

A Legal Analysis of the Land Planning Authorities and Sustainable Tourism in Zanzibar

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ABSTRACT

Keywords:

Sustainable tourism development; land planning authorities; Zanzibar;

The National Land Use Plan (NLUP) sets out the physical planning framework with a perspective to the year 2015. The NLUP also provides a spatial framework for public as well as private sector investment programs and serves as a basis for environmental protection. The Zanzibar Vision 2020 on the other hand aims to achieve sustainable economic growth averaging 9-10% by the year 2020 by diversifying the economy with the tourism industry which will provide employment opportunities of around 50% compared to 20% in agriculture. Starting from planning permission and ending with enforcement powers, the land planning authorities can therefore, as per the NLUP and Vision 2020, play a significant role in the implementation of sustainable tourism development such as in setting the land use framework in a way that fits the tourism industry. Nevertheless, confrontation between the authorities as well as economic, political and social interference has never escaped the planning system. The same applies between public interest against public participation. In terms of economic growth, sustainable tourism industry has a direct role in revenue and employment. Yet, the tourism industry has faced criticism on environmental damage which is a move away from sustainable tourism industry. In analyzing the Zanzibar's practicalities revealing successes and failures of the land planning authorities in the implementation

of sustainable tourism development, this study concludes that Zanzibar favors economic sustainability in comparison to ecological sustainability. Hence Zanzibar is recommended to recognize the importance of not only rationalizing the use to which land is put in sustainable tourism development, but even more importantly ensuring that land and resources are stewarded ecologically for present and future generations.

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INTRODUCTION

Zanzibar is part of the United Republic of Tanzania, formed of two major sister islands named Unguja and Pemba. It enjoys an autonomous government with its own legislature, judiciary and executive powers. The islands are separated by a 40 km channel from the mainland coast of Tanzania, covers a total land area of 2,460 sq. km with estimated population of 1,303,569 (2012 Tanzania Census).¹

In 1964, Republic of Tanzania was settled with an agreement between Tanganyika and Zanzibar. It was categorically stated that the Zanzibar would retain autonomy over certain issues, referred to as ‘non-Union’ matters. The list of union matters is provided for in the Constitution of the United Republic of Tanzania. Matters relating to lands which include environmental protection and its management are not in the list of union matters and they are therefore considered non-Union matters.

LAND PLANNING AUTHORITIES

The only existing planning statute in Zanzibar is the Town and Country Planning Decree Cap.85 of 1955 (referred as TCPZD).² Although technically outdated and difficult to put into practice due to on-going political changes in Zanzibar, some parts of the Decree are still applicable and also applied in practice. In this paper, the concept of ‘Land Planning Authorities’ (LPAs) is used to analyzed to understand it’s role in the implementation of the sustainable development of tourism in Zanzibar. This paper aims to show how the land planning system is influenced on economic, political and social influence. Consequently, tourism planning

¹ Tanzania National Census Bureau, (2012). Population and Housing Census, Popular Version – Key Findings. p.2.

² Town and Country Planning Decree, Cap.85 of 1955.

in Zanzibar is far from being sustainable and ecologic. The paper will also show why LPAs fails to be effective in implementing the National Land Use Plan.

The planning authorities are appointed by the Minister responsible for land matters (s.3).³ The planning authorities commence practice after the planning areas are declared by the Minister (s.3).⁴ Planning areas are first surveyed and after that a planning scheme is prepared by planning authorities⁵ (s.3–4) and approved by the Minister, who also has the right to alter and suspend the scheme (s.8(3)).⁶ The scheme indicates how the area is proposed to be used.

In controlling development of the planning area, permission from the planning authorities is required for any development of land (s.12).⁷ The planning authority has a right to alter/revoke the permission if this is considered expedient (s.16 (1)).⁸ The LPAs may also make an agreement for regulating the development in the planning area (s.18).⁹

With regard to planning policy, the National Land Use Plan (NLUP)¹⁰ coordinates all land use interests. It sets out the physical planning framework with a perspective to the year 2015. The NLUP also provides a spatial framework for public as well as private sector investment programmes and serves as a basis for environmental protection. It covers significant sectors of the economy and contains a number of supplementary plans such as the settlements structure plan, tourism zoning plan and coastal zone management plan.

Nevertheless, the Plan states that the status of the NLUP should be clarified in the legislation. The TCPZD does not do so and therefore the Plan is not recognized as a legal or binding instrument. It works only as long as the authorities are committed to it when making decisions affecting land. Secondly, there is no authority that has a power to interpret the plan and no procedure for solving possible discrepancies in interpretation.

FUNCTIONS OF THE LAND PLANNING AUTHORITIES

The below literature review provides a highlight on the functions of the Land Planning Authorities (LPAs) in Zanzibar.

