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BRIDGING LEGAL GAPS IN LAND ACCESS: RETHINKING TANZANIA'S LAND BANK FRAMEWORK FOR FOREIGN INVESTORS.

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ABSTRACT

Legal and institutional gaps continue to shape the challenges of land access by foreign investors in Tanzania within the framework of the national land bank system. Despite of the ongoing reforms to attract foreign investment there are persistent weaknesses that hinder transparency, accountability and equitable land allocation. The doctrinal legal research approach will be applied in the study as to analyses statutory provisions, policy documents, and case law governing land administration and foreign direct investment in Tanzania. The findings reveal inconsistencies between land governance and investment laws, weak institutional coordination, and insufficient safeguards for community land rights. Whereof the current land bank framework requires a comprehensive reform to align Tanzania's development objectives with constitutional principles of equity and sustainable land use. And the recommendations will be given as to include the legislative harmonization, institutional restructuring, and the establishment of a transparent, equitable, and coherent legal framework for land access by foreign investors.

Keywords: Land Access; Land Banks; Foreign Investment; Legal Reform; Land Law; Investment Policy.

1. Introduction

Access to land remains one of the most contentious and complex issues in Tanzania's pursuit of sustainable investment and economic development. Land is not only a means of production but also a foundation of identity, livelihood, and social stability for the majority of Tanzanians. At

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the same time, it serves as a critical resource for attracting foreign direct investment (FDI) and facilitating national industrialisation in recognising this dual importance, the Government of Tanzania has introduced a variety of legal and policy initiatives, including the establishment of land banks under the Tanzania Investment Centre (TIC), to simplify land access for foreign investors. However, despite the noble intention of promoting investment, the legal and institutional framework governing land access, tenure security, and administration continues to exhibit inconsistencies, lack of coherence, and limited transparency among regulatory authorities.

Whereas, the section³ of the Land Act², defines land as to include the surface of the earth and the earth below, all substances forming the earth, and all vegetation or structures permanently affixed to it. This broad definition encompasses both physical and legal interests in land, reflecting the state's radical title to all land and simultaneously the Presidents by being the head of the states and government is the trustee of the land on behalf of its citizens, as provided in section⁴⁽¹⁾³. Similarly, the Village Land Act⁴ regulates the village land and its defines the **village land** as it consists of areas designated under village jurisdiction, managed by village councils and assemblies on behalf of their communities. These Acts collectively establish the foundation for Tanzania's dual land tenure system, dividing land into general land, village land, and reserved land, each with distinct administrative regimes and rights of occupation.

As to promote the economic growth and secure tenure for both local and foreign investors, the Tanzanian legal system recognises **granted rights of occupancy** as provided under section 19⁵, where these rights may be issued for terms of 33 years or 66 years, depending on the nature of investment and category of land. The rationale behind these temporal tenures is to balance the need for long-term investment stability and the state's ability to reallocate land in line with national development priorities. Nevertheless, while these durations aim to ensure sustainable development and secure livelihoods for both local inhabitants and of the foreign investors, they often create uncertainty where renewal procedures, nationalization, compensation, and transfer rights are not consistently administered or harmonised across laws and institutions.

The Tanzania Investment Act⁶ reinforces the rights of foreign investors to obtain land for investment purposes through derivative rights granted by the TIC⁷ where as the section 20⁸ empowers the TIC to identify, acquire, and allocate land to foreign investors in collaboration with the Ministry of Lands, Housing, and Human Settlements Development. However, the

²[Cap113 Revised Edition 2023].

³Ibid.

⁴[Cap 114 Revised Edition 2023].

⁵[Cap 113 Revised Edition 2023].

⁶[Cap 38 Revised Edition 2023].

⁷Refers to the Tanzania Investments Centre (TIC).

⁸Ibid.

implementation of these provisions has been marred by fragmented coordination, overlapping institutional roles, and opaque administrative practices. For example, while the TIC allocates land for investment, the Ministry retains authority over titling and registration, and local government authorities control land use planning and community consultation processes. This overlapping jurisdiction undermines efficiency and legal certainty, discouraging both domestic and foreign investors.

Moreover, the coherence between the Land Acts and other sectoral laws such as the Mining Act,⁹ the Natural Wealth and Resources (Permanent Sovereignty) Act¹⁰, and the Natural Wealth and Resources (Review and Re-Negotiation of Unconscionable Terms) Act,¹¹ remains weak. These statutes govern access, utilisation, and benefit-sharing from land-based resources but lack a harmonised framework for balancing state interests, community rights, and investor protections. For instance, while the Mining Act provides mineral rights over land, it does not clearly stipulate the interface between mineral rights and land occupancy rights under the Land Act, leading to conflicts between investors and communities in mining areas.

