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THE INCIDENCES OF CORRUPTION IN THE LAND SECTOR

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EXECUTIVE SUMMARY

Tanzania like many other countries in the world is faced with the problem of corruption in both the public and private sectors. In recognition of this problem, the government has made the war against corruption one of its main priorities. Land sector is one of the sectors with a serious problem of corruption in the public service delivery. This study is confined into finding out the loopholes for corruption in the land sector in its main four core functions of land delivery service; survey and mapping; human settlement and housing development as well as proposing the ways of controlling corruption in this sector.

Section one provides a conceptual background of the study in question; explaining in details the functions and output of each category in the land sector. The section clearly specifies the objective of the study and providing the definitions of the main terms covered. It also summarizes the available existing information on land planning, survey, mapping, management, valuation, ownership and development from various reports, publications, laws, policies and regulations.

Section two elaborates in details the findings of the study obtained through interview with experts in the Ministry of land, regional secretariats, municipal and districts land offices, political leaders and individuals from the general public concerning land matter in study. The issues of corruption revealed were categorized into those faced in the rural areas and in urban areas.

While in the rural areas, loopholes for corruption were identified in the matters concerning the increased village land value, pastoralists conflict with farmers, village land occupation by non-villagers, expansion of town and government reluctance in dealing with bogus investors; in urban areas corruption in land sector occurs due to shortage of man power and equipments resulting to inability to meet land service demand, lack of stakeholders participation in the planning process, unnecessary delays in approval of plans, consent for transfers of rights, behavior of some land officers and political interventions.

The third section goes into detail looking at the legal environment; pointing out the strengths and weaknesses of each law relating to land sector in cubing corruption. The New Land Act, No. 4 and Village Land Act, No. 5 of 1999 proves to be strong in fighting corruption through the facilitation and regulation of land market operations, protection of majority public interest, full, fair and prompt compensations, empowering and participation of grass root in the land management and the introduction of the checks and balances in land management and development. The Land Acts, No. 4 and 5 of 1999 have shown weaknesses as the opportunity for corruption in failure to make the land officials ready to accept changes in new land laws and policies.

The last section proposes the strategic objectives to combat corruption in the land sector. Some of these strategic objectives includes; increasing public sensitization on the new land laws and anti-corruption behavior to all land officers, establishing and implementing tight code of ethics to land officers, revision of salaries and promotion to land sector staff, introduction of customer charter, revision of anti-corruption laws and establishment of whistle-blowing officer in each unit of land sector as a source of monitoring.

1.0 INTRODUCTION

1.1 Background

War against corruption is one of the priorities of the Government of Tanzania. Despite various measures taken by the government to combat corruption including prosecuting many corrupt officials; it is still a serious problem in the country. The fight continues and this study is part of the on-going war against corruption.

The land sector, which is composed of four core functions: namely land delivery services, surveys and mapping, human settlement and housing development is recognized by the general public as one of the area where corruption is prevalent. It has been noted that as a result of rampant corruption, the land sector has not been able to render prompt and efficient services to the general public.

The study focuses on detailed activities of each core department where corruption is most common through using indicators given under the definition of corruption in this study. The land delivery services have four areas where corrupt practices are common. These are land allocation (new allocations, revocations and transfers), preparation of titles, land valuation and registration of titles and other documents.

This sub sector is the most inefficient and is unable to provide prompt services. The most important outputs to the public are title deeds, valuation reports, and registered documents. For a long time, an average citizen has not been able to obtain titles on time.

The survey and mapping sector has two areas of corruption; land survey process and approval of survey plans. Corruption emerges due to lack of transparent service charge mechanism. Survey officials demand payment for services they offer while in fact all such dues are paid in full when one processes the letter of offer. Extreme red tapes and delays exist in approval of survey plans and preparation of deed plans. Often times extra payments which are not officially documented are again demanded.

The land use planning process in urban areas is also not free of corruption due to lack of transparent systems, conflicts with the local government reforms and lack of innovative approaches. The increasing unplanned settlements in urban areas show that the planning process does not respond to effective demand. Planning is promptly done in areas where kickbacks have been offered. The approval process of urban detailed plans is tedious, slow and compels the public to pay for undocumented money to officials to speed up the process.

The housing sector is crippled in both urban and rural areas and has been left unattended by the government. Presently housing is mainly a private affair with no guidance from the government. The increasing unplanned areas are the output of unguided housing development. The past efforts looked at National Housing Corporation as the sole provider of houses. The corporation failed to deliver the services because of corruption on housing allocation and uncollected house rents. Individual gains in this sector have tuned government officials not to respond to effective demand.

Expected services from the government have collapsed such as appropriate policies, supportive, effective and efficient housing finance, and facilitated housing supply. The private sector needs to be guided and mobilized in housing development especially in urban areas. Corruption has crippled this sector and made the government an observer of housing developments. A clear indication of the entrenched corruption in the housing sub-sector is the construction of houses using cash by all house builders in urban and rural areas.

1.2 Objectives of the Study

The main objective is to study in depth corruption in the land sector.

Specific objectives are:

- To find out where and how corruption takes place in the land sector in the main four core functions of land delivery services; surveys and mapping; human settlement and housing development.
- To propose strategies and ways of controlling corruption in the land sector.

1.3 Definitions

Corruption

Corruption is defined as an illegal use of public office and interest for personal gains. It includes bribes, illegal gratitude, conflict of interests, economic extortion, embezzlement of public funds, fraudulent financial statements, kick backs etc.

Important features of corruption are conferring, or offering or agreeing to confer, an advantage; obtaining or soliciting or agreeing to obtain an advantage; corrupt performance by an agent of his or her functions as an agent; and receipt by an agent of a benefit which consists of, or is derived from, an advantage which the agent knows or believes to have been corruptly obtained.

Land

Land is a delineable area of earth's terrestrial surface, encompassing all attributes of the biosphere immediately above or below this surface, including those of the near surface, the soil and terrain forms, the surface hydrology (including shallow lakes, rivers, marshes and swamps), the near-surface sedimentary layers and associated groundwater reserve, the plant and animal populations, the human settlement pattern and physical results of past and present human activity (terracing, water storage or drainage structures, roads buildings, etc) (FAO 1998).

Land tenure system

It is a system of land ownership and interest in land, which is usually held by private individual, community and the state. The land tenure system defines various rights over land to interested parties. Land is held under two types of tenure in Tanzania; Statutory granted land and customary land ownership. Statutory rights over land are granted by the state to companies, persons, associations etc for a lease of 33, 66 and a maximum of 99 years. Customary land rights are deemed rights derived from the customs of a tribe. One important feature of the customary right is that it has no time limit. Majority of Tanzanians own land under this land tenure system. The Village Land Act No. 5 of 1999 translates the customary land ownership into written documents called 'Hati ya Kumiliki Ardhi ya Mila'. The aim is to improve the

security of the customary right of land ownership to be equal to the certificate of right of occupancy, normally granted by the Commissioner for Lands.

