

CHALLENGES OF MITIGATING
SOCIAL AND ECOLOGICAL
EFFECTS OF CORPORATE
ACTIVITIES IN THE SOUTH.

Some policy and practical lessons
from an evolving biofuels industry in
Tanzania

BACKGROUND

- The global development discourse has for the recent past been dominated by two major subject matters namely **food** and **energy**, both however, linked to the new global threat to mankind called **climate change**

Background...

- In Africa, responses to those topical scourges have been varying from one place to another but commonly manifested through the influx of companies largely from the North in search of land where to produce fuel, food and redress the alarming effects of climate change.
- Overwhelmed with the corporate promises to transform their energy sectors, rural economies, feed their hungry communities and provide employment to the jobless masses, African governments are increasingly committing to lease/sale their land to foreign companies sometimes at no cost, at meager compensation to current land holders or at total expense of the livelihoods of local communities

Background

- This is to a large extent happening due to the absence of clear policy and institutional frameworks to guide land acquisitions, land use plans and mitigate social and ecological impact of corporate activities to balance between the business interests and sustainable local communities livelihoods.
- Even where such pieces of legislation exist, their contents and basis of enactment have received strong criticisms from pro poor development practitioners with little or no success partly because of the influence from the corporate and sometimes development partners

Land for investment in Africa

- Recent development trends indicate that Africa has fallen into the target of the Corporate world for investment in Biofuels mainly due to its potential in ideal climate (tropical), cheap arable land and abundant cheap labor.
- A few countries like South Africa, Malawi and Mali were in the roaster for biofuels production but Tanzanian is coming up fast
- Records indicate that SA produces more than 70% of all ethanol in Africa and is planning a biodiesel plant with a production of more than 300mil litres per year. Ethiopia produces 8mil litres, Malawi has been blending it since 1980, mozambique's 300,000 ha of land is geared towards producing million tones of ethanol just like Bukinafaso with 25,000ha and Madagascar 17,000ha of land for similar production

Investment and the Tanzania tenure system

- Like many African countries, Tanzania's land tenure system grants a warm welcome to foreign investment activities without due regard to the local communities livelihoods.
- This is partly because of the influence of the 1923 colonial land ordinance which sailed through independence in 1961 and became the basis of the new land regime in 1990's
- The new land policy was enacted in 1995, where as the new land laws were enacted in 1999 as land act No.4 and Village land act No. 5 but applied from 2001
- Land in Tanzania is **public** but vested in the president as custodian on behalf of the citizens. He retains the *radical title* which is the ultimate powers over acquisition, allocation, revocation and disposition
- Land can thus be acquired by the president for undefined national interests which of course includes investment

Tenure system...

- Land holders are allocated with leasehold right of occupancy for the period of 33, 66 or 99 years depending on nature of use
- Land falls into three categories namely **general land** (governed by act No.4), **village land** (governed by Act no. 5) and **reserve land** (governed by specific reserve laws e.g wildlife act of 1974 as repealed in 2009)
- Non citizens cannot own land on their own right save for investment purposes in which case, an applicant is granted a derivative right of occupancy on leasehold arrangement from Tanzania Investment Centre - TIC.

Key concerns

- Land administration is still centralized as higher level organs retain much more powers in decisions than local institutions
- There is much focus on registration and commercialization of land and its use as collateral in financial institutions than its traditional use for which around 80% of the population hold their land.
- The role of state machinery (*laws, institutions, resources*) has changed from protection of majority small producers interests (as in 1970 and 80's) to facilitation of the few elite and foreign companies to acquire land from communities. (e.g TIC, PBFPT, BEST, ministries, Executive agencies)

Implications of the investments

- Tracks of land are being given out for foreign investors largely. 37 companies by 2008, around 20 foreign and 5 joint ventures
- Potential land for food production (Rufiji, Rukwa, Mbarali), and HCV (Rufiji, Kisarawe, Wami) identified and/or allocated to biofuels companies.
- 4.5ml ha of land requested by biofuels investors out of which 641,179ha have already been allocated to investors, processes going on.
- Displacement of local communities (around 10,000 in Kisarawe for Jatropha farm, 1,000 rice farmers in Wami area, 1,000 rice farmers in Ruipa, 1,500 rice growers in Mbarali, 5,000 villagers in Namwawala Kilombero etc)

Implications...

- Loss of livelihoods (denied access to wood fuel, social and cultural benefits)
- Loss of biodiversity (Kilwa 30,000ha forest, Bagamoyo 25,000ha, Rufiji 50,000 (prospective 400,000ha))
- Food security (food for fuel? Diversion of labor force, labor casualization e.t.c)
- Procedural misconduct due to lack of adequate and informed consultations with local communities, poor coordination of biofuels activities among government institutions and absence of a legislative framework to govern biofuels investment activities.

