

ONLINE DEBATE

RESPONSIBLE INVESTMENTS IN LAND PERSPECTIVES FROM TANZANIA AND GLOBALLY

by Mr. Godfrey Massay

THE LAND PORTAL

The Land Portal aims to improve land governance to benefit those with the most insecure land rights and the greatest vulnerability to landlessness through information and knowledge sharing. The Land Portal is based on open sources, open data and open content, and promotes open approaches with partners, seeking to catalyze and support greater sharing, collaboration and innovation in the land governance community. The Land Portal believes local ownership and encourages content creation and dissemination to take place through local partners, groups and networks, supported and facilitated by the Land Portal team.

RESPONSIBLE INVESTMENT IN PROPERTY AND LAND PROJECT (RIPL)

Landesa has launched the RIPL project, funded by the Department for International Development (DFID) as part of its LEGEND Program, to lead a global effort to help women and men, communities, governments, and investors realize socially responsible land-related investments that adhere to VGGTs and AU Guiding Principles. In Tanzania, the RIPL team is developing step-by-step, field-tested, practical guidance that can be used by the three stakeholder groups that are centrally involved in the investment process: communities, governments, and private sector. The "RIPL Guidebooks," one for each respective stakeholder group, are based on field research and stakeholder input in Tanzania and will reflect the country's and investment context so that all stakeholders are in a better position to comply with internationally recognized standards and principles to improve land governance and investment practices.

Landesa (strengthening land rights for the world's poorest people) and **Land Portal** co-facilitated the online dialogue on "*Responsible investments in land: perspective from Tanzania and globally*" from June 5 -16, 2017

For details on the dialogue follow this [link](#)



LEGEND

*Land: Enhancing Governance
for Economic Development*



This work is funded by the **UK Department of International Development (DFID)** as part of the **Land: Enhancing Governance for Economic Development (LEGEND) program**.

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SUMMARY

DEBATE QUESTIONS

- » What is the government doing to facilitate better investment practices?
- » What should companies do to improve their investment practices and to bring about more equitable investment projects?
- » What role can civil society and the global community play to improve investment practices and ensure that communities are more equitable business partners and beneficiaries? What gaps persist between principles and on the ground realities?
- » What can the global community do to continue generating awareness, strengthening stakeholders' capacity and improving incentives for socially responsible land investments?

WHY DIALOGUE

It was important to have the dialogue in order to:

- » Increase exchange of information between a variety of stakeholders on responsible investments in land principles and practices,
- » Increase awareness of the practical implications of responsible investment practices both opportunities and constraints in an empirical context: Tanzania;
- » Engage and amplify voices from Tanzania to contribute to solutions in their own country, and throughout the global south, that will improve investment practices and
- » Generate dialogue that can inform potential strategies and actions to improve responsible investment practices, in Tanzania and globally.

The dialogue brought together variety of practitioners and experts from Tanzania and other parts of the world. It provided avenue for discussants to share knowledge and experiences from other jurisdiction on the Responsible investment concept to its applicability in the Tanzania context. Until its closure, **112 comments were received from 41 participants. More than 1334 people visited discussion and 2306 page views.**

WHY IS RESPONSIBLE INVESTMENT IN TANZANIA IMPORTANT FOR DIALOGUE?

The debate was designed as part of the broader conversation on responsible investment in land principles, guidelines and practices that has been trending on food crisis and subsequent 'land grabs' in the global south, Tanzania inclusive. The dialogue intended to bring to attention perspective on a conversation and debate that often remains in the conceptual or abstract. The Tanzanian context is particularly relevant because of the government's interest to increase agricultural investment and revise the current National Land Policy with the process underway, which, among other things, has implications for decision-making processes around land-based investments.

KEY TAKE AWAY MESSAGES

WHAT DOES RESPONSIBLE LAND BASED INVESTMENT MEAN?

Responsible land based investment finds its origin from efforts by the international community to address the impacts of land grabs in Africa and other parts of the world. An investment that is responsible must be inclusive, socially acceptable, sustainable, transparent and that which puts community members at the center throughout its lifecycle.

COUNTRY PROFILE

It was certainly noted from the discussion that Tanzania is an agrarian state where smallholder farmers and pastoralists are dominant and depend on subsistence production. Also, as a country it has taken a number of initiatives, including Agriculture first, Big Results Now and the establishment of the Southern Agricultural Growth Corridor to manifest its vision. However, due to the top-down nature of the decisions made, there has been limited success for the efforts to improve agriculture out of the initiatives. It is also undisputed truth that there has been growing interest for many companies in the country to invest on land, agriculture in particular. Many foreign and local companies have been applying for land to invest in various places of the country. Experience from companies which have managed to commence investment have been not impressive due to reported conflicts with community members.

WHAT SHOULD BE DONE?

To ensure responsible investments the following are inevitable to happen:

- » A need to revamp cooperatives and farmers' unions as alternative models for people-centered investment in land and the village council as a body corporate should have the mandate to sign investment contracts on behalf of villagers. Land should not necessarily be transferred to general land when acquired for investment because it has been difficult to be reverted to village when investment fail.
- » The role of Civil Societies (CSOs) and Media houses as interested stakeholders is important for responsible investments. CSOs should (a) continue the role of monitoring and sensitizing communities which face investment challenges, (b) provide pro bono legal aid and embrace strategic litigation in their programs to help communities in need and unable to hire costly attorneys, (c) find ways to coordinate their efforts and (d) remain independent and autonomous. However, CSOs are advised to rethink their engagement strategies with stakeholders (government, private sector and public) which involves avoidance of extra-activism.
- » Discussants also agreed that Village Land Use Plan is core before investments take place. However, if not done properly, it can be a vehicle for land dispossession. To avoid processes misuse, the process should be country-driven where civil society can assist in the preparation stages. Concerns about companies or big international NGOs supported for conducting village land use plans have come out expressly as there are likelihood of biasness though it has gained support from government. Alternatively, some of the good practices display its importance though checks to ensure protection of local community interests is needed to avoid biased process.
- » Issues of strengthening land investment policies and regulations especially through the ongoing National Land Policy review process is more important to ensure responsible investment. A need to put legal guarantee for resettlement and rehabilitation assistance to reconstruct livelihood of victims affected by compulsory acquisition and displacement is also necessary. Also despite legislation being gender progressive, there needs to have specific efforts for women's inclusion in all processes. This includes integrating women's issues and gender perspectives from the field, including how women use land. It was suggested that it can be necessary to talk to activists available in the community since even women leaders may not articulate the roles women play within the household and make use of household land. Overall, gender mainstreaming across community programs should be emphasized.
- » Establishment and strengthening platforms to enrich productive and healthy dialogues and improve transparency, accountability is necessary to increase stakeholders' opportunities for inclusion in the process. This include Women rights and leadership forums (WRLF), District Multi-Stakeholder Forums (DMF), Tanzania Extractive Industry Transparency (TEIT) and farmer-pastoralist platforms, etc. However, caution is noted as these may also be playgrounds of different struggles among members. Also there is a need to decentralize these platforms by having grassroots experiences and voices. The current National Land Policy Review process is one such opportunity to formalize the platforms.
- » The government should also not take the central role in the process of land acquisition for investment as it makes it more difficult for the land-holder to be compensated fairly.

INVESTORS

Three areas were pointed out in the discussion where investors/companies need to strongly improve their business practices:

- » Due diligence procedures that better assesses the existing tenure situation and land governance for them to consider or reconsider the business model for their investments and minimize disruption of local livelihoods and increase opportunities for current land users;
- » Companies have to make sure that community engagement and consultation processes are effective and inclusive; and
- » Disclosure and transparency of an investment is critical.

Essentially, the existing best practices of companies' commitments for compliance of international standards, such as those from Illovo Sugar, Coca-Cola and Nestle, can help to improve the public-private partnership model of operation and thus enhance the company's social license to operate.

Investors are urged to develop their own redress mechanism which can be accessed by the communities unlike the existing systems which are costly and far to be reached by community members.

It was also raised that there have been initiatives to ensure transparency in investment contractual process by different actors. Establishment of an online repository of publicly available investor – state land contracts and associated documents by the Columbia Center for Sustainable Investment (CCSI) demonstrate proactive disclosure of agreements which is both feasible and valuable for stakeholders

Also the discussion conceded that international guidelines and the development of operational guidebooks for community, government and investors can be used to push necessary legal reforms and can also bridge gaps between the global and local context. However, any such developments are constrained by national and local governance. For Tanzania, the National Land Policy Review will determine their fate. Importantly, having guides for investment that are context specific may be especially helpful to secure community interests, improve bargaining powers and enhance community participation

Nevertheless, while taking cognizance of foreign direct investment, a need to focus on domestic investors or speculators should be considered for responsible investment and also taking lessons from previous failed investments for necessary changes.

WAY FORWARD

The debate was organized at the time when Landesa in collaboration with the Tanzania Natural Resource Forum (TNRF) is implementing a project on Responsible Investment in Property and Land in contribution to the ongoing global efforts to support the participation and empowerment of government, investors, and communities in land-related investments. The project is expected to develop investment guidebooks to assist investors, government and communities in adherence to responsible investment procedures. Equally important, it is the time Tanzania is reviewing its National Land Policy. This is expected to enrich the dialogue on the two initiatives for improvement and ensure responsible investment and attributed to the achievement of the 2030 agenda.



FACILITATORS:

Godfrey Massay: Godfrey Eliseus Massay is a lawyer and land tenure specialist. He has eight years of experience working on land rights and in the natural resource sector in Tanzania, and has written and published numerous articles on land rights in both national and international academic journals

Mr. Lukasz Czerwinski: Lukasz Czerwinski is a Land Tenure Specialist has worked in international development for more than 12 years, with an emphasis on land and health. In his current role, Lukasz engages in a broad spectrum of functions and activities related to securing revenue from public sector, foundation, and corporate funders. In addition, he leads components of Landesa's Responsible Investments in Property and Land (RIPL) Project that brings together business, government, and local communities to recognize and protect the land rights of current land users while meeting the needs of governments and companies. Lukasz's recent assignments have included supporting multinational food and beverage corporations as they work to integrate land-related policies and practices in their business models and supply chains. Prior to working for Landesa, he worked for Population Services International (PSI).

PROCEEDINGS

ON RESPONSIBLE INVESTMENTS IN LAND: PERSPECTIVE FROM TANZANIA AND GLOBALLY

co-facilitated by Landesa and the Land Portal from 5th to 16th of June, 2017

FIRST WEEK OF THE DEBATE: 5TH TO 9TH OF JUNE 2017

Mr. Godfrey Massay a co-facilitator provided an introductory remark to participants with an overview of the responsible investment in history and context. He pointed out that the term “responsible land-based investments” come from efforts by the international community to address the impact of the ‘fourth phase’ of land grabs on the African continent, and other regions in the world. He went further to say that land grabs has taken four phases from scramble for and partition of African continent to current land grab (the fourth phase) which is largely driven by food, fuel, financial crises and capitalist greed causing unprecedented land acquisitions in developing countries, especially those that are in the sub-Saharan Africa, including Tanzania.

He added that, even with the efforts made by international and regional bodies such as the FAO and AU to put in place voluntary guidelines that regulate responsible investments, there are still tremendous challenges around land and responsible investments throughout most countries, including Tanzania. Further, case studies have documented how investment consultations have violated rights of communities; how negotiations and contracting have sidelined communities; and how investments have further alienated communities from their land. Women are perhaps the most affected by these investments in land.

Still, the global community, national leaders and local communities; business, government and civil society must find solutions that balance economic development, decreased poverty and inequality, food security, environmental stewardship and climate change, and women’s empowerment and equality.

Dr. Adam Patrick Nyaruhuma, who is the senior officer of the Ministry of Lands in Tanzania was the first participant to provide comment. He started by appreciating organization of the debate as a very timely discussion not only for Tanzania but also to the world given the food security agenda and the pressure exerted to by large scale land based investors. He said, for Tanzania a large country blessed with large tracts of fertile lands with communities that is predominantly rural and mostly depend on subsistence agriculture. In his opinion, there is potential for large scale land based investments with land tenure system that secures customary land in place and accessible online: the National Land Policy 1995, the Land Act 1999, the Village Land Act 1999 in place are sound institutions for land administration: the Ministry of Lands, district councils and village councils the land policy is currently being reviewed to cater for, among other things, enhanced access to land for large scale land based investments and monitoring the land for the highest and best use . Regarding responsible investment, he made reference to academic formulation but in his view, inherent in the responsibility should be: previous land occupiers should be compensated

for loss of land proceeds from the investment should benefit not only the investor but also the local and central governments and the community the benefits to the community should not be only one off, instead they should be long term benefits in the form of equity or rent, community development fund, extension of appropriate technology and practices and farmer-out-grower practices the investment should not ruin the environment, communities should be consulted/ engaged throughout the life cycle of the investment and finally none serious people or companies posing as investors should not hold the land idle for speculation.

He narrated that, currently large scale land based investments in Africa vary in terms of responsibility. For example, community-investor disputes relating to lack of inadequate compensation are common. Also, common are unfulfilled promises to communities and poor relations which sometimes culminate to aggressiveness which may also lead to sabotage. Women suffer the more when relations between investors and communities sour

Mr. Lukasz Czerwinski responding to Dr. Adam's comments, cemented on Social License to Operate and more particularly about the importance of a company having a social license to operate within a community. Making reference to the Responsible Investment in Property and Land Project (RIPL) ([follow link](#)) it shows, it's critical to have clear and consistent communications with communities throughout the investment lifecycle. By engaging with village leaders and village assembly members – from pre-investment through project close out, a company will increase the likelihood of maintaining positive relationships with the community and retaining social license.

He added, it might also be worth sharing that the FAO Voluntary Guidelines set two standards for consultation with communities: "Consultation and Participation," and "Free, Prior, and Informed Consent" (FPIC). Both standards require, at minimum, "engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes."

Dr. Uchendu Chigbuwe defined what a "responsible" land investment means. To his view, the urgency for creating responsible investments in land around the world has stretched the debates on the practical instruments needed for land investments. A description of the basic elements of what responsible land investment entails and how it can be diagnosed can help actors in the land sector to understand the best ways to make improvements. The first step is grasping what "responsible" means from a "land investment" perspective.

Putting it very simply, he said, one can identify "responsible investment in land" when one analyses a land investment and found it is responsive, equitable, profitable, inclusive, respectable and accountability – within the context of its structures, processes, outcomes and impacts. From this perspective, "Responsible" relates to structures, processes, outcomes and impacts of an "investment in land". That is why "responsible land investment" stands at the cornerstone of social, economic and environmental developments.

He added that, nearly 75 percent of the population of Tanzania is engaged in agriculture.

Agriculture is a top priority issue in Tanzania's development plans. The Kilimo Kwanza initiative (meaning, Agriculture first) adopted in 2009, is a major signal to the importance of agriculture in the country. It is the backbone of the Tanzanian economy. In tackling the challenge of land (agricultural) investment, initiatives such as The Southern Agricultural Growth Corridor (SAGCOT) –, a public-private partnership initiative between the Tanzanian government, agri-corporations, donors, and nongovernmental organizations (NGOs) – have been hailed as a model for agricultural development by the New Alliance for Food Security and Nutrition of the G8. So, there is a significant level of success being recorded in the country. Other countries can learn from Kilimo Kwanza initiative and SAGCOT in Tanzania. However, more still need to be achieved in Tanzania. The government still needs to strengthen its policy frameworks to improve investments in the country. Obstacles to inclusive investment (e.g. gender differences), tenure insecurity, lack of know-hows and business skills need to be improved.

Mr. Godfrey Massay responding to Inclusive Agricultural Growth concern raised by Dr. Uchendu added a broader definition of inclusive agriculture in the context of large-scale agricultural investment as construed by Prof. Ruth Hall of PLAAS. Where he said, according to her; "Inclusive agricultural growth means avoiding big corporate takeovers of farming and value chains, and the food system as a whole, from production to retail. Rather, inclusion requires that agricultural growth helps existing farmers, traders, and others in the value chain to mitigate risk, to become more profitable and to scale up what they are doing. Inclusion cannot be only at the level of primary production. Inclusion means that family farmers must be able to access markets, by aggregating their outputs, and selling into value chains that are able to efficiently get produce to the growing numbers of urban consumers. Inclusive growth means there must be equity in ownership and income, which means that incomes from agriculture need to be reinvested to stimulate further growth in farming, in the rural non-farm economy and, through rural-urban linkages, into the urban food economy, to feed Africa's growing and urbanizing population. Inclusive agricultural growth means that the needs of rural population must be achieved by meeting the needs of the urban population" ([see details here](#)).

Dr. Uchendu Chigbu also topped up on the work mentioned by Godfrey Massay by saying Ruth Hall, and PLAAS (in general) have done a lot of research on land investments in Africa. And that, their broader definition is important for two major reasons. (1) Inclusiveness is a basic character of any responsible land investment. (2) The agricultural component is important because it reflects the predominant sector where most land investments are happening in Africa.