Setting the land use framework

The Minister responsible for land (Ministry of Lands, Housing, Water and Energy, MLHWE) has the duty of framing and executing a national

³ Ibid, s.3.

⁴ Ibid.

⁵ Ibid, ss.3-4.

⁶ Ibid, s.8(3).

⁷ Ibid, s.12.

⁸ Ibid, s.16(1).

⁹ Ibid, s.18.

¹⁰ Ministry of Water, Energy, Construction and Lands (1990). National Land Use Plan – Zanzibar.

planning policy. The framework must be drawn in continuity and consistency with the use and development of land. The national policy statements, guidance notes and circulars must be expressed by the Minister and state clearly how the framework will coincide with the operating systems. The planning authorities having controlling, planning and enforcing powers set out local developments plans such as strategic development plans. Thus, up-to-date and effective strategic development plans are critical as they also guide planning authorities on planning applications.

Encouraging good development

The Minister should encourage good development favourable to the public interest. This can be done through considering appeals against a permit to develop the land or confirming land and development policies. The planning authorities have also an important role in affecting good development as they provide ‘the day-to-day framework within which decisions about land use allocations can be made, implemented and subsequently monitored.’¹¹

Protecting the natural and built heritage

The planning authorities shall protect the natural and built heritage through proposing enterprise zones, designing historical or protected as well as housing areas. They can also do so by ensuring that their systems are appropriate to the plan area, taking into account current capacities for transport, waste disposal, noise and aspects of facility design.

Creating vibrant communities

The Minister shall create lively and attractive communities through issuing of regulations, revocation or modification of unnecessary land plans. The Minister can also play an important role by hearing appeals from individuals. The Minister’s decision usually forms precedence to planning authorities in that they presume future Ministerial decisions.

Developing sustainable places

The planning authorities who have the obligation to prepare local plans and who mostly take decisions on planning applications, can develop sustainable places by ensuring that development plans ‘contribute to global sustainability by addressing the caused and potential impacts of climate change.’¹²

¹¹ Hunter, C. & Green, H. (1995). *Tourism and the Environment*. Great Britain: TJ Press. pp.99-100.

¹² Telling & Duxbury (2009). *Planning Law and Procedure*. (14th ed). New York: Oxford University Press. Paragraph 3.20.

SUSTAINABLE TOURISM DEVELOPMENT

The 1995 World Conference Charter for Sustainable Tourism¹³ defines sustainable tourism development (STD) as putting into account four criteria: ecological protection, economic growth, ethical preservation and social preservation. This study will, however, narrow the discussion on carrying capacity (ecological protection) and economic sustainability (economic growth). The benefits and problems of STD will be identified throughout the discussion.

Tourism carrying capacity is all about making the destination areas and resources attractive without being over-used or declining its use. O'Reilly explains the various tourism carrying capacities as (i) physical carrying capacity, (ii) psychological carrying capacity, (iii) social carrying capacity and (iv) economic carrying capacity. These principles are related to each other, for example tourists may feel uncomfortable (psychological) because of the poor quality of the environment (physical) or because of poor attractive standards (economic).¹⁴

Sustainable Tourism Development should also ensure that tourism development is economically efficient and that the tourism resources are managed so that they can support the present and future generations. The government must therefore certify that tourism should be fully integrated and contribute positively to local economic development. This will lead to a dedication of improving the quality of life of the people living and working at the tourism areas while at the same time protecting the environment.

Sustainable Tourism Development can achieve a long-term viability of economic investment through the tourism industry.¹⁵ Such industry must be, however, in conformity with the national programmes and policies in order to succeed the natural, built and human resources management. The tourism industry will in turn benefit the local communities by creating new jobs and businesses, additional income, new markets for local products, improved infrastructure and community facilities and services, new skills and technologies, greater environmental and cultural awareness and protection and improved land use patterns, just to mention a few.

On the other hand, it is relatively problematic in providing adequate food, shelter, jobs when the natural resource base is deteriorating. Sustainable Tourism Development can only be one of the answers if it does implement the ecological carrying capacity which is based on sustaining the natural resources rather than eroding the tourism resources. However, even where ecological sustainability is taken into concern and thus making a tourism

¹³ World Conference (1995). *Charter for Sustainable Tourism*. Spain.

¹⁴ O'Reilly, A. (1986). Tourism carrying capacity: concept and issues. *Tourism Management*. 7(4). pp.254-258.

¹⁵ Hunter, C. & Green, H. (1995). *Tourism and the Environment*. Great Britain: TJ Press. p.70.

area a destination of self-sufficient in its resource requirements, the area can still result to environmental problems through tourist travels. Thus, solving one aspect results to another problem.

