Reconsidering Gender in the Multi-level Governance of Land in East Africa:
Governing the “Global Land Grab”? 

By
Andrea M. Collins

A thesis submitted to the Graduate Program in
Political Studies
in conformity with the requirements for the Degree of
Doctor of Philosophy

Queen’s University
Kingston, Ontario, Canada
October 2014

Copyright © Andrea M. Collins, 2014
ABSTRACT

In the twenty-first century, there is a global rush for agricultural land. This rush is extremely profitable and extremely destabilizing, nowhere more so than in low-income countries with large reserves of arable agricultural land. Recent years have witnessed the emergence of global governance initiatives aimed at ameliorating the negative effects of large-scale commercial agricultural acquisitions. But low-income countries seeking to reform land governance have encountered serious obstacles.

Tanzania is just such a case. For years, rural populations and feminist groups have been crying foul over forced displacement, corrupt land dealing, and the marginalization of women. Yet Tanzania has long been praised for its progressive efforts to recognize customary land tenure and promote gender equality in both land rights and participation in land governance. From the outside, one might think that Tanzania has successfully balanced global agricultural investment with local practices. But this is not necessarily the case. Why haven’t these Tanzanian measures been able to prevent unjust outcomes?

This dissertation assesses global land governance initiatives with reference to Tanzania’s struggles to implement land governance reform. It argues that the road to land reform is complicated by oversimplified assumptions about gender in the governance of land. To develop this argument, this dissertation analyzes two prominent global land initiatives: the Principles for Responsible Agricultural Investment (PRAI) and the Voluntary Guidelines on the Responsible Governance of Land Tenure. By employing a gender-sensitive global governance framework, this dissertation expands the scholarly definition of governance by considering practices ordinarily excluded from traditional analysis. These include family and community forms of governance, which have a profound effect on the way global- and national-level policies are
enacted. In doing so, this analysis illustrates obstacles to land reform, the limits of liberal rights-based frameworks, and the folly of considering land deals as a strictly global-level and gender-neutral process. Indeed, the global land deal is revealed to be at once local and global, embedded in a complex of socio-political gendered relationships.
ACKNOWLEDGEMENTS

The encouragement and support of many have helped make this project a reality. This project was generously funded by a Social Sciences and Humanities Research Council (SSHRC) Joseph-Armand Bombardier Canada Graduate Scholarship (2009-2013), Ontario Graduate Scholarship (2013-2014), the Queen’s Graduate Dean’s Doctoral Field Travel Grant and the Department of Political Studies Travel Award.

None of my research would have been possible without the patience and support of my doctoral supervisor, Dr. Margaret Little. Margaret has helped me to navigate the ups and downs of undertaking doctoral research and was instrumental in shaping a research program about which I am passionate. This project has also benefited greatly from the feedback and ongoing support of Dr. J. Andrew Grant. I would also like to thank Dr. Abigail Bakan for her invaluable feedback on my thesis proposal and Dr. Grant Amyot for his support as Department Head. I also thank Dianne Flint, Barbara Murphy, and Frances Shepherd for their hard work, patience, and commitment to all of the students of Queen’s Political Studies.

My heartfelt thanks to everyone in Tanzania who helped me with my research. First and foremost, asante sana to all of the interviewees: their insights and generosity made this research a delight. In addition, thank you to Benedict Mongula with the Institute of Development Studies at the University of Dar es Salaam for providing a lively and beautiful research environment. I am likewise grateful to the Tanzania Gender Networking Programme, the Legal and Human Rights Centre, and the Ministry of Community Development, Gender and Children for providing access to their respective libraries and information centres. Elaine Baker, Tende Guni, and their bright-eyed daughters Tara and Jena made Kigamboni feel like home. Christiaan Wielenga and Esther Verstraten likewise helped me to explore all that Dar es Salaam and Stonetown had to offer. And
Furaha Kikwa did not only become a fast friend, but went above and beyond in helping me with my research.

I also would like to thank everyone who helped make Queen’s University and Kingston a community of which I have been proud and happy to be a part, especially Tim Abray, Christopher Bennett, Laurel Besco, Randy Besco, Erin Clow, Dr. Wayne Cox, Megan Gaucher, Bailey Gerrits, Christopher Janzen, Ashley Johnson, Rachael Johnstone, Edward Koning, Remi Leger, Victoria Milious, Matthew Mitchell, Sara Pavan, Charan Rainford, Iain Reeve, Jeff Rice, Dr. Jonathan Rose, Lucia Salazar, Beesan Sarrouh, and Leah Sarson. A tremendous thank you to Liz Parsons, Deanna Mason, and Colette Steer for coordinating the SGS Dissertation Boot Camps, as well as to Nadege Compaore and Grace Jaramillo for being there through two Boot Camps and keeping me working long after they were over. Another thank you to Ashley Vanstone for leading the weekly Thesis Persistence workshops.

To my family: thank you for your constant if somewhat bewildered support for my pursuit of graduate studies. To my parents, Steve and Judy Collins: None of this work would have been possible without your lifelong support of my desire to hide in a corner and read. To my sister, Alicia Collins, and sister-in-law Therese Collins, thank you both for being able to brighten my day with your enthusiasm and joie de vivre. And to my brother, Mike Collins, for driving my competitive spirit and never failing to remind me that I wasn’t a Queen’s grad (yet).

Finally, thank you to Aaron Ettinger. Your endless patience, unwavering faith in me, and willingness to make dinner made all of this possible.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstract</td>
<td>ii</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>iii</td>
</tr>
<tr>
<td>List of Tables</td>
<td>vi</td>
</tr>
<tr>
<td>List of Abbreviations</td>
<td>vii</td>
</tr>
<tr>
<td>Chapter 1: Introduction - Gender and Global Land Governance</td>
<td>1</td>
</tr>
<tr>
<td>Chapter 2: Literature Review and Analytical Framework</td>
<td>23</td>
</tr>
<tr>
<td>– Reconsidering Gender and Global Governance from the Bottom-Up</td>
<td></td>
</tr>
<tr>
<td>Chapter 3: A History of Gender and Land Governance in Tanzania:</td>
<td>63</td>
</tr>
<tr>
<td>The role of the state and legacies of land reform</td>
<td></td>
</tr>
<tr>
<td>Chapter 4: Tanzania’s Land Acts:</td>
<td>106</td>
</tr>
<tr>
<td>Shortcomings in National Legal Structures and Implementation</td>
<td></td>
</tr>
<tr>
<td>Chapter 5: Gender and Local Land Governance in Tanzania</td>
<td>146</td>
</tr>
<tr>
<td>Chapter 6: Connecting Local to Global:</td>
<td>188</td>
</tr>
<tr>
<td>Do global recommendations reflect local realities?</td>
<td></td>
</tr>
<tr>
<td>Chapter 7: Conclusion</td>
<td>234</td>
</tr>
<tr>
<td>Where do we go from here?</td>
<td></td>
</tr>
<tr>
<td>References</td>
<td>250</td>
</tr>
<tr>
<td>Appendix I – General Ethics Review Board Approval</td>
<td>267</td>
</tr>
<tr>
<td>Appendix II – Sample Interview Questions</td>
<td>268</td>
</tr>
<tr>
<td>Appendix III – List of Interviewees</td>
<td>269</td>
</tr>
</tbody>
</table>
LIST OF TABLES

Table 1: Steps Required for Issuing CCROs 129
Table 2: The Principles for Responsible Agricultural Investment 199
Table 3: Objectives of the Voluntary Guidelines 218
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEST</td>
<td>Business Environment Strengthening for Tanzania</td>
</tr>
<tr>
<td>CCRO</td>
<td>Certificate of Customary Right of Occupancy</td>
</tr>
<tr>
<td>CFS</td>
<td>Committee for Food Security</td>
</tr>
<tr>
<td>CGG</td>
<td>Commission on Global Governance</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil society organization</td>
</tr>
<tr>
<td>CSR</td>
<td>Corporate Social Responsibility</td>
</tr>
<tr>
<td>CVL</td>
<td>Certificate of Village Land</td>
</tr>
<tr>
<td>FAO</td>
<td>United Nations Food and Agriculture Organization</td>
</tr>
<tr>
<td>FIAN</td>
<td>FoodFirst Information and Action Network (former title)</td>
</tr>
<tr>
<td>FOEI</td>
<td>Friends of the Earth International</td>
</tr>
<tr>
<td>GAD</td>
<td>Gender and Development</td>
</tr>
<tr>
<td>GLTF</td>
<td>Gender and Land Task Force</td>
</tr>
<tr>
<td>ICARRD</td>
<td>International Conference on Agrarian Reform and Rural Development</td>
</tr>
<tr>
<td>IFAD</td>
<td>International Fund for Agricultural Development</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>INGO</td>
<td>International Non-governmental Organization</td>
</tr>
<tr>
<td>IPE</td>
<td>International Political Economy</td>
</tr>
<tr>
<td>IR</td>
<td>International Relations</td>
</tr>
<tr>
<td>ITR</td>
<td>Individual Titling and Registration</td>
</tr>
<tr>
<td>LARRI</td>
<td>Land Rights Research and Resources Institute</td>
</tr>
<tr>
<td>LDC</td>
<td>Least Developed Country</td>
</tr>
<tr>
<td>LHRC</td>
<td>Legal and Human Rights Centre</td>
</tr>
<tr>
<td>MNC</td>
<td>Multinational Corporation</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental Organization</td>
</tr>
<tr>
<td>PPP</td>
<td>Public-private partnership</td>
</tr>
<tr>
<td>PRAI</td>
<td>Principles for Responsible Agricultural Investment</td>
</tr>
<tr>
<td>RAI</td>
<td>Responsible Agricultural Investment</td>
</tr>
<tr>
<td>TAMWA</td>
<td>Tanzania Media Women’s Association</td>
</tr>
<tr>
<td>TAWLA</td>
<td>Tanzania Women Lawyers Association</td>
</tr>
<tr>
<td>TGNP</td>
<td>Tanzania Gender Networking Programme</td>
</tr>
<tr>
<td>TIC</td>
<td>Tanzania Investment Centre</td>
</tr>
<tr>
<td>TRA</td>
<td>Tanzania Revenue Authority</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>URT</td>
<td>United Republic of Tanzania</td>
</tr>
<tr>
<td>WID</td>
<td>Women in Development</td>
</tr>
<tr>
<td>WLAC</td>
<td>Women’s Legal Aid Centre</td>
</tr>
</tbody>
</table>
Chapter 1: Introduction - Gender and Global Land Governance

Land is my ugali.¹
Land is my education.
Land is my hut.
Land is my clothing.

I won't allow my land to be seized
United - we will win.


… [A]n investor goes in with a lot of promises. With the villagers having a lot of problems. They need water, they need to have social services. So they just tell them ‘I will provide, I will provide, I will provide.’ In some villages we found 10 bags of cement has been issued by an investor, and [in return] they acquired more than 300 acres of land.
- Programme Officer, Tanzanian Land Rights NGO²

Buy land, they’re not making it anymore.
- Mark Twain (1835-1910)

The contemporary rush for agricultural land is simultaneously local and global, embedded within political, economic, and social relationships and hierarchies. These three quotations illustrate different perceptions of land – as the provider of life and livelihood, as a unit of exchange, and as investment. The variety of ways in which people look at and value land can lead to conflict and exploitation, displacement and expulsion. In the current post-2008 recession era, the race to acquire fertile agricultural lands has led to calls to stop the so-called “global land grab,” and to recognize the potential threats to rural livelihoods around the world. From Eastern Europe to Southern Africa, and from South America to South Asia, there are competing interests and valuations of land and pressures on rural peasants.

¹ Ugali is a cornmeal mash served with stews and is a staple dish in Tanzania. It bears resemblance to fufu in West Africa, phutu in South Africa, and polenta in Italy.
² Interview with Programme Officer, Land Rights NGO (A1), Dar es Salaam, June 3, 2013
Mark Twain’s advice has proved ever more prescient in the contemporary era of global trade and investment. In the years following the global food crisis of 2007-08, global interest in national food security\(^3\) and the food sovereignty\(^4\) of populations has spiked. With agricultural commodity prices hitting new highs, arable farmland has become an attractive investment (Hall 2013a). Driven by population pressures, and the realities of global climate change, various global actors have been spurred to action. Growing national economies such as China and Saudi Arabia plan for a more food secure future for their populations future via large-scale investments in land established abroad (Pearce 2012b). At the same time, agricultural firms, sovereign wealth funds, and private investors seek to profit from anticipated surges in food prices. The result has been renewed interest in large-scale foreign agricultural investment in states with large swaths of “unused” or “underused” arable land – for some, a veritable land rush or “farms race” (Hall 2011).

These “unused” lands targeted for investment tend to be formally unclaimed or state-owned land that has not been developed for large-scale agricultural production, but is rarely truly unused. Arable lands in much of the world are not vacant, but rather home to communities that use the land for small-scale production and reproduction, pastoral farming, medicine, subsistence, water, and for spiritual or religious practices (Cotula et al 2009; Vermeulen and Cotula 2010b). Large-scale land acquisitions are accused of threatening food sovereignty, depriving local communities of access to land, disrupting access to local resources, or drastically changing the landscape through irrigation, deforestation, or the introduction of foreign crop

---

\(^3\) Food security remains a contested term. Here, I use food security to refer specifically to state-level concerns about a government’s ability to ensure an adequate food supply for its populace.

\(^4\) For the purposes of this dissertation, I use the term “food sovereignty” in the way it was agreed to by the social movement La Via Campesina in 2002: “Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems,” (Patel 2009). It is worth noting that debates over the meaning of food sovereignty have expanded and are ongoing, capturing everything from protecting the food production of peasant populations to locavore movements in North America (Agarwal 2014, Ayres and Bosia 2011)
species (Agarwal 2014). Thus, as the above poem suggests, land provides much more than just a return on investment for communities. Though rural communities may lack formal claims on land, nominally “unused” land often supports populations in ways that formal individualized titles would not reflect. The issuing of individual land rights does not necessarily facilitate communal usage of land for foraging, water access, and spiritual practices.

As a result, countless political analyses of “land grabs” have emerged, addressing everything from the new global geopolitics of food to the class politics of accumulation by dispossession (Brown 2011, Hall 2013). Missing from much of these high level discussions about land grabbing is a serious consideration of gender inequalities in the context of displacement and dispossession. Analyses published to date make passing reference to the gender-differentiated impacts of land deals but fail to include meaningful consideration of gendered power relations and gendered divisions of labour within targeted communities (see: Cotula et al 2009, Vermeulen and Cotula 2010b, Deininger et al 2010). Yet feminist scholars of agrarian political economy and land reforms have long highlighted the role of gender dynamics in shaping how land is owned, transferred, and governed and there are important implications for the contemporary rush for land (Davison 1988a, Mackenzie 1990, Mackenzie 1993, Agarwal 1994, Walker 2005, Jacobs 2010, Razavi 2009a). Importantly, in light of efforts to govern the “global land grab” through global level recommendations for improved governance, there are important questions to be asked surrounding the gender politics of land and land governance, and how these politics are perceived and interpreted at the global level.

Given these gaps in research and in understandings of global land deals and land governance, this dissertation pursues two complementary research questions pertaining to gender and these global land governance efforts. The first question pertains to the quality of global
governance initiatives themselves: how well do these global governance initiatives address matters of gender and land governance? This question will be answered by analyzing The Principles for Responsible Agricultural Investment (PRAI), an initiative spearheaded by the World Bank Group, and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (henceforth, “Voluntary Guidelines”), approved and endorsed by the United Nations Committee for Food Security (CFS). These initiatives will be evaluated by considering the extensive research on gender and agrarian change and land reforms, with general reference to East Africa, and specific attention to Tanzania. The details of the justification for this case study are articulated further below.

Secondly, this dissertation asks how can a feminist approach to the study of global governance strengthen our understandings of power relations in governance? What elements of gendered power relations enhance scholarly understandings of governance and how can these insights be brought to bear on the study of global governance more generally? Building on the work of Shirin Rai (2008), this dissertation illustrates how political and community governance intersect at multiple levels of analysis. By applying this analytical framework to questions of land governance, we can see how a feminist approach to global governance enhances scholarship and stands to improve policy development at local, national, and global levels. Moreover, this approach deepens feminist understandings of “global” processes in relations to the “local” and unsettles this dichotomy in international relations (IR).

In order to answer these questions, I have conducted an extensive literature review of feminist IR, international political economy (IPE), and global governance literatures, as well as feminist economy and agrarian political economy literatures, particularly on land reforms. Based

---

5 The PRAI are distinct from the Principles for RAI currently under negotiation at the UN Committee for Food Security in 2014. The Principles for RAI are ideologically closer to the Voluntary Guidelines, and in their current form make explicit reference to them.
on these literatures, the recommendations of the two global land governance initiatives described above, and the realities of global commercial land pressures on east Africa, Tanzania and its recent 1999 land reforms serves as a national case study for this project. Tanzania’s land reforms were designed to both enhance gender equality in land rights, strengthen customary claims on land, and improve local democratic governance of land, all of which fit the broad objectives and recommendations of the PRAI and the Voluntary Guidelines, as demonstrated in later chapters. Land governance scholars and global policy-makers have endorsed Tanzania’s land reforms as among the most progressive in sub-Saharan Africa, in terms of their efforts to both recognize informal or customary claims on land alongside several provisions promoting gender inequality in land governance and ownership (Alden Wily 2010, Byamugisha 2013). Yet Tanzania has neither avoided land deal controversies nor has it resolved matters of gender inequality in land access.

Below, this chapter provides a more detailed introduction to the issue of land deals in Tanzania, and the efforts to analyze land deals with reference to gender. The following chapter then briefly situates this research within the broader global governance and feminist international relations literatures, and notes where this research program departs from conventional considerations of normative global governance. In doing so, this research project seeks to look beyond the conventional global governance literatures towards critical feminist scholarship that unsettles our perceptions of what is “local” and “global.” In doing so, this dissertation reminds IR, IPE, and global governance scholars how “global” processes such as land deals are truly rooted in community level dynamics and exchanges. Moreover, this research exposes the tensions between competing conceptions of land highlighted above. It is clearly more than just a
scarce resource, but a source of life and livelihood for some of the world’s most vulnerable communities.

*Land Deals in Tanzania*

As used above, “land grab” is the politically-charged term employed by some activists, academics, and non-governmental organizations (NGOs) to describe this phenomenon of foreign land acquisitions. The sentiment associated with “land grabbing” is clear: Foreign investors are seen to be snatching up land by illegal or unethical means, depriving local populations of access or opportunity to use the land, either for economic development or basic subsistence. “Land grab” connotes deprivation, a lack of accountability, and a failure to understand how local communities rely on land for subsistence, livelihoods, social and religious custom, and general well-being. “Land grab” suggests a lack of responsibility to stakeholders in the community and a lack of reciprocal benefit in the form of compensation.

Yet despite these sinister connotations of the name “land grab,” these land deals typically operate through the legal acquisition of property rights in most of the regions targeted for foreign agricultural investment (Vermeulen and Cotula 2010b). At the other end of the spectrum, “large-scale agricultural investment” is the term used to reframe the issue as one of agricultural development practices that simply require better governance. For some, “large-scale agricultural investment” heralds economic growth and stability for least developed countries (LDCs)6 with available farmlands. It holds the potential to develop under-productive land, create jobs, stimulate local economies, and improve terms of trade. Thus, debates have been heated. Proponents of “large-scale acquisitions” have called for an end to the “shrill calls for their elimination” from opponents (Kugelman 2013: 6). International NGOs that oppose these large-

---

6 The United Nations (UN) defines the least developed countries according to gross national income per capita, a “human assets index”, and an “economic vulnerability index,” (DPAD 2013).
scale deals suggest new land grabbers are perpetuating colonialism (GRAIN 2008). Thus, while acknowledging these important definitional issues, this dissertation will default to the term “land deals” or “land acquisitions”.

Indeed, “land deal” seems most apt to describe the process of land acquisition in Tanzania. Despite relatively robust legal structures, Tanzania’s rural landscape has still been a popular target for large-scale land acquisitions. Though Tanzania’s land reforms are widely celebrated by scholars and global policy-makers alike and are often cited as a model case, they have not been able to stem the tide of exploitive foreign agricultural investments, fully protect community interests, or improve women’s position as equal members in community governance. Thus, in this dissertation, Tanzania serves as a “crucial” case study of sorts (Eckstein 2000), designed to evaluate the recommended measures of the PRAI and Voluntary Guidelines under near ideal conditions for a low-income country with a pluralist legal system governing land. Implemented prior to the contemporary global rush for land, Tanzania’s 1999 Land Acts followed extended periods of public debate in the 1990s. Signed into law in 1999, and coming into effect in 2002, the authors of Tanzania’s Land Act and Village Land Act sought to secure the land rights of rural villagers by providing legal recognition for customary practices, and through recognizing customary claims on land (Customary Rights of Occupancy) as equal to formal titles (Granted Rights of Occupancy). In doing so, this remedied a legal holdover from the colonial period, which failed to recognize customary claims on land and marginalized peasant populations. The Village Land Act authorizes the village authorities – the Village Council and the Village Assembly – to grant customary claims on land based on local practices or to consent to transfer land to outsiders/investors through the government.\(^7\) These village bodies, and others, are also tasked with mediating and adjudicating disputes, depending on the size of plots involved. As

\(^7\) These processes will be discussed in greater detail in Chapters 4 and 5.
explored below, such measures are endorsed by the PRAI and Voluntary Guidelines for securing local control of land and ensuring local people have input in how the land is used.

Importantly, the Village Land Act does not create new bodies nor does it rely on clan or chieftaincy hierarchies in a formal sense. Rather, the Village Land Act builds upon the 1982 Local Government Act, which created these local democratic governance bodies as agents of the state. Though some scholars have classified these bodies as non-customary (Boone 2014), it does not mean that they operate independent of customary norms and practices. Indeed, these bodies are specifically directed to adjudicate according to custom. At the same time, the Land Act and Village Land Act also build on previous measures designed to promote gender equality at the village level through local participation. Village governance bodies are required to meet minimum gender representation requirements in order to meet quorum and make binding decisions. The Land Act and Village Land Act further require similar measures in land adjudication councils and committees, as well as introduce several provisions designed to affirm women’s equal status as landholders and promote spousal registration of customary claims to land.

As later chapters explain, the incorporation of these measures in the 1999 Land Acts has not significantly improved either the strength of community governance over land or women’s land rights. Indeed, though these reforms came into effect in 2002, Tanzania remains a key target for foreign agricultural investments, some of which have been highly controversial. The International Land Coalition’s (ILC) Land Matrix very conservatively estimates that over 275,000 ha of land in Tanzania is currently contracted for large-scale agricultural production by

---

8 Following criticisms of inflated estimates of land acquisitions, the Land Matrix now only reports land that transactions that have been verified by media reports or scholarly research. The Land Matrix itself acknowledges that the numbers do not necessarily capture all of the land acquisitions currently underway (Land Matrix Global Observatory 2014b).
foreign firms, with major acquisitions of over 20,000 ha each originating from the United States, Sweden, and the Netherlands (Land Matrix Global Observatory 2014a). Proposed, concluded, and even failed major land acquisitions in Tanzania continue to attract international attention and scrutiny from Tanzanian activists, as well as international NGOs and civil society organizations based in origin countries. Though there are numerous deals that have been concluded or negotiated with foreign investors – the Land Matrix currently counts 28 land deals that are concluded or under negotiation – a few deals have garnered international attention and put the spotlight on Tanzania’s land governance structures and promotion of agricultural investment.

The Iowa-based Summit Group and Pharos Financial Group, in collaboration with Iowa State University and Iowa-based AgriSol Energy, sought to acquire land totaling over 300,000 ha in Tanzania’s eastern Rukwa Region in 2011 (Oakland Institute 2011a). Yet the land in question has served as a Burundian refugee camp since 1972, and at the time was home to 162,000 Burundians (UNCHR 2014). The Oakland Institute reported that these Burundian refugees were being forced to relocate, with promises of naturalization being withheld by the Tanzania government until they did (Oakland Institute 2011a). The television program Dan Rather Reports later profiled the AgriSol acquisition in 2011, leading to greater US media attention and the subsequent withdrawal of Iowa State University from the project (Associated Press 2012). Yet despite the heightened media awareness, the AgriSol project has proceeded, though at a much smaller scale. The Tanzania-based arm of AgriSol Energy currently claims to operate two farming operations totaling 13,000 ha in an area it vaguely claims “has been uninhabited for some time,” (AgriSol 2014).

In Kisarawe District, in Tanzania’s Pwani (Coast) Region, Sun Biofuels, a United Kingdom-based company, negotiated the transfer of 8,211 ha of land with twelve different
villages across five wards (Sulle and Nelson 2009). An official with Sun Biofuels claims that that
the company consulted with over eleven thousand people and compensated those whose land
was acquired (Pearce 2012a). Yet NGOs such as Friends of the Earth International (FOEI), the
Oakland Institute, and Oxfam International also investigated the acquisitions, claiming to have
found villagers who had not been compensated for lost access to land, water, and resources
village did not know how much land was given to the company and that many promises made to
villagers were not written into formal contracts. There is also concern that compensation for
transferred land was not based on proper valuations of the land: Sulle and Nelson estimate that
one year’s production on 8,211 ha of land – US$223,312 – far outstripped the total compensation
paid to villagers (2009: 53). Issues of compensation and consent aside, the Sun Biofuels project
went bankrupt in 2011, leading the company to dismiss 600 employees (Oakland Institute 2012).
In addition, land has not been returned to the villagers, which is in accordance with Tanzanian
law. The shares in the Tanzanian subsidiary of Sun Biofuels were sold to a company in
Mauritius, with links to Lion’s Head Investments in the UK (Carrington 2011). More recently,
there are rumors that a new company – Mtanga Foods – will be raising livestock on the land,
though villagers have not been consulted and Mtanga Foods purportedly does not claim
responsibility for commitments made by Sun Biofuels (Wise 2014).

Similar ordeals have been ongoing regarding the fallout of proposed projects with Swedish
companies SEKAB and EcoEnergy, the latter of which took over many operations initiated by
the former. SEKAB acquired the Razaba farmlands in Bagamoyo District, Pwani (Coast) Region
from the Tanzanian government in 2006, land that had previously been used by the Zanzibar
government. Because the land acquired was not fertile farmland, there were concerns about
proposed irrigation practices using the Wami river that would affect land fertility and farming further downstream (ActionAid 2010). Moreover, the farmlands were still home to an estimated 600 people (Beyene et al 2013, The Citizen 2013). SEKAB also sought land from villagers in Rufiji District, asking for 100,000 ha of land. Village authorities offered 50,000 ha instead, but there were reports of corruption and corporate interference with village decision-making processes (Benyene et al 2013). SEKAB has since ceased operations, but controversies with EcoEnergy – which now controls the Razaba farmlands – persist. In Bagamoyo, the company continues to seek land beyond the Razaba farmland, with the support of the government. Yet confusion over village borders and ownership of land has led to resistance on the part of villagers, though governance processes were reportedly followed correctly (Yankami 2013).

These instances of land deals in Tanzania reveal the ways in which villagers can be slighted in dealings with companies and the government, despite following laws purportedly designed to protect villagers’ interests. The volatility and precariousness of foreign investments in agricultural land led to the temporary suspension of biofuels investments in 2009, but the Tanzanian government currently supports biofuel investments such as that of EcoEnergy in Bagamoyo in line with Tanzania’s national agricultural policy, Kilimo Kwanza (Browne 2009, The Citizen 2013). As subsequent chapters will illustrate, Tanzania’s legal structures exhibit several shortcomings, despite earning global praise for being progressive on women’s rights and recognizing customary claims on land.

Observers in Tanzania that once celebrated the Land Acts as monumental reforms are disappointed by their implementation and critical of the ways in which foreign investors have been able to acquire land in Tanzania. Moreover, feminist advocates in Tanzania remain divided on the merits of the 1999 Land Acts, pointing to class and geographic divisions among those
who are able to benefit from the reforms. Though there are many dynamics at work here, research reveals that the obstacles include gaps in the state’s governance frameworks, and the ways in which implementation is envisioned and executed. Moreover, attention to the ways in which gender roles shape governance outcomes reveals that despite strong legal reforms in favour of women’s rights, the local realities of community norms, individual needs, and relationships of dependency also discipline behaviours. Indeed, the discourses of exclusion act as mode of community governance, to paraphrase Rai (2008). Indeed, by strengthening customary modes of governance, the 1999 Land Acts in many ways undermine efforts to improve gender equality. By confirming certain traditions and not highlighting where these practices are or may be in tension with gender progressive laws outlawing discrimination, the implementation of the Acts has not resulted in widespread recognition of rural peasant women’s land rights. Indeed, this shortcoming is suggestive of the limits of imposing liberal rights frameworks onto communal relationships and without careful attention to implementation (Walker 2003, Ferguson 2014). Nor have the Acts undermined hierarchies associated with village governance and encouraged broad public consultation and discussion over land use. As later chapters reveal, this is critical once foreign investors become interested in Tanzanian land.

*Gender and Land Deals*

As noted above, there has been limited attention to gender in the contemporary land deal phenomenon. Though high profile land deal scholars have noted the detrimental impact of land deals on women, these considerations have been largely limited, noting the marginalization of women from decision-making, the higher agricultural workloads, and the loss of land and water access (Cotula et al 2009, Vermeulen and Cotula 2010, Deininger et al 2010). Cotula et al (2009) note the gendered power shifts that occur as land grows in value – typically from women to men.
– but pay no additional attention to the impacts these shifts might have on women, such as food insecurity, poverty, or domestic violence.

However, there has long been research on the gendered dynamics of land and agrarian reforms which suggest much more complex socio-political dynamics that govern land. As later chapters will reveal, there are important scholarly debates about improving rural women’s access to land rights and governance as means of improving women’s welfare, economic opportunities, productivity, and socio-economic position vis-à-vis men (Agarwal 1994, Razavi 2007, Jacobs 2009). In particular, there has been a great deal of scholarship concerned with rural women’s claims to land and land use under the liberalization and commoditization of land markets, a phenomenon central to the current rush for land (Davison 1988a, Mbilinyi 2003, Razavi 2007, Mackenzie 2010). The different social roles, rights, and opportunities afforded to men and women are necessarily affected by changes in how land is accessed or transferred to external control (Behrman et al 2012). Though women are not a homogenous category – indeed, we must consider the differences between urban- and rural-based women, as well as women of different ethnic and/or religious communities, and women of different ages, as well as important social indicators such as marital status – women are generally at a disadvantage under increasingly liberalized and commoditized land markets and transactions (Razavi 2007).

Behrman et al (2012) have offered an analysis of the various gendered implications of land deals by examining not only the process surrounding legal land deals, but also the broader social context and outcomes, including the pre-existing legal situation and consultative processes. They underscore the importance of understanding who holds land rights and what identity-based characteristics shape access to land: “Of utmost importance is the issue of who in the community has land rights and how gender, age, marital status, ethnicity, or other distinguishing factors may
influence these rights,” (Behrman et al 2012: 52). Moreover, they emphasize the distinction between formal ownership and customary rights of land use, which often operate alongside each other in many contexts, including many post-independence states.\footnote{Many scholars have highlighted that practices that are considered “customary” are often a product of colonial rule and need to be appreciated as such. See Chapter Three as well as Peters (2004) “Inequality and social conflict over land in Africa.”} Such an understanding of the gendered implications of contemporary land deals underscores how broader gendered social relations shape the land acquisition process. Systematic inequality in terms of political status, land ownership, and educational attainment frequently lead to the exclusion of the rural poor, particularly rural peasant women engaged in subsistence labour, from forums that may be able to influence land deal processes. In this sense, the “preexisting situation” and its attendant formal and informal forms of governance shape the process and outcomes of a land deal. Thus, understanding the processes of land deals and the potential gender implications therein requires an assessment of broader socio-political contexts, and the various modes of governance at work. Unfortunately, little policy or scholarly work has considered how these gender dynamics factor into the governance of land, especially at the global level.

Global Policy Efforts

The PRAI and the Voluntary Guidelines both focus on the need to strengthen and protect the land rights of people, especially smallholder and subsistence farmers who are predominately women. Yet these initiatives depart on why and how this should be accomplished, and have earned varying levels of international support. The PRAI in particular have served as a lightning rod for critics of the global rush for land. Released as a collaborative effort by the World Bank, the United Nations (UN) Food and Agricultural Organization (FAO) and International Fund for Agricultural Development (IFAD) in 2010, the PRAI call on both states and investors to ensure
that individual and community land rights are recognized, that people can interact on fair terms with investors, and that people be appropriately compensated for their land. Originating from the FAO’s newly reformed Committee for Food Security (CFS), the Voluntary Guidelines was a broad-based consultative effort that began in 2006, and included UN member states, observer organizations, private firms, civil society groups, and anyone with access to the Internet and interest in the development of Voluntary Guidelines (Seufert 2013). The Voluntary Guidelines were finalized in 2012 after an extensive consultation process (McKeon 2013). Regional consultations in Brazil, Burkina Faso, Ethiopia, Jordan, Namibia, Panama, Romania, the Russian Federation, Samoa, and Vietnam allowed rural social movements to participate and frame their own ideas about the guidelines (Kropiwnicka 2012, McKeon 2013).

Both initiatives support the recognition of individual and community land rights as a means of ensuring that use of seemingly “unused” land is recorded and protected. Rather than recommending that a focus on ensuring individual land rights are recorded and recognized – which had previously been the policy preference of the World Bank (Deininger and Binswanger 1999) – both the PRAI and the Voluntary Guidelines suggest that demarcating community rights can be effective means of protecting land rights. Both initiatives also encourage devolving land governance to local bodies in order to recognize local practices. The PRAI prefer reduced state involvement in local governance and decision-making over land, and the Voluntary Guidelines likewise endorse respect for customary governance and land use, and the utilization of locally recognized dispute resolution mechanisms. Finally, both initiatives endorse greater protection of women’s land rights. While there are important differences in the articulation of these policy ideas that earn each mechanism their respective allies in global civil society, these commonalities speak to general global agreement about both the importance of women’s land rights and the
rights of indigenous peoples and customary governance of land. However, neither mechanism
fully appreciates where these principles are in tension with each other. Given the literatures on
gender and land reform and agrarian political economy, there are serious shortcomings in
assuming that recognition of customary governance and women’s rights are necessarily
complementary. Indeed, popular liberal discourses on women’s rights may directly conflict with
community practices of social organization.

Scholars of global governance are now exploring the policy implications of these land
governance initiatives, examining the quality of global negotiations and the roles of NGOs and
civil society (see Margulis and Porter 2013, McKeon 2013). Yet much of this analysis
continues to view land deals through the conventional lenses of IR and its subfields, without
deeper consideration of informal means of governance and power relations. Although some
scholars of IPE acknowledge how household gender inequality is relevant to land deals
(Margulis and Porter 2013), there has been less attention to how structural forms of gender
inequality in land governance fundamentally shape local dynamics. Like many scholars before
them, the current crop of IR and IPE scholars continues to marginalize gender considerations as a
field unto itself, suited to analyze local contexts without consideration of the gendered dynamics
of global level governance (Waylen 2006).

This dissertation endeavours to remedy this gap in research by illustrating the gendered
dynamics of land governance and where global initiatives do or do not consider gendered power
relations as a critical element in the governance of land. While recommendations from

---

10 The scope of scholarly work in international relations (IR) and international political economy (IPE) on land
deals is not limited to governance dynamics. Some scholars seek to connect localized struggles over land to the
formation of global policies in order to understand the negative impacts of land deals, while others have explored
“land grabbing” as a new form of primitive accumulation or accumulation by dispossession as well as new iterations
of inter-state conflict (Benjaminsen and Bryceson 2012, Borras et al 2013, Brown 2012, Hall 2013b, Sassen 2010,
2013).
international bodies and institutions stress the need for local and global monitoring, stronger governance at all levels, and community consultation, there is a fundamental lack of understanding regarding how gendered dynamics shape agricultural land governance at the community level and what the implications are for land deals. Research is needed in order to anticipate how proposed measures for governance – at local, national and global levels – will affect, and are affected by, gender relations. As this dissertation will establish, there is a wealth of evidence from across disciplines to illustrate how gender relations shape local land governance, which, despite the common sense of international relations scholarship, very much shapes these global processes.

**Methodology and Modes of Research**

Based on the theoretical foundations outlined in the next chapter, this project seeks to assess the recommendations of the PRAI and the Voluntary Guidelines based on the realities of land governance in Tanzania. Guided by the two research questions – 1) How well do these global governance initiatives address matters of gender and land governance? 2) How can a feminist approach to the study of global governance strengthen our understandings of power relations in governance? – this project seeks to both deepen feminist theorizing in international relations as well as provide an assessment of the these global initiatives. This required both the development of a case study of Tanzania as well as a thorough study of the recommendations of the two initiatives.

In order to build the case study, an extensive literature review of Tanzania’s history of land reforms was undertaken. This literature review includes not only attention to the origins of customary governance in Tanzania and other countries in East Africa, but also Tanzania’s unique history of land reform and the forced displacement and resettlement of villagers in the post-
independence period. In addition, field research was undertaken in Dar es Salaam and Morogoro, Tanzania from May – July 2013. Research was undertaken at the Institute of Development Studies (IDS), University of Dar es Salaam; the Tanzania Gender Networking Programme (TGNP) Library; the Legal and Human Rights Center (LHRC) Documentation Centre; and the Women’s Information Centre at the Ministry of Community Development, Gender and Children (MCDGC). Twenty-four elite interviews were also conducted. Interviewees included NGO researchers and activists, civil society leaders, lawyers, land experts, and government officials. These interviewees were selected for their detailed and intimate knowledge of Tanzania’s legal structures and land reforms, as well as their experience on the ground and in rural communities attempting to implement land reforms. Interviews were semi-structured in order to permit a free flowing discussion of the matters that interviewees deemed most pressing in terms of land rights and women’s access to land, governance, and legal remedies.\(^\text{11}\) Several NGOs also shared the research and resources on which their advocacy and information programs are built. All of this information was invaluable for understanding the complex structures at work in land governance in Tanzania.

\textit{A Few Notes about the Researcher/Researched Relationship}

In the interests of producing feminist research that is contextualized, inclusive, and socially relevant, it is essential that I acknowledge my position in this research. As Wolf (1996) outlines, power in fieldwork is multidimensional. It appears in the power differences of the positionalities of the researcher and researched, the power exerted through the research relationship, and the power exerted through the post-fieldwork period, in the writing and the representation of fieldwork (Wolf 1996). Conscious of my positionality as a white, educated, Western, English-speaking cisgender woman conducting research in a post-independence, East African state with

\(^{11}\) A sample set of interview questions is available in Appendix II.
minority Indian, Arab, and Muslim communities, this research has been designed to minimize the negative impacts on local populations and facilitate conversations that reflect the experiences of those marginalized groups in land reform processes: rural peasant women, marginalized ethnic groups, pastoralists, and youth, in particular.

It was my intent to make my fieldwork as responsive and sensitive as possible, including adaptations to my interviews and questions as needed based on the input of the interviewees (Kirby et al 2006). This work has been concerned with hearing the voices of my interviewees, rather than claiming to “give voice” to those who participate in land deal processes (Kirby et al 2006). This entails a willingness to hear what interviewees are saying, even if it contradicts my expectations, and critiquing the notion of a Western researcher providing a voice for disadvantaged populations. As such, I have done my best to ensure that the views of the interviewees are accurately reflected and recognized as agents in their own right. Moreover, it requires an understanding of the long history of Western research in post-colonial or “late-colonial” contexts, especially those projects that claim to be for a common good, but are nonetheless insensitive to and exploitive of local populations while enriching the researcher (Smith 1999).

Given the potentially precarious position of those involved in or affected by land deals, I designed my research program to interview those in less precarious positions but with first- or second-hand knowledge of rural village experiences with the implementation of the 1999 Land Acts. The interviewees were based primarily in urban centres; were predominantly Tanzanian citizens, though some were expatriates of African or European countries; often had advanced educational backgrounds; and had secure, non-agricultural employment. Though these factors reduced some of the power imbalances between the researcher and the interviewees, it does raise
questions regarding these interviewees and their ability to fully speak to the experiences and interests of villagers and those who their organizations purport to serve. However, conducting direct interviews with villagers would have nonetheless required assistance from these organizations, and my position as a visible minority researcher may have put marginalized villagers in a vulnerable position. As illustrated in later chapters, both international and domestic NGO groups have witnessed abuses committed by men against women where they speak out about land issues or participate in community discussions.

Though I have done my best to be conscious of the power relationships between the interviewees and myself, and attempted to anticipate and negotiate my position based on my gender, racial, and linguistic identities, some factors had not been anticipated. In particular, I had not considered the advantages of having a given name – Andrea – that is associated with men in East Africa. Given the frequency with which I communicated by email to potential interviewees, many individuals expressed surprise when a woman appeared for interviews. Though this clearly worked to my advantage in some cases – there were instances where it was rather apparent that I more easily gained access to certain resources by someone mistaking me for a man – it may have worked to my disadvantage in others. Certainly, given that some feminist organizations did not return emails or other correspondence, it is entirely possible that I was perceived to be not only white and Western, but also a man, and thus did not gain access to individuals or resources based on those perceptions.

Outline of the Dissertation

This dissertation proceeds as follows. Chapter Two goes into greater theoretical depth and creates the analytical framework for the remainder of the dissertation. It begins by briefly reviewing debates in and of global governance and feminist global governance before unpacking
the gender dynamics at multiple levels of governance. The chapter highlights how these levels of analysis interact with each other and are not easily demarcated as independent spheres. Overlaid onto this analysis is Rai’s (2008) invitation for feminist scholars to consider both the governance of polities and the governance of communities in their analyses. By exploring both the formal legal frameworks of governance as well as the discourses, behaviours, norms, and spectacles that govern community behaviour, this chapter illustrates how such analyses can assist us in examining land governance, and global land governance initiatives in particular.

Chapter Three provides an introduction to Tanzania’s history of land governance. Though its state formation and patterns of land use and governance share some resemblance with its East African neighbours and other states in sub-Saharan Africa, Tanzania’s experiences with socialism and villagization in the 1960s and 1970s have created unique governance frameworks and opportunities. This chapter explores the history of customary governance in Tanzania, and traces its experiences with land reforms from the 1970s through until the land reforms of 1999. As these reforms were embedded within contentious debates regarding women’s rights, the recognition of customary tenure, and the devolution of land governance to the village level, these debates are also briefly explored.

Chapter Four begins to assess Tanzania’s contemporary land governance framework, with specific attention to the state-wide legal frameworks which structure contemporary transnational and subnational land transactions. Based on the field research conducted in 2013, this chapter includes attention to perceived shortcomings in Tanzania’s legal structure and widespread concerns about implementation and commitment to land reforms designed to enhance local democratic governance, improve customary claims on land, and recognize women’s land rights. Chapter Five deepens this analysis by considering in greater detail the gendered dimensions of
land governance as it occurs at the local level, both in village governance and through family and clan-based patterns of inheritance. In particular, this chapter illustrates the patterns of political and community governance that interact to structure the realities of political behaviour at the local level and limit the effectiveness of state-led land reforms. In spite of Tanzania’s relative absence of land-related conflicts, a reliance on long established village-level governance mechanisms, and a relatively strong commitment to enacting gender equality measures in law, political representation, and land rights, it is apparent that the governance of communities requires greater attention in order to understand the socio-political obstacles associated with land reforms.

Chapter Six refocuses our attention back to the global governance initiatives that originated this investigation. Considering the major common themes of both the PRAI and the Voluntary Guidelines, this chapter evaluates these recommendations in light of the realities of land governance in Tanzania and the experiences with enacting reforms that broadly fit these global recommendations. As the case of land governance in Tanzania reveals, considerations of the governance of communities is a critical element. With this reality firmly established, this chapter evaluates the recommendations of the PRAI and the Voluntary Guidelines with careful attention to the language employed to discuss gender equality, representation, and participation in local land governance. The chapter concludes with a discussion of the limited reach of global governance mechanisms without a more comprehensive appreciation of gendered power relations. The concluding seventh chapter summarizes the arguments made throughout the dissertation and points to future paths for research.
Chapter 2 – Analytical Framework – Reconsidering Gender and Global Governance from the Bottom-Up

The complex dynamics of land deals illustrates why a multilevel understanding of governance is important. Land deals are shaped not only by the legal structures which shape acquisition processes, but also historical claims on land, various land use patterns, and socio-political organization. As this chapter will illustrate, the gendered dynamics of land deals are particularly revelatory in helping us to understand how different forms of governance operate across different levels. This perspective stands in stark contrast to much global land governance research that has preceded it, particularly those studies that focus primarily on international governance mechanisms. Many scholars have written about multilevel governance, but few have attempted to integrate it into studies of land governance in a systematic way (Krahmann 2003).

The governance of land deals thus needs to be analyzed across multiple levels and fora far more cautiously. The term “governance” itself needs to be more carefully considered and applied in academic and policy analyses of land rights and access. Whether it is the immediate, local governance that defines the stakeholders; the conditions of consultations; national legal frameworks; or the efforts to establish global level standards of investment, the “governance” of land deals is multifaceted. A more gender-aware analysis of community- and family-level power dynamics allows us to focus on specific local governance contexts and highlight inequalities in how land is governed. Global attempts to generalize standards of governance and “mainstream” gender therein risk oversimplifying and obscuring how gender relations are manifested within various forms of economic, social and political governance. This chapter thus endeavours to outline these various forms of governance, both those considered under conventional global governance analyses as well as those suggested by gendered analyses of governance. Although questions of gender inequality are at the margins of these debates, a gendered perspective of
different forms of authority reveals sites of informal and formal governance that shape land use, land access, and decision-making over land. Moreover, by illustrating how various forms and levels of governance shape the outcomes of land deals, we can appreciate how “global” land deals involve local practices and politics.

Below, this chapter offers a broad introduction to the sub-field of global governance and gender and global governance/feminist global governance perspectives, highlighting in particular efforts to remedy the lack of gender awareness in scholarly and policy work as well as the desire to link local and global dynamics. From there, the chapter draws from the analytical perspective offered by Shirin Rai (2008) and develops a multilevel framework for addressing land governance with a gender lens. This framework broadens the scope of analysis of land deals and land governance in two key ways: first, by inviting scholars to consider governance as an interaction of political and community-based power relations and second, by applying this conception of governance at multiple levels, with particular reference to how these levels interact.

Towards a Critical Global Governance

The global governance literature is relatively young though in a short time has become a key focal point for debate in IR and IPE. The overall impact of global governance as a perspective has been the expansion of the ontology of IR to consider actors, institutions, and norms beyond the state. The contemporary global governance literature now reflects concerns with corporate codes of conduct, international finance, international environmental concerns,

---

1 For the purposes of this chapter, feminist/gendered approaches to global governance are grouped together. Some scholars decidedly commit to describing their analyses as feminist while others do not necessarily describe their work as feminist. Regardless, both groups of scholars provide important insights into structures of governance, particularly regarding informal power and social relations. As a result, these terms might be used interchangeably, though the author has made an effort to describe each scholar’s work according to the terms those scholars use themselves.
international labour concerns, and the like. Scholars have broadened global governance’s analytical scope through analyses of the authority of epistemic communities (Haas 1992), international norm dynamics (Finnemore and Sikkink 1998), institutions and institutional dysfunction (Barnett and Finnemore 1999), the rise in policy and governance networks (Slaughter 2004), the role of civil society and international non-governmental organizations in governance (Cox 1999; Cooley and Ron 2002), and the proliferation of private and corporate forms of governance (Fuchs 2005, Clapp and Fuchs 2009). All of these analyses involve considerations of authority, accountability, or power in transnational politics, whether above, below or within the state. In this sense, global governance as an academic perspective has the potential to unpack myriad forms of authority with respect to transnational issues. At the same time, these various modes of governance have garnered legitimacy in practice, as evidenced by the proliferation of voluntary codes of conduct and social responsibility projects, particularly in corporate governance, such as the UN Global Compact (Clapp and Utting 2008).

As a perspective for studying international and transnational dynamics, global governance has the potential to reveal a wide range of power dynamics at work in global politics. At the same time, debates within IR and critical IPE critique global governance as the rhetoric of Western authorities, particularly with reference to neoliberal trade and financial practices. Critical scholars argue that not only has global governance been “hijacked by social forces that have emptied it of its counter-hegemonic content,” (Overbeek 2005: 53) it has also often reflected the tropes of a specifically neoliberal global governance and worked to consolidate the rule of capital (Overbeek 2005, Rai 2005, Soederberg 2006). The definition advanced in 1995 by the UN’s Commission on Global Governance (CGG) has been the subject of much criticism, particularly as it suggests that global governance is a cooperative process, rather than one of
conflict or domination (Overbeek 2005). Similarly, Soederberg (2006) critiques mainstream understandings of global governance for its neglect of the hierarchies between various state and non-state actors in its “common sense” assumptions. These criticisms are essential for interrogating the academic literature and the practices of international and transnational authorities. Despite the recognition of multiple levels of analysis and the identification of different actors and forms of authority in mainstream global governance research, scholars cannot assume that these levels and actors operate or interact on equal terms or independent of global and domestic economic inequality. Rather, these actors often reflect existing inequalities and hierarchies the global and domestic economies. Moreover, we must be reminded that in spite of the CGG definition, both “global” and “governance” remain deeply contested terms that elude a singular definition or approach (Rai 2008).