Mr. Lukasz Czerwinski making reference to posts by Dr. Uchendu, Godfrey and Mr. Baha's seemed curious how effective the Kilimo Kwanza Initiative and SAGCOT have been in considering and addressing the needs of local communities. He asked that because there has been a perception in the sector that, these sorts of partnerships are generally top down and as a result, don't account for needs of rural villagers, don't equitably compensate them, etc. Oftentimes women and men living in rural communities are left worse off. Given this, he wanted to know if there are any examples or best practices they could share with participants from Kilimo Kwanza Initiative and SAGCOT.

Dr. Uchendu Chigbu responding to Lukasz question said, "In general, the following document provides very important information concerning SAGCOT. See <http://www.sagcot>.

[com/uploads/media/Invest-Blueprint-SAGCOT_High_res.pdf](#)”

He went further to say, gender challenges, especially as they relate to women’s capacity to negotiate land deals and rights have been reported to be slowing SAGCOT outcomes due to top-down procedures. Of course, this is serious because 98% of rural women who are economically active in Tanzania are engaged in agriculture. Despite this problem, “Tanzania has one of the strongest land law frameworks in Sub-Saharan Africa for the protection of rural land rights” (as confirmed by World Bank). This alone provides a principle for implementation. Also what makes SAGCOT unique is that it recognizes that it is an agricultural country. The rural areas are not completely left out mainly because the “agriculture” is located in rural areas. As a result, they are not being ignored, but the program is definitely not catering for all their needs due to the Top-down procedures involved.

Ms. Naomi Shadrack also provided her contribution supporting Lukasz’s suggestion and said, “these initiatives in most cases come from top! we really need to find the way these can work with the ongoing systems in the ground. Mentioning SAGCOT region, Morogoro and that part of the country has been referred as the nation’s ‘food store’ or ghala la taifa in swahili. Farmers in that region have been feeding the country in their humble ways and technologies. Coming of technologies and expertise need to work with the ongoing need and demand of the people. They are not stagnant, they are moving and hence efforts such as Kilimo kwanza and the likes should support people’s agricultural systems. Designs should consider what people are doing on the ground, and companies and governments should work with communities from the planning stage”

Dr. Uchendu Chigbu on the other hand supported the argument and pointed that, the top-down “thing” is a major problem and has consequences on “inclusiveness” and “participation”. It demands for a change in “thinking” and “practices” within our institutions, governments and societies. As you know, this is not something that will get resolved on the within a short period. One way will be to adopt an incremental sensitization approach based on development activism (for inclusive gender-mainstreamed participation). This is already happening, and I am hopeful it will improve on the long-run.

Mr. Valentin OLYANG’IRI equally supported by saying, while ‘perception’ exists with regard to the top-down nature of many partnerships, the Kilimo Kwanza Initiative is a practical example to prove that it is no longer a perception but a reality. A Land rights NGOs in Tanzania (HAKIARDHI) has documented how Kilimo Kwanza was formulated and exclusion of not only small producers (farmer&pastoralist), but also a cross section of active & relevant stakeholders (NGOs &Media) ([download for details](#)).

Dr. Uchendu Chigbu while in agreement with Mr. Valentin, added that a key problem with understanding the work is that the author did not expressly define “participation” or what he/she means by “participatory” in the context of the program/initiative and weighed in the context of societal expectation. The problem is that oftentimes, the government and local people have different ideas of what “participation” mean. Sometimes the government refer to mere “involvement” as participation whereas the people are seeking for “collaboration”. Sometimes the government do “partnership” (in some bad cases “manipulation” of selected people) and call it “participation”. Since it is difficult to get absolute participation, there will

always be some sort of levels or ladders participation. He cited Sherry Anstein's ladders of participation ([click to read](#)) to particularly spot where all of these lie.

In his opinion it appeared out of the discussion that, the people of Tanzania wanted "citizenship power" or "partnerships" while the program was only offering a mix of "consultation", "placation" and "delegated power" where it pleased them. To him these levels of participation are not bad and do serve good purpose if well utilized. The issue with gaining citizens power is that in cases where the people are not involved (that is participating) in the funding provision, it is difficult for funders and government to want to share "power". He strongly encouraged that people should gun for the upper levels of participation but we must be definitive with what we mean by participation. Most times, neither the people nor the government are definitive which makes it difficult.

Mr. Lukasz Czerwinski while at par with Dr. Chigbu added on the importance of defining and clarifying "participation". He said, by aligning expectations, government, the community and the company will be in a better position to build trust, credibility and help the company establish a social license with the community.

Dr. Uchendu Chigbu emphasized on his point concerning citizens' power as a level of participation by saying the points of "citizen power" or "partnership" is a hard nut to crack because usually communities (or local municipalities tend not to be involved in the funding provision for projects within their localities. This is generally the case in most countries in sub-Saharan Africa (SSA). In high-level funded programs such we can see in Tanzania, Local people fail in their bid to gain "power" over development because they are not involved (that is participating) in the funding provision. So, the government partner with funders and hold on to top-down structures because that's from where and how the funds flow down.

He seemed to wonder if local communities can source their own fund (contribution) to some of these projects -even if something like 1% or 0.5% -they will have a stronger stake to broker stronger participation. I know this is can sound unrealistic in SSA but it is something local municipalities/communities can try (with banks, third-party funding agencies) when such big programs are being designed. Also on the part of all, gaining full participation demands for a change in approaches and behaviours to project design and implementation.

Lukasz Czerwinski in appreciation for Mr. Valentin sharing the HakiArdhi report which it's findings and recommendations largely mirrored Ms Youjin Chung's thoughts from her research in Bagamoyo and based on the dialogue, seemed to him that participants still have a lot to learn about how Public-Private Partnership models truly impact smallholders and their communities.

Ms. Karol Boudreaux contributed on strengthening the policy framework in Tanzania. She wrote, the Government of Tanzania is in the process of revising the National Land Policy to meet evolving needs in the country. She said, the current draft raises a number of concerns including: very limited attention to continuing problems related to women's ability to exercise and enforce formal land rights; limited discussion of how to address concerns related to pastoralist communities and conflict with farmers; and issues related to equitable engagement with communities impacted by large-scale land based investments.

To her the draft NLP also does not align with the VGGT or Africa-focused guidance from the AU/LPI. She suggested the government should expand its consultative process, engage

more actively with women's groups and pastoralist groups and also work to align the draft document with international good practice documents.

Ms. Naomi Shadrack agreed with Ms. Karol and said, the National land policy draft do not align with the VGGT or F&G for land policy in Africa. She personally did not see the draft putting its focus on small holder farmers and pastoralist women and men and also not responding to what has not been working for these group but rather what was not working better for investors. She looked at the draft as responding more to the National's five years development plan 2016 ([download](#)) which suggest to making the process of land acquisition easy and avoid complications and length of the time to acquire land. It also suggests review of the two land law to support industrialization and social economic transformation. To her all what the plan is suggesting may be good, but she think there is a need to balance or make sure ambitions to quicken investments procedures do not compromise rights and wellbeing of its citizen.

Ms. Beatha Fabian suggested more policy issues to be addressed on the ongoing National Land Policy review process and other related natural resources policies which have made the legal investment environment to lag behind. She pointed that, in order to improve the policy framework in Tanzania, there is further need to amend the 1997 Investment Act, Competition law, commercial, contract and labour laws together with commercial dispute system. Also there is a need for Tanzania to formulate a comprehensive investment guide which will honour and coordinate all relevant policies related to investment.

Also Policy makers should consider/consult/analyze both inside and outside investment policy frameworks and guidelines so as to have effective independent and responsive investment framework which benefit the country and its communities. CSOs have a critical role in shaping the reforms by developing and piloting gender-sensitive responsible investment model guides.

Dr. Adam Patrick Nyaruhuma on the other hand responding to Ms. Karol on the National Land Policy review while emphasizing that these were his personal views and has nothing to do with the government position agreed that the National Land Policy is being reviewed and he is happy to have participated as a member of the secretariat of the review and felt thankful for people being interested. On whether the draft raises a number of concerns he positively responded but his opinion is there is no perfect way to go about making a policy. And consultations are representative, otherwise a referendum is the only way to have all people say on something. Even with rigorous consultations and awareness there will still be different perceptions.

On including very limited attention to continuing problems related to women's ability to exercise and enforce formal land rights he was of the view that, stakeholders were given opportunity to even craft text of what could be included in the policy. Moreover, on whether there was limited discussion of how to address concerns related to pastoralist communities and conflict with farmers to him there was discussion with many groups of pastoral communities. Also on issues related to equitable engagement with communities impacted by large-scale land based investments he opined that there were consultations, he was curious to know what is it that is missing that Ms. Karol thought would have been included?

Finally, on the question whether the draft NLP also does not align with the VGGT or Africa-focused guidance from the AU/LPI wanted more clarifications on what is in the draft policy

that she can authoritatively present as being not consistent with VGGT or Africa-focused guidelines, otherwise a sweeping statement like this cannot easily be worked on.

Ms. Mary Ndaro also provided her contribution on the National Land Policy review and in agreement with Ms. Carol and in response to Dr. Adam's contribution said what she thinks it tricky on the topic is how much involvement of stakeholders is enough and the quality of those involved. While agreeing with dr. Adam's response on one hand, she said there has been consultation with some stakeholders, however, her main concern is more on valuing the stakeholder's view that speaks on behalf of many instead of few individuals or groups. For example, on the issues of women's land rights which to her is very important and if done wrong its impact affects more than 70% of the women especially those in rural areas and those depending on land as a means of livelihood. Unless there's a new draft that she hasn't seen, the existing draft has consistently guaranteed only access and nothing about decision making or ownership. The ministry at least few that who had a discussion with, think access has been clearly defined and therefore covers all issues and guarantees women all the rights. Her argument is that, access is not ownership and leaving it loose like that has major impact on women who contributes to this country's economy. To her access does not guarantee transfer, mortgage, decision making, control, or any independence of women to natural resources. Access keep women where they have been of depending on make figures to enjoy opportunities and resources.

She went further and question, whether it is possible to have all stakeholder's views taken into consideration which she considers to be probably not, but it is important to take on board the most important issues raised by stakeholders? Land rights for women, land management and administration, large scale investment are some of the issues that needs a close look because their effects are paramount to rural communities specifically women. So she agrees with the government to expand its consultative process but more importantly to value those consultation views and stress buttons on what is more important.

Mr. Bernard Baha centered his contribution on responsible investment concept. Where he raised a number of questions; Are the companies observing the basics? Are they respecting, protecting and strengthening land rights of women, men and other social groups? Are they observing and strengthening community land rights? Respecting pastoralists land rights? Are they adding any value in terms of improvement in livelihood, agricultural productivity, marketing of agricultural products, acting like a bridge between farmers, technology/technical know- how etc. At least these are some of the elements I will look at if I have to qualify the project/investment as "responsible investment"

In his view, this is partly what the principles theoretically preach or directs the companies or those interested to invest in agricultural land to observe. In practice however this is not the case at least from some of the trends on the ground and is largely due to the fact that companies are responsible to the state. He added that, the government on one hand is responsible to ensure investment in land is socially and equitable through enshrining the basic principles in the contracts for companies to observe and practice. Also, the community where the companies are active need to be equipped with land rights knowledge, so that they are aware and if there is consent from them what they

should expect from the investing company apart from compensation for those who will be affected directly by paving way for investment.

Mr. Godfrey Massay seemed to be interested by the questions particularly on the role of the government to ensure investment in land is socially and equitable through enshrining the basic principles in the contracts for companies to observe and practice. However, he cited the study ([click](#)) by Stockholm Environment Institute observes that in Tanzania “the national government’s drive to encourage investors has run ahead of the capacity of local people and communities, and even the government itself, to implement the measures needed to ensure that local interests are protected, and a vastly different process is unfolding for village-led planning than the one envisaged under the TIC.” He pondered other question, where he said, considering that observation, what can the government do in regulating, monitoring and implementing responsible investments?

Mr. Bernard Baha on the other hand responded that, The government is supposed to balance the conflicting interest, on one hand it is the government that is luring investors to come and invest but on the other hand when one shift the focus on implementation of land policy there is a discrepancy, the context of the study you mention is the biofuel boom, he added that, “we were all caught by surprise, with interested investors demanding million of hectors for biofuel and it is from the same context when as a nation we started questioning the statistics on land use and utilization”. Further, the government need to put the house in order before luring investors, but even rethink the strategy, accumulation from below may be a solution to what we are trying to deal with, why not start from the premise that Tanzania is an agrarian nation where smallholder farmers, pastoralists are dominant. His views are why not consider the 65.5% of the population and empower them to invest by creating conducive environment that will enable active participation in the industrialization agenda, while he was not against FDIs, but he thinks the government need to attract only strategic investments that which will add value to what we produce internally. He is still convinced that as a nation specifically at the time a focus is on reviewing the national land policy, it is not bad to go back to earlier studies and recommendations. He considers the report of the Presidential Commission of Inquiry into Land Matters is very rich and to date still relevant on the topic, when discussants debate whether to opt for foreign led investment in agriculture he wished to go back to the Commission report page 137 “Paths of Development” very informative on what kind of choices need to be adopted. He even also went back and try to understand why the Germans at some point decided to restrict settlers and encouraged peasant agriculture, why Sir Donald Cameroun the second British governor in Tanganyika hesitated a lot to allow in more settlers. It is his suggestion that, the National Five Year Development Plan-II, has a lot about the direction Tanzania should take, and what role different sectors need to play, but when it comes to land question it starts from the premise that the existing land policy and legal framework has failed miserable, in in the sense that it is too cumbersome for investors to access land! and noted that there is a lot of land related conflicts between different land users some of which are related to the manner in which power relations are arranged.

He considers that, there is a need to clean the house first before welcome visitors, the house need to be in order otherwise what is happening now in the mining sector may again surface, investments in agricultural land should be encouraged not at the expense of women and men, small holder farmers, pastoralists, hunter gatherers or peri-urban land users and this should be the

role of state, to ensure that only strategic investments that will stimulate accumulation from below and not top down approaches that have been dominant in our time.

Dr. Jolyne Sanjak shared Landesa's experience in advocating for responsible investments. She said in discussing responsible investments in land, there is a need to confront the reality that moving from establishing standards to changed behaviors takes time, particularly when standards are voluntary. It will require more and different types of advocacy to build momentum on the ground, for example, to lead companies to move beyond awareness and commitment to active change in their investment policies and processes.

She added that a few companies are now engaging land tenure expertise to help them improve their approaches to due diligence, consultation, and other key aspects of an investment lifecycle. Landesa is working from existing guidelines to establish new tools and trainings specific to each company and relevant aspects of their supply chain and the local contexts of operation. She believes that, this is necessary for constructive change. Importantly, just like model contracts can lead to better practice by helping many diverse actors negotiate better agreements, Landesa is also developing investor guidebooks for responsible investment in land and property (Tanzania, Ghana and a global template) so that each company does not have to start from scratch in many other points along the investment lifecycle. (Similar operational guidance for local civil society organization and for the public sector will also facilitate positive change.) One of their anticipated outcomes is that improved due diligence that better assesses the existing tenure situation and land governance picture should lead more companies to be willing to consider or reconsider the business model for their investments in particular locations in order to minimize disruption of local livelihoods and increase opportunities for current land users.

She added that, these are more operational guidance but is not a substitute for land governance improvements. For example, there is an acute need to document tenure rights in areas where investment is growing. While investors can, and in some cases are, facilitating steps toward this, such as supporting village land use planning in Tanzania, whether or not and how this facilitation can work well from the perspective of tenure security of local land users is not clear. And, by the time an investor is active, it could be already late in relation to changing tenure dynamics around investment. One of the areas that she was interested in exploring in the discussion is whether there are good examples of company facilitated or supported land rights documentation? Can companies and civil society collaborate to advocate for land rights documentation at scale nationally as a way to close this gap?

Mr. Bernard Baha responding to Dr. Jolyne's contribution on Landesa's experience and experience from the ground said it is good to hear of different initiatives and experiences in addressing the question of large scale land based investment, and the work of Landesa around these issues, but he thought guides can be developed, if they are not domesticated may not yield the desirable fruits. He was worried that there is much focus on development of new tools while even the existing ones have never been tested. To his thoughts, the best approach should be directing energy on campaigns to domesticate the voluntary guidelines like VGGT and for country like Tanzania which is a signatory to AU Framework and Guidelines on Land Policy in Africa and the 2014 AU Guiding Principles on Large Scale Land Based Investment, I

considered no justification as to why put aside the guides which came as a result of internal demand among African countries and at a time when as a country the National Land Policy is reviewed, this is an opportunity to translate the guides into policy and later on as a set of binding provisions spelling out responsibilities of a company, state, lines of accountability and different roles that civil society and the communities can or are supposed to play.

Again, he was more curious on why should an investor worry about land use plans? as a country there is a need to ensure that all land available is documented and where land is sufficient enough to accommodate investors, investment models that will ensure full participation of the community are adopted. Experience on the ground at least from documented cases show the opposite, villagers have always cried foul, feeling that they have been shortchanged etc.

