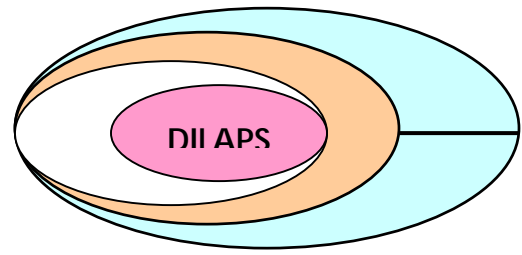


**OVERWHELMING CHALLENGES
ON
LAND ADMINISTRATION
SETTLEMENTS AND
LIVELIHOODS
IN TANZANIA**

Conference Paper



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**OVERWHELMING CHALLENGES
TO LAND ADMINISTRATION,
SETTLEMENTS AND LIVELIHOODS
IN TANZANIA**

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ABSTRACT

The post-independence experience with land administration in Tanzania has been inundated with resource constraints and encumbered with many other problems and challenges against its mandate of land distribution and regulation. At its valley point, around 1990, the nation had to do something remedial and if successful in this endeavour, proceed to consolidate gains of the remedial processes. This soul-searching period is significant and may go into history as the awakening time. It is ushered in by the appointment of the Presidential Commission on Land Matters (PCLM) in 1992.

The awakening was consolidated by participatory processes in which customary landowners and Non-Governmental Organisations (NGO) stood hand in hand with Government in the formulation of a new national land policy in 1995, and the enactment of new land laws in 1999. These milestones are now reaching maturity with the design and mainstreaming of a strategic framework, in an atmosphere that is attracting new levels of resources that have been mobilized from the government and its development partners into the lands sector. The financial advocacy alone is of a magnitude that has never before been experienced by the sector since foreign aid to the sector was withdrawn in the first decade of independent Tanzania.

It is noteworthy that in the drive for enhanced economic growth and focused poverty reduction efforts, the lands and settlements sector has also received due recognition and placed among the frontline socio-economic sectors. This new status has enabled the identification and costing of sector needs and interventions that are, in the foreseeable future, vital to the cause. The roadmap to this recognition was rough and tough and full of challenges to policy implementation, during which period the base for land delivery, that the sector is supposed to hold paramount and enhance, was grossly undermined.

This paper presents the problem forces of the lands and settlements sector in Tanzania during the depression of the lands sector as researched over several years by the author and associates. It is underscored that many of the identified challenges still manifest themselves today in various forms and also that; the backlogs are threatening needed progress and achievements. The researchers agree that challenging forces in the sector fall into four major clusters namely; systemic, exogenous, policy-derived and financial. This paper delves therefore into identifying the individual challenges constituting each cluster. It notes, in generality, that of grave consequences are forces of: improper and regressive mindsets on issues; skewed prioritization of interventions; improper institutional frame; corruption and patronage; self-propelling population dynamics; malpractice and weak capacity; neglecting land use planning, mapping and cadastral processes; and the emancipation for the under-funded activities such land access and housing, both in rural and urban areas.

This paper concludes with a discussion of some of the prime opportunities that have been missed along the rugged path of a depressed sector including: wealth creation; peace and stability among some communities; modernization of agriculture and livestock keeping; provision of a spatial data infrastructure and decision support systems; and the properly siting and situating of village settlements. The author wishes that the challenges of the depression years would remain in the memory of policy makers, land administration officials and stakeholders, so as to inform the present and guide the future of land tenure and land-use in the country, in the quest for better settlements, communities that are free from abject poverty and for a flamboyant land-assisted economy.

PREVIEW OF LANDS SECTOR PERFORMANCE RECORD

A recent publication in the proceedings of the joint conference of the Commonwealth Association of Surveying and land Economy (CASLE) and the African Real Estate Society (AfRES) in Livingstone, Zambia presents the developments of Tanzania's lands sector, since independence from Britain, as a four phase historical process (Mtatifikolo and Lugoe, 2007). The four phases have, for convenience of interpretation and analysis, been categorised as: depression, awakening, consolidation and drive to maturity periods.

The paper in reference dwelt more on the last three. This paper attempts to shed some light on the first of the lot that can, historically, be placed in a twenty-five year period prior to the passing of the national land policy (NLP). The causes and effects of the depression period of the lands sector of Tanzania, unfortunately, still overwhelm land delivery and development.

An Encumbered Sector:

The performance of the lands sector in Tanzania has, over three decades, been marginal. Exogenous, but mostly foreign, forces established and dictated the policy and legal frameworks for a period of about a century (Lugoe, 2007). The paper reveals that at times, the policies and laws regulating the sector were regressively focused on supporting predominantly political ends. Socio-economic goals took a back seat and when considered, the focus remained on foreign interests. Such dispensation prevailed well into independence and lingered-on for another thirty or so years.

The paper argues therefore that a better sector performance was most desirable after it became abundantly clear that the frameworks

regulating the sector were not yielding the kind of results expected by the nation and its people.

Some regressive and undesirable indicators of the post-independence land tenure dispensation include an increase in rural and urban land-use conflicts and tenure disputes in all Regions of Tanzania mainland. The situation could not be salvaged by amendments to existing laws and politically guided policies that spilled into a national outcry in the decade of the 1980s. A totally new land policy, legal mechanism and land delivery strategy was the only way out of the quagmire.

When all this was happening, the land administration system was almost incapacitated and could not pick up the pieces. The depression of the land administration system was itself a depression of the sector. The causes of depression included the level of attention that the lands sector received in economic planning and budgeting considerations. A torque for change was then initiated by the setting-up of the Presidential Commission of Inquiry into Land Matters in 1992.

People Guided Policies:

The Presidential Commission elected to give the land-users a chance to participate in choosing policy options, on land tenure in a series of consultative meetings conducted in 1992, countrywide. The result and momentum of the participatory processes of the inquiry, the commission's report, and the national workshop that ended the processes, have changed the course of land tenure and land administration's history in Tanzania for the better.

It is out of these processes that a framework of a nationally bred and owned land policy,

laws, strategies and programmes have evolved. The framework embodies: (i) the national land policy of 1995, (ii) the new land laws of 1999 and land disputes courts law of 2002, (iii) a national settlements development policy of 2002, (iv) a 10-year national housing development programme of 2002, and (v) a strategic plan for the implementation of the new land laws (SPILL) of 2005. This is the framework that now guides lands sector operations, instead of the old colonial and subsequently patched-up frame.

Developments are also underway to review, amend, harmonise and legislate policy and laws in the sub sectors of the lands sector such as: in mapping, surveys, land-use planning, land registration, human settlements, etc., for better governance within a broader sector framework.

The Legacy Re-iterated:

The legacy of the depression years is summarized, by the national land policy and SPILL, as “the inability of the land ordinance of 1923 to change conditions of land tenure and land use in Tanzania after it attained its independence in 1961”. People’s expectations on land administration as undertaken by the sector are high particularly with regard to: (i) streamlining land delivery; (ii) enhancing the security of land tenure; (iii) encouraging the optimal use of land and its natural resources; and (iv) facilitating a broad based socio-economic development within an ecologically balanced environment.

Further, in the depression years, the lands sector was grossly overburdened by a series of sector and across-sector and national challenges that hindered land management in the interest of economic growth and reduction of poverty. These challenges have, of late, been a subject of scrutiny and analysis by

experts in land administration and land policy analysis. A study of the causative factors to the underperformance of Tanzania’s lands sector, in the years under review, has been undertaken in context of several studies including the public expenditure review (PER) studies undertaken from 2000 to 2005, aimed at informing the medium term expenditure framework (MTEF) and the budgets for the subsequent years.

An extensive study, involving wider stakeholder participation, was done in the context of SPILL formulation in 2004/2005. The study involved consultations in over 60 villages, 15 Districts, 13 Regions covering the three levels of Local Government in all major agro-economic zones of Tanzania. They were also conducted in several Ministries, Departments and Agencies (MDAs) of the central Government and within the civil society organisations. This study has been followed up by a more recent one conducted with a purpose of identifying, analysing and costing sector needs of relevance to the national strategy for growth and reduction of poverty (NSGRP) or MKUKUTA in 2006. These two recent studies agreed with the earlier agreed challenges of the lands sector, for ease of identifying interventions, action plans, solutions and also for planning finance strategy for the identified activities.

The four identifying groups of challenges that are endemic in the lands sector, namely the **systemic, exogenous, policy-derived and financially constrained** are evolutionary, cumulative and regressive in character. Some challenges cut across cluster boundaries but many others are unique to one group each.

SYSTEMIC LANDS SECTOR CHALLENGES ELABORATED:

Like others to be discussed in this paper, systemic challenges have a known origin and effective climate that support their evolution, existence and growth. These are, by and large, born of mindsets of land administration leaders to want to continue with past policies and regulations in administering land delivery and land-use processes, in spite of the out datedness and inapplicability of the old arrangement. The land administration personnel cling on to the “old order” often, under certain pretexts such as skewed understanding of the relationship between public and private interests in land or lack of appropriate education on issues.

