



**MAPENDEKEZO YA TUME YA
KUREKEBISHA SHERIA ZANZIBAR
RIPOTI YA UTAFITI WA SHERIA YA
MIGOGORO YA ARDHI ZANZIBAR**

**INAWASILISHWA KWA MHESHIMIWA WAZIRI WA NCHI, OFISI YA RAIS,
KATIBA, SHERIA, UTUMISHI NA UTAWALA BORA**

MWAKA, 2021

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SURA YA SABA

MAPENDEKEZO YA TUME NA HITIMISHO

Utangulizi

Sura hii itazungumzia Mapendekezo ya Tume kutokana na yaliyojitokeza katika Dhana ya Migogoro ya Ardhi, Uzoefu wa nchi mbalimbali, Sera na sheria zilizopo na maoni ya wadau. Tume baada ya kukamilisha utafiti huu imeweka mapendekezo katika makundi mbali mbali kama ifuatavyo:

Mapendekezo ya Kisera;

Mapendekezo ya Kisheria;

Mapendekezo ya Kikanuni;

Mapendekezo ya Kimuundo;

Mapendekezo ya Kiutendaji; na

Mapendekezo mengine.

Mapendekezo ya Kisera

Tume ya kurekebisha Sheria inapendekeza Serikali ifanye mapitio ya Sera ya mwaka 2018 kama ifuatavyo:

kubadilisha Muundo wa utawala na usimamizi wa ardhi Zanzibar; kisiwa cha Unguja kina ukubwa wa eneo la kilomita za mraba 1,660 sq. km na kisiwa cha Pemba ni 984 sq. km, kiasi kwamba ardhi ndogo kama hii inadhibitiwa na kusimamiwa na vyombo tofauti ambavyo kila kimoja kinapanga utaratibu wake katika usimamiaji huo; inapendekezwa Usimamizi wa Ardhi uwekwe katika taasisi moja na Wizara na taasisi nyengine kama Kilimo, Uwekezaji, Misitu, Kamisheni ya Wakfu, Uvuvi, Maji na Nishati na taasisi nyenginezo zipate kibali cha Mamlaka moja ya kusimamia ardhi; ili kusaidia katika utambuzi, uwekaji wa kumbukumbu,

usajili na haki ya matumizi na kutekeleza Mpango wa Usimamizi wa Ardhi kutekelezeka kwa urahisi na kupunguza migogoro ya ardhi.

Kuweka utaratibu wa utatuzi wa migogoro ya ardhi kwa kuainisha vyombo na taasisi zinazohusika, mamlaka yao, mipaka yao kiutendaji na utaratibu huo ujumuishe mamlaka ya Serikali za Mitaa katika kutatua migogoro.

Iweke wazi Usimamizi na majukumu ya mamlaka za Shehia, Wilaya na Mikoa katika usimamizi wa masuala ya Ardhi na kusaidia tokea katika hatua za utambuzi hadi haki ya matumizi.

Kuangalia uwezekano wa kuziunganisha baadhi ya Sheria zinazoweza kutekelezeka katika usimamizi wa sehemu moja, au zinapelekea mgongano wa baadhi ya maeneo wakati wa utekelezaji.

Mapendekezo ya Kisheria

Tume inapendekeza Sheria zifanyiwe marekebisho katika maeneo yafuatayo:

Sheria ya Utambuzi Nam. 8 ya mwaka 1990 ifanyiwe marekebisho kwa kuweka uzoefu na sifa za kitaalamu kwa Afisa Mtambuzi Afisa mipaka, na Afisa kumbukumbu ambao wamesajiliwa na mamlaka zinazohusika kwa kuzingatia majukumu yao kisheria.

Sheria ya Uhaulishaji (Land Transfer) Nam. 8 ya mwaka 1994 ifanyiwe marekebisho katika kifungu cha 9(1) (h) kwa kuweka sifa za wajumbe wanaoteuliwa na Waziri ili wajumbe hao wawe na utaalamu na uzoefu katika masuala ya ardhi, kifungu hicho kwa upande wa Wajumbe wengine kimeainisha sifa kwa mujibu wa dhamana zao.

Sheria ya Mahkama (Baraza) ya Ardhi Nam. 7 ya mwaka 1994 ifanyiwe marekebisho na ijumuishe mfumo wa upatanishi (ADR) katika utatuzi wa migogoro na kuainisha sifa za Wajumbe wa Baraza kwa kuzingatii uelewa wa maeneo, historia, uzoefu wa usuluhishi, na sifa nyengine zitakazowafanya waweze kutatua migogoro.

Kuanzishwe Mabaraza ya Ardhi katika ngazi za Mikoa ili kutoa fursa ya kusikiliza kesi za ardhi zilizo katika mikoa hiyo kabla ya hatua ya Mahkama, hatua hiyo itawapa nguvu Wakuu wa Mikoa kufuatilia na kutatua baadhi ya migogoro ambayo haihitaji taratibu za kisheria na kuweka mashirikiano na Wizara husika ili kubaini kasoro zilizopo katika hatua za awali.

Tume inaona ikiwa Sheria ya Mahkama ya Ardhi itaanzisha Mabaraza ya Ardhi itaweza kuakisi malengo ya kuanzishwa mabaraza ya Ardhi tofauti na Mahkama nyengine zilivyo. Utaratibu uliopo utathminiwe tena katika kusikiliza masuala ya ardhi kwa vile watu wengi hawaendi Mahkamani na maeneo yanayobishaniwa yapo mbali, ni vyema sheria ielekeze Mabaraza ya Ardhi kwenda kusikiliza malalamiko yanayohusu masuala ya Ardhi kwa kuwafuata wahusika kwenye eneo husika lenye mgogoro baada ya kusikiliza ofisini.

Sheria ya Kutwaa Ardhi¹ na Tathmini ya Fidha yam waka 1949, zifanyiwe mapitio na kutekelezwa katika maeneo ambayo yana uhalisia hadi sasa na yatasaidia katika usimamizi wa ardhi na utatuzi wa migogoro.

Sheria ya Haki ya Matumizi ya mwaka 1992 itambue malipo ya fidha kwa kuchukua ardhi kwa maslahi ya Umma na isomwe pamoja na Sheria yam waka 1949 kutokana na yafuatayo:

utaratibu ambao ulizingatiwa katika sheria ya Haki ya Matumizi ya Ardhi ni ule uliowekwa masharti kwa Waziri akitaka kusitisha Hati ya Matumizi ya ardhi kwa sababu ya maslahi ya mapana ya nchi.² Masharti yenyewe ni pamoja na kuthibitisha na kuiridhisha mahakama ya ardhi kwamba kuna sababu za msingi zinazopelekea

¹ Sura ya 95 ya mwaka 1909

² Kifungu cha 56 cha Sheria ya Umiliki wa Ardhi nambari 12 ya mwaka 1992

kusitishwa kwa Hati hiyo³ na kutoa Hati nyengine za Matumizi ya Ardhi kwa sehemu ambayo imepimwa na kulipa fidia kwa wale ambao wameiendeleza ardhi hiyo,⁴ kwa mujibu wa thamani ya kilichoendelezwa.⁵

Katika mwaka 2018 kulifanyika marekebisho madogo katika sheria ya Umiliki wa Ardhi ambayo yakapelekea kufutwa kwa vifungu hivyo⁶. Kwa mujibu wa marekebisho hayo Waziri anaweza kusitisha Haki ya Matumizi ya Ardhi bila ya kufata utaratibu wowote. Jambo ambalo linaweza kuchangia kutokea kwa migogoro ya ardhi.

Tathmini ya kina ya utekelezaji wa sheria za ardhi, kutokana na kujirudia kwa makosa hayo hayo katika jamii kuhusiana na migogoro ya ardhi.

Mapendekezo ya Kikanuni

Katika eneo hili Tume ya Kurekenisha Sheria inapendekeza yafuatayo:

Kanuni ambazo zimetajwa katika sheria na bado hazijatungwa, zifanyiwe utaratibu wa kutungwa ili ziweze kusaidia kutatua migogoro ya ardhi, kifungu cha 67 cha Sheria ya Matumizi ya Ardhi kimetaka kanuni za kutayarishwa ingawa kuna baadhi ya kanuni hizo bado hazijawekwa, pamoja na Sheria nyengine za ardhi.

Kanuni zifanyiwe marekebisho kila inapohitajika na kila Sheria za Ardhi zinapofanyiwa marekebisho ili kuakisi uhalisia na mazingira ya kiuchumi na kijamii yalivyo.

Kuanzishwe Kanuni maalum za uwekaji kumbukumbu: Utafiti huu umebaini kwamba hakuna mfumo wa taarifa za ardhi katika usajili na hati za matumizi ya ardhi. Wakati wa utafiti huu imebainika kuwepo kwa hati zaidi ya moja katika maeneo tafauti, hali inayosababisha migogoro ya ardhi. Aidha Tume imeshtushwa

³ kifungu cha 56(a)

⁴ kifungu cha 56(b)

⁵ kifungu cha 56(c) na (d)

⁶ Kifungu cha 56 Marekebisho Madogo ya mwaka 2018

kuona hati hizo zimetiwa saini na mamlaka moja inayohusika na usimamizi na kujenga picha kuwa Kamisheni ya Ardhi na taasisi zilizo chini ya Wizara ya Ardhi na Makaazi hazina mfumo mzuri wa taarifa za ardhi. Mfumo wa uwekaji kumbukumbu na taarifa za ardhi kwenye nyanja zote uunganishwe na maombi yote yafanywe kwa njia ya “online”.