With these caveats in mind, this dissertation follows Griffin’s (2010) definition of what it means to study “global governance”: “…[It] is, most simply, to seek to understand and describe the structures, mechanisms and processes through which collective decisions are made in contemporary world politics,” (Griffin 2010: 88). This view places the emphasis on global governance as a perspective for understanding these various processes and actors, without the assumption that these processes are in any way devoid of hierarchy and inequality. Rather, global governance as a perspective studies myriad authorities, including the state, but also capturing “systems of rule at all levels of human activity – from the family to the international organization,” (Rosenau 1995: 13, emphasis added). While many global governance scholars

---

2 The full definition offered by the CGG is as follows: “Governance is the sum of many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest,” (CGG 1995). For the purposes of this dissertation, it is important to note the inclusion of both formal and informal forms of governance in this definition.
have not delved into the potential of such a broad definition, critical feminist perspectives in and of global governance, as illustrated below, have produced vital insights about these multiple levels of analysis. These analyses unsettle our common conceptions of “collective” decision-making and interrogate these sites for the various inequalities that operate therein.

Thus, this project follows the literature that endorses global governance as a perspective, though this perspective must also be aware of and informed by feminist, materialist, and postcolonial critiques. “Global governance-as-[normative]-project” as characterized by Hoffmann and Ba (2005), must be interrogated for its reproduction of neoliberal capitalism, often in neocolonial forms. This criticism is essential for understanding the differential power structures at work in the global economy, particularly with reference to the institutions that have sought to govern land deals. The recommendations of the World Bank, the FAO, and other international institutions endorse economic and trade liberalization and the marketization of land ownership to varying degrees, while sometimes simultaneously recognizing the impact of market failures on vulnerable populations. By contrast, “global governance-as-perspective” promises to incorporate myriad ontological subjects, levels of analysis, and modes of authority into the study of international politics. In this sense, global governance has the potential to be overlaid with additional critical lenses. This is particularly important as many mainstream studies of IR and IPE have obscured gendered dynamics through virtually eliminating considerations of gender in

---

3 Here, I employ the term “materialist” to encompass a wide range of perspectives influenced by the works of Karl Marx and Antonio Gramsci that recognize the social relations of capital, the social impacts of capital accumulation, and the role of hegemony in establishing the “common sense” of economic orders. In the interest of brevity, I include only limited discussions of these perspectives in this literature review yet their influence is pervasive within the critical feminist literature upon which I build my analysis.

4 Again, I employ the term “postcolonial” to encompass a range of perspectives that consider and re-consider both the impacts of colonization and de-colonization, and recognize how colonial and neocolonial relations continue to shape Western attitudes towards African, South American and Asian communities. Postcolonial feminist perspectives have greatly influenced the analytical structure used within the dissertation, which emphasize local realities and forms of resistance (Chowdhry and Nair 2002, Mohanty 2003). While I recognize the tensions between the postcolonial, materialist and Western feminist perspectives, overall these are productive tensions that serve to enrich the quality of critical work in international relations.
macrolevel analyses, marginalizing microlevel analyses, and ignoring or denying the implicit masculinization of global processes.

*Gender, Global Governance and Feminist Political Economy*

The intersection of agricultural investment, governance, and gender highlights some of the fundamental tensions in the study of gendered powered dynamics in international political economy and international relations more broadly. A number of feminist scholars in IR have criticized the failure of both mainstream and critical scholars to incorporate considerations of gender in comprehensive and systemic ways. These feminist scholars have strived not only to locate women in global politics and the global economy, but also to examine systemic gender biases within international institutions, rules and norms; the modes by which gendered authority structures inform production and social reproduction; and the deeply gendered nature of governance, particularly of the neoliberal form (Rai and Waylen 2008, Griffin 2009, Bakker and Gill 2003). Thus, these feminist scholars have established the foundations by which we may (re)consider global economic and governance structures as themselves deeply gendered while also having distinctly gendered impacts on communities. Ultimately, their findings demand that scholars seriously account for gendered power relations at all levels of the global economy without losing sight of the very real consequences for individuals in various social positions.

The burgeoning body of work concerning gender and global governance has made notable contributions to the field, but at times it has been limited by hewing closely to the conventional ontologies of mainstream global governance perspectives. Of note, Meyer and Prügl’s (1999) *Gender Politics in Global Governance* marks one of the first attempts to unite the emerging yet disparate gendered analyses of global governance. The studies at the time converged around three general approaches: first, the study of how women or advocates for women’s interests have
carved out niches for themselves in international organizations, regional organizations, NGOs, corporations and other formal entities; second, a focus on the way women have organized themselves to engage other institutions and actors at the global level; and, finally, the formal and informal rules and discursive practices at work in different issue areas (Prügl and Meyer 1999). The first two approaches reflect the tendency of gender and global governance scholars to focus on engagement with governance institutions, either through direct participation or through the creation of institutions interested in women’s issues or gender issues. These two approaches in isolation suggest how gender and global governance scholars have studied gender issues largely through conventional engagement with the recognized participants in the global sphere.

Yet the third area of study – the study of formal and informal rules and discursive practices – has, by some accounts, gone understudied. Rai and Waylen (2008) argue that there has been scant attention to the means by which governance processes and institutions are themselves gendered, resulting in an “institutional, discursive and structural [gender] bias” that shapes governance processes in particular ways (Rai and Waylen 2008: 2). Thus, in addition to different forms of engagement, they advocate for investigations of the embedded gender bias that is often at work in governance processes. This understanding of the role of gender bias in governance encourages scholars to understand the role of gender in shaping policy, institutional practices, and the study of international and transnational politics. As Whitworth (1994) has written, understanding the gender dynamics of the international economy involves more than merely locating women in global processes, but an understanding of the gendered nature of ideas and institutions. The importance of these ideas and institutions cannot be understated as they are imbued with race, class, and gender hierarchies and are critical in forming global policy and structuring global dynamics.
This appreciation for the role of gender in the formation of policy is particularly important given the tendency for scholars and policy practitioners to view macro-level policy activity as gender neutral. The virtual erasure of gender as a component of social and economic dimensions of global politics and policy development has become a central focus for several feminist scholars. Economic planning in particular has earned increased scrutiny for the supposed “gender blind” or “gender neutral” formation of global policies, particularly economic development policies, and scholars have called for incorporating a consideration of structural gender inequalities into macroeconomic planning (Elson 1995; Seguino and Grown 2007; Razavi 2009a). Feminist scholars are likewise increasingly looking to unsettle the accepted knowledge(s) of global organizations and other governance institutions by highlighting the realities and the effects of heteronormative, androcentric, and ethnocentric policy development. As will be discussed in greater detail below, World Bank language on the benefits of recognizing communal rights to land – in contrast to previously expressed preferences for land that was individually titled – argues that there are cost efficiencies in doing so (Deininger and Binswanger 1999, Deininger 2003). Yet as Manji (2003) importantly points out, these assumptions are based on unitary conceptions of the household and do not consider power hierarchies therein or the realities of domestic agricultural labour.

As a result, we must appreciate the ways in which policies are gendered “in the sense of being shaped by the system of gendered power in which they are formulated and implemented,” (Elson et al 2007: 1). This includes an appreciation of the role of gender in the formation of macroeconomic policies and the pervasiveness of these gender constructs when economic concepts are institutionalized in practice. Elson (1991a, 1995), Griffin (2009, 2010), Bedford (2009, 2013) and other feminist economists and political economists have likewise emphasized
the role of gender not only in policy formation but also in articulation and implementation. It is unsurprising, then, that gender and global governance scholarship often maintains a parallel focus on local realities in terms of policy implementation and the interaction between global policies and processes and local forms of governance. Building upon the insistence that processes at the local level can be understood as a constitutive component of global processes (Freeman 2001), gender scholars in global political economy and global governance have expanded their analyses to examine these intersections. In terms of analyzing governance, this invites scholars to consider governance processes from the bottom-up, not only looking for the impacts on local communities, as is commonly done, but also the relationship between global and local governance. Here, understanding the co-constitution of governance processes reveals how analytically siloed processes are actually intertwined. Thus, in addition to state-level formal governance, which has received much attention from land governance scholars (Deininger et al 2010, Anseeuw et al 2012), we must consider sub-state and community level governance as well as corporate influences in the governance of production and productive relations. Moreover, by recognizing how these local and global processes are intertwined, we can think more productively about how women and other marginalized groups are part of these processes.

Yet in spite of these dedicated efforts on the part of feminist and/or gender-aware scholars, seeing gender in the development of global level policy-making in macroeconomics and land issues remains a serious problem. Following the limitations of “gender mainstreaming” in state and global policy-making after the 1995 Beijing declaration (Moser 2005, Parpart 2009), there is clearly an issue with integrating gender in global policy-making. Below, I highlight the critical differences between considering gender and locating women when considering policy outcomes. As later chapters will illustrate, unequal gender relations both at home and in the public sphere
have an impact on women’s access to and enjoyment of the land rights promised by land reforms. In the East African context, this further indicates a fundamental misreading of community relations and gender roles when implementing rights-based land reforms.

Defining “gender blindness”

It is crucial to consider how a lack of gender awareness is manifested in the actual workings of global governance practice and the implications for global governance initiatives. Although “gender blindness” in development policy is hardly a new observation (see Boserup 1970, Elson 1995), the work of feminist economists and political economists from the past two decades has revealed the effects of neoliberal economic policies that have attempted to incorporate gender into their frameworks and analyses, and their shortcomings. Although global pushes for gender mainstreaming have made an impact as global institutions such as the United Nations (UN), the International Monetary Fund (IMF) and the World Bank continue to undertake such initiatives, the inclusion of gender has not transformed neoliberal policy in a meaningful way. Rather, as many scholars note, the integration of gender analysis into the policy-making and practices of international organizations is often appropriated in an incomplete and piecemeal fashion (Griffin 2010, Bergeron 2011). And indeed, in terms of land rights, there have been clear divisions among feminist groups, some of which welcome the individualization of land titles as a means for women to acquire capital independent of family relationships, and others which oppose the marketization of such an essential material and social resource, accusing neoliberal forces of appropriating feminist languages and undermining communal or shared use of resources (Manji 2003, Razavi 2007, Mbilinyi 2012).\(^5\) This section reviews the ways in which gendered analyses in and of global governance has expanded since 1995 – i.e. since the widespread acceptance of gender mainstreaming as the means by which gender equality should

\(^5\) See Chapter 3 for an extended discussion on these divisions within the Tanzanian context.
be incorporated into governance institutions and policy – and the shortcomings revealed in institutional practice. This literature provides a foundation for our understanding of the limited conceptions of gender and land in global policies.

It is helpful to consider what is meant by “gender blindness” – or lack of gender awareness – in the analysis of global economic and development policies. It is often interpreted as the exclusion of sex- or gender-disaggregated analysis, which has long been a problem in a range of state and global level policies and institutions. Boserup (1970) is credited with first raising the issue of gender blindness in the study of development, noting that women’s experiences were not captured in analyses of development practices or in the formulation of development policies. In combination with discourses in liberal feminism and modernization theory, Boserup’s work led to the creation of the Women in Development (WID) approach. This development strategy advocated sex-disaggregated analyses in order to assess women’s productive and reproductive roles in developing economies, while also encouraging women’s access to resources such as fuel, water, and information about nutrition and health practices. Of course, the WID approach was not without its feminist critics. WID was itself faulted for not incorporating gender relations in its views and focusing too much on integrating women into existing institutions and politics without addressing gendered hierarchies. As Rai (2002) explains, the focus on access “led to an under-emphasis on the social and political structures within which women were located and acted,” (Rai 2002: 61). The WID approach was soon replaced in the policy discourse by the Gender and Development approach (GAD), which emphasized not only the consideration of women but also the broader gender asymmetries at work in development contexts. Rather than strictly focusing on the integration of women into
existing structures and policies, the GAD approach sought to “transform the broader social and institutional context that produces gender injustice and unequal outcomes,” (True 2003: 370).

This distinction between the WID and GAD paradigms illustrates the various ways in which gender is excluded from policy development. “Women” as a category of people have been excluded, but so too have gendered social relations. As Griffin (2010) points out, incorporating gender into the rhetoric and work of international organizations has largely come in the form of conflating “gender” with “women” and “empowerment” with “formal economic participation”. Thus, rather than meaningfully engaging with gendered social relations at multiple levels, many international organizations tend to “add women and stir” to their economic policy (Harding 1991). Though incorporation of sex-disaggregated data into analysis and data collection is important, there are inherent limits of such an approach. Griffin notes that international organizations rely on the presence of such data in order to make any claims about gender whatsoever and are likely only to comment on gender where “where easily quantified gains in women’s formal sector ‘productivity’ can be ascertained,” (2010: 88).

Thus, there is a greater problem in that international organizations fail to see the concept of gender itself: that is, as a social construct and social relation. As the attention of gender-focused scholars has shifted to a broader understanding of the role of gender relations and gender-based asymmetries of power in development policies, they have emphasized the importance of understanding the various facets and manifestations of gender bias in economic modeling and policy-making more generally. Elson (1991a) warns against the assumption that women can simply be added as a category of analysis in economic policies without thinking more broadly about gender relations in a larger sense. In addition, scholars must also give greater attention to the spaces in which policies are created, and the “common sense” assumptions that are
employed. Griffin (2010) argues that a great deal of power lies in the definition of who and what exists and thus we must also focus on the assumptions and perspectives of global institutions. The “institutional and discursive environments” in which policies and practices are developed constrain the actors therein, dictating acceptable public behaviour, gender-typical characteristics, and heteronormative assumptions (Griffin 2010: 91-92). These social spaces in turn shape explicitly gendered policy interventions made by international organizations, relying on “foundational ethnocentric economic assumptions as ‘the way it is’ (or, indeed, ‘the way it will be’)” (Griffin 2010: 95). This thinking is particularly important when considering World Bank discourses on land, and assumptions about the “evolution” of land markets and gender equality in non-industrialized countries (Deininger 2003).

Bergeron (2011) similarly examines how such assumptions are manifested in the social and economic modeling of the World Bank and argues that these economic assumptions participate in the “[framing] of the political claims that people can make, and the resources they control,” (Bergeron 2011: 154). While economic policy-making has expanded to include concepts of social reproduction through the construction of household bargaining models, it still limits choices, and must be understood in the broader context of global governance and neoliberal policies (Bergeron 2011). Moreover, these intrahousehold bargaining models rely on idealized assumptions of women as rational actors, characterizing women as more responsible because of their assumed focus on familial well-being. Such assumptions form the basis for popular Western thinking about development, such as that depicted in the 2009 book *Half the Sky* (Kristof and WuDunn 2009). Kristof and WuDunn’s widely popular book purports to show how oppressed communities of women in poorer countries can overcome their position, in particular by giving
examples of women that are able to remedy the seemingly irresponsible household choices of men when given development aid or microfinance loans.

Elson (1991b) calls attention to the lack of gender analysis in macroeconomics as well, a field of study that continues to be viewed as gender-neutral in a broad sense. As the focus shifts away from individuals and families to “monetary aggregates,” human labour tends to be considered equivalent to other factors of production:

There is a hidden set of assumptions underlying macro-economic thinking which is deeply imbued with male bias. This hidden set of assumptions concerns human resources, their allocation to production, and their own reproduction and maintenance. It is assumed that human resources may be treated as if they were a non-produced factor of production, like natural resources; and as if they were costlessly transferable between different activities, in the way that a piece of land may be used for growing one crop one year and a different crop the next. *These assumptions permit many macro-economic models to be constructed without any formal reference to human resources at all.* (Elson 1991b: 166, emphasis added)

Here, Elson not only calls attention to the lack of gender analysis in macro-economic terms, but also alludes to a broader problem with macro-economic thinking: the absence of reference to individuals themselves. As labour becomes considered a factor akin to any other, macro-economic analysis neglects the realities of human resources, their maintenance, reproduction, and the social context within which they are embedded. When analysis abstracts from empirical realities into economic models in this way, not only does it obfuscate the realities of labour, but also the gender relations therein.

Thus, in spite of some changes in micro-economic modeling to accommodate gender relations within the household (Elson 1994), the macro-economic modeling that drives much of global level policy development for low-income developing countries abstracts so much that it obscures local social relations, whether within communities or in families. These analyses suggest that there is much work to be done in terms of challenging accepted Western narratives
about the role of gender in economic modeling and global policy-making more generally. Gender analysis has too often simply become code for including women as part of data collection or in economic models without considering gender as a social construct more clearly. This lack of gender awareness might serve to placate donors or Western policy-makers but in practice risks further exploitation and, in some cases, the health and well-being of populations in low-income, donor-reliant regions and countries.

Efforts to govern land and land deals are deserving of a similar critique, especially as they are so intricately linked with global macroeconomic policy-making, such as those articulated by the World Bank. The recommendations to govern large-scale agricultural investments typically rest on economic assumptions regarding household models; economic, political, and social organization; availability of resources; and the desirability of investments for local populations. The neoliberal policies of the “post-Washington Consensus” (Bergeron 2011) remain pervasive in global policy debates, particularly surrounding development policies, agricultural investments, and land rights. The governance of land deals is no exception. Though there has been a backlash against the so-called Washington Consensus policies of the World Bank and IMF following the negative effects of Structural Adjustment Policies (SAPs) and the Asian financial crisis of the mid-1990s (Stiglitz 2003), scholars argue that neoliberal policymakers have adapted to respond to some criticisms. Where “Washington Consensus” policies rested on privatization, liberalization, and price stability through an unwavering faith in markets, “post-Washington Consensus” policies – or “Washington Consensus plus” policies, as described by Stiglitz (2008) – incorporate other elements, such as healthcare, women’s access to information, and the role of public institutions into their otherwise neoliberal macroeconomic policies. In terms of land and property, this has translated into a focus on women’s ability to secure property as individuals in
order to overcome their marginalized economic position. Bergeron (2011) critiques these efforts as aimed at “instrumental concerns” about economic growth and stability, rather than broader aspirational goals of transforming gender relations. Thus, though there has been a demonstrable shift in “Washington Consensus” thinking, feminist scholars note how this thinking has adapted to include feminist goals while still maintaining a market-oriented focus, which denies multilayered and unique local practices around production, reproduction, and markets.

Indeed, the realities of local land governance and agrarian practices indicate that the economic and social impacts of land marketization and the commercialization of agriculture are far more complex than often assumed by international organizations such as the World Bank. The scholarship on gender and land suggests that the economic modeling preferred by the World Bank is simply not suited to fully exploring the dynamics at work in local contexts, and is functionally “gender empty” (Griffin 2010). In this sense, gender awareness means much more than locating women in discourses over land rights, but a broader appreciation of the structures which shape land access, governance, participation, and community organization. Without such attention to the broader gendered dynamics at work, individual rights-based frameworks alone are unlikely to address the obstacles that restrict women from having equal rights to land and political participation.

Following the lead of the feminist political economists and gender and governance scholars highlighted above, the remainder of this chapter develops a gender and global governance analytical framework that addresses gender relations at various levels. The framework outlined below considers the interaction of these dynamics as the component parts of governance, and anticipates how they manifest across multiple levels of analysis. By doing so, this chapter creates an analytical structure that allows us to examine land deals as both a “global” and “local”
process, bound by the various forms of governance at work. In the chapters that follow, this framework will be used to study the current state of land governance in Tanzania.

An Analytical Framework for Gender and Global Land Governance

Gender and global governance scholars have endeavoured to create analytical frameworks to address myriad forms of governance and address gender relations more completely than mainstream scholars and policymakers. Rai (2008) advocates using the conventional sites of governance – markets, institutions, and ideology – as a critical framework for studying the mechanics of governance through a feminist lens. Rai argues that if the insights of feminist and critical scholars are taken seriously, “it becomes possible to assess the nature of gendered global institutions as based on market principles, promoting market-based solutions to social and political problems and stabilizing these solutions with the support of dominant epistemic elites,” (Rai 2008: 24). As such, feminist analysis of the constitutive parts of global governance can expand existing debates on markets, institutions, and ideology and reveal the ways in which global policies often reinforce or depend on local forms of formal and informal governance.

Yet in addition to considering the multiple levels of governance, a gendered approach to governance that focuses on ideas and institutions needs to analyze the role of informal rules alongside formalized modes of governance. In order to more fully incorporate gendered analyses into considerations of governance, Rai proposes that governance be studied along two different axes. The first is the governance of polities, which includes the regulation of economic and political life at local, national, and international levels and roles of different actors, including state and non-state actors, market actors, epistemic communities, and social movements at all levels (Rai, 2008). This type of analysis falls very much in line with existing global governance analyses, focusing on formal political authorities, networks of policy experts, and the role of civil
society organizations. These actors and forums form the typical basis of global governance
analysis.

The second axis Rai proposes for analysis is *the governance of communities*. This axis
considers how the regulation of the community occurs both through formal and informal
institutions, systems and discourses. These include caste, religious and ethnic local governing
councils, modes of communication and excommunication but also the state, as it tends to defend
dominant social norms through constitutional, legal, and policy frameworks and policy
implementation (Rai 2008: 38-39). As such, the governance of communities operates in part
through community languages and traditions, including those of sexism, racism and homophobia,
which are articulated on behalf of existing cultural interests and prevent the expression of
alternative visions of the community (Rai 2008: 38). Thus, understanding of the governance of
communities requires more than a technical analysis of policy frameworks and economic policy,
but an understanding of socio-cultural control and division through traditional discourses and
practices. It demands that scholars consider these modes of governance alongside the
conventional study of polities to fully capture the dynamics of global governance and the
discipline and power wielded within economic, political, and social relations.

The intersection of these two axes provides new grounds for analysis of global land
governance and land reforms. Analysts need to examine how the governance of polities
intersects with the governance of communities, particularly how the two axes complement each
other and restrict alternative conceptions of community and economic organization, including
productive and reproductive relationships. Moreover, it provides an avenue for feminist scholars
to study global governance from the ground up rather than from the “top down”. Rai’s
framework for analysis allows scholars to understand the intersection of modes of governance at
multiple levels, including at the level of the community. The following sections of this chapter delve into the multiple levels at which governance occurs and attempts to highlight where the governance of polities and the governance of communities intersect. Echoing Freeman’s (2001) calls to reconsider global economic processes from the perspective of local peoples, Rai’s framework allows scholars to understand the intersection of modes of governance at the level of the community and even the family, which provides for richer understandings of governance, especially the realities of land governance.

*From the “Local” to the “Global”*

In expanding notions of governance to include global land policies, national legal frameworks and regulations, local councils, customary patterns of land ownership and inheritance and the social dynamics in which they are embedded, the complications of “governing” land become abundantly clear. In a broad sense, there are four levels at which land can be governed—transnationally, nationally, locally, and within the family—and at each level we can consider how the governance of polities and communities intersect, specifically with regard to gendered assumptions and frameworks that operate at each level. However, the mechanisms of governance are also intricately tied to each other across these nominally spatial divides. In a sense, delineating between transnational, national, local and familial is somewhat artificial, because all of them operate at once, shaped by the power exercised by local officials, the design of legal frameworks, and global drivers and pressures on land and agricultural markets. These levels are delineated here in order to roughly parallel conventional thinking in international relations about multiple levels of governance, including Rosenau’s (1995) definition of governance, which includes everything from the family to the international organization. For the purposes of this dissertation, these levels are used to illustrate how governance structures are interrelated and intersecting, creating unique local contexts for how land is governed and how
communities experience and participate in land markets, whether liberalized or vernacular markets (Chimhowu and Woodhouse 2006). Thus, although I consider these levels independently, they should be understood as intimately interconnected especially in terms of how individuals and communities experience their effects.

Drawing on experiences from East Africa and Tanzania in particular, this section considers the roles of international institutions, foreign investors, national regulation and land reform, local councils, community, and familial or kinship ties in the governance of land and land markets. Each of these levels affects the experiences of rural populations who actually make use of the land. Integrating analysis of these levels promises a more complex understanding of land governance and underscores the importance of gender-based analysis that emphasizes connections between the formal and the informal, the global and the local. Below, I include brief explanations of the dynamics that will be elaborated upon in the chapters that follow and their relevance to the study of land governance and land deals.

Global Land Governance and Actors

At the global level, the efforts to govern land and land markets are complex and gendered. As noted above, the very ideas and institutions that constitute the conventional political axes of governance are gendered and affect development of land governance policies and their outcomes. Here I use “global” to capture in a broad sense those forces beyond and across state governments that influence the governance of land. This includes – in the most concrete terms – policy-making in international institutions such as the UN system and the World Bank, regional bodies such as the European Union and the African Union, as well as the institutionalization of

---

6 Chimhowu and Woodhouse use the term vernacular land markets to refer to “commoditized transfers of land within the framework of customary tenure” (2006: 348), pointing to how land is transferred between individuals under customary systems without the aid of titles.

7 Here, East Africa refers to Kenya, Tanzania and Uganda, all of which are former British and German Protectorates, as well as Ethiopia, given its high number of foreign agricultural investments.
international conventions, treaties, norms, and the aforementioned global codes of conduct. In particular, the role of the World Bank and the UN system are critical for setting the expectations of foreign donors that support low-income countries such as Tanzania (Toulmin and Quan 2000). Yet the ontology here is far more complex than just setting policy expectations. An appreciation of global governance needs to account for the role of epistemic communities – experts, policy-analysts, policy-makers, and intellectuals – in creating and cementing accepted economic doctrines as “common sense” (Haas 1992, Rai 2008). In addition, global civil society organizations can play an important role in holding other international organizations and global actors to account, whether by design or not. Moreover, transnational corporate actors need to be considered based on the influence they wield over governance processes. And from a gendered perspective, this also critically involves an understanding of these ideas and communities as carrying gendered assumptions that can have material impacts.

Feminist studies of economic discourses reveal the pervasiveness of gendered assumptions in the creation of economic policy, in both the Washington Consensus era of the 1980s and 1990s and the post-Washington Consensus era following the financial crises in East Asia and Latin America during the late 1990s (see Stiglitz 2002). As noted above, scholars have increasingly turned their attentions to the gendered assumptions that inform World Bank policies in particular, including assumptions of the household as a unitary actor, of heterosexual single-family units, and the centrality of heterosexual behaviour (O’Brien et al 2000, Bedford 2009, Griffin 2010, Bergeron 2011). In terms of land governance, many global initiatives – specifically those originating from the World Bank – reflect the familiar “efficiency” imperative in promoting gender equality: that there are productive benefits in recognizing women as equal to men (Bedford 2007). During the 1990s, the World Bank and the FAO actively engaged in
funding initiatives related to land policy, specifically land titling and land registries “with the principal aim of creating dynamic, free and transparent land markets,” (Zoomers 2010: 431). Yet poverty rates as well as the realities of local land governance and the social networks within which they are embedded, have subsequently resulted in policy revisions. As reflected in the subsequent 2003 Policy Research Report *Land policies for Growth and Poverty Reduction* (Deininger 2003), the World Bank’s previous focus on individualized land titles was revised to recognize the “efficiency” gains to be had in customary tenure and traditional modes of farming. While the World Bank made very clear that it believes that secure individualized titles are an inevitable outcome as markets develop, it conceded that there are efficiency gains to be had in customary forms of ownership that currently exist. Importantly, this document has set the World Bank’s contemporary land governance agenda and is still echoed in more recent recommendations on land (Byamugisha 2013). As Griffin (2010) suggests, these recommendations are certainly created with idea of knowing “how things are” or “how they will be” in terms of land governance.

From the World Bank’s perspective, securing women’s rights is still very much an individual land rights project. As later chapters show, in spite of attention to communal land rights and usage, recommendations for improving women’s rights are largely focused on granting individual rights with little reference to communities. As a result, we need to further interrogate the World Bank’s emphasis on the efficiency gains of both gender equality and customary land tenure. The customary land tenure model assumes – indeed, depends on – the presence of family or “non-contractible” labour to replace wage labour and reduce supervision costs. “Family members have higher incentives to provide effort than hired labor. They share in output risk, and can be employed without incurring hiring or search costs,” (Deininger 2003: 81).
While Bank analysts argue that the empirical evidence suggests that family labour is simply more productive, Manji (2003) notes that the real efficiency gains lie in the non-remuneration of household, typically, female labourers. Moreover, the World Bank’s argument that family or “non-wage” labour is more motivated fails to consider where such motivation comes from. Indeed, without grounding this analysis of land governance in the specifics of local politics, it effectively fails to consider that these labourers likely occupy an unequal position within the family and society more broadly. According to Manji, “[w]hat the idea of motivation elides is the coercive element in the use of family labour,” (Manji 2003: 150).

World Bank land policies have thus left much to be desired from the perspective of those undertaking gendered analyses. The language advocating the liberalization of land markets boasts the ability of new land and credit markets to integrate new actors, specifically those who had been prevented from holding legal ownership previously (Deininger and Binswanger 1999, Deininger 2003). But as we will see further below and throughout this dissertation, legal rights do not necessarily translate into equal market nor political participation, and the introduction of access to credit via the mortgaging of property is not as liberating as advocates might believe, especially when people are all too aware of the risks of credit (Englert 2008).

Furthermore, the liberalization of land markets and the influx of foreign investors that follow also have the potential to introduce their own gendered assumptions that can affect the design and outcomes of land deals. Behrman et al (2012) argue that transnational investors in land carry gendered conceptions or prejudices regarding productive and reproductive roles. These assumptions shape the terms of land deals, and have a role in determining who participates and does not participate in negotiating the terms of land agreements, who is and is not compensated, and ultimately who benefits from land transactions over the long term.
Furthermore, considerations of local productive and reproductive relationships need to be taken into account, particularly within the context of proposed benefits or compensation associated with land deals. One of the oft-touted potential benefits of land deals, despite evidence to the contrary, is the potential to increase local employment, including the employment of women (Cotula et al 2009, Deininger et al 2010, Li 2011). However, analysts point to a number of cases in which new positions were expected to be exclusively or largely for men, though women would also be losing access to productive agricultural land (Behrman et al 2012). In addition, possible gendered divisions of labour, lower wage rates, and hours also need to be taken into account (Behrman et al 2012). In this way, the development of land markets that are easily opened to foreign investors invite such investors to project their own biases onto the governance process. The liberalization of land markets thus itself introduces new actors that have the power to shape, reshape, or reify productive relationships, existing modes of power, and assumptions about gender roles. Moreover, these corporate actors can be integral to shaping or interfering with land governance and land transfer processes, as has been the case in Tanzania.

Thus, the conventional global governance actors – international institutions and, in some cases, invited civil society organizations – have made their mark with their efforts to govern land, and the operations of liberalized land markets themselves facilitate the incorporation of additional gendered assumptions and impacts through the authority afforded to market actors. The Principles for Responsible Agricultural Investment (RAI), developed by the World Bank and others, largely reflect attitudes that view market liberalization and land titling as key to development. Yet Olivier De Schutter, the United Nations Special Rapporteur on the Right to Food, critiques the PRAI for the expectation that all states have the institutional and governance capacity to ensure that foreign investments benefit local communities (De Schutter 2011).
Moreover, the push to liberalize land markets and commodify land as a means of protecting land rights is fraught with problems. The Voluntary Guidelines for the Responsible Governance of Land Tenure are less enthusiastic about promises of corporate large-scale agricultural investment, though they do contain clauses emphasizing the need for both public and private investment in agriculture (FAO 2012 sec. 12.1). As later chapters will discuss in much greater detail, the Voluntary Guidelines provide a wide array of – sometimes contradictory – suggestions for the governance of land, the recognition of customary tenure, and the advocacy of women’s rights. The actual state-level execution of such land policies is addressed in the following section.

National Legal Frameworks and Development Strategies

The capacity of states to govern land is repeatedly cited as one of the drivers for attempting to establish global standards for agricultural investment, as noted in the previous chapter. The problem of “weak governance” is predominately associated with low-income countries that lack either the capacity or desire to regulate foreign agricultural investments or redistribute the gains from investment among affected communities (Anseeuw et al 2012, Deininger et al 2012). In addition, a state’s land governance framework is key to understanding how land deals will be struck, how land is transferred, who will be formally involved in consultations and negotiations, and the long-term effects of the deal. Despite the expectation among World Bank analysts that liberalized land markets are an inevitable outcome as states become more fully integrated into the global economy (Deininger 2003), various hybrid land governance frameworks exist across states targeted for agricultural investment. Importantly, these various frameworks have demonstrably different outcomes for how land deals are
established. These frameworks in conjunction with a government’s desired development or investment strategy combine to create unique local circumstances, which can exacerbate existing gender, racial or ethnic vulnerabilities.

In sub-Saharan Africa, state-led land reforms are of central importance for understanding the ways in which investors will negotiate and secure land contracts. Indeed, since the 1990s, a number of African states have undertaken significant reforms, including Mozambique, Uganda, South Africa, Zimbabwe, and Tanzania. These reforms also critical for anticipating the effects the deals and projects will have on local communities and the role that communities will play in land deals. Given that the majority of large-scale agricultural land deals are considered legal, the legal framework of land ownership and acquisition in host states remain important. At the same time, disparities in legal knowledge and access to legal recourse among the rural poor affect who will and will not be participants in land deal processes – especially women (Behrman et al 2012).

Two general types of land governance systems predominate in sub-Saharan Africa, and particularly in East Africa, though these distinctions are often a matter of degree (Mackenzie 1990). Western-style formal individualized tenure systems, such as that which predominates in Kenya, grant individual ownership of land titles. In contrast, Ethiopia, Uganda, and Tanzania all rely on more or less hybrid systems, in which rural communities also have a role in governing land rights, land use, and access according to customary practices, while the state retains the ultimate rights of land ownership. Of the two general types of land tenure system, international institutions typically believe that states that have moved to implement formal statutory land rights provide clearer rules for investors to secure land (Deininger and Binswanger 1999, FAO et al 2010). At the same time, devolution of governance to customary authorities is celebrated as a

---

8 More details about these different frameworks in East Africa will be provided in the subsequent chapter.
more democratic – as well as efficient – option for communities in rural settings (Alden Wily 2011a, Deininger 2003).

Despite this analytical dichotomy, legal pluralism is often at work in East Africa and elsewhere in sub-Saharan African states. In many places, multiple forms of governance exist at once and cannot be presumed to operate independent of each other (Peters 2004). In Kenya, where titling has been systematically undertaken since the 1950s, customary norms continue to shape land tenure in rural communities (Alden Wily 2006). This overlapping of customary and statutory practices may create opportunities for “forum shopping,” based on one’s position within the community, presenting some opportunities for rural women. For instance, Tripp (2004) argues that because customary tenure systems have been used to reinforce male privilege rather than to respond to calls for gender equality, women with land disputes in Uganda typically avoid local councils in favour of courts at other levels, where they will not have to face family or clan members. Similar experiences are reported in Tanzania, where separated and widowed rural women prefer pursuing adjudication at courts outside of villages, rather than through customary authorities within villages, though they often lack the time, resources, and knowledge to navigate them (Koda 2000). Yet, tensions between statutory laws and customary practices can likewise lead to gaps in the protection of rights. A report conducted by the Women’s Legal Aid Clinic (WLAC) in Tanzania explains, “(e)ven where statutory national laws recognize women’s rights to land, ‘traditional’ values prevail amongst judges, local councilors and land officials. … [as a result] women are deprived of the rights they should enjoy under statutory law,” (WLAC 2010: 30). Thus, while governance models that recognize customary forms of tenure are sometimes viewed as democratic and progressive (Alden Wily 2011a), devolution to such authorities also
provides cause for concern among advocates of gender equality who are aware of local structures of inequality that shape governance.

As a result, these debates over tenure systems have important implications for gender and land governance in East Africa broadly, and Tanzania in particular. For scholars of gender and land politics, these debates about the gendered implications of both customary land tenure systems and formalized land rights systems, and which type of system is preferable for advancing the cause(s) of gender equality, however defined, remain unresolved. These debates have been ongoing in national contexts for several years, and in some countries, several decades (Mackenzie 1993, Razavi 2003, Whitehead and Tsikata 2003, Mackenzie 2010). Both World Bank officials and some women’s rights activists have argued that the implementation of statutory land rights alongside gender equality provisions – both in sub-Saharan Africa and elsewhere in the world – provide significant protections and advantages for women that are not available under customary systems (Tripp 2004, Yngstrom 2002). Bina Agarwal (1994), in her foundational text on gender and land rights in South Asia, has endorsed formal individualized land rights as the preferable safeguard against customary practices that might discriminate against women. With protection for individual statutory land rights, it has been argued that women can enter land markets on more equitable terms and are able to gain access to credit in order to further small business endeavours or support their families (Agarwal 2003, Deininger 2003). Yet scholars of gender and land rights within African contexts and elsewhere take issue with these sorts of claims, noting the hazards of promoting gender equality via market mechanisms and the advantages of flexible and negotiable customary systems of rule (Jackson 2003, Manji 2003, Razavi 2007). Moreover, individual rights frameworks frequently discount or
ignore relations of social dependence and the challenges of overcoming gendered patterns of production, reproduction and social organization (Ferguson 2013).

The implementation of a statutory land titling system does not erase the social inequalities that came before it nor immediately reform existing social attitudes or practices. Indeed, in some cases it can reinforce existing gender inequalities and favours those who are already capable of making formal claims to land. The introduction of statutory land rights through formal – rather than customary – titling has placed land ownership largely into the hands of men in some regions (Razavi 2003). While some scholars are concerned with the alienation of peasant farmers created in the production of formal land markets, feminist scholars note that some women are excluded from land titling and registration altogether, even in communities with existing matrilineal land regimes (Peters 2010). If statutory land rights are implemented to replace forms of customary tenure, existing male claims to land can be strengthened and women – particularly poorer peasant women in rural communities – risk losing claims to land rights or access that had existed under customary practice (Koda 2000, Whitehead and Tsikata 2009, Jacobs 2009).

Furthermore, the move to statutory land rights and liberal markets does not guarantee women’s inclusion or equal participation in markets. Long-standing economic inequality and restrictions on employment and income generation can result in an inability to purchase land among marginalized groups, particularly peasant women (Daley 2011). Finally, despite formal legal gender equality for land rights, social attitudes held by both men and women can effectively limit rural women’s desire and ability to make claims on land and participate in land and labour markets (Tripp 2004). Though individual legal rights to land might be available, the realities of family relationships, including dependence on spouses, may restrict women’s interest in pursuing individual land claims. Moreover, the perceptions of the broader community and
women’s place within that community – for instance, as someone who has married into her husband’s family – can also play a role in determining women’s ability to acquire village land independent of her spouse. Thus, such a shift is not a direct guarantee of improved land access for women generally, despite the existence of equity laws or constitutional provisions.

In these cases where the introduction of formal titling results in peasant women’s exclusion from land markets and land ownership, as well as from customary claims to land, these women are further disadvantaged when investors seek to acquire land. Exclusion from land markets places rural women in a weaker relative position to participate in negotiations of land acquisitions, and those women without claims to land ownership may be excluded from consultations altogether (Behrman et al 2012). Thus, where consultations and negotiations do occur, rural peasant women’s voices are less likely to be heard, which could result in negative social impacts, failure to identify key food and water sources, and lack of adequate compensation, especially where land has not been properly surveyed. In this sense, even under the ideal terms of land acquisition – including recommendations in both the PRAI and the Voluntary Guidelines – barriers to gendered participation in markets can be reified.

The chapters that follow delve deeper into the challenges of legal pluralism in the Tanzanian case. Tanzania’s land reforms have embraced legal pluralism, recognizing both customary and statutory claims to land as equal under the law. In doing so, Tanzania has earned much praise from the international community, and is cited frequently as a model for contemporary land reform (Alden Wily 2012, Byamguisha 2013). As the subsequent chapter will illustrate, Tanzania’s land governance model seeks to democratize rural decision-making over land use and ownership, requiring community participation as well as gender quotas in decision-making fora. Yet several obstacles have prevented these measures from being effective,
raising questions about political will and resource availability. Moreover, these questions about the effectiveness of land reforms raise further questions regarding state-led agricultural development schemes and how they interact with laws designed to protect community and individual land rights. Scholars must be aware of the development and investment strategies of a “recipient” state in conjunction with their modes of land governance (Lavers 2012).

Understanding state strategies for development or investment in addition to the role of foreign investors highlight the role of states in the governance of land and the facilitation of land deals. This is an important reminder in the face of reports that tend to focus more attention on the role of foreign states or companies (GRAIN 2008). The so-called “recipient” state plays a critical role in determining the classifications of land, which may determine the placement of agricultural projects (Lavers 2012). For example, the Ethiopian government, as well as other officials in Tanzania and Kenya, considers pastoralism an unsustainable or outdated practice (Daley 2011, Nunow 2011, Lavers 2012). These views can lead to the appropriation of land under continued use by pastoral communities, leaving already marginalized communities further disadvantaged. In this way, the power of the state to shape land deals, either in collaboration with or as a means to attract investors, needs to be analyzed. Despite the high praise that Tanzania has earned, its land reforms must also come under close scrutiny for how land might be appropriated for state use and the expulsion of pastoralist and sedentary communities from “state lands.” Subsequent chapters thus offer a detailed analysis of the 1999 Land Acts, indicating key gaps in the legislation that may leave communities vulnerable. The concluding chapter also suggests further research questions relating to state development strategies.

While acknowledging the overarching power of the state, the pluralist nature of land governance also requires attention to the aforementioned local councils and authorities that
exercise power at the local level, whether with or without state support. The following section explores how such local councils operate in practice and how gender roles, norms, and expectations embedded in local communities and customary practices continue to have an impact. However, even where states have not formally devolved authority to local councils, the role of local authorities in the governance of land remains a critical point in how land is used and, in the case of land deals, transferred.

*Local Authorities in Land Governance*

The decision-making power wielded by local authorities cannot be discounted in analyses of land governance. For some scholars, the devolution of state authority to local bodies is the key marker of neoliberalization (Krahmann 2003). According to Krahmann, where states have withdrawn from the provision of social services according to the precepts of neoliberalism, they have likewise fragmented governance and authority “among a multitude of governmental and nongovernmental actors to increase efficiency and effectiveness,” (2003: 327). In response to the global pressures states face to liberalize domestic markets, Rankin (2001) notes that such liberalization is not the “hollowing out” of the state as some scholars have argued, but the “re-scaling” of state power from a central authority to sub-national authorities. In the case of liberalizing land markets, state power is often re-scaled to local authorities in a way that fuses global economic pressures with locally based authority structures. In this sense, state-led land reforms mediate between global pressures and local economic and political structures, which are embedded in unequal social relations at the village level.

Yet in the context of many sub-Saharan African countries, the devolution of responsibility and the implementation of new governance structures can also be considered the exertion of state authority where little or none had existed before (Pedersen 2012). Importantly, this decentralization demonstrates the blurring of authority between the state and local councils. In
Tanzania, where the Land Acts of 1999 devolved decision-making power to local village councils according to local customs, the exercising of authority over land represents the simultaneous expression of both state authority and community practice. For Pedersen, this devolution of state power to the village “where ordinary, often unpaid citizens are expected to control administrative processes … leaves room for local customs and local control” (Pedersen 2012: 277). Thus, the authority vested in local councils is not only shaped by state land policies, but by long-standing local practices. That these councils in Tanzania are trusted to govern with reference to local custom and social relations means that we must give greater attention to the ways in which local norms and customs influence the practices of local governance. This is particularly important as global authorities move to recognize informal rights to land and respect local practices of agricultural production.

This devolution of authority also opens up opportunities for other actors to intervene in land deal processes. As Migdal explains, struggles for domination occur in multiple forums, not solely in the “commanding heights” of the state executive (2001: 121). As Sud (2014) has noted in the case of India, so-called “middlemen” can be important actors in the land deal process. In Tanzania, District-level authorities are important actors within land governance and land acquisition processes. As later chapters will explain in more detail, these sub-national authorities may facilitate land deals by introducing potential investors to Village Chairpersons or leaders. District officials are also responsible for recording decisions made by Village Councils on land transfers to the government, a precursor to transferring land to an investor. Yet these officials do not always act in accordance with the land laws: as suggested by some observers, District officials often exert influence over villagers, applying pressure to approve land deals. In addition, representatives of national political parties have also been known to interfere with local politics.
and decisions over land. Incitements to violence over land by politicians have been a high-profile dimension in Kenyan national politics from the 1980s through to the present day (Boone 2014). Indeed, the Kenyan case reveals how ethnic and racial divides might play a critical role in determining local land relations and conflicts.\textsuperscript{9} In Tanzania, shifts in political organization have increasingly led to local interference on the part of elites and politicians (Crook 2003, Kelsall 2002).

As a result of this reliance on customary local practices as well as the opportunities for elites to intervene in land governance practices, there are serious challenges for those seeking to democratize governance and improve gender equality. Importantly, reliance on local customs and authorities might exist in tension with notions of gender equality advocated by both global and national civil society groups. As the next chapter will explain in more detail, in Tanzania the role of local custom in land governance proved to be a flashpoint of contention in the debates around the Land Acts themselves (Tsikata 2003). And although the Land Acts of 1999 included provisions for women’s participation in Village Councils, in practice, increasing levels of women’s participation do not necessarily translate into improved representation in women’s issues. Rather, as Yngstrom (2002) argues, women serving on Councils are unlikely to demonstrate support for women’s land claims because of the broader social dynamics surrounding Village Councils. In addition, Council members are rarely disinterested parties when it comes to land, because of the nature of kin or patron-client relationships (Yngstrom 2002). This may lead to support for women representatives that will help maintain the political status

\textsuperscript{9}Indeed, community divisions based on ethnic, linguistic, or racial identities are critical factors to consider when land governance is devolved to traditional authorities, such as clan leaders or chiefs. See Mitchell and Collins (under review) for a detailed consideration of these dynamics with reference to World Bank recommendations on land governance.
Moreover, though Village Councils are the government-sanctioned bodies governing land, male elders still exercise significant power:

… the village government in the case study, comprising men (occasionally women) from some of the larger and wealthier lineages, are almost never consulted in land cases … The only legitimate forms of dispute resolution in matters of lineage land are those made up of senior male lineage elders. In this context, it is questionable whether Village Councils could successfully (or fairly) adjudicate landholdings for men or women. (Yngstrom 2002: 34)

Thus, at least in the case of Tanzania’s Village Councils, the increase in women’s representation on village bodies was not expected to improve the strength of women’s individual claims on land or role in governing land. Indeed, these sub-state authorities need to be considered as part of the broader social relations that influence land tenure. As later chapters illustrate, community attitudes about the proper roles of men and women in governance and adjudication bodies often prove to be serious obstacles in the effective implementation of land reforms.

The practices of governance outside of central state authorities thus have to be considered within the local social, political, and economic contexts in which they are embedded. Social expectations about the role of women in public consultations or forums limit the extent to which women are able to actively contribute to public discourses and participate in consultations. These gendered and classed socio-political dynamics exist alongside, and will inevitably interact with, land tenure frameworks, ongoing titling processes, consultation processes, compensation and contract negotiations that are all involved with land deals (Behrman et al 2012). Moreover, “gender disparities in human capital,” largely in the form of educational attainment, may limit women’s knowledge of legal frameworks, political structures, or available resources (Behrman et al 2012: 53).

There are myriad dynamics to be considered when analyzing the forms of governance that might operate at the village level. Not only does this site of analysis illustrate the blurring of
lines of authority between the state and village authorities, but it also illustrates the many actors at work and the ways in which customs shape the practices of village level authorities. However, acknowledging how local customs can influence the governance process at the village level also needs to be coupled with a consideration of how customs also govern through the role of kinship relations in the regulation of land tenure.

**Kinship, Community, and Family Governance**

Community norms and customs are often very tightly linked to various forms of kinship or familial governance. These forms of governance should not solely be understood as governance within a household unit, but as part of the recognized kinship ties that determine land ownership and inheritance. These patterns of land ownership and transfer operate both within the family and within the broader communities that recognize and reinforce such rights to access or ownership. Consequently, they are often very closely tied to customary land tenure governance for the broader community. Yet there is a value in examining how kinship relations facilitate or restrict land access for certain identity groups or age cohorts and how these dynamics are affected by large-scale land deals.

The assumptions made by many advocates of liberalized land markets and stronger legal land rights for individuals is that customary forms of land tenure, especially those that are hereditary or transferred through kinship relations, are universally disadvantageous for women (Agarwal 2003, Deininger 2003). Certainly in some cases kinship requirements to access land access appear restrictive. For instance, in many patrilineal societies in East Africa, a woman’s access to land may be tied to her marital status or position within her or her partner’s family (Razavi 2007). As later chapters will demonstrate, patrilineal and patrilocal practices can create significant barriers to women’s ownership or co-ownership of family land. In communities where inheritance is the primary means to access land, such as many patrilineal communities in
rural mainland Tanzania, women can face tremendous barriers to securing land independent of relationships with men.

Advocates for liberalized land markets and large-scale agricultural investments similarly argue that women engaged in household farm labour will transition into local labour markets (Deininger 2003, FAO et al 2010). Yet the assumption of such a transition needs to be examined alongside how many women actually participate in formal labour markets and what familial or community needs and expectations might prevent them from doing so (Freeman 2001). Community or familial expectations of women can also dictate land use and ownership, such as the perceived appropriateness of a woman using land for subsistence versus using land to produce goods for sale (Mackenzie 2010, Amanor 2010). These attitudes can shift as the economy shifts, such as when goods once produced only by women for domestic consumption become valued in the exchange economy, such has been the case in different sectors of Kenya’s agricultural and horticultural production (Dolan 2001).