Nowhere is this attitude so prevalent as in the administration of village land that is now primarily governed by the Village Land Act No. 5 of 1999 that also includes the Fundamental Principles of the national land policy, NLP, and corresponding regulations and directives. It is increasingly common to encounter decisions made on the basis of villagisation policy and laws that were repealed at the time that the new laws were enacted. The study report of the third public expenditure review process (PER 4) of 2004 contains a long list of such laws. Most notable are the Villages and Ujamaa Villages (Registration, Designation and Administration) Act No. 21 of 1975 and the Regulation of Land Tenure (Established Villages) Act No. 22 of 1992.

Violation of the Fundamental Principles:

There are several areas of land tenure that are encumbered and need focused intervention. Firstly, the national land policy requires land administrators to “recognize land rights for long term land occupation, or use” and that these be secured by law. However, participants to various seminars on land administration have witnessed to cases where land rights have not only been ascertained

but, land has been taken away from customary and other uses without due compensation in the post-NLP era (Lugoe et al, 2004). Often, the occupier or owner of land does not have a choice and objections are ignored.

Secondly, it is well known and acknowledged that land is a scarce resource but, at the same time, one that everyone must, in one way or another, have access to as source of the basic needs of shelter, food and income for all humanity. Land for housing should be facilitated by land acquisition to developers from landowners who are willing to sell or lease out their properties. It is logical to assert that not all people can be landowners and hence mechanisms ought to be put in place aimed at allowing land-use by the landless for the basics of life.

Thirdly, provisions should also allow for a third aspect of sustainable land use, namely; short-term leasing of agricultural lands aimed at putting land to productive use in times of economic or other difficulty confronting the landowner. In this regard, a market in land should not only be facilitated but be allowed to flourish also. Land markets should be regulated to guard against speculation and hence protect the poor against loss of this important asset (Lugoe et al 2005). Moreover, mechanisms should be put in place to enable such short-term leases without landowners losing their land rights or being branded as absentee landlords.

Finally, the road to women’s land rights is still bumpy in spite of pronouncements in the NLP regarding equitable distribution and land access. The male dominant attitudes in traditions and customs, as well as in religious beliefs, are still a part and parcel of the mindsets in land administration policy to date. There are clauses in the village land act for example, that specifically focus on

participation of women in decision making with regard to land administration. A number of critical statements against gender discrimination are provided in the Land Act no. 4, in the context of co-ownership and mortgages (see sections 85, 112, and 161 (2)), which apply to the Village Land Act as well (GoT, 1999a,b). The Village Land Act provides for a representation of women (at least 25%) on the Village Council, at least 4 members of the Village Adjudication Committee and at least 3 on the Village Land Council (dispute settlement) to guard against discrimination in the access to land.

Public Land in Private Domain?

Mindsets of people were grossly confused by the decision to uphold the principle that land vestment in the “sovereign” will continue in independent Tanzania and made “all land in Tanzania to continue as a public good”. Confusion reigned when these were followed up with nationalization of assets and property a few years into independence. To many, particularly those who witnessed the events at the time, public land became understood as communal land meaning also that it belongs to everybody (Lugoe et al, 2004). As a consequence of this misconception, land ownership, occupation and land rights for individual citizens took on a secondary and marginal role when viewed in context of group or community rights. The majority of people now still understand, misguidedly, that public land does not give anyone exclusive rights over any land parcel.

In practice today, and regardless of the new regulatory mechanisms in place, public land is freely being occupied out of consent. Further, it is arbitrarily occupied and used when: (i) there seems to exist no visible alternative land uses, (ii) the land parcel seems to be vacant, or (iii) authorities do not show up to take administrative or legal action against the illegal occupier. This skewed understanding is

a major cause of illegal occupations and use and is hence a cause for untold disputes and conflicts particularly, where a personal need to use land arises. It has been hinted above that land rights include protective rights against alien occupation and trespass, even by authorities that do not carry evidence or granted right to enter land while on government errands. This position ought to be respected by all to minimise untold conflicts and cases of trespass, many of which are ignored by authorities and neglected by law enforcement agencies.

Neglected Instruments for Land Administration:

Systemic Challenges also include poor enforcement of land regulations and control of planned land developments. Land administration systems are duty bound to create registrable land parcels and appropriately deliver the same in accordance with existing rules and regulations. The onus is on the system to assist the growth of legally accepted land markets and consolidate the security of land tenure.

Systemic Challenges manifest themselves in several ways: Firstly, the lacklustre attitude to land administration has led to land scarcity in urban areas and hence has caused people to build in open spaces, hazardous areas, blocking infrastructure. Indifference to procedures causes people to build on or till marginal lands without regulation. Settlements have sprung up as slums, sprawling, unplanned, poorly serviced and hurriedly constructed, as a result of such marginal performances of lands sector institutions. The slums have attracted the urban poor for providing cheap, though not so healthy, lifestyles. Slums are also conducive to the proliferation of social challenges associated with crime, drugs, prostitution, and other forms of lawlessness.

Secondly, there is the issue of unregulated market forces. Properties in irregularly occupied urban lands have marginal values and insecure. They are hard to market because of poor services and accessibility and hence do not contribute much towards sustainable poverty alleviation.

Thirdly, is the issue of marginal security of tenure for the majority of properties in slums, as they are erected on land that was neither acquired nor properly granted by urban authorities. Urban authorities view these properties differently. Some are a subject of demolition, with much loss of wealth to owners and the nation. Some properties are upgraded by introducing services and infrastructure.

In all cases these remedial actions result in people being disadvantaged through physical displacements from their homes. Often remedial actions such as upgrading irregular tenure therein and servicing the land come late. The cost of upgrading slums is often prohibitively high, much higher than going by the book to acquire, plan, survey, service and deliver land. Upgrading also takes its toll on property losses during demolitions, which are inevitable.

EXOGENOUS CHALLENGES:

The lands sector has a particular role to play in the national economy as a distributor of land, guarantor of land rights, solver of disputes and intercessor in land-use conflicts for all land-user sectors, individuals and their businesses. The sector operates alongside others in ensuring a sustainable socio-economic development, good governance and poverty reduction. Being party to a developmental social fabric, it is therefore also party to global, regional and national initiatives that determine economic success

(ESRF, 2006b). Global issues and initiatives such as globalization, poverty eradication, and the environment, among others have to be internalized by the sector as well (UNMP, 2005).

Lands Sector Challenges that are classified as “exogenous” to the sector emanate from forces that have an epicentre outside the lands sector itself or are common to many sectors of the economy. They could also operate in a wider field outside and inside the nation. A sustainable solution to these challenges and issues can therefore be sought for the wider field first, i.e., outside the sector if it is to have a long lasting effect on the lands sector performance. Two national forces that have a profound effect on the Tanzania lands sector are: corruption; and population migration trends.

Corruption:

A major finding of the 1996 Warioba Commission Report (WCR) was the fact that corruption in Tanzania has extended veins in all sectors of the economy, but sectors that offer rare services are more prone to corruption than others. Land delivery and control of land development are two such services of concern. The report was critical on the difficulty of acquiring land by local and foreign investors, both in rural and urban areas.

It is worthy recalling that at the time of the WCR, urban plots had already become a rare commodity in Tanzania for over a decade. The situation with regard to plot delivery in the period immediately after the WCR was reported in the first two Public Expenditure Review Studies of 2000/01 and 2001/02 respectively (GoT, 2001, 2002).

Table: National Production of Plots and Farms; 1996 - 2001

Land Type	Number of Units Surveyed					
	1996/97	1997/98	1998/99	1999/00	2000/01	Total
Urban Plots	10209	6279	5429	10797	8403	41117
Rural and Suburban Farms	397	244	322	355	426	1744

The average number of urban plots surveyed and registered at the time stood at 8,200 for over 120 Towns and as low as 5,400 in a year. As it will be explained shortly, those that were readily available for delivery were less than half these numbers. Please see the entries in the table above. In a nutshell, the plot delivery mechanism had collapsed compared to 12,000 and 22,000 plots in 1969 and 1972 respectively during an all time low capacity and rudimental technology.

Two factors should be pointed out here, so as to elaborate on the performance of urban land delivery at this time in the history of land administration in Tanzania. Firstly, the above tabulated record was obtained from a numerical count of approved surveys. It is noteworthy that the plots shown on approved survey plans were for the whole country and most of these did not constitute new land parcels and were not of benefit to new developers. They were a result of surveys for titling of existing developments such as government and parastatal housing and surveys for residents confronted with demolitions or resettlements from hazardous areas to special schemes such as Kinyerezi in Dar Es Salaam.

Secondly, and as a glaring paradox, is the fact that at this rate of plot delivery, the City of Dar Es Salaam alone was registering about 15,000 new house constructions per year. A good 95% of developers in the City therefore, obtained their land from the alternative market that was flourishing in unacquired,

unplanned, unsurveyed and unserviced urban lands.

It can be inferred here that the many informal settlements in the towns and cities of Tanzania grew at a rapid rate and the scramble for investment in serviced areas was grossly exposed to corrupt practices patronage and rent seeking. To this end, statistics in the development of spontaneous settlements in Dar Es Salaam alone indicate a steady positive growth. In a city of 2,497,940 people, growing at a rate of 4.3% and sprawling at 7% per year, the unplanned and un-serviced areas now constitute 70% of the city. In Dar Es Salaam, such settlements have increased from 16 in 1970, to 43 in 1980, to 55 in the late 1990s and to over 100 today. These are not safe and secure settlements by all standards and their rates of growth are, but alarming.

