

LAND RIGHTS MONITORS AND THE STRUGGLE FOR LAND RIGHTS IN AGRICULTURAL INVESTMENT AREAS: EXPERIENCE FROM TANZANIA

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1.0 Introduction

To ensure that there is sustainability at the community level in its land rights and governance training programme, Land Rights Research and Resources Institute (HAKIARDHI), a Tanzanian national level organization that spearheads land rights of small-scale producers, uses land rights monitors (LRMs) in its program areas. In each of the selected villages of the program districts, two LRMs (a man and a woman) who have received land rights training from HAKIARDHI are democratically elected by villagers. The LRMs are given extra training on facilitation skills, human and environmental rights, advocacy and lobbying strategies in order to enable them to continue the work that HAKIARDHI has started in their respective and surrounding villages.

HAKIARDHI is not the only organization in Tanzania that uses selected villagers to sustain its work. Action Aid Tanzania uses *community development facilitators (CDF)*, *Mtandao wa Vikundi vya Wakulima Tanzania (MVIWATA)* - a network of small-scale farmers' organizations - uses *promoters*, and the Legal and Human Rights Centre uses *human rights monitors*, to mention just a few. Whilst HAKIARDHI cannot therefore claim to be the first to use local monitors, the selection procedures used are uniquely gender sensitive and democratic.

The object of this paper is to highlight the work of LRMs in large-scale plantation investment areas in Tanzania, the challenges they face in their struggle for land rights and some success stories. The paper demonstrates the significance of gender and the different approaches employed by women and men LRMs in their work, and how gender impacts the results of their work. The paper argues that LRMs have played an important role in demanding free, prior and informed consent in land deals with investors. The paper further illustrates the role played by LRMs in promoting equitable and socially responsible investment that respects the rights of local communities.

2.0 Methodology

Three districts, namely Kilombero in Morogoro region, and Rufiji and Kisarawe, both in Coastal region are selected as case study areas. These districts are chosen because HAKIARDHI has worked and established networks of LRMs in these areas since 2009. However in some districts such as Kilombero and Rufiji, HAKIARDHI had established a network of LRMs since 2008. Moreover these three districts are among the districts with the highest rate of large-scale agricultural investments in Tanzania.

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This paper was informed by documentary information from the library of HAKIARDHI, covering a three-year period from 2010 to 2013. During this three-year period, quarterly reports were regularly submitted by LRMs from the selected districts to HAKIARDHI. The documentary evidence was supplemented by further interviews with LRMs to clarify information that was not detailed in the reports. Four LRMs (two men and two women) were interviewed through mobile telephone in each district. This make a total of twelve LRMs interviewed in three selected districts. The LRMs interviewed were those who hold leadership positions in the LRMs District Coalition on the basis that they have a general overview of the impact of the work of LRMs at a district level.

3.0 Selection of Land Rights Monitors and the theory of change

LRMs are elected by villagers who have attended land rights and governance training organized by HAKIARDHI. Land rights training is conducted in several stages but the particular training stage at which LRMs are elected is during ordinary villagers' training. Ordinary villagers' training is attended by villagers who do not hold any political, administrative, religious, or professional role at the village or outside the village. They are those villagers who ordinarily reside and earn their living in the village. The essence of this training is to raise awareness on land rights amongst villagers who are also members of the village assembly on land and governance issues. The training enables villagers to hold local government officials accountable through village assembly meetings. In this regard, LRMs are trained to be the agents of change for improving land governance at the village level.

Election is democratic through a secret ballot, after the initial selection process by participants in the training. An LRM is an individual who has demonstrated understanding of the subject of the training. Their understanding is measured through question and answer sessions and during group work sessions. Moreover, an LRM has to be willing to do his/her work voluntarily and with great confidence without fear or favor. It is insisted that an LRM must be willing and capable of attending other specific training sessions organized by HAKIARDHI outside their district. Before election of LRMs, HAKIARDHI makes it clear that no allowance will be paid to them and that they should remain part of their villages and respect the existing village authorities. They are encouraged to do their work on a voluntary basis and without any financial motive. This is important to avoid unnecessary conflicts of interest as they carry out their work.

Both male and female LRMs elected in a village become the bridge between HAKIARDHI and that village. They are introduced to the village government and the village government is requested by HAKIARDHI to give them their utmost cooperation. Similarly they are introduced and linked with district officials. Their primary work within the village is to provide legal advice to the village government and other institutions such as the village land council on various issues relating to land administration and management. They are also expected to train their fellow villagers through village assembly meetings or sub-village meetings. In the event they have a matter that requires more technical advice they contact HAKIARDHI officials who provide them with advice on such matter. LRMs are free to contact the district officials about any matter relating to land that needs their attention, advice or intervention.

