

THE CHANGING TERRAIN OF LAND USE CONFLICTS IN TANZANIA AND THE FUTURE OF A SMALL PRODUCER¹

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BACKGROUND

Land use conflicts are common phenomena in Tanzania and the world at large. One major reason before going to specific cases hinges on the fact that land does not expand while people and other living organizations that depend on it keeps on increasing on the early surface. This un matching ratio between land as basic resources for livelihoods and its users constantly results into land use conflicts. In Tanzania, land use conflicts can be understood by placing them within the context of history, social relations and the process of commoditization of natural resources such as land and land based resources. What is being argued in this paper is that, MOST land use conflicts in Tanzania are caused and escalated by decisions and acts of the state through its various agencies. Of course, the state decides and acts in response to both internal and external forces which could best be understood within the framework of globalization of capital interests. This process of globalizing capital involves denying access and control over resources to people who need those resources most. This process has been experienced and felt by different people in Tanzania but more tangibly by the majority small producers (peasants, pastoralists, artisan miners, hunters, gatherers, e.t.c.) who live in rural areas and depend entirely on land for their living. Within this context therefore, the paper examines, conflicts between pastoralists and farmers, communities against investors especially commercial farming and mining activities and communities vis a vis the state in conservation lands and development projects. Some challenges in attending to these conflicts are pursued before putting forward some policy and practical recommendations to ameliorate the situation. When all this is done, this paper keeps high hopes that the mission to enhance an equitable access to land in Tanzania will be achieved in due course.

THE SITUATIONAL ANALYSIS OF THE LAND USE CONFLICTS

There are four major milestones in the development of land tenure system in Tanzania. These are the pre colonial phase, colonial phase, the three decades of independence and the social economic liberalization phase. During each phase, land use was determined by the major forces of time and reinforced by the relation of production. In pre-colonial phase for example, land use and ownership was controlled by respective tribes and clans with varied ways of accessing using, owning and controlling basing on their own customs and traditions. No one tribe that had a mandate to set up a land tenure system for others and when disputes arose over its usage, customary system were applied in settling them.

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What was unique in this phase in that, principles of equality and justice were defined and applied within the limits of tribal/clan jurisdiction, and, access to and ownership of land was attached to its use.²

During colonialism, land was alienated from the people for allocation to the new masters (Germans first then British), for production of raw materials. Granted right of occupancy was introduced and accorded a relatively higher status to deemed rights of occupancy. This was reinforced by the British colonial land ordinance of 1923. Local communities lost their rights to use their own land, forced to become labours and eventually fought to reclaim their land rights and sovereignty³

At independence, little changes were made on the land tenure system as a whole save for the replacement of governor with president but the powers over land administration were retained. Other development especially in the context of Arusha declaration had enormous bearing on both land use plans and the rights to land of many Tanzanians. Private properties were nationalized and the decision reinforced by enactment of the land acquisition act No. 47 of 1967 to give more powers to the president to acquire land for National interests. So many conflicts arose during this phase because the resettlement exercise took place without first revoking the right to land of the resident communities. So the new owners and old ones found themselves in tussles that were caused by the villagization programme. Generally, the nature of land use conflicts revolved around the state and its agencies vis a vis communities over the changing use of their land for the so called national interests. Huge tracks of land were converted into ranches and or farms owned by state corporations like NARCO and NAFCO sometimes forcibly acquired from communities with meager compensation or sometimes without any compensation⁴. This is not to mention to her tracks of land now approaching 30% that are gazetted and reserved for use by wildlife and other exclusive usages from the general public.

From mid eighties, land use conflicts have assumed a different pattern by involving other actors than the state and small groups. As the country opened up for liberalization, we have witnessed an influx of investors who are also interested on land. Large tracks are now being leased or privatized to local and foreign investors for commercial farming, ranching or mining activities. Allocation of such land has brought about serious tensions between local communities and the respective investors for either lack of adequate consultation or forceful eviction of communities without compensation. Land conflicts emerging as a result of economic liberalization are closely linked to what is now called 'land grabbing' by persons in positions of the power or material wealth and influence.⁵ Trends show that there is an increasing influx of investors into the rural areas, which is also posing serious threats on food security for rural based small producers.

² Issa Shivji and Deus Kibamba 2002, *Mwongozo wa Haki za Ardhi Tanzania*. HAKIARDHI, Dar es Salaam.