SUSTAINABLE TOURISM DEVELOPMENT IN ZANZIBAR

The tourism industry in Zanzibar is known to be faced with environmental problems of land alienation, loss of fishing/farming lands, sea pollution, over-exploitation of marine resources, loss of historical sites and a rapid increase of hotels mainly in the coastal areas.

The Zanzibar Vision 2020 on the other hand aims to achieve sustainable economic growth averaging 9-10% by the year 2020.¹⁶ This is estimated to be implemented by diversifying the economy with the tourism industry which will provide employment opportunities of around 50% compared to 20% in agriculture and 30% in all other sectors. The Vision 2020 is ambitious to eradicate poverty by 2020 in a method which will improve the quality of life, economically viable, environmentally sustainable, sustainable health services, just to mention a few.

Sustainable tourism development is repeatedly absorbed in the Vision 2020 due to the fact that tourism industry is said currently to be Zanzibar's newest and biggest industry. Conversely, it is fascinating to discover that the Zanzibaris (local people) have yet to benefit from the tourism industry as the average wage is less than \$1 per day that is below the poverty line (Vision 2020).¹⁷

On the contrary, the accomplishment of the Vision 2020 is worthless where enforcement and compliance are not adhered to. Gossling (2004) for example has expressed that the tourism industry in Zanzibar has led to an increase of illegal trade in shark jaws and spice resources in which ecological degradation is observed.¹⁸ The study reveals that a total of 9 tones of shells were exported from Zanzibar in 2002, also an estimate of not less than 3,400 shark teeth and 110 jaws are sold to tourists per year.¹⁹

It must also be worth finding that the achievement of the Vision 2020 is questionable, as the young ones living in the tourism zone are more engaged in tourism than studying. For example Gossling (2002) has stated that 'more than 35% of the working population above 14 years of age [is] directly or indirectly involved in tourism'.²⁰

Turning on the legislation, the Zanzibar Tourism Act²¹ does directly confer sustainable functions to the Commission for Tourism by describing that the Commission shall promote and sustain eco-tourism

¹⁶ Revolutionary Government of Zanzibar (2000). *Zanzibar Development Vision 2020*. p.6.

¹⁷ Ibid.

¹⁸ Gossling, S. et. al. (2004). Use of mollusc, fish, and other marine taxa by tourism in Zanzibar, Tanzania. *Biodiversity and Conservation*. 13. p.2623.

¹⁹ Ibid, pp.2623-2639.

²⁰ Gossling, S. (2002). Human-Environmental Relations with Tourism. *Annals of Tourism Research*. 29(2). p.545.

²¹ Zanzibar Tourism Act, No. 6 of 2009, s.4(c).

through controlling the destruction of tangible and non-tangible heritage. As will be shown on the case study, the practicalities on the ground are rather different to the legislation and something must be done to put into reality the above provision.

In terms of the increase in tourism accommodation against the projected carrying capacity, studies shows that by 2011, the Commission for Tourism had 12,395 bed capacities compared to the planned capacity of 6,000 beds for the whole of Zanzibar.²² It is with no reservation that this bed capacity is very high and can cause high pressure on natural resources, tourist attractions sites as well as consumption of building materials.

LAND PLANNING AUTHORITIES AND SUSTAINABLE TOURISM DEVELOPMENT

Among significant function of the Land Planning Authorities in the implementation of sustainable tourism development are the following:

Development Planning

The Land Planning Authorities (LPAs)²³ are required to indicate the use of land in the manner in which the area should be used and the stages by which any development shall be carried out. Hence, the Tourism Zoning Plan (TZP) aims the distribution of tourism facilities with the objective of preventing environmental degradation. The TZP aims to develop sustainable places by proposing 19 areas in Unguja with total area of 400 hectares and 6 areas in Pemba covered the total area of 83 hectares for the implementation of sustainable tourism development (STD).²⁴

However as described earlier, the TZP is not recognized as a legal or binding instrument, it works only as long as the LPAs are committed to it when making decisions affecting land. Also, there exist no authority possessing powers to interpret the TZP and no procedure for solving possible difficulties in interpretation.

Development Control

Many of the problems facing the achievement of the Sustainable Tourism Development by the Land Planning Authorities in Zanzibar can be attributed to weaknesses in the planning system. This is highly caused by ineffective planning control due to economic and political constraints, and this has significantly contributed to environmental degradation of the tourist zones, the domination of low quality development and the ignoring of planning guidelines in new development.

²² Zanzibar Commission for Tourism (2012), Conference on Land Suitability Analysis at the Eastern African Centre for Research on Oral Traditions and African National Languages, Organised by Department of Urban and Rural Planning, Zanzibar – Tanzania, 6-12 February, 2012.

²³ Town and Country Planning Decree, Cap. 85 of 1955, s.4(1).