Generally, LRMs are trained to be the agents of change working towards greater accountability and transparency on land administration at the village level. They also make the land rights governance program of HAKIARDHI sustainable as they continue the work that HAKIARDHI started in their village. Through their quarterly reports they keep HAKIARDHI informed on their struggles, successes and challenges.

4.0 The Role of LRMs in the struggle for land rights in agricultural investment areas

This section highlights the role and struggles of LRMs in areas of agricultural investment in demanding free, prior and informed consent of the local communities in negotiations overland deals; and in promoting equitable and socially responsible investment that respects the rights of local communities. The agricultural investment areas highlighted in this paper are areas where LRMs have demonstrated a significant contribution to their communities in overcoming challenges on land investment issues.

4.1 Demand for due process of law in land allocation

The Land Acts of 1999 provide legal procedures which must be followed before land may be allocated for investment purposes. Such procedures include consultation with land-holders and respective authorities, valuation of assets, and compensation of land-holders. In some cases, investors have not followed the due process of law in land allocation, which has led to violations of the rights of land-holders. In Kilombero District, Mr. Bonaventure Mpole, LRM of Lukologo village reported:

In September 2008, together with other LRMs in Kilombero we started making a follow-up of Kilombero Plantation Limited (KPL)- the investor who demolished houses of villagers in Mkangare, Mngeta, and Lukolongo villages without paying compensation. About 120 houses were demolished in the name of expanding large-scale farming investment. We started by training villagers on the process of land allocation and their rights through village assembly and sub-village meetings. Then we mobilized them to demand their rights. We involved district officials in the struggle. By October 2010, 120 houses were built and villagers were compensated by the investor.²

Mr. Bonaventure continued his narration by highlighting another case;

In 2009/2010 ILLOVO company wanted to take 12 block farms from Idete, Mofu, Namwawala and Mbingu villages. The company made arrangements and entered into a contract with the village governments without involving the villagers. We formed a committee of 12 members after getting hold of one of the contracts. We instituted the case in the High Court Land Division in Dar es Salaam and started involving the District Commissioner and Regional Commissioner on the matter. We were advised to withdraw the case from the court so that the matter could be discussed by district and regional officials. In February 2011 ILLOVO suspended their plan and the matter was resolved.³

² Interview 15 February 2014

³ Ibid

Mr. Suleiman Puga, LRM for Kisanga Village in Kisarawe village told of how the villagers had successfully reclaimed their land from investors. The land in question was allocated to local investors by the village chairman and village executive officer without due process of law in the 1990s.

After I was elected LRM in 2011, I mobilized other LRMs and we started to reclaim a big portion of our village land which was taken by investors. Sadly the land they took was not developed while villagers do not have enough land for farming. We formed a committee of four people to file complaints at the district office and the Ministry of lands. We presented evidence showing that six investors did not follow the process of law to get land in Kisanga village. After a long struggle, in early 2013 we managed to reclaim the land from four investors- we have official letters from the Ministry and District to prove this. We still continue to make a follow up at the Ministry to ensure that we get land taken by two of the investors.⁴

In Rufiji District, there is ample evidence showing that the Rufiji Basin Development Authority (RUBADA) has facilitated land deals for investment (Mwami and Kamata, 2011). LRMs have worked hard to ensure that procedures of land allocation for investment purposes are followed. Mr. Mussa Mkiu, LRM for Ruwe village in Rufiji district aptly captures this;

In October 2012 RUBADA officials came to our village to insert new beacons. Beacons show that the area is under their control. We reported the matter to the District Commissioner who promised to visit our village. We also reported the matter to the Ministry of Lands complaining that villagers were not involved in the process and were not aware of what RUBADA was up to. In May 2013 we received the letter from the Ministry of Lands which assured us that the Ministry is unaware of the new beacons because they have not been approved by the Director responsible for survey and mapping. With the support of the officials from the Ministry of Lands, District Land Department and District Commissioner we managed to stop RUBADA from invading to our village land.⁵

The role of LRMs in Kilombero, Kisarawe and Rufiji districts has not been limited to the geographical boundaries of these districts. In Kilombero district, LRMs have created a good relationship with the local radio (Radio Pambazuko) and they have regularly been given free airtime to give education on land rights. This has increased demand from neighboring districts, where they have been asked to go to train villagers. Mr. Frank Madenge, LRM for Mbugwe village in Kilombero District substantiates this:

We were requested to go to Mufindi District and specifically in Chogo and Ligema villages. In Chogo village, Green Resource Limited (GRL) took 3500 hectares in 2009 for tree plantation without paying compensation. We trained villagers and conducted several meetings with the District Commissioner and the Director of GRL. After a long discussion and follow up, both investors and the District Commissioner supported us. The

