

Minor Field Study

Informal Settlements in Zanzibar - improvements by secured land tenure

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- improvements by secured land tenure

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Sigrun Santesson
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Preface

This Master of Science thesis has been carried out at the Department of Real Estate Science at Lund Institute of Technology, Sweden. The thesis was completed in April 2005 as a final part of the Master of Science Programme in Civil Engineering and the Master of Science Programme in Surveying and Land Management respectively.

The reason of getting the chance to carry out this study was especially thanks to Mr Boo Lilje, former Senior Provincial Land Surveyor, who helped us to establish the contacts in Zanzibar where the study was accomplished. Also Mr Sören Lundqvist, Project Manager at Swedesurvey, made it possible for us to visit Zanzibar, through his invitation us to participate in SMOLE.

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Abstract

This thesis is about the land administration system in Zanzibar. It is focusing on land relations in a specific informal settlement in the outskirts of Zanzibar Town. The aim is to discuss if the area is prepared to improve the security of land tenure through adjudication and registration, taking the structure of the area into consideration. Perhaps the infrastructure and other services have to be improved to make the measuring up easier. The thesis is also about the differences in having a Title Deed and Right of Occupancy compared to not having any certificate that prove the right of ownership or the right of use. Advantages that can be gained through introducing a Land Information System in developing countries are discussed, but also risks that can arise.

Key words

Informal settlement, Zanzibar, Right of Occupancy, Title Deed, land tenure, land security, Land Information System, registration, adjudication, boundary.

Summary

This report is about informal settlements in Zanzibar and the land management system in Zanzibar is also described. The thesis further relates to the land legislation in Zanzibar and contains information about the legal procedure of a land purchase. Different types of documents concerning land and property are treated in detail to explain the difference in legal value. The theory is to a great extent based on information collected through literature. To describe the land administration system in Zanzibar interviews with key persons in land administration have been performed. The report discusses general information about causes of the origin of informal settlements and the advantages the society and the individual can draw if the possession rights would be improved. Informal settlements, is a moderate level of squatting and squatting is a widespread phenomenon in developing countries.

The adjudication process and different ways of register land are handled theoretical. An evaluation of what benefits the implementation of a Land Information System could give compared to the risks of introducing a system at an early stage.

The purpose of performing the field study in Zanzibar and what it is supposed to result is explained. The thesis contains information and results from the thorough investigation made in an informal area consisting of 2000 households. 47 households were involved and answered questions concerning land tenure, registration and questions about other services. Further it describes how the survey and interviews were carried out. The results are based on the answers that the inhabitants in the study area have given. A description is made of the structure and the conditions in the area, and the problems the settlers see as the most important. The result of their priorities regarding provided services is showed.

Our discussion is based upon our own experiences and valuations about the system's functionality. We point out positive aspects that we think ought to be

developed and continued working on. We also discuss issues that we think are less functional and are in need of being improved. Our discussion results in the conclusion that the informal settlements in Zanzibar cannot be registered the way the area is build up today, it is too densely. The infrastructure needs to be improved and houses needs to be demolished to be able to improve the roads and to measuring up the plots.

Table of content

1	Introduction	1
1.1	Background	1
1.2	Purpose.....	2
1.3	Method	2
1.4	Delimitation	2
1.5	Glossary	4
2	Recent and ongoing studies	7
2.1	Sustainable Management of Land and Environment (SMOLE).....	7
2.2	Other studies of interest	8
3	Squatter areas	9
3.1	Differences between slums, squatting and informal settlements	9
3.1.1	Squatter areas	9
3.1.2	Slums.....	10
3.1.3	Informal settlements.....	10
3.2	Factors that have led to squatting.....	11
3.3	Different degrees of squatting	13
3.4	Types of ownerships and adverse possession	14
3.5	Benefits that informal settlers can gain through secured land tenure	14
3.6	Upgrading squatter areas.....	15
4	Registration	19
4.1	Introduction.....	19
4.2	Adjudication.....	19
4.3	Land registration	20
4.4	Boundaries	21
4.5	Benefits of Land Information System	21
4.6	Disadvantages of Land Information System	23
4.7	Valuation of assets	24

5	Zanzibar	27
5.1	Rule	28
5.2	Political organization	28
5.3	Religious influence in land.....	31
5.4	Economy	31
5.5	Informal settlements.....	31
5.6	The bank loaning system.....	32
5.7	Land registration	33
6	Land acts	35
7	Relations in land tenure	41
7.1	Right of use	41
7.2	Lease	42
8	Land transfers	43
8.1	Three Acre Plots.....	43
8.2	Purchase	43
9	Legal land documents	47
9.1	Title Deeds	47
9.2	Property- and Transfer Deeds	48
10	Field Study	51
10.1	Purpose.....	51
10.1.1	Interviews with inhabitants	51
10.1.2	Interviews with authorities.....	52
10.2	Method	52
10.3	Interviews with inhabitants in the informal settlement.....	54
10.3.1	Choosing study area.....	54
10.3.2	Information about the study area.....	55
10.3.3	Selection of interview areas	57
10.3.4	Line of action	60
10.3.5	Uncertainties regarding the interviews.....	60
10.4	Results of interviews with the inhabitants in the informal settlement ...	62
10.4.1	Household information	62
10.4.2	Land Tenure	62
10.4.3	Services.....	67
10.5	Interviews with authorities.....	70
10.5.1	Results.....	70

11 Discussion.....	71
11.1 Strengths and opportunities.....	71
11.2 Weaknesses of today’s system.....	72
11.2.1 Reasons of the existence of informal settlements.....	72
11.2.2 Indistinctness between Three Acre Plots, private-and governmental land.....	73
11.2.3 Confusing documentation and way of registration.....	74
11.3 Knowledge and priority.....	76
11.3.1 Services.....	76
11.3.2 Land security.....	78
11.3.3 Economic viewpoints.....	78
11.4 Registration system.....	79
11.4.1 Adjudication.....	79
11.4.2 Registration.....	80
12 Conclusion.....	83
13 References.....	85
Appendix A.....	89
Appendix B.....	95

1 Introduction

1.1 Background

Informal settlements are a widespread problem in developing countries. There are many reasons why these areas are common and are continuously expanding. Poverty is the fundamental cause of this development due to the urbanization that takes place when people cannot make their living in agriculture and no other jobs are available in the rural areas. Because of the countries poor economy the government cannot provide people planned and surveyed plots in urban areas in the extent that is required. This makes it difficult to acquire or afford a surveyed plot for the inhabitants. The lack of financial resources combined with the difficulty for private persons to borrow money makes it almost impossible to acquire land. As a consequence of this, people occupy land in the outskirts of the cities where whole areas are built up. These informal settlements often lack infrastructure and services and planning of the houses' organisation. The houses are built up very densely and building regulations are not followed. Together with limited possibilities to handle sewage and the lack of proper roads this leads to bad living conditions for the inhabitants and in some cases also health risks. Informal settlements are also a threat for the society. One reason is that the extended towns often spread out on good cultivation soil and for another because the development leads to additional expenses when these areas needs to be upgraded later on.

The development level in different informal settlements in the world varies a lot. In some districts the houses are built with no appropriate building materials and look more like huts, while other areas have been planned in some way and the houses have been built with foundations and walls of for example concrete blocks. Zanzibar belongs to the second category, but there are still many different services that need to be improved before the living conditions reach a level that is acceptable. All occupied unplanned land in Zanzibar is considered informal settlements.

1.2 Purpose

The purpose of this Master of Science thesis is to assess to what extent the informal settlements in Zanzibar are ready to implement a registration system and if a registration requires infrastructure measures before demarcating the plots.

1.3 Method

To achieve the purpose an investigation of the rights to land in informal settlements in Zanzibar has been made. On basis of collected information weaknesses about today's land administration system in Zanzibar has been pointed out. Through examining citizens' knowledge and opinion about their living situation and their interest in improving different services we wanted to see if they were susceptible to a registration system. Through studying the inhabitants' priorities to water, electricity, health services, access and especially security of land tenure we got a better basis to make our conclusions.

Different types of methods have been used to get the basis to the thesis. Information has been collected from literature as books, reports and papers, to get as many angles of approaches as possible for our progressing work and to improve our knowledge.

A field study has been done where the situation in Zanzibar is described concerning land issues. A delimited aspect, security of land in informal settlements, was examined during eight weeks. The field study has been done according to the definition by Judith Bell (1995, 15). The information is collected in a systematic way and the survey has been planned carefully. Observations and interviews were adopted; both quantitative and qualitative. Observations and interviews are explained closer in section 10.2.

The reasons of choosing Zanzibar as the place for the study were mainly because of the connections with key persons in land administration that were established at an early stage. Our proposal will fit in the SMOLE program, section 2.1, where they are supposed to make a study of an informal settlement for the purpose of land occupancy and environment.

1.4 Delimitation

We have been looking into the legal aspects of land tenure issues in one particular informal settlement in Zanzibar. When we came to conclusions and pointed at improvements we assumed that aid still will be given to Zanzibar.

We also assumed that other informal areas experienced the same type of problems, as the problems that occurred in this particular area, also when it came to people's opinion about land tenure. Economical factors such as computation of costs and financing upgrading programmes have not been taken under consideration. Planning procedures of new areas and how the surveyors in Zanzibar are working have not been examined.

Another issue that we decided not to investigate was how common it was to have a bank loan and the possibility to take a loan. Loaning systems are complicated and involve much politics and economics.

One idea was also to compare the purchase-prices over the years and try to find a trend in prices and see when and if the prices had increased or decreased. It was difficult to get the inflation rates from the revolution in 1964 and onwards which was necessary to do this comparison. These figures were not available for Zanzibar, only for Tanzania. Prices over time have not been compared due to this fact.

2005 is election year in Zanzibar. This might impact the information and the statements from the different authorities and department that were received. Persons with high and important positions could have been afraid of revealing their thoughts if they did not agree with the President who is the one who appoint the positions.

1.5 Glossary

Adjudication – The legal process where all existing rights regarding land are authoritatively determined

Baluzi – The title of the former local leader, before Shehas were introduced

Common law – Jurisdiction that is derived from old British law and is exclusively based on precedents

DoLR – Department of Land and Registration

DoSUP – Department of Survey and Urban Planning

Formal settlements – Areas that have been planned according to a land use plan. These areas are surveyed. Private persons have right of use to the land

GDP – Gross Domestic Product

Grant - The act of transferring property or an interest in property

Informal settlements – Areas settled by occupants and which have deliberately been subdivided by land holders for urban use. No formal rights of ownership exist

Interview area – There are four of them within the study area. Each area has different specific services in the neighbourhood

Kilimahewa – An area, a shehia, in the study area

Kwamtipura – An area, a shehia, in the study area

NGO – Non Governmental Organisation

MoWCEL – Ministry of Water, Construction, Energy and Land

Property – In this thesis it is referring to a building rather than the real estate

Sheha – A local leader, appointed by the government and is in command of the smallest administrative unit, shehia

Shehia – Smallest administrative unit which is ruled on local level by a Sheha

Slum - Refer to areas that are below a certain level of adequate housing standard, aims to housing standard rather than tenure

SMOLE – Sustainable Management of Land and Environment in Zanzibar

Squatter areas – Areas that are lacking basic services and have been occupied without the owner's permission

Study area – The area where we performed the case study and interviews with the inhabitants

Swahili house – A particular type of house which has an inner yard where household facilities as laundry, kitchen and playground are situated

Tanzania Shilling – The currency in Zanzibar, Tsh 1100 = \$ 1 (2004)

Title Deed – A document concerning real estate that shows the proof of ownership

ZALIS – Zanzibar Land Information System

ZILEM – Zanzibar Integrated Land and Environmental Management

2 Recent and ongoing studies

Following chapter shows recent and ongoing studies to exemplify what type of surveys and analyses that have been made in land management questions in Zanzibar.

2.1 Sustainable Management of Land and Environment (SMOLE)

Zanzibar have received technical support from and cooperated with Finland in land management and environmental issues at two different occasions. The first project was run in the early 1990's as ZILEM, during this the design of Zanzibar's Land Information System ZALIS also begun. The Finnish government drew back their support after a couple of years, because of the Tanzanian election in 1995 where they did not succeed the requirement of a fair multiparty election. The project had to end. SMOLE is the continuation of the work done by ZILEM but in a more extensive level. SMOLE is going to develop a strategic plan for the involved departments in its preparation phase, which is ongoing at the moment. SMOLE will help the departments to develop a methodology, as well as framework for land registration, environment management and raise the awareness of land issues. The purpose is to stimulate economic growth, through investments and development of entrepreneurship in agriculture and trade among other things. Access to land, security of tenure, access to credits and markets is a prerequisite for a countries economic growth. The strategic plan will include proposals that will improve and strengthening the land tenure security and land market, preventing and solving land disputes, promoting equal land distribution and improving access to land for the poor. The project is run by the Government of Zanzibar with financial support from the Government of Finland. The technical assistance to SMOLE is provided by a consortium of Finnish consultants.

One of SMOLE's undertakings is to improve the control of urban development and upgrading informal settlements by provision of basic services (SMOLE 2004).

2.2 Other studies of interest

Several investigations have been done in the land tenure subject in Zanzibar, mainly by international researchers in land management. The studies have discussed economical aspects of land tenure, historical background and development. Several researches took place in the 1990's with different main purposes. Mika Törhönen has compiled the knowledge that has been obtained in the report "A thousand and one night of land tenure – the past, present and future of land tenure in Zanzibar".

Recent studies that have been undertaken in the specific topic of improving informal settlements have been carried out by Wolfgang Scholz, 2002, University of Dortmund and Marjukka Veijalainen, 2000, Helsinki University of Technology. Scholz consider the informal urban growth by studying typical informal settlements, to evaluate their "long-term sustainability." Veijalainen elucidates land management problems in uncontrolled housing areas in Zanzibar from the residents' viewpoint to build a basis when seeking ways of upgrading informal settlements.

3 Squatter areas

In this chapter different concepts related to underdeveloped areas are described. Squatter area is the widest definition, in which other conceptions are included. This chapter discusses the information in general and independent of Zanzibar's situation. While there does not exist slums and squatter areas in Zanzibar, the centre of gravity is put into the smaller definition; informal settlements.

3.1 Differences between slums, squatting and informal settlements

Slums and squatter areas aim to describe the conditions an area shows with all negative definitions that are involved. Informal settlements, irregular settlements and unplanned settlements are all referring to the lacking security of tenure or non compliance with land regulations. Insecurity is also a prerequisite in the definition of squatter areas whereas the informal settlement is a smaller part in the conception of the squatter area. (Aldrich and Sandhu 1995, 19)

3.1.1 Squatter areas

When discussing squatter settlements it is concerned illegal occupation or unauthorised development, where the settlers do not have any permission from the landowner. The only thing that differ squatter areas from informal settlements is the permission in particular. In appearance a squatter area could also be a slum. (Aldrich and Sandhu 1995, 19)

Variations in definitions of a squatter area occur in different countries and even within the same country. Following definitions are used by national and local governments, statistical offices; institutions involved in squatter issues and are summarized by UN-habitat. The least developed areas do have all the following attributes while some do have only a few;

- **Lack of basic services**
Fundamental infrastructure as proper water supply, surfaced roads and rainwater drainage are underdeveloped. Sanitation facilities, waste collection system and street lightning are needed.
- **Inadequate building structures**
Houses are often built with non-permanent building materials and the standard of construction is low.
- **Overcrowding**
Little space per person, several persons are sharing one room-unit which is used for cooking, sleeping and living.
- **Unhealthy living conditions**
As a consequence of lacking services there exist open drains, uncontrolled dumping of waste and pollution's. Houses sometimes are located on unsuitable locations, such as floodplains.
- **Insecure tenure; irregular and informal settlements**
The houses are not built in compliance with land-use plans. Settlements have been built on land reserved for non-residential purposes. The residents do not have any formal documents that entitle rights to occupy the land.
- **Poverty and social exclusion**
Low incomes and living on subsistence level are characteristic of squatter areas. High levels of criminals and that people are rejected by the society also are common.
- **Minimum settlement size**
Some definitions do also include a smallest size of what can be defined as a squatter area. (UN-habitat 2003, 11)

3.1.2 Slums

If the terms that are describing underdeveloped urban areas were sorted, slums could be placed as the lowest level. Slums refer to areas that are below a certain level of adequate housing standard. These settlements need to be developed in all considerations that are associated with living. Slums are often considered independent from tenure and rather aim to describe the physical housing conditions, which are far below what can be considered as acceptable. (Aldrich and Sandhu 1995, 19)

3.1.3 Informal settlements

Areas that have been developed within the awareness of the legal land owner are usually identified as informal settlements. In those cases it is common that the landowners are farmers who have realised that it is more profitable subdividing their land for urban use, instead of cropping. The land parcels are then sold or leased to people who are in need of affordable housing alternatives.