Resource tenure

It is the legal rights vested to various interested parties to own, use and dispose off resources. Resources may be natural, human, institutional or social. Natural resources include land, water, air, genetic materials and ecosystems.

Human resources include knowledge, science, culture, health and nutrition. While Institutional resources include schools, universities, research facilities and infrastructure. Finally, social resources embrace democracy, good governance, civil rights, equity and social harmony.

Property rights

Property is the wealth held or resources possessed by state, private individuals and community. There are movable and immovable properties; land is an immovable property. Therefore, property rights are rights to real estate or personal things.

User rights

These are legal rights to occupy and use resources for a period. For example, a user right to use a piece of forestland may be granted to a person for a period of a maximum of one year less to the period granted to the main owner who normally has a right of occupancy of say 99 years. In the New Land Act No.4 of 1999, the user right is defined as a derivative right. It is a derivative right because the user has derived his/her rights from the actual owner, who is recognized by law having the full ownership rights of the resource. The customary law in patrilineal system recognizes women to have usufructural rights on land. Women have rights to cultivate and utilize it for production of goods and services but no rights to own land.

1.4 Scope of the Study

The study went through the following stages:

- Collection and analysis of the available existing information on land planning, survey, mapping, land management and valuation, delivery and property rights registration in Tanzania since colonial times.
- Review of relevant studies and reports on land planning, management, surveying and allocation of land and landed property. Reports include studies by the World Bank 1992-1995, Dr.Issa G. Shivji report 1993, Warioba Commission report 1998, Good Governance reports (Local Government Reform, Rural Development Strategy and Poverty Reduction Strategy), Medium Term Expenditure and Public Expenditure Review reports by Economic Bureau 2002.
- Assessment of the Ministry of Lands and Human Settlements Development efforts to combat corruption.
- Review of relevant legislations particularly on their applicability and adequacy.
- Consultation with selected specialists in the ministry of lands, municipal and District councils on the adequacy and value of the existing efforts to combat corruption on land management.
- Consultation with grass-root people in urban and rural areas on the behaviour and commitment of the Government officials on the implementation of Land Act No.4 and Village Land Act No.5.
- Compilation of a situation analysis report with details on the extent of the existing information and main findings of the study.
- Development of quick wins and medium term wins strategies and action plans as a review of Ministry of Lands and Human Settlements Development Strategies to be implemented through the National Anti-Corruption Programme.

1.5 Methodology of Study

Literature Review

Prior to fieldwork, available literature of the subject matter was studied, in order to understand aspects of corruption on land planning, management, surveying and allocation of property rights that encompassed the following:

- Past historical records of land tenure and uses
- Land ownership (land law Caps 113,114, 117 and New Land Acts 1999)
- Contract law
- Land Registration Ordinance CAP 334
- Inheritance law
- Customary law
- Survey Ordinance CAP 390
- Natural resources laws e.g. wildlife, forestry, minerals.
- Town and Country Planning Ordinance CAP 378
- Presidential Commission of Inquiry in Land Matters Report 1993(Shivji)
- Presidential Commission of Inquiry against Corruption 1996 (His Lordship Justice J. Warioba)
- New Land Laws Implementation Programme 2000
- National Housing Programme for 2002 to 2007
- Public Expenditure Review 2002(Ministry of Lands)
- The Prevention of Corruption Act No.16 of 1971
- The Economic and Organised Crimes Act of 1984
- The Leadership Code of Ethics Act No.13 of 1975

Collection of information in the field

- Fieldwork visits to 8 Municipalities (Ilala, Kinondoni, Temeke, Morogoro, Iringa, Moshi, Tanga and Arusha), 4 towns (Songea, Mafinga, Korogwe and Hai), and 5 Villages (Kambala, Msolwa, Msindo, Lumecha and Namwawala) was made to collect relevant information regarding land disputes and conflicts that had clear features of corruption. Semi-structured

questionnaire and checklists to interview and get information from stakeholders was administered. A participatory reflection appraisal approach was used to enable stakeholders identify issues of corruption and provide proposals to combat corruption in the land sector.

Analysis and Report writing

During the analysis process the consultants used the strengths, weaknesses, opportunities and threats analysis and ranking method to come up with the key corruption issues in the land sector. The ranking is according to the felt corruption problems to the stakeholders. Logical framework analysis was used to develop strategies to tackle corruption problems. The strategies were analyzed in relation to the Ministry's missions, and outputs.

2.0 FINDINGS FROM SEMI STRUCTURED INTERVIEWS WITH EXPERTS, POLITICAL LEADERS AND GRASSROOT STAKEHOLDERS

Interviews with experts at the Ministry of Lands; Regional Secretariats, District and Municipal Offices, together with various political leaders and individuals concerning problems on land administration revealed the following issues that have a bearing on corruption. The issues are categorized in rural and urban areas as follows:

2.1 Rural Areas

2.1.1. Pastoralists Conflict with farmers

The growing conflicts between pastoralists and peasants on village land have been found to be fuelled by corrupt practices by pastoralists, district and village leaders. The survey in Msolwa and Namwawala villages in Kilombero District and Kambala village in Mvomero District represents the following corrupt behaviours:

- While it is true and in line with the Country's laws that pastoralists must obtain movement permits from district officials before moving and settling from one place to another; it was observed that pastoralists use bribes to obtain the permits from district officials. The permits are issued without prior consultation with the village authorities at their destination.
- With or without movement permits some migrating pastoralists enter and settle on village land of their choice and bribe the village leaders to get permits to settle and graze their cattle in the village without consent of the village assemblies as required by the Village Land Act (1999).

Livestock keepers being relatively richer than farmers use their economic power to win the approval of district and village leaders in their favour. As a result, clashes occur between pastoralists and farmers in such areas.

2.1.2 Increased village land value

The value of land has gone up in some villages in recent years; villagers and leaders are aware of this and hence there is an increase in land transactions. The new land Acts, No. 4 and 5 have stipulated how land transactions should take place. According to the Village Land Act, no land may be sold without the consent of the village assembly. Unfortunately many villagers are not yet aware of their rights, powers and responsibilities on village land management as conferred upon them by the Village Land Act No. 5. As such, corrupt village leaders, engage in illegal land transactions including direct sale and authorization of purchase or disposition of land without following the laid down procedures.

2.1.3 Laxity of the Government in dealing with bogus investors

The Parastatal Sector Reform Commission has of recently sold commercial state farms to foreign and local investors. The purpose behind the sale was to revive sisal and coffee production through the private sector initiatives. All those state farms have statutory titles and hence are categorised under general land administered by the Commissioner for Lands.

There has been a bitter complaint against investors who have taken up sisal estates through the Parastatal Sector Reform Commission (PSRC) but have not taken efforts to start developing them. Farms taken by Chavda and those bought by Katani limited in Tanga were cited as good examples. It is reported that some of the investors have gone to the extent of vandalizing farm facilities like buildings, electricity generators and workshop equipment. Yet the government does not take any steps to ensure that such things do not occur and the farms are revived.