Mfumo huu ni muhimu hasa ikizingatiwa unyeti wa hati za umiliki wa ardhi ambao unagusa haki za wananchi moja kwa moja na mapungufu yanayoweza kujitokeza katika matumizi ya uwekaji wa kawaida wa taarifa (manual system) ikiwemo udanganyifu wa nyaraka, upotevu wa kumbukumbu, na utoaji wa hjata kwa maeneo ambayo tayari hati za umiliki zimetolewa.

Tume inapendekeza mfumo ujumuishe:

Vipande vya Ardhi zilizotambuliwa,
ardhi zilizosajiliwa na usajili wake na tarehe zilizotolewa,
ardhi zilizokodishwa (lease), namba za mikataba na muda wa lease,
ardhi za maeneo ya Serikali na umiliki wa taasisi za Serikali Mawizara na Mashirika,
Taarifa Mashamba ya Serikali na ardhi za Eka,
Ardhi zilizotolewa kwa wawekezaji wa sekta mbalimbali kama hoteli, viwanda n.k.

Mapendekezo ya Kimuundo

Ktaika eneo hili Tume inapendekeza yafuatayo:

Uhusiano wa Wizara na Mahkama ya Ardhi

Tume imebaini kwamba hakuna uhusiano wa karibu uliopo baina ya Wizara husika, Mahkama ya Ardhi na Ofisi za Mikoa. Imebainika kwamba hakuna uthibitisho (verification) unayofanywa katika kutambua migogoro ya ardhi, migogoro

iliyowasilishwa Wizarani, katika ngazi ya Mkoa na Mahkamani, kuna migogoro tayari imeshatolewa maelekezo ya Wizara lakini wananchi wanawasilisha Mahkama ya Ardhi, kuna migogoro iliyopita katika Mahkama tayari lakini wananchi wanaianzisha tena katika ngazi za Mikoa, Wilaya au Wizara.

Kuna haja ya kuweka pamoja migogoro yote iliyopo katika taasisi hizi na kuifanyia uchambuzi wa kina kwa kuzingatia vyanzo vya migogoro hiyo na hatua zilizochukuliwa kutatua. Hatua ambayo itasaidia kujua ukubwa wa tatizo ulivyo. Tume wakati wa utafiti imeshindwa kupata migogoro halisi iliyopo hadi sasa.

Ingawa ikilinganishwa migogoro iliyoelezwa na wadau wakati wa utafiti huu, inaonekana taarifa za migogoro iliyopo Mahkama ya Ardhi ni ndogo sana. Taarifa za kesi zilizofunguliwa Mahkama ya Ardhi tokea kuanishwa kwake hadi Oktoba 2021 ni 3,715 kwa Unguja na Pemba

Jaduali Nam. 4 linaonesha idadi ya kesi zilizofunguliwa, zilizokamilika na zilizobaki hadi sasa tokea Mahkama ilipoanzishwa.

Jaduali Nam. 4

Eneo	Kesi zilizofunguliwa	Kesi zilizokamilika	Kesi zinazoendelea
Unguja	2,174	2,048	126
Pemba	1,541	1,471	70
Jumla	3,715	3,519	196

Chanzo: Mahkama ya SArdhi Zanzibar

Jadueli Nam. 5 linaonesha jumla ya kesi zilziofunhguliwa Mahkamani mwaka 2019 hadi sasa kwa Mikoa yote ya Zanzibar.

Jadueli Nam 5:

Mkoa	mwaka	Kesi zilzopokelewa	Kesi zilzomalizika	Kesi zinazoendelea
Mjini Magharibi	2019-2021	186	119	73
Kaskazini-Unguja	2019-2021	63	44	24
Kusini- Unguja	2019-2021	58	32	29
Kaskazini- Wete	2019-2021	119	84	35
Kusini- Chake	2019-2021	80	46	35
Jumla	2019-2021	506	325	196

Chanzo: Mahkama ya SArdhi Zanzibar

Uchambuzi wa kesi unaonesha uwepo wa mwamko mdogo wa ufunguaji wa mashauri haya, au kuna baadhi ya mashauri yanawasilishwa katika ngazi za Mikoa na Wilaya badala ya kuwasilishwa Mahkama ya Ardhi.

Muundo wa taasisi

Tume inapendekeza kuangaliwa muundo wa taasisi na Bodi za Usimamizi zilizoundwa chini ya Sheia za Ardhi, na mahusiano ya Bodi hizo. Utafiti umebaini kwamba Bodi zote zinazohusika zipo chini ya Wizara ya Ardhi na Makaazi lakini mara nyengine kuna maamuzi tafauti na hakuonekani kuwepo na muunganiko (coordination) ya shughuli za Bodi moja na nyengine ili kurahisisha masuala ya usimamizi wa ardhi na kuepusha migogoro.

Mapendekezo ya Kiutendaji

Utambuzi

Inapendekezwa ardhi iliyopo Zanzibar ifanyiwe zoezi maalum kwa kipindi maalum ili kutambua ardhi iliyopo, maeneo ya Serikali, ardhi za kilimo, uwekezaji n.k. Tume inaamini zoezi hili litabainisha mapungufu yaliyopo na kusaidia katika:

Kutambuliwa kwa ardhi za Serikali ambazo imebainika zimekuwa katika uvamizi wa wananchi,

Kupunguza ujenzi holela, maeneo ya njia, mipaka, kuwekea utaratibu maalum katika maeneo ya maweni, yaliyogaiwa eka tatu, magofu na sehemu za kihistoria, maeneo ya misitu na kuendeleza hifadhi zilizopo na vivutio ambavyo havijasimamiwa vyema kiuchumi.

Waandishi wa Kenya Lillian and Judah wanaeleza athari ya kutokuweka wazi mipaka ambayo ilikuwa sababu za migogoro ya matumizi ya ardhi kati ya Wilaya mpya za Tigania na Tharaka nchini Kenya, iwapo mipaka inakosekana au haipo wazi inasababisha usimamizi mbaya wa taasisi na ukosefu wa sera na sheria juu ya matumizi ya ardhi.⁷

Umiliki wa Ardhi

Kushindwa kuwekwa wazi mfumo wa kisheria unaotumika haki za ardhi ni changamoto kubwa, hivyo Tume inapendekeza suala la usajili na utoaji wa hati liimarishwe, wananchi wapewe “grace period” ya kutafuta hati za umiliki ikiwemo:

Wanachi kuhamasishwa kutafuta hati za ardhi kwa utaratibu maalum;

⁷ Lillian and Judith (2012) “Inter ethnic conflict in Kenya: a case of Tharaka Tigania conflict, cause effects and intervention strategies”. <http://repository.must.ac.ke/handle/123456789/806>

kuthibitisha haki za ardhi zilizotolewa ili ziweze kufanyiwa uhakiki;
haki za kimila au za jamii husika zilizotumika kwa muda mrefu zinapaswa kutambuliwa;
marekebisho yanapaswa kufanywa kwa wale waliopoteza haki zao za ardhi ikiwa kunyang'anywa kwao kulikuwa hakwendi kinyume na sera zilizokuwepo wakati huo;
Baraza la Wasuluhishi linapaswa kuundwa katika ngazi ya Wizara ili kupokea malalamiko ya wananchi ambao wana matatizo katika hati zao za umiliki;

Kutokutolewa Hati Rasmi

Tume inapendekeza kwamba Wizara husika ifanye zoezi maalum la kutoa hati rasmi kwa kuanzia na maeneo ambayo hayana migogoro, maeneo ya Serikali ambayo imebainika mengi hayana hati na hayatambuliki hasa katika kisiwa cha Pemba hali inayoweza kupelekea uvamizi wa maeneo na kusababisha migogoro ya ardhi baadae.

Serikali iandae Public Notice kutambua maeneo hayo na maeneo ambayo yamependekezwa katika Mipango Miji kuweklwa kwa ajili ya huduma mbalimbali kama barabara, hospitali, skuli, wawekezaji n.k

Kujengewa uwezo watendaji wa taasisi

Wizara iwajengee uwezo watendaji wa taasisi zinazosimamia ardhi ili wafahamu taratibu za sheria na sheria zilizopo, utafiti umebaini kuwa watendaji wengi wanafanya kazi kimaozea na kiuzoefu kuliko kufuata misingi ya sheria zilizopo. Aidha kuna watendaji wanaofahamu sheria na kwa makusudi hukiuka masharti ya sheria hizo na kuoneza migogoro ya ardhi.

Wakati wa utafiti huu wadau wengi wamelalamikia utendaji wa Idara na Kamisheni ya ardhi na kuonesha khofu yao ya kutokutendeka haki kutokana na baadhi ya watendaji kutokuwa waaminifu na kushiriki kuongeza migogoro iliyopo.