Lands Sector Anti-Corruption Action Plan:

A National Anti-corruption Strategy and Action Plan were developed by Government in 1999 to reverse the malady across sectors. Sector Ministries drew-up own Plans of Action to give more meaning to the national instrument by directly addressing the scourge that had been labelled as public enemy No. 1 in the national strategy. Specifically, the lands sector An Anti-corruption Action Plan (2001-2002) was prepared by the lands sector Ministry in 2000, to guide the fight against “the use of public office for private gain.” The action plan acknowledged that the major grounds of corruption are: unethical

behaviour in land administration, land delivery, procurement, and confusing regulations directed at an ignorant public. It consisted therefore, of four action areas, namely: (i) delivery of 20,000 new urban plots within a 14 month period in various cities and regional towns of Tanzania; (ii) review and harmonize existing laws and regulation on land use that seemed to be in conflict; (iii) raise awareness and skills whilst providing needed data and information in the delivery of services; and (iv) ensure adherence to procurement regulations and professional ethics among lands sector staff.

The third public expenditure review study report (GoT, 2004) states that in an effort to satisfy the growing demands for plots, the lands sector Ministry in Government applied for a loan of 21 billion shillings in 2002/03 financial year from the Central Government to provide planned, surveyed and serviced urban plots in Boko, Bunju, Goba Mbezi, Kwembe and Kiluvya in Kinondoni; Pugu and Kinyerezi in Ilala; and Kigamboni and Mbagala in the Temeke Municipalities. This has now become known as the 20,000 Plots Project. Land services in this project included substantial infrastructure improvements particularly roads, which have made it easy for plot beneficiaries to access their land parcels. Utility companies were encouraged to provide water, electricity, sewerage and telephones, and the municipalities were to upgrade the roads and the drainage systems to higher standards.

The report states further that implementation of the 20,000 Plots Project in Dar Es salaam is expected to generated the following benefits to the Government as well as individuals: (i) an increase in Government revenue through plot auction, land rents, transfer fees, survey fees, preparation fees, deed plan fees, registration fees and premiums; (ii) Certificates of title deeds

issued enable owners to mortgage their plots and secure loans from financial institutions; (iii) Reducing the un-proportionate expansion of squatter areas in Dar Es Salaam and in other towns where the project is replicated (iv) Reduce environmental negative impact emanating from squatting through land management by land parcel owners; (v) Easy expansion of social services such as schools, health centres, roads, electricity, water, telephone, religious centres and open space for gardens and play grounds; (vii) Construction of houses in delicate and hazardous areas like flood basins and steep areas will be minimized if not totally eliminated; (viii) Plot availability will facilitate construction of houses, hence shelter provision to members of the society that will lead to better health, security and higher productivity; and, of most relevance in this discussion is the fact that, (ix) Corruption related with land delivery activities would be arrested by reducing the gap between supply and demand of plots. It would be of benefit to all to make an audit of the project in terms of these envisaged benefits so as to evaluate the extent at which expectations have been met some seven years down the line.

Rural-Urban Migration:

Migratory trends in Tanzania form a very interesting pattern. The 1978, 1988 and 2002 National censuses of Tanzania indicated that urban population was about 2.3, 4.0 and 7.9 millions, respectively. The censuses indicate also that the urban population increased from 13.3% in 1978 to 17.9 % in 1988 and further to 23.1% by year 2002. It is evidenced by these figures that Tanzania is experiencing rapid urbanization in the same manner as other Sub-Saharan countries and Africa in general.

The big rush is for Dar Es Salaam City whose population has increases ten fold since independence in 1961. The census data for

year 2002 reveals the trend that Dar Es Salaam Region still continues to have positive net migration of 1,131,457 people, followed by Manyara Region (161,251), Tabora (129,965), Arusha (89,295), Rukwa (57,688) and Morogoro (49,990). Other regions that have positive net migration include Mbeya and Kagera. On the other hand, Kilimanjaro, Iringa, Tanga, Dodoma, Kigoma and Mtwara Regions are the six largest losers.

Dar Es Salaam is a primate city, endowed with the best services of any urban centre in Tanzania. As such, living in Dar Es Salaam has become the dream of all who can afford to leave their ancestral homes. To many, it is the only place to earn a living. The development of urban centres in Tanzania, and Dar Es Salaam City in particular, is driven by rural-urban migration that, in turn, is fuelled by the imbalance in lifestyles between rural and urban centres and between regional towns and the Dar Es Salaam City.

This dual migration syndrome has overburdened housing and all other services in the Cities and Towns of Tanzania. Jobs have dwindled fuelled by retrenchments of the same period, in the public service, shutdowns in parastatal organisations and industries as well as marginal finance for the emerging private sector of the novice market economy. Consequently, the population increase is far ahead of what the urban economies can afford, on a narrow tax base and poverty of its taxpayers.

Eastward Population Shift:

On the other side of the process are migrations away from the central plateaux and similar agro-economic zones to the eastern coastal strip (Mtatifikolo, 2004). The unfriendly drought conditions of the past post *el-nino* decade, has favoured migrations to the higher rainfall and into urban centres in the same areas. The net effect has been a

population shift eastwards. Tanzania has a shortfall of natural pastureland and a surplus of arable land. Statistics show that slightly less than 55% of Tanzania land mass is comprised of arable land at 48,710,000 Ha. However, it is only 10.1% of the land surface at 8,970,820 Ha, is under cultivation, implying that over 81.6% of all arable land is not used for farming. The picture being painted by this statistics is that of ***abundance of land as the 81.6% of arable land*** is available for new occupation and use. Further, Tanzania is made up of 61,285,800 Ha of pasture out of which only 35,528,000 Ha is permanent. However, the amount of acreage used for pasture stands at about 44,003,200 Ha or some 71.8% of the non-permanent pasture or 124% of permanent pastureland. These figures also imply that a sizable proportion of grazing is undertaken on 8,475,200 Ha, of non-permanent pasture, that is vulnerable to harsh weather conditions. Pastoralists in such areas have to look elsewhere during drought times.

Population shifts involving pastoralists, moving away from ancestral areas, in search of pasture has been a source of untold land-use conflicts as has been the refugee problem in the northwestern Tanzania. The 2002 census shows that the highest average population growth rate in Tanzania by Region is in Kigoma Region at 4.8% per annum as a consequence of the refugee problem. The obvious refuge for pastoralists is the wetlands in the Usangu and Kilombero valleys and generally, along the coastal strip with a higher rainfall compared to the central plateaux and several river deltas.

In a historical note it is seen that the four coastal urban centres, Dar Es Salaam, Tanga, Lindi and Mtwara alone increased their share of population in Mainland Tanzania from 2.2% in 1957 to 7.4% in 1988. The picture would be more conspicuous if the other minor

settlements on the coastal belt were included, as there is evidence that the growth rates of Kibaha and Bagamoyo in Pwani, Muheza and Korogwe in Tanga, are higher than average.

POLICY-DERIVED LANDS SECTOR CHALLENGES

The professions servicing the lands sector were not deeply rooted in Tanzania's tertiary education system at independence, although that scenario is now changing at a fast pace. Indeed, many years into independence not only were there no indigenous professional land surveyors, physical planners, valuers, photogrammetrists or cartographers, but also there was no University that was easily accessible to Tanzanians at which courses specialized in these disciplines could be offered, in spite of provisions made in the various sub sectoral laws.

The overwhelming capacity problem compelled Ministerial leadership to open up the sub professional programs at an Advanced Diploma level in 1974 on Observation Hill, in Dar Es Salaam and pursued a vigorous capacity building programme for the sector, including posting students in Universities abroad (GoT, 2004). It took many years to graduate students with higher degrees, through scholarships, and only in the decade of the 1980s was it possible for the country to register Doctorates in surveying related disciplines as a real milestone, and only as recent as a decade ago did the other professions follow suit.

Weak Start in Capacity Building:

Most of the senior officers in the lands sector Ministry were of British decent, shortly after independence, and almost all left the country within ten years of independence. The Lands sector operated, for a time, without professionally skilled persons, except for the

few technicians trained under British rule. Consequently, the first few graduates from the University of East Africa, at Nairobi, worked and functioned without experienced supervision upon recruitment. It is on record that many new recruits occupied senior vacant position to fill an apparent vacuum rather than on merit or experience.

Most lacking in the sector, as early as the late 1960s, were skills for project planning that were rarely taught in engineering faculties in the Universities of the time. The occasional use of economic planners was therefore unaided by sector professionals and became irrelevant, as it would have been expected, under the circumstances. The result of such a scenario was that a poor foundation for policy formulation, policy analysis and strategic planning in the lands sector Ministry was set very early in independent Tanzania. It must also be appreciated that poor planning often has a bearing on the relevance of sectoral activities undertaken to facilitate the attainment of goals. If goals are improperly set the performance could certainly be of marginal relevance. In the circumstances, even the goals identified are often not clearly defined due to lack of strategy. *Ad hoc* policies, strategies, and goals often lead to *ad hoc* processes that often lead to poor investment and waste of resources.