His question would be what role if any can civil society play? currently different models of engagement are being explored to see if this can work, from constituting multi-stakeholders' platforms that bring together different stakeholders from government, private sector and civil society and where possible the communities in areas targeted for investment. Also can companies and civil society collaborate? the question of entry point to him matters and country framework, companies are more likely to work closely with the government and its institutions, whereas civil society have always played the role of sensitizing, monitoring and in some cases support community to secure their land rights through documentation. His feeling is that with the entry of multi-stakeholders' platforms there may be developed a culture where all stakeholders are accountable and open on their operations. The good example he had in mind is during the biofuel campaigns when CSOs working on land rights, conservation etc came together with companies and at some point government and where the companies involved shared the models they were employing on the ground unfortunately it was not sustainable as it stopped once the interest in biofuels shifted unto other areas.

Therefore, he thought different approaches can still be explored and adopted than work on investors' guidebooks but at the same time focusing on campaigns to domesticate the VGGTs and the African Union Guiding Principles together with its Framework on land policy.

Mr. Godfrey Massay on a counter and in appreciation to Mr. Baha's argument said, international and regional voluntary guidelines are not one size fits all, efforts must be made to domesticate them into a binding domestic laws, as Baha rightly put. In his views, new tools do not depart from the existing tools but are more refined into country and context specific situation. Thus, making them more effective and implementable. By piloting such new tools, one, build a body of evidence that can be used to push for reforms agenda in the country. He cited Karol's post who shared that the ongoing National Land Policy Review in Tanzania has not borrowed a lot from the existing international and regional guidelines where he said that might partly be true because of less advocacy work done in promoting them or lack of evidence from Tanzania in support of their effectiveness and understanding of policy makers to warrant policy considerations.

Additionally, cited Gregory's blog post ([read here](#)) last year that reflects on VGGTs and documents different cases that shows they are working. However, he agreed with Baha's argument that we need to do more advocacy work in this area and perhaps sometimes by using some more context and country specific guides.

Lukasz Czerwinski added on Godfrey's comments by providing more clarity on the guidance Jolyne mentioned. He argued, what Landesa has noticed is that while internationally accepted instruments such as the VGGTs and AU Guidelines provide much-needed higher level principles on socially responsible land-related investments, they lack practical, country specific detail that is needed for government, companies and communities to carry out investments in a socially responsible manner. In his opinion, the lack of detail in many of the existing "guides" makes it difficult for them to be tested. Given this, we have found that companies are seeking more granular information on how to, for example, carry out FPIC within the Tanzania context. Government, particularly at the district level, seems to have a strong desire to improve their current good practices around investments in land and communities want to be empowered to meaningfully participate in the investment process. In coordination with Ministry of Lands Housing and Human Settlements Development, local civil society and academia, three step-by-step guidebooks—one for investor, one for government, and one for community – are being developed to address issues / topics outlined in David Bledsoe's post -consultation and engagement, impact assessment, rights identification, FPIC, fair compensation, good contracts, and accessible grievance mechanisms. The idea is that these guides will help government, communities and companies negotiation and implement a discrete investment in a responsible manner.

However, he agreed with you that the timing may not be the best given that the government is reviewing the national land policy. At some point, the guidebooks will need to be updated or they will not be useful. That said, amending laws and policies can take years. And I'm not convinced that investments will wait until laws are in place, responsibilities clarified, etc. So, he thinks, and hope that these will be off use and value, at least in the interim.

Mr. Jur Schuurman regarding the role of communities and particularly the system of village land use planning (VLUP) mentioned by dr. Sanjak and the question of its possible (but as yet unclear) benefits, thought it useful to refer the participants to the results of an empirical study on VLUP in Tanzania by dr. Chris Huggins that analyses a sample of five villages, out of 13 that have completed a VLUP process and concluded that some cases, VLUP has catalyzed villages to have functioning village land committees which resolve disputes and encourage particular forms of environmental management", but "it does not appear that VLUP necessarily represents a way to provide villagers with sufficient control over decision-making over large-scale land acquisition" ([here](#)) and from LANDac ([here](#)).

Mr. Zakaria Faustin added a note on VLUP and said, in 2016, Tanzania Natural Resources Forum (TNRF), and Care Tanzania has made remarkable documentation on how various actors can support land use planning (VLUP) in pastoral context. Supporting Land Use Planning can be an important step towards managing local resources and reducing conflict. An increasing challenge for pastoralists is the ongoing loss of common grazing lands to external actors by both large scale investors and smallholder farmers. The available space for resources for pastoralists is therefore shrinking.

He added that, pastoralist livelihood strategies have developed in variable and unpredictable ecological environments. Rainfall in arid and semi-arid areas can fall over a wide area, and through mobility, pastoralist can maximize productivity and minimize loss through carefully planned movement and resource management. As a result, the development of village land

use plans, while beneficial, may not be sufficient to secure the long term sustainability of pastoralist production strategies, as they simply cannot guarantee the availability of pasture and water from season to season.

Therefore, approaches that try to engage with this issue are more likely to provide sustainable solutions in the long run. In particular, planning over wider spatial scales allows customary land management approaches to function effectively, allowing traditional leaders to carefully manage land and ensure environmental sustainability. The challenge is to find ways to bring together informal and formal land management approaches to work harmoniously.

Sharing one of the approaches, he highlighted an example in the Kiteto Case study ([read here](#)), that used legal apparatus available for Joint Land Use Plans, managed by Pastoralist Associations. This allowed traditional land use plans to function within the defined space of the Joint Village Land Use Plan. However, this approach (as with formal village land use planning in general) can be prohibitively expensive.

Mr. Godfrey Massay responding on issues regarding Land Use Plans (particularly by Jolyne) made reference to the Commission responsible coordinating and supervision with these plans in Tanzania (<http://nlupc.go.tz/>) where he said the commission has supervised implementation of village land use plans at the request of companies. Companies have submitted formal requests and have funded implementation of land use plans before acquiring land.

However, TNRF is still documenting the success stories and challenges of their work in this area and will certainly provide some lessons, particularly on how companies can support land rights documentation without letting investments interests affect land rights of the communities. He further cited other cases as documented in the study (read the details) by Askew and others, that show how land use plans and formalization programmes have been used as a tool of dispossession. He added, this is the reminder that, formalization and documentation of rights may not be the conclusive way to secure rights. We need to be cognizant of the politics and drivers of formalization agenda.

Dr. Adam Patrick Nyaruhuma adding on what were said by Godfrey mentioned that company that gives some money for the government agency to do land use plan of a village becomes unhappy when ultimately the village realizes that there little or no land to set aside for an investor. It actually can happen that such a company tries to influence the land use plan itself! However, it is indeed not a proper way to go in his thoughts.

Mr. Bernard Baha while in agreement with what were said by Dr. Adam added, this is what is called conflict of interest, companies are profit oriented they are not charities why should they fund a land use plan and only to realize they have nothing to gain? or very little?

Mr. Jevgeniy Bluwstein on what he termed philanthropy said sometimes for-profit companies advance their interests through self-established or third party charities.

Mr. Godfrey Massay responded to Dr. Adams comments on investor's guarantee during VLUP

and agreed they are not and added that what the National Land Use Planning Commission does is to include a clause in the contract with the company/investor that the land use plan they will facilitate will not guarantee him/her/their land.

Dr. Adam Patrick Nyaruhuma on the other hand was curious on the trick behind “contract with the company/investor with the clause that says “the land use plan they will facilitate will not guarantee him/her/their land” as Companies do not give free lunch though isolated instances are there where companies do so but his pessimism suggested that there is a need to shun from these kind of practices if possible.

Mr. Godfrey Massay asked on the best option based on Dr. Adam’s experience working with “Land Investment Unit” of the Ministry of Lands, what would you recommend on this?

Lukasz Czerwinski suggested three points for consideration in having companies financed VLUPs:

- » In his opinion, the current resistance against financing land use plans is no different than the argument companies used when they were pushing back on having to pay for environmental assessments. Like results from land use plans, findings from environmental assessments may not yield favorable results a company interested in starting an ag project. Regardless, environmental assessments are a cost of doing business for companies. Given this precedent, he thought the costs of VLUPs could be moved over to companies.
- » Companies interested in acquiring land are already paying for VLUPs. They are signing contracts with National Land Use Planning Commission who are carrying out VLUPs with the district authorities. So there is already a precedent to build from. Godfrey and him have been looking into this where there a lots of interesting information.
- » If done correctly, he thought VLUP would be a good starting point to address many of the problems that have already been discussed in this forum, particularly around getting communities more involved and engaged throughout the investment process. With that, VLUP stage of the investment process would be a great place for the company to start building a social license to operate with the community. Developing trust and credibility early between the company and community could improve outcomes during the negotiation stage and potentially lead to a healthier project rollout. Plus, VLUP is a good opportunity to education communities on their land rights, begin to consider, understand and address gender issues, resolve latent disputes, etc. So he betted by getting all this stuff figured out early – before an investment is operationalized – the company would reduce its land tenure risk in the long term. But he though it should be said to companies that although paying for a VLUP will cost you some money upfront, you will save down the road.

Dr. Adam Patrick Nyaruhuma departed from Lukasz suggestions as to him it may work by chance in one village but backfires in another village and the consequences will be far reaching. He went further and say, to put it in a blunt way, if you ask an accused criminal to pay for his trial, just because the state has no resources, expect the worst from him if he fails the

case or expect the judge will not be impartial important is whether procedures are followed or not

Mr. Shadrack Stephen on other his part was of the opinion that, even if the village land use planning process is sponsored by the investor the issue is whether the procedures are followed or not. He added that while the connotation of company facilitated village land use planning and issuance of tenure rights in Tanzania sounds vague among many of us and we might not support it. However, on the ground such tendency is not a new thing again and has taken a new momentum in land tenure right, gaining support both from the government departments and the communities at National, District and Village level. From his vast experience of working in village land use in Tanzania, numbers of Village Land Use Plans have been prepared and are being prepared and CCROs issued through companies funding. Over recently, they have been working on 15 VLUP of Madaba, Njombe-Mji, Ludewa and Nyasa Districts under the auspices of `Pandamiti kibiashara` which is the private company in forest plantation. And this is just one of the examples, there are several of them. In fact, the companies` interventions in terms of number village land use plans and issuance of CCROs is anticipated to increase in a very near future given the fact that government allocation is decreasing dramatically. By the way the company is planning to provide CCRO to majority. His point was whether financial resources are channeled through companies or otherwise the interest of the communities over the resources in question solely depends on the existing guidelines and laws over which the process is carried out. With the existing guideline for example among other things land suitability and availability is one of the requirement for designating an area for any use, and the large scale land investors are given surplus land. Actually even in land related conflicts point of view one will find that areas with large-scale investment with no land use plans have more conflicts than in areas without village land use plan, regardless of whether that land use plan was facilitated by company or Government.

To bring it together, they need to embrace the movement but importantly, update our land related laws and regulations. He was very happy with ongoing movement in land use planning over which the requirement for facilitating land use planning one should be a registered planner, this will ultimately allow only professions in that niche to work as per standards and regulation. He added that, one might argue about the number of villages versus land use planning professions, that is a challenge which to me is easy to solve than the current situation where everybody can embark on the land use planning process if he/she wish.

Mr. Valentin OLYANG'IRI suggested for what he called Companies or BINGOs' (Big International NGOs) finance/facilitate Land Use Planning as opined by previous discussants said the practice seems to have taken a green light from the government. He also shared a story which he heard from insiders of the LUP commission that some companies or BINGOs are positive and ready to undertake the LUP process, but not throughout the 'SIX stages'

some are interested to the fourth stage only(I-IV). To him it was again good to learn that the government's position especially the LUP Commission is firm to inform the companies that they must complete all the stages.

He seemed to be a bit surprised to hear this also from Shadrack. He was curious to know what did he mean by " I am very happy with ongoing movement in land use planning over which the requirement for facilitating land use planning one should be a registered planner, this will ultimately allow only professions in that niche to work as per standards and regulation" (Said by Mr. Shadrack Stephen. It is his hope that VLUP is not taken as box (Tick a box).

Mr. Masalu Luhula on his side was more interested with accountability and transparency for responsible Investment. He argued that one among other challenges which face responsible investment in Tanzania and many other least and developing Countries is lack of government accountability (central and local) and transparency in the investment lifecycle. Experience shows that most of investment contracts are negotiated and signed by governments with investors behind closed doors and in exclusion of community interests' agenda. On the same note, a need to clearly define the level of community consultation to avoid concept misuse is more important. For instance, at what time a community decision is free and informed? do members understand the agenda in question or they are influenced by alluring and undocumented promises? how men and women are engaged and consulted differently? who makes the final decision for land allocation to an investor? are local institutions strengthened enough to administer powers over land? For him all these issues need to be addressed at policy and implementation level to attain responsible investment in the proper sense.

Mr. Godfrey Massay responded to that, especially on transparency where he cited Colombia Center on Sustainable Investment (<http://ccsi.columbia.edu/>) that promotes transparency in land deals and have put in place open land contracts (<http://openlandcontracts.org/>). He said, this is a global online repository of publicly available commercial agriculture and forestry contract. He argued that this is an initiative that can be promoted as well. However, he admitted not to have seen a contract between the government (central government) and an investor doing commercial farming in Tanzania except three MoUs between district councils and investor in Kisarawe, Katavi and Songea and one contract between a village council in Kilolo District and an investor which all were not legally binding.

He added that, one of the officers he recently met from the Ministry of Lands argues that the Derivative Rights of Occupancy or the Granted Rights of Occupancy that the government give an investor is, in his views, tantamount to a contract. Both documents have some conditions such as developing land, paying rents and using land in environmentally sustainable way. He said, there is no need for additional contract. This might be the reason why the contract is not given much weight by government officials in the conversations around land-based investments in Tanzania.

Ms. Jesse Coleman contributing on proactive disclosure and meaningful participation as it is done by OpenLandContracts.org (<http://openlandcontracts.org/>), which as Godfrey noted is a global online repository of publicly available investor-state land contracts and associated documents. She said, given the nature of Tanzanian land laws and policies, while several types of documents may fall within the scope of the agreements and

associated documents are made available on the repository, derivative titles likely come closest to what would ordinarily refer to as “investor-state” contracts for land-based investments. Their understanding is that these agreements have yet to be made publicly available on a regular basis, or as a matter of law or policy, in Tanzania.

However, through OpenLandContracts.org (<http://openlandcontracts.org/>), they hope to demonstrate that proactive disclosure of these agreements is both feasible and valuable for all stakeholders. The platform allows CCSI and relevant partners, including host country governments, to establish country-specific sites (<http://openlandcontracts.org/country-sites>) for contract disclosure, providing an efficient solution for public disclosure of these agreements. Summaries (or “annotations”) of key social, environmental, fiscal, and operational provisions can also be added to each contract, facilitating greater understanding of the implications of contractual provisions (these summaries are added to all contracts currently available on the global site <http://openlandcontracts.org/search?q=&annotated=1>).

Establishing a country-specific repository in Tanzania would make agreements and associated documents concerning land-based investments more accessible and understandable, in turn potentially helping to: support monitoring of compliance with obligations contained in these documents; provide access to information necessary to assess the costs and benefits of these projects; inform the negotiation of improved terms; and improve the stability of the investment climate by reducing tensions typically associated with opaque processes. Moreover, in Tanzania, as in many countries targeted for land-based investment, several agencies are involved in the governance and negotiation of these projects: making land contracts accessible through a centralized OpenLandContracts.org repository can improve information sharing and, ideally, coordination among relevant agencies and departments.

She added that while increasing transparency can improve the nature and outcomes of land-based investments, transparency alone is not sufficient to guarantee equitable access to information, effective participation of stakeholders in decision-making around land-based investments, and accountability for decisions made and any potential or actual harms caused. She referred to Masalu’s and several other dialogue contributors to have noted that legal and practical challenges can undermine informed and meaningful participation by affected communities in decisions concerning lands upon which they depend. At CCSI (<http://ccsi.columbia.edu/>), they are exploring options for addressing the legal and technical support gaps faced by individuals and communities affected by land-based investments. In this context, they are working with Namati (<https://namati.org/>) to develop targeted guidance for communities and their advisors on whether and how to negotiate with investors. Related to this work, they recently published a Directory of Community Guidance on Agreements Relating to Agriculture or Forestry Investments ([click](#)), and a draft paper ([read](#)) on benefit-sharing arrangements tied to agricultural investments, which will soon be finalized and re-published. They have also recently explored how best to include community consultation and FPIC into negotiation processes between investors and governments, and have begun work on assessing and addressing barriers that affected communities face in obtaining access to

justice, including barriers created or exacerbated by the relatively greater access to justice that is often available to foreign investors through, for example, investor-state dispute settlement.

Lastly, with respect to defining “participation” and stakeholder obligations that arise in the context of land-based investments, international and regional human rights she argued that, law can help to inform and shape understanding of standards contained in voluntary guidance applicable to land-based investment, including the VGGTs, CFS Principles for Responsible Investment in Agriculture and Food Systems, LPI’s Guiding Principles on LSLBI in Africa, and other region/stakeholder-specific guidance. Advocacy efforts seeking implementation of non-binding standards can also be strengthened by drawing closer links between existing obligations under human rights law and best practices contained in voluntary guidance.

