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**Thesis**

**The Nature of Resistance and Conflicts on Compulsory Land  
Acquisition Process in Tanzania**

The Case of Expansion of Julius Nyerere International Airport project at Kipawa  
area in Dar es Salaam

Specialization: **Land Development Strategies**

Name: **Geofrey Mugisha Martin**

Tanzania

Supervisor: **Saskia Ruijsink., MSc (IHS)**

UMD 6



# **MASTER'S PROGRAMME IN URBAN MANAGEMENT AND DEVELOPMENT**

**(October 2009 – September 2010)**

## **THESIS**

### **THE NATURE OF RESISTANCE AND CONFLICTS ON COMPULSORY LAND ACQUISITION PROCESS IN TANZANIA**

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## Summary

Compulsory land acquisition is one of the most challenging questions in land management. It is undesired by the land owners, as they have to be dispossessed without their will. The issue of compensation payable in respect to the acquisition is also alarming. Although several measures have been used by acquiring authority to improve the compensation package affected land owners are still dissatisfied. In fact land acquisition has raised a number of criticisms and conflict from the land owners or occupiers against the acquiring authority.

The objective of research is to identify appropriate compulsory land acquisition solutions in resolving conflict between the acquiring authorities and land owners/occupiers. This work explores the land acquisition practice in Tanzania, with special focus on the Julius Nyerere International Airport expansion project at Kipawa area. The selection of this project as the case study is due to the strong conflict against land acquisition that has prevailed for over ten years. This attracted the researcher to study and to have insight knowledge into what were the factors for the conflict.

The research examines the stages of the compulsory land acquisition process. It is structured around a theoretical model (based on guidelines of FAO, 2008) that explains the acquisition process by dividing it into seven steps. The model also gives guidelines on how those steps should be implemented for successful compulsory land acquisition implementation. The seven steps are: Planning, Publicity and notification, Valuation and submission of claims, Payment of compensation, Possession, Appeals and Restitution

The research assesses the applicability of the theoretical model together with the perceptions of affected land owners and the public sectors who acquires land. However, the guidelines provided by the FAO are general and have a Rural and Peri urban focus; they have been modified to suit in the urban focus where this research is based.

The research is exploratory which seek to explore which factors contribute to conflict in the seven steps of compulsory land acquisition process. The data was collected through semi- structures and structures questionnaires where by focus group discussion, interviews with the affected landowners, government officials, experts, NGOs and local leaders were done. The data collected were analysed though qualitative and quantitative.

The results show that the major factor that influenced the conflict is poor planning of the project which resulted in the delay in payment of compensation and also delayed the start of the project. This was due to poor estimated budget and lack of clear time framework. This shows that the government did not prepare well for the project. This verifies that the problem originated from the first step of the compulsory land acquisition. However, affected land owners perceive the seven steps to be good but they argue that proper implementation is needed to improve the process and this is through participation. Therefore, the research recommends various strategies that can be implemented to minimize conflict in compulsory land acquisition process. The recommended strategies are; Proper planning of the compulsory land acquisition projects, clear laws and regulations governing land

acquisition process, capacity building on legal framework for the affected land owners, transparency in valuation exercise, fair compensation sum and effective affected land owners participation in the stages of compulsory land acquisition process.

Finally, the findings from this thesis indicate that further research should be carried out to assess how the seven steps of land acquisition process complies with the legal framework pertaining to compulsory land acquisition in Tanzania. Further research should also probe how laws and regulations could incorporate the rights of tenants and other vulnerable groups that may have a direct or indirect right on the subject land so that they may get some assistance during relocation or resettlement.

**Key words: Compulsory land acquisition, Acquisitor and Affected land owners**

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I humbly confess that all errors of omission, commission or miss interpretations are my responsibility and should not be associated with any one acknowledged or not acknowledged in this work.

## **Abbreviations**

<b>ADB</b>	Asian Development Bank
<b>CBOs</b>	Community Based Organizations
<b>FAO</b>	Food and Agriculture Organization
<b>FGD</b>	Focus Group Discussion
<b>TAA</b>	Tanzania Airport Authority
<b>TSH</b>	Tanzania Shilling
<b>IHS</b>	Institute for Housing and urban Development studies
<b>IHRB</b>	Institute for Human Rights and Business
<b>IVS</b>	International Valuation Standards
<b>JNIA</b>	Julius Nyerere International Airport
<b>KTH</b>	Kungliga Tekniska Hogskolan (Sweden)
<b>MLHSD</b>	Ministry of Lands, Housing and Human Settlements Development
<b>NCC</b>	National Construction Council
<b>NGOs</b>	Non Governmental Organization
<b>UN-HABITAT</b>	United Nations Human Settlements Programme.
<b>URT</b>	United Republic of Tanzania
<b>WCD</b>	World Commission of Dams
<b>WEO</b>	Ward Executive Officer
<b>WDC</b>	Ward Development Committee

## **Conversions**

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1 Euro = Tsh 1930/-

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# CHAPTER ONE

## Introduction and Background to the Problem

### 1.0 General Introduction

The compulsory acquisition of land has always been a delicate issue and increasingly so nowadays in the context of rapid growth and changes in land use. Governments are under increasing pressure to deliver public services in the face of an already high demand for land (FAO, 2008).

Compulsory acquisition or expropriation is given synonymous names in different countries; these include condemnation, compulsory purchase, eminent domain or takings (IHS, 2010). These are different names for one and the same legal institution “that which allows states to acquire property against the will of its owner in order to fulfil some purpose of general interest” (Azuela and Herrera, 2009). According to Durand-Lasserve (2006) as cited in the IHS report, (2010), ‘compulsory acquisition’ refers to a government decision, whereas ‘expropriation’ is the result of this decision. In case of expropriation, compensation is paid to landowners only, not to holders of secondary rights (Kironde, 2009; IHS, 2010)

Compulsory acquisition of land (property) is a common practice in most countries where the state deems the acquisition to be beneficial to the general public. This is important for the realization of economic and social rights through the establishment of public utilities, schools, hospitals and particularly transport infrastructure which would not be possible without compulsory purchase of private land which sometimes must be executed against the will of the owners (Langford and Halim, 2008:33). Under such circumstances, the state is normally empowered compulsory acquisition of land through enacted legislations. The nature of these powers and the ways in which they are used are invariably sensitive, and their use has wide implications including from the perspective of international agreements on human rights and their national expressions (FAO, 2008). In principle, the persons who are affected by compulsory acquisition i.e. those who lose their land (property) in the process, are entitled to be fairly and adequately compensated for their loss<sup>1</sup>. In Tanzania the Land Acquisition Act 1967 empowers the President to acquire any land for public or good cause. Some other government bodies are empowered to acquire land through compulsory purchase in the course of discharging their key functions, including those engaging in provision of electricity, gas, water and transport (Kongera and Mpogole, 2008). This power is to make sure that the land for accommodating urban activities is available.

However, compulsory land acquisition in Tanzania for urban growth and for various infrastructure developments has led to severe conflicts and resistance from the land owners or occupiers who do not want their land to be acquired. In fact, it is only in rare cases where land has been acquired without conflicts between the acquiring authority and land owners or occupiers. This situation of conflicts hinders urban growth due to the delay of the intended projects implementation resulting from appeals imposed by the landowners to court against compulsory

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<sup>1</sup> Loss including the land, any improvements thereon and for any inconveniences or disturbances they face as a result of the acquisition.

land acquisition exercises. Therefore the projects cannot be completed on time (Simbolon, 1995). This retards development both for the government and for land owners or occupiers who in most cases cannot continue with different activities within the area and cannot use properties such as their building as the collateral to secure the loans. This leads to deterioration of the properties and assets, poor maintenance of services such as roads, water, and electricity, drainage and waste dumping sites. These have both social and economic impacts on the government and on the land owners or occupiers.

Therefore, attention to the procedures of compulsory acquisition process by following proper steps is critical if the government's exercise of compulsory land acquisition is to be efficient, fair and legitimate (Novell, 2008)

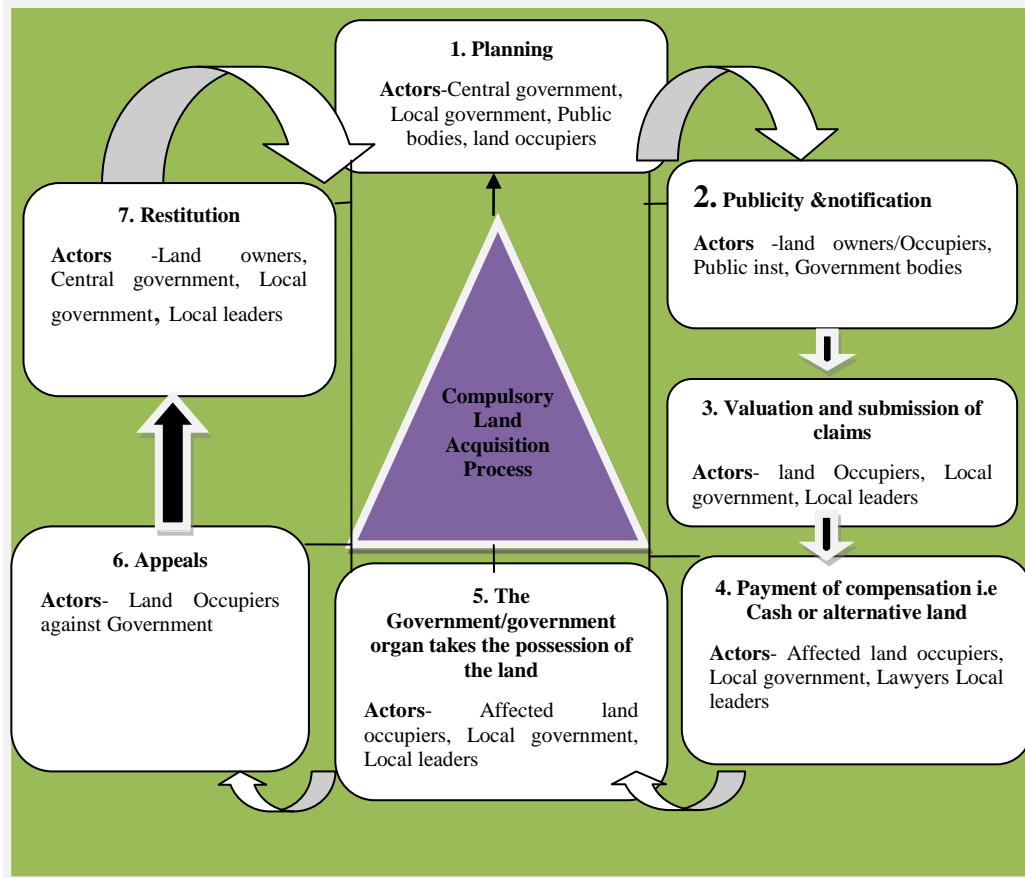
### **1.1 Background to the Problem**

In Tanzania urban growth is witnessed in various towns, townships and cities although the authorities concerned have not planned for such growth. This urban growth accelerates the need of more land for different infrastructure development, for instance land for the construction of public utilities such as water, sewage disposals, electricity, reservoirs or dams and gas. Other government facilities requiring land include communication infrastructures such as telephones lines, irrigation works and drainage systems; availability of land for the construction of public buildings such as schools, hospitals, public library and other public buildings and transportation works such as expanding roads, ports and airports.

“Unavailability of enough land to accommodate the required infrastructures as the result of urban growth becomes most of the fundamental challenges which necessitate the government to use compulsory land acquisition power” (Kombe, 2007:3). Compulsory acquisition of land in most cases is marked by confrontation between the acquiring authority and land occupiers who are not ready to allow the government to exercise compulsory acquisition power over the intended land, despite government efforts to pay compensation or to give land owners alternative. This situation of confrontation between the acquiring authority and land occupiers verify that there is a problem in compulsory land acquisition process.

Kombe, (2007) identified key processes and steps which should be followed for a well and designed compulsory land acquisition process for the successfully completion of a development project. These key steps have been modified to fit with the steps that are in the Food and Agriculture Organization (FAO) guideline policy of (2008). These key process and steps are planning, publicity, valuation and submission of claims, payment of compensation, possession, appeals and restitution (summarized in figure 1 below).

**Figure 1: Steps of Compulsory Land acquisition Process**



**SOURCE: Adapted from Kombe (2007)**

## 1.2 Statement of the Problem

Strong resistance and conflicts between land owners and the acquiring authority characterize compulsory land acquisition process for urban development in Tanzania. Kironde (2009) points out that in Tanzania people are dissatisfied with expropriation. Although the compensation package has improved with the inclusion of the value of the land, transport accommodation and disturbance allowance in the new land Act number 4 of 1999, yet still there are conflicts. Similarly, Komu (2002) points that in Tanzania the statistics show that between 70-80% complains arising from compulsory land acquisition is on compensation. Previous research carried out for example Wanzala et al (2007) as cited in Kironde (2009:21) has found that 80% of the affected persons at Kurasini area<sup>2</sup> were dissatisfied with the expropriation exercise, as opposed to 20% who were satisfied. This implies that there is a problem: either within the compulsory land acquisition process or somewhere else.

The main problem and the motivation of this study is an increase in resistance and conflict in the compulsory land acquisition process in Tanzania. This resistance and conflict affects government development programmes for public

<sup>2</sup> The area was expropriated by the government for the expansion of Dar es Salaam port and people were required to move.

infrastructure investments due to the delay of the intended projects. It also creates socio-economic problems for land owners or occupiers. This study aims to understand where the root sources of conflicts concentrate. The main focus is on the compulsory land acquisition steps process in order to find whether the problems are within the process or somewhere else. In closing, this research comes up with alternative strategies on how to improve compulsory land acquisition process in order to minimize/reduce the conflict.

### 1.3 Research Objectives

The study objectives are to;

- (i) Identify appropriate compulsory land acquisition solution in resolving conflict between the acquiring authorities and land owners/occupiers.
- (ii) Examine the status and policy documents governing compulsory land acquisition and the awarding of compensation;
- (iii) Understand the reason(s) why compulsory land acquisition fails to be implemented more successfully;
- (iv) Carry out an assessment of the different perceptions and interpretations on the concept of compulsory acquisition by the key actors in the process;
- (v) Identify the underlying causes of conflict from planning to restitution stage of the compulsory land acquisition process, how the process can be improved and give some suggestions on how to improve it.
- (vi) Learned from cases/experiences from different countries in relation to compulsory land acquisition?

### 1.4 Research Question

The compulsory land acquisition process is described by seven steps that include planning, publicity, valuation and submission of claims, payment of compensation, possession, appeals and restitution. It is assumed that it is of particular importance that the government should follow these steps in order to successful exercise compulsory land acquisition process for development projects.

*The main research question of this study is: what are the factors that generate conflict in the compulsory land acquisition process between the government and the land owners, and what strategies can be applied to overcome this?* To answer the main question, there are some more detailed questions that can identify the problem of this research as follows:

- (i) What factors generate conflict in the seven steps of compulsory land acquisition process?
  - From the land owners' perspective?
  - From the government/public bodies' perspectives?
  - From third party perspectives?
- (ii) What are key actors' attitudes and perceptions in the steps and which step require special attention?
  - Are the government procedures accepted?
  - Does the government follow its own procedures?
- (iii) What strategies can be implemented to minimize conflict in compulsory land acquisition?

- (iv) What can be learned from cases/experience from different countries in relation to compulsory land acquisition?

### **1.5 Significance of the Study**

Since compulsory land acquisition has been a major area of conflicts between the land owners or occupiers and the acquiring authority, this study aims to be of particular importance to the Central Government, Local Authorities, Institutions, bodies and individuals involved in compulsory land acquisition.

- i. For the general public. The study will show the rights of every land owners or occupiers during compulsory land acquisition process.
- ii. For the Central government, institutional bodies and Local government the study evaluated the current compulsory land acquisition process for urban growth and it provides a suitable alternative for managing land acquisition process.
- iii. For urban Planners and policy makers, the study reveals the land acquisition problems in relation to urban growth.
- iv. For academicians the study provides important information on compulsory land acquisition and urban growth in Tanzania. It will also stimulate curiosity for further research in the subject matter both in Tanzania and other countries.

### **1.6 Rationale of the case Study**

In early March of 1997, the President of Tanzania on being satisfied with the purpose of the Julius Nyerere International Airport expansion project and as it is required by law, published a declaration in the Government Gazette about the intention to acquire land in Kipawa. Notice to the respective landowners was served by the Minister for Lands and Human Settlements to the District Land officer of Ilala Municipality who thereafter served the same to the respective landowners, in a process which took six weeks as specified under Section 7(i) of the Land Acquisition Act No 47 of 1967. However, from that time up to 2010 about thirteen years, the intended project has not been completely implemented due to long- time resistance and conflicts from the land owners or occupiers who were not ready to move despite the government's effort to pay compensation and provide alternative plots. Early in 2010, the final batch of land owners or occupiers who had not previously accepted the compensation amount were paid after a long period of conflict. This conflict not only affected whether the intended project could be implemented on time but also has an impact on the land owners or occupiers who were both socially and economically affected due to a long time of waiting for the compensation sum.

## **CHAPTER TWO**

### **Literature Review**

#### **2.0 Introduction**

This chapter provides a theoretical understanding and literature review on the compulsory land acquisition process. It focuses on the procedures and regulations pertaining to compulsory land acquisition and compensation processes. A detailed discussion of the land acquisition process in Tanzania is also provided. The first section sets the foundation for this research by looking at international perspectives on compulsory land acquisition process, including guidelines and principles pertaining to compulsory land acquisition. This is followed by a discussion of the theoretical understanding of the form and nature of conflict on the compulsory land acquisition process. On the third section, the role of parties (Actors) who are involved in the compulsory land acquisition process and their perceptions with regard to compulsory land acquisition is explored. The participation principle which is vital in the process is also described. Lastly, the conceptual framework is presented.

#### **2.1 General and Theoretical Concepts**

##### **2.1.1 Concept of Compulsory Land Acquisition**

Compulsory land acquisition is the power of the government to acquire property without the consent of the owners. Azuela and Herrera define compulsory land acquisition as: “that power which allows states to acquire property against the will of its owner in order to fulfil some purpose of general interest” (Azuela and Herrera, 2009: 337). Another major contributor to understanding on compulsorily land acquisition is Novell, (2008), who points out that compulsory land acquisition, is the power of the government to acquire land against the owners’ will but it is also the process by which that power is exercised. This means that the process by which compulsory land acquisition is exercised is of critical importance and requires examination.

##### **2.1.2 Justification for Compulsory Land Acquisition**

Justification for Compulsory land acquisition is based on economic, legal and social perspectives. The economic justification for compulsory purchase is the enhancement of efficiency in resource distribution (Ndjovu, 2003) and to prevent individuals from refusing to sell their property to the government at a reasonable price (Miceli and Segerson, 1999). Thus, the use of compulsory acquisition power is to avoid public property from being delayed as the results of property owners refusing to allow their land to be taken for public interest and also to reduce the government from paying necessary expense. But on the other side, if no public intervention or coercive collection power is used in the acquiring property for the gainers and compensating losses for the losers it would be legally difficult and economically to transact (Ndjovu, 2003). Thus the compulsory power should be used. Compulsory purchase has no justification for enriching one person at the expense of another. Socially, an individual’s loss as a result of compulsory land acquisition is justified by the gains that come from the proposed project. These gains flow to the society or the community of which the individual is a part. For instance, a road expansion project has advantage to both individuals (better access



to their homes and businesses) and to the society (a more effective transport network across the city).

### **2.1.3 The Concept of Compensation**

Compensation can be defined as the reparation of the loss or injury which must be paid in the case of one's land (property) being compulsorily acquired or damaged. Cernea (2000:31) defines compensation as the "damage substitution"; meaning that, compensation only returns to the displaced people something that was taken away from them. These losses to be compensated to the people who are negatively affected by the project<sup>3</sup> should include the land acquired for building and other improvements, the reduction in value of the land retained as the result of the acquisition, and any disturbance or other losses to the livelihoods of the land owners or occupants caused by the acquisition and dispossession of land (FAO, 2008). Asian Development Bank (1998) conceptualises compensation as a comparison between the situation "with" project and the situation "without" project. This implies that, affected communities should at least maintain the standard of living as high as before they were resettled. The Bank's policy emphasises that the economic and social base should be restored in compensation. Various livelihood losses should be compensated, including: - property and income, and transport should be offered to transfer and relocate victims and their properties and to assist people to rehabilitate and restore their lives (ADB, (1998), as cited in Mugabe (2009:11)). Furthermore, Mutamba considers that the costs and value of compensation should be equal to market cost and value plus transaction (Mutamba, 2009). In a statutory manner it is provided that what one receives is not less or more than what the government pays (Speedy, 1977).

Compensation therefore, implies a full and complete equivalent, usually monetary for the loss sustained by owners whose land has been taken or damaged (Searles 1974 as cited by Ndjovu, 2003)

## **2.2 The Nature of Conflict on Compulsory Land Acquisition**

A land conflict can be explained as a social situation where at least two parties claim property rights associated with a piece of land. That right could be rights to manage the land, to generate income from land, to exclude others from the land, to transfer the right, and the right to compensation for the loss of the right (Wehrmann, 2008). A land conflict can therefore be explained as a misuse, restriction or dispute over property right to land (Wehrmann, 2005). Land conflicts should not be ignored but should be properly dealt with in a constructive way. Resolving land conflicts can lead to changes in policy and implementation and therefore can be regarded as the engine of change. In most cases disputes in compulsory acquisition of the land are related to dissatisfaction with the compensation (Kironde, 2009; Kakulu, 2008). According to Moyo, (2003:6) other factors that influence conflict include: lack of agreement on the scale of acquiring land; source of scale and forms of compensation; the role of media in reporting; and political competition. In many case affected land occupiers decide to open up court cases against the process. Kironde (2009)'s elaboration for opening up cases is explained in Box 1(below).

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<sup>3</sup> These include those whose land is required by public project and those who would suffer other losses like nuisance pollution etc.

### Box 1: Cases opened up by land occupiers against the Government

#### **MBARALI EVACUEES DEMAND Tsh16bn/=( US \$ 11,428,570)= COMPENSATION**

Some 1600 residents of Mbarali District who were ordered to leave their respective areas to allow the expansion and demarcation of Ruaha National park have sued the government demanding over 16billion/=( \$10,536757) compensation. They filed the suit at the High Court's Land Division in Mbeya on 27<sup>th</sup> October 2008. This after the land occupiers had been paid some 6.5bn/=( \$ 4,642,857), a figure they considered too low. (*Sunday News*, 28<sup>th</sup> September, 2008, p.2)

It is however unlikely that the complainants will win the case. Besides its conclusion will take very long.

Elsewhere Mbeya villagers were reported to be pleading for compensation from the government after they were removed from their traditional area to pave way for a newly established game park. The villagers told a Parliamentary Committee on Parastatal accounts that they were removed from their traditional villages without any compensation (*This Day* 24<sup>th</sup> February 2009, p. 6) (Kironde,2009)

Source, Kironde, 2009

Conflicts regarding compulsory land acquisition are also the result of lack of knowledge with regards to the laws and regulations governing the compulsory land expropriation process. For example Kironde (2006) points that in Tanzania found that the majority of the affected land occupiers had no knowledge about the stipulated laws with respect to expropriation as shown in the following (Table 1).

Table 1: Level of knowledge in land laws, regulations and procedures

Policy/Legislation	How knowledgeable (Percentage) (N=200)		
	Know very well	Partly knowledgeable	Do not know at all
Land Policy	3.5	18.5	78.0
Land Act	3.0	14.5	82.5
Land Acquisition Act	3.0	7.5	89.5
Town Planning Ordinance	2.5	12.5	85.0

Source: Kironde, 2006.