Because the agreements are out of the official land distribution system, no fees or licences are paid for, which means that the conveyance are much cheaper in the informal sector. To make profits the land owners usually do not make any efforts of sparing some space for access or public use. This means the areas become much exploited. Due to the often small plot sizes, the whole site is occupied by buildings. High densities, narrow spaces and bad access are results. The development does not follow any planning regulations, for this reason all necessary infrastructure is lacking. However the conditions in these types of settlements are slightly better than the conditions in squatter settlements of the same size and age. Houses are often constructed with permanent building materials.

The developed informal area may not follow planning regulations and is not found suitable for urban use, since the use is intended to be agricultural. Informal development is differing from squatting by the fact that the sale has been made through a legal purchase agreement, but the transactions are not always formally registered. (UN-habitat 2003, 83-84)

3.2 Factors that have led to squatting

Today developing countries are facing an explosive growth of urban population. However the past 50 years the trend has shown an increasing urbanisation. Urban development will keep on as a consequence of the number of people born in the cities and people moving in from rural areas. People are moving to urban areas in hope that these will offer better living conditions in job and housing sectors. The countries' rate of creating formal sectors is below what is needed and the majority of the new residents will be reduced to informal living and labour market according to UN-habitat (2003).

- In 2000 the population in the world was 6.1 billion
- The urban population in 2000 was 9 million
- The urban population is increased with nearly 180,000 people every day
- 750 million people live in urban areas that can be classified as squatter areas
- Developing countries have an annual average population growth rate of 2.3%, compared to the developed world's growth rate of 0.4%
- Africa is the continent with highest growth rate, 4.9%, and has also the fastest urbanisation
- In 1800, 2% of the world's population lived in urban areas.
- In 1950, 18% of the world's population was urban
- In 2000, 40% of the world's population was urban
- By 2030, it is expected that 56% of the world population will live in urban areas

Table 3.1 The world's urbanisation in figure (www.unhabitat.org), (UN-habitat 2003, 11).

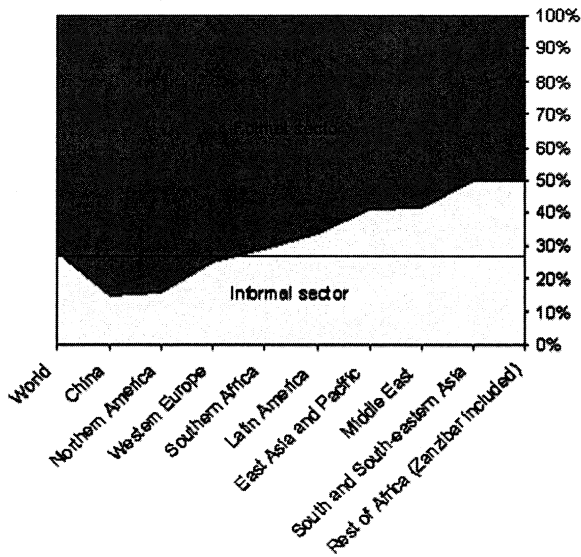


Figure 3.1 Insecure tenure by region (UN-habitat 2003, 109)

The governments' obligation to provide adequate shelter for their urbanising population has in different respects failed. As a result of the insufficient security of tenure, no money is put into upgrading housing and infrastructure, neither from the inhabitants nor the government. Due to obstacles in bureaucracy the land distribution tend to suffer in cases where the government has made efforts to allot plots and formally register them. (Aldrich and Sandhu 1995, 19) People that need housing cannot wait until plots are provided, and the majority chooses to arrange shelter in an informal way. The main objectives that force people with low income to acquire land in squatter areas are;

- The lack of plots
- The long process to obtain a surveyed plot
- The high charge

Because of the banks' low interest rates, investments in squatter housing also can be a way of private saving as an alternative to a saving account for low-income earners. (Mosha 1995, 342) The informal system has been admitted by the community in many developing countries but do not agree with the intentions achieved in a legal system. Instead it is an indication of failure in the legislation and inefficient bureaucracy. (de Soto 1989, 77) "Property may be informal because it is illegal, conflicting with the law. Frequently however, rights may be illegal simply because the laws are inappropriate" (Dale and McLaughlin 1999, 27).

High charges are paid for protecting occupied plots and transactions of property outside the formal system. When proper legislation are lacking it affects both the country's welfare and the inhabitant's financial situation in a bad way. (de Soto 1989, 77)

3.3 Different degrees of squatting

The levels of squatting are distinguished dependent on which country and region that is studied. Some areas have all the prerequisites that are defining a squatter area while some can be classified as semi-planned, though they are not following formal planning regulations and are lacking security of tenure. Every country has its own conditions that affect the matter of housing problems. Such factors are size of the city, growth rate and location. Also economical, judicial, political, social and demographical features have importance. Hence caution must be noticed before coming to conclusions about squatter areas in general.

Even separating a formal settlement from an informal is sometimes difficult. Problems occur in both categories and are often similar, such as lack of drainage system and insufficient water connection. However the access in a formal

settlement is better than in an informal settlement and the security of tenure is stronger. (Aldrich and Sandhu 1995, 18)

3.4 Types of ownerships and adverse possession

Title is a fundamental legal concept that often refers to private ownership. Title can also mean right of use as well as property leasehold. Land ownership is only one form of tenure among others, which range from full *right of ownership*, to less exclusive *rights of use*. (Dale and McLaughlin 1999, 17)

In different parts of the world different prerequisites for land tenure exists. In Latin America it is common with private ownership. Traditional African land systems do have common property and usually in former British colonies the land belongs to the state. The latter is the case in Zanzibar. In regimes with state property, the government is the exclusive owner to all land and set the guidelines to which the inhabitants have to adapt. In countries with state property individuals can get hold of land through right of use. (Dale and McLaughlin 1999, 18, 27)

When the cities are expanding in a pace that the governments reasonable cannot keep up with, poor people have to find other ways of acquiring land. Squatter settlements begin to set up through occupation. "In some jurisdictions, the peaceful occupation of land without formal legal agreement can lead to the prescription of rights by a process known in common law jurisdictions as *adverse possession*. The key to this is the peaceful nature of the occupation during which the use of the land goes unchallenged" (Dale and McLaughlin, 19). In squatting areas the procedure of acquiring land is made as follows; first the land is occupied after that you build a house, then infrastructure is improved and at last you get the right of possession. (de Soto 1989, 39)

3.5 Benefits that informal settlers can gain through secured land tenure

A country's land legislation regulates what types of ownerships that private persons are approved to get hold of. *Right of ownership* is the strongest type of land possession where the proprietor can sell and let out the property independently. Lack of legislation that regulates secure ownership rights leads to costs for those who are not included in such statute. For people living in underdeveloped settlements the most important improvement of rights is not to get the right of ownership, but to strengthen the *right of use*. (Dale and McLaughlin 1999, 19) Provisional ownership through occupation gives the inhabitants enough incentive to build a house. But according to de Soto (1989, 46-47, 173) people have nine times more will to invest in upgrading buildings if they hold

some type of possession right. The amount people are paying to get hold of land in an informal area is much lower than in a formal one. On the other hand the informal settlers are paying a high amount for the inconveniences they suffer. If there would be a legal document that gives the occupier the right of use, it would entitle to transfer the property. The property could also in the extension be used as collateral. Informal settlers do not save and invest as efficient as if they had secured rights of possession, as a result their incentive in investing are reduced. People do not invest in buildings if the risk to loose money is impending, if the government decides to occupy the land. Secured rights of possession stimulate the possessors to increase the value of the houses through investments which benefits the whole society. The price the informal pay also includes a long time of insecurity where the settlers run the risk of eviction and have to defend them selves from removal. The inhabitants have to endure the fear of authorities' intention to re-build the area according to orderly urban plans. For a long period they also make a living without basic infrastructure and services.

The slow allocating of urban plots has in one way allowed occupation and informal ways of acquiring land. When the government does not reach the demand, the development goes against the legal concept of land ownership. For people in informal settlements the difference between ownership rights and use rights is not the most important in improvement of the security of land tenure. Hence they do not have any type of security from the beginning all improvements are of importance. For governments where no private ownership has existed it is easier to administrate allocations through a decree that handles rights of use. (Dale and McLaughlin 1999, 19) (de Soto 1989, 172-175)

3.6 Upgrading squatter areas

Upgrading squatter areas can be seen as a way of formalizing settlements. There are several angles of approaching improvements;

- make efforts to put the buildings in good order and improve constructions
- technical assistance
- increase the possibility in bank loaning
- work for secure land tenure

In addition to this, efforts must be done to improve;

- infrastructure
- sanitation

- range of services (Mosha 1995, 343)

Numerous projects intending to strengthen the security of tenure in developing countries have been carried out in recent years. Some attempts to change land legislation and registration systems to western models have failed. Mainly due to foreign consultants who have tried to implement systems they are familiar with, instead of taking local property rules as a starting point. The main point has been laid on individualizing property rights through titling and registration procedures. (Dale and McLaughlin 1999, 28) Within UN-habitat, the United Nations Human Settlements Programme, the discussion about secure land tenure for the poor people in the world has been an urgent issue. Land management projects are to make shelter available to a larger extent in the future. It is also important to make land decrees and systems of transferring land more accessible and comprehensive. (UN-habitat 2003, 143)



Picture 3.1 Two different types of houses, Kilimahewa, Zanzibar Town

There are also some dilemmas that must be taken into consideration when squatter areas are upgraded;

- Informal settlements are often situated close to the town centre; furthermore the plots are inexpensive in relation to the central location. When the settlement is structured and the security improved, the most attractive sites become unaffordable for the urban poor. The settlers are on account of that deported to the town's periphery where the prices are lower but the cost of transportation much higher. (UN-habitat 2003, 172)
- People in informal settlements who is moved by the government are about to be paid for the inconveniences that it result in. This has led to a small group of 'speculative squatters' who are building in areas which are supposed to be formalized. (Mosha 1995, 344)

The two last decades have shown a trend of a decreasing number of squatters and an increasing number of informal citizens. The reason is assumed to be the shortage of available areas for squatting purposes. Still there is land owned by persons who are willing to subdivide and sell it unofficial. (UN-habitat 2003, 168) Nothing indicates that the occurrence of squatting areas is going to end. This form of settlements will always remain. That is why more power to act must be put into programmes which are handling squatter upgrading, security of tenure and improving possibilities of bank loaning etc. (Mosha 1995, 353)

4 Registration

The following chapter explains the process of adjudication, what land registration is about and the benefits and disadvantages of it.

4.1 Introduction

In a country land and buildings are very important assets. Most investments that are made around the world involve land or property. If land or buildings have a title deed it is easier to make investments. Careful land management is essential when it comes to economic development. Banks are handling with higher risks and costs when bank loans are issued if security by titles is lacking. Land administration systems give security to investors and a real estate market can be established which leads to economic development. The government can also collect taxes from transfers and property taxation. (Dale and McLaughlin 1999, 2, 4-5)

4.2 Adjudication

When a land reform program is to be initiated, formal and informal rights have to be elucidated. Adjudication is the first step in land formalization where existing rights are determined. It has to be determined who owns what and where the boundaries are between parcels. Adjudication verifies the present legal situation. Furthermore it is very important that all neighbours agree in informal areas where there is no official information. (Dale and McLaughlin 1999, 48, 29) Also boundaries between public and private land have to be determined (Larsson 1991, 101).

Adjudication can be made *sporadically* or *systematically*. Sporadic adjudication does not take place at a specific moment or place. Instead ownership and boundaries are determined when a transfer of ownership is made. Sporadic adjudication is made in no particular order, unlike systematic adjudication when area by area is determined. Less capital is needed when sporadic adjudication is used. In the short term this method is cheaper than systematic adjudication because less plot boundaries are determined. (Dale and

McLaughlin 1999, 29-30) Sporadic adjudication and registration is the most common way in developing countries. Sporadic adjudication is either voluntary or compulsory. In most cases the cost of registration is paid by the applicant. Especially when the adjudication is voluntary and the applicant take the initiative. (Larsson 1991, 103)

In the long term systematic adjudication is cheaper than sporadic because of economies of scale (Dale and McLaughlin 1999, 30). Which means that when the production in larger scale and in a technical and economical way is more profitable than the production in smaller scale because of better division of labour, learning, mechanization and automation (www.ne.se). The investigation is also more detailed and thorough (Dale and McLaughlin 1999, 30), and there are less legal disputes after a systematic adjudication is done (Larsson 1991, 103). Adjudication is a legal process and must follow the regulation in the legislation, especially when it comes to time limits and publicity about when and where the systematically adjudication is to be done. (Dale and McLaughlin 1999, 30)

4.3 Land registration

When adjudication is accomplished it is followed by land registration. The registration could either be *sporadic* or *systematic*. Sporadic registration means that a land owner voluntary hand in an application or if the registration is done when a new land transfer is carried out. Sporadic registration is more expensive than systematic because of the surveying cost and that the registrar has to visit the plot every time it is time for a new registration. Systematic registration is carried out area by area. Therefore it is cheaper and more effective because an entire area can be registered at the same time. This demands more effort from the public to bear the cost. This method is not often used in the Third World. (Larsson 1991, 80-82)

A Land Information System could either be a cadastre or a land register. The definition of Land Information System is “a tool for legal, administrative and economic decision making and an aid for planning and development...containing land-related data” (Larsson 1991, 1-2). A Land Information System is important and makes it easier to plan, develop and control land. Information about ownership and utilization regulations is needed. Land Information Systems support land management by supplying information about the land (Dale and McLaughlin 1988, 8). The most difficult thing is to develop a system that will last. (Larsson 1991, 2)

In general *the land register* contains land transfer documents that can be connected to a map, which can be made by ortophoto. It shows the owner,

mortgage deeds and encumbrances. It also contains a section with the possessor's name, address, purchase price, date of the purchase and date of the title. (Larsson 1991, 16-17, 112-114) A cadastre is a parcel based Land Information System and is supported by maps. It contains land use, ownership, value or taxation. A *cadastre system* can be legal, fiscal or multipurpose. A legal record is based on the ownership of parcels of land and the determination of boundaries is important. A fiscal cadastre is based on property valuation and is used for taxation. Multipurpose is a mixture of the two and is closest to the universal concept of Land Information System. All property rights and documents concerning land and information about the nature are described; all types of information to solve land disputes. (Dale and McLaughlin 1999, 36) (Dale and McLaughlin 1989, 28)

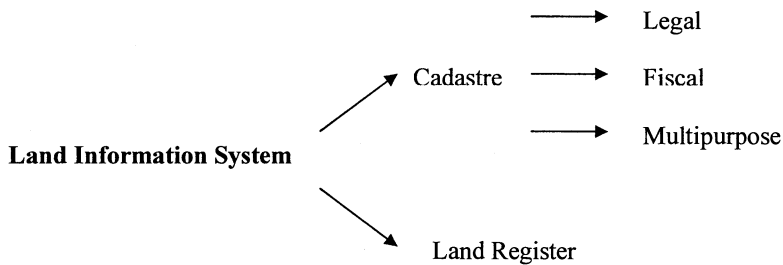


Figure 4.1 Different types of Land Information Systems (Dale and McLaughlin 1989)

4.4 Boundaries

There are two different types of boundaries; fixed and general. A *fixed boundary* has been precisely determined by a land surveyor and the corners are demarcated. It is also a fixed boundary when an agreement between two parts is made at the time of the land transfer. To change the location of the boundary a document of transfer is needed. A *general boundary* is a line between two parcels and it is not determined. The line might be a fence or a hedge. The survey cost is less because of the land surveyor does not use boundary marks. The register or cadastre does not have to be modified when small changes between neighbours have been agreed, as long as they have the same title. (Dale and McLaughlin 1988, 29-30)

4.5 Benefits of Land Information System

There are private and public functions and benefits of land registration. Both the community and the individual person can benefit from registration. The community gets a record of land resources which can be used for economic

purposes, to ensure sustainable development and to ensure ownership of land. It can also be used as a fiscal cadastre, for tax purposes. (Simpson 1976, 3) Other benefits from registration for the public sector are the possibility to control land use and management. A record is necessary to develop plans and rules of how the land are allowed to be used; a land policy. The interest of the public sector is bigger than the private and should therefore stand for the majority of the expenses. (Larsson 1991, 13)

The private sector can benefit from a Land Information System in different ways. A record can stimulate the land market because it makes the transaction easier and cheaper. It protects the owner and the rights and can lead to investment of development of the land. Registration of land also reduces disputes concerning land. It will be fewer cases for the court and the cost for the private person will be less. Many land disputes in the Third World are solved in the court; poor people have difficulties to defend them selves against big land-owners. (Larsson 1991, 11-13)

There are many benefits from land registration and from introducing a Land Information System. When the landowner and the existing rights are elucidated this could lead to better harmony between neighbours. Through taxation the government may increase the revenue to the society from all land owners. There will be fewer disputes concerning land and boundaries and it will be easier to improve physical planning in both rural and urban areas when the existing rights are known. Registration and land titling “have long-term impacts on economic and social development that goes well beyond simply improving the land conveyancing procedure” (Dale and McLaughlin 1999, 33-35).

