



A FAIR SHARE FOR WOMEN: TOWARD MORE EQUITABLE LAND COMPENSATION AND RESETTLEMENT IN TANZANIA AND MOZAMBIQUE

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EXECUTIVE SUMMARY

Highlights

- Women disproportionately bear the negative impacts of large-scale land investments (in agribusiness, extractives, logging) in the global South.
- Lack of formal land rights and their subordinate role in the household and community lead to the marginalization of women in decision-making processes and the bypassing of them in the distribution of compensation and the planning and implementation of resettlement.
- In Tanzania and Mozambique, two countries that promote commercial land-based investments, laws require community consultations and the payment of compensation to affected local communities, but they fail to adequately account for women’s concerns and perspectives. Gaps in the legal frameworks include lack of consideration of women’s land interests and farming activities and their need for access to common property resources (such as water, firewood, and wild plants) and social infrastructure to help rebuild livelihoods.
- Women are underrepresented in decision-making bodies, and laws lack mechanisms to ensure meaningful participation in community consultation and consent processes.
- Regulatory changes—including reforms of compensation eligibility and payment mechanisms, gender quotas in decision-making entities, more participatory processes and grievance mechanisms, community awareness-raising, and gender sensitization of government authorities and investors—could make compensation and resettlement processes more equitable for women.

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Background

Studies show that women disproportionately bear the adverse impacts of land commercialization in the global South. Investments in agribusiness, mining, or logging have resulted in loss of land and displacement of local communities, loss of livelihoods, and loss of communal assets—and the effects are worse for women than for men. With fewer tenure rights, higher illiteracy rates, less mobility, and subordinate roles in the community, women are often sidelined in decision-making, the distribution of compensation, and the planning and implementation of resettlement schemes. Women generally do not receive compensation payments, and they lose access to resources (water, firewood, wild plants, and fruits) they need for household consumption and supplemental livelihoods. When displaced and resettled to new areas, they are left with little means to rebuild their productive systems and social networks.

This paper examines how gaps in the legal frameworks governing land compensation and resettlement in Tanzania and Mozambique result in exclusionary outcomes for women. It builds on an earlier World Resources Institute (WRI) working paper, “Making Women’s Voices Count in Community Decision-Making on Land Investments,” which examines the regulatory frameworks governing the land acquisition processes and identifies ways to strengthen women’s participation in the decision-making involved. This paper analyzes the subset of regulations that govern the parallel processes of land compensation and resettlement. Like the earlier paper, it stems from a collaborative project by WRI, the Tanzania Gender Networking Program (TGNP) Mtandao, the Tanzania Women Lawyers Association (TAWLA), and Centro Terra Viva (CTV) (in Mozambique). WRI conducted the legal analysis and literature review, with inputs from the country partners; the partners conducted field research, in some of which WRI participated. The project also included outreach activities in the communities studied and with relevant subnational and national government agencies. The goal of the project is to have women recognized as stakeholders in community land governance and create spaces for their engagement in decision-making processes.

Legal Framework on Compensation and Resettlement

Tanzania and Mozambique are among the top targets for commercial land acquisitions in the global South. The governments of both countries encourage investor interest, which centers on extractives and agricultural commercialization. Most land intended for or allocated to investors is legally recognized as owned or occupied by customary communities, resulting in displacement and disputes between communities and investors.

The laws of both countries require payment of compensation when community land is acquired. In Tanzania the regulations implementing the land laws, particularly the 2001 Village Land Regulations, set forth the requirements and procedures for compensation. Compensation is paid for land and improvements, such as houses, trees, and standing crops, based on specified valuation methods. Certain allowances—disturbance, transportation, accommodation, and loss of profits—may also be paid. Compensation may be in cash; replacement land; in kind (seedlings, grain supply, etc.); or a combination of forms. However, except under the Mining Law and in projects financed by development banks, providing replacement land is merely an option, not a requirement. The village council (the village governing body) must file a compensation claim for communal land and assets, and affected households must submit the claim for land held. No specific policy, law, or regulation governs resettlement.

Mozambique’s legal framework lacks adequate guidelines for compensation. The 1997 Land Law requires that after the investor holds consultations with affected communities, the district administrator shall issue an opinion on whether the land is free and unoccupied and if not set down the terms of “partnership” agreed upon by the investor and the community. The law provides no specific guidance for establishing the terms of “partnership.” In instances of expropriation, acquisition for extractives purposes, or resettlement, the law does require payment for the loss of tangible (crops, improvements, etc.) or intangible (transport and communication routes, social networks, etc.) assets. For extractives-related acquisitions, compensation is fixed in a memorandum of understanding between the government, the community, and the company. For all other commercial acquisitions, the 2012

Resettlement Regulations require a full-scale resettlement plan and implementation action plan that includes a compensation criteria and budget. Public participation in the form of consultations and hearings is mandated. A technical committee composed of national and local government representatives and one member of the “related area” has oversight functions.

The Practice of Compensation and Resettlement

Lack of full, fair, and prompt compensation is a pervasive complaint in both countries. “Unused” or “idle” land (e.g., fallow or grazing land) is often uncompensated, and improvements such as crops are vastly undervalued. Cash compensation is typically delayed and inadequate to purchase replacement land of the same size or productive quality and nonmonetary compensation insufficient to meet the needs of households. Communities are often required to vacate the land before they receive full compensation and before the relocation site is ready for settlement. Replacement farmlands are almost always less fertile, smaller, and too far from the community. Purported project benefits, such as employment, infrastructure, and services, seldom materialize; they are either oral promises or written but not legally binding. Investment projects are essentially presented to communities as done deals.

Gender Gaps

Women’s concerns are hardly considered, in law or in practice. Generally, women do not receive compensation, because payment is made at the household level and it is the husband, as head of household, who is authorized to submit claims and receive payments. Some Tanzanian widows complain that their late husband’s relatives assert entitlement to compensation based on customary law. When they do receive compensation, women tend to receive less than men, because they have smaller plots and fewer crops and because subsistence crops (which they tend to raise) are often not compensated at all.

The loss of access to communal lands and forests—from which resources such as water, firewood, fodder, wild plants, and fruits are gathered—also disproportionately affects women. When these resources are not compensated for or replaced, or when compensation does not

reach women, household nutrition may suffer, and women may have to spend more time and energy fulfilling their domestic responsibilities. Similarly, when social services and infrastructure—such as roads and health posts, as well as intangible assets such as communication routes—are not compensated for or replaced in resettlement sites, women’s resilience and ability to cope with new and often harder living conditions are severely affected. Benefits such as employment opportunities usually favor men, although in some instances female labor is preferred in lower-skilled manual tasks. Overall, given their manifold disadvantages, women have fewer options than men for replacing lost livelihoods and resources.

Women are underrepresented in decision-making bodies, and laws lack mechanisms for their meaningful participation. As a result, women find it hard to exercise whatever rights they may have. In Tanzania gender quotas in village governance bodies provide avenues for women’s engagement in the land acquisition process. Additional mechanisms, such as quorum and voting requirements, are needed to ensure that their voices are not drowned out. In Mozambique the technical committee with primary oversight responsibilities for resettlement does not mandate women’s representation, and the gender ministry is not required to provide inputs to the resettlement plan. The regulations do provide that vulnerable groups such as widows, households headed by women, the elderly, and youth must be heard. But women’s participation must be conceived beyond their vulnerability and considered in terms of their agency and contributions as stakeholders.

More Gender-Equitable Compensation and Resettlement

Tanzania and Mozambique must address deficiencies in their legal frameworks to ensure a fair deal for women and their communities. Guided by key human rights principles—such as gender equality, due process, free and prior informed consent, and just compensation—the regulations on compensation and resettlement should address the following concerns:

Compensation:

- Compensation of both spouses or all members of the household with an interest in the land acquired by the investor must be mandated. Distribution mechanisms—such as payment in the joint names of spouses or directly to women, through mobile phone banking, for example—must be established. Replacement land must be in the name of both spouses.
- Payment for loss of access and/or replacement of communal resources and intangible assets must be made explicit and mandatory, with replacement the priority. Guidelines for property valuation must mandate compensation for the uses and benefits women derive from communal resources.
- Compensation must be paid not only for just cash crops (which are planted mostly by men) but also for subsistence crops (which tend to be planted by women).
- Promises of employment opportunities, social services, and local infrastructure must be in writing in a legally binding document or otherwise formally included in the compensation or resettlement plan. They must be accompanied by clear implementation plans and timeframes for completion, as well as accountability for implementation.

Women's representation and participation:

- Women's representation in decision-making bodies and processes related to compensation and resettlement can be achieved through gender quotas and quorum and voting requirements in the relevant community governance bodies and national and local oversight entities, including the village council in Tanzania and the Technical Resettlement Monitoring and Supervision Committee in Mozambique.
- Meaningful participation of women in all community consultations and public hearings can be increased by considering cultural barriers, literacy issues, and time and mobility constraints, including the holding of women-only meetings or focus group discussions and scheduling meetings on days and times that are convenient to women.
- Inputs from relevant government agencies, particularly the ministry charged with gender or women, as well as civil society must be incorporated through requests for comments or participation in the processes.

- Rights-awareness and informational campaigns for both affected and host communities must include outreach for women and sensitization activities for men.
- Strategies for monitoring and mitigating gender-based violence, especially by companies' security forces, must be part of resettlement plans or provided in a separate, binding written commitment.
- Grievance mechanisms must be accessible, fair and transparent, culturally appropriate, and gender-sensitive.

The institutional and administrative framework of government must be strengthened through gender trainings and sensitization activities, mechanisms for improved institutional coordination, and increased transparency and accountability. Governments play a critical role in creating spaces for social change through gender-equitable laws and regulations that are implemented in gender-sensitive ways.

List of Abbreviations

CTV	Centro Terra Viva
DUAT	Direito de Uso e Aproveitamento da Terra
PRAI	Principles for Responsible Investment in Agriculture and Food Systems
TAWLA	Tanzania Women Lawyers Association
TGNP	Tanzania Gender Networking Program
VGGT	Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests

INTRODUCTION

Rural communities across the global South have experienced landlessness, marginalization, and impoverishment as a result of land-based investments that are supposed to develop the economy and usher in growth. For a variety of reasons—including having fewer tenure rights and less access to land and other productive resources, subordinate roles in the household and community, lower educational attainment, and more restricted mobility—the negative consequences of commercial land acquisition disproportionately affect women (Behrman et al. 2011; Daley and Pallas 2013; Tsikata and Yaro 2014; Doss et al. 2014). When investors come knocking at the door, women are often out of the picture or only nominally involved in decision-making processes that often result in land and resources being shifted away from them.

Women are sidelined not only in the decision to say “yes” or “no” to a proposed land deal or investment, they are also left out in two related critical processes: the determination and sharing of compensation payments and the planning and implementation of resettlement schemes. Studies show that women are not compensated for lost farms and crops, because they are not deemed owners of the fields they cultivate; in most rural communities, men are recognized as the rightful landowners or holders (Mehta 2011; Daley 2011; Fonjong 2017). Compensation is typically determined and paid at the household level, and it is the husband whom investors and government authorities alike deem the head of household and claimant of compensation.

When communities or families are relocated and resettled, specific concerns of women are bypassed or minimally addressed. For instance, women may lose access to communal forests from which they collect common property resources such as water, fuelwood, fodder, wild plants, and herbs. Failure to compensate for or replace these assets not only deprives women of vital resources for household sustenance and supplemental livelihoods, it also increases their domestic burdens, because they need to travel longer distances and spend more time collecting them. When a community gets dispersed, women also lose valuable social networks. Because of women’s disadvantaged position and more limited resources and options for rebuilding livelihoods, land-based investments and acquisitions generally leave women more impoverished than men (Behrman et al. 2011; Mehta 2011; Chung 2017).

Realizing the trend and scale of the resurgent demand for land in the developing world (Deininger et al. 2011; Anseeuw et al. 2012) and recognizing the need for greater social and gender equity, the international community has developed codes of conduct, principles, and safeguards to govern these investments, particularly investments made by transnational companies. They include the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests (VGGT); the UN Guiding Principles on Business and Human Rights; the Principles for Responsible Investment in Agriculture and Food Systems (PRAI); and guidelines and safeguards established by development banks. Intended to complement and supplement existing UN human rights conventions (such as the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the UN Declaration on the Rights of Indigenous Peoples, the International Convention on Civil and Political Rights, and the International Convention on Economic, Social and Cultural Rights), these nonbinding, soft-law instruments call for greater cognizance of land tenure rights of local communities and fairer and more transparent, inclusive, and participatory decision-making on land-based investments. Some instruments, such as the VGGT and the PRAI, address gender.¹ At the national level, many developing countries increasingly recognize customary land rights, women’s equal land rights, and the need to engage communities in processes related to land acquisition or investments (Rights and Resources Initiative 2015). But more work remains to be done, especially at the national level, to incorporate social and gender perspectives and to ensure that women’s voices are heard and their needs acted upon (Daley 2011; True Price and the University of Groningen 2016).

