the opportunity costs incurred by the land transfer, which will fall almost entirely on the affected villages rather than the district population as a whole.

In Kisarawe District, compensation has been paid by SunBiofuels to the 12 affected villages that lost land transferred from Village to General Land in February 2009. There is considerable confusion at the local level with regards to the compensation process. For instance, according to the VEO of Mtamba village, only two villagers were compensated. Most villagers do not understand the criteria that were used to assess the compensation applicable.

However, according to the Kisarawe District Land Officer, most of the village lands taken by the company were bush/woodlands which the government could have just taken without compensating villagers but it did so in order to follow legal procedures. Hence, there are substantial differences in opinion and confusion over the amount of compensation and the entitled beneficiaries.

Given the lack of an active land market in Tanzania, market-based per hectare rates have little meaning. Some companies compensate for the value of the resources on the land, such as trees and grazing, rather than the land per se. Access to water resources is of particular concern to both villagers and investors, as well as other competing interests (downstream users, conservation etc), and is a source of conflict in some instances – conflict that is difficult to resolve in the absence of clear regulations or guidelines from government on sustainable levels of water abstraction.

## **5.9 Conflict between Granted and Customary Tenure**

As has been noted the land tenure that apply in villages is customary tenure. So, continued transfer of land from village land (customary tenure) to general land (granted right of occupancy) will result into squeezing out of the preponderance of customary tenure in villages. While the debate has been on the conflict between granted right of occupancy and customary right of occupancy in towns, the conflict is now over stretched to village land.

Although there might be room for the transferred land to be relegated back to village land, there is no such precedent yet. Allowing conversion of village land to general land may result into unhappy consequences to customary tenure and village land. In the several cases studied the acquired land used to be utilized for certain uses like grazing, woodlands, etc, so any such transfer shrinks the options of local community livelihoods.

## 5.10 Adherence to Procedures

The law require certain formalities to be complied with before transfer of village land is carried out. These include publication of details of the proposed transfer in the Gazette and be given to the Village Council, attendance by the Commissioner of Lands to a meeting of the Village Council or Village Assembly to explain why the land is to be transferred and to answer any questions villagers may have; type, amount and timing of compensation to be paid to the village must be agreed by the Village Council and the Commissioner before village land can be transferred and settlement of dispute before the transfer in case the Commissioner and Village Council cannot agree on the sum to be paid for compensation. This trend has always not been the case.

## 5.11 Labour Rights

The Employment and Labour Relations Act provides for the prohibition against child labour and discrimination.<sup>180</sup> It also provides for the employees right to form and join a trade union and participate in the lawful activities of the trade union.<sup>181</sup> On leave, the Act provides for inter alia categories of leave which sick leave for at least 126 days in any leave cycle.<sup>182</sup>

However, where the employee fail to produce medical certificate or is entitled to paid sick leave under any law, fund or collective agreement it shall not be the duty of the employer to pay.<sup>183</sup> In the case that an employee is pregnant, she shall be entitled to maternity leave that may commence any time from four weeks before the expected date of confinement or on an earlier date if a medical practitioner certifies that it is necessary for the employee's health or that of her unborn child.<sup>184</sup> The employee may resume employment on the same terms and conditions of employment at the end of her maternity leave.<sup>185</sup>

Despite the above it was noted that employees' rights were not secured. It was observed that trade unions are not allowed in the surveyed farms which breach the fundamental labour rights. Employees

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<sup>180</sup>See section 5 & 8 of the Act.

<sup>181</sup>See section 9(1)

<sup>182</sup>Section 32(1)

<sup>183</sup>Section 32(3)

<sup>184</sup>Section 32(2)

<sup>185</sup>Section 32(3)

are not given statutory leave as stated in the law. Also in the event the employees falling sick, they often have their wages deducted on the ground that they did not show up for work. This contravenes the established labour standards. The employer is by statute required to provide paid sick leave to the employee but this is constantly ignored. For pregnant women, they are not only denied maternity leave but also do face retrenchment after the expiry of their maternity leave.

### **5.12 Transparency and Clear Articulation of Rights**

This requires land acquisition process to be more transparent and well coordinated. Procedures on how companies can approach communities need to be established and monitored in order to safeguard against local failures in land administration and governance. Communities affected by biofuel investments should know their rights and obligations. Project should not compromise the rights of individual land owners or pastoral groups nor should it pay poor wages, engage child labour and fail to provide housing where necessary. The rights of the community to access and use resources should be protected and guaranteed.

### **5.13 Conflicting Interests**

Sulle and Nelson<sup>186</sup> provide that in Kigoma Rural District, FELISA Company acquired land after contacting district officials who later introduced them to the villages where this land was located. The company was given 350 hectares of land in the villages of Ilagala and Karago after both Village Assemblies approved the agreements negotiated between the company, Village Councils and the District authorities. Village leaders were then requested to provide village meeting minutes to approve the transfer of their land.

