

Formalization of Property Rights in Unplanned Settlement and Women's Security of Tenure: A case of Manzese ward, Dar es Salaam

Helene S.Francis, Gerald S.Temu and Judith Namabira*

¹Institute of Rural Development Planning, P.O. Box 138, Dodoma

**Corresponding author's email: hfrancis@irdp.ac.tz*

Abstract

In recent years, formalization of property rights in unplanned settlement is considered an important tool towards enhancing security of tenure and subsequent poverty reduction. However, security of tenure among women in areas under property formalization need to be examined as is the right of all gender groups to secure ownership of their properties. This paper examines the extent to which property formalization guarantee security of tenure among women in unplanned settlements. The research was conducted in Dar es Salaam city at Manzese ward. Data collection was done through Focus Group Discussion (FGD), literature review and administration of questionnaires. Quantitative data were analyzed using Statistical Package for Social Sciences (SPSS) while qualitative data were subjected to context analysis. The study revealed that, property formalization enhances security of tenure for every person's property i. e land/house. However, women's security of tenure is uncertain especially the married ones as their names do not appear in the residential license documents. The study suggests for incorporation of all gender groups in the whole process of formalizing properties in unplanned settlements.

Keywords: Property formalization; women's security of tenure; unplanned settlements.

1. Introduction

Women's right to land is a critical factor in enhancing their social status as well as their economic well being and empowerment (Crowley, 1999). Women land rights are believed to promote development by empowering and involve women in development issues (Allendorf, 2007). Initiatives to prevent gender inequality have been in place, where, programmes and policies are implemented to eliminate any kind of gender discrimination (Reterman, 2009). The process of formalizing informal settlements necessitates the provision of tenure rights as a crucial step which protect informal dwellers that are legally not recognized by the government (Ramadhani, 2007). Participation concept and ownership rights were used to determine how property formalization enhances security of tenure, as it is one of the recent programs initiated to increase security of tenure among urban poor.

Historically, women's right to land ownership was based on status within the family and involved right of use, not ownership, where existing customary laws, customs and traditions

impeded women land rights (Yngstom, 2010). In Asia, for instance the most prevalent barrier to acquire property was inheritance law that favored male over female (FAO, 1995) with the argument that, if a woman inherits property, her husband could take it away and manage it. On the other hand, Hindu women normally used to hold property rights to use it during their lifetime but when they die, all properties use to go back to the male side of her husband and this is exacerbated by the “lack of notion of self interest as separate from family interest” (Agarwal, 2009: 189). Some of the African custom and religious practices exclude women from owning land and rights to other properties; whereby property was/is held in man's name and passed patrilineally within the society. For example, in Tanzania women have no direct access to land due to traditional practices which do not protect women's land rights; however, these traditional laws that ignore position of women are changing albeit slowly (Francis, 2005). This situation applies the same to Uganda where women's rights to property are

impeded “by customary law practices, socialization, and the generally weak economic capacity of many women” (Kafumbe, 2009: 200).

Development experience shows that gender inequalities are a major factor impeding progress towards the Millennium Development Goals of poverty reduction (Sriraman, 2005). Norms and practices that determine the status of women in the household have an effect on access and control of resources as well as their economic well-being (Giovarelli, *et al.*, 2006). Men are always on the advantage side of these long time socio-cultural, economic and political arrangements than women (Routledge, 2000). From gender perspective, control over resources, whether being economical, social or political is a key factor in poverty reduction and brings confidence in decision-making (FAO, 2012).

It is widely accepted that full involvement of all citizens, both men and women in development activities, is the only best way to bring about

gender equity and equality in resource ownership (UN-Habitat, 2000). Sunde (1997:92) argues that “gender-equitable land reform requires the establishment of structures of governance and local institutions which further promote women’s active participation in decision-making and challenge long-standing traditional barriers”. Development Goals such as MDGs², encourage accountable institutions of governance to ensure more equitable resource allocation among men and women (UNIFEM, 2006). Access and use of land for economic production and other livelihood activities is determined by the existing land tenure (Mdemu and Burra, 2011). Secure land tenure can facilitate and provide incentives for investment and enhance economic opportunities and livelihoods (Midheme, 2007). Lack or deprivation of security of tenure, is a key factor inhibiting the poor to engage in development issues; with security of tenure poor households increases the ability to defend themselves from the

²Millenium Development Goals dealing with development issues, gender equity and equality (UNIFEM, 2006)

threat of forced evictions, and their willingness to invest and improve their living conditions (Tibaijuka, 2004)³. Land tenure insecurity has been an outcome of poor communication between the central institutions and the local population at the grass root level, with poor flow of information about the existing land rights among actors and local people (Nzioki, 2006). The major objective of Habitat's Global Campaign for secure tenure is to improve shelter strategies for the urban poor both men and women (UN-Habitat, 2000)⁴.

