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Where Are the People in the Mining? Human Rights and the Revised Tanzania Land Policy of 2023

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Introduction

Where are the people in the mining? This question remains critical to Tanzania's revised National Land Policy of 2023. The overall aim of the National Land Policy is to "promote and ensure a secure land system, to encourage the optimal use of land resources, and to facilitate broad-based social and economic development without upsetting or endangering the ecological balance of the environment". While the policy doesn't directly address mining, it provides an overall framework for land governance that also impacts mining activities. It speaks to land administration, compensation, and investment; however, it falls short of addressing the human rights realities of communities whose land and livelihoods intersect with mining.

Land is more than territory; it is dignity, identity, and the very breath of socio-economic survival. Yet in the rush to allocate land for extractive projects, the voices of local people, and especially women, small-scale holder farmers, and artisanal miners, are often muted. When these voices are silent, decisions on land allocation, acquisition, and compensation are made without local consent or minimum understanding, leading to displacement, loss of livelihoods, and growing social tension between communities, investors, and the state. This exclusion from meaningful participation perpetuates historical injustices and weakens community resilience, a trend that continues to shape Tanzania's extractive landscape today.

As highlighted by Himiza Social Justice (2024), Large-scale land acquisitions and extractive projects frequently undermine community rights and foster exclusion where legal protections are weak. Similarly, securing land tenure is an essential prerequisite for protecting and respecting people's rights to land. It serves as a vital safeguard against arbitrary displacement, ensuring that even when land is taken for public interest, the process adheres to human rights standards. Protecting land and resource rights, therefore, is not simply about economic utility, but about ensuring justice, accountability, and fair enjoyment for all entitled parties, particularly the most vulnerable (DIHR, 2020; Mwaura-Muiru, 2022).

The revised National Land Policy seeks to reform land governance in Tanzania. While progress has been made in land management and compensation, gaps remain in protecting communities affected by mining projects. This brief examines how the revised land policy addresses three critical areas: land acquisition and resettlement, Free, Prior, and Informed Consent, and artisanal and small-scale mining (ASM), and asks whether the people most affected are truly factored into its vision.

2.0. The Genesis of the Tanzania National Land Policy

Before examining current challenges and reforms, it is crucial to understand how Tanzania's land governance has evolved over the past decades. Tanzania stands out in Africa for its progressive land governance, recognizing customary land rights and requiring community consent for land transfers (Magina & Kayuza, 2025). Before the 1990's land reforms, land administration in Tanzania was centralized, and faced shortcomings from mounting pressures of urbanization and the intensifying competition for land. A presidential commission of inquiry was commissioned in the 1990s to review the outdated colonial land polices. The commission recommended a comprehensive national land reform that led to the development of the 1995 National Land Policy (URT, 1995). One of the key recommendations of the commission was the devolution of power to local communities to administer their lands and the separation of the administration and management of different land categories to strengthen transparency, accountability, and good governance.

The 1995 National Land Policy marked a turning point, replacing colonial-era frameworks that marginalized rural landholders with a policy that aimed to secure equitable access, strengthen tenure security, and improve land administration (URT, 1995). Subsequently, Land Act No. 4 and Village Land Act No. 5 of 1999 operationalized this vision, formally recognizing village land, setting allocation and registration procedures, and establishing dispute resolution mechanisms from village councils to higher courts (Wily, 2003; URT, 2023).

3.0. Policy Analysis: Unpacking the Revised Land Policy's Core Issues

3.1. Land Hoarding in Tanzania's Mining Sector: Challenges for Governance, Investment, and Community Rights.

Under Tanzanian law, particularly the Land Act No. 4 of 1999 and its subsidiary Land (Ceiling on Land Occupancy) Regulations (URT, 2001), the Minister for Lands holds the authority to set ceilings on the amount of land an investor may occupy. This is determined by factors such as land-use plans, location, investment purpose, and the applicant's capacity to develop the land (URT, 2001; URT, 2019; FB Attorneys, 2024). The intention behind this provision is to balance investment promotion with the protection of community land rights and livelihoods, and to avoid land hoarding by investors, amongst other issues. However, contradictions across Tanzania's land governance framework, especially between the revised

[1]Three categories of land are identified: village land, general land and reserved land.