However, at the last minute, Karago village sent the district a different agreement showing that the land in question had already been allocated to a second investor and not FELISA. The investor, who is a resident of Kigoma Rural District, allegedly was given land under dubious circumstances. Many villagers in the neighbouring village of Ilagala consider the Karago village leaders as likely to have been

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<sup>186</sup>Sulle E., & Nelson F., (2009), *Op.Cit*, p. 50.

involved in a corrupt deal to allow the second investor to acquire the land without following the stipulated legal procedures.

According to the Ilagala Village Executive Officer, the land should belong to FELISA as the company followed all the legal procedures necessary for acquiring the land. The company promised to contribute to various village infrastructure projects for social services in the community. FELISA further agreed to assist the village to obtain a high-yielding variety of oil palm seeds freely from its company gardens. After deliberating the benefits promised by the company, the villagers accepted the company's acquisition of part of their land. However, there is no written document to bind the company to provide what it has promised to the villagers.<sup>187</sup>

#### **5.14 Leadership Change**

In the course of the discussions it was constantly noted that most members of village councils do not have adequate knowledge on the investments. They seem to lack documentation and clear grip of the processes and issues relating to the investment. This was found to be largely attributed to lapse of leadership tenure for those who participated in the process. New leaders who got elected became new to most of the issues and in some cases they could not account for the whereabouts of the transaction documents.

It is indeed necessary that when office tenure lapses all the office documents should be handled over to the new leadership. In case this is not done it raises doubt about the integrity of the management. It is also necessary that awareness campaigns should be conducted not only for members of the village council but selected members from the village assembly including women on key issues in investment deals.

#### **5.15 Need for Statehood and Simplicity in Contract Language**

Although most of the investors are foreigners, all their investment contracts are drafted by local experts. It is unfortunate that some of these contracts are drafted without due consideration of the beneficial interests to the local community and the nation at large. In one of the contract that the team managed to study, had the least benefits to the

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<sup>187</sup>*ibid.* pp. 50 and 51.

community and had serious implications to the natural resources of the area and the environment while providing safety exits to the investor.

The above was further compounded by the reason that the terms of the contract not only bore legal language but were also written in English. It is rare for the villagers to have strong command of English language to enable them know the terms of the contracts and their implications. Although it has been argued that the terms can be interpreted by lawyers it is inappropriate especially where they are critical party in the contract and have given large part of their land for the investment. Besides, the investment is carried out in their area. Hence they should be able to tell plainly what the terms of the contract are and what are the benefits and implications.

## **5. 16 Socio-economic Issues in the Four Case Studies**

Socio-economic issues related to land acquisition for agribusiness varies across context, although some similarities can be established. It is clear that the investments though at different stages of their development have marked both positive and negative impacts on the lives of the local people. It is interesting to learn from the findings that, specific trends and patterns of socio-economic dynamics have emerged due to the investments in the four case studies. These range from ownership and access to land, social organisation of households realities to environmental concerns.

Across the four case studies, land is owned under customary tenure and it is divided into three major types namely, occupied land, communal land and reserved land. However, depending on the size of village land, some villages such as Mavuji and Kisarawe have more communal and reserved land. Indeed, a greater proportional of land acquired by the investors fall under the communal or reserved land. A small percentage of the occupied land such as in Kigoma rural has been taken by the investors.

To what extent is the land secured under such tenure, remains to be debatable. This is mainly due to the fact that in all four case studies, village land was not surveyed hence it can be easily transferred into general land in case it is demanded by higher authorities. It is also important to note that the President can decide at any point in time to change the use of any land for the so called public interests.

Ownership of land under customary tenure seems to vary across case studies and within case studies in terms of wealth, gender and age. For instance, in Mavuji, anybody can access and claim ownership of both communal and reserved village land as long as he or she can clear and regularly cultivate the land or plant trees. Unlike in Mavuji, men and the elderly command more ownership and access to occupied land this is also evident in Mtamba, Mahembe and Ujindile villages in Kisarawe, Kigoma rural and Njombe districts respectively. It is important therefore to acknowledge the contextual variations in land ownership patterns at the local level.

Multiple forces have attracted land acquisitions for agribusiness in the four case studies. While the availability of arable land and climatic conditions for the growth of biofuel crops to be produced by the investors seem to be the key force of attraction in case studies, the strategic position in terms of easier export of the product and less demand of the people on land attracted Bioshape and SunBiofuels to Kilwa and Kisarawe respectively. Another factor for this phenomenon lies in the fact that these areas are not far from the coast.