Policy derived Challenges in the sector are defined as Challenges that are caused by weakness in policy analysis and strategic planning, inefficiency and stagnation in land administration processes. Policy derived Challenges in the lands sector include underperformance and even stagnation in: (i) land acquisition and valuation, (ii) design of land-use plans and master plans, (iii) preparation of settlement layouts, (iv) cadastral processes, (v) land delivery and registration, (vi) poor enforcement of town planning and building regulations, (vii) poor

capacity building, (viii) skilled manpower retrenchments, (ix) unregulated land markets, (x) weak dispute settlement machinery and (xi) weak enforcement of law and order. This list is long because it emphasizes the pivotal role of appropriate policies in governance.

Ad Hoc Policy Reversals:

The practice in land delivery since the enactment of the Land, Town and Country Planning, Land Registration and the Land Survey Ordinances as the legal framework of the lands sector, has always involved a four-step process. In urban areas land delivery logically starts with acquiring land after exhausting all third party interests and paying requisite compensation to all identified land and property owners. Secondly, physical planning processes in which layout(s), for the acquired lands, are designed in accordance with agreed land-use and settlement patterns. Thirdly, the town-planning (TP) diagrams are transferred to the ground through cadastral surveying processes that, in Tanzania, are based on fixed land parcel boundaries. The end product of cadastral surveying is the replacement, for purposes of land delivery, of the TP Drawing by a registered survey plan and corresponding data and information is archived.

The registered survey plan is a legal instrument and many countries that implement land registration by registration of deeds, use the plan as the final document. Tanzania implements land registration through registration of title framed using deed plans derived from the registered survey plans.

The fourth and final stage is therefore the allocation, through sale, auction or by other agreed method of all the plots in the survey plan as identified by plot numbers thereon and granting land rights to the recipients. The planning authority takes care of open spaces

and recreation or special purpose grounds. Allocation is ascertained by letters of offer and, upon acceptance of the offer and payment of requisite fees, certificates of occupancy (CO) are prepared for land in the general lands. The grant of land rights process is therefore completed.

In Tanzania, the order and logic of these steps were honoured for over a decade into independence. Somehow consequences of abrogating the enumerated steps were not analysed and relayed to policy makers timely and with due clarity. In the 1980s the practice broke down. Some processes were deemed unnecessary, outside professional circles, and hence were circumvented. In particular, and as rural-urban migration increased TP Drawings were prepared for unacquired lands and political authority expected the cadastral surveys to proceed irrespective of whether or not existing rights were exhausted by paying due compensation.

Discussing plot shortages in urban centres, the report on the first public expenditure reviews (GoT, 2001) stated that; “The Surveys and Mapping Division and the private sector do not attribute the (current) cause of plot scarcity to lack of human resources or equipment. ... The agreed reason in the decline is essentially, unavailability of acquired, fully compensated and planned land for cadastral surveying and subsequent delivery to developers.”

Land Delivery in Village Lands:

On the basis of the provisions of section 12 of the VLA, village land is divided into three classes, namely; *individual, communal and vacant* lands (GoT, 1999b).

Individual land is land that is being occupied or used by an individual or family or group of persons under customary law. It includes land held under the deemed right of occupancy.

Such land *is not subject to allocation by the village council* since it is already occupied (Fimbo, 2004).

Communal village land is part of village land, which is occupied and used or available for occupation and use on a community and public basis. This category of land is *not available for grants of customary rights of occupancy or derivative rights*.

Vacant land is land, which may be available for communal or individual occupation and use through allocation by the village council by way of customary right of occupancy or derivative rights such as leases, licences, etc. It was intended that this category of land should be available for allocation to a villager who is a citizen (by way of customary right of occupancy) or to a non-village organization as well as a non-citizen (by way of derivative right). It must be pointed out that the VLA in sections 18 and 22, reserves the customary right of occupancy to citizens and no other persons. So, the power of the village council is limited to grant of derivative rights if the applicant is a non-citizen or non-village organization (ibid.).

The village council appears to have been granted exclusive jurisdiction with regard to the *vacant land* category and villagers as such have no voice on its allocation. The village council can recommend to the Commissioner for Lands for the grant of a right of occupancy in these lands.

Village Land Registration:

Village Land registration is possible for village lands that have been adjudicated. The object of adjudication of interests in land is the determination of persons that they are entitled to customary rights of occupancy, determination of boundaries of the lands in question and recording of those persons in an adjudication record. A final adjudication

record becomes part of the register of village land. In preparing the provisional adjudication record, a village adjudication committee, if it is satisfied that: a person is and has been or his predecessor in title was in peaceable, open and uninterrupted occupation of village land under customary law for not less than twelve years, shall determine that person to be entitled to a customary right of occupancy.

There are numerous challenges associated with land delivery in Villages particularly where the village assembly is not involved. These include that: (i) a weak and relatively poor composition of the village council is pitted against the powerful investors in an environment of big bucks; and (ii) the method of adjudication selected has real weaknesses unless the process is taken as a start of a more rigorous method in a progressive titling scenario. It suffers from human problems such as death, emigration or a change in mind by witnesses to the process. Also, unless the adjoining land parcel owners are always in agreement, cases of shifting evidence have been reported in many areas and could cause conflicts (Lugoe, 2007).

National policies and laws have left this aspect of land administration open to patronage. It is another aspect of land delivery that shows weakness in policy formulation. Many African countries particularly, of the Commonwealth of Nations, have historically defined parcel boundaries using the fixed boundary approach that recognizes and requires the application of surveyed boundaries. Adjudication should proceed to a boundary fixation process by the survey method.

Duality of Land Administration System:

The existing institutional framework is viewed, as far from being optimal for providing sustainable rural and urban land development. At the institutional level, policy

derived Challenges include: (i) those associated with duality of service providers, (ii) non-decentralisation of services, (iii) disharmonious sector laws and (iv) inadequate guarantee of the sanctity of certificated titles.

Land Administration in Tanzania operates under a duality system centralised at the Ministry of Lands, Housing and Human Settlements Development, and in District Land Offices that are under the Prime Minister's Office for Regional Administration and Local Government. The former provides technical leadership and national implementation, the latter – district level operational implementation. There is therefore a need for an efficient institutional linkage of the two in the interest of land administration performance. Such linkage was not carefully thought out at the time of separation of duties and responsibilities.

Decentralisation or devolution of services to be undertaken by the sector Ministry has been talked about with little done on the ground for sometime now. The practice remains that some issues need to be referred to Dar Es Salaam where this could be done in the District if proper policies were put in place.

Discussing the issue of decentralisation, SPILL states (Lugoe et al, 2005a) that operationally, the sector Ministry shall retain the regulatory framework that includes: (i) authority to examine and approve; TP drawings, cadastral surveys, and valuation reports; (ii) signing certificates of title; undertaking title verifications, adjudications, transfers and transmissions; and (iii) keeping copies of land records land-use plans and approved layout designs pertaining to the specific Districts Further, the day to day activities of the lands sector operatives within LGA at District level after decentralisation will be to: (i) establish and maintain framework and thematic data and its use in

land delivery, (ii) preparation of settlement layouts, (iii) undertake valuations, (iv) administering provisions of the land and other sectoral laws, (v) village boundary surveys and (vi) dispute settlements. The nation awaits the implementation of this key strategic provision, which will make the land administration system much easier to access and reduce costs and delays to the land users.

Weak Framework for Guaranteeing the Sanctity of Titles:

The new land laws have called into the open the need to review other existing laws on land matters particularly those pertaining to land administration infrastructure processes – mapping, land registration, surveying, land delivery, valuation, etc., and instituting some where there is a gap. In this undertaking the cadastral system starting at the design of settlement layouts to the issuance of titles, must be reformed and be made flexible and efficient enough as to cope with the demands placed on it by new provisions.

Certificates of Occupancy (CO) offered by the CoL provide evidence that the President has alienated land rights to one of the citizens for a specific piece of land (parcel) to enjoy under conditions of tenure spelled thereon. There follows, therefore, a requirement for absolute guarantee of the sanctity of the granted rights of the registered land so that the CO can instil in the owners a feeling of security against any prejudices, interferences, encroachments, encumbrances and trespasses. They should not, at any time, think that only the courts could guarantee a derivative right. Like any other potential or real breach of individual rights, owners of land rights ought to be saved from any possible breach of their rights by the immediate law enforcement agents, upon call. By the same token, there ought not be any difficulties, including delays and bureaucratic inefficiency, in transferring

such rights upon disposition through any legal form of conveyance.

Uneven Land Services Abound:

Concentration of land development services in certain areas of the country with deficiency in others is another of the policy derived problematic issues to be addressed. For example; (i) land-use planning is concentrated in urban areas; (ii) recent township maps are not available in all towns, (iii) urban maps are updated more often than rural maps and many of which are out of stock in the latter category; (iv) land registries are located at zonal offices but not even at regional headquarters, making them less accessible; (v) most professional private practitioners are concentrated in the cities, with Dar Es Salaam hosting most of the physical planners, valuers, lawyers and land surveyors, followed by Arusha, Dodoma and Moshi, whilst other towns have none; (vi) the practice remains that cadastral surveys, valuation reports and TP Drawings must be approved in Dar Es Salaam and professionals must travel to the capital not only to get such work finalised but in many cases to get projects started, through data search, survey instructions, etc.