Mrs. Kate Mathias while in agreement with Masalu’s argument, she provided what is called a private sector point of view which she said it is very difficult, particularly if looking to invest in a new country, to question the legitimacy and processes of a government when you want them to assist with your investment as per their role, whether you have strong guidance and systems in place for land rights or not. Then there is the challenge that devolved governments do not always implement the national government plans and policies due to lack of capacity or lack of will, further complicated by ministries or policies not always being aligned or complementary.

Equally, when an investor is trying to implement FPIC, it is extremely challenging to firstly identify the legitimate communities or community members and then to understand the nuances, culture and influences of the communities, understand their point of view and the challenges that they face to be able to develop transparent communication platforms for information sharing or accessible and functional grievance mechanisms. It is then difficult to ensure that people understand the information provided enough to enable them to make an informed decision and not be influenced by those with more capacity to understand or with their own specific agendas. I know that CSOs are present in many communities but historically CSOs have not really been in a position to or willing to take a neutral approach and help facilitate a transparent process, although she was pleased to see that this is changing and said that in her view it is one of the most important and beneficial changes within the responsible investment arena.

So in short, even if a company has the best of intentions to invest responsibly and fully utilizes the wealth of great tools and guidelines around to help them to address, implementation on the ground in challenging social and political environments is difficult and sometimes may discourage responsible investment – and this is an even bigger worry as the irresponsible investors will pick up the opportunities and not worry too much about the impacts! However, she considered these to be neither excuses nor reasons for not implementing good practices, they are the reality on the ground that communities, land practitioners, CSOs, private sector and government agencies have to address together.

Mr. David Bledsoe on his part, opined that companies – both Tanzanian and multi-national – need to become aware of the steps and approaches called for by international best practices aimed at responsible investment. The first step in gaining this awareness is to publicly make

commitments to these practices. We have seen Coca Cola, Illovo Sugar, Nestle, and many others make this important move. Plus, they have committed to make their efforts apply to supply chain partners. Then companies need to become familiar with the details of the practices – consultation and engagement, impact assessment, rights identification, FPIC, fair compensation, good contracts, and accessible grievance mechanisms. Plus, the companies need to learn how to contextualize the practices to the situation on the ground. His concern was, what does it take to make good on the commitments in Tanzania? It is his position that all of these measures will call for serious business commitment and planning – company policies, personnel, and other resources.

He added that, a big part of the challenge for any company operating in Tanzania will be mating best practices with the national governance framework and the national and local government capacity to assist or enable the company in implementing them. Sometimes best practices for socially responsible investment in land don't easily fit within national frameworks. For example, land rights identification can be challenging under the best of circumstances. Tanzanian law provides for a specific approach that involves land use planning and certification. Sometimes this is time consuming and always calls for state resources. Companies often don't understand the state processes and aren't sure how to initiate them. Some businesses may seek to use one-off approaches that promise faster turn-around time and more focused efforts. These realities need to be reconciled.

Importantly, in some cases the national governance framework may not mesh with best practices. Tanzania arguably offers an example of this. Under national law, a company cannot simply pay a community or individual land holder directly for a lease of land. The ground rent is directed to the government, after the land has been reclassified. This may not be the best way to ensure that fair compensation is passed along to the entity that has agreed to part with the land asset – communities and individuals. Perhaps some work is needed in this area. I'd be interested in hearing from others on their perspective on this issue.

Finally, he argued that meeting best practices commitments which relates to women land users and rights holders isn't easy. It calls for a special and particularized emphasis on reaching women and hearing from them. Investments need to reflect this input or women may be made worse off. Most businesses will need help in this. In Tanzania, companies should look to experienced gender practitioners from both the private and civil sectors. Some Tanzanian CSOs/NGOs might have the needed expertise. Government might be a good resource here as well. Do others have specific recommendations on gender-related expertise that can be resourced in Tanzania?

Mr. Godfrey Massay responding on compensation subject, he agreed with Dave's argument that, Compensation is one of the thorny issue in LSLBI. He cited one of his writings ([see here](#)) that argues, it is hard for landholder of be compensated fairly if the government plays central role in whole process of land acquisition. Often, government is involved in informing the community that their land would be acquired for investment purpose, survey and value the land, and then compensate the victim without checks and balance. Moreover, the impact of

this problem is seen in Kilwa and Kisarawe (**Kilwa** and **Kisarawe**) districts where the District Councils have used a portion of compensation that was due to villagers.

Additionally, on the good note, the long awaited 'land compensation fund' was fully established and constituted recently in Tanzania. New laws governing valuation and compensation were also passed. Although these are promising developments, more need to be done to implement these laws.

Models that are proposed by researchers other than fair livable compensation include; out-grower model, land investment share-model and food imperative model. These models are proposed in LSLBI and have worked in some geographies depending on the context and the type of crop production that is involved.

Mr. Zakaria Faustinon other part responded to Dave's question by saying, in the reality, large scale investment from those big companies are most focused rural areas, where there is idle land with no security like pastoral areas especially communal land. Communal land and unused land under administration of village government are always taken as granted as "no man land". The bargaining power and legal framework do not allow individual to negotiate compensation with these big investors due to capacity and managing contract. That's is why the government of Tanzania established a system of first reclassifying the land, and then investors to make payment to the government and then the government will then compensate the individuals following the local context. But it takes long process and time consuming, and there is no assurance of having fair compensation due to transaction costs involved.

These companies are keen enough to assess the cost of making fair compensation in the areas with no security versus the areas with land security (certificate). That's also tells why most big investors concentrate with dealing with unsecured land while there is other land with security they can take from other companies or individuals.

Buying experiences from Rwanda Zakaria said, the government facilitated survey and certification of all pieces of land for individuals; among others it created power for individuals to enter into contracts with investors directly without going first to the government and in compliance to the law.

In his opinion, Tanzania has a long way to go through having first village land use planning following all six steps that also include certification of land at step four. At a certain point after years, Tanzania will reach a point to have fair compensation while every individual with their land including communal land have certificate.

Ms. Youjin Chung opined that, literature reveals that the trajectory of the global land rush over the past ten years has been varied. The literature indicates that the vast majority of large-scale land deals initiated within the last decade remain unimplemented to date, and that only a meagre proportion of the millions of hectares acquired globally is currently under production (**click**). This has been the most evident in sub-Saharan Africa particularly in relation to land deals for flex crop production—including sugarcane, oil palm, jatropha,

soybean, maize—specifically in Tanzania, Zambia, Ethiopia, and Mozambique ([see detail](#)) . In Tanzania, for example, despite the state’s ambitious goal of establishing 15 new commercial sugarcane farm deals by 2015/16 under its Big Results Now Initiative ([follow](#)) , not a single one is currently up and running. The EcoEnergy Sugar Project in Bagamoyo District, which was envisioned to be among the first and the pilot case of these 15 deals, has recently folded, leaving a number of questions in its wake.

She made reference of her research ([follow link](#)) conducted over 18 months in Bagamoyo between 2013 and 2016 to highlight three key lessons for civil society, the Tanzanian government, and the international community regarding the principles and practices of land-based investments. It is her opinion that the comments do not fit neatly within the three-question framework provided by the discussion facilitators, but they cut across various themes.

Lukasz Czerwinski asked on when the report will be complete and Godfrey advised to see details in Youjin’s blog ([Youjin’s blog](#))

Mr. Timothy A. Wise while citing some projects said, given the prevalence of failed projects, in Tanzania and elsewhere, there must be robust provisions in land administration for the restitution of land converted to general land back to villagers. As he (and many others) saw in Kisarawe, Sun Biofuels gained an 8,000-ha concession for jatropha on the basis of a broad set of promises for community investments and jobs. They planted 2,000 ha in jatropha, at which point the project’s financing collapsed, one of the many failed jatropha projects. With the failure, though, the land did not revert to its original village owners, nor was the company required to restore the land to its original condition. Rather, a shuffling of Sun Biofuels’ board of directors brought in a sub-lessor, Mtanga Foods. He said “when I interviewed someone from Mtanga, she disavowed responsibility for any of Sun Biofuels’ original commitments to the community—wells, roads, clinics, schools, etc. She basically said that as long as compensation was paid, Mtanga had no further obligations. Complaints about this led to a “due diligence” review by Mtanga’s board, but the last I knew the board had renewed its commitment to establish a cattle operation in Kisarawe”. Villagers made it clear to him that to them two years ago that they did not want cattle, did not know cattle, they just wanted their land back, and in a condition in which it could be used. Again, last he knew 2,000 ha are still planted in useless jatropha.

To his view, this highlights two yawning gaps in land governance in Tanzania, which he has seen in several other African countries as well. First, projects fail. It is the curse of start-ups that the vast majority fail in their first year, so it should not be surprising that the same is true of large-scale land projects. So there must be a coherent policy to deal with such cases, and as Youjin Chung points out, they are perhaps more common than are the projects that actually enter into production. It is critical that villagers be protected from failed projects by giving them the first option on repossessing the land. Right now, the state has that first option, it unflinchingly retains it as general land, and as in this case it allows the failed project-holder to seek a sub-lessee to take over the project. In the Kisarawe case, when he asked in the land ministry if that was a possibility, the attorney there said it was very unlikely, mainly because the government wants to get its hands on village land for general use.

Second, land governance must include provisions that enforce the terms of the original agreement in the case of a sub-lease arrangement. Mtanga Foods should have been forced to provide all the things Sun Biofuels had promised the villagers in Kisarawe—jobs, clinics, roads, etc. Those commitments, especially jobs but not only jobs, are the entire reasons the communities agreed to give up their land. Again, when he asked the land ministry if the community has any rights in such circumstances, the same attorney said no, only if those provisions were written into the contract with the Tanzanian government. Generally, such commitments to communities are not included. So either those commitments need to be put in writing and enforced at the national level, or the original commitments need to be recognized as part of the sub-leasing process.

The combination of these two gaps in land governance make it seem as if the Tanzanian government is looking for investors who can help them convert village to general land then “flip” the land to another investor, with the community on the outside—of the process and of their former land—looking in. In Kisarawe, they were staring at fenced off land guarded by 50 people (the only jobs the project was providing), and 2,000 ha of it was still planted in useless and untended jatropha. Mtanga Foods may actually have started cattle production there by now, but the question remains whether the land should revert to the villagers and whether Mtanga should be obligated to fulfill the commitments originally made by Sun Biofuels ([see](#)), and ([here](#)). He however, welcomed updates on Mtanga’s work and relationship with the villagers in Kisarawe.)

Mr. Masalu Luhula responding to Timothy request, answered in form questions where his first question was whether land should be reverted to villagers and second whether Mtanga Food/Farm should be obligated to furnish commitments made by Sunbiofuels.

On the first question, he said an issue to be considered whether Sunbiofuel was given a granted right of occupancy or derivative right? To his understanding, it was a granted right of occupancy that gives Sunbiofuel right to dispose (sale, mortgage, lease etc). However, he added further, whether a shift of hands for Kibwegere farm (No. 3276, 8211 Ha big) from Sunbiofuel to Mtanga Farm and consequently Mtanga starts cattle production in the Farm was legal? To him this is a question of law and to his view were that, incomplete land transfer process from Sunbiofuel to Mtanga (A study that was done by Hakiardhi together with the study that was done by TNRF and Landesa ([click](#)) informed a breach of condition in the title deed that may lead to revocation of right of occupancy by the president. Then he said the next thing might be why no measures have not been taken to revoke Sunbiofuel title for such serious breach something which he said is best known to the government. In his opinion, if this revocation could have been effected, then villagers could have legitimate claim for the land.

On the second question to him the answer was yes and no. It was a yes because if Mtanga needed to operate with social license, it had to take responsibility to avoid unnecessary conflicts with villagers. It was a no since the commitments were mere undocumented pledges and difficult to prove if disputed.

It was his advice that, the community had to take lessons for future proposed investments

for which to him and this go back to previous contributions. Are community members full consulted and engaged to give informed decisions? Is the government accountable to the entrusted duty? Etc

Timothy A. Wise asked for full URLs where Godfrey replied for one of the link also (**Chachage**)

Ms. Naomi Shadrack suggesting people centered investment said Investment in agriculture is not new in Tanzania, she was glad that has been highlighted previously, in past, there were farmers' cooperatives unions in Tanzania, within union farmers organized themselves, it gave people power to negotiate and decide through their farmers' union. To date, in all districts there are government officers responsible for cooperatives it is important that people are organized from that level instead of a top down organization of farmers. Her argument was that, she believed people (men and women) need to be at the centre of the responsible investment agenda. Responsible investment should aim at empowering people instead of disempowering them. And in all discussion people's well-being should be central.

The power relation between the state, companies and people inform much on the kind of investment, and these power relations and gender relations are cemented by the laws and policies in the country. Can they say No, Yes or suggest alternatives? Is that possible in Tanzania?

She was also pleased that Tanzania reviewing the National Land policy, the next land policy need to put people's wellbeing at the center, then we will achieve the responsible land investment.

Mr. Bernard Baha supported Naomi's suggestion and added that, this is an alternative model where villagers/rural producers, men and women in his case need to be at the center and alternatively through cooperatives and farmers' union. He thought about another alternative, why is it always the case that when it comes to large scale land based investment, village land has to change category into general? The Village Council as a body corporate can enter into contract on behalf of the Village Assembly in this case owners of land with whoever is interested to invest in village land without necessarily transfer its part of land into general land, very unfortunate that even the little that remains in the village is going to be taken since the new approach being proposed is for all land that is suitable for investment to be set aside, titled if possible and pay compensation then allocate to interested investors.

This is already happening through creation of Special Economic Zones (SEZ), Export Processing Zones (EPZ), the drive for the current land reforms is partly reflecting on the quest for industrialization and the fact that the laws as they are today have failed to address the challenges, this is what the National Five Year Development Plan 2016/2017-2020-2021 says about the need for reforms, "Land use planning and management are a key variable for unlocking the potential for growth by making land accessible for productive uses in rural and urban areas. Land policy, as governed by the two Acts, namely, the Land Act 1999 and Village Land Act 1999, is not capable of facilitating industrialization. Renewed focus on formalization of land ownership and commercialization can be combined to solve land disputes including those between investors and existing landholders and users. The acquisition of land for investment is currently a complicated and lengthy process. The bureaucracy and procedures involved in acquiring land for investment are cumbersome, raise transaction costs to potential investors and are thus a deterrent." (NFYDP-II, 2016:108) What is the FYDP-II proposing? creation

of one-stop centers for investors interested in huge chunks of land at national level as well as at Regional Secretariat and LGAs, establishment of land banks specifically designated for industrialization with all the services and infrastructures (title deeds, irrigation schemes, feeder roads, power, etc.)

When he reflects on this and read the proposed draft Land Policy, he doesn't see small holder farmers, women and men in villages and peri-urban areas having their concerns addressed but a strong focus is on what is not working in favor of investors and what can be done, is very important for us to analyse the land question and the proposed solution in Tanzania from the perspective of the National Five Year Development Plan-II 2016/2017-2020/2021, otherwise we may miss a bigger picture if we are just coming from perspectives of experiences we have had while implementing the Land Act, as Godfrey pointed out in one of his contributions on the topic of implementation the Land Act No 4 as compared to the Village Land Act No 5 have been reviewed several times, now it is time for the Village Land Act, will the reforms be in the interest of small holder producers, hunter gatherers, pastoralists, women and men in rural and peri-urban areas? will it take into consideration that this is a country where 65.5% of the population depend on agriculture for their livelihood? as we rethink the question of investment and in this case "responsible investments" we need to reflect on and engage more critically.

Mr. Zac Hale also supported the idea as it related back to earlier discussions about the nature of participation. Are project-affected peoples able to engage and participate in meaningful ways? Are they empowered to do so? If not, how can other parties involved (government, agribusiness, CSOs) work to give these communities a meaningful voice? The FPIC standard is key here, but we have to be sure that the free prior and informed consent is the result of true choice.

It is in the interest of the investors to consistently consult with affected communities in order to maintain social license to operate. He hopes that the Landesa's RIPL guidebooks will help to show all of the necessary stakeholders the importance of consistent and meaningful consultation, along with providing steps on how to make those engagements.

Ms. Scholastica Haule on the other hand contributed on the challenge around lack of transparency and accountability in managing land investment deals and the whole process of community consultation in the land acquisition processes. While reflecting in the current National Land Policy review process, among the issues raised by CSOs platform was call for more inclusive process and insures that the majority of Tanzanians are participating in the process and are able to provide their opinion. He viewed that, it is an-disputable that land is an important resource which is attached to our lives and national identity, therefore inclusive decisions on handling and managing land affairs becomes a key aspect when considering policy change. Among the major proposed shift in the Draft National Land Policy is the abolition of Certificate of customary rights of Occupancy (CCROs). The simple questions would be what the change means to the 70% of land which is in the village land, what does the change mean to 80% of the population whose livelihood depends on small scale farming? And the discussion can go further on the implication to the poor women producers. The mandate for managing and protecting village land is vested to the village land council on behalf of the

villagers however, with the proposed changes, it means the power vested to this body is going to be transformed to the central government or Commissioner for Land. In this context, in his opinion land users under village will have to comply with conditions set under the granted right of occupancy including paying rent, adherence to development/ improvement of the land standards and other cost related to processing title deeds. An anticipated challenge to poor small scale producers' majority being women is failure to meet conditions set and ultimately they will become landless. If the motive behind the shift is to simplify the process for acquiring land for investment, this will create more tenure insecurity that will result into more land related conflicts.

