

AN APPRAISAL ON THE POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK FOR LAND USE PLANNING AND BUILDING IN MAINLAND TANZANIA

Written by *Patrick Mikwabe Sese*

Master of Law Student at the Open University of Tanzania, Tanzania

ABSTRACT

Tanzania like many other developing countries faces the development of informal settlements as a consequence of urbanization. In the global south, urban settlement expands horizontally forcing the population to migrate to the outskirts at the cost of agricultural land and natural beauty areas.ⁱ

As a marked phenomenon of rapid urbanization in Tanzania, urban areas have been experiencing the explosion and uncontrolled spread of informal settlements. They are known as informal settlements, because they are built outside the legal planning framework, informal settlements are generally characterized by high population densities, non-adherence to an official land use planning scheme, illegal occupation of land, illegal use of land, limited or non-existent urban services, and low quality housing stock.ⁱⁱ

The paper examines the land use planning and building regulation in informal settlements in Tanzania. The laws and regulations governing land use planning and building in Tanzania are fairly provided for the manner how people can properly use land for building purpose. Despite the law and planning Regulations prohibits the carrying out of any development, house construction inclusive, in planning areas without planning consent, many urban areas in Tanzania have unplanned settlement. Such is the main problem of this study. The paper proceeded under the objective of examining the regulatory framework governing land use planning and building in Tanzania in relation to informal settlement in Mainland Tanzania. To achieve this, the study employs documentary review as well as comparative legal research method. The study has established that, the implementation and enforcement of land use planning processes are not responsive to and legally capable of meeting an increasing variety

of demands for planned settlement in Tanzania Mainland. The study recommends the following: law reforms, proactive planning, formulation of urban land use planning policy, pro-poor housing initiatives, operationalization of the land compensation fund, coordination, and political will and commitment.

Keywords: Appraisal, Policy, Legal, Institutional Framework, Land Use Planning, Building and Mainland Tanzania.

INTRODUCTION

In Tanzania, statistics show that there have been substantial increases in the number of people living in urban areas over the years. Between 1967 and 2002 the urban population increased from 6% to 23.1%.ⁱⁱⁱ In 2010, urban population was estimated to be 30% of the total national population. Projections are that, by 2025, 50% of all Tanzanians will be living in urban areas.^{iv} Some scholars attribute the rapid increase of the urban population to the following factors: the belief that it is easy to earn cash income that is higher than that available in rural areas; the belief that there are more opportunities in education and employment in urban areas compared to those available in rural areas; the need to experience urban life on the basis of what rural people are told by their relatives living in urban areas; and the need to enjoy technological advances of the modern society which are mainly confined to cities and towns.^v According to the author, residential housing as an aspect of land use occupies more space than any other single land use in most towns and cities of the world.^{vi} On the other hand, the rapid increase in the urban population poses several dangers to the urban environment such as environmental pollution, transport congestion, poverty and slums.^{vii} The above discussion shows that the question of unplanned residences is not only national but also international. It is imperative, therefore, that any attempts to address it should have a global component.

In this Chapter the researcher enumerated on a variety of established legal framework pertaining the subject matter. Within the laws examined below, the researcher identified the relevant provisions in relations to the study. This Chapter also examines the institutional framework for the urban planning settlement in Tanzania whereupon the researcher analyzed the functions of different institutions and their relations to the historical and modern

phenomenon of land use, planning and Building Regulations in Tanzania. The aim of the researcher is to reflect on what extent laws and institutions have covered in relation with the research title, hypothesis and objectives of this research.

POLICY AND LEGAL FRAMEWORK

Policy Framework

- The National Land Policy, 1995

The National Land Policy 1995 preceded the enactment of the Land Act.^{viii} The main objective of the Policy is to promote security of tenure, encourage optimal use of land resources and facilitate development which does not compromise the ecological balance of the environment.^{ix} With regard to urban land use planning generally and residential housing particularly, the Policy sets the following specific undertakings: Firstly, all grants of land should be made after the land has been fully surveyed and approved by the Director of Surveys and Mapping.^x Secondly, the Policy declares that residents in unplanned urban settlements should have their rights recorded and maintained by relevant land allocating authorities. Such records should be registered with relevant authorities.^{xi} Specific policy efforts are directed towards combating the problem of unplanned settlements. The Government undertakes to carry out measures, such as timely planning of all potential areas for urban development, designing special areas for low income housing and upgrading of existing unplanned residences through participatory approaches.^{xii} Thirdly, in order to attain effective urban land use planning, the Government undertakes to ensure that there is strategic planning and rapid identification of planning issues, preparation of detailed land use plans, resources mobilization and promotion of local communities participation in all matters relating to land use planning. With regard to multiplicity of institutions and laws, the policy clearly declares that the minister responsible for lands shall be the sole authority responsible for land issues. Should there be any delegation, there must be a clear and hierarchical system of responsibility.