In Njombe however, many land acquisitions so far have been due to tea and tree plantations which are highly flourishing in the districts. The role TIC and the influence of national investment policies on the district councils' attitude towards investors have greatly facilitated land acquisition for agribusiness in the four case studies. Things were somehow different in Njombe district where the district council has been somehow sceptical to promote biofuel investments. This was partly because the district had not received any serious investors but also the fear of more environmental problems caused by such an investment.

With the promotion of Reduced Emissions from Deforestation and Forest Degradation (REDD) in the country, acquisitions of land for tree plantation is gaining momentum in Iringa region and Njombe district. Limited or lack of awareness of land rights and laws among the village members and leaders has also facilitated land grabbing in the districts studied.

Furthermore, the social, economic and demographic situation of the communities and households in the context of land acquisitions in the four case studies leave a lot to be desired. Population is on the increase in all the communities due to fertility and immigration except for Ujindile which experience out migration of young people to towns.

The major livelihood strategies namely, crop cultivation, livestock keeping and harvest of environmental resources are highly dependent on land.

Average household incomes remains low as it ranges between TZS 700 and 2000 per day and sharply contrast with average household daily expenditures which ranges between TZS 3000 and 10,000 per day. The traditional division of labour across age and gender have been altered partly due to the agribusiness investments in the areas. These have led to many social impacts at the households and community level such as breakdown of marriages and increased vulnerability of women, children and elderly people to poverty.

While in Kigoma rural and Njombe districts the impact of land acquisition on household food security is still potential, studied communities in Kilwa, Kisarawe have experienced severe food shortage following land grabbing. Important to note, the contribution offered by men and women in the household and the control and distribution of resource remains gendered but with little variations across case studies.

Male dominance is pronounced in Kigoma and Njombe districts but it has been highly challenged in Kilwa district. This is especially when women have access to regular incomes coupled with the beliefs and customs that men are breadwinners and thus should provide for the household and not them. However, the fact that women are marginalised in the decision making including negotiation in land deals, have reduced their potential to benefit from biofuel investments in the long run.

As far as land use is concerned, findings in the four case studies show that although there is no proper land use plan almost in all studies villages, land has been divided into three major uses. These are, land for cultivation, land for grazing and reserved Land. The size of each category varies across cases. With respect to methods of crop cultivation and livestock rearing, shifting cultivation is highly practised in Kilwa and Kisarawe compared to Kigoma and Njombe districts. Outdoor livestock rearing is common in Njombe, Kigoma and recently in Kilwa posing serious questions on the rhetoric of land abundance. Livestock rearing is not pronounced in Kisarawe except for poultry.

It is important to understand the population dynamics in relation to methods of crop cultivation and livestock rearing. This will help to

establish whether the available land is enough to cater for growing population which directly depend on land for their livelihood.

The four districts studied are endowed with several natural resources such as land, forestry, water bodies like rivers and lakes. The health and accessibility of these resources is at the heart of the survival and welfare of the local communities. This is because people in all of the four communities we studied interact directly with their natural and environmental resources to eke out a living. Land acquisition for agribusiness have not only denied access of the local people to some section of the village land an natural resources it has also been leading to deforestation and alteration of biodiversity.

Coupled with climate change, the impacts of mentioned environmental problems have been signalled by shortages of water from the traditional sources in Kilwa and Njombe. This situation has exemplified adverse effects on women as they spend more time in search of water for domestic consumption. What shall be the state of natural resources in the studied communities after three decades of the investors' operation remains to be desired.

The influence of macro policies on the local realities of the common men and women in the four districts is critical but not obvious. To be able to link policies such as national investment policies and environmental and natural resource management policies with what is happening in Mavuji, Mtamba, Mahembe and Ujindile villages, is important and to acknowledge that macro policies and regulation influence to a certain extent micro or local realities.

We cannot therefore understand the presence of foreign and local investors in biofuels in Kilwa, Kigoma and Kisarawe without understanding the national policies of trade and investment which have also informed legal and policy framework governing natural and environmental resource both at the national and local level.

Biofuel development and other agribusiness initiatives such as REDD in Tanzania needs to be viewed within the context of the overall Tanzanian economy and policy debates surrounding it. The scale of biofuel projects in Tanzania varies widely, from small-scale projects to huge plantation schemes. The potential economic impacts are still speculative but could be substantial. It is possible that more communities in prospective parts of the country, such as coastal areas,

will suffer long-lasting environmental, social, economic and cultural impacts.

Although it is too early to comprehensively assess the impact of biofuels development in terms of environment and biodiversity outcomes, findings of this study alongside similar studies such as Kamanga, 2008, Land Rights and Research Institute, 2010, Sulle and Nelson, 2009 and Mshandete, 2011 have documented signals of potential and real impacts of the investments on food security locally and nationally but with limited focus on gender issue.

