

An Evaluation of the Land Laws in Tanzania

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ABSTRACT

The purpose of the thesis is to evaluate the recently adopted land laws in Tanzania and their efficiency within the agricultural sector. In order to evaluate this, the authors have used institutional theory combined with property rights discussions. In 1999 two new pieces of land legislation passed the Tanzanian parliament and in May 2001 they came into force; *the Land Act*, dealing in with general—inclusive of urban land—and reserved land, and *the Village Land Act*, dealing with village land. Before that, the Land Ordinance, which had been issued by the British 1923, has been the basic land law. The authors have compared the land laws in Tanzania with land laws in other developing countries in east Africa. The land laws have not succeeded in reaching out to the people in the rural areas as well as they have reached the urban areas. The conclusion of the thesis is that the land laws are good tools for the distribution of land in Tanzania, even if it is not completely efficient today.

SAMMANFATTNING

Syftet med uppsatsen är att utvärdera de nya landlagarna i Tanzania och dess effektivitet inom jordbrukssektorn. För denna utvärdering har äganderättsresonemang tillsammans med institutionell teori använts. År 1999 antogs två nya landlagar av Tanzanias parlament och i maj 2001 började de användas; *the Land Act*, som behandlar de generella frågorna—inklusive marken i de tätbefolkade områdena—och naturreservaten. *The Village Land Act*, behandlar marken på landsbyggden. Innan dessa lagar kom till var *the Land Ordinance*, som hade utformats av Britterna, den grundläggande lagen. För att utvärdera Tanzanias landlagar har författarna gjort jämförelser med landlagar i andra u-länder i östra Afrika. Landlagarnas innebörd har inte lyckats nå ut till folket på landsbyggden i samma utsträckning som dem har nått de mer tätbebyggda områdena. Slutsatsen av arbetet är att landlagarna är ett bra instrument för fördelning av land i Tanzania, även om det inte fungerar helt effektivt i dagsläget.

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Chapter 1

INTRODUCTION

1.1 Background

The definition of property rights is that the distinction between human rights and property rights is artificial and serves no purpose. The right to travel, the right to be protected from unlawful search, and the right to owning assets are all examples of specifying the norms of behaviour with respect to scarce goods that each individual must observe in the interaction with other individuals or bear the cost of non-observance. All of these are property rights. If property rights are a major factor affecting economic behaviour, the process of making and changing property rights is an important circumstance upon which that factor depends. Property rights can change spontaneously from within the system or they can be imposed from the outside (Pejovich, 2001).

The Land laws in Tanzania are of fundamental importance to sustainable growth, good governance, and the well being of and the economic opportunities open to rural and urban dwellers-particularly poor people. Discussions on land policies are often characterized by preconceived notions and ideological viewpoints rather than by careful analysis. Given this lack of analysis, the potential for using land policies as a catalyst for social and economic change is often not fully realized. One should focus more on analysing the potential contribution of land policies to broader development, the scope for interventions in the area, and the mechanisms that can be used to achieve broader social and economic goals (Deininger, 2003).

Tanzania is among the poorest countries in the world and it is important to reach effectiveness within the agricultural land laws. This will eventually lead to a better economic development for the country and better living conditions for the population. Providing secure tenure to land can improve the welfare of the poor, in particular, by

enhancing the asset base of those, whose land rights are often neglected. At the same time it creates incentives for investment, a key element underlying sustainable economic growth.

In common speech, we frequently speak of someone owning this land, that house, or these bonds. This conversational style is undoubtedly economical from the viewpoint of quick communication, but it masks the variety and complexity of the ownership relationship. The definition of what is owned, are the rights to use resources, and these rights are always circumscribed, often by the prohibition of certain actions. To “own land” usually means to have right to till the soil, to mine the soil, to offer those rights for sale, etc., but not to have the right to throw soil at a passer-by, to use it to change the course of a stream, or to force someone to buy it (Pejovich, 2001).

In many countries, for example in Tanzania, the state continues to own a large portion of valuable land despite evidence that this is conducive to mismanagement, underutilization of resources, and corruption. Broad and egalitarian asset ownership strengthens the voice of the poor, who are otherwise often excluded from political processes, allowing them greater participation that can not only increase the transparency of institutions, but can also shift the balance of public goods provision, especially at the local level. Despite this studies shows that land reforms have been very successful in Asia, and positive impacts have been reported from some African countries such as Kenya and Zimbabwe in the early phases of their post independence land reforms (Deininger, 2003).

After a century of suppression and demise, customary tenure regimes are beginning to find a place in state laws as a perfectly legal way to acquire, hold and transfer land. The impact of these developments upon rural common property resources is potentially enormous. At least in law, citizens in a growing number of states are finding their unregistered common rights over pasture, forests, woodlands and wildlife range accorded a security not seen before (Alden Wily, 2002).

1.2 Objective

The main objective of the thesis is to evaluate if the recently adopted land laws for the agricultural sector in Tanzania work properly and are efficient in terms of providing sufficient security for the Tanzanian population and contribution to a decent living standard.

1.3 Methodology

The theoretical framework used in this study is institutional theory combined with property rights discussions. The institutional theory is used in order for the authors to evaluate how the formal rules, in terms of the land laws, and the informal rules are working in order to fulfil the objective of the study. The studying of the land laws will result in an indication on how close to an ideal land-distribute instrument the land laws in Tanzania are.

The field research will encompass seminars held by people engaged in the topic of land laws in Tanzania. The authors will visit both seminars held by economists and legal experts in order to get to know the subject and to get different views on the topic. Primary data will be found through seminars and data collection. The seminars that the authors will attend will be in Dar es Salaam since the major part of the country's administrative work and seminars are held there.

The authors visited Tanzania during the christmas holidays which resulted in lack of time since the official organisations are were closed during this period. The authors have not had the possibility to interview the farmers to get their point of view on how the land laws actually work. They can be seen as important in the completion of the thesis in order to get information of how the law have succeeded both in practice and theoretically. It would be very interesting to do a future econometric study which includes the farmers.

1.4 Outline of the thesis

In chapter 2 a brief overview of the property rights and its different kinds are given. This is followed by chapter 3 and a presentation of other east African developing

countries and their land reforms and land laws. In chapter 4 the authors analyse and discuss the land laws in Tanzania. The living standard of the people in the country and the agriculture sector is also handled. The thesis ends with chapter 5 and a conclusion part with a summary of the main findings of the study.

The land laws are basically a matter for the Tanzanians themselves to handle, and our aim is by no means to provide ready-made solutions to the problems that maybe beset the sector. Nevertheless, the report is aimed at contributing results and arguments useful for a wide circle within the agriculture sector, and especially for those who are particularly interested in the future of the agriculture sector in Tanzania.

1.5 Previous research

A previous study in the Sub-Saharan Africa about land rights systems and agricultural development (Feder & Noronha, 1987) concludes that the evolution of land rights in Sub-Saharan Africa should not necessarily be viewed as a natural process, because some of the changes were the results of government intervention. The study discusses whether the market forces achieve the same efficiency that could have been obtained under a different institutional set up. The evidence cited in the article dispels some of the popular misconceptions about land rights in Sub-Saharan Africa. In many areas there have always been individual possessions; in others, it is growing. Even where communal ownership was imposed, cultivation and possession remained with individual households, and individual households appropriated increasing ranges of rights to land.