Benefits of a land registration system;

- Certainty of tenure
- Security of tenure
- Reduction of land disputes
- Improved conveyancing
- Stimulation of the land market
- Security for credit
- Monitoring of the land market
- Facilitating land reform
- Management of state lands
- Greater efficiency in land taxation
- Improvements in physical planning
- Support for land resource management
(Dale and McLaughlin 1989, 26)

4.6 Disadvantages of Land Information System

Dr Fourie (2001) is from South Africa and holds a PhD in Social Anthropology. She states that the best practice way to improve an informal settlement is to look at the entire city and have focus on the most important and fundamental services such as water, roads and sewerage in urban areas instead of focusing on individual settlements. Urban planning is also important because supply of infrastructure can be created in an early stage.

Dr Fourie declares that several attempts have been made to upgrade Land Information System or to create new but not much has been achieved in many countries in Africa. Money, technology and higher education level is what the developing world needs. Introducing Land Information Systems in the Third World has been criticized. Mostly because the greater part of the people in these countries can not benefit from the system. The system is not always improving the security of land tenure for the poor. The connection between land information system, the reduction of poverty and to increase agricultural productivity has not been achieved in Africa. Land Information System is sometimes seen as an expensive and complicated system because the system is designed for educated people. It is not clear and understandable or easy to use. It is difficult to find a way of recording plots in informal settlements which are very common in the Third World. This must be taken under consideration when an informal settlement is upgraded, since most of the people in these areas are less educated and often poor.

In a review that Dr Fourie (2001) made she found that informal settlers often do not benefit from the upgrading programmes where right of ownership and leasehold are registered. This is because a small quantity of people can afford the cost of a plot with title. Another problem is that the titles sometimes are subsidized for low income citizens but they sell the titles in the open market to high income citizens and get market prices for their plots. Sometimes the rent increases after titling and this force the low-income tenants to move because they cannot afford the new higher rents.

Women, especially widows, tend to lose their right when titling takes place. The male members become the recorded head of household. Another problem if a registration system is introduced is that the low-income people often continue transferring houses informally. The government is often subsidizing the registration but not the following transfers. The transfer costs are too expensive for people and they are not familiar with the system of registration and transferring property. If the rights are registered and the inhabitants are not benefiting from the registration system it is most likely that they do not benefit from registered information about the plot. This means that the cadastral systems supply

insufficient land tenure for most of the people because the security does not always include the informal settlements.

Dr Fourie (2001) continues to say that the upgrading of informal settlements through registration has to be done in the whole city at once and not settlement by settlement. But this is very often more expensive which leads to that informal settlements do suffer and registration is not fully implemented; new methods need to be discovered. Other problems about registration are the maintenance of the system. The preparation phase is often subsidized but the maintenance of the system, services and record is not. The local authorities do not have enough financial resources or sometimes the will to maintain the record. (Fourie 2001, 1-4)

4.7 Valuation of assets

The theory of Hernando de Soto (2000) is built on what capitalism has done for the western world and what the Third World is missing. The western world benefit from capitalism in a way that the other parts of the world do not. The Third World has the assets; many people in those countries save money but they cannot produce capital even if they have the talent and enthusiasm. The biggest problem is to take care of the resources the right way and be able to use them as efficient as possible. For example houses are built on land that is not registered in any type of record, companies have indefinite liability, and industries are not visible for investors. This is because assets are not documented; there is no entered value that can be turned into capital. The trades that are carried out are inside the circle of friends and other people that are reliable because these are the only ones to be trusted. The assets cannot be used as collateral and cannot give investors share in the business. (de Soto, 2000, 6)

In contrast to the Third World the industrialized countries have land, buildings, and equipment documented and registered and these assets are linked to the rest of the economy. The assets are not just material, it can also be used as collateral for credit. This can lead to valuable income taxes. This is what the Third World is lacking; the process of representing assets and making them generate capital. (de Soto, 2000, 7) One of the most tangible assets is real estate. Property laws in the Third World need to be established or changed so that real estate can create capital. There are examples from all over the world where you can see that it takes several years to go through the procedure of applying for a plot because of complicated administration system. Because of the lack of documentation and registration agricultural land is used for living or industrial purposes. (de Soto, 2000, 27)

Classic economic theory holds that there are three vehicles for generating wealth in an economy – capital, labour and land (de Soto, 2000)

A problem in Tanzania is that all land is governmental. This problem is illustrated in *The East African* (2004, 1-2) where it was reported that “banks have been seeking government support to find ways of creating collateral, including land”. The government, banks and financial institutions are trying to find a way for farmers to take bank loan, because at the moment they are not entitled. *The Guardian* (2004, 5) states that Hernando de Soto’s theory is relevant for Tanzania if the program is well funded and efficiently supervised, also if the legal situation change. The government could in that way increase the revenue from businesses for example. Big efforts have been made to upgrade informal settlements in Dar es Salaam. Tanzania is hoping that this will contribute to GDP growth.

5 Zanzibar

This chapter presents background information about Tanzania but especially about Zanzibar.

- Zanzibar is a part of United Republic of Tanzania, in short form **Tanzania**
- **Capital** of Tanzania; Dar es Salaam
- **Capital** of Zanzibar; Zanzibar Town
- Zanzibar is a group of islands existing of **Pemba** and **Unguja** and numerous smaller islands. Unguja is also called **Zanzibar**, when Zanzibar is mentioned in the thesis it is referred to Unguja
- **Constitution**; republic. Zanzibar is independent and has their own president, Amani Abeid Karume
- **Religion**; 99 % are Muslims in Zanzibar
- **Currency**; \$ 1 = Tsh 1100 (2004)
- **Population** of Tanzania ~ 36 600 000
- **Population** of Zanzibar ~ 800 000
- Tanzania is 945,087 km², twice the **size** of Sweden. Zanzibar is 2 % of Tanzania.
- In Tanzania 32 % live in **urban** areas, 68 % live in **rural** areas,
- **Average population growth rate** is 3 % per year (more than developing countries mean average value of 2,3 %), compared to Sweden; 0,39 % during 2004
- **Unemployment rate**; 24 % of the labour force
- **Inflations rate**: 6,3 % June 2003

*Table 5.1 Country information
(worldfacts.us), (www.unhabitat.org), (www.lonelyplanet.com),
(www.scb.se), (Bank of Tanzania 2003, 40)*



Figure 5.1 Tanzania
(www.worldatlas.com)



Figure 5.2 Zanzibar
(SMOLE)

5.1 Rule

Zanzibar is a part of United Republic of Tanzania but is an autonomous state since the revolution in 1964. In December 1963 former United Republic of Tanganyika and Zanzibar became independent from The United Kingdom. The United Kingdom reflects in the legal system which is based on English common law. Zanzibar has had their own president since 1964 and the government handles all internal matters. They had their first multiparty election in 1995. Election is held every fifth year. The present President is Amani Abeid Karume and was elected in October 2000. (worldfacts.us)

5.2 Political organization

The government consists of 13 ministries; several departments belong to each ministry, see figure 5.1. Department of Land and Registration and Department of Survey and Urban Planning handles all land issues and belong under Ministry of Water, Construction, Energy and Land. Ministry of Regional Administration holds Municipal and District Councils and the Regional Commission.

The local leaders named Sheha are the leaders of the smallest administrative unit, shehias. Sheha is a civil servant appointed by the Regional Commission. Sheha's appointment is for a two-year-period, after which he can be reappointed or has to leave his position. Sheha's role is to solve social problems, keep register of births and deaths, and register people who are moving to and from the area. Sheha is involved in all land allocation matters but are seldom educated or well initiated in the land legislation. The smallest administrative unit, shehia, can consist of up to 1000 households. Each shehia is ruled on local level by one Sheha. (Mr Ghalib¹)

Registrar General Office belongs to Ministry of Constitution and Good Governance. Earlier Wakf and Registrar General Office worked as one administrative centre but are now separated. Registrar General Office still prepares documents for Wakf who are working under Islamic law. Apart from preparing Property Deeds and Transfer Deeds they also manage registers of births and deaths, and all types of certificates, transcripts etc. (Mr Rajab²)

¹ Mr Ghalib Omar, Department of Survey and Urban Planning 040913 - 041130

² Mr Rajab Khatib Mwinyi, Assistant Registrar of NGO's and documents in the Registrar General Office, 041109

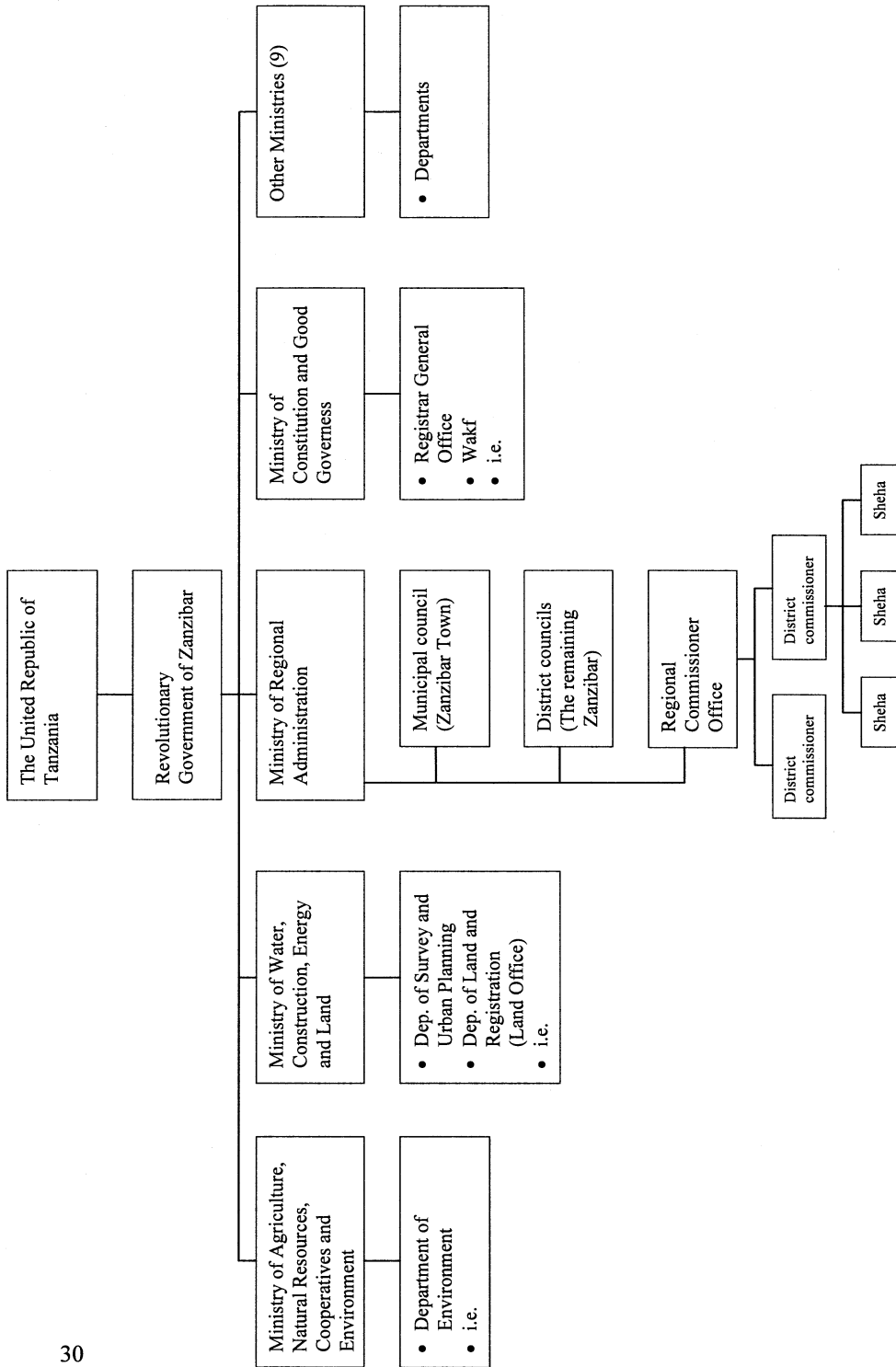


Figure 5.3 Organisation structure model

Source: Mr Ghalib

5.3 Religious influence in land

Most of the people in Zanzibar are Muslims, 99 % of the population (worldfacts.us). The Islamic law reflects the view of property in some cases. Property can be announced as Wakf property. Wakf stands for “Muslim academy for Allah” and is working under the Ministry of Constitution and Good Governness and is “defined in Islamic literature as preventing the origin of the property and allowing the benefits of that property to be used by specific people” (Mbarouk, Muhammed and Sultan 1998, 5). Many people in Zanzibar are declaring their property as Wakf-property to avoid disputes between family members. Wakf is administrating the property and the revenue goes to maintain the property in order. (Mr Ghalib¹)

5.4 Economy

Tanzania is one of the poorest countries in the world (worldfacts.us). Tanzania’s income is dependent of agriculture. It is a big income source from the export sector and which is a big part of GDP. In Zanzibar cloves and seaweed are very important merchandises and “wholesale and retail trade, restaurant and hotels” also increase GDP. In June 2003 the inflation rate was 6,3 %. (Bank of Tanzania 2003, 2, 40-41)

Compared to other countries in the developing world and also to the mainland in the United Republic of Tanzania, Zanzibar’s poverty situation is relatively passable. Most of the people do have adequate shelter and enough economy for food and clothes. The unemployment rate stands at 24 % and a certain part of the market exist in the concealed. To take control over the informal sector is the objective in the poverty reduction. In Tanzania the informal sector stands for 11 % of the GDP. (Mirza and Sulaiman 1998) (Mr Sofu³) (*The Guardian* 2004, 5)

5.5 Informal settlements

Immigration, urbanisation and financial problems meeting the great demand of building sites are the three most important reasons of the developments falling behind. The immigrants mainly move in from Pemba or the Tanzanian mainland. Lots of people also move from rural parts of Zanzibar Island to make a better living near Zanzibar Town. Zanzibar Town provides better economical possibilities and further options concerning jobs. The urbanisation has lead to growing areas in the closeness to Zanzibar Town where the houses are built up very densely and are lacking basic infrastructure and services. The most characteristic about these areas is that the inhabitants do not have any possibility to get a right of use to the land. The land has been subdivided and sold illegal, thus the land has not been adjudicated and surveyed. Today the areas are characterized by fear of the government’s intention to confiscate the land. (Mr

Sofo³ 2004) According to Mr Sofo there will always be informal settlements outside the formal settlements. That is because advantages can be derived from the formal settlements in the appearance of services that are available, like water and electricity. The problems with extended informal settlements need special effort and control through new planned areas and control of the existing settlements expansion.

It is important to know that there are different levels of informal settlements in Zanzibar, see also 3.3. According to this, conclusions should be drawn carefully because one area solitary cannot statute as an example of all informal settlements in Zanzibar. Some areas have been semi-planned by Shehas or Baluzis during the years. There are areas where there is no structure in the orientation of the houses. The houses do not have water connection and no public collecting points can be found. A comparison between formal settlements in Zanzibar and informal settlements would show that it is in many ways hard to separate them from each other. There is no security of land in informal, but the security is also lacking in formal settlements. Water supply is deficient in informal settlements but frequently also in formal settlements. (Group discussion, Zanzibar, 041124)

5.6 The bank loaning system

At the moment it is only businesses and governmental employees who are entitled to get a bank loan in Zanzibar. Interest in bank loan is considerable among the people in Zanzibar according to Mr Nassor⁴. The bank receives a large amount of applications every year. But far from everyone is granted. The interest rate is very high, 20 % for private persons, and that is because of the high risk the bank is exposed to, difficulties to retrieve the money for example. People are borrowing money to increase their living standard instead of investing in a way that would give them income from returns. Restrictions from the bank on how to use the money are not followed. But on the other hand, the bank does not have resources to make sure that money is used in the right way.