In conclusion, the tenure that applies in villages is customary tenure. However, under the custodial power of the President, he can transfer land from village to general and vice-versa. He may also acquire land compulsorily for public purpose. In that case, customary land remains at a precarious position. What is today deemed to be village land may at some point fall squarely under the purview of general land with the commissioner for land as the manager. Although so far all acquisitions of village land are deemed to have followed the procedures, most of the steps have been faulted. Most of the villagers were not adequately involved; the process was directed from the top to the bottom with village councils giving their rubber stamps. It was also noted that some of the villages do not know the boundaries of their village land and lack land use plans. This makes it difficult for anyone dealing with the land to know the exact land needed for various uses.

Where land has been acquired in such cases it becomes a recipe for land shocks and stress. It suffices to point out that the process has largely resulted into dispossession and grabbing. It is not the origin of the investor or nature of the investment that can give the acquisition legitimacy but compliance with the procedures and benefit to the majority of the people who are the defacto managers of the land and the associated resources. Hence, the bottom-up approach should be the emphasis of any investment scheme; the village organs should be thoroughly involved at every stage of the venture.

Instead of the government being the key player it should now be a facilitator between the investor and the local actors. In that way it will be in a position to guard against breach of established rules including adherence to procedures before land is transferred to from village land to general land. To get rid of possible land use conflicts, the village lands should be surveyed and villages should be issued with village

land certificates. But also to avoid haphazard land acquisitions which end up trampling local community rights the TIC should identify and create a pool of readily available investment land under the land bank scheme.

Equally vital, is the fact that village land transfers to general land has often led to miserable consequences even after the suspension of the envisaged investments. A case like the defunct National Agriculture and Food Corporation's (NAFCO) farm in Mbulu has left a simmering conflict where the land was not transferred back to the respective villages but to few cronies. Such incidents might recur in the transferred land areas to fuel more land conflicts.

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**Annexes**

**Village Land Forms**

**Village Land Form No. 8**

**THE UNITED REPUBLIC OF TANZANIA**

**THE VILLAGE LAND ACT, 1999 (No. 5 of 1999)**

**NOTICE OF INTENTION TO TRANSFER VILLAGE LAND TO GENERAL OR RESERVE LAND**

**(Under Section 4)**

Ref. No. ....

I ..... of ..... HEREBY GIVE NOTICE that the President of the United Republic of Tanzania intends to transfer the following village land to general/reserve\*land

\*delete whichever is inapplicable

- (a) Location of the Land .....
- (b) Boundaries and extent of the said land .....
- (c) Reasons/purposes of the transfer of land .....

The transfer may be made after the expiration of ninety days from the date of publication of this notice in the Gazette.

**Any person occupying any village land which may be transferred in accordance with this notice may make representations to the Commissioner of Lands and the Village Council as to why his or her land should not be part of the land to be transferred or as to why the designated land as a whole should not be transferred.**

Any person who will suffer losses by reason of the proposed transfer may apply to the Commissioner of Lands for compensation using the form headed APPLICATION FOR COMPENSATION FOR LOSSES CAUSED BY LAND TRANSFER.

Dated at ..... this ..... day of ..... 20.....

.....  
MINISTER FOR LANDS

Served upon us:  
.....Chairman of .....  
Village Council      Dated: .....

**Village Land Form No. 9**

**THE UNITED REPUBLIC OF TANZANIA**

**THE VILLAGE LAND ACT, 1999  
(No. 5 of 1999)**

**NOTICE OF TRANSFER OF VILLAGE LAND  
(Under Section 4)**

Ref. No. ....

LPIN No. ....

I, .....  
of.....

HEREBY transfer the following village land to general/reserve\* land.

\*delete whichever is inapplicable

- (a) Location of the Land .....
- (b) Boundaries and extent of the said land .....
- (c) Reasons/purposes of the transfer of the land.....  
.....

This transfer shall take effect thirty days after the date of its publication in the Gazette.

BY COMMAND OF THE PRESIDENT

.....  
MINISTER FOR LANDS

**Village Land Form No. 10**

**THE UNITED REPUBLIC OF TANZANIA**

**THE VILLAGE LAND ACT, 1999  
(No. 5 of 1999)**

DECLARATION OF INTEREST

(Under Section 10)

C.T. No. ....

L.O. No. ....

L.D. No. ....

I, ..... being a member of  
the Village Council/Member of the Committee of the Village Council  
..... dealing  
with land in the Village of .....

HEREBY DECLARE THAT I/MY IMMEDIATE FAMILY MEMBER  
..... (state relationship) I HAVE an interest in respect  
of the matter concerning the land .....

.....  
.....  
(Description of the Land)

Dated at ..... this ..... day of ..... 20.....

.....  
Signature

Served upon us:  
.....

Chairman, Village Council

Date: .....

Dated: .....

**Village Land Form No. 11**

**THE UNITED REPUBLIC OF TANZANIA**

**THE VILLAGE LAND ACT, 1999  
(No. 5 of 1999)**

**NOTICE TO VILLAGE COUNCIL TO APPLY FOR COMPENSATION  
(Under Sections 4 and 6)**

Ref. No. ....