There is also a need for a land policy review to firm up the implementation of the Village Land act No. 5 of 1999 that deals with village lands where the majority of Tanzanians live and where every indigenous Tanzanian calls “home”. This law provides a historical reversal of a land administration system that focused on the urban and neglected, on purpose, the rural areas. Many analysts think that it is time that a Division of Village Land Development Services be established in the sector Ministry, headed by a Director, with operating offices and staff in all districts.

Dilemma With Urban Land Services:

Lands that have been allocated for the planning and development of urban centres in

Tanzania are too big to be managed with ease and to be serviced with infrastructure and utilities. It is not uncommon for areas over 1000 square kilometres of urban development being set aside for the smallest of towns such as Sumbawanga. It has been learnt that in search of a municipal status for example, Tabora first sought and received an expansion of its borders to include an additional eight villages at the time. The sheer size of such urban area makes it attractive for the delivery of large chunks of land that are sparsely distributed over the area, to developers most of whom are too poor to complete buildings to acceptable standards. It also pushes the planning authorities to allocate all the land for the sake of safety and security to the dwellers. This increases the infrastructure and utilities (roads sewage, electricity, water, garbage collection) networks and stretches common emergence services (police, ambulances, fire brigades) and other social (schools, hospitals, post offices, banks) services beyond easy access. All this is done in spite of the statement in the NLP that calls for town developments vertically. There is need to publicly debate this policy option so as to arrive at implementable actions.

CHALLENGES TO THE LAND INFORMATION FRAMEWORK

It has been stated earlier that Tanzania’s land delivery system operates on fixed boundaries, which is not possible without a rigorous system for geo-referencing boundary beacons and other land data. Such a system has a myriad of uses across sectors. A few applications are to: (i) support mapping, against which land-use and settlement planning is done, (ii) prepare information records for each and every land parcel for which a certificate of occupancy and certificate of village land are framed, etc., and (iii) facilitate engineering, and other surveys,

mapping, and the creation of spatial data/information and in defence manoeuvres.

Lugoe and Msemakweli (1998) have undertaken a compendium of resources available for spatial information and mapping in Tanzania. Their work reveals that the first available record on network coverage in Tanzania is given by technical circular no.4 on the Surveys and Mapping Division, authorizing the use of 477 triangulation data issued in 1956. In subsequent years, 55 more geo-referencing points were added bringing the 1965 Arc Datum Adjustment results to 532 points. The basic geo-referencing framework of Tanzania is therefore comprised of 532 points including: triangulation and lately, GPS data obtained from three separate campaigns; (i) an international effort for airports under the auspices of the Directorate of Civil Aviation (8 points); (ii) the mapping of the Mwanza Block (40 points); (iii) and the mapping of nine cities projects under the urban sector engineering project, USEP (377 points), with a cumulative total of 957 basic geo-referencing points. These account for one point for an area of about 1,000 square kilometres. The grossly inadequate provision needs a firm policy and resources to address it effectively.

Qualitative Shortfalls in the Geo-referencing Framework of Tanzania:

The suitability of Tanzania's Geo-referencing frame has several times been assessed in context of its wide applications in the country. Firstly, available evidence shows that the Survey Mapping Division has, on several occasions, assessed or commissioned an assessment of the quality of the geo-referencing network and at all occasions could not validate the data. Indeed, SMD has acknowledged that the quality of the network is below practical expectations both in accuracy and consistency. The directorate reported to the 1997 surveyors' conference that;

“The quality (of cadastral surveys) is poor because newly surveyed areas are far away from existing control”.

Secondly, the SMD has never validated any national datum in which its position parameters are published. The current data on the geodetic framework is but provisional and erroneous, as a consequence of this scenario. In the recent topographical mapping of nine cities for example, the contractor found existing points inconsistent with each other in an adjustment and hence used improvisations around the problem.

Neglected Hydrographical Surveying:

One of the three objectives of the medium term expenditure framework (MTEF) of the Ministry of Lands, Housing and Human Settlements developments is stated as “Efficient and Quality Hydrographical (Surveying), Land Surveying and Mapping Services.” It is an objective that cannot be accomplished unless hydrographical surveying is taken aboard. Hydrographical surveys and nautical charting cover seas and lakes in much the same way as land surveying and mapping is to the dry land. Normally, any nation whose jurisdiction extends over water bodies sets up a department for charting the underwater topography or bathymetry against the background of a charting infrastructure that includes: (i) a well determined chart datum; (ii) on-shore geodetic control and elevation reference points that establish the line of position (LOP) and the chart datum; (iii) tide gauges to determine ocean tidal variations and their mean value known as mean sea level (MSL) that constitutes the vertical datum for mapping the dry land; (iv) definition of riparian rights; and (v) future tide predictions as an aid to navigation and coastal engineering. Thus hydrographical surveying enables exploitation of offshore resources, provides for safe ocean navigation and facilitates military strategies, naval operations and manoeuvres.

Tanzania first established the hydrographical and topographical survey section in 1957 that was later transformed into the topographical and geodetic section at the end of the decade. The restructuring was not meant to cease but to streamline the hydrographical operations. The weak capacity that prevailed shortly after independence, as discussed earlier, had a regressive effect on these operations. In April 2001 during the government's restructuring exercise, hydrographical surveying was reinstated and upgraded from a unit to a section in the surveys and mapping division, headed by an Assistant Director. It was therefore expected that financing for the new section would also commence, which has not been done. All advantages for its creation as stated are in abeyance pending firm policy, funding and action.

Outdated Base Maps:

Tanzania has a long-standing national mapping programme (NMP) to avail the nation with all maps shown in the map catalogue. The mapping programme involves mapping processes that will facilitate availability of four types of products, namely: (i) the international map series at 1:1,000,000, 1:250,000 and 1:50,000; (ii) the national series at medium and large scales including township maps, regional and district maps; (iii) thematic maps such as the tourist maps, road maps, and 1:1000,000 map of Kilimanjaro; and (iv) Atlas pages for national atlases. These national mapping needs are documented in the national mapping catalogue.

An expensive component of mapping stems from the need to map the relief that is vital in all water and drainage related projects, projects requiring earthworks, irrigation agriculture, road design and construction, etc. The economic developments that require only a marginal knowledge of the relief such as

aspects of land use planning, physical planning and regularisation of settlements, forestry, agriculture, telecommunications etc, may be done much faster by using imagery from digital aerial photography controlled by the global positioning system (GPS) or by satellite imagery (unrectified). Acquisition of land cover imagery now has to be seen as a part of NMP.

Some of the maps particularly, those in the small and medium scale categories require a national coverage and constant availability and be updated regularly. Few maps in Tanzania meet these quality criteria. The large-scale maps are earmarked for selected areas of rapid development such as urban centres and settlements, where the 1:2,500 scale is relevant. Of particular importance is the 1:50,000 medium scale national cover that has been adopted world wide as base map for economic planning and development. Due to its importance in availing all sectors of the economy with a model of the landscape on which to plan and design various economic and engineering activities, the national base map need always to be in print and be updated at most after 8 years i.e. 1/8 of the territory to be photographed and mapped every year.

Other Challenges include: (i) the decay of existing maps; (ii) delays in the production of maps for areas already photographed resulting in the production of already decayed maps; (iii) maps being consistently out of print for lack new editions and (iv) breaking down of the antiquated map printing equipment.

The Unknown Landscape:

Challenges in base mapping are of several types, namely: (i) There are unmapped gaps whose only remedy is a mapping through all the activities of aerial photography, photographic control, machine plotting, cartographic processes and map production; (ii) Some existing map sheets are only

provisional, particularly in the Coast and Morogoro Blocks, which require new mapping and compilation; and (iii) Some maps are so old that units thereon are still imperial. The national 1:50,000 base map series for Tanzania consists of 1265 map sheets compiled from aerial photographs. However, only 1255 sheets have ever been mapped. There are 14 provisional sheets of the Tanganyika series in the northeast and, another approximately 12500 square kilometre of landscape has never been mapped, though photographed. The latter consists of the 8 map sheets of Kiomboi area in Singida Region and 2 sheets in Kagera Region. A unique phenomenon to Tanzania is the out datedness of nearly all maps published prior to the villagisation of the country in early 1970s, due to age and re-situating of resettlements. The present location of these villages, the infrastructure between them, corresponding changes in land-use patterns are therefore not mapped to date, except in the Mwanza-Geita block. This is an issue of great concern particularly, to land-use planning, rural development and must be closely examined also in context of national rural development strategy (RDS) and the agricultural sector development strategy (ASDS).

National Urban Mapping Programme Lags Behind Needs:

The mapping of townships is the subject of the national urban mapping programme (NUMP) that aims at providing and updating maps in major settlements of the country. Some 104 townships are included in the NUMP and are mapped at scales 1:2500 in colour, when resources permit. Most recent maps in this series are monochrome and therefore leave much to be desired.

Of note also is that only a few of the townships have maps compiled from aerial photographs that are less than 8 years old. The

rate of map production is very slow and, at this rate of production the map revision exercise will lag far behind the decay deadline. Resources must be made available to change this scenario so as to revise the township maps in 5-year cycles. This requires constant aerial photography and subsequent operations at a rate of 21 townships per year if mapping is to be in tune with national development. A case in point is the situation is Dar Es Salaam in which most suburbs located over 10 kilometres from the central business district are not displayed on any of the 1:2500 map sheets of the City.