With an eye to strengthening women’s participatory rights under national-level processes, in 2016 WRI examined the processes of commercial land acquisitions in Tanzania, Mozambique, and the Philippines.² The working paper “Making Women’s Voices Count in Community Decision-Making on Land Investments” analyzed the extent to which affected communities, particularly women, are involved in decision-making, from being informed and consulted about the proposed investment or acquisition to reaching the decision to say “yes” or “no” to it (Salcedo-LaViña and Morarji 2016). That paper reviews both the legal framework and practice on the ground, identifying

gaps and weaknesses in regulations that can pose barriers to the implementation of legal rights granted to women. A significant barrier in the legal framework is the use of gender-neutral language, which when applied in patriarchal contexts result in women's marginalization from decision-making. Similarly, the law may inadvertently sanction discriminatory elements in customary norms by recognizing without qualification customary decision-making processes.³

The earlier paper confined its analysis to the process of acquisition. This paper extends the study to the related processes of compensation and resettlement, which are covered by a subset of regulations under national legal frameworks. The focus is on Tanzania and Mozambique, both of which have embarked on growth policies that heavily rely on agricultural commercialization and natural resource extraction.⁴ Over the last decade, the two countries have been the subject of significant interest on the part of foreign investors, which acquired rights to large tracts of land. Some investments resulted in lengthy and high-profile disputes over compensation and resettlement.⁵ Several projects collapsed, after which the land was abandoned or acquired by other investors, leaving affected communities with unresolved claims and grievances regarding compensation or resettlement processes. Having relinquished their rights, communities are unable to return to the abandoned land, even as they remain uncompensated. Investor promises of social services or local infrastructure, often made in lieu of proper compensation programs, go unfulfilled.

Tanzania and Mozambique enacted significant land reforms in the 1990s, including recognition of customary land rights and requirements of community engagement in the land acquisition process. Both countries are in the process of reforming these laws to address persistent and emergent land issues, including the impacts of commercial land-based investments. Tanzania is in the

process of revising its national land policy, which will entail changes to several aspects of its land laws. In 2012 Mozambique introduced new resettlement regulations, and it is planning to revise its land law.⁶ Both countries have established statutory recognition of women's equal rights to land.⁷ Although ensuring de facto protection of these rights is an ongoing challenge, legal recognition was a key reform (Giovarelli et al. 2013). The extent to which the call for gender equity permeates other aspects of land legislation and accompanying regulations remains an issue. In the context of commercial land investments, research shows that mere recognition of women's equal rights to land does not translate into equal participation or fair consideration of the needs of women (Salcedo-LaViña and Morarji 2016).

This paper finds a similar lack of gender sensitivity in the regulatory frameworks of Tanzania and Mozambique concerning compensation and resettlement. Without explicit provisions to protect women's interests, the compensation and resettlement process risks further marginalizing women. Although this study is focused on two countries, the issues raised and lessons learned may apply to other similarly situated countries. There is a pressing need to support women's engagement in the ongoing trend of land commercialization throughout the global South. Social inclusion and gender-equity principles under international instruments governing large-scale land-based investments will not be realized unless they are adopted in national legal frameworks and processes that are fully implemented and enforced.

The rest of the paper is organized as follows. The next section briefly describes the methodology. The following two sections present the analysis and findings. The last section makes some recommendations for more gender-equitable regulatory frameworks.

METHODOLOGY

To examine the gender issues in compensation and resettlement, this paper first provides an overview of the regulatory frameworks governing the two processes in Tanzania and Mozambique. For Tanzania the primary laws reviewed are the 1999 Land Act, the 1999 Village Land Act, and their implementing regulations, particularly the 2001 Village Land Regulations. For Mozambique the main law assessed is the 1997 Land Law, and regulations including the Land Regulations (Decree 66/98), Community Consultation Guidelines (Diploma Ministerial 158/2011), and the 2012 Regulations for the Resettlement Process Resulting from Economic Activities.

The paper then assesses how compensation and resettlement processes unfold in practice by (a) reviewing the literature on Tanzania and Mozambique as well as multicountry or global studies and (b) conducting field research in collaboration with country partners the Tanzania Gender Networking Program (TGNP) Mtandao and Centro Terra Viva (CTV) in Mozambique. The field research consisted mainly of semi-structured interviews, key informant interviews, and focus group discussions.

In Tanzania TGNP interviewed residents of two villages, Vilabwa and Kidugalo, in Kisarawe District, in the country's coast region. These villages were affected by biofuels investment in the early 2000s that failed. TGNP conducted semi-structured interviews and administered written questionnaires to village leaders and members. It held key informant interviews with the district land officer and the chairman of a pastoralist group that grazes cattle in the district. Fourteen of the 29 respondents were women. Focus group discussions were held with the women interviewees in each village. TGNP also examined relevant minutes of village council meetings. The field research was conducted in October 2016, with a follow-up in May 2017.

In Mozambique CTV studied two communities: one in Malanga, just outside Maputo City (the capital), which was resettled to make way for the largest suspension bridge in Africa, and one in Mbatchene, in Moamba District, which was resettled for the creation of a game reserve. CTV conducted semi-structured interviews with 15 members of the resettled Malanga community (10 women and 5 men). It conducted a focus group discussion with the women. In Mbatchene CTV interviewed a group of 30 affected residents, both men and women. Because of heightened tension in the community as a result of conflict with the investor, a separate focus group discussion with women was not possible.⁸ CTV also conducted key informant interviews with district officials in Maputo and Moamba.⁹ The field research was conducted in October 2016.

RESEARCH FINDINGS

Tanzania

Overview of the land acquisition process

The 1999 Land Act and the 1999 Village Land Act primarily govern land rights and land acquisitions.¹⁰ Under these laws, all land is public land vested in the president as trustee. The right to use land is called the right of occupancy. The law recognizes customary rights of occupancy, whether or not they are formally registered and documented with the state. These lands are classified as “village land.”¹¹ Individual members or groups within the village may also acquire customary rights of occupancy in their name.¹² Village land comprises about 70 percent of land in Tanzania. It is managed by village councils, local governance bodies created under local government law,¹³ and the village assembly, composed of all members of the community 18 years old and older. The district government, the commissioner, and the minister in charge of land have oversight.¹⁴

Under the Village Land Act, the village council and village assembly may allocate or transfer village land to investors or other third parties. For domestic investors, or Tanzanian citizens and organizations that are not ordinarily residents of the village, the allocation of rights of occupancy or derivative rights (i.e., lease, usufruct, or other similar rights) to village land may be conditioned on the payment of a premium and annual rent and other terms provided in the law and as may be determined by the village council, subject to recommendations from district officials and the commissioner in charge of land. The village council approves derivative rights to land not exceeding five hectares or for five years, beyond which the allocation is subject to confirmation by the village assembly and the recommendation of the commissioner.¹⁵

In the case of foreign investors, the allocation of land is subject to two provisos. The first is that the investor must have an approved investment under the Tanzania Investment Act. The second is that the land will be reclassified from village land to general land (land under state control and management). Under the Village Land Act, the president has the power to reclassify land for “investments of national interest” and grant the investor rights of occupancy or derivative rights for up to 99 years.¹⁶ Once land is reclassified, the village loses its rights to it. In some cases, the land is reclassified

even before the village and affected villagers have been fully compensated or are still waiting for benefits promised by the investor. The land remains as general land even after termination of the investor’s right of occupancy or derivative rights for violation of the conditions of the grant or expiration of the period¹⁷ (although there have been instances in which the reclassified land reverts to village land after revocation or termination of the investor’s occupancy rights¹⁸).

The procedure for the transfer of village land to general land includes a formal notice of the proposed transfer by the minister to the village, village meetings that include representatives of the government and the investor to explain the project and its potential benefits, and opportunities to make representations to the commissioner for any concerns the village council and affected villagers may have. The village assembly approves the allocation of land to investors up to 250 hectares. For larger acquisitions (as is usually the case), the minister has final approval. The Village Land Act provides that no transfer shall be made until the commissioner, the village council, and the affected individual or group rights holder agree on compensation, including the type, amount, method, and timing.¹⁹ In practice, many foreign investors negotiate directly with the village, typically through a local broker or politician and the district government. Although village council and village assembly approval are secured, the approval is merely pro forma (Sulle and Nelson 2009).

Village land may also be expropriated or compulsorily acquired for future allocation of derivative rights to investors.²⁰ An old law still in force, the 1967 Land Acquisition Act, also provides for compulsory acquisition of village land for “public purpose.”²¹ The act requires that notice be given to the affected village and published in the official gazette and that compensation be paid to the village and affected residents (or deposited in court in the event of a dispute or disagreement). Several sectoral laws permit compulsory acquisition, including the 2010 Public-Private Partnership Act, for purposes of development, including agriculture, infrastructure, mining, natural resources, tourism, and energy; the 2013 Wildlife Act, for the creation of game reserves; and the 2010 Mining Act, for the operation of mining licenses. The provisions of the Land Acquisition Act, the Land Act, and the Village Land Act govern compulsory acquisition under these laws.

Legal framework on compensation and resettlement

The Tanzanian Constitution enshrines the right to compensation. Article 24 (2) mandates “fair and adequate compensation” to any person who is deprived of lawfully held property. The Land Act and the Village Land Act also stipulate the payment of “full, fair and prompt compensation to any person whose right of occupancy or recognized long-standing occupation or customary use of land is revoked or otherwise interfered with to their detriment.” Compensation is a prerequisite; no village land shall be transferred until the type, amount, method, and timing of the payment of compensation has been agreed upon by the commissioner, the village council, and affected individual or group customary rights holders. If no agreement is made, the commissioner may direct payment of compensation in an amount deemed proper, pending elevation of the issue to the High Court for final determination.²²

The land laws and their implementing regulations set forth what constitutes compensation and the requirements and procedures for payment. As a general principle, the laws provide that “an interest in land has value, [which] shall be taken into consideration in any transaction affecting such interest.”²³ The 2001 Village Land Regulations spell out what land interest comprises, how it is valued, and how it is claimed. According to the regulations, village land to be transferred to general or reserved land shall be assessed on the basis of the market value of the land and unexhausted improvements, defined as improvements on the land that increase productive capacity, utility, or environmental sustainability whose utility has not expired.²⁴ Such improvements include trees and standing or growing crops; they do not include clearing or plowing the land to prepare for cultivation. Market value shall be determined using the comparative method (based on recent sales of similar properties) or, if the property is of a special nature and not saleable, the income approach (in which income, such as rent, is capitalized) or the replacement cost method.²⁵ Under a new law, the 2016 Valuation and Valuers Registration Act, the profit method (valuing the profitability of commercial property) and residual method (valuing anticipated profit from the development project) may also be used for valuation.²⁶

Box 1 | Components of Compensation under Tanzania's 2001 Village Land Regulations

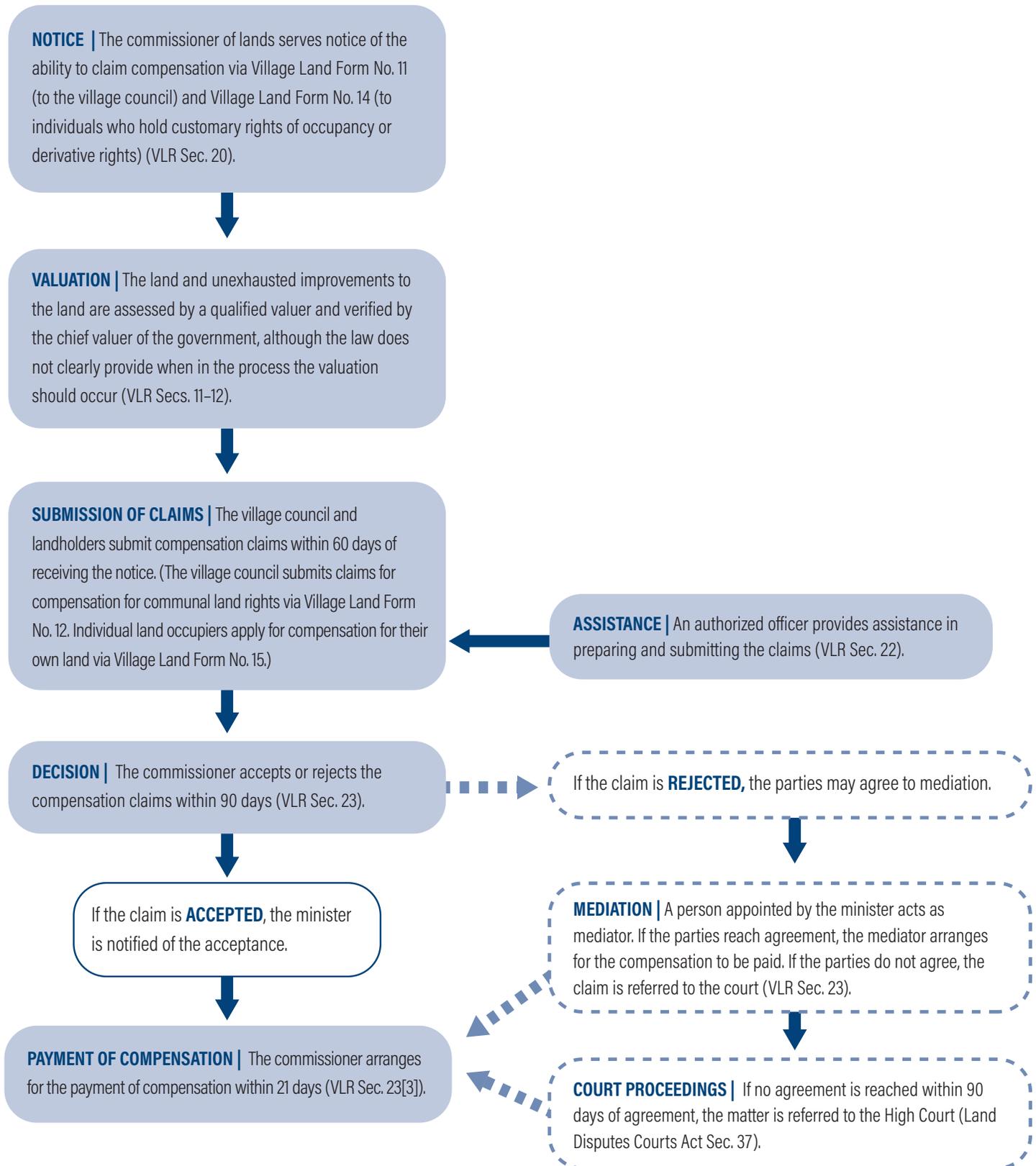
- Market value of the land and unexhausted improvements on the land
- Disturbance allowance: Value of the land multiplied by the average interest rate offered by commercial banks on fixed deposits for 12 months
- Transport allowance: Cost of transporting 12 tons of luggage within 20 kilometers from the displacement point
- Accommodation allowance: Market rent for the building, multiplied by 36 months
- Loss of profits: Monthly profit of any business carried out on the land, multiplied by 36 months
- Interest: Paid at the average rate of interest offered by commercial banks on fixed deposits if the compensation has not been paid within six months of the land acquisition.