Given instances of gender norms restricting women’s independent access to land or reaping the potential benefits of large-scale agricultural production, establishing women’s individual land rights is perceived by advocates as a means of providing a bulwark for women’s rights against discriminatory community practices (Agarwal 1994). However, in many cases, men’s structural advantages over women – particularly as the recognized owner of existing assets – can result in strengthening men’s claims to land while having a limited effect on women’s claims to land. The transition from customary claims on land to statutory claims on land may also deprive some women of powerful counter-claims on land or certain practices that have gained acceptance in the realm of land ownership (Koda 2000). For example, the practice of a woman taking on a “female husband” has enabled widows in parts of East Africa to protect
their husband’s land rights by marrying a woman who can provide labour and bear children in the deceased husband’s name (Mackenzie 1993, Tsikata 2003). Daughters’ claims on land are also bolstered when male relatives intervene or challenge community rulings (Tsikata 2003). Such practices speak to the ways in which local communities might accommodate the changing needs of women through their community relationships. Indeed, there is a concern that greater liberalization of land markets undermines these practices (Koda 2000).

In short, the impact of kinship and community governance will remain regardless of the broader structures that exist to govern land ownership or use. Various scholars have debated the merits and shortcomings of customary governance that relies on familial ties, especially in the context of land titling, yet few dispute the lasting influences of customary tenure (Whitehead and Tsikata 2003, Englert 2008, Nyamu-Musembi 2008). Understanding the contextually specific ways in which kinship and community norms shape land ownership, access, and use will be critical as foreign investors seek to not only acquire land but to do so in a manner that mitigates negative social impacts. Doing so requires attention to gender imbalances in both the statutory and customary forms of land governance, especially where gender norms might prevent women from participating in consultations, possessing land titles, or entering land or labour markets. Thus, understanding how various forms of formal and informal governance intersect will be key to understanding the complex social and political context into which foreign investors are entering.

Moving Forward

This multilevel analytical framework will be employed in this dissertation to study the governance of land deals from the level of the family to that of global policy-making, studying in close detail the local dynamics observed in Tanzania and using these insights to assess the global
initiatives that have emerged in the past five years. Given this representation of the multilevel nature of governance, we can anticipate a number of ways in which gender inequalities might be manifested in the governance of land, such as through biases manifested in global conceptions of gender relations, shortcomings in national legal frameworks and processes, village-level decision-making, or familial inheritance practices. All of these forms of governance ultimately have bearing on the consultation, negotiation, and ultimate outcomes of land deals in the Tanzanian context. Existing studies of the gendered dynamics of land tenure systems, land redistribution, and responses to commercial pressures on land highlight the forms of exclusion and heightened vulnerabilities associated with dramatic shifts in land use that can be anticipated with the influx of new agricultural investments in East Africa (Razavi 2009a, Wandia 2009, Daley 2011). As described above, these include women’s exclusion from tenure rights and/or formal land titles; exclusion from consultation processes with firms, local government, and community councils; loss of land access; lack of compensation; increased household food insecurity; and increased domestic violence. These manifestations of gender inequality may also result from the intersection of several oppressions, including racial or ethnic discrimination, socio-economic position, and urban/rural location.

As subsequent chapters will demonstrate, there could be significant consequences where global remedies to mitigate the negative impacts of large-scale land deals fail to acknowledge that social and economic change has differential gendered impacts and can exacerbate existing gender, class, and racial inequalities. The health and safety risks as well as the economic insecurities associated with drastic socio-economic change are themselves worthy of closer attention by global policy-makers. Moreover, the ways in which social norms restrict participation by women in local fora need to be accounted for even in the most optimistic of
economic models and projections. Thus, even the most instrumental arguments for gender equality require closer analysis around large-scale land deals. The following chapter begins this analysis by providing deeper detail about the politics of land governance in East Africa more broadly, and specifically in Tanzania. In particular, this chapter will highlight the complex dynamics at work in Tanzanian land governance and explore the recent land reforms, which have earned such praise from global policy-makers.
Chapter 3 – A History of Gender and Land Governance in Tanzania: The role of the state and legacies of land reform

Given the analytical framework developed in the previous chapter, this chapter delves into the broader challenges of land governance in East Africa before focusing in on Tanzania as a detailed case study for examining multilevel land governance. As this chapter will demonstrate, Tanzania is far from being the only country undertaking land reform to address matters of land access and tenure security, but as a case study it stands apart in East Africa for its commitment to recognizing customary forms of authority, resisting a linear move towards individualization, registration and titling (ITR) in land governance, and efforts to give women equal access to land rights. Moreover, given Tanzania’s long history of land reforms and shifts away from a reliance on chieftaincies and clan authorities, it is also an important case given the country’s relative lack of inter-group ethnic conflict. This is not to suggest that such conflict is not possible, but given conflicts over land elsewhere in Africa, Tanzania is a critical test case to examine the challenges of land reform that are unrelated to conflict.¹

In addition to reviewing the specific challenges to land reform in Ethiopia, Kenya, and Uganda, this chapter also outlines Tanzania’s broader history of land reform and customary practices and what makes it so promising as a case for progressive land reform. The chapter establishes Tanzania as a unique case for the ways in which its land reform history – while often brutal – paved the way for national and local governance structures that are less rooted in traditional hierarchical structures, but still rely on customary practices for the transfer and securing of land. The chapter reviews this important history and establishes how it has shaped and continues to shape contemporary informal and localized forms of authority. As will be demonstrated in this chapter and the following two chapters, understanding these dynamics is

critical for understanding contemporary land deals and the risk of marginalizing vulnerable groups.

Finally, this chapter outlines the debates that shaped Tanzania’s 1999 Land Acts and the impetus for change. Importantly, this chapter highlights the contours of feminist debates in Tanzania’s land reform efforts, which continue to shape activism around land rights in Tanzania today. Though attention to gender came late in the land reform process, these debates reflect critical class and location differences within the Tanzanian population, and the challenges in creating gender sensitive land reforms that also respect local practices. As subsequent chapters will demonstrate, these debates in Tanzania were prescient in their anticipation of the issues faced by rural Tanzanian women in the face of large-scale investments in the current period.

*Overview of Land Grabs and Legal Structures Across East Africa*

As discussed in the introduction, the scale of large-scale land deals in sub-Saharan Africa is tremendous. Across the world, the estimated amount of land acquired by investors was once estimated to be upwards of 203 million ha, though currently, the Land Matrix Global Observatory conservatively estimates 50.5 million ha of land has been acquired in concluded and intended land deals, and another 7.2 million ha in failed deals (Anseeuw et al 2012, Land Matrix Global Conservatory 2014b). An estimated 5 million ha of land has been acquired or is under negotiation in Eastern Africa alone (Land Matrix Global Observatory 2014b). Again, “weak”

---

2 There remain ongoing scholarly debates about how land deals are counted and recorded. Locher and Sulle (2014) challenge the methodologies used by a number of databases. In particular, they take issue with the numbers put forth by Anseeuw et al (2012), which estimated that land deals either concluded or under negotiation totaled 203 million ha of land, with 134 million ha reported in sub-Saharan Africa alone, and 34 million ha of those reported deals cross-checked. Yet currently, the International Land Coalition’s (ILC) Land Matrix estimates 50.5 million ha of land in concluded and intended land deals. Anseeuw et al (2013) note that methodological differences can result in starkly different totals depending on what is counted, and that the ongoing verification of the Land Matrix will result in changes to the data. For instance, the Land Matrix counts deals concluded since the year 2000 that involve land plots 200 ha or larger, and largely omit smaller, domestic land transactions (Anseeuw et al 2013). In addition, As Locher and Sulle (2014) argue, and later chapters will explore, administration of land governance is itself a difficult challenge, making verifying the number of land deals all the more difficult. Importantly, few scholars dispute the rise in interest in agricultural farmland around the world and thus are driven to provide accurate data about land deals.
governance is frequently cited as a common cause of land deals that convert land held communally or by smallholders to commercial use: the absence of strong laws to protect the land rights of smallholder farmers and an unwillingness among state leaders to improve such laws (Anseeuw et al 2012). At the same time, some analysts have examined matters of consent in local communities, and question the efforts made to improve local accountability and how powerful global norms around consent can be in the face of large-scale investment (Vermeulen and Cotula 2010). As we will see in subsequent chapters, global efforts to provide recommendations and guidance on land governance, frequently give recommendations on these dimensions. Yet more reflection is needed on the effectiveness of these practices.

To date, much attention has focused on the broader national legal frameworks used in various countries targeted for investment. In East Africa alone, we see a range of national land frameworks that have each been evaluated for their role in shaping land security for local populations. Ethiopia, Kenya, Uganda, and Tanzania all employ distinct land governance frameworks with varying effects on local populations and foreign and local investors. Contained within each set of national boundaries are unique conflicts and debates over land and land reform, all of which interact with complex gendered social relations and inequalities. Together, these countries provide useful examples for understanding the embeddedness of gender relations in political and community governance and what this might mean for broader considerations of the governance of agricultural investments. Moreover, they highlight broader challenges for land governance across East Africa, including challenges facing states across sub-Saharan Africa.

*Ethiopia*
Of the East African countries considered here, Ethiopia has perhaps come under the most scrutiny from scholars and the international donor community for its approach to large-scale land deals. Between 2004 and 2009, the World Bank estimates that Ethiopia allocated 1,190,000 ha of land for investment, and though only 23 of 406 projects involved foreign investors, foreign projects make up slightly more than half of the area leased by the government (Deininger et al 2010). In 2012, the Ethiopian Ministry of Agriculture announced that it was preparing several fertile but “unutilized” areas for investment in land, totaling an estimated 3.6 million hectares (Maasho 2012, Solomon 2012). Human Rights Watch has alleged that the Ethiopian government was forcing the relocation of approximately 70,000 people in order to accommodate investors in the Gambella region (Maasho 2012). In particular, deals with Indian and Saudi-based firms have received the brunt of global media attention, raising questions about Ethiopia’s development strategies and the commercialization of agriculture at the expense of local livelihoods (Lavers 2012). One study noted that of 150 Ethiopian land deals, 130 offered less than 50 full-time equivalent jobs and there was no evidence of higher levels of employment with increased capital investment (Cotula et al 2011: S107).

In terms of its land structure, Ethiopia bears several similarities to other sub-Saharan African countries. Ethiopia’s land is nationalized, with private land ownership outlawed, with only long-term leases (approximately 30-50 years) available from the government (Cotula 2011). Although local populations use land, there is no legal recognition for customary use or transfer of land, undermining the land and food security of some of Ethiopia’s most vulnerable groups,

---

3 Excepting Somalia. Due to its long-term instability and the general lack of information about land governance in Somalia, its land tenure frameworks are not considered here.
4 The Land Matrix Global Observatory (2014) estimate largely concurs with this number, estimating that approximately 960,000 ha of land has been acquired or is under negotiation in Ethiopia since 2000. As noted earlier, the Land Matrix only counts deals over 200 ha in size, which may account for the discrepancy between these figures.
particularly pastoralist communities (Deininger et al 2012). This lack of legal recognition has also led to communities being displaced without due compensation. For instance, although there are legal provisions requiring compensation to displaced communities including the provision of new land, only registered landholders are required to be recompensed (Deininger et al 2012). And although investment projects in Ethiopia do require environmental impact assessments (EIAs), few agricultural investment projects actually have them. The World Bank reports that the low numbers of EIAs were due to a lack of capacity and “a rush to approve projects by the investment authority that precluded sectoral agencies from performing due diligence,” (Deininger et al 2010). Moreover, the World Bank noted that waiving EIAs were sometimes included in sunset clauses for project approval (Deininger et al 2010).

Analysts note several governance issues related to land administration in Ethiopia. In the absence of a single land policy, principles of land governance are gleaned from federal laws and regional and municipal laws and directives, which might be changed without notice to the public (Deininger et al 2012: 96). In addition, “there is a delegation of federal mandates to lower levels of government, without sufficient policy guidelines or laws to clearly define the roles of various levels of government,” (Deininger et al 2012). In rural areas, both land administration institutions and investment authorities can allocate land, deepening administrative confusion. Finally, the World Bank notes that there are serious conflicts of interest related to the administration and expropriation of land, such as members of an executive committee responsible for deciding expropriations also sitting on the committee that hears appeals on such expropriations (Deininger et al 2012). Members of legislative and executive committees also sit on regional or municipal executive councils, which is “reported to have led to the issuance of directives that were specifically targeted to influence the resolution of specific cases,” (Deininger et al 2012: 97).
Ethiopia’s protections for rural communities, especially for pastoralist communities that use land communally, have not kept pace with the government’s desire and ability to attract foreign investment. As explained by Lavers (2012), Ethiopia’s development strategy seems to be founded on the commercialization of agricultural land. Yet, this commercialization strategy stands to have further detrimental impacts on rural livelihoods, especially in light of lapses of what the global community might describe as “good governance.” The inconsistencies in the governance of communal land demonstrate the importance of recognizing and protecting customary forms of land. Indeed, Ethiopia serves as an example of how clearer governance mechanisms are needed to protect land tenure security.

Kenya

Kenya serves as an interesting contrast to Ethiopia and its other neighbours in East Africa in that it is the lone country in the region to move decidedly away from communal forms of tenure and embrace individualization, titling, and registration (ITR). This shift began in the 1950s while under colonial rule, and was maintained through independence and to the present day. Following colonial thinking that endorsed a shift to individual titling as more efficient than customary practices, the Swynnerton Plan was enacted by the colonial government in 1954. This plan shifted farmers from collective to individual ownership, with the goal of ending customary practices in rural Kenya. According to Davison, “[l]and use patterns in the reserves were to be abandoned and all ‘agriculturally potential’ land surveyed and consolidated into individual holdings,” (1988b: 164). This move to a free land market was celebrated as a means of allowing “energetic and rich Africans to acquire more land and bad ones less land thus creating landed and landless classes … a normal step in the evolution of a country” (Swynnerton 1954: 14). At this time, colonial authorities placed increasing emphasis on the need to introduce individual titles as
a means of fostering economic development. Many viewed forms of communal tenure as an impediment to growth (Alden Wily 2012b).

Yet in spite of pursuing ITR as the primary means of land governance, Kenya has neither eliminated the practice of customary law across the country nor has it protected citizens from land grabbing by Kenya’s political elites (Mackenzie 1990, Klopp 2000). Moreover, individual land ownership has not eliminated discrimination based on gender. From the outset, titling and registration of land largely benefited men as heads of households, and customary law continued to govern women’s access to land through kinship relations (Davison 1988b, Mackenzie 1990).

Moreover, these changes in statutory law coexist with customary practices in many rural parts of the country. According to Mackenzie, “two spheres of land rights coexist, and battles over land are fought within and across both,” (1990: 629). As a result, entire communities face legal and political marginalization despite the legal and productive advantages land titling is purported to have. While some pastoralist communities in Kenya have since collaborated to lease land for ranches, other pastoralist groups still lack formal land titles (Smalley and Corbera 2012). Thus, formal land titling has excluded pastoralist communities from the legal protections and economic benefits that have been afforded sedentary farmers. As such, land remains a contentious issue in Kenyan politics, creating tension across ethnic, class and gender lines and fuelling violence.

Despite these ongoing political challenges, efforts to remedy gender inequality in land rights continue to be made. In 2010, Kenyans voted to alter the constitution to include a number of new provisions regarding gender equality, including land rights. The new constitution promises the right to own property to “every person” and equitable access to land and security of land rights. While these provisions do not explicitly mention women or other groups as historically disadvantaged, the constitution does commit to eliminating gender discrimination in
the law, and customs and practices related to land and property (Republic of Kenya 2010: Sec. 60.1f). It remains to be seen whether or not these constitutional changes will translate into long-term social change and whether women’s claims to land will be protected, especially where corporate or elite interests target land for investment. While recognizing the challenge of customs, these constitutional changes do not prescribe how these rights will translate in practice. Many Kenyan women, specifically poorer, rural women, face systemic discrimination with regard to access to and ownership of land, in spite of legal protections and guarantees. Rural Kenyan women’s access to and control of land is shaped by marital relations and gender roles and expectations (Mackenzie 1990, Yngstrom 2002). Chronicles of “property grabbing” – a phenomenon distinct from land deals, wherein victims, largely female widows, are forcibly evicted from their homes by family members, traditional leaders or neighbours – suggests how deeply ingrained women’s social exclusion is and the persistence of customary practices (Izumi 2007).

Though ITR is frequently argued to provide greater economic opportunities for women, broader shifts in agricultural production and the limits to women’s off-farm activity and income have prevented women from accumulating the capital required to purchase land in a number of rural communities (Davison 1988b, Mackenzie 1990). Women’s lack of independent land ownership in Kenya increases their vulnerability in the face of land deals and the land markets that further titling and registration create. This economic inequality, which is closely connected to social exclusion, is not likely to be remedied by economic governance initiatives alone.

Pervasive socio-political exclusion based on gender suggests that Kenyan women of various community backgrounds are excluded not only from local decision-making, but decision-making at multiple levels. This exclusion of women from community discussions can result in a
lack of attention to women’s land usage or the potential impacts of land projects on women’s productive and reproductive activities (Daley 2011). In addition, Kenyan women experience systemic gender-based violence, with up to half of all Kenyan women having experienced abuse since adolescence (Daley 2011). Further, women may experience sexual and violent abuse from male officials in trying to protect their access to land, and influxes of single, male migrant workers as a result of changes in production may encourage disease transmission.

Kenya, as one of the few African countries to move decidedly towards ITR for land governance, illustrates the challenges of implementing such a model without attention to customary modes of governance. Without attention to the persistence of gender norms and the potential for clashes between different ethnic groups, ITR in Kenya has had an inconsistent record. Indeed, it is further indicative of the challenges of introducing an individual rights-based paradigm where traditional community practices shape land access and control. Pastoralist groups and sedentary farmers have been known to clash with each other over fertile land, clashes that are potentially heightened by the influx of foreign developers. Smalley and Corbera (2012) note the stark differences between groups with formal titles versus those without, and the potential for conflict and resistance amongst pastoral groups that lack formal titles. Moreover, political corruption remains a perennial problem, with promises over land frequently made, spurring political crises and condemnation from the international community. In particular, the violence during the 2008 election has in part been tied to ethnic conflicts and displacements, including conflicts over land. This episode has brought Kenya’s leadership to the International Criminal Court and continues to be under investigation at the time of writing.

_Uganda_
Like Tanzania, Uganda is a favourite of international observers regarding its land governance. Tanzania and Uganda are frequently cited together as having introduced land reforms in the late 1990s, with both models recognizing customary tenure (Okoth-Ogendo 2000, Alden Wily 2011b). As Englert and Daley (2008) note, most of the land legislation in East Africa during the post-1990 period sought to formalize existing land rights. Yet between Tanzania and Uganda, Uganda was “arguably less effective in recognizing multiple owners of private land rights” (Englert and Daley 2008: 6). Thus, although Uganda recognizes multiple forms of land tenure – as described below – it has shifted to focus more firmly on individualized rights versus group rights.

Uganda’s 1995 constitution recognizes four different forms of land tenure – freehold tenure, leasehold tenure, mailo land tenure, and customary tenure – and declares that the land of Uganda belongs to the people of Uganda (Coldham 2000). Freehold tenure functions most similarly to land titles in Western countries and in Kenya, where the landholder has full ownership rights. Leasehold tenure is granted by the state and held for a determined period. Mailo tenure has its origins in the Land Law of 1908, where freehold titles were given to about 4,000 individuals. Given its origins in the Buganda region as land granted to clan chiefs, mailo land is still subject to clan approval (Tripp 2004). Finally, as in Tanzania, customary tenure in Uganda is regulated by customary rules, though here administered by clan leaders (Tripp 2004). Registration of customary ownership can be accomplished through an application to the parish Land Committee, which makes a recommendation to the District Land Board (Coldham 2000). A similar process is available to those who would like to convert their customary tenure to freehold tenure. Consequently, Coldham argues, “[t]he Ugandan land policy charts a rather curious course
between those of its East African neighbours. It espouses a move towards freehold titles (like Kenya), [and] it shies away from an open land market (like Tanzania),” (Coldham 2000: 76).

Coldham (2000) notes that in Uganda there has long been a push to register land as freehold rather than as customary, dating back to recommendations made by advisors from the University of Wisconsin in the late 1980s. Yet he notes that Ugandan policy-makers have been keenly aware of the challenges of land registration in Kenya, specifically the marginalization of family and community members as land became registered under individualized tenure. To avoid this marginalization, the Land Act of 1998 requires the Land Committee to record “third party rights” over customary land to safeguard the rights of women, people with disabilities, minors and absent people (Coldham 2000). However, it is unclear how these rights would be safeguarded once the freehold title is issued, especially given Uganda’s push to increase land marketability (Coldham 2000).

These concerns over the rights of marginalized groups in land tenure reform bolster Uganda’s position as a leader in progressive land reform. However, as Tripp (2004) has written, in spite of some measures to recognize marginalized groups, especially women, other measures have been radically undermined. Thus, although the Land Act of 1998 includes provisions for third party users of land, other initiatives to improve land rights have faced stiff opposition. Of particular note is the ultimate defeat of an amendment to the Land Act that would have required the co-registration of spouses on land certificates. As Tripp explains, though the relevant clause was passed by Parliament, “political maneuvering on the grounds of technicalities” prevented the clause from being passed into law (2004: 7). Tripp quotes President Museveni’s admission that he pulled the clause from the amendments: “When I learnt that the Bill was empowering the newly-married women to share the properties of the husbands, I smelt a disaster and advised for
slow and careful analysis of the property sharing issue,” (Tripp, quoting Museveni, 2004: 7). Indeed, as Tripp explains, Museveni’s hesitations reflect widely held beliefs about gender roles and land ownership, not only in Uganda, but also more broadly in sub-Saharan Africa. At the time, only South Africa and Tanzania had passed laws requiring co-registration of titles (Tripp 2004).

Thus, though both Uganda and Tanzania have passed important land reforms recognizing forms of customary tenure alongside more liberalized options, Uganda still has clear gaps in its efforts to provide formal legal protections to protect women’s claims to land. In this way, Uganda reveals the difficulties for feminist activists, particularly within a land tenure framework wherein the expressed goal of the state government is to create a more liberalized land market. Moreover, though it has made great strides towards the recognition of communal and customary land rights, Uganda has decidedly shifted further towards liberalization than Tanzania. Consequently, for the purposes of this dissertation, Tanzania’s formal legal provisions for gender equality combined with greater attention to group land rights and customary forms of land ownership makes it a fascinating and important case to examine the good governance recommendations put forth by global policymakers.

Why Tanzania as a case study?

In spite of differences in their legal frameworks and land governance, Ethiopia, Kenya, Uganda, and Tanzania all still experience turmoil surrounding the persistence of customary practices and authorities. Even in Kenya, where ITR was long believed to bring efficiencies and equality to land governance, the persistence of customary authorities and clashes between different groups using land highlights the importance of looking at how land is actually used and governed by local communities (Smalley and Corbera 2012). Each country has pronounced
inequalities in access to land, including gender inequality and the marginalization of pastoralist communities. As highlighted in Chapter 2, understanding the governance of communities involves considering how forms of authority that are not necessarily state-sanctioned shape behaviours and practices. Moreover, reliance on traditional authorities risks reinforcing practices that undermine gender equality and can visit various forms of violence on vulnerable and/or targeted groups.

Tanzanian land governance shares a great deal in common with its East African neighbours: As in Ethiopia and Uganda, land is held under authority of the President; as in Kenya, some titling is practiced; and as in Uganda, Tanzania has embraced local forms of authority in the administration of land. Yet Tanzania still has several characteristics that set it apart as a best practices case for examining land governance in East Africa. Despite all land being owned by the state as in Ethiopia and Uganda, Tanzania’s Land Acts of 1999 have introduced lines of authority designed to enhance governance at multiple levels. As we will see later in this dissertation, these lines of authority do not operate cleanly in practice, but there is general praise for the design of the land laws from international institutions.

Though Tanzania does issue land titles in the form of Granted Rights of Occupancy, as in Kenya, the issuance of land titles is largely confined to urban areas where customary practices are less strong and where there is high demand for the surveying and demarcation of discrete plots. And with the Land Acts of 1999, Tanzania has introduced a new mode for registering land that requires less government involvement and relies on customary practices at the village level. Certificates of Customary Rights of Occupancy (CCROs) have equal status under the law as Granted Rights of Occupancy, and are designed to allow democratic community governance of
land. Again, as we will see later, this mode of governance is not without its challenges, but it is a step few other countries have formalized in law.

Finally, though Uganda and Tanzania have both moved to recognize customary forms of land tenure and governance, Tanzania’s efforts to include principles of gender equality in its land reforms are arguably more progressive. President Yoweri Museveni’s last minute removal of gender equality provisions in the 1998 land reforms undermined the efforts of Uganda’s feminist activists. By contrast, Tanzania’s Land Acts declare discriminatory customary practices unlawful and included provisions for the co-registration of land as well as mandatory minimum women’s representation on Village Land Councils. Though the move towards gender equality in Tanzanian land governance has not been a smooth one, these legal provisions are still regarded as an important step. The embedding of gender equality provisions into the Land Acts of 1999 is still praised as an important achievement, one echoed both by the international community and Tanzanian feminists (TAWLA n.d., Alden Wily 2011a).

Thus, though Tanzania and its neighbours in East Africa all include some legal provisions for gender equality in land ownership and access, Tanzania remains distinct for its progressive model of democratic land governance that also endeavours to recognize customary land rights. This model for land governance predates and anticipates the qualities advocated by the World Bank, FAO, and others, as well as the recommendations of the Principles for Responsible Agricultural Investment (RAI) and the Voluntary Guidelines, which makes it a particularly crucial case to examine. Having established this model through the establishment of village governance in the 1970s, with reforms in 1982\(^5\) and 1992,\(^6\) and the enactment of the 1999 Land Acts, Tanzania is an ideal case to review the effectiveness of these measures in practice.

---

\(^5\) 1982 Village Government Act, United Republic of Tanzania
\(^6\) 1992 Reforms to Village Government Act, United Republic of Tanzania
The remainder of this chapter briefly reviews the history of land governance in Tanzania, from customary practices and colonial authorities, to the post-independence period of villagization, the liberalization of the 1980s, and finally the land reform process of the 1990s. In reviewing this history, this chapter reveals the critical importance of understanding the intersection of different forms of authority over land, particularly the interactions between colonial or state policies and customary forms of authority. Moreover, this history reflects the subordinate role girls, women, and marginalized minority groups have played in Tanzanian land governance, particularly at the local level. As this chapter makes clear, knowing these histories is critical for understanding the obstacles to effective reform and appreciating the real challenges in protecting individual and community land access and rights.

For all of the attention to land governance on the part of the international community, improving governance involves much more than the implementation of strong laws. Multiple levels and forms of authority intersect to create specific social, legal, and political contexts within which land is governed. Tanzania’s current social, legal and political land governance framework is rooted in a very specific history that has shaped not only the formal legal frameworks that exist today, but has played a critical role in shaping community practices. As such, understanding contemporary land governance in Tanzania is much more than a matter of examining its contemporary legal reforms; rather, it requires attention to its complex history of land governance and macroeconomic shifts. In doing so, we can more fully understand Tanzania’s strengths and weaknesses in its efforts to improve land tenure security and local democratic governance in light of global economic pressures. Doing so can provide lessons for countries facing similar land reform questions, such as Tanzania’s East African neighbours.
explored above, as well as other countries facing debates about liberalizing land reforms and improving gender equality.

**Understanding Tanzania’s History of Land Governance**

In Tanzania, foreign land investments encounter ongoing conflicts and debates regarding land ownership, which have unique class, gender and ethnic dynamics (Pederson 2012). At the same time, contemporary efforts to reform land ownership and access create new opportunities for investors to acquire land. Because customary land tenure systems, state land ownership, and liberal land reforms all have roles in determining how land is owned, used, and (re)distributed, the local governance of land is complex. Further, tensions between customary tenure systems and liberal land reforms continue to shape key debates about how land is governed in Tanzania and elsewhere. Importantly, scholars have noted that in theory and practice, both systems have disadvantages and advantages for marginalized groups, particularly poorer, rural women (Manji 1998; Whitehead and Tsikata 2003). Moreover, there are tensions between provisions for individual rights where community customary practices are both protected and encouraged in land governance.

Tanzania is also an interesting case to consider because of the absence of deep ethnic and/or clan conflicts over land rights or political power. Though various groups in Tanzania have come into conflict over shifts in land use, Tanzania has largely escaped protracted, large-scale ethnic conflicts over land. Some scholars have suggested that changes in Tanzania’s national political structure and political parties might facilitate greater ethnic clashes in the future as politicians look to win favour with local groups (Kelsall 2002). However, such conflicts have yet to materialize. Analysis suggests that clashes between displaced pastoralist communities and cultivator communities are primarily driven over differences in land use and production, created
from pressures on land from commercial industry and by the government itself (Peters 2013, Kamata 2003, Gastorn 2008). As discussed further below, Tanzania’s post-independence land resettlements disrupted historical patterns of land use and settlement, and ‘reconfigured’ the rural population (Scott 1998). Indeed, these efforts were part of the post-independence move to create a nationalist identity and reduce the influence of chiefs by creating secular bureaucratic governance structures (Bryceson 2010). For these reasons, though this dissertation does focus on intra-group dynamics, particularly around gender roles and expectations, it does not focus on inter-group conflict over land. The primary focus is on matters of location, gender, class, and intra-group dynamics in relation to land reform and implementation.

Tanzania’s post-independence history has been marked by several periods of national land reform, beginning with “villagization” in the 1960s and 1970s under President Julius Nyerere, and followed by land, economic, and political reforms in the 1980s under the guidance of the World Bank and IMF. Although the focus of this case study is primarily on the Land Act and Village Land Act of 1999 and the effects thereafter, it is worthwhile to briefly consider the broader history of land reform in Tanzania. Indeed, many scholars invite deeper examination into the legacies of the colonial era, which firmly established the legal structures that shape the current context of land acquisition and ownership (Alden Wily 2012). This includes not only consideration of the divisive land policies of Nyerere, but also a consideration of customary governance as conceived and practiced in Tanzania. For the purposes of this study, the colonial history of mainland Tanzania – previously Tanganyika\(^7\) – is critical for understanding the development of customary tenure as a mode of land organization that is distinct from the

---

\(^7\) Although mainland Tanganyika united with Zanzibar to become Tanzania in 1964, for the purposes of this dissertation, I will primarily focus on land governance in mainland Tanzania. Not only are the two parts of the country still governed separately, with Zanzibar still considered autonomous, but the very different colonial histories and social organization of each locale requires that they each be considered separately.
European modes of legal title and yet still structured by power relationships, both within Tanzanian communities and between Tanzanians and colonial authorities.

*Establishment of Customary Tenure as a Colonial Mode of Governance*

Though customary tenure might be construed or misunderstood as traditional or even pre-colonial, the establishment of customary modes of land governance as distinct from statutory titling throughout much of the African continent need to be understood within the context of colonial history. As illustrated by important anthropological works, what is currently understood as customary law or tenure is often the product of colonial interpretations of local rituals. The establishment of these customary authorities often served to create political alliances between colonial administrators and local elites (Migot-Adholla and Bruce 1994). As Peters explains, “[w]here the colonial rulers could not identify an appropriate ‘chief,’ they created one,” (2004: 272). Consequently, the creation of political units with defined territorial boundaries served particular interests and entrenched particular authorities (Migot-Adholla and Bruce 1994). As such, “tribes,” “clans,” “chieftaincies,” or ethnic groups identified during the colonial era need to be understood as the product of interactions between colonial powers and indigenous communities. Through the reification of particular authorities and the establishment of territorial boundaries, they retain importance insofar as groups continue to self-identify as various cultural communities with distinct customary practices (Odgaard 2002, Mbilinyi 2003). While there are debates about the extent to which customary authorities were “created” by colonial powers, there is little doubt that the interaction of indigenous and colonial powers worked to entrench political authorities and social practices in specific ways (Spear 2003).

As noted by Odgaard (2002), Tanzania is no exception in this regard, especially where colonial land policies interacted with local practices. Prior to colonial rule, the area that

---

8 Accordingly, the ethnic groups identified within this dissertation are used only where groups self-identify as such.
constitutes contemporary mainland Tanzania was sparsely populated by kin groups, in some cases ruled hierarchically by chiefs and in others by elders (Gastorn 2008). Despite differences between groups, they typically had communal land tenure. “All grazing lands, (as well as waterholes and saltlicks) were common property, communally held and used, and security of tenure was quite satisfactory and secure,” (Gastorn 2008: 22). Under German and British rule however, dramatic shifts occurred. The policy of indirect rule established by colonial powers used a “reconstituted system of chiefs and headmen” (Mbilinyi 2003: 122). Under German rule, land had to be occupied to be considered owned, which resulted in grazing and fallow lands being wrested from pastoralist communities. Cultivator communities were accommodated with land rights entrusted to chiefs and some reserve lands established for pastoralists. However, where pastoralist groups moved beyond their reserve lands, cattle would be confiscated and offenders subject to corporal punishment (Gastorn 2008: 25). Thus, control of land was granted to kin group authorities and where modes of production failed to conform to the German model of land use, indigenous groups were punished.

Similar enforcement occurred under British rule, in spite of rules designed to respect customary authorities. Spear (1997) has documented the means by which British authorities created customary “law” in northern Tanzania. Though government anthropologists realized that certain positions at the local level were creations of German colonizers, they nonetheless claimed to discover earlier models for chiefships and district headmen. Detailing the work of Hans Cory, a British government anthropologist, Spear explains that the British administration in Arusha in northern Tanzania used these interpretations of pre-colonial authority to transform political life into “a static array of formal institutions … which the colonial authorities then faithfully recognized as though they were truly authentic,” (Spear 1997: 200). Though the colonial legal
structures imposed in Arusha and Meru would not last, they reflect the efforts of colonial authorities to “harness the legitimacy of ‘traditional’ authorities to the power of the colonial state,” (Spear 1997: 208). As elsewhere on the continent, “[t]he interference of colonial rulers in indigenous norms concerning the use of land [in Tanzania] was usually determined by their own interests” and not out of any concern for the indigenous population who lived there (Gastorn 2008: 32).

Efforts to codify customary law by colonial authorities typically strengthened the rights of men over women (Chanock 1989). Under both German and British rule, in addition to efforts to reconstitute chiefs and headmen in local administration, the state also relied on patriarchal forms of marriage and property ownership (Mbilinyi 2003). Moreover, colonial agricultural policy encouraged large-scale plantation agriculture by white settlers and foreign corporations, establishing the roots of the contemporary gendered division of labour (Mbilinyi 2003, Tsikata 2003). In general, codification of customary laws as well as bylaws restricting divorce and movement, had the effect of “rigidifying” what had been regarded as more fluid relations. “…[I]t has been the judgement of commentators that, overall, these changes were mostly detrimental to women, although not in a simple linear fashion,” (Tsikata 2003: 155).

The legacies of German and British rule remain today, both in terms of the identification of local customary authorities and in the governance of land. For instance, the German Administration declared all Tanzanian land as Crown land vested in the German Empire in 1895 (Tsikata 2003). This authority continued to be vested in at the state level under the British and all post-independence governments. The British Administration deepened state control over land, making all land in Tanzania, whether occupied or not, public land under control of the Governor (Tsikata 2003). Today, the “radical title” held by the Tanzanian government can be seen as a
colonial holdover. Following independence, the authority over state lands transferred to the president of Tanzania, and even following the land laws of 1999, remain vested in the president under the “radical title”. As discussed later in this chapter and the following chapter, this remains a primary point of contention for land rights activists.

In addition, land administration principles from German rule dictating that land had to be occupied to be owned are still evident in both local practices and national land laws (Tsikata 2003, Gastorn 2008). British authorities likewise took advantage of customary tenure systems that allowed land to go fallow to encroach upon customary lands and establish commercial farming, wildlife reserves and conservation schemes under the pretexts of economic efficiency (Gastorn 2008). Moreover, under British rule, deemed rights of occupancy – “the right of a native community lawfully using of occupying land in accordance with customary law” (Tsikata 2003, quoting Land Policy 1997) – were treated subordinately to granted rights of occupancy. As Okoth-Ogendo (2000) argues, the British treatment of customary land tenure as administrative rather than contractual is a demonstration of its contempt for the practice.

Thus, the colonial origins of both legal and customary land tenure frameworks remain vital to understanding the post-independence land governance process through to the present day. In the decades following independence, customary forms of land tenure and local governance have shaped how land is acquired, through marital rites and rituals and the practices of inheritance (Koda 2000). These practices continue to represent both obstacles and opportunities for community members. We should not perceive these systems as archaic: “… norms may be generationally reinterpreted at the local level in light of current-day realities; there is abundant evidence that this has occurred and continues to do so,” (Alden Wily 2011: 734). Importantly, these interpretations have provided means by which some marginalized groups have gained
access to land through creative reinterpretations of particular customs. Koda illustrates the ways in which members of the Wapare community of Msindo developed “flexible” and “open-ended” negotiations for accessing land, especially for marginalized women (2000: vii). At the same time, enduring patriarchal practices in many of these communities, combined with gendered norms about political participation and roles in public life limit rural women’s involvement in many of these practices.

Accordingly, customary forms of authority play a critical role in the governance of land and the attempts to introduce reforms that are democratic and gender-sensitive. As subsequent chapters will illustrate, the role of customary authorities in contemporary land governance is of critical importance, especially where the Tanzanian government devolves responsibilities to the local level. Not only are there often different sets of norms in these communities, but in Tanzania there is both cultural discrimination against pastoralist groups as well as conflicts based on these different modes of production and land access (Gastorn 2008). Of note, discrimination against Maasai peoples is particularly pronounced, which was not only articulated by interviewees, but experienced in day-to-day interactions in Tanzania. As discussed elsewhere in this chapter, Maasai and other pastoralist communities are particularly vulnerable as Tanzania shifts towards systematizing land ownership, either through title or customary modes of ownership, and where the government looks to make more land available for foreign investment, mining, or tourism (Cotula 2012, Gardner 2012). These vulnerabilities will be explored in greater detail in the following chapter. These tensions are stressed where land becomes scarce, and is evident where the state has intervened to isolate lands from use for preservation or tourist purposes (Gardner 2012).

Ujamaa and Villagization
Contemporary practices are also shaped by the formative policies of Tanzania’s first post-independence government. By the mid-1950s, colonial authorities in the African continent were more actively engaged in the dismantling of customary and communal forms of land tenure. To the north, Kenya moved towards individual land titling under the Swynnerton Plan and continued with this project following independence. In contrast, following independence in 1961, Tanzania under President Julius K. Nyerere moved in a drastically different direction. The independent government continued with many of the colonial land tenure structures, replacing the word “Governor” with the word “President” and retaining the “radical title” over land (Gastorn 2008). As President, Nyerere declared his belief in *ujamaa* – a Swahili word meaning “family-hood,” specifically chosen by Nyerere to emphasize the “African-ness” of the socialist program he was advocating (Nyerere 1968: 2). Following Nyerere’s declaration of belief in *ujamaa* – now commonly used as a term for “socialism” or “African socialism” (Tsikata 2003, Shivji 2012) – independent Tanzania adopted a policy of socialism and self-reliance in the Arusha Declaration in 1967. The Arusha Declaration nationalized land ownership and the major means of production, including plantations, banks and wholesale businesses (Shivji 2012). It also sought to limit corruption by placing “leadership conditions” on government officials and business leaders, prohibiting them from using their positions to accumulate personal wealth (Shivji 2012). For many scholars, the Arusha Declaration remains important as a revolutionary document that called for dramatic social change, but the legacy of the declaration and the *ujamaa* villagization policy that ensued remain an important turning point in Tanzanian history and transformed land use and ownership for decades to come (Saul 2012, Shivji 2012).

In an effort to reorganize the peasant population of Tanzania, Nyerere proposed a process of voluntary relocation to rural villages in order to streamline service delivery following the
Arusha Declaration. Detailed in the 1968 paper *Socialism and Rural Development*, Nyerere described *ujamaa* villages as founded upon the principles of collective ownership and collective work (Shivji 2012). As Scott describes it, the objectives were threefold: “the delivery of services; the creation of a more productive, modern agriculture; and the encouragement of communal, socialist forms of cooperation,” (1998: 230). The villages were seen as essential for revolutionizing Tanzania’s agricultural production and improving rural livelihoods. They would facilitate education and health promotion and mechanize agriculture (Scott 1998). Yet in the years following the Arusha Declaration, resettlement into voluntary *ujamaa* villages was slow. In 1973, pressed by members of his political party, the Tanzania African National Union (TANU) to accelerate resettlement, and facing a series of strikes and opposition movements throughout the country, Nyerere began a program of forced resettlement into planned villages (Saul 2012, Scott 1998, Shivji 2012). Departing from the Arusha Declaration’s sentiments of community and socialist cooperation, this program of forced resettlement enforced *ujamaa* from on high (Saul 2012).

Scott (1998) groups the Tanzanian villagization scheme alongside brutal socialist relocation schemes that envisioned particular modernist modes of production and development. Indeed, few scholars dispute the negative effects villagization had on rural Tanzanians who were forced to relocate. Both cultivators and pastoralists had developed customs, practices, and patterns of settlement, which adapted to their environment and were threatened by forced resettlement (Scott 1998, Gastorn 2008). Homes were destroyed and crops burned to prevent return (Scott 1998). Scholars argue that “administrative convenience” outweighed ecological

---

9 Scott (1998) notes the shift in usage from the term “*ujamaa* villages” to “planned villages” during this period. He postulates that this was done “to distinguish [planned villages] both from the communal-production regime of *ujamaa* villages, which had failed, and from the unplanned settlements and homesteads in which Tanzanians now resided,” (Scott 1998: 234).
considerations in the selection of village locations (Scott 1998: 235) and frequently failed to consider existing modes of land tenure and organization, especially among pastoralists (Gastorn 2008). Moreover, the failure to consider modes of livelihood and environmental impacts resulted in the concentration of human populations and livestock in smaller land units and created resource competition, landlessness and land degradation (Gastorn 2008).

In addition to the environmental and humanitarian problems created by forced resettlement, the reorganization of peasant populations into planned villages reshaped local governance. In addition to attempting to improve service delivery and more equitably distribute resources, one of the primary goals of village resettlement was the democratization of community leadership (Okoth-Ogendo 1993). Village governments were given the authority to expropriate and reallocate land and govern land use (Daley 2008). According to Mbilinyi (2003), the advent of more democratic rule in certain areas undermined the patriarchal and chiefly rule that was established in the colonial period. The new principles of village governance thus created some inroads for women, youth, poor, and migrants that otherwise would have been excluded under customary rules with less state intervention (Mbilinyi 2003). Moreover, as village members under new governance, women had new avenues through which they could pursue individual land ownership within the community (Mbilinyi 2003). Finally, with resettlement, there was also the delivery of services to indigenous smallholder growers who had previously not had access to health or education services (Mbilinyi 2003).

Yet despite this undermining of customary patriarchal practices and the delivery of services to rural areas, it is clear that the forced resettlement had differential impacts on Tanzania’s more vulnerable rural populations and thus very real human costs. Certain wealthier and more politically active populations located in the developed highlands were able to resist
resettlement altogether, particularly in areas that were more commercialized (Mbilinyi 2003). By contrast, the ignoring of pre-existing customary laws and land tenure in dispersed rural pastoralist communities resulted in abuse and land tenure confusion (Gastorn 2008). As Scott argues “… the modern planned village in Tanzania was essentially a point-by-point negation of existing rural practice,” (1998: 238). And while the governance of planned villages was designed to be more democratic and inclusive, in practice villagers were expected to be “ratifying bodies public,” merely confirming the decisions of the state and district officials (Scott, quoting Falk Moore, 1998). Village meetings were unidirectional, with authorities typically delivering instructions and warnings from the state, rather than nurturing democratic cooperation among villagers (Scott 1998). The reforms simply renamed chiefs as village executive officers, with authority to pass bylaws shifted to the central government (Mamdani 1996). Although everyone regardless of sex was technically eligible for land ownership, patriarchal customary practices continued to be applied by village governments (Koda 2000). Koda (2000) further notes that matrilocal practices that had existed prior to resettlement were virtually erased in planned villages.

As demonstrated in the following chapter, the failure to create participatory forms of governance in some rural communities remains a problem today. Villagers surveyed during the debates over land reform in the 1990s reported that village governance continued to be unidirectional, with village meetings being used as opportunities for village leaders to dictate policies rather than facilitate democratic decision-making (Kihacha 2002). Mamdani (1996) argues that the absence of democratic rural communities is a result of the “bifurcated” post-independence African state: that where urban residents become citizens, rural residents continue to be ruled by so-called “decentralized despots”. Thus, while some scholars still celebrate the ways
in which socialist *ujamaa* policies undermined large-scale private capitalist production and delivered services to rural Tanzanians, others malign the centralized, top-down reorganization of agricultural production and rural authority as well as the failure to appreciate the existing modes of production by both rural cultivators and pastoralists. This tendency to impose both governance and productive reforms from on high is not unique to Tanzania, but as will be demonstrated in subsequent chapters, it is a recurring theme in Tanzanian land governance, and is integral to global level recommendations on land and agricultural reform.

*From Villagization to Structural Adjustment*

In 1973 and the years that followed, several shocks shook the Tanzanian economy, creating deeper vulnerabilities for peasants and city-dwellers alike. Though the villagization process was designed to reform agricultural production and push a new state-driven development agenda, Tanzania’s economy was negatively affected by global drops in export commodity prices and increases in import prices, as well as drought and a war with Uganda (Tripp 1994). In the late 1970s, Tanzania would also experience a persistent foreign exchange crisis, which would endure well into the 1980s (Tripp 1994). It is against this backdrop that Tanzania experienced pressure to restructure its economy from the World Bank, IMF, and international donor community (Gastorn 2008). Facing these economic challenges, Nyerere stepped down as President in 1985, ending socialist practices and paving the way for IMF and World Bank Structural Adjustment Programmes (SAPs) beginning in 1986. The IMF’s structural adjustments included a 50-60% devaluation of the Tanzanian shilling, the removal of import controls, a reduction in funding for health, education, and other social services, and the removal of subsidies for key dietary staples, such as maize, and agricultural inputs, such as fertilizer (Campbell and Stein 1992, Kihacha 2002, Mshana 2003).
Under structural adjustment, Tanzania experienced an upsurge of interest in commercial farming and the number of land occupancy rights granted to wealthy, urban-based investors rose dramatically (Daley 2008). Those who had been resettled under Nyerere were also permitted to return to their previous customary settlements (Kamata 2003). These shifts in policy and practice, as well as cuts to agricultural inputs and social services, resulted in a rise in number of land struggles across the country and the creation of class polarization in rural communities (Kamata 2003, Koda 2000). The combination of privatization in land with cuts to social welfare caused poorer peasants to sell their land because they could no longer cover their needs on the basis of farming alone (Koda 2000). People who participated in a Participatory Action Research project undertaken by an NGO in the early 2000s described the root cause of their income insecurity as the *soko holela* – the “chaotic market” – created by liberalization, privatization, and structural adjustment (Kihacha 2002).

Under these conditions, as elsewhere SAPs have been undertaken, gender shaped the experiences of structural adjustment in Tanzania (Elson 1991a). The introduction of SAPs resulted in widespread unemployment and shifts to labour in the informal sector. Households increasingly shouldered responsibilities previously provided by the state, such as healthcare, which increased demands on women’s domestic labour. With this increased need for women’s labour at home and rising education costs, women and girls were further excluded from education (Mbilinyi 2003). Currency devaluation meant that women had to work longer hours on farms or in petty trade to compensate for lost income (Rusimbi 2003). Female smallholder farmers faced – and arguably still face – major barriers in the form of patriarchal social relations, family structures, and customary land tenure practices, while shouldering increased agricultural workloads (Koda 2000, Mbilinyi 2003, Rusimbi 2003). The livelihoods of younger generations
were also put at greater risk: would-be inheritors were also excluded from land ownership and control as peasants were forced into land sales (Koda 2000). As a result, younger generations lacked land to cultivate and live on, driving urban migration and growth in labour markets. This turmoil ultimately required government involvement. As we will see below, the Presidential Commission of Inquiry into Land Matters (commonly referred to as the “Shivji Commission”) initiated new discussions over land reforms, culminating in the 1999 Land Acts.

The end of villagization and the advent of structural adjustment in Tanzania are the origins of the land law reform process in Tanzania. Increased land conflicts, commercialization of agriculture, and World Bank and IMF pressures for “good governance,” including expressed preference for private land ownership created a need for Tanzania to reexamine its land structures following these monumental changes (Gastorn 2008, Yngstrom 2002). The late 1980s and early 1990s witnessed increased land litigation and tenure insecurity as a result of ambiguities in the land governance frameworks, including the failure of the 1923 Land Ordinance to recognize customary land rights as contractual (Yngstrom 2002). Moreover, the lack of transparency in how land was governed and how power was delegated from the President’s radical title led the government to undertake a review of the land laws (URT 1994, Yngstrom 2002).

The Shivji Commission

Tanzanian President Ali Hassan Mwinyi responded to calls for land reform by establishing the Commission of Inquiry into Land Matters, headed by Professor Issa Shivji, in 1991. The findings of Shivji’s Commission launched contentious debates regarding the democratic value of systems of local land governance versus national control of the radical title of land. Shivji, who has elsewhere written about the democratic limitations of both the ujamaa policies executed
under Nyerere and the IMF liberalization policies that followed (Shivji 1992), maligns the stereotyping of customary law as backwards relative to Western modes of land titling (Shivji 2002). Finding that the most important source of grievances among Tanzanians was the “lack of participation and consultation of the people in the decision-making and administrative processes relating to land” (Shivji 2002: 200), the Commission sought to democratize the land tenure process and value customary land laws.