Structural Challenges in Cadastral Processes:

Section 22 (c) of the Land Act No.4 of 1999 sets as a condition that: *“a granted right of occupancy shall be of land that has been surveyed.”* Further, section 22 (d) continues that; *“a granted right of occupancy shall be required to be registered under the Land Registration Ordinance,”* In turn section 88 (i) of the Land Registration Ordinance reiterates the provision of section 22 (c) of the Land Act stating that; *“no estate shall be registered and no parcel shall be divided on a disposition, transmission or mutation except in accordance with an approved survey plan”*

In short, no survey, no grant and registration of a right of occupancy. The land delivery processes must provide for cadastral surveys of land to be expedited on demand and land earmarked for delivery should be surveyed way ahead of demand. Annual reports of the surveys and mapping division in the 1950s and 1960s often carried a statement that *“Most of the demands for ... plots were promptly met ... the division’s policy being to deal with requests promptly so as not to delay development projects.”* The only way that such policy can be brought on stream today is

to provide more surveyed land parcels than the demand.

Land administrators continue to agree that the biggest impediment or blockage in the land delivery chain is inadequacy of compensation funds. There are however other serious structural bottlenecks, which continue to be handicaps to the cadastral survey system. These are; (i) absence of clear objectives of the cadastral system; and (ii) stagnant and unproductive operational procedures.

Each and every cadastral system, the world over, has defined objectives and goals. The cadastral system of Tanzania has, by tradition, been mostly *legal or juridical*. It is concerned with granting rights. A legal cadastre guarantees security of tenure against fraud and trespass. Other benefits include certainty of ownership, reduction in land disputes enhancing social stability, improved conveyance and transfer of land rights.

There is need to look at the other part of a cadastral system – *the fiscal cadastre*. This is a register of land records containing information on the value of each parcel and the tax due on it. Taxes collected range from an assessment of the productive capacity of land (land tax) to the taxation of improvements on land (property tax). Over the years, land in Tanzania has not been a basis of a comprehensive taxation and revenue accruing from the land has been dismal. During colonial times and post independence years land based tax was seen as oppressive to the peasantry who work the land. Under socialist economics even the need for a legal cadastre was seen as unnecessary. A change in Government thinking and policy to embrace market economics has called for real change in land policy.

Viewed in the context of financing the sector, SPILL has advocated that a special fund that

draws out of the land be established. The sources of finance will be in a form of land-user fees levied against each hectare of land that is granted either through specific legislation or provisions in laws. In this regard, it is expected that the following will be contributors to the fund: planning areas; road, railway and rural airport corridors; forests; national parks; other conservation areas; game protected areas; villages; farms and agricultural estates. A flamboyant infrastructure should produce more titles and thus increase revenue to the government.

The Multipurpose Cadastral System:

A purely legal cadastre is not a progressive one for Tanzania. It must be combined with a fiscal cadastre to generate needed revenue for the economy. A multipurpose cadastral system is a combination of a legal and fiscal cadastre when each of the latter systems is parcel based and adequately and uniquely geo-referenced". The lands sector Ministry has set its vision for 2025 as "to have an excellent delivery of land development services and a multipurpose cadastral information system for sustainable development". It is high time therefore that the spirit of Ministerial Vision 2025 was realised.

The measures involve reforms to the system in such a way as, not only to satisfy the demand for survey products, including urban plots, but to also rekindle hope in the formal system of land delivery for better human settlements and higher revenue to the economy.

Sector Decries Inefficiency in Cadastral Surveys:

Coming back to the issue of efficiency of cadastral surveys, it is important to review the entire process of survey instructions and examination of surveys. Several months' delays in approval of cadastral surveys are

regressive to the cause. The following need to be revamped: (i) **Survey Instructions:** The three-tire-system of survey instructions in which all three divisions are involved can be reduced to a one step procedure if there can be an agreement on clear regulations on the matter to be administered by one division. After all, the end ought to be the same whoever he administrator of the regulations is and the work is almost entirely of a clerical rather than professional nature. (ii) **Inefficiency in Approval of Surveys:** The issue of speeding up the examination of surveys must be revisited. This is a “catch 22” situation. The SMD is now inundated with more surveys for examination than ever before, yet the gross number of new surveyed land parcels and particularly urban plots, is at an all time low. Prior to the 20,000 Plots project, plot scarcity was explained, partly, by the chaos associated with lack of acquired (fully compensated) land for development. The work done by licensed surveyors has increased as individual persons and businesses continue to seek land for or seek title to land. The examination section at SMD is ever getting busier. (iii) **Enhance Private Sector Participation:** Cadastral Survey output from surveyors is, on the average, decreasing and should so continue to be unless the system focuses on process management. There are an average of 85 small jobs received monthly (in 2000) each of which requires almost as much examination time. Hence, directives of the chief surveyor to lower level operatives on efficiency have gone without favourable response. It is not uncommon for an examination process to take 6 – 12 months, even more, against the 2 weeks mentioned in directives. As stated earlier, most of the survey jobs are a product of the private licensed surveyors. A viable solution is simply to find a way that will make the licensed surveyors accountable for their products, through a transformation from

examination to quality control of surveys, as is being done in most countries.

Challenges to National Spatial Data Infrastructure (NSDI) Development:

More recent data sets of relevance to the SDI initiative in Tanzania have been derived from research and donor funded projects. Their standards and reference systems are as varied as the researchers and donors themselves. It is obvious that there has been duplication of efforts in collecting SD among various data providers and users in Tanzania, which in turn imply wasteful of scarce financial resources and possible inconsistencies.

In Tanzania, the usual way to find out which organizations have some needed data is by visiting the respective offices. There is so much information amongst the various spatial data producers but no structured ways to keep track of where, how and what is available exist. Thus this establishment will serve time resource that is usually lost in the course of searching the appropriate place for finding applicable data for the activity in hand. (Lugoe and Yanda, 2007)

The need for the establishment of national SDI is also crucial currently due to its potential benefits to the local communities. There are main public interests and activities that are performed nationally but are implemented locally and thus affect the communities in various ways. These include community protection; census; health planning in terms of services catchment areas; community services including education, employment, recreation and tourism; transportation including routs; Agriculture including crop and feed management, yield planning and forecasting, weather and rainfall, and soil / land management; and in mineral resources covering mineral extraction, exploration, mining leases and geology. The establishment of National SDI

will also encourage the increasing of community participation in the discussions of these pertinent issues due to readily availability of appropriate data (ibid.).

Coping with all the above-mentioned SDI constraints and, more importantly, the increased demand for cross policies it is time for Tanzania to reconsider and endorse the effective establishment and management of the national SDI. Additionally, the use of SDI in decision making and in the implementation of national and sectoral policies in the country should be emphasized as the nation strives to attain sustainable development and reducing poverty levels amongst her people. Sustainable development and economic decision making requires spatial or geo-referenced information.

SDI can support decision-making for Sustainable Development. The challenge of balancing competing tensions of meeting the current needs without compromising the ability of future generations to meet their own needs in decision-making requires access to accurate and relevant information in a readily interactive form (ibid.).

FINANCIAL CONSTRAINTS

The lands sector experienced serious financial difficulties in the past forty years in spite of more demands that were placed on its services during the same time. It is unimaginable how a country could embark upon a grandiose project such as villagisation without the right maps and the right land-use plans for the whole country.

Inadequacies in the Financial Framework:

By financial constraint it is to be understood gross under-funding of sector initiatives and activities, even when the objectives at which the activities are directed are well known and the use of resources are well understood.

Under-funding and under-investment severely hamper performance and efficiency particularly, as it pertains to the custody of land records, procurement of topographical mapping, land-use planning and cadastral surveying services as well as the acquisition of working tools for GIS, LIS and equipment for surveys, mapping, physical planning, record keeping and information dissemination. In Tanzania, these imported tools of labour are obtained with difficulty. The lands sector has had a record collection in revenue over a number of years now, but there has not been a corresponding level of ploughing back into the system to substantially ease this situation in the public sector particularly in District offices. Land use planning, for example, is hampered by the absence of current land cover and topographical maps and the same is true in planning settlement layouts. Where the latter has been accomplished on old aerial photography or maps, the exercise of transferring the designs to the ground has been cumbersome, expensive, inefficient and time consuming as most layouts do not adequately tally with ground truth. Paradoxically, the 20,000 Plots project that operates on a revolving fund at cost recovery policy is proving to be a great success. Why can't other products be delivered under the same or modified form or similar policy?

Housing Finance Withdrawn:

The issue of housing finance remains of great concern, as most urban dwellers cannot afford to build on cash. The absence of mortgage finance has slowed down the provision of houses for residences and businesses on one hand and has forced many urban dwellers into an unenviable state of living in semi-finished houses, countrywide. Office blocks stand abandoned by contractors with little hope of being completed in the foreseeable future.