One of the major outcries of the people in Korogwe District is the shortage of village land. As the population is increasing village land which commercial farms with titles have squeezed up remains the same. People are getting concerned that while the villagers have no land, the investors are keeping land idle; vandalising the infrastructure and sub letting pieces of land for small scale/middle growers of maize and other food crops. In case where the government through PSRC has agreed to

excise some part of the estates, the unsuitable, inadequate and fragmented land has been given to villagers. Both breach of conditions of the titles and poor response to the villagers land needs are happening without due concern by neither PSRC nor the Commissioner for Lands. Inaction to these malpractices and the villagers out cry reflect the existence of corrupt relationship between buyers and some government officials.

2.1.4 Occupation of Village Land by non-villagers

There were cases reported whereby the government has issued village land to investors before full, fair, and prompt compensation had been paid to affected villagers, as the new Land Acts require. In Babati district people complained that they were not fairly compensated by TANESCO which acquired their properties to give way to the high power transmission line. Investigation carried out showed that valuers were not consistent in pricing some crops. Some people were paid higher prices than others for the same type of crops; contrary to the compensation schedules that provide the same prices for the same type of crops.

Higher authorities have also been reported to interfere with village authorities in land allocation procedures. In Rauya village – Moshi rural district, a private company is said to have been allocated 15.5 acres of village land by district authorities without obtaining the consent of the village assembly. Villagers have bitterly opposed the move and a conflict looms between the villagers and the district authorities.

Another case of attempts by outsiders to occupy village land with support of some government leaders was discovered in Kambala village in Mvomero District- Morogoro Region. This village comprises of Maasai pastoralist, but also have farming landowners most of whom reside in Morogoro Town. This farming community with support of some district and regional officials with vested personal interests are pressing for division of Kambala village into two villages. This idea is not acceptable to the pastoralist community and is also contrary to the Village Land Act and the Local Government Act No. 7 and 8 of 1982. The way the matter is handled by the officials ushers in the presence of corrupt motives.

In Hai district one of the unresolved problems is the dispute that occur between farmers and livestock keepers at ex-Somali Settlement and areas around Kilimanjaro International Airport. Government official's interests in the land, perpetuate the dispute. The main dispute here is lack of solid decision of the government on land that has been improperly revoked without paying compensation and allocating it to historical conservation. Somalis are demanding compensation while the Maasai are occupying that land without proper allocation from the government.

2.1.5 Transitional areas and Expansion of Towns

The expansion of the towns engulfs villages around them without a proper strategic plan. Towns are expanded without appropriate compensation being paid. The expansion takes good agricultural land, which is a source of food to most urban dwellers. The government does not tax illegal land transactions taking place in peri-urban areas and urban landowners do not pay land rent. This has rendered their tenure insecure. The peri-urban landowners cannot claim to own land under customary law because those owners buy land from the indigenous people and formulate heterogeneous or mixed tribes community with different customs. This environment provides a loophole for corrupt land transaction and administration.

2.2 Urban Areas

2.2.1 Lack of stakeholders participation in the planning process

Lack of participation of stakeholders in the planning process has been mentioned in many instances as one of the major reasons for non-implementation of many general and detailed schemes prepared by urban planners. The top-down approach applied by most of the town planners has its roots in the Town and Country Planning Ordinance of 1956, which is still in force to date.

Whereas the Ordinance provides that a preparatory authority must serve notice on landowners concerned on the intention to prepare such planning schemes; and allow them an opportunity to present their own proposals; however in accordance with the same ordinance it is not obligatory to the preparatory authority to adopt a scheme

prepared by land owners. In other words, people have no final say to the planning scheme. Compensation to such people will be paid whether or not they are willing to quit from their land. It is in this due process of law that corrupt practices do occur through dubious preparation of planning scheme and compensation schedules; and malpractice of accommodating the existing structure such as houses in the plans.

Such cases have been reported in Dar es Salaam and in other towns where land value has yet to be realised. In Morogoro, Moshi, Hai and Arusha Urban areas, landowners have resisted such plans for reasons that their implementation would deprive them of their land rights. They argued that full, fair and prompt compensation is not paid and in the long run the plots usually end up being sold by land officers.

The following neighbourhoods have had the layout prepared but stakeholders have resisted implementation.

1. Moshi - Njoro, Kwa Mtei,
2. Hai - Block G, F, L, and M
3. Arusha - Sombetini, Sakina, Kijenge, Kimandolu and Themti
4. Morogoro - Kigurunyembe

The residents in unplanned urban areas have shown eagerness to contribute in the process of having their parcels of land planned, surveyed and titled but they say facilitation from the council, is not forth coming.

2.2.1 Shortage of manpower and equipment

Shortage of manpower, modern equipment and outdated technology are main problems that have maintained corruption in the land sector due to inability to supply land to those who wish to acquire it. Lack of base maps for small settlements, constrain the preparation of layouts and hence plot production. Local authorities requested the Ministry of Lands to build capacity to their offices and manpower to improve performance of the land sector.

2.2.2 Delays in approval of plans

The approval process for town plans and survey plans takes a long time at the Ministry of Lands. Approvals are instantly granted when close follow up and kickback offers are made by town planners and surveyors who brought the plans from the regions and districts. The kickback bills are pre-footed by clients in originating stations.

It has been reported that the Director of Surveys and Mapping office has introduced a system where jobs brought by private surveyors are treated on fast track basis as opposed to jobs submitted by government surveyors. This was testified by Hai District officials who said a survey that belonged to one Member of Parliament and which was done by a private surveyor was at one time approved within a very short time whereas a survey plan submitted by a government surveyor within the same period and for the same town took three years to be approved without good cause. It seems an official fast track service has been established in the survey department for private surveyors only.

2.2.3 Delays in the Process of the Certificates of Occupancy

Procurement of certificates of occupancy was reported as taking too long. In pursuance of the aforesaid some dubious means of trying to expedite the process has been designed. In Kilimanjaro, it is said that to solve this problem people have adopted a system whereby they contribute between Tzs. 20,000/= to 30,000/= for each certificate holder and hand it over to an agent who takes the certificates to Dar es Salaam. The agent once in Dar es Salaam uses the proceeds at the office of the Commissioner for Lands to secure the certificates signed quickly. That way the process takes shorter time than when they are left to be processed through the normal procedure.

Grassroots stakeholders said that the delays in the processing of certificate of occupancy are being fuelled by corrupt malpractices. Dar es Salaam was sited as an example where for one to get his certificate processed he/she should be ready to bribe

Tzs. 20,000 for the preparation of the deed plan Tzs. 10,000 for the certificate to be drafted Tzs. 5,000 for typing and Tzs. 100,000 to obtain the Commissioners signature. In total one has to part with TShs. 135,000 per certificate, on top of the official fees.