The Constitution of the United Republic of Tanzania further reinforces the principle of equitable land distribution, environmental sustainability, and public participation in land-related decisions. Article 9(c)¹² obliges the state to ensure that land and natural resources are used for the benefit of all Tanzanians, while Article 24¹³ guarantees every person the right to own property and to be compensated fairly in the event of acquisition. However, the practical enforcement of these constitutional guarantees remains inconsistent, particularly in the operation of land banks, where communities are often inadequately consulted before land is set aside for investment.

Taken together, these frameworks reveal a significant lack of uniformity and coordination between Tanzania's investment, land, and natural resource governance systems. The multiplicity of institutions including the TIC, the Ministry of Lands, local government authorities, and sectoral ministries has created regulatory overlap, procedural delays, and limited accountability. The absence of a centralised information system and clear procedural guidelines has further weakened transparency in land identification, valuation, and allocation processes.

The article therefore explores these legal and institutional challenges and proposes reforms aimed at ensuring that land acquisition for investment purposes aligns with both development goals and the protection of land rights, the discussion situates Tanzania's land bank experience within the broader context of investment law, land tenure systems, and international best

⁹[Cap 123 Revised Edition 2023].

¹⁰[Cap 449 Revised Edition 2023].

¹¹[Cap 450 Revised Edition 2023].

¹²The Constitution of United Republic of Tanzania of 1977 Amendment of 2023.

¹³Ibid.

practices, emphasizing the need for coherence, transparency, and equity in the governance of land for sustainable economic transformation.

2. The Legal Basis for Land Banks and Foreign Land Access

In Tanzania, land banks are designated areas of land set aside by the government to facilitate foreign direct investment (FDI) and promote sustainable economic development, with such lands being identified, acquired, and managed by the Tanzania Investment Centre (TIC) under the authority of section 20¹⁴ which empowers the TIC to acquire land for investment purposes and lease it to investors under derivative rights granted with the approval of the Commissioner for Lands, thereby ensuring that the land is free from competing claims, readily available, and suitable for development; derivative land, as defined under the Act, refers to land allocated by the TIC to investors, who hold leasehold interests rather than full ownership, and such arrangements are intended to provide tenure security for periods of 33 or 66 years in accordance with sections 19 and 20¹⁵ of the while also safeguarding local communities livelihoods and promoting sustainable development. However, despite the facilitative purpose of the land bank system, legal and institutional challenges persist, including the lack of harmonisation between the Land Act, Village Land Act and Investment legislation, weak inter-agency coordination between TIC, the Ministry of Lands, and local authorities, limited transparency in land acquisition processes, and inadequate participation of local communities, particularly where village land is converted to general land under sections 4 and 5¹⁶, which requires community consent and approval from the Commissioner for Lands, yet is often executed without proper consultation or compensation.

The legal framework governing land access for foreign investors in Tanzania is multi-layered, encompassing several key statutes that collectively regulate the acquisition, use, and administration of land for investment purposes. The Tanzania Investment Act provides the foundational legal basis for foreign investment by establishing the Tanzania Investment Centre (TIC) as the central agency responsible for promoting and facilitating investment, including the identification, acquisition, and allocation of land to investors, with derivative rights granted as leasehold interests under the approval of the Commissioner for Lands, thereby ensuring that land is readily available and legally secured for development. The Land Act governs the management of general land, outlining procedures for granting rights of occupancy for periods of up to 99 years and providing mechanisms for renewal, which are essential for ensuring long-term tenure security for both investors and local communities. In parallel, the Village Land Act regulates village land, which constitutes a substantial portion of Tanzania's land, and provides for the conversion of village land to general land under sections 4 and 5¹⁷, subject to approval by the

¹⁴The Tanzania Investment Act [Cap 38 Revised Editions 2023].

¹⁵The Land Act [Cap 113 Revised Edition 2023].

¹⁶The Village Land Act [Cap 114 Revised Edition 2023].

¹⁷Ibid.

village assembly and the Commissioner for Lands, thus facilitating investment while requiring community participation and consent to safeguard local livelihoods. These frameworks intersect with the Natural Wealth and Resources (Permanent Sovereignty) Act, which affirms Tanzanians' sovereignty over natural resources and restricts the alienation of land and resources to foreign entities without parliamentary approval, creating a necessary legal balance between investment facilitation and the protection of national and community interests.

Several Tanzanian cases exemplify the legal complexities and challenges surrounding land banks, derivative rights, and foreign land ownership. In the case of *Peter Oloitai v Rebeca Toan Laizer & 6 others*¹⁸ the court emphasized on the necessity of adhering to proper legal procedures when foreigners acquire land and it's highlighting that compliance with statutory requirements is essential to prevent disputes. In *Rex Investment Limited v CF Builders Limited*,¹⁹ The High Court examined a dispute arising from conflicting claims over land leased through the Tanzania Investment Centre (TIC). The plaintiff had obtained derivative rights from the TIC to occupy and develop a parcel of land earmarked for investment. However, CF Builders Limited challenged the validity of that allocation, arguing that the derivative right was granted without the proper procedural compliance required under the Land Act and the Tanzania Investment Act. The central issue before the court was whether the derivative right conferred by TIC constituted a valid and enforceable leasehold interest where the underlying title had not been lawfully registered or where statutory preconditions were not met.