An earlier study about the land reform in Zimbabwe (Thomas, 2003) has widely and fiercely contested the moral and economic arguments for land redistribution. The author has discovered that farming in the commercial sector is more efficient than in the peasant sector. It is also discovered that land redistribution will not benefit the land-poor, but rather transfer land to an alternative privileged group. These arguments are explored through an examination of previous land resettlement programmes in Zimbabwe in these two respects.

Another earlier study about civil society and the land question in Tanzania (Mallaya, 1999) has detected that the provision of the new legislation – that simply allows/enables outsiders to be granted village lands so long as they have shown intention to reside and/or invest in a village—is a problem. The study says that there is the possibility of village land belonging to poor peasants and pastoralists to be acquired/grabbed by outsiders in the name of investment. The study also argues that the new land legislation most favours people in power and the economically strong, particularly the so-called investors (domestic or foreign) with strong interests on land.

The lesson from other studies is that efficiency requires individual land rights to be recognised in a way that provides sufficient security—either in the form of long-term leases or land titles. The gain in efficiency may or may not outweigh the costs of introducing a new system. Effective land laws should not only redistribute land to the people who are in power and are economically strong, the land should be available to everyone.

Since many studies shows almost the same things, it is an idea to carefully evaluate the land laws and come up with conclusions to get better results. If good results are achieved it will benefit the poor and contribute to better and more decent living standard for the population.

Chapter 2

THEORY

2.1 The purpose of property rights

Property rights are the subset of institutions for regulation of behaviour and social interactions with respect to objects of value. In an institutional context, property refers to the rules of behaviour rather than the object (Challen, 2000).

Reform of land tenure means changing the rules by which individuals relate to one another with respect to land. The rules of land tenure define each individual's rights and duties with respect to other people concerning the use and transfer of land. In some situations, changing land tenure rules by changing the law may involve fundamental change in how individuals interact with respect to land. In other cases, individuals may alter the way in which they interact regarding land and the law simply changes to recognize and legitimize this new reality. Most African countries have viewed land tenure reform as a means to increase agricultural productivity. Many African countries are also concerned that their land tenure laws protect the most vulnerable members of the society from loss of their access to land for subsistence production. Most African nations have multiple goals for land tenure policy, hoping to stimulate agricultural development while protecting the uniquely African concept that all individuals should have access to enough land for subsistence production (Mugambwa, 2002).

Within a property-right hierarchy the nature of the property-right regime at any level is determined at least in part by institutional decisions at the super ordinate level, which must provide institutional support for whatever property-right regime will be adopted. The choice of property-right regime is to a large extent independent of the decisions made with respect to entitlement allocations, a point often confused in the literature. For example, a state agency may choose to allocate resource entitlements to cooperatives of

resource users in local areas, but also to allow trading of these entitlements between the cooperatives. Thus common property is quite consistent with a market system for re-allocation of resource entitlements (Challen, 2000).

If property rights are poorly defined or cannot be enforced at low cost, individuals and entrepreneurs will be compelled to spend valuable resources on defending their land, thereby diverting effort from other purposes such as investment. Secure land tenure also facilitates the transfer of land at low cost through rentals and sales, improving the allocation of land while at the same time supporting the development of financial markets. Without secure rights, landowners are less willing to rent out their land, which may impede their ability and willingness to engage in nonagricultural employment or rural-urban migration (Deininger, 2003).

Property rights affect economic growth in a number of ways. First, secure property rights will increase the incentives of households and individuals to invest, and often will also provide them with better credit access, something that will not only help them make such investments, but will also provide an insurance substitute in the event of shocks. It has also been known for a long time that in unmechanized agriculture, the operational distribution of land affects output, implying that a highly unequal land distribution will reduce productivity. Even though the ability to make productive use of land will depend on policies in areas beyond land policy that may warrant separate attention, secure and well-defined land rights are key for households' asset ownership, productive development, and factor market functioning (Ibid).

Property rights to land need to have a horizon long enough to provide investment incentives and be defined in a way that makes them easy to observe, enforce, and exchange. They need to be administered and enforced by institutions that have both legal backing and social legitimacy and are accessible by and accountable to the holders of property rights. Even if property rights to land are assigned to a group, the rights and duties of individuals within this group, and the way in which they can be modified and will be enforced, have to be clear (Ibid).

2.2 Different types of property rights

Understanding the origins of property rights and their evolution over time is important to appreciate how property rights to land affect households' behavior and can, in turn, be influenced by government policy. Historically, one reason property rights evolved was to respond to increased payoffs from investment in more intensive use of land resulting from population growth or opportunities arising from greater market integration and technical advances (Deininger, 2003).

Given the historical evolution of property rights is not only a response to purely economic forces, it is not surprising that the arrangements found in many countries are often not optimal from either an economic or social perspective. For example, in Africa, the vast majority the land area is operated under customary tenure arrangements that, until very recently, were not even recognized by the state and therefore remained outside the realm of the law. As a consequence, there is concern that economic growth in these countries may widen pre-existing inequalities and tensions rather than reduce them. Despite such shortcomings, socially sub optimal and economically inefficient property rights arrangements have often remained in place for long periods of time. In fact, far-reaching changes of land relations have generally been confined to major historic transitions (Ibid).

There are four classes of property-right regimes, in terms of the holders of rights and the corresponding duties of the rights holders and other parties:

2.2.1 Common property

Common property is a management group of owners who has the right to exclude non-members, and non-members have a duty to abide by exclusion. Individual members of the management group, co-owners, have both rights and duties with respect to use rates and maintenance of the object owned. Examples exist in group irrigation schemes where members of the groups utilize water according to certain rules of supply, and pay rates for the purpose of maintaining collectively owned infrastructure (Challen, 2000).

2.2.2 State property

State property is when individuals have a duty to observe use/access rules determined by a controlling/managing state agency. State agencies have a right to determine use/access rules. An example is where a government regulatory agency establishes rules for use of land in national parks or state forests (Ibid).

2.2.3 Non-property

Non-property, or open access, is when no defined group of users or owners exists and the benefit stream from use of the object is available to anyone. Individuals have a privilege with respect to use of the object and ‘no rights’ with respect to use of the resource by others. Commonly cited examples are ocean fisheries, over which no nation or group of resource users has jurisdiction (Ibid).

2.2.4 Private property

Private property is when individual owners have a right to undertake socially acceptable uses and have a duty to refrain from socially unacceptable uses. Others (non-owners) have a duty to refrain from preventing socially acceptable uses and have a right to expect that only socially acceptable uses will occur. For example, other persons can regard ownership of freehold land as a private property right enabling the owner to make use of the land in certain ways and without interference (Ibid).