2.2.5 Behaviour of land officers

It was reported that land officers are only interested in allocation of plots where they access bribes. They have cultivated a habit of forcing clients or landowners to appear in person in their offices rather than attending to the files. Land allocation is just a small part of the duties of the land management. Other areas; such as enforcement of development conditions and processing title deeds are not attended by land officers.

Citizen's efforts to regularize unplanned areas have received no support from the Ministry. The Makongo residents for instance tried to draw their regularization plan for the area, but the Ministry has declined to approve it. Individual plans prepared in unplanned areas are approved with kickbacks.

2.2.6 Disposition and Land Valuation

The study revealed a situation where valuers make false identity of a parcel of land purported to be the subject property whereas it is not; Arumeru District is a case in point. Two Dar es Salaam based private valuation firms colluded with one businessman to swindle TShs. 2.8 billion belonging to Euro-Africa Bank. The valuation firms purported to have carried out a survey for purposes of valuation for mortgage of a farm called Lakilaki farm located in Arumeru district whereas in fact such a farm never existed. The report was used to secure a loan of Tshs.2.8 billion/=, which the businessmen took and reported to have disappeared with the money.

2.2.7 Double allocation

Double allocation cases have been reported in all districts where the study was carried out. Incidences of having one plot allocated to more than one individual are mostly done by land officials deliberately for not following allocation procedures; and motivated by personal gains. For example, Plot No. 20 Themis industrial areas in

Arusha Municipality represents a case where a plot was allocated to Arusha Technical College before the revocation and paid compensation to the previous owner. As a result the previous owner refused to allow the Technical College to own and develop the plot.

2.2.8 Consent for transfer of rights

It was reported that some land officers receive bribes so as to issue consent for a transfer of certain right of occupancy. The issuance of consent for disposition is also said to be another area where incidences of corruption occur. This is due to the fact that there are no clear-cut criteria under which the land officers base their decision to deny or give the required consent.

A case cited to justify corruption incidences that happen by way of transfer was a transfer by auction on properties where auctioneers colluded with the buyers to accept low auction prices of the properties. Live case cited here was an auction of a house on a plot where an auctioneer demanded a bribe from the owner of the house in order to sell it at a lower price than its actual market price.

2.2.9 Appointment of Authorised Officers and Incompetent land officers

Appointment of authorised officers by the Commissioner for Lands has been delayed and in some cases it has been made arbitrary. Tanga Municipal council, large and important as it is, has no authorized land officer. Anything to do with making or signing an offer of right of occupancy must be done by an authorized officer from Korogwe or Moshi. This self-created red tape is the source of corrupt practices by land officers in Tanga. The situation is neither very clear in Korogwe where the District land officer incharge is not an authorized officer. To the general public this creates confusion as to whom they should go to have their matters resolved. Land officers take advantage of such situations to solicit bribes from customers who are in a hurry and would want their issues dealt with immediately.

Unplanned and spontaneous growth of urban areas has been found to be fuelled by incompetent, corrupt staff posted to district councils. Ten cell leaders have been found engaged in demarcating and selling plots in the town outskirts.

2.2.10 Inefficient revocation process

Some of the interviewed pointed out that the revocation process of undeveloped plots takes too long to be cleared at the headquarters. Some suggested that the Regional Commissioners be empowered to revoke titles on behalf of the President. The undeveloped plots attract corruption as capable developers use corrupt ways to obtain them, corrupt land officers utilize such occasions to acquire bribes and reallocate the plot without due process of the law.

2.2.11 Illegal changes of use

Cases of changes of use, particularly the creation of residential plots on public open spaces, violation of building lines, invasion of open space in the central areas, erection of business stalls and garages on road reserves, haphazard mushrooming of petrol stations etc, is a very common phenomena in towns. Such situations constitute a failure on the part of planners and land officers to enforce the plans and regulations guiding urban development. The survey revealed that some of these contraventions had 'permits' from the authorities; and even for those not having permits the council's decision to collect taxes and other duties amounts to approval by implication.

In Korogwe town, this was attributed to conflict of mandates between the District Council and Korogwe Township Authority. Illegal changes of use resulting from conflict of mandates were also reported in Moshi Municipality. The Regional Administrative Authority has allocated a piece of land on road reserve to a Dar es Salaam company for construction of vodacom antenna contrary to urban regulations.

2.2.12 Allocation Committees

Contrary to the popular belief that plot allocation committees are fair bodies of plot allocation practice, there have been raised issues that such committees have sometimes been used as instruments of unfair allocations and as a shield against being held responsible for the unfair allocations carried out by it. It was reported that at one sitting of a certain allocation committee each committee member was given a chance of producing before the committee four names of the persons he wanted to be given plots without any regard to the list of applicants that was tabled before the committee by the secretariat. That offer meant that a substantial number of genuine applicants had to miss the plots and the plots were corruptly allocated to the illegal applicants.

2.2.13 Undervaluation to evade tax

In Moshi it was reported that in the year 2003 there were 3 cases of valuation exercises that were under valued with intent to evade stamp duty and capital gain tax. It was also revealed that although it is difficult to get tangible evidence to prove it, circumstantial evidence showed that there is a practice of valuers to collude with clients who sell their properties to underestimate the value of the properties with an aim of evading or paying less tax than that which they are required to pay. This denies revenue to the government. Actually the valuer and the property owner share the difference at the expense of the government.

2.2.14 Political interventions

It was reported that there are incidences where people do not conform to the permitted use of land as according to town planning regulations. When such incidences occur, government officials enforce the law by requiring those who have breached the law to demolish whatever they have illegally erected. Political leaders however interfere with such orders by telling those concerned not to obey the government official orders. For example a certain Member of Parliament is said to have interfered with such orders when those who had squatted at the Machame junction in Hai District were ordered to demolish their 'huts'.

Complaints were received that some people were colluding with local leaderships to encroach public open spaces. One example was a businessman who colluded with the party local leaders of the area in Arusha Municipality to build on an open space.

3.0 LEGAL ENVIRONMENT

3.1 The Land Act No. 4 of 1999

The basic principles of both the Land Act, 1999 and the Village Land Act 1999 are adopted from the Land Policy 1995. Under the policy all land in Tanzania is public land vested in the President as trustee on behalf of all citizens. The new approach has removed ownership of land by the government as it was prior to the enactment of the Land Act 1999 and vested it to the citizens of Tanzania. In this way, the citizens of Tanzania have absolute right of land ownership.

The Land Act No.4 of 1999 has categorized land into General Land, Reserved Land and Village Land. Village Land shall be administered by the village councils and the main authority is the Village Assembly while the Village Council performs as trustee to villagers.

The Commissioner for Lands has been given mandate to administer General Lands. The respective authorities administer reserved Lands under various laws such as Forest Act, National Parks Act, Marine Park Acts, Wildlife Act and others. The Commissioner for Lands shall issue certificate of right of occupancy to persons and corporate bodies who intend to own land in the last two categories of land.