In order to remedy what the Commission viewed as a fundamental lack of democratic accountability in land tenure, the Commission’s report - *The Report of the Presidential Commission of Inquiry into Land Matters* – recommended the abolition of radical title held by the President and the vesting of authority in Village Assemblies, local governance bodies composed of all village members (URT 1994, Shivji 2002, Tsikata 2003). The Commission also rejected the idea of shifting to the market model of land tenure requiring individualization, titling, and registration favoured by the international financial institutions and foreign donors. Shivji argues that such a model would ultimately fail to address the social democratic needs of the people, and that where such models have been used, such as Kenya, the processes work against the most disadvantaged people in society (Shivji 2002). Indeed, the Shivji Commission rejected efforts to liberalize land markets and advocated for the protection and promotion of communal land tenure, hewing more closely to socialist ideals.

However, the draft National Land Policy that followed in 1997 largely rejected the Shivji Commission’s recommendation for devolution of authority to the Village Assemblies and the abolition of the radical title. Instead, the National Land Policy maintained that the State held the radical title to land. It did propose to devolve responsibility for local land management to Village Councils, elected bodies at the local level. Shivji criticizes this move, as it continues to entrust
elected politicians and bureaucrats with land administration, rather than the broader village population as a whole (Shivji 2002). Other analysts have criticized these measures, suggesting that the National Land Policy was designed to satisfy foreign donors by facilitating large-scale investment rather than increasing democratic accountability in land administration (Mbilinyi and Shechambo 2009).

*Feminist Reactions to the Shivji Commission*

Importantly, both the Shivji Commission and the National Land Policy that followed sparked important feminist debates in Tanzania. The Shivji Commission, for all of its attention to local participation, customary practices, and democratic institutions, was widely criticized by feminist organizations and scholars for failing to consider women’s particularly vulnerable position within the existing land tenure system and the system proposed by the report. With regard to gender inequality in land access, the Shivji Commission argued that the primary problem was that of succession and inheritance in customary law, especially where groups exercised patrilocal practices. Though the Shivji Commission also recommended mandatory registration of spouse’s names on titles and set gender quotas for Village Assemblies, the Commission’s primary argument on the matter of gender equality was the modernization of inheritance and succession practices (Tsikata 2003). Women, viewed as outsiders in patrilocal communities, would thus typically be prevented from inheriting land, who would either have married into the clan or would be married into another clan (Tsikata 2003).10 In response to criticisms, the Shivji Commission recommended that an “evolutionary” approach to gender and customary law be considered, in which customary laws would change over time with interventions of the state and courts. Under this recommendation, gender discriminatory

---

10 As the next chapter will explore in greater detail, patrilocal practices continue to shape land access for women even following the enactment of the Land Act and Village Land Act.
customary practices would continue to apply as already practiced, rather than introducing “hard” or “soft” laws.

Tanzanian women’s advocates mobilized on the land issue in response to the Shivji Commission and the draft National Land Policy that followed. These groups expressed their disappointment with the lack of attention to gender inequality in land access in the Shivji Commission’s research and final report. While the matters of inheritance and succession were indeed vital to understanding gender discrimination in customary land tenure, scholars criticized the “wait and see” evolutionary approach recommended (Tsikata 2003). The assumption that the primary land issue relevant to women was the problem of unequal succession focused on women solely in terms of their status relations to men rather than as users of the land in their own right (Manji 1998). Manji (1998) accuses the Commission of taking the “add women and stir” approach championed by the World Bank’s Women in Development (WID) agenda during the 1980s. “Then as now,” Manji argues, “attempts to ‘integrate’ women fail to recognise that this happens on unequal terms, and that at best its effects are likely to be palliative rather than transformational,” (1998: 653). Women’s advocates were unconvinced by the lack of supporting evidence or serious queries into how inequality and representation operated at the Village level (Tsikata 2003). The Commission’s exhortations that democratizing land tenure processes at the Village Assembly would be better for gender relations without stipulating how or why further reinforced this perception.

Once the National Land Policy became public knowledge, advocacy groups mobilized to develop a strategy to create a more gender-sensitive land law. The Gender Land Task Force (GLTF) was established, a seven-member committee of organizations that included the Tanzania Women Lawyers’ Association (TAWLA), the Tanzania Media Women’s Association
(TAMWA), and the Tanzania Gender Networking Program (TGNP). This organization worked alongside the National Land Forum, under the leadership of the Land Rights Research and Resource Institute (LARRI/HakiArdhi), an organization founded in part by Issa Shivji, and sympathetic to many of his Commission’s progressive recommendations on communal land tenure. The GLTF lobbied for rights of all to own land as part of the community, but specifically demanded rights for women as independent producers and as equals in local land administration (Mbilinyi and Shechambo 2009). Members of the GLTF count a number of victories among their efforts. TAWLA successfully engaged with the drafters of the Village Land Act to include provisions on spousal permission for land sales, such that neither spouse could sell household land without the consent of the other spouse. The Village Land Act also ultimately included women’s equal rights to own and purchase land and mandatory participation of women on Village Land Committees (Mbilinyi and Shechambo 2009).

Yet despite unity on the matter of creating a gender-sensitive land law, the GLTF later fractured along ideological lines. Legalistic members such as TAWLA, who directly engaged with the drafters of the land law to create gender equity provisions in the law, were seen as marginalizing the broader efforts of the National Land Forum that was pushing for protections for communal land ownership (Tsikata 2003, Mbilinyi and Shechambo 2009). As articulated by some liberal scholars of gender and land rights (Agarwal 1994, 2003), the individualization of titling and the liberalization of land markets are and were viewed as conducive to gender equality, as women and other marginalized groups would have equal access to the purchase and ownership of land under the law. These legal protections were regarded by the GLTF as an improvement over customary forms of tenure that had excluded women and pastoralists from accessing land because of discrimination (Tsikata 2003). Moreover, these recommendations fell
in line with the World Bank position that communal forms of tenure will necessarily ‘evolve’ to more efficient forms of individual title (Deininger and Binswanger 1999).

Consequently, the successful incorporation of these elements into the Land Acts were also seen as part of the neoliberalization of land tenure rules and the undermining of rural practices of customary tenure by members of the National Land Forum and TGNP (Mbilinyi and Shechambo 2009). These moves were seen as helping to facilitate foreign investment under the guise of liberal feminism and undermining the broader objectives of the National Land Forum (Mbilinyi and Shechambo 2009). Some analysts have faulted the documents created by the GLTF as legalistic and narrowly focused on the proposed Land Acts, failing to draw upon existing anthropological work about women’s land interests in Tanzania (Tsikata 2003). In doing so, members of the Land Forum and more critically minded members of the GLTF felt that the GLTF was too reactive to the draft Land Acts, rather than attempting to push a more progressive agenda that would protect the communal practices in rural Tanzania.

Thus, these groups experienced serious divides following the development and passage of the 1999 Land Acts. Following the passage of the Land Acts – the details of which are explained in greater detail below and in the following chapter – various members of the National Land Forum and the GLTF had differing accounts of their own successes as advocates. Shivji and HakiArdhi expressed their disappointment in the direction the Land Acts had taken (Shivji 2002, Tsikata 2003). TAWLA felt they had achieved many of their goals, having successfully advocated for the inclusion of equal gender representation on various land committees and the rendering null and void of discriminatory customary practices (Tsikata 2003). TGNP, while expressing some optimism about the achievements made by the GLTF, nonetheless critiqued aspects of the Land Acts, including the retention of the radical title in the office of the President,
and the onus placed on individuals to challenge discriminatory customary practices (Tsikata 2003). Consequently, members of TGNP described the organization as being “caught in the middle” (Mbilinyi and Shechambo 2009). Thus, in spite of the gains in legal recognition for women, some have stated that this recognition of individual rights has simply ensured that both men and women can be alienated from their land from investors or the President (Mbilinyi and Shechambo 2009).

Manji (1998) suggests that one of the reasons for the lack of attention to issues of gender and land in both the Shivji Commission and the draft National Land Policy was due to the lack of mobilization on land issues among Tanzania’s women’s advocacy groups in the early 1990s. At the core of her argument is the class composition of women’s advocacy groups in Tanzania, specifically that the preoccupation of urban-based, middle-class women on matters of employment and legalistic and bureaucratic remedies has resulted in them being slow to mobilize on matters critical to poorer, rural women. Moreover, she alleges that the middle-class nature of these organizations may lead them to see gains for themselves in terms of gaining access to land and resources that would be unavailable to their rural counterparts (Manji 1998). As a result, the concern is that these groups fail to act in the interests of the rural populations most affected by land reforms, and where they did act, they provide minor textual alterations to legal documents, failing to challenge their content in a broad-based way.

The 1999 Land Acts

Following these years of debates about land reform, the Republic of Tanzania passed two land acts in 1999: The Land Act (No. 4) and the Village Land Act (No. 5). The authors of the Land Acts tried to achieve a balance between these and other pressures by formalizing a dual system of tenure (McAuslan 1998). Under the 1999 Land Acts, land can be owned legally under
a statutory individualized title, as in many Western countries, or under a customary certificate of ownership (CCRO) that is approved by village-level authorities. Echoing the Shivji Commission’s findings about the desire for more democratic accountability at the local level, the Village Land Act entrusts final approval on land transfers of less than 250 ha to the Village Assembly, a meeting of an entire village population (URT 1999b, Sec. 4.6a). Land transfers of more than 250 ha require ministerial approval, under the advisement of the Village Assembly, Village Council, and District Council (URT 1999b, Sec. 4.6b). In addition, the Acts also include several provisions for gender equality, including explicit land rights for women (URT 1999b, Sec. 23.2c), rules for spousal co-registration of land ownership (URT 1999a, Sec. 159), and the declaration that where customary laws violate principles of gender equality, the Land Acts would override customary practice (URT 1999b, Section 20.2). The Acts further include rules on gender representation in Village Land Councils (URT 1999b, Section 60) and the 2002 Courts (Land Disputes Settlements) Act established a hierarchy of adjudication and mediation bodies with their own rules regarding gender representation (URT 2002 sec. 5.1, sec. 11, sec. 14.1, sec. 26.1).¹¹

The introduction of CCROs in Tanzania is regarded as an important step in reforming land administration. The Land Acts resolved the lack of recognition of customary land tenure by introducing Certificates of Village Land (CVLs) and CCROs as means by which communities could demarcate their land and apportion land parcels according to local practices and through elected bodies at the village level. Once a CVL has been issued to a Village, Village Assemblies can approve the granting of CCROs to individuals or households, with co-registration of spouses the preferred option. These CCROs are equal in law to land titles, where previously customary

¹¹ Only at the level of the High Court and the Court of Appeal are the adjudicative bodies for land conflict not specifically bound by gender equality measures.
claims on land were dealt with administratively, rather than as legal contracts (URT 1994, Tsikata 2003). In this way, villages and villagers are supposed to have legally recognized claims to land, documented in local land registries and signed by the District Land Officer (URT 1999b, sec. 21.1, Sec. 25.2d). In addition, some scholars and observers have also argued that CCROs could increase access to credit and loans through financial institutions, providing a source of funds to rural populations that could be reinvested in local production (Deininger 2003). Although the Shivji Commission advised that this was a dubious claim (URT 1994), it continues to be repeated by some land rights advocates in Tanzania as an advantage for rural communities that currently lack access to financial resources.12

The devolution of responsibility for land administration in Tanzania has also been heralded as an important step for the democratization of land governance and the recognition of customary forms of authority (Alden Wily 2011, Deininger et al 2012). As the Shivji Commission reported, people expressed dissatisfaction with the top-down structure of Village Councils and District authorities, with Village Assemblies virtually powerless (URT 1994). By emphasizing that Village Assemblies must approve and/or make recommendations on transfers of Village Land, the Land Acts attempt to address concerns over past failures to consult with the village as a whole. Moreover, from the point of view of global institutions, devolving these responsibilities and recognizing customary governance aids in protecting the land tenure security of potentially vulnerable communities. The Voluntary Guidelines in particular recommend that “states should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of indigenous peoples and other communities with customary tenure systems,” (FAO 2012, sec. 9.6). From the point of view of the World Bank, devolving these responsibilities creates

---

12 For example, interviews with NGO Executive Director, Dar es Salaam, June 17 2013; Land Rights Lawyer, Dar es Salaam, June 8, 2013.
efficiencies by avoiding the establishment of new administrative bodies and speeding implementation (Byamugisha 2013). Finally, despite the recommendations of the Shivji Commission to eliminate the “radical title” on land, the 1999 Land Acts maintain the radical title in the office of the President. As will be more fully explored in the next chapter, some advocates view maintaining the radical title as a fundamental flaw in the design of the Land Acts. By giving the President full authority to claim lands, this represents an undermining of tenure security, even where titles or CCROs have been issued.

The Courts (Land Disputes Settlements) Act of 2002 (URT 2002) is closely related to the Land Acts of 1999 as it introduced complementary legal provisions. The Courts Act entrusts Village, Ward, and District level authorities to use customary modes of mediation and adjudication to rule on disputes within their respective constituencies in accordance with the National Land Policy and the 1999 Land Acts. The Courts Act mandates minimum representation of women on Village Land Councils, Ward Tribunals, and District Land and Housing Tribunals (URT 2002, sec. 5.1, sec. 11, sec. 14.1, sec. 26.1). Only at the level of the High Court and Court of Appeal are there no requirements for gender representation, though importantly, this marks the level at which land disputes come under the authority of the judiciary, rather than sub-national customary authorities.

The locally-based adjudication authorities are instructed by the Courts Act to mediate and promote harmony based on local customary practices. For instance, Village Land Councils are to assist parties to arrive at “a mutually acceptable settlement of the disputes” (URT 2002, Sec. 7). The Ward Tribunal is instructed to mediate based on “(a) any customary principles of mediation; (b) natural justice in so far as any customary principles of mediation do not apply; (c) any principles and practices of mediation in which members have received any training,” (URT
The District Land and Housing Tribunal serves as an independent adjudication body that while not judicial in nature, reviews decisions and makes original judgments in accordance with the Land and Village Land Acts of 1999; the Customary Leaseholds (Enfranchisement) Act, 1968; the Rent Restriction Act, 1984; and the Regulation of Land Tenure (Established Village) Act, 1992 (URT 2002, Sec. 33.3). Moreover, it has the authority to review Ward Tribunal decisions to determine whether or not they contravene Acts of Parliament (URT 2002, Sec. 36.1(a)).

The Land Acts and the Courts Act thus introduced a complex land governance structure in Tanzania. Domestic responses to the Acts and their implementation have been, and continue to be, decidedly mixed. The question of class divides suggested above adds an interesting dimension to how we examine the outcomes of the Shivji Commission and the Land Acts. TAWLA, as a professional association of women lawyers based in the urban center of Dar es Salaam, certainly had and has different concerns from other organizations involved in the negotiation of the Land Acts. HakiArdhi, the Law and Human Rights Centre (LHRC), and TGNP all have been more critical of the Land Acts, both leading up to and following their passing. TAWLA and like-minded legal advocates suggest that the Land Acts themselves are relatively robust, and accuse corruption, slow implementation, and lack of capacity-building as being the primary problems, with issues surrounding the Tanzanian Constitution also playing a large role (TAWLA 2013a, TAWLA 2013b). Yet HakiArdhi, LHRC, and TGNP all continue to critique what they view as the fundamental flaws in the Land Acts themselves, including contradictions in and between the Acts, the persistence of the radical title, the lack of attention to corruption, as well as failures of implementation and capacity-building, all of which undermine peasants’ claims on land. International non-governmental organizations (INGOs) have also noted
where implementation has lagged and where gaps in implementation continue to undermine the rights of local populations. As the subsequent chapter will illustrate, these differences continue to shape contemporary perspectives on the Land Acts. In the years following their passage, there has been much disappointment from many organizations, both within and outside of Tanzania, on the lack of meaningful change.

**Conclusion**

This brief history of land, land laws, and land conflicts in Tanzania reveals the complex dynamics that interact to govern land. Thus, while the Tanzanian Land Acts in many ways reflect the best hopes of international donors and policy-makers as a progressive and perhaps “evolutionary” model of land organization, the realities of land governance suggest that reform is neither a straightforward nor uncomplicated project. Indeed, as suggested by the conflicts around the formation of the Land Acts themselves, differences in class, location, and gender create vulnerabilities and advantages around land access and allocation. Importantly, all of these dynamics are still at work as foreign investors approach Tanzania seeking to acquire land. Assessing the efficacy of the Land Acts in securing land tenure for rural populations requires attention to these various vulnerabilities. As we will see in Chapter Five, legal aid advocates and groups such as TAWLA still see benefits in the ways that the current land laws are written, though are critical of the way these laws have been implemented. Other organizations, such as TGNP and HakiArdhi, remain adamant that the move towards greater individualization of land and liberalization of markets has not protected customary tenure nor elevated the position of marginalized groups such as rural women or pastoralist groups. In light of the new threats of land grabbing and large-scale agriculture, these populations remain unable to secure land access or adequate representation in local or national decision-making.
The debates over the desirability of more democratic, community-based local control versus the desirability of individualized land rights granted from the national government remain at the heart of feminist conversations over land in Tanzania. Vesting greater control in local Village Councils and Assemblies has the potential to protect local interests in land against foreign and state interests. At the same time, these local politics are intertwined with customary practices that perpetuate hierarchies, tie women’s access to land to kinship relations, and prevent women from participating in public decision-making (Tsikata 2003). In contrast, national efforts to individualize land tenure hold the promise of legally protecting and enforcing women’s rights to land. However, legal protections for land tenure do not ensure women’s access to resources or markets, nor do they remedy existing customary practices and beliefs that frown upon women’s independent land ownership (Manji 1998; Tsikata 2003; Leavens and Anderson 2011). Moreover, such liberal frameworks ignore the social contexts in which rural women operate and their dependence on other community members. As such, these feminist debates are far from resolved and continue to inform the work of advocacy groups in Tanzania. Moreover, they continue to inform academic debates about gender equality in land rights across the Global South (see Agarwal 2003, Jackson 2003).

The current relationship between Village Councils, the national government, and foreign investors as a result of the Land Acts highlight the difficult realities of governing foreign investment in land. Asymmetries of power and information disadvantage local communities as villages have signed over land without adequate understanding of its impacts or without appropriate compensation (ActionAid 2010). There are likewise asymmetries of power between village leaders and the broader community, which have raised allegations of corruption and influence peddling among village leaders and district officials (Oakland Institute 2012).
Moreover, as the leasing of lands to foreign companies requires villages to transfer land rights to the national government – from the category of Village Land to General Land – the suspension of agricultural operations by a number of land developers has potential negative ramifications for local peoples promised employment, new infrastructure, and compensation in exchange for the transfer of land (Carrington 2011).

For rural women, socio-cultural restrictions on local political participation effectively limit gendered considerations in local forums, including the Village Council that ultimately decides whether or not to lease local land to private developers. As noted throughout the literature on land deals, the so-called “marginal lands” sometimes targeted for development are those lands used by women for food, fuel, water, medicinal purposes and the like (Behrman et al 2012, Daley 2011). The lack of attention to the resource and labour needs for household sustainability and reproduction may fail to serve local needs or may exacerbate existing problems. For instance, some large scale development projects have created pipeline and irrigation systems that redirect water from kilometers away, but to which local populations do not have immediate access (Kinoti 2012). Thus, the exclusion of women’s voices in decision-making forums does not bode well for gender equality at the local level or for familial and community well-being in both the short- and long-term. According to Mbiliyni (2003), such exclusion has long been a hallmark of rural economic planning in Tanzania. Thus, although the Land Acts appear to democratize village land governance and decision-making, in reality these are still very much hierarchical bodies rooted in long-standing customary practices.

The following two chapters further investigate these concerns based on field research conducted in 2013. Evidence from Tanzania suggests that three broad interrelated problems persist in Tanzanian land governance: (1) gaps in the legal structures, (2) uneven
implementation, and (3) the failure to anticipate or address gender bias in local customary practices in land governance. These interrelated problems illustrate the multilevel nature of land governance in Tanzania, across national, local, and family levels, all within the broader transnational context of global agricultural land deals and global policy development. As the next two chapters will illustrate, a full appreciation of the dynamics of land governance reveal the intersections of community and political governance and where they reinforce or contradict each other. Indeed, these intersections reveal the centrality of gendered norms, ideas, and practices in land governance and indicate the gaps in the efforts to govern land deals.
Chapter 4
Tanzania’s Land Acts: Shortcomings in National Legal Structures and Implementation

Tanzania’s 1999 Land Acts and their implementation provide a rich case study in the challenges of contemporary land reform in East Africa. As the previous chapter highlighted, Tanzania has its own unique history of land governance and reform, culminating in the passing of the 1999 Land Acts and the 2002 Courts (Land Disputes Settlements) Act (URT 2002). Yet Tanzania has also grappled with issues that other states in the region and across sub-Saharan Africa are facing. Indeed, the scale and scope of foreign and domestic land acquisition begs the question of the effectiveness of these Land Acts and whether there have been sufficient improvements in local and national governance, particularly along the lines of gender inequality. Because Tanzania’s legal structures are so frequently cited as a model of progressive land reforms, this chapter delves into how this model has functioned in practice and where subsequent legal battles and legislative reforms have revealed deep-seated tensions in the land system. With global initiatives pointing to the quality of governance as a key component of preventing exploitative land deals, the effectiveness of the Tanzanian Land Acts requires closer analysis.

Insofar as Tanzania’s Land Acts were designed to enhance local governance and recognize modes of tenure that had long been denied legal recognition, they appear to be well-placed to stem unwanted land deals and give villages strong footing to negotiate deals on their terms, based on local land use planning. Because of its progressive dual system of land tenure, the relative absence of ethnic conflict over land, as well as an absence of intra- and inter-state conflict more broadly, and pre-existing community-based local governance structures with elected leadership, Tanzania has seemingly ideal conditions for land reform. Currently,

---

1 Though the 2002 Courts Act is considered part of the Tanzania’s land reform package, analysis of it will be limited in this dissertation. Though the power of land tribunals and other bodies governed by the act are of critical importance, this dissertation largely limits its focus to the provisions of the 1999 Land Acts, with some reference to constitution and other legislation where necessary.
approximately 70% of land in Tanzania is classified as Village Land, which belongs to villages, 28% is allocated to Reserve Land for conservation, leaving only 2% in the category of General Land, which can be allocated by the state to investors. These numbers appear to favour Village authorities, though as we will see, there are issues with the legal definitions of these categories. Moreover, as the previous chapter highlighted, the Land Acts included several provisions for gender equality in representation and land ownership, provisions that had been celebrated by several women’s rights groups. The World Bank has promoted this sort of land governance model that devolves responsibility as well as promotes individual women’s rights as both efficient and democratic (Byamugisha 2013). Advocates argue that not only will strengthening local governance and ownership protect local land rights, but will also empower individuals and communities in their consultations with foreign investors (FAO et al 2012). Yet in the years following the passage of the Land Acts, their effective implementation is still a distant goal. Indeed, given the scope of the land deals that have already occurred in Tanzania, and the controversy around them, there are clearly issues in their implementation and design.

This chapter delves into these questions of the effectiveness of the Land Act and the Village Land Act, particularly whether they improve land governance at multiple levels while also addressing gender inequalities. Given the emphasis placed on strengthening governance at the local level by global recommendations on land tenure and agricultural investment – and the potential to gain efficiencies therein – a close examination of Tanzania’s national legal structures is timely and necessary (Deininger 2003, Byamugisha 2013). Tanzania’s 1999 Land Acts largely align with these global recommendations, devolving significant power to local authorities while also attempting to strengthen women’s claims to land and representation in local land
governance.² By considering the realities of Tanzania’s land laws in practice, this chapter reveals the national and sub-national political and administrative obstacles to their effective implementation. Importantly, these obstacles are revealed to be both deeply gendered and having gendered effects on the population at large. The evidence reveals that in addition to being gendered, these obstacles have important class, ethnic, age, and geographic dimensions as well, revealing how the intersections of social identities have a critical role in determining access to political power and economic resources. These dimensions are alluded to below, but explored in more detail in the next chapter.

The focus for this chapter is on the legal, administrative, political, and social obstacles that exist, rather than ethnic or group conflicts over land.³ Below, this chapter investigates the multi-level challenges to land reform, ranging from shortcomings in the laws themselves, to administrative hurdles, to societal norms and attitudes. This chapter further demonstrates the importance of considering how the governance of polities and the governance of communities intersect. The devolution of responsibility and the vesting of state authority over land governance in local officials and bodies, with an eye to enhancing customary governance over land, provide a specific illustration of these intersections. Moreover, these intersections reveal the difficulty of implementing governance reforms without paying due attention to the social, political, cultural, and economic contexts in which they occur. In examining these multilevel dimensions – specifically the enactment of national law and the devolving of land governance to sub-national bodies – this chapter highlights the importance of taking a bottom-up approach to questions of

² A more detailed consideration of how the Land Acts align with global governance recommendations is the focus of Chapter 6.
³ Despite the absence of ongoing clan or ethnic conflict over land in Tanzania, this is not to suggest that no group conflict over land exists. Indeed, interviews and research suggest that conflicts do occur between different groups as land pressures increase, especially between pastoralist and farming communities. However, Tanzania has not witnessed ethnic conflict over land on the scale of its northern neighbor, Kenya, or other sub-Saharan states such as Ghana. For a consideration of how ethnic conflict factors into considerations of land reform, please consider Peters (2004, 2013).
governance and provides a basis on which we can assess general global guidelines and principles of land governance.

In investigating the concerns of those interviewed in Tanzania in 2013, this chapter illustrates two general findings regarding Tanzania’s land reforms and their implementation. First, that in spite of such widespread praise of the design of the Land Acts, there are serious shortcomings in the Acts, contradictory policies within the Land Acts, conflicts with subsequent legislation, and obstacles within the Constitution, which at the time of writing was still undergoing a process of review. These problems undermine security of tenure for populations generally, but also specifically for women and pastoralists. These gaps and the failure to remedy them suggest to scholars and observers that the Acts, while providing some protections, might be easily ignored in favour of state interests or foreign investments.

Second, this chapter illustrates that the challenges in implementing the Land Acts are largely the result of failing to equip front-line implementers of the land reforms with either the resources or skills required to execute their responsibilities according to the law. Provisions in the Land Acts that would enhance gender equality in governance, adjudication, and tenure security for vulnerable groups are left to groups and individuals that are ill-equipped to administer them. The state of implementation suggests the importance of understanding how the governance of communities and polities intersect, especially where those in authority are instructed to govern according to both national law and local custom. However, questions about gender equality and the quality of democratic participation in local structures also reveal the role of local customs, gender norms, and societal expectations. Thus, a critical subset of issues pertaining to the role of customs and traditions in the practice of the Land Acts emerges, and

See TAWLA (2013b) for an in depth analysis of some of the issues feminist organizations are raising in the context of the constitutional review process.
suggests the ways in which the shortcomings in the legal system have specific gender, age, class, ethnic, and other social effects. The following chapter illustrates in greater detail the gendered effects of this reality.

The remainder of the chapter unfolds in this order, introducing first the perceived shortcomings in the Land Acts themselves, as well as the limitations imposed by subsequent legislation and the current constitution. Second, this chapter considers the broader issues of implementation, focusing on infrastructure, resources, and capacity-building of local officials. In closing, this chapter connects these matters of implementation to the intersection of community and political governance and focuses our attention towards a consideration of gender dynamics and land governance. These shortcomings in the Land Acts point towards the futility of using legal reform alone to address matters of gender inequality in land governance, especially where land use and access are tied to community practices.

Shortcomings in Legal Structures and Legislative Issues

Following the implementation of the Land Acts, many of the organizations and observers that supported the legal reforms at the time still strongly support the Acts, though some have been disappointed in their implementation, or lack thereof (McAuslan 2013, TAWLA n.d.). At the same time, those who opposed the Land Acts on the grounds that it liberalized land markets and created more opportunities for land alienation maintain their skepticism, arguing that rather than achieving gender equality in the protection of land access, it is simply easier to alienate land from the entire population (Mbilinyi and Shechambo 2009). Thus, it is not surprising that discussions with interviewees did not reveal any consensus opinion regarding the Land Acts. Rather, a plurality of interviewees view the Land Acts as innovative, progressive, and strong as written. Most interviewees – including some of those most supportive of the Acts – noted that
the Land Acts have faltered primarily in execution and implementation, as explored more fully in the sections that follow. This opinion is echoed by one of the drafters of the 1999 Land Acts, Patrick McAuslan, who has argued that the implementation of the laws and the political will to enforce them are of critical importance. “…[W]hatever the merits of a law, if those with power are determined to set it aside, they will set it aside and there is little that those without power can do about it,” (McAuslan 2013: 115).

That said, several interviewees, particularly legal analysts, legal aid providers, or feminist legal advocates, articulated concerns about certain provisions and what they perceive as legal shortcomings that undermine the ability of citizens to make claims on land. Those most critical of the Land Acts point to the power that is still vested in the government to claim land and the contradictions between the Land Acts that further undermine citizens’ claims on land. In addition, feminist advocates note where progress made in the Land Acts has since been repealed by subsequent state legislation. This section briefly investigates these concerns before delving more deeply into matters related to implementation in the following section.

Persistence of Radical Title

During the 1990s, there was public pressure from land advocates and the Shivji Commission to revoke the “radical title” and give full control over Village Land to village authorities (URT 1994, Tsikata 2003). The “radical title” gives relatively unfettered access to all state land to the central government, provided appropriation is for a vaguely defined “public interest.” Land rights advocates argued that entrusting villages with full rights over village land would increase tenure security and enhance democratic governance (Shivji 2002, Tsikata 2003). The Village Land Act states that any part of Village Land may be taken when it is required for a “public purpose,” though the public purpose is not defined in either the Village Land Act or the
Land Act. The “public interest” as vaguely defined by the Village Land Act does include “investments of national interest” (URT 1999b sec. 4), and thus permits the central government to appropriate land that would otherwise require approval at the Village level. These powers likewise enable the Tanzanian state to appropriate tracts of land as Reserve Land for the purposes of conservation or tourism projects (Benjaminsen and Bryceson 2012).

Unsurprisingly, this remains a key point of contention for some land activists and researchers in Tanzania. McAuslan maintains that government authority to appropriate lands in the public interest is something all governments need to retain (2013). Yet some land activists criticize the radical title as fundamentally undermining the tenure security of smallholder farmers and rural communities more broadly.

Security of tenure means the ultimate vesting of power, of access, ownership, [and] use, and control of the land is not vested with the people. And that is the biggest problem. … [T]he land tenure system in Tanzania vests those powers into the so-called radical title, the president. So the president has full main powers, powers of acquisition, powers of revocation, powers of transfer, and powers of dispossession. … It means you are seated here today, but you are not sure where tomorrow because someone else is going to decide the better use of that land tomorrow.\(^5\)

The undermining of security of tenure is thus a critical issue for those concerned about the problem of large-scale land deals. While there are not yet any known cases of the office of the President appropriating land for the purposes of foreign investment, government interest in seeing certain land deals occur raises anxieties over state influence. As noted in the Introduction, villagers in Bagamoyo continued to resist an EcoEnergy agricultural project favoured by the Minister for Lands, raising questions about whether the radical title might be invoked for such purposes and residents forcefully evicted (The Citizen 2013).

The radical title may also pose a higher risk to marginalized groups that are already viewed as obstructing “progress”. As expressed by one feminist activist, the forced evictions of Maasai

\(^5\) Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
and other pastoralist groups create specific vulnerabilities, as their means of production and farming are not conducive to static village settlements and are thus even more vulnerable to state displacement. Moreover, there is little evidence that the vulnerabilities experienced by pastoralist communities have been resolved under the 1999 Land Acts (Gastorn 2008). The tensions over displacement can invite violence onto these already vulnerable groups who lack formal ownership of land. As one interviewee explains, for those being intimidated or displaced by the state, the threat of force is real:

In Ngorongoro, we really explored this whole issue, struggles over land and stuff like that. And I remember, that was before the outright forced evictions, but they had been harassed by a field force unit in the area. In some cases where women had been carrying babies on their back and they’d been beaten and the babies had been killed. … Children disappeared, lost. Awful stuff. And I’ll never forget, the poignancy with which people would say, “Are we not citizens of this country? Is this how you behave to the citizens of your country?”

Thus, the threat of displacement and violence remains, especially those who do not practice sedentary farming. In addition, the most vulnerable populations within the broader marginalized community bear the brunt of the violence used to enforce government decisions and expropriations. And as the following chapter illustrates in more detail, women and children are not only the targets of violence perpetrated by the state, but also the targets of family members. These threats of domestic violence can rise with displacement and economic uncertainty (Olkoka-Onyango 1995, Lewis 2005).

---

6 Interview with Feminist Activist (D1), Dar es Salaam, June 10, 2013.
7 Ngorongoro is a region in northern Tanzania where the wildlife industry for tourism and hunting has been a priority for the central government. However, pastoralist groups have been dispossessed of their land to accommodate these projects (Kihacha 2002). In 2013, it was believed by civil society groups and indigenous residents that pastoral lands were being appropriated for transfer to a Dubai-based corporation, Ortello Business Corporation (Philemon 2013).
8 Interview with Feminist Activist (D1), Dar es Salaam, June 10, 2013.
9 To date, there is little available data on the relationship between displacement due to land deals and rising rates of domestic violence. Studies do note high rates of domestic violence in Tanzanian refugee camps and the absence of state protection for women who experience domestic violence in these camps (UNHCR 2014, Human Rights Watch).
Although the radical title is not often invoked by the central government, the fact of its existence is viewed as undermining the democratic provisions of the Land Acts. Moreover, the government’s agricultural development agenda – Kilimo Kwanza – speaks to the government’s interest in attracting foreign agricultural investment. Given concerns about improving “free, prior and informed consent” among local peoples in the governance and transfer of land, the looming potential of state appropriation hardly meets such criteria: there are concerns that the threat of state appropriation may lead villagers to transfer land under duress. Indeed, McAuslan tempers his support of the radical title by specifying that governments must “follow fair procedures in the exercise of this power and must pay fair compensation,” (2013: 99).

Alden Wily concurs with critics on the matter of the radical title. Though she ranks Tanzania highly on its land reform efforts – indeed, Alden Wily ranks Tanzania highest on her measures – she notes that the retention of the radical title alongside broad interpretations of “public purpose,” undermines local control of land: “It is not incidental that a core element of current land reformism in Africa is just as much about (unevenly) devolving power over land relations as about slowly lifting the hand off shameful suppression of customary land ownership.” (Alden Wily 2011b: 7). Indeed, as we will see further below, Tanzania’s failure to resolve loopholes and contradictions in the Land Acts suggest that where land reform has embraced local customary governance and ownership, other gaps in the Land Acts keep substantial powers concentrated in the central government.

Definition of “General Land”

---

2000). As the following chapter will address, there are also high rates of domestic violence across Tanzania, which has other impacts on women’s rights to land.

10 Kilimo Kwanza (Agriculture First) is the Tanzanian government’s agricultural development platform, which encourages the development of public-private partnerships for agriculture.

11 Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
In addition to the radical title, some interviewees also noted contradictions in the Land Acts that undermine villagers’ claims to land. Of particular concern is a contradiction that expands the definition of General Land. These classifications are important, as only land classified as General Land can be leased by the national government to either nationally- or foreign-based investors. The normal process for transferring land from the category of Village Land to General Land requires the consent of the Village Assembly. The actual land deal in Tanzania occurs between the central government and the investor, once the village consents to transfer land. In addition, there is currently no provision for transferring land from the category of General Land back to Village Land, meaning that the transfer of land to the category of General Land is permanent (Sulle and Nelson 2009).

Yet contradictions in the Land Acts confound these processes by offering two different classifications of General Land:

At one level you are told General Land is neither Village Land nor Reserve Land that is defined in Village Act, no. 5. But when you come to Act no. 4, you are told that includes unoccupied and unutilized Village Land. That is a double categorization. As much as you might say that is a very small aspect in the law, it has a lot of implications … So if you declare that unutilized and unoccupied village land as General Land it means you are grabbing villages. (emphasis added)\

Indeed, this contradiction in the Land Acts marks a serious gap in the understanding of which land belongs to villagers and which land belongs to the government. Alden Wily noted the contradiction in her comprehensive explanation of the then relatively new Land Acts for District Councils in Tanzania (Alden Wily 2003a). Yet, as she writes in 2010, “no attempt has been made to remove the useful contradictory provisions … which leave a loophole for government to claim

---

12 Land may also be transferred to an investor by the Tanzania Investment Centre (TIC), provided the land was not previously Village Land (Sulle and Nelson 2009, Alden Wily 2003b). The Tanzania Investment Centre (TIC) has a “land bank” with a reported 2.5 million ha of land available (Cotula 2013). This land can be granted to investors via a derivative title. However, the TIC has also facilitated investor-District contact for investors to acquire land not currently classified as General Land. More details about the Land Bank are included in later discussions and in Chapter 6.

13 Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
ownership of lands which are neither settled nor farmed, exposing communal pastures and woodlands to loss,” (Alden Wily 2010: 11). Thus, the ability of the government to claim General Land under the authority of the Commissioner for Lands may seriously undermine security of tenure for local communities, especially where there is the perception that land is unused or underutilized.

This again poses a particular disadvantage for pastoralist communities who migrate or cultivators who allow land to go fallow. Indeed, the failure of some communities to conform to expected patterns of farming and land use can result in violence, displacement, and discrimination. “The inclusion of unused village lands into the category of general land increases the imminent threats to pastoralists’ lands. Because … pastoralism does not leave permanent marks on the land, … it would be easy to conclude that pastoral lands are not in use,” (Gastorn 2008: 177). Again we see how the construction of a set of laws around an expected form of land used discriminates against pastoralists that do not fit the model of land use or land governance. Indeed, Gastorn (2008) further suggests that this model is designed to favour investors rather than pastoralist communities.

This contradiction in the law also undermines and undervalues land access for community members who have not formally laid claims to Village Land. The value of what may be perceived as “unoccupied or underused” land is frequently underestimated, not only by local communities but also by state authorities more broadly. In the support of local economies and households, rural Tanzanian women rely on the resources available in what might be perceived as unused land (Kihacha 2002). Indeed, as articulated by scholars of global land deals, lands frequently described as “underused” are often important sources of fuel, food, water, and other necessities (Behrman et al 2012). The presumption of unused arable land is often incorrect,
though it is notable that such “unused” land is often used by groups that lack the means to secure their own land rights or have otherwise been overlooked by authorities (Vermeulen and Cotula 2010b). Thus, if the state fails to fully investigate the use of village lands – something that village authorities themselves might overlook, as has been the case where villages have transferred land to investors (ActionAid 2010) – women may find their ability to support their families, households, and communities seriously undermined. These dynamics are discussed further later in the chapter, though it is imperative to note here how notions of the “proper use” of land articulated in law conflict with the realities of land use on the ground. Again we see where community and political governance intersect, where certain perceptions of land take precedence, and how vulnerable groups are further marginalized.

Institutional Complexity and “Fragility”

One of the most common concerns expressed by scholars, activists, NGO workers, and legal aid practitioners is the complexity of the Land Acts and the sheer number of institutions now created to deal with land administration, adjudication, and governance. Under the 1999 Land Acts, land administration machinery is governed by the Ministry of Lands, Housing and Human Settlements Development (henceforth “Ministry of Lands”), where the lines of authority flow from the Minister, down to the Commissioner for Lands, the District-level Land Officers, and finally the Village Councils and Village Chairperson (URT 1999a). Applications for Granted Rights of Occupancy are submitted to District Land Officers (URT 1999a, Part VI) and Customary Rights of Occupancy (CCROs) are obtained through Village Councils and approved by the Village Assembly as a whole, provided the land is surveyed, demarcated and the boundaries set (URT 1999b).
However, despite this relatively straightforward delineation between the two forms of occupancy, the governance and adjudication of land is far more complicated. Interviewees expressed frustration and disappointment with how legal and administrative remedies must be pursued and the competing government jurisdictions over the adjudication of disputes. The Executive Director of a land rights NGO noted that at the village level there are no fewer than six different bodies involved in the governance and administration of land.\textsuperscript{14} Only the Village Council, Village Assembly, and the Village Land Council fall under the auspices of the Land Act, Village Land Act, and the Courts Act. As he argues, this creates “institutional fragility,” wherein the institutions “are not only weak, they’re fragile, they’re interfering each other, they’re not clear of what they’re doing, they mix up responsibilities and roles and it’s chaos.”\textsuperscript{15}

For those adjudicating land disputes, determining the suitable jurisdiction is unclear. The Courts Act (URT 2002) creates further confusion over the governance of land and adjudication of land conflicts. Adjudicative bodies at different levels belong to different hierarchies of authority, and in some cases, different ministries altogether, meaning that dispute resolution pursued at one level might not be able to be enforced in any meaningful way. Village Land Councils and Ward Tribunals on land report to the Ministry of Local Government; the District Land and Housing Tribunal reports to the Ministry of Lands and the Land Court, where District-level appeals occur, falls under the authority of the Judiciary (URT 2002 sec. 2, sec. 6, sec. 22). As one land rights lawyer explains, the challenges of transferring one case from one court to another pose a number of difficulties:

\textsuperscript{14} Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013. In addition to the Village Council and Village Assembly, there is also the Welfare and Social Services Committee; the quasi-judicial Land Adjudication Committee; the Land Use Management Committee, which also collaborates with the District Land Use and Management Committee; and the Village Land Council, which manages disputes and conflict resolution.

\textsuperscript{15} Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
…[F]or example, you’ve done something at the Ward Tribunal and now you want to appeal to the District, whether you want to appeal or whether you want to execute; whatever you want to do. Moving a file from that level to this level can be like calling God himself. … It will be very difficult for you to move that file. Besides, even if this body here gives order to that body there, they will say, I mean seriously, “Who are you? I don’t report to you. You have no mechanism to make me do what you want me to do.” Which is a problem in enforcement!16 (emphasis added).

Indeed, this theme of institutional confusion was a prominent theme throughout many interviews with legal practitioners in Dar es Salaam. The problem of enforcement clearly poses a challenge for those fortunate enough to be navigating the bureaucratic and legal channels. Yet legal aid advocates also noted that this complexity also leads people to apply for remedy at the wrong bodies, with administrators also unclear about the scope of their authority.17

The institutional confusion wrought by the legal structures of the 1999 Land Acts serves as a cautionary tale for other states endeavouring to formalize pluralist land tenure systems. While the modes by which land is obtained might appear clear and direct, the methods of land adjudication and governance are myriad and complex, and deny access to those who are unaware of the legal structures or who lack the resources to pursue lengthy contestations over land rights. This complexity further entrenches class- and gender-based stratifications in the access to legal remedies over land disputes. District Land and Housing Tribunals in particular have been faulted for not being readily accessible to local populations and not resolving the backlog of land disputes. In addition to the travel costs to access one of the 39 functioning District Land and Housing Tribunals, the fees associated with filing and pursuing a case are prohibitive for the one-third of Tanzanians who live on less than $1USD per day (Massay 2013). Moreover, given that the District Land and Housing Tribunals follow more formalized legal proceedings than the

16 Interview with Land Rights Lawyer (C1), Dar es Salaam, June 8, 2013.
17 Interview with Head of Research (B1) and Project Coordinator (B2), Feminist Legal Aid NGO, Dar es Salaam June 5, 2013.
Village or Ward Tribunals, legal advocates are a necessity (Massay 2013). Though various legal aid bodies exist – LHRC, TAWLA, and WLAC in particular – many of their legal advocates reside in urban centers, with paralegals and other resources available in some rural areas (LHRC 2013, TAWLA 2013a, WLAC 2013a, WLAC 2013b). Access to legal recourse thus becomes tied to both class and geography, with wealthier, urban-based populations given easier access to legal aid than poorer, peasant populations in rural Tanzania.

Tanzanian feminist legal advocates view institutional complexity as having distinctly gendered impacts. In addition to overcoming whatever community-based pressures there are to avoid contesting land decisions in rural villages (Koda 2000) – a consideration elaborated upon in the following chapter – women also face resource and distance constraints that dictate whether or not they will be able to pursue remedies in other courts where their case may be tied up for years to come.

So most of the cases when they are resolved at the Village Council, they tend to end there, and women, sometimes, they give up. … [W]hen you look at rural areas, it is so difficult to get to a court. Or a place that you can access your right easily. Because of the distance, because of the infrastructure, that’s really affecting people. Because when tell someone they have a right, and when this right is breached, to go to the court, to the primary court or the higher court, they say ‘It takes me a year to go there.’ … So when someone has a problem and she wants to go to the court, she cannot go to the court easily. The distance is a barrier.19

Thus, while this problem of institutional complexity is one experienced by anyone who challenges land rulings in rural communities, women experience a number of additional constraints that further reduce the likelihood of success. With the difficulty of obtaining legal remedy that can be enforced, rural women and other marginalized groups who lack the resources needed to navigate the legal system will be at a disadvantage. Moreover, widespread confusion

---

18 Interview with Director of Capacity Building and Empowerment (Q1), Legal Aid NGO, Dar es Salaam, June 27, 2013.
19 Interview with Project Coordinator (B2), Feminist Legal Aid NGO, Dar es Salaam June 5, 2013.
and lack of training in these institutions poses yet another obstacle for rural populations to overcome.

Finally, many interviewees and other scholars and observers note the sheer volume and complexity of the land laws themselves. The English version of the Land Act is over 500 pages long and the Village Land Act just under 300 pages. Accessibility remains an issue, as the Kiswahili translation is reportedly even lengthier and more difficult to read.\(^{20}\) Moreover, with the aforementioned contradictions and the lack of training explained in greater detail below, there is widespread concern that “the complexity and length of the law may mean that the poorest of the poor never learn about their rights, new administrative structures are never set up or funded and only certain sections are fully implemented,” (Knight 2010: 211). As it stands, the complexity of these laws needs to be matched by implementation that makes the provisions of the Acts accessible for rural populations. The failure to follow this progressive legislation with adequate implementation has resulted in the continued marginalization of rural populations.

*Subsequent Legislation and the Constitution*

In addition to the Land Acts themselves, other legal statutes and structures have also undermined the gender equality provisions in the Acts. While scholars and activists have pointed to the gender equality provisions as tangible gains, many of these provisions have been undermined in practice. The Mortgage Finance Act of 2008 overrides the provision that requires spouses to co-sign on mortgage financing. Where the Land Acts endorse the use of spousal co-registration of titles and CCROs in order to more firmly protect women’s claims on land in the event of separation or divorce, the Mortgage Finance Act negates this requirement for mortgages (McAuslan 2013). Given that many people seek to mortgage their property when in vulnerable financial positions, this move further undermines spousal claims on household property.

\(^{20}\) Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
McAuslan, who was involved with some of the design of the Mortgage Finance Act, expresses
dismay about the undue influence of the World Bank and foreign donors in negating the
requirement for spousal consent and other protections for those holding mortgages (2013). An
interviewee accused the government of catering to the interests of financial institutions and
investors rather than remedying gender inequality:

So we’ve gone back, especially on matters of mortgages. There was a lot of advocacy
done by the private sector, particularly banks … and unfortunately, our government
is more encouraging and more favourable to investors than its own people. So that
has changed. We are back almost to square one on that one.21

Thus, legal advocates need to remain alert to possible changes in legal structures that might
undermine gains achieved by the Land Acts. This instance of legal reform illustrates the position
of national elites in reforming laws according to global pressures, without reference to those
whose financial position it undermines. While there are clear gains here for Tanzania’s banks
and investors, the Mortgage Finance Act clearly undermines the gender equality provisions in the
1999 Land Acts.

The Constitution also provides a challenge for some of the provisions in the Land Acts.
Although the Constitution of Tanzania does prohibit discrimination, broader issues with the
Constitution limit the effectiveness of the Land Acts and other legislation in practice (Calaguas
et al 2007, TAWLA 2013b). Feminist legal advocates lament the absence of a supreme
constitution that would empower the courts to declare certain practices unconstitutional,
particularly discriminatory customary inheritance practices and legal provisions that protect them
(TAWLA 2013b).22

---

21 Interview with Director of Capacity Building and Empowerment, Legal Aid NGO (Q1), Dar es Salaam, June 27,
2013.
22 Interview with Land Rights Lawyer (C1), Dar es Salaam, June 8, 2013; Interview with Program Officer, Legal
Aid NGO (P1), Dar es Salaam, June 27, 2013.
In Tanzania you cannot just declare a law unconstitutional, because [the court] doesn’t have that power. Instead, you have to recommend to the Parliament to actually change a law which you think is discriminatory … So if [the court thinks] that a specific law is contrary to what the constitution is actually providing, then it should be able to say so and nullify it!23

The inability of the courts to declare unconstitutional practices null and void have a negative effect on economically disadvantaged rural women. While some women may be successful in legal challenges for their rights in the face of customary practices – as such discrimination is prohibited in the Land Acts – these customary practices will remain in effect for other women in similar situations.

These various legal shortcomings in the Land Acts, the Constitution, and the Mortgage Finance Act all undermine the reputation of Tanzania’s national land governance structure. As suggested above, the complex legal structures of the Land Acts means that multiple local bodies, administrative levels, and ministries are responsible for the implementation and functioning of the Land Acts. As one might predict, the implementation of these Acts thus varies in practice. As a result, there are serious gaps in capacity building and implementation across government ministries, districts, and villages. These gaps in capacity and implementation are frequently pointed to as obstacles preventing the full realization of the gender equality provisions in the Land Acts. Moreover, these gaps point to the limits of these land governance models without the funding, research, and political commitment to ensure full compliance with the laws. As will be demonstrated below, this is in part a failure to consider local attitudes and resistances to the imposition of new land policies.