The court held that, although TIC possesses the statutory authority under section 20 of the Tanzania Investment Act to identify, acquire, and allocate land for investment purposes, such allocations must strictly adhere to the procedural and substantive requirements prescribed under the Land Act and the Land Registration Act. The derivative rights granted to investors through TIC are therefore not autonomous titles but subordinate leasehold interests that depend on a valid root of title vested in the TIC as the lessor. In the absence of clear documentation proving that the land was lawfully transferred to the TIC and subsequently allocated in conformity with the law, any lease issued there from risks being void or unenforceable.

The judgment underscored the importance of documentary integrity, institutional coordination, and statutory compliance in the administration of land for investment purposes. The court observed that failure to adhere to the laid-down legal procedures not only jeopardises the validity of investor leases but also exposes the government to legal challenges and potential compensation claims.² This decision highlights the broader systemic issue of weak inter-agency communication between the TIC, the Commissioner for Lands, and local government authorities in ensuring that all land designated for investment is legally free from encumbrances and properly registered before allocation. By reaffirming that derivative rights must originate from a

¹⁸(Land case No 26 of 2017), 2020TZHC 1421 (3 July 2020).

¹⁹(Land Case No. 19 of 2018), 2022 TZHC 10674 (8July 2022).

valid legal title and comply with all statutory formalities, the case established a critical precedent on the legal soundness and enforceability of investor leases in Tanzania's land bank framework.³

And in the case of *Sophia Salum Ally v Kuringe Contractors Limited*²⁰ the High Court dealt with a dispute concerning the transfer of land rights initially held by a deceased individual's estate. The plaintiff challenged the defendant's occupation and purported ownership of the land, contending that the transfer had been executed without observing the lawful procedures governing inheritance and registration of title. The central legal issue was whether a third party could acquire valid land rights where the transfer originated from an estate of a deceased person but was not supported by proper letters of administration or approval from the Commissioner for Lands as required under the Land Act and the Probate and Administration of Estates Act.

The court reaffirmed that any transfer or disposition of land, particularly where the land forms part of a deceased person's estate, must comply with the legal procedures governing succession and registration.²¹ It held that failure to obtain the requisite letters of administration before purporting to sell or transfer the land rendered the transaction void ab initio. The court further emphasised that land transactions must be executed transparently and lawfully to protect not only the rights of the legal heirs but also the integrity of the land registration system.²²

In its reasoning, the court underscored that transparency and procedural compliance are essential elements of lawful land governance. Transactions conducted outside the prescribed statutory framework without consent of heirs, without proper valuation, or without registration undermine the principles of tenure security and fairness enshrined in the Land Act and the Village Land Act.²³ This case is therefore significant in reinforcing the broader principle that lawful land transfers must safeguard the interests of vulnerable groups, including heirs, widows, and dependants, and that administrative authorities must diligently verify the legality of every transfer to prevent fraud, disputes, and social injustices.⁵

Similarly, in the case of *Matiku Werema v Shemndolwa A Ngwambughuni*,²⁴ court addressed a dispute over land ownership involving conflicting claims based on customary occupation. The central issue was whether the plaintiff had discharged the legal burden of proving ownership in the absence of formal title documentation. The court reaffirmed that, under sections 110 and 111 of the Evidence Act, the burden of proof lies upon the party asserting a right over land. Accordingly, the plaintiff must substantiate ownership through credible and consistent evidence rather than mere allegations.

²⁰(Land Case No. 39 of 2021), 2022 TZHC 12254 (10 June 2022).

²¹Ibid.

²²Ibid.

²³The **Land Act**[Cap 113 Revised Edition 2023]; the **Village Land Act** [Cap 114 Revised Edition 2023].

²⁴(Land Appeal No. 10497 of 2024), 2024 TZHC 6988 (30 July 2024).

The court emphasised that land disputes demand rigorous evidentiary evaluation to prevent erroneous judgments, especially in rural areas where documentation is often incomplete. It further observed that proper recordkeeping by village councils and compliance with legal procedures is essential to reduce conflicts and uphold the integrity of land governance. The decision thus underscored judicial vigilance in scrutinising evidence and reinforced the broader principle that legal certainty in land matters depends on both procedural compliance and reliable documentation.

Consequently, these challenges create uncertainty for investors and potential conflicts with constitutional principles of equitable resource use under the Constitution of the United Republic of Tanzania and the Natural Wealth and Resources (Permanent Sovereignty) Act.