³ The famous Maji maji war in Tanzania 1905 to 1907 and related liberation wars in the region including the Mau Mau war in Kenya, were primarily meant to reclaim their ownership to land in addition to other reasons.

⁴ More than 120,000 ha of land were acquired from pastoralists Barbaig in Hanang district Manyara region and converted into large scale wheat farms that were allocated to NAFCO.

⁵ Issa G. Shivji, 1998:36 *Not yet Democracy: Reforming Land Tenure in Tanzania*; Russell Press, Nottingham

Basing on this historical background, it is obvious that land use conflicts are going to persist as they take different shape depending on forces of the time. There are high hopes on the new land conflicts resolution mechanisms that begin from the village level to the court of appeal but the weak reinforcement mechanisms turns down the hopes.

The recent developments in the land tenure system where the new laws have been introduced are equally not reliable as the institutions established by these laws are yet to take shape in communities. It is thus imperative to devise concerted efforts among actors in making sure that reliable mechanisms are put in place to address the challenges of combating land use conflicts in Tanzania for the benefit of small producers. Civil society, private sector and the government partnership is inevitable in this initiative. At the centre stage, there should be a strong leadership of professional bodies to bring in their professional

GENERAL CAUSES OF LAND USE CONFLICTS

Land in Tanzania and many other parts of the world is a source to so many conflicts. This is manifested through the wide spread political instability in many African countries which is sometimes takes as the consequences of the general elections sentiments in those countries but in real sense the issue of land is at the heart of those conflicts as hinted earlier on, land conflict in many African countries are closely linked with the colonial legacy as many countries could not change their systems after independence. We have seen the Tanzanian case where immediate after independence the government adopted almost everything from the British colonial government until mid 1990's when the new land regime was introduced through the National Land Policy 1995, the Lands Act number 4 and 5 of 1999. Apart from the colonial legacy, there are many other factors for land use conflicts as highlighted here under:

- Lack of Public awareness and knowledge on land laws. Although land Act No. 4 and Village land Act No. 5, 1999 have marked a decade since their enactment, still the two pieces are not yet known to majority land users. This includes the land Disputes Settlements Act, 2002.
- Lack of peoples' participation during policy and laws formation even when they are invited their views are not given high priority. Views and demands of the citizens are not taken and included in the laws which lead to the occurrence of the new land conflict source being the laws.⁶
- Incapacity of the decision making organs from the village level to the national level. Many of the decision makers perform poorly due to either poor understanding of the rules and regulations guiding their administration positions or due to personal benefit. For instance the village council have entered into several contracts with investors without clear information of the activities which will be done by these investors which in the long run cause conflict with the majority villagers.⁷

⁶ HAKIARDHI, 2008: 3 Mfumo wa utatuzi wa Migogoro Nchini Tanzania; Training manual for land Rights and Governance in Villages.

⁷ Porokwa E.T. 2001, Fukuto la Migogoro ya Maeneo na hatma ya Wazalishaji wadogo wadogo Tanzania, Ecoprint Limited, Dar es Salaam

- Violation of the land laws regulations by the land administrators particularly at the level of district and national. The land administration in Tanzania faced with some land administrators who are corrupt and unfaithful to their works. Due to this fact, many of the land cases emerge from the contradictory decisions done by the land officers. The concrete example being the presence of double allocation during land redistribution in Dar es Salaam city and its peri-urban areas.

THE EFFECTS OF LAND USE CONFLICTS

The land conflicts have never passed without causing negative consequences to the land users, the community and properties. In case of Tanzania there many effects pertaining to land conflicts both in rural and urban areas as follows:

- Loss of peoples' lives particularly women and children, many people have lost their lives during the conflict. The pastoralists and the crop producers conflict is the leading in causing death. This manifested several times in Kilosa district in Morogoro region and Kilindi district in Tanga region⁸
- Decline an/or cut off of food production which lead to famine in respective areas. During the land conflict many people are escaping their areas of production due to fear and insecurity. This makes them stop engaging in agricultural production and livestock keeping which leads to the decline of food production and eventually hunger. This has been happening in Kilindi district in Tanga region. Mbarali district in Mbeya region. Hanang district in Manyara region, and Kilosa district in Morogoro where such conflicts recur frequently.
- Wastage of time and money during the time of conflict resolution, most of the land conflicts takes longer time in resolution. Therefore a lot of resources are wasted which could have been used for development activities and leaving the majority people in extreme poverty.

