

***Land Act No.4 and Village  
Land Act No.5 of 1999.  
Content, experiences and  
challenges***

**Presentation for MS DANISH Tanzania  
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# The content

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1. Historical Background – Tanzania land tenure system
2. Land; definition, categorization and right of occupancy
3. Land Administration- General and Reserve Land
4. Village land administration and land use
5. Implications and tenure rights for small producers
6. Experiences, lessons and challenges in securing tenure rights
7. Practical recommendations (technical, policy and admin.)
8. Conclusion

# 1. Background

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- Land is a basic resource from which human beings and almost all other living creatures depend on for their living
- In Tanzania, (though statistics vary depending on use, and user) more than 80% rural based communities depend entirely on land through farming, livestock keeping, mining, fishing, hunting and gathering, or doing varieties of related activities like tourism etc.
- This importance has, over time, added value to it (land) hence one of the heavily contested resources between its various users and beneficiaries

## Background conti...

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- The details of land tenure development in Tanzania has been given in the introduction paper to the level of the land laws. So this paper picks up from the stage where the land laws were enacted and attempts to add flesh to the skeleton mainly on procedural aspects of the land laws especially the administration.

## **2. (i) LAND; (a) Definition**

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- Land; as defined by the land laws (sec.2) includes surface of the earth and the earth below the surface and all substances other than minerals and petroleum forming part of the or below the surface, things naturally growing on the land, buildings and other structures permanently affixed to land.

## ...Land defined...

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- You will note that the definition excludes minerals and petroleum that also includes gas. This has been one of the areas of public contention but the government response maintains that minerals and petrol are scarce public resources to benefit all citizens. *For discussion... what are the benefits of such resources to resident communities in areas where they are obtained?*

## **(b) Categories**

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- Land in Tanzania divides into three categories which are; general, Reserve and Village land.
- **Reserve land.** Defined in Sec 6(1) as land designated or set aside under the provisions of forest ordinance, (cap 389), National; parks ordinance (cap 412), Ngorongoro Conservation Area Ordinance (cap 413) and wildlife Act No. 12 of 1974. others are the marine parks and Reserves Act No. 291 of 1994, Town and County planning Ordinance (as repealed in 2006) and Highway ordinance cap 167

## Reserved land ...

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- Other categories of reserved land include land parcels within a natural drainage system from which water basins originate, land reserved for public utilities and land declared by order of minister to be hazardous and public recreation grounds ordinance (cap 320)

## **...Reserve land administration**

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- The administration of the activities taking place in reserve lands is under the different authorities responsible for them, (e.g. TANAPA, TANROADS, District and Municipal authorities etc) but the land remains under the control of the Commissioner for lands and he/she alone can grant right of occupancy in them.

## **(b) Village land**

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- Villages Lands are defined as lands declared to be village land under, and in accordance with section 4 of the Land Act and includes any transfer land to a village (sect 2 of the Land Act, see also the village Land Act).

## (c) General land

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- Section 2 of the LA defines general land as all public land which is not reserved land or village land and ***it includes un occupied or un used village land***. The village land Act (VLA) No. 5 defines general land as land which is not reserved or village land but does not include any of village land whether occupied or un used. (*what does this imply?*)

# Conceptual Conflicts of interests

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- Sec. 181 of the LA says whenever there is any conflict of interests between LA and other laws then LA translation shall prevail. That means villagers land that is not currently used or occupied is regarded general land? So liable for administration by Commissioner for land? and alienation?
- Second, Pastoralists lands are normally considered un owned and unused because of their use system, so, their grazing land is liable for alienation and or re allocation to other users
- Third, Small holders who use a fallow system for their land to rejuvenate are likely to loose their land too

## **(ii) Ways of accessing land**

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- Clearing un owned/un occupied bush
- Inheritance
- Allocation by village authority or commissioner for land
  - To villagers and non villagers
  - To non citizens
- Gift
- Purchase (transfer of right of occupancy)

### **(iii) Land ownership**

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- There are two ways of land ownership that are **deemed right of occupancy** (customary tenure with or without CCRO and **Granted Right of Occupancy** through title deed

### **3. Land administration system**

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- Land as noted earlier divides into three categories hence its administration falls within different jurisdictions too.
- Village land, which is the main focus for this training is administered by the Village Council which is according to laws establishing them, accountable to the Village Assembly, a meeting of all villagers above 18 years.
- The village assembly is an organ vested with powers to endorse village land allocations

## 4. Village land administration

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### (I) Village certificate

- This is administrative document issued by the registrar of villages (PMORALG) to all registered villages.
- (ii) **Certificate of Village Land (CVL)** this is a certificate that affirms occupation and use of village land by villagers that is issued by order of the president, and confers upon the Village Council the powers of management of village land

# Procedures of issuing CVL

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- Resolution of conflicts if any and survey of village land
- Preparation of VLC by District Land Officer (DLO)
- Signing and sealing of CVL by village leaders
- District Land Officer sends the CVL to Commissioner for Lands for signing
- CVL then sent to District Land Officer for registration and delivery to village leaders

# **Certificate of Customary Rights of Occupancy (CCROs)**

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**(iii) Certificate of Customary rights of Occupancy (CCROs)**, is a document issued by the village Council to individual villagers.