Utafiti umeonesha kuwa watendaji wengi wa Kamisheni ya Ardhi hawana taaluma za kutosha zinazolingana na majukumu yao wanayoyafanyia kazi. Kwa mfano katika mambo ya uhaulishaji, wengi wa wajumbe wa bodi hawana taaluma za kazi wanazozifanya za uhaulishaji kwa sababu teuzi zao hazijazingatia sifa ambazo sheria hazijazieleza.

Mageuzi ya Haki ya Matumizi

Serikali ifanye mageuzi (transformation) ya ardhi ili ipange upya matumizi yake kwa zile ardhi mpya na kwa zile ardhi ambazo watu wamepewa zamani kuwe na utaratibu kwa kuzitambua.

Utendaji wa Mahkama

Tume inapendekeza Mahkama ya Ardhi iimarishwe uwezo wake, muundo na utaratibu wake, utaratibu wa usuluhishi na utunzaji wa kumbukumbu. Aidha ili kuimarisha utendaji wa Mahkama ya Ardhi, Tume inapendekeza kuwekwa wazi sifa za Wazee wa Baraza (assessors), mamlaka yao katika masuala yasiyohusu sheria moja kwa moja badala ya kuwashirikisha katika maamuzi ya kisheria na yasiyo ya kisheria, na jinsi Wazee wa Baraza wanavyotakiwa kufanyakazi katika Mahkama hizo.

Tume inapendekeza kurahisishwa taratibu za Mahkama ya Ardhi ili kuharakisha mashauri na kutatua migogoro kwa njia ya upatanishi zaidi, na kwamba Matatizo ya

kimaamuzi katika ya Mahkama Kuu na Mahkama ya Ardhi katika maeneo ambayo yanalenga kutoa usuluhishi yaachwe kwa Mahkama ya Ardhi.

Tume wakati wa utafiti huu ilipatiwa mfano wa kutumika Amri ya Kumuondoa mtu katika ardhi ambayo atakuwa hana mamlaka nayo ili kumaliza mgogoro uliopo, lakini imebainika kuwa Amri hizo zinakatiwa Rufaa Mahkama Kuu na kusikilizwa au kutolewa maamuzi ya kumrudisha mlalamikaji wakati Mahakam imeshafanya tathmini na kubaini mlalamikaji kuwa hana haja ya kubaki katika eneo husika. Utata huu wa maamuzi unaongeza migogoro ya ardhi na kuibua tena migogoro ya aina hii ambayo kimsingi, maamuzi ya Mahkama ya Ardhi yanazingatia nyaraka zilizopo na taratibu zilizotumika. Inapendekezwa taratibu za uendeshaji wa mashauri chini ya Mahkama hii uangaliwe tena ili taratibu za Kimahakama ambazo hazihusiani na ADR zisitumike.

Mapendekezo ya Jumla

Kufanywa utafiti maalum

Tume inapendekeza kufanyike utafiti maalum wa kuangalia matatizo ya ardhi kwa upana wake badala ya kurekebisha sheria zilizopo, pamoja na kufanywa zoezi maalum ya kuzitambua ardhi zote zilizopo.

tathmini ya vyanzo vya migogoro

Tume inapendekeza vyanzo vya migogoro ya ardhi Zanzibar vifanyiwe tathmini kwa kuzingatia masuala yanayopelekea migogoro kutokea; hatua zinazochukuliwa; ushirikishwaji wa wananchi katika maeneo ya jamii, uwekezaji na maendeleo; njia bora za usuluhishi; orodha ya migogoro iliyopo Kimikoa; ili Mpango Maalum wa hatua na marekebisho yanayopendekezwa katika mifumo ya usimamizi ifahamike.

Hatua hii itasaidia kupunguza kasi ya ongezeko la migogoro kwa siku za baade na kupunguza migogoro iliyopo sasa.

Kufuatilia maeneo

Wizara ifuatilie maeneo yanayokatwa viwanja hivi sasa, ili Idara ya Mipango miji iwatangazie wananchi na ishiriki katika ukataji wa viwanja na kurasimisha maeneo hayo au kushauri uwepo wa maeneo ya huduma muhimu kama barabara na ameneo ya wazi.

Utawala wa Sheria

Tume inapendekeza ili kuweka utawala mzuri wa sheria na kupunguza migogoro:
Kuhamasisha umma juu ya taratibu za sasa za kisheria katika kusuluhisha kwa amani migogoro ya ardhi;
Serikali kuimarisha uwezo wa mifumo yote ya kisheria;
Kuchunguza urasimishaji wa jukumu la viongozi wa kijamii katika utatuzi mbadala wa migogoro na utayarishaji wa ushahidi;

Mapendekezo ya Utatuzi

Katika kutatua migogoro iliyopo inapendekezwa:
Kukusanywa orodha ya migogoro ya ardhi, na kufuatilia migogoro ya ardhi iliyojifichwa,
Kuchagua na kutumia njia inayofaa ya utatuzi wa migogoro (au kuianzisha) kutumia au kuanzisha chombo maalum cha kusuluhisha migogoro ya ardhi
Kukuza utawala bora wa ardhi

Elimu

Wizara inayohusika na masuala ya Ardhi itoe elimu kwa jamii kuhusiana na haki na matumizi sahihi ya ardhi, taratibu za kuhaulisha, fidia, taratibu za kuomba ardhi, taratibu za usajili wa ardhi, kufungua mashauri, rufaa, utaratibu wa mirathi katika masuala ya ardhi, pamoja na sera zilizopo, sheria na kanuni za uendelezaji ardhi, nyumba na makazi. Aidha Kamisheni ya Ardhi iandae mafunzo ya watendaji wake mara kwa mara ili waweze kutekeleza vizuri majukumu yao.

Hitimisho

Ongezeko la watu, uhaba wa ardhi, ukosefu wa alama za mipaka zinayoonekana wazi, kutojulikana kwa sheria zilizopo za ardhi na wamiliki wengi wa ardhi kuwa na tabia ya kupuuza sheria zinazoongoza umiliki, matumizi na usimamizi wa ardhi.

Utafiti umebaini kwamba hali ya migogoro ya ardhi inaonesha kwamba bila njia muhimu za kushughulikia migogoro ya ardhi, kuna hatari ya kuzidisha migogoro badala ya kupunguza. Kusuluhisha migogoro ya ardhi Zanzibar kunapaswa kuambatana na mafunzo ili wananchi wajengewe uwezo pamoja na wasimamizi wa migogoro, na pia ushiriki, ambao utaunda uaminifu kati ya wadau kabla ya kuanza kujishughulisha na mambo mazito ambayo yamesababisha migogoro.

Katika ngazi ya mtaa na maeneo mengine, ambapo migogoro mingi inahusu wananchi na Serikali yao au wawekezaji, migogoro inashughulikiwa na mamlaka za Serikali za mitaa kwa kushirikiana na Asasi za Kiraia na viongozi wa dini au wazee wa jamii, hata hivyo ushirikiano kati ya wadau umekuwa mdogo. Hakuna utaratibu unaotumiwa na wadau kushiriki kushughulikia migogoro inayohusiana na ardhi, badala yake njia hizo zimekuwa za muda mfupi. Wadau mara nyingi wamekuwa wakishiriki bila kuelezwa kwa kina utaratibu uliotumika au kupata ufafanuzi.

Kuna malalamiko ya kutokutoa taarifa ya kina kwa masheha na wananchi wakati mauziano yanapofanyika, mara nyingi wanasheria na watendaji huandaa mikataba ya ununuzi bila kujiridhisha usahihi wa taarifa na hali ya eneo linalouzwa ikiwa halitasababisha migogoro baadae.

Sheria za ardhi zinaruhusu Serikali kuchukua ardhi kutoka kwa mmiliki wa sasa na kumpa mtu mwingine, pamoja na wawekezaji kutoka Tanzania Bara na nje ya nchi, baada ya kufuata taratibu, Sheria pia inaruhusu Serikali kuchukua vipande vya ardhi wakati wa miradi ya maendeleo au kwa mslahi ya taifa, lakini eneo hili nalo husababisha migogoro hasa wakati Serikali inaposhindwa kulipa fidia kwa jamii au kuwashauri kufikia makubaliano juu ya mchakato na mipango mengine muhimu ya uhamishaji.⁸ Pamoja na ufahamu mdogo kuhusu sheria, jamii zimekuwa zikilipiza kisasi kwa hatua zilizochukuliwa na Serikali, na kisasi hiki mara nyingi kimesababisha migogoro mikubwa.

