



How shortage of land banks endangers indigenous landowners in Tanzania

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Abstract

The introduction of the free-market economy and economic liberalization triggered a significant rise in the number of investors seeking land for investment in the country. At the same time, population growth and the expansion of human activities have contributed to growing pressure on land resources. Consequently, land is becoming increasingly scarce. If this trend continues, there may come a time when securing land for strategic investment projects becomes either extremely difficult or prohibitively expensive.

To address this challenge, the government undertook several measures, including the establishment of the Tanzania Investment and Special Economic Zones Authority (TISEZA). This Authority was created through the Investment and Special Economic Zones Act of 2025, which repealed the Tanzania Investment Act of 2022 and the Export Processing Zones Act of 2006. TISEZA was formed by merging the Tanzania Investment Centre (TIC) and the Export Processing Zones Authority (EPZA). In essence, however, TISEZA represents a rebranding of the former institutions an old concept in a new package. The Act introduces few substantive changes, primarily substituting the name TISEZA in place of TIC or EPZA, with the notable exception of Section 23, which provides for the establishment of land banks under TISEZA's supervision.

TISEZA, along with its predecessors TIC and EPZA, was granted the authority to acquire land parcels for investment purposes. However, these institutions have failed to effectively exercise this mandate, resulting in a persistent shortage of land banks to meet investor demand. As a consequence, investors often resort to acquiring land directly from villages and subsequently submit sales agreements to TISEZA to obtain licenses, incentives, and derivative rights. This practice exposes customary landholders to potential exploitation and displacement. The root of this failure lies in the existing legal and institutional gaps surrounding land banking in the country. The study recommends amending the laws governing land banking in Tanzania to address these shortcomings.

Keywords: Land Banks, investment, investors, indigenous, Customary land tenure

Introduction

Beginning in the mid 1970s to the 1980s, Tanzania faced a severe socio-economic crisis. In response to the worsening economic conditions and in an effort to arouse growth, the government initiated a series of radical reforms in policies, legislation, and institutions. These reforms paved the way for foreign direct investment (FDI) and laid the foundation for further efforts aimed at creating a more conducive environment for investment in the country ^[1].

In order to attract investors, Tanzania adopted a free market economy, which gradually sparked growing interest from both local and foreign investors. Since the 1990s, when investment opportunities were formally opened, the country has experienced a surge in land-based investment projects. However, this influx has also led to a rise in land-related conflicts, particularly in rural areas, where tensions have emerged between indigenous communities and investors or the government. These conflicts have increasingly threatened the food security of small-scale rural producers.

In other hand, due to the increase of population with the increase of human activities, it results into land scarcity. As days goes on, land resource increasingly became scarce. From these two twin trends, possibly it will reach a time to find a land to implement full-sized project will be difficult or it will be found at higher cost. To combat the situation, to facilitate and manage local and foreign investors in the country, government come up with several efforts including introduction of the first market-oriented investment code in the June 1990 that was applicable to all private investments,

local and foreign and paved the way for the establishment of the Investment Promotion Centre (IPC) to encourage and manage both domestic and foreign investments in the country.

Again, in the year 1996, Government launched the New Investment Policy of Tanzania which resulted in the passing of several legislations including Tanzania Investment Act, 1997 (Repealed), Export Processing Zone Act, 2006 (Repealed), Tanzania Investment Act, 2022(Repealed) and establishment of Tanzania Investment Centre (TIC) (no longer existed) and Export Processing Zone Authority (EPZA) (no longer existed). According to Tanzania Investment Act, 2022, TIC was established to be one-stop centre for investors in the country and it should be the primary agency of Government to co-ordinate, encourage, promote and facilitate investment in Tanzania and to advise Government on investment policy and related matters. Section 6(h) of the Tanzania Investment Act gave TIC mandate to provide, develop, construct or maintain investments sites, estates or land together with associated facilities.

Another major effort was the enactment of the Investment and Special Economic Zones Act, 2025, which repeals the Tanzania Investment Act of 2022 and the Export Processing Zones Act of 2006. This new law merges the Tanzania Investment Centre (TIC) and the Export Processing Zones Authority (EPZA) into a single entity the Tanzania Investment and Special Economic Zones Authority (TISEZA) ^[2]. However, the creation of TISEZA and the

new law appears to be largely cosmetic, with minimal substantive changes from the previous institutions and the repealed Acts. The most notable change is found in Section 23 of the Act, which provides for the establishment of a land bank under the authority's supervision.

