



BALANCING INFRASTRUCTURE DEVELOPMENT AND COMMUNITY LIVELIHOODS

Lessons from Mtwara –
Dar es Salaam Natural Gas Pipeline



OXFAM

Discovery of significant quantities of natural gas in Tanzania since 2010 has necessitated the construction of relevant infrastructure – pipelines, processing plants and gas to electricity plants - to monetize the resource. While the discovery presents enormous potential for lifting Tanzania out of poverty and improving energy security, such infrastructure projects are also associated with risk to community livelihoods.

This paper examines the process of constructing the Mtwara - Dar es Salaam pipeline, its impact on local communities and their livelihoods. The findings show that while basic safeguards for land rights are given in national policies and laws, especially in relation to community consultation and compensation related to land acquisition, there was lack of consistency in their application and a significant mismatch between national and internationally recommended practices. The price of these discrepancies is borne disproportionately by the communities at the frontline.

1. INTRODUCTION

This briefing note summarizes findings from a research study on the impacts from construction of the Mtwara – Dar es Salaam Natural Gas Pipeline on the land rights of displaced communities in Lindi and Mtwara. The study was commissioned by Oxfam in Tanzania and undertaken in February 2016. The research aims at contributing to improvement in the governance of natural resources in Tanzania through highlighting strengths and gaps in policy design and implementation and opportunities for improvement.

A series of discoveries of oil and gas along the East African coast, from mid 2000s earned the region the title of the new oil and gas frontier.¹ This came as a result of discovery of oil in Uganda (2006), Kenya (2012) and significant quantities of natural gas in Tanzania and Mozambique from 2010.² While most of the reserves have not come online yet, the status of East Africa as an ‘under-explored’ region means there are higher prospects that there will be an “even larger share of global production and reserves in the future.”³

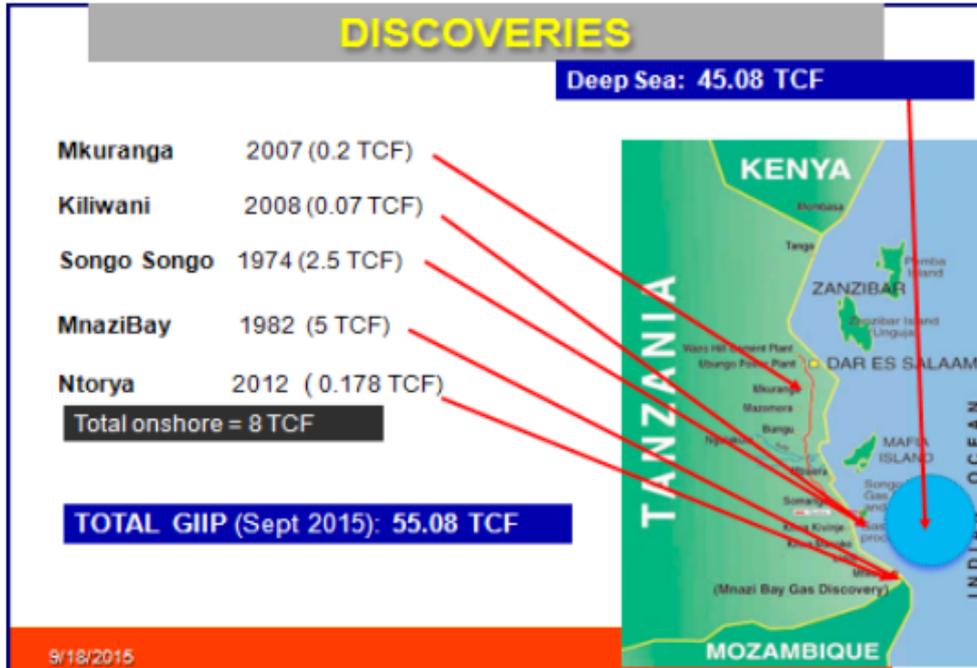
Natural gas in Tanzania

Oil and Gas exploration began in Tanzania in 1950s. However, first discovery was made in 1974 on Songo Songo Island in Lindi and 1982 in Mnazi Bay, in Mtwara region. Plans to construct infrastructure to exploit the resource did not start until 1990s. The delay was mainly attributed to the uneconomical viability of the resource.⁴ Eventually, a 230 KM pipeline was built from 2001 – 2005, running from Songo Songo Island to Ubungu in Dar es Salaam.