Viongozi wa dini ambao pia wana ushawishi katika siasa wana jukumu kubwa katika migogoro ya ardhi Zanzibar. Kwa upande mmoja viongozi hawa wanaweza kuongeza migogoro kupitia matamshi ya chuki ambayo wafuasi wao husikia kutoka kwao.⁹ Kuna haja ya kuongeza ushirikiano kati ya wadau, hasa Serikali kwa upande mmoja na Asasi za Kiraia na vyombo vya habari kwa upande mwengine.¹⁰

⁸ see Section 19 of Zanzibar Investment Promotion and Protection 2004

⁹ Tanzania International Religious Freedom Report. (2018). <https://www.state.gov/wp-content/uploads/2019/05/TANZANIA-2018-INTERNATIONALRELIGIOUS-FREEDOM-REPORT.pdf>

¹⁰ BASELINE AND CONFLICT ASSESSMENT, Jenga Amani Yetu Anthony Sarota, Lead Consultant, European Community ukurasa wa 20

Imebainika katika ufafiti kuwa wananchi hawaridhiki na mfumo unaotumiwa na Mahkama ya Ardhi katika utatuzi wa migogoro ya ardhi, na kuna baadhi ya migogoro inatolewa maamuzi bila uchunguzi wa kina au kufika sehemu ya tukio.

Utafiti huu pia umeonesha kwamba Serikali imeanzisha sheria nyingi za Ardhi kwa ajili ya kuhakikisha zinasaidia kulinda haki za wananchi kuhusiana na maswala ya ardhi, lakini utafiti huu umeonesha kwamba baadhi ya sheria hizi zinagongana katika utelelezaji wa kimajukumu na kushindwa kufikia matarajio endelevu na mfumo wa haki wa utatuzi wa migogoro ya ardhi.

Uzoefu uliopatikana wakati wa kufanya utafiti huu unajumuisha:

Taratibu za Utambuzi

Uzoefu wa Uganda, Kabla ya mchakato wa utambuzi, Sheria ya mwaka 2010 imeweka kuwepo mambo ya awali ya kuzingatiwa ili kutoa muda wa kutosha kuandaa na kupanga mpango kikamilifu na hivyo kupunguza uwezekano wa kizuizi chochote wakati wa zoezi la utatuzi. Hatua hizi zinajumuisha Mipango ya Ardhi ya Wilaya husika, kutoa taarifa muhimu katika eneo husika, kubainisha maeneo ya uwekezaji, miundombinu kuendana na mpango wa kitaifa wa maendeleo. Kwa upande wa maeneo ya pembezoni mwa miji shughuli zifuatazo zitafanyika: uhamasishaji kwa halmashauri za mitaa, wenye haki na wadau wengine, ushirikiano na kamati ya mipango ya kata/wilaya. Udhibiti wa uchunguzi utakuwa iliyoidhinishwa na Idara ya Tafiti na Ramani, Upimaji wa mipaka, Kamati za kutatua migogoro zitashirikishwa.

Kwa upande wa wajumbe wa Bodi na Kamati za Utambuzi zilzioundwa kisheria (ambazo Sheria Nam. 8 ya 1994 ya Zanzibar inazitambua) kunahitaji kufanywa

mafunzo kuhusu uamuzi na mbinu za kuweka mipaka kabla ya zoezi na taratibu na kisheria katika utambuzi.

Katika utatuzi wa migogoro, sheria imetoa uwezo wa kutatua migogoro kabla ya kuanza kwa kuchukua hatua na maamuzi ya uwekaji mipaka. Hatua hizi zinafanywa kuepuka kupeleka kesi Mahkamani na kucheleweshwa kwa shughuli za utambuzi.¹¹

Kamati ya Utambuzi inatakiwa kuhakikisha wamiliki wa haki za ardhi, asili ya haki na haki za wengine zinazingatiwa, na inatakiwa kushirikisha majirani katika kuweka alama kwenye mpaka.

Ushughulikiaji wa Migogoro inayohusiana na uamuzi inatarajiwa kwamba mabishano madogo na makubwa yanaweza kutokea wakati wa mchakato wa utambuzi. Migogoro midogo inaweza kujumuisha kutokubaliana juu ya mstari wa mpaka, nani anapaswa kujumuishwa kwenye cheti cha umiliki, barabara au haki nyengine zozote za wahusika wengine. Kamati inashughulikia migogoro midogo na ile mikubwa inawasilishwa katika taratibu za Mahkama. Kwa wale wanaokubaliana kumaliza mmgogoro uliojitokeza lazima wasaini fomu maalum ya makubaliano.

Utaratibu wa taratibu za maamuzi ya ardhi umewekwa katika Kanuni maalum,¹² Kamati za Ardhi za Maeneo ni muhimu na zimeundwa kusikiliza na kuamua madai ya maslahi katika ardhi kwa kuzingatia sheria na haki na wakati wa kutoa maamuzi, zinaweza kusikiliza ushahidi, ambao vinginevyo haungekubalika katika Mahakama

¹¹ The Republic of Uganda Ministry of Lands, Housing and Urban Development Systematic Land Adjudication and Certification Operations Manual, June 2015 inapatikana <https://mlhud.go.ug/wp-content/uploads/2013/08/Operational-Manual.pdf>

¹² Kanuni Nam. 21 ya Ardhi ya mwaka 2004, ambayo inatumika kwa maombi chini ya vifungu vya 5, 6, 7, 9, 11, 28 na 33 vya Sheria ya Ardhi

ya Sheria, kuita mashahidi au kutummia ushahidi uliomo katika nyaraka au taarifa yoyote rasmi au iliyotolewa katika dai jengine lolote.

Utatuji wa migogoro

Katika utatuaji migogoro, ushushaji wa madaraka yanasaidia katika usimamizi wa migogoro, kutokana na ukweli kwamba migogoro ya ardhi mara nyingi hujumuisha sehemu kubwa ya kesi rasmi. Nchini Ghana kwa mfano, kuna mrundikano wa kesi za ardhi 26,000 zilizopo mahakamani kwa sasa, baadhi ambazo zimesimama kwa miongo kadhaa na chache zikiwa hazina na matarajio yoyote ya kumalizwa mapema.¹³ Hali hii imeripotiwa Lesotho na Kenya.¹⁴

MAREJEO

VITABU

Ayeetey, E., Ayee, J.R.A., Ninsin, K.A., & Tsikata, D. (2007) “The Politics of Land Tenure Reform in Ghana: From the Crown Lands Bill to the Land Administration Project.”

¹³ The World Bank & MLF (Ministry of Land and Forestry) (2003) “Ghana Land Administration Project”. Final Draft Document April 2003

¹⁴ Alden Wily, L. (2001a) “Making Progress – Slowly. New Attention to Women’s Rights in Natural Resource Law Reform in Africa. In Strengthening the economic condition and role of women in agricultural and rural development by revisiting the legal environment: Proceedings, Centre for Technical Cooperation in Agriculture,” The Hague

Institute of Statistical, Social and Economic Research, ISSER. University of Ghana, Technical Publisher

Babette (2008) "Wehrmann land Conflicts a practical guide to dealing with land disputes" eschborn, Deutsche Gesellschaft für

Boserup, E. (1965) "The Conditions of Agricultural Growth: The Economics of Agrarian Change Under Population Pressure," London, Allen and Unwin

Humle, d. and Marshall Murphree (ed.) 'African Wildlife and Livelihoods'. James Currey. Oxford

Biraro, M., Bennett, R. and C. Lemmen (2015) "Accelerated Land Administration Updates, in Advances in Responsible Land Administration." CRC Press,

Behailu, D. (2015b) "Large-Scale Land Acquisitions in Ethiopia: Towards Attracting Foreign Direct Investment." Journal of Land Administration in Eastern Africa, 3, 279-295.

Beyene, Atakile (2004) "Land Tenure and its Challenges to Agricultural Development: A Case Study of a Smallholder-Farming System in Tigray, Ethiopia" in Seyoum Alemayehu et al. (eds.), Proceedings of the First International Conference on the Ethiopian Economy, Vol. II, Addis Ababa: Ethiopian Economic Association (EEA).

Bogale, Ayalneh & Benedikt Korf (2007) "To Share or not to Share? Scarcity, (Non-) Violence and Resource Access in Somali Region, Ethiopia", Journal of Development Studies 43 (4), 743-765.

Bogale, Ayalneh, Mohammed Taeb & Mitsugi Endo (2006), "Land ownership and conflicts over the use of resources: Implications for household vulnerability in eastern Ethiopia", Ecological Economics 58 (1), 134- 14

Bumet, W. (2000) "Culture, Practice and Law: Women's Access to Land in Rwanda. Kigali:" Rwandan Initiative for Sustainable Development (RISD).

Bruce, W. J. et al. (1994). "After the derg: An Assessment of Rural Land Tenure Issue in Ethiopia" Addis Ababa: Institute of Development, Research and Land Tenure Center

Condliffe P. (1991) "Conflict Management: a practical guide," Collingwood, Victoria, TAFE Publications, RMIT Ltd

Crocombe R (1987) "Land Tenure in the Pacific," University of the South Pacific, Suva.

Deere, Carmen Diana and Magdalena Leon (2003) "The gender asset gap: land in Latin America." World Development

DePaul College of Law, (1962) "Condominium: An Introduction to the Horizontal Property System", 11 DePaul L. Rev. 319

Fitzpatrick, D. and Monson, R. (2009) "Balancing Rights and Norms: Property Programming in East Timor, the Solomon Islands and Bougainville" In Leckie, S. (ed) *Housing, Land, and Property Rights in Post-Conflict United Nations and Other Peace Operations*, Cambridge University Press

Glazier, Jack (1985) "Land and the Uses of Tradition among the Mbeere of Kenya." Lanham: University Press of America.