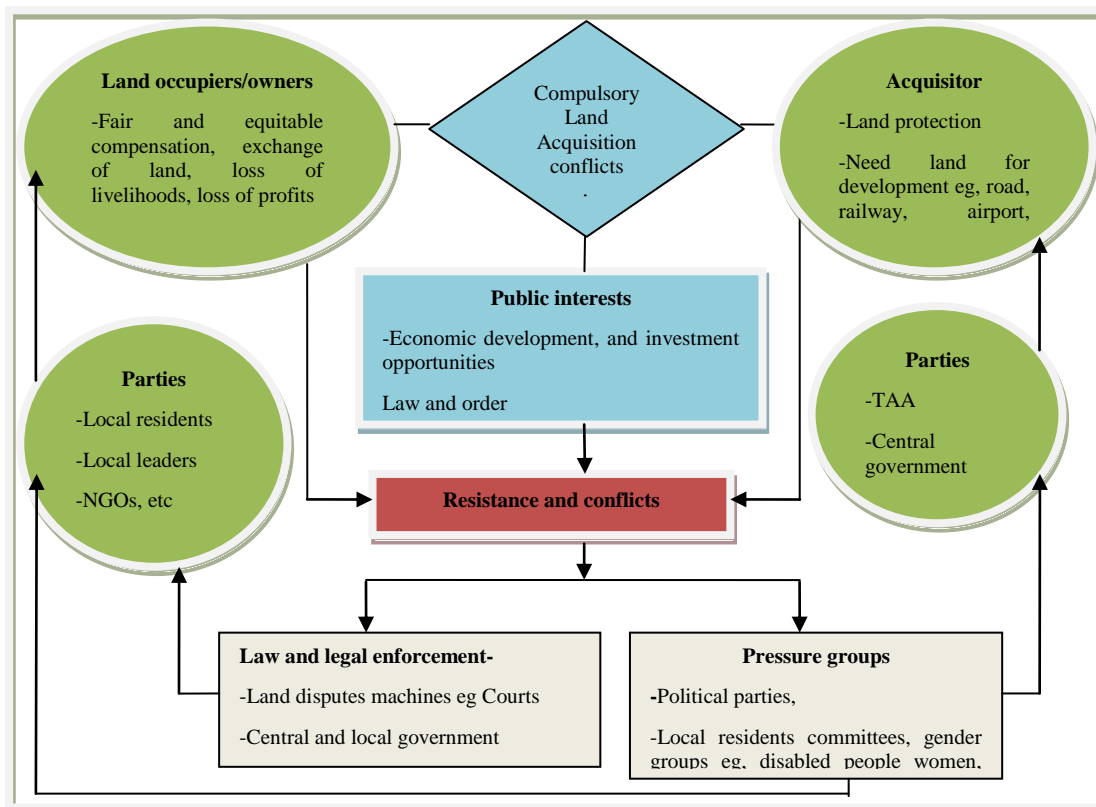
Lack of public participation in planning is another reason which can accelerate conflict in compulsory land acquisition process. This is due to confusion about the representation of landowners represented, or due to some landowners being represented at the last stage but not at the initial stages. For example Ballonzi (2007, as cited in Kironde (2009) found that landowners were not included in the pre-planning process of Kurasini area in Dar es Salaam during land acquisition for the expansion of the port project. In this case, the government just called a meeting to inform landowners of the government decision to re-plan the area and ask their cooperation. This approach again generated a lot of conflict between the government and the land occupiers.

#### **2.2.1 The role of parties (actors) and interests influencing land conflicts in compulsory acquisition process**

Different parties involved in the compulsory land acquisition process have a major role in influencing land conflicts. This is due to different perceptions and interests over a particular piece of land. The acquirer may have different motives like the

expanding the airport, ports, or constructing roads while the land owners or occupiers might have different objectives depending on their individual plans. Different motives among the two parties results in conflicts at the time of intervention Figure 2 provides a clear insight into how different actors influence conflicts in the compulsory land acquisition process.

**Figure 2: Parties (Actors) and interests influencing Conflict in Compulsory Land Acquisition**



**Source:** Adapted from Kombe, (2007)

The figure above shows how different parties have different motives in relation to land. In a situation that includes so many actors, any intervention should be handled with care.

### 2.2.2 Key actors perceptions on compulsory land acquisition steps

Actors' perceptions of the compulsory land acquisition steps are important in understanding how to overcome the problems of land conflicts. According to the FAO guidelines (2008), for the process to be successful and to minimize conflict, compulsory land acquisition process steps should be put into practice in a participatory manner. This will enable the exercise to be efficient, fair and legitimate. Actors in most cases have a negative perception of compulsory land acquisition and compensation and commonly believe that compensation is inadequate (Moyo, 2000). Thus, in order to deal with conflict in compulsory land acquisition it is important to understand key actors perceptions about what they think is the best way reduce or to minimize conflict in the entire situation.

### 2.3 Relevance of Participation in Compulsory Land Acquisition

Land is an important resource for the sustainability of the daily livelihood of human beings. This is because of its unique characteristics and it is the backbone of any national economy. Land also offers a sense of belonging to people, and the deepest feelings of nationalism and patriotism are rooted within the idea of land (IHRB, 2009:3). Thus any attempt to alter rights over land should be done with care and must make sure that any potentially affected party has the opportunity to participate.

Several authors explain the relevance of participation in compulsory land acquisition, for example the FAO guidelines (2008:18) suggest that assistance should be given for the land owners to be able to participate effectively in discussion and negotiations on valuation and compensation. Seppanen (2004) explains that participation with reference in Finland that it happens in different ways –for example points out that before the use of compulsory land acquisition power participation is used to assess the possibility of voluntary agreement and then the possibility of land consolidation and if all these options are not possible then expropriation. This is a one way of land owners participating in the process. In their research, Kongera and Mpogole (2008) pointed out that sustainable development of urban centres can be obtained through people-centered and stakeholder participation in planning in order to minimize conflict between the government and the people it intends to serve. Okumu (2004) also recommends that public participation in the compulsory land acquisition process is highly needed, as well as the amendment of the prevailing statutes to ensure they best serve the public interest and not the sentiments of a few political bigheads, prompt payment of compensation, and simplification of the procedures in order to settle grievances arising out as a result of compulsory land acquisition. Langford and Halim (2008) provide the need of effective participation that means; the process of participation in compulsory acquisition presumes that affected individuals and groups can easily access information, organize collectively make interventions effectively and should be made public. Moreover, Langford and Gordie, (2007) as cited in Langford and Halim, (2008:41) suggest that an expropriation process should include;

- i. A preliminary phase for independent assessment of the best means to engage with those affected.
- ii. A determination of whether there are existing and adequate structures for participation in the group
- iii. A decision on whether separate channels of participation are needed in order to ensure the voices of marginalized groups can be heard; and
- iv. A discussion on whether technical/ Non Governmental Organization/legal support is needed at the preliminary stage of negotiations.

It is therefore clear from (Langford and Halim 2008) this discussion that developing a human-right based approach to expropriation laws, guidelines and practices is essential but should be implemented in a way which includes and encourages participation.

## **2.4 Important Lessons/Experience from other Countries**

Different countries have different ways of exercising expropriation powers. According to Azuela and Herrera (2009:8) those countries can be divided into three groups namely: those with high economic growth rates in which strong states with a correspondingly weak rule of law, make extensive use of power of eminent domain; countries with weakened states (and economies) where the use of expropriations has decreased; and highly industrialised countries where despite public opposition to expropriation it is still used on a regular basis as part of urban policies.

### **2.4.1 Experience from Kenya**

In Kenya the state is empowered to acquire land for public purposes and should pay compensation. The principal statutes that regulate that power are the Kenyan Constitution, Land Acquisition Act of 1968 and the Water Act and Electricity Power Act. Section 6 of the 1968 Act among the other things empowers the Minister for lands to acquire land compulsorily after being satisfied that the acquisition is for the public benefit and that the affected people are entitled to be compensated for the loss. According to Syagga and Olima (1996:65), the practice of compensation for compulsory land acquisition is based on physical assets owned which include the market value of the land, any damage sustained, and any damage from loss of profits over the land and an additional 15 percent of the market value of land for disturbance.

Some sections within the status governing the land acquisition in Kenya have been amended several times, with the aim to improve land acquisition procedures. For example the Acquisition (Amendment) Act of 1990. A major amendment was the establishment of a Land Acquisition Tribunal, consisting of five members including an advocate, two valuers, and chairman to determine appeals against compensation awards. In case any person is not satisfied with the decision can appeal to the higher court.

The basis for the assessment of compensation value of land shall be the potential value of the land if it were sold in the open market by a willing seller. Where there is no market for that kind of property the replacement cost method can be used. However the land acquisition statutes in Kenya remain in specific and the valuer is left with a wide range of alternative valuation methods to choose from.

### **2.4.2 Experience from Finland**

In Finland when land is required to be used for public purpose projects such as accomplishment project for ports, airports, military areas, natural reserve and roads. The main statutes that govern land acquisition in Finland is the Expropriation Act no.603 of 1977. The statute explains various ways in which acquisition can be carried out. The ways used are voluntary purchase (i.e transaction or exchange), compulsory purchase and land consolidation.

Basically, the land acquisition process in Finland is carried out through a participatory approach. During the process of acquisition it is possible to look for results which satisfy an acquirer and at the same time produces little disadvantage to the original land owners. When the project leader starts the process, the first step is the possibility of voluntary agreement and then land

consolidation and only if all those options are not possible the expropriation procedures begin.

The acquirer prepares an indicative plan for the project and presents this to the land owners. The plan consists of new areas which will be needed for the project; a proposal for how disadvantages for land owners will be avoided or compensated; a time table; and a cost estimate. Various steps should be followed, including an initial meeting where all stakeholders are brought together. In the beginning of the meeting the land owners can first present their views of the present circumstances and can identify the solution they regard as the best solution for themselves. However, the main issues of the acquiring authority will be secured (This means that their view should not change the aim of the project). The next step is to consult land owners and acquirer about different implementation possibilities. If the compulsory purchase option is taken then the acquirer shall begin a separate expropriation process. In this case the acquirer orders a valuation for the land acquired to be carried out. The valuation for full compensation considers the following: compensation of the object; right of mortgage; compensation of disadvantages; and compensation of damages. The statute also provides a time limit of three years after the notice of the intention to acquire the land has been served. Compensation should be paid within that period unless there is an agreement to extend or paid into the court and where a notice ceases to have effect, compensation for any loss is payable.

### **2.4.3 The experience from Colombia**

According to IHS (2010), an intermediate approach was used during the construction of the Metrocable stations and lines in Colombia, whereby the government opted to negotiate relocations through calculating compensation based on a value assessment approach recommended by the Inter-American Development Bank. This approach involves calculating the amount needed by household to buy existing housing elsewhere. The programme included assisting the household to find a new location within the neighbourhood or elsewhere if preferred, and included paying for moving expenses. In Colombia this programme helped the affected people to remain in the equivalent condition as before relocation, while those that remained in the area improved their overall situation through the presence of new transportation links to the city. This intermediate approach reduced the resistance from the people who were affected by the process.

## **2.5 International Perspective on Compulsory Land Acquisition Process**

Various international agencies, individual researchers and academicians and Non Governmental Organizations have developed a discussion on how compulsory land acquisition and compensation process should be carried out. The contributions made are the corner stone for this research.

### **2.5.1 Steps of Compulsory Land Acquisition Process**

The FAO has developed guidelines on compulsory acquisition of land and Compensation which are published in the Land Tenure Studies (FAO, 2008: 16), and provide seven main steps which are fundamental in compulsory land acquisition process as shown in Table 2 below. These guidelines provide us an insight and ideas on what we can look for when examining a Compulsory land

acquisition process. The guidelines also provide underlying compulsory land acquisition principles for successfully applying the above described fundamental process. These guidelines are based on equity and equivalence and are explained in Annex 2.i (**Refer Annex 2.i**).

**Table 2: Steps in Compulsory Land Acquisition Process**

No	Procedures/Steps	Explanation
1	<b>Planning:</b>	Determining different land options for meeting the public need in participatory fashion. The exact location and size of the land to be acquired is identified. Good faith attempts to acquire the necessary land through voluntary sale and purchase and this should be done before using the power of compulsory acquisition. The communities should establish clear definitions of which affected land owners or occupants will be Relevant data is collected and the impact of the project is assessed with the participation of the affected people.
2.	<b>Publicity</b>	Notice is published to inform owners and occupants in the designed area that the government intends to acquire their lands. People are requested to submit claims for compensation for land to be acquired. The notice describes the purpose and process including important deadlines and the procedural rights of people including information on where to get help and should be published in local newspapers, radio and in other ways appropriate to local population and should be in language which is clearly known to the people. Public meetings provides with people with an opportunity to learn more about project and to express their opinion and need for compensation.
3	<b>Valuation and submission of claims</b>	Equivalent compensation for the land to be acquired is determined at the stated date of valuation and should be fair. People should be compensated in such a way that they are not worse off than they were before compulsory acquisition process stated. Regulation should be enough to provide clear valuation guidelines, but flexible enough to allow room to determine equivalent compensation in all situation. Valuation should be based on de facto and de jure rights. If the market value reflects the basis of compensation, laws must clearly state how market value will be assessed and determined. The acquiring groups should take steps to ensure that there are sufficient number of independent valuers and advocates to help people to assess their compensation claims and should receive full payment of the agreed compensation sums in a timely manner. Owners and occupants submit their claims and offer what it believes to be appropriate compensation. Negotiation may follow.
4.	<b>Payment of compensation</b>	The government pays people for their land or resettles them on alternative land.
5.	<b>Possession</b>	The government takes ownership and physical possession of the land for the intended purpose. Possession should not be taken unless at least a substantial per centum of the agreed upon compensation offer has been paid. If the remainder is unpaid, interest on the remainder should accrue from the date of possession. People should be given time to vacate while respecting the project schedule.

6.	<b>Appeals.</b>	Owners or occupants are given the chance to contest the compulsory acquisition including the decision to acquire the land, the process by which the land was acquired and amount of compensation they were offered. Hearing should take place at time and place and in language convenient to people. Government provides assistance to people to enable them to use the appeal. Procedures to protect theirs, the court or reviewing body should be adjudicating matter in a public and transparent manner. Procedures should be conducted at low or no cost to people.
7	<b>Restitution</b>	Opportunity for the restitution of land if the purpose for which the land was used is no longer relevant.

**SOURCE: FAO guidelines (2008)**

This compulsory land acquisition process should be carried out with care. Failure to do so could lead to the high costs to the society as the whole due to judicial decisions that might require the government to pay exorbitant sums to landowners (Azuela, and Herrera, 2009).

### **2.5.2 Entitlement to Compensation in Compulsory Purchase**

According to Michelman as quoted by Ndjovu (2003), during compensation processes a clear statement of the purpose of compensation practice is desirable. The aim is to show in precisely the variables which determine entitlement to compensation. He further identifies four factors which determine the compensability of a compulsory land acquisition exercise.

- (i) Whether the public or its agents have physically used or occupied something belonging to the claimant.
- (ii) The size of harm sustained by the claimant or the degree to which one's affected property has been devalued.
- (iii) Whether the claimant's loss is not outweighed by the public's associated gain.
- (iv) Whether the claimant has sustained any loss apart from restrictions of his liberty to conduct some activity considered harmful to other people.

However, Durand-Lasserve (2006) as cited in the IHS (2010) report notes that the issue of compensation is itself linked with the market value of the titles/evidence provided, which determines the ability of poor households to resist market pressures and negotiate fair compensation. A series of stakeholders are usually involved in the negotiation procedures, including government institutions involved in land management and administration, court and tribunals and sometimes NGOs and CBOs.

The International Valuation Standards (IVS) on the other hand provide the critical point concerning expropriation based on the issue of compensation. These Standards ask: Will the valuation methods and manners together with the status lead to full and just compensation? The rules for compensation depend on rules and regulation of each country. The underlying idea is that the financial and economic position of the property owners shall remain the same despite



expropriation (Kabro, 2002). No one should become poor or rich as the result of the exercise. However, contrary to more recent literature, these Standards state that *only economic value will be compensated leaving the non economic values*<sup>4</sup>. The full compensation figure shall cover the market value of the property, the depreciation value of the retaining property (severance) as well as other damages and costs which might weaken the financial position of the affected property owner (Wialla 1966; Denyer-Green 1998). According to Davidson (1993) ‘fair and market value’ which are normally used in most compensation payments does not cover a number of items including; time lag between determining compensation and the time of resettlement; failure to account for non-priced environmental services, cultural assets, or the value of social assets access; and psychological costs of dislocation and consumer surplus.

In many places around the world, the registration of property rights is improperly documented and various licenses or the need for the licenses is poorly understood among the people. Compulsory acquisition in these situations results in people losing their belongings and even living necessities without being able to buy new ones. In most cases re-settlement areas are not supplied with necessities such as schools, health centres, water, electricity, nor a functioning land market (Ndjovu 2003; Olima and Syaga, 1996). In such situations monetary compensation becomes problematic to the affected land owners and therefore adaptable methods to the circumstances are required.

### **2.5.3 The Rights and Principles in Compulsory Purchase**

According to IHS report (2010:28) there are four dimensions that contribute to the concept of expropriation and which should be taken into consideration during the process. These are;

1. **Legality:** Expropriation has a legal basis, since it is an act that involves a unilateral decision. It requires a legal framework to establish a hierarchy of one entity related to another. This implies that a provision should be made that empowers the public entity to act. If the unilateral act is taken outside the legal provision then it is called ‘dispossession’. On any given land the land owner will be expropriated in case of taking, but informal occupants (if any) on land will be evicted. Land owners will be paid compensation but whether informal occupants receive compensation depends on the policy of the national government.
2. **Rights involved:** Expropriation takes a legal right from an individual by a legal means. This implies that if a legal right is taken outside a legal system then this is a dispossession. On the other hand the term expropriation cannot be used when the occupants does not have a right recognized by law, like occupants that do not have titles, or tenants. The latter points gives understandings to why evictions of occupants occur without a legal right to protect someone else that has such right causing expropriation and thus if that instruments was used a public purpose needs to be established and compensation should go to the legal owners of land

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<sup>4</sup> However, in the contemporary land acquisition and compensation exercise also non economic items should be taken in consideration as compensate able items.

and not to the occupants. In addition the public entity involved could be held responsible if it does so.

3. **Compensation:** If compensation needs to be given to the occupants then it needs a different argumentation and other legal instruments are called for rather than expropriation. Compensation for occupants without legal rights could be considered a subsidy.
4. **Purpose:** Expropriation can occur with or without an occupant's willingness. The justification for this is defined by the law and is of general or public nature, i.e. production of a public good that will directly impact or benefit the whole or part of the societies such as school or road, activities usually held under government tenure. Nevertheless, some legislation may justify expropriation for a purpose with an indirect impact in society, for example social housing or construction of industry in order to create jobs. These types of reasons create a more complicated debate than those that are more direct in nature.

Langford and Halim (2008: 40-42) provide a set of principles and approaches to develop laws, guidelines and process. These principles should also be taken into consideration in the expropriation and eviction process.

1. Land equality: Macro analysis need to be conducted to determine the extent to which expropriation is currently contributing to land equality or inequality.
2. Protection from forced eviction, a baseline protection from forced evictions is needed in order to ensure that unjust expropriations are less likely to occur. This protection should be included in expropriation legislation.
3. Displacement should be taken as last resort and evictions should occur only under certain circumstances. Public interest justification for expropriation should be explicitly proved and verified according to clearly defined criteria including not violating human rights.
4. Consideration of alternatives, a full and transparent process should be adopted to determine whether there are alternatives to the planned expropriation and eviction. The process should involve all stakeholders such as the affected peoples and the state in assessing various alternatives. If the parties cannot agree each other, there should be an independent review of the decision.
5. Customary and informal rights should be given sufficient attention.
6. Women's rights: expropriation may affect women in different ways from men. In most cases, their joint rights to family property may not be recognized in either formal or customary law. They may also access land resources differently from men and their loss of livelihood should be individually assessed.
7. Legal aid for the affected groups to participate effectively throughout the process. Affected groups should be given legal representation free of charge if they cannot afford the cost for a lawyer (see also UN-Habitat 2006 agenda 182(k)).

8. The last is resettlement, if compensation partially takes the form of resettlement, then it must include the right to alternative land or housing that is safe, secure, accessible, affordable and habitable. If land or space for housing is provided, then there should be strong consideration of access to livelihoods as well as basic services, education and health facilities.

Fernandes (2008), therefore suggests that the principle of compensation should be the replacement value which includes components for compensates: such as economic loss; social and psychological trauma caused by dislocation, psychological, cultural, and social preparation to deal with the new environment they get into; training for the jobs in the project, preparing the host community to receive them and replacing the human, environmental, and social infrastructure, cultural and other community support systems.. .

## **2.6 Land Acquisition in Tanzania**

Before colonization within Tanzania, local community leaders controlled occupation and use of land for the benefit of members of that community. In those communities laws and customs evolved which governed occupation and use of land for their benefit. In other words, the resultant land tenure was 'home grown', (Gondwe 1997, Riziki 2003).

Members of a particular tribe could have its unique system of land allocation. In most cases, it was the chief who allocated land to his members and for public use such as building the schools, areas for worships and roads. In rare cases, that chief could acquire it from the occupants. Once the land was allocated to the person, that person held the same and could apportion it to his family members. The land remained in the occupation of the family even after the death of the person who was allocated it by the chief in the first place.

The German and British acquired land from the indigenous people to satisfy their colonial motives, and brought compulsory land acquisition in Tanzania. This was mainly for economic motive and to less extent social and security purpose. The evolution of land acquisition in Tanzania is clearly shown in the **Annex 2.ii**

### **2.6.1 Laws and Regulations that governs Compulsory Land Acquisition**

In Tanzania various laws provide a clear understanding on how compensation should be paid to the people whose land is compulsory acquired by the state.

#### **a) The Constitution of the United Republic of Tanzania of 1977**

Article 24 (i) of the Constitution of the United Republic of Tanzania specifies that every person is entitled to own property, and has a right to the protection of his property held in accordance with the law. It is unlawful for any person to be deprived of his property for the purpose of nationalization or any other purpose without the authority of law which makes provision for fair and adequate compensation. The constitution is therefore in essence to the law of the land.

#### **b) The Land Acquisition Act No.47 of 1967**

The Land Acquisition Act, 1967 provides in part II that compulsory acquisition powers will be exercised in the public interest. According to section 7 of the Land Acquisition Act of 1967, occupiers of the selected land may be given a period

before yielding possession for example to harvest their crops. Nevertheless, people cannot be told to vacate land without first obtaining due compensation. The rights of landowners are only extinguished after due compensation.

However, there are some restrictions to compensation being paid out for the land that has been acquired. This is according to section 12(1) of the same Act which provides:

- (i) No compensation is paid in respect of vacant land (definitions of vacant land<sup>5</sup> in both rural and urban settings are given);
- (ii) The compensation to be paid shall be limited only to the unexhausted improvement<sup>6</sup> on the land or alternatively granting an alternative land.
- (iii) Where the development of any land acquired under this Act is inadequate, where such land is in an urban area or in a rural area, any compensation awarded shall be limited to the value of the unexhausted improvement of the land.