**Issues in Implementation**

---

23 Interview with Land Rights Lawyer (C1), Dar es Salaam, June 8, 2013.
…[W]e have excellent structures in place on paper, and the village government structure could be an ideal way of participatory democracy in the country. But in reality, it’s not being used for that.\(^{24}\)

In some of our program areas we’ve had great success, in others some problems because of slow implementation and various other bottlenecks. … When we ask the question around having CCROs, it’s like 1% [of the population] or even less. It’s a really tiny figure. Those who have them are usually because we’ve been programming there. It’s never because they’ve had it by some other methods.\(^{25}\)

Despite the shortcomings in Tanzania’s legal structures, the Land Acts are indeed widely celebrated for their progressive policies of recognizing customary tenure and instituting policies for gender equality, both by international observers and national advocates. Byamugisha, writing for the World Bank, writes that Tanzania is rapidly and cost-effectively registering communal lands (2013). Alden Wily describes Tanzania’s customary land use structure as a “best practice” case (2011a). Many legal advocates, activists, and NGO workers interviewed in 2013 describe the design of the Land Acts in positive terms, frequently noting that there is something very unique about this legislation and the efforts that have been made to recognize customary forms of ownership, issue CCROs, and devolve governance to local communities.\(^{26}\)

That being said, however, implementation continues to be a major, if not the primary, stumbling block for the Land Acts over a decade after they first came into effect. Scholarship emerging from Tanzania suggests that several factors conspire to limit the effective implementation of the Land Acts, including lack of resources, lack of training, and political corruption and interference. Most interviewees took issue with the way that the Land Acts have been implemented and the lack of political will and support from the national level through to the village level. Notably, these criticisms came in part from government officials and NGOs.

---

\(^{24}\) Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.

\(^{25}\) Interview INGO Gender and Communications Officer (K1), June 25, 2013.

\(^{26}\) Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013; Interview with INGO Economic Justice Coordinator (U1), Dar es Salaam, July 9, 2013.
partnered with the government. Issues of implementation occur at multiple levels of governance and demonstrate how the absence of political will, resources, and training to support legislation risks undermining tenure security. This lack of tenure security affects many rural Tanzanians, but given the precariousness of tenure security for rural women and their vulnerable economic position, they are more likely to be unable to make claims on rural land.

Thus, the following section unpacks the obstacles to implementation by examining the constraints of organizational and individual capacities at the local level and the lack of political will at multiple levels to support comprehensive implementation through training and observation. Importantly, this section illustrates the responsibilities vested in local land governance, and how the Land Acts deepen the intersection of political and community governance of land by strengthening local authorities and tying land governance to local customs. By formally devolving more power over land to local authorities and allowing land to be governed according the local custom, the Tanzanian model formalizes the intersection of community traditions, or the governance of communities, with state laws, the governance of polities. This section highlights the central tensions between Tanzania’s land reforms and efforts to secure land tenure for rural women and marginalized groups in the face of foreign investment. The following chapter will explore in greater depth the gendered traditions that mark the practices of the governance of communities in Tanzania, and the ways in which customs, norms, and traditions continue to govern land and political participation. In so doing, these two chapters draw attention to the very real effects the governance of communities has on efforts to reform the governance of polities.

*Decentralization and Policy Implementation*
Policy implementation needs to be considered as a multifaceted element of the policy process, including everything from the political will of the highest authorities, to the availability of resources, the capacity of implementers, and the receptiveness of the communities undergoing policy or legislative shifts. As scholars of policy implementation note, all of these factors play a role in determining the ultimate effectiveness of policies in practice (Sabatier and Mazmanian 1980). The conventional policy implementation literature divides these areas into three major elements that facilitate closer analysis: the nature of the social problems and their amenability to change; the governance and organizational arrangements where the policy operates; and the will or capacity of the people charged with implementation (Spillane et al 2002).

Such models of policy implementation have their origins in analysis of Western societies, typically viewing implementation as a top-down hierarchical process (Manji 2001). This conventional academic literature in the Weberian tradition concludes that successful policy implementation requires compliance among officials, administrators and the public as well as responsiveness of policy administrators in order to facilitate change (Manji 2001). While such models introduce important concepts such as decision-points and individual capacity, they need to be adapted in considering decentralization processes. Pedersen concurs, noting that with decentralization, governance “should be understood as polycentric rather than hierarchical,” (2012: 271).

Following the tremendous amount of African land reform that occurred in the 1990s, Manji (2001) endeavours to examine the conventional scholarship around implementation and highlights how it is inconsistent with the models of land reform undertaken in Tanzania. Indeed, by designing a model of land reform that relies upon existing local governance and authority structures to implement it, the 1999 Land Acts create a land reform model whereby effective
implementation relies a great deal upon “front-line implementers”: those who must perform the policy for the policy to be implemented (Sorg 1983). In addition, Pedersen (2012) suggests that with the new wave of land reforms in sub-Saharan Africa, more attention needs to be paid to the relationship between implementation processes and governance outcomes as there is a “decoupling” between the intent of the land reforms and the ways they are implemented.

As a result, analyzing the implementation of the 1999 Land Acts merits a primary focus on the efforts of the “front-line” or “street-level” implementers at multiple levels in the structures of land governance. Where the Land Acts and the Courts (Land Disputes Settlements) Act have entrusted local bodies and officials with overseeing and executing new forms of authority, these implementers represent an embodied form of the intersection of the governance of polities and the governance of communities. Not only are these agents of the state, as Boone suggests, but they are instructed by state legislation to govern according to custom and local practice (Boone 2014). As Pedersen asks, “[i]s this state or community? It is not a matter of either/or,” (2012: 277). While this may be the design and intent of the Land Acts such that they incorporate local customs in land governance, its effectiveness in securing land tenure for all members of the community relies on various front-line implementers to know their responsibilities, have the appropriate resources, and execute according to the Land Acts and other relevant legislation. Moreover, these front-line implementers are expected to govern according to local custom while at the same time ensuring that gender discrimination does not occur. Without appropriate training as to the provisions of the Land Acts, their responsibilities as governance officials, and clear instructions from central authorities, it is unlikely that implementers will be able to balance these responsibilities in a way that satisfies the complex requirements of the Land Acts.
Because of perceived shortcomings in organizational and individual capacities, as well as questions about the political will at multiple levels, observers continue to express disappointment about the implementation of the Land Acts. As the next chapter explores in greater detail, attempts to reform local governance in the name of gender equality encounter very real challenges in customary practices. The Land Acts and their challenges in implementation reflect the salience of Rai’s (2008) observations about the intersections of the governance of polities and the governance of communities. As earlier chapters suggest, the expectation that land governance can balance customary practices and legal requirements for non-discrimination is no easy task and one that continues to be debated by activists and scholars alike. Indeed, the following chapter offers a much deeper consideration of the challenges of balancing customary governance – in public meetings as well as land ownership – against legal requirements to treat women and pastoralists as equals. Thus, although the formalization of customary forms of tenure and governance hew closely to existing practices, and thus increase the chances for effective implementation, the efforts to implement gender-sensitive, rights-based reforms are stifled by this reinforcement of customary land tenure practices, which in most Tanzanian rural communities are decidedly patriarchal.

This section thus considers the practical obstacles in implementation, specifically in terms of resource availability and capacity building for front-line implementers. These shortcomings have far reaching impacts on the way that land governance occurs in mainland Tanzania, and create a precarious social and technical infrastructure upon which to build a more gender equitable governance framework. Moreover, the unevenness of implementation and capacity building also reveals the vulnerabilities of local communities in their relations with commercial
developers and government officials alike. These dynamics are likewise gendered and have
gendered implications as well.

Table 1: Steps Required for Issuing CCROs (Concern Worldwide 2012)

- Awareness meeting on Village Land Act No. 5 of 1999 & Courts (Land Disputes Settlement) Act No. 2 of 2002
- Formation of land tribunals & committees
- Training the tribunals and committees on their responsibilities
- Demarcate and survey Village boundaries in collaboration with village land committees
- Prepare and issue the certificates of Village Land (VLC)
- Prepare Village Land Use Plans in collaboration village council and village assembly for approval.
- Carry out land adjudication of individual land parcels within the Villages
- Establish village land registries & equip registries with facilities like seals, village land register, cabinets etc
- Establish database of land related information like land parcels coordinates picked through GPS.
- Register and issue Customary Certificates of Right of Occupancy (CCROs) to individual owners.
- The cost per CCRO estimated to be Tsh. 45,000/= (about $29 USD for Iringa situation).

**Infrastructure and Resource Availability**

…[N]ow you have the lack of institutional-infrastructural arrangement for land administration on the ground. The law might be saying something about if you want land rights administered … you’ve got to have these institutions and infrastructure in place. They are non-existent in some places.¹⁷

Although the Land Acts are clear about what kind of institutional and infrastructural requirements are needed for effective implementation, observers express multiple concerns about the lack of resources and the reliance on non-governmental agencies to implement the provisions of the Land Acts. First, villages require a Certificate of Village Land (CVL) in order to begin the demarcation of customary plots of land. Once a CVL has been issued to a village, Village

¹⁷ Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
Assemblies can approve the granting of Certificates of Customary Rights of Occupancy (CCROs) to individuals or households, with co-registration of spouses an option. These CCROs are equal in law to land titles, where previously customary claims on land were dealt with administratively, rather than as legal contracts (URT 1994, Tsikata 2003). In this way, both villages and villagers have legally recognized claims to land – the village having a CVL, and individual villagers granted CCROs – documented in local land registries and signed by the District Land Officer (URT 1999b, sec. 21.1, Sec. 25.2d).

Although the World Bank expresses confidence about the rate of registration at the village level, it is less positive about the rate of registration of CCROs that formalize individual or familial claims on land. First, the issuing of CCROs has not kept pace with the issuing of CVLs. Though the World Bank claims that more than half of all villages in Tanzania have been issued CVLs, only 200 000 of a possible 25 million CCROs have been issued since 1999 (Byamugisha 2013). Estimates vary on the exact number of CCROs that have been issued, with some noting how the government’s own numbers have shifted year over year (Pedersen and Haule 2013). In addition to the World Bank, which oversaw the issuing of 27,000 CCROs (Byamugisha 2013),28 a number of domestic NGOs and international NGOs (INGOs) have also intervened. These organizations provide funding and support for the surveying and issuing of CCROs, as well as information campaigns on land rights and participation in local governance.

NGOs and INGOs involved in efforts to register land point to a number of shortcomings in infrastructure and resource availability. In particular they note the need to house local land registries in every village, and provide training, surveying equipment, and technology (URT 1999b, sec. 21.1, Sec. 25.2d).

---

28 Though the World Bank reports that their project issued 27,000 CCROs, another report quoting the Ministry for Lands, Housing and Human Settlements Development put the number for the same project at over 30,000 CCROs (Pedersen and Haule 2013). The World Bank’s numbers were also questioned off the record by interviewees that had also been involved with the surveying and registration of CCROs.
As Box 1 highlights, Concern Worldwide lists a number of steps required to issue CCROs in Tanzania in an effective manner, not the least of which is introducing the Land Acts and the provision of training to newly formed land tribunals and committees. The effective implementation of CCROs begins with basic awareness of the Land Acts, training, demarcation of the village boundaries, preparation of land use plans, adjudication of individual plots, establishment of land registries, and finally, the registering and issuing of CCROs (Concern Worldwide 2012). Yet few of these steps occur without assistance from NGOs or INGOs, with village land use planning still a rarity. Moreover, Gastorn (2008) notes the ways in which these Land Acts marginalize pastoralist communities whose customary practices of land use and governance do not match the prescribed modes of land governance. For these communities, establishing such bodies and stationary resources is an additional challenge.

As expressed by both scholars and NGO workers closely involved with the issuing of CCROs, these steps require the establishment of infrastructure, the acquisition of surveying equipment, acquisition of and maintenance of computer hardware and software, and the presence of skilled surveyors. Without the adequate staffing and support for village offices, “the infrastructure is not yet ready in most villages for villagers to be able to get the certificates.”

One INGO officer expressed the challenges associated with housing the land registries and with ensuring District Land Offices had access to and training on up-to-date software, technology that was often not the same they received training on at university. Thus, until NGOs or government programs provide such resources, NGO officers remark that often District Land Offices remain idle. An official with the Ministry for Land, Housing and Human Settlements

---

29 Interviews with INGO Gender and Communications Officer (K1), Dar es Salaam, June 25, 2013; Head of Research (B1), Feminist Legal Aid NGO, Dar es Salaam, June 5, 2013.
30 Interview with Land Rights Scholar (I1), Dar es Salaam, June 20, 2013.
31 Interview with INGO Gender and Communications Officer (K1) and INGO Official (K2), June 25, 2013.
Development concurs, stating that some communities have organized themselves to purchase their own land registers: “[W]e [the Ministry] don’t have a lot of funds to buy registers for preparation of those things and other documentation. Therefore they [the villagers] decided to have a group and contribute. They’re buying their own registers, using their own resources.”

Such instances of villagers purchasing their own land registers seem to be rare. Indeed, many of these conversations about infrastructure remain tightly bound to matters of resource availability from the government or international donors. In spite of international donor support, several observers interviewed find the total numbers of CCROs issued underwhelming and indicative of the lack of financial resources available as well as the lack of political will at the national level. One scholar of land rights noted that to have land surveyed in the absence of government infrastructure and support might cost upwards of 600,000Tsh (approx. $370 USD) per land plot, which is simply out of reach for the average Tanzanian, and certainly out of reach for most rural Tanzanian peasant women. Thus, without government funding for surveying and registration, CCROs remain inaccessible for rural Tanzanians in general, and rural Tanzanian women in particular. An INGO officer echoed this concern, noting that where they have provided funding for the surveying and broader administrative tasks, the cost for a single CCRO can be reduced to as low as 50,000Tsh (approx. $30USD). Even the World Bank-issued CCROs incurred higher than expected costs, coming in at roughly double the original cost estimates per unit, which are attributed to lower than expected outputs and higher costs due to

---

32 Interview with Government Official, Ministry for Lands, Housing and Human Settlements Development (T1), Dar es Salaam, July 9, 2013.
33 Interview with Land Rights Scholar (I1), Dar es Salaam, June 20, 2013.
34 Interview with INGO Gender and Communications Officer (K1), Dar es Salaam, June 25, 2013.
vaguely defined “high field expenses incurred by staff from central and district offices,” (Byamguisha 2013: 65).35

In addition to the slow implementation of CCROs and the lack of resources available to survey and register land plots, public awareness and education campaigns about CCROs have fallen short in terms of improving public knowledge about the advantages of registering land. As Fairley (2012) notes, once rural residents learned that CCROs could not guarantee the securing of loans, interest in registering land dropped. Conversely, promises of access to credit in some cases discouraged registration of land plots where populations – particularly women in the Uluguru Mountain region – have been exposed to microcredit schemes in the past or there were concerns about taxation costs (Englert 2008). In these cases, the benefits of individually registered plots of land – particularly in the context of greater commercial pressures on arable land – are either not communicated to rural populations or not consistent with their needs. Based on past experiences, communities might rightfully distrust registration schemes, though the state and international institutions recommend registration as a key mechanism for protecting individual land rights within the community and from external appropriations. Here, individual land registration – even if done as part of customary practice – is not perceived as securing land. Rather registration might be viewed as creating ways for the state to claim taxes it otherwise would not have.

In addition to a lack of public education, the absence of resources also results in a lack of training of key officials. These questions of capacity are detailed further below. Most interviewees expressed that individual capacity – either among the broader public or responsible officials – was a critical issue in terms of implementation. Indeed, as we will see below, the peril

---

35 Interviewees who spoke off the record also corroborate this observation. They expressed dismay about needing to pay public servants and politicians in order to secure participation in certain projects.
of a lack of familiarity with legal structures has detrimental effects on individual smallholders, but villages as a whole. If the primary goals of the Land Acts are to improve security of tenure, equipping individuals with the capacity to enforce and claim tenure security is essential to ensure their effectiveness.

**Individual Capacity**

… [T]he ministries, not only the Land Ministry, but other ministries, are experts in developing documents, but not in a good position to come up with a clear strategy on how those documents will be spread all over the country. And that’s why most of the civil society [organizations] are intervening … But we could have really serious enforcement from the ministers and many of the ministries, because they have all the documents but there is no plan to make it spread. You can be surprised to just find *one copy* of the land law in the district.\(^{36}\) (emphasis added)

The need for improved “capacity” was a phrase oft repeated throughout interviews, with myriad connotations depending on the interviewee. Though many interviewees also referred to the capacity of marginalized community members to contribute to democratic decision-making forums – a serious concern addressed separately below and in the following chapter – here, this section is primarily concerned with the capacity of agents of the village, the district and the state, those officials on whom effective operation of the Land Acts depends. The devolution of responsibility for land administration in Tanzania is heralded as an important step for the democratization of land governance and the recognition of customary forms of authority (Alden Wily 2011, Deininger et al 2012). As the Shivji Commission reported, rural people expressed dissatisfaction with the top-down structure of Village Councils and District Councils, with Village Assemblies virtually powerless (URT 1994). By emphasizing that Village Assemblies must approve and/or make recommendations on transfers of Village Land, the Land Acts attempt to address concerns over past failures to consult with the village as a whole. Moreover, from the point of view of global institutions such as the World Bank, this devolution of land governance

---

\(^{36}\) Interview with INGO Women Land Rights Advocacy Officer (O1), Dar es Salaam, June 26, 2013.
to the village level aids in protecting the land tenure security of potentially vulnerable communities by enhancing local democratic processes. The Voluntary Guidelines in particular recommend that “states should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of indigenous peoples and other communities with customary tenure systems,” (FAO 2012, sec. 9.6). From the point of view of the World Bank, devolving these responsibilities creates efficiencies by avoiding the establishment of new administrative bodies and speeding implementation (Byamugisha 2013).

Matters of cost and the lack of governmental budgetary allocations to the Tanzanian Ministry of Lands have trickle-down effects on the implementation of the Land Acts. In addition to building infrastructure and providing technological supports, the ability or inability of the state to provide effective training and capacity building for both citizens and public servants is a serious concern. At the village level, the gaps in awareness of village leaders have prevented shifts towards more participation, disadvantaging local populations in the face of both large-scale and small-scale investments. Though Tanzania has a university dedicated to the training of land officers and surveyors – Ardhi University in Dar es Salaam37 – and, according to an official in the Ministry for Lands, no shortage of skilled people, there is an apparent gap in the capacity of village and district officials to implement the Land Acts. Though nearly 15 years have passed since the Land Acts were introduced, and well over a decade since they came into effect, village authorities continue to behave as they had prior to the implementation of the Land Acts: Village leaders continue to impose directives unilaterally or under direction from District Councils, with Village Assembly meetings largely providing a rubber stamp on directives from above.

---

37 Ardhi is the Swahili word for “land.”
Moreover, Village Assemblies meetings continue to be organized without sufficient notice and as a result are generally under-attended.\textsuperscript{38}

Indeed, these matters of developing the capacity of state officials is critical, especially given the complexity of the laws explored above. With the introduction of a number of dispute resolution mechanisms and land committees, observers note the institutional confusion that exists among officials. Together, these matters of lack of training and the complexity of the institutions involved create a land governance framework that is dysfunctional across large areas of rural Tanzania. One INGO governance officer remarked that in work with Village Councilors and Village Chairpersons they had asked them “to just draw up what is a Village government structure supposed to look like and none of them had the same structure and most of them had it all wrong.”\textsuperscript{39} This confusion is echoed by analysis conducted by the World Bank, noting that the complexity of governance frameworks create overlaps in jurisdiction, requiring greater investments in the development of “human capacity” of implementers and local officials (Deininger et al 2012).

The gaps in awareness of village leaders leads not only to inertia in modes of village land governance, but also undermines the legally prescribed role of local populations in village land governance. This lack of awareness manifests in the practices of village councils and assemblies and is exhibited in how alleged “land grabs” have occurred in Tanzania. An NGO director points to a number of cases where the minutes of village meetings laid out the terms of a proposed land transfer to outside investors.\textsuperscript{40} Village leaders articulated demands in these minutes, requiring, for instance, that the investor provide infrastructure, compensation, clinics, employment, and the like in order to receive land. One Village Assembly decided that the failure to develop the land in

\textsuperscript{38} Interview with Programme Officer, Land Rights NGO (A1), Dar es Salaam, June 3, 2013.
\textsuperscript{39} Interview with INGO Governance Coordinator, Dar es Salaam, June 13, 2013.
\textsuperscript{40} Interview with NGO Executive Director, Dar es Salaam, June 17, 2013.
two years would result in the village reclaiming the land. Yet, following the procedures outlined in the 1999 Land Acts, these Village Councils and Assemblies approved the transfer of land to General Land under control of the Commissioner for Lands, which allowed the investors to lease land directly from the government, with no legal deal signed between the villagers and the investor. Moreover, as noted above, there are no provisions in the Land Acts for General Land to be converted back to Village Land, so these land transfers are considered permanent. Any conditions placed on the deal by villagers have no effect unless a separate legal contract has been signed.

Such instances illustrate the serious shortfalls in individual capacity and training of officials. This lack of capacity – in particular, the lack of knowledge about the specifics of the Land Acts – ultimately undermines those provisions designed to enhance accountability and public participation. These gaps in understanding between the Village and District levels are ultimately the source of conflict between communities, investors, and the government. Moreover, general lack of adherence to the rules laid out by the Land Acts allows Village and/or District leaders to manipulate consultation processes. In the case of proposed land transfers, investors, district officials and local village leaders can rush Village Council and Assembly meetings, effectively reducing community oversight and public input, to the benefit of investors (Theting and Brekke 2010). Furthermore, as District level officials introduce investors or proposed investment deals to villages, elites and officials are able to control information. For instance, in the case of Sun Biofuels in Kisarawe, villagers were party to “information meetings” rather than negotiations, and these information meetings only presented the benefits of the proposed deal land deal (Oakland Institute 2012). The decision to proceed with the Sun Biofuels deal was made at the District level, after which time “community development officers were sent

41 Interview with Programme Officer, Land Rights NGO (A1), Dar es Salaam, June 3, 2013.
around the villages to ‘educate’ local people on the benefits the investment would bring, with no mention of what villagers stood to lose,” (Oakland Institute 2012: 4). Such manipulation echoes Mamdani’s (1996) arguments about “decentralized despots” in post-independence African states, whereby democratic rights granted to urban “citizens” are not likewise enjoyed by rural “subjects”. While it would be inaccurate to accuse all rural officials of “despotism” – indeed, there are Village Assembly minutes that suggest otherwise – it is clear that some rural authorities are able to manipulate processes according to their interests.

Thus, without investing in the capacity building of Village officials and elected representatives, villagers may be at the mercy of political and administrative influence from Village leaders, District level officials, and investors, who may either be willing and capable of meeting village demands, but lack a clear means by which to negotiate with villagers, or happy to ignore village demands as the Act allows. The result is high profile and protracted conflicts, such as those in Kisarawe, where villagers have agreed to transfer land to investors, later to find that none of their terms have been recognized (Theting and Brekke 2010, ActionAid 2010). Moreover, though the state is entrusted with negotiating contracts on behalf of the public interest, there is a gap in communication between local villages and state-level officials. “The assumption is that at the national level, the people will be negotiating on behalf of the villagers, but in a real sense, they don’t know their needs. They’re not there to know that a school is their need, or hospital is their need, or what kind of social services.”

The general lack of awareness about the Land Acts and the organization of land governance also undermine the nature of local political participation and conflict resolution. The failure to provide local leaders and administrators with training on the Land Acts and the preferred democratic functioning of local governance bodies leads to a reliance on past practices.

42 Interview with INGO Land Rights Advisor (J1), Dar es Salaam, June 20, 2013.
that privilege local elites and officials while marginalizing other groups. As a result, forms of discrimination that were rooted in customary practices and hierarchies risk being perpetuated, which violate the terms of the Land Acts that declare discriminatory practices unlawful. And where transferred village land infringes on land required for subsistence farming, foraging water, gathering firewood and the like – those practices most associated with feminized reproductive roles – transfers to foreign investors have very real impacts on the population at large, especially women’s ability to support their families.

Moreover these gaps in capacity leave room for abuse of power and corruption within land governance processes. The lack of awareness of the Land Acts and the failure to create effective and well-trained leadership at the local level creates room for corruption at the local level. As one interviewee put it, the space between the District and the Village is where these so-called ‘middle men’ interfere in or bypass the governance process. Yet by many accounts, these “middle men” are not investors themselves, but officials from the District level who inappropriately intervene in the allocation process. An INGO Land Rights Advisor notes how in other cases they found “some district officials sending notes, instructions to village leaders to allow investors to have land, to facilitate the process,” taking advantage of the community which does not understand their right to land or the processes in place to protect claims to land.

With the absence of effective training for local officials, there will be little change in the way that local authorities and officials view the importance of securing land for rural smallholder farmers and families. An official in the Ministry of Lands, Housing and Human Settlements Development admits that local administrators and populations responsible for implementing the Land Acts do not value the CCROs nor view the administration of village land as a priority:

---

43 Interview with INGO Land Rights Advisor (J1), Dar es Salaam, June 20, 2013.
44 Interview with INGO Land Rights Advisor (J1), Dar es Salaam, June 20, 2013.
… they used to have a document that was signed by the Commissioner for Lands, a document from the central level [of the Tanzanian government]. Therefore you are telling them that even at the local level, at the village level, you can get the title deed, which would end up at the District level. They’re seeing that maybe that [the CCRO] is inferior. … You know, to change the mindset of the people, it is not a joke. Therefore some of the implementers are saying that the title deed signed by the Commissioner for Lands is better than [the CCROs], the officials who are implementing it!\textsuperscript{45}

According to this official, these attitudes regarding the value of CCROs have spill over effects onto the recruitment of skilled surveyors and administrators at the district Levels, where district officers do not see the importance in local land administration. An INGO officer also echoed this sentiment, noting that well-functioning District Land Councils responsible for land demarcation and surveying were the exception rather than the norm.\textsuperscript{46} Indeed, without appropriate training for land administration, front-line implementers lack the skill set to execute changes in the Land Acts and implement the signature change in rural land administration: the CCRO. This reinforces Pedersen’s (2013) view of the “decoupling” that occurs between front-line implementers and the goals of public policy, where the mindset of the implementers does not match that of the designers of the acts. Indeed, this decoupling factors into the disconnection between the stated policy goals and the discriminatory practices at the local level explored in the following chapter.

Several interviewees suggested that villages could make greater use of land use planning in order to map out land suitable for agricultural investment, specifically considering what land will be needed for farming, subsistence, water and firewood. Yet again, these efforts are not occurring in a systematic fashion. Organizations such as Concern Worldwide likewise make efforts to undertake local training, facilitate land use planning and administer the surveying and registering of CCROs, but make up a small percentage of those issued to date, approximately

\textsuperscript{45} Interview with Official in the Ministry of Lands, Housing and Human Settlements Development, Dar es Salaam, July 9, 2013.

\textsuperscript{46} Interview with INGO Communications Officer, Dar es Salaam, June 25, 2013.
9,500 of the 200,000 reported by the World Bank (IFPRI 2012a). As one scholar noted, the lack of land use planning at the village level not only leads to a lack of planning and recognition of local needs, but also makes it more likely that investors who acquire land will not provide suitable compensation:

Lack of that [land use planning] would always give some leeway for new investors to come in and decide what they are going to give as a token, but it would be ideal if the village sits down and says “These are our plans. These are our priorities. So anybody who comes in, we have to share our plans and then they have to fit in our plans.”

Thus, in the absence of such local planning, there is a lack of awareness of what the needs of the village are and how to meet them. Though the Land Acts are designed to create land tenure security in a broad sense, it is clear that there are critical shortcomings in equipping front-line implementers to meet the expressed goals of the legislation.

**Gender-Aware Implementation of CCROs?**

As illustrated above, many observers see the introduction of CCROs as one of the Land Acts’ great successes. Yet their implementation is saddled not only by a lack of resources from the government and the lack of capacity building among front-line implementers, but also by societal expectations about who should have access to land ownership. Local attitudes about co-registration and the appropriateness of women owning land and property on the part of community members, those implementing reforms, and government officials all shape the extent to which more gender equitable land ownership might occur.

In the context of large-scale land deals, efforts to formalize informal or traditional claims on land are viewed as means of protecting small-scale producers and communities from external claims on land. The issuing of CCROs is designed to recognize precisely those forms of organization that otherwise might not have documentation. Yet for women, particularly divorced

---

47 Interview with Land Rights Scholar (11), Dar es Salaam, June 20, 2013.
or widowed women who lack marital ties that would otherwise entitle them to land access, accessing land through community forms of governance remains difficult. Insofar as CCROs are issued by Village Councils and approved by Village Assemblies, the issuing of CCROs remain at the behest of accepted local practices. As Pedersen and Haule (2013) report, there have been marked differences in the effectiveness of various CCRO implementation efforts. They note that where implementation efforts have been rushed and with only a superficial consideration of gender relations, there are decided gaps in implementation. Here they explain how the decisions about co-registration of CCROs were left to the discretion of men in Bariadi District under the World Bank-led Business Environment Strengthening for Tanzania (BEST) implementation project:

    When combined with a rather conservative male-dominated culture, the speeded up approach seemed counterproductive for the protection of women’s rights to land. In Bariadi District, the majority population is from the Sukuma ethnic group … a people practicing mixed farming of agriculture and cattle herding are considered very conservative in terms of women’s rights … Therefore, it was largely up to the men to decide if they would accept the names of their wives on the certificates [of customary rights of occupancy]: “There are some men who did not want to share ownership with the women. In such situation it is only men who were registered” (Pedersen and Haule, quoting women focus group, 2013: 19)

Pedersen and Haule fault the efforts of the BEST project for rushing the project and introducing requirements for gender equality long after projects were already underway. This rush to gender-sensitive implementation was to the chagrin of at least one government official, whom they quote as saying “If you say, that you want to see women’s CCROs, they … will jump a few men’s pieces of land and find those women and bring them to you. … But don’t do that! Don’t force things which are not natural on the ground!” (Pedersen and Haule, quoting officer in Prime Minister’s Office 2013: 18).
This resistance among government implementers themselves reveals the challenges to introducing radical changes to local practices, and the problems with undertaking such reforms without close attention to local obstacles. Though implementation did involve telling villagers that women had equal rights to land under the law and that joint registration was an option, “[t]he implementing teams did not, however, go as far as the Land Acts prescribe, namely automatically go for joint titling unless otherwise wished for. That, it was claimed, would have undermined the entire project,” (Pedersen and Haule 2013: 19). It appears that the primary goal was to achieve high numbers of issued CCROs, rather than attention to who was receiving them and improving women’s access to land rights.

These efforts of the BEST project stand in contrast to the CCRO implementation schemes of other foreign donor-supported projects, as well as the gender sensitization projects that many domestic NGOs and CSOs are currently undertaking. The Property and Business Formalisation Programme (MKURABITA, in Swahili) sponsored by the Norwegian government co-registered 35% between spouses and registered 20% in the names of one or more women in one pilot project, ensuring that at least half of the CCROs issued were in the names of women (Pedersen and Haule 2013). One INGO officer interviewed explained how as an organization they have transformed their efforts to register lands under CCROs to include extensive training on gender inequality, as without it, the co-registering of CCROs had led to little changes in the lives of women: “just because you get a land certificate doesn’t mean you have any say… Learning from that was that we needed to do a lot more than just a few sessions on rights to land and women’s rights, on trying to change attitudes about power and control of resources.”

Thus, the experiences with the implementation of the Land Acts since 2001 suggest that more attention needs to be paid to the societal dynamics surrounding land governance. Combining legal reforms

---

48 Interview with INGO Gender and Communications Officer (K1), Dar es Salaam, June 25, 2013.
with attention to customary practices and the needs of rural populations are more likely to achieve the goals of those who supported the gender provisions of the Acts during the 1990s.

With these insights in mind, we must begin to look more closely at the gender dynamics of local land governance as they operate in rural Tanzanian villages, communities, and families. While this chapter has made clear that the national and district level efforts have demonstrable shortcomings in their efforts to improve land governance, it is evident that these shortcomings also have material impacts in local communities. Issues with local awareness of political governance structures and of the Land Acts suggest that the ideal design of Tanzania’s land legislation is not enacted in practice. Moreover, these obstacles to implementation reveal the pervasiveness of gendered attitudes in the governance land, particularly around the appropriateness of women’s land ownership.

**Conclusion**

This chapter has illustrated how efforts to recognize customary land governance bind the governance of communities and the governance of polities together. By examining state legal frameworks in connection with local level implementation and capacity, connections between community practices and political practices become clear. In the absence of effective training, Village and District-level authorities make judgments based on existing knowledge and how things have been done in the past. As a result, improving land governance in the way the Land Acts intend requires closer attention to how local officials govern. While NGOs and INGOs endeavour to address the obstacles of gender inequality in political participation, local governance, and decision-making on land, representatives of these organizations frequently underscore their own limits to effecting change without more broad-based government efforts being made as well. Without closer attention to capacity building, funding, and implementation,
devolution to customary authorities will do little to improve rural women’s claims on land nor will they protect community interests in the face of prospective land deals.

As we will see in the following chapter, these practical issues of implementation intersect with the cultural norms and customs that limit the extent to which rural women and other marginalized groups are interested in and able to meaningfully participate in local forums. Both formal legal structures and customary structures of land governance are built around assumptions regarding the proper use of land as well as the proper rights holders of land. Gender hierarchies of power factor into these assumptions, in spite of gender equality provisions in the Land Acts. As the case of Tanzania illustrates, the intersections of community and political governance ultimately reinforce these gendered hierarchies. In order to have a better sense of how effective land rights frameworks will be in protecting local claims to land, including those of women, we must have a better sense of how the assumptions of global level policies map onto those of customary practices. The tensions between rights-based land frameworks and local forms of community organization have long formed the basis of a robust feminist research agenda, one that has been long ignored by scholars of global land deals and global governance policy-makers.
Chapter 5 – Gender and Local Land Governance in Tanzania

[As with everything in Tanzania, you have a law that’s pretty progressive and then you have customary law, which is much stronger in the traditions and in the minds of people, which makes that law kind of redundant. … If you go to the local level, you find that people are just following the customary laws because they don’t really know about this law. And when they do know about that law, then you do see some changes, but it’s not like everybody changes.1]

This statement captures in a broad sense the general sentiments regarding the Land Acts and the extent to which they address gender inequality. As the previous two chapters have made clear, there are serious issues in governance at the national and sub-national levels in terms of the legislation dealing with land governance and the challenges regarding implementation at many levels. The previous chapters have highlighted where these matters neglect gender inequality or other marginalized groups in their design or execution. Yet the main obstacles identified in the previous chapter are embedded within a broader structure of gender relations that constrain the effectiveness of the gender equality provisions in the Land Acts. Indeed, even if certain remedies were applied to the aforementioned issues, evidence suggests that this would be insufficient to address systemic issues related to gender relations. Both the legal reforms and the modes of local governance seem ill-equipped to address gender inequality and violence associated with land reforms. Insofar as land governance is tied to family and kinship relations, reforming such practices through legislation alone will be a futile endeavour.

The experiences of gender inequality in the execution of Tanzania’s land reforms and the experiences of rural women as village citizens, as participants in governance bodies and as claimants of land rights, needs to be thoroughly investigated. When asked about the quality of women’s land rights under the 1999 Land Acts, members of high-profile women’s rights groups – which once enthusiastically endorsed the Land Acts – express disappointment.  

---

1 Interview with INGO Gender and Communications Officer (K1), Dar es Salaam, June 25, 2013.
Implementation, as highlighted in the previous chapter, remains a primary concern for some. Yet even where training for public servants might be delivered, feminist activists, NGO officers, and legal aid providers point to the broader challenge of addressing discrimination in customary practices and belief systems and the impacts on land governance in a broader sense. In addition to the broader problems of communities being displaced by foreign investment, rural women, especially divorced and widowed women, face serious obstacles in trying to claim land and property rights without husbands or male heirs. Widowed women have long been the victims of property-grabbing from their husbands’ families, and high rates of HIV and AIDS in Tanzania—approximately 7% of adults on the Tanzanian mainland have HIV—have increased the number of single-headed female households (Kessy et al 2008, Izumi 2007). According to recent census data, approximately 15 percent of women aged 20–80 years in rural areas are widowed, with another 6.8 percent divorced or separated (URT 2014). Though these rates of divorce are relatively low, the Women’s Legal Aid Clinic (WLAC) reports that the number of women seeking legal assistance with divorce has increased and that land disputes, matrimonial issues, and inheritance issues are the primary reasons why women seek legal aid in their rural offices (Muhau 2010, WLAC 2012). Moreover, even where women are secure in their marital arrangements and access to land within their community, they may nonetheless be excluded from village decision-making over land use and transfers based on gendered norms of participation.

As this chapter will demonstrate, marital status is a key determinant of women’s access to land, reinforced through reliance on customary practices. Though the Land Acts do explicitly declare null and void customary practices that discriminate based on gender, the lack of training and awareness about the laws means that local officials are often not familiar with either the gender equality provisions in the Land Acts or other sections relevant to land administration. As
the previous chapter highlighted, the challenges to effective implementation are many, including serious concerns about resource constraints at multiple levels. On matters of “capacity,” while many interviewees express disappointment about the skills and knowledge of officials and leaders, many interviewees also express concern that the capacity of villagers to participate in land governance committees and hold leaders to account is also underdeveloped. Moreover, these issues are not just limited to negating discriminatory practices, but extend to broader societal attitudes and behaviours relating to women’s proper roles in public life at the community level. Given the power vested in local bodies under the 1999 Land Acts, the absence of rural peasant women and their concerns remains a serious concern for those interested in enhancing local governance and securing tenure for villagers.

Where the previous chapter investigated the nature of land governance at the national level through its attention to the Land Acts and other relevant legislation, and at the local level through attention to the implementation of the land reforms, this chapter looks more closely at community and family level dynamics. While bound to the national legal structures in place, governance at these levels also entails attention to customary and community practices and particularly to where local practice deviates from prescribed national laws. This chapter first examines the nature of public participation in Village Councils and Assemblies, as well as the nature of local adjudication of land disputes. Here, by examining the dynamics of these bodies, we can begin to understand how the governance of polities and communities come to bear on land governance. Second, this chapter investigates land governance at the level of the family, specifically via inheritance practices. Again, in spite of legal reforms that prohibit gender discrimination in the practices of land rights and governance, customary practices still dominate
family and community practices, especially surrounding the dissolution of marriage or the death of a spouse.

Though village bodies and family governance are viewed here separately, these forums clearly interact with each other and with national governance frameworks. Moreover, the interventions of international organizations, international non-governmental organizations (INGOS), and international investors introduce transnational influences. Most importantly, however, all of these levels indicate spaces wherein notions of gender relations shape land governance. Where organizations such as the World Bank may have plans regarding women’s land rights and registration, at the same time local modes of community governance shape gender relations around land and access to public forums. It is in the efforts to implement land reforms that rely on both an individualized liberal rights framework and communal customary practices where we can see how these differing attitudes regarding gender come into contact with each other. Without considering the various power relationships and the dependencies women have on their families, kinship relations, and communities, these land reforms are unlikely to overcome longstanding practices of gender-based exclusion and discrimination.

**Customs, Culture, Tradition and Local Governance**

The “problem of culture” was articulated by many interviewees regarding discussions of gender inequality in accessing land rights in Tanzania. Interviewees frequently referred to the persistence of patriarchal practices in dictating who could inherit, own, and transfer land according to customary practices in the community. Even in matriarchal communities, land and property ownership is typically controlled by men, transferred through uncles rather than through fathers (Isinika and Mutabazi 2010).² In addition to practices governing ownership and transfer

---

² Interview with Agricultural Economist (R1), Morogoro, Tanzania, June 28, 2013.
of land, “problems of culture” are also cited as restricting women’s participation in local governance institutions, even those that mandate women’s participation. Where communities do include women in their governance institutions, the quality and content of their participation is still in question. As documented by Yngstrom (2002), familial ties or other powerful community influences often shape women’s participation in local forums and broader expectations surrounding gender roles often lead to the silencing of women members. These limits on participation suggest the various social relations that are at work, including women’s loyalty to her family and dependence on her husband’s family in the case of patrilocal communities. In these patrilocal communities, women remain with their father’s family until marriage, at which point she moves into the community of her husband and is typically viewed as an impermanent member of the family and community.

This “problem of culture” is one that has long been debated by feminist scholars of agrarian change and land governance. As alluded to in earlier chapters, the matter of how to reconcile traditional or customary forms of tenure with a desire to improve women’s access to land and land rights has long been a contentious debate. Highly influential scholars such as Bina Agarwal have argued that women must have access to formal titles in order to secure their land rights. Based on her research in South Asia, Agarwal (1994) argues that land ownership is so vital to women’s economic well being in agrarian societies – much more so than employment – that women must be able to secure their rights independent of community claims to land. Agarwal (2003) has also argued that land ownership will motivate women to invest in their land, improve access to credit, and improve the “bargaining position” of women within their communities. She argues that existing customs and administrative bias prove to be too much of an obstacle for women trying to access land in South Asia.
Indeed, many of these same problems and proposed solutions have been identified in Sub-Saharan Africa as well. Yet Jackson (2003) takes issue with claims that “motivation” is a problem for rural women farmers in Africa and doubts the “transformative potential” of individualized land rights. Moreover, Jackson fears that Agarwal underestimates the influence of male identity and ties to land ownership and control. In this sense, land ownership must be viewed within the context of gender relations, and the realities for women attempting to navigate their relationships and social position: “The analysis of gendered land relations in particular social contexts requires consideration of the diverse subject positions of women, the relations they involved (e.g. with fathers, brothers, husbands) and the implications of these in relation to land,” (Jackson 2003: 466). Though there is little question of the value of securing women’s land tenure, there remain important questions about types of land tenure systems, inputs to women’s farming, and the roles of various informal and formal authorities (Goebel 2005).

Moreover, as became evident in the debates over the Land Acts in Tanzania, there are feminist organizations that advocate for change under the auspices of customary patterns of land tenure and governance. Many scholars have debated the merits of individual rights versus customary rights for women. Whitehead and Tsikata (2003) find neither solution in and of itself convincing. Where individual titling has resulted in men exerting control over their land based on existing practices, organizations that have advocated for reliance on customary land tend to underestimate power relations in the countryside. Jacobs (2010) largely concurs, noting that privatization and titling results in the loss of informal rights and the breakdown of communal resources, while customary law limits women’s autonomy, with women’s land rights largely contingent on marital status. Moreover, Mackenzie (1990, 1993) has long noted the interactions
between customary and legal practices and the limits of women’s appeals to statutory law in rural Kenya.

Whitehead and Tsikata thus advocate for more democratic institutions and community-based management not based in custom: “…women's land claims need to be based on a nuanced and highly sensitive set of policy discourses and policy instruments - ones which reflect the social embeddedness of land claims, the frequent gender inequality in such relations and the rights to livelihood of African women,” (Whitehead and Tsikata 2003: 103). As we will see below, this is very much the type of model that the 1999 Land Acts seemed to envision. However, in practice, there remain serious social obstacles to participation and land ownership, with pressures coming both from within families and from the community at large. Indeed, without serious consideration of the “social embeddedness” of land politics, mechanisms to grant legal rights to women without dedicated attention to how women will exercise such rights are unlikely to succeed. And though there appears to be widespread recognition of this fact, efforts to address the matter are ad hoc and implemented primarily by national NGOs and INGOs. Importantly, government and World Bank joint efforts on land registration seem to have fallen behind.

Returning to Rai’s (2008) conception of the governance of communities, it is clear that the so-called “problem of culture” in relation to the governance of land is one that regulates and disciplines the community both through the reliance on gendered traditions of inheritance, marriage, and public involvement, but also demonstrably through public and private threats of violence. As detailed below, civil society organizations have encountered these obstacles in their efforts to improve land administration in Tanzania. One INGO reported that it has dramatically redesigned its program for land surveying based on these obstacles, reporting that their challenge
now is to “[go] deep” into considering gender relations on land and governance.\(^3\) Below, this section further describes the matters of culture and custom that govern women’s land ownership and access, as well as women’s roles in the village, village governance, and broader political participation.

Importantly, this chapter delves into the realities of land governance under the Tanzanian model. Here, although gender provisions have been written into laws designed to ensure more equitable representation and participation in community decision-making, it is clear that there are hurdles to effective implementation of individual rights. Critically, it is these very bodies and practices that are intended to protect and empower local community interests in the context of foreign investments. As articulated in the previous chapter, limited capacity severely restricts the ability of local bodies to act in their own interests. In terms of rural women’s ability to express their views on land use planning and investment in patrilocal communities, there are even more obstacles to overcome.

Thus, in order to fully understand the limits of the Tanzanian governance model for securing land tenure and governance for local use in rural communities, a fuller picture of land governance is required. What limits women’s participation in land governance and decision-making? Below, this analysis addresses where these customary forms of governance intersect with the formal legal provisions articulated in the Land Acts and other land reforms. In doing so, we can examine how community practices discipline behaviours and structure relationships such that certain populations, particularly women, but also youth, pastoralists, and political opposition, are left out of modes of decision-making. Understanding the full context in which land governance occurs at the local level, rather than strictly the legal provisions and

\(^{3}\) Interview with INGO Gender and Communications Officer (K1), Dar es Salaam, June 25, 2013.
frameworks, provides a more thorough picture of the complexities of land governance. The challenges of implementing land governance reforms are reveal to be much more complex than resource availability and capacity building alone.

**Local Governance: Participation and Adjudication**

As explored in earlier chapters, the 1999 Land Acts make use of existing village governance bodies and introduce new adjudication bodies to govern land. However, in light of the resource constraints and institutional conflicts detailed in the last chapter, there are serious challenges in establishing and maintaining democratic and participatory land governance at the village level. In addition to administrators lacking training or “capacity,” so too do village authorities, such as Village Council members and those who serve on various land committees at the village level. In the absence of civic education or professional training from the government, NGOs and INGOS have sought to fill the gap. While NGOs and INGOs both endeavour to address the obstacles of gender inequality in political participation, local governance, and decision-making on land, representatives of these organizations frequently underscore their own limits to effecting change, including the limited scope of their projects.

Local participation in Village Councils and Village Assemblies is in part why Tanzania’s land reforms have earned such high praise. The Land Acts of 1999 entrust Village Councils and Village Assemblies with decision-making over land, while also including myriad requirements for gender equality and democratic representation. Village Councils are composed of elected members from the community who manage the village as a trustee of the villagers. Under the Land Acts, Village Councils have the authority to grant Customary Rights of Occupancy (CCROs), enact village by-laws, keep Certificates of Village Land (CVLs), enter land use agreements with other Village Councils, and issue directives on land use and control among
other responsibilities (Gastorn 2008). Importantly, the Village Council is also responsible for village land adjudication, as discussed further below. Village Assemblies are tasked with approving recommendations of the Village Councils, including transfers of land less than 250 ha and land use agreements with other villages (URT 1999b sec. 4.6(a), sec. 11.2(d)). Village Assemblies may also make recommendations on transfers of land greater than 250 ha, though as noted earlier, these decisions are made by the Minister for Lands, Housing and Human Settlements Development (URT 1999b). The Village Land Act expressly prohibits Village Councils from allocating land or granting CCROs without approval of the Village Assembly (URT 1999b sec. 8.5). Village Councils and/or Assemblies are also the sites at which commissioners make recommendations for transfers of village land to general land, under control of the government.4

In a general sense, these bodies do not operate as smoothly as dictated in law. In participatory research conducted by Kihacha Rural Food Security Policy and Development Group during the development and negotiation of the Land Acts, villagers noted the top-down nature in which village assembly meetings were held, the infrequency of village assembly meetings, and the authority wielded by Village Councilors:

In all three districts, [Shinyanga, Njombe, and Ngorongoro] people demanded the right to hold regular village assembly meetings, as per local government policy - something which most village government leaders have been reluctant to practice thus far. This was entirely different from the usual village meetings where the main talker is the Village Chairperson, where villagers are expected to sit quiet, listen, and obey, (Kihacha 2002: 24).

Indeed, across all three of these districts where this participatory research was undertaken, regular quarterly village assembly meetings were not occurring as required under the law.

---

4 The Local Government Act of 1982 and its subsequent amendments outline the terms of the village council and village assemblies, including notice of meetings, quorum, and gender representation.
Moreover, it was revealed that neither local leaders nor villagers knew the legal requirements for holding Village Assemblies:

People genuinely believed that Village Assemblies were the same as impromptu meetings for all villagers when visitors arrive, for example. Moreover, villagers were usually uninterested in attending public village meetings called by government leaders, on the grounds that they were not genuine spaces to contribute ideas or make decisions. (Kihacha 2002: 65).

This lack of awareness regarding the practices and legal responsibilities of Village Assemblies parallel those of local officials described in the previous chapter. Though many of these concerns might reasonably be considered issues of implementation more generally, these identified shortfalls in capacity also intersect with long-standing customary practices in both village and land governance. Without civic education regarding the functions of the Village Assembly, assemblies continue to function in a top-down manner, with control largely resting with the Village Chairperson and Village Council members. Given the authority vested in these local bodies, however, democratic participation is vital to these institutions functioning according to the spirit of the law and up to the standards of global governance institutions.