The legal foundation governing the land bank has undergone a significant transformation following the enactment of the Tanzania Investment and Special Economic Zones Authority Act of 2025 (TISEZA Act), consolidates the former Tanzania Investment Centre (TIC) and the Export Processing Zones Authority into a single regulatory body, the Tanzania Investment and Special Economic Zones Authority (TISEZA), and expressly establishes a national land bank under its administration, marking a fundamental departure from the earlier position where land banking operated primarily as a policy initiative rather than as a statutory mechanism.²⁵ Section 23 of the TISEZA Act provides for the creation and maintenance of a centralised land bank composed of land designated by the Government for investment purposes as well as privately owned land voluntarily registered for lease or investment allocation, thereby strengthening the legal validity of derivative land allocations and offering a clearer basis for investor tenure security.²⁶ However, despite this statutory recognition, the implementation of the land bank continues to rely on coordination with the Land Act and the Village Land Act, as the conversion of village land to general land for inclusion in the land bank still requires village assembly consent and approval by the Commissioner for Lands under sections 4 and 5 of the Village Land Act, indicating that the TISEZA Act does not displace or remove these procedural safeguards but instead overlays an investment administration structure upon pre-existing land tenure rules.²⁷ Consequently, lawful acquisition of land for the land bank continues to require prior informed community consent, proper valuation of unexhausted improvements, and the payment of adequate and prompt compensation in accordance with the governing land statutes.²⁸ Furthermore, although the TISEZA Act mandates payment of compensation where land is acquired for investment purposes, it does not prescribe a uniform valuation methodology for customary land interests nor provide statutory timelines within which compensation must be paid, leaving essential elements of compensation fairness and

²⁵Tanzania Investment and Special Economic Zones Authority Act No 6 of 2025, s 5.

²⁶Ibid, s 23.

²⁷The Village Land Act [Cap 114 Revised Edition 2023], ss 4-5.

²⁸The Land Act [Cap 113 Revised Edition 2023], s 3; The Village Land Act ss 3, 8-11.

valuation transparency to be determined by future implementing regulations and administrative practice.²⁹ Accordingly, while the land bank is now legally established, its effectiveness depends on harmonisation between the TISEZA Act, the Land Act, and the Village Land Act, alongside the formulation of detailed regulations that clarify valuation standards, community consent procedures, and land records management; thus, the central legal question no longer concerns the existence of statutory authority for the land bank, but rather the adequacy, enforceability, and procedural robustness of the framework in ensuring both investor certainty and the protection of community land rights.

3. Institutional Overlaps and Coordination Challenges

Land administration in Tanzania involves multiple institutions, including the Ministry of Lands, the Tanzania Investment Centre (TIC), and local government authorities. This multi-agency structure often results in overlapping mandates and conflicting responsibilities. For instance, while the TIC is tasked with identifying and allocating land to investors under section 20³⁰ the Ministry of Lands retains authority over land registration, titling, and verification of compliance with statutory procedures under the Land Act. In practice, the absence of a clear legal framework delineating institutional roles often leads to bureaucratic delays, inefficiencies, and in some cases, opportunities for malpractices, which undermine investor confidence. The case of *Rex Investment Limited v CF Builders Limited*³¹ concerned a dispute over ownership of property purchased through a public tender at Tshs. 500 million, where Rex Investment Limited, as the successful bidder, paid the required initial deposit and secured a loan to settle the remaining balance, while CF Builders Limited claimed co-ownership on the basis of financial contributions and a Joint Venture Memorandum of Understanding (MoU) entered between the parties; however, although the Defendant later occupied part of the property as a tenant, it stopped paying rent and asserted ownership rights, leading the Plaintiff to seek judicial confirmation of sole ownership; the Court held that under Section 33 of the Land Registration Act, land ownership is established by registration, and since the certificate of title was issued solely in Rex Investment Limited's name and the MoU was never registered nor reduced into a legally recognized transfer instrument, the Defendant did not acquire any proprietary interest and therefore failed to prove co-ownership, resulting in judgment for the plaintiff declaring it the lawful and exclusive owner of the property; additionally, the case illustrates the consequences of institutional overlaps, where disputes arose over the validity of derivative rights and the responsibilities of the Tanzania Investment Centre (TIC) versus local land authorities, weight the need for coherent inter-agency coordination and standardized operational procedures to prevent similar conflicts.

²⁹Tanzania Investment and Special Economic Zones Authority Act No 6 of 2025, s 30.

³⁰The Tanzania Investment Act [Cap 38 Revised Edition 2023].

³¹(Land Case No. 27 of 2018) [2022] TZHC 10674 (8 July 2022).

The land bank framework creates significant institutional overlap and conflict among key land administration authorities, as the Tanzania Investment Centre (TIC) is mandated to identify and manage land designated for investment purposes, while the Commissioner for Lands (CoL) remains the principal custodian and administrator of General Land, and Local Government Authorities (LGAs) together with Village Councils retain statutory powers over Village Land, including allocation and control of local land use; although the Tanzania Investment Act empowers the TIC to allocate land from the land bank to investors, the ultimate Granted Right of Occupancy is issued and registered by the Commissioner for Lands, and the initial and essential step of releasing Village Land for inclusion in the land bank falls under Village Councils, thereby creating overlapping and sometimes competing jurisdictions that frequently lead to bureaucratic delays, inconsistent documentation processes, and contradictory administrative directives, ultimately resulting in regulatory uncertainty and weakened investor confidence.