The enactment of Land Act No.4 has so far not changed the ways most Tanzanians acquire land. Table 1 below indicates how far rural citizens in general access land. Majority acquire land from inheritance, allocation of village councils, clearing bush, purchase from indigenous people a feature common in areas around big towns and to a less extent borrowed/rented or other ways.

Table 1: **Rural Land Tenure systems in Tanzania**

<u>Type of tenure</u>	<u>Share to rural citizens</u>
Inheritance	37%
Allocation by Village Council	34%
Clearing bush	19%
Purchased	7%
Borrowed/rented	1%
<u>Other ways</u>	<u>2%</u>
<u>Total</u>	<u>100%</u>

Source: World Bank Studies on rural poverty profile-1992

From the table above it is clear that the majority of people in Tanzania access land freely within their village land, i.e. from either inheritance, allocation from the village council or by clearing bush, which accounts for 53%. The Tanzanians who acquire land through purchasing, borrowing, renting and other ways within the village boundaries is 10%.

Strengths of the law on corruption:

- To *regulate the amount of land* that any one person or corporate body may occupy or use; since land has value the amount of land to be owned by a person or corporate body must be regulated to avoid holding land for speculative purposes.
- To *ensure land is used productively* and that any such use complies with the principles of *sustainable development*. When land has value, to avoid concentration of land in a few hands of well to do people, the government must make sure that land must be used productively. If land is used productively, the country will benefit from yields and taxation on products.
- To pay full, fair and prompt compensation to any person whose right of occupancy or recognized long- standing occupation or customary use of land is revoked or otherwise interfered with to their detriment by the State under the Land Act or acquired under the Land Acquisition Act.
- To protect majority of citizens of Tanzania who have acquired land from either inheritance or village council allocation or clearing bush should not

easily lose their land without full, fair and prompt compensation. The full and fair compensation is only assessed by including all components of land quality.

- To facilitate the operation of a market in land and regulate the operation of a market in land to ensure that rural and urban smallholder producers and pastoralists are not disadvantaged.

Weaknesses as opportunities for corruption:

- Enforcement and monitoring of amount of land held is slack.
- Enforcement of development conditions is poor
- Officials evade payment of full, fair and prompt compensation.
- Officials not ready to do regularization of land to majority of landowners in peri-urban areas (unplanned areas), which is the major part of most urban areas. The ministry has not initiated the implementation of this option which can bring more land rent.
- To protect the smallholder producers and pastoralists, the approach should not be to avoid land acquisition from this group. Any disadvantaged group should obtain compensation of true values of the land to be acquired from them.

3.2 The Village Land Act No. 5 of 1999

The Land Act No.4 has defined “general land” to mean all public land, which is not reserved land or village land. “Reserved land” is land designated by provisions of specific Acts (Forest, National Parks, Ngorongoro Conservation Ordinance, Wildlife, Marine Parks and Reserves Acts) or any other law, which provides for land to be set-aside for special purposes such as public recreation grounds. “Village land” means land declared village lands under and in accordance with the Land Act No.4 and Village Land Act No. 5 of 1999.

For the purpose of management of land under the Land Act and all other laws applicable to land, public land in Tanzania is either general land or village land or reserved land. For the purpose of administration and management of village land, there is Village Land Act No 5 of 1999 as an addition to the Land Act No. 4 of 1999.

The Village Land Act defines village land as consisting of land falling in the boundaries of a registered village under section 22 of District Authorities Act no.7 of 1982, land designated as village land under the Land Tenure (Village Settlement) Act no.27 of 1965, land having boundaries demarcated as village land under any law or administrative procedure in force at any time before the Land Act No 4, or land which its boundaries have been agreed upon between the village councils having jurisdiction over that land, and or land other than reserved land which the villagers have, during the twelve years preceding the enactment of the Land Act of 1999 have been regularly occupying and using as village land in whatever manner.

The law provides detailed criminal offences related to corruption in land administration, which are not supposed to be handled by the Land Court system. Offences such as fraud, blocking public easement, destruction of properties and illegal sitting on land are criminal offences in nature and shall be prosecuted by the ordinary courts.

Strengths to combat corruption:

- Empowerment to grass-roots to manage village land
- Introduction of simple procedures to enhance security of land ownership in villages.
- Introduction of checks and balances between village councils as managers and village assemblies as approving authorities.
- Self-governance of villages avoids corrupt outsiders.
- Payment of full, fair and prompt compensation on transfer of village land to other categories of land.
- Clear and elaborate procedures of transfer of village land.
- Clarification of roles and responsibilities of all actors on village land.
- Introduction of the three branches of good governance in village land management that are village council, village assembly and Village Land Council (Tribunal).
- Regional and District officers who were used to get village land corruptly have little chance to do so.
- When village assemblies and village councils are educated on the new land laws, corruption is reduced.

Areas vulnerable to corruption:

- Empowerment of village councils to manage land; the council's misuse those powers where there is no education of the laws.
- Village boundaries are now issues relating to corruption. The bigger the village, the more land for the village council to sell.
- Village councils do not report to the Village assemblies or to the district councils, transactions of land in villages is a hidden agenda.
- The transfer of village land to other categories of land (reserved or general land) is done without compensation. The Government and the said investor pretend to evade compensation and some officials benefit from the evasion of paying compensation
- The Government officials evade procedures of transferring village land to other categories of land. Short cut procedures evade consultations with village assemblies.
- Village councils do not consult and obtain approval to transfer village land to other categories of land from village assemblies due to corruption.
- Education for public sensitization on the new land laws is lacking. Consequently village councils fail to manage the village land and misuse powers.
- Those village councilors educated on the Act misuse powers if the village assembly is not educated.
- Despite having knowledge to the Act, the villagers may easily be lured by rich people and offer large chunks of land without considering their future land requirements.
- In the process of transfer of village land to general land or reserved land, the higher authorities need minutes of the village councils which can easily be forged. This is a major loophole of corruption and good examples include the Ngorongoro District land allocation issue (1990s) at Ololosokwan village.

3.3 Customary Law (Declaration 1963)

The first Order of Local Customary Law Declarations provide for the “law of persons” covering dowry, marriage, divorce and custody of children (effective August 1963). This law has a big impact on land security as it focuses on customary rights of the listed persons above. The issue in this law is the gender inequality to the divorced wife of a peasant. Over 80 per cent of Tanzania’s rural communities are patrilineal in which succession is given to the males only. The remaining 20 per cent is matrilineal where the heirs are a man’s uterine brothers and his sister’s sons.

The second order of Local Customary Law (Declaration number 4) provides “rules for inheritance’ and “rules on wills” (Inheritance Law). Those rules provide gender discrimination in inheritance of property. The law further provides that the responsibility of changing the “customary laws” is in the hands of the communities concerned. Customs normally change slowly according to socio economic environments of the area.