Beginning 2010, exploration companies made series of significant discoveries along the Indian Ocean coast, in Lindi and Mtwara. The discovery, as was the case across East Africa, happened within a context characterized by a general infrastructure gap i.e. pipelines, processing plants and gas to electricity plants.⁵ The government acknowledged this gap in the National Natural Gas Policy (2013) and made a commitment to “participate strategically through its national companies to develop and operate major infrastructure for natural gas.” Besides, the policy stated that “all natural gas processing activities” should be undertaken onshore.

Government commitment to construct key natural gas infrastructure on-shore carries implications, in terms of positive and negative impacts, on the livelihood of citizens as well as on the environment. Land acquisition and resettlement, which often accompanies major, land-based development projects, usually causes either physical or economic displacement, or both.⁷ Ensuring fair, transparent and justified compensation is an obligation that governments have to fulfill. Failure to uphold this fundamental requirement means that projects aimed at bringing development may end up undermining the rights of those that should benefit.

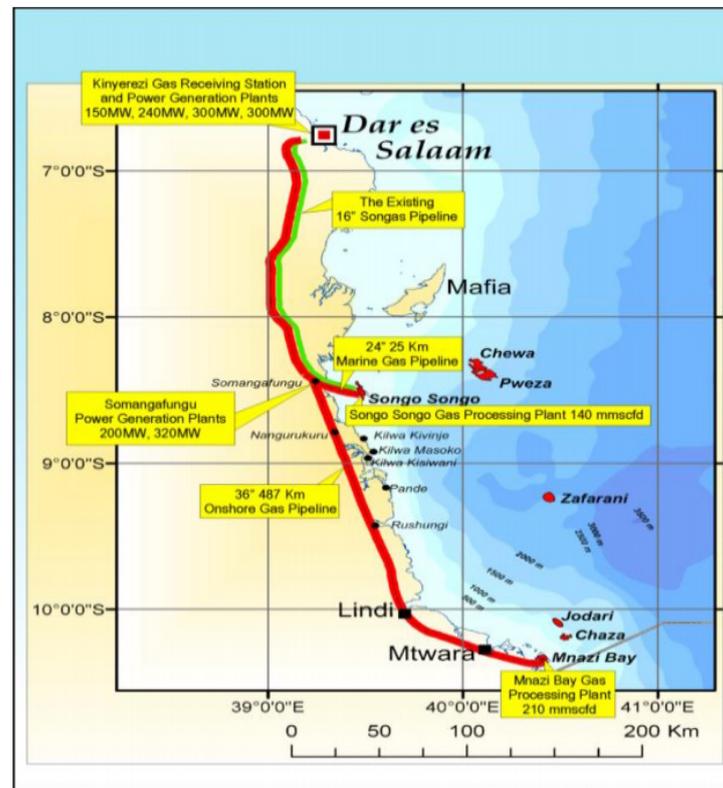
Figure 1: Map showing status of discoveries by Sept, 2015⁸



2. INFRASTRUCTURE VS COMMUNITY LIVELIHOODS?

The Mtwara – Dar es Salaam natural gas pipeline project (marine and terrestrial) was implemented under the National Natural Gas Infrastructure Project (NNGIP) whose aim was to address the infrastructure gap in the natural gas sector.⁹ The construction of the 542-kilometre pipeline took place between 2013 and 2015 and had 4 main parts; (i) 290-kilometer terrestrial pipeline of 36-inches diameter from Madimba village in Mtwara region to Somanga Fungu village in Lindi region; (ii) 25-kilometer marine pipeline of 24-inches from Songo Songo Island in Lindi to Somanga Fungu; (iii) 197-kilometer terrestrial pipeline of 36-inches diameter from Somanga Fungu to Kinyerezi in Dar es Salaam; (iv) 30-kilometer terrestrial pipeline of 16-inches diameter from Kinyerezi to Tegeta in Dar es Salaam.