Source: Village Land Regulations Secs. 9–19.

Compensation shall include payment for loss of profits and allowances for disturbance, transportation, and accommodation.²⁷ No allowances or loss of profits are payable for unoccupied land. Interest shall accrue if compensation is not paid within six months after the land is acquired.²⁸ Box 1 describes the components of compensation.

Compensation may be paid in cash, replacement land, in kind, or any combination of the three.²⁹ The regulations require replacement land and buildings to be of comparable quality, extent, and productive potential or use as the land or building lost. Monetary compensation shall be equal to the value of the unexhausted improvements or the value of land lost, damaged, or no longer usable for productive purposes and/or reflect the cost of disturbance.³⁰ In-kind compensation may be in the form of plants and seedlings, access to communal assets, regular supply of grain and other basic foodstuffs for a specified time, or other forms as the claimant and the commissioner agree upon. Regulations under the Land Act, the 2001 Land (Compensation Claims) Regulations, and 2001 Land (Forms) Regulations also provide compensation for grazing land.³¹

Figure 1 | Procedure for Land Compensation in Tanzania Based on the 2001 Village Land Regulations



Source: Authors.

Under the Village Land Regulations, along with the notice of the proposed transfer of village land to general land, the commissioner is required to serve notice to the village council, the affected customary rights holders, and any derivative rights holders of the need for formally claiming compensation.³² Assessment of the value of the land and unexhausted improvements shall be done by a qualified valuer, defined as someone with professional or academic qualification in land valuation and appointed or authorized to practice, verified by the chief valuer of the government.³³

Claims for compensation shall be submitted to the commissioner within 60 days of receipt of notice. The village council submits a compensation claim for communal land and the associated assets and benefits, which shall include the location of communal land subject to the claim, its approximate area or size and current uses, losses caused by the land transfer, communal rights for which compensation is claimed, and the amount being claimed.³⁴ Affected villagers submit claims for their own land. Their claims must include the name, age, sex, address, marital status, and number of children living with the claimant; the location and size of the land; the land's current use; losses caused by the transfer; land rights claimed and amount claimed for the value of the land and unexhausted improvements; the costs of moving; and other costs³⁵

Within 90 days, the commissioner decides whether to accept the claim and reports his decision to the minister. If he accepts the claim, the commissioner must pay compensation within 21 days of his submission of the report to the minister. If he rejects the claim, the parties may agree to mediation or refer the issue to the courts (Figure 1).³⁶ Under the Village Land Act, the president may direct that compensation for the transfer of village land to general land be paid by the person or organization granted the right of occupancy to the transferred land.³⁷

Both the statute and its regulations refer to transfers of village land to general or reserved land initiated by the government. They do not address direct negotiations between the investor and the village, the typical scenario in commercial land investments. In these instances, as explained below, compensation is negotiated on a case-by-case basis, which may or may not adhere to the requirements of the Village Land Regulations.³⁸ Such negotia-

tions can be problematic, because in many cases, district governments facilitate the land acquisition, blurring the lines between public and private acquisition.³⁹

Regarding resettlement, under the Village Land Act, if general land is to be exchanged for the village land to be acquired, it must be identified and ready to be transferred to the village. The Village Land Regulations state that the quality, extent, and productive potential or use of the replacement land or buildings shall be comparable to that which is lost. For villagers occupying land classified as general land, the Land Act obligates an investor that has been given a right of occupancy to the land to give notice of not less than 180 days to people who will be resettled and to afford them the opportunity to reap crops already sown and the right to continue to use water sources, in addition to compensation for loss of interest in land and other losses incurred.⁴⁰ In cases of resettlement related to public-private partnership projects, particularly with development banks and international financial institutions (such as the World Bank Group), standards and procedures mandated by the institution also apply. These standards are significantly more stringent than Tanzania's land laws and regulations. They do not apply to projects that involve only private investors, however, and responsibility for implementing them is not always clear when they do apply (Makwarimba and Ngowi 2012). The legislation on public-private partnerships does not directly address the question of aligning domestic law with partner requirements regarding compensation and resettlement, even as it provides that land acquisition for projects shall be in accordance with the Land Act, the Village Land Act, and the Land Acquisition Act.⁴¹ Under the Mining Law, investors seeking mining licenses are required to prepare and implement a plan for relocation, resettlement, and compensation of people within the mining areas in accordance with the Land Act.

Practice on the ground

In most land investments in Tanzania in the past decade, the procedure laid down in the land laws were not fully adhered to. Investors often transacted directly with the village and district authorities (Sulle and Nelson 2009, 2013; Makwarimba and Ngowi 2012); they, rather than the government, paid compensation and financed and implemented the resettlement process. In many cases, compensation was neither full, fair, nor promptly paid.

Given an overall policy of encouraging foreign investments, district officials and other government authorities tended to side with the investor when issues arose, at the expense of customary rights occupants.

One of the persistent complaints from villagers is the lack of clarity in the valuation of property and the calculation of compensation (Kironde 2009). Generally, land itself is not compensated, particularly where it appears unoccupied and unused, even if it is fallow land or the valuation was conducted between planting cycles (Oakland Institute 2011; Beyene et al. 2013; HakiArdhi 2013). Only unexhausted improvements on the land (such as houses, buildings, planted trees, standing crops, and growing produce) are valued and compensated, most of the time at vastly underestimated prices (Purdon 2013; Sulle and Nelson 2013). The treatment of communal resources, such as water, village grazing lands, and village woodlands, which are vital for the subsistence and livelihoods of the community, is inconsistent: In some instances they are compensated, in others they are not (German et al. 2011; Emel et al. 2012; Makene et al. 2012). Compensation is often not provided for annual crops if they are not currently growing, even if there is no clear timeline for resettlement or the resettlement is delayed. Meanwhile, villagers may be barred from planting, without being compensated for lost opportunity and income. In some mining projects, the disturbance allowance is not provided to people who are not relocated, even if they suffer economic displacement as a result of the degradation and loss of productive capacity of the land caused by the mining activities. Moreover, certain land uses, such as the leasing of trees, are sometimes excluded from valuation, resulting in uncompensated loss of profits (Oakland Institute 2011).

Valuation is generally inconsistent and incorrect, with the resulting compensation packages failing to fairly compensate villagers for the losses they incur. Where they are paid in cash and must look for replacement land themselves, villagers typically find that the amount of compensation is insufficient to pay for equivalent land, especially if land prices increase or land becomes scarcer because of the investment project (Katundu et al. 2013). For example, a villager affected by an agribusiness venture in Kilombero Valley in Tanzania's Morogoro Region reported that the monetary compensation he was offered was too low to purchase replacement land. As a result, he ended up accepting a 3-acre replacement plot,

even though he had owned 11 acres before (Oakland Institute 2015). Where replacement land is provided, villagers often find that it is less fertile, too far from their communities, or located in an area that lacks infrastructure and services (Brüntrup et al. 2016).

In many cases, villagers accept low compensation as the price for the promise or expectation of jobs and badly needed social or infrastructure services (a health clinic, a schoolhouse, a village road). Investors often fail to fully meet these promises, or the investment project fails or is terminated before benefits are delivered (Isaksson and Sigte 2009). Delayed payment of compensation is a chronic issue. Investors often commence project activities and pressure villagers to vacate the land before they are fully paid. Without the means to acquire new accommodations or substitute land, villagers sometimes end up living like refugees (IRIN News 2013). In the high-profile Sun Biofuels project in Kisarawe District and the Bioshape project in Kilwa District, the district government was given a percentage of the compensation, receiving a larger share than the village itself, a practice that has no clear basis in law (Isaksson and Sigte 2009; German et al. 2011; Kweka 2012; Massay 2015; Sulle and Hall 2015).

A few positive examples of compensation and resettlement have been reported, mainly in projects involving public-private partnerships in which the environmental and social standards of development banks were applied (Kilombero Plantations Limited 2010; African Development Bank 2015).⁴² For the most part, however, communities have ended up much worse off than they were before projects began. These outcomes were revealed during the field work conducted by WRI's local partner, TGNP, in the villages of Vilabwa and Kidugalo in Kisarawe District. In an ethanol investment by Sun Biofuels that was championed by a member of Parliament, the district valuer valued the property and unilaterally decided that communal lands would be excluded and not compensated. Payment in the form of a lump-sum check was given to the village council, which was then charged with distributing the money to villagers who lost land. The investor promised local infrastructure (a school and a hospital) and water services, none of which were provided. Employment opportunities were limited and consisted of casual labor. In the beginning, some villagers were able to build alternative livelihoods by setting up small shops and restaurants catering to company employees. These opportunities were lost when the investment went bankrupt (TGNP Mtandao and Olyang'iri 2017).

Table 1 | **Number and Percent of People Compensated in Vilabwa Village and Kidugalo Village, Tanzania**

VILLAGE AND WARD	NUMBER			PERCENT	
	MALE	FEMALE	TOTAL	MEN	WOMEN
Vilabwa	12	2	14	86	14
Mzenga Ward	36	14	50	72	28
Kidugalo	31	13	44	70	30
Kurui Mzenga	45	13	58	78	22

Source: Field work by TGNP.

Table 2 | **Compensation Paid to Men and Women in Vilabwa Village and Kidugalo Village, Tanzania (Tanzanian shillings)**

VILLAGE	LOWEST COMPENSATION PAID		HIGHEST COMPENSATION PAID	
	MEN	WOMEN	MEN	WOMEN
Vilabwa	108,700	104,200	1,989,700	341,400
Kidugalo	100,300	275,700	7,172,600	3,439,800

Source: Field work by TGNP.

Note: Data extracted from village compensation book.

Villagers in Kidugalo complain that they have yet to be fully compensated for land that was acquired by a domestic investor in 2011. The investor is alleged to have made partial payment to the village council, which did not distribute the funds to the households that lost land. The investor also promised to build a village office but completed only the frame and the roof, which would have collapsed had the district government not stepped in and provided additional funding. The investor has disappeared and the land has remained idle since it was acquired.

In Vilabwa village, a local investor promised to build a village office but completed only part of the building. Villagers would like to get their plots back but feel intimidated by local officials. Because of a steady increase in the land prices since investors came to the district, many are unable to afford new farmland. Others, mostly men, have started speculating in land, clearing community forests ostensibly to cultivate the land but instead selling them to investors from Dar es Salaam (TGNP Mtandao 2016; TGNP Mtandao and Olyang'iri 2017).

Impacts on women

In its field research in Kidugalo and Vilabwa villages, TGNP found that of villagers recorded in the village compensation book as having received compensation from the Sun Biofuels investment project,⁴³ only 2 out of 14 in Vilabwa village and 13 out of 44 in Kidugalo village were women. Rates of compensation also differed. In Kidugalo men received up to 7.2 million Tanzanian shillings, whereas women received up to 3.4 million Tanzanian shillings. In Vilabwa men received up to 2 million Tanzanian shillings, whereas women received just up to 341,400 Tanzanian shillings (Tables 1 and 2). Although the difference in amounts received may reflect the size of the plot and the type and number of crops, it also reflects inequality in land rights. Of the 14 women interviewed, only 3 owned land; in contrast, 12 out of 13 men interviewed did so (TGNP Mtandao and Olyang'iri 2017). These disparities are documented in the literature on women's land rights, which shows that women own less land than men and that men cultivate higher-value cash crops whereas women engage mainly in subsistence farming (FAO 2011; Behrman et al. 2011; Doss et al. 2014).