The Government calls for harmonization and consolidation of all legislation dealing with land matters.^{xiii} The Policy is quite relevant to the present study due to the fact that the ensuing land law has provisions which have a direct bearing on the issue of informal settlements. For

example, the land law of Tanzania recognizes and protects informally acquired land rights in urban and peri-urban areas; just as directed in the Policy.^{xiv}

- The National Human Settlements Development Policy 2000

The overall goal of the National Human Settlements Development Policy is to promote sustainable human settlements and facilitate the provision of adequate and affordable shelter to all income groups in Tanzania.^{xv} Matters relevant to land use planning generally and residential housing in particular are addressed in the following paragraphs. The Government commits itself to ensuring that land is available to all income groups on the principle of cost recovery as well as streamlining procedures for getting rights of occupancy. The Government also commits itself to strengthening planning and management systems with specific emphasis on operational and legal spheres.^{xvi} On buildings, the policy states that there is a need to revise building and construction standards so that the same become functional and performance based rather than prescriptive. The said standards should be flexible and affordable so that more people can easily comply. Furthermore, local Government authorities are required to issue building permits within thirty (30) days after a person has submitted his application, short of which the applicant shall be allowed to appeal to the minister responsible for urban planning.^{xvii} With regard to areas earmarked for development, the Policy stipulates that such areas should be provided with infrastructure and other social services before the same are allocated to developers.^{xviii} It is provided further that unplanned and unserved settlements should be upgraded by their inhabitants in collaboration with Community.

Although there is no human settlements legislation in Tanzania, it is apparent that some of the directives of the human settlements Policy are accommodated in the urban land use planning law. For example, the Urban Planning Act provides that, for purposes of, inter alia, giving effect to the principles of the National Human Settlements Development Policy, relevant authorities are duty-bound to make serviced land available for shelter and human settlements to the various groups of the community.^{xix} The law also requires planning authorities to improve the provision of infrastructure and social services for sustainable human settlements development.^{xx}

Legal Framework

- The Constitution of the United Republic of Tanzania^{xxi}

The Constitution of the United Republic of Tanzania is the supreme law of the country which governs the mainland Tanzania, thus considered the “mother law.” The Constitution under Article 145^{xxii} establishes the local Government authorities with power to transfer authority to the people whereas the local government authorities shall have the right and power to participate and to involve people in the planning and implementation of development programs within their respective areas and generally throughout the country.

The constitution further elaborates that a local government authority, in conformity with the provisions of the law establishing it, exercise the functions of local administration in its region, ensuring law enforcement and public safety and consolidate democracy in its territory and apply it to accelerate the development of the people.^{xxiii}

Constitution, creates local governments and empowers them to exercise different functions and powers subject to the laws which are enacted by parliament. However, the Constitution only mentions the basic functions of local government^{xxiv} and does not go into detail what constitutes the functions of local government. The Constitution of Tanzania mentions the general functions of local government, stating that local government must perform the functions of local government within its area, to ensure the enforcement of law and public safety of the people, consolidate democracy within its area and apply it to accelerate the development of the people.^{xxv} The Constitution itself fails to include the functions of local government. It rather gives the parliament powers to enact laws which can detail the functions of local government. Therefore the functions of local authorities are provided in the Acts that established local government,^{xxvi} which have no authority to carry out any function not stipulated in any law in the country.