Systems of private property rights almost invariably generate greater wealth than other ownership forms do. Private rights may arise naturally in a system that grants to the first possessor ownership of land or chattels. But such a system will not necessarily emerge on its own nor always maintain its dominance against all competitors. Property rights are not defined by common law or customary rules of acquisition but by government intervention or direction. Charged with defining rights, however, government actors predictably will not respond in ways that maximize social wealth. There are two risks presented whenever a government decision contemplates or orders the privatization of common or public assets. First, there is no guarantee that government actors will choose the optimal system of ownership in privatizing some common resource; government actors will prefer an inefficient private-rights assignment if it is beneficial to them

personally. Second, there is no guarantee that privatization will take place at all. Government officials frequently benefit from government ownership and so refuse to carry out a system of privatization, notwithstanding the social gains that normally flow from private ownership (Pejovich, 2001).

Since the essence of property is discrimination in rights of access and use of an object, the definitions can be reworded in a scheme;

Table 2.1 Classification of property-right regimes

	Property-Right Regime			
	State Property	Common Property	Private Property	Open Access
User	As determined	Finite and	One person	Open to
Limitation	by state Agency	exclusive group		anyone
User	Rules	Rules	Individual	Unlimited
Limitation	determined by a state agency	determined by mutual agreement	decision	

Source: (Challen, 2000)

At the risk of overgeneralization, this has two foci: first, the relative right of state and people to own the land itself and/or rights in land, and second, attention to the tenure security of that multitude ways, a group which usually constitutes the majority in any state. Both matters have prompted reconsideration of customary tenure, and through this, changing political legal perception of the right of people to hold property in common continues to emerge (Alden Wily, L 2002).

2.3 Institutional theory with respect to property rights

“Institutions are the constraints that human beings impose on human interaction. They consist of formal rules (constitutions, statute law, regulations) and informal constraints (conventions, norms

and self-enforced codes of conduct) and their enforcement characteristics. Those constraints define (together with the standard constraints of economics) the opportunity set in the economy.” (North, 1993b).

Institutions are the same thing as the rules of a game in a community. The institutions help to reduce the insecure by giving structure to their daily basis. They give guidance to the teamwork between humans, so we know how to behave. The institutions give a structure for human co-operation. Different organisations like for example political parties, economic units and social units, affect the development of the institutions. Institutions are human creatures. The human creatures develop and change by people, because of that the theory has to begin with the individuals (North, 1993a).

Political, legal, economic rules and contracts are all different formal rules and can complete and raise the efficiency at the informal restrictions. The formal restrictions can bring lower costs for information and supervision and through this enable solutions for a more complicated change. The informal rules come from information in the community and are a part of the heritage that we call culture. Informal restrictions are not only appendages to the formal rules, they are important themselves. The same formal rules and/or constitutions introduced in different communities give rise to different results. In interaction with other people on daily basis, apart from internal or external relations or in businesses, they all mainly consist of rules of behaviour and conventions. The difference between formal and informal restrictions is exceedingly fine. The long and uneven transition from unwritten traditions and customs to written laws have only had one direction, as we have developed from smaller to more compact societies of today (North, 1993a).

Property rights deal with both formal and informal rules. The formal rules are easier to see and are in this matter the land laws and the land policies. Within the villages, the informal rules are widely used since the villages themselves own all the land within the village. The informal rules are used to separate mine and yours when dealing with property rights. The institutional conditions must be economically sustainable. The formal restrictions must be fulfilled; the land laws must be followed with no exceptions.

Informal restrictions must also be followed since the property rights within the villages are built upon and lean back on these.

Chapter 3

LAND REFORMS IN TANZANIA

Tanzania's economy is typical for a country in the third world. The base is agriculture, which is strongly influenced by climate changes and dependent on aid given from the industrial countries.

3.1 The economy in Tanzania

The economy has suffered from the socialistic experiments that collapsed in the middle 1980s. The ambition to get the better of illiterates, diseases and undernourishment was centered in the 1960- and 1970s, while production was treated biased, which in the long run was devastating for the tanzanian economy (Utrikespolitiska institutet, 2003).

Tanzania is among the world's poorest countries and still among the riches on natural resources. To become less vulnerable to changes in the world markets prices on traditional export products, like coffee, they are trying to broaden the economy. Recent years both tourism and mining have given large incomes. Tanzania is Africa's third largest export on gold, after South Africa and Ghana (Ibid).

Tanzania has for a long time been one of the countries in the world that is most dependent on foreign aid, and it looks like it will remain like this in the foreseeable future. The collected group on eleven giving countries is calculated to contribute with a total of 170 millions USD in the year of 2002/2003. This means that almost nine tenth of the development projects and close to half of the government's calculated expenses are paid with aid (Ibid).

Since the middle 1990s, Tanzania has been praised for its economic successes. Despite this, there are a lot of problems that impend the economy, for example bad communications, severe corruption, sluggish bureaucracy and lack of skilled business

economics personnel. Since the year of 2000 the government has a special program for reducing the poverty, improve healthcare, education, agriculture, roads and providement of water (Ibid).

3.2 The Tanzanian people

The majority of the people on main land Tanzania is Bantu people and belongs to one of about 120 tribes, where none of them represent more that 10 percent of the country's population. The biggest groups are sukuma, nyamwezi, makonde, haya and chaga. In the north you can also find a lot of native people, the Maasai people. The population is very uneven divided across the country. The smaller areas around Kilimanjaro, along the Malawi River and south of Lake Victoria, are very crowded. On other places there are extensive sparsely populated areas. In the search for a job, many have moved to the coast with its bigger cities. Outside Dar es Salaam, the shantytowns are growing every year that passes by. Despite this, Tanzania is still one of the least urbanized countries in Africa (Utrikespolitiska institutet, 2003).

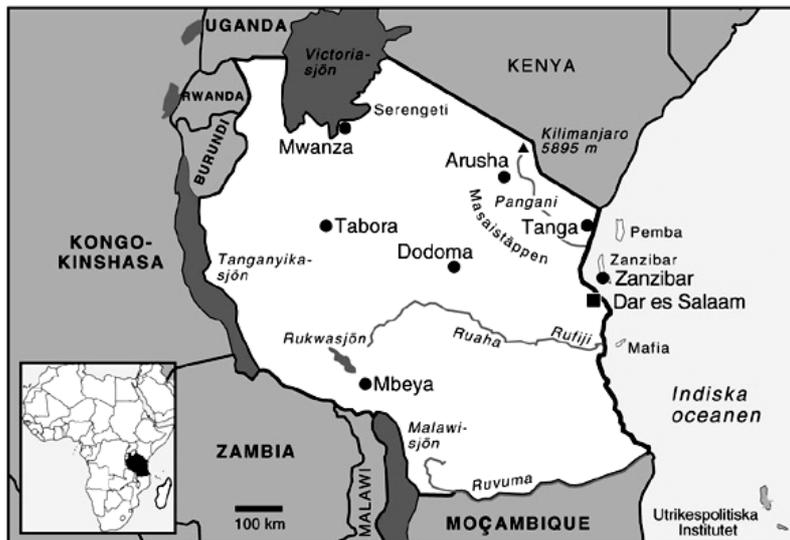


Figure 1. Map of Tanzania.

Source: Utrikespolitiska Institutet (2003).

The official language in the country is Swahili or Kiswahili, with its roots from the coast string between the south of Tanzania and north of Kenya. Besides this, a lot of accents and languages are spoken. English is the most common language in trade,

administration and higher education. At the coast and on Zanzibar and Pemba many also speak Arabic (Ibid).