4. Protection of Community Land Rights

The majority of land in Tanzania is classified as village land and governed by customary tenure under the Village Land Act, and converting such land into general land for investment purposes requires strict adherence to statutory procedures, including obtaining consent from the village assembly, approval from the Commissioner for Lands, and provision of fair compensation to affected communities under Sections 4 and 5³². However, in practice the local communities are often inadequately consulted and compensation mechanisms are inconsistently applied, resulting in disputes, social unrest and litigation, with key issues including inconsistent valuation of customary rights and protracted processes that lead to delayed or unfair compensation, thereby violating constitutional rights to property and equitable resource use, as reflected and elaborated in the case of *Matiku Werema v Shemndolwa A Ngwambughuni*³³, the court addressed a dispute over land ownership involving conflicting claims based on customary occupation and emphasized that the burden of proof lies with the party asserting a right over land, necessitating credible and consistent evidence to substantiate ownership claims. This decision underscores the challenges faced by local communities in rural areas, where documentation is often incomplete, making it difficult to meet rigorous evidentiary standards. The court further observed that proper recordkeeping by village councils and strict adherence to legal procedures are essential to reduce conflicts and uphold the integrity of land governance, highlighting the critical need for procedural compliance and reliable documentation to ensure legal certainty in land matters and protect customary land rights.

And in *Sophia Salum Ally (Suing as a Legal Personal Representative of the late Kidawa Mohamed Luanga) v Kuringe Contractors Limited & Edward Eugen Mushi*³⁴ the court addressed a dispute concerning the transfer of land rights from a deceased person's estate, where the Plaintiff, acting as Administratrix, challenged the Defendant's occupation and purported ownership on the grounds that the transfer was executed without observing the lawful

³²The Village Land Act [Cap 114 Revised Edition 2023].

³³(Land Case No. 27 of 2018).

³⁴[2022] TZHC 12254 (10 June 2022); Land Case No. 39 of 2021.

procedures required under the Land Act and the Probate and Administration of Estates Act, including obtaining letters of administration and approval from the Commissioner for Lands. The court held that any transfer or disposition of land must comply with statutory succession and registration procedures, and failure to obtain the requisite approvals rendered the transaction *void ab initio*. The case underscores the necessity of transparency, procedural compliance, and administrative diligence in land transfers, particularly in safeguarding the interests of vulnerable groups such as heirs, widows, and dependants. It further highlights that even land intended for investment purposes under the land bank framework must originate from legally sound titles and comply with all statutory formalities, emphasizing the integrity of the land administration system and the protection of community and personal property rights.

5. Comparative and International Perspectives

Tanzania's Land Bank, currently operating as a policy tool with a fragmented legal and institutional framework, can draw valuable lessons from other African countries that have successfully balanced investor access with robust community safeguards, directly addressing the central conflicts highlighted in this study, as Ghana and Kenya both offer comparable legal, economic, and social contexts that make their experiences particularly instructive. Ghana's Land Act, 2020³⁵, provides a strong legislative model for reforming Tanzania's Land Bank, as, unlike Tanzania, where the land bank lacks statutory definition and governing law, creating legal uncertainty as evidenced in *Rex Investment Limited v CF Builders Limited*³⁶, Ghana's Act consolidates multiple land laws, clearly defining six types of land interests, including customary freehold and leasehold, and limits non-citizen leaseholds to 50 years, and Tanzania must similarly amend the Land Act and the Tanzania Investment Act (TIA) to formally define the land bank, codify eligibility criteria, maximum lease terms, and investor rights, thereby providing the legal certainty currently absent. Ghana also integrates community consent and compensation into its framework, whereas Tanzania frequently violates procedures for converting Village Land, leading to disputes such as in *Matiku Werema v Shemndolwa A Ngwambughuni*³⁷, while Ghana's Act recognizes customary freehold and usufruct rights and mandates Free, Prior, and Informed Consent (FPIC) for all land allocations, ensuring that local communities are consulted and fairly compensated, and compensation funds are deposited in interest-bearing escrow accounts to guarantee timely and adequate payment, which Tanzania could replicate by establishing a land compensation fund under the Commissioner for lands or a dedicated agency, directly addressing the persistent problem of delayed or inconsistent compensation.

In Kenya's 2010 Constitution³⁸ similarly provides lessons in institutional independence and oversight, as it overhauled land governance by creating an independent institutional framework that mitigates the bureaucratic inefficiency and corruption plaguing Tanzania's land bank due to

³⁵Land Act, 2020 (Act 1036) - Ghana.

³⁶(Land Case No. 27 of 2018) [2022] TZHC 10674 (8 July 2022).

³⁷(Land Case No. 27 of 2018).