Despite the empowerment to establish land banks for investment purposes in Tanzania, there remains a significant shortfall in creating land banks that adequately meet the needs of both local and foreign investors. This inadequacy has contributed to the continued scarcity of readily available, well-documented, and development-ready land parcels. As a result, investment efforts in the country have failed to reach their full potential, often being hindered by delays, uncertainty, and disputes related to land acquisition. The absence of a reliable land banking system not only discourages potential investors but also undermines the government's broader goals of economic growth, job creation, and sustainable development. Addressing this gap is therefore essential for enhancing investor confidence and ensuring that land resources are effectively mobilized to support national development priorities.

This gap should be addressed through existing legal and institutional frameworks by proposing reforms that facilitate the effective implementation of land banking and ensure the protection of indigenous land rights in Tanzania, including measures to prohibit investors from independently acquiring land directly from villages.

Materials and Method

This paper adopts a qualitative research design, utilizing document analysis as the primary method of data collection. Both published and unpublished materials were reviewed based on their relevance and ability to provide a critical examination of how the absence of sufficient land banks poses a threat to indigenous communities who hold land under customary tenure. The study draws on both primary and secondary data, focusing on the relationship between land banks, government policies, indigenous land rights, and customary landholding systems. It explores both preventive and remedial measures. The central aim of this paper is to safeguard indigenous land rights from being compromised due to the lack of effective land banking systems. It also emphasizes the need for TISEZA and other relevant institutions to operate as the sole authority responsible for managing, facilitating, and providing land banks for investment purposes across the country.

Land Ownership and Tenure in Tanzania

All land in Tanzania is public land and remains vested in the President as trustee for and on behalf of all citizens of Tanzania^[3]. The term "tenure" originates from a Latin word meaning "to hold." Land tenure refers to the system that governs the ownership or holding of land. An individual may possess legal rights to land through a Right of Occupancy granted by the government, typically for a period not exceeding 99 years^[4] but other terms are 33 or 66 years. The Land Act recognizes two forms of land tenure: the *granted right of occupancy* and the *customary right of occupancy*. The *granted right of occupancy* is defined under Section 2 of the Land Act^[5] which provides that a right of occupancy means a title to the use and occupation of land while, Customary right of occupancy defined under Section 2 of the Village Land Act^[6] which defines customary right of occupancy as a right of occupancy for land. Both the

Granted Right of Occupancy and the Deemed Right of Occupancy are protected through certificates of occupancy, as regulated by land laws. Tanzania's land tenure system has evolved through various historical phases, which provide a foundation for analysing the overall land tenure framework and the specific relationships between landowners and land users over the past decades.

Customary Land Right in Tanzania

Customary land rights originate from customary land tenure. The word *tenure*, derived from Latin, means "to hold"; thus, customary land tenure refers to land held according to customary practices. Historically, such land holdings have been insecure, particularly since the colonial era. Before colonization, land was held communally under customary systems and was considered the property of the entire community whether a clan, family, or tribe. The primary focus was on the right to use and benefit from the land. However, during the colonial period, both the German (1885–1916) and British (1918–1961) administrations implemented their own land regimes and operated under the assumption that indigenous inhabitants did not possess formal ownership rights to the land^[7].

Subsequently, the colonial authorities promoted plantation agriculture, which created a demand for the alienation of fertile or strategically valuable land. Under German colonial rule in East Africa, all land was considered unowned and was declared Crown land, with ownership vested in the German Empire^[8]. After the First World War, when Tanganyika was under British colonial, they did not change anything. The problem of natives who own lands customary remain the same, see the case of *Mtoro Bin Mwamba v. AG*^[9]. After Independence nothing change, The President was designated as the custodian of all land on behalf of the citizens of Tanzania. The development of the National Land Policy paved the way for the enactment of two key pieces of legislation governing land tenure: The Land Act No. 4 and the Village Land Act No. 5 of 1999, both of which came into effect in May 2001. The enactment of the Village Land Act^[10] and Land Act^[11] was thought to alleviate the problem, however, the story has remained to be the old wine in the new bottle. Village Land Act state clearly that, Customary Right of Occupancy and Granted Right of Occupancy are of equal status and effect^[12] while Land Act state whenever there is contradiction concerning land matters The Land Act will prevail^[13] this means still Customary Right of Occupancy is inferior. Therefore, Customary land holding have never been safe since colonial era.