Section 14 of the Act provides general principles, theories and rules and guidelines governing compensation which the valuer should take into consideration in assessing compensation:

- (i) Take into account the value of the land at the time of publication of the notice for the acquisition and not otherwise;
- (ii) Betterment, injurious affection, and any loss or damage should be taken into account;
- (iii) Not to take into account any possible increase in the quality of the value of the land in future;
- (iv) If the acquiring authority entered into possession of the land before compensation is paid to the claimants, in addition to the compensation payable, an addition interest on the same at a rate of 6% per annum from the date of possession till the time the compensation is also be paid.

#### **c) The Town and Country Planning Ordinance Cap 378 of 1956**

Section 45 empower the President to acquire the land in a planned area for the purpose of securing its use and must ensure it is being developed in accordance to the planning scheme applicable to the area. Section 50 (1) provides that; compensation payable shall be taken to be the value of that land within the planning area plus the value of any development done within the planning area. Section 54 stipulates further the circumstances other than withholding of planning consent under which no compensation is paid. However, Cap 378 does not provide for the formula to find the value for various building affected.

#### **d) The National Land Policy of 1995**

The Policy statement under the National Land Policy states that; compensation for the land acquired in public interest will be based on the concept of Opportunity cost and that will include, market value of the real property, disturbance

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<sup>5</sup> Under the National land policy, 1995 and the Land legislations; both Acts No.4 and 5 of 1999 vacant land is paid compensation since exchange value in bare land has been recognised

<sup>6</sup> As defines in section 2 of the land act as anything or any quality permanently attached to the land directly resulting from the expenditure of capital or labour by an occupier or any person acting on his or her behalf.

allowance, loss of accommodation, transportation allowance, cost of acquiring the subject land, any other cost of incurred to the development of the subject land and compensation should be paid promptly and if not paid in time, interest rate will be charged. These principles provide the basis for provisions in Land Act No.4 and 5 of 1999.

**e) Land Act No. 4 and No. 5 of 1999**

Contrary to the Land Acquisition Act of 1967 which has restrictions on compensation for land acquired to the exhausted improvements, the two more recent Acts - namely Land Act and Village Land Act of 1999 - both advocate for the full fair and prompt compensation based on the market value of the property per Section 3(1)(g) in both Acts. The same Section stipulates that in assessing compensation, the following should be taken into account; market value<sup>7</sup> of the property, disturbance allowance, transport allowance, loss of profit or accommodation, cost of getting or acquiring the subject land and any other cost or capital expenditure which the outgoing owner had incurred till the time of intended acquisition at a market derived rate of interest. To facilitate the application of the provisions of section 3(1) (g) mentioned above, the Land (Assessment of value of land for compensation) Regulations, 2001 were made under section 179 of the Land Act of 1999 which elaborates on how Section 3(1) (g) is to be implemented. These Regulations are further discussed in **Annex 2. iii** .

**f) The Urban Planning Act, 2007**

This is the main urban use planning guide and it provides for specific regulations to address compensation. Section 60 provides that compensation payable shall be equal to the value of that land within the planning areas, plus the value of any development done with the planning consent by the landlord. Compensation will be as referred by the land act of 1999 and its regulations of 2001.

Section 65 elaborates on the factors to be undertaken into account in assessing compensation;

*There shall be taken into account any enhancement of the value of the land, or any other land under the same ownership, whether in the same planning area or not, by reason of any provision contained in any scheme or any work executed in accordance with a scheme.*

Section 66 states that, no compensation shall be made;

- (i) By reason only of the withholding of planning consent by the planning authority pursuant to the provisions of this Act.
- (ii) In respect of any development commenced after the material date unless such development was commenced pursuant to, in accordance with planning consent given in respect thereof.

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<sup>7</sup> Act No 4 of 1967 also provides that compensation shall be assessed based on the market value. However; the concept is contradicted in the method of assessment as provided by the Act. The new Act redresses the situation.

From the above discussion it can be observed that there are some conflicts within the Act. In this regard where there is a conflict, the provisions of the Land Act of 1999 would prevail<sup>8</sup>.

**g) Universal Declaration of Human Rights, 1948**

The Universal Declaration of Human Rights, 1948 under article 17 states that; "*Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property*". It further provides that it is a human right for anybody to be compensated when his/her property is acquired by the state for public purpose.

**2.6.2 Compulsory Land Acquisition Procedures in Tanzania**

Land in Tanzania is state owned and individuals have only users' right to that land. Land user/occupiers in urban areas are issued with a certificate of occupancy to legalize the ownership on state grants with different terms which may be 33, 66 or 99 years depending on the manner and the use of that land. In those areas which is considered due for development but no approved plan has yet been put in place, it is usual for the land users/occupiers to be given "*licenses*" to occupy the land. In rural areas the right is recognized through the customary system. According to Ndjovu (2003), acquisition of land using compulsory purchase in Tanzania is done through four stages, including planning and decision to acquire, legal preliminaries and getting the requisite statutory authority and serving the notices, field investigation and lastly concluding the transaction. All these activities involve a numbers of steps and actors as elaborated here below.

**a) Preliminary investigation and property identification**

A piece of land is identified by any party, public or private entity interested before application is sent to the relevant authorities/legal representatives of the President for the approval of an intended project. Here the subject land will be known.

**b) Public notification and participation**

Notification of the government intention to acquire that land is given to the public and all other interested parties through government gazette, written notice delivered by hand or mail, national publications, local newspapers, radio and television. The length of the notice shall not be less than six weeks from the date of publication of the notice is in accordance with section 8(3) of the Land acquisition Act, 1967. However, the President is given the mandate to shorten that period in case the land is urgently needed.

**c) Compensation assessment**

Assessment of the value of the land and unexhausted improvement, preparation of compensation schedule by the qualified valuer and the same shall be verified by the Government chief valuer. The assessment for compensations is done in accordance with section 3(1) paragraph (g) (i) to (vii) of the new Land Act, 1999.

**d) Paying compensation to the dispossessed owners.**

After the compensation schedule is verified and signed by the required authority; the next step is to pay compensation to the affected parties.

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<sup>8</sup> There is a conflict between section 66 (a) in the Urban Planning Act, 2007 and the Land Act of 1999 which is then the appropriate law of the purpose of compensation. In this context affected people should not lose due to the acts of the state withholding planning consent.

**e) Taking possession of the acquired property**

After paying compensation, the acquiring authority then takes possession of the acquired land and property. It is the responsibility of the acquiring authority to manage acquisition, oversee demolition works, reallocation of the displaced people and give a grace period for the harvesting of the crops in the affected areas.

**f) Survey and transfer of property Right.**

After paying of compensation and acquisition, the titles of the acquired plots are automatically surrendered to the state and the new owners take them over. If the properties have to be partitioned then the process of fresh subdivision (surveying) is carried out, as well as issuance of certificate of occupancy and title registration.

**g) Lodging and hearing of appeals**

The owner of the land rights is allowed to appeal to the court of law if he or she is not satisfied with the acquisition of his/her interest or with the amount of compensation given. Similarly, a public body or the acquiring authorities are also given an opportunity to appeal against compensation which it finds excessive. Dissatisfied individuals have a mandate to challenge the compulsory purchase process, orders and notices in the court of law in accordance to section 13(1) of the Land acquisition Act of 1967. This section provides the procedures to be followed in case of a dispute or disagreement in respect of the amount of compensation, the right to acquire the land and/or the identity of person entitled to compensation.

The provisions under section 14 focus on the key general principles, theories and rules governing compensation which the court should take into consideration during the assessment. These include: the value of the land at the time of publication of the notice for acquisition and not otherwise; betterment<sup>9</sup>; injurious affection<sup>10</sup>; and any loss or damage. Any possible increase in the quality or the value of the land in the future should not be taken into account.

Various authors have given opinions with regards to compensation pertaining on compulsory land acquisition. Geho (2001) argues that, the general principle applied in determining compensation is the principle of equivalence.<sup>11</sup> The author pointed out that Land Acquisition Act No.47 of 1967 does not lie on the balance of probabilities leading to unfair compensation being paid to the claimants. Similarly, Batinamani et al (1992) argue that there is a violation of land laws pertaining to compulsory land acquisition because land occupiers whose land are acquired are not conversant with the laws and regulations governing land acquisition. In Tanzania, the Law pertaining to compensation does not address social, cultural and psychological loss as the result of compulsory land acquisition.

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<sup>9</sup> *Betterment* results whereby the proposed scheme results in an enhancement of value of the land that is not acquired. For example constructing a new road in an area which never had any access routes would increase the accessibility and hence the value of surrounding land parcels.

<sup>10</sup> *Injurious affection* is a loss in the value of the part of land that is retained caused by the scheme to be carried out on the land that is acquired. For example constructing a sewerage treatment plant on the land that has been acquired would cause surrounding land parcels to fall in value as sites for residences. Such loss should be reflected in the total compensation amount.

<sup>11</sup> The underlying principle of equivalent states that a person affected by compulsory purchase should be paid for a fair compensation so that he/she is neither better off nor worse off as the result of land acquisition.

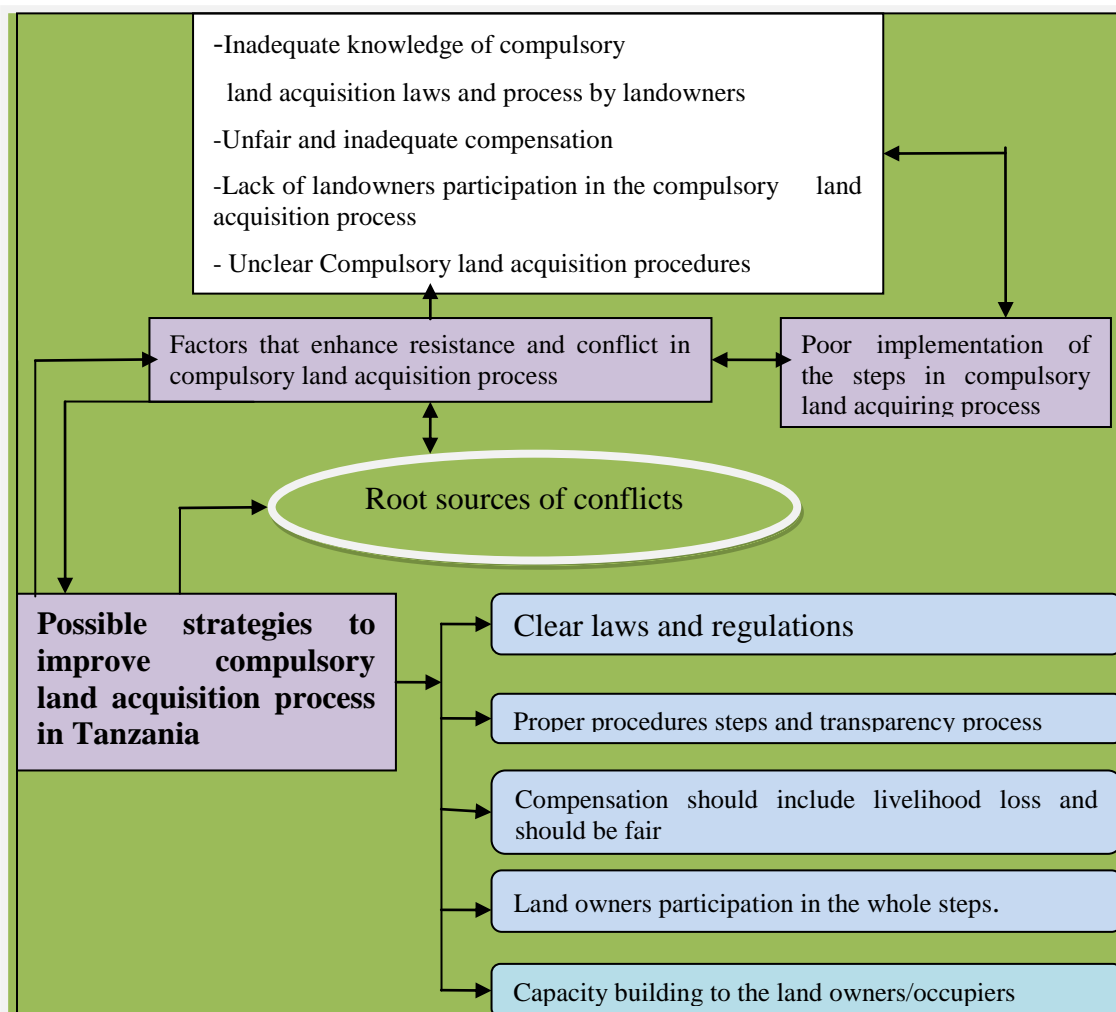
## 2.7 Conclusion

This chapter gave an overview of the various concepts and principles regarding compulsory acquisition of land and compensation and the relevant laws governing the same in Tanzania. It can be seen that there are many different authors, practitioners and international institutions trying to provide the suitable ways on how compulsory land acquisition should be organised and implementation in order to minimize the conflict. These concepts and examples give a broad insight into the stages of compulsory land acquisition to be able to study in depth which factors generate conflict and to come up with strategies to address the problems.

## 2.8. Theoretical Framework

This model is based on the literature review concerning the compulsory land acquisition process. This theoretical model combines table 1, figure 2 and conflict sources as identified from the theory; this helps to understand the theoretical basis of this research. The models tries to explain the factors that enhance resistance and conflicts and the possible strategies which can be taken in order to reduce the conflict in compulsory land acquisition process in Tanzania.

**Box 2.Theoretical Framework Diagram**



Source: Own Construct, 2010



# CHAPTER THREE

## Research Methodology

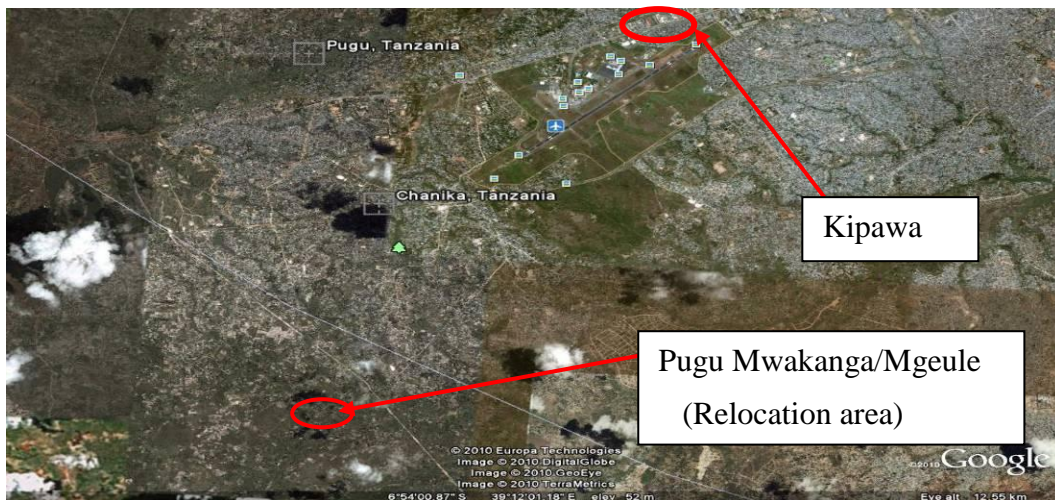
### 3.0 Introduction

This chapter presents how the research is carried out. It provides a detailed description of the research methodology used in this research.

### 3.1 Brief description of research areas

This research is carried out at Kipawa area where compulsory land acquisition of the land took place for the expansion project of Julius Nyerere International Airport. In that move original land owners were paid compensation in order to pave way for the project where in that exercise is where the conflict and resistance in respect to compensation arose between affected land owners/occupiers and the acquiring authority. Primarily the intention was to carry out this research at Kipawa area but by the time of data collection the researcher found that all affected land owners were moved to the relocation area at Pugu Mwakanga and Mgeule about 25 kilometres from the original area (i.e. Kipawa). The researcher had the opportunity to include the relocation area to be able to carry out interview, group discussion and issuing questionnaires. However, this did not change the rationale for the Kipawa as the case study nor the research questions and the objectives of this study. The map below shows the research areas.

Figure 3: Arial map of Kipawa



Source: Google earth, (2010)

### 3.2 Research background

The research aims at identifying the underlying factors which influences resistance and conflicts in compulsory land acquisition process imposed by the affected land owners/ occupiers. It attempts to study the root sources of the conflicts as well as to explain in details compulsory land acquisition process in Tanzania by looking on the various principles underlying it, actors' perceptions and what strategies can be used in order to enhance smooth compulsory land acquisition process without conflicts. The research employed a theoretical modified model provided by Kombe (2007) (as is shown in page 3 of this research) which describes seven steps for the compulsory acquisition process. The

model is complimented with the guidelines as is provided by the FAO, which provides detailed steps on how effective compulsory land acquisition process should be carried out. However, it should be known that the guidelines provided by the FAO are general, is a rural and Peri urban focus. Therefore, to be more effective; the guidelines provided have been modified to suit in the urban focus where this research is based.

### 3.3 Research Questions and Objectives

*The main research question of this study is; what are the factors that generate conflict in compulsory land acquisition process between the government and the land owners or occupiers and what strategies can be applied to overcome this?*

To answer the main question, there are some more detailed questions that can identify the problem of this research as follows:

- (i) What factors generate conflicts in the seven steps of compulsory land acquisition process?
  - From the land occupiers perspective?
  - From the government/public bodies perspectives?
  - From the third party perspectives?
- (ii) What are key actors' attitudes and perceptions in the steps and which step require special attention?
  - Are the government procedures accepted?
  - Does the government follow its own procedures?
- (iii) What strategies can be implemented to minimize conflict in compulsory land acquisition?
- (iv) What can be learned from cases/experience from different countries in relation to compulsory land acquisition

The focus in this research is the case study in Tanzania. Question four (iv) has been explored briefly in Chapter two and therefore international examples will not be explored in depth in this research.

### 3.4 Working definitions

**Compulsory land acquisition**, according to Azuela and Herrera (2009:337) compulsory land acquisition is “that power which allows states to acquire property against the will of its owner in order to fulfil some purpose of general interest”. In Tanzania, this is made possible by the Land Acquisition Act No. 47 of 1967 which empowers the President under Section 3 to acquire any land for any estate or term where such land is required for any public purpose<sup>12</sup>. In respect to this case, the area was compulsorily acquired for the expansion of the airport; therefore, the project is for public interests.

**Affected land owners/occupiers** are persons who for reasons as the result of compulsory land acquisition lose their interest in land and other assets; land owners in this case implies the ones whose ownership is clearly known through legal means such as having title or residential license also it may include someone who is living in the informal settlement in urban areas who has no any form of

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<sup>12</sup> Public purpose in this sense in this sense means the land acquired for the exclusive government use, general public use, and any government scheme, the development of agricultural land or provision of sites for industrial or commercial development, social services or housing

ownership but are legally recognized in Tanzania. Land occupiers on the other hand include groups such as tenants and licensees who have property interests and thus their rights in the land being acquired.

**Acquisitor (s)** is the government/local government or public agencies which exercises the compulsory land acquisition process. Section 3 of Land Acquisition Act 47 of 1967 gives president power to acquire land to be used for public purpose. Some public agencies like those with statutory obligations such as water and electricity may exercise that power. Other bodies are private bodies but are regulated by the government like airport Authority, railway and telecommunication. However, status which establishes these bodies clearly provides procedures and circumstances to exercise that power. In respect to study area, the mandated government agency which used compulsory acquisition power is the Tanzania Airport Authority (TAA).

### **3.5 Research population**

The research population comprises the following groups; affected landowners, Acquiring Authority such as local government (Ilala Municipality), Central government at the Ministry level and the third group comprises valuation consultant firm, NGOs and government Institutions as is shown in Annex 3.i

### **3.6 Sample selection and procedure**

Because of the nature of the case study, the research questions and objective of the study; different sampling methods were used; these are snow ball and purposive sampling for the professionals and for the affected land owners' representatives' respectively. The snow ball sampling method was used to select respondents from the affected land owners. For example in order to get affected land owners representatives, the researcher managed to get one representative identified as the former ex-Kipawa street chairperson who lead the researcher to get the next representative for the interview. These trends continued uniformly for the rest of the affected land occupier's representative hence purposive sampling. The snow ball method was used also in order to get professionals from the Ministry, officials from different departments, local government level, affected land occupiers, consultant firms, NGOs and Government institutions as it is shown in annex 3.i (**Refer Annex 3.i**) which provides a more detailed summary of the sample size for the respondents involved in this research.

### **3.7 Research Overview**

This is an exploratory research this is because of the nature of the research questions and the objectives. Its aim is to explore which factors contribute to conflict in the seven steps of compulsory land acquisition process. The research is also primarily a fact finding research aimed at collecting information from affected land owners/occupiers therefore it will be the first hand information for further research based on similar problem.

### **3.8 Research Strategy**

The research strategy is a holistic study based on a case study area. The case study area has been selected for a number of reasons; using a case study helped to identify, to gather enough information and to carry out a detailed investigation into the genuine sources of resistance and conflict in the study area by using

different methods of data collection. In guidance the research strategy, research questions with different elements like, indicators and variables were presented. The characteristic of the case study is that the researcher took time where compulsory land acquisition took place where a focus group discussion with the Ward Development Committee (WDC) conducted. Finally the researcher spent rest of the time in the relocation area where affected land owners have relocated. This enabled the researcher to carry out an interview, issuing questionnaires and to make a thoroughly observation based on real situation; thereafter, the researcher moved to other respondents such as government officials, NGOs and consultant valuation firms.

### **3.9 Research Instruments**

In order to enable the researcher to carry out this research properly and to have in dept study which factors contribute to conflict in compulsory land acquisition process and to be able to get a comprehensive perspectives views; a qualitative in-depth tool was used. The main research instruments used are;

- i. In depth study of various laws and policy with regards in compulsory land acquisition process in Tanzania and other successfully countries.
- ii. In- depth interview based on semi-structured questions with a group of people with a clear knowledge, experience or those who have been engaged in the land related matter especially the issue of compulsory land acquisition will be used. These include. The Central Government, Local government officials, on Governmental organizations (NGOs) and Consultants.
- iii. Focus Group Discussions (FGD) with the key informants with experience in the topic.
- iv. Discussions, arguments and debates with teachers and colleagues are also crucial to this research. Finally, the information is complemented by the researchers own experience in the field of Land Management and Valuation and questionnaires.
- v. Observation was used in the study and enabled the researcher to see the site where compulsory land acquisition took place and to the relocation area. This enabled the researcher to see people's action analytically and interpreting their behaviour and to see the real situation like the quality of the basic services, proximity from the city centre, economic activities and the level of infrastructures development in the relocated site. Based on the above reasons, observation was generally used intensively in this research for the following reasons; to allow the researcher to be able to accentuate the meaning that people give to their actions and to verify the truth of the statements made by informants in the context of questionnaires, it helped and assisted the researcher to get detailed information that might not be considered during the interview. Finally, enabled in supplementing the collected from interviews and focus group discussion to answer various questions that was not addressed in the interview questions.

### **3.10: Data Collection**

#### **3.10.1 Primary Data**

Primary data collection is the empirical part of the study used to answer the research questions from question one to four. The primary data collection tools used includes are interview, observation, photograph taking and FGD. This is elaborated and described in annex 3.ii (**Refer Annex 3.ii**)

#### **3.10.2. Secondary Data**

Relevant secondary data collected include; policy documents such as Land Act No 4 of 1999, Land Acquisition Act No 47 of 1967, published and unpublished reports, journals, newspapers and internet search. Information collected involved land ownership and land use conflicts, land laws and policies, settlement characteristics and social and economic activities of the people. Secondary data also helped the researcher to answer question number four which asks; *what can be learned from various cases/experience from different countries in relation to compulsory land acquisition?*. To be able to answer this question; potential cases was identified and expert interviews was carried out to get the lesson from the cases selected. The data provided by the experts as shown in chapter two was used to answer the questions.