- Land Act

The Land Act provides for such matters as the granted right of occupancy,^{xxvii} land administration institutions,^{xxviii} recognition of informal settlements, laws applicable^{xxix} and institutions which are responsible for resolving land disputes,^{xxx} to mention a few. The Act also has some provisions which are quite relevant to urban land use planning generally and residential housing in particular. For example, section 22(1) (c) provides that a granted right of

occupancy should be of land which has been surveyed. It should be noted that survey of land is part and parcel of the planning process. Moreover, the Act provides that where the purpose for which the right of occupancy has been granted is construction of buildings, the grantee shall apply for permits or consents under relevant principal legislation and regulations.^{xxxii} There are also provisions relating to the securing of loans for purposes of acquiring, improving or constructing residential houses.^{xxxiii} The Act is relevant due to the fact that the basis of urban land use planning is land; that is, all planning is concerned with the occupation and use of landed resources.

Concerning customary rights, Land Act provides sections that ensure security of right of occupancy includes land that is occupied by persons under customary law,^{xxxiii} it shall be a condition of that right of occupancy that those customary rights shall be recognized and those persons so occupying the land shall be moved or relocated only so far as is necessary to enable the purpose for which the right of occupancy was granted to be carried out. Furthermore, the land Act provide the manner to which persons shall be moved or relocated in accordance with due process and principle of fair administration including prompt payment of full compensation for loss of any interest in the land and any other losses that are incurred due to any move or any other interference with their occupation or use of the land.^{xxxiv}

However It should be noted that the law allows the granted right of occupancy to be given in areas which have unplanned residences. For example, through schemes of regularization, occupiers of land in informal settlements can have their interests adjudicated, classified and registered.^{xxxv} Persons occupying land through validated dispositions are also allowed to apply for the granted rights of occupancy after their dispositions have been validated in accordance with the relevant provisions of the Land Act.^{xxxvi}

The creation of the granted rights of occupancy in areas which are informally occupied is legally and practically challenging. The fact that most urban residents live in informal residences poses a procedural difficulty as far as survey and mapping are concerned. The standards (size) of residential plots are set in the Town and Country Planning (Town Planning Space Standards) Regulations.^{xxxvii}

- The Urban Planning Act^{xxxviii}

An Act to ensure orderly and sustainable development of lands in urban areas, to preserve and improve amenities, provide for consent to land reclamation and control over land use and other related matters.^{xxxix}

The Act contains provisions for urban planning procedures and processes in mainland Tanzania. It is mainly a question of controlling and consenting to urban development. The Act sets out the basic principles of urban planning and the objectives of spatial planning in urban areas and defines the conditions for the transfer of village or reserved land to general lands, taking care to integrate gender perspectives. Where the establishment, conferment of status and expansion of boundaries of a local government urban authority engulfs villages, such villages shall be de-registered pursuant to the relevant local government law. Any urban authority and district authority shall incorporate in the detailed planning scheme, land use plan of villages within its area of jurisdiction.^{xi}

The Act also deals with reserving land for urban agriculture and is about protecting the environment. The Minister shall, after consultation with the Ministers responsible for natural resources and environment, by an order published in the Gazette, determine and declare beaches wetlands, mountainous areas and coastline to be special planning areas. Development requires planning consent and may require an environmental impact assessment report.^{xli}

- Land Use Planning Act^{xlii}

An Act to provide procedures for the preparation, administration and execution of land use plans; to repeal the National Planning Commission Act and address related matters. This Act provides for procedures and processes by which land use in a planning area or planning area is prescribed, managed, monitored and assessed.^{xliii}

The Act sets out the fundamental principles of land use, establishes planning authorities, and provides for planning procedures and approvals. The Act sets out the matters to be included in all land use plans (including water and forest resources) and sets out environmental protection requirements.^{xliv}

For the purposes of this Act, planning authorities include, a village council, a district council, the National Land Use Commission, and any agency or body which the Minister may, by order published in the Official Gazette, declare to be a planning authority or a joint planning

authority. The Commission, established under this Act, is the national planning authority.^{xlv}

All land use plans prepared by planning authorities under this Act shall be relevant at each level, including proposals on matters relating to, the identification or designation of land for various uses.^{xlvi} Planning authorities have special powers with respect to land, such as the acquisition of land. The Act also provides with respect to enforcement notices, land restoration orders and other compliance and enforcement mechanisms and appeal against planning decisions.