Ms. Mary Ndaro also said Civil Society Organizations should consider the following when advocating for responsible investments.

United by a common goal with a coordinated effort: When united and coordinate by common goals, CSOs can find issues that need to be addressed and do advocacy work irrespective of their different priorities. Joint advocacy is a key in achieving meaningful results when addressing issues around investments that affects communities. Government will also give recognition

Generate information: CSOs should generate information, interpreter and transfer it to communities, the government and investors. Information as source of empower and voice to women, men, small holder farmers, community members, and every individual or group whose livelihood depend on land and other natural resources. Therefore, research and capacity building programs are critical tools of generating information that can be used when doing advocacy.

Maintain autonomy and independence: There are likely chances of cooptation by the government or companies when not careful in addressing issues around investment. To remain fair and objective, CSOs must maintain autonomy and independence in their work.

Mr. Wilbard Mkama topping up on Mary's argument raised that CSOs have the mandate to provide legal aid: Legal aid is important way for communities to seek grievance mechanism when affected by investment operations. This can also be a way of helping the Village Council in the process of negotiation and contracting with investors. All these should be done free of costs (probono) because communities cannot afford paying for such services. Capacity Building: Often when investor approach communities, it is the government officials from the district or regional level who speak on behalf of investors. CSOs should train villagers on how to engage with investors during consultation, negotiation and contracting, and even in monitoring investment. CSOs can also be allowed to speak on behalf of communities on technical issues at all stages of investment life cycle.

Monitoring and Evalutaion: This is very important role that can at best be played by CSOs. A more user friendly monitoring tool need to be developed that put criteria for responsible investment. The tool should be open to investors and communities. CSOs can use the tool to monitor investment and present the findings to a multi-stakeholder forum.

Mr. Bernard Baha on CSOs and the role they need to play experience from the ground

started by saying “have you ever been in a situation where you have been cited as an inciter? and according to our laws a licence to be stopped, banned from exercising your duties? from the noble work of awareness raising, telling in a narrative way, these are the procedures, consultation from level A-B, Godfrey told us about companies approaching the National Land Use Commission for land use expertise, did CSO participate? and if not why?” so he thought there shouldn’t be focus on what ought to be but on the practice, while agreeing on what Mr Mkama highlighted about the role of CSOs he pointed out some few cases, members of Tanzania Land Alliance (TALA) such as HAKIARDHI, LHRC, LEAT, PINGOS Forum, WLAC, UCRT, MVIWATA, TNRF, PAICODEO, CORDS, TAWLA, MPLC, PWC et al are doing a very great job. He hopes they share their experience some of them have started sharing and many more revelation will come from their experiences, it is not simple as many would think, he personally has experiences where independent monitors were barred from accessing investors farms by representative of government, and areas where CSOs were invited to play their role but when the villagers knew of their rights called for review of their earlier consent and relocate calling for new consultations. In Tanzania CSOs working on land rights have always strived to act within the laws by sensitizing communities about their land rights and how to negotiate or bargain.

Should CSOs be engaged on behalf of companies? from experience CSOs should continue to play their monitoring role, sensitize communities etc since companies are always backed up by the state, the state should play its dutiful role to ensure everything is taken good care of.

Mr. Godfrey Massay was interested to know more from Baha about the multi-stakeholder forum that he was engaged with during biofuel boom in Tanzania which he knew context might have changed but if one is to be established now, what suggestions he would make in terms of its composition, roles and engagement strategy?

Mr. Bernard Baha in response to the request thought Godfrey was in a better position because this was under his docket! The has changed but they already have processes going on and may be as Marry points out that CSOs need to engage into little spaces that are provided or demand for more opening up, or innovate ways of ecreating platforms that can bring us together and we already are doing that, will elaborate on this but not at this point. He recalled during the implementation of ASDP the government invited them and his organization at that time granted him the opportunity to participate, in a way there was openness where the government was sharing on what was going on in terms of implementation and would ask what role can or are you playing and how you wish to be involved. He invited opinion from members on the subject too.

Mr. Valentin OLYANG’IRI attributing on the subject said the idea of having a Multi-stakeholder’ forum is very important. He pointed out example of one of multi-stakeholder forum in extractive sector- the Tanzania Extractive Industry Transparency Initiative (TEITI) under TEITI Act of 2015. In this case it is a Multi-stakeholder Group–(MSGs) or forum with members from CSOs, Government and Extractive Companies. While these MSGs are good, they are also playgrounds of ‘different struggles’ among the members.

Ms. Mary Ndaró added, it's imperative for CSOs to continue working along with communities and looking for information. From experiences, we all know information especially from the government and companies do not come easy. If CSOs need to do monitoring, how can it be without being sure of? what to monitor or what not with ought to fight for spaces and sources no matter how slim they might be. CSOs have been sensitizing communities for a long time and they should continue doing so, but they also have to keep fighting and creating spaces no matter how small or challenging they might be.

Mr. Godfrey Massay building on strategic litigation and pro bono works by CSOs, pointed that, this is the area that land rights CSOs need to effectively engaged. Strategic cases that were filed against the then NAFCO wheat concessions ([here](#)) and operation vijiji program shaped the jurisprudence and reforms on property rights in Tanzania. Prof Shivji, Dr. Kapinga, Dr. Mvungi, Prof. Luoga, and Dr. Tenga were some of the leading figures who were involved on those cases under the legal aid unit of the then Faculty of Law-University of Dar es Salaam.

Similarly, **Dr. Nshala, Mr. Shauri, Mr. Lissu, Prof. Kabudi and Prof. Majamba** were involved in leading strategic litigations on environmental public interest cases under LEAT. WLAC and TAWLA are in the forefront on spearheading cases that involved women's rights including the most recent one that was decided by the CEDAW Committee. ([see](#)) LHRC, HAKIARDHI and PINGOs Forum- to mention the few, are also actively involved in this area.

While there are fairly good examples to inspire CSOs in Tanzania to continue engagement in strategic litigations and legal aid, there are few advocates/attorneys in Tanzania. As of May 2017, Tanzania has a total of 6081 advocates out of which 5019 are practicing ([visit here](#))-providing legal services to more than 45million people. Less than half of them (2133) are female and almost 80% of all advocates are practicing in one city (Dar es Salaam) where there are fewer cases involving large-scale investments. ([click](#)) Thus, victims of human and land rights abuses are bound to hire services of lawyers in Dar es Salaam to represent them in courts that are located far from Dar es Salaam. This is adding to the costs of their fees. In addition to the costs of hiring advocates, victims will bear other costs associated with litigations. The costs of travels, accommodations and meals for them and their witnesses.

Strategic public interest litigations are expensive and may sometime require getting support from other organizations from the investor country. Sukenya case ([download](#)) is one of the cases in which US courts and organisations provided support during litigation process which were taking place in Arusha-Tanzania.

Given its lengthy and costly nature, not many lawyers are attracted to it. It is therefore his call to land rights CSOs is to create programs that will nature and build the interest of young lawyers to work in public interest cases when they are still in law schools.

Mr. Stanslaus Nyembea stressing on land use planning and CSOs position narrated that CSOs can monitor how the land use planning projects operated by the government and (other private investors-financed by) are implemented as in the case of Land tenure support program (<http://landtenure.lands.go.tz>) in Kilombero, Malinyi, Ulanga. Moreover, they can also assist in land use planning preparations especially in rural areas.

Issue early warnings- especially on the intensity of conflicts among different land users and offer a call for resolving them before they escalate. CSOs can partner with other likeminded international organisations and media when doing this work. A good case is on how CSOs addressing rights of pastoralists have worked and are still working with International Working Group on Indigenous Affairs. (<http://www.iwgia.org>)

Document the best practices in resolving land conflicts among different land use stakeholders and file cases-public interest litigation cases-for jurisprudence development on dispute resolution and land governance issues. A good example is the recent decision in favour of Ogiek community.

Mr. Wilbard Mkama also pointed out that, apart from investment administration challenges that Tanzania is facing, some of few lessons and/or good practices that Tanzania has mapped. Such practices are vital if investment has to sustain in Africa;

The government of Tanzania has adopted the best practice of reviewing the land based investment related policies to improve among others, the status of investment in Tanzania. For example, the government has called for the review of the land policy to cater for dynamics in land use in Tanzania

The government has further identified challenges in addressing gender challenges. For example the in the land policy review process consultations, the government acknowledge of the gender aspect to be well addressed in most of investment legal frameworks, but the challenge remains with traditional practices. That is, implementation of the genders aspect with regard to gender is still a challenge.

With the challenge, the government envisions awareness as part of the solution as most women are not aware of their right despite the legal framework that supports women rights in the country. Most legal instruments are in English and rural women use Kiswahili in communication. This further present the communication barrier challenge and the government has encouraged development partners to cordially advocate for the challenge by providing simple translations that can be easily understood by most communities.

To further overcome the gender bias, the community as a whole should be able to assert their rights and strengthen their negotiation capacity in dealing with investors. CSOs are in the position use current intervention to encourage public awareness prior to investment. This includes the use of media and public announcement (PA) systems to villages on the availability and incoming of an investor. The government has also not discouraged/banned registration of NGOs that can provide the use of the legal aid in contract negotiation and signing that safeguards the needs of the community.

The current CSOs status can allow CSOs to be involved as a watchdog of the investment process. This will in turn allow full involvement of the community in negotiation of prices during compensation practices. In addition, it can foster for Social-Economic Impact auditing during project implementation to check for community socio-economic benefits from investment. However, the challenge remains the willingness of investors to involve CSO from initial stages of the investment.

The village land act has provided villagers with powers to sign contract on behalf of the villagers This is a good example of land administration decentralization in Africa that can scaled up in other countries. The use of village governments in signing the final contract is desirable because such low level administrative units understand the needs of the community in a more detailed manner that could the central government. However, contract negotiation should be done with the legal aid around.

Ms. Renee Giovarelli on her side argued; responsibly investing in land, which is currently in use, to any extent and during any time of the year, including as a fallowed field, requires identifying who is using the land, how they are using the land, and what benefit they are gaining from that use, at the level of the individual. If that information is diligently gathered and all loss of use of the land is fairly compensated, at the level of the individual, then that is a responsible investment in land.

While it sounds fairly simple and straightforward, ensuring that neither men nor women are harmed by the investment is difficult because communities are not organized around individual rights. They tend to be organized around community rights and responsibilities and household rights and responsibilities. And we know that if we are approaching a community or household as a unit, we will only be learning about and understanding the land situation from the perspective of men—men as head of household and head of the community. If a specific effort is not made to include women in the information meetings and the decision-making, women will not be included.

So how do investors make sure women's uses of and benefit from land are captured? Her basic ideas are: Talk to women activists in the community. Why activists? Because even women leaders may not think of the roles women play or the contribution they make to the household with use of household land. And sometimes there is an information gap between female leaders, who are generally older and wealthier than young women who are starting their adult life.

Ask women in the field how they use the land, what they collect from the land (wood? Mushrooms? Herbs?), when they use the land (seasonally? Daily?), and how they benefit from the land. Do not ask about rights (they generally have no rights except the right of access).

Make an effort to identify the roles and obligations of both men and women in the community. Women generally raise food for their families, collect wood, fetch water, and ensure children are fed, clothed, and if possible, educated. No investment that does not fully consider women can be a responsible investment.

Ms. Mary Ndaró adding on Ms. Renee's contribution said it's important to address land from the economic point of view and family security, right discussion is great and important but most of the time it scares people and sounds like fighting with existing traditions. There's a need to also involve men in the discussion of land and what it means for a woman to own and make decisions on land.

For activist, it is important to start making it clear especially with policy makers the difference

between access and ownership and how missing just one can cause harm to women's land right and empowerment process.

Ms. Beatha Fabian on the other hand, pinpointed that most rural women work load cannot be compared to men due to limited or unavailable access to services. For instance, women spend a lot of time in search of wood for fuel and water. Hence gender equitable investment will be realized where there is equitable access to services or rather services are improved to allow both men and women participate in investment

Lack of full property rights like land especially to women is an obstacle since most feel not attached to resources hence limited willingness to invest in production. This obstacle has its root in most Tanzania traditions which are patriarchal and women do not enjoy full rights of occupancy of resources like land. Hence affirmative action of the state such as gender mainstreaming in all its programs is very crucial so as to allow both men and women participate in investment. Also providing women more opportunities such as micro financing trainings, credits and entrepreneurship program is crucial to narrow the existing gender inequalities in investment

From social and economic perspective getting men support is very crucial in realising gender responsive investment. This is so because most intervention i coordinated in the field shows that women are not allowed or have limited chance or permission from their families or spouse to engage in economic activities and even in decision making.

Mr. Lukasz Czerwinski while in agreement with Ms. Beatha's view, inquired for some useful approaches / best practices that help change the mindset of men around women's involvement in economic activities

Ms. Beatha Fabian in reply shared that it is in no doubt that men and women take part in economic activities but the latter is limited or faced with restraints. Empowering men to see women as contributors to the economy rather than as something besides men and also sensitizing women to break the shackles of exclusion in economic activities and make them understand that they are part of the economic development has helped to change the mindset of men around women involvement in economic activities. This approach is applied through our Land governance program where it targets men and women in villages (Land Rights Monitors-LRMs) who promote gender equality.

Drawing from LRMs feedback, it shows that men and women in rural areas do change in terms of behavior and attitude which further entails that customs and traditions do change positively by giving opportunities to women to involve themselves in economic activities. Though the trend has not reached a level to say there is full gender equality but such a progress is worth sharing in areas where there is minimal women support so as to empower and influence men to allow women to fully engage in economic activities

Further, due to existing gender inequalities, women have continued to be progressive and advance their economic and social struggles. The trend should be recognized in the society especially policy makers and also be featured in CSOs program interventions to empower and influence men to support women involvement in economic activities. Further, mainstreaming national agenda, strategies, policies programs and projects aimed at gender equality and women advancement in the society is useful as it serves as an opportunity for both men and women to discuss and resolve existing gender inequalities and opening new ways of thinking and understanding that change mindset of men

She has always used these influential words in most of my community training and women land rights dialogues that... "both men and women struggle to generate economic growth that can provide a better life for all and both should contribute instead of blocking women from contributing to their true potential". So strategic /gender approach training coupled with reliable and concrete information on economic role of women is very useful as it is where foundation upon which change is built.

Mr. Godfrey Massay building on the use of Land Rights Monitors (LRMs) as movement from below said the experience is a great and effective way of engaging men as it was documented by IIED ([click](#)). Where he argued also in one of his writings ([download](#)) that, the work of LRMs and that of Women Leadership Forums is typical examples of movement from below.

Mr. Jevgeniy Bluwstein & Jens Friis Lund highlighted a few important aspects that need to be considered when looking at history of dispossession and its contemporary dynamics, and try to learn from both history and present:

Land alienation has always been an outcome of multiple drivers, from agriculture to mining to conservation and tourism. When people lose land, or access to land, or control over land, it is often an outcome of intersecting or cascading effects of these various drivers. Effects of land alienation are compounded by physical or economic displacement that leads to migration which promotes land conflicts elsewhere (e.g. evictions of Barabaig, evictions from Usangu plains, etc), and jobless economic growth that leaves smallholders without an alternative to land dependence (best example is conservation that takes up around 30% of Tanzania's land for conservation-based tourism without generating jobs at a significant scale)

Formalization of land tenure through village land-use planning (VLUP) is often well-intended but has, in practice, in many instances been a vehicle for dispossession due to the uneven power relations at play when people try to secure land rights through land use planning. Key questions to ask here are: who is paying and/or facilitating land use planning for whom? With what objective/purpose? Does land use planning accommodate for future land demand for the youth? Is land use planning restricting pastoral mobility? Problematic examples are Wildlife Management Area Resource Zone Management Plans that are facilitated by conservation NGOs and District authorities, and WMA CBOs with the goal to restrict land use for non-conservation activities without a viable option to change/update land use plans

The Village Land Act 1999 recognizes the concept of adverse possession for people who have been residing in an area for at least 12 years, yet this legal provision has not gained traction and affected people remain vulnerable to threats of eviction

Contrary to official pronouncements, Tanzania arguably does not have large swaths of ‘unused’, ‘vacant’, ‘underutilized’ land and we should be wary of statistics that suggest so. While there may be large dryland areas that appear underutilized, it is unlikely that these can be used for agricultural production the absence of huge investments in irrigation – if this is at all feasible, as competition over water is also on the rise. Indicators of a growing land squeeze in Tanzania are land conflicts, migration, displacement and evictions. Conservation alone takes up around 40% of all terrestrial land (30 % of which can be used for tourism), and if all WMAs would be implemented, we can add another 10 % to this. In a country with a growing, land dependent population, and a large share of land taken out of rural production with only 0,6-1,2 million tourism jobs in return, land becomes increasingly a valuable commodity. This is at odds with narratives of ‘vacant land’.