The reasons for having such a high interest rate are partly because of the high inflation and are also depending on the type of security the inhabitants can give. The bank requires a Title Deed or a deed from the Registrar General Office. Mr Nassor⁴ also points out that the persons reputation is even more important than the security the person can offer. A serious problem the bank is facing due to the fact that all land is governmental is the security. The house can be demolished anytime by the government and in that way the security is gone, and the bank cannot get the money back. Mr Ghalib¹ said that this rarely happens because of the lack of economic resources. Mr Sulaiman⁵ stated in an interview

³ Mr Sofo, S.O. Fakh, Chief Lands Officer, Department of Land and Registration, 041108

⁴ Mr Nassor Suleiman Nassor, Managing Director, The people's Bank of Zanzibar LTD, 041109

⁵ Mr Muhammad Sulaiman, advisor to the Minister for Water, Construction, Energy and Lands, 041118

that bank loaning for private persons cannot be economically sustainable before Zanzibar's own economy have reached a certain grade.

5.7 Land registration

To establish an improvement plan in Zanzibar, there is a need of a way showing boundaries. If an improvement plan is implemented infrastructure and services can be improved and in the extension buildings can be registered or the other way around; registration before establishing the improvement plan. (Mr Sulaiman⁵) Mr Sofo³ states in an interview that facilities and infrastructure need to be improved before registration. If services are provided he thinks it is easier to ask the inhabitants to pay fees and be cooperative to get a legal document and be registered. When it comes to the financial issue the opinions go apart, Mrs Viikman⁶ states that the first registration should be free, compare with 4.5. She continues that at this stage surveying and demarcation is necessary and from the aerial photos sketch maps of who lives next to whom and later on surveyors can produce real maps. The certificate that the inhabitants review should contain number, address if possible, owner name, all family members or people living in the house and legality background, for example for how long the plot have been in possession by someone. Mr Sofo's³ opinion is that the registration should begin in the planned areas where there are records, then move on to other urban areas, tourism areas and Three Acre Plots. All new information should be added to the information system ZALIS, 2.1.

Problems in land registration can occur and was experienced during ZILEM, 2.1. A pilot study was made in an informal settlement where some houses were demolished to improve the infrastructure. The owners of the houses were compensated with the value of the houses and new plots in a surveyed area. Later surveyed plots were sold and the vendors moved back to the old area where they built a new house and saved the profit. (Mr Sofo³)

The Department of Survey and Urban Planning receives 1500-2000 applications per year for residential surveyed plots. But the government is only able to survey and register 400-500 plots per year. Today only 30 % of Zanzibar Town is surveyed and registered. (Mr Haji⁷) The future land register will contain name, size, location, when the title is issued and boundaries (Mr Simba⁸). The Registrar General Office receives approximately 700-800 applications per year for Property- and Sales Deeds, but only few applications are approved. (Mr Rajab²)

According to the Registered Land Act "Registrar shall give notice to the proprietors and any person having interests in the Land adjoining the boundaries in

⁶ Mrs Leea Viikman, Chief Technical Advisor SMOLE, 041117

⁷ Mr Haji Adam, Director of Department of Surveying and Urban Planning, 041102

⁸ Mr Salum Othman Simba, Director of Department of Land and Registration, 041007

question of the intention to ascertain and fix the boundaries.” That is to say, the boundaries in Zanzibar have to be fixed when register Title Deeds in the land register.

6 Land acts

This chapter contains a review and a summary of the present land legislation in Zanzibar. Some of the acts are not appointed at this stage.

Introduction

After the revolution the Presidential Decree from 1965 declared all land governmental. All land was confiscated against the former landlords will and the land was distributed to peasants. In the beginning of the 1980's the Government of Zanzibar began to look into the issues concerning utilization of land. A committee proposed that new land policies should be created for Zanzibar and Pemba. Most of the acts were prescribed in the late 1980's and in the beginning of the 1990's but not implemented until 1994. Today many of them are not complete and not working properly and they need to be reviewed once again. (SMOLE, 2004, 5) (Törhönen 1998, 34, 37, 56-57)

Acts created during the 1980's and 1990's were;

- The Land Tenure Act Land
- The Registered Land Act
- The Adjudication Act
- The Land Transfer Act
- The Land Tribunal Act
- The Land Surveys Act

The Land Tenure Act No 12/1992

The Land Tenure Act prescribes the “main land law in Zanzibar” and clarifies the fundamental legislation about land law. The act contains eight parts; Preliminary, Public Land, Right of Occupancy to land, Right of ownership of trees, Grants of public land, Lease, Termination of right of Occupancy and Miscellaneous Provision. The *Right of Occupancy* is protected and guaranteed by the government. Registration has a central role when it comes to security of tenure. The Right of Occupancy has to be registered to get the guarantee from the

government. Registration has to be done in the way that the Registered Act prescribes. The Land Tenure Act also approves registration according to the Registration of Document Decree but this is not a proper registration like the one in the Registered Land Act. To register according to the decree is only valid until the Land Registrar is implemented. This registration does not have the guarantee from the government. The act is the most important and fundamental act when it comes to land law in Zanzibar. That is why Right of Occupancy is explained further in section 7.1. (Tolvanen 2004, 9, 11)

The Registered Land Act No 10/1990

This act “prescribes how *the Land Registrar* shall be established and registration conducted”. The land will be registered area by area and each district will have a registry, “which consist of the Land Register, The Registry Map, parcel files, the application book, and index of names”. To register information at the registry the information has to be based on the adjudication record when it comes to systematic first registration. The registration according to *The Registered Land Act* only approves registration according to the act and not under the Registration of Document Decree as explained in the Land Tenure Act.

The land can also be registered by sporadic first registration, section 4.3, and the procedure is explained in the act, see figure below. The application has to be handed in to the Land Registrar and it has to be published and a notification to all parts who are involved. If the application is met the Right of Occupancy can be registered. The Land Tenure Act says that a Right of Occupancy gives the proprietor a guarantee from the government. The Registered Land Act says that the land can be used as right of ownership without restrictions. All transfers of land have to be registered in the Register within sixty days to be valid. The Land Registrar has not at this day been appointed and in that way the act has no legal value. This affects implementation of some other constitutions, which necessitate registration. (Tolvanen 2004, 15, 17).

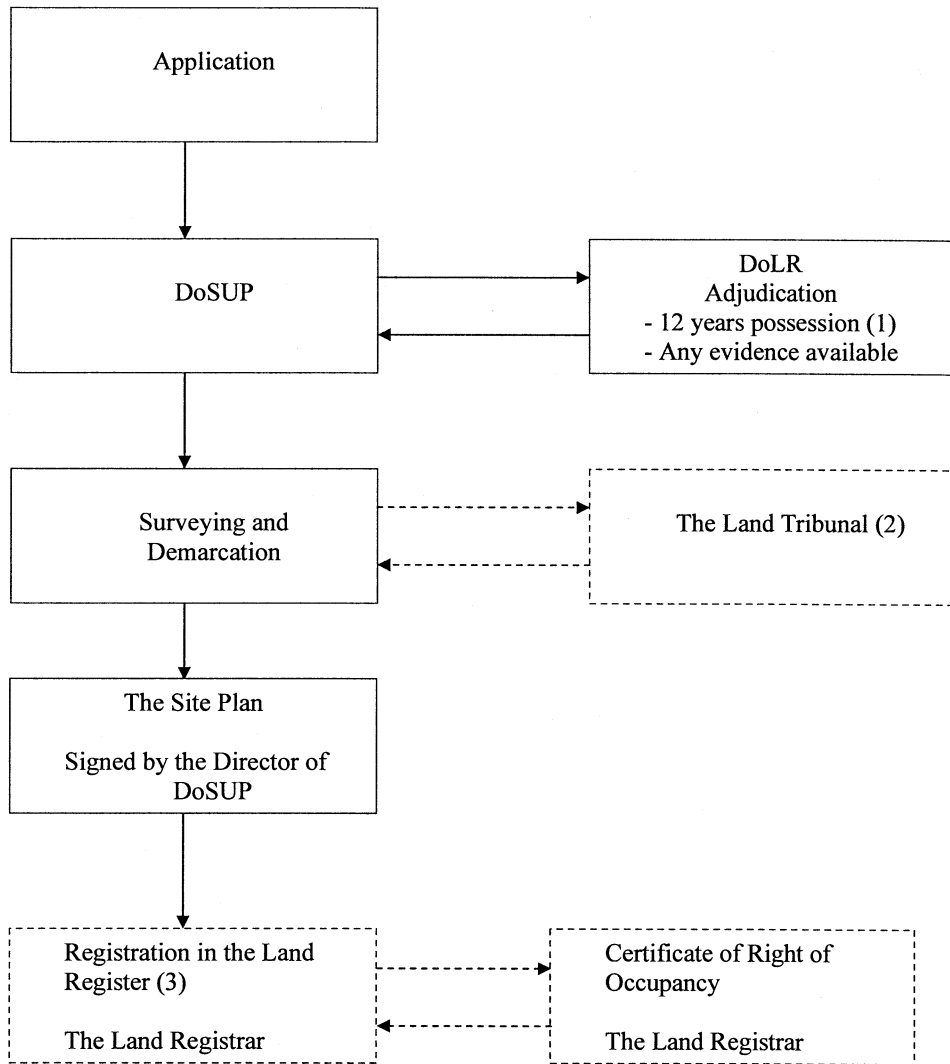


Figure 6.1. The Present Procedure of Sporadic First Registration (Tolvanen 2004, 16)

“Explanations: (1) Section 140.1 of the Registered Land Act. (2) The Land Tribunal has a jurisdiction over disputes concerning adjudication, demarcation and registration in general. The tribunal has not been established. (3) The Land Registrar has not been appointed. Due to this the procedure of sporadic first registration is presently in practice only procedure for surveying resulting The Site Plan. The role of the Land Registered Land Act into a consideration.”(Tolvanen 2004, 16)

The Land Adjudication Act No 8/1990

The act describes “the procedure of systematic first registration”, section 4.3. *The adjudication* is organized to be done area by area; called adjudication areas. An Adjudication Officer has to be in charge of the procedure. The Adjudication Officer has to publish a notice containing time of adjudication and when claims for land have to be made. The occupants have to demarcate the boundaries of the plot by themselves. During the demarcation it is not just private parcels that are demarcated, also boundaries of public land which is of governmental concern. The surveying is made by a Survey Officer, who also set up a demarcation index map, which shows parcels and parcel number. An Adjudication record will be established with a folder for each parcel and contain the number of the parcel and “approximate area, name of occupant, any recordable rights encumbering the parcel and date” among other things. The record and the demarcation map have to be shown for inspection and objections can be made by the inhabitants. A notice of this has to be published so that possible disputes can be solved. *The Land Adjudication Act* and the demarcation map will be signed and sent to the Land Registrar by the Adjudication Officer. (Tolvanen 2004, 17, 18)

The Land Transfer Act No 8/1994

In this act the procedure to transfer land is explained. The basic idea is that the act should regulate the land market and make sure that exclusively legal transfers are registered. Together with the Land Tenure Act and the Registered Act this act support and has regulations about the procedure about transferring. A Transfer Board, which is explained in the act, authorizes all transfers. The decisions that the Board makes “can be appealed against to the Land Tribunal”. No transfers of land or long term lease should be carried out before the transfer is approved by the Land Transfer Board. The Land Transfer Board is not established today, no legal transfers can be made at the moment. The transfers cannot be registered in the Land Registrar because the Land Tenure Acts says that the Board has to approve the transfer. The Land Register does not exist at the moment, because the government has not appointed the registration system yet. Most of the transfers are conducted under the Registration of Document Decree, at the Registrar General Office; where a Sale Deed is issued. The transfers that are conducted at the moment are not legal according to the Land Tenure Act

and the Registered Land Act when the transfer is registered at the Registrar General Office. In despite of this the procedure of the transfer “follow the principles of the procedure prescribed in the Land Transfer Act”, see 8.2. (Tolvanen 2004, 21, 22)

The Land Tribunal Act No 7/1994

The Land Tribunal Act is established to solve disagreements regarding land. “Claims to A Right of Occupancy and possession, demarcation of boundaries and registration of land” are some examples of the disputes that Tribunal will solve. The Land Tribunal has not yet been established but the Chairman has been appointed by the President. (Tolvanen 2004, 21)

The Land Survey Act No 9/1990

The Land Survey Act explains what rights and obligations both public and private land surveyors have. The rights and obligations are to obtain information concerning boundaries, solve disputes and determine the location of new boundaries. The Director of Surveys is appointed by the president to support and supervise all the other surveyors and is responsible to produce and publish all official maps. The Director also has to sign all surveys before they are valid. The act is also concerning private surveyors. A special board, which is not yet appointed, will be established to grant licenses for private surveyors. (Tolvanen 2004, 24, 25)

Registration of Document Decree 1919

This decree from 1919 is valid until the land legislation associated to the Land Register is appointed. According to *the Registration of Document Decree* it is possible to register deed information in a register that nowadays is handled by Registrar General Office section 5.2. The deeds referred to in this report are those that consider properties, the houses. “The basic principle is that deeds that are registered take priority over unregistered or subsequent deeds. It does not affect the legal force of any deed.” (Törhönen 1998, 30)

7 Relations in land tenure

This chapter explains the Right of Occupancy which is a form of land possession used in Zanzibar. The most important principle of land tenure in Zanzibar is that all land is governmental land, due to the decree of 1965. For this reason private ownership is not practiced in Zanzibar. In contrast, land can be used by private persons as a Right of Occupancy, specifically right of use.

7.1 Right of use

Governmental land can be held by individuals or groups as if it was a right of ownership due to the regulations about the *Right of Occupancy*. If a Right of Occupancy is granted, it is protected by the Land Tenure Act, chapter 6. It is issued in perpetuity and can only be interrupted if there are particular reasons for it to be withdrawn, e.g. misuse of the utilization purposes. The rights do not differ considerably from the rights that are possessed if it would have been right of ownership. The Right of Occupancy can both be inherited and transferred, but must be registered appropriate to the Registered Land Act, see chapter 6. (Tolvanen 2004, 9-11)

The Right of Occupancy can be acquired in following ways and are regulated in different acts:

- **Grant**
Issued by the government. Prescribed in The Land Tenure Act.
- **Adjudication**
Either through systematic registration, or through sporadic registration. Prescribed in the Land Adjudication Act and the Registered Land Act respectively.
- **Transfer**
Through inheritance, purchase or gift. Prescribed in the Land Tenure Act and the Land Transfer Act. (Tolvanen 2004, 9)

According to the Land Adjudication Act a Right of Occupancy shall be acquired if a person has occupied public land peaceful and uninterrupted for more than twelve years. (Tolvanen 2004, 9-10) The procedure to get the Right of Occupancy as a result of undisturbed occupation is long according to Mr Haji⁷. At first the villagers must prove that the applicant has been living there undisturbed, which means the person has not got any indication of interruption from the government for more than twelve years. Then the District Council approves the application. The Department of Land and Registration decide if the plot is going to be surveyed or not. If the plot is surveyed, the Right of Occupancy can be certified.

Mr Haji⁷ declared, to get a Right of Occupancy the plot has to be adjudicated and surveyed. Allottees in informal areas cannot be included in the registration until their land has been surveyed and has approved a Right of Occupancy from the government. “Any interest in land is invalid unless it is registered under the Registered Land Act 1990 and this means that the majority of land holdings in Zanzibar are not valid as few are registered” (Veijalainen 2000, 49).

Extract from the Land Tenure Act (1992). The Right of Occupancy shall exist under the following circumstances:

- (a) that the holder of the interest be a Zanzibar over the age of eighteen, unless special provisions have been made;
- (b) that the holder of a right of occupancy shall have an exclusive right to occupy and use the land which comprises his right;
- (c) that the holder of the right of occupancy shall have the rights to make dispositions of the land or other interest therein to any other Zanzibari;
- (d) that the interest be held in perpetuity without specified term and be inheritable under the appropriate provisions of the Zanzibar law of Succession;

7.2 Lease

As mentioned above, public land can be held by private persons through a Right of Occupancy, the other way is to get a lease. Leases are time limited with a maximum of 49 years. Usually tourism areas and land for commercial purposes are possessed as leases by investors. Foreigners cannot be granted a Right of Occupancy, because investors that are not from Zanzibar are not entitled to apply for leases. (Törhönen 1998, 63)

8 Land transfers

The following chapter explains the signification of Three Acre Plot and the procedure of register a land transfer.

8.1 Three Acre Plots

After the revolution all land was confiscated from landowners and delivered as Three Acre Plots to peasants. The grants were given as usage rights, not as rights of ownership, in perpetuity. The difference between usage rights and ownership were the transactions and usage limitations. To sell the plot was strongly forbidden and in cases of inheritance another application should be filled in. The grantee should not subdivide, sublet nor mortgage the land. The decree obliged the grantees to only use the plots for agricultural purposes. The distribution of Three Acre Plots went on until 1972 but the rights of use are still valid. (Törhönen 1998, 35-36) (Veijalainen 2000, 63)

Although the prohibition of selling and subdividing Three Acre Plots this has occurred to a great extent in areas close to Zanzibar Town. The great demand for building sites as a result of the urbanisation has made people settle in whereupon they are lacking any valid transfer documents, see chapter 3.1.2. (Törhönen 1998, 38) Three Acre Plots in the closeness to town have therefore lost their land tenure status after they have been parcelled into residential parcels. "At the moment rights to land in Three Acre Plot areas are often unclear" (Veijalainen 2000, 63).