- Environmental Management Act^{xlvii}

Environmental laws provide for various conservation control. The controls are intended to uphold planning regulations. Measures under environmental laws such as conservation orders, designation of conservation of beaches, water fronts, wetlands, fragile ecosystems, hazardous lands, listing of buildings are all measure that are geared towards planning control. Others include restoration, conservation and easement orders.

The Act establish an appropriate legal and institutional framework for environmental management and related and related matters.^{xlviii} The Act expressly states that every person in Tanzania has the right to a clean and healthy environment and has the duty to safeguard and improve the environment.^{xlix} The Act establishes the National Environmental Management Authority, whose purpose and functions are to exercise general supervision and coordination on all environmental matters and to be the Government's main instrument in the implementation of all environmental policies.

Environmental Planning establishes the National Environmental Action Plan Committee,^l whose role shall, every five years, prepare a National Environmental Action Plan for consideration and adoption by the National Assembly.^{li}

The Act is relevant due to the fact that some of the aspects in urban land use planning have a direct link to environmental administration and management. For example, in cases where the planning authority is of the view that any proposed land use may have injurious impact to the environment, it may require the developer of such land to submit an environmental impact assessment report.^{lii} Land uses which may prompt a planning authority to demand the environmental impact assessment report include industrial location, dumping sites, sewerage treatment, quarries and any other development activity likely to have injurious impact on the

environment.^{liii} The environmental impact assessment report is prepared in accordance with environmental legislation.^{liv} It should also be noted that one of the responsibilities of planning authorities is to ensure that all development activities taking place in their areas are environmentally sustainable.^{lv}

- **Building Permits Regulations**

Building permits are also one of the tools for enforcing orderly urban development. Urban plans regulations restrict any kind of construction that does not secure building permits from the planning authority. According to Regulation 124 of the Local Government (Urban Authorities) (Development Control) Regulations^{lvi} provides that, no person shall erect or begin to erect any building until he has first made an application to the Authority upon the form prescribed in the Fourth Schedule to be obtained from the Authority, second furnished the Authority with the drawings and other documents specified, and lastly obtain from the Authority a written permit to be called a building permit.^{lviii} The application for a building permit must contain the following information; address or location of the plot, planning zone of the proposed development, plot number and intended use of the building, the purpose for which land was last used, general description of the development, area and circumference of the plot, width of the opposite street and the building line or setback of the adjoining building.^{lviii}

The Regulations also set certain restrictions to applicants of building permit under Regulation 125(3) that no permit shall be issued unless the intended building is for residential purpose, the drawings are issued by the Authority, and the applicant has paid a prescribed fee for the drawings and has a right of occupancy.^{lix}

Therefore, it is upon compliance with the requirement under Regulation 125(3) that the Authority shall issue the building permit.^{lx} A person other than a person using a designated drawing who intends to erect a building must send or deliver to the Authority a plan of each floor and sections of each storey, floor, and roof of the buildings and elevations drawn in a clear and intelligible manner.^{lxi}

It can be noted that, Section 34(2) of the Land Act,^{lxii} provides for a conditions in every grant of a right of occupancy where the purpose for which the grant has been is to construct buildings on the land that the grantee of such right shall, in any case where any consents and permissions are required, apply for planning consent under the Urban Planning Act^{lxiii} and apply for a

building permit under the Township (Building) Rules within six months of the grant of the right of occupancy. However, according to the Court of Appeal, in the case of *Director Moshi Municipal Council v Stanlenard Mnesi and Roisiepeace Sospeter*,^{lxiv} the court provides that even erection of a building on un-surveyed land within a declared planning area contravenes the provisions of Section 29(1) of the Urban Planning Act and Regulations 124(1) of the Regulations, for want of a planning consent and building permit.^{lxv}

Moreover, in the case of *Kinondoni Municipal Council v Empire Properties Ltd*,^{lxvi} where the plaintiff, Kinondoni Municipal Council, claimed against the defendant, Empire Properties Ltd, for a declaration that the properties erected on plot No. 383 Toure Drive, New Osterbay area, Dar es Salaam were unlawful and illegal for lack of genuine building permit.