I, .....  
of.....

HEREBY GIVE NOTICE that the Minister for Lands has issued a notice of his intention to declare the following land to be hazard land/proposing transfer of the following village land to general or reserved land:

- (a) Location of the Land .....
- (b) Boundaries and extent of the said land .....

TAKE NOTICE that you are entitled to claim compensation for losses that will be caused by declaration of communal land as hazard land/transfer of communal land.

You must submit your claim to me within 60 days of getting this notice.

Dated at ..... this ..... day of ..... 20.....

.....  
COMMISSIONER FOR LANDS

Served upon us this ..... day of ..... 20.....

Chairman, Village Council  
Secretary, Village Council

**Village Land Form No. 12**  
**THE UNITED REPUBLIC OF TANZANIA**  
**THE VILLAGE LAND ACT, 1999**  
**(No. 5 of 1999)**

**APPLICATION FOR COMPENSATION BY VILLAGE COUNCIL**  
**(Under Sections 4 and 6)**

1. Name of Village .....
2. District in which Village is located .....
3. Location of communal village land the subject of claim .....
4. Approximate area/size of land .....
5. Current use of the land .....
6. Losses caused by \*land transfer/declaration of hazard land .....
7. State the communal rights for which the Village Council is claiming compensation and the amount of compensation it is claiming:†  
.....  
.....  
Attach any report explaining the basis for the claim for compensation.

Names and Signatures of members of Village Council  
Date:.....

C: Decision of Commissioner for lands:  
.....  
.....

\*Delete whichever is inapplicable.  
The whole claim is approved\*  
The following parts of the claim are approved (state which) parts are approved and give reasons for not approving other parts of the claim)\*  
.....

The whole claim is not approved for the following reasons\*  
.....

\*Delete whichever is not applicable.  
.....  
Name and signature, Commissioner for Lands: .....  
  
Date.....

---

**Village Land Form No. 13**

**THE UNITED REPUBLIC OF TANZANIA**

**THE VILLAGE LAND ACT, 1999  
(No. 5 of 1999)**

**APPROVAL OF COMPENSATION  
(Under Sections 4 and 6)**

To:.....  
.....  
.....

Your application for compensation has been approved in the following manner/disapproved:

.....  
.....  
.....  
.....  
.....  
.....

.....  
COMMISSIONER FOR LANDS/AUTHORISED OFFICER



**Village Land Form No. 15**

**THE UNITED REPUBLIC OF TANZANIA**

**THE VILLAGE LAND ACT, 1999  
(No. 5 of 1999)**

**APPLICATION FOR COMPENSATION BY LAND OCCUPIER  
(Under Section 15)**

PART I: (To be filed by applicant) for loses caused by  
Land transfer/declaration of hazard land

1. Full name(s) (i) M/F Sex Age  
(Surname first) (ii) M/F  
add as necessary
2. Address .....
3. Marital status .....
4. Children living with you .....
5. Location of land the subject of claim:  
Village .....
- District .....
6. Approximate area/size of land .....
7. Current use of the land .....
8. Losses caused by land transfer/declaration of hazard land .....
9. State the land right for which you are claiming compensation and the amount of compensation you are claiming:\*
- (a) Customary right of occupancy ..... Yes/No  
Amount being claimed for value of the land .....
- (b) Unexhausted improvements on the land ..... Yes/No  
Amount being claimed .....
- (c) Derivative right (state type of derivative right) .....  
Yes/No  
Amount being claimed .....
- (d) Costs involved in moving from the land .....
- Yes/No  
Amount being claimed .....
- (e) Other claims and amount being claimed (please state in as much detail as possible):  
..... \*fill in what applies to  
your claim

### Matrix of Thematic issues related to Land Grabbing/Acquisition in selected districts

Thematic issues related to Land Grabbing / acquisition for agribusiness	Selected Districts			
	Kilwa	Kisarawe	Njombe	Kigoma Rural
Land ownership	<ul style="list-style-type: none"> <li>▪ Communal ownership for communal and reserved land (Greater percentage)</li> <li>▪ Private ownership for occupied land</li> </ul>	<ul style="list-style-type: none"> <li>▪ Communal ownership for communal land (Greater percentage)</li> <li>▪ Private ownership for occupied land</li> <li>▪ Men and elderly command more ownership</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mainly private ownership</li> <li>▪ Most of the land is occupied (90%)</li> <li>▪ Communally for land reserve</li> <li>▪ Men and elderly command more ownership</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mainly private ownership</li> <li>▪ Most of the land is occupied</li> <li>▪ Communally for land reserve</li> <li>▪ Men and elderly command more ownership</li> </ul>
Forms and security of tenure	<ul style="list-style-type: none"> <li>▪ Customary land tenure</li> <li>▪ Village not surveyed</li> </ul>	<ul style="list-style-type: none"> <li>▪ Customary land tenure</li> <li>▪ Village not surveyed</li> </ul>	<ul style="list-style-type: none"> <li>▪ Customary land tenure</li> <li>▪ Village not surveyed</li> </ul>	<ul style="list-style-type: none"> <li>▪ Customary land tenure</li> <li>▪ Village not surveyed</li> </ul>