CATEGORIES OF THE LAND USE CONFLICTS

1. Pastoralists vis a vis farmers

As explained above the prominent land use conflict prevailing in Tanzania is between the herders and crop producers. This is due to the multiple cases of such conflicts taking place in several parts of the country. Among those areas are in Kilosa and Kilombero districts in Morogoro region; Kilindi and handeni districts in Tanga region; and mbarali district in mbeya region to mention the few.

In analyzing the land conflicts among these groups there should be critical consideration of the inside the box and outside the box factors. Such factors are like:

- Searching for pastures and water among the pastoralists for their cattle, the farmers are complaining that the cattle are passing in their farms and

⁸ In December 2000, the fight between pastoralists and farmers in Kilosa district Morogoro region claimed 36 people in Rudewa Mbuyuni Village. The fight recurred in December 2008 at Kikenge Hamlet of Mambegwa and Mabwegere village where 8 people were reported dead during HAKIARDHI's fact FINDING MISSION IN Kilosa District. Several houses were burnt to ashes and crops destroyed. Thousands of livestock were equally stolen by unknown culprits.

destroyed their crops. Although the pastoralists are arguing that in many areas there are no ways or paths for their cattle to pass during the search for pasture and water. But there arose the beliefs among the other users of land that pastoralists' ways of keeping livestock is old and does not deserve to survive up recently as a result in lack of care for land resulting in soil erosion and other abuses.⁹

- The nature of the land tenure system in Tanzania contributes to the marginalization of groups like pastoralists who lose their rights over the land to other groups. The pastoralists have not been considered very much in the land tenure system in the country due to the fact that in the categorization of land, there is no land set aside for pastoral activities save for the provision that villagers shall determine land uses in their own villages. Given the level of stigma and stereotypes given to pastoralism, their activities are regarded as additional activities so not necessary to be allocated with land. This was evident even during formation of villages in 1974 and wildlife act of 1974 where National parks, Game Reserves and Game Controlled Areas were given prominence to pastoralism. Even the various laws and policies are not giving much attention to pastoralism as compared to other sectors like agricultural, tourism and mining.¹⁰
- Weak conflict management mechanisms contribute to the un-ending land conflict between the farm herders and crop producers. The facts arise from the cases brought for resolution as they sound that the pastoralists have destroyed the farmers' properties. Then, the outcomes of the negotiations are that pastoralists should compensate farmers something which fails to bring about true reconciliation between herders and farmers.
- Lack of clear demarcation of land among land users simply due to the lack of proper land use plan. Although the Land Act No. 4 and Village land Act No. 5, 1999 requires every village to have in place the land use plan, many villages have not been able to implement this due to various obstacles one being prevalence of the boundary conflicts between the villages. This contributes to continued interference of one group's land by the other without knowledge of either side or sometimes deliberately by group which is knowledgeable.

II. Communities vis a vis investors (Commercial farmers and mining companies)

As explained in the background part of this paper the rise of the so called free market economy in Tanzania led to the massive increase of the investors in the country. With these "investors" coming into stream since 1980s what has been witnessed in the country is proliferation of and other

⁹ Shivji I.G. and Kapinga W.B. 1988, Maasai Rights in Ngorongoro, Tanzania, IIED, United Kingdom

¹⁰ Porokwa E.T. 2000, Matumizi na Milki ya Ardhi katika maeneo ya Wafugaji; Paper presented at HAKIARDHI, Dar es Salaam

natural resources disputes.¹¹ The main victims in this process have been the pastoralists, farmers and the small miners whose used to get their daily bread and other social services from the land owning.

The facts will remain that the foreign investors engaging in the commercial crop production and in mining activities are guided with a log of support from the part of the government. For instance in the biofuel production the foreign companies are getting more support from the government institutions in acquiring in the village without following the proper underlined producers. The concrete example is in Rufiji, Bagamoyo and Kisarawe districts whereby a lot of outsized hectares of land have been taken for biofuel production despite the fact that in the long run there will be huge environment destructions and food crops production decline. Recently there on going conflicts between the villagers and these investors in the mentioned districts above as the villagers realized that the investors are not fulfilling the promises they offer before. But the reality in group is that some government official are paying much more attention to the investors' problems rather than those of the local people.