Local developers are concerned for lack of this important instrument to housing that is also retarding the growth of the real estate business and housing markets. In 2002 the Housing and Human Settlement Development Division responded by setting up a committee comprised also of members from the Ministry of Finance to work out modalities of setting up an instrument for housing finance. One recalls that Tanzania has been without such instrument since the Tanzania Housing Bank died a natural death in 1995. The committee viewed all options possible from the public sector point of view and failed to find a way out except to suggest that banks be encouraged to open windows for this purpose. Such suggestion is another admission of running out of options. One is mindful of the role of private banks in the country and that mortgage finance is a highly risky business to them. The human settlements development function of the lands sector could therefore, remain under this handicap for the foreseeable future.

Long-term Suspension of Sector Activities:

The historical development of the sector reveals that many of the basic and expensive needs of the sector were neglected as a consequence of budgetary squeeze and absence of development partners. Corresponding interventions that were suspended very early in independent Tanzania include: (i) development of National, Regional and District framework Land-use Plans; (ii) small scale map revision and medium scale mapping; (iii) revision and development of the national geo-referencing framework; (iv) delivery of planned, surveyed and serviced plots commensurate with the demand; (v) due redress of the proliferation of irregular settlements; and unplanned urban sprawls.

Perhaps the biggest loser in the suspended activities has been land delivery and land-use

planning that has been compelled to operate without its handy tools namely, base maps. In a workshop on the land policy, in Arusha in 1991, it was noted that the lack of up to date land information for the rural areas is catastrophic. An example was cited of Dirma village in Arusha Region, where a prepared land use map was found to be incompatible with the ground situation for lack of base maps. In mapping the existing land use on the land use map, "all settlement areas (*vitongoji*) except the village centres were misplaced by as much as four kilometres. In addition 3,000 acres of farmland were shown when it was believed to have only 1000 acres." Land use maps prepared using a combination of satellite imagery and existing base maps would not be misleading, but could not be obtained for lack of funds.

Is the Future any Better?

Challenges in sector financing are responsible for the continuing omissions of many activities and interventions from the Ministerial Budgets. Non-traditional activities that are deemed important in addressing national poverty reduction measures cannot be easily included. It is not possible now to find many sector needs listed in the MTEF costing matrices due to low budget ceilings that are set each year on the basis of previous budgets and the overall national budget envelope, even as recent and periodic national proclamations continue to point to the lands sector as a "core sector" in national development efforts and poverty reduction strategies.

A comprehensive costing of lands sector needs performed recently show that an average of 30 billion shillings are required annually for the next ten years if the sector is to provide normal services to the economy and address poverty reduction as expected. Many needs constitute one-time and lifetime expenses. The frameworks for geo-

referencing, mapping, land-use planning, once completed, need regular maintenance that is relatively cheaper, whilst some services such as the land delivery chain (physical planning, property adjudication, cadastral surveying, valuation, development control and titling) are capable of cost recovery with a possibility of making profit for revenue generation.

LAND BASED CHALLENGES AND MISSED OPPORTUNITIES

Impediments on Policy Implementation Across Sectors:

It has been shown that land-based challenges are many in number and include: (i) an old mindset on a modern land dispensation as discussed earlier. The general lack of awareness among many actors, particularly at the village and district levels, regarding the history of reforms in the country and achievements accomplished in land regulation; (ii) Lack of will to address obvious trespass and encroachment as provided for in the laws. These challenges result in inaction. The roaming of the countryside by some pastoralists with little regard to existing land rights is a case to consider. Also inaction to protect loss of crops and livestock against theft is fuelled by this lack of will to act; (iii) Poor enforcement of rules and regulations manifests itself in the preferred mode of top-down planning rather than the participatory. Also the, low capacity for development control that has left open spaces and way leaves prone to invasion is considered, as is an increase in land-use conflicts and disputes both in rural and urban areas; and (iv) A face value guarantee for land titles that manifests itself in law enforcement agents, particularly the police, not intervening directly in incidences of criminal trespass. Land administrators encourage court action rather than executive action that could offer

quick solutions particularly, when land titles are openly questioned.

Other challenges include: (i) Massive growth of irregular settlements. There are housing constructions springing up in unplanned, unsurveyed and unserviced areas of most urban areas including settlement in hazardous lands as well as open spaces and way leaves or for recreation and public land-use; (ii) land administration authority is far detached from land users and a call is therefore to decentralize down to the Districts so as to also give easy and prompt access to records, maintained at headquarters in Dar Es Salaam, and to the various authorizations stated in law; (iii) Land administration system is part of Government that operates a dual system of services, i.e. in the lands sector Ministry and in local government. The latter often undertakes land delivery activities in a relatively weak institutional framework; (iv) The New Land Laws and supporting sub sector laws are not always in sync with other sectoral laws on minerals, water, agriculture, infrastructure developments, etc and need to be harmonized, bearing in mind the primacy of the former; (v) The market in land is not regulated and still operates as an informal activity. The wide spread sale of land without a framework to guide such sales and protecting the vulnerable, including regulation of real estate agents and making provision for leasing agricultural lands; (vi) continuing patronage and corruption in the procurement and delivery of services.

The Challenges cited in preceding discussions have infringed upon land distribution and access opportunities, which are major interventions of the sector. The Challenges have also denied due security of tenure and conversely, unleashed disputes and conflicts upon holders of land rights and users which have obstructed opportunities for economic growth and reduction of poverty both at micro

and macro levels. Settlements in the country are not planned for optimal land use that could be expensive to remedy in the future.

The Wealth Embedded in Properly Administered Land:

A missed opportunity has been on ignorance to realize the fact that land is not only a source of wealth for all who invest in it but is itself wealth if properly exploited. Secure land rights provide a sense of belonging to the land that in turn enables the owners to conserve and manage the land productively. An excerpt in the National Geographic Society (NGS) magazine no.4 of 1998 is worth quoting here: *“fifty years ago ... an acre planted in onions would produce about 200 sacks per acre ... of yellow onions. When we got that up to 350 sacks per acre, we thought we were the hottest thing in farming. Today if we can't produce 800 sacks per acre, we can't compete with the guy down the road”* - a foursome yield increase. Imagine what a 400% increase in incomes of rural people would do to the living conditions of rural poor at the poverty line, their families, and the country side from land that is well cared for! Can land rights be so secured as to encourage this kind of investment in Tanzania by Tanzanians?

Guaranteeing Tenure Security Enhances Peace and Stability:

There are also opportunities for a long lasting peace that would be created by instilling proper education in the people on respecting registered lands and properties thereon. This is a lesson for every law-abiding citizen to learn. The issue of land boundaries and land rights, defined within them, should have been part and parcel of civic education in schools and to all law enforcement agencies. Much destruction to property, through overgrazing, would be avoided, as would be ensuing commotions among peoples. A case in point is the dispute among villages of Usa River vs. Imbaseli; Imbaseli vs. Nkwaranga, Imbaseli

vs. Ngwalekoli regarding an Estate in Poli Division along Usa-Momela Road and its apportioning to the various villages reported to the author in 2004. A primary school located on the farm had to be abandoned by the nearby village out of threats made by disputing parties.

Investment in Agriculture Has Economic Advantages to Surrounding Populations:

Investment in large-scale farming creates jobs to those who cannot afford capital for farming on their own; through wage employment as have been for many years on sisal, coffee and tea plantations. There is also the ripple effect to smallholder agriculturalists that make use of opportunities created by large farms as evidenced on cane sugar, tea and coffee farming on lands surrounding processing plants. Though not directly employed by the plantations, the smallholder agriculturalists make use of a ready market created for them by large farms. There is also evidence of increased opportunities for microfinance accessed by these agriculturalists that would have not been made available had the private plantations not invested among them. Financing and lending institutions increase their businesses, which progressively increase with availability of collateral when the farms are issued with certificates of title.

Sector Products Enable Decision Support Systems:

Missed opportunities exist across sectors as linkages and synergies weaken with diminished services from the lands sector. Lands Sector products include geo-referencing information in the form of spatial data and maps. These products constitute data and information that is an indispensable decision support system. It is integrated with socio-economic data to enhance decision-making in development planning. It is particularly handy to the design and implementation of various engineering

projects, defence preparedness, tourism, etc. One area that is almost void of such data in Tanzania is Kiomboi District through which passes the Singida-Shelui section of the Singida-Nzega Road that is now under construction. Preparations for construction work, financed by the World Bank, started in 1992 but the design could not be agreed upon until 2004 – a 12-year period. Investigations carried out in 2002 unveiled gross error in the data that was used by the designer as obtained from the data custodians at the Surveys and Mapping Division. Further, there was no ground reference to check on the errors at the time because the area has no base maps. All data had to be generated on site at a great cost to the project.

Under-funding Lands Projects Adversely Affects Other Projects:

When the programme for the survey of villages was initiated in the Southern Regions and elsewhere, it relied on existing outdated aerial photographs, as technology was not availed to the project because of financial constraints. The work done to survey 2,828 villages was declared to be below standard and hence was to be repeated. Financing was assured only when villages in eleven out of the then 20 Regions in the project was placed under the Forest Resources Management Project (FRMP). The village survey programme was tremendously accelerated by the acquisition of the Global Positioning System (GPS) technology, and as such it is envisaged that by end of 2007 all 10,500 villages in the country will have been surveyed. Recalling that village surveys are a prerequisite to issuance of Certificates of Village Lands, which are a condition precedent to individualised titling within the village, financing for appropriate technology translates into certificates of village lands and into opportunities to enjoy customary land rights in these lands. It has been reported that villagers availed with certificates of

customary rights of occupancy are now accessing credit in financing institutions and are able to meaningfully invest in land development.