Gluckman, Max (1965) "The Ideas in Barotse Jurisprudence. New Haven:" Yale University Press.

Jandt F.E and P. Pedersen (1996), "Culturally Contextual Models for Creative Conflict Management" in Jandt F.E and P. Pedersen (eds), *Constructive Conflict Management Asia-Pacific Cases*, California: Sage Publications

Joireman, Sandra (2000) "Property Rights and Political Development in Ethiopia and Eritrea", Oxford:

Hugh Laracy (ed) *Ples Blong Iumi*: (1989) "Solomon Islands, the Past Four Thousand Years" (Institute of Pacific Studies, University of the South Pacific, 121, 123. 37.

Lasaqa, I. (1984) "The Fijian People Before and After Independence," Maryborough: Australian National University Press, Dominion Press-Hedges

Lutz, W, and F.L Toth. (eds) (1991) "Popilation, Economy, and Environment in Mauritius. CP-91-1." Laxenburg, Austria: International Institute for Applied Systems Analysis.

Norfolk, Simon and Tanner, Chris, (2007) "Improving Land Tenure Security for the Rural Poor – Mozambique Case Study", FAO, Rome,

Ortega, R.: *Tierra*, (1996) "Recursos Naturales y Derechos Indígenas en la Costa Atlántica de Nicaragua." Unpublished document of the World Bank,

Rodman, M. (1995) "Breathing Spaces: Customary Land Tenure in Vanuatu" in Ward, R. G. & E. Kingdom (ed.) *Land, Custom, and Practice in the South Pacific*, U.K.: Cambridge University Press

Wehrmann, B. (2008) "Land conflicts a practical guide to dealing with land disputes" Deu. Tsche Gesellschaft für Technische Zusammenar be it (GTZ) Eschborn, Germany.

MAKALA NA JARIDA

Abdon Rwegasira (2012) “Land as a Human Right: A history of land law and practice in Tanzania”

Ailey Kaiser Hughes and Amanda Richardson (2014) “Land Dispute Assessment Report Findings from Nyagatare and Kayonza Districts,” Promoting Peace Project Eastern Province March 2014

[Arvin Halkhoree](#) (6 July 2019) “A digital land registry: The example of Mauritius”

Arvin Halkhore, Real Estate and Construction from Mauritius, 31 July 2019

A review of the causes of land use conflicts between farmers and pastoralists in Tanzania....article July 2019

Bakar, S. Hassan (2017) “Delays in Disposal of Land Cases in Zanzibar Land Tribunals: Causes And Remedies,” The Essay submitted in partial fulfilment of the requirements for the award of Masters of Laws, University of Dar-es-Salaam, July 2017.

Benjaminsen, T. A. and C. Lund (2003) “Formalisation and Informalisation of Land and Water Rights in Africa.” Frank Cass. London.

Binswanger, H.P., Deininger, K. and G. Feder (1995) “Power, Distortions and Reform in Agricultural Land Markets in J. Berman and T.N. Srinivasan (ed.) ‘Handbook of Development Economics’ Vol. 3B, Amsterdam, North-Holland

Bury, Jeffrey. 2005. Mining mountains: neoliberalism, land tenure, livelihoods, and the new Peruvian mining industry in Cajamarca. *Environment and Planning*, 37: 221-239

Christian Lund, Rie Odgaard and Espen Sjaastad, Land Rights and Land Conflicts in Africa: A review of issues and experiences, Danish Institute For International Studies,

Claudia Williamson and Carrie Kerekes, 2011) “Securing Private Property: Formal Versus Informal Institutions” (54 *Journal of Law and Economics*, University of Chicago 559,

David R. Mares, “Deterrence Bargaining in the Ecuador-Peru Enduring Rivalry:

Dinh, H.L., & Lin, S.M. (2014) “CO2 emissions, energy consumption, economic growth and FDI in Vietnam” *Managing Global transitions*, 12(3): 219-232.

Douglas C. Harris (Summer 2011) “Condominium and the City: The Rise of Property in Vancouver, Law & Social Inquiry,” Vol. 36, No. 3 pp. 694-726

Flavian Muhula Masore (2011) “Analysis of Land Use Conflict in Zanzibar. A Participatory Approach,” Feb 2011.

Franco, Oscar. (2006) “Opportunity in the Land of Conflict: mining Peasants and Changing attitudes in Northern Peru.” Tropical Resources Bulletin, 25 (Spring):88–93

Gabriel Marcella, War and Peace in the Amazon: Strategic Implications for the United States and Latin America of the 1995 Ecuador-Peru War (Carlisle, Pa.: Strategic Studies Institute, November 24, 1995)

Goodale, M.R.G.; Sky, P.K. A comparative study of land tenure, property boundaries, and dispute resolution: Case studies from Bolivia and Norway. J. Rural Stud. 2001, 17, 183–200

Goldman, Helle (1994) “Swahili Identity in Rural Pemba, Zanzibar (Tanzania).” [Unpublished dissertation], New York University

Gray L.& M. Keavan (1999), 'Diminished Access, Diverted Exclusion: Women and Land Tenure in Sub-Saharan Africa', African Studies Review 42 (2), 15-39.

Gyamera, E.A., Duncan, E.E.A., Kuma, J.S.Y., & Arko-Adjei, A. (2016) “Land conflicts in Ghana, causes, effects, and resolution. 4th UMaT Biennial International Mining and Mineral Conference.” Ghana. August 3-6, 2016. UMaT Auditorium, University of Mines and Technology, Tarkwa, Ghana.

Hagmann, Tobias (2006) “Ethiopian Political Culture Strikes Back: A Rejoinder to J. Abbink”, African Affairs 105, 605-612

Hikmany, A. (2006) “Tenth Anniversary of the Zanzibar Land Tribunal: The Rise and fall.” A paper presented at Zanzibar to commemorate the establishment of the land Tribunals, 2006

Hikmany, A & Syed Abdul Kader, S & Othman, A. (2015) “Legal Issues of Land Acquisition in Zanzibar”.

Jemma, Hussein (2001), 'The Debate over Rural Land Tenure Policy Options in Ethiopia: Review of the Post-1991 Contending Views', Ethiopian Journal of Development Research 23 (2).

Jonathen Fraenkel (2004) "The Manipulation of Custom: from Uprising to Intervention" in the Solomon Islands Pandanus Books, Sydney
Juil, K. and C. Lund (eds.) (2002) "Negotiating Property in Africa." Heinemann. Portsmouth.

Keresi R. Fonmanu, Lisa Ting, Ian P. Williamson "DISPUTE RESOLUTION FOR Department of Geomatics The University of Melbourne Victoria 3010
Lloyd, D.T. (1982) "Land Policy in Fiji, Occasional Paper No. 14," London: Department of Land Economy, University of Cambridge

Kariuki, S.M., (2005). Can negotiated land reforms deliver? A case of Kenya's and Zimbabwe's Land reform policy debates.

Khampuis, Charis (2012). "Foreign Mining, Law and the Privatization of Property: A case study from Peru" 3:2 Journal of Human Rights and the Environment 217-253.-Khampuis 2012

Kinsey, B. H. (1999) "Land Reform, Growth and Equity: Emerging Evidence from Zimbabwe's Resettlement Programme". Journal of Development Studies, Vol. 2, 173-196.

Kyem, P. A. K. (2006) "Finding a common ground in multi-party land use conflicts using PGIS: lessons from Ghana." Participatory Learning and Action

Larson G. , Steimenov G. (1982) "Land Information Systems and Land Control in Zanzibar, Department of Real Estate Planning" The Royal Institute of Technology, Sweden

LHRC (legal and Human Rights center) LEAT (Lawyer's Environment Action Team) LRRRI (Land Rights Research And Resource Institute) (2008). "The price of malfunctioning land management in Tanzania: a fact finding report on dispute between pastoralist and peasant in Kilosa District".

Lastarria-Cornhiel, Susanna and Grenville Barnes (1999) "Formalizing informality: the praedial registration system in Peru." LTC Research Paper 131. University of Wisconsin-Madison Land Tenure System.

Magigi, W.; Drescher, A.W. (2010) "The dynamics of land use change and tenure systems in Sub-Saharan Africa cities; learning from Himo community protest, conflict and interest in urban planning practice in Tanzania." Habitat Int.

Middleton (1961) "Land Tenure in Zanzibar. London: Her Majesty's Stationary Office

Maganga, P.F. Odgaard R., and Sjaastad (2002) "Who is Indigenous? Contested Identities and Resource Conflicts in Morogoro Region, Tanzania". In Derman, B., R.