Policy mitigation of impacts

- **Ensure smooth play ground for investment.** i.e responsive land policies, laws that balance between public and corporate interests on land and related resources exploitation. Supported by a **functional** institutional framework for implementation of the laws, and **effective enforcement** mechanisms
- **Knowledge about the prevailing land tenure system.** i.e Rural communities be empowered to make informed decisions when negotiating with investors and central government.
- Need to have information flow mechanism that is mutually shared by the government, investors and communities so that when decisions are made, the rights of each group is respected and protected.

Practical mitigation strategies

Alternatives to the Estate Model

- (i) Joint ventures.** An individual land owner enters a business agreement with a company by using his piece of land as capital share to the company. *This is effective only if villages are planned and certified.*
- Alternatively, a Villages council leases part of village land (trust land) to companies for a specified period of time. Companies pay tax to village and the land remains the property of the village. *Similarly effective in planned villages*
- *Challenge:* This model is not preferred by companies and central government. Companies for insecurity reasons for their properties and the government for fear of loss of revenue to local authorities

Practical mitigation ...

(ii) Out grower schemes

- This is model currently practiced by sugarcane growers around sugar companies of Mtibwa and Kilombero. Out growers have managed to form 3 associations of sugar growers, increase their number from 25 in 1996 to 5,000 in 2006, mobilize other cane growers to form TASGA an apex body, lobby for participation in sugar board decisions and improve their income significantly
- They contribute more than 56% of cane for factories, their rights to land are protected and have a negotiating forum with companies
- **However:** they are not represented in the companies bodies hence not protected during market and price fall crises
- Not linked into the national legal financial schemes while rural financing is almost not existent
- Poor infrastructures to their farms, lack of technical skills for farmers

Practical...

(iii) Contract farming

- A company depends entirely on the production of local farmers who have been contracted to grow the crop and sell the products to the company. The farmers retain their rights to land and additional products they may harvest out of inter cropping but they are bound by the contract to produce for the company at agreed terms
- Applied by a biofuel company the Dutch bio energy company –Diligent in Tanzania that is processing jatropha produced by more than 1,500 contract farmers in Arusha region.
- More exploration is needed to see what other conditions apply to the contracted farmer

Practical ...

(iv) Community based Cooperatives

- Small producers own efforts to meet local demands for the agro products through cooperatives.
- Applied in Kigoma region in Tanzania where about 150,000 liters of palm oil are collected annually from small producers and sold to local refineries for edible oil and soap production. This improves the income of the small producers in addition to ensuring their continued use of land and market for their products.
- This is due to the fact that, only 6.8mil liters of palm oil is being produced out of the huge demand of more than 180mil liters expected product from the 1.2mil ha of land suitable for palm oil production in the country.

Other strategies...

- **Introducing corporate codes of conduct and guidelines**
- There have been some global initiatives to introduce specific guidelines, principles and strategies to implement them with a view to safeguard both the corporate and local communities interests in the countries they invest.
- RSB,
- CSR principles,
- FAO Guidelines for responsible governance on land,
- AU/UNECA/ADB Land policy Framework,
- Regional, International (conventions and laws), sector based guidelines e.g EITI
- National codes & guidelines (Tanzania Biofuels guidelines)

Key questions on codes

- Voluntary or binding?
- Southern or western? Governments? Companies? Or CSOs? Joint initiatives? Can involve communities?
- Problems with domestication?
- Enforceability? i.e institutional framework
- Acceptability by all parties? i.e Mandate vis a vis state sovereignty
- Applicability. Retrospectively or orderly?
- Current trend shows this is company's initiative
- **To do: adopt the best practices taking into consideration synergies between local and regional policies, laws, conventions and codes**

What is our role?

- Support development of a **policy** and **institutional** regime that is derived from the needs, demands and interests of the people whose livelihoods cannot be detached from the resources on which the investments are taking place.
- Facilitate business **partnership** between communities and investors in manner that is mutually beneficial.
(cooperation versus cooptation- LARRRI Vs SEKAB)
- Facilitate **dialogue**, **informed decision** making processes, community **empowerment** (skills, advocacy, engagement)
- **Participate** in developing functional codes of conduct that are shared upon by the governments, investing companies, local communities and civil society organizations.

Thanks

Yefred Myenzi (myenzi@hakiardhi.org)

HAKIARDHI

Tanzania