Figure 2: Natural Gas Transportation Pipeline from Mtwara – Dar es Salaam¹⁰



The majority of financing (95%) for the NNGIP project (including 2 processing plants) was obtained as a loan from the Export–Import (Exim) Bank of China, while the rest (5%) came from the government of Tanzania. The government initially estimated that the total cost of the pipeline would be \$876 million. In the end, the entire project (NNGIP) cost reached \$1.3 billion.¹¹

The construction of the pipeline was carried out by a contractor from China, called China Petroleum Technology and Development Corporation (CPTDC). The pipeline as well as of the two processing plants in Songo Songo and Mnazi Bay, required land, especially a 30m wide wayleave as well as land for construction of processing plants. The pipeline passed through 113 villages, 41 wards, 8 districts, 4 regions and 1 marine park.¹² As such, the government had to acquire land from individual citizens and communities through which the pipeline passed, triggering a process for compensation and resettlement managed by the Tanzania Petroleum Development Corporation (TPDC).

Land is central to the livelihood of the majority of Tanzanians. The agriculture sector employs more than 65% of the population in Tanzania.¹³ It is the backbone of the economy, with cross-linkages to other sub-sectors such as fishery, pastoralism and trade. Therefore, it is a key and essential asset for most rural and agrarian communities and a key means for earning and sustaining livelihood.

Land acquisition is a serious threat to communities’ ability to recover and sustain their livelihood especially if not handled properly. International Finance Corporation (IFC), a major financier of infrastructure across the globe notes that, “project-related land acquisition and restrictions

on land use can have adverse impacts on communities and persons” that use the land.¹⁴ The risk increases in environments characterized by involuntary resettlement, such as in Tanzania. Involuntary resettlement refers “both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood) as a result of project-related land acquisition and/or restrictions on land use.”¹⁵ There are two circumstances under which it occurs – (a) “lawful expropriation or temporary or permanent restrictions on land use (b) “negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.”¹⁶

The centrality of land as a source of livelihood for most Tanzanians, its linkages to other productive economic sectors, and the fact that, land acquisition is usually disruptive and if not managed well impoverishes those affected by it, makes it imperative that land rights, including entitlements during acquisition, are protected by law.

Legal Framework for Land Acquisition in Tanzania

The national laws and policies provide a crucial basic framework for safeguarding land rights especially during its acquisition. Below is a brief review of the requirements as per the relevant laws and policies.

The Constitution of the United Republic of Tanzania (1977) guarantees the right to own property.¹⁷ and makes it unlawful for “any person to be deprived of his property for the purpose of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation.”¹⁸ Land rights are spelled out in the Land Policy (1995) and enshrined in the Land Act, no 4 of 1999 and Village Land Act, no 5 of 1999.¹⁹ Section 4.1.1(c) of the policy clearly states that: ‘The rights and interests of citizens in land shall not be taken without due process of law.’ The policy also states that “compensation for land acquired in the public interest will be based on the principle of ‘opportunity cost’”, which include market value of the real property; disturbance allowance; transport allowance; loss of profits of accommodation; cost of acquiring or getting the subject land, and any other costs or capital expenditure incurred in the development of the subject land. Compensation should be paid promptly, and if not paid in time, interest at market rate will be charged.²⁰

The compensation criteria are set out in the Land Act and include: “Not less than 180 days’ notice of any requirement to move; the opportunity to reap crops sown before any notice to move was given to those persons; the right to continue to use water which those persons had a right to use before being given notice to move; prompt payment of full compensation for loss of any interests in land and any other losses that are incurred due to any move or any other interference with their occupation or use of land.”²¹

According to interviews conducted with key officials at the Tanzania Petroleum Development Corporation (TPDC) and local government authorities in Lindi and Mtwara, land acquisition for the construction of the pipeline followed national policies and laws. However, field research of the experiences of affected communities points to issues and gaps in the implementation of the existing requirements and areas for improvement.