Mann, C., & Jeanneaux, P. (2009) "Two approaches for understanding land-use conflict to improve rural planning and management." *Journal of Rural and Community Development (JRCD)*, 4(1)

Mark Boafo-Anang, Emmanuel Offei AKROFI², Forster Junior SHITSI (2021) "Land Disputes and Conflicting Land-Court Judgement in Ghana Perspectives of Regulatory Stakeholders," *African Journal on Land Policy and Geospatial Sciences* ISSN: 2657-2664, Vol.4 Issue 3 (May 2021)

McCall, M. K. (2003) "Seeking good governance in participatory-GIS: a review of processes and governance dimensions in applying GIS to participatory spatial planning" *Habitat International*

Middleton John (1961) "Land Tenure in Zanzibar. London:" Her Majesty's Stationary Office

Mohamed, M., & Ventura, S. (2000) "Use of geomatics for mapping and documenting indigenous tenure systems" *Society and Natural Resources*.

Mostert, E. (1998) "A framework for conflict resolution;" *Water International*, 23(4), 206-215.

Mwangira, A.M. (2003) "Conflict between farmers and pastoralist in selected villages of kilosa district:" Dissertation for advanced diploma in regional planning IRDP Dodoma.

Nabwire, B. B., & Nyabenge, M. (2006) "Community resource mapping in Sustainable Natural Resource Management:" A case study of SW Uganda. *EJISDC*, 25(4)

Neumann, R. P. (2000) "Primitive Ideas: Protected Area Buffer Zones and the Politics of Land in Africa in Broch-Due and Richard A. Schroeder (ed.) 'Producing Nature and Poverty in Africa' ,Nordiska Afrikainstitutet, Uppsala.

Obert, Nobert, (2020) "Land Dispute Courts in Tanzania: A Critical Examination of Pecuniary Jurisdiction of the Ward Tribunals," Mzumbe University

Porokw, E. T. (2001) "Village laid Act No 5 1999 and the rights of land ownership among the pastoralist" in the book "Fukoto la Mgogoro wa Maeneo na Hatua ya Wazalishaji wWadogowadogo Tanzania" ecoprint Limited Dar es salaam. Tanzania.

Ruttan, V. and Y. Hayami (1984) "Toward a Theory of Induced Institutional Innovation". *Journal of Development Studies*, Vol. 20, 203-223.

Rakai, M. and I.P. Williamson (1995) "Implementing LIS/GIS from a Customary Land Tenure Perspective - The Fiji Experience", *The Australian Surveyor*, [40] (2): 112-121.

Rakai, M. (1993) Fiji "Incorporating Customary Land Tenure into a Land Information System." Department of Surveying and Land Information, The University of Melbourne. Master of Surveying Science thesis

Rebecca Monson (the World Bank) (2010) "Women, State Law and Land in Peri-Urban Settlements on Guadalcanal, Solomon Island", April 2010 the World Bank Volume 4 | Issue 3 JUSTICE, POOR for the Poor

Richard Mbunda (2016) "Land Conflicts in Tanzania. Causes and Solutions," Feb 2016.

Rose, M.; Suffling, R. (2001) "Alternative dispute resolution and the protection of natural areas in Ontario, Canada." *Landsc. Urban Plan.*

Saarikoski, H.; Raitio, K.; Barry, J. (2013) "Understanding successful conflict resolution: Policy regime changes and new interactive arenas in the Great Bear Rainforest." *Land Use Policy* 2013, 32, 271–280

Salim Rashid Abdulla (2006) "Institutional Developments in Land Administration in Zanzibar" *Shaping the Change XXIII FIG Congress Munich, Germany, October 8-13, 2006*

Shipton, Parker (1989a) "How Private Property Emerges in Africa - Directed and Undirected Land Tenure Reforms in Densely Settled Areas South of the Sahara." Boston, Harvard University (HIID & Dept. of Anthropology).

Steven R. Ratner, (1996) "Drawing a Better Line: Uti Possedetis and the Borders of New States," *American Journal of International Law*, 90, No. 4 590–624.

Shivji, I.G. (1994) "A Legal Quagmire: Tanzania's regulation of land Tenure" (Establishment of Villages Act, 1992), *Pastoral Land Tenure Series No.5, IIED*

Singer Shambie (1996) "An Investigation of Land Tenure in Zanzibar. Shamba Land Author(s):" Source: *Anthropos*, 1996, *Anthropos* 91.1996: 457-471

Solomon Girma and Temesgen Solomon, (2019) "Legislative Based Analysis on the Implementation of Rural Land Laws in Oromia Region" *10 Beijing Law Review* 822, 806-828.

Tanner (2001), (2001) "The reform and implementation of land policy in Mozambique – a case study of FAO support", FAO, *Land reform*, No 2.

Temesgen Solomon Wabelo, (2020) “Approaches to Rural Land Dispute Resolution Mechanisms in the Ethiopian Rural Land Legislations: Regional States Based Analysis”, 16/2 Law, Environment and Development Journal (2020), p. 93.

Torhonen, M. (1998) “A thousand and one nights of land tenure: The past, present and future of land tenure in Zanzibar.” The Royal Institution of Chartered Surveyors, London

Toulmin, Camilla & Julian Quan (2000) “{Evolving Land Rights, Policy and Tenure in Africa” London, IIED/Natural Resources Institute.

The United States Agency for International Development (USAID) under the Human Rights Support Mechanism (HRSM). (2020) “Pathways and Institutions for Resolving Land Disputes in Mogadishu, The Expanding Access to Justice Program in Somali” (EAJ)

UN Habitat, Global Land Tool Network, “Land and Conflict:, A Handbook for Humanitarians:” September 2009,

Upreti, B. R. (2004) “Resource conflicts and Conflict Resolution in Nepal. Mountain Research and Development

Walker, G. B., & Daniels, S. E. (1997) “Foundation of natural resource conflict; Conflict theory and public policy.” In Conflict Management and Public Participation in Land Management. In B.Solberg & S. Miina (Eds.). Joensuu, Finland: European Forest Institute.

Williamson, I. (1982) “The Cadastral Survey Requirements of Developing Countries in the Pacific Region - with particular reference to Fiji”, Survey Review [26] (206): 355-366.)

RIPOTI /MIKUTANO

Brehoni, E., Nangoro,B and Sakafu, A. (2001) “A Study on Conflict between Pastoralis and Farming Communities in Kilombero District, Morogoro, Tanzania.” Report for Ireland Aid

Crook, R., Affou, S., Hammond, D., Vanga, A.F., & Owusu-Yeboah, M. (2005). “The Law, Legal Institutions and the Protection of Land Rights in Ghana and Côte d’Ivoire: Developing a More Effective and Equitable System” IDA Research Report, Institute of Development Studies, Brighton, England.

Designing Strategies around Military Weakness,” Security Studies 6, no. 2 (Winter 1996/97): 99

Gebremedhin, B., & Nega, B. (2005) “Land and Land Policy in Ethiopia in the Eyes of Ethiopian Farmers: An Empirical

Final country report of the LDN Target Setting Programme Republic of Mauritius, June 2018

FAO (Food and Agriculture Organization of the United Nations) (2009) “Towards Improved Land Governance.” Land Tenure Working Paper 11, by David Palmer et al. in Collaboration with Clarissa Augustinus, Paul Munro-Faure, Mika-Petteri Töhrönen, Anni Aial, Rome.

Gray Sir John (1956) “Report on the Inquiry into Claims to Certain Land at or near Ngezi, Vitongoji, in the Mudiria of Chake Chake, in the District of Pemba. Zanzibar” The Government Printer

Gyamera, E.A., Duncan, E.E.A., Kuma, J.S.Y., & Arko-Adjei, A. (2016) “Land conflicts in Ghana, causes, effects, and resolution.” 4th UMAT Biennial International Mining and Mineral Conference. Ghana. August 3-6, 2016. UMAT Auditorium, University of Mines and Technology, Tarkwa, Ghana.

Hailu, Z. (2016). “Land Governance Assessment Framework Implementation in Ethiopia.” Country Report, World Bank.

Hotuba ya Maoni ya Kamati ya Ardhi na Mawasiliano ya Baraza la Wawakilishi, Kuhusu Makadirio ya Mapato na Matumizi ya Wizara ya Ardhi, Nyumba, Maji na Nishati kwa Mwaka wa Fedha 2020/2021, Changamoto Mahkama ya Ardhi,

Howells, L.J. (1960) “A Report on the possibilities Cadastral Survey with an Accompanying Settlement of Rights to Land within Zanzibar Protectorate,” Internal Report 2) Land Relations in Unpublished Report, Department of Lands, Zanzibar

Hobben, A. (2002) “Ethiopian Land Tenure Revisited: Continuity, Change and Contradictions.” In Workneh et al. (Eds.), Current Issue Issues on Land Tenure in Ethiopia: Access, Food Production and Natural Resource Management, Proceedings on the Workshop on Current Issues on Land Tenure in Ethiopia. Addis Ababa: Institute of Development Research, Addis Ababa University

Huffer, E (ed) Land and women: the matrilineal factor: the cases of the Republic of Marshall Islands, Solomon Islands and Vanuatu, Pacific Islands Forum Secretariat

Investigation.” In Proceedings of the Second International Conference on the Ethiopian Economy (Vol. 2). Addis Ababa: Ethiopian Economic Association

Kariuki, J. W.: (2005) “The Impacts of Land Conflicts on Women’s Livelihoods: The Case of Nakuru District, Kenya.” Unpublished Master’s Thesis at the Centre of Land Management and Land Tenure, Technische Universität München.