The more valuable land becomes, the higher the chances that the poor will sell to the wealthy which in the long run will exacerbate unequal land distribution, creating classes of rentiers and classes of landless. Thus, simply securing individual land rights for poor will not necessarily be sufficient as they may feel pressured to sell their land.

Even when investments in large-scale agriculture fail (which they often do), land conflicts are produced and may remain after the investor has left, people may have been dispossessed even before anything has been produced.

If participation means that all ‘stakeholders’ were consulted (which is how it is often understood by government officials), it means not much in terms of securing rights for the most vulnerable because of their limited powers to influence decisions at the ‘participatory stakeholder table’. (More details to come in the research to be published)

Mr. Lukasz Czerwinski inquiring from Jevgeniy and Jens on how the most vulnerable can become more involved and have a stronger voice at the ‘participatory stakeholder table’?

Ms. Celine Salcedo-La Viña shared her thoughts on gender and investment. According to her, (1) responsible land investments are those that are transparent, socially-inclusive and participatory, contribute to sustainable development, and respect the tenure of and benefit local communities. In terms of social inclusion, land investments must engage women and foster gender equality. This is critical because women play a vital role in rural economies—as smallholder farmers, agricultural laborers, and household food providers. Loss of access to land and resources such as water and forest products will negatively impact household welfare, agricultural productivity and rural economies overall. Therefore, women must be informed of the proposed land investment and involved in the decision-making processes from the beginning, regardless of whether they formally own or hold the land they farm (they rarely do in many developing countries). Women must be given the opportunity to voice their concerns about the investment and negotiate for a share of the benefits and replacement of resources they need and use that will be lost.

In the Tanzanian context, the country’s laws appear to be progressive gender-wise. The Constitution guarantees gender equality and non-discrimination, and the land laws (1999 Land Act and Village Land Act) grant women equal land rights and provide strong protections from discrimination under customary law. Tanzania has a quota system that promotes gender-inclusive land administration

and management bodies; at the village level, one-fourth of Village Council (the village executive organ) members to be women. The country has also signed on to binding international and regional conventions that protect women, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and People's Rights (AfCHPR) and its Protocol on the Rights of Women in Africa (Maputo Protocol). Tanzania's Development Vision 2025, which aims to propel the country from least developed to middle income status, includes as a goal "gender equality and women's empowerment in all socio-economic and political relations and culture."

In practice, studies show that Tanzanian women have yet to fully benefit from the progressive provisions in the laws. Women remain largely marginalized in decision-making processes related to land investments. In part this is because village communities in general have little say regarding land investments, but it also stems from customary norms and practices that discriminate against women, and barriers they face such as limited mobility, domestic responsibilities, and lower literacy levels.

International instruments such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), and the Guiding Principles on Large Scale Land Based Investments in Africa (LSLBI) can provide guidance to national governments (and to the private sector to a certain extent in the VGGT) on how land investments can be negotiated, structured, and implemented so that citizens and communities, including marginalized groups such as women, can participate in the process and avail of the benefits. Though voluntary, these instruments reflect global/regional consensus on a set of norms to govern land tenure and governance as well as land-based investments.

However, these instruments are at the level of principles. Governments and companies need more detailed guidance on how to operationalize them. Technical guides and playbooks aimed at providing practical steps, mechanisms, and processes for operationalizing the principles and norms have been or are being developed by international agencies and NGOs, such as the FAO and Landesa. But these must be accompanied by adequate resources for implementation and capacity building of government agents who will be charged with implementing them.

2. When a project or investment is proposed in their lands, one of the disadvantages faced by communities is lack of information. There is a general lack of information or transparency regarding the proposed investment, at the same time communities lack information or knowledge about their rights and obligations under the law and how the investment will impact them overall, in terms of their land tenure, their livelihoods, and their environment. They do get information most of the time regarding potential benefits, such as job opportunities and new local infrastructure or services (roads, health centers, schools, etc.), but don't know that to be binding on the investor these benefits must be in writing in the proper form. They are also likely to be unaware of the economic value of their land and therefore agree to minimal compensation and potential benefits in exchange. In Tanzania, studies show that many villagers were unaware that the transfer of land to the investor is permanent, and they cannot get back the land even if the investment fails. The land is reclassified from village land to general land and reverts to the state, and villagers are left hanging, with no land and

no jobs or benefits. When this happens, women tend to be disproportionately affected, as they have less opportunities than men for alternative livelihoods or outmigration.

Civil society can play a key role in addressing this information or knowledge gap, through rights- awareness and capacity-building activities, on the one hand, and by monitoring implementation of laws and policies on the other. CSOs can prepare communities to negotiate or deal with investors by educating them about the relevant laws (land laws, investment laws, etc.) and by training community members to be paralegals who can help educate and advise other village members about the laws and their rights. CSOs also have an important role in fostering transparency in the land investment process by making sure that adequate information about the project or investment reaches the affected communities. Education and training of communities must be done in a gender-sensitive manner. Women may need separate sessions if community norms and practices bar them from speaking up or participating fully when men are present.

Mr. Darryl Vhugen His thoughts of responsible investments in land as those that are socially acceptable and sustainable and can lead to a reasonable risk-adjusted return for the investor. From a societal perspective, private sector investments have the potential to benefit local communities by providing employment and giving small-scale farmers greater access to capital, technology, knowledge and markets. They can also deliver macroeconomic benefits such as increased economic growth and agricultural production. However, the results so far are decidedly mixed. All too often, the promised benefits have failed to materialize and investment projects have caused actual harm to local communities. There are many examples of local people losing their rights and access to their land and other natural resources, of violent conflicts, of environmental damage and of failed investments.

Being a responsible investor means going beyond traditional corporate social responsibility (CSR) practices like building a school or medical facility. Truly responsible investments do far more; they seek not only to avoid negative social and environmental impacts but also to create mutually beneficial economic relationships with the affected communities. They respect local tenure rights, food security and the environment.

It is fair to say that some progress has been made in increasing the prevalence of responsible investments in land. In particular, international companies and investment firms are certainly more aware of the issue than they were several years ago. Principles and guidelines—such as the Voluntary Guidelines (VGGT), Principals for Responsible Investment in Agriculture and Food Systems and others—have been widely disseminated to the key actors in this space. In addition, several useful guidance documents and tools are now available. Examples include USAID’s “Operational Guidelines for Responsible Land-Based Investment”; FAO’s technical guide entitled “Responsible Governance of Tenure: A Technical Guide for Investors”; and the “Analytical Framework for Land-Based Investments in Africa” commissioned by the New Alliance for Food Security and Nutrition, to name just a few. Pilot projects sponsored by DFID and USAID are helping private sector actors to operationalize these guidelines and tools to minimize their land tenure-related risk and realize better outcomes for affected communities.

Host governments are also more aware of the importance of responsible investments in land

in their countries. Having endorsed the VGGT, they are building capacity to attract, facilitate and monitor investments so that they benefit their people. FAO has several e-learning programs and technical guides associated with the VGGT that are helping governments to build capacity.

However, he observed that, there remains much to be done. Efforts to improve land and investment-related governance in host countries have really only begun. There is still a significant gap in the ability and willingness of many governments in the global south to oversee these investments in a way that prohibits irresponsible investments—those that exploit and otherwise harm affected communities.

And, while a small number of companies are making serious efforts to invest responsibly, there are many others—especially domestic companies and elites—who are either unaware of the issue or simply unwilling to invest in a way that respects the rights and livelihoods of local communities.

For several years, international NGOs, donor governments and others have worked to help affected communities, including indigenous peoples, to better understand the risks and potential benefits of investment on or near their land. Some progress has been made. But, for the most part local communities still lack the capacity to represent themselves in negotiating with governments or investors and usually lack access to civil society organizations, lawyers or others who could act on their behalf. This remains an enormous gap.

Regarding gender, he opined that there is increasing awareness among civil society organizations, governments and investors that responsible investments in land should respect and possibly strengthen tenure rights held by women. But I am not aware of many cases where this awareness has translated into action. In much of the developing world, women's ability to own, control, and access land is significantly constrained. They tend to hold far less agricultural land than men and their tenure rights are substantially less secure. Women also find it more difficult to have a voice in land-related decision-making. I hope others participating in this discussion can provide positive examples of investments that respect and possibly even strengthen the tenure rights of women. **(for more details visit)**

Dr. Julian Quan was of the view that Due diligence, community engagement & transparency are key. He argued that, three inter-connected areas in which private sector practice can improve that can bring about more equitable and socially responsible land investments are: (i) due diligence procedures, including the assessment of land related risks, and for existing investments and extended supply chains as well as new investments that involve land acquisitions; (ii) community engagement and consultation processes, directly engaging women and all sections of the community and including the need to obtain Free Prior and Informed Consent as part of broader and more sustained engagement to obtain (or retain) social licence to operate; (iii) disclosure and transparency of investment and business plans with governments, affected communities and other stakeholders, including plans and actions to address land related issues, conflicts and risks.

He said, progress is being made, largely at the level of principles and commitments by more enlightened companies in context of broader efforts to address sustainability and human

rights, strengthened international guidance, in response to global advocacy by civil society. There is much that civil society can do to help companies improve practice in these key areas and a number of donor agencies are now promoting partnerships between CSOs and private sector companies on the ground, (for instance through the LEGEND Challenge Fund) to pilot new approaches and tools that the private sector can take up and to enlarge the “precompetitive space for dialogue” notably through the Interlaken Group initiative.

On the other hand, the scope to bring about broader changes in private sector practice through efforts of individual companies and site specific pilots is limited, given that many companies, including most domestic and south-south investors and businesses controlled by national elites fall outside the network of these initiatives, the skills capacities and resources in civil society remain limited and the legal framework and business environment within which agribusiness companies and investors operate at the country level is often not favourable. Therefore, the voluntary efforts of progressive companies and NGOs need to be complemented by attention to the policy and institutional framework, and coherence and relevance of government and supporting donors’ programmes on land, agriculture, investment and development planning generally are important parts of the equation to bring about broader change.

With reference to Tanzania, his focus was on some of the gaps between internationally accepted principles and practice, and the roles that civil society can play in helping to insure that land investment takes place responsibly, enhances rather than undermining land based livelihoods and contributes to inclusive, broad-based economic development.

A critical gap is that between policies and institutions responsible for land and those responsible for agricultural development and the management of inward investments. This is reflected in a parallel gap in donor programming between conventional land sector programmes focuses on land registration and titling (or LTR) and technical and policy support to land administration, and programmes to assist investment, private sector development and supporting infrastructure and services in the agricultural sector, for instance programmes that support SAGCOT and AgDevCo as investment vehicles. He suggested three areas where more coherent government and donor programming could make a real difference: (i) Better coordinated planning and delivery of land and investment programmes. (ii) a stronger focus on participatory planning which is inclusive of private and (iii) resourcing civil society capacity to act at scale.

He said, three particular opportunities could be explored in Tanzania in which both local and global CSOS can play active roles both in the field and in crafting effective policy solutions and programme vehicles: (i) Development of a resource centre to strengthen civil society capacity and enable companies to access and apply relevant skills and tools. (ii) pre-competitive dialogue and collaborative action by private companies alongside government and civil society at a landscape scale, targeted at specific regions and clusters of investors to help resolve the development planning issues; and (iii) engage private sector and CSO service providers more fully in delivering land registration, land administration services and land use planning services locally to address priorities at greater scale and with greater responsiveness to the land investment and ongoing land competition context.

Ms. Gemma Betsema and Emilinah Namaganda shared lessons in context of a Learning Platform on Inclusive Business, Land Governance and Food Security (a joint project of LANDac, CIFOR, Shared Value Foundation and F&BKP), we have recently brought together a number of companies in Tanzania's Kilombero Valley to stimulate mutual learning as well as to create more synergies between different interventions (including those of civil society and government) and the local context. In this contribution we wanted to share some of our experiences from the platform.

Entry point of the platform discussions in the Kilombero Valley were realities at the local level: whereas we have seen quite an increase in multi-stakeholder dialogues around land-based investments worldwide, the platform's discussions were grounded in research findings from communities living around the investments. The research showed that people viewed employment creation and contributions to local development projects through company social funds as the most visible positive impacts of investments on local development. In relation to the still existing constraints on the relationship between companies and surrounding communities, insufficient communication and transparency, limited involvement of youth, and access to finances were mentioned as important. In regards to future aspirations for household and community development, community preferences very much linked to agriculture: expanding current production as well as diversifying the number of crops grown in order to become more resilient in terms of food security. In addition to challenges from the existence of the company. Communities also identified a number of challenges to their livelihoods that posed additional threads to achieving their aspirations; they prioritized climate change, poor governance, and low education. These additional challenges are a reality for companies to take into account when working with communities; either to be aware of how their activities might exacerbate existing challenges, or how they could offer options to ease impacts/challenges external but relevant to their own operations. The research also revealed different existing development priorities among community members, and different levels of involvement with the investment between men and women, different age groups and between recent migrants and natives.

The platform showed a number of lessons in the use of multi-stakeholder approaches to making investments more inclusive and sustainable. First, the exchange of experiences between companies in different value chains—and how such exchange can contribute to adaptive learning of different stakeholders. Even though business models are quite different, in terms of their organisation and potential to be inclusive, companies did face similar challenges and appreciated an open platform to learn from each other's experiences. It also showed the value of information coming straight from communities, and companies in particular appreciated the attendance of a number of individual community members, which led to increased understanding of local priorities—and how their business activities fit (or don't fit) in those existing local ideas of development. The platform members came up with a number

of very concrete ideas for improving development impact of investments, and are currently working on activities to increase transparency, improve communication and strengthen community involvement in the business models.

Mr. Godfrey Massay added some more examples of platforms to build on contribution by Gemma. This is also added to the list mentioned by Baha and Valentine. District level-multistakeholder forum, as argued in this paper by Masalu (**Masalu**), can help in improving transparency and accountability and in resolving some land disputes. Farmer-pastoralist platform, which he wrote (**Godfrey**), is not only a democratic way of resolving land conflicts but a forum where stronger bargaining power is established to engage with investors in the tourism sector.

END OF THE FIRST WEEK: KEY ISSUES OBSERVED

At the end of the first week which was due on 9th of June, 2017, facilitators shared a week's discussion summary. The key issues observed included:

It has been observed that Tanzania is an agrarian state where smallholder farmers and pastoralists are dominant and depend on subsistence production. Also as a country, it has taken a number of initiatives, including Agriculture first, Big Results Now and the establishment of the Southern Agricultural Growth Corridor to manifest its vision. However, due to the top-down nature of the decisions, there has been limited success.

Second, responsible land based investment finds its origin from efforts by the international community to address the impacts of land grabs in Africa and other parts of the world. An investment that is responsible must be inclusive, socially acceptable, sustainable, transparent and that which puts community members at the center throughout its lifecycle. To ensure responsible investments in Tanzania, specifically, the following must be observed:

There is a need to revamp cooperatives and farmers' unions as alternative models for people-centered investment in land and the village council as a body corporate should have the mandate to sign investment contracts on behalf of villagers. Land should not necessarily be transferred to general land.

Establishing multi-stakeholder forums that encourage open dialogue is necessary to increase all stakeholders' opportunities for inclusion in the process.

Civil society actors, as important stakeholders to responsible investments, should (a) continue the role of monitoring and sensitizing communities who face investment challenges, (b) provide pro bono legal aid, (c) find ways to coordinate their efforts and (d) remain independent and autonomous.

Despite legislation being gender progressive, there needs to be specific efforts for women's inclusion in all processes. This includes integrating women's issues and gender perspectives from the field, including how women use land. One of the discussants made

an important point that it can be necessary to talk to activists available in the community since even women leaders may not articulate the roles women play within the household and make use of household land. Overall, gender mainstreaming across community programs should be emphasized.

Also there is a need to strengthen the existing investment laws and policies to accommodate international standards for responsible investment. The current National Land Policy Review process is one such opportunity.

The government should not take the central role in the process of land acquisition for investment as it makes it more difficult for the land-holder to be compensated fairly.

Village Land Use Plans is very important before investments take place. However, if not done properly, it can be a vehicle for land dispossession. There is a need for the process to be country-driven where civil society can assist in the preparation stages.

Three areas were identified where investors/companies need to strongly improve their business practices: (1) due diligence procedures; (2) community engagement and consultation processes; and (3) disclosure and transparency of an investment.

Moreover, the existing best practices of companies' commitments for compliance of international standards, such as those from Illovo Sugar, Coca-Cola and Nestle, can help to improve the public-private partnership model of operation and thus enhance the company's social license to operate.

Finally, the discussion highlights that international guidelines and the development of operational guidebooks for community, government and investors can be used to push necessary legal reforms and can also bridge gaps between the global and local context. However, any such developments are constrained by national and local governance. For Tanzania, the National Land Policy Review will determine their fate.

THE SECOND WEEK

STARTED ON 10TH TO 16TH OF JUNE 2017.