3.3 The agricultural sector

The agricultural sector is the mainstay of Tanzania's economy, providing a livelihood for about 84 per cent of the economically active rural population and accounting for 51 per cent of export earnings in 1998. Subsistence farming accounted for 46 per cent of total agricultural output in 1997. No more than about eight per cent of the country's land area is cultivated, and only about three per cent of the cultivated land is irrigated. The northern and south-western areas are the most fertile, receiving the highest rainfall. The main food crop is maize followed by cassava, rice, sorghum, plantains and millet. The main export crop in 1998 was coffee beans, very closely followed by cashew nuts; other export crops were cotton, tea, tobacco, sisal and cloves from Zanzibar (Van Buran, 1999).

During the 1980s, successive increases in producer prices for all the major crops were diluted by the weakness of the shilling, but new foreign-exchange support from international aid donors led to better availability of imported agricultural inputs and contributed to improved harvests (Ibid).

3.4 Previous land laws in Tanzania

In recent years in Africa the issues of land rights have become increasingly important. This is because access to land, which remains for many people in Africa the ultimate form of social security, is being severely threatened. The threat comes from a combination of local and international factors, which include excessive liberalization, the search for foreign investment, and an often-blind faith in market solutions. It particularly affects land held by groups of people under some form of customary tenure, in which access is dependent on acknowledged membership of a group. This remains important throughout the continent, despite various attempts to extinguish it (Oxfam, 2003a).

Before colonialism landholding was based on customary laws of the different tribes in Tanzania. Title to the land was based on traditions and customs of respective tribes. Ownership of land was communal owned by family, clan or tribe. Chiefs, headmen and elders had the powers of land administration in trust for the community. These powers continued through the colonial era though they were limited by the newly introduced German and later British land tenure system under which all lands were declared to be crown and public lands respectively. The customary land tenure is still in place, but since 1963 the chiefs, headmen and elders have been replaced by elected village councils (Sijoana, 2001).

Tanzania was under German colonial rule from 1893 to 1916 and British rule from 1917 to 1961. The country attained its independence in 1961. The Germans issued an Imperial Decree in 1895 which declared that all land, whether occupied or not was treated as un-owned crown land and vested in the empire, except claims of ownership by private persons, chiefs or native communities which could be proved. A distinction was made between claims and rights of occupancy. Claims were to be proved by documentary evidence while occupation by fact of cultivation and possession (Ibid).

In practice only settlers engaged in plantation agriculture such as sisal, coffee, rubber and cotton, etc; could prove their title and enjoyed security of tenure. The indigenous people could not prove ownership. Hence, they were left with permissive rights of occupancy. The policy of the German colonial administration vacillated while plantation agriculture ran to the settlers by outright sale or lease. By the time the Germans were driven out during the First World War some of the best lands in the highlands and farms amounting to 1 300 000 acres had been alienated to foreigners (Ibid).

After the First World War Tanganyika, now a days Tanzania, became a Trust Territory under British Administration which by International Agreement was required to take into consideration native laws and customs in framing laws relating to the holding of transfer of land or natural resources and to respect the rights and safeguard the interests

present and future of the native population. No native land or natural resources could be transferred to non-natives without prior consent of the competent authorities (Ibid).

The British passed their major land tenure legislation in 1923 called the Land Ordinance, which declared all lands, whether occupied or unoccupied as public lands, except for the title or interest to land, which had been lawfully acquired before the commencement of the ordinance. All public lands and interests were vested under the control of the Governor to be held for use and common benefits of the natives (Ibid).

The new land law introduced a land tenure system called the Right of Occupancy, which was either granted or deemed right. The granted right of occupancy was statutory while deemed right was customary which is a title of a native or native community lawfully using or occupying land in accordance with native law and custom. However, the deemed rights have never enjoyed the same security as the granted rights under the statute. In practice the customary rights were governed by administrative policy, while the granted rights were subject to legal stipulations. In the 44 years of British rule some 3.5 million acres were alienated from the native lands in favor of settlers/foreigners (Ibid).

The approach of the colonial regimes to vest land in the state as the ultimate landlord is fundamental and was inherited unmodified by the independent Government of Tanganyika in the last 41 years. The basic principle of customary land tenure is that land is held for use and as long as it is used, the occupier maintains control over it. The independent Government of Tanzania maintained more or less the same colonial land policy and practices with some minor reforms till 1995. The land is vested in the President who holds the radical title (Ibid).

3.5 Recent land laws

The main objectives of the new Land Laws are whether the new norms and institutional arrangements would adequately deal with complex social, economic, political and cultural problems facing Tanzania (Juma, 2003).

The entrenched fundamental principles of the new Land Laws are:

- To recognise that all land in Tanzania is public land vested in the President as trustee on behalf of all citizens.
- To ensure that the existing rights in land and recognised long standing occupation or use of land are clarified and secured by the law.
- To facilitate an equitable distribution and access to land by all citizens.
- To regulate the amount of land that a person or corporate body may occupy or use.
- To ensure that land is used productively and that any such use complies with the principles of sustainable development.
- To pay full, fair and prompt compensation to any person whose right of occupancy or long standing occupation or customary use of land is revoked or interfered with to their detriment by the State or is acquired.
- To provide for an efficient, effective, economical or transparent system of land adjudication.
- To enable all citizens to participate in decision making on matters connected with their occupation or use of land.
- To facilitate and regulate the operation of a market in land so as to ensure that rural and urban small holders and pastoralists are not disadvantaged.
- To set out rules of land law accessibly and in a manner which can be readily understood by all citizens.
- To establish an independent expeditious and just system for the adjudication of

land disputes, which will hear and determine cases without undue delay.

- To encourage the dissemination of information about land administration and land law through programs of public and adult education using all forms of media.
- The right of every adult woman to acquire, hold, use, deal in land shall to the same extent and subject to the same restrictions be treated as a right of any adult man.

Part II of the Land Act, 1999 itemizes the “fundamental principles of the National Land Policy, 1995.” The overall aim of the new National Land Policy is to promote and ensure a secure land tenure system, to encourage the optimal use of land resource, and to facilitate broad based social and economic development without upsetting or endangering the ecological balance of the environment. The major theme of the policy is the conversion of land into an economic asset to which all citizens should have equal access. It is specifically enacted to guide the implementation of the two pieces of land legislation (Hassan, 2003).

The National Land Policy is an example that shows citizens have engaged in a protected struggle for effective participation in the policy process despite the long exclusion they experienced in policy making. A national land policy must be based on citizens concerns, which can largely be drawn from a national debate (Mallaya, 1999).

3.6 Privatization of land

Land tenure within customary systems is looked upon as dynamic and flexible. Whereas in the past communal forms of landholding dominated, individualisation of rights to land within customary systems has occurred for some time now. Privatization however, i.e. the registration and titling of rights to certain plots of land is a more recent development, apart from freehold titles to land which were introduced during colonialism but intended only for a very limited part of society. Formal titling has long been regarded as the only way to ensure land tenure security to peasants, thereby

enabling modernization of the agricultural sector (Oxfam, 2003b). People tend to work harder in their private enterprises than in communal activities (Mjema, 2003). One reason for this is that privately owned land can be used as a means of providing collateral for credit (Kauzeni, Shechambo, Juma, 1998).