Moreover, in spite of mandatory provisions for gender representation on Village Councils, Village Land Councils, and other bodies, a plurality – 15 of 24 – of the experts and field workers interviewed for this dissertation reported that women’s participation at the local level is restricted in practice. By enhancing the power of local authorities and failing to provide additional training or awareness-raising about the laws governing local governance, many communities in Tanzania have reified the gendered power structures in local land governance. The failure of the central government to provide local leaders and administrators with training on the land reforms as well as the functions of local governance bodies leads to a reliance on

---

5 Village Assemblies are made up of all village members over the age of 18. All women are thus automatically considered members of the Village Assembly by law, though, as will be discussed below, participation is often very limited.
existing practices. Where there are efforts to formalize informal land tenure, but the government
does not provide sustained support, authority figures in rural Tanzania tend to rely on existing
practices and new institutions “wither away” (Pedersen 2012). As a result, forms of
discrimination endemic to customary authorities risk being perpetuated, and as interviewees
revealed, this is indeed the case in many village communities. As argued by Ferguson, similar
efforts to introduce democratic citizenship in southern Africa have encountered a “stubborn (and,
to the emancipatory liberal mind, scandalous) attachment” to hierarchical leadership and
undemocratic authority (2013: 232). For Ferguson, dealing with this reality requires asking how
these inequalities are “socially institutionalized” rather than simply bemoaning the current state
of affairs (2013: 232). Indeed, the extent to which gender equality and land reform efforts in
Tanzania have been successful appear to depend upon attention to social relations, rather than
superficial solutions to simply increase the number of women present.

As the remainder of this chapter demonstrates, NGOs and INGOs have identified a number
of obstacles to the effective implementation of the gender provisions in the Land Acts. Where the
Land Acts attempt to improve the representation of women in local decision-making and
increase the registration or co-registration of women’s land and property, customary attitudes
about the role of women in social, economic and political life in combination with the lack of
implementation prevent effective change. These challenges of gender and representation occur at
multiple levels, but in Tanzania appear to be most highly pronounced where the customary and
statutory rules intersect at the village level. Though parliamentary representation and
participation of women has greatly increased among educated, urban-based, middle-class
women, one scholar of gender mainstreaming in Tanzania explains that gender bias tied to
customs and traditions is still a tremendous challenge across the country, with these women often
being viewed as inferior leaders and expected to fail.\(^6\) For the purposes of this dissertation, however, matters of gender, representation, and political participation at the local level is of the utmost concern. Given the devolution of land governance to the local level, understanding local control of land requires attention to both elite control of institutions but also entrenched social divisions and expectations about gender roles in the community. Insofar as women rely on their relations with men to determine land access and political participation, we must continue to be aware of how legal frameworks for individual women’s rights might conflict with these social conventions.

**Gender and Local Political Participation**

The urban-rural divide, the elite-illiterate divide, the economically powerful and the poor divide. … [D]own the ladder you always find poor communities, but always women are down there, be it in knowledge, be it economic power, be it political power… Those are the forces and factors that undermine them from coming up, voicing out, and things like that.\(^7\)

Within village governance structures there is evidence of how community beliefs about the proper role of women in the community intersect – or even collide with – political governance. Here, patriarchal practices in many of Tanzania’s rural communities discipline behaviours in governance bodies, particularly those that have tremendous power in decision-making over land under the 1999 Land Acts. Approximately 80% of Tanzania’s rural populations are governed according to patrilineal tradition (Englert 2008). Moreover, even matrilineal communities often give significant power to male relatives, as explained in greater detail below. Moreover, this community governance clearly creates insiders and outsiders at the village level, and in some cases relies on threats of violence in order to discipline transgressions. As a result, we gain a

\(^6\) Interview with Gender and Politics Scholar (H1), Dar es Salaam, June 19 2013.

\(^7\) Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
clearer picture of how community governance restricts the effectiveness of the Land Acts and other measures designed to improve gender equality and land governance.

Though scholars must be cautious to not overstate the transformative power of improving gender equality in representative bodies writ large (Childs and Krook 2006), in the case of Tanzania’s land governance structures and the role of public consultations in decision-making over land ownership and transfer, improving the quality of representation in these bodies is of critical importance. Village Councils and Assemblies have tremendous authority over land, and the Land Acts and Courts (Land Disputes Settlements) Act were written in the spirit of devolving authority to communities such that land could be governed according to local needs (McAuslan 2013). Given the vital role women play in the maintenance of Tanzania’s rural agricultural economies – 85% of rural people in mainland Tanzania are engaged in agriculture, and 81% of rural working women are self-employed agricultural workers (FAO-ILO 2013, URT 2014) – their marginalization in local governance in spite of the gender equality provisions in the Land Acts and other relevant legislation is a source of frustration for feminist and land-based organizations alike. As Jacobs (2009) notes, improving women’s access to land rights and decision-making is not strictly a matter of economic efficiency but one of justice.

Although there are the aforementioned requirements for minimum representation of women on local governance bodies – 3 of 7 members on Village Councils and District Land and Housing Tribunals; quorum of Village Land Councils requires 2 of 4 members to be women – women’s advocates in Tanzania express concern that these requirements are not being met. The Tanzania Media Women’s Organization (TAMWA) quotes a report from the Prime Minister’s Office showing that in the 2009 elections, women only made up 8% of Village Council members elected, well below the legally required threshold of approximately 43% on each council. Only
2% of elected Village Chairpersons – arguably the most influential position at the village level – were women (TAMWA n.d.).\(^8\) Indeed, it is clear that these village level authorities are likely not meeting minimum representation requirements across most of rural Tanzania, though there is some anecdotal evidence to suggest that representation has slightly improved since 2009.\(^9\)

Unsurprisingly, these shortfalls in representation are in part due to the lack of implementation efforts regarding the Land Acts and legislation pertaining to rural women’s participation in local governance. However, even where civic education and training efforts are undertaken, it is evident that gender roles still shape local attitudes about the appropriateness of women’s participation in local governance. The executive director of an NGO describes the resistance from some village leaders when informed that their Village Land Council meetings, and thus decisions, were not valid when they failed to make quorum under the law:

In Mbeya, training the village authorities, including the Village Land Councils, and we were trying to emphasize that when your quorum does not meet the prescribed standard, the decisions you are making will be null and void. … Then they said, “Okay, if you want, they [women] will be in the meeting, but we’ll make sure no woman opens up her mouth to speak when we are making resolutions. You are forcing them to come into baraza!” - Baraza is like the council, council of men! – “This is an exclusive domain of men making decisions, then you are forcing the women to come in, they’re not supposed to be there so we’ll make sure that they keep quiet while we talk and make decisions!”\(^{10}\)

Such examples reveal the dual challenges of implementing the gender equality provisions in the Land Acts and other legislation governing gender representation. In the case of Mbeya, as well as across rural mainland Tanzania as evidenced by the election returns, it is clear that women are

---

\(^8\) There are no gender equality provisions in place for the position of Village Chairperson, but given the authority these leaders wield, it is important to note that women are marginalized from this position as well.

\(^9\) Anecdotes from NGO and INGO field workers suggest that where training is being done to familiarize village communities with the Land Acts, there are improvements in representation. However, given that this is based on specific NGO-funded projects and that there is not yet more recent data, it is difficult to generalize based on interviews alone.

\(^{10}\) Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
not being elected to serve on Village Councils or Land Councils as required by law. Thus, there is a clear problem of the gender equality provisions in the law not being followed.

Secondly, however, there is the resistance articulated in the situation in Mbeya described above: that although the law describes Village Councils as elected bodies, they are clearly viewed as male-dominated bodies. This is critical to note, especially where these village bodies are supposed to be agents of the state, with authority based in law rather than in clan or chiefly authority (Boone 2014). As a result, though these councils are expressly not strictly customary authorities, but elected local bodies under Tanzanian law, their composition nonetheless remains dictated by gendered beliefs held at the local level. Here we see a clear illustration of Rai’s notion of how community and political governance intersect and the impact it has on the dynamics of local governance. The gendered and exclusionary language and practices of community governance clearly comes to bear on the political organization of village authorities, in spite of written legal requirements dictating the contrary. There is a socially embedded resistance to the concept of women’s participation in what are viewed to be men’s domains, and the absence of implementation measures that are sensitive to such social obstacles result in the ineffectiveness of the gender provisions under the law.

Indeed, the necessity of gender-aware implementation also comes into play regarding governance dynamics once women are included on Village Councils. As argued by Yngstrom, women’s involvement in local village councils in Tanzania is unlikely to change the fact that village councils are “highly politicized institutions, representative of a diverse set of individual

---

11 Again, it is important to note that such attitudes about gender roles and political participation are manifested at the national level as well, with women facing multiple hurdles in spite of special seats allocated in the national assembly and high profile cabinet positions being held by highly-educated and accomplished women. Of note, at the time of writing, Dr. Anna Tijabuka was the Minister for Lands, Housing, and Human Settlements Development, to whom frequent reference is made throughout this dissertation. However, as noted above, these women politicians are often held to a much higher standard of performance.
and group interests in land and other resources. Council members cannot be disinterested parties in the regulation of land rights, as villagers know only too well,” (2002: 34). Indeed, Village Councils are embedded in local political histories within which villagers have important familial and community connections and obligations. Given that social claims made on others are made according to kinship or patron-client relations, women are unlikely to import alliances based on gender or class (Yngstrom 2002). As such, the overarching power dynamics of villages and Village Councils make it increasingly unlikely that writing gender representation into the law without accompanying implementation or oversight will have a meaningful impact on how land is governed, particularly for women. Local structures of authority and clan relationships remain powerful social forces, which, as illustrated further below, legal reforms alone cannot address. Insofar as these bodies and decisions are bound up in familial and kinship relations, we must be mindful of the constraints of patrilocal social organization.

Furthermore, related to concerns regarding capacity-building, women elected to Village Councils or Village Land Councils are often not provided training regarding their roles or the roles of the councils in the structure of governance. According to many interviewees, particularly field workers for NGOs and INGOs, this is a significant problem, raising serious doubts about government efforts to improve gender equality in participation and local governance. Where women are included in local governance, it appears that they are there strictly to meet legal requirements and are not informed about their roles or equipped with the training to be effective representatives. Though interviewees frequently cited “capacity” as an issue related to implementation, a term that carries different meanings depending on the interviewee, it was often described as a problem specifically related to women’s capacity to perform as representatives in Village Councils and Village Land Councils:
…[I]t’s very unfortunate that most of these councils have not even got some trainings on their functions or responsibilities. So they find women are there, but they are almost stopped. They don’t understand what should they do, how, where, what are their roles, what are the mandates. But being on the councils because it is already instructed from the highest authority, they are there. … But are they really participating? Are they really raising women’s voices? Are their voices heard?\textsuperscript{12} (emphasis added)

The problem is that women are in the councils but they do not have the capacity. First of all, they don’t even know why they are there. Once they are appointed, they are not given any training to build their capacity, to understand why they are there. So you’ll find that they are just there as a matter of numbers but they are not there to defend the interests of women in relation to women’s land rights. … And members of those councils … were not given any training when they were appointed, so they were just working on their experience and the culture and whatever existed there before. So we were the one who introduced this that there is a law, and that the rights of women and men are equal, you’re supposed to be in those councils, and when you are there you are supposed to defend the interests of women, so things like that.\textsuperscript{13} (emphasis added)

…[L]ast year, we [the organization] were working on the constitutional review, so we wanted to sense the opinion from local communities so that they can participate in the process. We had a meeting with them and we also invited some leaders. And the Chair of the Village Council stood up and said, “Okay, we have 8 women in the Village Council, and they are here in this meeting, but they have never raised an issue during our meetings.” And they even confirmed, “Is this is wrong, just raise your hand, and say if you have ever said something,” and they [the women] were all quiet. And you can also find out, well, they are there, \textit{they are just there to fulfill the number}. … But those who manage to attend, to speak, to raise issues concerning women or other issues concerning management of resources, it’s hard for them, it’s a challenge.\textsuperscript{14} (emphasis added)

These insights are telling, particularly the disconnect that NGO and INGO officers perceive in the reasons for implementing minimum standards for gender representation and the practice of Village Councils and Village Land Councils. These interviewees – and many others\textsuperscript{15} – all express disappointment in the lack of capacity-building for women who serve in local councils.

\textsuperscript{12} Interview with INGO Women Land Rights Advocacy Officer (O1), Dar es Salaam, June 26, 2013.

\textsuperscript{13} Interview with Women’s Legal Advocate (G1), Dar es Salaam, June 18, 2013.

\textsuperscript{14} Interview with Project Coordinator (B2), Feminist Legal Aid NGO, Dar es Salaam June 5, 2013.

\textsuperscript{15} Nine different interviewees cited the lack of capacity building for women in public forums as critical issues. At least two INGOs have programming dedicated to improving women’s capacity in local decision-making, and many NGOs have advocacy and public education programs to address the issue.
Without additional training, the perception is that they are present only to be counted and not to participate in a meaningful way.\textsuperscript{16} Without government support for civic education and training for women, there is great skepticism about how effective reforms in local governance can be and to what extent village-level decisions legitimately reflect local needs and customs.

Village Assemblies, though an important forum for approval of village decisions over land allocations and land use, also demonstrate the limits to women’s meaningful participation in local forums. As noted above, Village Assembly meetings are often not held regularly or with appropriate notice. Furthermore, attendance is low, particularly among women, in part because of when meetings are called.

Participation is really low. One, the village meetings are called during parts of the day where it’s mainly men who can attend. Women are in the field, or they’re in the home, or they’re in the market. … It’s not done at a time when you can get women who can participate, so it ends up being older men. Because even young people, either they’re in school or they’re also helping out in the fields, so it really sort of spoke to only particular groups in the community who can attend.\textsuperscript{17} (emphasis added)

Perhaps most critically, for those women who do attend meetings of the Village Assembly or other village forums, there is the challenge of overcoming gendered expectations and divisions in the practices of the meetings themselves. Several interviewees described their experiences in attending village meetings where there is a clear gendered ordering to seating, with women seated at the back of the meeting, and male leadership seated at a high table, with the rest of the

\textsuperscript{16} These quotes in particular reveal that there is an interesting problem with the perception that women are represented on village councils in order to represent and/or defend specifically women’s interests. This is an interesting conundrum from the perspective of a political scientist and feminist scholar, but it is beyond the scope of this dissertation. It would make for a fascinating project in itself to investigate how NGOs and INGOs believe women should represent other women’s interests in Tanzania on land issues. For the purposes of this dissertation, it is sufficient to note that women serving on rural councils often under-participate, raising neither their own concerns nor those of other women in the community.

\textsuperscript{17} Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.
village men seated nearby. As one INGO officer describes: “There’s the high table where the village leaders sit, and you often have the men who sit close, youth and, right at the back, you might have the women who attend. So the women are further, cut away from where the real power is.” Not only does this physical organization of Village Assembly meetings reinforce community attitudes about women’s proper role in public forums, but makes it a challenge for women to speak up for their specific interests. “[E]ven if a woman decides to speak, she’s right at the back, the men are right in front and have to turn around to look at her, which is a further disrespect to them. Everything is just working against her just actually getting her voice out and listened to seriously.”

These dynamics within village governance indicate the pervasiveness of local norms and customs in the gendered ordering of political participation. Yet these dynamics also have the potential to take a more violent and threatening form when rural women do attempt to challenge the status quo. Several interviewees noted that where women do participate or articulate their concerns publicly that they face public discipline and the threats of violence, both from the community and from within the home. One INGO officer noted that they would find that older women would tell younger women in the village meetings “to shut up and find your place, this is not what you should be doing.” Another interviewee who had conducted village level training around the Land Acts reported the brashness with which male community members not only resisted the implementation of the laws, but openly threatened women in public forums. In

---

18 Interviews with Project Coordinator (B2), Feminist Legal Aid NGO, Dar es Salaam June 5, 2013; INGO Programme Director (E1), Dar es Salaam, June 13, 2013; NGO Executive Director (F1), Dar es Salaam, June 17, 2013; Women’s Legal Advocate (G1), Dar es Salaam, June 18, 2013.
19 Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.
21 Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.
22 Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.
response to a Masai woman expressing her support for the emphasis on gender equality in the training, a younger male member of the community interrupted her:

… a youth, a young warrior, stood up, interfered and said, in Masaii language which we [the trainers] could not understand, and that woman responded and said “He’s already threatening us that you are just passersby and you will leave and leave us here, and we are going to face the consequences in our own families!” … Even when the woman was talking, speaking out, a man interfered. We are moderating, but he did not care if there were moderators there. He stood up and interfered, and pointing a finger at the woman, saying, “These are just passers-by. They are leaving and you are going to remain here and face the consequence of pointing out our weaknesses in front of these guests and visitors.”

And, indeed, one INGO officer shared the risks that women face from within their own household when they decide to participate in village affairs:

We were having a small mentoring session with a farmer group, and one of the members of the farmer group was a woman who was the wife of the Village Chair. So she spoke up in the meeting, and we really encouraged her to because she was really quiet. And she finally spoke up and she started talking about some of the issues in terms of the transparency in terms of income and transparency. She got home and her husband beat her badly because he had heard that she had spoken up and she had said things that were not in the right light … which puts us in a difficult situation because we’re encouraging women’s participation, women’s voice but we’re not always there to bear the risk with them when they do speak out.

Thus, there are real physical threats of violence articulated in order to maintain the boundaries of acceptable governance practices. Though several NGOs report some positive improvements in local attitudes about gender-based violence, it is clear that threats of violence have a silencing effect on rural women’s political participation. In the absence of social supports for domestic violence and the acceptance of domestic violence as a form of discipline, there are clear constraints on public participation for women.

---

23 Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
24 Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.
25 For instance, a Programme Officer with one local NGO reported the enthusiasm regarding their gender-based violence programming, including the number of men who sought consultations when grappling with domestic disputes (Interview with NGO Programme Officer (V1), Dar es Salaam, July 11, 2013).
Indeed, the Land Acts, though attempting to address the matter of gender inequality by instituting gender quotas in village bodies, ultimately reinforce the intersection of political and community governance by formalizing customary practices in law. Moreover, land governance expands beyond these considerations of village governance in a broad sense, into the customary and family practices that structure inheritance and ownership patterns. With local authorities able to govern land and also *adjudicate* land disputes according to custom, understanding the gendered hierarchies of customary inheritance practices at the local level are essential for anticipating how customary authorities may or may not favour gender equality provisions in the law. The following section addresses adjudication mechanisms for land disputes and how such practices are shaped according to customary inheritance practices in mainland Tanzania.

**Adjudication and the Recognition of Customary Law**

…[W]e did have a very good Land Act … but the recognition of customary land has also going with it the recognition of customary law and when we talk of customary law in Tanzania in general, most customs in Tanzania do not allow women to inherit customary land or to be given customary land. So in that aspect we find that women have been sidelined.26

I think it’s important to look at gender, because when you look at the Village and Ward Tribunals, they adjudicate these cases based on their experiences, and traditions, and all that. And most of the time women tend to be left out, either in decision-making or when they are affected … It’s easy for them [women] to give up, because they also have that mentality of looking at the community. “If I take this matter to the court, what will the community say?” … They still have that kind of mentality.27

As anticipated by some of the debates about gender, customary practices, and land reform during the development of the Land Acts explored earlier in Chapter 3, the reliance on customary forms of authority does appear to have had a “sidelining” effect on women in the years that have followed. Though there were divisions within feminist movements at the time of the

26 Interview with Director of Capacity Building and Empowerment, Legal Aid NGO (Q1), Dar es Salaam, June 27, 2013.
27 Interview with Women’s Legal Aid Researcher (B3), Dar es Salaam, June 5, 2013.
implementation of the Land Acts, today, most parties accept the reality of the negative effects of customary law on gender equality. As the above remarks from interviewees indicate, customary practices in mainland Tanzania frequently marginalize women as inheritors of land. A study by WLAC confirms these findings, noting that Village Land Councils continue to adhere to discriminatory customary practices in their rulings: “This finding was unexpected because these organs were required to be at the forefront in disallowing traditions and customs that impinge on the rights of rural women to land ownership,” (WLAC 2010: 30). Thus even where women have claims to land under the law, they not only have administrative hurdles to overcome, but are further burdened by the traditional expectations of village authorities. Again, we see the dualities of political and community governance coming to bear on women and land rights in rural Tanzania.

Mindful of the delicacy of discussing “customary law” as something deeply traditional (see Chapter 4), customary practices are nonetheless invoked in how land ownership and access is granted in most of rural Tanzania. In 1992, it was estimated that about 82% of Tanzanian land was administered under customary law (Isinika and Mutabazi 2010). Inheritance under customary rules remains the primary means by which rural Tanzanians access land.28 One interviewee estimates that nearly 65% of land in Tanzania is transferred through inheritance, though the discussion here focuses largely on customary law in mainland Tanzania, Islamic practices feature predominantly in the coastal regions on the mainland and in Zanzibar. For the purposes of this dissertation, it is worth noting that Islamic rules of inheritance typically disadvantage women as well, granting women smaller shares than male relatives and requiring women to turn over the care of land when marrying a man outside of the village (Hilhorst 2000). Similar to patrilineal and patrilocal customary laws throughout the rest of the mainland, there is evidence of family members navigating and negotiating Islamic rules to extend inheritance rights to women. Such practices are not widespread however and for the most part Islamic rules that protect village land similarly limit women’s land ownership. Though Islamic and customary practices are distinct, most interviewees and organizations were engaged with non-Islamic forms of governance on the mainland, and that is reflected in the discussions here. In the course of research there was no indication that Islamic law for land governance was perceived to be any more detrimental for women’s rights than customary practices and are treated the same under Tanzanian law.

---
28 Inheritance rules in Tanzania are governed by three groups of rules: statutory, customary, and Islamic rules. Though the discussion here focuses largely on customary law in mainland Tanzania, Islamic practices feature predominantly in the coastal regions on the mainland and in Zanzibar. For the purposes of this dissertation, it is worth noting that Islamic rules of inheritance typically disadvantage women as well, granting women smaller shares than male relatives and requiring women to turn over the care of land when marrying a man outside of the village (Hilhorst 2000). Similar to patrilineal and patrilocal customary laws throughout the rest of the mainland, there is evidence of family members navigating and negotiating Islamic rules to extend inheritance rights to women. Such practices are not widespread however and for the most part Islamic rules that protect village land similarly limit women’s land ownership. Though Islamic and customary practices are distinct, most interviewees and organizations were engaged with non-Islamic forms of governance on the mainland, and that is reflected in the discussions here. In the course of research there was no indication that Islamic law for land governance was perceived to be any more detrimental for women’s rights than customary practices and are treated the same under Tanzanian law.
though there are not reliable government data available to corroborate this number. The Village Land Act largely confirms the legitimacy of customary usage and governance of land: Certificates of Village Land (CVLs) register the boundaries of village land and affirm village authorities in accordance with local customary practices (URT 1999b sec. 7.7c). Once CVLs are established, CCROs can be issued in accordance with customary village practices, with land adjudication committees directed to consider challenges to proposed allocations with reference to customary law (URT 1999b sec. 53.3d), though there is a provision mandating that women and pastoralists be treated “not less favourably” than men or agriculturalists (URT 1999b sec. 57.3). Village Land Councils, which are to mediate disputes at the village level, receive similar directives (URT 1999b sec. 61.4). Given the relatively open definition of “customary law” under The Interpretation of Laws and General Clauses Act, 1972, these provisions permit local communities to govern themselves according to practices accepted within the community.

As interviewees describe it, the practices of customary law continue to have a tremendous impact on community attitudes about permitting women to inherit land and the prospects of joint ownership of land. As Pedersen and Haule describe “custom remains decisive for inheritance practices in Tanzania, often with the aim of keeping clan land undivided,” (2013: 13) and indeed, much of these practices are shaped by relationships between men and women, especially as spouses. The majority of rural communities in Tanzania follow patriarchal customary practices regarding land, with the minority – an estimated 20% - following matrilineal practices (Englert 2008). In matrilineal communities, women typically do have better access to land than those in

---

29 Interview with Project Coordinator (B2), Feminist Legal Aid NGO, Dar es Salaam June 5, 2013.
30 Customary law as described in the Village Land Act is defined by reference to The Interpretation of Laws and General Clauses Act, 1972: “…‘customary law’ means any rule or body of rules whereby rights and duties are acquired or imposed, established by usage in any Tanganyika African Community and accepted by such community in general as having the force of law, including any declaration or modification of customary law made or deemed to have been made under section 9A Of the Judicature and Application of Laws Ordinance, 1961 and references to “native law” or to “native law and custom” shall be similarly construed,” (URT 1972 sec. 3).
patrilineal communities, yet there have been patterns showing shifts towards the patrilineal model. Englert (2008) notes the diversity of matrilineal practices in the Uluguru Mountain region of Morogoro, ranging from largely equal gender distribution of land to children in peri-urban areas, to primarily women inheriting land in Nyandira in areas of dense population and land cultivation. Yet there is also evidence of shifts in Nyandira, where women are less inclined to discriminate against their male children, resulting in a loss of clan land when men marry and leave the family (Englert 2008). Englert sees this not as an erosion of women’s rights, but rather a testament to the “active role of women in decision making and in developing strategies which are in their own interest as well as in the interest of their children,” (Englert 2008: 88). Thus, analysts must be ever mindful of the negotiability and flexibility of some customary practices and the active roles women can play in these processes. Not all customary practices are necessarily patriarchal, though the majority of rural communities do abide by patrilineal and patrilocal practices. Yet these minority matrilineal communities further illustrate the diversity of local practices and the importance of understanding these local practices when considering possible land reforms or the commercialization of land markets.

By contrast, in the patrilineal communities such as the Sukuma of Shinyanga district, women do find significant restrictions on land inheritance and transfer practices. “Women often have use rights but they are not allowed to transfer land through bequeathal, gifts or sale and is typically owned by the clan, community or family,” (Isinika and Mutabazi 2010: 140). Such practices are consistent with the typical cases highlighted in the anthropological literature. In these cases, women are seen as “heirs of the third degree”:

In Tanzania, the customary laws of inheritance, which are codified under the local customary law, place women in the third degree after the oldest son who falls in the first degree and other younger sons who fall in the second degree. According to this law, daughters of a deceased person can only inherit family land if they are the only
surviving member of the family. Even then, a woman can only occupy and use the land until her death, without powers of transfer (Isinika and Mutabazi 2010: 134).

Isinka and Mutabazi (2010) contrast the practices of the Sukuma with those of the Bena tribe, which they describe as more favourable towards women. In Bena culture, both young men and women are given clan land as teenagers, and women retain that land even after marriage. Children inherit the land of both parents after death, a departure from other patrilineal practices: “This implies, women are implicitly allowed to bequeath their clan land to their children, who in terms of lineage belong to their husband’s clan,” (Isinika and Mutabazi 2010:141). However, if a woman is childless when she dies, land reverts back to the woman’s clan rather than to her husband, which suggests the limits to women’s bequeathal and transfer rights (Isinika and Mutabazi 2010).

As noted above, women in patrilocal communities are viewed as impermanent members of their communities and as a threat to land held by the community. This view that women are merely transitory within the community – whether as a daughter or as a wife – presents a challenge for communities concerned about the security of community land. Communities such as Uhekule village in Njombe district and Maposeni village in Ruvema region have instituted rules that restrict women’s land rights or land allocations in order to prevent clan land from being transferred outside of the village (Isinika and Mutabazi 2010). Though these practices might be viewed as discriminatory, one interviewee noted that in some cases, such rules were instituted to prevent outsiders from using marriage to acquire land, only to divorce women shortly thereafter. “I always tell people that if you look at that bylaw quickly, you will say that it is sexist. But
really it was done to protect women of that village. … I don’t know if it was correct, but in context it justified the means.”31

Thus there is a sense that customary rules established at the village level are in place in order to protect clan land, and part of protecting clan land involves limiting women’s land ownership and control. And in spite of some measures that may have been implemented to protect women villagers from having their land taken, there remains a widespread view in patrilocal and patrilineal communities that women landowners pose a threat to clan land. As a result, advocates for women’s land rights view the reliance on customary law at the village level as undermining women’s claims to land.

…[R]ecognition of customary law makes women have no rights to own land, because most customs do not let women inherit customary land, which is commonly referred to as clan land; it runs within the clan. So they believe that the woman will be married off, and will join some other person’s clan. So if you give them land, which is your clan land, when they get married they either move with the land, so the other people will own the land instead of this particular clan, or the land will be lost. So most of the time, they do not inherit or are given customary land.32

People can wonder, for someone who is planning to have a joint whatever – not only land, even the house, even the car, whatever – are you mad? “This woman, this is just a guest in our family, and you can’t give her that guarantee of draining you and owning what-what.”33 (emphasis added)

This notion of women being transitory and a guest in the community further suggest the ways in which land rights for women can be resisted through a reliance on customary practices.

In addition to the concerns of women marrying out of the clan, the idea of women as transitory members of the community factors into divorce proceedings or when a spouse dies. In patrilineal and patrilocal communities, if a woman is widowed, she may find her and her

31 Interview with Agricultural Economist (R1), Morogoro, June 28, 2013.
32 Interview with Director of Capacity Building and Empowerment, Legal Aid NGO (Q1), Dar es Salaam, June 27, 2013.
33 Interview with INGO Women Land Rights Advocacy Officer (O1), Dar es Salaam, June 26, 2013.
husband’s land reclaimed by the husband’s family.\footnote{Indeed, such instances of property grabbing from widows has also been studied in Uganda, Kenya, Zambia, and elsewhere in Southern and Eastern Africa (Izumi 2007).} If she has children, especially male children, a widowed woman may have access to the land if granted to her by her children, or may retain custodianship of her deceased husband’s land until male children can take over (Pedersen and Haule 2013). If a woman is divorced, she typically has recourse to claim matrimonial land, but this may need to be pursued outside of the village authorities and according to statutory law, which has additional costs (Koda 2000). Women’s access to land may also be challenged or changed if her husband remarries within a polygamous arrangement, whether under Islamic or customary practice (Hilhorst 2000). Moreover, the rights of senior or junior wives may or may not be recognized by community authorities under customary law and, because customary law is typically not recorded, records of decisions might not be kept for later reference or consistency in decision-making. Thus, where one senior wife won an appeal against her husband in Msindo Village, another senior wife lost her appeal as senior clan members ruled in favour of a father’s right to allocate land as he chooses (Koda 2000).

It is clear that marital relations are not only women’s key access point for land, but also a control mechanism to retain land in local communities. Thus, for married women, their access to land should remain stable as long as their marriage is intact. Indeed, as articulated by one agricultural economist, women’s claims on land remain secure so long as her marriage remains stable.\footnote{Interview with Agricultural Economist (R1), Morogoro, June 28, 2013.} This sense of security may ultimately serve to undermine broader efforts to co-register land or register women’s land in their own name. This is in part because of the difficulty to predict when or how a marriage may come to an end, which may leave women vulnerable. “Much as married women in Msindo Village are better placed in accessing land ownership and control rights … this does not mean that married women have no concerns,” (Koda 2000: 197).
The threat of alienation from their land is high, especially after the death of the land giver and/or spouse.

Moreover, given the nature of patriarchal relationships, many women find it difficult to challenge male authority figures or even claim property that belongs jointly or even primarily to them. Koda (2000) notes how wives in the Wapare ethnic group are denied decision-making powers on clan or family land transfers on the grounds that their status cannot be compared to their husband’s because a bride wealth has been paid for them. Izumi (2007) describes how women’s ownership of land or property is frequently viewed as a threat to social stability. Legal aid providers interviewed noted that despite being able to acquire land, entrenched ideas about the inappropriateness of women owning land or property in her own name influence whether or not women will do so. As a result, there are repercussions in the event of spousal death or divorce or if the spouse attempts to sell the land that is not co-registered:

When they [women] go to buy land, they will register that land in the name of their husband or in the name of their sons, so it’s something to do with culture, that me, as a woman, I’m not allowed to own property, especially land. So you’ll find that sometimes … when a woman comes and says that “I had money and we decided, me and my husband, that we’re going to buy a plot or a piece of land. But when we went there, the land was registered in my husband’s name, and now I can’t claim that land belongs to me, though I’m the one who gave money to buy that land.” So it’s something to do with someone, how she believes that … as a woman, I’m not supposed to buy land. Or, if I own land, my husband will feel inferior to me, so I must give him the pride to be a husband, or to be a man, by registering the land in his name instead of in my name.36 (emphasis added)

In such cases, it is clear that gendered ideas about co-ownership run deeply in many rural communities, which makes implementing the individual equality provisions of the Land Acts a greater challenge. Here it is interesting to note that this is not strictly a matter of the propriety of women owning land, but also how masculinity and “pride” are tied to men’s ownership of land.

---

36 Interview with Women’s Legal Advocate (G1), Dar es Salaam, June 18, 2013.
Given the practices of patrilocal communities, the associations between masculine roles and property ownership, and the lack of access to legal assistance in many rural areas, the legal provisions for spousal co-registration on CCROs thus fail to remedy the broader problems of women’s land insecurity. Moreover, these practices reinforce the idea of men as the proper owners of land and, consequently, those who make individual and community-based decisions about land use.

Indeed, given rates of gender-based and domestic violence in rural Tanzania and the challenges of finding support for victims of abuse, it is unsurprising that rural women are not well-placed to challenge these practices, especially within their own households. A number of legal and human rights-oriented NGOs in Tanzania have implemented programs in an effort to address gender-based violence in Tanzania. While there are no national data on domestic violence in Tanzania, most accounts illustrate that gender-based violence is a widespread problem in both rural and urban settings. The World Health Organization (WHO) conducted a study that revealed that 41 percent of women in Dar es Salaam and 56 percent of women in Mbeya district had “ever experienced physical or sexual violence at the hands of a partner” (WHO 2005, Sec. 3.1). A MKUKUTA Status Report from 2006 reported that “a high proportion of respondents (42% of men and 60% of women) agreed that wife beating is acceptable,” (URT 2006: 33).

Tellingly, interviewees with field experience note that women who are widowed or divorced are often those most likely to speak out in public forums or pursue legal challenges. Often, such women are seen have having little to lose, as there is little chance for retribution at home and they have often already been stripped of rights they held previously.

One thing that we have realized are that the really vocal women tend to be widows or divorcees. Why? Possibly because they don’t have men then there [sic] who control
what they do and who really have to care about what their opinions are. … As a widow or as a divorcee in Tanzania, you’re already marginalized anyways. So I think you can take certain risks that a married woman wouldn’t want to and that a single woman wouldn’t want, because a single woman is going to depend on all those networks for her to get married, and help with her family and her child-bearing and raising. But once you’re past that stage, you actually don’t have to depend on all that, so you have a lot less to lose if you stand up and challenge the status quo.\(^\text{37}\)

By contrast, a married woman who is dependent on her husband and his family and thus needs to maintain good relationships with them are less likely to protest family inheritance practices or participate in public fora. Single women planning to marry also need to maintain good relationships with the broader community in order to arrange a marriage. Divorced and widowed women who have been denied access to land and property by their ex-husband or husband’s family typically lack these social constraints or dependencies.

Thus, there are various constraints and opportunities afforded by women’s marital status. For instance, Professor Bertha Koda’s (2000) doctoral research in Msindo Village, Same District, found that married and single women in the Wapare community were more likely to pursue remedies for land and property disputes through the customary practices at the village level, while divorced and widowed women were more likely to seek remedies in primary courts, removed from the practices within the community itself. Married women receive the most respect from the broader community and may be able to navigate local customary authorities with ease. Wapare women also receive *kidisa* land plots when they are married in order to support their families (Koda 2000: 198). However, most of these married women’s agricultural production comes from these comparatively smaller *kidisa* land plots and any surplus production is typically controlled by fathers prior to marriage, and by husbands afterwards.

Divorced and widowed women, on the other hand, though they seek out formal institutions for land appeals, find themselves unable to familiarize themselves with the practices of formal

\(^{37}\) Interview with INGO Programme Director (E1), Dar es Salaam, June 13, 2013.
institutions, bound as they are by gendered attitudes about the appropriateness of women observing court proceedings.

Men for instance were said to have the habit of visiting, sitting and observing the procedures in courts and in village “barazas.” In this way they get used to seeing how cases are presented, how judges frame their arguments and how to argue and respond to tricky questions posed by the judges and court elders. Men are better facilitated to do this because they have full control of their time and movements while most women are denied such opportunities. *If a woman imitates men on these issues she will be accused of being lazy and wasting time while men who do so are envied and praised by villagers.* Both patriarchy and gender roles stereotyping are therefore limiting factors to women’s choice of using formal institutions in addressing their land disputes (Koda 2000: 162, emphasis added).

Moreover, women who did pursue legal remedies through the courts described the procedures as corrupt, inefficient, obstructing, and humiliating, in part because of the lack of opportunities to learn about the process, but also due to costs and distance to the courts, as well as the time demands on women’s labour (Koda 2000). Given these obstacles, it is likely that these dynamics will also limit appeals made on land decisions.

The inextricable relationship between land adjudication and customary practices illustrates the pervasiveness of community norms in governing land in rural mainland Tanzania. Despite legal provisions to protect women’s access to land, the reliance on custom in adjudication bodies in many ways reinforces existing practices without improving women’s land tenure security. The disappointment in the implementation of the 1999 Land Acts on the part of local NGOs, INGOs, legal aid providers, and government officials is largely caused by a lack of attention to local needs and practices and an apparent mismatching of the legal provisions of the Acts and realities of land governance. By paying attention to the realities of community land governance – the customs and practices that have traditionally governed land transfers and ownership and are in

---

38 Koda (2000) writes that in the Wapare community, a woman’s working day is about 14 hours, compared to the 8 hour working day of men. In this case, where transportation was limited for the Wapare, women would have to travel 8 km on foot to the nearest primary court.
many ways reinforced by the 1999 Land Acts – feminist research reveals the importance of appreciating how power is reproduced through the intersection of statutory law and customary practice. Indeed, without fully considering how to address gender inequality and instituting laws that reinforce discriminatory practices, the 1999 Land Acts do little address gender equality in a meaningful way. Only those with the resources to pursue individual legal remedies will benefit under this model.

Below, the following section illustrates some of the challenges encountered by international donors, NGOs and INGOs in attempting to address the gender gaps in local land governance. Their insights further reveal the entanglements of political and community governance in the discourses over land and the difficulties in trying to alter thinking about gendered patterns of land ownership. Importantly, these efforts reveal that there is unlikely to be a one-size-fits-all solution to gender inequalities in land access or political participation, and that presumptions of such are doomed to fail.

**Addressing Gender Gaps in Land Governance: What is being done?**

…[T]he patriarchy system affects a lot the nature of the decisions that are made in the villages. … in other tribes women are not allowed to turn up and speak in public; we have seen it in Maasai communities, strong patriarchal societies like the Maasai, like the Southern Highlands, in Iringa, … in the Sukumas in Central Tanzania. It is only men who make points because, one aspect is that you can have more women participating in the meetings but they are just passive listeners of what is being discussed. And that’s why the sensitization, the capacity-building, the mobilization for change is what constitutes our program. Particularly to enhance the capacity of the communities to speak up, speak out for the matters that affect them most.39

The opportunities and constraints upon women’s land access and participation are clearly tied to their relations within their communities; marital status in particular is a key marker of land access and control, but may also factor into women’s decisions regarding public political

---

39 Interview with NGO Executive Director (F1), Dar es Salaam, June 17, 2013.
participation. Moreover, men’s status as land and property owners, as well as the keepers of clan land in patrilineal communities all but ensures that land governance is overlaid with gendered power relations. As such, the intersection of community and political governance over land all but ensure that the status quo of patrilocal and patrilineal practices will continue. Without comprehensive attention to the dynamics of local governance, women’s rights provisions in the Land Acts are unlikely to improve the state of gender equality. With customary practices the primary means by which land is allocated and adjudicated, and legal reforms largely endorsing the continuation of such customary practices, it is clear that these governance dynamics frequently intersect in such a way to marginalize rural women.

As a result, in spite of the legal provisions that have come into place in order to improve women’s land rights and participation in land governance, patriarchal practices and prescribed gender roles around land ownership, political participation, and public life more broadly limit the extent to which these legal rights can be realized. In the years following the implementation of the Land Acts, these gaps have been evident to NGO field workers, legal aid providers, and government officials. Efforts have been made to address both public participation as well as land ownership through CCROs in rural areas. And while some observers note the flexibility and negotiability of customary practices as holding some promise, in the context of contemporary land pressures, these opportunities are unlikely to be available to the majority of rural women in patrilocal and patrilineal communities (Jacobs 2009). Below, this section briefly reviews some of the ways in which greater gender equality in land governance has been pursued and what these pathways reveal about the embeddedness of gender relations in land governance.

*Renegotiating customary practices*
Although much of the literature written about African customary land tenure is pessimistic about the prospects for improving gender equality under such systems, there is an important sociological and anthropological literature that points to the dynamism and flexibility of customary land tenure in creating opportunities for women and girls to claim land and property. For instance, Among the Wapare community in Msindo village, families established modes of “gift-giving” to unwed daughters such that they might claim land (Koda 2000). Ashimogo et al (2003) find that daughters and widowed women in Iringa were able to inherit land from deceased parents and husbands, with varying levels of access for daughters and widows in Iringa, Kilombero, and Morogoro regions depending on the village. In other communities, widowed women have protected their claims to land by marrying a ‘female husband’, who bears children under the name of the deceased father in order to claim his property (Tsikata 2003). Englert (2008) demonstrates how women in matrilineal communities also make use of the flexibility of customary rules to extend land ownership to their sons.

These practices illustrate the potential for flexibility and agency within customary practices, which are often open to interpretation and considered within the context of social obligations in rural villages (Koda 2000). Yet the general trend since the colonial era has been away from this flexibility and towards rigidifying land laws, which have favoured men and undermined women’s claims under customary practices (Mackenzie 1993, Mbilinyi 1991, Odgaard 2002, Tsikata 2003). Thus, women’s rights to control land are increasingly vulnerable and typically require some mode of formalization, such as a CCRO. Yet in part because of the perceived or actual security of certain customs, as well as the vulnerabilities associated with formalization, there remains resistance to formalizing land rights. Isinika and Mutabazi find that women in Njombe and Maswa districts have limited interest in finding new opportunities to
claim either customary or statutory rights over land and they advise that “women require an additional push in order to assert their rights,” (2010: 152). Englert (2008) notes that the promise of acquiring loans via formal land rights holds little appeal for some women in the Uluguru Mountains, and others fear the administrative and financial hurdles that come with such rights. In peri-urban areas, land registration was viewed as a financial burden that could lead to taxation: “For them registration means that they would in the long run become subject to all kinds of taxes which is why they regarded it as more secure to remain without a title to land,” (Englert 2008: 90). In terms of credit access, Englert (2008) further notes that exposure to microcredit schemes in the area had left many women wary of the risks associated with loans. Thus, there are real resistances to projects of land registration, even among women who are currently satisfied with their practices and are not enticed by promises of loan acquisition.

Moreover, as a number of scholars note, increasing pressures on land make it less likely that women will be able to claim such rights. Isinika and Mutabazi suggest that women in rural Tanzania are provided with use rights under customary law that may be quite robust, “as long as population pressure is low,” (2010: 134). Koda (2000) argues that with increasing pressures on rural farmers and the commercialization of farmland, land sales undermine community- and customary-based strategies for land allocation. For some observers, commercial and state pressures on land are viewed as threats to flexible customary practices. Indeed, the experiences in Tanzania and elsewhere in sub-Saharan Africa suggest that where investors look to acquire land, it will be the existing formal holders of land rights who will be consulted (Behrman et al 2012). In the case of Tanzania, the absence of registered claims to land as well as women’s lack of participation in community discussions over land use both create vulnerabilities and silences.

---

40 Interview with Feminist Land Rights Scholar, Dar es Salaam, June 20, 2013.
Though there is some evidence of women resisting land registration, the realities of land acquisition and agricultural development are driving land registration programs on the part of NGOs and INGOs.

Thus, although there may have once been flexibility in customary governance, global pressures on land appear to be reducing such opportunities. It is imperative that global studies not universally malign customary practices as being necessarily regressive or misogynistic. As Nyamu (2000) warns, proponents of gender equality must be careful not to be dismissive of a vaguely defined “problem of culture” related to land rights and to pay greater attention to where formal laws and culture overlap. Indeed, the history of customary practices in Tanzania and elsewhere in East Africa reveal practices that can be flexible, negotiated, and respectful of women’s claims to rights within their communities. Yet these opportunities have been significantly reduced, and shifts in land governance and the liberalization of property markets have reified patriarchal practices. Indeed, the challenge now is to fully appreciate the intersection of formal land and cultural practices, where these dynamics conspire to limit the participation of marginalized groups, and how land and agrarian reforms can be reformed to reflect the rights of all.

*Capacity-Building, Gender Relations and “Power Analysis”*

Given these obstacles in the realization of the Land Acts in rural communities, INGOs, domestic NGOs, foreign donors, and international institutions have amended their efforts to address these gender gaps in the governance of land. It has become clear to many organizations and government agencies that changes to the administration of land rights alone would be insufficient to improve women’s access to and control of land, and that the gendered organization of village meetings still pose an obstacle to rural women. As a result, many of these
organizations, including government agencies, have noted the need to “go deep” in understanding gender relations at the village level and incorporate this understanding into their programs and projects.\(^{41}\) Moreover, among the most prominent NGOs and INGOS there appears to be new efforts to include men into addressing these issues: indeed, many field officers note that resolving gender inequalities in land governance is a matter of recognizing the role of gender relations and roles. For some organizations, this training complements other programming on domestic violence and gender-based violence.\(^{42}\) Thus, in addition to the training and capacity-building that has been the broader focus of those concerned about implementation of the Land Acts (see Chapter 4), there is also a complementary push to improve implementation with specific reference to gender relations.

Indeed, the move to include men in programming designed to improve gender equality in land governance appears to be a strategy that a number of organizations are taking seriously. Concern Worldwide, an Ireland-based INGO, reports increasing their attention to gender equality in their programming related to local governance and land ownership, in particular, recruiting men as peer educators and advocates of gender equality (Concern Worldwide 2013). The director of a government women’s service agency notes that educating men about the benefits of women’s political participation has yielded some improvements in governance, though change has been slow. For example, changes to men’s behaviour regarding attitudes to domestic violence have occurred slowly via word of mouth about the government service agency and the

---

\(^{41}\) Interview with INGO Gender and Communications Officer (K1), Dar es Salaam, June 25, 2013.

\(^{42}\) Interviews with NGO Programme Officer (V1), Dar es Salaam, July 11, 2013, and INGO Governance Specialist (E1), Dar es Salaam, June 13, 2013. Some organizations had advocacy programs addressing issues of land as well as sex/gender-based violence and domestic violence. However, when asked, few organizations appeared to be addressing these issues concurrently. Some interviewees seemed to see the issues as separate from each other, while others saw violence, land issues, and local governance as inter-related problems.
repercussions for abusing women.⁴³ A women’s legal aid advocate further notes the importance of targeting men with their information sharing and training: “it’s not enough to say ‘You, women, have this right,’ when men are not aware of those rights. Who are going to give them?”⁴⁴ Likewise, NGOs, INGOs, and other civil society organizations have also taken on their own efforts to provide broader public education on land rights, gender equality, gender-based violence, and political participation, including the recording of music about gender empowerment, plays for public performance, and TV and radio programming (Nkya 2008; TAWLA n.d., 2013c). One INGO has also appealed to religious leaders – both Muslim and Christian – to address matters relating to gender inequality and men’s relationships with women, especially the treatment of young girls.⁴⁵

In addition to challenging broader societal attitudes regarding gender relations, roles and rights, other organizations are looking to find alternative spaces where women might be able to make claims within their community. One INGO officer describes using “power analysis” in order to find alternative forums where women can find and build community support. Such analysis involves meeting with rural women to explore the community fora wherein they feel comfortable speaking and asserting themselves, such as in markets or social circles. Here, women are encouraged to build networks of support to bring to village meetings or change minds:

If you’re working with a group of women and you’re doing power analysis, and you map all that out, and you map stakeholders, the power relations, where decisions are made, and they start thinking about “Well, as a woman, what spaces are really open to me? … Who can I influence? Who do I need to bring on board to then try to move this other actor to influence this person.” So they’re

---

⁴³ Interview with Director, Governmental Women’s Service Agency (S1), Dar es Salaam, July 3 2013.
⁴⁴ Interview with Women’s Legal Aid Advocate (G1), Dar es Salaam, June 18, 2013.
⁴⁵ Interview with INGO Governance Specialist (E1), Dar es Salaam, June 13, 2013.
really trying to figure out and map out what steps can be taken within the current power structure and what can be done to change that power structure, as well.\textsuperscript{46}

Importantly, this INGO notes that such a strategy of mapping out power relations in a given community allows community members to build upon their own networks and social relationships rather than navigate governance structures as dictated by law. As an INGO, this results in more flexible and adaptable service delivery as well as strategies that are designed based on local realities and relationships. Interviewees report positive responses to date, but lament that this work still needs to be done systematically across the country with dedicated attention to local responses and receptivity in order to be effective. Indeed, it is clear that this work requires sustained funding from foreign donors, whether the organizations are homegrown or not.\textsuperscript{47}

Conclusion

These strategies developed by INGOs, NGOs, and other civil society organizations (CSOs), and government agencies all reflect the contingent social relationships on which land governance and participation depends. Importantly, the adaptations made by these organizations in the wake of the 1999 Land Acts all reflect important lessons in implementation: that not only is the passing of the Land Acts insufficient to reform local land governance, but that efforts to implement the Acts must also be accompanied by greater attention to gendered relationships in order to be effective. In particular, efforts to navigate customary land governance practices require close attention and consistent efforts to address gender inequalities. The shortcomings

\textsuperscript{46} Interview with INGO Governance Specialist (E1), Dar es Salaam, June 13, 2013.

\textsuperscript{47} Many domestic NGOs have partnerships or former partnerships with international development agencies associated with foreign governments. These include the Swedish International Development Agency (SIDA), and the former Canadian International Development Agency (CIDA), which both previously had partnerships with the Tanzania Women Lawyers Association (TAWLA). Some NGOs visited during the course of the dissertation research were actively seeking funding from foreign donor agencies such as these to fund women’s rights programs. INGOs such as Oxfam, ActionAid, and Concern International all rely on foreign funding.
illustrated in the World Bank sponsored BEST project highlight the acute resistance that can be triggered by late efforts to “add women and stir” in land registration efforts in rural communities. By attempting to increase women’s participation in the program after it had already begun and without adequate training of officials resulted in an administrative backlash. The innovations being implemented by NGOs reflect awareness of the importance of understanding the gendered practices of community governance in addition to the legal reforms and opportunities afforded by political governance. Together, there is some optimism about the possibility for change, though it is clear that much work lies ahead.