Indigenous Land rights under International Laws, Treaties and Conventions

The term indigenous derives from the Latin word "indigena" which is made up of the two words, namely 'indi' ('within') and 'gene' or 'genere' ('root'). It can therefore mean, 'born in' or 'something that comes from the country in which it is found' or 'native of'^[14]. According to United Nations International Labour Organization Convention No. 169 which mainly focuses on indigenous land rights, requires States Parties to identify lands traditionally occupied by indigenous peoples and guarantee ownership and protection rights^[15]. The Convention also requires the provision of legal procedures to resolve land claims, establishes rights over natural resources, protects

against forced removal, and establishes a right of return and compensation for lost land through either land (of at least equal quality and quantity) or money ^[16].

According to the United Nations Declaration of the Rights of Indigenous People of 2007, affirmed the right of indigenous people to own land, territories and resources which they have traditionally owned, occupied or otherwise used or acquired ^[17]. The declaration requires that, otherwise freely agreed upon by the Indigenous peoples concerned, compensation shall be in the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress ^[18].

Historical Development of Investment Land in Tanzania

After gaining independence in 1961, the economy of Tanganyika (now mainland Tanzania) was in its infancy, similar to a new-born. It was marked by a shortage of skilled human capital, limited physical and organizational infrastructure such as buildings, roads, and power supply and underdeveloped administrative systems. In addition, private institutions were weak and operated with limited capacity ^[19].

It is in this time during Mwalimu Nyerere Regime where he refuses to include bills of right to the Republic Constitution believing it would assure private property ownership which would hamper government development plans and create conflict between Executive and Judiciary ^[20]. The formulation of the Arusha Declaration in 1967 marked Tanzania's commitment to a policy of socialism and self-reliance. However, starting in the early 1980s, the country faced a severe socio-economic crisis that affected all aspects of life. During this period, people endured extreme hardship waking up as early as 04:00 a.m. to queue at government shops (*Duka la Kaya*), placing stones to reserve their place in line, and often waiting until evening to receive just half a kilogram of sugar or flour from the National Milling Corporation. This situation is vividly described in the book *Duka la Kaya* ^[21]. It was an unforgettable period marked by the collapse of social structures and a sharp decline in living standards.

At the macroeconomic level, the crisis led to a severe shortage of foreign exchange, persistent balance of payments problems, and significant budget deficits ^[22]. In an effort to boost the economy, the government opted to adopt a free-market system and opened its doors to both local and foreign investors. To support and manage these investments, the government introduced the first market-oriented investment code in June 1990, which applied to all private investments, both domestic and foreign. This move led to the establishment of the Investment Promotion Centre (IPC) in 1990, aimed at promoting and facilitating investment in the country. Subsequently, in 1996, the government launched the New Investment Policy of Tanzania, which culminated in the enactment of the Tanzania Investment Act of 1997 ^[23], following establishment of Tanzania Investment Centre ^[24] (TIC) as the one-stop Centre for investors and is the primary agency of Government to co-ordinate, encourage, promote and facilitate investment in Tanzania and to advise Government on investment policy and related matters ^[25].

The Investment Act, 1997 aimed to correct some aspects of the National Investment (Promotion and Protection) Act, 1990, which restricted potential investors from investing in Tanzania ^[26]. From mid-2000s Tanzania experienced a

significant interest in land-based investments, with foreign investors leasing chunks of land for agriculture, tourism and forest plantations ^[27].