National Land Policy (URT, 2023), the Village Land Act No. 5 of 1999, and the Land Act No. 4 of 1999, undermine coherent implementation.

For instance, while the Village Land Act empowers village councils and village assemblies to allocate up to 50 hectares of village land, the Land Act vests the Minister for Lands with powers to impose ceilings on landholdings nationally. These overlapping authorities can create administrative tensions and de facto weaken local authority in land management. Furthermore, Tanzania's dual land tenure system, comprising both customary tenure (governed by the Village Land Act) and granted tenure (under the Land Act), has introduced ambiguities that often expose rural communities to forced evictions, land grabbing, and unfair compensation.

Customary landholders are not legally required to register their land, leaving them vulnerable to dispossession when village land is converted to general land for investment purposes. In practice, even investments led by Tanzanians face restrictions unless village land is formally converted, a process that frequently lacks transparency. Compounding the issue, the legal definition that treats all "unoccupied village land" as general land further exacerbates insecurity and facilitates speculative acquisitions in the name of public or investment interests.
The revised National Land Policy (URT, 2023) acknowledges challenges such as land hoarding and weak enforcement of ceilings, but applies these ceilings primarily to agricultural land, leaving out the mining and other investment sectors. It also lacks a clear framework for assessing investor capacity before land allocation.

This omission perpetuates inconsistencies within Tanzania's broader land governance framework. Under both the Land Act No. 4 of 1999 and the Village Land Act No. 5 of 1999, land may be held under a Granted Right of Occupancy (GRO), a Customary Right of Occupancy (CRO), or a Derivative Right. Each form carries specific restrictions, including revocation if the holder is found to be hoarding or failing to develop the land in accordance with the approved plans.

3.2. Mineral Rights versus Land Rights: How the Contradiction Undermines Free, Prior, and Informed Consent (FPIC)

Article 27 of the Tanzanian Constitution entrusts the protection and control of natural wealth and resources to the People and Government, with the President acting as trustee. This principle is reinforced by the Natural Wealth and Resources (Permanent Sovereignty) Act, 2017, which vests control over all strategic resources, including minerals, in the President on behalf of the people. In practice, this creates a separation between surface rights and mineral rights:

landholders may hold rights to their land's surface, but the state retains exclusive authority over minerals and can grant exploration rights under the Mining Act of 2010 (URT, 2010).

This legal divergence creates deep tensions over land use, as mineral discoveries or the development of extractive infrastructure trigger compulsory acquisitions that render community consent a formality rather than a genuine choice. While legal frameworks mention stakeholder engagement, in practice, relocation is driven by a legal inevitability; the state's power to claim land for 'public interest' moves forward regardless of local agreement (URT, 1967; URT, 2019; URT, 2023). Consequently, rightsholders lack meaningful decision-making power over the fundamental conversion of their land from ancestral homes to extractive zones, undermining Free, Prior, and Informed Consent (FPIC).

The revised National Land Policy of 2023 envisions coordinated management of housing, agriculture, livestock, investment, and infrastructure while safeguarding the rights of communities in resource-rich areas. In practice, however, weak institutional coordination, limited community awareness, and frequent prioritization of large projects over local rights are likely to hinder its full realization (Landesa, 2025). To change this, it is essential to harmonise various conflicting laws and strengthen collaboration across land, mining, forestry, and environmental authorities, while ensuring communities are meaningfully engaged and informed. While the policy acknowledges land acquisition and compensation challenges, it fails to make Free, Prior, and Informed Consent (FPIC) a binding safeguard, leaving a critical gap in protecting community rights. Integrating FPIC into all land and resource decisions and ensuring compliance with land-use plans and human rights standards is essential to address this shortfall (UN-REDD, 2021).