Thematic issues related to Land Grabbing / acquisition for agribusiness	Selected Districts			
	Kilwa	Kisarawe	Njombe	Kigoma Rural
Ownership classes	<ul style="list-style-type: none"> <li>Equally shared except for occupied land</li> </ul>	<ul style="list-style-type: none"> <li>Men and elderly command more ownership of occupied land</li> </ul>	<ul style="list-style-type: none"> <li>Men and elderly command more ownership of occupied land</li> </ul>	<ul style="list-style-type: none"> <li>Men and elderly command more ownership of occupied land</li> </ul>
Drivers of land grabbing/ acquisition	<ul style="list-style-type: none"> <li>Strategic location close to the coast</li> <li>Availability of arable unused land ideal climate to support Jatropha investment policy by district council and TIC</li> <li>Bioshape Tanzania Ltd acquired 81,000 hectares in four villages</li> </ul>	<ul style="list-style-type: none"> <li>Strategic location close to the coast</li> <li>Availability of arable unused land and ideal climate to support jatropha investment policy by district council and TIC</li> <li>SunBiofuels acquired 9000 hectares in 10 villages</li> </ul>	<ul style="list-style-type: none"> <li>Availability of arable unused land and ideal climate to support tea, jatropha and tree plantation</li> <li>Promotion of REDD project</li> <li>5 investors dealing with land related investment projects</li> </ul>	<ul style="list-style-type: none"> <li>Availability of arable unused land and ideal climate to support palm oil plantation</li> <li>Promotion of investment policy by district council and TIC</li> <li>FELISA acquired 4358 hectares</li> </ul>

Thematic issues related to Land Grabbing / acquisition for agribusiness	Selected Districts			
	Kilwa	Kisarawe	Njombe	Kigoma Rural
Procedures of land acquisition	<ul style="list-style-type: none"> <li>▪ Somehow adhered but with limited participation of the local communities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Not adhered too much manipulation of the process</li> </ul>	<ul style="list-style-type: none"> <li>▪ Adhered but with limited participation of local communities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Adhered with limited participation of the local communities</li> </ul>
Category of land allocated to the investor	<ul style="list-style-type: none"> <li>▪ Reserved land and small percent of occupied land</li> </ul>	<ul style="list-style-type: none"> <li>▪ Reserved Land</li> </ul>	<ul style="list-style-type: none"> <li>▪ Reserved land</li> <li>▪ Occupied land</li> </ul>	<ul style="list-style-type: none"> <li>▪ Reserved land</li> <li>▪ Small percentage Occupied Land</li> </ul>
Mode of investment	<ul style="list-style-type: none"> <li>▪ Plantation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Plantation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Plantation</li> <li>▪ Potential for contracting out Growers</li> </ul>	<ul style="list-style-type: none"> <li>▪ Plantation</li> <li>▪ Contract farmers and independent suppliers</li> </ul>
Nature of the investment contract	<ul style="list-style-type: none"> <li>▪ Limited scope</li> <li>▪ Biased towards the investor</li> </ul>	<ul style="list-style-type: none"> <li>▪ Limited scope</li> <li>▪ Biased towards the investor</li> </ul>	<ul style="list-style-type: none"> <li>▪ Limited scope</li> <li>▪ Biased towards the investor</li> </ul>	<ul style="list-style-type: none"> <li>▪ Limited scope</li> <li>▪ Biased towards the investor</li> </ul>
Procedure and criteria for compensation	<ul style="list-style-type: none"> <li>▪ Unclear terms</li> <li>▪ Lack of binding contracts</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unclear terms</li> <li>▪ Lack of binding contracts</li> </ul>	<ul style="list-style-type: none"> <li>▪ District official not aware</li> <li>▪ Community members not informed</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unclear terms</li> <li>▪ Lack of binding contracts</li> </ul>