The court further, observed that even where a building permit has been issued, no person will be allowed to occupy the building until it is certify by the planning Authority and certificate issued to the effect that it is fit for occupation in every respect, or in the case of a domestic building, fit for human habitation.^{lxvii}

Institutional Framework

- Tanzania Institute of Town Planners (TITP)^{lxviii}

The main objective of this institution is to promote, in any manner which the Association think fit, the best use and development of the physical environment and encourage community awareness and appreciation of Regional, Urban and Rural Planning to the best interest and aspirations of the people of Tanzania. It aims to ensure the highest standard of professional planning services, practice and ethical behavior in relation to broad public interest, to the profession and to the client in Tanzania. It professionally ensures the highest standard of professional planning services, practice, and ethical behavior and collaborates across sectors and geographies to achieve positive social impact.^{lxix}

- Town Planners Registration Board (TPRB)

The Town Planners Registration Board is a public institution established under the Act of Parliament^{lxx} charged with the duties among others to register, regulate and develop town planners' career, advise the Government on technical issues concerning town planning, and promote transparency and certainty in the planning process in Tanzania. Central to these responsibilities is the need to improve quality of town planning professional in the country.

Town Planners Registration Board aspires to have a sound professionalism amongst practicing town planners and town planning consulting firms so as to enhance the standards and quality of town planning in the country.^{lxxi}

- Ministry of Lands, Housing and Human Settlements Development

Historically, the Ministry of Lands was created as the Department of Lands and was later transformed into a full-fledged ministry that changed its name according to the functions performed during this specific period. The current name is Ministry of Lands, Housing and Human Settlements Development, which encompasses the main departments of the sector which are, land administration, surveying and cartography, physical planning and housing.

The main sectoral units are the registration of titles, the valuation of properties and the District Land and Housing Tribunal. Apart from this, the Ministry has various departments and support units that increase the efficiency of work in the Ministry, such as human resources administration and management, finance and accounting, internal audit, legal services, policy and planning, communication and information technology (ICT), information and communication education and procurement management.^{lxxii}

The Ministry has an agency for housing and building materials research, a land use planning commission and the National Housing Corporation. The mandate of the Ministry is to facilitate the effective management of land and human settlements development services for the improvement of the social and economic well-being of Tanzanian society.^{lxxiii}

- Human Settlements Development Division

The objective of the Division is to provide expertise and services in land-use planning, land management, shelter and sustainable human settlements development in the country and to carry out the following functions; Develop, coordinate and review the implementation of policies, laws, strategies, programs and guidelines related to human settlements and shelter; Oversee the planning, design and production of general urban plans and detailed planning plans for urban areas and high-yield areas; Oversee the implementation of physical development plans; Oversee human settlements development; Facilitate the review of general and detailed planning schemes; Monitor trends in urbanization, growth and development of rural and urban settlements; Supervise the preparation of plans and drawings and ensure that they are prepared according to acceptable stipulated standards; Approve general and detailed planning plans;

Develop strategies to stimulate private sector participation in the provision of sustainable housing services; Provide support to housing development organizations with innovative approaches to low income housing; and coordinating the implementation of low-income housing programs through coordinated research.^{lxxiv}

CONCLUSION

The above policy and legal institutions provide the mandatory authorities that are responsible to regulate and manage the urban planning settlement in Tanzania whereupon the researcher analyzed the functions of different institutions and their relations to the historical and modern phenomenon of urban land use planning and Building Regulations in Tanzania. The authorities are the foundations of the entire framework of the study. Further, it is stated that institutions executing urban land use planning duties in Tanzania face several legal and practical challenges. On the legal side of the problem, planning institutions operate in an environment where there are different statutory provisions containing different interpretations over similar matters. One example is where the law requires that all developments in planning areas should be carried out with permission from planning authorities while the other statutory provisions recognize and protect customary and informally acquired land rights.

There are also provisions which promote the upgrading of informal settlements, while such settlements were not established in accordance with the urban planning legislation.

On coordination and cooperation, the study has established that there is a legal basis for such coordination and cooperation. The only practical challenge is that planning authorities have not taken steps to implement the requirements of the law. Lack of coordination and cooperation results in a situation where the planning process is, practically, fragmented instead of being holistic. This explains the fact that in many urban centers in Tanzania there are built up areas which are not supplied with basic social services such as water, roads and electricity. This also explains the fact that in some urban centers in the country, services like electricity have been supplied to settlements which exist on hazardous lands.