8.2 Purchase

When a land parcel has been transferred through purchase there is a certain procedure that must be followed. The recent years the control of land transfers have been deficient, Three Acre Plots have been subdivided and sold and the local leaders, Shehas, have poor knowledge about land issues. (Mr Simba⁸) The procedure is as follow; the owner of a piece of land applies for a Transfer Form from The Registrar General Office, see section 5.2. The Transfer Form, appendix A, is filled in and sent to the Sheha. The Sheha in the shehia where

the house is situated has to comment the application with a negative or positive decision. The application is then sent to the District Commissioner, who comments it. The Department of Land and Registration makes an inspection and make sure it is the right owner, and not a Three Acre Plot. Then they approve the application. Registrar General Office prepares a Title Deed if it is a surveyed plot and a Sales Deed if the land has not been surveyed. (Mr Simba⁸) Fees for the services that are offered through the application process are paid to Sheha, the Revenue Office and the Department of Land and Registration. The high costs together with the fact that many people are not aware of the consequences of having those types of documents, might be a factor for why people ignore applying for Title Deeds and Property Deeds. (Mr Ghalib¹) (Mr Azzan⁹)

Apart from purchase, land or house can be transferred through gift, inheritance, undisturbed occupation or dedicating property to Wakf property.

⁹ Mr Rashid Azzan, SMOLE Task Force Member, Department of Survey and Urban Planning, 040913-041130

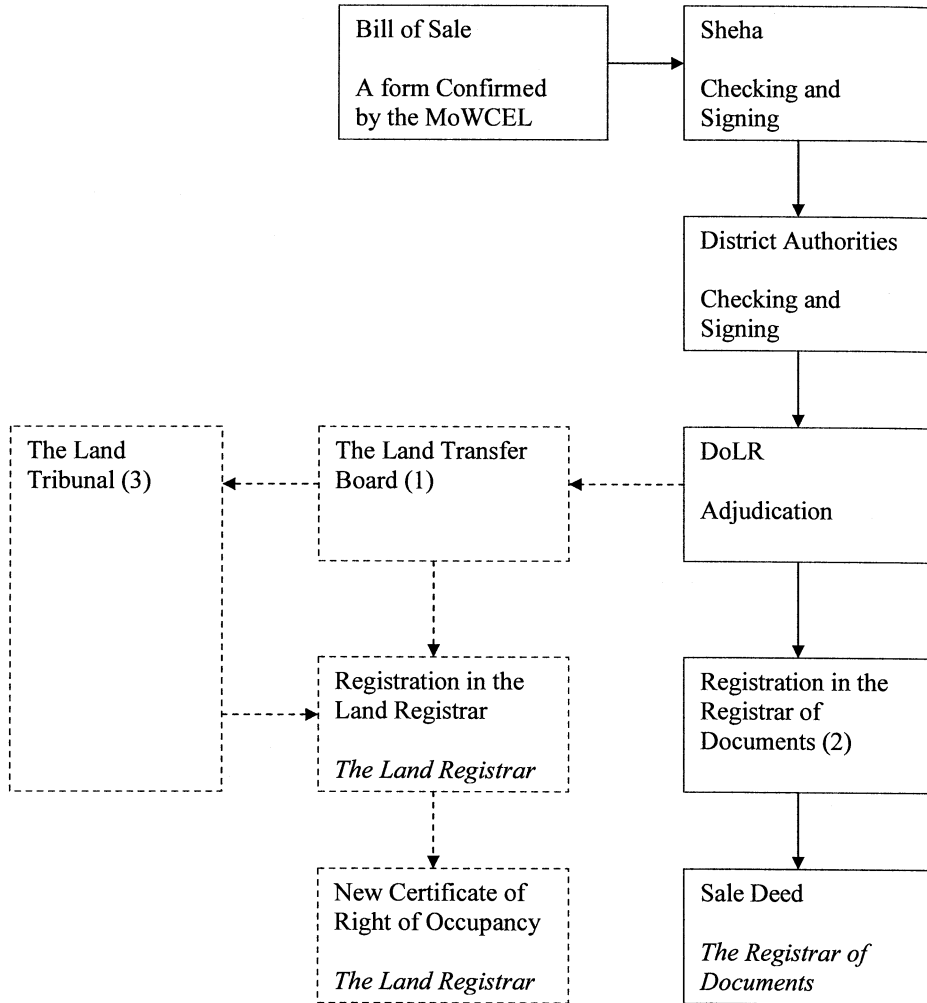


Figure 8.1. The procedure of Registering Land Transfers (Tolvanen 2004, 23)

“Explanations: (1) All transfers should be approved by the Land Transfer Board, which has not been established. (2) The Land Registrar has not been appointed and therefore the transfer cannot be registered in the Land Register as required by the legislation. Instead the transfers are registered in the Registrar of Documents, which issues a certificate of registered transfers called the Sale Deed. The Land Transfer Boards may reject the transfer for several reasons. Decision can be appealed to the Land Tribunal which has a jurisdiction over land transfers reviewed by the Board. The Tribunal has not been established”. (Tolvanen 2004, 23)

9 Legal land documents

In this chapter all types of land documents in Zanzibar is described. The difference between them and at which department they are issued.

Department of Land and Registration (Land Office)	Title Deed	Right of Occupancy	<ul style="list-style-type: none"> • An exclusive right to occupy and use the land • Only applied to surveyed land • Will be recorded in the land register • Can be used as collateral for mortgages • Compensation and a new plot is guaranteed if people are forced to move
		Lease Agreement	
Registrar General Office	Transfer Deed	Sales Deed	<ul style="list-style-type: none"> • Entitle only buildings • Prove ones ownership and rights to a building • Make disputes between private persons easier to solve • Compensation for building materials is paid if people are forced to move from the plot
		Gift Deed	
		Vesting Deed	
	Property Deed	Statutory Declaration	
		Wafk Deed	

Table 9.1 Different types of deeds in Zanzibar (Mr Rajab²) (Mr Simba⁸)

9.1 Title Deeds

The explanation of a *Title Deed* is a document concerning real estate that shows the proof of ownership. In Zanzibar where no private ownership exists, the strongest protected possession rights are Right of Occupancy and lease agreements, which are treated with the same significance as the general explanation of Title Deed. Zanzibar's land administration system consists of considerable

diverse document deeds. What type of document that can be issued is determined on the basis of the plots situation; if it is a formal adjudicated plot or if the plot is outside the formal housing areas. If the plot is within the surveyed area the possessor is entitled to have a lease agreement or a Right of Occupancy, which is described in previous section 7.1. Documents of these types are provided by the Department of Land and Registration unlike other types of deeds. To have a Right of Occupancy means several advantages compared to those who possess a building on land that is not surveyed. One important fact is that the Right of Occupancy can be used as collateral for mortgages; however there must be a permit from the ministry. When the land register is appointed everyone that has a title, even leaseholders, gradually will be recorded. This means an important security to the possessors of Title Deeds because the register will prove the rights that the Right of Occupancy offers to the possessor and means that all necessary information about the property is recorded. *The Registered Land Act* will control these questions. No land legislation is handling with land outside the surveyed districts. If it should be necessary for the government to reorganise and remove people from a specific area, priority is given to those who have a Title Deed. Compensation with a new surveyed plot and building materials must in those cases be prepared. This does not occur very often but the most essential is that the protection exists. (Mr Ghalib¹) (Mr Simba⁸)

9.2 Property- and Transfer Deeds

Property Deeds and Transfer Deeds are documents that prove ownership of houses. The difference to have documents that are provided by the Department of Land and Registration is that Title Deeds entitle land and its boundaries. Documents provided by Registrar General Office, Property- and Transfer Deeds, entitle only the buildings. (Mr Simba⁸) The legislation where the property registration is regulated is the *Registration of Document Decree*. When a property is bought and not situated on surveyed land a Sales Deed can be issued, which shows that the house belongs to the holder of the document. The group of Transfer Deeds that are provided apart from Sales Deed consists of Gift Deed and Vesting Deed. A Gift Deed is used when transferring property to someone you have a good relation to, a family member or a friend. Vesting Deed is similar to Gift Deed but can only be used by companies.

The other group of Deeds that Registrar General Office provides is Property Deeds containing Statutory Declaration and Wakf Deed. Statutory Declaration is used when someone wants to develop a plot or foundation with buildings or with crops. This type of deed is practicable to prove ones ownership, if an agreement has been made oral for example. Sheha is the one who solves ownership relations in these cases when witnesses or former owner are not available.

Wakf Deed means a document that shows the dedication of Wakf property to the society.

To acquire a Sales Deed you have to go through the same transfer process which is claimed for purchases of surveyed land, see chapter 8.2, with the difference that Registrar General Office prepares a Sales Deed instead of a Title Deed. There are no restrictions of who is entitled to apply for Property Deeds, but the procedure of transfer must be followed. The concerned Sheha has to give his admission on a transfer form, stamp and sign the statement, to acknowledge that the property belongs to the right person. Then the statements have to be confirmed by the District Commissioner and passed forward to the Department of Land and Registration. After their signature the Transfer form will return to Registrar General Office who prepares the deed. If a lawyer is involved it is not necessary to fill in the transfer form, the Registrar General Office presumes that the transfer has been accomplished in the right way. (Mr Rajab²)

Property- and Transfer Deeds are used to prove that the rights to the property belong to the person who is possessor of the deed. The privileges that the possessor has are not as strong as the privileges that are possessed through a Title Deed. However in disputes with private persons a Property Deed can prove the rights. If the government needs to demolish the building, the rights are strengthened by the deed. The government has to compensate building materials but is not obliged to provide a new plot somewhere else. (Mr Ghalib¹)

10 Field Study

Following chapter explains the aim of doing a field study in Zanzibar. It will also describe how the survey was performed; the methods that were used. In the end of the chapter the results from the study are presented. The field study lasted between 13th September and 28th November 2004. The study was in cooperation with SMOLE, explained in section 2.1. The interviews with inhabitants and observations were carried out 1st October – 5th October. Staff from SMOLE participated.

10.1 Purpose

The purpose of visiting Zanzibar was to come close to the problems people experience and be able to come to a conclusion of the purpose; to assess to what extent the informal settlements are ready to implement a registration system. To visit Zanzibar and experience land administration issues ourselves made it easier to get the correct information and a personal view of the system's functionality.

The field study carried out in Zanzibar can be divided into two aspects. Most of the time was spent on entering deeply into the land administration system in Zanzibar through formal interviews with authorities and less formal conversations with concerned civil servants at the Ministry of Water, Construction, Energy and Lands. The other part considered an in-depth study of a certain informal area in the closeness to Zanzibar Town, where no formal rights to land exists.

10.1.1 Interviews with inhabitants

The intention was to;

- I. Get people's *opinions* of land tenure issues and get an idea of their *knowledge* about land tenure; their rights to the land they occupy.

- II. Get an image of what *priorities* people have regarding to provided services and security to land and find out if they are interested to see new alternatives and solutions to the problems in the area.
- III. Find out if there are any *legal documents* of the land transfers. Also if the land or property was *registered* in any governmental instance and how common it is.
- IV. Identify where the *boundaries* are located; how the plot is defined and see if the neighbours had the same opinion of the location of the boundaries. Thus there could be discovered how adjudication and registration could be performed the easiest way.
- V. Look for land issues that are important, applicable and useful from Zanzibar's point of view. The visits in the informal settlement were furthermore a preparatory stage to find out how the area was *functioning* and *structured* through land division, types of ownerships, infrastructure and other services.

10.1.2 Interviews with authorities

A thorough investigation in how decision-making bodies and executive bodies are organised;

- VI. Detailed matters about transfers, types of ownerships, types of land *documents* and
- VII. What types of *rights* they give the possessor were essential to examine.
- VIII. The authorities' *attitude* to a registration system and how much power the government is putting into problems with informal settlements was to be clarified.

10.2 Method

To investigate the conditions under subsection I – V a quantitative interview survey was performed. The purpose was to get the concerned inhabitants' points of view in a sufficient extent. The number of interviewees and the spread were chosen so that areas with different conditions would be represented. The selection of quantitative interviews was carefully determined; in other words a stratified selection (Holme and Solvang 1997, 185), when considering geographical positions of the interviewees' houses. The selection between the households within the geographical area depended on where people were at home and able to answer the questions, or if they were ready to answer our

questions or not. The first-hand choice when choosing people to interview was the head of the households, most often the father in the house. This because it is easier to get detailed answers about questions concerning land tenure and economy. Although some interviews were performed with the housewives if they were willing to answer the questions. The selection cannot be described as a random sample, the selection depended on if there was anybody at home, if not next house in the row was visited instead. Doing the selection with random sample would have been too slow and taken much more time.

To investigate if the questionnaire was practicable and the right method was used, pilot interviews in Kwamtipura shehia were made. The answers did indicate which questions that gave the expected and required results. The experiences were used to change the questionnaire in a way that corresponded to our purpose and made it look like that one we used further on. The different answers given by men and women were taken into consideration. It was the intention that the interviews should not take longer than thirty minutes; to avoid the persons interviewed getting bored of answering.

There are two types of observations according Judith Bell (1995, 109); participating and no participating observations. Participating observation was used when living standards and building materials were observed.

To examine the conditions under subsection VI, VII and VIII public documents were studied, and interviews with civil servants who are supposed to carry out the ratified state policies were performed. The key persons were selected on the basis of what type of information we needed to obtain and after SMOLE had been consulted about appropriate suggestions. The aim was to interview the highest placed official to get the most trustworthy answers. These qualitative interview surveys were conducted more like conversations (Holme and Solvang 1997, 99) and the questions were prepared on the basis of what type of person that was supposed to be interviewed. Private conversations with special advisors at SMOLE were also conducted.

Authorities and departments where interviews were performed:

- Department of Land and Registration
- Department of Survey and Urban planning
- Registrar General Office
- The People's Bank of Zanzibar
- SMOLE
- Shehas

10.3 Interviews with inhabitants in the informal settlement

10.3.1 Choosing study area

The study area is defined as the specific informal settlement that has been studied in the thesis. Within the study area four smaller areas have been selected for interviews.

The decision of choosing the present study area wasn't made definitely on our own, but with help and consultation from Ghalib Omar¹ and Rashid Azzan⁹ both from Department of Survey and Urban Planning, with experiences of land issues in informal settlements.

The shehias within the study area were chosen principally because it should be an area which could be representative for the informal settlements in Zanzibar. Other informal areas in Zanzibar have similar problems, see chapter 5.5. Kwamtipura and Kilimahewa were both starting to develop as early as in the late 1970's, which means that the citizens could have been living there for more than thirty years. The area has all since then condensed to today's level where no more houses can be built without obstruct the passages. The area is bordered by two main roads in two directions and a valley in another direction. The settlement is surrounded by other urban areas, which means that our study area is unable to expand in any direction, see picture 10.3.

The study area consists of three different shehias; Kwamtipura, Kilimahewa and Amaan. A prerequisite for choosing this area as a case study area was that each Sheha respectively gave their permission and also were willing to cooperate and participate those days when the interviews were supposed to be carried out.



Figure 10.1. The study area's location in Zanzibar Town (SMOLE)

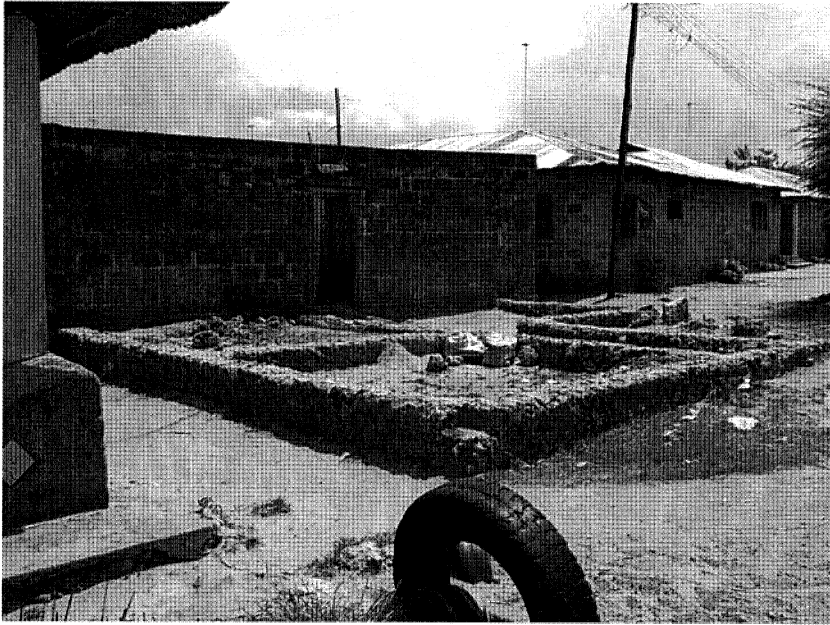
10.3.2 Information about the study area

The development started in the 1970's and extended mostly during the 1980's and partly in the 1990's. The development of the study area has been taken place gradually and covered the whole area. The concentration of residence places has steadily increased since the 1970's. The area is densely built up and not much space has been left except for a football ground and the area that environs Kwamtipura School. Kwamtipura School is also the most central place. The whole study area contains of approximately 2000 households divided into three different shehias, extended on an area of 630 000 m², app. 155 acres. In an area of 75 000 m², 1/8 of the whole study area, the plots are surveyed and bigger than in the areas that have not been surveyed. More space, compared to the rest of the area, has been left between the plots for public purposes.