Thematic issues related to Land Grabbing / acquisition for agribusiness	Selected Districts			
	Kilwa	Kisarawe	Njombe	Kigoma Rural
Promises and compliance	<ul style="list-style-type: none"> <li>▪ Poor compliance</li> <li>▪ Not stated in contract</li> <li>▪ Support through corporate responsibility</li> </ul>	<ul style="list-style-type: none"> <li>▪ Poor compliance</li> <li>▪ Not stated in contract</li> <li>▪ Constructed road towards the companies factory</li> </ul>	<ul style="list-style-type: none"> <li>▪ Somehow fulfilled in terms constructions of classrooms and dispensary</li> <li>▪ Not stated in contract</li> </ul>	<ul style="list-style-type: none"> <li>▪ Some how complied</li> <li>▪ Not stated in contract</li> </ul>
Environmental concerns	<ul style="list-style-type: none"> <li>▪ Deforestation</li> <li>▪ Loss of biodiversity</li> </ul>	<ul style="list-style-type: none"> <li>▪ Loss of biodiversity</li> <li>▪ Water shortage due to enclosure of water sources</li> </ul>	<ul style="list-style-type: none"> <li>▪ Declining water from traditional sources</li> <li>▪ Pollution from factories</li> <li>▪ Draught</li> </ul>	<ul style="list-style-type: none"> <li>▪ Deforestation</li> <li>▪ Depletion of water resources</li> </ul>

Thematic issues related to Land Grabbing / acquisition for agribusiness	Selected Districts			
	Kilwa	Kisarawe	Njombe	Kigoma Rural
Household basic information	<ul style="list-style-type: none"> <li>▪ Increase in households</li> <li>▪ Involved in wage labour in company</li> <li>▪ Depend on crop cultivation</li> <li>▪ Low daily income but high daily expenditure</li> <li>▪ Food insecurity</li> <li>▪ Young population</li> <li>▪ Low level of education</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increase in households</li> <li>▪ Involved in wage labour in company</li> <li>▪ Depend on crop cultivation</li> <li>▪ Low daily income but high daily expenditure</li> <li>▪ Food insecurity</li> <li>▪ Young population</li> <li>▪ Low level of education</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increase in households</li> <li>▪ Involved in wage labour in company</li> <li>▪ Depend on crop cultivation</li> <li>▪ Low daily income but high daily expenditure</li> <li>▪ Food insecurity</li> <li>▪ Young population</li> <li>▪ Low level of education</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increase in households</li> <li>▪ Involved in wage labour in company</li> <li>▪ Depend on crop cultivation</li> <li>▪ Low daily income but high daily expenditure</li> <li>▪ Food insecurity</li> <li>▪ Young population</li> <li>▪ Low level of education</li> </ul>
Sub-household information	<ul style="list-style-type: none"> <li>▪ Both men and women engage in production</li> <li>▪ Women have control of their own incomes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Gendered division of labour and male dominance in distribution</li> </ul>	<ul style="list-style-type: none"> <li>▪ Gendered division of labour</li> <li>▪ Male dominance in resource control</li> </ul>	<ul style="list-style-type: none"> <li>▪ Gendered division of labour</li> <li>▪ Male dominance in resource control</li> </ul>

Thematic issues related to Land Grabbing / acquisition for agribusiness	Selected Districts			
	Kilwa	Kisarawe	Njombe	Kigoma Rural
Socio-economic impacts of land acquisition for agribusiness	<ul style="list-style-type: none"> <li>▪ Employment</li> <li>▪ Reduced contribution in development projects</li> <li>▪ Construction of office</li> <li>▪ Revenue to villages and council</li> <li>▪ Support in social services infrastructure</li> <li>▪ Denied access to land and water resources</li> <li>▪ Food insecurity</li> <li>▪ Conflict related to terms of employment</li> <li>▪ Marriage breakdown</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employment</li> <li>▪ Reduced contribution in development projects</li> <li>▪ Denied access to land and water resources</li> <li>▪ Food insecurity</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employment</li> <li>▪ Support in social services infrastructure</li> <li>▪ Pressure on land and water resource</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employment</li> <li>▪ Market for Palm Oil</li> <li>▪ Denied access to land and water resources</li> <li>▪ Potential of food insecurity</li> </ul>

### List of Study Respondents

S/N	NAME OF THE PARTICIPANT	POSITION	SEX	SITE/ DISTRICT
1	Barakiel Sadikiel	District Lawyer	Male	Kisarawe
2	Bethwel Mlemba	Community Development Officer	Male	Kisarawe
3	Dr. Minja	District Agricultural Officer	Male	Kisarawe
4	E.K. Mwenda	District Statistician	Male	Kisarawe
5	Said Kijiji	District Land Officer	Male	Kisarawe
6	Ramadhan Shaban	Village Executive Officer	Male	Mtamba
7	Ndunguru	Chair of Guluka Kwalala Environmental Group	Male	Kisarawe
8	Robert Nehata	Acting District Executive Director	Male	Njombe
9	Nurdin Babu	District Commissioner	Male	Kilwa
10	Sadiki Boniphace	District Land Officer	Male	Kilwa
11	Geofrey Japhari	District Lawyer	Male	Kilwa
12	Selemani M. Chaola	Village Chairman	Male	Mavuji
13	Madadi A. Mwiru	Village Executive Officer	Male	Mavuji
14	Hussein Abdalla Mwamba	Member of the Village Government	Male	Mavuji
15	Nasra Bushiri	Member of the Village Government	Female	Mavuji
16	Rashid Ally	Community member	Male	Mavuji
17	Hassan Kidabi	Community member	Male	Mavuji
18	Seleman Parapata	Community member	Male	Mavuji
19	Seleman Azizi	Community member	Male	Mavuji
20	Hassan Machela	Community member	Male	Mavuji
21	Ramadhan Seleman	Community member	Male	Mavuji
22	Mohamed Hamis	Community member	Male	Mavuji