The current land reform holds the potential to improve tenure security for the poor (Smith, 2003) for both men and women. Land reform has been advocated throughout Sub-Saharan Africa as an instrument of land development, management and an enhancement of land ownership. Land

reform is directly related to the broader concepts of land tenure and property rights. In order to bridge the gender gap, the Government of Tanzania has enacted policies and legislations to among others enhance gender equity in land ownership such as National Land Policy (URT, 1995 part 4) and National Land Act (URT, 1999, Act No 4 and 5 s.3) so as to create a level playing ground for all the people to participate in land ownership. One of its fundamental principles is to empower women as stated in Sec. 3 that: "The right of every woman to acquire, hold, use, and deal with, land shall to the same extent and subject to the same restrictions be treated as a right of any man." In 2003, Tanzanian government took an initiative to improve security of tenure through property formalization among residents living in unplanned settlement. However, the extents to which formalization of property rights guarantee women security of tenure calls for clarification. Therefore, this paper examined how women's security of tenure was enhanced in the process of formalizing property rights.

³ Executive Director UN-HABITAT conducted seminar on security of tenure in Urban Africa at Royal African Society, Natural Resources Institute (IIED) Seminar on the 8-9 November 2004

⁴ Habitat Agenda. UNCHS (Habitat): Addressing increasing Urbanisation and the Problem of Property Basing on Security of Tenure and Good Urban Governance and Issue of Gender.

2. Study Area and Methodology

This study is based on a survey of 60 households selected through systematic sampling from the register book from two sub wards of Manzese ward whose properties were registered through either co-ownership, joint ownership or single women headed household. The study covered two sub-wards 'mitaa': Mnazi Mmoja and Kilimani which are located in Manzese ward in Kinondoni municipality, about 3 km North-west of Kinondoni Municipal Headquarters (Magomeni) and 7 km to the west of the Dar es Salaam Central Business District (CBD). The settlement was established in 1945 (CIUP, 2004) and is accessed through Morogoro-Dar es Salaam road.

In each area a list of 30 women was obtained purposefully from households whose properties were formalized. Data were collected through various techniques including Focus Group Discussion (FGD) where two groups were involved during the Focus Group Discussion; each group comprised six women and four men to obtain their opinion. The method was used to

determine the perception and opinion of their participation in the process of formalizing property rights and their rights towards security of tenure. Household interview, key informant and official interviews were carried out. A structured and semi structured questionnaires were administered to the ward leaders, sub-ward 'mtaa' leaders and women whose properties are already registered. Descriptive statistics was used to analyse most of the collected data. To compliment the descriptive analysis the rest of the data were assessed qualitatively based on the information given and judgments in relation to the rationale of the matters raised. Quantitative data were analyzed using Statistical Package for Social Science (SPSS) version 11.5 to obtain descriptive statistics such as frequencies, percentages and level of significance.

3.0 Results and Discussions

A number of aspects were drawn to determine women's security of tenure in current land reforms. These include, mode of property registration, educational level, ownership rights,

security of tenure, decision making at household level, modes of land acquisition, occupation of the respondents and their participation in the process of formalizing property rights, as well as their opinion on the residential license process. The findings and discussion are as follows:

3.1 Mode of Registration of Property Rights

Properties in Mnazi Mmoja and Kilimani settlements were registered in accordance with the information extracted from the questionnaire. This study established ownership relationships, by assessing how the properties were registered and observed that about 8831 (65%) properties in Kinondoni municipality were registered in the name of male household heads, while 4015 (30%) properties were registered by female names. Co-ownerships were 622 (5%) as shown in Table 1.