⁴ Interview 14th February 2014

⁵ LRM Reports dated 11th October 2012 and 27th May 2013

District Commissioner insisted that we meet with the District Land Valuer who was assigned to value the land for compensation. On 4th February 2014 all required details were taken from the victims and we hope soon they will be compensated. On the other hand in Lugema village MWATC Company was allocated 330 hectares in 2006. The company gave each victim (of the 16) 600,000 Tanzanian shillings as compensation. There was no justification showing the standard used to arrive at such flat rate payment. After training villagers we decided to report the matter to the District Commissioner who made a follow-up with the company. We wanted to file the case in the court but the investor was willing to negotiate an amicable resolution. In October 2013 the District Commissioner told me that he had sent a team of experts to value the land for compensation. I have not made a follow-up this year.⁶

4.2 Promoting equitable and socially responsible investment

This section highlights some of the cases that show the attempts of LRMs in negotiating land deals in a way that promotes equitable and socially responsible investment. Mr. Bonaventure continues his narration on how they managed to change the contract with KPL for mutual benefit;

In 2010 we changed the contract and insisted that KPL pays three villages a total of 50 million Tanzanian shillings every year as the contribution in development projects. In the contract it is clear that Mkangawalo village will receive 32 million, Lukolongo village 7 million and Mngeta village 11 million. So far the payment for 2011/2012 and 2013/2014 was already paid.⁷

In Rufiji District LRMs have been advocating for participatory land use planning before allocating the land to the investor. This, in their view, will ensure that the village government makes an informed decision on the size of land to allocate and where to allocate without jeopardizing ecologically sensitive areas and ensuring land use for future generations.

Mr. Sadiki Kibugo, LRM for Mchukwi village in Rufiji District said this:

There was investor by the name of LAT who wanted 500 acres in Mkongo village. But before we accept his request we conducted a land use plan. After this process there were only 80 acres available for investment. He lost interest and left. We were happy because our decision was well informed.⁸

Similarly, Mr. Mussa Mkiu, LRM for Ruwe village in Rufiji District said:

There was investor who came a few years ago. He wanted 10,000 acres for Sugarcane plantation along Ruwe pond, and we were willing to give him land in another area but not along the pond because sugar is a water-intensive plant. Furthermore we wanted to lease

⁶ Interview 22nd February 2014

⁷ Interview 15th February 2014

⁸ Interview 17th February 2014

land to this investor for a shorter period upon which he had to fulfil some contractual conditions. The investor was not happy with our conditions and so he left.⁹

LRMs have greatly influenced decisions that have benefited rural women and men in negotiating land deals and in ensuring accountability in land administration. The process starts with training to give them the power and confidence to ask questions based on the knowledge they have acquired. The second stage is *movement building*, which helps them to reach decision-makers and investors. Through movements LRMs have grounded land activism at the grassroots level and have built stronger and united efforts to address challenges facing the land sector. It has not been easy; some have made sacrifices on behalf of their fellow villagers. Mr. Bonaventure said the following in this regard:

In October 2010 when ILLOVO discovered that we got the contract, they harassed us. Two of my colleagues were remanded. I managed to escape their trap and contacted some lawyers who assisted to get bail for my colleagues. ... In June 2010, when Mr. Aloyce Massanja, the director of RUBADA, came to address Lukolongo village assembly he said villagers stole the land that belonged to KPL. The village assembly was angered by his statement and decided to leave the meeting. On our way home we asked Mr. Massanja to give us a ride because his car was to pass near our village. He agreed but when we were half-way he stopped the car and dropped me. Someone must have told him that I was the one who trained villagers. It was 4 p.m., I had to walk for 12 Kilometers that day.¹⁰

Other challenges relating to their work are lack of funds, due to the fact that they pay all their travel and meal expenses, increased demand for their intervention in many areas at once, and lack of cooperation from village government and some district officials. Mr. Mussa Mkiu from Rufiji said:

Everyone knows me, at the village level, the district office, and RUBADA top officials. They hate me because I know the law and I am training people. In fact villagers call me "the village lawyer". Those with good intentions like my work and all villagers support me. They have elected me to be the member of the village land use committee because they value my contribution.¹¹

The work of LRMs in the regions where there are large scale investments is not easy. It is difficult and risky. Sometimes their own security is at stake because there are competing interests of investors, the government, and those of the local community. The UN Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya in her last report to the UN General Assembly (Oct, 29, 2013) captured this correctly in these words: *'human rights defenders working on behalf of communities affected by large-scale development projects are*

⁹ Interview 17th February 2014

¹⁰ Interview 15th February 2014

¹¹ Interview 17th February 2014 Mr. Suleiman Puga, LRM for Kisanga Village in Kisarawe was also elected the village chairman in recognition of his contribution in "reclaiming the land" during struggles in his village.

increasingly being branded 'anti-government', 'against development' or even 'enemies of the State.'