Margaret A. Rugadya¹ (2009) “Escalating Land Conflicts in Uganda: A review of evidence from recent studies and surveys” for the International Republican Institute (IRI) (Funder) And the Uganda Round Table Foundation (Implementer)

Muhamad Hamdu Haji “The Threats of Land Resources Management Due to Increasing Rapid Population Growth in Zanzibar,” International Journal of Academic Management Science Research (IJAMSR) ISSN: 2000-001X Vol. 3 Issue 4, April – 2019,

Musahara, Hennen and Chris Huggins (2004) “Land Reform, Land Scarcity, and Post Conflict Reconstruction: A Case Study of Rwanda.” Paper presented to the Conference on “Land Tenure and Conflict in Africa: Prevention, Mitigation, Reconstruction”, ACTS, Nairobi, 9-10 December 2004.

Inadequate Land Laws Slow Work on Aluta, Solomon Times Online, 6 July 2007, accessed 12 May 2010. 79

Linde, A. van der, & Naylor, R. (1999) “Building Sustainable Peace: Conflict, Conciliation and Civil Society in Northern Ghana.” Oxfam Working Paper.

Lund, Christian (1997) “Land tenure disputes and state, community and local law in Burkina Faso”. IIED Dryland Networks Programme Issue Paper no. 70.

Mattee, A. Z, and Shem, M. (2006) “A review of current policies and laws that touch on pastoralism in Tanzania.” IIED Issue Paper No 140.

Nielsen, N.E. and Høgh-Jensen, H. (2005) “Soil fertility evaluation of farmer’s fields in semi-arid Tanzania and Malawi,” In Høgh-Jensen. H. (ed.): ‘Pigeonpea-based Cropping Systems for Smallholder Farmer’s Livelihood.’ Workshop Proceedings. KVL Copenhagen. Denmark

Odgaard, R. (1999) “Fathers, Daughters and Sons in the Scramble for Women’s Land Rights: The Case of the Hehe and Sangu Peoples of South West Tanzania.” Paper presented at SASA International Conference, Copenhagen, Denmark

Polterovich, V., Popou, V., & Tonis, A. (2010) “Resource abundance: A curse or blessing?” DESA Working Paper, 92. ST/ESA/2010/DWP/93.

Ripoti ya Kamati Teule ya Baraza la Wawakilishi Kuhusu Migogoro ya Ardhi, 2013.

RNRA. (2012) “Land Administration System: Land Administration Procedures” Published by the Ministry of Natural Resources, Kigali – Rwanda

Scoones, I. (1998) “Sustainable Rural Livelihoods: A Framework for Analysis.” IDS Working Paper No. 72; Brighton, Institute of Development Studies.

Tripp, A.M. (2004) “The politics of women's rights and cultural diversity in Uganda.” Paper part of UNRISD's work for the Beijing +5 review: Gender justice, development and rights: Substantiating rights in a disabling environment

United Nations Interagency Framework Team for Preventive Action (UNIFTPA) (2005). “Toolkit and Guidance for Preventing and Managing Land and Natural Resources Conflict”

United Nations Human Settlements Programme, UN-Habitat, (2018) “Land and Conflict Lessons from the Field on Conflict Sensitive Land Governance and Peace Building.” Securing Land and Property Rights For All

UN ECE (United Nations Economic Commission for Europe) (1996) “Land administration guidelines with special reference to countries in transition.” United Nations. New York and Geneva, United Nations

Vinod Agarwal and Bolaji Owasanoye, (2011) “Alternative Dispute Resolution Methods” (United Nations Institute for Training and Research 2001)

WORLD BANK REPORT: (2006b) Republic of Peru environmental sustainability: a key to poverty reduction in Peru. Country environmental analysis. Volume 2: Full Report. Washington DC: World Bank

Yamano, T., & Deininger, K. (2006) “Land conflict in Kenya: cause, impacts, and resolutions.” FASID Discussion Paper (The World Bank, December, 2005)

SHERIA

SERA

Sera ya Ardhi ya mwaka 2018

Sera ya Utawala Bora ya mwaka 2011

Sera ya Misitu ya mwaka 1999

Sera ya Maji ya mwaka 2004

Sera ya Kilimo ya mwaka 2002

Sera ya Utalii ya mwaka 2017

Sera ya Uendeshaji ya Benki ya Dunia (OP / BP 4.12)

SHERIA

ZANZIBAR

Katiba ya Zanzibar ya mwaka 1984

Sheria ya Upatikanaji/Utwaaji wa Ardhi sura ya 95 ya mwaka 1909.

Sheria ya Uchukuaji Ardhi (Tathmini ya Fidia) ya mwaka 1949

Sheria ya Fukwe Na. 105 ya mwaka 1956

Sheria ya Upimaji Nam. 9 ya mwaka 1990;

Sheria ya Kumtambua na Kumthibitisha Mwenye Haki ya Kumiliki Matumizi ya Ardhi Nam. 8 ya mwaka 1990;

Sheria ya Usajili wa Ardhi Nam. 10 ya mwaka 1990;

Sheria ya Matumizi ya Ardhi Nam. 12 ya mwaka 1992;

Sheria ya Baraza (Mahkama) ya Ardhi Nam. 7 ya mwaka 1994;

Sheria ya Uhaulishaji Ardhi Nam. 8 ya mwaka 1994;

Sheria ya Kondominio Nam. 10 ya mwaka 2010;

Sheria ya Usajili Wathamini Nam. 5 ya mwaka 2015;

Sheria ya Kamisheni ya Ardhi Nam. 6 ya mwaka 2015.

Sheria ya ZIPA Nam. 14 ya mwaka 2018,

Sheria ya Maji Nam. 4 ya mwaka 2006

Sheria ya Mafuta na Gesi (The Oil And Gas (Upstream) Act) Nam. 6 ya mwaka 2016

Sheria ya Mazingira Nam. 3 ya mwaka 2015

Sheria ya misitu Nam. 10 ya mwaka 1996

Sheria ya Barabara Nam. 7 ya mwaka 2003

KANUNI

Kanuni za Kudhibiti Ardhi Nam. 38 ya mwaka 2015;

Kanuni za Kodi ya Ardhi Nam. 50 ya mwaka 2007;

Kanuni za Bodi ya Upimaji Nam. 58 ya mwaka 2007;

Kanuni ya Upimaji Nam. 60 ya mwaka 2007;

Kanuni ya Uhaulishaji Ardhi Nam. 70 ya mwaka 2011;

Kanuni za Ada za Usajili Ardhi Nam. 159 ya mwaka 2015;

Kanuni za Kudhibiti Matumizi ya Ardhi kwa ajili ya Uwekezaji nam. 87 ya mwaka 2006

Kanuni ya Malipo ya Ufunguaji Madai katika Mahkama ya Ardhi Nam. 80 ya mwaka 2016;
Kanuni ya Udhhibiti wa Matumizi ya Ardhi kwa Wawekezaji Nam. 48 ya mwaka 2006;
Kanuni ya Baraza la Ardhi Nam. 24 ya mwaka 2006;

TANZANIA BARA

Katiba ya Jamuhuri ya Muungano wa Tanzania ya mwaka 1977
Land Acquisition Act (Cap 118)
Land Act (Cap 113 Nam. 4 ya mwaka 1999,
Land Registration Act (Cap 334)
Land Survey Act (Cap 324)
Land Use Planning Nam. 6 ya mwaka 2007
Law of Limitation Act Nam. 20 ya mwaka 1971 (Cap 89)
Unit Titles Act Nam. 16 ya mwaka 2008,
Urban Planning Act Nam. 8 ya mwaka 2007
The Courts (Land Disputes Settlements) Act, 2002
The Freehold Titles (Conversion) and Government Leases Act (Cap 393)
The Land Acquisition Act (Cap 118)
The Land Disputes Courts Act (Cap 216)
The Land Registration Act (Cap 334)
The Rural Farmlands (Acquisition and Regrant) Act (Cap 22)
The Urban Leaseholds (Acquisition and Regrant) Act (Cap 62)
The Village Land Act Nam. 5 ya mwaka 1999 (Cap 114)
Valuation and Valuers Registration Act Nam. 7 ya mwaka 2016
The Ward Tribunals Act (Cap 206)
Sheria ya Leseni ya Tanzania Bara 324 ya mwaka 1997

SHERIA ZA NCHI MBALIMBALI

RWANDA

RWANDA

Katiba ya Jamhuri ya Rwanda ya 04/06/2003
Sheria ya Ardhi Nam. 43 ya mwaka 2013
Amri Namba 001 ya mwaka 2008
Sheria ya Urithi The *Law* No. 22/1999
Amri nyengine ni Amri Nam. 002 ya mwaka 2008
Organic Law No 31/2006
Amri ya Upimaji Ardhi ya mwaka 1912
Amri ya Kutengwa kwa Ardhi ya mwaka 1935
Amri Kuu N° 032-2008 (Decreto Supremo N° 032-2008-Vivienda)