Picture 10.1 Unfinished house beside a public collecting point

The condition of the houses is very varying, some are finished and some are lacking roof as well as walls. Because of the high costs to build a house, in proportion to their income, it takes several years to finish it. Many household demarcate their plot by building a foundation only, so that no one else can invade the plot. Access by car is very limited, there are some roads that can easily be reached by car, but mostly the houses are so densely built up that no cars can pass. The condition of the roads is inferior except for the two main roads that surround the study area. The roads are dusty, bumpy and narrow; there is no space for two meeting vehicles. During the rainy season the roads get dirty because the storm water drags along the soil from the roads. No proper drainage system exists in the area. The open drains that exist are used as dumping sites, which is why the rain water sometimes drags along the solid waste and spread it all over the area. The ground consists of soil and some trees, mostly coconut, are growing there.



Picture 10.2 Plot demarcated by a foundation. To construct a house usually takes several years.

10.3.3 Selection of interview areas

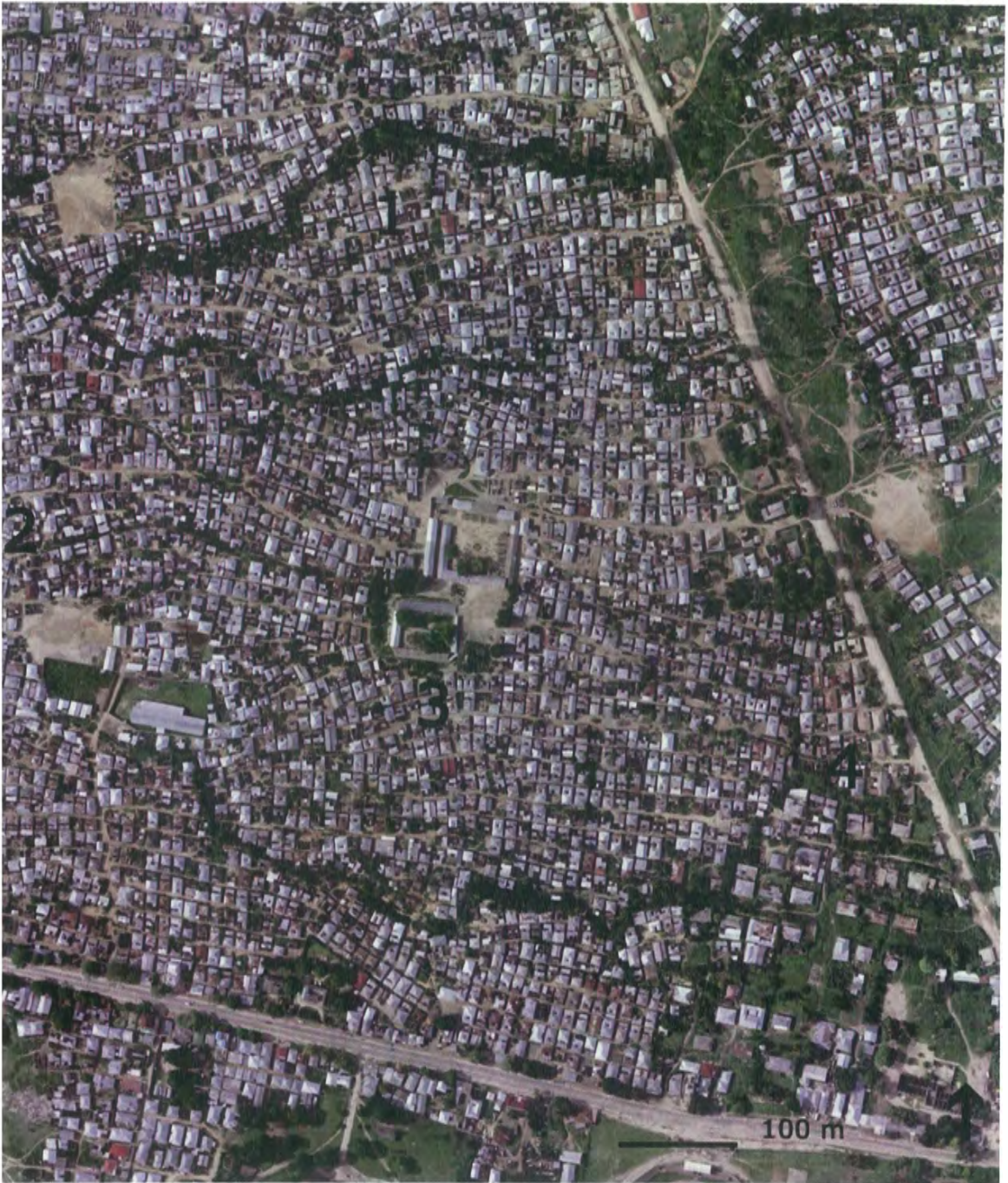
To spread the sample the interviews were carried out in four different areas within the study area. These four areas will continuously be identified as interview areas.

The reason of spreading the sample was to investigate if there were dissimilarities in the answers from the different interview areas depending on which service that was available in each of the interview area. The differences searched for were for example different types of documents, feeling of security and their priority regarding services. We expected that the results would slightly differ. Through choosing different interview areas it would be easier to compare the results in a later phase, like what type of ownership they possess, how much they have paid for their plots, get an image of when the most intense development occurred etc. It might also separate people's opinion when giving priority to changes in services or security.

Numbering of interview areas,

1. This interview area is situated close to the *valley* in the northern part of the study area. Located in Kwamtipura where all land previously belonged to one Three Acre Plot owner according to the present Sheha in the particular area. 10 interviews were conducted.
2. This interview area is situated in the western part of the study area, near the biggest *market place*. Located in Kilimahewa where all land previously was governmental according to the present Sheha in the particular area. 12 interviews were conducted.
3. This interview area is situated in the *central* of the study area, close to Kwamtipura *School*. Located in Kilimahewa. 13 interviews were conducted.
4. This interview area is partly *surveyed* and situated in the south east corner of the study area. Located in Kilimahewa. 12 interviews were conducted.

These four areas are showed in *picture 10.3* on the next page;



10.3.4 Line of action

The interviews were mostly performed in two groups, each existing of one of us and one employee from the ministry, visiting different households in the same interview area, at the same time. Each interview area was visited at different occasions and the persons interviewed were chosen by door-to-door method. The interviews lasted for about 20 minutes each and were performed in Swahili and translated into English immediately after each question. A *questionnaire* had been constructed so that all interviews handled the same questions, see appendix B. The answers were filled in directly in the questionnaires during the interviews. The specific house numbers where the interviews were carried out were noted in the map, so the information afterwards could be connected to a specific house within the study area.

The questionnaire contained questions about services, on one hand to keep that information for future purposes, on another to be able to use the information when comparing and evaluating the other answers in the questionnaire. The service questions also had the task of being easy questions for the interviewees after the more difficult questions about land tenure. In addition it was in the interest of SMOLE to ask questions about services.

During the visits some observations were made; to see how an informal settlement in Zanzibar is structured. Noticed aspects were; house construction, used materials, plot sizes, roads, access and open spaces, all to increase the comprehension and conception concerning informal settlements in general.

10.3.5 Uncertainties regarding the interviews

The field interviews were conducted with assistance by interpreters. It was noticed that the interpreter didn't translate everything that was said. Probably because the interpreters are familiar with these issues and therefore omitted information that seemed to be too obvious. It would have been valuable to hear the inhabitants' discussion about their priorities and more about the interviewed person's opinions about these issues. In some cases the interviewee had difficulties answering a question and the interpreter helped out by asking guiding questions. In that way the answers might be quite similar instead of getting the right view of the question from the person.

Some of the interviews were conducted without the presence of us and in these cases additional questions and other comments could not have been asked if that would have been necessary. During the interviews in Kilimahewa one of the interviewers was from the area and this could have affected the interviews. Some sensitive questions might have been awkward for the interviewer to ask

and for the interviewed person to answer. Even the interviewer's knowledge about the subject and knowing of the importance of the interviews was limited.

Answers about the value of the property are could have been overstated. A reason might be because of the fact that the interviewers were governmental employees from the Department of Land and Registration. One assumption is that the settlers want their property to be as highly valued as possible if they in the future would be compensated because of a potential rearrangement in the area. The overall situation might be influenced by the fact that the interpreters were from the government. Most of the people do not want to move and in that way they say that the area is functional.

People often feel secure regarding to their land ownership and also reply that they would feel even more secure with a legal document. This answer could be a consequence of the interpreter asking about a legal document rather than the interviewees reflected on this by themselves. There were also difficulties concerning the ability to compare what a legal document or a surveyed plot would do for them. The interpreters had to explain about land tenure and then give examples of changes that a document or a surveyed plot would do.

Most of the people in the area were self employed and questions about bank loan were therefore of hypothetical character, because of impossibility for a nongovernmental employee to take a bank loan, section 5.6. Some responded negative without any hesitation because they are not permitted and cannot afford the interest rate. Other answered as if they had the possibility.

Some answers might be misleading because the questionnaire was made in an early stage when our knowledge about the land administration system in Zanzibar was less complete. The different options of alternatives would have been different.

Almost half of the persons interviewed were women. This means that these answers are less reliable because of two different factors. Women do not know as much about land tenure as the men who most often is head of household and women might be afraid of revealing family secrets.

10.4 Results of interviews with the inhabitants in the informal settlement

Divergences in the answers between different interview areas are only described in those cases where it is apparent. Otherwise the answers have been reported as a group.

10.4.1 Household information

47 persons were interviewed in four different interview areas within the study area. Only 17 % had surveyed plots. The average age of the interviewees was 43 years and almost 50 % of the interviewees were women. 25 % of the persons in the households were working. More than half were self employed; mostly within business and farming, the other half was governmental employees. The average household consists of 5 to 8 people and the majority of the households make around Tsh 50 000 or more. This is approximately \$ 45, per month and is below the poverty line of \$ 1 per day and person (www.unhabitat.org).

10.4.2 Land Tenure

Purchase

Most of the purchases that concerned land were made from the 1960's until the end of 1980's. Land in Kwamtipura and Kilimahewa was bought when the urbanization reached the outskirts of Zanzibar Town and the town needed to expand in eastern direction. During this time period the land was given away for free or sold for a small amount of money by the government or bought from a private person according to the interview answers. All land in Kwamtipura was during the 1960's in possession of one Three Acre Plot owner and all land in Kilimahewa was governmental.

*72% of the persons interviewed have bought their
land/house private
19% have bought their land from the government
9% did not know from whom the land/house was bought*

During the 1990's the majority of the purchases consisted of finished or unfinished houses instead of land; which means that during the years the plots have been sold twice or more. These purchases have also been private purchases rather than purchases from the government. Purchases of houses have exclusively been made as private acquisitions. The purchases are often mediated by someone in the circle of acquaintances; like relatives or friends. Individual ownership is the most common type of ownership in the study area.



Picture 10.4 Densely built houses

Reasons of moving to the area

The main reason of moving to the study area is that the person interviewed was renting earlier and wanted to move to his own house. Other reasons were moving from family home or for job purposes; new job opportunities or closer to work. The causes of moving to the study area, to build or buy a house, is because most people could not afford a house closer to town or were unable to get a surveyed plot.

Agreements

The inhabitants were asked to answer what type of document they possessed, to find out in which extent signed agreements occur. A number of different documents concerning land and houses are offered by different governmental instances. These documents have been presented in detail in chapter 9.

Following answers were given to the question about possession of signed agreements;

55% did have signed agreements
36% had no signed agreements
9% did not know what type of agreement he/she had

Signed agreement in the questionnaire included contracts established and signed by Sheha that has no legal value, as well as the legal Transfer Documents. The Transfer Document is the only document that can be used when the property is registered at Registrar General Office and has to be completed with Sheha's signature.

Most of the people who had a signed agreement got a document from Sheha, 58 %. What type of document is difficult to determine, if it for example is a Transfer Document or a private made agreement. Only 8 % have answered that they have a Land Office Document; a Title Deed.

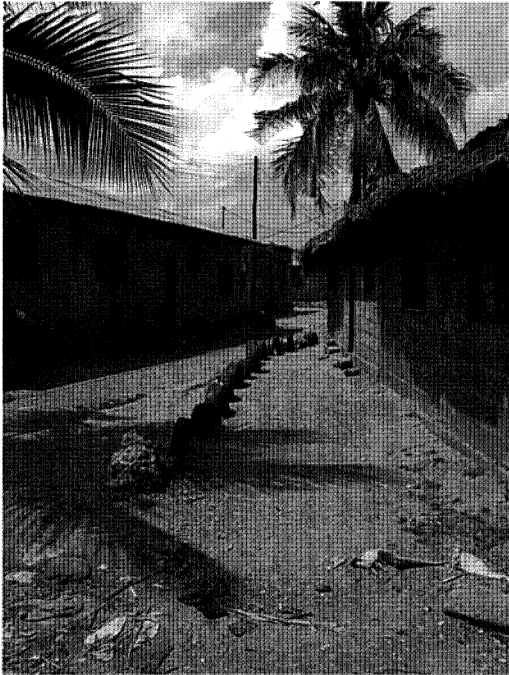
38 % of those who have a signed agreement have not registered the agreement at the government as mentioned.

Boundaries

It was in our interest to find out if the inhabitants were certain about the boundaries location and if they agreed to their neighbours' opinion about where the boundaries were located. The answers were used to see if adjudication easily could be done.

The signed agreements usually contain two things except for name of the vendor, purchaser and location; boundaries and purchase price. It is common to use the foundation to define the plot size, but in most cases the plot is bigger than the house. The boundaries are defined by other objects in the environment, such as trees, plantations, roads, stones and tyres. The inhabitants are in some cases also using a centreline between two houses or an imagined invisible line between two house corners as boundary. Although the boundaries are general, not fixed, people are completely aware of where the boundaries are located. Boundaries should be fixed according to the land legislation, see 5.7.

87% of all persons interviewed have declared that there are no conflicts between neighbours concerning boundaries. Only in four households problems had come up but these four were not adjoining. In three of four cases Sheha



Picture 10.5 Plot demarcated by tyres

participated in solving the problems. It is not very common that conflicts appear between the neighbours but when they do these can easily be solved through help from the local leader.

After comparing people's answers on what type of boundaries they have for their plot we saw that most often the answers agree with the surrounding neighbours. Where the corners of the houses were declared as boundaries, no reasons of conflicts came up between neighbours. In cases where the centreline was seen as the boundary we noticed only one case where the answers contradicted.

Security

People's opinion about their land tenure situation was examined through a couple of questions concerning security. The importance of possession rights is examined in section 3.5. The majority of the people state that they feel secure living in the study area, independent of what type of document they possessed;

*74 % of the persons interviewed feel secure regarding
to their land ownership
21 % do not feel secure
5 % do not know*

The answers do differ from each other regarding to different interview areas. 12 persons in interview area 4, where some of the plots are surveyed, did exclusively answer that they feel secure. Even in interview area 1 everyone have answered that they do feel secure regarding to their ownership, although this is the area with the lowest number, only 30 %, of the households with signed agreements. In interview area 3 there are only 50 % that have answered that they feel secure of their land ownership, but in contradiction to the previous area 83 % had a signed agreement, even though they are not registered by the government.

64 % have answered that they are willing to move to a surveyed area if they got the opportunity, but only on condition that they get full compensation for the house or a new finished house in another area. The persons who answered that they were not willing to move have mentioned they feel secure right now or they feel satisfied and happy with the present living conditions.

66 % have answered that they prefer staying at the plot where they live today instead of moving to another area that are surveyed. On condition they get the same security in the present area as in a surveyed area somewhere else. If they have to choose between a legal document where they live right now or a surveyed area with legal document, they obviously prefer to stay in the present area.