The women interviewed by TGNP also reported a loss of access to common property resources, including water sources and community forests, where firewood, fodder, medicinal plants, and building materials are gathered. In general, compensation was not paid for common property resources; replacements, if provided, were inadequate. This lapse not only resulted in increased workloads for women, who are responsible for collecting the resources, it also forced households to purchase products they once collected for free. Both women and men complained that even on land for which they received compensation, the amounts given failed to account for the full economic and social value of their land, including as a source of firewood and charcoal (TGNP Mtandao and Olyang'iri 2017).

Villagers also noted that the promised social services and infrastructure failed to materialize. In the two villages studied, Sun Biofuels' promises included a school, a hospital, roads, water services, and employment opportunities. The alternative livelihood opportunity of selling food and fruits to plantation workers, availed mainly by women, was short-lived, as the project floundered after just a few years. The investor that eventually took over Sun Biofuel's lease, Mtanga Farms Ltd., has very little economic interaction with the two villages and denies any responsibility to fulfill Sun Biofuel's promises.⁴⁴

The women interviewed by TGNP revealed harassment from security personnel hired by the new investors. One reported that women who venture near lands occupied by the investors to fetch firewood are routinely chased by company guards, and their property, including bush knives and money, is often confiscated (TGNP Mtandao and Olyang'iri 2017).

The (limited) literature on the gender dimensions of large-scale land acquisitions in Tanzania finds that compensation schemes usually bypass women.⁴⁵ In a study of an agribusiness project for ethanol production in the Bagamoyo District in Tanzania's coast region (a partnership between the government and a Swedish company), women reported that compensation claim forms distributed by district authorities to villagers listed only the names of husbands as household heads (unless the household was headed by a woman) and that only the person listed was authorized to collect payments. Because the project is stalled, compensation has not been paid. But the women knew that when finally distributed, the money would go to the men and were apprehensive about not getting a share. They also worried about the money being wasted on alcohol and other women. Some widows have been warned by their late husband's male relatives that the compensation payments belong to their side of the family according to customary and Islamic law. Women also bemoaned the way in which compensation was determined. Subsistence food crops were assumed to have no exchange value and would be harvested, consumed, or stored before relocation; no compensation was therefore offered for them. It was also assumed that the transition between relocation and the next planting season would be seamless. Women also feared the loss of access to common property resources, which they depended on for fuelwood, medi-

cine, and building materials. Certain trees are valued not just for their fruits but for their cultural significance (the *mkole* tree, for example, is an important symbol in their matrilineal traditions). The women and their families have been living in uncertainty since the project was suspended. The local school has been closed, leaving the education of their children in limbo. Villagers are reluctant to plant cash crops for fear of not being able to harvest them or having to forfeit their harvests (Chung 2017).

Similar findings emerge from a study on the relocation of communities for the creation of a protected area in the eastern Usambara Mountains in northeastern Tanzania (Rantala et al. 2013). It finds that far fewer women than men received compensation payments and that those that did receive compensation received lower amounts. Ninety-five percent of the men interviewed for the study received compensation for loss of land, whereas less than 30 percent of women did—even though similar proportions of men and women lost access to similar areas of land. Most farms cultivated by women were labeled as household property and registered in the name of the household head, mainly the husband or other male relative (father, father-in-law, or son in the case of some widows), who then received the compensation payments. As it is women who usually cultivate crops for household consumption, loss of land resulted in food insecurity. Villagers recounted how some of the men squandered the money received on alcohol and in some instances other women, which led to the breakup of some families. Of the few women who received compensation, the most common use of the money was for school fees, followed by consumption (food, clothes, transport, health care) or purchase of replacement farmland. In contrast, the men prioritized consumption and building activities, followed by purchase of farmland. Although there are also differences in the use of compensation payments based on wealth class, the researchers concluded that women in the aggregate “clearly lost out . . . (and) were effectively blocked from accessing both land and compensation” (Rantala et al. 2013, 108).

In studies of Tanzanian villages affected by mining projects, women report that communal resources, including water, grazing land, and community forests used for gathering firewood, were not included in the property valuation process and were therefore not compensated for. Villages were not provided with alternatives to replace their old sources. In a village affected by commercial agriculture investments, vil-

lage women complained that access to fields where they had previously collected wild mushrooms and plants had been blocked (Makene et al. 2012; Twomey et al. 2015).

Employment opportunities are usually given to men, especially hard labor jobs, such as sugar harvesting. Some commercial enterprises may favor female labor, but for both men and women meager wages and poor working conditions fail to make these jobs empowering opportunities (Anseeuw et al. 2012). While Bioshape was still in operation, women engaged in paid wage labor alongside men, altering intrahousehold wage dynamics. However, given that much of this labor was short term, it did not offset the significant food security and poverty risks encountered by women when they lost land use and access rights (LEAT 2011).

Another significant concern is the heightened risk of gender-based violence faced by women related to the loss of resource access or the design of resettlement sites. Evictions of pastoralists for the establishment of conservation areas in northern Tanzania have been marked by reports of sexual assaults of women by implementing agents (IWGIA 2016). Some women in the North Mara gold mining area, in northern Tanzania, report being arrested and sexually assaulted by security officers or Tanzanian police officers (Barrick Gold 2011; York 2013). Supervisors at investment sites have also reported cases of sexual abuse (Brüntrup et al. 2016).

Mozambique

Overview of the land acquisition process

Under Mozambique's Constitution and the 1997 Land Law (*Lei de Terras*), all land is the property of the state. Land rights consist of the right to use and enjoy land, called a DUAT (*Direito de Uso e Aproveitamento da Terra*). Local communities occupying land according to customary norms or in good faith for at least 10 years enjoy DUAT, with or without formal registration (although demarcation of community lands and formal registration of their DUATs are encouraged).

For investors, domestic and foreign, the primary legal avenue for acquiring a DUAT is application to the government. Application has several key steps, including identification of the land with involvement of the local community, submission of an exploitation plan for domestic investors or approved investment project for foreign investors, the holding of community consultations, and the issuance of an opinion by the district administrator.⁴⁶ The district administrator's opinion comes after completion of community consultations. It states whether the land applied for is "free and has no occupants" and hence available for investment; if the land is occupied, it states the terms of "partnership" agreed upon by the investor and the community. The land application is ultimately approved by the provincial governor (if under 1,000 hectares), the minister of agriculture and fisheries (if between 1,000 and 10,000 hectares), or the Council of Ministers (if exceeding 10,000 hectares).⁴⁷ If approved, the investor obtains a provisional DUAT not exceeding two years for foreign investors and five years for domestic investors. At the end of the period and final demarcation of the land and fulfillment of the exploitation or project plan, a final DUAT is granted for up to 50 years, renewable for the same period upon application.⁴⁸

Community consultations, which must be preceded by a notice to the community, consist of two meetings led by the provincial cadaster. The purpose of the first meeting is to inform the community about the proposed investment; the purpose of the second meeting is for the community to announce whether the land is available for the investment. Where necessary, additional meetings may be held. The outcome of consultations must be documented via the meeting minutes (the *acta*) and signed by members of

the Advisory Councils for Villages and Towns (an elective body tasked with explaining government policies to local communities and encouraging citizen participation). A copy of the acta must be provided to the community once the district administrator's opinion is given. The consultations are financed by the investor via a deposit made at the beginning of the process.⁴⁹

Legal framework on compensation and resettlement

Mozambique's constitution requires payment of compensation when land is expropriated for reasons of public necessity, utility, or interest.⁵⁰ This directive is reiterated in the Land Law, which requires that any revocation of DUAT for reasons of public interest must be preceded by the payment of fair indemnification and/or compensation.⁵¹ The Territorial Planning Law (Law 19/2007, *Lei de Ordenamento do Território*) provides for compensation when land is expropriated for projects carried out as part of the land use planning process.⁵² "Public interest" includes acquiring areas for economic or social infrastructure projects with a significant positive social impact, for certain conservation purposes, and for infrastructures of public or military interest.⁵³

The procedure for compensation in the context of expropriation starts with the declaration of public interest or necessity, followed by the issuance of notice to the community and affected property owners, the valuation and calculation of compensation, the determination of the means and terms of payment, and the payment of compensation. Under the Territorial Planning Law, compensation must be paid for the loss of tangible and intangible assets, the breakdown of social cohesion, and the loss of the production of goods.⁵⁴ Tangible assets include crops, buildings, and improvements. Intangible assets include communication routes and the accessibility of transport. The rupture of social cohesion includes increased distances between a resettlement location and social and family structures, family cemeteries, and medicinal plants.⁵⁵

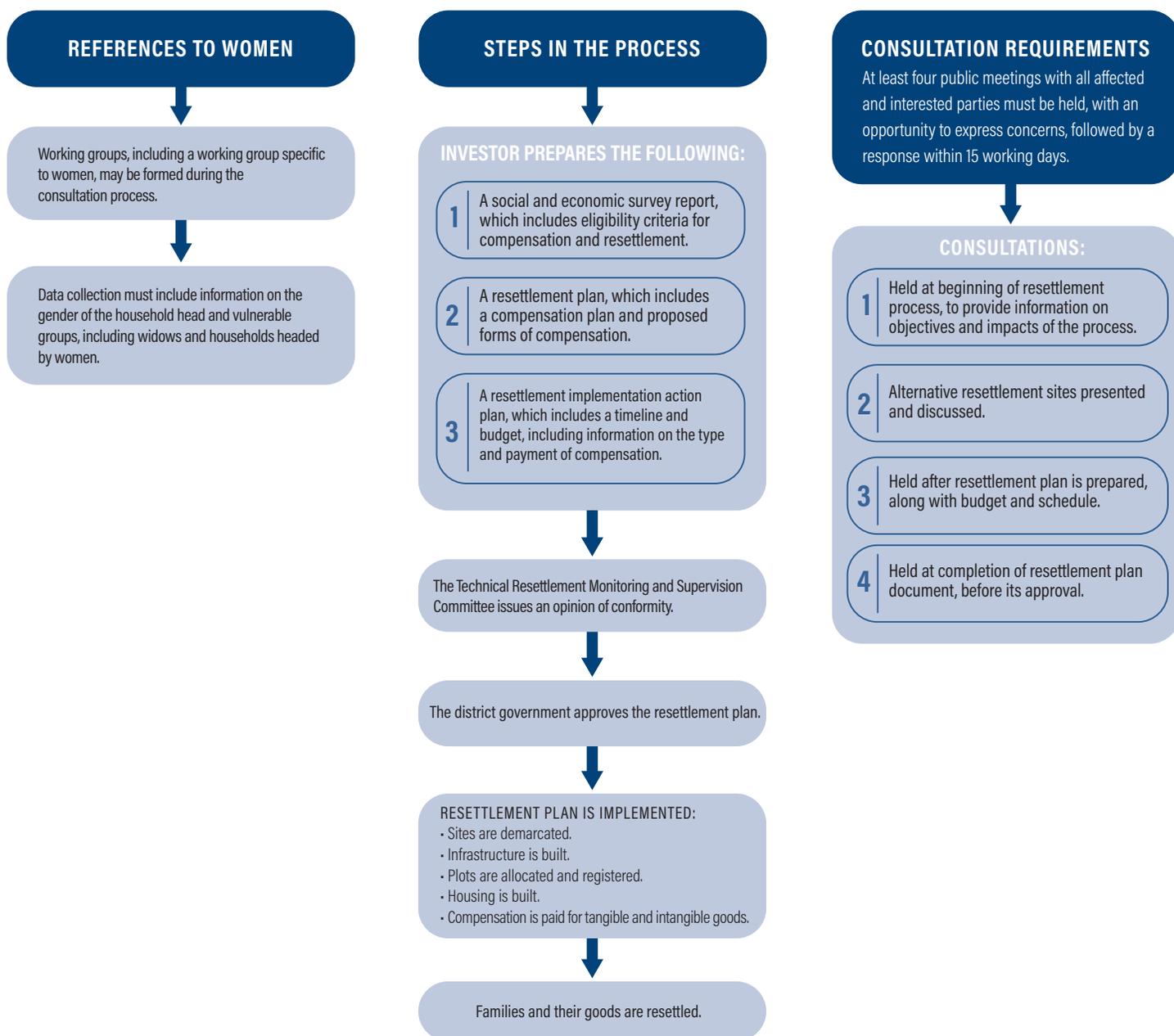
Valuation is based on the current and actual value of the property on the date of payment, as well as damages and lost profits arising from the expropriation.⁵⁶ The Expropriation Directive (Diploma Ministerial 181/2010) includes detailed terms for calculating tangible goods (particularly crops and infrastructures) and intangible goods.⁵⁷ The calculation of immovable property takes into consideration

the type of property, its location, age, value at construction, and current value minus depreciation. For crop valuation, factors considered include age, growth period, average annual production, price of the plant, and state of the plant. Valuation of the land itself is not accounted for.