³⁸The Constitution of Kenya, 2010.

overlapping functions among the TIC, Commissioner for lands, and local government authorities, and Kenya's National Land Commission (NLC) manages public land, conducts transparent compulsory acquisitions, resolves disputes including historical land injustices and integrates Alternative and Traditional Dispute Resolution (ADR/TDR) mechanisms, and Tanzania could adopt a similar model by consolidating overlapping functions under a single, well-resourced agency or granting the Commissioner for Lands executive oversight over the land bank process, complemented by regional dispute resolution units dedicated to investment-related land conflicts and formal integration of traditional mechanisms to expedite settlements.

Kenya also emphasizes data centralization through a Land Information Management System, enabling secure e-conveyancing and a reliable public land register, and Tanzania's Land Bank similarly requires a centralized, digitized cadastral system to provide transparency, safeguard customary rights, and enhance investor confidence.

Comparing Tanzania with Ghana and Kenya is particularly relevant because both countries share similar legal traditions derived from common law systems, comparable patterns of economic development with reliance on agriculture and natural resources, and social structures in which customary land tenure plays a central role in rural communities, making their regulatory approaches to investment and community protection instructive for Tanzanian reforms. By integrating Ghana's legislative safeguards of clear land rights, FPIC, and escrowed compensation mechanisms with Kenya's independent institutional oversight and specialized dispute resolution frameworks, Tanzania can transform its land bank into a secure, equitable, and transparent system that attracts foreign investment while protecting constitutional land rights and fostering community trust, and these comparative perspectives demonstrate that investment facilitation and community protection are not mutually exclusive, but can be harmonized through coherent legislation, robust institutional design, and participatory governance mechanisms, thereby bridging the legal gaps currently undermining Tanzania's land bank operations.

6. Challenges in the Legal Framework

Despite the existence of a multi-layered statutory framework regulating land access for foreign investors in Tanzania, significant challenges persist, undermining the effectiveness of the system and creating uncertainties for both investors and local communities, as overlapping mandates among the Tanzania Investment Centre (TIC), the Commissioner for Lands, and Local Government Authorities frequently result in bureaucratic delays, conflicting directives, and inconsistent documentation. Gaps in statutory definitions, inadequate procedural safeguards, weak enforcement mechanisms, and the absence of clear institutional coordination further exacerbate risks of disputes, social unrest, and contested ownership, particularly in cases involving the conversion of Village Land under customary tenure, where communities are often insufficiently consulted and compensation mechanisms are inconsistently applied.

Court decisions illustrate these systemic challenges. In *Matiku Werema v Shemndolwa A Ngwambughuni*, the High Court emphasized that the burden of proof lies with the party asserting a right over land, requiring credible and consistent evidence, a requirement that

disproportionately affects rural communities where documentation is often incomplete, and the court further observed that proper recordkeeping by village councils and strict adherence to legal procedures are essential to reduce conflicts and uphold the integrity of land governance. Similarly, in *Sophia Salum Ally v Kuringe Contractors Limited* (Land Case No. 39 of 2021), the court reinforced the principle that any land transfer originating from a deceased person's estate must comply with statutory procedures, including obtaining the requisite letters of administration and approval from the Commissioner for Lands, holding that failure to do so renders such transfers void ab initio, thereby illustrating the broader consequences of procedural lapses on the security of land rights and the protection of vulnerable parties, such as heirs and dependents. Collectively, these cases demonstrate that Tanzania's legal framework, though multi-layered, suffers from practical gaps in procedural compliance, enforcement, and documentation, which threaten legal certainty, undermine community trust, and expose both local communities and foreign investors to heightened risk, emphasizing the urgent need for reforms that strengthen institutional coordination, codify clear rules for land access, and establish participatory mechanisms to ensure transparent, equitable, and legally secure land allocation.

6.1 Legal Fragmentation

One of the most pressing challenges is legal fragmentation, resulting from overlapping and sometimes conflicting provisions across the Tanzania Investment Act, the Land Act, the Village Land Act, and the Natural Wealth and Resources (Permanent Sovereignty) Act. While the Tanzania Investment Act facilitates land acquisition by foreign investors through derivative rights granted by the TIC, the Natural Wealth and Resources (Permanent Sovereignty) Act restricts the alienation of land and natural resources to foreign entities without parliamentary approval, creating tension between investment facilitation and resource sovereignty and leading to ambiguity regarding which provisions prevail, particularly when village land is converted to general land under sections 4 and 5. Judicial decisions, such as in *Peter Oloitai v Rebeca Toan Laizer & 6 Others*, highlight the practical difficulties arising from overlapping statutory mandates and emphasize the need for strict adherence to procedures in foreign land acquisition, including clarity on the legal nature of TIC's holding.