The customary land ownership which will be formalized and issued by village councils will base on these two laws. Corruption occurs in patrilineal communities where succession is to the brothers of the deceased. The brother does not share properties of the deceased with the wife and children of the deceased remaining behind. The gender inequality on land and other property ownership originates from the two laws.

3.4 Town and Country Planning Ordinance Cap 378 of 1956

This Ordinance was revised in 1961. It provides powers of the Minister, procedures of declaration of planning areas; planning authorities; procedures of preparing schemes; control of developments and execution of schemes according to approved schemes; acquisition of land and compensation for injury caused by the scheme; appeals in disputes and revocation of schemes. The law further provides for penalties for contravention of approved schemes and power of local authorities to order demolition.

The Town and Country Planning Ordinance (Cap 378) however, do not reflect the self-managed villages. The authoritative directives contained therein, the power of the minister as the sole prime mover (actor) of all land use planning; power of the

minister to approve plans before development can lawfully be implemented, and the power of the minister to veto the execution of a scheme is irrelevant for villages and contradicts the autonomy of villages provided under Village Land Act (No. 5 of 1999), and Local Authorities Act (No 7 of 1982).

Other land use planning legislation:

The Public Recreation Grounds Ordinance Chapter 320 has been reviewed to enable mangroves and wetlands under this category to be owned with similar development conditions as provided under use classes regulation. Major recommendations include the wetlands/mangroves may be owned by a person, group of persons, club and institutions for a term not exceeding 10 years.

The National Land Use Planning Commission Act No, 3 of 1984 provides the need of a multidisciplinary team for land use planning activity. At the district and village levels land committees are formed to manage complex land uses like forestlands, wetlands and wildlife areas.

Main issues in the land use planning laws are lack of public participation in the whole planning process; compulsory acquisition and at times without compensation; the declaration of planning areas are sometimes not fully relayed to the public. The usual compensation is not paid at market value and raises a lot of distrust to government officials. The application of this town planning law to village lands is questionable, at village level the activities and land tenure system is different from urban areas. In the light of the new Land Acts these planning laws will be applicable to general lands and reserved lands only. In village lands, the village assemblies are the approving authorities and the plans do not require the endorsement of the Minister responsible for Town and Country Planning.

3.5 Land Survey Ordinance of 1957

The Survey Ordinance Cap 390 provides for land surveys and licensing of land surveyors and matters incidental thereto and connected therewith. The law sets out detailed provisions for surveys of land, fixing of survey marks, processing of survey plans and records, the establishment of a board of control and licensing of surveyors, and disciplining of licensed surveyors.

Major issues under this Ordinance that affect management of lands include the need of fixing boundaries of all lands by professional surveyors. Most of the lands are not legally surveyed under this Ordinance. The second issue is the requirement of a survey plan on preparation of a certificate of right of occupancy. The new Land Acts require all General lands and Reserved lands must have certificate of right of occupancies. A certificate of right of occupancy must always have a survey plan of the piece of land in question included in the title, while most of the lands are not properly surveyed, they are only demarcated.

Demarcation of boundaries does not provide sufficient proof of security of tenure because of unprofessional fixing of boundaries. Common errors in demarcations are sometimes more than a meter from the fixed marks. While in professionally surveyed boundaries allow an error from the fixed marks of not more than 2cm. Improper or poor quality of surveys will always render such maps as reference documents and not worthy to be attached in a certificate of right of occupancy. During assessment of land encroachments such errors in court of law provide inaccurate boundaries and thus not secure for such lands. Corruption is common in this area where unqualified or not ethical surveyors take money from the public and do not complete the surveying process. The public suffers from loosing money and cannot process title deeds.

The other issue is poor quality of methods of monitoring land use changes especially from one land use to other competing uses particularly agricultural land use. Currently, there are old land satellite images with very poor resolutions of more than 80-100 meters. There is already technology to monitor changes with resent spot and Earth Resources Satellite (ERS) images. The lack of up to date maps bring in corruption as conflicts between peasants and pastoralists can not be easily resolved as the original land use of an area cannot be recognized from inaccurate maps.

3.6 Land Valuation

Land markets are subject to some degree of government control and guidance in almost all countries. In Tanzania however, there are fragmented regulations to regulate valuation of landed property and natural resources. This creates loophole for injustice to the general public. Land valuation is a fiscal instrument of indicative

planning. It provides income, taxation of land, and is also a fiscal steering instrument for production incentives, provision of land for construction, reduction of land speculation, mobilization of the land market forces and guiding of land use changes and planning. Therefore, a consolidated law ought to be in place to regulate valuation practice especially on land resources.

There are lands in Tanzania mainly natural resources, which have not been properly valued. The price tags are known mainly on goods derived from the harvested forest resources such as timber, wood, charcoal, fuelwood, honey, beeswax, building materials and other forest products. The valuation on forest produce, non-forest products and the forestland, wildlife areas and other lands for conservation will enable the Government know exactly the increased value of the wildlife and forest resources before and after privatization. This will enable the Government charge the reasonable taxes on land, forest produces and non-forest products, wildlife products and other natural resources.

3.7 Land rent

Many investors complained on the charge of Shs.600/= per acre as land rent. Land Rent is a government tax and it has two basic purposes; one promotes the landowner to use it productively and to enable the landowner pay the required tax. And, the other one is a way of increasing government revenue. Land cannot be distributed as a free good/commodity. Owners of land are landlords who are supposed to pay tax to the government in order the government can run smoothly social services, which do not generate income. Failure to collect land rent is a serious omission that provides signs of corruption and should not be entertained by any legitimate government. It is important to note that regularization in the peri-urban is a priority, in order to collect land rent from those having large chunks of land and sitting on it freely.

4.0 PROPOSED STRATEGIES

4.1 Developing Strategic Objectives to Combat Corruption in the Land Sector

Development of strategic objectives usually begins with looking at the issues, their causes and providing answers to the identified issues. The answers become outputs while responding to the identified issues. In this study, A Logical Framework Approach is used to develop the strategic objectives to combat corruption in the land sector. The sequence of developing the strategic objectives is as follows:

- Statement of problem areas
- Steps as strategic objectives to address the corruption issues
- Planned actions to be undertaken
- Responsible person to lead the identified actions

4.1.1 Strategic objectives (output)

The strategic objectives presented here are a summary of the findings in Chapter 2 where the participatory reflection appraisal offered proposed measures from the interviewed stakeholders. Also, Chapter 3 provides weaknesses of the current legislation and policies.

Table: 7 The Causes and proposed measures (strategic objectives):

No	Corruption causes	Strategic Objective
1	Low capacity and systems deficiencies to provide timely quality services.	Hiving off to private sector those production linked services that are production of layouts survey of plots, valuation, sale of plots and title deeds preparation.
2.	Greedy land officers who abuse powers.	Establish whistle-blowing officers in each profession and work places to net them and source of monitoring.
3	On the other hand a “need for survival” for the junior officers.	Revision of salaries and promotion from time to time of land sector staff.
4	Poor discipline and moral decadence in the land sector.	Establish code of ethics to town planners and land officers and vigorously enforce to land surveyors and land valuers.
5	Legal, administrative and political frameworks have condoned atmosphere for continued corruption.	Develop regulations to promote private sector participation in the land sector.
6	Low public awareness on corruption in land delivery process	Increased public sensitization on the new land laws and anti-corruption behaviour to all district land officers.
7	Incompetence and inefficiency in public service delivery	Hive off to private sector those services linked to production and provide capacity building through training.