Outside the context of expropriation, payment of compensation is based on negotiation, as provided in the Land Law and folded into the regulatory framework on resettlement (described below). The Regulations for the Resettlement Process Resulting from Economic Activities (Decree 31/2012, *Regulamento Sobre o Processo de Reassentamento Resultante de Atividades Económicas* [hereafter, the Resettlement Regulations]) require the preparation of a compensation plan, compensation criteria, and compensation costs as part of resettlement planning.⁵⁸ The Mining Law (Law 20/2014, *Lei de Minas*) and Petroleum Law (Law 21/2014, *Lei dos Petróleos*) also contain explicit requirements of "fair and transparent compensation" in the context of resettlement.⁵⁹ Under both laws, the compensation value is to be fixed in a memorandum of understanding between the government, the community, and the company; under the Mining Law, it may be witnessed by a community organization if a party so requests.

Compensation must include resettlement by the concession holder in dignified housing in better conditions than the previous ones; payment of the value of the improvements; support for the development of activities required for life and food security; and preservation of historical, cultural, and symbolic heritage.⁶⁰ The memorandum of understanding is a prerequisite to the grant of exploration rights. Under the Mining Law, the government may also enter into contracts with concession holders to stipulate benefits to local communities, including local content, employment and training programs, and social responsibility activities. But local communities have no formal participation in the negotiation of the contract.⁶¹ The two laws vest the government with responsibility for ensuring that compensation is fair and that the terms and conditions favor the community.⁶² Resettlement shall not occur until the presence of mineral or petroleum resources has been confirmed.⁶³ The two laws also require compensation ex post facto for damage to land and property, including crops, soils, building, equipment, and other improvements

Figure 2 | Resettlement Process in Mozambique



Note: Based on the 2012 Resettlement Regulations and Diploma Ministerial No. 156/2014.

in the area of mining or petroleum operations.⁶⁴ For all other economic activities, the Resettlement Regulations and associated technical directives (*diploma ministerial*) impose obligations to prepare and implement a resettlement plan as part of the environmental licensing process.⁶⁵ The investor must prepare a resettlement plan in three stages: initial data collection, preparation of the resettlement plan, and preparation of the resettlement implementation action plan. Specific data and plans are required at each stage. The completed resettlement plan must be approved by the district government, following an opinion from the Technical Resettlement Monitoring and Supervision Committee. This committee, consisting of five representatives of national government departments,⁶⁶ one representative each from the provincial and district government, and one member of the “related area,” is responsible for overseeing the entire resettlement process. It may invite specialists and representatives of other government agencies to participate in its deliberations. The committee is supported by district- and provincial-level resettlement committees. The District Director for Health, Women and Social Services sits on the district-level resettlement committee.⁶⁷

The Resettlement Regulations provide that the resettlement plan must include a “definition of the compensation criteria” and that the budget should consider the cost of compensation.⁶⁸ A technical directive (Diploma Ministerial 156/2014) harmonizes the Resettlement Regulations with the regulations on environmental impact assessment; the Expropriation Directive addresses compensation more explicitly. It requires that the socioeconomic and physical data survey conducted in the first phase of the resettlement process contain information on compensation. The resettlement plan should contain a compensation plan, including a proposal for forms of compensation for tangible and intangible goods. The budget should include compensation costs; compensation of goods is specifically listed as part of the implementation plan.⁶⁹

The Resettlement Regulations require public participation in the form of public consultations and public hearings. At least four public consultations, consisting of public meetings with all affected parties, must be advertised and organized (Figure 2). A group of stakeholders—called “Other Stakeholders of the Resettlement Process,” consisting of five representatives of the affected population (one

civil society representative, three community leaders, and two members of the private sector)—is tasked with mobilizing and raising awareness about the resettlement process. During the meetings, participants must be given a chance to express concerns and raise questions, which must be recorded. The investor must give a response at the meeting or within 15 days. The regulations require that meetings be held at a convenient location for all people affected and that it must be planned to ensure the participation of diverse social strata. The local language should be used if possible or translators made available. Working groups may be created to deal with issues affecting specific groups, such as widows, households headed by women, the elderly, and youth.⁷⁰

During resettlement, affected community members have the right to have their income and standard of living reestablished at an equal or higher level, be transported with their goods to a new residence, have infrastructures and social facilities, have space for subsistence activities, and give their opinion about the resettlement process. The regulations specify minimum housing standards: houses must be of a specified minimum size and structural quality, and they must be built in accordance with the social and cultural customs of the resettlement place. Community and social structures—including road, water, and electricity systems; schools; police stations; and worship and meeting places—must be established. Areas must also be reserved for agricultural and cattle-breeding activities, and housing plots must have spaces for vegetable production and animal breeding. Conditions that are as good as or better than those of the place of origin must be present at the resettlement sites to compensate for lost access to communal resources.⁷¹

Practice on the ground

In practice, the payment of compensation and the quality of benefits are highly dependent on the community’s negotiating powers (German et al. 2016; Di Matteo and Schoneveld 2016). Communities often come to the table at a disadvantage, however, and consultations are generally mere token gestures. Proper procedures are not followed, insufficient information is given, and meetings are not representative of the community, with decisions often made by local elites or traditional leaders (German et al. 2011; Fairbairn 2013).

Table 3 | Compensation Paid in Mozambique, by Means of Land Acquisition

MEANS OF LAND ACQUISITION	NUMBER OF INVESTMENTS	PERCENT OF FARMLAND COMPENSATED	PERCENT OF COMMON PROPERTY RESOURCES COMPENSATED	PERCENT OF REPLACEMENT LAND PROVIDED TO DISPLACED COMMUNITY
New DUAT (land acquired through titling of previously untitled lands)	30	68.0	12.5	3.3
Old DUAT (purchase of DUATs of other investors)	13	7.7	7.7	0
Rent (lease of land from local communities, the state, or other commercial DUAT holders)	9	33.3	0	0
Customary arrangement (Mozambican nationals entering into informal arrangements with local communities)	4	0	25.0	0
Total	56	47.9	11.1	1.8

Source: Adapted from Di Matteo and Schoneveld 2016.

Note: Data shown are a portion of agricultural investments (including agricultural forestry) approved between 2002 and 2013.

Studies show that compensation amounts are usually very low and nonmonetary compensation may not meet the needs of communities. One biofuel company paid no individual compensation, instead building water wells, and plowing a replacement piece of land that was far away from the original site (Peters 2009; Schut and Florin 2015). In calculating compensation, both government authorities and private investors tend to consider only community lands that are physically occupied. Lands not considered occupied are not compensated, even though under the law community lands include fallow land, grazing land, forests, water sources, and room for communities to expand.⁷² A review of three different projects found that none of the consultation processes addressed, or provided compensation for, anything other than land used for farming or grazing (Waterhouse et al. 2010).⁷³ In another case, the company and government officials did not pay for land that was left fallow (Solberg 2012). In some cases, compensation is not paid (Mapote 2013). The Chikweti Forests project in Cabo Delgado Province allegedly promised compensation but did not pay it; the communities did not feel that they had any ability to refuse

the investment (Justiça Ambiental and União Nacional de Camponeses 2011).

On occasion, communities have successfully negotiated for a share of project benefits. One community affected by a eucalyptus plantation project was able to negotiate a land tax that would be paid to a newly created community association (Waterhouse et al. 2010). Partnership agreements between the local community and investor envisioned in the Land Law are uncommon, however. In practice, investors make generic commitments recorded in the minutes or acta that are not legally binding contracts (Nhantumbo and Salamão 2010; German et al. 2011). The acta may state, for example, that “communities would benefit,” that the “company must create jobs” and “develop social infrastructure,” and that the company would “refrain from resettling people within the company plots.” Investors generally do not believe they have formal obligations to provide social services. The staff of one company suggested that if the government imposed such obligations it would scare investors away (Waterhouse et al. 2010). Another company’s director noted that company policy

was to award social services as prizes for community cooperation (Justiça Ambiental and União Nacional de Camponeses 2011). These statements reflect a significant gap between investors' understandings of these projects and the expectations of communities that view the promises as conditions for the transfer of the land, especially given that investment projects are often presented by government officials as done deals.

Distinguishing between expropriation in the public interest and mere private projects is not always easy. Large projects have received support from the state that, while not involving the administrative agencies normally involved in expropriation, does not give communities the freedom to refuse the project (Tanner et al. 2015). When land is expropriated in the public interest, the requisite public announcement is not made, making monitoring unpaid compensation following expropriation challenging.⁷⁴

Full-scale resettlement plans of the type envisioned by the 2012 regulations are yet to be widely practiced. Experience from earlier projects shows that identifying land for resettlement is difficult. Many investors lack the capacity to guarantee full rehabilitation of displaced persons, and few provide replacement land for them. One study

Box 2 | Villagers Are Not Given Enough Time to Move to the Resettlement Area

I was absent when [company] staff came to read out the list of names of people who should go and collect their checks. My neighbor told me my name had been called out, so I went to [the company's offices]. They said my name was not on the list. My neighbor insisted it was. It was on my fourth visit that they finally found my name and the check. When I signed for the check, I found I had lost 15 days— [the company] gives residents a grace period of 40 days from the time the compensation check is issued to collect and the day they come to demolish your house. I then had to rush to find someone who could help me with construction, because being a woman, this is not an area I am familiar with. I am still building here. My husband cannot help much because he has to go to Maputo to work. He is a security guard and sometimes works for five successive days before he can travel back here.

—Woman in Tenga, Mozambique

finds that only 3 percent of investors granted new DUATs provided replacement land (Di Matteo and Schoneveld 2016, see Table 3). Compensation is more commonly paid despite the lack of a clear legal framework. Amounts tend to be very low, and there have been reports of promised compensation going unpaid (Fairbairn 2013; Vines et al. 2015; Symons 2016).

The experience of resettlements that occurred before the new regulations was mixed: Some resettled communities abandoned the accommodation provided (because of lack of livelihood opportunities or other reasons), and some resettlement promises were not fulfilled (Terra Firma 2013). Portuguese company Quifel, which obtained a large-scale concession for planting soya and sunflower for biodiesel, promised to resettle some 244 affected farmers under an out-grower scheme. But two years into the project, the farmers who had lost their land had yet to be resettled, and the provincial director of agriculture stated that the company no longer wanted the farmers to plant their own seeds, as they wanted to certify their seeds as organic (Norfolk and Hanlon 2012).

Other resettlements experienced serious conflicts between the community and the investor. Such conflicts were likely a key factor in the development of new regulations on resettlement. The investments that attracted the most attention pre-regulations were by mining giants Rio Tinto and Vale. Provision of replacement land was delayed for years, the land was not fertile (because of insufficient water access), and the productivity of the land varied significantly. The houses built by Vale were poorly constructed and needed repairs. Other concerns included a lack of baobab trees (a widely used resource by communities), the long distance from the market and water sources, and inadequate water infrastructure. Both companies did make investments in education, and the resettled communities received DUATs for their new houses and land. The companies also attempted to fix some of the problems in the resettlement process and respond to complaints. Following a protest organized by the community over the lack of a road, for example, Vale financed a road and bus route (Human Rights Watch 2013; Terra Firma 2013; Lillywhite et al. 2015).

A resettlement process that began after the Resettlement Regulations were adopted is related to the Anadarko

Petroleum liquefied natural gas project. The project became mired in controversy, particularly over whether requisite consent had been obtained from local communities. After civil society filed a lawsuit in 2015, Anadarko released detailed documents regarding its resettlement plans, as well as evaluations of potential resettlement sites (Symons 2016). The company also signed a memorandum of understanding with the Mozambican government agreeing to pay compensation, construct social infrastructure, and resettle 5,000 residents.⁷⁵ It remains to be seen whether these promises are implemented—and troubling that a lawsuit was necessary before the company took action.

In the ongoing resettlement of the Malanga community, residents were given a plot of land and cash compensation for building new houses. Community members complained that the compensation amount was insufficient to build a new house and that the new plots they were given were bushland that they needed to clear for building (at their own expense). Community members reported that the company promised cleared land parcels—an important feature of the agreement, as they were given only 40 days from receipt of compensation to move out of their old homes and relocate to the new area (Box 2). Moreover, they had to build the access road from the resettlement site to the main road with their own labor and funds, even though the company promised to build the road. The host community also had grievances. According to some of the people interviewed, the community agreed to give land to the resettlers in exchange for the provision of water and electricity services as well as access roads. However, the amount of land taken from them turned out to be much larger than promised and the infrastructure they requested in return has yet to materialize (CTV and Kiambo 2017).