Land is livelihood

Land acquisition carries the risk of undermining livelihoods especially of rural and agrarian communities

- Agriculture employs more than 65% of the population in Tanzania
- It is a backbone of the economy due to its linkages to fisheries, trade and pastoralism
- The centrality of land as source of livelihood and the risks arising from its acquisition, make it imperative that land rights are guaranteed by the law.
- The Constitution of the United Republic of Tanzania (1977), The Land Policy (1995), The Land Act (1999) and the Village Land Act (1999) provide for protection of land rights and thus livelihoods, including during land acquisition.

3. SUMMARY OF KEY FINDINGS

The research assessed the perceptions and experiences of the affected communities in Lindi and Mtwara by employing a collaborative learning methodology.²² The research team constituted itself as a 'Listening Team' and listened to 146 community members living close to the pipeline's route in southern Tanzania. Besides, the team talked to 29 gas stakeholders in Mtwara, Lindi and Dar es Salaam. The stakeholders included local government officials, Tanzania Petroleum Development Corporation and representatives from Civil Society Organizations (CSOs). The total number of interviewees was 175, and this sample was representative of youth, women and men.

Despite the enormous economic potential offered by the infrastructure, perceptions of the impact of the pipeline on land rights and livelihood are, to a large extent, negative and highlight major challenges. Expectations were high when major offshore natural gas fields were first discovered, yet local citizens along the pipeline route have not seen lasting and concrete benefits. Moreover, the pipeline construction left many people without adequate information and significant challenges in re-establishing their livelihoods. Better planning and increased information sharing and consultation can help to ensure that infrastructure project development benefit the people while mitigating negative impacts.

The research identified several positive and negative impacts on livelihood, especially during the construction period;

Positive impacts on livelihood

- **Compensation**
Some members of the displaced community, especially those that had other pieces of land, were happy with the compensation offered by TPDC. This was largely due to their pre-existing availability of alternative land for resettlement. Nevertheless, compensation payments did offer some support, although limited, for communities to re-establish their lives and economic activities.

- **Corporate Social Responsibility benefits**

To help address the lack of available social services and infrastructure, TPDC drilled a borehole that pumps 75000 litres of water a day in Madimba in Mtwara region. Water access was a priority for the communities there because of long-standing issues of availability and access. However, at the time of field research, there were complaints that this was the only water point in the village and no investment in distribution infrastructure had been made to improve broader access.

Besides, China Petroleum Technology and Development Corporation (CPTDC), which constructed the pipeline, carried out some CSR activities, including donating 12 million (\$5,258) for completion of a school laboratory in Madimba and an ambulance boat to ferry patients between Songo Songo island and Kilwa District hospital.²³

- **Short term business and employment opportunities**

There were some short-term business opportunities, mainly for female food vendors, especially in places such as Kiranjeranje ward in Lindi region where such businesses were already in existence. The construction phase of the pipeline made available some manual, temporary job opportunities, especially for youth. The study documents efforts by the Government and CSOs to provide trainings (scholarships) to enable youth to seize better opportunities in future. The challenge; however, was that job opportunities were scarce and short term.

Short term business opportunities

- “The catering business boomed during the pipeline construction, but I am still in the business till today.”

- **Pipeline protection payment to villages**

TPDC introduced a new security arrangement with villages that host sections of the pipeline. The villages provide security in exchange for fees – Tshs 250,000 (\$109) for a length of 0.5km up to 2km. Total payment depends on the actual length of the pipeline in a particular village.²⁴ The purpose of providing fees, according to TPDC, is to promote ‘good neighbourliness’ and ownership of the pipeline by community members. Nevertheless, findings show that, by February 2016, TPDC had not finalized such arrangements with villages such as Msimbati (Mtwara) and Kiranjeranje in Lindi.

Negative impacts

- **Community consultation**

Researchers noted that affected communities were dissatisfied with the general consultation process. For instance, TPDC relied primarily on village meetings as a key consultation space, in spite of existing evidence that these meetings tend to attract low turnout, especially for women.²⁵ Interviewed women complained that they were not informed about the pipeline until the actual construction had already taken place.