²⁴ Haji, H. et. al. (2006). Evolution of Spatial Planning in Zanzibar and its Influence. 13th FIG Congress TS 36 – Spatial Planning Practices: Urban Renewal Tools and PPP. 1. p.46.

With regard to agreements, the planning authorities are authorized to enter into agreements for the purpose of regulating the development or use of the land. Example of such agreements formulated is the 30 meter building setback from the sea high water mark which has nevertheless been ignored in many cases.²⁵

In development control, sustainable places will be developed as well as creating vibrant communities in a method not prejudicing the Government policies. The Land Planning Authorities should always make sure that once development has taken place, consequences are more difficult to control. Thus, Land Planning Authorities should apply their controlling powers in fast track; this will help in protecting the natural and built heritage with the objective of implementing Sustainable Tourism Development.

Enforcement

As will be studied later on, some of the tourism areas in Zanzibar have tourism developments which are not initially planned. This is due to the development planning not being implemented accordingly resulting to uncontrolled provision of facilities leading to environmental degradation. Enforcement mechanisms of the Land Planning Authorities includes removal, demolish, altering a building, execute works, power of entry, service of notices and power to require information. These powers given under the Town and Country Planning Decree upon the Land Planning Authorities (LPAs) to enforce their planning schemes will be of no benefit unless the LPAs are properly motivated.

A CRITICAL ANALYSIS

There are some significant pitfalls arising from the policy and law in the implementation of sustainable tourism development by land planning authorities, among them is:

The Planning Authorities in setting the land use framework

The Minister is responsible to prepare/review planning schemes with the aid of planning authorities. The main crucial planning scheme prepared by the Ministry is the National Land Use Plan of 1990 (NLUP) while the urban planning was specifically drawn through the Zanzibar Town Master Plan in 1982. The NLUP covers significant sectors such as the Tourism Zoning Plan and Coastal Zone Management Plan.

²⁵ The United Republic of Tanzania (2003). Indicative Tourism Master Plan for Zanzibar and Pemba. p.46. See also East African Regional Seas Technical Reports (2000). Series No.7. Progress in Integrated Coastal Management for Sustainable Development of Zanzibar's Coast – Unguja Island Coastal Profile and Management Strategy. pp.19, 69 and 102.

The definition of sustainable development in sustainable tourism development

Zanzibar observes all three pillars of the Sustainable Development (i.e. social, economic and environment) in the implementation of Sustainable Tourism Development (STD). The Tourism Act,²⁶ s.4 for example targets to implement STD with directives of Tourism Policy which aims to preserve the *environment* for present *societies* and future's *economic* development. By rolling all these pillars together, Zanzibar makes the definition of STD losing its central focus and thus makes it difficult to encourage good development or developing sustainable places.

Priorities

Sustainable economic growth is the fore runner in all of its policies. As stated by Vision 2020 that the economy is expected to grow between 5-6% by 2005, rising to between 7-8% by 2010, and attaining the level of between 9-10% by 2020.²⁷ Again, the focus is on economic (weak) sustainability compared to ecological (strong) sustainability. The creations of more vibrant communities are relevantly possible through the ecological sustainability. This is because it limits the extent to which environmental capital may be substituted by man-made capital and defining certain environmental assets that are critical to the communities and natural capital. Though supply and impact can be a simple control for Zanzibar; nevertheless, reducing consumption is hard to attain as ecological sustainability is given low priority and as a result environmental degradation rise at its highest. In consequence of weak sustainability, the land use framework will only be implemented in the attainment of economic growth. Economic sustainability also hinders the Land Planning Authorities to create vibrant communities for Sustainable Tourism Development as they do not 'determine what does or does not qualify as critical natural capital'.²⁸

Priorities reflected in Planning

Planning has a significant role in controlling, managing and enforcing national development strategies. In such a situation protection of the natural and built heritage can be achieved while at the same time developing sustainable places. The planning system reflects their national policies on achieving sustainable economic growth. The National Land Use Planning (NLUP) integrates physical, environmental and economic planning for effective and sustainable land use development. Sustainable economic growth in Zanzibar is therefore achieved by including within the NLUP an objective for economic growth.

²⁶ Zanzibar Tourism Act, No. 6 of 2009, s.4.

²⁷ Revolutionary Government of Zanzibar (2000). *Zanzibar Development Vision 2020*. pp.6-7.

²⁸ Ross, A. (2009). Modern Interpretations of Sustainable Development. *Journal of Law and Society*. 36(2). p.37. See also Blowers, A. (1992). Planning a Sustainable Future: Problems, Principles and Prospects. *Town and Country Planning*. 61. p.132.