In Mbatchene, CTV found a very hostile atmosphere between the community and the investor. The community reported that the investor fenced areas well beyond what was officially allocated. The houses and family tombs of two community members were fenced in while they were away, and the community lost a watering hole used for livestock. Animals from the game reserve created on the property occasionally escape and kill community members' livestock, losses for which they are never compensated. The investor built some houses for displaced community members, but the houses were of extremely

poor quality and culturally inappropriate, especially for polygamous families (e.g., entry to the second bedroom was through the first bedroom) (CTV and Kiambo 2017).

Impacts on women

Compensation and resettlement processes tend to be marked by the absence or mere cursory consideration of women's activities and concerns. A recurring issue pertains to women's ability to access and contest compensation (Fairbairn 2013; Cabral and Norfolk 2016). With some exceptions for households headed by women, resettlement schemes generally treat men as the owners of the land and thus entitled to receive the compensation payment (Verma 2014). In its field research, CTV found that female heads of households in Malanga directly received compensation checks but that problems arose for widows and women with estranged or absent husbands. For example, one widow's son collected the payment as the new head of household and failed to share it with his mother. Another woman was not allowed to collect the compensation check on behalf of her husband who was working in a distant city. Women in polygamous marriages also faced challenges. One woman reported that the compensation check given to her husband was inadequate to build houses for each wife. Should they wish to contest compensation, women face greater difficulties than men, because rural women's illiteracy rates are twice those of men and less than a quarter of women in Mozambique speak Portuguese (Terra Firma 2013; Otsuki et al. 2016).

Another significant concern for women is noncompensation of common property resources. One study finds that common pool resources were compensated only 12.5 percent of the time, with particularly negative impacts on women, who rely on these resources heavily to meet their domestic responsibilities (Di Matteo and Schoneveld 2016, see Table 3). In the ProCana project (a large-scale ethanol investment in the southern province of Gaza that failed), the company used the local water supply and roads without paying compensation. Instead of installing its own water supply, every day the company filled large water tanks at the village pumps. As a result, village women spent long hours standing in line waiting for water, and the pumps often broke, as a result of much heavier use (Waterhouse et al., 2010). In another project, the company initially distributed water daily by truck as part of a promise to provide water. It stopped doing so after encountering fuel shortages (Dixie et al. 2016).

A study of investment impacts in nine provinces in Mozambique finds that many investors use local communities' water sources (Justiça Ambiental and União Nacional de Camponeses 2011; Milgroom 2014 et al.). Half of survey respondents from the southern provinces of Maputo and Gaza and 16 percent from the northern provinces of Niassa, Cabo Delgado, and Nampula report that investment projects blocked community access to water sources, including by putting up gates with guards to prevent access (in contrast, in the central provinces of Tete, Zambezia, Sofala, and Manica, 92 percent of respondents said projects had never blocked water access). Field research by CTV in Malanga reveals that the investor promised to provide piped tap water at the resettlement site but could not find a contractor to do the job. The company provided some water pumps and trucked in free water (an important resource for the poorest in the community), but the delivery of and availability of water was inconsistent. As a result, most households ended up having to buy small water tanks and pay a private dealer to supply water. Even with these tanks, women had to wait hours in long lines at water pumps.

Resettlement sites sometimes promise electricity and tap water that are never delivered or break down, and new land pressures or sheer distance make it impossible for women to return to their old water and fuel collection patterns. Chikweti Forest took over farmland and put up fences, including in areas reserved for women looking for firewood (Justiça Ambiental and União Nacional de Camponeses 2011; Otsuki et al. 2016). In the Mbatchene community, the investor fenced in communal areas where women collected resources; women faced regular harassment from the guards every time they ventured near the communal areas to collect fuelwood, with the guards demanding to check their bags and confiscating firewood they found in them. There was also one instance of a reported assault (CTV and Kiambo 2017).

Women from Malanga also reported that the social services and infrastructure provided by the investor were inadequate. The health post in the resettlement area was severely understocked, forcing them to continue to travel to the city for health services. Women displaced by Rio Tinto's mining concession were compelled to deliver babies at home, because of the distance to the district hospital and delays in the company's promise to build a health post (Human Rights Watch 2013). Intangible benefits derived from resources, such as social benefits linked to women's traditional uses of forest resources, are seldom compensated, even where they are integral to the life of the community. For example, in a resettlement related to the creation of a national park, communities were given a piece of land for the establishment of community woodlots, but women lamented the loss of access to a certain tree species (*makwakwa*), which is not only an important food source but also part of a social ritual passed down from their ancestors (Witter and Satterfield 2014).

The offer of employment to the local community can provide a significant opportunity for women. Some biofuel plantations favor women laborers, creating jobs not previously available, particularly lower-skill manual jobs (Human Rights Watch 2013; Romijn et al. 2014; World Bank 2016). Some projects have issued DUATs for replacement land in the name of both husband and wife (Human Rights Watch 2013). However, some in the development community argue that formalizing individual women's land titles may risk freezing limited rights that under traditional tenure systems may have been more flexible over time. Instead, they favor a broader focus on improving social attitudes toward women's land rights and getting women onto land and natural resource management committees (Terra Firma 2013).

Gender Gaps in the Legal Framework

The legal frameworks of both Tanzania and Mozambique contain some progressive elements in terms of gender. Tanzania's constitution guarantees equality before the law and prohibits discrimination against any person, including because of gender.⁷⁶ It mandates that government agencies at all levels must accord to all citizens, men and women alike, equal opportunities in the formulation of state policies and programs. It explicitly upholds the right of all citizens to participate fully in processes leading to a decision on matters affecting them or the nation.⁷⁷ Mozambique's constitution guarantees equality before the law and enjoins the state to "encourage [women's] growing role in society in all spheres of political, economic, social and cultural life."⁷⁸ These constitutional precepts are affirmed in the countries' land laws, which grant women equal land rights.⁷⁹

These guarantees notwithstanding, numerous case studies suggest that legal frameworks produce gendered effects, either directly or through their disproportionate impacts on women. In addition, implementation of positive provisions in the law is uneven. In some cases, the lack of specificity or ambiguity in the law or regulations can be a significant reason for improper or nonimplementation.

In Tanzania a major gap is the absence of a specific policy and regulatory framework on resettlement. Communities and women are essentially left to their own devices to reconstruct their lives and livelihoods, often before being fairly or fully compensated. Except under the Mining Law, providing replacement land is merely one possible form of compensation, not a strict requirement. Given a national policy of promoting land-based investments, there is a need for clear policy and guidelines to manage the resettlement of communities to new areas and the rebuilding of their productive systems once there. The policy and regulatory framework must adhere to key principles established in international best practice, including (a) the avoidance and minimization of physical and/or economic displacement and adverse social and economic impacts; (b) the full and meaningful engagement of all stakeholders, especially project-affected and host communities; and (c) gender-sensitive design and planning, socioeconomic and impact analysis, land identification, implementation, and monitoring of impacts (described below).⁸⁰ Key goals of resettlement must be to restore or improve the liveli-

Box 3 | Women's Losses Are Uncompensated

We have lost land to the investor, but more important is loss of resources we were getting from the forest. We women were fetching firewood, charcoal, water, and medicinal plants; now we have no access to any of the above. The promises that would have benefited us, especially a hospital, went unfulfilled. Some of us would have gotten charcoal from the land and [used it to] support our families.
—Woman in Vilabwa Village, Tanzania

hoods and living standards of the resettled populations, ensure security of tenure at the resettlement site, and establish culturally accessible grievance mechanisms. In Mozambique, which has a more recent and relatively robust regulatory framework on resettlement, the folding of compensation into the resettlement process leaves a gap with respect to investments that do not entail physical displacement of the community but still create economic displacement. The exception is petroleum investments, which are required to pay compensation *ex post facto* for damaged crops, soils, and buildings and improvements in the place of operations. But even under the more extensive provisions in the Mining Law and the Resettlement Regulations, the procedure for compensation and the method of valuation lack clear standards and are addressed on a case-by-case basis.

In all other instances, Mozambique's Land Law assumes that compensation will be negotiated by the community and the investor and thereafter reflected in the "opinion" issued by the district administrator. This regulatory gap has left local communities and women with the short end of the stick in most cases. At a minimum, there should be specific guidelines on the scope of compensation, the basis and method of property valuation, and the procedure and timing of payment. The regulatory framework must be gender-equitable and adhere to the principles espoused in the Constitution and international instruments.⁸¹

Lack of Gender-Equitable Compensation

A major weakness in the regulatory frameworks of both countries concerns eligibility for compensation and procedures for distribution. Tanzania's Village Land Regulations and regulations under the Land Act vest eligibility with the holder of the customary right of occupancy; Mozambique's regulatory framework provides no guidelines.⁸² As men are the owners or holders of rights of occupancy in most village communities (with women possessing subsidiary or use interests) and deemed the head of the household, they are the ones who claim compensation and accordingly receive them (the exception is households headed by women). The problem is that the household is not a homogenous entity in which resources are shared equitably by all members; the assumption that all benefits channeled to men will be distributed to all household members is disproved by the case studies cited above and numerous other studies (Pandey and Rout 2004; Mehta 2011; Rantala et al. 2013; Chung 2017). Women may not even be aware that their husbands receive cash compensation. They often have no say in how the money is spent or accept that compensation will go to their husbands as a matter of custom, daring not speak up for fear of being beaten (Rantala et al. 2013; Chung 2017). When compensation is in the form of replacement land, women may be deprived of use and access rights that were, even if limited, previously recognized (Terra Firma 2013). Often land titles are issued exclusively in the name of the male head of household, leaving many women vulnerable to dispossession (Verma 2014; Bleyer et al. 2016; Otsuki et al. 2016).

For women to be able to receive their share of compensation payments, laws or regulations must mandate eligibility for all people affected by land acquisition and provide mechanisms for distribution to ensure that within the household all members with interest in the land acquired receive their fair share of compensation. The requirement must be not only in the regulations or guidelines; all government forms for claiming compensation must be in the name of both spouses. Where the law or regulations are silent on compensation eligibility or entitlement, or where they limit eligibility to the holders of land rights, women and other land users who may not be the legally or customarily recognized land rights holders will likely be left empty-handed.

How women receive their share of compensation must also be addressed. Mechanisms for payment in joint names of spouses or directly to women must be provided. An example of a direct payment mechanism that is being adopted in many developing countries is mobile banking, which allows users to receive and transfer money through cheap cell phones using SMS technology.⁸³

Another problematic area relates to the determination of losses to be compensated (Box 3). One issue is the lack of treatment of common property resources, which women rely on to fulfill their domestic responsibilities and supplement their livelihoods. Tanzania's Village Land Regulations merely authorize village councils to claim compensation on behalf of the village for loss of communal land and the assets and benefits derived from it. They are silent with respect to how the compensation should be treated, particularly for purposes of ensuring that replacements are provided or compensation is distributed to members of the village, especially women, who tend to bear the heaviest burden for the loss. Although the regulations include access to communal resources as a form of compensation, such access is not mandatory; it is simply one potential form of compensation that the government can choose from. This lack of explicit treatment regarding lost access to common property resources has resulted in inconsistent application on the ground. In some projects women were compensated, in others they were not.

A third gap refers to the nontreatment of women's farming activities. Tanzanian regulations provide compensation for standing crops. But in the absence of the explicit inclusion of subsistence crops, which are cultivated by women, only cash crops (planted by men) are typically counted. Moreover, annual crops not currently growing are excluded. In the Bagamoyo ethanol project, it was assumed that subsistence crops may be harvested, consumed, or stored before relocation. The problem is that relocation is almost always characterized by long delays, and replacement plots are often smaller and of poorer quality, making it difficult for women to produce for the household.

The Village Land Regulations provide compensation only for tangible assets (unexhausted improvements, crops, houses, and so forth). Intangible assets (such as social networks, transportation routes, and sacred sites, as well as nonmarket values such as environmental, cultural, and

spiritual values) are not compensated for. These assets are integral to the life of the community and contribute to women's resilience and ability to cope with new and often harder living circumstances. It would benefit the entire village community, not just women, if the crops they plant, as well as common resources and assets, were valued and replaced or compensated for. For this to happen, guidelines for valuation are needed that explicitly include women's subsistence crops as unexhausted improvements and the specific uses and benefits derived by women from communal land as assets and benefits. Access to communal assets must be made a priority, along with replacement land, over monetary compensation. In addition, there must be provision for transitional support for a reasonable period while the displaced community rebuilds livelihoods and networks in the new location. These requirements are already in place for projects financed by development banks. Mandating them for all land acquisitions would be appropriate and fair.

Regulations in Mozambique include progressive clauses regarding common property resources and intangible assets. They require that the resettlement plan contain a study on communal property needed for subsistence, including fishing and grazing areas and community forests, as well as an analysis of both tangible and intangible goods relied upon by affected households. Resettlement sites must provide conditions identical or superior to the original sites to compensate for the loss of access to communal resources.⁸⁴

Because the Resettlement Regulations are relatively recent, there are few examples of the full-scale resettlement plans they envision. One example is the resettlement plan for the Mozambique Gas Development Project in the Afungi Peninsula, in the northern tip of the country. The project's resettlement plan (which was prompted by a

lawsuit by civil society groups) was supported by a gender study that provides for women's concerns respecting livelihoods, local infrastructure and services, and nontangible resources. It also makes available transitional assistance, requires new DUATs to be in the name of both spouses, and considers polygamous families. It remains to be seen whether these promises are implemented. That the filing of a lawsuit was necessary to get a fair deal shows the need for government to rigorously enforce regulations and the importance of civil society monitoring.