- affirms customary occupation and use of land by owners
- issued in prescribed form signed by the Village Chairperson, VEO and the owner
- signed and sealed by the District land Officer
- issued in triplicate
- can be issued in a prescribed time limit as villagers decide

## **Conditions for CCROs**

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- Occupier remains resident of the village
- Issued for use purposes (occupier will use the land not just for hoarding)
- Occupier pays rent, fees and other dues
- Occupier keep safe boundaries of the land
- Non villages shall pay lease rent

## 5.0 Experiences on the ground

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- Several problems have been noted on the ground regarding administration of village land. First, there is an overlap between Village land and Reserve land and also between village land and Game controlled Areas in village lands with an overlap of jurisdiction
- As result, there are chunks of general land in village lands in the name of defunct farms/estates

## Experiences...

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- Cumbersome procedures. So many forms and steps makes it difficult to implement the law
- Very complex legislation. E.g first is a bulky and difficult to understand for lay people especially in villages, also Village land Councils vs village adjudication committees are almost one and the same in functions

# Experiences ...

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- **Crisis of governance**
- Abuse of powers and functions of Village Assemblies by village councils and higher authorities – VA undermined, confused with mass assemblies, attended by non members
- Lack of accountability ( VC Vs VA) who reports to who?

## **Experiences.....**

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- Interference of village governance by higher authorities I.e unauthorized officials dictating decisions on land e.g DCs, Councilors, D/Secretaries
- General lack of public awareness on land rights land administration and related governance issues

# Experiences...

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## Land related governance problems

- Confusion between village land certificates and the deleted **village land title deeds**
- Weak, non existent/functioning disputes settling institutions
- Corruption, red tapism, etc

# Implications

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- Continuous loss of villagers tenure rights
- Land alienation from local people to either state for investment or to village through allocation to outsiders, I.e powerful elites
- Land scarcity due to inequitable distribution (scarcity in abundance)
- Land and resources based conflicts
- Rural – urban migration (the maasai?)
- Exclusion of local communities in policy/decision making processes regarding their land/resource

# How to secure Villagers rights over land and local resources

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- Mutually reinforcing symbiotic intervention strategies are required I.e policy, technical, administrative etc

## **(a) policy options**

- Due recognition and empowerment of village assemblies as key organs of village governance ...enshrined in the constitution, their decisions made binding
- Harmonization of Policies/laws to iron out overlaps and collision between land law and other laws

## Policy options cont...

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- Decentralization of land administration system (devolution of functions and resources to local authorities)
- Setting up the limits for ownership of land and related resources to ensure socially just and equitable access, ownership and control of such resources
- Revolutionize the policy process ..  
Encourage **participation** Vs consultation

## **(b) Administrative options**

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- Embark on broad based public awareness to enhance villagers' understanding and defense of their rights
- Establish community based land rights advocacy committees/forum. HAKIARDHI's practical experience in Hanang, Kilosa and Mbarali districts
- Protracted engagement with policy and decision making processes through lobbying, advocacy in various ways

## **(c) Technical options**

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- Encourage and facilitate preparation of village land use plans = sustainable village land use
- Encourage and facilitate survey and demarcation of village boundaries = village land certificates = villagers will qualify to secure certificates of customary rights of Occupancy (CCROs)
- Training for transformation (TfT) e.g to assist villagers establish village land councils, ward tribunals etc
- Demystify and popularize favorable policies/laws/strategies etc

## Conclusion

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Village is the only unit where true democracy can prevail only if its residents are allowed to participate in decisions instead of being just consulted or ordered by higher authorities. Ms land rights strategy should aim at **boosting** up local communities **participation** in resource ownership and management

## Conclusion cont...

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- Broad based public **awareness on** policy and legal issues especially **land rights** should be a continuous undertaking of Ms and her partners. This will help to arm people with information and strengthen their capacities

**The end**

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Thank you for listening  
Emanuel Mvula