3.3. Land Expropriation, Ownership Revocation, and Compensation

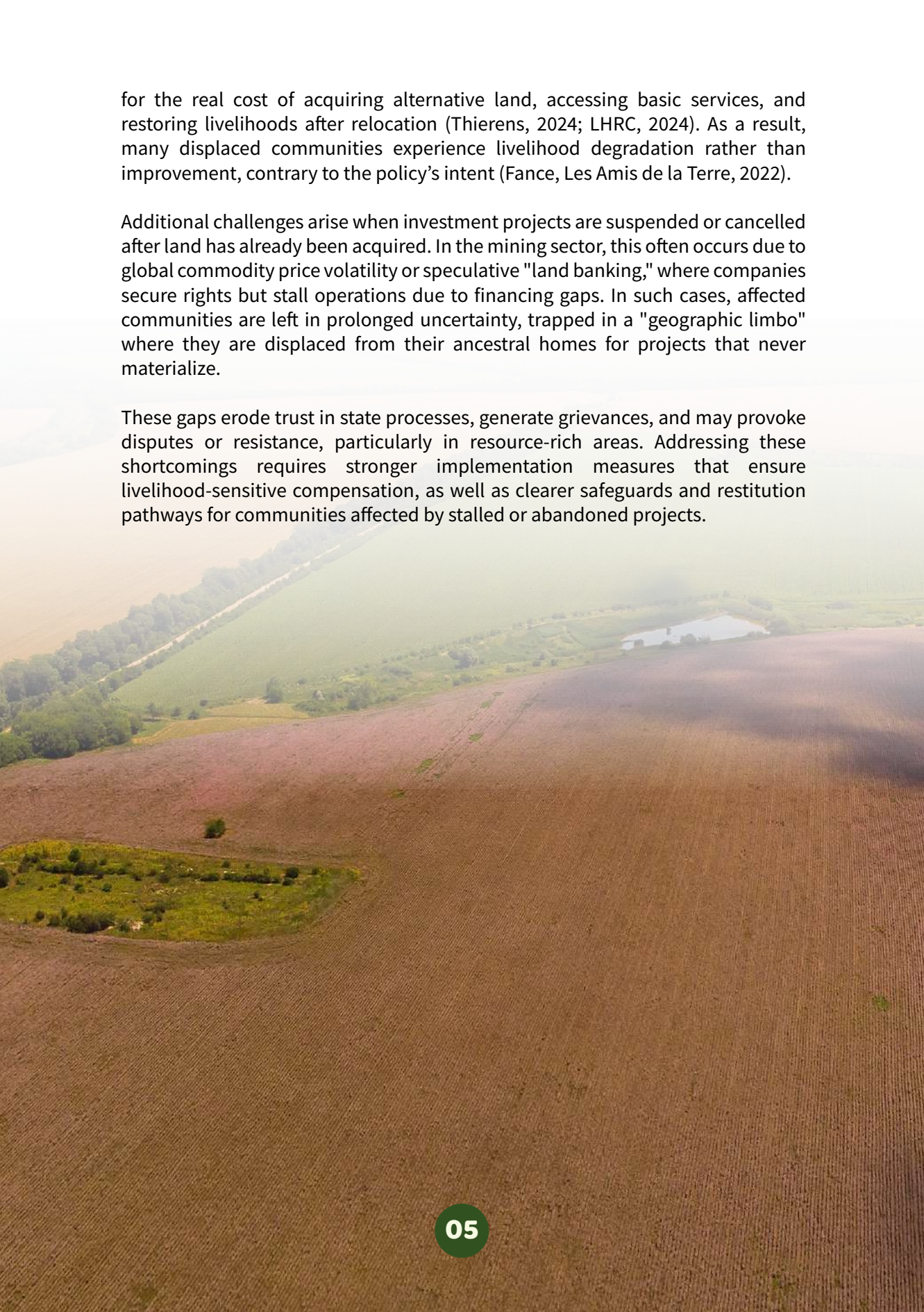
The 1995 National Land Policy recognizes landowners' rights while vesting the President with authority to revoke ownership or expropriate land for public purposes, conditional on compliance with development obligations. Full, fair, and prompt compensation of those affected by expropriation is mandated, with funds intended to restore landowners to their previous status or better. This framework seeks to balance individual rights with public interest (URT, 1995).

In practice, the imposition of short compliance windows prevents communities from securing fair compensation or negotiating protective relocation terms, effectively reducing a consultative process to a mere administrative formality. Compensation packages are frequently inadequate, as they fail to fully account

for the real cost of acquiring alternative land, accessing basic services, and restoring livelihoods after relocation (Thierens, 2024; LHRC, 2024). As a result, many displaced communities experience livelihood degradation rather than improvement, contrary to the policy's intent (Fance, Les Amis de la Terre, 2022).