Related to compensation are benefits derived from the investment. Studies show that communities often welcome investment and accept low monetary compensation in anticipation of benefits such as employment opportunities, social services, and infrastructure for the community (Isaksson and Sigte 2009). These benefits are particularly important for women, who seldom receive a share of cash compensation. Services such as clinics and schools and infrastructure such as water supply or markets are particularly valuable for women.

Tanzania's Village Land Regulations mentions "other forms of compensation," but it has not always been interpreted to include such benefits.⁸⁵ If not deemed as compensation, villagers have no means of holding investors to their promises. In one case, the investor made promises during the village assembly meeting, but no written contract was signed. Later the village chairman claimed that the company had promised a school and a hospital, but the company denied making any such commitments (Isaksson and Sigte 2009). Mozambique's land law requires the district administrator's opinion issued after community consultations to contain the terms of partnership between the community and the investor (the new DUAT holder), implying that the community can negotiate for benefits during the consultation process.⁸⁶ However, no framework for assessing compensation or other promises in this format has been established (Chiziane et al. 2015). The terms are often poorly negotiated and contain only vague promises. A 2006 survey of 100 such agreements finds that the most common provision is employment for local people (without specified details) or "a good relationship with the community" (Tanner and Baleira 2006).

Box 4 | Women Do Not Participate in a Meaningful Way

Yes! We participate and at one time were more than men, but I choose to be quiet, because if I talk they ignore me and say I do not know anything about the land. . . . The village leaders force us to attend this meeting because if you do not attend you are labelled disrespectful to authority.

—Woman in Kidugalo Village, Tanzania

The Resettlement Regulations have some positive provisions, including the requirement that the resettlement process include the establishment of community and social structures, such as roads, water supply system, electrification, health posts, schools, markets, police stations, and worship and meeting places.⁸⁷ To ensure that promises of local infrastructure, social services, employment, and other benefits are fulfilled, they must be put in writing in a legally binding document or otherwise formally included in the project's resettlement plan. The written promises must be accompanied by specific ways in which they will be implemented, with a timeframe and accountability for implementation. The perspectives of women must be integrated into the planning, design, and implementation of promised benefits, through consultation with them and their inclusion in decision-making. Any implementation or oversight body created for the purpose must include women representatives.

Lack of Gender-Equitable Representation and Participation

Another problematic area concerns women's participatory rights. The legal frameworks of both countries fail to ensure women's representation in the decision-making entities and processes related to compensation and resettlement. In Tanzania women remain underrepresented in village governance bodies. As the 2016 WRI paper noted, although the law mandates gender quotas for village governance bodies, mechanisms are insufficient for their effective exercise. In the village council, the primary governing entity in the village community and the body responsible for land management, the law requires that women hold at least 25 percent of the seats. However, the rules on quorum require that only 50 percent of council members be present, making it possible to conduct meetings with only male council members in attendance. The village land council and the village adjudication committee (ancillary organs created to assist the village council) do have quorum requirements to protect women's representation. But to truly ensure that women can exercise their right to participate in decision-making, these organs, as well as the village council, should also have voting requirements, such as giving women veto power or requiring a percentage or number of female votes for any decision. The same quorum and voting requirements should also be

stipulated for the village assembly (composed of all adult members of the community), which approves land acquisitions up to 250 hectares and approves general policies on village affairs (Box 4). Given that the power to claim compensation for loss of communal lands is vested in the village council on behalf of the village, women need a strong voice in the council to help protect their interests. In addition to representation in village decision-making bodies, it is necessary for women to be present during assessment or valuation of both family plots and communal lands, so that their land uses, crops, and livelihood and other relevant activities—which the regulations must explicitly include—can be accounted for in the valuation. Guidelines for valuation practices must include a requirement for the presence of a number of women (ideally equal) during valuation. The purposes and methods of valuation must be explained in a way that both men and women will understand.

In Mozambique the primary institution responsible for overseeing the resettlement process, the Technical Resettlement Monitoring and Supervision Committee, has only one representative from the affected community and does not include a representative from the ministry in charge of gender. There are no requirements that technical or governmental expertise on gender matters be included in the resettlement process. A stakeholders group established in the regulations to help raise awareness in the community and report irregularities in the resettlement process does not require that representatives from the affected community include both men and women. At the community level, the regulations make a generic reference to ensuring that diverse social strata are heard and allow for the discretionary creation of specific working groups,⁸⁸ but there is no provision mandating women's participation in public consultations. Select stakeholders must sign the acta resulting from the public consultations and an annex must contain the signatures of participants, but there is no requirement of women's participation.⁸⁹ The regulations provide that vulnerable groups, including widows, households headed by women, the elderly, and youth must be heard to guarantee their rights. But the requirement of being heard must not be limited to women's vulnerability; it must extend to their agency. In this regard, key committees and implementation bodies must include women's representation and participation.

In its interviews of government officials and local leaders in Mozambique, CTV observed widespread ignorance about gender considerations. Overlaid with the inherently asymmetrical power relations between investors and local communities as well as national policies favoring private sector investment,⁹⁰ women and their communities face a daunting task of fully protecting their land rights and rights to fair compensation and just resettlement.

Additional measures are needed in both countries. The first is rights awareness and informational campaigns to communities affected by commercial land investments or communities in which these investments are expected. These campaigns may be conducted by government authorities or contracted to civil society or community-based organizations. They must provide information to women and men about rights and responsibilities under the law, the nature of investments and the land acquisition process, and other relevant information. Both affected and host communities must be targeted, with special outreach to women and gender-sensitization activities for men. Gender sensitization must extend to investors, especially their security forces. Companies investing in both countries must be required to include monitoring and mitigation strategies for sexual harassment and gender-based violence risks faced by women in their resettlement plans or in written and binding commitments.⁹¹

It is also important to establish grievance mechanisms that are accessible to women and communities. Aside from the formal dispute resolution bodies and courts of law established under Tanzanian and Mozambican legislation,⁹² it is crucial to have project-based grievance resolution mechanisms that are transparent, culturally appropriate, gender sensitive, and cost-free to affected communities. These mechanisms must be based on dialogue and negotiation, without fear of reprisal for raising a grievance or issue. Procedures must be easy to follow, employ the local language, and allow for oral complaints and negotiation, as many villagers, particularly women, are illiterate.

RECOMMENDATIONS

Several reforms to the legal frameworks could help ensure that women receive their fair share of compensation and rebuild their productive and social systems in new areas. The proposed reforms are grounded in key human rights and development principles, including do no harm; just compensation; due process; free, prior, and informed consent; nondiscrimination, and gender equality.

With regard to gaps in compensation, policymakers could consider the following measures:

- Extend eligibility for compensation to everyone with tenure interests recognized under community tenure systems, including informal or subsidiary interests or rights held by women. Explicitly provide for women's entitlement to a share in compensation payments given to the household.
- Ensure that procedures for distribution of compensation are equitable and take into account women's land uses and contribution to the household. Regulations must also address women in special circumstances, including women who head their households, are in polygamous households, or are nomadic pastoralists. Mechanisms such as mobile banking and electronic transfers need to be established to ensure that women receive the compensation payments they are entitled to.
- Require that certification or documentation of rights and/or formal title to replacement land be in the name of both spouses, not just the husband (even if the husband is considered the head of household).
- Mandate the collection of data on common property resources, such as water, wild plants and trees, and fuelwood, disaggregating the resources and uses that pertain to different groups, particularly women. These data need to be obtained before the resettlement plan is designed.
- Prioritize continued access to common property resources relied upon by women and their communities. If such access is not feasible, ensure their adequate replacement in the new location before relocating the community.
- In Tanzania, include intangible assets, including communications networks, transportation routes, sacred sites, and cultural and environmental values, in the determination of compensatable losses (Mozambique's regulations already require their inclusion). In both countries, include indigenous trees and plants used by women and subsistence crops grown by them in the determination of assets.

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- Provide for social infrastructure, such as roads, markets, health posts, and schools, in the resettlement area before relocating the community. Require that agreements between the community and the investor regarding provision of infrastructure, social services, and employment be in the form of a contract or other document that is legally enforceable.

With respect to the gaps relating to representation and participation, policymakers could consider the following measures:

- Ensure women's inclusion in decision-making bodies and processes, by establishing gender quotas in key entities along the decision chain, particularly community governance bodies and entities established to oversee compensation and resettlement processes. Ensure that gender quotas are accompanied by quorum and voting requirements.
- Enable relevant government agencies, particularly the ministry charged with gender, and civil society and community-based groups to provide input in compensation and resettlement processes as appropriate.
- Ensure that women participate meaningfully in community consultations as legitimate stakeholders, taking into account the cultural barriers, literacy issues, and time and mobility constraints they face, possibly by providing for separate or women-only meetings or focus group discussions and by scheduling meetings at times that are convenient for women.
- In all valuation activities, require the participation of everyone with interests in the land to be acquired, including women, tenants, and recognized informal users.

- Require rights-awareness activities or informational campaigns for affected and host communities, with outreach for women and sensitization activities for men, throughout the land acquisition process and even before investor interest is expressed in areas where commercial land investments are anticipated or encouraged.
- Mandate gender sensitization for companies and other investors, especially their security forces. Incorporate monitoring and mitigation strategies for gender-based violence in resettlement plans or in written and binding commitments.
- Establish mechanisms for addressing grievances and disputes at the project level that are accessible, fair and transparent, culturally appropriate, and gender-sensitive.

Implementation of the proposed reforms, and existing laws, requires that deficiencies in the institutional or administrative frameworks be addressed. Measures to do so include training or sensitizing government agents and company representatives on gender issues, establishing better institutional coordination of the relevant agencies, and providing mechanisms for increased transparency and accountability.

Discriminatory social norms remain a pervasive challenge, not just for effective implementation of the laws but for women's rights in general. Some of the proposed reforms aim at sidestepping or countering those discriminatory norms. Implemented in gender-sensitive ways, gender-equitable laws and regulations can play a critical role in creating spaces for positive social change for women.

RELEVANT LAWS AND POLICIES

Tanzania

Constitution of Tanzania
 1967 Land Acquisition Act
 1982 Local Government (District Authorities) Act
 1999 Land Act
 1999 Village Land Act
 2001 Land (Assessment of the Value for Compensation) Regulations
 2001 Land (Forms) Regulations
 2001 Land (Compensation Claims) Regulations
 2001 Village Land Regulations (including the Village Land Forms)
 Tanzania National Five-Year Development Plan 2016/17–2020/21

Mozambique

Constitution of Mozambique
 1997 Land Law
 2007 Territorial Planning Law
 Decree No. 66/1998, Land Law Regulations
 Decree No. 23/2008, Territorial Planning Law Regulations
 Decree No. 43/2010, “Amending Art. 27(2) of the Land Law Regulations”
 Decree No. 31/2012, Regulations for the Resettlement Process Resulting from Economic Activities
 Decree No. 54/2014, Environmental Impact Regulations
 Diploma Ministerial 181/2010, Directive on the Expropriation Process for Territorial Planning Purposes
 Diploma Ministerial 158/2011, Establishing Specific Procedures for Community Consultations
 Diploma Ministerial 155/2014, Internal Regulations for the Functioning of the Technical Commission on the Monitoring and Supervision of Resettlement
 Diploma Ministerial 156/2014, Technical Directive on the Process of Preparing and Implementing Resettlement Plans
 Mozambique Development Strategy and Agenda 2025