### **3.11. Data analysis**

#### **3.11.1 Unit of Analysis**

The study primarily was organized in two areas, firstly is within the selected Case study area where compulsory acquisition was conducted and much time was spent in the relocation area where Ex-Kipawa affected land owners were relocated and therefore the researcher concentrated much on the samples selected to collect much information from the relocated people. Some few days were also spent at the Ministry, Ilala Municipal Councils, NGOs and Private Valuation Consultant firm in order to collect information from different officials.

Different research methods of analyzing primary data have been used; these are qualitative and quantitative methods. In depth interviews have been analyzed qualitatively while questionnaires were analyzed quantitatively using simple excel. Other methods of data collection such as photograph and observation were used to support the analysis. Finally data and field main findings were used to test and to measure the operationalization of the research objectives and questions.

#### **3.11.2 Validity**

To make sure that the research measures what were intended, the triangulation method was employed. The selection of this method was because data collection was done from different sources (Smith et al, 1991). Therefore, the data was collected from secondary and primary sources such as in depth interviews, Focus Group Discussion and interviews. Interviews were carried out at different time in order to check if the answers were the same as when they were asked. Observation from the study areas ensured the validity of the research through verification of the data collected from respondents' expression whether it conceded with the events and real situation. To make sure the researcher asks the right questions; the

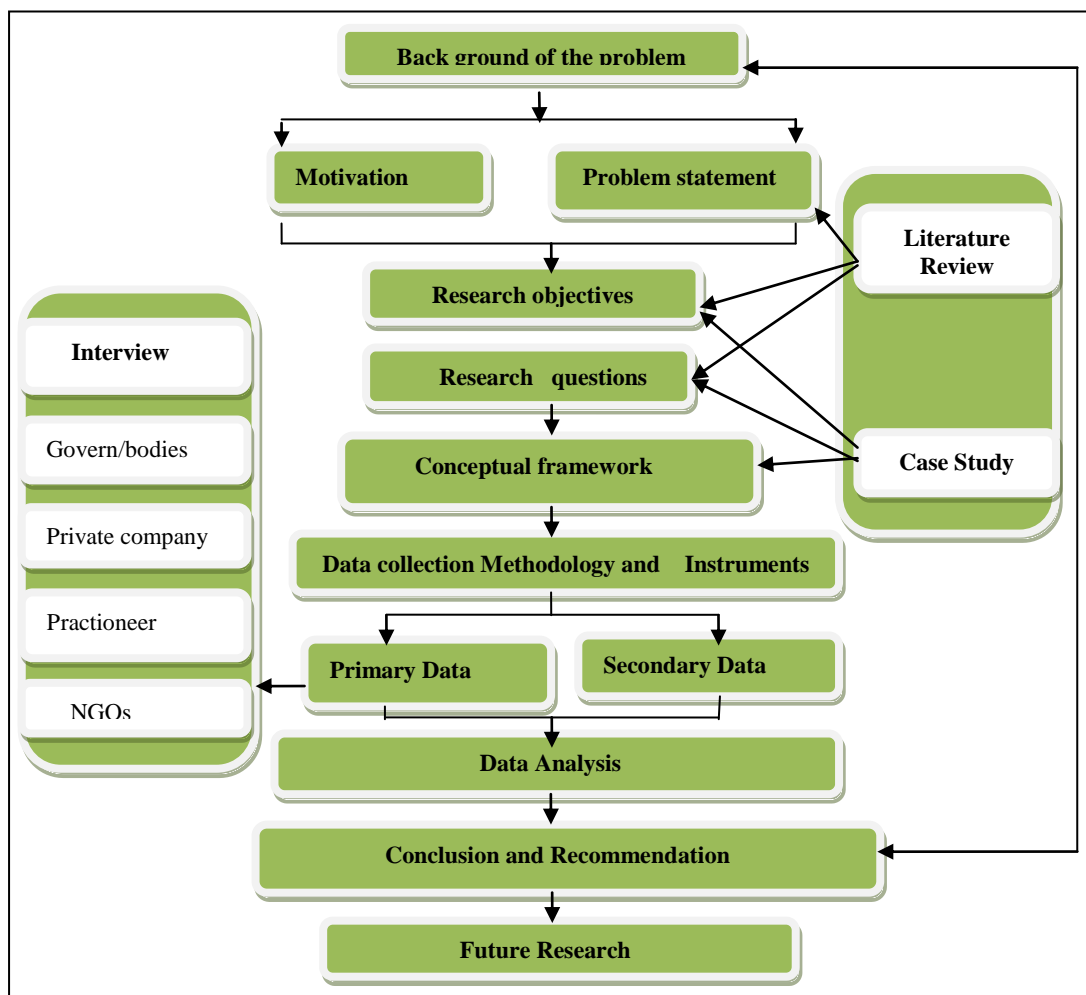
research questions were operationalised to ensure validity and enough reliable data collection for analysis. Annex 3.iii shows how variables were operationalised.

### 3.11.3 Reliability

According to Black (1999) as cited by Fika (2008:30) see reliability as an indication of consistency between two measures of the same thing. Therefore, for the reliability of data, the researcher pre-tested the interview questions before the field work in order to ensure that only relevant questions are asked, the interview questions were translated into Swahili language which are the common language which were mostly used by the respondents in the research area. Variables and Indicators used in the research are shown in Annex 3.iii (Refer Annex 3.iii)

### 3.12 Research design

Figure 4: Research Design



Source: Own construction (2010)

### 3.13 Research Operationalization

Kiswahili was the most widely language used in the study area as means of communication and because the researcher is familiar with the languages in place; no language barriers was noticed. However, during an interview with the Government officials, Local Government, NGOs and Consultant firm experts both

English and Swahili was used. The interview and FGD were arranged over a span of one month during the month of July, 2010.

The Focus Group Discussion for WDC was organized at the Ward Executive officer conference hall. Lunch allowances were arranged prior to focus group discussion as a professional and moral ethics. The time line for the focus group was one hour. For semi structured in-depth interview with Local Government officials, NGO, Ministry of Land Officials and Consultants, the interview was steered by guiding questions. The questions were open ended in nature such like; *what do you understand by Compulsory land acquisition? What in your opinion are the important aspects to consider in compulsory land acquisition?* For the Focus group Discussion with Land owners (men and women groups) and for that of WDC the guiding questions were similar to interviews. The gender separation enabled the researcher to get deep understanding the impact each groups face as the result of being displaced. It is argued that women and children are the mostly affected group during compulsory land acquisition because of the nature of the daily self activities; therefore, this argument was verified during this research.

### **3.14. Research dissemination and synthesis**

The expected outputs were; first to identify what are the meaning of compulsory land acquisition process and its underlying principles. Secondly was to identify the main actors who were involved in the process and their roles. The third was to identify where the conflict and resistances mainly concentrate within the seven steps process or there are something else rather than the steps. Fourthly, clear strategies have been provided which can enable to minimize the conflict. Lastly, this report is submitted to IHS to be used as reference for academic purpose. To the government where the research was carried out to be a tool which can be used to minimize conflict and as guidelines in compulsory land acquisition process.

### **3.15. Research resources**

The resources used during this research were literatures, articles and online journals available at IHS and Erasmus library. The main resources expected were from Central government officials from the Ministry of lands, Local government officials, Consultants, NGOs and from the affected landowners or occupiers. The last resource input was through interviewing experts who have been carrying out similar research on similar subject of this research. This research was funded by the Netherland Fellowish Programme (2009-2010).

### **3.16. Limitation of the research.**

- It was difficult to get the tenants and therefore the information was obtained from the third party. This is because the expected area where the researcher thought to carry out the research was impossible because landowners were evicted after their houses being demolished; this necessitated the researcher to go up to the relocation area daily.
- Because the project started long time (about 12 years) some respondents were unable to remember some of the information and data
- The experience of the researcher in the field of land management and valuation helped to interpret and analyse the data easily.

# CHAPTER FOUR

## Compulsory Land Acquisition Process at Kipawa

### 4.0 Introduction

This chapter discusses the causes of resistance and conflict in Compulsory Land Acquisition and Compensation at Kipawa as the result of the expansion of Julius Nyerere International Airport (JNIA). The discussion is geared towards the justification of the expansion of the Airport, procedures and steps employed in the acquisition process and the properties acquired.

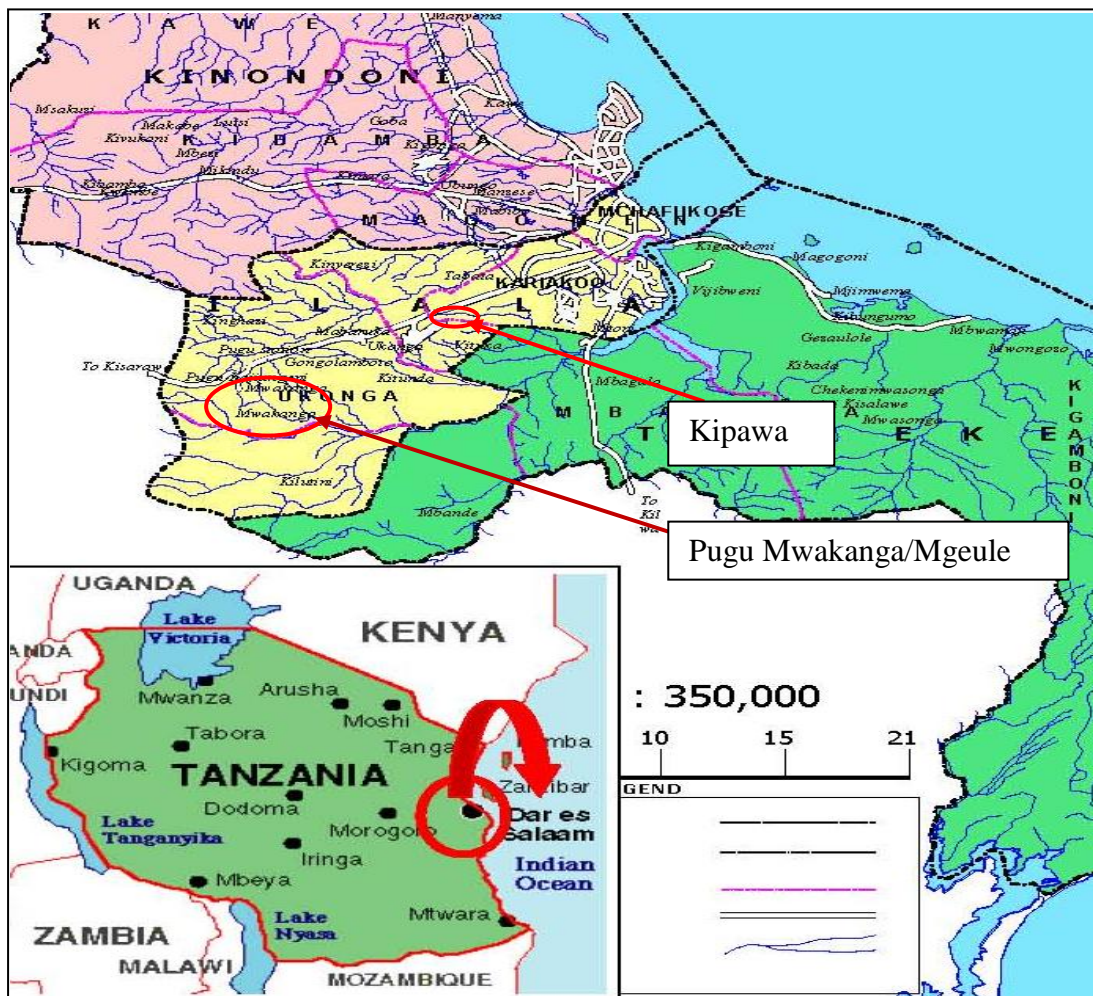
The researcher used both open and closed ended questions as shown in **annex 4.ii** therefore, data analysis is different based on the answers obtained from different respondents group. The general overview of research outcome is shown in **annex 4.iii**, where by this and more quantitative inputs (notes of researcher on open questions) form the basis of this chapter.

Finally the chapter provide an assessment of the real situation at the relocation area where most of the affected land occupiers now reside

### 4.1 Description of the case study area

#### 4.1.1 Location

Figure 5 Administrative Boundary for Dar Salaam City showing Ilala Municipality





Kipawa Ward is located near Julius Nyerere International Airport in Ilala Municipality. The area can be accessed through Nyerere road about 17 kilometres from Dar es Salaam city centre. The area covers approximately 560 acres which include 110 acres Kipawa Street, 100 acres Kipunguni East and 350 Kipunguni A with a population of 11059 people<sup>13</sup>. However, the part where land was acquired compulsory is Kipawa Street and according to TAA report the people who were affected by the project are 1218. The name Kipawa originates from the Zaramo word “Upawawa” which means Wooden Spoon. The historical background of Kipawa can be traced to prior independence where the area was used as farmland. The dominant tribes which lived in the area were the Zaramo, Ndengereko and Makonde who resided in the area in groups according to their tribes.

#### **4.1.2 Administrative boundary**

Administratively, Kipawa falls within Kipawa Ward as one of the five “Mtaa” within the Ilala Municipality, Dar es Salaam. It is bordered by Kiwalani to the East, Kigiragira to the South, Kipunguni to the West, Nyerere Road to the North and Julius Nyerere International Airport (formerly known as Dar es Salaam International Airport) to the South East.

#### **4.2 Justification and Rational for the Airport expansion Project.**

Due to an increase in the number of passengers, flights and cargo going through the Julius Nyerere International Airport, there was a need for more land around the airport to be made available for use by the same. This need became more apparent in the early 1990s. This also went hand in hand with the comprehensive economic reform initiated by the government in 1986. The realization of this reform is to improve competitiveness, lower tariffs, increase foreign investment and trade, improve the key economic indicators and rapidly integrate into the world market. Therefore, the priority was to upgrade the airport’s facilities and bring them to the level of international standards. Hence, the benefits of the expansion of the airport are enhancing the country’s competitive position for investment flow and to meet the challenges of globalization. Other benefits upon its completion include facilitating the airport to be able to accommodate thirty (30) airplanes at once – a significant increase from the current capacity of eleven (11) - and enabling big planes such Boeing 747s and 777s to land and take off at the airport. The expansion will also allow for the construction of the lounge which would be special for the guests who will be arriving in the country to attend various international meetings<sup>14</sup>. At the local level the advantage of airport expansion is safety, because it enables people to be away from the airport, free from noise and air pollution. Others reasons for the expansion according to the management of the Tanzania Airports Authority include; responding to the air transportation development and to improve the quality of services at the airport, to enhance the airport’s competitive position within the region, and to contribute to the socio-economic development of the community served by the airport. In

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<sup>13</sup> Tanzania National Population Census Report 2002

<sup>14</sup> Official Government Report released by the Guardian 19th February, 2010

addition, there is only one hangar that can be used for aircraft maintenance hence a new one is needed to be constructed.

### **4.3 Procedural Stages in the Land Acquisition Process at Kipawa**

The acquisition of the land at Kipawa involved several steps more or less the same as those provided under section 5 of the Land Acquisition Act No.47 of 1967 and those described in the theoretical model. The only difference is the level and manner of implementation. These stages of land acquisition form the rationale for this research. Therefore the researcher was careful to study how the steps were implemented during the process in order to find out what the conflict originated. Those seven steps include the following;

- Preliminary investigation ( planning stage)
- Publicity and notification
- Valuation and submission of claims
- Payment of compensation
- Possession
- Appeals
- Restitution

#### **4.3.1. Preliminary Investigation**

The responsible authority i.e. the Tanzania Airport Authority (TAA) made investigation and identified Kipawa, Kipunguni and Kigilagila areas before sending an application to acquire land to the Ministry of Lands, Housing and Human Settlements Development (MLHSD). The Ministry has the responsibility to investigate and assess whether the proposal is for public purposes and if satisfied, accept the request. The process of investigation at the Ministry level should be done in participatory manner involving local authorities such as Ward Executive officers, Local leaders, including the grass root leaders and individuals. The purpose of this investigation is to know the boundaries of the identified area and existing conditions. In addition it involves determining how many people would be affected by the development include the preliminary compensation estimates.

Section 5(1) of land acquisition provides that three days notice should be given to the occupiers prior to investigation and in case damage is done at this stage compensation should be paid. However, according to the interviews and questionnaires made with the affected landowners complained that in the process of preliminary investigation they were not given notice and nor involved at this stage. Commenting further on the above they said that, not being involved at this stage is inhuman and they were deprived of their rights. The reason given by the government officials for not involving landowners was that, the involvement of people at this stage would not provide any changes because the project was for the public interest. They also claimed that since the entire area was acquired there was no need for the involvement of people at the grassroots because the boundaries were marked and the conditions of the acquired area were clearly known. The area to be acquired had to affect the entire area and no any detailed investigation was

carried out. The focus group discussion with the Ward Development Committee agree that they received information from the Municipal level but also agree that it would be reasonable for the individuals at the grassroots level to be involved at this stage and their involvement could have resulted in changes.

*The finding result shows that affected land owners did not participate in planning. This can be seen from the fact that there was poor planning of this project which results in the delay in the paying compensation. Preliminary cost estimates such as compensation and impact assessment was not carried out. The government officials pointed out that because the entire area was acquired no need for people's participation. This make a clear understanding that the acquiring authority were not prepared enough for this project the situation that necessitated the government to enter into unnecessary conflict with the original land owners because of delay to start the project including compensation payment.*

#### **4.3.2 Publicity and notification**

After preliminary investigation and approval of the project, the declaration was effected in the Government Gazette where the intention to acquire the specified land at Kipawa and its boundaries were specified as it is stipulated in the law. Notice to the respective landowners was served by the Ministry of Lands, Housing and Human Settlement through the Ilala Municipal land officer who thereafter served the information to the respective land owners via the Ward executive officer. The aim of the notice is to inform people that his/her land is to be compulsory acquired by the President to be used for public purposes. This notice should be served after the investigation which was done in the first stage and should provide detailed information on what other procedures will follow including the information about the meeting. From the interview made and questionnaires, the interviewees stated that they were not served with hand written notice personally and instead they received information about their land to be acquired from the Ward offices notice board and from the meeting which was carried out (see table 3).

**Table 3: Notification to landowners**

<b>Notice to the land owners</b>	<b>Number of respondents</b>	<b>Percentages (%)</b>
Were not served with notice	46	77
Were served with notice	9	15
Were not aware about the notice	5	8
<b>Total</b>	<b>60</b>	<b>100</b>

**Source: Field work, July, 2010**

The table above shows that the majority of the interviewees were not served with the notice. The main reason provided by interviewees was due to the lack of the involvement of the local leaders. During the group discussion with the Ward Development Committee, the community members said that the Ex-Kipawa street chairman and his secretary were not involved and instead decisions were coming from the Ward level directly to the affected landowners, some of whom might not be the real land owners and therefore could not get the correct information. During the interview made with government officials they argued that the notice was

served in accordance to the laws and regulation, whereby notice can be given to people either by mail, radio and television, or through the local office where people to be affected by the project reside. Under this circumstance the notice was also posted on the Executive Officer information board.

During group discussion with the Ward Development Committee, it was proved that there was a public meeting before valuation and inspection for awareness and sensitization to the affected people conducted at Kipawa. The aim of the meeting was to ensure smooth acquisition and employ a participatory approach. The aim of the project and the area of the land to be affected were presented and made known to the people. During that meeting the rights of the affected landowners, the process of valuation and compensation exercise were also explained. However most of the affected landowners interviewed were dissatisfied with the time given for the meeting. Elaborating this they said that the time given for the meeting was not enough because it was conducted almost two hours which could not enable them to ask enough questions and to get more clarifications. Commenting further, their dissatisfactions were also with the valuation exercise which they claimed was not clearly explained because the language used was too professional to understand. The following is the results from the respondents on the level of understanding for the meeting. (See Table 4 for the result)

**Table 4: Respondents views on the level of understanding the aim of the meeting**

Respondents	No	Yes	Total
Affected land owners	27	10	37
Percentages	73%	27%	100%

**Source:** Researcher's Field Data Collection and Analysis, (July-August, 2010)

From the table above, we can see that the majority of the affected landowners interviewed show their dissatisfaction with the meeting. The main argument provided by those who said no is that, the government has already decided what would do without involving people and compensation procedures were not clearly elaborated because of limited time of the meeting. They further stated that, the major aim of the meeting should not be to hear on only one side (i.e. the government side) but also another side (the affected people). As one of the respondent said,

*“My friend how you can understand everything concerning the overall process within two hours”* Salehe Kunga.

During the interview it was found that not all of the affected land owners attended that meeting; they argued that the time of the meeting was not clear to enable them to attend (See table 5)

**Table 5: Attendance to the meeting**

Whether attended the meeting	Respondents	Percentages (%)
Yes	37	62
No	18	30
Missing	5	8
<b>Total</b>	<b>60</b>	<b>100</b>

**Source:** Researcher's Field Data Collection and Analysis, (July-August, 2010)

In interview with the government officials concerning the success or otherwise of meetings, it was argued that most of affected landowners were not cooperative. This is because most of them were represented at the meeting by their relatives and in some other situations were represented by the house servants. In such situation the rationale behind for the meeting cannot be attained.

*The research data shows that public consultation is importance for the successfulness of any project. From the study it shows that lack of public consultation due to poor notice delivery and lack of cooperation between people is one of the factors leading to conflict. Public consultation starts from the notice delivery; it was observed from the study that the notice for the intention to acquire land was delivered through the government gazette and from the Ward Executive Officer notice board. Furthermore few meetings were conducted and a small number of people attended. This was due to the lack of information about the meeting because if people were served with handwritten notice it could be easier for them to know the venue and time of the meeting, as well as the date to which the valuers will come to inspect and value the property.*

#### **4.3.3 Valuation of existing interests**

Valuation is the process of ascertaining the value or price of the property. In order to carry out valuation exercises for the acquired area, the “*Tan Valuer Property Consultants*”<sup>15</sup> were contracted by the Tanzania Airports Authority (TAA) to survey and inspect the properties acquired in the Kipawa project area. Tan Valuers were tasked to establish the replacement cost for compensation purposes. It should be remembered that at that time, the concept of land in Tanzania having no market value was still operational, so Tan Valuers were instructed to establish the value of unexhausted improvements only. This was in according to Section 12(i) of the Land Acquisition Act of 1967 as discussed in paragraph 2.6.1. (b) above. The current position under the law is also discussed in paragraph 2.6.1 (e) above. The inspection of the properties began on 7<sup>th</sup> May 1997 with the identification of the number of properties to be affected by the project and the number of people with rights on the land (owners of land and/or buildings). The exercise was completed in September 1997. The method of valuation employed during that exercise was the *Replacement Cost of valuation*<sup>16</sup>, the result of which was depreciated to arrive at the Depreciated Replacement Cost. In valuing crops the valuation consultant firm used crops compensation rates fixed by the Ministry of Agriculture (now known as the Ministry of Food and Agriculture) under the Ministerial circular No.MAC 60/2 of 16<sup>th</sup> September, 1992. The number of properties affected by the project is shown below in Table 6

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<sup>15</sup> Tan Valuer Property and Consultant is a private valuation company in Tanzania which was contracted to inspect and value properties in Kipawa for compensation purpose.

<sup>16</sup> Replacement cost of valuation entails valuing property on the basis of the cost needed to reinstate or to provide an equivalent substitute.

**Table 6: Properties affected by the Airport expansion project.**

Type of Property	Number
Residential	1051
Bare land	25
Commercial building i.shops	165
Mosque	2
Church	1
Primary school	1
Dispensary	2
Bar	3
Primary court	1
<b>Total</b>	<b>1251</b>

Source: Tan Valuers and Property Consultants.