5.0 Gender roles of Land Rights Monitors and the struggle for land rights

A man and woman LRM is elected in each village in the program districts of HAKIARDHI. This is done to ensure equality of gender representation and to recognise the diversity of approaches to the role of LRM, to ensure that both rural men and women benefit from land-based resources that are in the village. Although the available documentary records indicate that men LRMs are more active than women LRMs in all three districts, the role of women LRMs is of equal importance to that of men LRMs. For example, while male LRMs have preferred village assembly meetings and sub-village meetings as platforms to provide land rights education, women LRMs have preferred focus group discussions, door-to-door, and women small entrepreneur groups to provide land rights education.

The challenges that are faced by women and men LRMs are quite different. Reproductive and family roles have hindered women LRMs from performing their work. Records show that once a woman LRM is married it is likely that she will not be very active compared to when she was not married. In 2012 a husband of an LRM from Mihugwe village in Kisarawe district called HAKIARDHI and insisted that he did not want his wife to attend training sessions or go to any event in Dar es Salaam. In Kilombero District, Ms Asia Kikoti, LRM for Lukolongo village was forbidden to work with HAKIARDHI by her husband, who was the member of the village government, after he was implicated in corrupt land deals by villagers. However, Ms Kikoti continues to support male LRMs financially so that she can reach as many people and villages as possible. In Rufiji District, a woman LRM said that her husband could not allow her to ride a bicycle with another man (male LRM) for over 5 kilometers. Male LRMs who were interviewed said that women LRMs are not very active in the field but have supported them financially and in report writing.

Ms Amina Kondo, LRM for Michenga village in Kilombero District had this to say:

When I was elected LRM my village government cancelled my membership position in the village government. I did not mind, in fact I was so happy because they made me free. Since then, I have managed to resolve many land cases. The number of land cases at the Ward Tribunal has dropped because I resolved them out of court system. People know me and they come to me whenever they have a land conflict. There was one instance when some elders refused to allow me to resolve their dispute on the ground that I am young and that I am a woman. However, I used some of the provisions in the law to argue and insisted that the court process is very expensive and time consuming. They agreed and we managed to resolve the matter. HAKIARDHI has made me very confident., With the knowledge I have I can face any challenge as a woman.¹²

Though married women LRMs are not active there are still possibilities for them to improve their effectiveness. HAKIARDHI can consider orienting husbands of women LRMs on the work of their wives and

¹² Bunga Bongo, 2012. Interview 14th February 2014.

appeal for their support. HAKIARDHI can also work closely with the Village Councils in improving the work of women LRMs. Furthermore, a forum of women LRMs can be created by HAKIARDHI so that they can have a platform to discuss challenges they are facing and ways to improve their work.

Tanzanian land laws are hailed as being progressive in protecting the rights of women (Knight, 2010). Women and men have equal rights to access, use and own land in Tanzania.¹³ However, gender discriminatory aspects of the traditions and customs of Tanzania's 120 ethnic groups have been an impediment toward that progress. Using male and female LRMs is a step toward building gender equality that can enable rural men and women to benefit from land-based investments.

6.0 Conclusion

Four general lessons for success in the work of LRMs can be drawn from this discussion. First, LRMs have a particularly strong impact when they work in coalition, making it harder to intimidate LRMs as individuals when they encounter resistance. In all the cases discussed here, LRMs have worked as a group to influence change. However, coalitions require strong coordination and clear frameworks to unite and guide them. Second, collaboration with the government and private sector is important. In each case here LRMs have managed to build good relationships with the government and investors and have resolved conflicts through negotiation.

Third, there is a need for protection of LRMs. Though there are no concrete cases which shows that LRMs were threaten in the cases discussed in this paper. The fact that their security is often at stake when their interests are not in line with the interests of investors, government officials or the political class need not to be overemphasised. This calls for the need to advocate for a legal framework which will provide for the rights and protection of the human rights defenders in Tanzania.

Fourth, the policy implications of LRMs in Tanzania. Very few villages out of approximately 13,000 villages in the country have LRMs or similar type of resource person. Since this initiative by HAKIARDHI has shown good results, it is important for all villages in Tanzania to have such resource persons in order to improve accountability in land governance at the village level. For this to work, NGOs need to team up with the government to roll it out over the entire country.

¹³ Section 3(2) of the Land Act No 4 and the Village Land Act No 5 of 1999.

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