Priorities reflected in sustainable tourism development

The Zanzibar Tourism Policy notes that it shall generate more income, human resources, foreign exchange earning and maximize the financial revenues. It is also worth noting that the idea of the Government of Zanzibar regarding tourism reflects Vision 2020 by becoming one of the top tourism destinations of the Indian Ocean, offering an up market, high quality product across the board within the coming 17 years ... through stimulating economic growth.²⁹ Such target on sustainable tourism development can be achieved through the encouragement of good development, protection of the natural and built heritage, creation of vibrant communities and developing sustainable places. The Land Tenure specifies that the *Government* can terminate any right of use of land on grounds of *national interest*. With no objection, the attainment of economic growth can serve a justification to public interest.

Practice of law in delivering sustainable tourism development

For the Land Planning Authorities (LPAs), sustainable tourism development is by all means managing, controlling, planning and enforcing development; and at the end good development, vibrant communities and sustainable places will be created. The LPAs can also use their enforcement mechanisms in delivering Sustainable Tourism Development (STD). These include removal, demolish, altering a building, execute works, power of entry, service of notices, power to require information etc.

Similarly, the Regional Administrative Authority through its development committee is required to function in a manner that will foster the attainment of sustainable (tourism) development.³⁰ Also, where important decisions affecting Sustainable Tourism Development are made by the special Committee of the Revolutionary Council, the Minister responsible for environment can give any ministry, region etc directives necessary to implement those decisions.

KIWENGWA CASE STUDY

Kiwengwa is a tourism zone as per the Tourism Zoning Plan (TZP) established by the Zanzibar National Land Use Plan (NLUP). The TZP sets the projected capacity for the whole of Zanzibar to be 6,000 beds by the year 2010 and 9,000 beds by the year 2015.³¹ Alternatively, Kiwengwa

²⁹ Revolutionary Government of Zanzibar (2004). Zanzibar Tourism Development Policy, p.3, paragraph 2.1.

³⁰ Regional Administration Act, No. 8 of 2014, s.21.

³¹ Ministry of Water, Construction, Energy and Lands (2010). Zanzibar, Draft of the Socio-Economic Survey of Land Resources Utilisation in Zanzibar. Chapter One, p.19.

is planned to accommodate about seven hotels with a total number of 755 beds.³²

Kiwengwa having a 3,575 (consisting of 1,836 males and 1,739 females) population³³ is located about 25 km North East of Zanzibar's capital city. The area is characterized by its white sand beaches and coral rag land. Kiwengwa is also attracted by the Kiwengwa-Pongwe Forest Reserve (KPFR) which is the only largest existing natural forest found in the Northern zone of Unguja island. KPFR is a designated area for nature conservation protected under the Nature Conservation Act No.10/1999³⁴ as well as under the Forest Resources Management and Conservation Act.³⁵ Kiwengwa through the KPFR is therefore endowed with rich coral rag forests which are also used for fuels (charcoal and fire wood), building poles, fruits, honey, medicine and other forest products by the community individuals.

Regarding economic activities, Kiwengwa mostly depend on four major activities: small scale fishing practices, firewood cutting, coconut husk making and subsistence farming in the coral land. Other minor occupations are sea weed, petty cash business and extraction of forest products for domestic and commercial purposes. With the introduction of tourism, Kiwengwa has dramatically expanded its business. These are for example in accommodation facilities such as hotels, resorts, villas and guest houses together with relevant services such as restaurants, sea games, gymnasium, scuba diving, cruise-ships, spa, souvenir shops and tour operations.

Speaking with the Citizen Magazine, Dr. Mwinyihaji, the (Zanzibar) Minister of State in the President's Office (Finance and Economic Affairs) stated that tourism in Zanzibar is a TZS 163 billion industry [approximately US\$ 101,785,000] employing 50,500 people of which 40,000 constitute an indirect source of income.³⁶ It contributes to about 22% of Growth Domestic Product (GDP) and 80% in government revenue. Hence, the overall growth of the sector, estimated at 9-10%, has outpaced that of agriculture.

Alternatively, the Tourism Zone Plan (TZP) for Kiwengwa reflects the Government policies by aiming to achieve a good quality of the environment, increase the economy and also maintaining good social status of the community. These at the end, enhance the achievement of a society which takes on board sustainable development concerns. For example, by setting the TZP, it sets a proper land use framework and

³² Azzan, R. & Ufuzo, S. (2009). The Coastal Community and Land Resources, A Case Study of Kiwengwa Coastal Village; Zanzibar – Tanzania. 7th FIG Regional Conference TS 2D – Societal Balance: Resources and Rights. 1. p.4.

³³ Tanzania National Census Bureau (2012). Population and Housing Census. Population by Administrative Areas. p.228.

³⁴ Nature Conservation Act, No. 10 of 1999.