- **Valuation process**

In the valuation exercise, the majority of the affected land owners were not aware of the items to be compensated. Table 7 gives a clear explanation.

**Table 7: Affected land owner's awareness on the items to be compensated**

Awareness of the items	Number of respondents	Percentages (%)
Aware	15	75
Not aware	45	25
<b>Total</b>	<b>60</b>	<b>100</b>

Source: Researcher's Field Data Collection and Analysis,(July-August,2010)

According to the interview and questionnaires administered, 75% of the total respondents were not aware of the items to be compensated while 25% had a little knowledge. The given reason was because of poor sensitization and limited public consultation and meetings where all issues with regards to valuation and compensation could have been addressed. Furthermore, most of the respondents argued that they were not present at home during the inspection and valuation of their properties due to the lack of information about the exact day when the exercise will take place. One of the respondents stated that;

*" During those days I stayed at home for three days waiting for those officials to come and inspect my house without success as a result I decided to go to my work in fear of losing job".Athumani Kisebengo a 64 years old man.*

At the same time they complained that they were not even given an opportunity to cross check whether all of their properties had been included in the valuation report rather they were forced to sign a certain documents to verify that they agree with the compensation exercise.

In the interview made with the hired consulting firm (Tan Valuer), the valuer asked why the majority of the affected land owners complained that they were not present during the valuation exercise. The answer given was that most of the landowners were not cooperative. Elaborating more the officer said most of the

time people closed the gate and door when valuation officers arrived. Many of the landowners also pretended that they were not the owners and were not ready to say anything. Because of these it was difficult to work with the time and schedule as planned but at the end all properties were inspected and valued.

*The findings obtained show that there was lack of transparency and poor time valuation framework during the valuation exercise this was accelerated by the poor cooperation of the affected land owners who were not willing to provide enough information to the valuation officers.*

#### **4.3.4 Payment of compensation.**

The process of compensation payment to the affected land owners began in October 2009 until February, 2010 and a total number of 1218 landowners who were affected by the project received compensation. However, not all of the affected landowners received the compensation payment at their will. One group of 343 refused to accept the payments which the others received, and the last group had problems with probate had to wait until their matter is settled. Affected land owners who were interviewed showed dissatisfaction with the manner and mode of the payment exercise. They argued that they were forced to sign a certain document which required them to move after they have received the compensation sum. The chairman of the affected landowners group had this to say;

*"Those who accepted the money were not shown the amount at the initial stage and were Required to sign some documents, before accepting payments," (Daily news,6,11,2009)*

According to the Tanzania Airport Authority officer, 343 affected land owners refused to accept compensation and consequently filed a case in the High Court (Land Division). The main reason given for the case was that the compensation paid was not fair and adequate because the government used the Land Acquisition Act of 1967 instead of Land Act no 4 of 1999. In that course, 375 landowners received compensation and relocated themselves to the designated areas at Pugu Mwakanga and Mgeule<sup>17</sup>. 500 affected land owners died before the compensation payment was made and therefore the compensation sum was received by the family members after fulfilling the information requirements. However, as it was revealed from the interview made in the relocation area, even the majority of those people who received compensation were not satisfied with the amount given to them, the arguments given was that they could not quarrel with the government.

*"You know the Government is like a sword.....this influenced me to receive compensation though in my heart was not enough.....The government can decide to vacate without doing any thing.Afterall I saw it is a wise decision to receive what was given then complaints will follow"***Zaina Kibanilo.**

The first valuation took place in 1997, before the Land Act No. 4 of 1999 was passed. After a long period of conflict between the government and the affected land owners with regard on which laws should be applied in payment of compensation, in 2004 the government decided to revalue the properties based on

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<sup>17</sup> Pugu Mwakanga and Mgeule is the new place where ex-Kipawa affected land owners were allocated plots.

new Land Act No.4 of 1999. However, after a long time debate on which law to be applied, then the government reached in a conclusion that the law to be used is the Land Acquisition Act of 1967 (No47 of 1967) and that the compensation amount to be paid is the one carried out in the year 1997 based on the original compensation as stipulated under the 1967 law with an interest rate of 6%<sup>18</sup> to be payable over and above that amount as shown in table 8 below. However, this list does not include all the affected landowners, but just a few of them.

**Table 8: Compensation value paid to the property owners at Kipawa**

No	Name	Property Id.No	Value in 1997 (Tsh)	Value in 2004 (Tsh)	Value in 2009(Tsh) adjusted at 6%
1	Fatuma Rajabu	KP/1	11,595,000	16,448,000	23,332,000
2	Samweli Joel Stima	KP/2	13,099,000	18,581,000	26,358,000
3	Siwema Ally Chisaye	KP/3	8,683,000	12,317,000	17,472,000
4	James Peter Mwakanela	KP/4	19,399,000	28,283,000	39,035,000
5	Daudi A.Mahangu	KP/5	18,142,000	25,734,000	36,506,000
6	Aginga Ochieno	KP/6	10,337,000	14,663,000	20,800,000
7	Zainabu Ramadhani	KP/7	9,914,000	14,063,000	19,949,000
8	Magreth Munthali	KP/8	13,113,000	25,734,000	26,386,000
9	Ally Mkomawandu	KP/9	2,905,000	4,121,000	5,846,000

**Source:** Tanzania Airport Authority, 2010. **(NB.1 \$ is equivalent to Tsh 1518)**

From the above table it can be seen that, final compensation sum paid to the affected landowners is the one computed after adjusting a 6% interest on delayed compensation. Responding to the question whether or not compensation sum given was fair and adequate, responses from affected people are presented in table 9 below

**Table 9. The amount of compensation sum given whether fair or not fair**

Question	Did the amount given to you were fair and adequate?	
	Number of Respondents	Percentage (%)
Yes it was fair	6	10
Not fair	54	90
<b>Total</b>	<b>60</b>	<b>100</b>

Source: Researcher's Field Data Collection and Analysis, (July-August, 2010)

Observation from the Table 9 above shows that the majority of respondents who are 90% said that the compensation was not fair while 10% of the respondents said that the compensation was fair.

<sup>18</sup> The land acquisition Act provides that if the president occupies land before paid compensation, then an interest rate of 6% should be payable over and above the amount from the time he occupies the land to the time the compensation is paid.

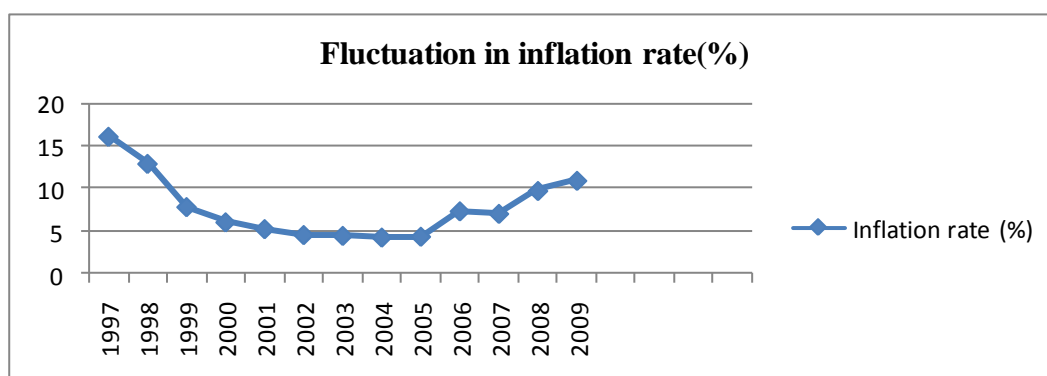


Affected land owners who said that the compensation sum was not failure listed a number of items for their basis of dissatisfaction, these are; low interest rate, disturbance, accommodation and transport allowance; other include and loss of profit as explained in details here below;

- **Low interest rate for the delayed compensation**

Accordingly, the amount of compensation sum given was compounded by 6% interest rate (as is shown in table 8 above). A number of reasons were given for identifying the compensation as ‘not fair’. 80% of the respondents said that that rate does not reflect the current market cost of construction and does not take into consideration the economic situation which is not constant. Therefore they argued that the rate of 6% is inadequate to compete with the inflation in the construction industry. In Tanzania the available data show that the inflation rate fluctuates every year and therefore the nature of the economy is not stable (see figure 6).

**Figure 6 Fluctuation in inflation rates**



**Source: Bank of Tanzania**

The above graph shows fluctuation rate from 1997 to 2009. The graph clearly shows that the trend of fluctuation rate is not stable and the average inflation is also higher than 6% rate; this has a direct impact also to the cost of goods and services. The formula used to arrive at the final compensable amount as shown in table 8 is shown here in below.

$$\text{Value} = P(1+r)^n, \text{ whereby, } P = \text{Value of property in 1997, } r = \text{Rate which is 6\%}$$

$$n = \text{Number of year's i.e 12 years}$$

However, the argument provided by government officials was that, the law in Tanzania requires that compensation should be paid within six months and in case there is any delay in paying compensation, a 6% rate should be paid to the affected land owners. Commenting on this rate some experts were in the opinion that the rate and the mode on how to calculate is no longer applicable in the situation of our economy which is not stable. Therefore should be revisited reflect the current economic situation.

The available data shows that the market price for one 50 kilograms bag of cement of by December, 1997 was Tsh 3,650 (about 3 \$) but in 2009 the price for the same was Tsh 12,500 about (9 \$) as shown in table 10 below.

**Table 10 Prices of selected building Materials from 1997-2009**

Type of building materials	Market price in Tsh 1997 for one bag of 50kg (\$)	Compounded price in Tsh 2009@6% interest Rate ( $A(1 + r)^n$ ) <sup>12</sup> (\$)	Cost of building materials in 2009 and to the current. (\$)	Difference between the compounded price and current market price
Cement	2.4	4.85	8.23	3.39
CIS(Corrugated iron sheets	2.77	5.57	10.87	5.3
Nails	0.3 per Kg	0.46 per Kg	2.11 per kg	1.64 per Kg

**Source:** National Construction Council, 2009, NB: I \$=Tsh.1518.

From the above table it is clear that there is a big difference between the costs of the materials. Based on arguments provided by the affected land owners it is apparently clear that the amount given to them could not enable them to be in position as before their land was compulsorily acquired. For instance, if the current price for one bag of cement of 50 kilogram is sold at 8.23 \$ and the affected land owners is given 4.84\$, they are left with a shortfall of 3.39 \$. During a physical visit in the relocation area, it is clear that most of the buildings are unfinished - the majority lack ceiling board, cement floors, windows, doors, are unplastered and do not have mosquito wire mesh. This evidence supports owners' assertions that they have insufficient money to finish the building (see figure 7)

**Figure 7 Unfinished buildings due to inadequate money**



Unfinished structures which is for sale

A house which lacks ceiling, windows and floor finish

House which lacks complete windows and unplastered

- **Disturbance allowance as the compensate able item**

Disturbance is regarded as part and parcel of the purchase price value of the land. According to Land (Assessment of the value of the land for compensation) Regulation, 2001 under section 10, affected people are entitled to be given disturbance allowance. This allowance represents the value of the land multiplied by an average percentage rate of interest offered by commercial bank on a fixed deposit for twelve months at the time of loss of interest in land". In the interview made with the affected land owners they argued that they were not paid any disturbance allowances while they incurred costs and other disturbance.

Commonly-stated disturbances included re-locating school children to new school, separation of families, friends and the new environment and getting familiar with the environment, loss of business and good will. Personal discomfort like expenditures in time, air time, postage and travel during relocation to the new places also included the change of transport routes and cost of working place.

- **Loss of profit**

Section 9 of the Land (assessment of the value of land for compensation) Regulation, 2001 provides for loss of profit whereby;

*"The net monthly profit of the business carried on the land, evidenced by the audited account where necessary and applicable, multiplied by thirty six months in order to arrive at the loss of profit payable"* and this applied only for an occupied land at the date of loss of interest in land (Makupa, 2009:88).

Based on the above explanation the respondents argued that the compensation sum they got did not represent the actual loss of the profit suffered. They identified losses such as the cost to move to the new place, and further noted that it is difficult to get customers, and that the cost of transporting goods and materials from town to the new area is high. Other identified losses which to them were not covered in compensation sum included tenant vacancy. For those people who used to rent their houses, the impending compulsory acquisition meant that most of the tenants decided to vacate. The area could no longer preferred by the new tenants, and significant income was lost during the long period waiting for compensation. These losses were seen as substantial by the affected land owners but were not included in compensation sum.

- **Transportation allowance**

Section 11 of the Land (Assessment of the value of Land for Compensation) Regulation of 2001, provides that, *"Transport allowances is paid by considering the actual cost of transporting twelve (12) tons of luggage by rail or road (whichever is cheaper) within twenty (20) kilometres from the point of displacement"*. However, transport allowance shall not be paid for unoccupied land. Most of the respondents argued that transportation allowance which is an essential item was not considered in compensation sum as most of them were required to transport luggage and construction materials from the original sites to the new area at Pugu Mwakanga and Mgeule.

It was also observed that the affected land owners who were relocated at Pugu Mwakanga (which is approximately 25 kilometres away from the site of expropriation) incur additional transport costs to travel from where they live to the work place. One of the respondents who identified herself as a Primary teacher at Chai Primary school (located near Kipawa) said that,

*"My monthly salary is low and now I have to incur additional cost to transport expenses in such a way that if at the end of the month I find myself as if I am working for the drivers and conductors"*Rahel,31 years old.

- **Accommodation allowance**

According to section 8 of the land (Assessment of the value of land for Compensation) Regulation of 2001, compensation for accommodation allowance is computed by taking *"the market rent of the subject building multiplied by thirty six months in order to arrive at the accommodation allowance payable"* in the essence that the affected landowners to be able to get a similar house of the same rent. Most of the respondents argued that the government had omitted to provide an adequate accommodation allowance, and that the government exploited them because some of them were forced to rent after their houses demolished. The majority of affected land owners commented that, they would be more comfortable if the accommodation allowance would have been given in such a way that would help to construct house without pressure. This would reduce cost and give them enough time to get the quality building materials. It would also enable them to move from poor –quality temporary houses while waiting for the main building as shown in the figure no.8 below.

**Figure 8 Temporary houses while occupants await the completion of the main building**



One of the respondent identified as Abdallah Rajabu complained that he was forced to live in the same temporary room with his two wives, nine children and four grand children, a situation in which he explained that he has no privacy.

The affected land owners were given only forty five days to vacate from the date of receiving the compensation sum. Commenting about the time given, the government officials said that if people had been given more than those days, the affected landowners could use the money for other purposes, rather than building their houses. The officials also noted the importance of starting the project as soon as possible.

- **The Use of Land Form No.70**

Land form No.70 gives land owners the right to estimate the amount that he/she thinks is fair for him/her to be compensated. Most of the interviewed people were complaining that they were not given land form no.70 - the situation which they claimed deprived them of their rights.

During an interview with experts concerning Land Form no.70, they argued that this form could not have been used in 1997 as it is recognised within the new law passed in 1999. However, they were in the opinion that this form should be reviewed or removed because in most cases it brings contradictions and other problems because affected landowners commonly believe that compensation to be paid will be equivalent to that ascertained by them. This is not the case.

Commenting on the arguments provided by the affected land owners with regards to accommodation, transport, loss of profit, disturbance allowances and the use of land form no.70; both the Tan Valuers and the government officials defended their actions by stating that all those identified items could not be given to the affected land owners because the valuation was carried out in accordance to the Land Acquisition Act No.47 of 1967, rather than Land Act 1999 No. 4. The 1967 Act which does not considers or mentions those items.

*The findings that can be derived here is that many affected land owners lack specific knowledge in regards to laws and regulation pertaining to land acquisition in 1967. This is revealed by the fact that most of complaints related to various items which were not included in the compensation sum such as transport, accommodation, and disturbance allowance, but these items are recognised within the 1999 Act not within the 1967 Act which was in force at the time compensation was calculated. The other source of conflict is that the rate of interest used to assess allowance for delayed compensation is low as it based on the average percentage rate of interest offered by the commercial bank on the fixed deposit i.e 6%. This rate does not reflect the country's economic condition since the computation made based on average throughout the delay period while the economic situation is not stable throughout.*

- **The use of the land Acquisition Act No.47 of 1967**

This is not a compensation item but was identified by the affected land owners and mentioned as one of their claim and the root sources of conflict. It should be borne in mind that Kipawa land was compulsorily acquired by the government in 1997 and at that time, the law applicable with regards to land acquisition and compensation was the Land Acquisition Act No.47 of 1967. This is the main law used in acquiring and assessment of compensation at Kipawa. Compensation payments for the ex-Kipawa people started in October, 2009, by which time the Land Act No.4 of 1999 was in operation. This induced affected land owners to refuse to accept compensation and to demand the use of Land Act No.4 of 1999 instead of the former one. The major argument given among the other things was that; Land Acquisition Act No.47 of 1967 does not take into account the value of the land where a grant of public land has been made under the provision of subsection (2) of section 11.

In an interview with government officials from the office of the government Chief valuer, officials confirmed that they used Land Acquisition Act No.47 of 1967 instead of Land Act of 1999, because they adhered strictly to the law and regulations. In fact, section 183(2) of the Land Act No.4 of 1999 can be used to justify the answer and the defence. The provision states that;

*"Unless the contrary is specifically provided for in this Act or the circumstances are such that contrary must be presumed to be the case, where any step has been taken to create, acquire, assign, transfer or otherwise execute a disposition, any such transaction shall be continued in accordance with the law applicable to its immediately prior to the commencement of this Act".*

This means that if a certain issue occurs while a certain law is applicable, then the same law should be used to solve that issue. The issue cannot be solved by the new law. It is clear from the government perspective that because valuation took place in 1997 when the Land Acquisition Act No.47 of 1967 was in place, that same law should be used in the payment of compensation. However, comments

from experts were of the opinion that although the government was right to stand on the law, other policies such as the Land Policy of 1995 were in place in 1997. Like the Land Act No.4 of 1999, the Land Policy of 1995 was intended to tackle various problems prevailed in land law and administration. The Land Acquisition Act No.47 of 1967 was identified as being one of these problems. Because of this they were in the opinion that the objective behind for enactment of the Land Policy of 1995 was to be considered.

- **Non recognition of damages and losses in compensation sum.**

The respondents were not satisfied with the compensation sum because it did not take into consideration some of the important losses which the affected persons were suffered. The majority of the respondents interviewed expressed and mentioned some of the loss based on the level one was suffered. Table 11 below shows some of the results.

**Table 11: Various losses suffered by the affected land owners but were not compensated**

Items suffered	Total Respondents	Number of Respondents	Percentages (%)
Transport cost (increase in cost)	60	60	100
Education cost to their children	60	40	66
Social ties	60	38	63
Loss of employment opportunities	60	28	46
Loss of tenants	60	17	28
Loss of good will in business	60	16	26

**Source:** Researchers Field Data Collection and Analysis (July, 2010)

The results shows that it is the transport cost which the majority expressed that they suffered from, due to the increase of cost cost followed by education mainly for the relocating their children to a new school.

However, in the interview made with the valuation firm and expert from Ardhi University on the overall concern that some losses were not included in the compensation sum, the answers provided was in one way or another similar. These interviewees stated that some of the losses such as loss of goodwill in business is not tangible though business people lose it. Loss of goodwill can come from either tangible or intangible assets<sup>19</sup>. Most of the experts agreed that some of the damage loss such as loss of goodwill should be compensated but noted that the problem in the case of Tanzania many variables are undetermined and many investment is done informally. Therefore when business is characterized by poor record keeping and tax liabilities, and poor credibility account, it is difficult to apply these principles and fewer attempts are made to compensate some of the damages.

The government officials to some extent agreed with the experts that some of the compensation loss is not always accounted within the law, but were of the opinion that in most cases the loss is covered through disturbance allowance.

<sup>19</sup> Tangible assets show up in the balance sheet including real property. But the intangible assets are other assets of business that can be individually identified eg. trade mark, patents, copy right and good will.

*Land acquisition programs have predominantly focused on the process of physical relocation rather than on the economic and social development of the displaced and other negatively affected people. Data analysis show that most of the respondents argued that losses such as loss of social ties, loss of livelihood and income from renting, unemployment, additional transport cost resulted from change of transport route, breakage of some fragile items, furniture and domestic appliances, dismantling and assembling of furniture, psychological disturbance as the result of separation of families, friends and environment and alternative school for their children were not included in the compensation sum. All these losses were said to be important and therefore should have included in the compensation sum. These omissions made affected people more aggressive towards the overall process*

#### **4.3.5 Possession of the land for the intended project.**

The government after payment of compensation sum to the affected land owner occupied the land for the intended project. During the field work the researcher found the construction work going on which implies that the project is happening. Accordingly it is required that, before the government take possession the affected landowners should be compensated and given enough time to vacate. However, when the affected land owners were asked to comment on whether the time given to move was enough or not, the responses indicated 95% of the respondents had the opinion that the time given was not enough while 5% agreed on the time given (see table 12)

**Table 12 Time given to sustain affected people to vacate**

Question	Were you given enough time to prepare yourself to vacate?	
	Number of Respondents	Percentage (%)
Yes	3	5
No	57	95
<b>Total</b>	<b>60</b>	<b>100</b>

**Source:** Researchers Field Data Collection and Analysis (July, 2010)

Observation from the above table shows that, the time given is not enough to allow the affected land occupiers to move. When sixty affected land owners were asked on what exact time would have been enough, 80% of them said at least six months while 20% said at least three months. The reason given is that the forty five (45) days given did not allow them to find good and durable building materials, and that they had no time to lay out strong materials for the foundation of their buildings. Observation from the field found that most of the buildings have cracked. It was argued further that some of the business people took advantage of the situation to increase the price of building materials in order to earn super normal profit; above all the construction materials was of poor quality. With regards on the nature of the new relocation area at Pugu Mwakanga and Mgeule, most of the interviewed affected land owners show their dissatisfaction with the new area. To confirm the above, sampled affected landowners were asked whether they were satisfied with the new area, 75% of the respondents were not

satisfied, while 15% were satisfied and 10% replied that they had had no option as it shown in table 13 below.

**Table 13 Satisfaction with the new re-location area**

Question	Were you satisfied with the new resettled location?	
Answer	Number of Respondents	Percentage (%)
satisfied	9	15
Not satisfied	45	75
No optional	6	10
<b>Total</b>	<b>60</b>	<b>100</b>

**Source:** Field Data Collection, (July, 2010)

The main reasons given by the majority of the affected people who were dissatisfied with the relocation area were the lack of infrastructure services such as water supply, electricity, schools health services, police station, worship places and garbage collection. In the physical observation it was observed that due to the lack of safe water most people are forced to use water from dug wells which is unsafe for human use. The only other option is the use of storage tanks which in some cases cannot be afforded by the majority because it is expensive. Finally, the researcher was able to taste the water and found to be salty (see figure 9) which verifies water problems in the relocation area. Figure 10 shows poor accessibility due to the lack of good roads in such a way that people have decided to find an alternative passage which is dangerous because of the possibility of dangerous animals such as snakes.