6.2 Lack of Harmonisation

Closely related to fragmentation is the lack of harmonisation among the various land and investment laws. The Land Act, the Village Land Act, and the Tanzania Investment Act operate under separate frameworks with differing procedural and substantive requirements. For instance, the Land Act allows granted rights of occupancy of up to 99 years, while the Village Land Act mandates community consent for transfers to general land, and the Investment Act confers derivative rights through TIC allocation. The absence of an integrated legal framework often results in inconsistent application, creating uncertainty for investors and putting communities' land rights at risk, as illustrated in *Rex Investment Limited v CF Builders Limited*, where

the court examined derivative rights under TIC and highlighted the consequences of inconsistent procedures and unclear statutory coordination.

6.3 Weak Institutional Coordination

The land acquisition process involves multiple institutions, including the TIC, Ministry of Lands, local government authorities, and, in cases of village land, village assemblies. Weak coordination among these bodies frequently causes procedural delays, bureaucratic inefficiencies, and disputes between investors and communities. Proper inter-agency communication and clear delineation of responsibilities are essential to avoid conflicting decisions, as underscored in *Sophia Salum Ally v Kuringe Contractors Limited*, where institutional lapses in verifying statutory compliance compromised both investor rights and protections for heirs in deceased estates.

6.4 Inadequate Protection of Community Land Rights

A critical concern in Tanzania's land bank system is the insufficient protection of community land rights during the conversion of Village Land to general land for investment purposes. Sections 4 and 5 of the Village Land Act require community consultation and approval by the village assembly; however, these procedures are often inadequately followed. Lack of transparency and meaningful participation can lead to the displacement of communities without fair compensation or alternative livelihoods. Courts have repeatedly emphasized the importance of safeguarding community interests, as in *Matiku Werema v Shemndolwa A Ngwambughuni*, which stressed that the burden of proof lies on the party alleging land claims and that evidence must be carefully evaluated to protect legitimate rights, illustrating the potential risks to communities when statutory safeguards are weakly enforced.

6.5 Lack of Transparency

A major challenge facing Tanzania's Land Bank is the lack of transparency in land allocation and administration. The inventory of available land is not publicly accessible, leaving decisions susceptible to elite capture and manipulation. Investors may gain preferential access based on connections rather than merit, while local communities are left unaware of potential transactions affecting their land. This opacity undermines public trust in the system, discourages meaningful community participation, and increases the risk of disputes, corruption, and social conflict. Transparent disclosure of land bank allocations, clear publication of eligibility criteria, and open reporting of land transfers are essential to promote accountability and maintain the legitimacy of the Land Bank.

6.6 Limited Community Participation

Despite statutory provisions requiring community consultation, local stakeholders are often excluded from decisions affecting their land. Village assemblies and customary landholders are rarely involved in negotiations, undermining the principles of Free, Prior, and Informed Consent (FPIC). In practice, decisions are sometimes made unilaterally by the TIC or local authorities without meaningful engagement, eroding trust and creating tension between investors and communities. Limited participation not only violates statutory obligations under the Village Land

Act but also risks social unrest, legal challenges, and delays in investment projects, highlighting the need for formalized mechanisms ensuring communities have a substantive role in land allocation processes.

6.7 Inadequate Dispute Resolution Mechanisms

Current systems for resolving land disputes in Tanzania are slow, under-resourced, and often perceived as lacking impartiality, which diminishes confidence among affected communities and investors. Courts may take years to resolve conflicts, and administrative processes are frequently congested. The absence of specialized land tribunals or formal integration of Alternative and Traditional Dispute Resolution (ADR/TDR) mechanisms for investment-related disputes exacerbates delays and allows conflicts to escalate unnecessarily. Without credible, efficient, and accessible dispute resolution channels, both investors and communities remain vulnerable to protracted conflicts, undermining the attractiveness of the Land Bank for foreign investment.

6.8 Compensation and Displacement Issues

Acquisition of land for investment purposes often requires displacing occupants, particularly from Village Land, and providing appropriate compensation. While the Land Acquisition Act regulates this process, its provisions are considered outdated and insufficient for the preparatory nature of the Land Bank. Communities may be relocated without adequate notice, without appropriate rehabilitation, or without alternative livelihoods. Inconsistent or unfair compensation fuels local resistance, social unrest, and even litigation, delaying investment projects and threatening both economic and social stability. A more modernized approach is needed, incorporating transparent procedures, escrowed compensation funds, and accountability measures to ensure that affected communities are not disadvantaged.

6.9 Inconsistent Valuation

The methods used to value land, unexhausted improvements, and customary rights are often inconsistent, subjective, and non-transparent, creating uncertainty for both investors and communities. In practice, valuations may vary depending on the assessor or authority involved, and customary rights are often undervalued or ignored. This inconsistency leads to disputes over compensation amounts and can exacerbate perceptions of unfair treatment, particularly among rural communities whose land rights are already vulnerable. Standardized valuation methodologies and clear guidelines for recognizing customary rights are essential to mitigate disputes and ensure equitable outcomes.