4.2 Details of Strategic Objectives

The seven strategic objectives are the basic principles for proposals made to combat corruption in the land sector.

4.2.1 Good Governance

Review of the Anti-Corruption Laws

The PCA should be reviewed such that corruption related cases are dealt with swiftly and quickly. Prosecution should send a message that those who are corrupt, including those in the land sector will pay for their offences once caught.

Detailed proposed strategies for land sector

Administrative and financial issues in the land section include unethical behaviour of profession and funds shortage in the land sector. It is therefore proposed that:

Quick wins

- The establishment of professional code of conducts in the land sector is the first quick win. Town planners and land management officers should be prosecuted in relation to professional ethics.
- Increased national budget according to revenue generated in the land sector.
- Motivating the highly performing staff through promotions.

The medium term wins

- Maintain a positive enforcement policy and to prosecute vigorously within the criminal courts all cases of corruption and dishonesty in the land sector;
- Discipline with a view to possible dismissal from the Service any case of dishonesty of land officers, where the law allows
- Discipline with a view to possible dismissal from the Service all serious cases of unethical behaviour and other serious breaches of the Codes of Conduct.

Long term wins

- Review conflicting laws within the land sector.
- Develop educational and corruption prevention programmes, including training of professionals at all levels.

4.2.2 Land use planning

Land use Planning is the first step for survey of land/plots and eventually leading to the availability of surveyed plots for allocation to different land users. Increased urbanization requiring more land for urban settlements, industries, commerce etc; on one hand and the need to preserve valuable agricultural land on the other have intensified competition for land in and around urban centres. Demand for land has recently increased due to population increase.

In this situation of increased demand and stiff land use competition, planning has lagged behind; creating shortage of surveyed plots and promoting unregulated development and irrational land use particularly in urban areas. The town planners monopoly of the planning process including approvals of schemes; application for planning consent and change of use have propagated town planners to engage in corrupt practices as evidenced in the previous chapters.

There is therefore a need to introduce reforms, which shall reduce the opportunities for corruption and increase efficiency. The following strategies are recommended:

Quick wins

- To review the out dated Town and Country Planning Ordinance with the view of introducing stakeholders participation in the planning process and enabling the ownership of plans by stakeholders.
- To review the National Land Use Planning Act No. 3 of 1984 with the view of strengthening the coordination of land use activities in rural areas and enhancement of participation and empowerment of lower planning echelons and other institutions in the preparation and implementation of land use plans at village, district, region and National Level.

- To enhance planning and management process in all urban areas.
- To enhance application of National Guidelines on Participatory village land use management.
- To speed up approval of land use plans; application for planning consent change of use etc; the Ministry should consider first as temporal measure to delegate such powers to zonal land registration offices by placing two officers/experts and in the long run pass on these powers to Regional Secretariats.
- Encourage high-rise or vertical development in urban areas to increase units of housing and reduce sparse urban growth.

The Medium term

- To empower and build capacity for examination and approval of all land use plans at appropriate planning levels i.e. Village, District, Regional, and National level.
- To hive off the preparation of layouts and strategic plans to the private sector in order to make readily available planned and surveyed plots, and even housing units. The costs will be met by local authorities or real estates or NGOs or the local communities. The option includes participation of estate agents and estate developers to enter into business.
- Install coordination and monitoring, mechanism among different planning levels.
- Private sector participation in preparation and implementation of detailed schemes through estate agents and NGO or Community Based Organisation (Hananasif Model).

Long term wins

- Develop mechanisms for wide consultation and involvement of the stakeholders in the process of declaration of the planning areas in both urban and rural areas.
- To ensure that acquisition of land adheres to the following steps:
 - Adjudication of land as per Land Acts No. 4 & 5 of 1999.
 - Valuation of land & property.

- Prompt compensation.
- Participatory planning.
- Surveying
- Allocation through the market economy
- To ensure any expansion of the town, city and municipal is preceded by an analytical quantitative and qualitative study on the effective need of demand for urban land development. Stakeholders should be widely involved and consulted. The present boundaries should be revised to reflect the effective requirement.

4.2.3 Housing Development

The present efforts on housing development focus on the newly outlined National Housing Programme. The housing programme is not adequate to combat corruption in this area.

Quick wins

- Re-establish the Housing Division with appointment of qualified staff at head office and district councils.
- Review Rent Restriction Act to encourage more housing construction
- Enact Review building regulations to accommodate reasonable standards.
- Housing Revolving Fund should immediately be deposited and managed in banks and criteria for accessing such funds are developed.

Medium Term wins

- To reduce the cost of doing business and avoid corruption in this sector it is imperative to develop the mortgage industry and development banks.
- Develop regulations to facilitate private sector participation that include real estates operations in house construction.

Long-term wins

- Develop agencies for house building
- Attract NGOs, donors and investors to housing and shelter development

4.2.4 Survey and Mapping

Corrupt opportunities in the survey and mapping sub-sector arise due to shortage of survey control points, lack of base maps, slow cadastral surveys and deed plans preparation, and delays in approval of survey plans and non-adherence of professional ethics by qualified land surveyors.

Despite steps being taken by the survey sub sector to combat corruption through the use of computers, such measure does not seem to work. The approval of survey plans and preparation of deed plans have been identified as major areas where corruption is rampant. Currently all survey plans must be approved in Dar es Salaam; where the plans go through the record office, computing office before it lands on one approving officer. Delays in the approval of plans and preparation of deed plans have forced people to pay extra-monies other than the amount paid when obtaining the letter of offer.

To curb this situation i.e. to plug out corruption, the following strategies are recommended:

Quick wins

- To immediately place two senior land surveyors to approve survey plans on behalf of the Director. Alternatively to have one senior land surveyor for approval and to be relinquished from all other duties so that he will spend all the time on approving survey plans.
- To speed up approval of survey plans and deed plans, approval powers should be delegated to competent registered land surveyors posted at the Regional Secretariats offices in the long run and as a temporal measure place land surveyors at the zonal land registration offices.
- To request City, Municipal, Town and District Councils to increase the budget for land survey, planning and land delivery.
- To build capacity for Dar es Salaam Municipalities through direct support from the Ministry responsible for Land.

Medium term wins

- To facilitate and encourage private surveyors to take up tenders for survey of plots.
- The survey and mapping division should concentrate on preparation of base maps countrywide, establish more control points in the whole country, coordinate surveys in all major projects and keep the records in line with existing surveys.
- The private sector should be invited to survey plots through tenders and consultants should be allowed to prepare deed plans instead of the division or government offices at regional or district
- To inform local authorities to employ qualified and competent land surveyors so that plots can be made readily available.