Additional challenges arise when investment projects are suspended or cancelled after land has already been acquired. In the mining sector, this often occurs due to global commodity price volatility or speculative "land banking," where companies secure rights but stall operations due to financing gaps. In such cases, affected communities are left in prolonged uncertainty, trapped in a "geographic limbo" where they are displaced from their ancestral homes for projects that never materialize.

These gaps erode trust in state processes, generate grievances, and may provoke disputes or resistance, particularly in resource-rich areas. Addressing these shortcomings requires stronger implementation measures that ensure livelihood-sensitive compensation, as well as clearer safeguards and restitution pathways for communities affected by stalled or abandoned projects.



4. Recommendations

1. Harmonize Legal and Policy Frameworks for Land and Natural Resources

The Government of Tanzania, through the Office of the President, should spearhead a comprehensive review and harmonization of laws and policies governing land, minerals, and the environment. This process should align with the National Land Policy (2023), the Land Act (1999), the Village Land Act (1999), the Mining Act (2010), and the Environmental Management Act (2004) to eliminate overlaps, contradictions, and jurisdictional conflicts. A unified framework will promote coherent decision-making, enhance transparency, facilitate enforcement and ensure sustainable management of natural resources to the benefit of all.

2. Prevent Land Hoarding and Ensure Equitable Land Use

The Ministry of Minerals, in collaboration with the Ministry of Lands, Housing and Human Settlements Development (MLHSD), should apply land ceiling provisions to mining concessions and other large-scale investments. Pre-allocation assessments of investor capacity and development plans must be mandatory. Regular monitoring and public disclosure of undeveloped land or dormant licenses should be enforced to curb speculative acquisition and protect community land rights.

3. Institutionalize Free, Prior, and Informed Consent (FPIC)

MLHSD, together with village councils, district land officers, and the Ministry of Minerals, should make FPIC a binding legal requirement for all land-based and extractive investments. Community consent must be formally documented, and awareness programs introduced to build local capacity on land rights and participation. Incorporating FPIC into national legislation will ensure communities are genuine stakeholders in resource decisions.

4. Enhance Transparency Accountability and Fair Compensation)

The MLHSD, National Land Use Planning Commission (NLUPC), and President's Office – Regional Administration and Local Government (PORALG) should establish harmonized, participatory guidelines for land acquisition, expropriation, and compensation across all natural resource sectors. Clear notification procedures, enforceable timelines, and an independent oversight mechanism should be institutionalized to guarantee transparency, full, fair and prompt compensation, and accountability.

5. Strengthen Inter-Ministerial Coordination and Data Sharing

The Office of the President should convene an inter-ministerial task force comprising MLHSD, the Ministry of Minerals, the Ministry of Natural Resources and Tourism, the Vice President's Office (Environment), and the Environmental Management Authority (EMA). The task force should oversee the harmonization of land, mining, and environmental governance, establish a shared geospatial database, and create joint monitoring mechanisms to resolve disputes arising from overlapping mandates or claims.

6. Protect Vulnerable Groups and Promote Inclusive Governance

MLHSD, in partnership with the Ministry of Community Development, Gender, Women and Children (MCDGCW), civil society organizations, and mining associations, should integrate gender and inclusion into resource governance by scaling up legal aid and awareness programs for women, pastoralists, and artisanal miners.

7. Strengthening Accountability through Mandatory Impact Reporting

To ensure rights-compliant investments, the government should mandate the regular publication of integrated Social and Human Rights Impact Assessments (SHRIAs). This shift from mere social monitoring to rigorous human rights oversight ensures that participation is not only inclusive but that mining operations remain legally accountable to the communities they impact.

8. Strengthening Independent Human Rights Oversight

The Commission for Human Rights and Good Governance (CHRAGG) should be formally integrated as an independent monitor in all land acquisition processes to investigate grievances and ensure projects strictly adhere to human rights standards. This oversight ensures that mining investments remain legally accountable and that "public interest" does not override the fundamental human rights of local communities.

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