6.10 Delayed Payments

Even when compensation is determined, payment processes are frequently delayed due to bureaucratic inefficiencies, lack of funding, or poor coordination among institutions. Delayed compensation violates constitutional rights to property and fair payment, eroding trust in the Land Bank system and provoking resistance from affected communities. Delays also discourage investors, as prolonged negotiations or unsettled claims can hinder project timelines and increase

costs. To address this challenge, Tanzania must ensure timely, interest-bearing compensation payments, preferably through a dedicated Land Compensation Fund or escrow mechanism, to guarantee fairness and enhance confidence in both the investment environment and the protection of local land rights.

Collectively, these challenges legal fragmentation, lack of harmonisation, weak institutional coordination, inadequate protection of community rights, limited transparency, deficient dispute resolution mechanisms, and compensation issues undermine the objectives of Tanzania's land bank framework, creating uncertainty and potential conflicts that threaten sustainable investment and community welfare, highlighting the urgent need for legal reforms, strengthened institutions, and participatory mechanisms to ensure transparent, equitable, and secure land allocation for foreign investors.

7. Recommendations

To address the legal, institutional, and procedural challenges identified in Tanzania's Land Bank framework, several legislative and administrative reforms are essential to ensure equitable land access, protect community rights, and attract foreign investment.

First, harmonisation of legal frameworks is critical. This requires amendments to the Land Act, Village Land Act, and Tanzania Investment Act (TIA) to establish consistent procedures for land acquisition, compensation, and investor allocation. Ideally, a dedicated legal regime either through a new Land Bank Act or comprehensive amendments should formally define the Land Bank, clarify the legal nature of derivative rights granted by the Tanzania Investment Centre (TIC), and set out clear procedures for transferring land into the Bank, including the obligations of all relevant stakeholders. The Land Acquisition Act should also be amended to incorporate transparent, prompt, and fair compensation mechanisms aligned with market values and international best practices, thereby ensuring that local communities are adequately protected during land conversions for investment purposes.

Second, institutional and administrative reforms are necessary to strengthen coordination among the TIC, Commissioner for Lands (CoL), and Local Government Authorities (LGAs). Roles should be clearly delineated, the TIC should focus on investor facilitation and the final allocation of land, the CoL should maintain technical authority over titling, registration, and surveying, and Village Councils should be systematically consulted with defined protocols to resolve local concerns. Establishing a centralised, digitised, and publicly accessible land inventory is crucial to increasing transparency, reducing the risk of disputes, and ensuring that investors and communities have reliable information on the status, size, location, and encumbrances of all land bank parcels.

Third, enhancing transparency and community engagement is essential. A national land bank database should be published and accessible to both the public and investors, while statutory

requirements for Free, Prior, and Informed Consent (FPIC) must be enforced to ensure meaningful participation of local communities in decisions affecting their land. Mandatory pre-acquisition Social and Environmental Impact Assessments (SEIAs) should be conducted to evaluate potential social, economic, and environmental consequences, safeguarding community welfare and sustainability.

Fourth, Tanzania should adopt international best practices by benchmarking against successful models such as Kenya's National Land Commission, which provides independent oversight, integrates Alternative and Traditional Dispute Resolution mechanisms, and maintains a comprehensive Land Information Management System, and Ghana's participatory mapping and land administration system, which balances investor access with the protection of customary rights and FPIC requirements.

Finally, specialised dispute resolution mechanisms should be established, including dedicated land investment tribunals or regional units, to handle disputes efficiently, impartially, and in a manner that reduces litigation delays and fosters investor confidence.

Collectively, these reforms spanning legislative clarity, institutional coordination, transparency, community participation, adoption of best practices, and efficient dispute resolution will bridge the existing legal and administrative gaps in Tanzania's Land Bank framework, creating a more secure, equitable, and investor-friendly environment while safeguarding the constitutional and customary rights of local communities.

8. Conclusion

Tanzania's Land Bank framework, designed as a policy initiative to facilitate foreign investment, holds significant promise but remains constrained by a defective legal and institutional architecture. The absence of a clear statutory foundation, compounded by overlapping mandates among key institutions and inadequate compensation provisions, has generated legal uncertainty and heightened social friction. Implementing the recommended legislative amendments and institutional reforms will provide the necessary legal coherence, transforming the Land Bank from a policy statement into a robust, transparent, and legally secure mechanism.

A reformed Land Bank, grounded in the rule of law and balanced with social equity, is essential for Tanzania to achieve its long-term objectives of attracting sustainable foreign direct investment (FDI) while fostering inclusive economic growth. Without clear legal guidance, institutional synergy, and community safeguards, the system risks perpetuating inequalities and undermining sustainable development. Bridging the existing legal gaps requires coordinated reforms that strengthen accountability, harmonise overlapping laws, and promote participatory governance. By rethinking its Land Bank framework, Tanzania can reconcile investment facilitation with the constitutional mandate for equitable access to land, ensuring that economic

growth benefits both investors and local communities while upholding social justice and the rule of law.

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