RECOMMENDATIONS

Law Reforms

The Urban Planning Act should make it compulsory for cities, towns and other urban centres to plan their areas. The law as it is today does not force planning authorities to plan their areas because the minister responsible for urban land use planning has discretion to declare an area to be a planning area and the Director of Surveys and Mapping has discretion to carry out cadastral surveys over any area in Tanzania. This explains why it took several decades to declare some urban centres to be planning areas despite the fact that such areas had already become urban. The indicated aspects of discretionary powers be repealed.

The Urban Planning Act and the Local Government (Urban Authorities) (Development Control) Regulations be amended with a view to reflecting the actual situation on the ground, especially with regard to the urban poor and middle-income groups. Such people should be allowed to occupy semi-finished buildings and do the completion gradually.

The Urban Planning Act and the Local Government (Urban Authorities) Act should be amended to give power to the minister responsible for urban planning matters to intervene in any cases where planning duties and responsibilities are executed by 283 officers or authorities outside his ministry by rendering them accountable to the said minister in those regards.

The Local Government (Urban Authorities) Act, the Urban Planning Act and the Local Government (Urban Authorities) (Development Control) Regulations should be amended to give grassroots leaders the power to enforce building regulations without necessarily reporting to other leaders at municipal/city level. This should be by way of, among other things, issuing legally enforceable stop orders to developers who cannot prove that their activities have been permitted by the respective planning authority.

Proper Project Planning

In most cases, the government has been maintaining the position that a substantial share of Tanzania's total urban population, has experienced a dramatic boom with a rapid increase of informal settlements but the same has been the case because of fiscal inadequacy, an assertion of which, if it is true then, it suggests very clearly that there is a challenge of improper projects planning in the sense that the government has been embarking into projects for which the availability of funds is uncertain. It is recommended to that effect therefore, that the

government should refrain from embarking into projects unless it is sure with the availability of funds.

Public Awareness of the Laws and Regulations on Land Use, Planning and Building Regulations in Tanzania

The study directed its mind on the question of public awareness of the laws in relation with land use, planning and building Regulations on informal settlements in Tanzania, the general finding is that such awareness is relatively low.

The government must act responsibly by doing all within its jurisdiction to ensure that it draws the public awareness in relation to available laws on land use, planning and building in Tanzania for the sake of having a responsible community which will assist in avoiding unnecessary rapid increase of informal settlements, of which will only be possible through the provision of education to the general public, the job of which can be done in collaboration with relevant civil societies.

Implementation and Monitoring on Land Use, Planning and Building Regulations on Informal Settlements

Adequate implementation of the laws and regulations on land use planning and building regulations on informal settlement in all their dimensions requires political leadership, appropriate legal and institutional frameworks, efficient urban management, improved coordination, consensus-building approaches and reduced duplication of efforts to respond coherently and effectively to current and future challenges.

Effective implementation and evaluation of land use planning and building regulations on informal settlement requires, in particular, continuous monitoring, periodic adjustments and sufficient capacities at all levels, as well as sustainable financial mechanisms and technologies.

National Government

The National Governments in cooperation with other spheres of government and relevant partners, should, keep legislation and regulations, as essential implementation tools, under periodic and critical review to ensure that they are practical and easily enforceable.

Ensure all inhabitants, land and real estate developers and service providers respect the rule of law; promote mechanisms for accountability and conflict resolution among implementing partners.

Assess the implementation on land use, building and planning, and provide financial and fiscal incentives and technical support to local authorities, particularly to address infrastructure deficits.

Encourage institutions of learning and training on land use, building and planning to be involved in the implementation of plans, to enhance the level of higher education in all planning-related disciplines and to provide on the job training for urban planning professionals and urban managers.

Local Authorities

The Local authorities in cooperation with other spheres of government and relevant partners, should, adopt an efficient and transparent institutional set-up to clarify leadership and partnership functions for the implementation of each particular activity defined on the land use, building and planning and coordinate responsibilities (both sectoral and geographical), including at the inter-municipal level.

Ensure that the allocation of public resources from all levels of government is commensurate with the needs identified in the plans and is programmed to leverage other resources.

Civil Society Organizations and Their Associations

The Civil society organizations and their associations should contribute actively to the implementation of the plans by mobilizing the communities concerned, cooperating with partner groups and voicing the concerns of the public, including the urban poor, in relevant committees and other institutional arrangements.