Mr. Mamun Urn Rashid speaking land owners said, generally public and private investment come within a shortest time along with brokers, money and also government influences. The whole structure generally with the investors as they are contributing to the poverty reduction, helping to scale up the gross domestic production- GDP and employment. In some cases, we found that government are encouraged investors to come and work to set up factories. We the land owners are really in trouble situation as we do not have any influence to the government as well as to investors. The situation is becoming worst for the marginal people including women, widow, religious minority and indigenous, disable and elderly people. In fact, the problem lays with the awareness of the land owners in order to protect their title. It is notable that large number of land are not titled, ownership documentation is missing. The marginal land owners do not know about the proper documentation of land. Without keeping the documentation, they are using the land year after year.

They found that land investors engaged number of brokers in the society who has memory of land and also know about the each of the land history. Land users started to negotiate with public land officials in order to stop new documentation. The vulnerable land owners are poor and they do not have money to release documentation of ownership such as registration, tax receipts, mutation and deed. Then the land brokers come to vulnerable owners and ask to sell their land with small amount or without any amount. The amount of money similar like begging. Some land owners are borrowing money and giving to official for releasing the land documentation but that has not worked because private investors are paying more and more money to the process.

There is a big role of CSO in order to assess the ownership, conduct survey, deliver knowledge on documentation, assist to collect document, helping to claim compensation and develop transparent process. The whole process need to be tested with the support of CSO in between public officials and private investors. Otherwise, movement of people is the only way to protest such kind of investment.

Ms. Paine Mako shared best practices from Tanzania developed by Ujamaa Community Resource Team, that are worth adoption said; First, Women Rights and Leadership Forums (WRLF) established to increase women's voice at the grassroots level on matters concerning land rights since 2012. The results have exceeded expectations. For example, in Simanjiro district, where the expansion of a game reserve was being pushed towards the village land and family homes were being burned down, the WRLFs platform mobilized other women to resist. They felt compelled to react due to the negative impact it would bring. The community living within that land would lose a significant portion of the land they depended on for their livelihoods. As a result of women's protest, the community retained access to the land.

Second is on Shared Certificate of Customary Right of Occupancy (CCROs) among the hunter gatherer and pastoralist groups as a form of security of land tenure. She said, pastoralists and hunter gatherers maintain their land as communally owned but constantly threatened by large scale land based investments. Thus, securing their communal use of land and ownership reduces the vulnerability these communities face. Through communal CCROs, communities' lands are secured, hence livelihoods are protected. Having security in place does not prevent large scale land based investment from taking place. However, they are able to choose investments that go in harmony with their own practices for example conserved forests are increasingly attractive to carbon trading.

Ms. Renee Giovarelli building on Marry's contribution in the previous week on economic and other benefits for women said we have to talk about economic and other benefits to women and families and not just rights. She totally agreed that we have to be practical and if women's rights do not matter to policymakers for their own sake, we need to make different arguments. And there's evidence that women's land rights matter in many ways, as you point out.

Mr. Juma Masisi on his part mentioned land-based responsible investors are expected to bring positive change to local communities – Rural Women and Men lives. It is always a BIG dream sometimes sugar coated with investors and to a certain extent some of Government representatives only talks about generalized forms of profits from proposed investment as an incentive for winning smooth acceptance from rural women and men.

The trust vested to Government representatives, investors and other key players many times gives room for Investors to access and enjoy larger share of the pre-investment consultation meetings. It should be also noted that at this juncture some of political elected or nominated leaders grabs this process as part of evidencing fulfillment of pledges made during election campaigns and or adherence to a particular party ideology of bringing change to rural women and men.

Based on majority of rural women and men level of knowledge, understanding, negotiation skills related to responsible Land investment key issues related to rights, roles, responsibilities and expectation of rural women and men are sometimes trapped into scenarios of endorsing whatever is being promised for limited knowledge, fear of embarrassing its government representatives, investors and other key interested stakeholders.

In Tanzania the best known avenue for investors to meet with rural women and men is mainly through General Village Assembly Meeting in which both women and men enjoys the same rights of expressing their opinions, views and concerns BUT the best available and known practice women are always not fully engaged for a number of reasons from fear of speaking in public, deep rooted patriarchal systems which denies women's meaningful engagement during responsible land investment meeting. I do appreciate and recognize the presence of some few strong vocal local women who many times stand firm to demand for inclusion of women priorities but not all rural places are blessed with those strong powerful women, therefore the best practicable solution is to create in place a system which will not only allow shy women but also even those who are bound by religious beliefs.

Notably, both rural women and men who are allowed and or expected to speak during General Village Assembly Meetings many times ends up not presenting all of their concerns, needs and impacts of newly proposed responsible land based investment which will ultimately either change or affect their daily lives. No wonder, after some land investment starts its operation we usually see, hear or evidence some situations of new emerging complaints, unmet needs or over ambitious plans all leveled against the Investor.

There is a need for establishing well organized systems/process which is very predictable for addressing and accommodating Women's needs, concerns, priorities and expectations as part of pre-planned Investment consultation meetings. This will not only provide an avenue for Women's issues to be addressed in advance but also to be picked as part of the land Investment consultation meeting agendas for discussions and deliberations.

This is an opportunity for a nonpartisan party like CSOs, NGOs, FBOs providing services in that particular village and or in collaboration with other experienced local NGOs or INGOs to play a key role of awareness creation to community members from all walks of life on issues relating to responsible land investment by addressing local needs of rural women, men, youth, children as well as elderly and people challenged with different forms of disabilities.

It is his opinion that, for local Tanzania CSOs, NGOs and FBOs could also play intermediary roles in terms of facilitating rural women and men general understanding of the proposed land-based investment its pros and cons, create demand for protection of rights of rural women and men, advocate for promotion of win to win arrangements between Investors and local community, demand for opportunities of establishing partnership, capacity building of rural farmers/Cooperative Unions, Out growers and individual farmers, consideration of employability of residents(rural women and men) in some positions which doesn't need technical skills, professionalism, strengthen presence of gender lens by insisting on equality between women and men in all leadership and decision making positions, sensitize men to allow both couples to be registered for Land based investment compensation payments, another important role of CSOs could be more or less like self-engaged peace seeker by adopting best ways of addressing unmet promises/pledge's made by Investors also harmonization of any minor social issues between Investors and rural women as well as men.

Ms. Irene Fugara brought up an idea of embracing model gender-sensitive village bylaws where while responding to Renee's and building on previous contributions by Beatha and Mkama said; after realizing that rural women do not actively participate in the decision making processes around land-based investment, LEAT, TAWLA and WRI developed a model gender-sensitive village bylaws. The bylaws were developed in collaboration with village leaders, women groups, and district officials in Kisarawe District. These bylaws put in-place a requirement for women to participant, air their views, and have their views considered by the village government. So far, they have been piloted and adopted in four villages in Kisarawe. Efforts are underway to have then adopted at the national level.

Last year, she said, IIED documented them in their case study report which can be accessed here ([click](#)). I hope, these bylaws, like others that are currently developed by Landesa in Tanzania, are more context specific and can help to secure women's rights and improve their bargaining power in the decision making process in LSLBI.

Mr. Jevgeniy Bluwstein responding to Lukasz concerns on involvement of vulnerable (refer), said that is a question of power relations and democracy. Unfortunately, a technical fix won't do

Mr. Valentin OLYANG'IRI added on 'Ensuring involvement of the most vulnerable' are equally involved and have strong voices is the most hardest part throughout responsible land based investment due lack of clarity or understanding of the term itself by many policy makers and implementing authorities. If you trace the existing troubles/conflicts over the land resources is because of this (Vulnerable=race, gender, age, culture/tradition, etc).

He made reference to Prof. Lupala of Ardhi University who argued that this can be done through what is called 'Nominal Groups' especially when it involves a minimal number of people. Which he also sees it as difficult when you have a kind of Village Assembly in case of LUP.

Mr. Godfrey Massay responding question by Jevgeniy and Jens, on adverse possession said, the concept of adverse possession is recognized in Tanzania. Though this concept is a legal way to get legitimate land ownership, it does not apply to land that belong to the government. Often when land is allocated to the investor it has to be transferred to general land, the title deed given in the name of TIC by the Commissioner of Lands, and then a derivative rights of occupancy is given to the investor. Thus, the land is under the ownership of the TIC which is the government entity.

Moreover, a land may not be developed but the investor is paying rents and has submitted to the commissioner genuine reasons for not developing it. Villagers aren't informed because the land has moved from their control to the direct administration of the commissioner.

Therefore, equally true that failure to develop land (within three years as in Tanzania), is enough reason to make a case for revocation of ownership. Not developing land attracts trespassers and land use conflicts.

Jevgeniy Bluwstein on follow-up question asked whether Godfrey can indicate in the law where it is stated that adverse possession does not apply if the land belongs to the government? (in the legal context of all land being 'public' land as we know). On that note also, how would he assess claims to land that used to be under NAFCO/NARCO ownership but became reoccupied by rural people after NAFCO/NARCO were dismantled? Are these claims to land by smallholders justified under adverse possession?

Mr. Godfrey Massay responding to the question pointed that; in law, one may acquire the right to occupy a piece of land by way of the common law doctrine of adverse possession. This doctrine operates within the four walls of the law of limitation. We can better understand the doctrine of adverse possession only if we are acquainted with the basic tenets of the law of limitation. As far as land law is concerned, the law of limitation imposes a duty to any person who claims to have been interfered with in the occupation or use of land to bring an action to recover the land within 12 years. If the action is not brought within this statutory period, the law of limitation then permits a wrongful possessor of land to have a good title to it as against the true owner and the public at large. When a person acquires the right to occupy land in this way, then we say that he acquired it by operation of the doctrine of adverse possession and he may proceed to register it according to law. It is important to state, that in Tanzania, no person

can claim adverse possession in relation to the government's land. The two case of Jayantilal P. Rajan v. City Council of Dar es Salaam and Pravinnchandra Mohanlal Mevada and Two Others v. Muhimbili Medical Centre and Another support this observation. ([for details click](#))

Also his opinion on Reoccupation of NAFCO/NARCO by rural people he said that, rural people successfully reoccupied the land that was under NAFCO/NARCO by making their claims on it. One, they were former owners of the land and that the Government failed to develop the land. Two, that their population have increased and that they need the land to sustain their livelihood. Three, that there is no any other alternative land available for their use. With a good cause, the President and the Commissioner of Lands can always revert back the land to the communities.

Mr. Joseph Akonaay centered his contribution on the notion of investing in land with particular focus on real estate and agricultural sector. He argued that finding success in real estate can be very challenging. A lot of people struggle to survive in this profession, but it doesn't have to be difficult if you're working this business in the right way.

When many people think about investing in Land, they think in terms of structure fixing or owning commercial or residential rental properties and most people overlook the idea of investing in vacant land. Though perhaps it's not as "sexy" as owning a rental property, vacant land dealers have gigantic cash flow potential. But there are some aspects that encourage this kind investment

When one finance the sale of your land, what you are doing is creating a stream of ongoing passive income similar to rental property, but without all the liabilities of being a landlord. But it works in the following perspective you buy the land for a good with low price. When it appreciates, you can sell it for more. By being the financier, you might even make back your initial investment and you will get profit.

It may seem strange that you, as the investor, would wear the hat of banker as well but it's simpler than it seems. You won't actually be lending the buyer any money; rather, you will be giving him permanent use of your land in exchange for money, which he/she will pay for the length of the loan which resulted to positive cash flow. In this scenario the customer becomes the new owner of the land and he/she will be responsible for property taxes, insurance and other maintenance.

He declared to have decided to contribute his view for the debate because he was one of the stakeholder in real estate investment but he thought people need to put more emphasis investing in area of agriculture. Why Agriculture because for Tanzania it is the engine for economic growth and Majority of them depend in this sector for their sustainability. The question to raise here is that, how to invest? For benefit of whom? How he/she get area for investment? Is there any procedural aspect to get area for investment for citizen and non-citizen? Why investment in land? Specifically, in agriculture in Tanzanian Context?

Mr. Nicholas Tagliarino contributed on strengthening and enforcing Tanzania's

compensation/resettlement laws while making reference to his PhD study at the University of Groningen Faculty of Law focuses on the legal frameworks that apply when land is compulsorily acquired to serve a public purpose, including compulsory acquisitions for land investments. The study covers 50 countries across Asia, Africa, and Latin America. Thus my contribution to this online discussion focuses on cases where Tanzanian landholders are displaced from their land after such land is compulsorily acquired by the government for investment purposes. The legal research he has conducted had several important implications for land investments in Tanzania. In Tanzania, the term “public purpose” is not defined by law; the President has broad discretion to establish a public purpose justification for the compulsory acquisition of land. Presumably, land can be expropriated for land investment, which is often considered to serve the broad purpose of “economic development”. However, the government is legally obligated to provide compensation for expropriated land.

According to his recent Land Journal article (<http://www.mdpi.com/2073-445X/6/2/37/htm>), the compensation procedures established by Tanzania laws adopt several international standards on compensation valuation. For instance, the law requires the government to adopt alternative approaches to the “fair market value” approach to calculating land compensation in areas where land markets are weak or non-existent (sec. 10, Village Land Regulations). Furthermore, the law requires assessors to account for economic activities, improvements made on the land, and communal assets; and, alternative land may be granted as a compensation option in lieu of monetary compensation (See VGGT infographic on Tanzania country portfolio at <http://landportal.info/book/countries/TZA>). Importantly, the law also provides compensation for expropriated land regardless of whether a customary right of occupancy is formally registered or not (Sec. 8, Village Land Regulations).

What is problematic for landholders in Tanzania, and many other developing countries (see VGGT dataset at <http://landportal.info/book/dataset/NKT-UN-VoluntaryGuidelines-Principle16>), is the fact that the government has not enacted a legally binding law or regulation that ensures these landholders are guaranteed the resettlement and rehabilitation assistance necessary to reconstruct their livelihoods subsequent to compulsory acquisition and displacement. Without a legally binding resettlement and rehabilitation procedure that provides legal rights to the displaced, displaced populations are unable to hold governments and private actors accountable by seeking redress in court after they are forcibly evicted. Furthermore, the government is not legally obligated to minimize or avoid involuntary resettlement. Failure to provide displaced populations with adequate legal protection puts these populations at serious risk of impoverishment, landlessness, and other socioeconomic risks.

With respect to compensation valuation, since the law on the books is relatively strong compared to other countries in Asia, Africa, and Latin America, legal and policy reforms should focus more on ensuring effective implementation on the part of the government and private investors. There should be mechanisms in place, including judicial oversight and other accountability mechanisms, to ensure the government and private actors respect and enforce provisions that grant the right to fair compensation for landholders affected by land investments. While section 11 of the Land Acquisition Act, 1967 provides affected landholders

with the legal right to negotiate compensation amounts, the government should ensure that, in practice, affected landholders are adequately informed and given the opportunity to effectively negotiate compensation amounts. The World Bank's LGAF research in Tanzania (link is external) suggested that in some cases compensation decisions were made behind closed doors. Negotiation procedures should be fair and transparent, and ensure that compensation is agreed on and paid in a timely manner. When land is compulsorily acquired for land investors, investors should be required to pay compensation that comes in the form of suitable alternative land, profit sharing, and/or sufficient money to purchase alternative land, housing, and other basic amenities. Compulsory acquisition should only occur as a last resort and should not result in landholders ending up worse-off than before their land was taken.

Mr. Gerald Kitabu's contribution focused on the importance of media in promoting responsible investment. He penned, as food situation and energy prices across the globe remain volatile for some years now since early 2000's, many developed countries are making their way to Africa and Tanzania in particular where there is plenty of land and water to explore new alternatives of addressing the situation.

At national level, the land grabbing is taking place by some few unscrupulous businessmen and unfaithful politicians and government officials leaving many farmers in the marginal lands with no or little land to produce and meet their demands.

In Tanzania, experience shows that many leaders consider the land acquisition for agriculture by foreign companies as a blessing to food security, whereas Tanzanians especially farmers are increasingly becoming more skeptical due to the nature of the investments which in most cases leaves them landless and helpless.

Villagers in coastal region, Arusha, Manyara, Rukwa, Katavi, Kigoma, Morogoro, Iringa, Ruvuma, Mbeya have been affected, with long lease of 99 years term.

Tanzania qualified for this big investment because it has the potential of producing about 4,010 and 1,726 million litres of ethanol and bio-diesel per year.

By 2008, around 20 foreign companies and other 5 were in joint ventures. Potential land for food production such as in Rufiji, Rukwa, Mbarali, Rufiji, Kisarawe, Wami was identified and/or allocated to bio-fuels companies. Since then, 4.5ml ha of land have been requested by bio-fuel investors out of which 641,179ha have already been allocated to investors, processes going on.

When these foreign investors come, they quickly grab top government officials and politicians with good plans but little is known for the locals on their investment nature.

As a result, towards the end of 1990's, the government had changed many laws and policies to attract foreign investments. However, the softened laws and policies could not create an equitable balance between people's interests' vis-à-vis investors' interests.

The land acquisition process and procedures excluded the public from decision making, unfair contacts, and inadequate compensation among others.