Private ownership of land resources means that gains and losses in productivity accrue directly to the owner, which enhances incentives to invest in productive improvements. Experience has shown that, given similar conditions, agricultural productivity is often lower on communal farms than on private farms. This is often caused by the “free-rider” problem, the observed tendency of some members of communal production systems to exert less effort in communal production. This has a demoralizing effect on the active members because the final reward would be the same for everyone (Kauzeni, Shechambo, Juma, 1998).

Under private ownership, everybody who has the ability to buy or acquire the resource will do so. Under certain conditions, private ownership is conducive to increased resource productivity and income generation. However, social cohesion, group solidarity, political stability and social justice are likely to be adversely affected under private ownership if there is a loss of equality in access to resources. This may undermine the general welfare of the population (Ibid).

Private ownership enables owners to capture the full benefit of conserving their land resources or to bear the full cost of deteriorating resources. For this reason it is often associated with increased investments of both money and labour in resource conservation. However, this is dependent on access to sufficient capital and labour, which may prove to be major constraints (Ibid).

3.6.1 Validation of certain interests in land

The Land Act, 1999 deals with the manifold problems of unauthorized land market transactions that have been taken place for many years. The validation presupposes a well endowed, working and efficient land law regime. A person occupying land under

the validation provisions is deemed to be in lawful occupation of that land for a period of six years from the date of commencement of the Land Act, 1999 (Juma, 2003).

Failure to obtain a Validation Certificate within six years of operation of the Land Act, 1999, will lead to that the interest by which the land in question was occupied will be deemed to be a licence. This licence will remain valid and irrevocable until the end of the period of six years. The occupier has the possibility to apply for an upgrading of the licence into a right of occupancy, before the end of the six-year period (Ibid).

3.6.2 Regularisation of land within urban and peri-urban areas

The purpose of a scheme of regularisation is to facilitate the recording, adjudication, classification and registration of the occupation and use of land in urban and peri-urban areas. An area should be regularised if a substantial number of persons living in the area appear to have no apparent lawful title to their use land, although part of an urban local authority is occupied under customary land law. The areas have been or are likely to be declared a planning area (Ibid).

The process of recording, adjudication, classification and registration of the occupation and use of land will probably be lengthy, drawn out and expensive as well.

3.6.3 Residential license

The Residential Licence is designed to protect unregistered land interests. It is a derivative right in form of a “Residential Licence” introduced to confer upon the licensee the right to occupy land in non/hazardous land, land reserved for public utilities and surveyed land and urban or peri-urban areas that the holder had acquired and occupied land in urban or peri-urban area as his home for not less than three years without any official title. A residential licensee is regarded by the Land Act to amount to a right to occupy that land as a residential licensee under a license granted from year to year to that person by the local authority having jurisdiction in the area where that land is situated (Ibid).

3.7 Categories of public land

There are three different categories of public land; village land, reserved land and general land.

3.7.1 Village land

The Village Land Act, 1999 makes elaborate provisions for the management and administration of land in villages. Village land means all that land declared to be village land under and in accordance with section 7 of Village Land Act, 1999 and includes any transfer or land transferred to a village. Parcels of land—land not reserved—which have been used by village for at least twelve years before enactment of the Village Land Act, 1999 (Juma, 2003).

The United Republic of Tanzania faces problems of determining not only villages' boundaries, because the boundaries are imprecise in nature, but also the number of villages. There is a bureaucracy introduced under the Village Land Act that says that the Village is supposed to keep records of everything. A "Village Council" is mandated to maintain a register of village land in accordance with any rules, which may from time to time be prescribed by the Minister, and the Village Executive Officer will be responsible for keeping that register. A problem with this is that the villages often do not have the skills or facilities for these actions to operate smoothly (Ibid).

3.7.2 Reserved land

Included in Reserved Land are; forest reserves, national parks, Ngorongoro Conservation Area and game reserves. These reserved land areas are regulated and managed by their own separate pieces of legislation. Also included are areas of land reserved for drainage systems, watercourses and for public recreation grounds. Hazardous lands are a special category of reserved land. Mangrove swamps, wetlands and land within 60 meters of a riverbank or shoreline of a lake is considered hazardous land (Juma, 2003).

3.7.3 General land

General land is described here to be all that public land that is not reserved or village land (Juma, 2003).

3.8 Land use conflicts

3.8.1 Rural land use conflicts

The rural land use conflicts are caused by a lot of different factors. Tanzania has a large human and cattle population of 30 million and 15 million respectively. The land area is fixed and if anything it is being degraded, because of the great population in the country, it is hard to get on well together and share the land. There are also great pressures to cultivate even on marginal land and to encroach on forest and water sources, wildlife and range lands. It is necessary to plan for multiple use of land and accommodate conflicting interests (Sijoana, 2001).

Another conflict is that the alienation of rangelands for large scale of farming has displaced and disposed pastoralists of their traditional grazing lands leading to growing social tensions, environmental damage and land use conflicts. Even the open access and uncontrolled use and degradation of common property such as woods, rangelands and wetlands are causing conflicts. The overlapping land that uses in game controlled areas occupies vast areas in Northern Tanzania where settlements, agriculture and ranching take place simultaneously are resulting in serious conflicts (Ibid).

Wetland areas need to be designed, planned, gazetted and protected. Instead the wetland areas are now being drained for agricultural use or filled up for residential buildings (Ibid).

Traditional nomadic pastoralists and agriculturalists are in serious conflict over grazing and farming lands all over the country. The new Village Land Act provides sharing of pastoral and agricultural areas between pastoralists agriculturalists by adjudication and mutual agreement. There has also been a lack of progress in implementing land use plans at all levels – national, regional districts and village levels. There is yet no enabling piece of legislation for conducting rural land use planning. There is vacuum in law (Ibid).

Beaches, coastlines and islands are attractive lands for the location of hotels, homes for the rich tourists et cetera. Some coastal and fishing villages are being intruded by haphazard urban or tourism developments (Ibid).

There is need to undertake extensive rural/village land use planning and land adjudication to resolve land use conflicts and provide security of tenure smallholders to make long term investment in land and practice appropriate land husbandry. Hence both legal reforms and studies are necessary. Without mapping village land use planning will be impossible (Ibid).

3.8.2 Urban land use conflicts

In urban areas there are many persistent land disputes as a result of rapid expansion of towns, encroaching on surrounding fertile farming areas. The existing statutory boundaries of most regional towns in Tanzania are very extensive and include 232 registered urban villages. Dar es Salaam city has 40 registered villages in its jurisdictional area of 1800 km² (Sijoana, 2001).

Hence, there are tenorial and land use conflicts between customary and granted land rights in all areas surrounding regional and district towns. There are also conflicts between squatters and customary land right owners in unplanned areas where the majority of people—70 per cent—live in congested settlements. Sites set aside for public activities like open spaces, school sites, public utility convents and road reserves are often invaded by private developers or informal sector traders (Ibid).