**Figure 9: Water problem in the relocated area**



**Source:** Researchers Field Data Collection and Analysis (July, 2010)

**Figure 10 Showing lack of road within the relocated area**



**Source:** Researchers Field Data Collection and Analysis (July, 2010)

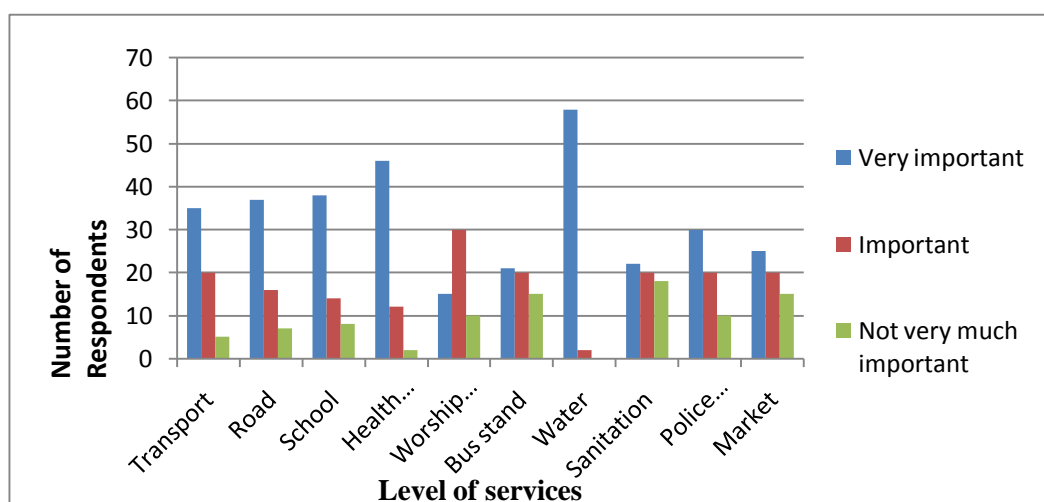


According to the government report provided<sup>20</sup> it was not possible to provide the required service until people have settled. However, nine months have now passed since people moved to the area and there are no signs of effort to provide those services. Commenting on this; the majority of the respondents argued that this was a one of the major conflicts with the government because they were not prepared to move to an area with no services.

Furthermore, most of them said that due to the lack of schools for their children they must wake up early in the morning to escort their children up to the main road. At the same time they have to incur extra cost for transport cost for their children to schools.

When affected landowners were asked on which type of service is highly needed in the relocation areas, the respond were as shown in the table figure 11 and more details is found in Annex 4.i

**Figure 11: Rank of service required in the relocation area**



**Source:**Compiled from field data collected, (July 2010)

The table in figure 11 reveals that many of the affected land owners are of the opinion that water is an important service which should be provided in the relocation area followed by health service, school, road, transport, police station, market, sanitation, bus stand and finally worship place.

*The findings show that the affected land owners were not ready to move to the relocation area due the lack of basic infrastucure service. This is evidenced from the interviewed people and from the researcher's own observation that the majority of the people in the relocation area are forced to find some of the important services such as health services,schools,water and market at a far distance. Also the 45 days given to vacate was not enough to allow people to prepare for themselves to move. This increased the tension among the affected land owners who argued that the government does not respect them. Above all in the relocation area at Pugu Mwakanga and Mgeule no basic services are provided such as water, roads, electricity, no health service such as hospitals, no security services such as police, schools and many other services are also lacking.*

<sup>20</sup> Official Government report release by the Daily News 3th February,2010

*Lack of these services has a direct impact to the conflict because affected people raised concerns about how they will survive in the area which is new and lacks important service and therefore were not ready to move. Above all in the new relocation area there were other communities who were living there and had strong claims in respect of that land because most of them had not yet receive their compensation.*

#### **4.3.6 Appeals**

The FAO guidelines, (2008:55) provides that people should have prompt, unrestricted rights to an independent body for appeal, including for delay of payment without good cause. In Tanzania Land Disputes Settlement Machinery was established under the section 167 of the Land Act No 4 of 1999 to hear and determine all matter of disputes, actions and proceedings with regards to land. From the land acquisition and compensation perspectives any person who is dissatisfied with the amount of compensation should file his/her claims to the court.

During this process, 343 affected land owners who were dissatisfied with the compensation sum and process decided to file their claims at the High Court of Tanzania(Land division). According to the interview made with the affected land owners' chairman, they decided to file a case in the High Court. The chairman listed a number of objections to the compensation given. These root sources of conflict were listed in terms of priority as shown in table 14..

**Table 14 Basis for the appeals**

<b>Causes of objections</b>	<b>Priority</b>
Delay in payment	1
The use of Land acquisition Act	2
Low of compensation of the amount assessed	3
Low interest rate for delayed compensation	4
Failure to the use of Land form No.70	5
Conflict over land ownership in the relocation area <sup>21</sup>	6

**Source:** From interview with the chairman for the affected land owners, (2010)

The affected people claimed that the respondent (TAA) had denied them what was regarded as unfair and adequate compensation because of the use of the data recorded during the valuation carried out in 1997 through the use of Land Acquisition Act of 1967 instead of Land Act No.4 of 1999. According to the Ex-Kipawa affected land Owners chairman, they decided to hire a private lawyer who helped them to file the case in the Court and other court proceedings matters and were required to pay him based on the contributions made from the 343 affected land owners. However, they lost the court application because the court found in favour of the government arguments. Following the decision of the court, the affected land owners decided to appeal at the Court of appeal but before the court

<sup>21</sup> In the new relocation area there was conflict over land ownership where the original owners were not yet compensated for their land in order to allow the the new people to occupy their land

of appeal had given out its decisions, TAA without issuing a well defined notice<sup>22</sup> ordered Majembe Auction Mart(a private consultant firm) to demolish the building in residential area(see figure 12).

**Figure 12 Demolition of buildings and properties at Kipawa**



**Source.Blog Jambo Network, (January,11,2010)**

After their property had been demolished the affected landowners had no option other than to receive the compensation sum and to move to the relocation site. The majority were dissatisfied with the government decision of demolishing their properties while the decision of the filed appeal had not yet been released

*The findings show that the affected land owners who decided to appeal against the compensation procedures were not assisted in court process. For example it was revealed that land owners were required to contribute to hire private lawyers in order to help them to submit the claims. This increased costs to the affected land owners in addition to the fact that they complained that the compensation paid was inadequate. Above all no respect of the court procedures was taken. For example after the court had given out the decision in favour of the government; the affected landowners decided to appeal to the court of appeals, the government demolished the houses before the appeals lodged at the Court of Appeal was heard.*

#### **4.3.7 Restitution**

Restitution is the process by which land and other property that was removed from its owners is restored or compensation of its equivalent value is provided (Richard and Mia, 2004). The property can be restored to its original owners if the purpose for which the land was acquired is no longer relevant. In this aspect apart from the fact that the acquisition process took a long period of time the government have continue with the intended project. Commenting on this aspect most of the interviewed people argued that, it would be better for the government to set a time limit in regulations which requires the government to restore the acquired property if the specified time lapses without the intended project coming into effect. Government officials were almost in agreement with similar arguments given by the affected land owners. The experts confirmed that there is no clear understanding in the provisions as to when it can be said that the President has entered into the land in question.It further argued that;

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<sup>22</sup> The Guardian,10<sup>th</sup> March,2010

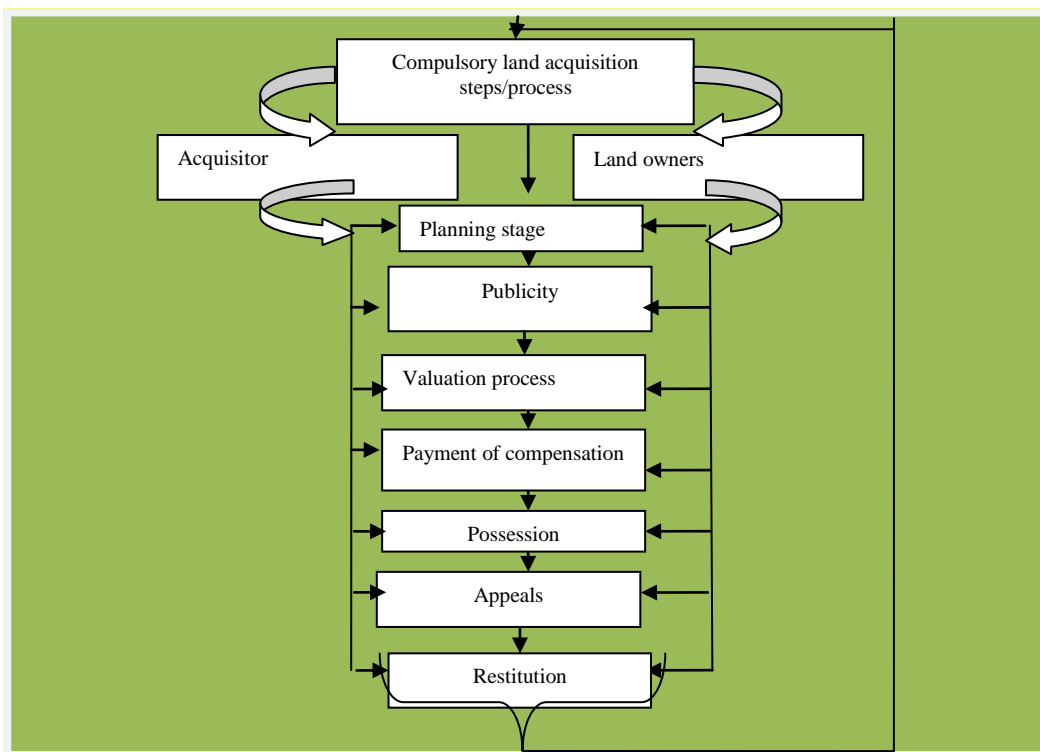
*" If the president declares that he wants the land for public purpose and even carries out assessment for compensation but does not pay that compensation nor does he take any effective steps to be in possession of the land;in which case the original owners remain on the land,can it be said that the President is in occupation?"<sup>23</sup>*

*The findings show that lack of clearly provision within the law and regulation pertaining to land acquisition which state clearly the exact time when the President should confirm that they will no longer continue with the intended acquired land. This uncertainty makes the acquiring authority to be reluctant to make any effort to complete and start the project on time and is one among of the causes for the delay in payment of compensation in most cases.*

#### **4.4 Actors Perceptions on compulsory land acquisition seven stages.**

After discussing the seven steps of compulsory land acquisition process from the planning to the restitution stages and to see how the stages contribute to the conflicts in compulsory land acquisition process. The following section provides the discussion and analysis on people perceptions towards compulsory land acquisition stages. The major aim is to get key actors attitudes and perceptions towards the implementation of the stages and whether the government followed proper procedures or the government follow its own procedures toward implementation on the seven processes. Mainly the researcher is interested to get the opinions from the key actors on what stage out of seven stages they perceive requires more attention for the successfully implementation of land acquisition process. The stages are shown below in figure 13

**Figure 13. Actors Perceptions on compulsory Land acquisition process**



**Source: Own Construct (2010)**

<sup>23</sup> Sunday News, 13 Sept 2009, (the writer is one of the best specialist in land administration field)

A perception is defined as the process of attaining awareness or understanding of something (Msangi, 2008:51). Perceptions of the key actors with regards to the compulsory land acquisition stages is shown in table 15

**Table 15 Actors perception with regards to seven steps of land acquisition process**

No. of respondents	In favour	Against	Do not know	Percentages (%)
31	V			52
23		V		38
6			V	10
<b>Total=60</b>				<b>100</b>

**Source:** Field Data Collection, (July, 2010)

The table above show that 52% of the respondents were in favour of the stages while 38% were against while 10% had no idea. Among those in favour with the procedures stages said are good and if can be implemented well can reduce conflict. Those with negative perceptions said that some of the stages are too complicated for the affected land owners to understand and too professional. They continued arguing that problem arises because most of the affected owners are not aware about those stages. In answer to the questions about whether the implementation of the procedure stages is the one which has weakness, 77% of the respondents said that poor implementation of the stages is a problem because participatory approach is poor.

During a focus group discussion with Ward Development Committee (WDC) the community said that the government sometimes have good intentions but some of the officials because of self interest do not follow proper procedures as is stipulated in the law. However, government officials agreed that those seven stages are good and also agreed with the answers provided by the affected land owners that the implementation of the process is difficult. The government argued that the land acquisition process comprises many actors and institutions such as Ministry for Land and Human Settlement (MLHS), Local Government, NGOs and Ministry of Finance The presence of many actors with different roles, have led to poor implementation of the stages. The Government officials gave an example of compensation payment and valuation as an exercise that has a number of complicated procedures and steps. In conjunction with the lack of limited funds this makes the process more complicated because in most cases funds for payment of compensation come from donors, and come with directives and conditions. Responding to the question as to what stage out of seven steps of compulsory land acquisition process require much attention not because it generates the most conflict but because it is important in addressing the probable problems and can help in implementing the remaining stages. The responses from the affected landowners are presented in figure 14 below.

**Figure 14 Affected landowners ranking of Steps process that requires much attention**

Ranking the most step that requires much attention				
1	Steps	Respondents	Percentages (%)	Rank
2	Planning	8	13	3
3	Publicity	22	36	1
4	Valuation and submission of claims	12	20	2
5	Payment of Compensation	4	7	6
6	Possession	7	12	4
7	Appeals	6	10	5
8	Restitution	1	2	7

**Source:** Researchers Field Data Collection (July, 2010)

Observations from figure 14 above shows that publicity requires much attention. The reason given by the respondents for this rank is that publicity is a crucial stage because it is at this stage that awareness and sensitization should be provided about the importance of the project, even if people did not participate at the planning stage. They argued for example that, at publicity meetings people can ask questions and get clarification, that these meetings enable people to learn more about the intended project and also prepares the government to know some of the needs and wants of the affected people. The issue of relocation or resettlement can be addressed well during the meeting. They commented further that enough time should be given at this stage because if everything went as planned no any delay of the project would result. In order to find out the general perception from the government side about the steps of the compulsory land acquisition, a basic similar interview question was asked. The result was similar to the that of the affected land owners. However, the government commenting further argued that initially most of the affected landowners are reluctant to attend the meeting which is crucial one. Only after the process had gone further did people start complaining that they were not informed enough about the project.

*Generally, the finding derived here is that people perceived that the publicity and notification stage is like a classroom where they can learn and understand every aspect of the project. The government arguments also should not be overlooked because the presence of many actors within the process without clear commitment tasks can be one of the reasons for poor implementation.*

#### **4.5. Conclusion**

Much can be said about the compulsory land acquisition and compensation process. This Chapter has explored only the compulsory land acquisition procedures based on seven steps of land acquisition process. It has revisited the implementation of the seven steps of compulsory land acquisition and how various actors such as affected land owners, government officials, government organization, and land related expert perceive the process. Furthermore the chapter has tried to explore which of the seven steps the government should put more efforts and what the arguments are for providing this effort.

Poor planning of the project was found to be the biggest single factor that accelerated the conflict within this land acquisition project. Therefore, next chapter provides a discussion, conclusion and recommendation in order to conclude what strategies could be implemented for a more successful compulsory land acquisition process.

## **CHAPTER FIVE**

### **Conclusions and Recommendations**

#### **5.1. Introduction**

This chapter summarises the conclusion and recommendation on what factors generate conflict in compulsory land acquisition process between the government and affected land owners and what strategies can be applied to overcome this. The findings made are not only applicable for this Case study but may also be used in other areas when addressing the issue of compulsorily land acquisition process. The conclusions and recommendations to be made are based on the research questions and the objectives of the study. Finally, the chapter provides recommendations on possible strategies and cases/experiences that can be learned from other countries.

In fact from the study all factors identified in literature as factors that causes conflict in the compulsory land acquisition such as inadequate knowledge, unfair compensation, lack of peoples participation, unclear laws and regulation have been found to a certain extent; in addition to those pre-identified factors there is the impact of improper planning which has found to be the major factor that accelerated other factors that led into conflict.

#### **5.2. Conclusion**

**Sub question 1. What factors generate conflicts in the seven steps of compulsory land acquisition process?**

##### **5.2.1 Poor planning of the project**

This was the major factor which generated the conflict between the acquiring authority and the affected landowners. Poor planning of the project has led to the delay for the compensation payment. This increased tensions and reactions between the acquiring Authority and the affected lands. This shows that the government acquired the area without undertaking the feasible plan and enough budgets in order to pay for the compensation on time. Lack of proper budget in place was contrary to the FAO (2008) guidelines policy which provides that at the planning stage it is important to estimate the total compensation cost and the total budget to overcome unnecessary delay of the project. This increased the cost to the government and to the affected land owners. People were forced to live in the house without doing any renovation, no services and at the same time social unrest in the fear of being required to move at any time.

##### **5.2.2 Poor publicity and notice delivery**

Public consultation is importance for the success of any project. From the study the results show that there was poor public consultation due to poor notice delivery, for example the intention to acquire the land information was delivery through the government gazette and through Ward Executive Officer notice board. This was contrary to the land acquisition Act No.47 of 1967 that requires that the notice to be handed to the people whose interest is to be acquired. This is because few people can access information from the government gazette. Furthermore few meeting were conducted and a limited number of people attended. This was due the lack of information resulting from poor notice delivery because the notice

would have assisted them to know the venue, time of the meeting and the date on which the valuers would inspect the property. This is provided also in the FAO (2008) guidelines that provide that the notice should clearly state when and where the meeting should take place to allow the people to get more clarification on various matters related to the acquisition of their land.

### **5.2.3 Lack of transparency in Valuation process**

Transparency is an important consideration in any government activity especially when that activity touches the life of the community concerned. Lack of transparency was revealed during payment of compensation whereby most of the affected land owners were not available during the valuation exercise and after valuation process were not supposed to know the exact value of their properties for what was regarded by the government officials to be confidential. This shocked some affected people and led to suspicion about the valuation process. According to Langford and Halim (2008) and Ballonzi (2007 as cited in Kironde, (2009) transparency in valuation exercises should be given high priority. Similarly, International guidelines such World Bank O.P 4.12 address the issue of transparency on any public project that people should be provided enough information and the exercise should be carried out on transparent manner.

### **5.2.4 Low interest rate for the delay in compensation payment**

The study revealed that the compensation was not paid on time and therefore was inadequate. This was because the rate of interest used to assess allowance for delayed compensation is low as it based on the average percentage rate of interest offered by the commercial bank on the fixed deposit i.e. 6%. This rate does not reflect the country economic condition since the computation was made based on average throughout the delay period while the economic situation is not stable throughout as elaborated in figure 4. The law governing land acquisitions in Tanzania provide that 6% rate should be given for the delay in compensation. This rate does not reflect the current economic situation. Asian Development Bank (1998:98) provides that the communities should be maintained the standards of living as well they were before. It is apparent that this rate does not reflect the real situation.

### **5.2.5 Inadequate time to move and lack of services in the relocation area**

The Land Acquisition Act No.47 of 1967 provides that enough time should be given to the people to move. The legislation provides a maximum of three to six months but people were given only 45 days to move. This was not fair because government officials did not follow the proper procedures as is stipulated in the law. Above all in the relocation area at Pugu Mwakanga and Mgeule no basic services were provided such as water, roads, electricity, nor health service such as hospitals, nor security services such as police, schools, nor many other service. According to Syagga and Olima (1996) the relocation or resettlement area in most cases is characterised by lack of this basic services. Lack of these services has a direct impact on the conflict because affected people were not ready to move to an unserviced settlement area. Above all in the new relocation area there were other communities who were living there and had strong claims in respect of that land because most of them had not yet receive their compensation.



### **5.2.6 Poor assistance in appeal**

The findings show that the affected land owners who decided to appeal against the compensation procedures were not assisted in court process. For example it was revealed that land occupiers were required to contribute in order to hire private lawyers in order to help them to submit the claims. This is contrary to what is suggested by Langford and Halim (2008:40) who suggest that for the affected groups to participate effectively throughout the process, they should be given legal representation free of charge if they cannot afford the cost for a lawyer (see also UN-Habitat 2006 agenda 182(k) and FAO (2008 page 45). Above all no respect of the court procedures was taken, for example after the court had given out the decision in favour of the government and then the affected decided to appeal to the court of appeals yet still the government demolished the houses before the appeals lodged at the Court of Appeal were heard.

### **5.2.7 Poor knowledge pertaining to law governing land Acquisition**

The other conflict originated from the fact that the affected land owners disagreed with the government's decision to use Land Acquisition Act No.47 of 1967 instead of Land Act No.4 of 1999. Above all it was revealed further that most of their demands related to various items which were not included in the compensation sum such as transport, accommodation, and disturbance allowance. These items are recognised within the new Land Act No.4 of 1999 and not the former one. These results suggest that most of the demands resulted from poor knowledge on laws pertaining to land acquisition. This is in support with what is pointed out in Kironde, (2006) that lack of knowledge with regards to laws and regulation governing expropriation necessitates conflict. Had they knew that; they would have not demanded these items because at the end they lost the appeal opened in the court.

### **5.2.8 Omission of some other losses from the compensation sum**

Land acquisition programs have predominantly focused on the process of physical relocation rather than on the economic and social development of the displaced and other negatively affected people. Data analysis show that most of the respondents were argued that losses such as loss of social ties, loss of livelihood and income from renting, unemployment, additional transport cost resulted from change of transport route, breakage of some fragile items, furniture and domestic appliances, dismantling and assembling of furniture, psychological disturbance as the result of separation of families, friends and environment and alternative school for their children were not included in the compensation sum. This result supports the observation by Cernea as cited in Syagga and Olima (1996:66) and Bartolommeo et al, WCD (1999) that provides that in most cases these are beyond compensation of any sort and only add to the risk as well as the value of the sacrifice to the people. All these losses are important and therefore could have included in the compensation sum and these made affected people to be more aggressive with the overall process

Generally, the above factors that generate conflict in the steps of compulsory land acquisition are a result of the poor implementation of the seven steps as it is proposed from the theoretical model. The inputs as suggested from the modified FAO (2008) guidelines on the seven steps is a useful tool because it provides a

clear understandable framework in order to understand the conflict but can be used to examine a new legal frame work. Therefore, these steps should be reflected in the law pertaining to the land acquisition in order to have a strong legal base.

### **Sub questions 2.What are key actors' attitudes and perceptions in the steps of the compulsory land acquisition process?**

The FAO divides the acquisition process in seven steps and provides guidelines on how to implement. This organisation of the process is perceived as useful by land owners. However, they are in the opinion that those who have the authority to implement should make sure all procedures as are outlines are properly implemented. Their main emphasis is on publicity and notification because they believe that if this stage is implemented in a participatory manner then unnecessary conflict can be reduced.

Their argument are in support and are in agreement with those provided in the FAO (2008:16) guidelines which states that public meetings provide people with an opportunity to learn more about projects and to express their opinion and need for compensation. The guidelines also states that for minimizing the conflict the stages should be implemented in a participatory manner for the exercise to be efficient,fair and legitimate. This proves that lack of participation and coordination with different stakeholders in the process can have an impact in the implementation and successfulness of compulsory land acquisition

The government officials considered that the organisation of the stages is good but the problem remains that some of stages requires legal and self commitments since the process involves different actors such as affected landowners, non government organization, different Ministries, and local leaders to mention them a few. Each and every actor has a specific task in the process sometimes with complicated procedures and therefore requires strong coordination among key actors.

### **Sub question 3.What strategies can be implemented to minimize conflict in compulsory land acquisition?**

Strategies are discussed and elaborated under recommendations and are based on a) outcomes of research, b) analysis based on the researchers' views, which includes inspiration from literatures and c) case studies from other countries which form bases for sub question four which is described in chapter two (2).