Table1: Residential license in relation to gender Kinondoni municipality

License issued in Names	Total	Percent
Men	8831	65
Female	4015	30
Co-ownership	622	5
Total	13468	100

Source: KICAMP-Kinondoni Integrated

Coastal

Area Management Project (KICAMP)

Table 2, presents the mode of property registration in the area. The results show that most of properties are registered in the names of the heads of the family whereby 89% at Kilimani and 90% at Mnazi Mmoja respectively. Meanwhile, properties registered in women’s names only present 6% in Kilimani and Mnazi Mmoja respectively. However, 5% and 4% of properties were registered through joint ownership in Kilimani and Mnazi Mmoja respectively. The form for residential license was poorly designed such that had no options for either co ownership, or joint ownership rather it had only one option that allowed only one person to appear as the owner of the plot/property. Kimeri-imbote (2006) asserts that, to increase women resource ownership rights, there should be a well-designed structure that overshadow the long-standing norms and traditional structure that influence negatively women ownership rights. This is contrary to the designed forms for property registration in Dar es Salaam, where the registration form provided room for the head of

household to register the property owned. The registration system seems to threaten the future position of women in owning the property as it was noted by one of the respondents from the Kilimani sub ward saying “It was difficult for a woman to register the property through co-ownership as there was no clear information on women land rights and also the registration form was designed in a way that heads of household could register property on his own name.” Nzioki (2006) argued that, the authority at central level and local institutions at local level can influence change through information sharing and share on people desire and develop structure that enhances ownership rights.

Table 2: Residential license in relation to gender at Kilimani and Mnazi Mmoja settlements

License issued in names	Kilimani Sub ward		Mnazi Mmoja Sub ward	
	Total	Percentage	Total	Percentage
Men only	852	89	1632	90
Women only	54	6	104	6
Men and women	50	5	70	4
Total	956	100	1806	100

Table 3 presents marital status in relation to property registration, where names of men dominated in the study areas about 72.4% of the married couple’s properties were registered in men’s names and only 12.5% were registered in women’s names. However, only 8.3% of properties were registered as co-ownership, while 5% of properties were registered as joint ownership (family property) following the critical demand from the property owners even though this was not apparently provided in the property registration form.

Table 3: Registration of property rights by marital status

Status	Marital status				Total
	single	Married	widower	divorced	
Men	3.45	72.4	24.1	0.0	100
Women	37.5	12.5	43.8	6.3	100
Co-ownership (husband and wife)	0	8.3	16.7	0.0	100
Jointly ownership as family property	0	5.0	11.1	5.6	100
Total	11.67	51.7	26.7	10.0	100

Chi-square =46.76, P=0.001

3.2 Education Level of the Respondents

Attributes related to education level of women in the study area are exposed in Figure 1; whereby level of education is among the components that determine ownership rights and security of tenure, participation in decision making on property management and control. There is a slight difference between the two settlements in terms of level of education attained. In Kilimani settlement 13.3% of women had no formal education, 46.7% had only primary education. 16.7% had secondary education and 23.3% attained the tertiary level (i.e. college and university). In Mnazi Mmoja settlement, 20% of women had no formal education, 53.3% had only primary education, 13.3% had secondary education and 13.4% had tertiary education.

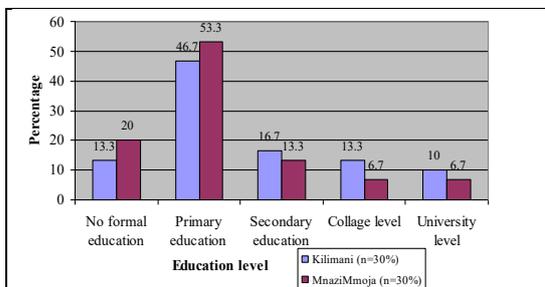


Fig 1: Level of education of the respondents

Table 4: Property ownership with respect to educational level of respondent

Level of Education	Property ownership		
	Own property (%)	Do not own property (%)	Total
No formal education	4 (6.7)	6 (10)	10 (16.7)
Primary education	23 (38.3)	7 (11.7)	30 (50)
Secondary Education	5 (8.3)	4 (6.7)	9 (15.0)
College level	5 (8.3)	1 (1.7)	6 (10.0)
University level	5 (8.3)	0 (0.0)	5 (8.3)
Total	42 (70.0)	18 (30.0)	60 (100)

Chi-Square value = 8.466, P = 0.076

It is true that the more women get access to education the more they become aware of their rights and build confidence in demanding for and control over resources. Education and awareness among women and community at large plays a significance role on women’s resource ownership. However, chi-square test in Table 4 above shows that education level has no significant association with women property ownership where $\chi^2=8.466$, $P = 0.076$. Although public awareness on resource ownership seems to have significant influence on women’s property rights other factors

like religious believes, custom and norms and taboo seems to impede women’s right to own properties. Sunde (1997:92) revealed that, gender-equitable land reform requires the establishment of structures of governance and local institutions which further promote women’s active participation in decision-making and structures of management and challenging long-standing institutional power relations.