Chapter 4

LAND REFORMS IN OTHER DEVELOPING COUNTRIES

4.1 Land reform in Ethiopia

The long-awaited land reform was proclaimed by the government on March 4, 1975. Its most salient features were:

- a) abolishment of private ownership of land and making land the collective property of all Ethiopian people and thus prohibiting all trade in land as a commodity;
- b) abolishment of the tenancy system;
- c) abolishment of hired farm labor;
- d) placing a limit of 10 hectares as the maximum amount of land that a given farm family may cultivate;
- e) provisions for the establishment of peasant associations on areas of 800 hectares or more with about 100-200 farm households;
- f) redistribution of land within areas of peasant association.

Commercial farms, including buildings and implements of these farms, were immediately taken over by the government. State farms were created on some of the land of these farms, while the remainder of this land was used for settlement of former tenants and landless workers (Holmgren, 1977).

Prior to 1975, agriculture in Ethiopia was organized largely under feudalistic/imperial arrangements. The Ethiopia military government (1974-1991) issued the Land Reform Proclamation in 1975 which nationalized and redistributed most of the agricultural land among rural households. Land redistribution was meant to achieve equal land area per household and improve agricultural performance. Sale of land and hiring of agricultural labour were prohibited and there were fears that livestock would be nationalized.

Following the ousting of the military regime in 1991, there has been a reduction of the imperfections in rural factor markets (Omiti & Parton, 2000).

A stated objective of the Ethiopian Government since it came to power in 1975 has been to increase the production of crops for both domestic consumption and export. Consequently, a number of plans and programs have been proposed and implemented to bring about such development in Ethiopian agriculture. The food production in Ethiopia has lagged behind the population growth as evidenced by the gap between the growths rates of population (3%) and food production (1.8%) over the period from 1970 to 1983. Recently, this situation has, perhaps, further deteriorated. Seventy-one percent of the total land mass is estimated to be suitable for agriculture, but only about 19 per cent is cultivated. This suggests an underutilisation of land. Moreover, Ethiopia has a persistent subsistence production problem in agriculture. Agricultural research and education which are essential to development have not been given due attention by the policy makers. As a result, the agricultural technologies used by farmers have changed little in this century. Moreover, small-scale farmers, although still the most potent economic force in the country, has not been given the incentives necessary to expand production, and currently receive less than adequate support from the central government (Belete, Dillon & Andersson, 1991).

Results from a field survey in the central Ethiopian highlands indicated that selling, hiring, renting, and exchanging of agricultural land, farm labour, and animal traction are increasing. These changes will influence agricultural production in many ways, particularly if reform with respect to rural factor markers is encouraged and accorded appropriate policy support (Omiti & Parton, 2000).

4.2 Land reform in Kenya

As the one country in sub-Saharan Africa to carry out a large-scale land reform, including both consolidation and redistribution, Kenya merits special attention. Land has always conditioned Kenya's social, economic and political life. Largely through the lack of minerals and their industries, economic development signifies rural development. Yet two-thirds of the country, largely in the north and north-east, is

unsuited to agriculture: these semi-arid lands are largely left to nomadic pastoralists like the Maasai and the Turkana. Kenya is the first Black African country to opt decisively for individualized land tenure (King, 1977).

The year 1960 was a turning-point. The Mau-Mau Emergency, which ended then, had produced considerable disruption, including the enforced 'villagisation' over a million Kikuyu. In 1960, too, an Order-in-Council ended the limitation of the White Highlands to exclusive European land ownership and occupation. Africans were assisted to buy land from European farmers, many of whom wished to liquidate their farming assets before independence occurred in December 1963. Nationalist leaders urged redress of the 'unjust acquisition' of the Highlands by Europeans as an essential element in giving Africans justice. The economic desirability of land reform was not questioned, because of its political inevitability; nevertheless the only likely alternative to an ordered resettlement programme was the collapse of commercial farming and reversion to subsistence agriculture and random grazing (Ibid).

While the debates on land reform have identified the appropriation of land from foreigners and other Kenyans with the large tracts of unused land as a solution, a consensus on the goals of such redistribution has not been reached. It is therefore not clear what will be the primary purpose of the redistribution, should it be attempted. Among the options would be that the overriding goal should be for resettlements as opposed to agricultural use. One finds fault with the thinking that the solution to landlessness lies in the forceful appropriation of land from private owners and redistributing the same among the landless. In addition, there may be the real problem of squatters but this does not mean that they will necessarily use the land any more productively because it is lying in idle. The dilemmas provided by the need to determine the goals of redistribution have to be accorded thorough consideration if redistribution will necessarily achieve the expected results (The Institute of Economic Affairs, 2000).

It is not accurate to state that land reform in Kenya has failed in entirety. Many Kenyans have acquired land by the organisation into large land buying companies that acquire land in various places in the former white highlands. The acquired land is the sub-

divided between the shareholders in accordance with their contributions. Such acquisitions frequently occurred on more or less willing buyer and seller basis and thereby created a fairly fluid market for land. As a result, some foreigners and people from other parts of Kenya own a lot of land that is not always intensively used. However, most of this land belonged to some of Kenya's pastoralist groups like the Maasai who feel entitled to it and assert that land reform has failed entirely (Ibid).

Land reform issues in Kenya remain complicated by reasons ranging from legal complexities, political involvement, corruption and the extreme poverty prevalent in the country. In order to ensure that solutions applied actually impact upon problems, it is advisable that the genesis of the specific problems be examined separately so that fitting solutions are put in place for individual problems. While meaningful land reform is necessary, it can only be meaningful as component of wider economic reform (Ibid).

Forced evictions are widespread in Kenyan cities and are, on the surface, caused by conflicts in land rights, non-payment of excessive land and house rents, and urban redevelopment. But, more fundamentally, evictions are due to factors embedded in the country's political economy, in particular, the grossly inequitable land ownership structure which makes it difficult for the poor to access land and decent shelter. Evictions cause significant socio-economic hardship to individuals, affecting cities and whole nations (Otiso, 2002). To avoid evictions, we argue that Kenya must make its political economy more inclusive, implement land reform, domesticate its municipal planning and related by-laws, and create a proactive slum settlements policy.

4.4 Land reform in Uganda

The *Land Act*, 1998, is arguably the most important law affecting land tenure law in Uganda, though, of course, it does not operate in isolation. There are other written and unwritten laws, which, together with the Land Act constitute Uganda's land law and land tenure system. For present purposes Uganda's land tenure history can conveniently be divided into three phases;

- 1) Land tenure system prior to colonial rule
- 2) Land tenure system in colonial and post colonial Uganda

3) The *Land Reform Decree* 1975

(Mugambwa, 2002)

Land is the single most important production factor in Uganda and security of land tenure is an essential aspect for its utilization and productivity. In 1998, the Government of Uganda passed the Land Act which essentially decentralized the administration of land to the district, sub-county and parish levels. Both at the time that the Act was passed, and since then, the majority of the rural poor do not know that there is a new law, the opportunities that the Act can offer them and its implications for registering land. Without secure access to land it is also difficult for farmers to gain access to services such as credit, and without having titles to land it can be very difficult to have land disputes settled quickly (Commonwealth Education Fund, 2004).