³⁵ Forest Resources Management and Conservation Act, No. 10 of 1996.

³⁶ The (Zanzibar) Minister of State in the President's Office (Finance and Economic Affairs) Dr. Mwinyihaji Makame Mwadini speaking to The Citizen (magazine), "Tourism Accounts for 80% of Zanzibar Revenue" by Sebastian, C. on March 2, 2010.

encouraging good development as well as protecting the natural and built environment. This can be seen in Kiwengwa, where the TZP establishing tourism development, has led to secure the environment of Kiwengwa through establishment of gardens, environmental grounds and development of land use planning and guidelines, environmental policies and guidelines.

The tourism industry in Kiwengwa has furthermore created vibrant communities by providing direct and indirect employment opportunities such as curio trade, fisheries, architecture, consultants, tour operators, just to mention a few. Tourism oriented businesses for the community in large also include guidance, product supply (fruits, vegetable and fish products) to tourist hotels.³⁷

Through the cost sharing benefit approach, the Land Planning Authorities have allowed the community to manage the day-to-day activities of the Kiwengwa-Pongwe Forest Reserve; hence through ecological sustainability, Sustainable Tourism Development has been implemented. The main form of management includes local and indigenous community planning, development, operations and benefit sharing.³⁸

Considering developing sustainable places, the tourism industry has resulted to development of hotels and restaurants. This has comparatively increased Kiwengwa's value in land and attraction. In addition, the tourism industry in Kiwengwa has helped community development such as eye care clinics and valuable lab equipment to schools.

Nevertheless, several potential pitfalls can be observed from Kiwengwa as a tourism zone:

Enforcement and Implementation

The regulated community in Kiwengwa fails to comply with the stated laws and regulations. Consequently, the implementation of Sustainable Tourism Development by the Land Planning Authorities makes it to be a difficult achievement. However, this is mainly due to poor enforcement and implementation. For example under the Land Uses for Investment Regulation,³⁹ it states that all land uses for investments such as hotel industries have a duty to install an incinerator and water treatment plan for waste products from industry.⁴⁰ In addition, no person is allowed to construct a hotel within 30 meters from the boundaries or a site to a high

³⁷ In Zanzibar as a whole and as a result of tourism industry; 20,000 direct jobs and about 40,000-60,000 indirect jobs have been created. See East African Regional Seas Technical Reports (2000). Series No.7. Progress in Integrated Coastal Management for Sustainable Development of Zanzibar's Coast – Unguja Island Coastal Profile and Management Strategy. p.47 at 6.2.4

³⁸ Makame, M. & Boon, E. (2008). Sustainable Tourism and Benefit-Sharing in Zanzibar: The Case of Kiwengwa-Pongwe Forest Reserve. Journal of Human Ecology. 24(2). pp.94-98.

³⁹ Control of Land Uses for Investment Regulations (LN 2006/87).

⁴⁰ Ibid, reg.12(3).

water mark to the beach and 10 meters to the coral areas.⁴¹ Nevertheless, due to poor enforcement of laws and regulation, many hotels presently do not have a good area for the disposal of their solid waste. Waste is secretly and haphazardly dumped in the Kiwengwa-Pongwe Forest Reserve. Also, the 10 and 30 meter building setback from the sea high water mark has been ignored by hotels in many cases.

The same applies to the people in Kiwengwa displacing some of their residential houses from close to the beach to up-corall rag areas close to forest reserve and therefore destructing the coral reefs.⁴² The houses in the coral rag areas are in aggregates; making Kiwengwa villages appear like small towns. It is also worth noting that the problem of enforcement and implementation by the Land Planning Authorities is mainly due to overlapping of laws and regulations, financial resource constrains and manpower (how about political commitment and willingness). Thus, resources (e.g. finance, manpower etc.) and mechanisms (e.g. existing land policy, laws and regulations, tools etc.) required to address this problem should be in place.

Poor Planning Control and Development

The planning scheme and the allocation of land in Kiwengwa is made without any services pointing out that a lot in Sustainable Tourism Development is yet to be desired. Studies carried out in Kiwengwa reveals a number of impropriety in land delivery in Kiwengwa such as: (i) the violation of provision of the Town and Country Planning Decree 1955⁴³ in which development of Kiwengwa (e.g. in surveys) is done without consulting the public creating confrontation between the Land Planning Authorities (LPAs) and the community;⁴⁴ (ii) multiple allocations of plots to more than one person;⁴⁵ (iii) the allocation of land without following the laid down procedures resulting in clearance of areas such as forested areas to allow for hotels development;⁴⁶ (iv) permitting development on open spaces and hazard land;⁴⁷ (v) non-control of hotel developments in

⁴¹ Ibid, reg.9.