The person, who has bought the house latest, in 2004, paid Tsh 6 million. Normally the inhabitants estimation of the value is within the span between Tsh 2 million and 10 million, approximately \$ 1 800 - 9 100. These values can be compared to the average household income of Tsh 50 000, approximately \$ 45.

Investments

There is no possibility for the inhabitants to get a loan, section 5.6. Most people are building the houses gradually and the construction is depending on how much savings that can be put aside for building materials. Sometimes it takes up to 20 years to finish the house to the standard foreseen. Finished house is defined by foundation, walls and roof. People often start with building a foundation to show the plot size or the expected dimension of the house, subsequently room by room are built until the house is finished.

60% declare that they have finished their house
40% declare that the house is under construction

68 % have answered that savings from salary have been used for the house construction. Few have also answered that they have borrowed building material or

that they got financial help from family members. Almost every house where interviews have been performed is constructed with concrete blocks and the roofs are exclusively made of aluminium sheets.

66% of the persons interviewed have answered that they were willing to take a bank loan if they had the possibility. The majority, 68%, would have used the loan to invest in their own business; 35% would have used it for house construction. Some people have added that they would not be able to repay the loan if the interest rate would be as high as today. If the situation does change so that self employed persons could take bank loans and the interest rate would decrease, the interviewees would consider taking bank loans.

10.4.3 Services

In end of the interviews the persons interviewed were requested to rank services as if there was an opportunity to provide and improve services in the area. This was a way to see how important security of tenure is among other services.

The order of priority;

- 1 Water Supply
- 2 Health services
- 3 Security of tenure
- 4 Roads
- 5 Market
- 6 Electricity

1. Water supply

Water supply is definitely the most important service for the whole area. In households where no water is connected to the house it is essential to have water supply provided. In interview area 2 where they get water all the time or at least every day the priority was given to health service before water supply, but the remaining areas did put water supply first.

Over all it is very common to have water connected to the house, but the availability is very varying, in some cases people have to wait more than a week for water in their tap. When water is not available in the tap people get water from a public tap or from a neighbour that have water more regular.

*81% declare that they have water connected to the house
26 % of these households do mention that water is available always or daily*

2. Health services

Health service was the second most important service that people wanted improved. Everyone has the facility in a range of two kilometres but they all agree upon the opinion that it was the quality of health service that had to be improved and it is necessary for an increased standard of living.

3. Security of tenure

The next listed service is security of tenure. Interview area 2 and 3 have during the interviews answered that they feel less secure comparing to the other areas. Despite this they did not give higher priority to security of tenure than the others. Instead interview area 2 ranked security of tenure lower than average.

The answers of if they feel secure regarding to their land ownership (%) compared to their priority of security of tenure;

<i>Interview area 1</i>	<i>100 %</i>	<i>4th</i>
<i>Interview area 2</i>	<i>50 %</i>	<i>4th</i>
<i>Interview area 3</i>	<i>62 %</i>	<i>3rd</i>
<i>Interview area 4</i>	<i>92 %</i>	<i>3rd</i>
<i>Total</i>	<i>74 %</i>	<i>3rd</i>

4. Roads, drainage, solid waste

Between the areas the answers vary quite much. Interview area 1 and 2 thought that roads and access were more important than the other areas did. These areas are also those with least access, half or more than half have access to their plots by car. With respect to the area, access could not be defined as we are used to. Because of the roads poor condition it is very tricky to pass by car at all. Accordingly access means the prospects to succeed in reaching the house by car.

72 % within the whole study area have access by car

Many people, especially in interview area 1, are using the open drain as their dumping site. Many people have claimed that the lack of drainage is one of the biggest problems in the area and that it is a health risk. The majority is using a

public collecting point outside the school to get rid of their solid waste. The municipal council does the collections here weekly or once every two weeks.

45 % dump their solid waste at a public collecting point
30 % dump their solid waste right outside the house
23 % dump their solid waste in the open drain
2 % other alternatives

Pit latrine is mostly used in the interview areas 1, 2 and 3. Only in interview area 4 it is more common with water closet.



Picture 10.6 The roads are bumpy and narrow and the rainwater runoff is bad

5. Market

All households in the study area have a market within less than 4 km. Women have given higher priority to market place in a greater extent than men. Women have placed market place as 4th priority while men have placed it as lowest priority. This is the only point where the answers clearly differ between men and women.

6. Electricity

In average the lowest priority of services was given to electricity. Most of the people are using electricity for lightning and in some areas, especially in interview areas 1 and 3, kerosene is used in addition. Overall the most common source of energy for cooking is charcoal, but for example in interview area 1 fire wood is the most widespread source.

Other problems in the area

As a last step in the interviews, the persons were asked to share their thoughts about other obvious problems in the area. Some problems have been repeated from the previous question when ranking six of the most frequent needs of provided services. People have once again pointed out the importance of getting better availability to water. The second most common answer has been the problems with surface water during heavy rains, because of the bad drainage system. When the drains are getting overflowed the waste are spoiled away and leads to a risk of spread infections. Some says that the waste collecting point is too far away. Mosquitoes are a big problem and there are also crimes and social problems in the area.

10.5 Interviews with authorities

The list of the authorities interviewed can be found in the reference list. Carefully prepared interviews on specific occasions were performed to get comprehensive answers about the departments' framework and attitudes to informal settlements and registration. Also conversation with staff from SMOLE office and other department employees answered fundamental questions about the system's structure.

10.5.1 Results

Most of the information obtained in the interviews has been referred to in chapter 5-9 to make an appropriate description of the land administration system in Zanzibar.

Another aim was to find out the interviewees attitude to informal settlements and registration. The result can be summed up as; everyone that has been interviewed has been fully aware of the existence of the informal settlements and what type of problems these settlements are coping with. No concrete proposals how to approach these issues turned up during the interviews. Today the big challenge in Zanzibar is to introduce a land register, section 5.7, which can be an explanation of why the problems with the informal sector are not the main subject right now. Even if the consciousness and motivation to improve the informal settlements exist, the economical resources are lacking.

11 Discussion

This chapter is based on our own experiences of Zanzibar's land administration system. We have pointed out positive aspects that we think more effort have to be put into. The main part is used to discuss issues that we think is less functional and in need of being improved.

11.1 Strengths and opportunities

Shehas closeness to the inhabitants through the rule on local level is something that must be taken advantage of and ought to be continued working on. Through Shehas, information can easier reach out from the Departments to all inhabitants. Sheha is trusted and confidence-inspiring and through him the inhabitants' can easier get initiated in new land regulations.

There is infrastructure in the study area to a certain degree. Water, electricity and refuse collection exist, but not in a full extent. The services are there but need to be taken care of. The houses are built in line, still sometimes very densely. Because of the way the houses are built the greater part of the inhabitants do have decent access by car.

In Zanzibar there is an awareness of the problems in existing informal settlements. We want to point out this as a great strength. There is also a willingness to get better control over these areas. The Departments are together working on these issues.

The people in the study area have explained to us in detail where boundaries are located and how they are demarcated. This shows that a future adjudication will probably be implemented fairly easy.

11.2 Weaknesses of today's system

11.2.1 Reasons of the existence of informal settlements

The occurrence of informal settlements is a sign of a non functional land distribution system and a scarce economy as reviewed in section 1.1 and 3.2. Informal systems, including housing- and labour sectors, are not desirable at all because it means waste of economical resources. Absent taxes mean a loss of state income, see 4.7. The informal inhabitants have to live with poor security of tenure and inadequate infrastructure. Compared to other developing countries in the world Zanzibar has relatively small problems with informal settlements. Therefore more effort ought to be put in identifying the problems the informal areas are experiencing. The extension and the building density in the informal areas might be impeded through awareness. It will be even more complicated to handle the problems in a later stage. Even though the security of tenure is lacking in the informal settlements, many people do not hesitate to build houses that block the through ways. Because of the government's passivity; occupation and illegal transfers in principle have been accepted.

The choice of settle down in areas already developed by other informal settlers can be explained by the availability of water pipes and electricity wires. As time goes on less and less open spaces are left for building purposes in the closeness to Zanzibar Town. Reasons of moving to the study area were;

- **Economical factors** – people could not afford plots closer to town. A plot in the outskirts of town is cheaper comparing to one closer to town, no matter if it is surveyed or not. The plots were also easier to get hold of because there was no available space for new plots closer to town.
- **Bad availability of surveyed plots** – people have limited possibilities to be offered a surveyed plot because of years of cumbersome procedure. See section 5.5.

It is most common, 70 %, to have moved within the study area or from a more central part of the town; from parents' house or a house that has become too small for their family. 17 % have moved from rural parts of the mainland and some also from Pemba. The immigration is significant and for that reason it has to be taken under consideration as well.

There are some deficiencies that we want to point out as the most important issues to solve about the land administration in Zanzibar;

The cause of the concentration in the informal settlements is the slow pace of allocating surveyed plots. The big challenge for the government, to decrease expanding informal areas, is to prepare *more surveyed plots* to meet the demand. Adjudication and surveying have to be more efficient and the number of offered surveyed plots must increase. Today people have to wait years to be allocated a plot.

Another way to control the informal areas, if the resources are not enough for more surveyed plots, might be to *plan new basic areas*. To start with providing these areas with infrastructure and in a future stage get the area surveyed and registered.

The interviewed settlers have mostly moved within Zanzibar Town and not from the rural parts of the group of islands. The conclusion drawn from this is that the pattern of movements is most often because the lack of available residence sites rather than a ground of urbanisation. If the number of allocated plots could increase, the people would not be forced to build in informal areas. The informal housing sector would be reduced and the time of waiting for a surveyed plot would be shortened. An increased formal housing sector would imply a *reduced informal sector*, which gradually would lead to higher national income through taxes and other revenues.

Today the government's *passivity*, which is a consequence of lacking financial resources, has legitimated illegal construction.

Today's low number of allocated plots invites some persons to *make business* by selling surveyed plots outside the formal system. The price to get hold of a surveyed plot only includes surveying costs, because of the fact that all land is governmental. The attraction of living in a surveyed area gives the plots a higher market value. Some people who have been allocated surveyed plots have sold it and moved back to informal areas.

11.2.2 Indistinctness between Three Acre Plots, private-and governmental land

As a Three Acre Plot owner, explained in section 8.1, you are not allowed to subdivide and sell parts of the plot. This happens anyway and the government has no resources to control it. Most of the Three Acre Plots in the closeness to Zanzibar Town have been subdivided and used for living purposes. The unfortunate consequence is that valuable agriculture land becomes urban land. The Three Acre Plot owners do not have the interest to cultivate the land if there is more money to earn by selling it and the probability to be punished is minimal.

The two interviewed Shehas had unequally opinions whether there have been Three Acre Plots in Kilimahewa and Kwamtipura respectively. Sheha in Kwamtipura declared there was only one Three Acre Plot owner before all houses were built. After studying the map of the area we realized that there probably was more than one because the area is much bigger than three acres. This shows Sheha's lack of knowledge about land issues or maybe their reluctance to tell the truth because they know it is forbidden to subdivide Three Acre Plot land. Not many of the inhabitants interviewed answered that they had bought land from a Three Acre Plot owner. In fact there ought to be more plots sold by Three Acre Plot owners, considering that quite many persons bought land in the 1960's. Most of the inhabitants told us that they bought from a private person. It might be that the persons interviewed have taken the Three Acre Plot owner for a private person. Another explanation could be that they hide the truth because of the fact that it is against the law to subdivide and sell Three Acre Plots. The inference drawn from this is;

The Three Acre Plot owners are private persons who do not have any formal obligation neither the interest to save spaces for public use when subdividing the land. This has resulted in the *areas becoming too densely built up*. Another consequence of the subdividing is that valuable agriculture land has become urban land. Better supervision over informal transfers is required.

11.2.3 Confusing documentation, way of registration

We learned that there was a confused heap of different land documents for the inhabitants to sort out, see chapter 9. It is difficult to say if the ones who answered that they have a signed agreement mean that it is a legal governmental agreement or if it is a private document issued by Sheha. We got the impression that people do not know where to go to get a document, to prove their ownership of the house they purchased. We assume that most people would like a living situation as safe as possible. Despite this more than half of the inhabitants just turned to Sheha where no legal document is offered.

Shehas' knowledge about the importance to get agreements registered at the right instance must be enhanced. Today Sheha does not have any responsibility regarding the transfer process, which means that the process most often ends with Sheha's checking and signing, see figure 8.1. Sheha is a respected man and everyone in the shehia knows who he is. He should hold a position as administrator and technical advisor in land issues but the right of decision should the Regional Commissioner Office be responsible for. Sheha ought to guide the inhabitants and inform them about the importance of registration and the consequences of buying houses on informal land. Sheha ought to have better authority to prevent the extension of the informal settlements in the area he is in

control of. But initially he has to be better initiated in land matters. Shehas need clearer guidelines what they have to and are entitled to do but above all they have to be better educated. A major problem today is that Shehas are not always doing as the decision-makers require. Shehas are appointed by the government and can only be replaced by the ruling government. The way that Sheha handle land issues today is not always good for the expanding informal settlements and has to be managed differently.

Shehas ought to have;

- **Knowledge** about land issues
- **Education** about land matters
- **Authority** to prevent extension
- Clearer **guidelines** of what he is entitled to do

We have seen some examples of persons living at surveyed plots and only have their documents registered at the Registrar General Office. This shows that people do not know where to turn. It also shows the lack of communication between the Registrar General Office and the Land Office. It is hard to say why this occurred; if the Registrar General Office does not have the comprehension of the importance of registering the document so that a Title Deed can be issued, or if the reason is passivity.

It would be better to have one authority that has the power to issue land documents and only one standardized document. The documents issued by Sheha are well-known among the citizens and are applied to a great extent. One positive way of handling with these types of documents could be by trying to formalize these and merge with Title Deeds. Sheha is a good link between the inhabitants and the government, but it would have been positive if the process of land transfers between Sheha and the Land Office would be shortened. We want to point out the following aspects as central about documentation;

Different types of land documents are issued by Registrar General Office and the Land Office respectively. Also the local leader, Sheha, is issuing documents but these are of no legal value in the formal system neither today nor when the land legislation goes into force. Positive for the inhabitants would be if these documents in the future were brought up in the formal system. The system is complex and contains too many *different types of documents*; it needs to be centralized.

People cannot figure out the differences between different land documents. Consequently the *procedure of transfer* must be simplified and information of how to carry through must be clearly known for the population.

Sheha is well-known, respected and he inspires confidence among the inhabitants. Shehas' lack of awareness about land issues affects the society in a way that does not prevent the extension of informal settlements and does not increase peoples' knowledge about the importance of legal land documents. The inhabitants need better guidance, how to proceed in land matters, and Shehas need better *guidelines*. We recommend demanding more *education* on the whole and within the land administration subject from Shehas.

11.3 Knowledge and priority

11.3.1 Services

The six service alternatives that were sorted on a scale by the inhabitants are of different categories, especially security of tenure compared to other physical measures. They are consequently difficult to compare to each other without taking the amount the inhabitants are willing to pay, to get the improvements, into consideration. Despite of this fact, the results tell us what priorities they have.

The inhabitants in Kwamptipura and Kilimahewa made it obviously clear to us what services they thought was the most essential to be provided. Exclusively the answers were water supply, not unexpected for us bearing the very irregular water availability in mind, section 10.4.3. Even if the majority have water connected to the house, the system of water mains are very unreliable and with irregular flow.

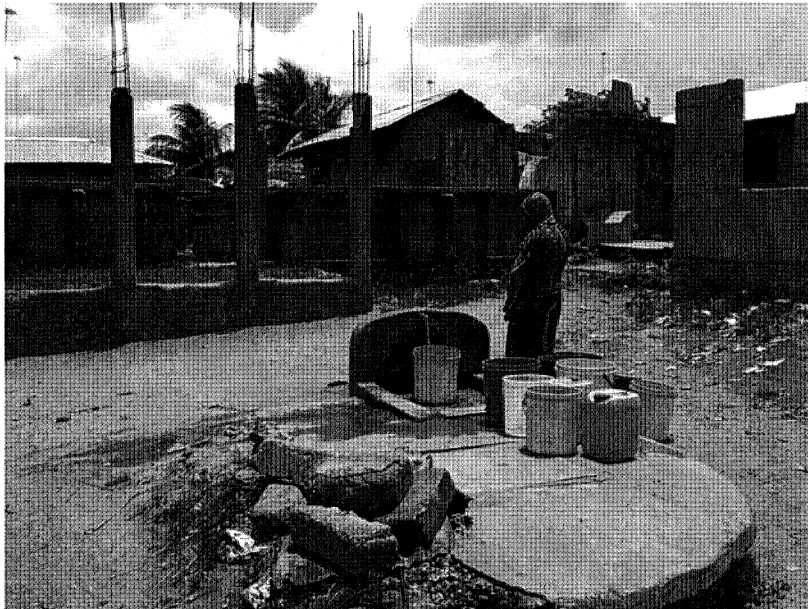
Health service is the second necessity being in immediate need of improvement. It is not remarkably that this is a high priority considering the circumstances the informal settlers are living under. Population density, dust, mud and uncontrolled dumping of waste are factors that lead to unhealthy living conditions. These issues are connected with the wish to improve other facilities such as solid waste collection and roads. In areas where the allottees have bad or no access by car, this question is of the most significance. However the ambition is not to give every single parcel access by car, rather to think of the area as a bigger part and to improve the through ways.