3.3. Occupation of Respondents

Hennessy (2007) asserts that, women who have determined job or occupation and having social capital support play a decisive role for determining their rights on one hand, and on the other hand play a vital role to support their family and community at larger. Results with respects to occupation of women are presented in Figure 2. In both settlements, the largest proportions of women are self-employed in the informal sector. For instance at Kilimani mtaa about 53.7% of respodents engaged in either trading or casual employment while Mnazimmoja 66.7% of respondents in

the same. Formal employment in private sector comprised 20% at Kilimani, and 13.3% at Mnazi Mmoja respectively. Formal employment in public sectors comprised 13.3% at Kilimani and 10% at Mnazi Mmoja. About 13.3% and 10% of the respondents at study areas are housewives. Findings show that women employed in public and private sectors are more confident when demanding for property rights than those engaged in informal sector. Yngstrom (2010) and Hennessy (2007) argued that, when women have any assets at hand, have confidence to determine and demands for their rights.

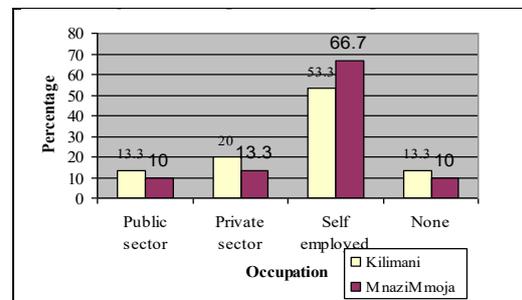


Figure 2: Occupation of the respondents

However, like the case of education level when property ownership was cross tabulated with occupation of the respondent shows that there is no direct association between occupation of respondents and property ownership as

this seems to be affected by same factors such as religious believes, custom and norms and taboo (Table 5).

Table 5: Security of tenure with respect to occupation level

Occupation	Property ownership		
	Yes (%)	No (%)	Total
Public Sector	7 (11.7)	0 (0.0)	7 (11.7)
Private Sector	9 (15)	1 (1.7)	10 (16.7)
Self employed	22 (36.7)	14 (23.3)	36 (60.0)
None	4 (6.7)	3 (5.0)	7 (11.7)
Total	42 (70.0)	18 (30.0)	60 (100.0)

Chi-Square value = 6.810, P = 0.078

3.4 Modes of Land Acquisition

The mode of land acquisition as presented in Figure 3 indicates that, buying land was the major form of land acquisition. Buying and inheriting land is observed as the common means of land acquisition in the two settlements as compared to other modes. For instance, at Kilimani settlement about 20% of women have bought land and 26.7% in Mnazi Mmoja. However, land in many African societies is inherited by men and not by women thus affect negatively their ownership right (Nzioki, 2002; Mutangadura, 2004). Other means of acquiring land include; given by friends and relatives and

government allocation even though the later involves too long bureaucratic procedures that impedes women’s rights to own land as they are also overloaded with domestic chores (Francis, 2011).

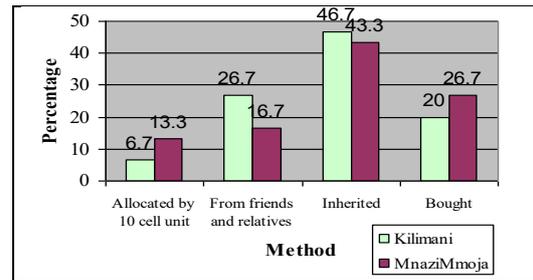


Figure 3: Modes of land acquisition

3.5 Participation of Women in the Process of Formalizing Property Rights

Participation of the local community creates sense of ownership of property or project carried out within their areas of jurisdiction. Kinyashi, (2006) there are seven levels of participation, i. e consultative, information giving, interactive participation mentioning but a few, interactive participation increases sense of ownership as beneficiaries are involved to set priorities with regard to the common good to solve societal problems. In addition, it creates awareness about things that could hardly have been

known to them including but not limited to the issue of property rights among the marginalized members of the community. This study also assessed participation of the respondents in the whole process of formalizing informal settlement where 63% in Kilimani and 67% in MnaziMoja declined to have been participated rather they were merely involved in the form of consultation as indicated in the Figure 4. This is contrary to views under UN-Habitat (2000) that, full participation of all citizens, both men and women in development activities, is the only best way of bringing about gender equity and equality in resource ownership.