Provide feedback to the authorities on challenges and opportunities that may emerge in the implementation phases and recommend necessary adjustments and corrective measures.

Planning Professionals and Their Associations

The Planning professionals and their associations should provide technical assistance for the implementation of different types of plans and support the collection, analysis, use, sharing and dissemination of spatial data.

Design and organize training sessions for policymakers and local leaders to sensitize them to land use, building and planning issues, particularly the need for continuous and long-term implementation and accountability.

Undertake on the job training and applied research associated with the implementation of the plans, with a view to learning from practical experience and providing substantive feedback to decision-makers. Document planning models which could be used for educational purposes, awareness-raising and the broad mobilization of the public.

Regulation of Land Markets

One of the reasons for the development of unplanned residences is the fact that land markets in Tanzania are not regulated. Apart from regulating the transfer of the granted right of occupancy, other pieces of land change hands easily from one person to another. The reason why the State is able to monitor transfer of the granted right of occupancy is the fact that such right is compulsorily registrable under the Land Act and the Land Registration Act.^{lxxv}

It is recommended that the State regulate all land transactions which involve change of ownership from one person to another by using grassroots leaders with a view to ensuring that individuals and local communities do not cede possession of their titles to land without following the established formal/legal process.

The land bank

A land bank is a database of titled land parcels, created and maintained by Government through existing policy, institutional and legal frameworks. In urban areas, the Land Bank concept involved the accumulation of land parcels by an urban authority as a means of regulating municipal land prices or reserving land for future public use. Normally, the urban authority would buy land from individuals and companies when the land demand and price was low. It later sold the same at relatively lower costs as compared to market prices or reserved it for public use at a future date. This is regarded to be a realistic approach and provided a reliable tool in making affordable land available for non-competitive uses or priority needs and could be used to sustain urban land development. Land scarcity in urban areas of Tanzania is a recent phenomenon and is engineered by the money economy, political policies, population growth. However, there has always been a high demand for plots in urban areas of Tanzania following the urbanization trend of recent years

In many African cities, governments have been unable to provide sufficient appropriately located and priced planned and serviced urban land to meet demand. As a result, informal settlements are growing faster than the rest of the city. To deal with this situation the Ministry

of Lands, has to borrow funds from the Treasury, undertake an ambitious land servicing project in the country. The aim is to alleviate the shortage of surveyed and serviced urban plots; tackle the rapid increase of informal settlements; control land speculation; address corruption; complement the national drive to reduce poverty.

ENDNOTES

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- ^{iv} *Ibid*. See also World Bank, “The Urban Transition in Tanzania: Building the Empirical Base for Policy Dialogue”, 2008, p. 7.
- ^v Ross, M.H., *The Political Integration of Urban Squatters*, op cit, p. 42. See also Brain, A.R.L., “The Political Economy of Urbanization in Tanzania”, Ph.D. Thesis, University of British Columbia, 1979, p. 196.
- ^{vi} See Whitehand, J.W.R., “The Physical Form of Cities: A Historico-Geographical Approach” in Paddison, R. (Ed.), op cit., p. 69.
- ^{vii} See Forrest, R. & Williams, P., (2016), “Housing in the Twentieth Century”, in Paddison, R.(Ed.), *ibid.*, p. 88. See also Camagni, R., et al, (2017), “Managing Sustainable Urban Environment” in Paddison, R. (Ed.), *ibid.*, p. 124.
- ^{viii} Cap 113, R.E 2019.
- ^{ix} United Republic of Tanzania, Ministry of Lands, Housing and Human Settlements Development, *The National Land Policy 1995*, paragraph 2.0.
- ^x *Ibid*, paragraph 4.1.1(viii).
- ^{xi} *Ibid*, paragraph 4.2.22 (iii).
- ^{xii} *Ibid*, paragraph 6.4.1.
- ^{xiii} *Ibid*, paragraph 8.1.1(i) & (ii).
- ^{xiv} See, for example, the Land Act, section 23(3). This section empowers local authorities in urban and peri-urban areas to issue residential licences to persons occupying land without any official title.
- ^{xv} The National Human Settlements Development Policy 2000, op cit., paragraph 3.1(i) & (ii).
- ^{xvi} *Ibid*, paragraph 4.1.1.2.
- ^{xvii} *Ibid*, paragraph 4.1.2.2(i) & (ii).
- ^{xviii} *Ibid*, paragraph 4.1.3.2 (iii).
- ^{xix} The Urban Planning Act, section 3(a).
- ^{xx} *Ibid*, section 3(b).
- ^{xxi} The Constitution of the United Republic of Tanzania, Cap 2 of 1977 (amended from time to time).
- ^{xxii} *Ibid*.
- ^{xxiii} *Supranote* 1, Article 146.
- ^{xxiv} Article 146 (2) Constitution of the United Republic of Tanzania.
- ^{xxv} Article 146 (2) Constitution of the United Republic of Tanzania.
- ^{xxvi} District Authorities Act and Urban Authorities Act.
- ^{xxvii} sections 24 – 30.
- ^{xxviii} *Ibid*, sections 8 – 18.
- ^{xxix} *Ibid*, sections 56 – 60.