ENDNOTES

1. Other guidelines, such as the ones development banks apply to public-private partnerships, may be of limited applicability.
2. The Land Matrix, an independent online database that tracks large-scale land acquisition worldwide, includes all 3 countries among the top 10 target countries for large-scale land acquisition (<http://www.landmatrix.org/en/>).
3. Research was conducted as part of the WRI project Promoting Gender-Equitable and Participatory Community Decision-making Processes on Land Investments.
4. See Tanzania’s National Five-Year Development Plan 2016/17–2020/21 (http://www.mof.go.tz/mofdocs/msemaji/Five%202016_17_2020_21.pdf) and the Mozambique National Development Strategy (ENDE) (<http://www.ssig.gov.mz/blog/2014/06/12/mozambican-government-approves-national-development-strategy/>).
5. Examples include the Sun Biofuels Investment in Kisarawe District, Tanzania, and the ProCana investment in Gaza Province, Mozambique (Oakland Institute 2011).
6. Interview with Carlos Serra, Legal Officer, Mozambique Ministry of Land, Environment and Rural Development (MITADER), May 2017.
7. Tanzania Land Act, Art. 3(2); Village Land Act, Arts. 3(2) 20(2), 22(1), 23(2) (c), and 30(4); Mozambique Land Law, Arts. 10(1), 13(5), and 16(1).
8. According to CTV, the high level of tension during the meeting, caused by conflict with the investor, made it counterproductive to separate the community members into focus groups.
9. The field interview questionnaires were independently developed by TGNP and CTV.
10. Salcedo-La Viña and Morarji (2016) give a more detailed description of the land acquisition process.
11. The two other categories of land are general land and reserved land, both under the control and management of the state directly. General land is defined as land that is not reserved land or village land. In the Land Act (but not the Village Land Act), general land includes unoccupied or unused village land. Reserved land refers to areas set aside for conservation and protection or reserved for public utilities, land where water resources for a natural drainage basin originate, and land declared by the state as hazardous land. The land laws also recognize private use rights in general land, called granted right of occupancy.
12. Individuals and groups may formally register their rights and acquire Certificates of Customary Right of Occupancy. People in urban areas and noncitizens are granted rights of occupancy.
13. 982 Local Government (District Authorities) Act, 1982.
14. Village Land Act, Secs. 4 and 8.
15. Village Land Act, Secs. 4(6), 8(5), and 22–35.
16. Land Act, Secs. 19–22; Village Land Act, Secs. 4–5. Under the Land Act, general land includes unoccupied or unused village land. The land laws do not define the term “investments of national interest.”
17. Land Act, Secs. 20(5) and 5.
18. Information from Godfrey Massay, consultant and advocacy manager, Landesa, Tanzania.
19. Village Land Act, Sec. 4. If no agreement is made, the issue shall be brought to the Tanzanian High Court for final determination, pending which the commissioner may direct payment of compensation in the amount deemed proper.
20. Land Act, Sec. 20 (2).
21. “Public purpose” includes (a) exclusive government or general public use, for any government scheme or the development of agricultural land or the provision of sites for industrial, agricultural, or commercial development, social services, or housing; (b) for or in connection with

- sanitary improvement of any kind, including reclamations; (c) for or in connection with the laying out of any new city, municipality, township, or minor settlement or the extension or improvement of any existing city, municipality, township, or minor settlement; (d) for or in connection with the development of any airfield, port, or harbor; (e) for or in connection with mining for minerals or oil; (f) for use by any person or group of persons who, in the opinion of the president, should be granted such land for agricultural development." The law further provides that "[w]here the President is satisfied that a corporation requires any land for the purposes of construction of any work which in his opinion would be of public utility or in the public interest or in the interest of the national economy, he may, with the approval of the National Assembly . . . declare the purpose for which such land is required to be a public purpose" (Land Acquisition Act, Sec. 4).
22. Land Act, Sec. 3 (1)(g); Village Land Act, Secs. 3 (1)(h) and 4(8).
 23. Land Act, Sec. 3 (1)(f); Village Land Act, Sec. 3 (1)(g).
 24. Village Land Act, Sec. 2; Village Land Regulations, Secs. 9 and 13
 25. Village Land Regulations, Secs. 9–11. Similar provisions appear in the 2001 Land (Assessment of the Value of Land for Compensation) Regulations, which apply to acquisitions under the Land Act. A more recent law, the 2016 Valuation and Valuers Registration Act, provides that the basis of valuation shall include market, cost, and income, to be determined using either the direct market comparative method; replacement cost or contractors test method; income approach or investment method; profit method; or residual method (Secs. 50–51).
 26. The law itself does not provide a definition of valuation methods. For definitions used in this paper, see https://en.wikipedia.org/wiki/Real_estate_appraisal.
 27. Village Land Regulations, Secs. 13–17. Loss of profits and transport and accommodation allowances are not paid for unoccupied land. The Graves Removal Act provides for compensation for reasonable expenses incurred in the removal, transportation, reinstatement, and reinterment of a grave or dead body and any placatory or expiatory rites or other ceremony accompanying the removal (Sec. 9 [1]).
 28. Village Land Regulations, Sec. 19.
 29. Village Land Regulations, Sec. 25.
 30. Disturbance allowance refers to costs associated with having been disturbed from ownership and occupation and/or conduct of livelihood activities in the acquired land. See Village Land Regulations, Sec. 25 and <https://www.blmlaw.com/images/uploaded/File/News/Sep14/JBSAV106.pdf>.
 31. 2001 Land (Compensation Claims) Regulations Sec. 5(2); 2001 Land (Forms) Regulations; Land Form No. 70.
 32. Village Land Regulations, Sec. 20; Village Land Form No. 11; Village Land Form No. 14. The required notices and claims shall be in accordance with the templates provided in the 2001 Land (Forms) Regulations.
 33. Land Act, Sec. 2; 2016 Valuation and Valuers Registration Act (VVRA), Sec. 4, 9–10; Village Land Regulations, Sec. 12; Secs. 49–51. Under the VVRA, the chief valuer is the person appointed by the government to advise the government on all matters relating to valuation practice and activities.
 34. Village Land Form No. 12.
 35. Village Land Form No. 15.
 36. Village Land Regulations, Secs. 21–24.
 37. Village Land Act, Sec. 4(11).
 38. The exception is the grant of lease rights to investors, called derivative rights, of more than 30 hectares or more than 10 years, which must be submitted to the Land Commissioner for his advice (see Village Land Act, Sec. 32). Per regulations, the grant of derivatives rights to village land may not exceed 50 hectares per transaction.
 39. See, for example, Sulle and Nelson (2009), as well as the case studies by Wilmsen and Wang (2015) on China and Morris-Jung and Roth (2010) on Vietnam.
 40. Land Act, Sec. 34 (3). The Land Act does not define "other losses." Guidance is provided under the following: the 2001 Land (Forms) Regulations, the 2001 Land (Assessment of the Value of Land for Compensation) Regulations, and the 2001 Land (Compensation Claims) Regulations.
 41. The standards, procedures, and guidelines of development banks are outside the scope of this paper.
 42. For example, in the Kilombero Plantations Limited rice plantation project in the Kilombero Valley, which received funding from the UK Department for International Development and USAID, villagers the government deemed as squatters were compensated as well as individuals with formal rights. The Bagamoyo EcoEnergy Sugar Project, which received funding from the African Development Bank, included pastoralists and charcoal producers as rights holders entitled to compensation and resettlement assistance, according to a report by private sector or government actors (Kilombero Plantations Limited 2010; African Development Bank 2015). Their claims do not align with facts on the ground, however (Oakland Institute 2015).
 43. Initiated in 2005, the project started production in 2009, aiming to produce the agrofuel crop jatropha on more than 8,211 hectares of land acquired from 11 villages. After two years of activities, Sun Biofuels went bankrupt. It was purchased by 30 Degrees East, a private investment company registered in Mauritius (Oakland Institute 2011).
 44. Sun Biofuels was initially replaced by 30 Degrees East, a private investment company that purchased the shares of Sun Biofuels hoping to restart the project. Eventually, Mtanga Farms Ltd. took over the investment area and established a cattle-ranching operation (Oakland Institute 2012; Wise 2014).
 45. Earlier case studies of land acquisitions generally addressed the gender aspect only in passing or not at all (Daley 2011).
 46. 1997 Land Law, Arts. 11–25; Land Law Regulations, Art. 24(1)(e).
 47. Land Law, Art. 22; Land Law Regulations, Art. 28.
 48. Land Law, Art. 25.
 49. See Diploma Ministerial 158/2011, Arts. 1, 2(3), and 4; Land Law Regulations, Art. 27(2), as amended by Decree 43/2010.
 50. Constitution, Art. 82 (2).
 51. Land Law, Art. 18; Land Law Regulations, Art. 19(3).
 52. Territorial Planning Law; Regulations Implementing the Territorial Planning Law (Decree 23/2008, Regulamento da Lei de Ordenamento do Território) Art. 70(1).

53. Territorial Planning Law Art. 20; Decree 23/2008 Art. 68(2).
54. Territorial Planning Law, Art. 20.
55. Decree 23/2008 Art. 1.
56. Decree 23/2008 Art. 70(3).
57. Expropriation Directive (Diploma Ministerial 181/2010), Secs. 4.2.1 and 4.2.2. For intangible assets and the breakdown in social cohesion, the parties negotiate the value on the basis of a factor of 0–20 percent. If they cannot agree, a tribunal determines the value (Sec. 4[b] [i]).
58. Resettlement Regulations, Art. 22, Diploma Ministerial 156/2014, Secs. 3.1.2, 3.2, and 6.
59. Mining Law 20/2014, Art. 30(1), Petroleum Law, Art. 7(1). Under the Mining and Petroleum Laws, the state has priority over preexisting rights of land use regarding mining activities, and the preexisting rights may be extinguished if the applicants for a mining right pay fair compensation (Mining Law, Art.27; Petroleum Law, Art.18).
60. Mining Law, Art. 31; Petroleum Law, Art. 8.
61. Mining Law, Art. 8(2).
62. Mining Law, Art. 30(4); Petroleum Law, Art. 7(1).
63. Mining Law, Art. 31(2); Petroleum Law, Arts. 8(2) and 42.
64. Mining Law, Arts. 41(1)(e), 44(2)(o), and 47(2)(k); Petroleum Law, Arts. 54(5) and (6).
65. 2012 Resettlement Regulations; Technical Directives: Internal Regulations for the Functioning of the Technical Commission on the Monitoring and Supervision of Resettlement (Diploma Ministerial 155/2014); Technical Directive on the Process of Preparing and Implementing Resettlement Plans (Diploma Ministerial 156/2014).
66. The national agencies represented are land use planning (Two representatives), local administration, public works and housing, and agriculture (2012 Resettlement Regulations, Art. 6).
67. See 2012 Resettlement Regulations, Arts. 6(1), 6(2), 9, and 19–22; Diploma Ministerial 155/2014, Secs. 15–16; and Diploma Ministerial 156/2014, Secs. 2.1 and 3.1–3.2.4.
68. Resettlement Regulations, Art. 22.
69. Diploma Ministerial 156/2014, Secs. 3.1.2, 3.2, 3.2.4, and 6.
70. See Resettlement Regulations, Arts. 8 and 23; Diploma Ministerial 156/2014, Secs. 4.1–4.2.
71. See Resettlement Regulations, Arts. 16–17 and 19(1); Diploma Ministerial 156/2014, Sec. 2.2.
72. 1997 Land Law, Art. 1.
73. Another example is the ProParcerias project, in which two communities, with the help of donors, established a community-run tourism lodge and subsequently entered into a partnership with a private investor to inject new investment and provide management and marketing skills. As part of the agreement, the investor committed to (a) increase income over a 20-year period, with returns detailed in the partnership document; (b) employ and build the capacity of community members; and (c) share revenue from the lodge with the communities (Locke 2014).
74. Mozambique Integrated Growth Poles Project, Resettlement Policy Framework 2013.
75. MacauHub News Agency. 2015. "Anadarko Petroleum Pays to Resettle People in Mozambique," MacauHub, July 30. <https://macauhub.com.mo/2015/07/30/anadarko-petroleum-pays-to-resettle-people-in-mozambique/>.
76. Constitution of Tanzania, Arts. 13(1) and 13(4).
77. Constitution of Tanzania, Arts. 13 (1) and 13(4), 9(g), and 21(2).
78. Constitution of Mozambique, Arts. 36 and 122.
79. Land Act, Sec. 3; Village Land Act, Sec. 3(2); Lei de Terras, Art. 10(1)
80. International standards on resettlement include the International Finance Corporation's (IFC) Performance Standards, Performance Standard 5: Land Acquisition and Involuntary Resettlement.
81. See Arts. 82(2), 36, 48(1), 90–91, 96–97, 103, 105–06, 109(3), and 116–25 of the Mozambique Constitution; the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests; and other international instruments.
82. The regulations under Tanzania's Land Act are the 2001 Land (Assessment of the Value of Land for Compensation) Regulations and 2001 Land (Compensation Claims) Regulations.
83. Tania Haas, "Mobile Banking Promises Women Relief from Poverty," *Contributoria*, July 2014, <http://www.contributoria.com/issue/2014-07/5384deaa1b6e379671000111.html>.
84. Diploma Ministerial 156/2014, Secs. 2.1, 2.2, and 3.2.
85. Village Land Regulations, Sec. 25.
86. Land Regulations 66/98, Art. 27(3).
87. Resettlement Regulations, Art. 16(6).
88. Diploma Ministerial 156/2014, Sec. 4.1.
89. Resettlement Regulations, Art. 23; Diploma Ministerial 156/2014, Secs. 4.1–4.2.
90. National policies favoring private and commercial investments include Kilimo Kwanza (Agriculture First) and Big Results Now in Tanzania and the Green Revolution in Mozambique.
91. This recommendation is adapted from Kaiser Hughes and Richardson (2015).
92. The applicable legislation is the 1967 Land Acquisition Act and the Land Disputes Courts Act No. 2 of 2002 in Tanzania and Diploma Ministerial 155/2014 and 156/2014, both dated September 19, implementing the 2012 Resettlement Regulations in Mozambique.

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