⁴² Azzan, R. & Ufuzo, S. (2009). The Coastal Community and Land Resources, A Case Study of Kiwengwa Coastal Village; Zanzibar – Tanzania. 7th FIG Regional Conference TS 2D – Societal Balance: Resources and Rights. 1. p.4.

⁴³ Town and Country Planning Decree, Cap.85 of 1955, s.5 on publication of planning schemes.

⁴⁴ Zenjfm (Zanzibar Private) Radio Station, “Viwanja vyaleta mzozo” [Plots causes conflict], 04/05/2010.

⁴⁵ See *Mohamed Rashid Juma v Khamis Juma and others* [2007] ZLT 59 (unpublished case of the Zanzibar Land Tribunal).

⁴⁶ M. Makame and E. Boon “Sustainable Tourism and Benefit-Sharing in Zanzibar: The Case of Kiwengwa-Pongwe Forest Reserve” (2008) *J. Hum. Ecol.* 24(2), 93, p.100 at 6.1.

⁴⁷ Majira (Swahili) Newspaper “Mgogoro wazuka Zanzibar wanakijiji” [Conflict arose by villagers Zanzibar] by A. Suleiman on 01/12/2007. See also Indicative Tourism Plan, n.137 above, p.49 and 57.

Kiwengwa with no due regard to the Tourism Zone Plan (TZP) leading to an increase from 7 hotels with 755 beds to 13 hotels with 2,281 beds.⁴⁸

The Public Crisis

The problems encountered on enforcement, planning control and planning development in the implementation of Sustainable Tourism Development are largely felt by local communities in the first instance. Hence, though tourism contributes to 80% government revenue for example, the people in Kiwengwa still survive with less than the \$1 per day average wage and therefore tourism still provides modest benefits to local investors.⁴⁹ The growth and poverty reduction initiatives are also severely hampered and hence the attainment of Vision 2020 and MKUZA (poverty reduction plan) goals.⁵⁰

Land conflicts and speculation also emerges among the societies where the smart ones are buying land at low price from poor communities.⁵¹ These are sites especially along the valuable beach areas being sold to agents for speculation. It is worth noting that this is the result of the Tourism Zone Plan and land tenure failing to guide the community land rights and sale negotiations.

With regard to participative approach, the partnership between the LPAs and the public is presently weak making it difficult to minimise the impact of tourism development. Such lack of participative approach has resulted to non-identification of critical decisions made that could be reshaped during coastal land sales negotiations.

The LPAs also find it difficult encouraging the community in the implementation of STD due to limited knowledge by both, the LPAs and the community.⁵² Many of the laws for example as well as land lease are in foreign language.⁵³

⁴⁸ Azzan, R. & Ufuzo, S. (2009). The Coastal Community and Land Resources, A Case Study of Kiwengwa Coastal Village; Zanzibar – Tanzania. 7th FIG Regional Conference TS 2D – Societal Balance: Resources and Rights. 1. p.4.

⁴⁹ Country profile for Zanzibar. Available http://news.bbc.co.uk/1/hi/world/africa/country_profiles/3850393.stm (November 2, 2015).

⁵⁰ The Zanzibar Poverty Reduction Plan was introduced in 2002 as a first step to implement the Vision 2020. This was later followed by the Zanzibar Strategy for Growth and Reduction of Poverty (titled in Swahili as Mkakati wa Kukuza Uchumi na Kupunguza Umasikini – MKUZA) which was launched in 2007. Both development documents place emphasis on trade and tourism as growth sectors to enhance poverty reduction efforts.

⁵¹ In some other areas of Zanzibar such as Tumbatu Island, the Chief Minister of Zanzibar has been forced to ban tourism activities on grounds of individuals attempting to sell the island to tourist investors at a value of 200m/ Tanzanian Shillings. See *The Guardian* (Tanzania English) Newspaper “Z’bar Chief Minister bans Tourism on Tumbatu Island” by Sadalla, M. on October 16, 2009.

⁵² For further reading, consult the Sustainable Management Of Land and Environment in Zanzibar (SMOLE) – Program Preparation Phase (2004). Report of Legal Advisor’s Second Mission. p.71.

⁵³ See *Nipashe* (Swahili) Newspaper “Mikataba ya Bima iandikwe kwa Kiswahili” [Insurance contracts must be written in Swahili] by Shayo, B. on June 21, 2010. See also *Nipashe* (Swahili) Newspaper “Sheria zetu ziwe kwa lugha ya Kiswahili” [Our laws must be in the language of Swahili] by the Editor on May 14, 2010.