S/N	NAME OF THE PARTICIPANT	POSITION	SEX	SITE/ DISTRICT
23	Kombo Omari	Community member	Male	Mavuji
24	Mwalimu Salumu	Community member	Male	Mavuji
25	Athumani Hassani	Community member	Male	Mavuji
26	Said Kiropu	Community member	Male	Mavuji
27	Benard John	Community member	Male	Mavuji
28	Lawama Lindi	Community member	Female	Mavuji
29	Sharifu Said	Community member	Female	Mavuji
30	Rapha Chaola	Community member	Female	Mavuji
31	Salma Hassani	Community member	Female	Mavuji
32	Zainabu Kimanda	Community member	Female	Mavuji
33	Jarina H. Kambona	Community member	Female	Mavuji
34	Mwanahawa Maimbo	Community member	Female	Mavuji
35	Mwanaisha Salumu	Community member	Female	Mavuji
36	Hadija Abdallah	Community member	Female	Mavuji
37	Steven Ngesi	Community member	Male	Ujindile
38	Godlove Mbata	Community member	Male	Ujindile
39	Eric Kibiki	Community member	Male	Ujindile
40	Jacob Kisese	Community member	Male	Ujindile
41	Denis Kijinga	Community member	Male	Ujindile
42	Jofrey Mnyetage	Community member	Male	Ujindile
43	Luciana Kitomo	Community member	Female	Ujindile
44	Samson Mhamilawa	Community member	Male	Ujindile
45	Julias Mpogolo	Community member	Male	Ujindile
46	Alambana Sanga	Community member	Male	Ujindile
47	Lwidiko Mligo	Community member	Male	Ujindile
48	Zulfa Changu	Community member	Female	Ujindile

S/N	NAME OF THE PARTICIPANT	POSITION	SEX	SITE/ DISTRICT
49	Frida Kivambe	Community member	Female	Ujindile
50	Tulizo Mbakilwa	Community member	Female	Ujindile
51	Atwiye Kibiki	Community member	Female	Ujindile
52	Nakoli Sembanyi	Community member	Female	Ujindile
53	Alafisa Vaai	Community member	Female	Ujindile
54	Jestina Kilipamwambo	Community member	Female	Ujindile
55	Eunice Kalipena	Community member	Female	Ujindile
56	Huruma Mpika	Village Government Leader	Male	Ujindile
57	Betram Ng'milo	Village Government Leader	Male	Ujindile
58	James Kitahenga	Village Government Leader	Male	Ujindile
59	Lunogelo Kaduma	Village Government Leader	Male	Ujindile
60	Jacobo Kmbinga	Village Government Leader	Male	Ujindile
61	Dominic Kweka	District Executive Director	Male	Kigoma Rural
62	Lyelya Shija	Acting District Agricultural Officer	Male	Kigoma Rural
63	Adriano Ndaikeje	District Land Officer	Male	Kigoma Rural
64	Yahya Kifero	Village Executive Officer	Male	Mahembe
65	Lucia Oswald	Division Officer	Female	Mahembe
66	Hamis Y. Ntakungwa	Ward Agricultural Officer	Male	Mahembe
67	Charles Chambo	Ward Councillor	Male	Mahembe
68	Castro Elias Kabona	Chair of the Village	Male	Mahembe
69	Pili Ruyagaza	Community Member	Female	Mahembe
70	Asia Hassan	Community Member	Female	Mahembe

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<b>S/N</b>	<b>NAME OF THE PARTICIPANT</b>	<b>POSITION</b>	<b>SEX</b>	<b>SITE/ DISTRICT</b>
71	Mwatano Yusuph	Community Member	Female	Mahembe
72	Sada Omari	Community Member	Female	Mahembe
73	Zuhura Masoud	Community Member	Female	Mahembe
74	Rupia Matiholo	Community Member	Female	Mahembe
75	Daudi Bazil	Community Member	Male	Mahembe
76	Hamis Ally	Community Member	Male	Mahembe
77	Yasoma Tigita	Community Member	Male	Mahembe
78	Alfred Bazilio	Community Member	Male	Mahembe

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ISBN 978-9987-648-41-2



**ROSA LUXEMBURG  
FOUNDATION**