- xxx *Ibid*, sections 180 & 181.
- xxxi *Ibid*, section 167(1).
- xxxii *Ibid*, section 34(2).
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- xxxiv *Ibid*
- xxxv The Land Act, *op cit.*, section 57(1).
- xxxvi On validation of interests in land, see the Land Act, *ibid*, sections 53 – 55.
- xxxvii G.N No. 157 of 1997. A detailed discussion on regularization schemes is given in Chapter Five of this work.
- xxxviii No.8 Of 2007.
- xxxix www.nlupc.go.tz retrieved on 27th Dec 2022 at 18:23.
- xl A resolution by the relevant planning authority of intention to make a detailed planning scheme shall be a cause for transfer of land from village or reserved land to a general land.
- xli *Supranote* 1.
- xlii Act No. 6 of 2007.
- xliii Gazette of the United Republic of Tanzania, No. 25, Vol. 88, dated 22nd June, 2007; <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC164483/> (accessed on 27th December, 2022)
- xliv *Supranote* 9.
- xlvi *Ibid*.
- xlvii *Ibid*, including cropland, pastureland, forests and water sources, fisheries, agriculture and industrial, the preservation of protected or traditional areas and other sensitive areas, parks, game reserves, coastal ecosystems, including wetlands, beaches and marine parks, colonies of biodiversity and other species of flora and fauna, the preservation of the quality and flow of water from a dam, lake, river or aquifer, etc.
- xlviii Act No. 20 Of 2004.
- lix *Ibid*.
- lxi *Ibid*, Part II, *General Principles*.
- li *Supranote* 10, Part IV.
- li *Ibid*.
- lii The Urban Planning Act, *op cit*, section 29(3).
- liii *Ibid*. section 29(3).
- liv Including, for example, the Environmental Impact Assessment and Audit Regulations 2005.
- lv The Urban Planning Act, *op cit*, section 7(5) (b).
- lvi The Local Government (Urban Authorities) (Development Control) Regulations, GN No. 242 of 2008.
- lvii *Ibid*.
- lviii *Ibid*.
- lix *Ibid*, Regulation 125(3).
- lx *Ibid*, Regulation 124 (4).
- lxi *Ibid*, Regulation 126(1).
- lxii Land Act, 1999 R.E 2019, Section 34(2).
- lxiii Urban Planning Act, 2007.
- lxiv Court of Appeal of Tanzania, at Arusha , Civil Appeal No. 246 Of 2017 (unreported).
- lxv *Ibid*.
- lxvi The High Court of Tanzania (Land Division) at Dar es Salaam, Land Case No. 66 of 2006, (Unreported).
- lxvii *Ibid*.
- lxviii info@titp.or.tz retrieved on 27th Dec 2022 at 20:33.
- lix *Ibid*.
- lxx No. 7 of 2007.
- lxxi www.tprb.go.tz retrieved on 27th Dec 2022 at 20:48.
- lxxii www.land.go.tz/page/background retrieved on 27th Dec 2022 at 21:09.
- lxxiii *Ibid*.
- lxxiv www.land.go.tz/page/background retrieved on 27th Dec 2022 at 21:11.
- lxxv The Land Act, *op cit.*, section 22(1) (d) and the Land Registration Act, *op cit.*, section 27.