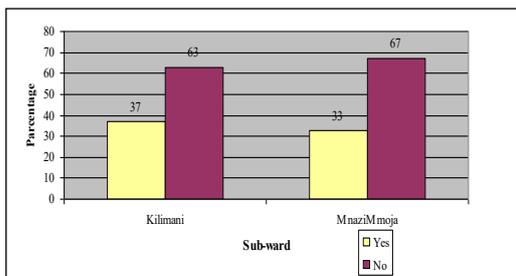


Figure 4: Participation of women in the process of formalization of property

A. “I heard from my ‘Mtaa’ leader that I’m supposed to register my house and everything surrounding it in order to be recognized by the government and use

the property as collateral, but no meeting was convened at ‘Mtaa’ level to inform us and know what was taking place. On the other hand Municipal council representatives and some members in the Ministry of Lands asked me some questions related to my house. In short I did not participate fully in this process”.

B. Responding to the same issue, B said, “I was a leader and was involved in the execution of the project but, if you ask me about the essence of the project I cannot tell. I think more clarification is needed to let majority of us understand and own the project”.

C. “I participated from the beginning of this project to the end as “Mjumbe” but in reality this exercises needs more clarification in order to empower poor men and women on property ownership” she further argued that women do not get their rights due to inadequate knowledge from both men and women so more initiative on women rights is needed in any project by involving both men and women fully”.

In view of this, participation of women in the process of formalizing property rights was reported as follows:

3.6 Security of Tenure

Security of tenure is one of the objectives of property formalization in unplanned settlements. Women's security of tenure depends on the source of property and social relationships exist within the family. For the case of inherited property, members have the right to register their names regardless of their sex and number. However, the registration form for residential license had limited space for family member i.e. only three members. This denies chance for more names to appear in the registration form for the case of properties inherited by more than three family members. This weakness exacerbated by the fact that women use to dissociate from their birth family and strongly associate with their husbands family. According to Agarwal (2009), majority leaves the three chances in the registration form for their brothers to complete, hence denying their rights to inherit their

family properties. House/land owned under polygamy, the husband has powers to hand over to any of his wives or sons. The study observes that members whose names do not appear in the residential licenses are not sure of their rights to security of tenure. Here are the arguments given during Focus Group Discussion:

A. Polygamy "I'm not sure if am secured as a woman as my name did not appear in the license document and my husband has three wives. I don't know who will be given the residential license at the end of his life".

B. Couple

"I am a woman and this property I own together with my husband but the property was registered in his name, therefore I'm not sure if I'm secured".

C. Joint ownership" I own this land with my brothers jointly because we have inherited from our father, so I'm not worried because there is evidence at 'mtaa' office, Municipal council that this property is jointly owned".

Findings with respects to security of tenure are exposed in Table 6. In both settlements, the largest proportions of women are not secured for example 48% of married respondent, 31% widows were not sure of their security. While 86% of single women and 67% divorced are guaranteed of their security.

Table 6: Security of tenure in relation to marital status

Status of security of the respondents	Marital status				Total
	single	married	widower	divorced	
Unsecured	14	48	31	0	35
Uncertain	0	26	19	33	22
Secured	86	26	50	67	43
Total	100	100	100	100	100

Chi-square=12.82, P=0.046

The study reveals that, with all effort and intention of the project to enhance security of tenure and improve the economic welfare of the majority of residents found in informal settlement, still women are uncertain of security of tenure or property rights especially married one. Apart from that, the Chi-square test shows that there is variation on the perception of security of tenure in relation to marital status, where higher proportion of married women was observed not sure of security of tenure in comparison to single marital

status.

4. Conclusions and Recommendations

Inadequate involvement of grass root members both men and women in planning and implementation of projects e.g. settlement upgrading project in their local settlements had a significant role in influencing negatively sense of ownership as well as security of tenure to majority of women. It is evident that not only women but also most of the property owners are not aware of the project as information dissemination was partially done. This has also influenced women’s security of tenure despite the intention of the project that among others was to enhance security of tenure and ownership rights. This paper, therefore, recommends that in any project, full participation of the community members should be centered and awareness created to enable local community both men and women understand clearly the rights of women in property ownership.