## **5.3. Recommendations**

Based on the above findings it is clear that there is no a single recommended strategy on how to deal with compulsory land acquisition conflicts. The lessons and findings derived from Kipawa airport expansion project have verified the truth. Therefore apart from the first recommended strategy based on the main identified problem ( i.e. Poor planning); there are other additional recommendation strategies that can be used to minimize compulsory land acquisition conflict; as are clear shown and elaborated here below;

### **5.3.1 Proper planning of the compulsory land acquisition projects**

Proper planning for the compulsory land acquisition process of any parcel of land is vital. Clear and proper planning will help to overcome unnecessary delay for the

intended project. As it is provided in FAO (2008) guidelines policy that at the planning stage is where the estimated cost budget for the project should be arranged both financial and personnel planning, the time framework for the project should be established and the social and impact assessment can be estimated. It is recommended also that an Integrated Land Acquisition Plan<sup>24</sup> (ILAP) should be prepared in order to enable in integrating all activities and actors together. This has a number of advantages: First, it will enable the actors to know their role and responsibility in the process. Secondly, the disadvantages which will arise both to the acquiring authority and the affected landowners as the result of delay in paying compensation will be clear anticipated. Thirdly, preliminary cost estimates for the project will be known. The above suggested steps will enable the acquiring authority to speed up the process and reduce unnecessary delay of the project. This practice also has been adopted by the Government of Finland which prepares a plan at the planning stage for the project uses this plan to discuss the proposal with landowners. The plan consists of among the other things a time table frame and a preliminary cost estimate for the entire project. This will speed up the process since the time table for a particular task shall be clearly known and the responsible actor for a particular task shall be known which in turn will improve the performance in carrying out compulsory land acquisition process and reduce unnecessary delay for the implementation of the project. However, for the above suggested measures to be possible the acquiring authority should make sure that consultation arrangements are in place with all actors and should be transparency, inclusive and the meeting venue should be easily accessible.

### **5.3.2 Clear laws and regulations**

Laws and regulation governing compulsory land acquisition in Tanzania should be clear and known to the people. This can be implemented through revisiting some of the old provisions into the new one in order to reflect the real current situation and should not be rigid. It is therefore recommended that the interest rate of 6% charged for delay on compensation should be at least based on the borrowing rates charged by lending institutions which will reflect the opportunity cost of capital and probable future improvement of capital. Furthermore, the interest rate should be increased and be adjusted to reflect inflation based on the nature of the prevailing country's economy; these adjustments will compel the acquiring authorities to pay compensation promptly and on time and will minimize the objections and conflict in the land acquisition process. Secondly, there should be a specific time limit that should specify an expiry period for any of notice of intention served to acquire land. A vivid example is the experience from Finland whereby the intention to acquire the land ceases to have effect after three years unless there is an agreement with the affected land occupiers or the question of compensation has been referred to the Lands tribunal of Finland. Thirdly, there is a need for the establishment of independent land use tribunal to deals with compulsory land acquisition and compensation as is the case in Kenya where there is independent Land Acquisition Tribunal to determine appeals against compensation awards. People should be assisted with a lawyer without cost or the

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<sup>24</sup> ILAP is a plan that integrates all activities in the land acquisition process, from the budget preparation activity until the payment of compensation/resettlement of the affected people.

cost should be low and the appeal should not take long time as is suggested in the FAO (2008) guidelines and Langford and Halim (2008:40). In case any person is not satisfied with the decision, they should have the opportunity to appeal to the higher court.

### **5.3.3. Capacity building on legal Framework**

The study observed that most of the affected landowners have little knowledge on the laws pertaining to compulsory land acquisition procedures. This was evidenced from the fact that most of their resistance and objections were based on the current Land Act no.4 of 1999 instead of Land acquisition Act No47 of 1967. The education to the public should not come at the time of land acquisition. The public ought to know it before. Organizing seminars and meetings in which the experts in land matter such as lawyers, Non Government Organisation and Civil based organisation will educate the target group on the matter in question, including local and grassroots' leaders. Public education can be carried out by both government and non- government organizations which deal with land matters. Knowing all these, there is no doubt that people should be empowered with knowledge of laws and regulation pertaining to compulsory land acquisition procedures. This will increase awareness to the people which will in turn lead to the increased success in solving compulsory land acquisition problems.

### **5.3.4. Transparency in valuation exercise**

Transparency in the valuation should be given high priority. This will be possible through participatory approach. This is in support with the opinion given by Ballonzi (2007 as cited in Kironde, (2009) that transparency cannot be avoided in valuation exercise and this can be achieved through people participating in the exercise. In short all stakeholders like local leaders, individuals and other people with interest in a particular property should be involved right from the beginning of the exercise. Where the stakeholders are aware of all attributes considered and the rate applied, there will be no query on illegality or unfairness on the value reached. All affected land owners should also be educated on the importance of their presence during valuation exercise in order that the valuation officials can get enough information from the right people. Moreover, in a situation where the numbers of properties to be inspected are too many, multiple valuation companies should be hired.

### **5.3.5 The recognition of other losses and fair compensation sum**

Some of the losses such as break of family ties, right of the mortgage, loss of business goodwill and other private losses that may include the existence of sacred places in the land to be acquired, which are used by the community for their beliefs. It may be worth to reserve them or if possible to compensate the community if they can shift the respected elements to the other place. To attain this, the valuer should be allowed to consider all these losses and should advice the acquiring authority on the best compensation possible method, given the nature of the society. For example a valuer should advise whether in certain area to apply only monetary compensation or alternatively both land and monetary. If the replacement cost is used it is therefore recommended that full replacement cost is used, without deduction of depreciation or salvage materials is preferred. The reasoning is that if one is paid based on the deduction of depreciation and other

salvage materials it means the compensation building to be built is not new. Therefore getting a new house for the affected landowners should be regarded as the acknowledgment from the poor situation they were living.

Furthermore before adapting certain type of compensation that is monetary or alternative land, the needs of the people should be considered. The good examples that can be taken as an example is the intermediate approach for the case of Colombia whereby the government opted to negotiate relocations with the affected land owners through calculating compensation based on a value assessment approach as it was recommended by the Inter-American Development Bank. This implies calculate the amount needed by household to buy a used housing elsewhere. The programme includes assisting the household in finding the new location within the neighbourhood or elsewhere if prefer and it also included paying for moving expenses. This helped the affected people to remain in the equivalent condition as before relocation. Also the third part people such as tenants should be compensated at least to be given transport allowance to transport their good and belonging, finding new neighbours, new land lord, alternative accommodation and part of the disturbances. Therefore compensations should not merely restrict on exchange value of the physical property but also should consider other interest rights.

### **5.3.6 Stakeholders' participation in compulsory Land Acquisition process**

Compulsory land acquisition should be implemented through participatory approach between the land occupiers and the acquiring authority. Even though it is known that compulsory land acquisition is carried out without the will of the occupier, this should not neglect the fundamental right of airing views concerning the landowner's right to the land to be acquired. For example the case of Colombia during the construction of Metrocable station where the affected people participated in negotiation can be taken as one example of participation. This right is in accordance as is provided under article 24(1) of the constitution of United Republic of Tanzania. Through participation stakeholders become aware of the public intention to acquire their land, and they will come to recognize that by releasing their land for the public interest their nation will be in a better condition. However the stakeholders' participation should not be a means for persuading the intended beneficiaries to take part in a programme whose contents have already been decided. People whose land is to be compulsorily acquired should respect the power of President and the rationale of the project for the public interest instead of individual interest and therefore, stakeholders' participation should not be based on prejudice.

### **5.4 General conclusion**

Like any other public project, the Julius Nyerere International Airport expansion project has both positive and negative impacts. On the positive side the project will benefit the entire economy because the airport will be able to accommodate many planes at the same time. This will increase employment and revenue to the government. On the negative side however, for the affected households, the project has led reductions in income levels, and disturbances to the people from moving in the new relocation area.

This study has addressed the issue of compulsory land acquisition process in Tanzania based on modified Kombe's theory model which provides seven steps to be used to implement compulsory land acquisition process and to overcome unnecessary conflict. These seven steps from the model have been complemented with the seven stages as provided in the FAO guidelines. The FAO guidelines suggest that for a well structured compulsory land acquisition process to be successful the acquiring authority should follow the steps as they are provided. However it should be remembered that the FAO guidelines steps are based on Peri-Urban areas and therefore the steps have been modified to suit the urban area where this research is based.

The main aim of this research was to determine which factors generate conflict in compulsory land acquisition processes. The major conflict identified was poor planning for the project, which should be addressed in the planning stage as it is called in the FAO guidelines. The FAO guidelines suggest that at this stage there should be sufficient budget estimates both financial and personal, the time frame work for the project should be given and all this should be done through participatory approach including all stakeholders.

Based on the above main findings it is clear that FAO guideline can be easily adapted to fit within the urban context and that they provide a useful framework for analysing compulsory acquisition processes in an urban location. It is also necessary to have good and clear legal framework to support compulsory land acquisition processes. In the case of Tanzania the existing legal framework pertaining to land acquisition is good, although several provisions such as the rate for the delay to pay compensation, the specific time where the land should be said it is no longer to be said is acquired, the appeal procedures and the valuation methods such as replacement cost (to be able to include various loss such as business goodwill) need to be reviewed. Proper implementation of the existing provisions is required. It is likely that implementation of the law is also the most difficult part of compulsory acquisition processes in other countries. Therefore as the guidelines suggests, it is important that existing laws and regulations provide instructions to the acquiring authority on how the compulsory land acquisition process should be carried out (including how conflict should be resolved) rather than just describing the methods, procedures, the purpose, the agency and officials who are involved in the process.

## **5.5 Areas for further research consideration**

The findings from this thesis indicate that further research should be carried out to assess how the seven steps of land acquisition process complies with the legal framework pertaining to compulsory land acquisition in Tanzania. Further research should also probe how laws and regulations could incorporate the rights of tenants and other vulnerable groups that may have a direct or indirect right on the subject land so that they may get some assistance during relocation or resettlement. Therefore, to academicians and policy maker more research and emphasis should be on this field in order to identify to what extent tenants and other vulnerable group are affected during the process. This will help to come up with good strategy which can be a lesson to other countries whereby tenants and other vulnerable groups are not compensated during compulsory land acquisition.

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## Annexures

### Annex 2.i: Guiding Principles of Compulsory Land Acquisition

- (i) The land and land rights to be acquired should be kept to a minimum. For example if the creation of an easement or service can serve the purpose of the project, there is no need to acquire ownership of land parcel
- (ii) Participatory planning process should involve all affected parties, including owners and occupants, government and government organization.
- (iii) Due process should be defined in law with specified time limits so that people can understand and meet important deadlines.
- (iv) Procedures should be transparent and flexible and undertaken in good faith.
- (v) Notice should be clear in written and oral form, translated into appropriate language with procedures clearly explained and advice where to get help.
- (vi) Assistance should be provided so that owners and occupiers can participate effectively in negotiation on valuation and compensation.
- (vii) The process should be supervised and monitored to ensure that the acquiring authority is accountable for its actions and personal discretion is limited.
- (viii) The government should take possession of the land after owners and occupants have been paid at least partial compensation, accompanied by clearly defined compensation guarantees (FAO, 2008:19)

**Source:** FAO, (2008)

## **Annex 2.ii. The evolution of land acquisition in Tanzania**

### **2.1. Land Acquisition during colonial era**

#### **a) German period (1891 - 1917)**

During this era the control of occupation and use of Tanzanian land was for the benefit of Germany. The principal legal instrument by which such control was achieved was the imperial decree regarding creation, acquisitions, and conveyance of crown land and regarding conveyance and acquisition of land in General of 26 November, 1895 (Imperial Decree, 1895). Suffice it to say that the decree was made by Germany and was intended to serve German interests. The decree outlines issues such as creation, acquisition and conveyance of crown land in general. Generally the decree provided the process and the manner on how land acquisition should be affected from the initial stage until to the payment of compensation or resettlement. The point to bear in mind is that the decree was made by the German's and therefore it was meant to serve German interest at the expense of the native inhabitants.

#### **b) The British period (1917 - 1961)**

During British rule in Tanzania, the Land Acquisition Ordinance Cap.118 of 1923 governed land acquisition. Section 3 of this Ordinance empowered the Governor to acquire any land required by government for any public purpose for an estate in fee simple, or a term of years as he may think proper, paying such consideration on compensation as may be agreed upon or determined under provisions of this Ordinance. The Ordinance stipulated the procedures to be followed in the process of compulsory land acquisition. It is provided under section 5 that the Minister for Lands and Surveys shall give notice to the persons interested or claiming to be interested in such lands or to the persons entitled by this Ordinance to sell or convey the same. Generally the ordinances provides the procedures on how the notice should be served to the people and the steps that should be followed in case one is aggrieved by the land acquisition process on how to lodge the claims.

### **2.2. Land Acquisition after independence (1961 to date)**

After the independence (1961 to date) the government retained the land Ordinance 1923. This law as promulgated when Tanzania (then Tanganyika) was a British protectorate. Section 3 of the Land Ordinance Cap.113 of 1923 (as amended) provided that all land in Tanzania whether occupied or unoccupied is public owned. Section 4 of the same Ordinance states that, subject to the provision of subsection (1) of the section 5 all public land and all rights over the same are hereby declared to be under the control and subject to the disposition of the President for common benefit, direct or indirect to the natives of Tanzania and no title to the occupation and use of any land without the consent of the president. The above statement implies that; land management function is vested into the President, i.e. the power of land acquisition; allocation, disposition and revocation are vested in the president. The same is emphasized by the Land Act No.4 of 1999 under section 3(1) (a) which provides that all land in Tanzania is public land vested in the President as the trustee on behalf of all citizens.

### **Annex 2.iii: Assessment of value of land for Compensation**

- (i) The basis of compensation assessment shall be the market value of the land and unexhausted improvements acquired.
- (ii) This value is to be arrived at using the comparative method of valuation basing on actual recent, sales of similar properties or by use of the income approach or replacement cost method for special type properties which are not saleable or usually do not let in the market.
- (iii) A qualified valuer carry out the assessment of compensation and his results are to be verified by the Chief Government Valuer or his representative.
- (iv) The compensation to be paid must include:
  1. The value of unexhausted improvements
  2. Disturbance allowance (value of land x commercial bank rate on fixed deposits obtaining at the date of acquisition)
  3. Transport allowance (actual cost of transporting 12 tones of luggage by road or rail, whichever is cheaper, within 20km from the point of displacement)
  4. Accommodation allowance (market rent x 36 months)
  5. Loss of profits (audited net monthly profit x 36 months)

Transport allowance, accommodation allowance and loss of profits are not to be paid for unoccupied land

**Source: Tanzania Land Regulation, 2001**

### Annex 3.i: List of Respondents

Unity of sample analysis	Organization/Department/sector	No. of respondents	Methods	Division/Section/Remarks	
1	MLHHS	Department of land administration	1 official	Interviews	Land policy and administration
		Department of urban and Regional planning	1 official	Interviews	Urban planning
		Department of valuation	1 official	Interviews	Valuation
2	Ihala Municipal council	Urban planning section	1 official	Interviews	Section of urban planning
		Land administration	1 official	Interviews	Land administration section
		Valuation section	1 official	Interviews	Valuation section
3	Ward level	Ward committee member <sup>25</sup>	8 members	FGD	Discussion and interview with Ward Committees members.
		Affected land occupiers-men	8 ( <i>obtained from 60 affected land owners</i> )	FGD	Discussion and interview Selected sample members within the area.
		Affected land owners-women	8 ( <i>obtained from 60 affected land owners</i> )	FGD	
		Affected land occupiers	60	Questionnaires/interview	
4	NGOs	Centre for community initiative	2 officials	Interview	NGO dealing with land matter.
5	Consultants	-Tan valuer consultants	2 officials	interviews	Valuation firms which carried out the valuation
6	Government institutions	Tanzania Airport Authority	1	interview	Division dealing with airport expansion project
			<b>Total sample 79</b>		

<sup>25</sup> Ward committee members comprise, Ward executive officers, Executive officers from each sub ward, all sub ward chairpersons, a Ward chancellor, two elder people one being a woman.

### **Annex 3.ii Primary Data Collection tools**

- a) In depth direct interviews with key individuals who have long experience or specialized knowledge and skills on various subjects related to the research problems. Such as officials from the Ministry, Local government, Valuation firms and Non government organization involving in the land related matters. The interview questions were open ended that arises based on the previous response or questions. The data to obtained helped to analyze the compulsory land acquisition process on how can successfully be implemented.
- b) Three Focus Group Discussion (FGD) were conducted; these include; WDC members, two groups one for men and another for woman from the affected landowners. In depth interview with open ended and semi structured format type questions conducted during field work of July 4<sup>th</sup> – 1<sup>st</sup> August 2010. However it should be known that most of the affected land owners cannot easily understand the technical questions, therefore simplified words with little vocabulary was used especially for the FGD interviews and questionnaires samples.
- c) Personal observation as well as issuing questionnaires. Questionnaires were dominated by closed questionnaire and were pre tested before issued to the respondents to test whether are ambiguous or not and some questions changed to make it clear to the respondents.
- d) Photograph and Research events this enabled the researcher to capture the events and the real situation of the case study area which will provide insight to the reader and real evidence from the research. To the researcher will enable in easy illustration and explanations of findings.

### Annex : 3.iii. Variables, Indicators and its operationalization

Research questions	Variables	Indicators	Data sources	QUESTIONS
<p>Qn.1 What are the factors that generate conflicts in the seven steps of compulsory land acquisition process?</p> <p>(i) From land occupiers perspective?</p> <p>(ii) From the government/public bodies perspectives?</p> <p>(iii) From third party perspectives?</p>	Planning	<ul style="list-style-type: none"> <li>Participatory planning</li> </ul>	Questionnaires focus group discussion and Interviews.	QN.22-27,88
	Publicity	<ul style="list-style-type: none"> <li>Level of communication</li> <li>Issuing of notes</li> </ul>	Questionnaires,FGD and Interviews	QN.28-34,89-91
	Compensation	<ul style="list-style-type: none"> <li>Amount of compensation</li> <li>Monetary compensation</li> <li>Equity and transparency</li> <li>Compensation laws and regulations</li> <li>Land substitution</li> </ul>	Questionnaires,FGD and Interviews	QN.35-41,92-94
	Possession	<ul style="list-style-type: none"> <li>Time to vacate</li> <li>Govt take possession</li> </ul>	Questionnaires, FGD and Interviews	QN.42-44,
	Appeal	<ul style="list-style-type: none"> <li>Number of appeal in the court</li> <li>Judgment available.</li> </ul>	Questionnaires, focus group discussion and Interviews	QN.49-53,95-97
	Relocation	<ul style="list-style-type: none"> <li>Collective relocation</li> <li>Relocation close to original site.</li> </ul>	Questionnaires, focus group discussion and Interviews	QN.45-48,99
	Physical assets/livelihood	<ul style="list-style-type: none"> <li>Accessibility to city Centre with focus on old site and resettlement site</li> <li>Closeness to infrastructures like schools, and clinic between the old site and resettlement site</li> <li>Accessibility to market and employmen</li> </ul>	Questionnaires, focus group discussion and Interviews	QN.46,
	Human Assets/livelihood	<ul style="list-style-type: none"> <li>Type of skills available</li> <li>Availability of labour</li> <li>Level of education</li> </ul>	Interview with all respondents  Focus group Discussions	QN.1-6
	Social political Assets	<ul style="list-style-type: none"> <li>Relatives and friends in the area</li> <li>Membership in institution and society</li> <li>Community support</li> <li>Political support</li> </ul>	Interview with a all land occupiers  Focus group Discussion	QN.16-21
	Financial Assets/livelihood	<ul style="list-style-type: none"> <li>Informal business activities</li> <li>Access to community cooperative loans</li> <li>Presence of loan shark</li> </ul>	Interview with all land occupiers	QN.8-15
Qn2..What are actor's attitude and perception views in respect	People's perceptions(independent)	<ul style="list-style-type: none"> <li>Participation, proximity</li> <li>Nature and roles</li> <li>Classification</li> </ul>	Interviews with affected landowners/occupiers	QN.55-56, Qn,88-100



<i>of compulsory land acquisition?</i>	-Peoples participation		and FGD	
<i>(i)Does the government follow its own procedures?</i>	Laws, standards, regulations and guidelines. Policy documents	<ul style="list-style-type: none"> <li>• Law enforcement and implementation</li> <li>• Identifying the role of the government in the land acquisition process</li> </ul>	Interviewing with government officials	B.Qn.57-69
<i>(ii)Are the government procedures accepted</i>	-Parties/actors involved.	<ul style="list-style-type: none"> <li>• Actors participation.</li> </ul>	Interviewing with affected land occupiers,NGOs,consultant firm,Govt officials	Qn.98-100 and 105-105
<i>Qn.3. What strategies to be applied in order to compulsory land acquisition process to be implemented successfully?</i>	Land acquisition procedures -Appropriate strategies to ensure good compulsory land acquisition process.	<ul style="list-style-type: none"> <li>• Regulations and procedures</li> <li>• Capacity building</li> <li>•</li> </ul>	Interview with all respondents  Focus group Discussion	Qn.78-80, 98-100,105-105
	Compensation	<ul style="list-style-type: none"> <li>• Monetary compensation</li> <li>• Land substitution</li> <li>• Home substitution</li> <li>• Investment benefit sharing</li> </ul>	Interviews with all respondents  Focus group Discussion	Qn.41-41,85-87,99, and 105-105
	Relocation	<ul style="list-style-type: none"> <li>• Collective relocation</li> <li>• Relocation close to original site.</li> </ul>	Questionnaires and Interviews with all respondents  Focus group Discussion	Qn.45-45 and 99
	Mechanisms/Strategies in compulsory land acquisition	<ul style="list-style-type: none"> <li>• Number of strategies applicable in Tanzania</li> <li>• Acceptability by the affected land occupiers</li> <li>• Degree of implementation</li> </ul>	Existing instruments/Strategies used by UN-HABITAT,WB and other Countries	Available research evidence which have been done in relation to the subject problems.
<i>Qn 4.What can be learned from cases/countries in relation to compulsory land acquisition?</i>	Innovative approaches and strategies internationally	<ul style="list-style-type: none"> <li>• Success level</li> <li>• Key lessons</li> </ul>	International cases from Literature and Desk research.	Questions to be set for interviewing experts

### Annex 4.i .Service required in the relocation area

Level of service	Very important	Important	Not very much important
Transport	35	20	5
Road	37	16	7
School	38	14	8
Health service	46	12	2
Worship place	15	30	10
Bus stand	21	20	15
Water	58	2	0
Sanitation	22	20	18
Police station	30	20	10
Market	25	20	15

### Annex.4.ii .Questionnaires, Interviews and FGD Guiding Questions

#### A: INTERVIEWS FOR LAND OWNERS

SECTION A: PARTICULAR INFORMATION					
Interviewee No.....Date...			Ward.....Date.....		
SEX Male <input type="checkbox"/> Female <input type="checkbox"/>	AGE				NATIONALITY Tanzanian <input type="checkbox"/> Non Tanzanian <input type="checkbox"/>
	Below 20	Between 21-40	Between 41-60	Above 60	
Have you been resettled? (a) Yes <input type="checkbox"/>			(b) No <input type="checkbox"/>		

SECTION B: GENERAL INFORMATION			
1. Employment status	(a) Public servant <input type="checkbox"/>	(b) Self employed <input type="checkbox"/>	(c) Unregistered business <input type="checkbox"/>
	(d) Domestic employed <input type="checkbox"/>	(e) Contract employment <input type="checkbox"/>	(f) Other (if any specify)..... <input type="checkbox"/>
2. Education status	(a) Primary level <input type="checkbox"/>	(b) Secondary level <input type="checkbox"/>	(c) College <input type="checkbox"/>
	(d) Undergraduate <input type="checkbox"/>	(e) None <input type="checkbox"/>	
3. How long have you been living here?	(a) Less than 1 year <input type="checkbox"/>	(b) 1-2 years <input type="checkbox"/>	(c) 2-5 years <input type="checkbox"/>
	(d) 5-10 years <input type="checkbox"/>	(e) More than 10 years <input type="checkbox"/>	
4. What is the legal status/tenure?	(a) Owner occupier <input type="checkbox"/>	(b) Rent/lease <input type="checkbox"/>	(c) shared <input type="checkbox"/>
	(d) Family house <input type="checkbox"/>	(Other legal status (if any please specify)..... (f) Unknown <input type="checkbox"/>	
5. Do you have other family members living here	(a) Yes <input type="checkbox"/>	(b) No <input type="checkbox"/>	