The government continued to do several efforts including recent initiative of establishing Tanzania Investment and Special Economic Zones Authority (TISEZA) ^[28]. This Authority was created through the Investment and Special Economic Zones Act of 2025, which repealed the Tanzania Investment Act of 2022 and the Export Processing Zones Act of 2006. TISEZA was formed by merging the Tanzania Investment Centre (TIC) and the Export Processing Zones Authority (EPZA). In essence, however, TISEZA represents a rebranding of the former institutions an old concept in a new package. The Act introduces few substantive changes, primarily substituting the name TISEZA in place of TIC or EPZA, with the notable exception of Section 23, which provides for the establishment of land banks under TISEZA's supervision.

TISEZA, along with its predecessors TIC and EPZA, was granted the authority to acquire land parcels for investment purposes. However, these institutions have failed to effectively exercise this mandate, resulting in a persistent shortage of land banks to meet investor demand. As a consequence, investors often resort to acquiring land directly from villages and subsequently submit sales agreements to TISEZA to obtain licenses, incentives, and derivative rights.

This practice exposes customary landholders(indigenous) to potential exploitation and displacement. Article 26 of United Nation Declaration ^[29] provides that "indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired" and imposes an obligation upon States to "give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned. Okoth Ogendo ^[30] quote from League of Nations documentations that, no land occupied by an indigene could be transferred to a non-indigene without the prior consent of the public authorities. The root of this failure lies in the existing legal and institutional gaps surrounding land banking in the country.

Investment and Special Economic Zones Act, 2025 and Tanzania Investment and Special Economic Zones Authority (TISEZA)

In 1963, the Government of Tanganyika enacted the Foreign Investment (Protection) Act to provide legal assurances aimed at attracting foreign investors. The inclusion of the Bill of Rights through the Fifth Constitutional Amendment in 1984, followed by the rise of the second-phase presidency in 1985, marked a turning point that called for reforms in the investment climate. In June 1990, the government introduced its first market-oriented investment code, applicable to all private investments both domestic and foreign which led to the creation of the Investment Promotion Centre (IPC) to promote and oversee investment activities in the country.

The third phase of the presidency, which began in 1995, prioritized advancing a market-driven economy through privatization, with the goal of transitioning from a state-controlled economy to a market-oriented one to stimulate economic growth. In 1996, the government introduced the

New Investment Policy of Tanzania, which led to the enactment of the Tanzania Investment Act of 1997^[31] following establishment of Tanzania Investment Centre (TIC)^[32] as the one-stop Centre for investors and is the primary agency of Government to co-ordinate, encourage, promote and facilitate investment in Tanzania and to advise Government on investment policy and related matters^[33].

In 2022, the Tanzania Investment Act of 1997 was repealed and replaced by the Tanzania Investment Act of 2022. However, the new Act introduced no significant changes or innovations. Within just three years of its enactment, the Tanzania Investment Act of 2022, along with the Export Processing Zones Act of 2006, was repealed and replaced by the Investment and Special Economic Zones Act of 2025. This new legislation establishes the Tanzania Investment and Special Economic Zones Authority (TISEZA) through the merging Tanzania Investment Centre (TIC) and the Export Processing Zones Authority (EPZA)^[34]. In practice, however, TISEZA largely represents a rebranding of the previous institutions, it is an old concept presented in a new form. The Act introduces few substantive changes, primarily substituting the name TISEZA in place of TIC or EPZA, with the notable exception of Section 23, which provides for the establishment of land banks under TISEZA's supervision.

TISEZA was given power to provide, develop, rent and maintain land for investment purposes in the country^[35] not only that, but also to provide certificates of incentives on approved projects having a minimum investment of US\$50,000,000, if foreign owned^[36] and US\$20,000,000, if locally owned^[37]. TIC has identified priority investment sectors as mining, petroleum and gas, tourism, infrastructure development, aviation, agriculture, construction, financial services and manufacturing. With a few exceptions, 100 percent foreign ownership is permitted in most economic activities. In Tanzania under the Land Act, CAP 113 RE 2002, non-citizen (foreigner) is not allowed to be allocated or granted land unless it is for investment purpose under the Investment and Special Economic Zones Act^[38].