Since 1992 when the Uganda National Farmers Association (UNFA) was established, its objective has been to alleviate poverty in Uganda through training and sensitization activities with farmers. Given the importance of land and its productive potential in a country where over half the population live in poverty, UNFA has developed this project and negotiated to increase awareness and provide training to farmers about the Land Act so that they can demand their land rights through the appropriate legal structures (Ibid).

Within the overall framework of poverty eradication and increased agricultural production the project aims to increase the farmers' awareness about the Land Act, and to train trainers to provide key information about the Act to the population. It will also help farmers understand how to ensure their right to land by using the services of the Land Desks which were set up to provide information on land law and policy but the existence of which, like other aspects of land policy and services, are not necessarily known to farmers (Ibid).

4.5 Land reform in Zimbabwe

The need for land reform in Zimbabwe is generally acknowledged, even by representatives of the commercial farming sector. Colonial policies of expropriation

gave a few thousand white farmers ownership of huge tracts of arable land. About 4 500 large-scale commercial farmers still held 28 per cent of the total land at the time the fast track program was instituted; meanwhile, more than one million black families eke out an existence on overcrowded, arid “communal areas”, the land allocated to Africans by the colonial regime. Farm workers, many of whom are of foreign descent, have little or no access to land on their own account, and are also vulnerable to arbitrary eviction from their tied accommodation. Many poor and middle-income black people in urban areas squeezed by rocketing food and transport price hikes and growing unemployment since the mid-1990s see land as an alternative source of income and food security. Many land restitution claims relating to forced removals during the era of the white government have also not been addressed. These factors create a significant land hunger in Zimbabwe (Waeterloos, 2002).

The Zimbabwean government formally announced the “fast track” resettlement program in July 2000, stating that it would acquire more than 3 000 farms for redistribution. Between June 2000 and February 2001, a national total of 2 706 farms, covering more than six million hectares, were gazetted (listed in the official government journal) for compulsory acquisition. According to the Commercial Farmers’ Union (CFU), which represents the large-scale commercial farming sector in Zimbabwe, more than 1 600 commercial farms were occupied by settlers led by war veterans in the course of year 2000, though others have questioned the number, and some were occupied only for a short period. Not all of these occupations were accompanied by violence (Ibid).

There are two main explanations given for the fast track land reform program in Zimbabwe. While all parties recognise the legacy of land inequality and the need to address this legacy with land redistribution, they differ on the causes of the current political crisis. Government and the ruling party, Zanu-PF, blame the international donor community and Britain, the ex-colonial power, for the breakdown in the negotiated process of land reform. This argument has force: enduring economic inequalities, especially in land distribution, have made land ownership a fertile political issue for any political party, and the preference of donors for a redistribution process founded on market values has placed obstacles in the way of rapid progress. The

opposition, however, led by the MDC (Movement for Democratic Change), attributes the fast track program to the emergence of a viable electoral opposition, and government efforts to derail the first serious challenge to Zanu-PF rule since independence. Government and Zanu-PF therefore say that the current land reform is a political initiative, having more to do with Zanu-PF's desperate attempt to stay in power than with concerns for land equality. The polarization of this debate in practice has not been helpful to attempts to resolve the land crisis (Ibid).

Human Rights Watch's concern is that the human rights violations that have accompanied the fast track process must cease. The conclusion of this report is that many ordinary Zimbabweans who might anticipate benefiting from a fair and effective land reform program fear the violence and intimidation of the "fast track" reform. They resent the discrimination in the way that land is allocated, seeing that the process of redistribution has too often favoured Zanu-PF members and those who already have influence and status, instead of those in most need (Ibid).

In August 2001, a large number of Zimbabwean civil society groups came together to discuss the crisis in their country. In relation to land, the conference adopted resolutions that: "There must be an immediate cessation to the "fast track" land programme," and that "The present occupations must be rationalised in terms of the law but those guilty of violence on farms must not be eligible for incorporation into a new lawful programme". Human Rights Watch also concludes that the fast track program must be halted to the extent it generates human rights violations, and that violence must be ended and the rule of law restored. Then the competing claims of commercial farmers, farm workers, new settlers, and the state to land must be arbitrated by an impartial tribunal with authority to adjudicate disputes over land and allocate title fairly. The international donor community should give generous assistance to efforts to ensure a sustainable settlement to the land question in Zimbabwe (Ibid).

The farm workers have been willing and viable settlers in the process of land reform and possibilities for poverty reduction, but have also been prevented from joining while losing their jobs. It is suggested that unless farm workers are included in the land

reform in a significant number the vast majority will join the growing ranks of the extreme rural and urban poor (Rutherford, 2004).

The land issue in Zimbabwe—in particular the land invasions and confiscations—is currently commanding international attention. However, ever since the introduction of land reform in the country, the land policy and its effects have been under debate in Zimbabwe itself. The analysis shows that the overall impact of resettlement on agricultural production and rural poverty is positive. Resettled households are mostly able to obtain higher output and income levels than households living in the communal areas. Squatters living in or near the resettlement schemes turn out to realise the same income level as households in the communal areas. There are also clear indications that internal and external pressures on the natural resources in the resettlement schemes are increasing. Formal policy still does not allow any squatting, not even by children of settlers, the research findings show that this phenomenon has become a fact of life (Broekhuis, A & H, Huisman, 2001).

Chapter 5

ANALYSIS AND DISCUSSION

The United Republic of Tanzania governs the land in the country and is in a monopolistic position. The best thing would be if the United Republic of Tanzania keep track of the land distribution but the market acts under perfect competition so that more land will be sold to more reasonable prices. This would benefit the whole population of the country with lower prices and opportunities for more people to own land.

Tanzania is among the most developed countries in Africa in its legal thinking toward reconstructed custom and commons, has yet to declare its important new laws commenced, and despite the fact that it has the advantage of having the critical instructions at the community level already in place. The new Tanzanian laws do more than recognise common property as a legal and registrable form of ownership—they directly encourage this.

Earlier studies have shown that land laws should not only redistribute land to the people who are in power and are economically strong, the land should be available to everyone. The authors have therefore chosen to evaluate if the recently adopted land laws for the agricultural sector in Tanzania work properly and are efficient in terms of providing sufficient security for the Tanzanian population and contribution to a decent living standard. Table 5.1 show that the purpose of the reforms in the five countries studied seem to be the same. But the methods used are different for each country. The government of Uganda concentrate on the poor people, and realize the importance that all the people have knowledge about the new land law. The four other countries are more focused on the laws them selves and tend to forget the importancy of the practical implementation. The authors believe that the countries should put more effort in such things. A common problem for all countries studied seem to be the lack of knowledge

about the land laws in the rural areas. It is important that these people know their rights since it is in the rural areas where the major part of the agriculture is taking place. Through titles, the villagers will have security to their land and with titles and certificates the villagers and the village councils can obtain small loans from micro-finance institutions and non-governmental organisations to improve their agricultural production to buy inputs, equipment, hire transport, improve storage facilities, et cetera.