Feelings of being duped

- “They tell us in accordance to the Land Law of the United Republic of Tanzania and once they say so, we cannot challenge because we do not know the law very well and we no longer understand what they say.”

- **Lack of transparency**

TPDC did not fully disclose compensation terms or information on the pipeline construction project. Lack of transparency contributed to feelings of dissatisfaction, unrealistic expectations and misinformation among the people affected by the project. This was compounded by seemingly inadequate compensation rates that were offered.

Inadequate compensation
<ul style="list-style-type: none">• “From one coconut tree, for every month you can get 10 coconuts, each priced at Tsh 500. If you take a whole year, how much is that? But then they come with Tsh 25,000 for the price of the whole coconut tree.”

- **Standards for payment of compensation**

TPDC stated use of national standards in calculation and payment of compensation. However, the research found that standards provided in national laws and policies were not applied consistently across the project area. Compensation in Msimbati ward varied considerably, compared with compensation offered in Kiranjeranje. While affected people in the former (Msimbati ward) received disturbance allowance and rent payments, those in the latter (Kiranjeranje) did not, and even had to spend their own funds to travel to Kilwa district council to collect their compensation, and such costs were not refunded.

Besides, the Land Policy and Land Law provide for timely payment of compensation. Yet, there were cases of delays, which were accompanied by inadequate communication and led to avoidable losses. For instance, in Ziwani ward, over six month delay and miscommunication led to a missed farming season.

Missed farming season
<ul style="list-style-type: none">• “People did not farm anything from the moment they were told that there will be a construction of the pipeline.”²⁶

- **Lack of Resettlement Plan**

National standards as provided for in policies and laws prioritize monetary compensation. Since TPDC followed such standards, affected people, especially those that had to relocate as a result of physical displacement, were not resettled and did not receive alternative land or housing. TPDC stated that community members received `full monetary compensation`, which is an alternative to replacement land and housing associated with full resettlement. However, as showed elsewhere in this brief, there is lack of consistency in applying national standards and this raises questions about the extent to which the compensation was full and adequate to ensure affected communities were not worse off.²⁷

Failure to offer alternative land is a gap in policy, given the centrality of land in restoration and sustenance of livelihood. Besides, the discovery of natural gas in Lindi and Mtwara made the price of land appreciate. This was compounded by the practice of monetary compensation. This combination made it difficult for the project affected people to replace the land they had lost with the limited compensation they received.

In comparison, International Finance Corporation Standards for Land Acquisition and Involuntary Resettlement (Performance Standard 5), which are considered to be a `gold

standard, provide for “compensation for loss of assets at replacement cost”, resettlement of the project affected people, especially in cases involving physical displacement, “disclosure of information, consultation, and the informed participation of those affected.” Moreover, Standard 5 requirements provide for “ade-quate housing with security of tenure at resettlement sites.”²⁸

Voices of grief

- “we, the people of the South, have been treated unfairly in regard to gas.”
- “the government should uphold the value of the people of the South so that we can develop, we are supposed to feel human”

- **Relocation of social-cultural sites (graves)**

Land acquisition involved relocation of important socio-cultural sites such as graves. Project affected people, especially those whose relative’s graves were relocated complained about inadequate compensation and issues with the manner in which the relocation was handled. For instance, Tshs 100,000 (\$43) per grave was offered and no payment for religious reburial service was made.²⁹

It is important to note that, relocation of graveyards usually follows religious/cultural rituals. Hence, for the community members, it was not only about money but also dignity of their loved ones.

Relocation of graves

- “My grandmother’s grave was excavated, her bones were put on a white sheet then were buried somewhere else. TPDC only paid the youth who did that task.”