People have a strong correlation to problems in basic services because these problems are dealt with daily. Peoples thoughts go directly to water and health problems when asking about troubles connected with living in the specific area. In general they are not thinking of land security problems unless a particular problem occurs. The reason of ranking the security of tenure on third place is rather a matter of fact that the question turned up, when the interviews were performed through the discussion with represents from the departments. People

are poor and in every day life other aspects are much more in focus than strengthen the land tenure; providing maintenance, food, clothes and fresh water. The market place in the study area is functional and all necessities can be found which leads to market as a service is not a high priority among the other alternatives. Women have given higher priority to market than men, maybe because they are responsible for food and shopping. Otherwise the answers do not differ substantially between genders.

These conclusions point out the importance of including service providers and developers beside those who are managing land matters. The environmental consequences in informal settlements need the same, if not more, effort to head in the right direction. Title Deeds or no documents at all; the water and health problems are still there.

Although the information about will of payments for different services is missing, security of tenure is the third most important service also points out that there is a will among the inhabitants to take part in an improvement of the land security.



Picture 11.1 Public water tap

11.3.2 Land security

The inhabitants' knowledge about land issues extends to be from whom the plot has been bought, where the boundaries are situated and if the contract has been signed and witnessed. Registration is not a well-known conception, and the advantages that follow cannot be discerned by the settlers. The relation between if they have signed agreement and if they feel secure regarding to their land ownership obviously do not have that clear connection. Probably there have not been any conflicts and there is no one in the area that has been evicted which gives the inhabitants the feeling of security. The persons have answered what feelings they have about their security rather than basing the answer on the statements about what type of agreement they possess, or if it has been registered, see 10.4.2. People cannot figure out the differences between different documents. A problem is that people feel secure with Sheha's documents, and think there is no value to carry out the purchase in a legal way. It is desirable that the government creates one standardized document that can be used in Zanzibar including the informal settlements. Consequently the procedure of transfers must be simplified and information of how to carry through must be clearly known for the population. To inform the inhabitants of a future registration is one fundamental prerequisite to succeed in implementing it. If the inhabitants do not understand the significance of it, the system will not be successful. Different channels could be used; radio/TV, leaflets, informants and in particular Sheha.

Majority of the respondents, 66 %, have answered that they prefer to stay in the informal settlement where they now live, if the security will be improved through a Title Deed. One explanation can be that they cannot afford moving, even if they get compensated. The question could also have been construed as they are choosing between a legal document or a surveyed area without a legal document. Another more reasonable explanation is that they feel satisfied with their living in this area and have no need to move to another area, even though the area is lacking some of the most essential services.

11.3.3 Economic viewpoints

The low building pace in the study area is affected by the lack of security, because people are scared of risking their money in insecure investments. The bank loaning aspect is another reason of why the building process takes a long time. People in general are not entitled to take loans for housing investment, see 5.6, and are therefore forced to build gradually, when they can afford buying building materials. A non functional bank loaning system is an issue of the level of economic development. Without a stable economy resources for services and improved housing conditions remain scarce.

The inhabitants in Kwamtipura and Kilimahewa were asked questions about their interest in taking bank loans. Our notion of the economic prerequisites was wry, since private loans are something that is far from the people's reality. The questions were accordingly hard to answer. Some people have added that they would not be able to repay the loan if the interest rates would be as high as today, if the situation does change at some time, many of them would have been interested in taking a bank loan.

To get an idea of the value of the houses in the study area, people were asked to estimate how much they would get if they were going to sell their house. The told prices were in the span between Tsh 2 million and 10 million for the houses that were included in the study, i.e. houses of varying standard. The answers did not differ considerable between similar houses. The value ought to be an approximate value of the investments made in the house since the purchase and a market valuation of the house, a comparison of how much the neighbours got by selling the property. One can also assume that the persons interviewed chose to put a higher value on the house, just because they did not know why the question was asked and what the answer would be used for.

In formal settlements the government owns the land and private persons may use the land as a Right of Occupancy. But in informal settlements the land on which the house is built is claimed and the land is included when the plot is sold, as if it was private property.

11.4 Registration system

11.4.1 Adjudication

When a registration system is going to be implemented it is very important that all rights regarding land are investigated. Boundaries between private persons and between public land and land with right of use have to be determined. During our field study in Zanzibar we wanted the questions about boundaries to be answered very careful. If the issues about boundaries and land possessions are solved it is easier to accomplish a sustainable adjudication. Adjudication is necessary; it has to be done before the registration can begin. Adjudication is explained in part 4.2. An accurate adjudication leads to smoother registration. To find out how easy adjudication could be done in our study area we asked the person interviewed to show us the location of the boundaries. They were also told to explain how the plot is defined and what type of markings that are used. Almost everyone could easily show the markings and the location of the boundaries. Even if there is no signed agreement, the boundaries are clearly known.

Boundaries seem to be very important and almost everyone has defined general boundaries, even if a defined boundary sometimes means an invisible centre line between houses. The boundaries are for example marked by the corners of the house, trees, an invisible centre line between houses and tyres. Boundaries are also the most common component in the agreements that people possess.

Questions about conflicts between neighbours concerning boundaries were interesting because we investigated if people had the same opinion about boundaries and if there were any conflicts. Four persons told us about occasional conflicts. None of these plots were adjoining. This is probably because their neighbours were not included in the selection or denied that there have been conflicts, to avoid offending their neighbours, or have moved from the specific plot. The few conflicts could easily be solved through help from the local leader.

Considering mentioned matters it means that if people have been given honest answers, *adjudication* could be performed smoothly without protests.

11.4.2 Registration

Only four persons out of 47 in the study area told us they had a Title Deed. In fact only two of these four people can have a Title Deed, because they are the only ones that have surveyed plots. This is an example of the lack of knowledge about the documents that are offered in Zanzibar and the knowledge about land tenure. Many of the interviewed people have got a legal Transfer Document but far from everyone actually did register the document at Registrar General Office. People do not have the habit to register land transfers and this need to be changed.

Many just filed the document at Sheha. Not even the persons with a surveyed plot had their agreement registered at the Land Office. People who answered that they registered their document either registered their document at the Registrar General Office or filed it at Sheha. It is difficult to say how many who could register their document and how many who really did it, because the questions from the quantitative interviews should have been formulated in another way. Those who have registered documents have most likely filed it at Sheha and not at the Registrar General Office. To file the agreement at Sheha gives no legal value or safety regarding to the house ownership but is a way to keep an additional copy of the agreement.

Most likely the private person does not know where to turn with land issues. The Registrar General Office is better known than the Land Office among ordinary people. Some people with a Title Deed just registered it at the Registrar

General Office. The persons working there have to support the process of all transfers and pass them who have a surveyed plot to the Land Office to get a Title Deed.

Some examples of answers to the question about why registration did not take place were;

- The procedure of applying was not clearly known
- There is no meaning nor value applying for it
- Feels okay without registration
- Cannot afford to register the document
- It is a private agreement, cannot be registered

Our opinion is that most of the people are not aware of the importance of registration and they do not know about the procedure of applying for a Property Deed. It is not an issue that has occurred since they bought the land or the house or even then. Some people knew the significance of registration but thought it was circumstantial, too expensive or pointless to register their agreement. Some people do not think registration makes any difference to their security of land. Some mention that they would feel more secure to have a legal document when the house is going to be inherited. Many of the purchases were conducted a long time ago and at the time of the purchase people trusted each other and no document were issued to prove the transfer. Today private vendors might have moved from the area or are deceased. For that reason no document can be issued at a later time. This is a common explanation why people do not have a document.

It is not easy to determine if the informal settlements in Zanzibar is ready for land registration at the moment. We do not want registration systems to appear as disadvantageous. We rather want to advocate registration. Registration is very important for a private person, for a country and in the extension for the economical development, see section 4.5. We neither aim nor are able to conclude whether the formal parts of Zanzibar are ready for a registration system for the moment. Question is whether the study area is prepared to implement a registration system at the moment and if a registration requires some reorganization in infrastructure.

To implement a registration system some prerequisites must be complied with. This analyse assume that our study area is a typical example of an informal settlement in Zanzibar. We assume that other areas have similar problems;

- After visiting and seeing these areas and interviewing the inhabitants we noticed that people give priority to and inquire better basic services, for instance water supply. That is the most essential requirement they need and water supply in this area is deficient. Water and roads are the two most important services that need to be upgraded. The roads are at some places impassable by vehicle. It is probably better and easier to improve the infrastructure before implementing the registration system, because some houses have to be demolished to improve these services. At the moment all houses cannot be registered because they are built too densely. The accessibility is low and will continue that way if registration includes all existing buildings in the settlement. The free space between the parcels is insufficient to be used as proper roads. At some places the house owner claims the space between the houses. Consequently these issues have to be taken care of.
- Information about registration has to be available for all inhabitants. How to use the system and which advantages that can be gained through it. It must be urgent to register and a natural thing to do when a house or land is bought. The system has to be easy to understand and use with one legal document and one office where the document can be registered.
- In new surveyed areas in Zanzibar modern houses are built and the plot sizes are bigger than the house. In the older neighbourhoods the most common type of house is Swahili house. The house has an inner yard where household facilities as laundry, kitchen and playground are situated. For this type of house a garden outside the house is not demanded. When the Swahili houses are going to be registered we propose the plot sizes can be the same size as the house. Without expanded plot sizes fewer houses have to be demolished. More space is given to public purposes if the space between the houses is not claimed for private purposes.
- We recommend that the registration process should begin in the formal areas, where the plots are demarcated and the allottees have a Title Deed, but where no connection to a digital map exists. In the meanwhile the fundamental services should be taken care of in the informal settlements. It will probably take years before the informal settlements can be registered. In the meantime while other areas become registered the adjudication in the informal settlements can begin. No sporadic registration, see section 4.3, would be done in these areas until infrastructure is taken care of. At the time for registration, it should be done systematically. But the first step is to improve services from the perspective of the whole area and later improve for each individual through registration.

12 Conclusion

We do not think that informal settlements in Zanzibar at this stage are ready for a change in the extent that a registration results in. We base this statement on the discussion in the previous chapter.

To be able to register the informal settlements an upgrading of infrastructure is necessary and the area needs to become more open. We have observed that the inhabitants in the informal settlements are anxious to get a better situation regarding their land tenure. There is a will to undergo and take part in land development even if the most important daily matters that are dealt with are water supply and health service.

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Appendix A



THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR

THE LAND TRANSFER ACT NO. 8 OF 1994 APPLICATION FOR TRANSFER OR LEASE (SECTION No. 6)

INTERPRETATION: (1) "LAND" includes land by itself, land covered by water, all things growing on land, and buildings and other things permanently affixed to land except trees when specifically classified and owned separately;

(2) Here state the type of document/title such as Document for Price, Lease, Gift, Oath, etc. That is the Document for Lease or Statutory Declaration. The bill of such Document must be attached.

Date

.....20.....

1. Name and address of transferor/lessor
.....
.....
2. Date and place of birth of transferor/lessor.....
.....
3. Identification number of transferor/lessor
.....
.....
4. Name and address of transferee/lessee
.....
.....
5. Nationality of the transferee/lessee
.....
6. Date and place of birth of transferee/lessee
.....
7. Identification number transferee/lessee
.....
8. Location of the land (1), including the unique parcel/house reference number with boundaries:
 NORTH
 SOUTH
 EAST
 WEST
.....
9. Quantity and type of trees
.....

- 10. Type of the Document/Title (2)
.....
- 11. Document number for whom has got a right of the land and if not
how did he/she get the land
.....
- 12. Conditions for the transfer/lease
.....
- 13. Agreed payment for the transfer/lease of the parcel of land
.....
- 14. Purpose of the transfer/lease
.....
.....
- 15. Other information considered relevant
.....

We who have been mentioned above verify that all what were
mentioned above are true

Signature of the transferor/lessor
.....

Signature of the transferee/lessee
.....

Remarks/Opinion of the Sheha Committee where the land is
.....
.....

Member of the Sheha Committee

Member of Sheha Committee

Member of Sheha Committee

Member of Sheha Committee

(Stamp of Sheha)

Date20..... Signature of Sheha.

Recommendations of the District Commissioner where the land
is.....
.....
.....

(Stamp of District Commissioner)

Signature of District Commissioner

Date 20.....

Recommendation by the Executive Secretary, Commission for Lands and
Environment, Zanzibar

.....
.....

**EXECUTIVE SECRETARY
COMMISSION FOR LANDS AND ENVIRONMENT
ZANZIBAR**

(Stamps of Commission for Lands
and Environment)

Date, 20.....

VARIOUS FEES:

Sheha: Should be paid not more than Tanzanian Shillings
10,000/-

District: Should not collect more than 15,000/-

Environment: (a) House: Fee is 1% of the total value of the
property

(b) Agricultural lands (farms) that sold to each other among the
local people for the purpose of keeping on utilizing for
agriculture, cultivation, etc, - 0.5% of the total value of the farm

(c) Farms that are sold for investments or approved projects - of
the total value of the farm or project.

Appendix B

Questionnaire (31 questions)

Date:

Time:

Person interviewed:

Shehia: 1. Kwamtipura 2. Kilimahewa (lower/upper)

House number:

Gender

Age

Position in household

1. Household information

1. How many people are living in your house?

2. How many in your household are working?

3. What is *your* occupation/profession?

Self employed; Shopkeeper, businessman, carpenter, farmer, other ...

Private institution; Hotel, shop, farmer, driver, other.

Governmental employee, specify

4. How far is it to the place where you work?

5. What is your household's income per month?

< 50 000 Tsh

>50 000 Tsh

2. Land tenure

1. Did you buy your piece of land or house? Yes/ No land/ house

If yes: Did you get a grant?

When did you start building your house?

If no: How did you get it?

Inheritance?

Borrowing?

Rent?

Other?

2. When did you move here?

3. From where? Rural area Urban area, closer to town/ further

away from town

4. Why?

5. From whom did you buy? Government TAP Private
Other.
6. How did you get in contact with the seller? Friends Advertising
Other. The seller lived in the neighbourhood
7. How much did you pay? When?
8. Do you have individual ownership or do you own together with your husband/wife?
Individual With family members Multiple ownership
9. When you bought the land did you sign an agreement? Yes/ No
If yes, what does it contain? Boundaries Size Purchase-price
What type of document is it, where did you get it? Sheha Land Office
Other Governmental Office Oral agreement with witnesses
10. Did you register the agreement? Yes/ No
If yes: Where? Local Leader Government
How long did it take?
- If no: Why not?
11. If you are going to sell your land/house, how much would you get?
12. a) Do you have defined boundaries for your plot? Yes/ No
b) Are they demarcated? Yes/ No How?
- c) Do you know exactly where the boundaries are? Yes/ No
d) Can you please show us the boundaries?
13. Do you feel secure living here regarding to your land ownership? Yes/ No
If no, why not?
14. Are there any conflict between you and your neighbours concerning boundaries?
Yes/ No
How do you solve such problems?
-

15. If the government offer you a surveyed plot somewhere else, are you willing to move?

Yes/ No Why?

.....

.(How much compensation?)

16. a) How did you get the money to build your house?

b) If you had the possibility to get a bank loan, would you? Yes/ No

b) If yes, what would you invest in?

c) If not, why?

3. Services

1. Do you have water connected to your house? Yes No

If yes: Can you always get water from the tap? Yes/ No

If not, how do you get it?

2. Do you have access to electricity? Yes/ No

If not: What sort of energy do you use for *lightning*? Lanterns, candles, kerosene

What sort of energy do you use for *cooking*? Fire wood, charcoal, kerosene

3. Where do you dump your domestic solid waste?

4. Do you use pit latrine or water closet? Pit latrine Water closet

5. a) How far is it to the nearest school?

b) How far is it to the nearest health services?

c) How far is it to the nearest market?

6. Observation: (Do you have access to your plot by car? Yes/ No)

7. If the government would provide services what is your priority?

security of tenure	water supply	electricity
health services	roads	market