MALDIEVES

Sheria ya Ardhi Namba 1 ya mwaka 2002 Maldieves

SOLOMON

Land and Titles Act Cap 133
Sheria ya Mila ya Ardhi ya Kumbukumbu (Cap 132)
Local Courts Act Cap 19

TRINIDAD AND TOBAGO

State Land (Regularization of Tenure) Act- C. 57:01
Town and Country Planning Act- C 35:01
Valuation of Land Act- C 58:03
Land Law and Conveyancing Act- Cap 56:01(No. 20/81)
Condominiums Act- No. 23/81
The Registration of Titles to Land Act"- No. 16/2000
Land Acquisition Act- Cap. 58:01
Land Surveyors Act- No. 33/96
The Land Adjudication Act- Act No. 14 of 2000
The Land Tribunal Act- No. 9 /2018

Sheria ya Upimaji ya Trinidad na Tobago ya mwaka 2016

FIJI

Agricultural Landlord and Tenant Act” (Cap 270)

Sheria ya Dhamana ya Ardhi Asilia “Native Land Trust Act” (Cap 134) (NLTA)

PERU

Law on indigenous communities and agrarian development of the forest and forest border regions [Peru]] [1978] Nam. 22175 ya mwaka 1978-

GOP Peasant Communities *Law* 24656, Nam. 24656 ya 1987

Amri ya Sheria Nam.1202 ya mwaka 2015

Amri ya Kisheria Nam. 653 ya mwaka 1991

ETHIOPIA

Katiba ya Shirikisho la Jamhuri ya Kidemokrasia ya Ethiopia (FDRE) 1995-

Tangazo La Shirikisho la Utawala wa Ardhi Vijijini Nam. 89/1997-

Ardhi Vijijini na Matumizi Nam. 456/2005

Tangazo la Fidia, Proc. Nam. 455/2005

Malipo ya Fidia na Uhamisho wa Watu Waliohamishwa Makazi Tangazo Namba 1161/2019

Mpango wa Usajili wa Ardhi Vijijini- Tangazo la Utawala wa Ardhi Vijijini na 456/2005

MAURITIUS

Sheria ya Utambuzi ya Mauritius sura ya 8 ya mwaka 2013

Removal of Sand Act PL4/479

The Land Acquisition Act (Act 54 of 1973)

The State Lands Act- RL 2/183 1982

(Crown Lands Act -RL 21183-21 March 1874)

The Cadastral Survey Act ya mwaka 2011

The Land Surveyors Act Nam. 22 ya mwaka 2011
The Removal of Sand Act -PL4/479
The Town and Country Planning Act Nam. 6 of 1954
Sheria ya Utambuzi ya Mauritius sura ya 8 ya mwaka 2013
The Agricultural Landlord and Tenant Act. Cap. 270

KENYA

The Government Lands Act Chapter 280
The Land Act, 2012 No. 6 Of 2012
The Community Land Act No. 27 of 2016
The National Land Commission Act No 5 of 2012
Land Registration Act, 2012
Land Adjudication Act (Cap. 284)
Land Consolidation Act (Cap. 283)
Land Control Act (Cap. 302)”, “Survey Act (Cap. 299)
Land Registration Act, No. 3 of 2012
The Land Act No 6 of 2012
rusts of Land Act (Cap. 290)
Valuation Rating Act (Cap. 233)
Valuers Act (Cap. 532)

UGANDA

Katiba ya Uganda ya mwaka 1995
The Land Act, Cap 227 of 2010
The Land Acquisition Act, Cap 226
The Registration of Titles Act, Cap 230
The Survey Act, Cap 232

MSUMBIJI

Sheria ya Ardhi Nam. 19 ya mwaka 1997, Lei de Terras, Lei No 19/1997

NCHI NYENGINE

Land Act No 8 of 2010 Lesotho

Communal Land Reform Act 2002 (Act No. 5 of 2002) Namibia

Lands Act 1995 (No. 29 of 1995 Zambia

Tribal Land Act 1968 (32:02) Botswana

Customary Land Act 19/2016 Malawi

Land Proclamation 58/1994 Eritrea

Rural Land Code 1993 Niger

MIKATABA YA KIMATAIFA

UNITED NATIONS. 1948. Universal Declaration of Human Rights. General Assembly, resolution 217 A (III), Paris, 10 December. Available at: <http://www.un.org/en/documents/udhr/>

International Convention on the Elimination of All Forms of Racial Discrimination. General Assembly, resolution 2106 (XX), 21 December. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

UN 1979. The Convention on the Elimination of All Forms of Discrimination against Women. General Assembly, resolution 34/180, 18 December. Available at: <http://www.un.org/womenwatch/daw/cedaw/>

1994b. Human Rights Committee (HRC). General Comment No. 23: the rights of minorities (Art. 27), UN Doc. CCPR/C/21/Rev.1/Add.5. Available at: <http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111>

INTERNATIONAL LABOUR ORGANIZATION. 1989. Convention No. 169 on the Rights of Indigenous and Tribal Peoples. Geneva, 76th ILC session, 27 Junho. Available at: <http://www.ilo.org/indigenous/Conventions/no169/lang-en/index.htm>

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS. 2003. Protocol to the African Charter on Human and Peoples' Rights. Available at: <http://www.achpr.org/instruments/women-protocol/>

Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958

Convention on settlement of investment disputes between states and Nationals of other states of 1965

Multilateral Investment Guarantee Agency of 1985, <https://www.miga.org/sites/default/files/archive/Documents/MIGA%20Convention%20February%202016.pdf>

Treaty for establishment of the East African Community: https://www.eacj.org/?page_id=33

WEBSITES

<https://mlhud.go.ug/wp-content/uploads/2013/08/Operational-Manual.pdf>

<https://www.state.gov/wp-content/uploads/2019/05/TANZANIA-2018-INTERNATIONALRELIGIOUS-FREEDOM-REPORT.pdf>

www.researchgate.net/publication/333203188

https://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/traditional-authorities-and-customary-institutions/en/?country_iso3=RWA

http://www.minirena.gov.rw/IMG/pdf/Water_and_Sanitation_Policy.pdf

http://www.nlc.gov.rw/index.php?option=com_jdownloads&Itemid=&task=finish&cid=45&catid=20&lang=en

www.rnra.rw

http://rnra.rw/fileadmin/fileadmin/user_upload/documents/LAS_Manual.pdf

<http://usaidlandtenure.net/usaidltpproducts/country-profiles/rwanda>

https://www.shareweb.ch/site/Agriculture-and-Food-Security/focusareas/Documents/land_f2f_2016_country_study_mozambique_2p.pdf

<https://www.dlapiper.com/en/us/insights/publications/2019/07/real-estate-gazette-35/a-digital-land-registry-the-example-of-mauritius/>

https://knowledge.unccd.int/sites/default/files/ldn_targets/Mauritius%20LDN%20TSP%20Country%20Report.pdf

<http://www.lead-journal.org/content/a1606.pdf>

<http://www.landcoalition.org/cpl-blog/?p=1322>

https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Peru_Country_Profile.pdf

http://www.sli.unimelb.edu.au/research/publications/IPW_online_thesis.htm

http://www.solomon.emb.gov.au/invest_1.html

https://www.dfat.gov.au/sites/default/files/MLW_VolumeTwo_CaseStudy

http://dpa.bellschool.anu.edu.au/sites/default/files/publications/attachments/2017-01/building_a_pathway_report_web_version_complete_low_bandwidth_rev1.pdf

<https://www.asil.org/ILIB/itlos-allows-mauritius-maldives-boundary-dispute-proceed>

[Arron N. Honniball](#)

<https://www.ejiltalk.org/pandemics-procedure-and-participation-hybrid-hearings-in-the-mauritius-maldives-maritime-boundary-dispute/>

https://www.ohchr.org/documents/publications/land_hr-standardsapplications.pdf

<https://www.zanzibarassembly.go.tz/files/documents/chairpersons/All/1591697821.pdf>

[Zanzibar Urban Services Project : additional financing - World ...](#)

<https://ewsdata.rightsindevelopment.org › files › d...>

<https://www.jstor.org/stable/40464501>

<https://www.usaid.gov/sites/default/files/documents/1860/Access-to-land-rights-in-Somalia-research-report-March-20.pdf>

<https://www.adaptation-fund.org/wp-content/uploads/2020/01/FULL-PROPOSAL-ZANZIBAR-PROJECT.pdf>

<https://www.fcgkenya.co.ke/projects/sustainable-management-of-land-and-environment-in-zanzibar-smole-phase-ii>

<https://philarchive.org/archive/HAJTTO>

https://www.fig.net/resources/proceedings/fig_proceedings/fig2006/papers/ts22/ts22_02_abdulla_0289.pdf .

https://www.fig.net › pub › ts22_02_abdulla_0289

https://www.fig.net/resources/proceedings/fig_proceedings/fig2006/papers/ts22/ts22_02_abdulla_0289.pdf