Conflicts in access to public areas by the community can also be observed such as in open spaces, graveyards, mosques and beaches. In other situations, existing local uses such as boat mooring and cemeteries have been disregarded in the decision where to locate hotels. In these situations, local people are not in favour of tourism development complaining that wherever there are tourism activities, they are not allowed to land, fish, repair their boats and sometimes lose their right to passage.⁵⁴

Environmental Degradation

The difficulties discussed in enforcement, implementation, planning control, planning development and public crisis all contribute to distract tourist attraction through environmental degradation. It is known for example that tourists in Kiwengwa are attracted by its beaches, nature conservation of the KPFR etc. Hence, significant, properly planned development or conserved and accessible attractions should be introduced by LPAs to induce tourists. In contrasts, any threat to the prime land squeezing out the local people in return of additional pressure on resources will result in ruining the status of STD. Some of the problems facing environmental protection in Kiwengwa are congestion caused by increasing number of people working in the hotel industry, improper waste disposal and extracting potable water directly from the KPFR catchment area.⁵⁵

As on marine resources, an Integrated Coastal Management study has identified several environmental damages caused by tourism such as overharvesting of terrestrial and marine resources, scrambling of marine resources, destruction of coastal coral reefs and 5 km lengths of beach erosion in Kiwengwa.⁵⁶

The result of this environmental problem is that there is at the moment in Kiwengwa a high level competition between the public and hotelier in resources and facilities utilization. This leads to resources depletion and degradation.

⁵⁴ Such disputes include that of Bravo Hotel's owners with Kiwengwa villagers over customary access of land; see *Majira* (Swahili) Newspaper "Mgororo wazuka Zanzibar wanakijiji" [Conflict arose by villagers Zanzibar] by Suleiman, A. on December 1, 2007. Also Germans were reported in the Tanzania mainland district of Hai to be in conflict with the natives over public access; see *Nipashe* (Swahili) Newspaper "Mgororo wa ardhi wamalizika" [Land dispute ends] by Kitomary, S. on May 8, 2009.

⁵⁵ Makame, M. & Boon, E. (2008). Sustainable Tourism and Benefit-Sharing in Zanzibar: The Case of Kiwengwa-Pongwe Forest Reserve. Journal of Human Ecology. 24(2). p.100 at 6.2.

⁵⁶ The United Republic of Tanzania (2003). Indicative Tourism Master Plan for Zanzibar and Pemba. p.46. See also East African Regional Seas Technical Reports (2000). Series No.7. Progress in Integrated Coastal Management for Sustainable Development of Zanzibar's Coast – Unguja Island Coastal Profile and Management Strategy. pp.18-19.

CONCLUSION

The powers of the Land Planning Authorities (LPAs) on planning and development helps them to implement Sustainable Tourism Development (STD) by setting the land use framework in such a way it also develops tourism, encouraging good development, protecting the natural and built heritage, creating vibrant communities and developing sustainable places.

Furthermore, the definition of sustainable development laying duties, functions, obligations and procedures do also shape the roles of the LPAs in the implementation of STD. These roles as seen above must nevertheless, be acted according to the national policies, which in Zanzibar reflects the achievement of sustainable economic growth compared to ecological sustainability. The result is that in implementing their roles, the LPAs give the economy a first priority with a modest view to the environment. The scenario in Kiwengwa has proved that the environment is made a second priority as a commodity and hence natural attractions to tourism is ultimately hampered; though on the other hand, the need to conserve and protect the areas have no particular interest towards pure economic concerns.

Summarizing the comparative analysis, the legislative planning instrument is out-dated; the LPAs still takes control from it as well as using other current legislative instruments and also relevant policy documents. Hence, STD is implemented by providing environmental protection, employment, government revenue and leisure for the tourists. Nevertheless, the achievement of STD by the LPAs is hindered due to inadequate financial and human resources and limited legal knowledge. These problems lead to poor enforcement and implementation, poor planning control and development and public crisis. The result in all together is on environmental degradation.

In suggesting repairs, continuous efforts should be made to promote and develop the capacity of the LPAs, this will motivate them in enforcing and implementing their duties in return of achieving STD. In addition, the below repairs advised by the 2007 International Union for Conservation of Nature⁵⁷ are worth referencing. Hence, the Zanzibar government is advised to:

- i) Reform existing laws in ways that better reflect local community customs and values, and that involve directly in sustainable land management activities.
- ii) Reform land use laws in order to address inequities caused, in part by the imposition of colonial land policies on indigenous traditions.
- iii) Move bureaucratic-controlled to stakeholder-driven' environmental planning and management.

⁵⁷ Chalifour, N. et. al. (ed.) (2007). International Union for Conservation of Nature (IUCN) – Academy of Environmental Law Research Studies. Land Use for Sustainable Development. USA: Cambridge University Press. pp.1-4.

- iv) Recognize the importance of not only rationalizing the use to which land is put, but even more importantly ensuring that land and resources are stewarded ecologically for future generations.

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