

**BRIEF REPORT OF THE 7:30 BREAKFAST DEBATE – MARCH 30TH  
2012**

**THE VILLAGE LAND ACT: IS IT WORTH PROTECTING?**

Investors and the government see the 1999 VLA as a hurdle. This suggests that the VLA can offer some protection for existing land use rights. However, the pro-investment drive and weak land administration tends to give rise to behaviours that at best rush through required procedures and at worst circumvent them.

The VLA recognizes land held collectively by village residents under customary law. This gives villages the rights to the land that their residents have traditionally used and have been managed under customary principles. The VLA is seen to contain significant elements of change providing for a devolved system of registration, titling and dispute settlement at the village level and recognition of customary tenure. But with ongoing land disputes, many at the village level, it is worth questioning, "is the VLA worth protecting?"

That is why Policy Forum dedicated its March 2012 debate on the issue of the village land law in Tanzania, The debate is titled: **The Village Land Act: Is it worth protecting?**

The debate included two presentations, one from **Mr. Swagile Msananga** from the Ministry of Lands, who gave an the overview of the legislation and **Mr. Yefred Myenzi**, the Executive Director of HakiArdhi, who discussed the controversies around the security of tenure in the village land.

Followed by critics from the discussant, Dr. Prosper Ngowi, Lecturer of Mzumbe University.

The Debate was facilitated by **Geofrey Mwanjela** from Tanzania Natural Resource Forum.

Mr. Swagile Msananga was the first presenter of the debate, he started his presentation by giving the historical background of the legislation.

He said, during the colonial rule we used to have Land Ordinances. In this period the status of the two land tenures (customary and granted rights of occupancy) were un-equal.

He said, from the National Land Policy we now have two legislations namely, the Village Land Act, 1999 and the Land Act, 1999 which aims to protect the existing land tenure and system.

In order to enforce the following Policy Statements, there arose a need to enact the Village Land Act No.5 of 1999, Policy Statement clause: 4.2.2 (iii) provide that Village Councils shall administer village land, Policy Statement clause: 5.2.1 provide for demarcation of village boundaries and resolution of village boundaries disputes and Policy Statement clause: 4.2.28 provide for titling of individual parcels of land in village land.

He continued to mention the various stakeholders and their roles in the implementation of the VLA, The Ministry for land who grant and management of the customary right of occupancy, local government are the implementers of the VLA and NGO's, CBO's and Development Partners- support the implementation of the VLA.

He said, normally the implementation process as laid down in the law is done through public awareness raising, establishment of district and Village Land Registries, survey of village boundaries, issuance of Village Land Certificate (CVL) which the applicant seeks by a prescribed form, Adjudication of individual parcels, Issuance of Certificate of Customary of Right of Occupancy (CCRO).

He mentioned some of the challenges of the VLA as, Lack of public awareness on land laws, Village council members lack knowledge and skills on their roles as council members and on the various laws on land, Village boundary problems and they are in constant conflicts with their neighbors on their demarcations, Lack of transparency and accountability in the various councils led to a lack of trust from the local community which hindered the development initiatives, Absence of Village Land Registries.

He ended his presentation by giving out the way forward as, Continued public awareness raising, Collaboration with other development partners, Capacity building in Local Authorities at district, ward and village level, Mobilization of resources; technical and financial.

Mr. Yefred Myenzi, the second presenter of the debate started his presentation by saying that the security of tenure in the village land is not only refined in the law but also in the institutional framework.

He said that, in 1896 the Germans put imperial decrees where all land belonged to the king and not the people, thereafter it moved to the state then to the president. It was in that long time where the security of tenure was lost from the people and not after independence where land could be acquired by the people, this was after the National Land Policy came in place which came with the VLA and Land Act of 1999.

He paused and asked the participants, can there be protection of the village land owner? from the definition of security of tenure, which is the statutory protection given to the land holders or occupiers against possession by other interests.

He continued to ask participants, does the current system protect a person holding land in the village? What is their fate?, what is the practicability of

the general village lands which as mentined in the law are owned perpetually.

He said, the legal language in the village laws is so technical for a normal citizen to understand.

He lastly suggested the way foward as, the law should be implemented, a holistic land use plan should be carried out, the village assembly should not only be there to stamp the decision made by the village land assembly.

The discussant of the event was Dr.Prosper Ngowi, a Lecture of Mzumbe University in Morogoro who stressed that, access to land is really becoming a problem, if we are not really careful we might see Tanzania turning to be like Zimbabwe.

He suggested that, land laws should be dynamic and should be reviewed (changed) so as to project the new emerging issues on the ground.

He added that, land is our identity and source of our roots so it should be properly dealt with.

He concluded by saying that, across the world everybody is accepting that there is a problem including CSO's, government, CBO's etc but they are talking on their own, they should sit together and come up with a way forward.

### **Comments and Questions from Plenary Discussion:**

- The commitment on the side of the government to implement the process is very cumbersome.
- Having land use plans in place would be much easier.
- Serious need of decentralization to individual level.
- What are the roles of the communities in this Act? They should be involved in these issues.
- Collective action as to who does what, when and how should be emphasized.
- There are flaws in the law which need to be worked on, for instance why is the village land being left aside for the village councils and village assembly to administer.
- Communities should be strengthened even if the law is not that efficient. There is a huge opportunity to learn from the people.

- Some of the provisions of the village land law are contradictory with the customary laws.
- Investment in the land is very important.
- The VLA needs to be viewed or discussed in a wider context.

**Respond to the comments and Questions:**

- Gender issues are included in the National Land Policy.
- Do we really have a village land in practical?
- The land laws need to be reviewed.
- We are too worried to go a step ahead, we are taking too long.
- The village land should be left to the villages, it should not be interfered with.

Geoffrey Mwanjela closed the discussion and he welcomed again participants for the next 7:30 Breakfast Debate.



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