RECOMMENDATIONS

Findings from the research on the impact of the pipeline construction on land rights and livelihood, as described above, have identified gaps in policy design and implementation that should be addressed. The gaps symbolize the challenges of balancing infrastructure development and community livelihoods, even in projects that promise so much in terms of future revenues for the country as a whole.³⁰

Below are key recommendations;

1. Prioritize land use planning and titling to ensure that title deeds as well as Certificates of Customary Rights of Occupancy (CCROs) are issued. This will help secure ownership rights for smallholder farmers especially now that speculation is higher.
2. Develop and implement Resettlement Action Plan to enable project affected people to restore their livelihood and sustain it. Where possible, alternative land and housing should be made available as this is more effective for the restoration of livelihoods than monetary compensation. The process for developing a RAP should be inclusive and transparent.
3. Ensure adequate community consultation in land access and resettlement processes to ensure that project affected people have the relevant information they need and are able to make decisions while fully aware of consequences. Information should be made available in a timely and accessible manner and a mechanism for raising questions, concerns and grievances should be established to provide community members access to recourse for negative impacts.
4. Standardize compensation standards and ensure timely payment. Compensation should be implemented according to the national standards and offer full replacement at market value for loss of land, assets and crops. Transparency of compensation standards will help to ensure realistic expectations and fair and consistent treatment of affected groups. Timely payments are necessary to avoid additional losses and allow affected persons to adequately plan for relocation.
5. Preserve the sanctity of land and respect cultural heritage to preserve harmony especially when it is necessary to relocate important social-cultural sites such as graveyards. Ensure such impacts are captured in impact assessments and thoroughly discussed with affected community members.
6. Prioritize livelihoods in Corporate Social Responsibility (CSR) by enforcing provisions in the Natural Gas Policy (2013) and the Petroleum Act (2015).

NOTES

- 1 Reuters, 'Highlights from Africa Oil week conference', <http://af.reuters.com/article/nigeriaNews/idAFL6E7M42I220111104?pageNumber=1&virtualBrandChannel=0>
- 2 Ladesma David, 'East Africa Gas – Potential for Export' <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2013/03/NG-74.pdf>
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- 4 TPDC, 'Taarifa ya Utekelezaji wa Ujenzi wa Miundombinu ya gesi asilia kutoka Madimba – Mtwara, Songo Songo – Lindi na Pwani hadi Dar es Salaam', 2015 , <http://www.tpdc-tz.com/pdfstuff/TAARIFA%20YA%20BOMBA%20LA%20GESI%20March.pdf>
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- 12 These statistics are derived from TPDC's map of the pipeline and list of villages in the wayleave.
- 13 Minister's (Agriculture, Livestock, Fisheries) speech on budget estimates for 2016/2017 <http://www.kilimo.go.tz/speeches/budget%20speeches/Hotuba%20ya%20Bajeti%202016-17.pdf>
- 14 International Finance Corporation, 2012. Performance Standard 5 : Land Acquisition and Involuntary Resettlement, http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES
- 15 ibid
- 16 ibid
- 17 The Constitution of the United Republic of Tanzania, 1977, <http://www.judiciary.go.tz/wp-content/uploads/2015/09/constitution.pdf>
- 18 URT, ibid
- 19 Land Policy 1995 was under review since 2016 at the time of this study
- 20 Ministry of Land (1997) Tanzania Land Policy, http://www.mnrt.go.tz/uploads/tanzania_land_policy_1997.pdf
- 21 The Land Act of Tanzania, 1999,

<http://www.tic.co.tz/media/The%20Land%20Act%201999.%20Cap%20113.pdf>

22 See the main text for details on methodology.

23 Exchange rate of 2293, calculated on 15th June, 2017.

24 Exchange rate of 2293, calculated on 15th June, 2017.

25 Chaligha E.A, 2014, `Citizen Participation and Local Governance in Tanzania`, REPOA, http://www.repoa.or.tz/documents/REPOA_BRIEF_41.pdf

26 Not farming was a result of being told not to develop the land that would be acquired because there will not be a compensation for it. Yet, it took more than 6 months for compensation to be paid and a farming season was missed and no compensation was paid.

27 TPDC did not disclose compensation report upon request. The agency clarified that the report was only for internal use.

28 IFC, OP.Cit

29 Exchange rate of 2293, calculated on 15th June, 2017.

30 Morisset J (2015) Tanzania can benefit from natural gas by empowering people, <http://blogs.worldbank.org/africacan/tanzania-can-benefit-from-natural-gas-by-empowering-people>



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