Currently, many investors independently visit villages to acquire land for investment purposes. Reports indicate that foreign investors are purchasing land directly from individuals who hold it under customary tenure. Once the buyer and seller agree on a price, the seller surrenders the land title to the Commissioner for Lands, who then reissues it in the name of TISEZA. TISEZA subsequently prepares a Derivative Right in favour of the investor. Some investors acquire unsurveyed land, carry out land use planning and surveying, obtain the necessary approvals, and then surrender the land to TISEZA to receive derivative rights. Interestingly, there is no provision in the law that explicitly permits investors to independently search for land for investment purposes nor is there any clause that prohibits or restricts them from doing so. This legal silence has created a loophole in the system.

Section 6(0) of the Investment and Special Economic Zones Act, 2025, explicitly states that the Authority is responsible for providing, developing, leasing, and maintaining investment sites, estates, or land. This provision clearly designates the Authority as the sole entity mandated to handle all matters related to investment land. Therefore, TISEZA should remain the exclusive body responsible for managing land intended for investment purposes in the country.

Land Acquisition Methods

In Tanzania, land can be acquired through various means, including grants, inheritance, purchase, or by clearing unused land et cetera. However, non-citizens are not permitted to be directly granted land, except under the Investment and Special Economic Zones Act, and solely for investment purposes^[39]. Foreigners may access land through lease arrangements, joint ventures, or by establishing companies in which Tanzanian citizens hold a majority share of at least 51%, thereby allowing the company to obtain a granted right of occupancy.

The government also has the authority to compulsorily acquire land for the public interest. Under the Land Acquisition Act, CAP 118 R.E 2019, the President is empowered to acquire any land deemed necessary for public purposes, including investment projects considered to serve the public interest^[40]. To facilitate this, village land must first be reclassified as general land. This reclassification results in the extinguishment of customary land rights, making the land available for allocation to others. Consequently, this process can lead to the displacement of indigenous communities who traditionally hold land under customary tenure.

Conclusion

It is statutory requirement to Tanzania Investment and Special Economic Zones authority to provide and develop land banks for investments in the country. However, the shortage of land banks under the authority has compelled investors to approach indigenous communities directly many of whom hold land under customary tenure and acquire land for investment purposes. This practice has led to conflicts in rural areas and threatens the security of customary land rights. Today, local populations are increasingly aware of their land rights, and as a result, some villagers are refusing to sell their land due to concerns over unfair or delayed compensation. A notable example is the Kipawa case in Dar es Salaam, where land and property were earmarked for expansion of the Mwalimu Nyerere International Airport. Although the valuation process was completed in 1997, compensation was not paid until 2010 highlighting significant delays^[41]. In such cases, compensation paid years after the initial valuation is often inadequate and fails to reflect the current market value. Situations like this typically led indigenous landholders to resist selling their land. In response, the government may intervene and acquire the land compulsorily under the justification of serving the public interest. As a result, indigenous communities are dispossessed of their land, with limited or no avenues for appeal. This process poses a serious threat to the security and sustainability of customary land tenure.

Recommendations

The study recommends amending the laws governing land issues including land banking in Tanzania to address the following shortcomings;

- a. The Investment and Special Economic Zones Act, 2025 along with other land-related legislation, should establish clear restrictions preventing foreign investors from independently approaching villages to acquire land for investment purposes. The current practice where investors directly engage with local communities to secure land and later present sales agreements to the

TISEZA for approval and access to incentives is problematic. This approach poses significant risks to indigenous communities, particularly customary landholders, by undermining their land rights and exposing them to potential exploitation. Moreover, it has led to a rise in land disputes between investors and local residents. These conflicts often result in delays in project implementation and, in some cases, have escalated into violent confrontations, leading to the destruction of property and even the loss of lives. To safeguard both community interests and investor confidence, a more structured, transparent, and legally enforced land acquisition process is urgently needed. Legal reforms should ensure clarity, transparency, and protection of rights for all stakeholders, particularly customary landholders and local communities.

- b. The government, through the relevant ministry, should allocate adequate financial resources to the TISEZA to enable it to effectively carry out land acquisition activities. The process of acquiring land is resource-intensive, as it requires compensating landowners fairly, conducting thorough land surveys, and ensuring proper registration and titling of the acquired land. Without sufficient funding, TISEZA faces significant limitations in securing land for investment purposes, which hampers its ability to support national development goals. Therefore, a well-planned and sustained budgetary commitment is essential to ensure the authority can fulfill its mandate efficiently and equitably.

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