Low level of public awareness and lack of knowledge and education have continuously subjected

locals into many problems such as unfair compensations, landless, and food insecurity.

The national leaders argue that the investment would improve among other things, agricultural production, add value to local products and markets and improve social services such as roads infrastructures, health facilities, and clean water supply and improve education.

Proponents of agro investments also state that through the investment the private sector would be involved to create a permanent solution to reduce abject poverty and empower communities. However, the reality on the ground leaves a lot to be desired.

When debating on land tenure, access, ownership and distribution or land grabbing the role of journalism cannot be underestimated.

EVEN with strong support of the general public, Tanzanians and farmers in particular who are the most victims could not manage to wield a shield against foreign investors. In some areas where the general public celebrated the investors, they are now crying due to poverty and hunger, partly contributed by lack of fertile land which is now in the hands of big investors.

To rescue the situation, he wrote, it was the media that played a very decisive role to create awareness and build capacity in terms of education for the general public and farmers in particular to demand their rights.

He also mentioned various case studies on the power of Media where he personally conducted investigative journalism on land issues particularly investigation on land grabbing in various parts in Tanzania. The first such investment as US-AgriSol company limited controversial acquisition of land in the former Burundians refugee settlements of Katumba and Mishamo in Mpanda district, in Katavi region, (formally part of Rukwa region) and the former Congolese refugee settlements in Lugufu, Kigoma region. (The article titled green revolution or green plunder is also posted on the Oakland institute in USA).

This investment failed completely as it could not see the light at the end of the tunnel. Major concerns about this investment Iowa State University (ISU) which intended on partnering with the project to conduct the small-farmer training programme pulled out of the project and remained with an advisory role only.

The project did not take training for small scale farmers seriously concerned about demands in AgriSol Energy's proposal to Tanzania requiring permission to cultivate GMOs and guaranteed access to export markets

The second case study which he also conducted involved an investigative journalism on biofuel investments in Kisarawe, Coastal region where Sunbiofuel acquired some 8,211 ha, but managed to cultivate only a quarter of the area. According to interviewed villagers, the Sunbiofuel started the process to acquire land in 2006 and promised that more than 5,000 villagers would be employed.

Initially, they had applied for 20,000ha but Kisarawe district authorities discovered this was too big an area to lease to any investor, hence the decision to limit the area to only 8,210 ha. One of the conditions for land acquisition was that the investor should compensation to the villagers as individuals and for each village, the amount should be Sh840 million.

The villagers were asked whether they were involved in the whole process. They replied that they learnt of the investor through the then Member of Parliament Athuman Janguo, adding that later on Kisarawe district authorities followed the matter up with wide campaign in support of the project. The villagers succumbed to the campaign and surrendered their land in the hope that the investment would help bring an end to their poverty and improve the living standard.

During the implementation of the project, the investor only managed to employ 750 people out of 5,000 initially promised. What is worse is that, within no time the company started retrenchments, and to date there is nothing at all. The investor cited shortage of water and fusarium as reasons for the Massive layoffs.

On realizing that the investor would not fulfill his promises, the villagers convened a meeting at Muhaga Village on October 11, last year (2011) and formed a task force to make a follow-up of their demands. It was a tag of war as the follow-ups took almost two years. The villagers from eleven villages in Kisarawe district, vowed to stage demonstration against the investor for failure to pay compensations for their village land amounting to 549 million Tanzania shillings.

With the help of several publications from the Guardian newspaper although, they were compensated, although, they had lost their land which is the only capital for a poor farmer in many African countries

NB: They realized that many media houses in Tanzania are reactive rather than being proactive on agriculture and land based investments. We journalists decided to form Tanzania agricultural Journalists' Forum (TAJF) ([link is external](#)) to report and create public awareness on these issues on daily basis. **(for more information click)**

Mr. David Harnesk was more interested with impact of governance regimes in the European Union on the LSLBI where to him it is crucial for any form of investment in land in Tanzania to avoid extractivist approaches to development. In his view the potential impact of governance regimes in the European Union on the logic of investments, and its implications for land-use and tenure relations. The emerging bioeconomy in the Global North, an expansion of biomass-based products (such as biofuels) instead of counterparts produced from fossil alternatives, should not be confused with a process that can produce emancipatory pathways to development, nor as promoting sustainable approaches to agricultural modernization. In this context, the EU's governance initiatives, such as biofuel certifications and "sustainability criteria", involve mechanisms that mainly promote large-scale production and processing methods, and do not equate to equitable and socially responsible economic practices. The Tanzanian biofuel experience suggest that little faith can be put in transnational actors that act according to this logic, as certification bodies like Bonsucro sought to collaborate with the controversial EcoEnergy-project.

It was his position that civil society should focus on what long-term benefits can be brought to the rural population, and support agroecological principles of agriculture, and not be lured into the promises agroindustrial approaches in land investments. This position is partly based on my article together with colleague Sara Brogaard: Harnesk, D., & Brogaard, S. (2017). Social Dynamics of Renewable Energy—How the European Union's Renewable Energy Directive

Triggers Land Pressure in Tanzania. *The Journal of Environment & Development*, 26(2), 156-185. ([here](#))

He further suggested an article by Emma Li Johansson and Ellinor Isgren: Johansson, E., & Isgren, E. (2017). Local perceptions of land-use change: using participatory art to reveal direct and indirect socio environmental effects of land acquisitions in Kilombero Valley, Tanzania. *Ecology and Society*, 22(1). [read](#))

Mr. Bernard Baha thanked the organizers for the debate which to his view, helped him gain a lot from the contributions on various topics that have been covered. He contributed that, CSOs need to rethink their strategies and engagement with all stakeholders, i.e. government, private sector and the general public. This is in terms of how we package and deliver our messages, nobody is disputing the significance of FDIs specifically in agriculture, also investments from outside are still needed but there is a need to make sure there are safeguards to ensure that the investment is in our best interest and not otherwise, a win-win? and secondly we should also focus on domestic investors/speculators! It is his thought that this explains best what is on the ground, one of the contributors in this platform shared the experience of Agrisol, he led the team and understood the dynamics, he had opportunity to discuss face to face with the people behind the project, Godfrey may recall better as a note taker since his was just questioning and trying to the best level understand the motive. He still recalls one question to date, "**Mr. Baha** we are first and foremost Tanzanians and truly patriotic, whatever we want to do is in the best interest of the country and its people, can you please share with us a model and or show us practically where and how an investment in agriculture can be a win-win situation? the investor is happy the beneficiaries and communities around are also happy?" he admitted it was not easy for him to explain to them.

There are a lot to learn and there is a need to avoid experiments, he said "if we are sincere the first priority should be on how we design the policy itself and the regulations that will come as a result of the policy process, poor design of the policy will end up with bad laws and at best another chaotic ten years until another review. I also think another option is to strengthen dialogue platforms, if it is through such processes as TALA-NES, Landesa/Land Portal etc they are very important and we need to decentralise the platform by having grassroots experiences and voice". Lastly to the organizers he requested if possible to get edition of the debate as it is? It was his hope another round will come and may be this time from them the practitioners and will take into consideration the voices from the ground and ended by thanking again, "Aksanteni sana kwa kutuleta pamoja katika mjadala huu".

Mr. Godfrey Massay appreciated Baha's note for his contribution. He then said after the fact-finding mission on Agrisol, Baha wrote a piece titled "the politics of investment in large-scale agriculture ventures", capturing main takeaways. He also advised that, Debates like these can be arranged by any organization in consultations with the Land Portal Foundation. He encouraged TALA-NES to co-host another debate in the near future.

Ms. Francine Picard also shared the work undertaken by the East African Legislative Assembly (EALA), the parliament of the East African Community, with the support of the International Institute for Sustainable Development (IISD), on responsible investment in agriculture. The parliament is currently in the process of adopting the "EAC Model Contract for

Farmland Investments," the first regional parliament in the world to adopt a model contract for farmland investments. They see in this contract, a legal instrument, which is based on global best practices and reflects regional priorities and policies.

There is also important recognition that investment contracts are only one of a number of tools that exist to govern investment projects. There are other stages in the investment process, which require proper sequencing, prioritizing of issues, and an understanding of the economic context. Indeed, a well-drafted contract will not remove all possibility of negative impacts, nor will it guarantee that investments are successful and benefit the host country. Other processes are critical too; in particular, prior screening of investors, meaningful engagement of communities, and ongoing monitoring and evaluation after the contract is signed.

The EAC Model Contract for Farmland Investments was motivated by the need to create a tool that is flexible enough to allow member State to adapt the provisions of the contract to their own legal systems, and local contexts.

The best guarantee to achieve positive benefits from foreign investment is a solid foundation of domestic laws that are properly enforced. But in many countries the necessary domestic laws may not be in place or may not be sufficiently detailed.

The starting point for the development of the EAC Model Contract for Farmland Investments was to assess and compare the existing legal frameworks in five of the six EAC member States and identify where one or all of the countries fall short of best international practice and standards. Over 450 laws and regulations were reviewed and a range of problems identified. South Sudan was not yet a member of EAC at the start of the project, but there are plans to integrate South Sudan at a future date.

The contract requires investors to certify that they have identified all legitimate land tenure rights holders—whether formally recorded or not—and that women are given equal status to men. Investors are also required to conduct a social impact assessment and engage in consultations with local stakeholders to develop a community agreement.

The contract increases the likelihood that projects will succeed by requiring a commercial feasibility study and business plan: both of which must be approved by the state.

It supports local business development with a clause that requires investors and their sub-contractors to give first preference to local goods and services. It helps to create jobs and improve skills by giving first preference to locals.

The contract protects the environment by requiring an independently-verified environmental impact assessment and a plan to avoid, minimize, mitigate, rehabilitate and offset impacts on: forest conservation; biological diversity; groundwater; and soil quality. It requires a plan to assess and mitigate the impacts of climate change on the project and to avoid or minimize greenhouse gas emissions. Investors are also required to carefully managing the use and disposal of chemicals, pesticides, fertilizers, fuel and other hazards. She reported that the parliament plans to adopt the contract in August 2017, at which time it will become publicly available.

Mr. Zakaria Faustin introduced an idea on Investor/Company inbuilt redress mechanism where he said in 2016 Pastoralists Programme (one of the programmes implemented by Tanzania Natural Resources Forum (TNRF) in partnership with CARE Tanzania), commissioned a study to determine the trends in land resource conflicts, understand the drivers behind the

structural, document proximate and immediate causes of conflict, map conflict dynamics between the different actors in the arena. The study covered hot spot districts of Tanzania with field work that included primary information through Key Informant Interviews (KII) and Focus Group Discussion (FGDs) with over 200 stakeholders. The study found that Land based conflicts over use of natural resources has risen exponentially over the last ten years, causing death, injury and distress amongst Tanzania's most vulnerable populations: the dispossessed pastoralists, subsistence farmers and women. The study noted that Land based conflict will continue to rise until the proximate and structural causes of land based conflicts is addressed. Investors were found as one of structural causes of land use conflicts, some investors have taken land without embracing the local host communities' concerns. The study documented well that from 2005-2016 forcefully eviction for investments was leading conflict in the hot spot areas.

His point of concern was the way these conflicts are handled, does not provide mediation among the parties (investors and local communities). Currently, most of conflicting parties between communities and investors using land tribunals especially from district land and housing tribunal through and high courts. There is high need of establish land use conflicts redress mechanism at lower level where local communities and investors meet together and make resolution before moving to court process. The village land tribunal proved a success in making redress mechanism when land use conflicts arised among individuals. These mechanisms are not available at Tanzania investment Centre (TIC). Last year TIC was on the process of reviewing Investment Act 1997, which are still pending waiting Land Policy review process. The Tanzania Investment Act should provide such formal body where investor/ company have inbuilt redress land use conflict mechanism that communities can access.

Mr. Godfrey Massay impressed with the concept supported by taking lessons from other institutions such as the World Bank Inspection Panel (**Inspection panel**) and CAO for the IMF (**CAO**) have redress/grievance/complaint/recourse mechanism. They developed such a mechanism to protect communities that might be affected by projects they fund. However, he was more curious to know how will companies/investors independently, fairly and without bias develop and implement such a mechanism?

Mr. Zakaria Faustinin his response made reference to some cases where he said this is a new idea that needs further research. He reported to witness good practices that he used to build his case. Best practices were borrowed from most of the pastoral villages. A good one is Minjingu in Babati district. Most investors camps surround Tarangire Nation Park established regular meetings with investors and other stakeholders where matters affect them are discussed openly. Once the land disputes aroused they make consensus with villagers in their regular meeting between Conservation Authority, Investors and villagers, and were successful.

He further mentioned that there is no law to that effect which lead to most land use conflict between investors and villagers took up to ten years in Court process, which is expensive, time consuming, and jeopardize investment processes, eg in Babati district, in Ayamango village, the investor collaborated with other people (44) and they made a case on 637 acres of grazing land, and they took to high court and villagers won the case in 2015 after 10 years! If

such mechanism were in place, mediation and decision could be taken within less time. This is possible through having the kind of bodies with Tanzania Investment Act allows or formalize or require investor to have such inbuilt mechanism.

Dr. Adam Patrick Nyaruhuma responding to Mary's policy concerns ([follow link](#)) said he is sure the next iteration of the draft will be better refined to take stakeholders concerns.

Mr. Marcel Madubi from his end said apart from empowering citizens on various technical aspects including dialogues and negotiation skills, understanding of contractual terms and legal implications; they also help in brokering a space for expanded negotiations between investors, the state and communities can also help in making the state and investors accountable and ensure responsiveness and effectiveness he seemed not to be sure if there is a monitoring mechanism and specific indicators for tracking the extent at which community benefit and fulfilment of the investors obligations.

Moreover, he added that CSOs has a role to leverage community-driven development investments with its partners (Dialogues and negotiations, CB on legal and contractual matters, Business-Analysis of profitable ventures vs risks); hence meaningful partnership; advocate with and for the poor. –widen the impact in terms of scope, space and sustainability. How can we create partnership between CSOs and the state as opposed to working on their own or in opposition? CSOs can also provide access to the local level, bring in-depth on-the-ground knowledge, and build on trust they have already established with communities at the grassroots level for provision of technical guidance for rational decision prior engaging into partnership with investors. Communities and civil society are critical partners for achieving effective investments;

For instance, at the local level, dialogue mechanisms between CSOs and local authorities should be promoted, as they guarantee useful entry points for inclusivity and responsible land investments. In democratic systems CSOs can contribute to nurturing respect for the rule of law by monitoring effective implementation of laws and policies and they can initiate and support anti-corruption efforts.

To his opinions, CSOs can play a pivotal role in empowering community/citizens on technical aspects including negotiations and dialogues can also play the role of enhancing state capacity and ensure effectiveness, accountability and responsiveness on land administration. They can also play the role in brokering space for an expanded negotiation between communities, investors and the state

CLOSURE

At the closure of the debate which was posted on 19th of June, facilitators share the last week summary of key messages which included;

Village Land Use Plan (VLUP). Concerns about companies or big international NGOs supported for conducting village land use plans and their green lights from government has continued to be evident. Some good practices display its importance though checks to ensure protection of local community interests community is needed to avoid biased process.

Also some initiatives to ensure transparency in investment contractual process have been raised. Establishment of an online repository of publicly available investor – state land contracts and associated documents by the Columbia Center for Sustainable Investment (CCSI) demonstrate proactive disclosure of agreements which is both feasible and valuable for stakeholders.

Issues of strengthening land investment policies and regulations especially through the ongoing National Land Policy review process is more important to ensure responsible investment. A need to put legal guarantee for resettlement and rehabilitation assistance to reconstruct livelihood of victims affected by compulsory acquisition and displacement is also necessary. Adopting gender sensitive models like village bylaws and considering women economic benefits, interests of youths, children and disabled and putting in place accountability mechanisms is of much importance.

Establishment and strengthening platforms will enrich productive and healthy dialogues and improve transparency and accountability. This ranges from Women rights and leadership forums (WRLF), District Multi-Stakeholder Forums (DMF), Tanzania Extractive Industry Transparency, Farmer-pastoralist platforms etc. However, a caution is provided as these may also be playgrounds of different struggles among members. Also there is a need to decentralize these platforms by having grassroots experiences and voices

The role of CSOs and Media houses. Discussants have kept emphasis on involvement of CSOs and Media in the investment process. However, CSOs are advised to rethink their engagement strategies with stakeholders (government, private sector and public) which involves avoidance of extra-activism.

Nevertheless, while taking cognizance of foreign direct investment, a need to focus on domestic investors or speculators should be considered for responsible investment and also taking lessons from previous failed investments for necessary changes.

Importantly, having guides for investment in place which are context specific may help to secure community interests, improve bargaining powers and guide stakeholders on important and meaningful process in investment. This will enhance community participation.

One participant was of the view that there is need for investors to develop their own redress mechanism which can be accessed by the communities.

Finally, facilitators relayed their thanks to participants to have them all in the debate since the 5th of June to the closure date. They further appreciated for every contribution discussant provided and promised to take note of all advices and suggestion you have provided for action.