References

- Adams, M. (1995). *Land Reforms: New Seeds on old Ground*. Copyright: Overseas,Development Institute. London. <http://www.odi.org.uk/resource/s/specialist/natural-resource-perspectives/6-land-reform.pdf>. Viewed 14 September 2009.
- Agarwal, B. (2009). *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*. *Asian Criminology* (2009) 4:189–192. Cited on 14th December 2014. <<http://libgen.org/scimag/index.php?s=women+and+property+rights>>
- Allendorf, K. (2007). Do Women's Land Rights Promote Empowerment and Child Health in Nepal? *World Development*. Vol 35 (11) 1975-1988.
- CIUP. (2004). *Community Infrastructure Upgrading Program in Dar es Salaam, Tanzania*. Volume iv-1
- Crowley, E. (1999). *Women's right to land and natural resources: Some implications for a human rights-based approach*. FAO Rural Development Division, FAO.
- De Soto, H. (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*, New York: Basic Books
- FAO. (2012). FAO policy on gender equality: Attaining Food Security Goals in Agriculture and Rural Development [http://www.fao.org/fileadmin/templates/gender/docs/FAO_FinalGender_Policy_2012.pdf] sited on 9th June 2015.
- Francis, S. H. (2011). *Women Access to Land in Formal and Informal Settlements: Challenges and Opportunities. A case of Vwawa and Tunduma Town*. LAMBAT, Germany.
- Hennessy, K. D. (2007). *Work-family Balance: An exploration of Conflict and Enrichment for Women in a traditional occupation*. UMI, United States.

- Kafumbe, A. L. (2009). Women's Rights to Property in Marriage, Divorce, and Widowhood in Uganda: The Problematic Aspects. *Hum Rights Rev* (2010) 11:199–221. Cited on 14th December 2014. <<http://libgen.org/scimag/index.php?s=women+and+property+rights>>
- Kameri-Mbote, P. (2006). Women, Land Rights and the Environment: The Kenyan experience. *Ecological Justice, Rights and Development*.
- Kinyashi, G. (2006). Towards Genuine Participation for the Poor: Critical analysis of Village Travel and Transport Project (VTTP) Morogoro. Tanzania Eldis Document Store, IDS UK.
- Midheme, E. (2007). State Vs Community-led land Tenure Regularisation in Tanzania: The case of Dar es Salaam City. Unpublished MSc thesis. ITC, The Netherlands.
- Mutangadura, B. (2004). United Nations Economic Commission for Africa-Southern Africa, Unpublished report.
- Nzioki, A. (2002). *Towards Women's Equal Rights to land in the Eastern Africa Sub-Region*. Eastern African Sub-Regional Support Initiative for the Advancement of Women, Kampala.
- Nzioki, A. (2006). Land Policies in Sub-Saharan Africa. Centre for Land, Economy and Rights of Women, With Support from Sida-Resource Centre for Rural Development (RRD), Nairobi.
- Ramadhani, S. H. (2007). Effect of Tenure Regularization Programme on Building Investment in Manzese Ward in Dar es Salaam, Tanzania. Unpublished MSc thesis. ITC, the Netherlands.
- Smith, R. E. (2003). *Land Tenure Reform in Africa: A shift to the defensive*. *Progress in Development Studies*, 3:210-222.
- Sunde, J. (1997). Who Benefits? The Gendered Transfer of Development Benefits within

- the Southern Cape Land Reform Pilot Scheme. Stellenbosch: Centre for Rural Legal Studies.
- Tibaijuka, A.K. (2004). *Security of Tenure in Urban Africa: Where are we, and where do we go from here?*The Royal African Society, Natural Resources Institute (IIED) UN-HABITAT.
www.unchsh.org/downloads/docs/1216_23476_081104.pdf
- UN-Habitat. (2000). *Capacity Building for Urban Management: Learning from Recent Experiences* Vol. 24. Nairobi, Kenya.
- United Republic of Tanzania. (1999). *The Land Act No. 4 of 1999*. Government Printer, Dar es Salaam.
- United Republic of Tanzania. (1995). *The National Land Policy*. Government Printer, Dar es Salaam.
- Yngstrom, I. (2010). *Women, Wives and Land Rights in Africa: Situating Gender Beyond the Household in the Debate Over Land Policy and Changing Tenure Systems*. Oxford *Development Studies* 30 (1) 21-40.