Besides there is no proper and effective participation and consultation of the villagers when they village land taken and given to the investors for biofuel or for any other activity. There the tendency of some leaders in the government institutions to force the villagers to give their land to the investors and sometimes these decisions reached without being informed. A democratic demand to be consulted and participate as of right on matters involving the major resource around which the life conditions, culture and custom of the majority of producers is constructed is a social-democratic demand.¹²

Lack of knowledge among the community members is also a big factor for conflicts under this category. From the mid 1980s up to the early 2000s there was poor understanding of various issues pertaining to the right of communities over the land. This was due to few Non-governmental Organisations (NGOs)operated locally in the capacity building programmes in multiple issues such understanding of the various laws such as Land Laws enacted in 1999 and human rights issues. Therefore many villagers provided their outsized piece of land to the investors without knowledge. As the people in recent time now are becoming aware to their rights that's why many conflicts are coming to existence everyday. The concrete example can be drawn in Kilombero district in Morogoro region. Handeni and Korogwe districts in Tanga region to mention the few.

¹¹ Chachage, C.S.L., 1996, The Land Policy Paper and the Tenure in National Parks, Game and Forest Reserves, Paper presented at HAKIARDHI, Dar es Salaam.

¹² Shivji, I.G. 1998 "Contradictory Perspectives on Rights and Justice in the Context of land Tenure Reform in Tanzania" an article in the book Tanzania Zamani, KAPSEL Educational, Dar es Salaam.

The land tenure system in Tanzania remains to be the critical cause of the land conflict in the country. The Village land Act no. 5, 1999 section 8 (1) authorized the Village Council as the principal controller of the village land, that is any decision over the village land should be first discussed in this organ and approved by the Village Assembly. But very interesting there breaches of this Act by other organs at the top particularly the District Authorities. The villagers no longer possess power over their land through their own elected leaders. The top leaders at the district are making decisions on their behalf and they are not required to question the legitimacy of those decisions. This manifested in several villages such as Namwawala, Mofu and Mbingu in Kilombero district in Morogoro region where up recently are in trouble because of the decision made by the district leaders in collaboration with some few unfaithful village leaders.

In the case of mining sector, the influx of the investors in the mining areas in the past two decades has contributed to the massive land use conflicts. The basic causes of such conflicts are the disasters caused by the outcomes of this investment as explicitly discussed below:-

Firstly, there are cries from local communities that some of their relatives are dying due to the poison that flow into the water they use in the rivers, dams and lakes. For instances, the recent case of North Mara Gold Mining in Tarime district in Mara region, where it is suspected that at least twenty (2) people and more than two hundred and seventy (270) cattle have lost their lives as the cause of the poison flowing into the Tigithe river.

Secondly, the investors in the mining areas do not pay the proper and satisfying compensation to the people removed from the areas to allow them to carry the mining activities smoothly. This has worsened the life of these people whom before the coming of these investors were living healthier life. The concrete example is in Kahama district whereby up to the moment the villagers are seeking their compensation although the mining activities under the investors have more than three years in the place.

Furthermore, the people in the gold mining areas are failing significantly benefit and many are being made poorer.¹³ There are no sustainable social services and infrastructures such as hospitals dispensaries, schools, water and roads establishment in these areas although they are required to do so and some of them promised before. But it should be borne in mind that these mining companies are making handsome profit every year.

¹³ Curtis, M. and Lissue, T. 2008: A GOLDEN OPPORTUNITY? "How Tanzania is Failing to benefit from Gold mining", Color Print, Dar es Salaam.

Moreover, human rights violations investors in the mining may be the first and foremost human rights violators to the indigenous living in the and working in the mining areas. First of all there is no equal right in the employment to the local people as compared to the foreign people with the same qualification and capacity to work. Secondly there several reports of the killing of the mining workers and the people living around the mining for the very minor reasons which can not compare with the life of the people. These are manifested in several mining areas with foreign investors like in Buhemba Gold Mining, Mererani Mining Areas, and Bulyanhulu Gold mining Areas to mention the few.