Long term wins

- To computerise the whole country by introducing a central network at the Ministry head office and the network connected to all regions.
- To ensure and facilitate local authorities to obtain modern equipment including Global Position Systems (GPS) and computer accessories for highly technical jobs in all local government authorities.

4.2.5 Land Administration

Current efforts to combat corruption in land delivery area are many but not adequate as corruption is reported to be on the increase and rampant. The land delivery area is the most corrupt; especially on land allocation in the districts and at the Ministry in the process of title deeds approval and registration.

The process of obtaining certificates of occupancy has been remarked by many stakeholders to be cumbersome and bureaucratic. Common people aspiring to use land for collateral purposes have given up to process certificates of occupancy and they choose to remain with their letter of offers or opt for short term right of occupancy. Most of the poor people especially in urban and peri-urban areas holding small parcels of land find it very difficult to own their land legally due to the existing cumbersome system. Even where attempts are made to process the certificates; it just

takes too long for one to get a certificate of occupancy processed as all certificates must be signed by one Commissioner in Dar es Salaam.

Attitude of strong attachment to land by the local community and existence of large-scale commercial farms in the urban periphery have been seen to constrain urban expansion. Land owners in such areas (Moshi and Arusha being examples) have engaged themselves in unregulated subdivision and allocation of land to various developers. Such owners find it difficult when they wish to obtain certificates of occupancy and register their lands. This has created a loophole for land officers to demand bribes or even to be forced to accept such offers in the bid to rectify that abnormality.

Another hot spot in the land administration issues is the arbitrary powers land officers have in granting consents on dispositions, as discussed elsewhere in this report.

When it comes to land allocation; corruption problems come in the form of double allocation, unfair allocation of plots on areas not zoned for the proposed use and denial of being allocated a plot.

To curb these situations; the following strategies are being proposed:

Quick wins

- To develop code of ethics for valuers, land officers, estate agents, private land consultants, estate management and housing officers.
- To decentralise the signing of certificates of occupancy by appointment of deputy commissioners to be posted at the zonal offices of Registrar of Lands as a short term measure with ultimate aim of empowering district offices.
Signing of certificate of occupancy as provided under section 29 (3) of the Land Act, 1999 should be decentralized by appointing a Deputy Commissioner for Lands and Assistant Commissioners pursuant to section 11 (1) of the Land Act No. 4, 1999.
- Increase the budget for the land offices in Municipal, Town, and District Councils and at the Ministry's headquarters to meet office requirement that include all stationery.

- Implement the Land Act strategy of regularisation for the purpose of enhancing security of tenure to the majority of peri-urban land owner's registry, control of transfer of land to fragmented owners and charging tax on land transfers (disposition) and land rent.

Medium term wins

- To amend the land (Dispositions of Right of Occupancy) Regulations 2001 to outline criteria to be followed by the authorised officers in granting consent for disposition.
- To decentralise the approvals on mortgages; this should be dispensed with, like it has been done with approvals on mortgages with prescribed lenders.

Long term wins

- To develop systems that allows land to be allocated according to market forces.
- To institute computerized land allocation to control and regulate records in order to minimize double allocations due to poor records.

5.0 CONCLUSIONS

One important proverb on land says that: ‘We are not given land by our ancestors but borrowed it from our children’. Therefore the future of our children should not be left in the hands of those few land experts who may misuse the public power to administer land. The critical issues in this study are related to the public power, administrative power and its use and abuse while providing land delivery service.

The objectives of combating corruption and having efficient and effective institutions in land delivery services can be met through outlining powers of various authorities, their limits and restrictions on the exercise of those services and make sure they are done professionally, fairly and justly.

Land is the major factor in the development of the rural economy. Most successful land reform programmes has been part of wider and broadly based processes of agrarian change. The performance of the agriculture sector has not been impressive in the recent years. The sector performance is dismal for the past ten years due to various problems that include insecure land tenure, poor access to land and poor land planning, surveying and allocations.

The introduction of land markets will affect the poor if corruption is not curbed in the land sector. Poor people need markets that work for them. Land markets, often irregular and informal, are developing in urban, peri-urban and densely populated rural areas. Poor people need secure tenure and market information to participate fully in the land markets.

Land institutions are vital elements of effective governance, where they are weak; the right of the poor is particularly at risk. Well functioning property rights and land institutions promote economic development and help reduce corruption and social conflicts. Corrupt land institutions and undefined land rights excel conflicts and endanger peace and stability in the society. Efficient land administration that is accessible to ordinary people that recognises the complexity of land rights on the ground is crucial for good governance.

Recognition of the land rights of the millions who dwell in informal settlements is critical in promoting the rule of law and faster economic development. Where there are no effective, legitimate channels for land access, squatting and land invasions become legitimate in the eyes of the poor. Similarly, the fact that basic services can only be acquired illegally undermines respect for the rule of law and exacerbates social exclusion.

In many societies land is a currency of political patronage, nepotism and corruption. Where land administration is complex or dysfunctional rent-seeking behaviour flourishes at the expense of the poor.

Land administration is a public good that needs to be accessible and affordable to all. Institutions require adapting and recognizing customary land rights; to understand indigenous land management systems; and to respect the rights of women and marginalized groups. This requires institutional reform such as hiving off certain services to the private sector and capacity building, improvements in transparency and accountability and representation of poor people in decision-making processes. Both civil society and the private sector have a part to play in delivering land to the poor. Therefore private sector and civil society participation in land delivery must be accommodated in the new partnership arrangements of good governance and poverty reduction strategies.

REFERENCES

1. Government of Republic of Botswana ‘Corruption and Economic Crimes Act 1994’
2. Government of United Republic of Tanzania ‘The Economic and Organised Crime Control Act 1984’
3. Government of United Republic of Tanzania.
“Land Act no.4 and Village Land Act no.5” April 1999
4. Ministry of Natural Resources and Tourism United Republic of Tanzania.
“National Forestry Policy” March 1998
5. Ministry of Lands, Housing and Urban Development,
United Republic of Tanzania “National Land Policy” June, 1995
6. Ministry of Lands and Human Settlements Development ‘Budget Estimates based on The Medium Term Expenditure Framework for 2002/2003 to 2004/2005’ April 2002
7. NLUPC “Guidelines for Participatory Land Use Management in Tanzania” MLHSD and MRALG, 15th December 1998.
8. Presidential Enquiry on Corruption by His Lordship Justice J. S. Warioba, 1998.
9. Shivji, Issa G. “Presidential Commission of Inquiry into Land Matters Report” 1993.
10. ‘The Wildlife Policy of Tanzania’ March 1998. Ministry of Natural Resources and Tourism. United Republic of Tanzania.

11. United Republic of Tanzania “Mining Act No.5 of 1998” April 1998.