Table 5.1 Land reform overview

Land	Purpose of the Reform	Method	Results
Ethiopia 1975	<ul style="list-style-type: none"> * Individual right to own land * Land should be collective property 	<ul style="list-style-type: none"> * Abolish trade in land as a commodity * Abolish the tenancy system * Limit amount of land that one family may cultivate 	<ul style="list-style-type: none"> * Increasing selling, hiring, renting of farm labour and animal traction
Kenya 1960	<ul style="list-style-type: none"> * Consolidation and re-distribution of land * Stable land-owning rural society 	<ul style="list-style-type: none"> * Raise production by using advanced agricultural methods 	<ul style="list-style-type: none"> * Many new black land owners * Possible transfers of land from whites to blacks
Tanzania 1999	<ul style="list-style-type: none"> * Sustainable economic growth * Economic opportunities, particularly for the poor 	<ul style="list-style-type: none"> * Regulate the amount of land a person may occupy * To set up rules of land law accessibly which can be readily understood by all citizens 	<ul style="list-style-type: none"> * The legislation most favours people in power and the economically strong
Uganda 1998	<ul style="list-style-type: none"> * Changing the rules by which individuals relate to one another with respect to land 	<ul style="list-style-type: none"> * Alleviate poverty through training and sensitization activities with farmers in order to increase awareness and provide training to farmers about the Land Act 	<ul style="list-style-type: none"> * Delayed implementation of the Land Act has caused conflicts among the landlord and tenants * Easier access to key information about the Land Act
Zimbabwe 2000	<ul style="list-style-type: none"> * To redistribute land in order to benefit the landless poor 	<ul style="list-style-type: none"> * Take land from rich white commercial farmers for re-distribution to poor and middle-income landless zimbabweans 	<ul style="list-style-type: none"> * Resettlement on agricultural production and rural poverty is positive

In the theory the results from all the five countries are mostly positive even though the authors believe that the slow pace in the developing countries affect the implementation of the land laws in a negative way. The governments in these countries do not seem to

have enough resources to have a fully effective way of implementing the land laws. This is precisely what has happened in Tanzania; the Presidential Land Commission began work in 1991 and the Land Act and the Village Land Act were passed in 1999. Even if it took more than eight years, the majority of the rural poor do not know that there is a new law that can offer them implications for registering land. The implementation stage is crucial and it also takes a lot of hard work. It is always easier to improve a country's situation when you know what to struggle for. If only the population get better knowledge about the land laws, it is easier for everyone to cooperate to get a better land to live in. Ethiopia and Kenya began their work in 1975 and 1960 and are still today working on reaching the set up goals.

Chapter 6

CONCLUSION

After a century of demise, the traditional capacity in Africa to hold rural lands in common is seeing a wave of unexpected recognition in revised national land laws in eastern Africa, a development which could signal a dramatic turning point in the future of common properties. National land law, or the lack of it, does make a great deal of difference to the status of common property in Africa. The United Republic of Tanzania own a large portion of valuable land even if evidence have shown that this is conducive to mismanagement, underutilization of resources, and corruption.

The authors have compared four countries in East Africa; Ethiopia, Uganda, Kenya and Zimbabwe with Tanzania. The comparison have shown that even if different methods have been used, all countires seemed to have the same purpose, which is to give the poor people the possibility to own land. The results have also shown that the implementation stage is not working properly since the governments do not have enough resources to fulfil their undertakings with the land laws. The authors believe that the land laws are not optimally efficient. The land laws are by all means good for the people since the country has a goal, but the governments should not pass laws that they do not have the capacity or resources to implement.

REFERENCES

Alden Wily, L, (2002). "Reconstruction the African Commonos", Africa Today, No 4, p 1, 99p.

Belete, A & JL, Dillon & Andersson FM, (1991). "Development of agriculture in Ethiopia since the 1975 land reform", Agricultural Economics, No 6, p 159-175, p 273.

Broekhuis, A & H, Huisman. (2001). "Resettlement revisited: land reform results in resource-poor regions in Zimbabwe", Georum, No 32, p 174-198, 378 p.

Challen, R. (2000). Institutions, transaction costs and environmental policy, Cheltenham: Edward Elgar.

Commonwealth Education Fund. (2004). WWW: www.landcoalition.org/cef_profiles_uganda.htm. (2004-08-17).

Deininger, K. & G, Feder. (1999). "Land policy in developing countries", Rural development note, No 3, p 1, 4 p.

Deininger, K. (2003). Land policies for growth and poverty reduction, Washington: The World Bank and Oxford University Press.

Gershon, F & R, Noronha. (1987). Land rights systems and agricultural development in sub-saharan africa, Washington: The World Bank

Hassan, A. K. (2003). Assistant Information Officer, Economic and Social Research Foundation, Dar es Salaam, Personal contact

Holmgren, J. (1977). "Grain Marketing and Land Reform in Ethiopia", Nordiska Afrikainstitutet, No 41, p 8, 36 p.

Juma, I. H. (2003). Dean Faculty of Law, University of Dar es Salaam, Personal contact

King, R. (1977). Land reform, A world survey, Colorado: Boulder.

Mallaya, E. T. (1999). "Civil society and the land question in Tanzania", Dar es Salaam: University of Dar es Salaam, Department of Political Science and Public Administration

Mjema, G. D. (2003). Director, Economic Research Bureau, Dar es Salaam, Personal contact.

Mugambwa, J (2002). Source Book of Uganda's land law, Kampala: University of Kampala.

Neil, H. T. (2003). "Land reform in Zimbabwe", Third World Quarterly, Vol 24, No 4, p 691, 21 p.

North, D. C. (1993a). Institutionerna , Tillväxten och Välståndet, Stockholm: SNS Förlag

North, D. C. (1993b). Five Propositions About Institutional Change, St. Louis: Washington University

Omiti, JM, & KA, Parton, (2000). "Some policy implications of the resurfacing of rural factor markets following agrarian de-collectivization in Ethiopia", Human Ecology, No 28, p 585-603, 731 p.

Otiso, R. (2002). "Land ownership for the poor in Kenya", Singapore journal of tropical geography, No 23, p 252-267, 455 p.

Oxfam. (2003a). WWW:
www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/intro
ducion.htm. (2003-11-22).

Oxfam. (2003b). WWW:www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights
/downloads/uluguru.rtf. (2003-11-20).

Pejovich, S. (2001). The economics of property rights, vol 1, Chaltenham: Edward
Elgar.

Rutherford, B. (2004). "Land reform in Zimbabwe: Challenges and opportunities for
poverty reduction among commercial farm workers", World Development, Vol 32, No
3, p 537-553, 750 p.

Semboja, H. H (2003). Consultant and Economic expert, Economic Research Bureau,
Dar es Salaam, Personal contact

Sijoana, S. (2001). Country case study Tanzania, Washington: The World Bank

The Institute of Economic Affairs, (2000). "Reassessing Kenya's Land Reform", The
Point, November 2000, No 40, p 1-8, 8 p.

Utrikespolitiska institutet, (2003). Länder i fickformat-Tanania, Stockholm:
Utrikespolitiska institutet.

Van Buren, L. (1999). Africa south of the Sahara, London: Europa Publications
Limited.

Waeterloos, E (2002). "Fast track land reform in Zimbabwe", Vol. 14, No. 1, p 2, 43 p.