To return again the intersection of the governance of polities and the governance of communities, we can see here in the operation of Tanzania’s Land Acts the importance in taking on this kind of analysis. Here, formalizing customary practices in the governance of land clearly risks reifying patriarchal practices that have long excluded women from land ownership. Moreover, as interviewees have revealed, reinforcing these patriarchal practices has increased domestic violence and harassment of women by members of their own community. Without more careful attention to community level discipline and social organization, legal reforms are unlikely to change rural practices. This is especially true where legal recourse is complex, time-consuming and expensive.

Indeed, the dynamics described above and in the previous chapter are critical for understanding public sentiment in Tanzania about the fairness of land deals and the ways in which they have been established. The provisions in the Land Acts, the lack of sufficient civic education or implementation of the Land Acts, the absence of training for local officials, and the inequalities manifested in local governance bodies all create an environment in which villagers are able to transfer their land to investors without full awareness of their rights and
responsibilities as a community. Yet by further reading gender into these processes, and realizing the extent to which the governance of communities restricts the full participation of women as well as other marginalized groups such as pastoralists and youth, we have a fuller picture of the gaps in local land governance in Tanzania. These groups, already absent from community decision-making, are further removed from monumental decisions that will affect the community indefinitely. Given the lack of awareness of proper procedures or responsibilities, decision-making processes are rushed, and made without sufficient consultation with the broader community. The following chapter looks more closely at how these dynamics play out in the context of large-scale land deals and the extent to which global governance initiatives seem poised to address these dynamics.
Chapter 6
Connecting Local to Global: Do global recommendations reflect local realities?

To this point, this dissertation has been largely concerned with exploring the realities of local land governance in the context of land and agricultural commercialization and the wave of land deals in the post-2007 period. By going in depth into the experiences of Tanzanian land reform, we can see the obstacles that exist even within an ideal land reform context: despite the presence of established, elected governance bodies, and several legal and constitutional measures to enhance gender equality, as well as the relative absence of violent conflict over land, the Land Acts of 1999 have not met expectations. Efforts to secure land tenure for rural communities, recognize customary modes of tenure, reduce costs associated with land rights, increase women’s representation in land governance, and strengthen women’s land rights have all had limited success in practice.

Despite these obstacles, Tanzania remains one of the darlings of land reform in sub-Saharan Africa, celebrated for its record in promoting peace, stability, gender equality, and democracy and good governance (Alden Wily 2011a). A recent World Bank report on how to improve land governance in sub-Saharan Africa frequently points to Tanzania as a model for land reform (Byamugisha 2013). So too do the designers of various global governance initiatives designed to address the land insecurity resulting from the contemporary “land rush.” In particular, the Principles for Responsible Agricultural Investment (PRAI) and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (henceforth, the “Voluntary Guidelines”) both endorse policies that can be seen in practice in Tanzania, particularly with reference to women’s rights and recognizing customary practices.
Despite much attention to the PRAI and the Voluntary Guidelines on the part of scholars and high profile global officials (Margulis et al 2013, McKeon 2013, De Schutter 2011), there has been little consideration whether these measures reflect the gendered realities of local land politics and governance. As Chu (2011) has argued, within the “win-win” discourse on land deals associated with the World Bank, the PRAI, and to a lesser extent, the Voluntary Guidelines, little attention has been paid to existing debates around gender and land reforms. This chapter expands upon this observation by investigating these debates with reference to Tanzania’s 1999 Land Acts and their shortcomings in the face of increased foreign commercial agricultural investments. Specifically, this chapter asks two critical questions: 1) Do these initiatives truly reflect an understanding of how gendered power relations operate in local communities? 2) What promise is there that these initiatives can address the gendered inequalities in land governance? By answering these questions, this chapter illustrates the gender gaps in these two distinct global governance mechanisms and why gender analyses of land politics belong not only at the local level but at the global level as well. By recognizing gendered power relations as critical to shaping land access and thus land deals, this chapter shows how local gendered relations shape global transactions. Integrating local and global analyses uncovers gender biases in global policy-making, particularly around land policies.

Below, this chapter briefly revisits the analytical framework developed in the second chapter, paying particular attention to the insights of the feminist global governance literature. The subsequent analysis uses the understanding of local land dynamics as a means of revealing the gender biases of the global level recommendations based on the insights of the previous chapters. This chapter investigates the recommendations offered by the PRAI and their synoptic note, and the Voluntary Guidelines, with particular attention to defining land titles, recognizing
customary authorities, and enhancing gender equality. As suggested by the previous three chapters, such recommendations are neither easily implemented nor necessarily complementary to each other, and have had limited effect in improving rural women’s land security.

By analyzing the shortcomings of the Tanzanian model of land governance, we can see the gendered gaps in these local practices and where global recommendations misunderstand or underestimate local gendered power relations. Connecting this local analysis to our understanding of these global governance mechanisms, we can better assess their potential effectiveness, provide means to assess their material impacts, and raise new questions about land governance practices at all levels. Importantly, this gender-aware local-global approach to understanding land governance reveals the centrality of local political, economic, and social relations in transnational land deals and how marginalized groups operate therein. Without an appreciation of the gendered dimensions of land governance, recommendations for “good governance” practices and implementation will likely marginalize local stakeholders and raise questions about the viability of global land governance initiatives. As we will see below, the PRAI and the Voluntary Guidelines take two starkly different approaches which vary in their attentiveness to the difficulties and complexities of land reform.

**Gender and Global Governance: Revisiting the Framework for Analysis**

For the purposes of analyzing global land governance initiatives, two key themes in the feminist global governance literature remain essential. The first is a rejection of the tendency to study global and local phenomena as separate. As explained in Chapter Two, studies of globalization and international political economy have frequently focused on global or transnational issue areas at the expense of considering local exchanges. This reinforces an analytical dichotomy, marginalizing not only local analyses but gender-based analyses as well.
This dichotomy has two effects on scholarship: first, the presumption that what occurs at the local is somehow removed from the global; and second, that gender is strictly in the purview of local analyses. This is evident in some of the literature about the contemporary land rush, which presumes that relevant gender analysis is limited to household relations, rather than broader community, regional, or national gender relations that shape land access (Margulis and Porter 2013). Thus, in order to deepen these analyses of local relations, we must also bring a gender lens to broader socio-political dynamics beyond the household. As earlier chapters have illustrated, gendered power relations are pervasive in the governance of land. Indeed, investigating where the governance of polities and communities intersect has revealed how these power relations are entrenched in local land governance.

The second key theme from the feminist global governance literature that grounds this analysis is challenging the presumption of gender neutrality in global policies. Feminist IR scholarship continues to challenge not only assumptions of gender neutrality, but also interrogate the gendered assumptions embedded in institutional policies and recommendations. While there is much evidence of how global processes are masculinized, these processes – including trade and development policies and practices – are predominantly presumed to be “gender neutral” (Waylen 2004). This is not to suggest that all policies are gender blind; certainly the World Bank has sought to develop policies to address gender inequality, usually as part of a broader strategy to increase productivity (Bergeron 2011). However, scholars increasingly find evidence of gender bias in the development and implementation of “gender-sensitive” global policies, or describe such policies as “gender empty” (Bedford 2007, Griffin 2009). As this chapter will more fully explore below, the “gender-sensitive” efforts of the PRAI betray a compartmentalized view of gender in the practices of land governance, rather than one that more accurately reflects
the complex gendered power relations revealed in earlier chapters. Though the PRAI add gender as an important component of land governance, there is a lack of meaningful incorporation of gender in terms of power relations or the possible gendered implications of a range of policy suggestions. Consequently, the possible gendered implications of a range of policies is not considered, with “gender” or “women” relegated to policies regarding legal equality or empowerment via market participation. The Voluntary Guidelines similarly include token mentions of gender-sensitivity in the final version approved by the UN Committee for Food Security (CFS). However, subsequent efforts on the part of the Food and Agricultural Organization of the United Nations (FAO) to supplement the Voluntary Guidelines suggest some attention to the broader context of land governance.

These two themes provide the starting point for a gendered assessment of global land governance initiatives based on local empirical analyses of gender and land governance. As Margulis et al have argued, we need to encourage “cross-fertilization” across the fields of global governance, globalization, agrarian political economy and political ecology in order to benefit from the knowledge of effects of land grabs “on the ground” (2013: 3, original emphasis). Understanding how gender shapes local land governance further enables analysts to question the gender biases in global policies and reveal potential obstacles to implementation. Thus, the analytical direction afforded by the feminist global governance, globalization, and agrarian political economy literatures offers scholars a framework wherein the role of gendered social and political relations is understood to operate across levels of governance.

The following section briefly revisits the insights of the preceding chapters in terms of gendered power relations in land governance. These insights will then be used to begin
unpacking the language of the PRAI and the Voluntary Guidelines, the gender biases and gaps therein, and what potential they hold for addressing the gendered issues surrounding land deals.

**The Implications of Local Land Governance for Land Deals**

As the previous two chapters described in great detail, land governance in Tanzania is complex, multilayered, multilevel, and unquestionably gendered. State-led land reforms in the late 1990s restructured Tanzanian land governance in such a way that it maintained granted rights of occupancy – akin to statutory or formal individualized titles in Western countries – as well as introduced a means for rural communities to demarcate village lands according to community practices through issuing certificates of customary rights of occupancy (CCROs). As we will see further below, such recognition is endorsed by codes of conduct and intergovernmental governance mechanisms as a means to improve local governance and strengthen land claims in the midst of large-scale investments. In addition, community decisions over land use planning and land allocations to the government and to investors are to be confirmed democratically by village-wide assemblies and recorded. These moves to devolve responsibility for governance are likewise endorsed by global level governance mechanisms.

In addition, Tanzania’s 1999 Land Acts contained multiple provisions to improve women’s land rights and roles in local governance. This included requirements for representation that mirrored previous legislation about gender quotas in legislatures and local councils. Moreover, it provided for the co-registration of land titles between spouses, a measure designed to extend ownership rights to women who likely would only have usufruct rights based on relationships with their husbands or other male community members. These provisions in the Acts are the very measures that a number of Tanzanian feminist organizations advocated for in the debates over

---

1 Usufruct land rights are rights that permit access to land owned by someone else. Here, this refers to land that is perceived as properly owned by male members of the community, and that women gain access to via their relationships with them.
the new land reforms. However, as described in Chapter Three, such measures proved divisive between different feminist organizations and land rights advocates. Concerns about the powers still vested in the government and the lack of attention to who could claim land rights led to skepticism. This skepticism persists into the current moment regarding the likelihood of the Land Acts to protect rural smallholders of land, particularly women. Gaps in legislation, the poor implementation of the Land Acts, and the failure to find comprehensive state-led strategies to address gender inequality leave doubts about the viability of strong legislation without serious attention to gendered power relations.

Indeed, those legislative advantages that Tanzania has earned such global praise for still stumble in their implementation. Though villages legally have decision-making power over their land, a lack of training and local understanding of the rules of land governance have resulted in elites and government officials abusing their authority. In the parlance of Mamdani (1996), some villages still seem to be governed by “decentralized despots”, with commands delivered from higher authorities at the district or state level. This dynamic persists, despite complaints filed to the Shivji Commission in the early 1990s and echoed again in research conducted in the late 1990s (URT 1994, Kihacha 2002). Moreover, as feminist advocates describe, even in those cases where participatory consultations do occur without corruption or interference, rural women are marginalized within their community governance processes such that their concerns are unlikely to be raised in village meetings.

All of these elements conspire to reduce the power the village exercises over its own legally recognized land, as well as further marginalize women within the context of their communities. Thus where investors seek to acquire land and do follow the rules – something that some interviewees noted can work well, even too well in some instances where investors are
discouraged – women often remain silent in negotiation processes. As Behrman et al (2012) note, both the pre-existing situation and the negotiation and consultative process of land deals are points in the land deal process that shape the gendered outcomes of deals. Superficially, the 1999 Land Acts provide a legal and consultative structure that includes all members of the community under a democratic framework. Yet by considering the governance of communities, those discourses and practices that police boundaries and govern rights, it is clear that these legal structures alone are insufficient to ensure equal participation and thus meet the expectations of “good governance.”

Given the complexities of local governance and gender relations explored throughout this dissertation, the two most prominent global land governance initiatives face significant challenges in attempting to reform the practices of states, local officials, and investors. Both the PRAI and the Voluntary Guidelines attempt to address the inequalities associated with “weak” land governance in the face of foreign investment, yet problems of governance are multifaceted. This chapter begins an analysis of the provisions of the PRAI and the Voluntary Guidelines that intend to both strengthen land governance but also remedy matters of gender inequality. Below, this chapter offers brief overviews of both initiatives before analyzing their respective provisions and the extent to which gender appears to be considered a meaningful category of analysis.

*The Principles for Responsible Agricultural Investment (PRAI)*

The PRAI respond to the wave of large-scale land acquisitions in the post-2007/08 period. A collaboration between the International Fund for Agricultural Development (IFAD), the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Food and Agriculture Organization (FAO), and, most notably, the World Bank Group, the PRAI were

---

2 Interview with Head of Research (B1) and Project Coordinator (B2), Feminist Legal Aid NGO, Dar es Salaam June 5, 2013.
developed based on ongoing research about large-scale land acquisitions conducted by these organizations (FAO et al 2010). As suggested by its title, the PRAI are a global code of conduct focused primarily on providing a non-binding set of guidelines for agricultural investment, emphasizing the perils associated with “weak governance,” lack of land rights, and the lack of “voice” for those affected (FAO et al 2010). As such, the PRAI address both investor practices and the role of governments in providing oversight, clear legal mechanisms, and facilitating consultations (See Box 2). Thus, although the code of conduct is purportedly for investors, investors were not involved in their design and many of the recommendations are targeted at state governments, specifically related to land rights, the availability of information, monitoring, enforcement, and to a lesser extent, public consultations.

Since being introduced in January 2010, the PRAI have been endorsed by the G8 and the G20 and rejected by a number of NGOs and activist organizations such as GRAIN and Via Campesina (CECCAM et al 2011). These organizations and others argue that the effort to make agricultural investment appear responsible and transparent “is an attempt to cover up power imbalances so that the land grabbers and state authorities who make the deals can get what they want,” without seriously investing in food sovereignty for small-scale farmers and fisherfolk (CECCAM et al 2011: 5). Below, this section analyses themes of the PRAI synoptic note most relevant to the workings of land governance and gender inequality: the recognition of rights, food security, the creation of a favourable business climate, and the social impacts of consultations and investments.³

---

³ This discussion consciously avoids a full discussion of the environmental impacts associated with large-scale land acquisitions and agricultural investments. Principle 7 specifically invites investors to consider the full environmental impact of their projects. This is indeed a critical issue and worthy of extensive scholarship in its own right, particularly drawing connections between gender inequality and environmental impacts. Indeed, several interviewees noted feminist activism on agribusiness issues such as GMOs, pesticide use, and other agricultural technologies. As such, environmental issues are briefly addressed in these discussions of land, but full treatment of this issue is beyond the scope of this analysis.
Table 2: The Principles for Responsible Agricultural Investment (FAO et al 2012)

<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle 1:</td>
<td>Existing rights to land and associated natural resources are recognized and respected.</td>
</tr>
<tr>
<td>Principle 2:</td>
<td>Investments do not jeopardize food security but rather strengthen it.</td>
</tr>
<tr>
<td>Principle 3:</td>
<td>Processes for accessing land and other resources and then making associated investments are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.</td>
</tr>
<tr>
<td>Principle 4:</td>
<td>All those materially affected are consulted, and agreements from consultations are recorded and enforced.</td>
</tr>
<tr>
<td>Principle 5:</td>
<td>Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically, and result in durable shared value.</td>
</tr>
<tr>
<td>Principle 6:</td>
<td>Investments generate desirable social and distributional impacts and do not increase vulnerability</td>
</tr>
<tr>
<td>Principle 7:</td>
<td>Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.</td>
</tr>
</tbody>
</table>

Recognition of Rights and the Role of the State

While the PRAI acknowledge that certain communities are vulnerable, they largely do not consider how social, economic and political inequalities are manifested in land governance and the potential consequences for investment projects. The recommendations of the PRAI and the synoptic note generally focus on how states can best facilitate commercial land transactions through demarcating local land rights, streamlining procedures, enhancing transparency, and restricting state involvement, suggesting that equitable participation is at best a secondary consideration. For instance, the notes accompanying Principle 1 – “Existing rights to land and associated natural resources are recognized and respected” (FAO et al 2010: 2) – nods to the importance of recognizing the myriad forms of land use or ownership rights: “statutory or customary, primary or secondary, formal or informal, group or individual.” It acknowledges the
importance of investigating “marginal” lands for actual local use and not undermining local livelihoods for the sake of investment (FAO et al 2010: 2). The note also highlights the vulnerabilities created where the state owns all land and can transfer “unused” land for other uses. In addition, it notes how the lack of legal protection for land rights can result in elite local land grabbing and speculation. Indeed, in one of the rare instances where Tanzania has been faulted for its land governance scheme, the PRAI note that Tanzania’s model of requiring the transfer of land from the category of Village Land to General Land discourages local participation. In the language of the PRAI, this is presented as evidence of the need to scale back government involvement in land transfers.

Yet, within the context of the other Principles, the primary objective of establishing such rights is not to enhance tenure security for vulnerable populations but to ease the process of transfer and exchange of land rights. Indeed, beginning from the premise that all investment is desirable, the stated purpose of Principle 1 is to establish land rights for the purposes of negotiation with investors. “Recognition of rights to land and associated natural resources, together with the power to negotiate their uses, can greatly empower local communities and such recognition should be viewed as a precondition for direct negotiation with investors,” (FAO et al 2010: 2). This stands in contrast to those who view land rights as an intrinsic good, a means to improve the welfare of smallholder farmers, or to remedy social inequalities, all of which are important benefits of land rights (Jacobs 2009). The “empowerment” associated with the recognition of local land rights in the context of the PRAI is thus desirable insofar as it is a precondition for negotiation with investors and facilitates direct investments unfettered by customary practices or the state.
Thus, although the PRAI note draws attention to traditionally excluded groups, including herders, women and indigenous groups, the measures that are proposed are unlikely to empower individuals and communities to bolster their social, political and/or economic position relative to local elites, government officials, or foreign investors beyond the land transaction itself. For instance, the PRAI nod to efforts to register and recognize customary forms of tenure, in particular “to make lesser (oral) forms of evidence admissible, to strengthen women’s land rights, and to establish decentralized land institutions,” but note that implementation has been slow (FAO et al 2010: 4). Indeed, the experiences in Tanzania explored in earlier chapters reflect this reality. But the proposed solution of the PRAI is to “demarcate the rights to community land in a participatory and low-cost way that can be implemented quickly,” (FAO et al 2010: 4). Examples provided from Mexico, Peru, and Ethiopia suggest mechanisms to grant rights to the community at large, with the community to demarcate individual rights at a later time.

Such measures share tremendous similarities with those prescribed in the Tanzanian Land Acts, where Certificates of Village Land (CVLs) are issued to villages, and Village Councils and Land Councils oversee the issuing of individual Certificates of Customary Rights of Occupancy (CCROs). But to suggest that such measures can be “low-cost” and “implemented quickly” betrays a lack of familiarity with the realities of such implementation measures. The experiences of the World Bank-sponsored BEST program in Tanzania illustrate the challenges of attempting to issue large numbers of CCROs rapidly and in a low-cost and gender-sensitive manner. Indeed, with women’s rights an afterthought in the process, implementers grated against the order to add more women to the registration effort (Pedersen and Haule 2013). Given the obstacles to including rural women in the processes of land allocation, governance, and ownership explored in Chapter Five, a quick, low-cost way to administer land rights is simply not reflective of field
experiences on the part of NGO field workers. Even the World Bank notes that their costs in certain land registration schemes in sub-Saharan Africa are much higher than expected (Byamugisha 2013). Several NGOs in Tanzania have adapted their strategies to be more long term, and address gender inequality in a more systemic way.

**Considering Food Security**

Rather than focusing on the gendered dimensions of land use and governance, the PRAI are instead more focused on the supposed benefits of women’s greater participation within land and labour markets as a means of improving food security and household incomes. For instance, as part of the note on Principle 2 – “Investments do not jeopardize food security but rather strengthen it” – the PRAI highlight a farming model in Tanzania that employed women as collectors, “thus providing them with cash to improve their livelihood,” (FAO et al 2010: 7). Consequently, the PRAI support the development of projects that provide new cash flows and employment for local communities, especially for women and other economically vulnerable populations. Employment and income are viewed as unproblematically meshing with the existing economy, reflecting a common view that employment income is in itself liberating for women without a broader view of the sexual division of labour or the dependencies that structure household relations (Elson 1991b).

This view fails to acknowledge the productive or reproductive economic roles that existed prior to the arrival of an agricultural investor and the social limitations that prevent women from being employed in high-value work. Indeed, some interviewees noted that women who are employed by large agricultural firms are often hired in part because the loss of land and the need to support their families makes them vulnerable and thus more available as cheaper labour. Moreover, social norms restricting speaking in public, or in front of men, makes women less
likely to complain about working conditions or the heavy use of pesticides to which they are exposed:

… for the issue of Kisarawe,4 you get complaints on the issues of cheap labour, on issues of working conditions, most of the women were affected due to the chemicals that they were using. We hear a lot of stories about that type of thing. … [I]t affects food production, because a woman is a great producer at the family level. She is a producer. She is taking care of the family. She can take her kids to school. So if you take that land away from her, she can no longer produce. She can no longer have food. She can no longer do business to help her kids. So that affects a lot to women [sic], because men can find anywhere and how a way to get money. But woman, it is so difficult for her when she loses that land, to get food or take care of her life and the family.5

In this way, the PRAI are vulnerable to similar criticisms faced by advocates for formal land rights and the development of land markets: the creation of individualized land rights and formalized land markets alone are typically incapable of addressing broader socio-economic factors that will continue to restrict the participation of marginalized groups, especially rural peasant women with few other income options. The economic disruptions that are created by large-scale agricultural investments need to be viewed with attention to gendered expectations and social relationships that govern behaviour and restrict women’s options. Though these particular circumstances might be unique to Tanzania, scholars of feminist political economy and land rights have long noted how similar dynamics are at work everywhere (Elson 1991, Beneria 2007, Jacobs 2009). Where the PRAI fail to consider the broader context of gendered productive and reproductive relations, their interest in creating employment opportunities for rural peasant women reveals a serious lack of attention to scholarship that has long indicated inequalities in the functioning of land and labour markets.

Constructing the Business Environment

---

4 As noted in the Introduction, Kisarawe is a district in Tanzania that was rather notoriously targeted for foreign investment by a biofuels company named Sun Biofuels (Sulle and Nelson 2013). Here, the interviewee implied but did not specify that Sun Biofuels was the employer in question.

5 Interview with Project Coordinator, Legal Aid NGO (B2), Dar es Salaam June 5, 2013.
Principle 3 includes responsibilities for investors and governments alike: processes to access land and resources need to be transparent and monitored, as does the investment process. Moreover, these processes need to take place within “a proper business, legal, and regulatory environment.” (FAO et al 2010: 8). The responsibility for ensuring such an environment clearly falls to the state, as the accompanying note advises the availability of information about vacant lands and the presence of an “independent system to monitor progress towards a better investment climate” (FAO et al 2010: 8). This includes state incentives for investment and the public disclosure of land via digitized land registries. These general efforts to improve the ease of doing business are viewed as a positive attribute. Though the note on Principle 3 mentions that transparency can help communities hold investors and states accountable, and that strong business environments can improve skills of labourers, there is little consideration of rural populations and their needs. Improving the business environment, in the parlance of the PRAI, is strictly geared towards attracting and retaining investment.

Tanzania boasts incentives for investors while at the same time posing some bureaucratic obstacles for agricultural investors. The Tanzanian Revenue Authority explicitly names agribusiness a priority sector for investment and provides tax incentives accordingly (TRA 2012). All exports are exempt from the Value Added Tax (VAT), which is otherwise 18% on most goods consumed inside the country, and food crops, livestock supplies, and import of capital for investment are also exempt from the VAT (TRA 2012: 3-4). In addition, agricultural investors receive a 100% capital allowance on expenditure incurred on machinery used solely in agriculture, and 50% capital allowance on machinery used for manufacturing (TRA 2012: 5).

For investors seeking land, the Tanzania Investment Centre (TIC), is in place to help identify available land and have it transferred to General Land for transfer to an investor (see
However, some interviewees argue that the TIC is too effective in following processes to acquire land. In some cases, investors are discouraged from following TIC procedures, which leads investors to pursue other means of acquiring land, including approaching rural communities themselves (Hamilton 2010). One interviewee remarked that the effectiveness of the TIC had led some investors to circumvent those processes:

…[W]hen [investors] go to the TIC they find that this land is owned, and this land is owned, and you’re supposed to give all these procedures to survey, to take that person, and to make her or him agree that “I am supposed to sell this land.” So when they go to the village land it is easy for them, more than to the other land [registered with the TIC].

As explained in previous chapters and illustrated further in the next section, these direct relationships between investors and village or district authorities often result in governance rules not being followed, with women and other village members often excluded from deliberations over village land.

The PRAI note further recommends digitized land registries in order to track land availability for both the public and investors to see. Though such an effort has been undertaken in Tanzania, it continues to be relatively secretive and there are conflicting reports about the land available in what is colloquially referred to as the “Land Bank.” This national registry was to come into effect in 2013, but at the time of writing, little public information on its contents was available. Though the TIC could not provide up-to-date data on the amount of land purportedly available in the Land Bank, estimates range from 600,000 ha to 2.5 million hectares of land available to investors (Cotula and Toulmin 2008, Mhondo 2011). Based on reporting, it appears that investors are able to gain access to the information registered with the Land Bank, but the general public still does not have access to this information.

---

6 Interview with Head of Research (B1), Legal Aid NGO, Dar es Salaam, June 5, 2013.
Importantly, however, there have been doubts about whether such a registry is truly in the public interest in Tanzania. Deininger suggests that “it lacks provisions for joint ventures that would facilitate more active participation by villagers in the investment,” (2010: 76). The Land Bank also does not include records of local land registries of land ownership, which are currently paper volumes stored at the village and district levels. Such a comprehensive and digitized system would require not only more active involvement from the public, but dedicated government involvement and funding. As explored in Chapter Four, political will and financial commitments on such matters are lacking, not to mention the lack of gender-sensitivity on the part of local officials in the registering and issuing of land certificates. Though the Minister for Lands has repeatedly made announcements about the public rollout of the Land Bank, the slow implementation has not inspired public confidence (Liganga 2011, Rugonzimbwa 2012). Given the secrecy and ambiguity surrounding the Land Bank and its public launch, it hardly meets the PRAI criteria of offering both the public and potential investors access to the information. Yet meeting such standards would clearly require more public spending, training of officials, clear lines of bureaucratic coordination, and attention to implementation.

It is not self-evident that creating an efficient business environment and facilitating a transparent land management system are necessarily in the interest of rural smallholders of land, and women in particular. No space is given in the recommendations of Principle 3 to considerations of gender or other inequalities in the facilitation of efficient market exchanges. Given past scholarship on the impact of neoliberalization on the Tanzanian economy and women farmers, scholars and activists continue to express hesitation about these incentives for foreign investors (Mbilinyi 1988, Baha 2011, Mbilinyi 2012). In the context of an expanded commercial land market, smallholders stand to be further marginalized. De Schutter (2011) notes that though
the PRAI are predicated on a notion of co-existence between large- and small-scale farmers in land markets, this model is inherently unstable. “...[I]n the real world, land sales do not favor those who need land the most, nor do they lead to land being allocated to those who can use it most efficiently: instead they favor those who have access to capital and whose ability to purchase the land is greatest,” (De Schutter 2011: 270). As illustrated in previous chapters and in countless volumes on the role of women in such development contexts, rural women are most unlikely to have access to such capital (Elson 1991a). Jacobs (2009) concurs, noting how women lose out in marketized land systems, as they tend to be poorer and unable to command and pay for labour.

Thus, though Tanzania fulfills or aspires to fulfill many of the desired pro-business mechanisms articulated by the PRAI, current priorities undermine the abilities of smallholder farmers and the general public to access information or incentives. As earlier chapters have suggested, lack of knowledge, training and implementation has proven to be a stumbling block for land governance more generally. Lack of awareness about the land available, the processes by which land is acquired by foreign investors, and the ways in which land is transferred to foreign investors – i.e. by transferring land to the category of General Land held by the government – has resulted in vulnerabilities for rural populations, particularly rural women, pastoralists, and youth who are excluded from decision-making. As the discussion below regarding social impacts reveals, this lack of knowledge about how land is governed becomes clear once consultations begin.

Social Impacts of Negotiations and Investments

Admirably, Principle 4 – “All those materially affected are consulted, and agreements from consultations are recorded and enforced,” (FAO et al 2010: 10) – and Principle 6 – “Investments
generate desirable social and distributional impacts and do not increase vulnerability,” (FAO et al 2010: 16) provide some general guidelines for conducting transparent and inclusive consultations for land deals. Given that the terms of each agreement will be dependent on the specifics of local contexts, the PRAI and its synoptic note might be forgiven for not providing more specific recommendations here. The general recommendations advise syncing development plans with local land use planning, leading “meaningful” consultations and negotiations, monitoring and enforcement of the deals, and fair compensation to all groups, including “secondary” rights holders, such as women (FAO et al 2010: 17). Predictably, responsibility for protecting “vulnerable groups” falls to the state: “Since vulnerable groups and the poor generally lack information, voice and influence, they should be protected by government,” (FAO et al 2010: 11). If said vulnerable groups will be affected by a proposed project, “adequate mechanisms for inclusion of these groups as well as women in decision-making should be adopted,” (FAO et al 2010: 11), though it is unclear who should be responsible for ensuring such equality in decision-making. Again, it is difficult to find disagreement with such statements, though questions might be raised about the viability of assuming governments have the capacity or political will to protect the most vulnerable. Indeed, as we have already seen in Tanzania, both resources and capacity are lacking and some of the most vulnerable groups have already experienced displacement. Importantly, land use planning may not be the most constructive manner in which to ensure such protections are put in place.

Local land use planning has only been implemented in certain regions of Tanzania, as noted by the PRAI note and some scholars (FAO et al 2010, Cotula et al 2011). Though some regions have done systematic land use planning, these efforts continue to be done piecemeal by certain NGOs and INGOs supporting land use projects. Critically, however, village land use
planning is sometimes an uncomfortable fit for pastoralist and hunter-gather communities in some of Tanzania’s most coveted rangelands (Flintan 2013). Flintan (2013) warns that without careful attention to the needs of pastoralists and hunter-gatherer communities, village authorities undertaking land use planning may dispossess pastoralists of grazing lands critical to their way of life. Potential conflicts between village authorities and traditional leaders could emerge, particularly around perceptions that common lands belong to the village. Moreover, Flintan questions whether or not village land use planning is really providing greater tenure security for rural populations, noting not only the expense of such projects – up to TSH 20 million (USD $12,080) per village – but several of the same issues that have hindered the implementation of the Land Acts: “Challenges include low awareness and inadequate institutionalisation of the process, conflicts over village boundaries and resources, budget constraints, reluctance amongst district officials to relinquish their own power over land, excessive bureaucracy, and poor skills levels,” (Flintan 2013: 10).

Public attitudes towards these vulnerable and marginalized groups cannot be discounted, especially in the execution of land and agricultural reforms. As Scott (1998) has described, attitudes about “progress” and technology have infiltrated ideas about certain pastoralist and hunter-gatherer groups as “backwards” in Tanzania, creating pressures that prevent their land use practices from being recognized, beginning with villagization in the 1960s. One feminist activist describes contemporary discrimination against pastoralists on the part of government officials, who rather than provide agricultural training for young Maasai men, insisted that they must gain secondary school education first, though such training was not necessary for other men in the area:

…[T]here’s just outright discriminatory attitudes… It’s fed often by these educated technocrats, bureaucrats, that have this concept, you know: Maasai are thieves, they
just wander around, they’re against tradition [of cultivator communities]… Very deliberate, practical ways to knock the idea that these people as a community are against modern technology and all the rest of it. … But it all serves some purpose, doesn’t it, if they can say that these people are just too backward?7

The limits of relying on the state to protect the interests of vulnerable groups in Tanzania are evident. Though Tanzania lacks widespread ethnic conflict, it still experiences structural discrimination against particular groups based on agricultural and cultural practices. And as documented in earlier chapters, security forces have targeted pastoralist women and children during evictions or when accused of trespassing. Maasai women in Loliondo were raped, lost children, and suffered miscarriages as a result of attacks from Tanzanian police when they were accused of trespassing on land owned by a foreign company (FEMACT 2009, Kachika 2010). This is not to suggest that the state should not be responsible for protecting these people, but that global governance mechanisms such as the PRAI need to be more specific in their intentions and attentions to vulnerable communities and the discrimination that exists. What place do such directions have in a code of conduct for investment, other than to relieve investors of responsibility? Is there no role for investors or management to be aware of and prevent such abuses?

In addition, if the recommendations of Principle 4 are implemented with the speed and efficiency suggested by Principle 1, they are unlikely to truly address matters of inequality in consultation processes. Participatory methods of consultation that fail to recognize social norms and relations or existing local hierarchies are unlikely to capture the far-reaching material impacts of a land deal. This has been the case in both land use planning and in land deal consultations undertaken in Tanzania. The practices and dynamics of consultations in Tanzania – which require Village Councils to consider proposals and have them approved by the Village

7 Interview with Feminist Activist [D1], Dar es Salaam, June 10, 2013.
Assembly with sufficient notice – are, as shown in earlier chapters, often not followed. In such cases, speed and efficiency trump thoughtful engagement and negotiation with the community. One land rights researcher describes what happens as investors approach a village to acquire land. In these instances, decisions are rushed by compressed time frames and may violate rules surrounding notice of Village Assembly meetings (which, as noted in the previous chapter, are often not made distinct from other general meetings of the village community). As such, the problems of implementation and capacity explored in earlier chapters associated with the Land Acts are compounded by the arrival of investors:

You find that villagers are not informed. They don't have free information. So you find an investor just gets in the village, the same day they hold Village Council [meeting], the same day they hold Village Assembly meeting, which of course … villagers should have been informed seven days before. … [The investors] get in the village in the morning, around 8 am, you call a meeting at 10 am, what are you expecting? You just expect that those around and mostly we find 50 people to 100, of which the village has … more than a thousand villagers. So what are you expecting? … [T]hey should have been given some kind of information.8

Under such circumstances, it is clear villagers do not receive the full benefits of the protections afforded to them under the law.

Moreover, as explained in earlier chapters, rural women tend not to be able to attend public meetings, either because of conflicting (re)productive duties that need to be taken care of at the same time, or because of public stigma about attending and participating in public meetings. Societal expectations tend to keep women outside of these realms of decision-making, especially where local officials are not familiar with the legal requirements for gender quotas in certain forums. Even in those instances where women are elected to Village Councils, there are still questions about the extent to which women participate in decision-making. As with men representatives, women representatives in most local administrations lack training on the

8 Interview with Programme Officer, Land Rights NGO (A1), Dar es Salaam, June 3, 2013.
functioning of the committee, and questions abound about whether or not they are meaningful contributors to the decision-making process (Yngstrom 2002). As one feminist legal advocate explains, the confusion about the processes and the power vested within the Village Council means that a small minority might be the sole decision-makers in the consultations over a land deal, and it is unlikely that the minority women’s representatives will be participating as fully as the men.

The other issue in Kilwa⁹ about this land grab … The investor went to the Village Council … and they came to an agreement with the investor. But at the end, when you look at these people, who are the people involved? Sometimes a few people of the Village Council will be the only people who make them [the agreements]. … Is that meaningful participation? Do the people make an informed decision? So we have those kind of issues. They will say “Okay, women are on this committee,” but when you look at that role on that committee, it’s just so that they can show that there are women, but you can see maybe that she is not even aware. … So it’s really a challenge.¹⁰

In addition, where consultations occur with the broader community, evidence suggests that investors also fail to consult with women. Whether this is because of the nature of who holds land rights, gendered power relations in the villages, or “gender blindness” on the part of the investors is unclear, but as Behrman et al (2012) suggests, all of these elements conspire to shape consultation processes. The lack of awareness of differing gender roles, responsibilities and relations leads to consultations that ultimately do not capture the needs of all community members.

…When the investor comes, they will normally talk to the men, they won’t involve their wives or women in making decision about the investors who have come to take land. So you’ll find that in most of the cases land is being given, women are there, remain homeless, women remain with nowhere to fetch firewood … because sometimes women even depend on land to get this material for arts, preparing these

---

⁹ Kilwa District has been the site of a controversial land deal with European biofuels company BioShape. BioShape acquired 34,000 ha of land from four villages but the project was abandoned in 2010. Reportedly, only 40% of the compensation from the company reached villagers, with 60% going to the Kilwa District Council (Sulle and Nelson 2009, Land Matrix Global Observatory 2014).

¹⁰ Interview with Head of Research (B1), Feminist Legal Aid NGO, Dar es Salaam, June 5, 2013.
arts, crafts and whatever. … You know, women in most of the cases will think “If we sell this land, where am I going to live with my children? Where am I going to get my basic needs? The future of my children depends on this land.” … You’ll find that also when these men decide to sell the land to the investors they convene these formal meetings, but you’ll find that women as women, being there in the meeting have no power to say anything. So they’ll just be there and whatever is decided, it’s decided. Women cannot say anything like, “How are we going to manage it?” and ask those questions which are very basic or important to see how they are going to benefit from that investment.¹¹ (emphasis added)

Gendered attitudes regarding the appropriate roles of women in public forums and in decision-making bodies thus limit the scope of discussion. Without deeper considerations of how women use village lands, the village may find itself without access to important water, food, and fuel sources. Such scarcity risks driving up costs of household goods, thus increasing pressures on women providing for their families and communities (ActionAid 2010).

While the PRAI generally advocate for less state involvement, Principle 4 simultaneously calls for the monitoring and enforcement of land deals as well as the establishment of alternative dispute mechanisms. Leaving aside the unlikelihood of states interfering with highly coveted foreign investments and the presumption that developing states have the capacity to monitor and enforce the terms of such deals, the PRAI note suggests:

> Weakness and the high cost of formal judicial institutions in many of the countries of most interest to investors increase the importance of accessible and legitimate fora to resolve conflicts before they escalate. Examples of successful intervention include establishment of alternative dispute resolution mechanisms that offer recognition of solutions arrived at by local informal bodies provided they follow principles of accountability, equity, and due diligence. (FAO et al 2010: 12-13, emphasis added)

Suggesting that investors should avoid judicial institutions in favour of local informal bodies raises serious questions about the extent to which the PRAI value efficiency and speed over protecting vulnerable and marginalized groups. Although local informal bodies may well be capable of achieving fair outcomes, the existing evidence suggests that relying on local bodies

¹¹ Interview with Women’s Legal Advocate (G1), Dar es Salaam, June 18, 2013.
will likely exclude those marginalized groups, as in the cases of widowed and separated women in rural Tanzania who pursue legal remedies beyond their local communities. This is not to suggest that formal judicial institutions are ideal either – costs and distances can be prohibitive for rural communities – but this recommendation needs to be balanced against the realities of local governance and social relations as articulated by feminist researchers and advocates. Moreover, such suggestions need to be considered alongside the colonial attitudes that romanticize local informal modes of governance as inherently fair (Khadiagala 2001). The presumption that alternative dispute resolutions are inherently fair is a dangerous one.

Thus, in spite of governance mechanisms to ensure consultations and democratic decision-making occur at the village level, we can see how shortcomings in implementation can undercut these processes where attention to gendered power relations has not been a priority. Expectations that the state will protect vulnerable groups, especially under governments with a lack of available public resources and insufficient training for field workers and front-line implementers, need to be matched with both donor resources and attention to the marginalized position of such groups. Moreover, attention to the discrimination inherent in existing state practices needs to be studied and comprehensively addressed. Without close attention to how community governance overlays political governance, little progress can be expected to occur. As a result, consultations that focus on speed and efficiency rather than on understanding local power dynamics are more likely to exclude vulnerable populations and entrench the position of current elites.

In advocating for the rapid securing of land rights for the purpose of conducting more efficient negotiations, the PRAI thus underestimate the resilience of local norms that govern gender roles and the capacity of local authorities to adapt to formal legal change, all of which are dynamics that can and do restrict the full participation of marginalized groups. Moreover, the
PRAI leave themselves exposed to similar criticisms faced by advocates for formal land rights: the facilitation of land transactions alone is typically incapable of addressing broader socio-economic factors that will continue to restrict the participation of marginalized groups, especially rural peasant women who lack access to capital inputs and are restricted by social norms. Indeed, as we have seen, there is resistance to land registration on the part of women as well as public and private threats of violence. Thus, despite enshrining principles of equality and protection for local populations, the content of the PRAI does not reflect an understanding of the ways in which social exclusion is manifested in forums of local governance. The efficiency-driven focus of the PRAI leaves little room for meaningful reflection of how foreign investments truly affect local populations. Marginalized groups are only mentioned sporadically, typically with reference to ensuring consultations are fair, but without attention to how the broader dynamics will shape specific experiences and the subsequent outcomes. In this way, the PRAI betray their limited attention to gender inequalities in land governance and land market participation, and indeed the extent to which these policy-makers were focused on improving markets rather than truly improving agricultural investments for vulnerable populations. By considering rural populations as largely bystanders to global processes in which they should be active participants, the PRAI reflect broader biases against local processes in the affairs of global actors.

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

In contrast to the PRAI, the Voluntary Guidelines have been widely lauded by many international civil society groups. This is not only because of the aims and the content of the Voluntary Guidelines, but its inclusive decision-making process as well. The expressed intent of the formation of the Guidelines was “to assist countries wishing to develop a formal policy response to problems of weak land governance and corruption,” (McKeon 2013, quoting April
Although the PRAI and Voluntary Guidelines both emerged in the aftermath of the 2007/08 food crises and the ensuing concerns about global land deals, the development of the Voluntary Guidelines has its origins in the final declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD), adopted by 92 countries in 2006 (Seufert 2013). The ICARRD Declaration noted the importance of “secure and sustainable access to land, water, and other natural resources and of agrarian reform for hunger and poverty eradication” (Seufert 2013: 282). Building from these statements, the initiative to develop the guidelines was launched in 2009, led by the FAO’s Committee for Food Security (CFS).  

The development of the Voluntary Guidelines involved a series of regional and topical consultations, in addition to state-to-state negotiations within the CFS itself, and the participation of academics, private sector representatives, and civil society organizations (CSOs), including some of the most marginalized groups affected by land tenure insecurity (McKeon 2013). Though a number of states were at one time hesitant to participate, major players in global agricultural trade – including Brazil, China, and a contingent of African states led by Zimbabwe – were active in the process; the United States acted as chair (Seufert 2013). A zero draft of the Guidelines was made publicly available in April 2011 for web-based consultation with the general global public. Following a first draft based on these inputs and several rounds of consultations in early 2012, the Voluntary Guidelines were endorsed by the CFS in May 2012. This consultative framework has been celebrated as highly democratic for an international initiative, earning it a high level of legitimacy among some observers and participants, including academics and international NGOs such as FIAN International and Oxfam (Oxfam 2012; 

---

12 For a detailed discussion of the politics of the reformed CFS and the emergence of the Voluntary Guidelines, see McKeon (2013).
13 FIAN previously stood for “Food First Information and Action Network.” Currently, the organization is just named FIAN International.
Seufert 2013). Other organizations, such as GRAIN, have praised the process that developed the Voluntary Guidelines, but continue to raise questions about content and implementation (GRAIN 2012).

The results of such an inclusive consultative process are evident both in the document itself and its public reception. The final product echoes other initiatives that have sought to strengthen governance of land through the recognition of rights. As section 1.2.4 (see Box 3) demonstrates, this strengthening is to occur across multiple levels, with attention to a range of actors and authorities. As a result, the Voluntary Guidelines cover a broad range of issues associated with the protection of tenure rights. The document highlights how women, pastoralists, and indigenous groups are vulnerable in the face of land reform, marketization, and foreign investment and the need for governments to be sensitive to customary forms of land tenure and various local uses of land. The Voluntary Guidelines also highlight considerations of gender inequality in each section of the document, a constant reminder for policy makers to anticipate the gendered impacts of policy decisions. Moreover, it encourages the “effective participation of all members, men, women and youth” in “local or traditional institutions, including in the case of collective tenure systems,” (FAO 2012: 14). In this sense, the Voluntary Guidelines are successful in terms of mainstreaming gender into its recommendations and encouraging policy-makers and local communities to do the same. The guidelines contextualize land governance within social, political and economic relations and the potential for power

<table>
<thead>
<tr>
<th>Table 3: Objectives of the Voluntary Guidelines (FAO 2012:1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectives</td>
</tr>
</tbody>
</table>

215
However, as the following analysis of key provisions of the Voluntary Guidelines reveal, there remain serious deficits in how states might navigate tensions between traditional and/or customary governance and the strengthening of women’s land tenure security. Given our understanding of how the governance of communities and the governance of polities intersect to increase vulnerabilities for certain groups, to what extent do the Voluntary Guidelines address these tensions in governance? Moreover, given the challenges of implementation that we have seen in Tanzania, what are the practical limits to implementing these reforms in other resource-strapped states, including those that lack political stability and/or state-led reforms strengthening women’s political representation at multiple levels?

1.2 These Guidelines seek to:

1. improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to use, manage and control land, fisheries and forests.

2. contribute to the improvement and development of the policy, legal and organizational frameworks regulating the range of tenure rights that exist over these resources.

3. enhance the transparency and improve the functioning of tenure systems.

4. strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; organizations of farmers and small-scale producers, of fishers, and of forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.
Conflicting Themes in the Voluntary Guidelines

Despite widespread praise for how comprehensive and detailed the Voluntary Guidelines are, a reading of the Voluntary Guidelines also suggests that the breadth of issues with which they deal sacrifices some analytical depth and produces conflicting recommendations. Spanning twenty-six sections, each with several clauses, the Voluntary Guidelines cover issues ranging from general principles of fairness in land tenure security to considerations of land rights under climate change and emergencies. Certain provisions read as competing articulations and attempts to reframe issues on the part of different interested parties. For instance, clauses in section 11 illustrate tensions between facilitating land markets and market participation. First, the poor are not to be discouraged from participating in markets: “avoid discouragement of market participation by the poor and most vulnerable,” (FAO 2012 sec. 11.3). Yet at the same time, the following sub-clause seeks to protect such vulnerable populations from market dynamics: “States should take measures to prevent undesirable impacts on local communities, indigenous peoples and vulnerable groups that may arise from, inter alia, land speculation, land concentration and abuse of customary forms of tenure,” (FAO 2012 sec. 11.2). Thus, in spite of the seemingly clear objectives offered in section 1 (see Box 3), the Voluntary Guidelines are sometimes tonally uneven, and reflect the various perspectives of its authors.

Though some analysts note that the Voluntary Guidelines are not a response to the land grabbing phenomenon of the post-2007/08 period (McKeon 2013), the Guidelines nonetheless include several clauses regarding the development of markets and land investments. Sections 11 and 12 deal in some detail with the responsibilities of states in facilitating land markets, while noting that markets have negative social impacts. Investments, generally stated, are “essential to improve food security” (section 12.1), but safeguards need to be in place to negate the risks of
“large-scale transactions in tenure rights,” (section 12.6). “Responsible investments” must meet a wide range of criteria, including meeting objectives such as sustainable land usage to diversifying livelihoods, while meeting the requirements of national and international law (sec. 12.4). For these reasons, though the Voluntary Guidelines do respond to a number of issues regarding land tenure, forests and fisheries, it does quite strongly speak to matters of global land deals and land tenure rights.

Mainstreaming Gender¹⁴

In addition to its primary objectives, the Voluntary Guidelines also include ten principles of implementation, all of which reflect various international norms on human dignity, non-discrimination, consultation and participation, sustainability, transparency and the like (FAO 2012 sec. 3B). Importantly, gender equality receives its own entry, imploring implementers to “(e)nsure the equal right of women and men to the enjoyment of all human rights, while acknowledging differences between women and men and taking specific measures aimed at accelerating de facto equality when necessary,” (FAO 2012 sec. 3B.4). States are likewise directed to “ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status,” (FAO 2012 sec. 3B.4). Importantly, these principles go beyond merely demanding blanket legal equality for men and women, but offer some specific instances of discrimination. By acknowledging women’s needs independent of civil and marital status, these principles give explicit attention to how land rights are often bound to women’s relationships with men and their broader community. Within the context of

---

¹⁴ Gender mainstreaming came into vogue in the 1990s, particularly with the Beijing Declaration of 1995, which encouraged states and international bodies to “mainstream” considerations of gender into policy-making. Rather than set aside singular policies to address women’s issues, gender mainstreaming invites policymakers to consider how gender shapes and is shaped by the issues in question, and to incorporate these considerations into the policy itself. Though there is widespread global acceptance of gender mainstreaming as a practice, scholars have been increasingly skeptical about the effectiveness of gender mainstreaming in improving gender equality and in thoroughly addressing issues that matter to both men and women. See Moser (2005) and Parpart (2009) for more detailed considerations of these issues.
other principles of non-discrimination, equity, and justice, this specific attention to the role of women’s social status in determining land access is a critical first step.