III. Community vis a vis the state in conservation lands and Development projects

The conflicts between the community and the state are historical in case of Tanzania. This is due to the fact that since the independence time there has been the use of force from the government demanding the villagers and other land users to leave land they own for other uses mostly termed as public demand such economic growth. The events of establishment and redistribution of land to the public corporations such as National Agricultural and Food Corporation (NAFCO) AND National Ranching Company (NARCO) as well as National parks, Game Reserved Areas went together with violation of villagers rights on land which led to the occurrence of multiple conflicts over land among the villagers and the reserved areas.¹⁴ The concrete example is in Rufiji district whereby the villagers of Mloka village are in conflict with the management of Selous Game Reserve for years now.

Conflicts linked to wildlife policy, one of the wildlife policy objectives is to continue establishment of protected areas and maintenance of existing ones in order to enhance biological diversity. The issue then is that land use for wildlife competes with other uses such as farming, grazing, and settlement which lead to conflict over the same land. The concrete example is in Usangu plain where the Game Reserves grew and took pastoral dry season grazing areas. This then became the key cause of the forced movement of pastoralist from Ihefu Valley in search of the secure and peaceful places.

Restriction of the local people to access the product of the biodiversity. The governments through the Game Reserved and Controlled Areas have established prohibition for the indigenous to access the forest without proper permission from the recognized authority. No person may graze animals in the said areas without having applied for and received permission from the Director.¹⁵ Actually its good and acceptable to protect the natural resources and environment but the government has the responsibilities to inform the public on the new regulation enacted for that purpose rather than humiliating their rights

¹⁴ HAKIARDHI, 2008, Training Manual for land Rights and Governance Training in the villagers.

¹⁵ Kamata, N, 2008:45, THE MUTE PLUNDER: Bioresource and Dispossession in Tanzania, Ecoprint Limited, Dar es Salaam

which make them aggressive and lead to the conflict extending conflict between the people and the government institutions.

Possible solutions

The solution of the land conflict needs extra attention compared to other conflicts in the country. The reason is due to the fact that the security of the state may be at the tension if these conflicts will be left to increase the day after day. Therefore the following below are the recommended possible solutions to the land use conflict.

Change of the mind set of the land user groups, the groups of pastoralists and crop producers should consider the value of each other in order to avoid the daily land conflicts. The farmer should respect and protect the land allocated for pastoral activities and the pastoralist should do the same.¹⁶ Having this in mind will reduce chances of conflict to the great extent. The same as in the mining areas whereby the investors must respect and value of the workers and the community lived in those areas.

There should be due consultation of the villagers in any decision made over their land. This will be more suitable when the whole community of Tanzania will be involved in the formation of various policies and laws which in the long run affect their life. The public forum should be designed in order of collecting all ideas and views of the land users. This will reduce the occurrence of new land conflict as the result of the new laws.

There government and civil society organisations should have collaborate in providing the education to the citizens on the various laws so that they will use those policies and laws in using their land wisely. In this case the government must recognize the potentiality of the civil society organisations in empowering the local community to understand their rights and responsibilities as the citizens of Tanzania.

The government must have to take deliberate action in allocating the land for all user groups without any segregation. And this allocation of land must be respected by all the groups and the government institutions. As well the allocation should made to the extent that there will be easy way of one group to violate the use of another group.

Besides the power overlap between the levels of authorities must be reformed in order to reduce the power interference in the decision making over land. For instance the land administrators at the district level should respect and value the decision made reached by the village authority because those are the peoples' decisions over their land according to the laws.

Moreover, strengthening of the land disputes settlements organs especially those from the village level to the district level. These organs such as Village Land Council, Ward Tribunal, District Land and Housing Tribunal are the crucial organs in combating the increase of the land conflict in the rural and peri-urban areas, as its true that many conflicts takes place here. But the members of these organs have clear knowledge of the

¹⁶ HAKIARDHI, 2008:6, Training Manual for Land Rights and Governance Training in the villagers

land laws and that of land disputes settlement, something which force them to use their own experience in solving land conflict placed before them.

Conclusion

In order to have sustainable development in both sectors of economy then there must be deliberate action and decision in solving the land conflicts. This task then should not left to the government institutions and officials only, but there must be the collaboration from all sectors, institutions, organisations, private and public and all these in order to achieve the fruitful results should incorporate the ideas of all the communities who are the main land users. It should be borne in mind that land is the key source development of all the other sectors but this can not attained if the prevailing land conflicts will not be solved immediately.

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