5(a) If the answer is Yes how many are they?.....		5(b) How do you see the size of your family? (a) Small <input type="checkbox"/> (b) Medium <input type="checkbox"/> (c) Large <input type="checkbox"/>		
6.What kind of particulars do you have to verify that you live here?(You can tick more than one option)		(a) Title <input type="checkbox"/>	(b) Receipt of buying the land <input type="checkbox"/>	(c) Rental contract document <input type="checkbox"/>
		(d) Utility bills <input type="checkbox"/>	(e) If you have any other documents (please specify) <input type="checkbox"/>	
<b>SECTION C: LEVEL OF EMPLOYMENT OPPORTUNITIES</b>				
7. What is your main source of income?		(a) Employee <input type="checkbox"/>		(b) Business <input type="checkbox"/>
		(c) Friends/Family members <input type="checkbox"/>		(d) Other specify (if any).....
8. Where do/(used to) you sell your items/products		(a) Within Kipawa Ward <input type="checkbox"/>	(b) Outside Kipawa <input type="checkbox"/> (c) Other specify.....	
9. How many employees do you have at your business work?		(a) One employee <input type="checkbox"/>	(b) Two employees <input type="checkbox"/>	
		(d) None <input type="checkbox"/>	(c) More than three employees <input type="checkbox"/>	
10. Where does your employee live?		(a) Within Kipawa <input type="checkbox"/>	(b) Outside Kipawa <input type="checkbox"/>	
		(c) Other (please specify).....		
11. For how long you have been operating your business?		(a) Less than 12 months (1 year) <input type="checkbox"/>	(b) Two years <input type="checkbox"/>	
		(c) More than two years <input type="checkbox"/>		
12. What is type of your business?		(a) retail business <input type="checkbox"/>	(b) Services <input type="checkbox"/>	
		(c) Woodwork <input type="checkbox"/>	(d) Food staff <input type="checkbox"/>	
13. Where do you get finance to assist you in your business?		(a) loan from bank <input type="checkbox"/>	(b) Credit from PRIDE <input type="checkbox"/>	
		(c) Individual associations <input type="checkbox"/>	(d) Other (please specify) <input type="checkbox"/>	
14. Which type of collateral you used/were used to secure loans?		(a) House <input type="checkbox"/>	(b) Bank statement <input type="checkbox"/>	
		(c) Employer guarantee <input type="checkbox"/>	(d) Other (please specify) <input type="checkbox"/>	
15. What type of transport do you take in going at your work place/business place? (more than one option is allowed)		(a) Public transport <input type="checkbox"/>	(b) Private transport <input type="checkbox"/>	
		(c) Walking <input type="checkbox"/>	(d) other (Please specify).....	
<b>SECTION D: COMMUNITY BASED ASSOCIATION</b>				
16. Do you or your spouse belong to any membership association in this community		(a) Yes <input type="checkbox"/>	(b) No <input type="checkbox"/>	
		(c) I do not know <input type="checkbox"/>		
17. If the answer is Yes what is the main aim of that association		(a) Employment purpose <input type="checkbox"/>	(b) Environmental issues <input type="checkbox"/>	
		(c) Saving and credit association <input type="checkbox"/>		(d) Other.....
18. Which community group are you or your spouse currently join in this area?		(a) Saving/credit group <input type="checkbox"/>	(b) Women group <input type="checkbox"/>	(c) Environmental group <input type="checkbox"/>
		(d) Health group <input type="checkbox"/>	(e) Other (please specify if any)..... <input type="checkbox"/>	
19. Do the association on which you belong help each other?		(a) Yes <input type="checkbox"/>	(b) No <input type="checkbox"/>	
		(c) I do not know		
20. Do you involve/participate in any		(a) Yes <input type="checkbox"/>	(b) No <input type="checkbox"/>	

political activity?	( c ) I do not know		
21.During election what do politicians come and campaign in this area? ..... .....			
<b>SECTION E:COMPULSORY LAND ACQUISITION STEPS PROCESS.</b>			
<b>SECTION E1:PLANNING</b>			
22.Do you know the meaning of compulsory land acquisition?	(a) Yes I know <input type="checkbox"/>	(b) I don't know <input type="checkbox"/>	
23.Were you involved/participated in compulsory land acquisition process ?	(a) Yes I was involve <input type="checkbox"/>	(b) No I was not involved <input type="checkbox"/>	
	( c ) I don't know <input type="checkbox"/>	(c) Other ( please specify if any) <input type="checkbox"/>	
24.If the answer is Yes,in what ways you were involved/participated? (i) ..... (ii) ..... (iii) .....			
25.What advantages/disadvantages did yo get by involing/by not involing in the process? (i) ..... (ii) ..... (iii) .....			
26.What is your perception of landowners participation in the compulsory land process process?	(a) Important <input type="checkbox"/>	(b)Not important <input type="checkbox"/>	
	( c )I don't know <input type="checkbox"/>		
27.Why do you think land occupiers participation in planing stage is important? (i)..... (ii) .....			
27.Who were main actors involved in planning stage?	(a) Only Land owners <input type="checkbox"/>	(b)Local leaders <input type="checkbox"/>	
	( c ) All communities in the area <input type="checkbox"/>	( d) Other (please specify) <input type="checkbox"/>	
<b>SECTION E2. PUBLICITY</b>			
28.Where did get the information about the government to acquire your land?	(a)Fromthe radio,newspapers and television <input type="checkbox"/>	(b)From the Ward office <input type="checkbox"/>	
	(c)From the meeting conducted <input type="checkbox"/>	(d) Other (please specify) <input type="checkbox"/>	
29. In case the government conducted the meeting did you attend it?	(a) Yes <input type="checkbox"/>	(b) <input type="checkbox"/>	
30.Why you decide to attent/not to attend that meeting? (i) ..... (ii) .....			
31.Can you remember what what was the meeting all about and did yo understand the meaning of that meeting?.....			
31.Did you agree with the government intention to acquire your land? (a) Yes I was agree <input type="checkbox"/> (b) No.i didn't agree <input type="checkbox"/>			
33.What were your reasons for you to agree/ not agree with the government intention to acquire your land? (i) ..... (ii) .....			
34.Where you given time to submit claims concerning the amount of compensation to be paid? (a)Yes <input type="checkbox"/> (b)No <input type="checkbox"/> (c) Time was ok <input type="checkbox"/> (c) I don't know <input type="checkbox"/>			

<b>SECTION E3 VALUATION AND SUBMISSION OF CLAIMS</b>				
<b>35. Were you involved/participated in assessment and valuation process?</b>				
(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/> (c) I don't know <input type="checkbox"/>				
<b>36. If you were involved in the process, what were your roles?</b>				
(i) .....				
(ii) .....				
<b>37. Do you think the value was assessed correctly?</b>				
(a) Fair <input type="checkbox"/> (b) Not fair <input type="checkbox"/> (c) Too low <input type="checkbox"/> (d) Too high <input type="checkbox"/> (e) other (if any please specify) <input type="checkbox"/>				
<b>38. What is your justifications for your answer above?</b>				
(i) .....				
(ii) .....				
<b>SECTION E4 PAYMENT OF COMPENSATION</b>				
<b>39. Did you agree to accept with the compensation sum and land for resettlement given to you?</b>				
(a) Yes <input type="checkbox"/> (b) I dint agree <input type="checkbox"/>				
<b>40. How long time did it take to receive your compensation?</b>				
(a) Below five years <input type="checkbox"/> (b) above 5 years <input type="checkbox"/>				
<b>40. Is the amount given to you was it fair or unfair?</b>				
(a) Yes it was fair <input type="checkbox"/> (b) No it was unfair <input type="checkbox"/>				
<b>41. In your opinion what do you think to be important items that were not included in compensation figure?</b>				
(i) .....				
(ii) .....				
(iii) .....				
<b>SECTION E5 POSSESSION</b>				
<b>42. Were you given full compensation amount before the government take into possession your land?</b>				
(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>				
<b>43. Were you given enough time time to prepare yourself to vacate?</b>				
(a) Yes the time was enough <input type="checkbox"/> (b) Time was not enough <input type="checkbox"/>				
<b>44. If the time given was not enough what is your suggestion time period which you think is reasonable?</b>				
(a) 1-6 months <input type="checkbox"/> (b) 6-12 moths <input type="checkbox"/> (c) Above 1 year <input type="checkbox"/>				
<b>45. In your opinion what do you thing to be appropriate strategies to be considered by the acquiring authority to consider before possession and give reasons?</b>				
(i) .....				
(ii) .....				
(iii) .....				
<b>45. Were you satisfied with the new resettled location?</b>				
(a) Yes I am satisfied <input type="checkbox"/> (b) I am not satisfied <input type="checkbox"/> (c) I don't have any way <input type="checkbox"/>				
<b>46. Do you have and satisfied with the following services at this settlement?</b>				
<b>Level of Services</b>	<b>Availability</b>	<b>Accessibility</b>	<b>Quality of Service</b>	<b>The usage of the service</b>
	(a) Yes	a) Near	a) Good	a) Often

	(b) NO	b) Average c) Far	b) Average c) Fair	b) Occasional c) Never use
Public transport				
Roads				
Primary school				
Secondary school				
Health service/hosp				
Place of Worship				
Bus stands				
Water				
Electricity				
Sanitation(toilet)				
Drainage				
Garbage collection				
<b>47.How can yo judge the level of services and life in the new area</b>				
(a) It is better now <input type="checkbox"/> (b)Not much difference <input type="checkbox"/> (c) It is worse <input type="checkbox"/>				
<b>48.Are you satisfie <input type="checkbox"/> with the physical location of this area? (a) Yes <input type="checkbox"/> (b) sometimes yes <input type="checkbox"/></b> sometimes no (c) No (d) Other(please specify) <input type="checkbox"/>				
<b>SECTION E6 APPEALS</b>				
<b>49.Were you satisfied with compulsory land acquisition process including the amount of compensation?</b>				
(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/> (c) I don't know <input type="checkbox"/>				
<b>50.If the answer for question 49 is (Yes) did you take your claims to the court?</b>				
(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/> (c) I don't know <input type="checkbox"/>				
<b>51.Were you given the court assistance such an advocate to help you to the court?</b>				
(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/> (c) I don't know <input type="checkbox"/>				
<b>52.Were you satisfied with the court decision about this matter?</b>				
(a) Yes <input type="checkbox"/> (b)No <input type="checkbox"/> (c) I don't know <input type="checkbox"/>				
<b>53.Can you give me three arguments to why you were satisfied/not satisfied with the court decision?</b>				
(i) .....				
(ii) .....				
(iii) .....				

**SECTION E7 RESTITUTION**

**54. Is restitution important for you in case the government is no longer interested in the projects?**

- (a) Not important  (b) Important  (c) I don't know

**SECTION F: GENERAL QUESTIONS**

**55. What do you think about the following statement on compulsory land acquisition process? Please tick according to the option given? (Please assign your choice based on the following criteria) 4-Very Important, 3-Important, 2-Moderate, 1-Not important 0-Not at all.**

No	Statement on compulsory land acquisition process	4	3	2	1	0
a)	Affected land occupiers are entitled to learn more about compulsory land acquisition process and steps					
b)	Affected land occupiers are entitled to participate in compulsory land acquisition process.					
c)	Government should take responsibility on the provision of education to the affected land occupiers on compulsory land acquisition process					
d)	Affected land occupiers are entitled to discuss and give their opinion on compulsory land acquisition process					
e)	Affected land occupiers are entitled to veto government plans in case the large group does not agree on the process.					
f)	Government are entitled to negotiate on the amount of compensation with the affected land occupiers					
g)	Benefits to be produced by the intended project should be distributed to the affected land occupiers					
h)	I am satisfied with the compulsory land acquisition procedures as specified in the law.					
i)	I am satisfied with the government efforts/performance on the implementation management on compulsory land acquisition procedures.					

**SECTION G: RESPONDENTS FINAL REMARKS**

**Based on your opinions which steps among seven steps of compulsory land acquisition process do you think requires much attention and if possible requires institutions changes. Prioritize them in the form of 1 to 7**

Seven stages for compulsory land acquisition	Priority (1 to 7)
Planning	
Publicity	
Valuation and submission of claims	
Payments of compensation	
Possession	
Appeals	
Restitution	

<b>B:INTERVIEW AND FOCUS GROUP GUIDELINES</b>	
<b>SECTION A. ILALA MUNICIPAL COUNCIL/MINISTRY OF LAND AND HUMAN SETTLEMENT</b>	
57	What do you think are the problems of implementing compulsory land acquisition process in Tanzania?
58	What procedures do you use to communicate with landowners/occupiers in planning for compulsory land acquisition process?
59	What problems do you face in planning stage?
60	How do people get information about the intention of the government to acquire the land on which they occupy?
61	What problems did you face during this stage?
62	What were the procedures taken out in carrying out and assessing valuation of the acquired land?
63	What is the acreage of land acquired and how many land occupiers were affected?
64	What were the criteria of assessment of compensation being used for the different properties being acquired?
65	Who was responsible for the payment of compensation?
66	On the whole process of compensation paid to the affected persons, were tenants and other persons with no legal title to the land considered; if not, what criteria were used to categorize them?
67	Was the affected land occupiers agreed on the compensation figure given?
68	What action/steps do the affected people take in case one does not agree on the compensation figures given?
69	In your opinion what do you think to be appropriate ways on compensation in case the land is acquired?
70	Did the government possess the intended land after the payment of required compensation?
71	Did the affected land owners who were not agreed with the amount of compensation given the opportunity to appeals?
72	Was there any resettlement for the affected land occupiers? If Yes <ul style="list-style-type: none"> <li>a) Where were they resettled?</li> <li>b) What was the reason for choosing the area where they were resettled?</li> <li>c) Who was eligible to be resettled (the criteria used in the resettlement procedures)</li> </ul>
73	When did the acquisition process commence vis-à-vis serving notices, surveying and identification of the area and valuation for compensation?
74	Who are the stakeholders and participants involved in this project?
75	Did the affected people seem to know their rights and obligations as concerned with the exercise?
76	During compulsory land acquisition process, how is your relationship with the local leaders?
77	How do you facilitate the local leaders to participate in the process?
78	What is your opinion regarding affected land owners participation in negotiation on the amount of compensation?
79	Do you think that the steps for compulsory land acquisition are clear? If no what do you think to be the



	appropriate strategy to improve?
80	What efforts do you think are appropriate to improve the compulsory land acquisition process in Tanzania? What is the land tenure system found in Kipawa?
<b>SECTION B : VALUATION COMPANY</b>	
81	Who was your client in regards to the valuation for compensation at Kipawa?
82	When did the valuation exercise commence and end respectively?
83	From the total number of affected properties, what were/was;  a) Number of residential houses; b) Number of commercial buildings; c) Number of institutes, schools, dispensaries etc; d) Number of religious properties; e) Amount of bare land; f) Number of graves.
84	In your assessment of compensation, did you consider tenants as affected persons? What were the criteria and categories used to classify a person as entitled to compensation?
85	In what form was the compensation to be paid:  a) Monetary terms only b) Alternative land only (Resettlement) c) Both
86	What difficulties did you face during the valuation exercise?
87	What are your opinions on the current situation of the people in Kipawa with regards to compensation in Tanzania?
<b>SECTION C: AFFECTED LANDOWNERS AND WARD DEVELOPMENT COMMITTEE MEMBERS</b>	
88	Were you involved during land acquisition process at this area?
89	How did you get the information concerning the acquiring of this area?
90	Do you know the procedures required for compulsory land acquisition process?
91	In what ways were you involved in the valuation exercise?
92	What is your opinion concerning valuation exercise and payment?
93	Were you satisfied with the valuation exercise?
94	If you were not satisfied with the exercise what action did you take?
95	Was there any room for you to appeal on the compulsory land acquisition exercise?
96	If you take action to the court what was the court's decision?
97	Were you satisfied with court decisions?

<b>98</b>	In your opinion what do you think should compulsory land acquisition process be carried out?
<b>99</b>	Do you think that affected persons should be resettled in another area or just being given monetary compensation and find them area to be resettled? Please give reason why you think so?
<b>100</b>	What are your suggestions to the government concerning this process?
<b>SECTION D.NGOs</b>	
<b>101</b>	How long you have been involving in this field?
<b>102</b>	Have you ever been involved in any compulsory acquisition process?
<b>103</b>	How you were involved?
<b>104</b>	What were your roles?
<b>105</b>	How can you comment on compensation exercise
<b>106</b>	In your opinion what is/are you comments with regards to compulsory land acquisition process?

### Annex 4.iii .Respondents Frequency Table for Primary Data

The following is a summary of the research findings where by this and more quantitative inputs (notes of researcher on the open questions) form the basis of chapter four.

#### 1. Age group of the respondents

Age group	Respondents	Percentages (%)
Below 21	-	-
21-40	17	28
41-60	36	60
60 and above	7	12
<b>Total</b>	<b>60</b>	<b>100</b>

#### 2. Gender of the respondents

Gender type	Respondents	Percentages (%)
Male	34	58
Female	26	42
<b>Total</b>	<b>60</b>	<b>100</b>

#### 3. Current employment status

Employment	Respondents	Percentages (%)
Public servant	16	27
Self employment	18	30
Domestic	8	13
Unregistered business	9	15
Contract labour	5	8
Unemployment	4	7
<b>Total</b>	<b>60</b>	<b>100</b>

#### 4. Education Status

Education level	Respondents	Percentages (%)
Primary level	14	23
Secondary level	19	32
College	25	42
Undergraduate	2	3
<b>Total</b>	<b>60</b>	<b>100</b>

#### 5. Legal Status

Legal status	Respondents	Percentages (%)
Owner occupier	32	54
Family	8	13
Shared	12	20
Missing	08	13
<b>Total</b>	<b>60</b>	<b>100</b>

#### 6. Family member dependants

Education level	Respondents	Percentages (%)
-----------------	-------------	-----------------

Small : Less than 3	10	17
Medium: Between 4-6	27	45
Large: Above 6	23	38
<b>Total</b>	<b>60</b>	<b>100</b>

#### 7. Business information Details

<b>1</b>	<b>Business work place</b>	<b>Respondents</b>	<b>Percentages (%)</b>
	Within Kipawa	16	59
	Outside Kipawa	11	41
	<b>Total</b>	<b>27</b>	<b>100</b>
<b>2.</b>	<b>Business employee residents area</b>		
	Within Kipawa	13	48
	Outside Kipawa	4	15
	No employee	10	37
	<b>Total</b>	<b>27</b>	<b>100</b>
<b>3</b>	<b>Type of business</b>		
	Retails business	9	33
	Woodwork	6	22
	Service eg pharmacy, tuition centre	5	19
	Food stuffs	7	26
	<b>Total</b>	<b>27</b>	<b>100</b>
<b>4</b>	<b>Source of finance</b>		
	Loan from bank	8	30
	Credit from PRIDE	10	37
	Individual association	9	15
	<b>Total</b>	<b>27</b>	<b>100</b>
<b>5</b>	<b>Type of collateral used to secure loans</b>		
	House	3	11
	Employer guarantees	1	4
	Bank statements	9	33
	Other	14	52

#### 8. Type of transport

<b>Type of transport</b>	<b>Respondents</b>	<b>Percentages (%)</b>
Public transport	37	62
Private transport	10	17
Walking	13	21
<b>Total</b>	<b>60</b>	<b>100</b>

## 9. Steps of land acquisition process

### A. PLANNING STAGE

#### Involvement of land owners in the planning process

Whether involved	Respondents	Percentages (%)
Yes	3	5
Not involved	46	77
Don't know	09	15
Missing	02	3
<b>Total</b>	<b>60</b>	<b>100</b>

#### Do you think that participation is important at planning stage

Whether participation is important	Respondents	Percentages (%)
Important	39	65
Not important	11	18
Don't know	07	12
Missing	3	5
<b>Total</b>	<b>60</b>	<b>100</b>

### B. PUBLICITY STAGE

#### Information about the government to acquire land

Information sources	Respondents	Percentages (%)
From radio, newspapers and television	16	27
From the Ward notice board	26	43
From the meetings	8	13
Other	10	17
<b>Total</b>	<b>60</b>	<b>100</b>

#### Attendance to the meeting

Whether attended the meeting	Respondents	Percentages (%)
Yes	37	62
No	18	30
Missing	5	8
<b>Total</b>	<b>60</b>	<b>100</b>

#### Understanding of the aim of the meeting

Whether the aim of the meeting was clear	Respondents	Percentages (%)
No	16	27
Yes	26	43
	18	30
<b>Total</b>	<b>60</b>	<b>100</b>

### Notification to landowners

Notice to land owners	Respondents	Percentages (%)
Were not served with notice	46	77
Were served with notice	9	15
Were not aware about the notice	5	8
<b>Total</b>	<b>60</b>	<b>100</b>

### C. VALUATION AND SUBMISSION OF CLAIMS

#### Participated in assessment and valuation

Participated in Valuation	Respondents	Percentages (%)
Yes	23	38
No	27	45
I don't know	10	17
<b>Total</b>	<b>60</b>	<b>100</b>

#### Do you think the compensation sum given was fair or not fair?

Whether compensation sum given were:	Respondents	Percentages (%)
Fair	6	10
Not fair	54	90
<b>Total</b>	<b>60</b>	<b>100</b>

### D. Payment of compensation

#### Satisfaction with the interest rate of 6% given

Whether Satisfied with interest rate	Respondents	Percentages (%)
Not satisfied	48	80
Satisfied	12	10
<b>Total</b>	<b>60</b>	<b>100</b>

#### Awareness of the item to be compensated

Aware of items to be compensated	Respondents	Percentages (%)
Aware	15	25
Not aware	45	75
<b>Total</b>	<b>60</b>	<b>100</b>

### E. POSSESSION

#### Whether the time given vacate were enough

Whether time give were enough	Respondents	Percentages (%)
Yes	3	5
Not enough	57	95
<b>Total</b>	<b>60</b>	<b>100</b>

#### Required time to vacate

Period of time required	Respondents	Percentages (%)
1-6 months	12	20
6-12 months	48	80
<b>Total</b>	<b>60</b>	<b>100</b>

### Satisfied with the relocation area

Whether satisfied	Respondents	Percentages (%)
Satisfied	9	15
Not satisfied	45	75
No option	6	10
<b>Total</b>	<b>60</b>	<b>100</b>

### The type of service that is highly required in the relocation area

Whether satisfied	Very important	Important	Not important
Transport	35	20	5
Road	37	16	7
School	38	14	8
Health service	46	12	2
Worship place	15	30	10
Bus stand	21	20	15
Water	58	2	0
Sanitation	22	20	18
Police	30	20	10
Market	25	20	15

### Actor's perception with the seven steps

Respondents ranking seven steps based on the priority results

Seven steps of compulsory land acquisition	Respondents	Percentages (%)	Ranks
Planning	8	13	3
Publicity	22	36	1
Valuation and submission of claims	12	20	2
Payments of compensation	<b>4</b>	7	6
Possession	<b>7</b>	12	4
Appeals	<b>6</b>	10	5
Restitution	<b>1</b>	2	7