The Voluntary Guidelines are likewise focused on ensuring that states, investors, and other parties recognize all “legitimate” land rights holders, including those without legal status. Indeed, it is significant that the Voluntary Guidelines use the term “legitimate” in its guiding principles (FAO 2012 sec. 3.1.1) and throughout the text of the Guidelines, rather than defaulting to legal status. This language reflects the realities of land use and access around the world, particularly in parts of sub-Saharan Africa where rights to land are not solely governed by law and where efforts to define land access in terms Western legal standards might be difficult (Whitehead and Tsikata 2003). Thus, the Voluntary Guidelines instruct states to grant recognition to those who hold “legitimate” tenure rights and to ensure that rules are “non-discriminatory and gender-sensitive” (FAO 2012 sec. 4.4).

In addition to recognizing “legitimate” land rights holders, the Voluntary Guidelines simultaneously call for the elimination of all forms of discrimination related to land tenure, including those most closely associated with gender discrimination. Sec. 4.6 promotes land tenure security for vulnerable groups, and women in particular. In doing so, the Voluntary Guidelines are careful to expand beyond the definition of “legitimate” rights holders to include those – particularly women – who might not have widely recognized “legitimate” claims to land under the customs and social relationships in a specific context.

States should remove and prohibit all forms of discrimination related to tenure rights, including those resulting from change of marital status, lack of legal capacity, and lack of access to economic resources. In particular, States should ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights. (FAO 2012 sec. 4.6, emphasis added)
In addition, sec. 5.4 goes further to specifically encourage states to “consider” the obstacles faced by women and girls and ensure legal equality between men and women to enter contracts.

These clauses and others included in the Voluntary Guidelines illustrate some of the important statements regarding gendered vulnerabilities surrounding land rights. These few clauses demonstrate sensitivity to the social obstacles that women might encounter in claiming land rights. Moreover, given the global scope of the Voluntary Guidelines, it is likewise imperative that these statements remain in general terms to broaden their applicability. However, as we will see further illustrated below, the Voluntary Guidelines understate the connection between instances of gender-based discrimination and the facilitation and recognition of customary forms of governance. Indeed, though the Voluntary Guidelines briefly allude to the social origins of gender discrimination, there appears to be limited consideration of the tensions between customary land governance and gender equality in practice and how stakeholders might begin to constructively address these tensions. Given the obstacles outlined in previous chapters as well as the broader academic literatures addressing complex relationships between women’s rights and customary practices, there is certainly much to be addressed.

**Recognizing Customary Tenure**

Alongside considerations of gender equality mainstreamed throughout the document, several sections and clauses note the importance of recognizing customary tenure holders as legitimate holders of land. Moreover, similar to the PRAI, several sections and clauses advise the recognition of local modes of authority and land organization, though here these terms are not explicitly couched in languages of efficiency. Part 3 of the Voluntary Guidelines advises states to safeguard the rights of all tenure holders, with specific attention to indigenous peoples and customary tenure. Indeed, wherever states endeavour to provide legal recognition for land
holdings, they are advised to “first identify all existing tenure rights and right holders, whether recorded or not. Indigenous peoples and other communities with customary tenure systems, smallholders and anyone else who could be affected” need to be consulted (FAO 2012 sec. 7.3).

The Voluntary Guidelines very consciously make efforts to recognize land, fisheries and forests as sources of “social, cultural, spiritual, economic, environmental and political value to indigenous peoples and other communities with customary tenure systems,” (FAO 2012 sec. 9.1). This recognition acts as a preface to the rights and responsibilities of indigenous peoples and customary tenure systems, as well as the responsibilities of states to ensure that communities abide by rules related to good governance, specifically transparency and democratic practices. States are bound to recognize and protect the rights of indigenous peoples and customary tenure systems (FAO 2012 sec. 9.4), and are encouraged to adapt their own policy, legal and organizational frameworks to recognize these communities, taking into account the views of affected communities, especially vulnerable people within those communities (FAO 2012 sec. 9.6, sec. 9.7, sec. 9.9). Moreover, states are encouraged to “respect and promote” customary approaches to resolving tenure-related conflicts (FAO 2012 sec. 9.11).  

In order to recognize customary forms of tenure, states are advised to develop recording systems that fit their needs and capabilities: “Socio-culturally appropriate ways of recording rights of indigenous peoples and other communities with customary tenure systems should be developed and used,” (FAO 2012 sec. 17.2). States are encouraged to “strive to ensure” that everyone is able to record their rights and access information without discrimination (FAO 2012

15 The Voluntary Guidelines are also careful to delineate between customary forms of tenure and ‘informal’ tenure, in order to capture informal tenure that might not be rooted in customary practices, and gives specific mention to informal tenure that might arise, for instance, where large-scale migration occurs (FAO 2012 sec.10.1). The responsibilities of states and communities are similar to those under customary tenure, requiring gender sensitivity and promoting legal recognition for informal tenure.
Finally, though states are encouraged to develop their own administrative and legal channels for land tenure dispute resolution, they are likewise encouraged to rely on alternative dispute resolution mechanisms, particularly at the local level: “Where customary or other established forms of dispute settlement exist they should provide for fair, reliable, accessible and non-discriminatory ways of promptly resolving disputes over tenure rights,” (FAO 2012 sec. 21.3).

Considerations of customary tenure thus run deeply throughout the Voluntary Guidelines. As with calls for gender sensitivity throughout the document, references to indigenous peoples and customary forms of tenure are included in several clauses, in addition to receiving dedicated attention in a number of sections. Customary tenure systems, including governance and dispute resolution, are given high priority as a means of recognizing the “legitimate” rights of land users and respecting non-state or informal forms of land governance. In contrast to the PRAI and other World Bank recommendations related to land tenure (Byamugisha 2013), the Voluntary Guidelines do not tout customary governance as a cost-saving or efficiency measure, but they do clearly value customary governance practices as a potentially democratic means to ensure rights in the context of greater international commercial pressures on land. This is not to say that the Voluntary Guidelines seek to prevent the growth of land markets – that is decidedly not the case – but the focus on recognizing customary land rights and providing fair and transparent exchanges of land rights, including fair valuations on land, provide a fairly broad program for states to pursue comprehensive land rights for customary rights holders.

Assessing the Voluntary Guidelines

Given the broad scope of the Voluntary Guidelines, it is difficult to say that any one country would be able to fulfill all of its requirements for responsible governance of land tenure.
Indeed, the full recognition of land tenure rights for indigenous populations is a global struggle. As such, the Voluntary Guidelines can be read as an aspirational document, providing guidance to states, civil society organizations, multinational corporations, private business, and activists on how to approach land tenure reform. However we can evaluate the extent to which these recommendations reflect the complex realities of land reform and tenure security. Though no state may have a perfect record on the recognition and protection of land rights, significant land reforms across several African states since the mid-1990s offer glimpses into the challenges associated with recognizing customary tenure, promoting gender equality, and protecting land rights.

The Voluntary Guidelines certainly walk the walk of gender mainstreaming by including references to gender inequality and gender sensitivity throughout its recommendations. It is clear that attention was paid to where gender inequality might be manifested in some aspects of land governance and where efforts can be made to remedy such inequalities. Importantly, these efforts encompass both ensuring formal legal equality for women, but also encourage gender-sensitivity across a range of measures, including policy design, implementation, and the recognition of informal tenure. The phrase “non-discriminatory and gender(-)sensitive” is repeated throughout the document - “gender-sensitive” and/or “gender sensitive” are used a total of 17 times throughout the 26 sections of Voluntary Guidelines – but the terms are not defined in any greater detail. Aside from the aforementioned considerations of marital status, there is little substantive information about what gender-sensitivity looks like. Though marital status is a key consideration in women’s land rights – as suggested by earlier chapters, marital status can provide safeguards for land security, but insecurity as well – there is little mention of other
sources of security and insecurity for women, such as inheritance practices and community norms surrounding public participation and governance.

Thus, although the Voluntary Guidelines briefly acknowledge the potential for conflict between promoting gender equality and protecting customary forms of land tenure, the Guidelines alone fail to fully explore this key tension that dominates discussions of women’s land rights. As a result, most of the Voluntary Guidelines read as general recommendations to include women as participants in land governance and as equals under the law, but without serious attention to the customs and norms that restrict meaningful participation. Given the extent to which states are encouraged to recognize customary forms of tenure as legitimate land rights, the marginal consideration of gender inequality in the practices of customary governance is surprising given the extensive literature on these issues.

The apparent gap in the Voluntary Guidelines is somewhat surprising. Feminist scholars have long written about these tensions in land governance and have offered solutions. In attempting to balance the tension between recognizing customary tenure and promoting gender equality, Whitehead and Tsikata (2003) arrive at the conclusion that overcoming obstacles to participation is key for promoting women’s equality within customary governance. It is insufficient to just rely on systems of customary governance when it comes to land, and they advise democratic reform and resist a “flight into the customary”:

At a more detailed level, women’s land claims need to be based on a nuanced and highly sensitive set of policy discourses and policy instruments - ones which reflect the social embeddedness of land claims, the frequent gender inequality in such relations and the rights to livelihood of African women (Whitehead and Tsikata 2003: 103, emphasis added).

Whitehead and Tsikata’s thus emphasize the “social embeddedness” of land in the creation of appropriate policy tools and reforms. In Tanzania, though legal reforms were passed during the
1990s, including mandatory minimum gender representation on local councils and requirements for spousal co-registration of land certificates, rural women continue to be marginalized as a result of customs and attitudes regarding appropriate gender roles, both in terms of land ownership and political participation (WLAC 2010). Women who seek land ownership are viewed as a threat in places where patrilocal practices dictate that women marry into other clans (Isinika and Mutabazi 2010). Thus, on the ground, it is clear that the passage of legal reforms without attention to the “social embeddedness” of land relations is unlikely to challenge long-standing cultural norms.

Tanzania’s 1999 Land Acts made a conscious effort to address many of the same concerns identified in both the Voluntary Guidelines, not least the matters of recognizing customary forms of tenure, and efforts to ensure the legal equality of women. The Land Acts likewise made efforts to improve the gender balance in land governance and dispute resolution forums, as now recommended by the Voluntary Guidelines. Finally, Tanzania’s efforts to systematize the registration of customary tenure through the enactment of Certificates of Customary Rights of Occupancy (CCROs) were designed not only to recognize customary tenure, but improve the recognition of spousal land rights. Yet as prior chapters have illustrated, these measures are not only unevenly implemented, but face serious socio-cultural obstacles at the village level.

In a paper written in support of the development of the Voluntary Guidelines, Daley and Park note the socio-cultural obstacles that prevent women’s participation in land governance and argue that “sustained high-level political support is likely to be needed to combat often deeply-held perceptions in many cultures and societies that land matters are a male sphere,” (2011: 10). They further note the ineffectiveness of legal reforms if not supported by comprehensive multilevel support for gender-sensitive reforms. Given the examples of gender discrimination
based on customary norms and practices from around world, Daley and Park argue that gender sensitivity in land governance needs to go beyond formal legal equality:

The implications of all this for responsible governance of tenure are that attention to gender equity must go beyond policies, laws and participation issues to also address *underlying perceptions of gendered relations and power structures, which will require a very long-term perspective and much patience to deal with, and solid attention to issues around communication and awareness …* (Daley and Park 2011: 16, emphasis added).

This recognition of the tensions between customary governance and gender equality is a critical one but is not reflected in the final version of the Voluntary Guidelines beyond a single clause. Sec. 9.6, referenced above, encourages states to adapt frameworks to recognize the tenure systems of indigenous peoples and other communities with customary tenure systems. It follows, “[w]here constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems,” (FAO 2012 sec. 9.6). This clause clearly understates the enormity of the challenge that Daley and Park describe.

Though the complexity of Daley and Park’s (2011) analysis appears to have made only a marginal contribution to the Guidelines themselves, the FAO did subsequently release a supplemental Technical Guide that built upon their work and other gender and land scholarship. The 120-page *Governing Land for Women and Men* (FAO 2013) provides a level of detail that acknowledges the complexity of local land reform and the challenges of reconciling gender equality with customary practices. The Technical Guide includes thirty separate checklists divided into 5 different modules, each examining gender sensitive policy-making, legal issues, land governance institutions, “technical issues” such as taxation and land use planning, and awareness-raising (FAO 2013).
Though the Voluntary Guidelines themselves seem to sidestep important issues in improving women’s land tenure security, this Technical Guide provides a more detailed consideration of these tensions. Indeed, only the Technical Guide includes an extensive discussion of the challenges of legal pluralism and the specificity of challenges to be overcome where customary law and statutory law coexist. Moreover, the Technical Guide reflects an understanding of the need for careful design of legal reforms, consultations, monitoring, piloting and feedback in order to ensure reforms are effective (FAO 2013). The Technical Guide suggests just how much careful attention is required to achieve the effective implementation of gender sensitive reforms, especially based on the analyses of the previous chapters. Issues in each of the five “modules” in the Technical Guide were likewise identified as ongoing issues in Tanzania by interviewees.

Unfortunately, the Technical Guide neither excuses the gaps in the Voluntary Guidelines nor is it itself without flaws. Importantly, the Technical Guide is considered only supplemental and has not been approved by the CFS. The FAO notes that the document reflects the views of the authors, and not the FAO itself. And though the Technical Guide does an excellent job outlining the many dimensions of creating a gender-sensitive land tenure framework, and considers many of the important issues, the recommendations are so extensive so as to read as somewhat idealistic. Recommendations include the provision of training to police, judges, customary authorities; the capacity-building of both rural women and men; the provision of appropriate brochures, videos and broadcasts; putting women in contact with lawyers and paralegals; and the necessity of keeping costs low, especially for women. While these are all laudable and appropriate goals, the Tanzanian experience suggests the resource constraints in attempting to execute such recommendations, especially regarding keeping costs low. Moreover,
the Technical Guide is not without its faults; it likewise recommends tying gender-sensitive land registration to business development or microcredit projects, without noting how similar strategies might backfire, as in parts of Tanzania (Englert 2008). The Technical Guide also fails to consider the intersectionality of gender and other social identities that might further undermine these measures to improve gender inequality in land ownership and access.

Regardless, the contributions of both the Technical Guide and Daley and Park (2011) remind us of the intersections between the governance of polities – those political forums of governance, including local fora – and the governance of communities, the disciplining discourses and practices within a community that govern behaviours. As the previous chapter illustrated, this intersection very much reflects the realities of land governance in Tanzania. In attempting to improve local governance of land, government and civil society projects alike have encountered customary conceptions of land rights that discriminate against women both in terms of ownership and of governance. Understanding those languages and practices that discipline governance at the local level is critical for anticipating how land governance reforms may be adopted or rejected at the local level.

In Tanzania, we can see these processes at work across the key measures designed to reconcile tensions between customary practices and gender equality. CCROs and provisions for the co-registration of CCROs between spouses were seen as an important measure for both recognizing customary tenure and ensuring women’s access to land. However securing CCROs in Tanzania does incur expenses and are difficult for women to obtain independent of relations with male relatives or husbands. The customary practices that govern inheritance and marital property place restrictions on how women can acquire land. Patrilocal marital practices in most of rural mainland Tanzania create further vulnerabilities for women in the claiming of land in the
event of death or divorce. And in spite of co-registration laws for CCROs, administrative practices and gender bias conspire to keep women’s names off of CCROs. Moreover, some women hesitate to register land due to distrust of the government, fear of taxation, or a lack of desire to access credit (Englert 2008). These realities keep women from claiming the land rights available to them. Though the Technical Guide suggests strategies to overcome these obstacles, it likewise notes repeatedly the slow process and constant need for monitoring in order to do so (FAO 2013)

At the same time, languages and practices that discipline behaviours within communities can likewise act to marginalize groups other than women. As described in previous chapters, devolving responsibilities for land governance is fraught with problems, particularly regarding how to remedy structural limitations on participation, education, and access to resources. And though gender considerations are “mainstreamed” throughout the Voluntary Guidelines, including several calls for the development of “gender-sensitive” policies, the lack of detail or attention to the potential obstacles in implementation raises questions about the effectiveness of such mainstreaming efforts, an issue noted by scholars in the past (True 2003). Indeed, only the supplemental Technical Guide reveals the difficulties of doing gender reform well. Moreover, there is less attention in both documents to other forms of intra-community discrimination, such as perceived outsiders in the form of minority identity groups, competing land use patterns, and political opposition groups. Frequent mentions of ensuring equality of access between men and women in both the Voluntary Guidelines and the Technical Guide are often not accompanied by an unpacking of class, caste, race, or ethnic distinctions, which remain critically important to land access. In Tanzania, age, political affiliation, and farming practices have proved divisive. As scholars have argued, we must be careful not to essentialize our conceptions of local
communities as inclusive, fair arbiters of the public interest but as political bodies in their own right, with competing interests and power relations (Khadiagala 2001, Peters 2009, Sikor and Müller 2009). The frequency of mentions of gender in these documents without consideration of other important social identities suggests a tokenism with regard to gender inclusion.

Finally, although the Voluntary Guidelines do not fully articulate the multitude of likely obstacles in trying to reconcile the recognition of customary tenure with gender equality measures, they do acknowledge an important element in land reform efforts: implementation. In articulating so many elements to the land governance process, the Voluntary Guidelines do highlight these various obstacles governments and non-state actors are likely encounter in their reform efforts. Capacity, resources, transparency, information-sharing, and training are frequently cited as important elements in the land reform process, all of which were revealed as lacking in the Tanzanian case discussed in earlier chapters. Likewise, the checklists provided in the Technical Guide highlight specific policy measures that might aid implementation.

The Voluntary Guidelines are thus an important starting point for local land governance advocates. As far as process goes, the development of the Voluntary Guidelines was nearly ideal, but addressing the complex social structures identified will require comprehensive technical and financial support and keen attention to the possibility that protections for customary practice and promoting gender equity measures are not inherently compatible. As advocates for the Voluntary Guidelines note, it is best viewed as a document from which local advocates and policy-makers can select measures suited to local contexts and needs (Arial et al 2012). Thus, in order to be an effective instrument, the Voluntary Guidelines require interested parties and policy-makers to assess the current state of land governance in targeted regions, implement suitable reforms, and monitor the outcomes with specific focus on marginalized populations. This requires, in no small
part, dedicated attention to the ways in which gender roles and inequality shape land governance and policy prescriptions alike. However, this further raises questions about the viability of such change, given limited capacities for implementation in many countries, even where legal changes might seem poised to usher in important reforms.

**Conclusion**

These analyses are intended as a starting point in order to consider the role of gender in global land governance, particularly with an eye to assessing how well global initiatives incorporate considerations of gender and social inequalities in their recommendations. Successfully assessing these initiatives require closer attention to the existing and emerging literatures on gender and the commercialization of land as well as global land deals in general. As the existing literature on gender and agrarian land reform suggests, structures of land governance, whether customary or statutory, continue to be shaped by gender relations, which create various socio-economic inequalities. Thus, understanding the ways in which global initiatives view local land governance and gender inequality is essential for anticipating the feasibility of their recommendations and how such policy shifts could remedy the negative effects of large-scale land deals.

Assessing the extent to which local gender relations factor into global level initiatives is not simply an exercise in improving policy recommendations, but an opportunity to reflect upon the assumptions on which global recommendations are based and the policy tools that are being used to address inequalities. In terms of the PRAI, failing to consider systemic inequalities in its recommendations creates more questions than answers. What does “empowerment” mean if it is constructed strictly as an opportunity for market participation? How do efficiency and cost-effectiveness remedy problems of “weak governance?” How will alternative dispute mechanisms
resolve existing discriminatory practices? Such questions reinforce criticisms of the PRAI as pushing an investment-driven agenda to liberalize land governance. Critical assessments of global land deals and the governance initiatives that appear to endorse them are essential, particularly where such measures appeal to common assumptions about the best ways to remedy social inequalities, especially the “empowerment” of women.

In contrast, the Voluntary Guidelines offer a more comprehensive if somewhat aspirational framework for examining land tenure governance and protecting local populations. Considerations of gender inequality are threaded throughout, though the Guidelines themselves fail to more fully address tensions between customary tenure and provisions for gender equality. Only the supplemental Technical Guide reflects attention to the complexity of the gender and land governance debates that scholars have been having for decades and the challenges that need to be overcome. Thus, in order to remain optimistic about the viability of the Voluntary Guidelines as a prescriptive document, it requires ongoing support for research for how land governance is embedded in social relations as well as sustained support for implementation and monitoring. Advocates for the Guidelines assert that this is strictly the beginning of an ongoing process, but their success will ultimately depend on the extent to which local populations, civil society organizations, and states use the Voluntary Guidelines alongside the Technical Guide. Given the analytic detail in the latter, this is not the straightforward project implied by the former.

The Voluntary Guidelines are thus far more careful than the PRAI in recognizing the greater challenges in implementation. In Tanzania, implementation of the Land Acts have typically been projects taken on by INGOs or donor-supported projects as the state has limited resources dedicated to land reform projects. As the complex challenges of gender equitable land
reform become apparent, and the necessity for sustained efforts to ensure equitable participation in local forums on the part of all vulnerable groups, it becomes increasingly evident that the lack of funds and serious sustained political will may prove to be the most daunting obstacles of all.

Despite the optimism surrounding the Voluntary Guidelines, including expressed public support for the Guidelines from corporations such as PepsiCo and Coca-Cola (FAO 2014), the task of implementation is a serious one. Both funding and political will are in short supply. For countries like Tanzania, attracting agricultural investment remains a key priority, one that will likely continue to trump the pursuit of gender equitable land reforms. This reality brings both initiatives into sharper focus. Why is it that the social impacts of agricultural investments are being addressed by “voluntary” measures, while new global alliances – particularly bilateral investment treaties that are legally binding on host states – are struck to deepen foreign agricultural investment in Africa and elsewhere? The realities of implementation are sobering, and advocates who are truly invested in improving governance at all levels need to be aware of the obstacles on the ground.

The following concluding chapter of this dissertation addresses some of these questions, particularly questions about the critical role of the state in these multilevel governance analyses as well as the desirability of global governance mechanisms designed to address matters related to land tenure security within the global economy. The scholarly feminist analysis that deconstructs the gendered nature of global recommendations and implementation efforts does bring us closer to policies and politics that are progressive, but stands in the shadows of questions about the nature of the global economy and the pressures to liberalize agricultural trade and investment.
Chapter 7  
Conclusion – Where do we go from here?

The politics of land are simultaneously shaped by dynamics of gender, class, and ethnicity; of national and local power relations; and of global capitalism. These dynamics likewise limit and facilitate the contemporary rush for agricultural land in Africa and elsewhere around the world. Where scholars from across disciplines have alternately examined the sociological, anthropological, environmental, and economic impacts of land deals, scholars of international political economy and global governance have endeavoured to unpack the various power relationships that are at work. Indeed, given the range of actors and locations involved in transnational land deals, there is no shortage of dynamics that require study. With the recent passage of the Voluntary Guidelines and the PRAI, and the various partnerships that have been engineered as a result, new triangulations of power relationships emerge, all of which require dedicated academic attention. Where efforts are being made to “strengthen” governance by recognizing the rights of marginalized groups, remedying inequalities in land rights, and improving political participation at multiple levels, we have to keep asking “who benefits?” Though these global discourses draw on the languages of international law and human rights, they need to be considered alongside global pressures for resource exploration and extraction.

Yet for all of this academic attention, serious gaps still remain in the existing research. In particular, attention to gendered power relations – both in the study of land deals themselves and in the governance mechanisms designed to address land deals – is lacking. Large-scale land deals can have a range of gendered impacts, including the potential to disrupt socio-political organization associated with land access and land use (Behrman et al 2012). Some literatures are beginning to address these dynamics in the context of land deals, though very little has been

---

1 For example, see: White et al 2012, Cotula 2013, Hall 2011, McMichael 2012.
incorporated into the analytical frameworks of international relations scholars (Chu 2011). While there is no shortage of international relations scholars to discuss the geopolitics of land and food, little attention has been paid to the connections between land deals and gendered power relations and what these connections reveal about the quality of global governance mechanisms and the biases built therein.

As this dissertation has shown, understandings of “governance” as articulated by the PRAI and the Voluntary Guidelines betray a lack of serious attention to the social norms and forms of community discipline that shape local politics, governance, and patterns of land ownership. Through an investigation of the gendered power relationships around land governance, this dissertation reveals not only the inequalities between rural men and women, but among men and women, and between clans, ethnic groups, political affiliations, and age groups. Indeed, narrow definitions of gender equality that focus on simply “adding women” in global governance mechanisms betrays a fundamental lack of understanding of the differential power relations among women (and men). For example, though the Voluntary Guidelines do make brief references to the advantages and disadvantages associated with marital status, more attention needs to be paid to the gendered community attitudes that restrict political participation and land access under customary rules. These are hardly minor considerations, though the Voluntary Guidelines seem to present them as an afterthought. Only the Voluntary Guidelines’ subsequent supplemental Technical Guide pays attention to the complexity and difficulty of undertaking addressing these issues.

Tanzania, given its stature as a progressive reformer of land with attendant gender equality rules in political representation, proves to be an eye-opening case. Though land reforms came into effect in Tanzania prior to the contemporary rush for land, Tanzania has not been
invulnerable to controversial land deals. Arable lands in Rukwa, Kisarawe, Bagamoyo, and Rufiji, among others, have been targeted for large-scale commercial agricultural development and have likewise received international criticism (ActionAid 2010, The Citizen 2013). Entire communities have lost access to traditional lands through a combination of poor implementation, poor administration, and complicated land governance structures. Moreover, efforts to recognize customary land ownership and usage have not translated into widely available land rights for vulnerable populations, especially rural peasant women. Within this system, rural peasant women find themselves doubly marginalized: granted access to but denied ownership rights to land, while also unable to fully participate in community decision-making. Though some observers note the ways in which rural women might navigate customary rules to claim land and property rights, these same observers express doubts about their viability in the face of greater commercial land pressures (Koda 2000, Mbilinyi 2012). Many of the opportunities available within customary practices are closed off by encroaching land claims and state efforts to make land accessible to investors.

What is clear in the case of Tanzania is that democratic decision-making at the local level has not been able to prevent foreign investors from taking advantage of local communities that are not fully aware of how land governance operates. Gaps in implementation have led to not only community governance bodies that are ill-equipped to negotiate with foreign investors, but that fail to include vulnerable populations in their decision-making, especially women whose use of the land provides the bulk of rural agricultural labour in their communities. The most recent Tanzanian census data reveals that 76.8% of the rural population in Mainland Tanzania is engaged in subsistence agricultural labour, as are 65% of all women, both rural and urban (NBS 2014). Moreover, efforts to strengthen individual land ownership with reference to custom stand...
to reinforce gender inequalities that exist under customary inheritance and property ownership practices in patrilocal communities on the Tanzanian mainland. Thus, though many land and women’s rights experts in Tanzania praise the design of the 1999 Land Acts, they point to issues in implementation and the failure to address gendered attitudes as chronic problems.

This is not to condemn customary authorities or practices. It bears repeating that some customary practices have historically permitted flexibility in land and property ownership. There is convincing evidence of the ways in which communities might navigate customary practice to create spaces and claims for women. Nyamu-Musembi (2002) warns against viewing customary authorities as naturally regressive and requiring interventions of Western authority to remedy them, which might alienate community allies. Yet at the same time, Nyamu-Musembi argues that neither should we shy away from critiquing customary frameworks. These are complicated issues that negotiators of global guidelines have largely avoided. For all of the rhetoric regarding protecting vulnerable individuals and communities from the perils associated with land deals, it is here where global guidelines fail rural peasant women who rely on land to support their families and communities. If global guidelines are to be made to address the realities of land politics, they must take the matters of gender more seriously and not as tangential or “supplemental.” Where the state recognizes local authorities, particularly as agents of the state, what happens to the people on the margins?

Though Tanzania faces a set of issues related to land governance that are unique to its complex history of land reforms, it nonetheless shares similarities with its neighbours in East Africa and elsewhere around the world. Across the African continent, neo-customary authorities control land governance in parts of Cote d’Ivoire, Burkina Faso, Cameroon, Mali, Ghana, Rwanda and Zimbabwe (Boone 2014). Agarwal (1994, 2003) has likewise argued that gender
bias in local practices has limited women’s access to land in South Asia. Deere and Leon (2001) note similar biases across Latin America and Prügl notes how the rules of state and society conspire to create systems of “masculine rule” in rural Germany (Prügl 2011). Given the widespread reliance on customary authorities and the extent to which global governance mechanisms recommend customary governance of land and local politics, more must be done to consider the relationship between customary authorities and gender inequality that many scholars of gender and agrarian change have noted. These debates are not new, and yet global authorities have largely failed to recognize the tensions between their most plainly stated goals.

Contributions to Academic Literature

This dissertation is not just a call for global policy-makers to do a better job of “mainstreaming gender,” – which, to be sure, they have not done very well (Moser 2005, Parpart 2009) – but to consider gender relations as more than just a matter of adding another variable or another clause. Gendered power relations are pervasive in the ways in which governments, economies, and communities operate, and fuller understanding of these relations requires an appreciation of the inequalities manifested not only in governance in a formal sense, but in markets and families as well. In Tanzania, this is clearly articulated in how community and political governance intersect over the control of land, but such analyses should not be limited to its borders nor to the continent. The languages and behaviours that discipline gendered expectations and roles need to be investigated everywhere, not least within the halls of policy-makers themselves. In this way, this dissertation, alongside other critical feminist global governance analyses (Griffin 2009, Bedford 2008), reminds those in the discipline of international relations that we must continue to critique the “add women/gender and stir” approach taken in the practices and analyses of international relations.
Reading these power relationships as forms of “governance” requires a broader understanding of what governance itself entails. A critical feminist global governance approach, which is aware not only of how social dynamics and languages of discipline govern communities, but is also acutely aware of the potential for exploitation and neocolonialism within global governance discourses and mechanisms, stands to not only reveal the shortcomings in global policy making but to also deepen our understandings of the relationships between the global and the local. Indeed, by expanding our understanding of governance to include disciplinary discourses and practices in the governance of land, we can evaluate global governance mechanisms more thoroughly and investigate the limited understandings of gender and gendered power relations in the discourses of global policymakers. Moreover, we can make more concrete connections between the local and the global by understanding how governance processes interact with each other while also expanding our understandings of transboundary exchange. Local land governance is part of the global land rush, and local populations active participants within it.

This dissertation further underscores the importance of considering local and global phenomena as interconnected and co-constitutive and unsettles the analytical dichotomy of global:local as male:female that Freeman (2001) identified. Scholars of global governance, and of international relations more generally, have tended to view gender as something strictly belonging to the realm of the local. Indeed, this dissertation has likewise illustrated the importance of local gender relations in land governance. However, this does not excuse scholars of international relations and international political economy from “doing” or “knowing” gender in their academic work. Not only do we need to understand how gender structures local political governance, but also how gendered forms of governance structure relationships with different
actors. In the case of land in Tanzania, this involves not only relationships among community members, but with district-level officials, state bureaucrats, national politicians, foreign investors, and NGO workers. As Freeman (2001) and Enloe (1990) have stated elsewhere, this is the work of international political economy; as participants in the global economy, interactions between villagers and other interlocutors need to be studied. Examining the dynamics of local governance as the means by which transnational land deals occur reaffirms the place of “local” analyses in international relations and international political economy. The global land deal as an international phenomenon with attendant economic and security dimensions does not operate outside of the gendered relationships that shape consultation, consent, and contestation in rural villages.

Moreover, understanding these dynamics offers more insight into the ways in which foreign investors access land and interact with its owners and users. In Tanzania, gendered discourses and traditions discipline local participation and consent. National legal frameworks structure land transfers such that these gendered discourses and traditions are a critical element in understanding how land deals occur, and the power inequalities therein. The extent to which people do or do not participate in decisions to transfer land thus becomes a question of transnational politics and governance. Failure to understand these realities in global recommendations in land governance ultimately leads to policies that are incomplete, as in the case of the PRAI.

By uncovering social inequalities that shape local governance, political scientists gain a greater understanding of the limits of democratic reforms designed to improve governance. In particular, this analysis reveals other troubling assumptions in addition to those regarding gendered inequalities. It is clear that there is a bias in global initiatives and in some scholarship
in favour of community level governance that assumes a certain level of homogeneity and absence of conflict that is not justified. As extensive anthropological scholarship on the politics of land and resource conflicts in Africa have shown, communities are not necessarily harmonious, peaceful, or fully participatory (Khadiagala 2001, Peters 2009, Sikor and Müller 2009). Village governance is structured not by inherently equitable practices, but by histories of clan- and family-based relationships, political alliances and affiliations, age- and gender-based discrimination, and so on. Moreover, mapping liberal democratic models onto modes of rural governance is unlikely to be an easy fit.

Given this understanding of the contentious nature of local politics, we must be spurred to ask whom these global governance initiatives are truly designed to benefit. As suggested by the PRAI, recognizing land rights quickly and according to local practices can lead to the more “efficient” distribution of land and facilitate exchange with investors. The failure to see the multidimensional nature of gender and other inequalities within the context of customary practices leads to a deceptively simple solution in the promotion of “good governance.” This dissertation emphatically does not suggest that the addition or inclusion of more detailed gendered analyses to these governance initiatives would remedy the issues associated with the influx of agricultural land deals in Tanzania and sub-Saharan Africa more broadly. While improvements to governance are important, they remain a reaction to a broader global phenomenon. One feminist activist described her concern about improving land governance in the context of land deals this way: “…[W]e wouldn’t just want to say ‘gender mainstream land grabbing’, but on the other hand women have to have a voice in this.”2 Indeed, the attention to “good governance” as a mechanism to improve the terms of land deals does not begin to scratch

---

2 Interview with Feminist Activist [D1], Dar es Salaam, June 10, 2013.
the surface of the more complex global dynamics that are driving the commercialization of agriculture.

Understanding the gendered implications of contemporary land deals underscores how broader social relations shape the land acquisition process. Systematic inequality in terms of political status, land ownership, and educational attainment lead to the exclusion of women and other marginalized groups from forums that may be able to influence the land grab process. In this sense, the “preexisting situation” that concern Behrman et al (2012) and its attendant formal and informal forms of governance necessarily shape the process and outcomes of a land deal. Thus, understanding the process of land deals and the potential gender implications therein requires an assessment of broader social contexts, and the various modes of governance at work. Thus, it is critical to consider the contributions of feminist agrarian political economy as key to understanding the power relations we study. Despite some recognition among scholars of the forms of household gender inequality that are relevant to land deals, structural forms of gender inequality and formal and informal land governance clearly shape local social and political dynamics.

There is a great deal for IPE and global governance scholars to consider from ongoing research on gender and local land relations, especially with reference to shifts in land governance that stem from increased commercialization of land and crops (Daley 2011). The argument made by Margulis et al that we need to “foster greater dialogue between scholars of globalization with the burgeoning literature on land grabbing spearheaded by agrarian political economy and political ecology scholars,” is an important one (2013: 3). Yet this dialogue also needs to more consciously include the perspectives of feminist political economy and feminist agrarian political
economy. Analyses from such scholars add important dimensions to understandings of global land deals, and help to improve the level of gender awareness in the fields of IPE and IR.

Below, this concluding chapter highlights key questions that emerge from this dissertation and that require further in depth attention on the part of feminist scholars. What is the future of global guidelines? What is the role of the state in large-scale foreign agricultural investment? What perils lie ahead in the emergence of public-private partnerships to address food insecurity in countries such as Tanzania?

**Are Global Guidelines Worthwhile?**

Given the shortcomings of global efforts to introduce standards for the securing of land or agricultural investment it is worth asking: are projects of global land governance worthwhile? As noted in the introduction, critical scholars of global governance note how “common-sense” discourses perpetuate notions of neoliberal development and deepen global inequalities (Overbeek 2005, Soederberg 2006). These are important considerations, especially given how certain initiatives attempt to reframe issues: the PRAI in particular are viewed as depoliticizing transnational land deals and recasting them as part of a “win-win” discourse (GRAIN 2008, Chu 2011). The PRAI reflect a market-oriented understanding of agricultural development and land use and do not discourage the existing investment-driven rush for land investment, but largely endeavour to manage it.

This dissertation tentatively ventures that in spite of all of the potential pitfalls of global governance that, yes, some efforts may be worthwhile; some standards may be better than none. While it would be dangerous to suggest that either voluntary mechanism studied in this dissertation is a desirable and sufficient mode of transnational governance for the global economy in their current forms, the idea of such mechanisms are not wholly without merit. The
PRAI, though rather nakedly endorsing further large-scale agricultural investment, do suggest measures by which states and communities might secure their land more transparently and remind states of their international commitments. While the PRAI are accused of normalizing “land grabbing” by describing it as “responsible investment” (De Schutter 2011, CECCAM et al 2011), neither have they been widely embraced or endorsed. Though World Bank reports still make reference to the PRAI and the G7/8 countries continue to support them, the PRAI do not appear to be the final word on global land governance. Widespread criticism of the PRAI and the refusal of the Committee for Food Security to endorse them, suggests that such efforts require much broader international support in order to be effective mechanisms.

At the time of writing, the Voluntary Guidelines seem poised to be the global standard in terms of land governance recommendations, and perhaps with good reason. As noted in the previous chapter, the Voluntary Guidelines are comprehensive, if at times unwieldy. While sometimes vacillating between stances on agricultural investment, the Voluntary Guidelines do reflect the contentious nature of these debates and the conflicts that shaped their writing. Yet it is likewise difficult to argue that the Voluntary Guidelines are blindly capitalistic or neoliberal in their design. Indeed, their recommendations to secure land tenure for vulnerable populations, especially pastoralist communities and women, are important. There is a serious lack of nuance in the Voluntary Guidelines regarding gender relations, especially relating to custom. However, the supplemental Technical Guide illustrates detailed consideration of gender relations and provides relatively clear language for implementers to follow. As the case of Tanzania has demonstrated, the relationship between customary practices and gender equality is neither straightforwardly progressive nor regressive. These are dynamics that require serious attention and this is where efforts to create common global guidelines have stumbled. There may yet be
hope in these technical guides that accompany the Guidelines and offer specific proposals for implementation, though these will only be effective if embraced by states and civil society alike.

Some advocates might be able to use the Voluntary Guidelines as a tool to enhance claims to land by marginalized groups. As suggested in earlier chapters, INGOs and CSOs are making concerted efforts to bridge the gaps between customary land governance and progressive gender relations. Rather than focusing on “women” as a singular category as attempted by the World Bank-funded Business Environment Strengthening for Tanzania (BEST) project in Tanzania, other organizations note the local spaces wherein discriminatory gender hierarchies might be challenged. These efforts are not without their obstacles – as one INGO officer explained, there are risks in women taking public stances on participation and governance – yet many locally based CSOs remain encouraged by changes in gender relations on land and political participation.

Given these glimmers of optimism in some reforms, it is difficult to wholly discount the Voluntary Guidelines. Proponents of the Voluntary Guidelines continue to produce materials to assist land advocates and local populations to push for reform. Oxfam International’s recent work on responsible land investments used the Voluntary Guidelines in order to obtain public commitments from Coca-Cola and PepsiCo (FAO 2014). As scholars, we should remain vigilant and continue to ask critical questions about the commitments made by multinational corporations (MNCs), INGOs, and states. In addition, questions about resource availability, funding, implementation, capacity building and so on remain unanswered. Thus, this author shares the cautious optimism regarding the Voluntary Guidelines expressed by some scholars and INGOs, but remains somewhat skeptical given the scope of their promises.

*The Role of the State*
The promise of initiatives such as the Voluntary Guidelines is tempered by the realities of resource availability and political will at the state level. Though this analysis was multilevel by design, it cannot escape the central importance of the state in land reforms and land deals. In Tanzania, though the Presidential Shivji Commission initiated the process of land reform in the 1990s, the drafters of the Land Acts rejected several recommendations that would have reduced governmental control of land and devolved more power to rural communities. Although the Land Acts did devolve a good deal of authority to local officials, the state has been unable to implement such reforms effectively. In the years following the Land Acts, the government has been persuaded to repeal some measures designed to protect women’s interests in jointly owned assets and to allow land and property to be mortgaged without spousal consent (McAuslan 2013). Though the role of the World Bank and corporate banking interests in lobbying the government cannot be denied, responsibility for the decisions lies with President Jakaya Kikwete’s government.

It has been beyond the scope of this dissertation to consider in much detail the competing interests of state governments. States such as Tanzania are torn between global pressures to strengthen land governance to protect local populations as well as pressure to facilitate foreign investments in land and other natural resources. Tanzania’s fertile land and significant mineral and oil deposits could prove to be a boon to state coffers if it can facilitate more foreign investment in agribusiness and extractive industries. Tax relief and exemptions for foreign investors underscores state interest in attracting foreign capital. Rights to oil and mineral exploration are easier to obtain relative to the land acquisition process explored in such detail in this dissertation. Given the extent to which Tanzania relies on donor assistance and foreign aid,
its interests in expanding its economy are tied to pressures from major donor countries and the World Bank (McAuslan 2013, Toulmin and Quan 2000).

These are critical factors in considering the extent to which the state does and does not pursue a dedicated agenda of strengthening land governance. Lavers (2012) has pointed to similar pressures in Ethiopia, and the apparent use of the “land grab” as a development strategy. Countries on the receiving end of these land deals may view foreign agricultural investment as key to improving food security and employment (Lavers 2012). Indeed, in Tanzania, the Kilimo Kwanza (Agriculture First) initiative launched in 2009 speaks to Tanzania’s desire to expand agricultural development through investment. Formulated by the Tanzania National Business Council, which is chaired by President Kikwete, Kilimo Kwanza is a set of policy instruments designed to help commercialize Tanzanian agriculture, with specific reference to the country’s “unutilized” land (URT 2009). In particular, four of ten pillars of the initiative include: “paradigm shift to strategic agricultural production; land availability for agriculture; incentives to stimulate investments in agriculture;” and “industrialization for agricultural transformation” (URT 2009).

Though there has been much criticism of how the Tanzanian government has handled both the implementation of the 1999 Land Acts and its agricultural development agenda, it would be disingenuous to suggest that the Land Acts were designed strictly in order to alienate land from rural populations more easily. Though the government’s retention of the radical title and provisions for acquiring land in the public interest do undermine local authority over land, even some of the most critical observers celebrate the provisions of the 1999 Land Acts that recognize customary tenure and women’s land rights. As such, it is important to consider the Tanzanian state not as a unitary actor, but as an amalgam of competing state organizations. “The state
comprises multiple organisations each with their own political and economic priorities which they attempt to balance with the interests of other state organisations, those of powerful groups in society…and international influences,” (Lavers 2012: 108). These competing interests create the policy environment that either facilitate or block foreign investments in land and agriculture. These interests are not devoid of power relationships: assuming that these various authorities that create governance structures are necessarily co-operative is simply not the reality. 

*Where are we going?*

These dynamics associated with the rise of investments in agricultural land raise many questions for those studying international political economy and global development. Within the context of increased food insecurity, displacement of populations due to climate change, and further oil and mineral exploration across the globe, pressures on land – both commercial and non-commercial – stand to rise even further. In the midst of greater academic attention on myriad fronts, analysis must not marginalize considerations of social inequalities in general, and gendered inequalities in particular. As decades of research have revealed, women play critical roles in sustaining their families and communities through subsistence farming, foraging, water and firewood gathering and the like. These greater pressures on land reduce their abilities to support their families and themselves. That rural women are further marginalized from discussions of how land transactions stand to affect their communities needs to become part of the “common-sense” assumptions of global land governance.

In addition, more questions need to be asked about the role of global governance actors such as UN agencies, the World Bank, the G7/8, multinational corporations, international investors, and their relationships with states. Given these increased pressures on states to commercialize agricultural investment, what are the effects on land rights and the rights of
marginalized populations? In order to more fully understand the gendered dynamics of commercialized agriculture, more analysis of these various actors, their relationships, and their tensions need to be assessed. In particular, public-private partnerships (PPPs) that combine government and corporate involvement to address food insecurity may prove to be a critical locus for analysis. The G8 New Alliance for Food Security and Nutrition (“New Alliance”), established in 2012, is one such initiative: building upon existing agricultural investment projects in Africa, the New Alliance seeks to facilitate corporate agricultural development in African states through collaborations between G8 member states, African countries, MNCs such as Unilever and Monsanto, local investors, and smallholder farmers (Sulle and Hall 2013). The New Alliance pledges to “act upon the critical role” played by smallholders and women (White House 2012), yet it remains to be seen how the role of women is perceived in partner countries and what recommendations the New Alliance will make going forward.

Thus it is imperative that future research includes consideration of the role of the relationships between state agencies, MNCs, and global bodies in agricultural development as well as those local authorities and practices which shape global/local processes in the global economy. This dissertation has emphasized the need to understand the role of gendered power relations in the structuring of land governance – now this analysis must expand to consider the broader dynamics of the global economy, and how the processes that scholars are trained to view as “global” are rooted in the power hierarchies so frequently marginalized as “local.” Without considering the realities of local power dynamics, global efforts to democratize land governance, improve food security, and boost gender equality are unlikely to succeed. Only by investigating these processes do we understand the gendered socio-political relations that structure land deals, allowing academics and activists to consider meaningful transformation.
References


Izumi, Kaori. “Gender-Based Violence and Property Grabbing in Africa: A Denial of Women’s


Prügl, Elisabeth and Mary K. Meyer. “Introduction: Gender Politics in Global Governance,” In


Appendix I – General Research Ethics Board Clearance

December 20, 2011

Ms. Andrea Collins
Ph.D. Candidate
Department of Political Studies
Queen's University
Kingston, ON K7L 3N6

GREB Ref #: GPLST-077-11; Romeo # 6006473
Title: "GPLST-077-11 Refocusing Governance from the "Bottom-Up": The Gendered Dynamics of the Global Governance of Land Deals"

Dear Ms. Collins:

The General Research Ethics Board (GREB), by means of a delegated board review, has cleared your proposal entitled "GPLST-077-11 Refocusing Governance from the "Bottom-Up": The Gendered Dynamics of the Global Governance of Land Deals" for ethical compliance with the Tri-Council Guidelines (TCPS) and Queen's ethics policies. In accordance with the Tri-Council Guidelines (article D.I.6) and Senate Terms of Reference (article G), your project has been cleared for one year. At the end of each year, the GREB will ask if your project has been completed and if not, what changes have occurred or will occur in the next year.

You are reminded of your obligation to advise the GREB, with a copy to your unit REB, of any adverse event(s) that occur during this one year period (access this form at https://eservices.queensu.ca/romeo_researcher/ and click Events - GREB Adverse Event Report). An adverse event includes, but is not limited to, a complaint, a change or an unexpected event that alters the level of risk for the researcher or participants or situation that requires a substantial change in approach to a participant(s). You are also advised that all adverse events must be reported to the GREB within 48 hours.

You are also reminded that all changes that might affect human participants must be cleared by the GREB. For example you must report changes to the level of risk, applicant characteristics, and implementation of new procedures. To make an amendment, access the application at https://eservices.queensu.ca/romeo_researchdev/ and click Events - GREB Amendment to Approved Study Form. These changes will automatically be sent to the Ethics Coordinator. Gail Irving, at the Office of Research Services or irvingg@queensu.ca for further review and clearance by the GREB or GREB Chair.

On behalf of the General Research Ethics Board, I wish you continued success in your research.

Yours sincerely,

Joan Stevenson, Ph.D.
Professor and Chair
General Research Ethics Board

cc: Dr. Margaret Little, Faculty Supervisor
    Dr. Andrew Lister, Chair, Unit REB
    Michelle Boomhour, Dept. Admin.
Appendix II – Sample List of Interview Questions

What is you/your organization's perspective on large-scale agricultural investments in Tanzania?

[If negative:] Which land deals have you/your organization been most concerned about in Tanzania?

[If positive:] What parts of the land acquisition process work well here?

In your view, have Tanzania's land laws been effective in protecting local interests?

If possible, describe how consultations between firms and local communities have been conducted, including who has been involved, how long consultations were conducted for, and whether the consultations appeared to shape the land deals.

What has been the role of local Village and District Councils?

What has been the role of federal ministries or agencies?

Overall, what are your perceptions of the community responses to the land deals? Is there general consensus, or are there divisions?

Has the community been largely supportive or critical of the deals? Are there divisions of opinion along gender lines? Ethnic community lines? Employed or unemployed people? Farmers and non-farmers/pastoralists? Landowners and non-landowners?

What improvements to the process would you recommend?

Do you/your organization have any concerns about how women are affected by land deals? Are there differences by investor, region, district, community?

[If so] What needs to change in order to solve these problems?

In your view, why are women disadvantaged when it comes to these large-scale land deals? What are the main causes of inequality?
Appendix III – List of Interviewees

F1 – NGO Executive Director, Dar es Salaam, June 17, 2013.
G1 – Women’s Legal Advocate, Dar es Salaam, June 18, 2013.
H1 – Gender and Politics Scholar, Dar es Salaam, June 19 2013.
I1 – Land Rights Scholar, Dar es Salaam, June 20, 2013.
K1 – INGO Gender and Communications Officer, Dar es Salaam, June 25, 2013.
L1 – Officer, Tanzania Investment Centre, Dar es Salaam, June 25, 2013.
P1 – Program Officer, Legal Aid NGO, Dar es Salaam, June 27, 2013.
Q1 – Director of Capacity Building and Empowerment, Legal Aid NGO, Dar es Salaam, June 27, 2013.
R1 – Agricultural Economist, Morogoro, June 28, 2013.
S1 – Director, Governmental Women’s Service Agency, Dar es Salaam, July 3, 2013.
V1 – NGO Programme Officer, Dar es Salaam, July 11, 2013.