Planned Siting and Situating of Villages:

The location of villages during the villagisation programme could have benefited abundantly if a national land-use mapping, aimed at identifying optimal areas that are endowed with characteristics conducive to village livelihoods, was undertaken as a condition precedent. This opportunity was lost and, for some villages, it might be lost forever due to high costs of relocations. In the planning of rural settlements, it is important to pay attention to the siting and situating of the villages, aided by appropriate tools particularly the base maps that should be supplemented by geological, soil and land cover maps.

Good siting of settlements involves an assessment of the land in terms of its soils, vegetation, topography, relief, geographical location and orientation. It is not uncommon to find Tanzania villages, particularly in the Kilombero valley, occupying the best agricultural soils and sometimes, surrounded by less fertile ones. A settlement situation is its position with respect to surrounding areas and other settlements from which it could benefit economically through infrastructural links. Again, it is not uncommon to find villages that cannot be accessed easily and often, in lack of vital supplies and services especially, during rains. Although this situation can be remedied, it is often at a great expense, like providing basic services (water, schools, dispensaries, roads, police posts, post offices, etc) where these could have been shared with neighbouring villages. An alternative to providing services is to relocate. But, often many a village are less facilitated and hence disadvantaged as a result.

Planned Settlements Avoid Many Land-Use Conflicts:

Of greater worry are opportunities missed in linking the sites and situations to means of livelihoods. Semi-dry areas are better suited to pastoralism than agriculture - occupations, which have been practiced as part of traditions and would not part with them in spite of unfriendly geographical and environmental condition. In essence, this has also been a missed opportunity that has led to conflicts between agriculturalists and pastoralists, in the past two decades. As agriculturalists increase their activities for want of more income and as a result of their population growth, pastoralists move outward to better pasture and as a result their herds increase wanting more land that is not available after being infringed upon by farmers. Pastoralists then start moving and in the process tramp upon crops and occupy non-ancestral lands irrespective of existing land rights.

Bibliography:

1. Blachut, T. J. (1988). *A Study of the Present Conditions of "Cadastral" Operations in a Number of Countries in Eastern and Southern Africa Sub-region and Recommendations for the establishment of a future-Oriented, Functional, Multipurpose Cadastre as a Basis of a General Land Information System*. Ottawa.
2. Dale, P. F. and McLaughlin, J. (1999). *Land Administration*. Oxford University Press. Oxford.
3. Economic Commission for Africa (ECA, 2001). *The Future Orientation of Geo-information Activities in Africa – A Position Paper*. UN-ECA, Addis Ababa.
4. ESRF (2006a). *Needs Assessment and Costing for Implementation of MKUKUTA in Tanzania: Summary of Findings from the Agriculture, Water, Health, Roads and Energy Sectors*. Ministry of Planning, Economy and Empowerment. Dar Es Salaam.
5. ESRF (2006b). *Synergies and Crosscutting Issues in Sector MKUKUTA Costing*. Paper Presented at National Dissemination Workshop on Sector Needs and MKUKUTA-based Costing, 12th & 13th December 2006, Giraffe Hotel, Dar Es Salaam.
6. FIG in Co-operation with the United Nations (FIG, 2002). *The Nairobi Statement on Spatial Information for Sustainable Development*. Copenhagen
7. Fimbo, G. M. (2004) “*Land Law Reforms in Tanzania*.” Lecture Delivered in Commemoration of 60th Birthday” University of Dar Es Salaam.
8. GoT (1995). *National Land Policy*. Ministry of Lands, Housing and Urban Development. Dar Es Salaam.
9. GoT (2000). *Human Settlements Development Policy*. MLHHS. DSM.
10. GoT (2001) “Report on the Public Expenditure Review Study for the Lands Sector 2000/01”. MLHHS. DSM.
11. GoT (2002) “Report on the Public Expenditure Review Study for the Lands Sector 2001/02”. MLHHS. Dar Es Salaam.
12. GoT (2004) “Report on the Public Expenditure Review Study for the Lands Sector 2003/04”. MLHHS. D’ Salaam.
13. Government of Tanzania (GoT, 1999). *Land Act No. 4 of 1999*. Government Printer, Dar Es Salaam.
14. Government of Tanzania (GoT, 1999). *Village Land Act No. 5 of (1999)*. Government Printer, Dar Es Salaam.
15. Government of Tanzania. (GoT, 2002). *The Land Disputes Courts Act No. 2 of 2002*. Government Printer. Dar Es Salaam.
16. Government of Tanzania. (GoT, 2005). *National Strategy for Growth and Reduction of Poverty (NSGRP)*. Vice President’s Office. Dar Es Salaam.
17. IST, (2001). *Agenda 2025 – A 15-Point Agenda of the Institution of Surveyors of Tanzania for the year 2025*. Institution of Surveyors of Tanzania AGM and Symposium. Dar Es Salaam.
18. Lugoe, F. N. (1996). “*Tanzania Re-examines its Policies on Land*”. Surveying

- World – The Journal for Land, Engineering and Hydrographical Survey. Vol. 4, Issue 3.
19. Lugoe, F. N. (2006). *Reforms in Land Administration to Pioneer Developments and Poverty Reduction in Tanzania*. Proceedings, AFRICA Region CASLE Conference on Sustainable Land Management in Africa. AFRES Award winning Paper, Bagamoyo. Tanzania, March 2006.
 20. Lugoe, F. N. (2007). “Focal Issues in Land Policy Reform Agenda – Inputs Based on Tanzania’s Experience”. Proceedings, CASLE Conference on Sustainable Human Settlements for Economic and Social Development. Livingstone, Zambia.
 21. Lugoe, F. N. and C. K. Msemakweli (1998). “The Status of the Survey and Mapping Frame in Tanzania and How it Affects Land Management”. The Journal of Building and Land Management, Vol. 5, No. 3. Dar Es Salaam
 22. Lugoe, F. N., F. P. Mtatifikolo and T. Ostberg (2005). “*Strategic Plan for the Implementation of the Land Laws (SPILL)*”. Main Consultancy Report, MLHHS, Dar Es Salaam.
 23. Lugoe, F. N., F. P. Mtatifikolo and T. Ostberg (2005). *Investment Plan for SPILL*. Final Report for SPILL, MLHHS. Dar Es Salaam, 2005.
 24. Lugoe, F. N., S. M. Mbyopyo, T. Kapinga (2004). Draft Consultative Meetings Report (Part 2). Benchmark Report in the Preparation of SPILL. MLHHS. DSM.
 25. Lugoe, F. N. and P. Yanda (2007). Draft National Spatial Data Infrastructure (NSDI) Policy for Tanzania. NSDI Steering Committee, Dar Es Salaam.
 26. Mtatifikolo, F. P. (2004). “Population Dynamics and Socio-economic Development - Analysis of the Regional Dimension in Tanzania” Economics Department and Demographic Unit. UDSM.
 27. Mtatifikolo, F. P. and F. N. Lugoe (2006). *Alignment of Sector Policies/Strategies with MKUKUTA, PER/MTEF and JAS (T) and Costing of Proposed Interventions in the Lands Sector*. Phase Two Report submitted to ESRF/UNDP. Dar Es Salaam.
 28. Mtatifikolo, F. P. and F. N. Lugoe (2006). ‘*Needs Assessment and Costing for the Implementation of MKUKUTA in Tanzania (Case Study of the Lands Sector)*’. Final Report Submitted to ESRF/UNDP. Dar Es Salaam.
 29. Mtatifikolo, F. P. and F. N. Lugoe (2007). “Activity Needs of the Lands Sector in Tanzania”. Proceedings, CASLE Conference on Sustainable Human Settlements for Economic and Social Development. Livingstone, Zambia.
 30. Mung’ong’o, C. and D. Mwamfupe (2003). “Poverty and Changing Livelihoods of Migrant Maasai Pastoralists in Morogoro and Kilosa Districts of Tanzania”. Research Report No.03.5, REPOA. Mkuki and Nyota Publishers. Dar Es Salaam.
 31. The UN Millennium Project (UNMP, 2005). *Preparing National Strategies to Achieve the MDGs: A Handbook* at info@unmillenniumproject.org
 32. The United Republic of Tanzania (URT, 2000). *Poverty Reduction Strategy Paper (PRSP)*. Government Printers. Dar Es Salaam.
 33. The United Republic of Tanzania. (URT, 1999). *The Tanzania Development Vision 2025*. President’s Office, Planning Commission. Dar Es Salaam.
 34. Tropical Research and Development (TRD, 1995). *Cadastral Operational, Equipment, and Needs Assessment for Tanzania*. Florida. USA.
 35. World Bank (1992). *Empowering Villages to Manage Their Natural Resources: Rural Land Policy in Tanzania*. White Cover Paper, Washington.
 36. World Bank (2003). “Land Policies for Growth and Poverty Reduction - A World Bank Policy Research Report.” Oxford University Press.