URBAN LAND POLICIES FOR THE POOR
IN EAST AND SOUTHERN AFRICA

Eugene H. SILAYO, Ardhi University, Tanzania.

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SUMMARY
Rapid urbanization and population growth have made local urban authorities unable to keep pace with the demands to supply adequate planned, surveyed and serviced land parcels to urban dwellers. As a result, many land seekers, desirous to construct own homes in cities and towns, have been forced to acquire land through the informal markets that are responsible for the proliferation of informal settlements where security of land tenure is uncertain and the poor are thus marginalized. Worldwide, over one billion people live in slums in urban areas.

The magnitude of slums has been so serious partly because of the apparent lack of comprehensive urban land policies that would *inter alia*, cater for holistic interests of the urban dwellers and specifically the poor. Therefore, the Millennium Development Goal to improve the lives of at least 100 million slum dwellers by the year 2020 requires governments to put in place special urban land policies that address the plight of the slum dwellers and the poor.

This paper reviews National Land Policies (NLPs) of eight countries in East and Southern Africa with the view to identifying and highlighting issues that may constitute components of urban land policies, notably the aspects which are pro-poor. Emerging from the analysis, it is clear that there have so far not been urban land policies or poverty reduction strategies for urban areas. Several recommendations are therefore made to governments to: Foremost, reformulate the existing NLPs so as to disaggregate the urban and rural components; Establish efficient, pro-poor land administration institutions; Expedite implementation of the Millennium Development Goal on Universal Primary Education as a strategy to empower the poor; Borrow a leaf from the innovative practices on enabling the poor to get land tenure security over time; Decentralize land administration services to local area levels; and Prioritise human capacity building in preference to all other forms of capacity building as a strategy to first put in place human resources that shall then develop and implement pro-poor policies.

1.   INTRODUCTION
In November 2008, the exploding world population was estimated to be about 6.7 billion (Wikipedia Encyclopaedia, 2008) and according to UN sources half this population was estimated to live in urban areas by the end of the year 2008 (International Herald Tribune of 26 February

2008). UN-Habitat (2003) observed that millions of people in the developing country cities could not meet their basic needs for shelter, water, food, health and education. The UN-Habitat (2003) further reported that almost 1 billion people or 32 per cent of the world's population lived in slums, the majority of them in the developing world. Tibaijuka (2007), the Under Secretary General and Executive Director UN-Habitat, noted that this figure may double to 2 billion people by 2030.

Reflecting on the state of African Cities, the UN-Economic Commission for Africa (UNECA-CEA) and UN-Habitat (2008) jointly estimated that 46 per cent of the African urban population lived in slums/informal settlements where poverty, overcrowding, unemployment, crime and pollution are prevalent. If cities and towns are engines of social and economic growth and development, how can such an important role be left to be undermined by the rapidly increasing poverty and slum dwellers? Something ought to be done now to alleviate poverty and contain growth and development of slums. Suitably formulated National Land Policies provide a good starting point in this direction.

In the United Nations Millennium Declaration, world leaders pledged to tackle this immense challenge, setting the specific goal of achieving 'significant improvement in the lives of at least 100 million slum dwellers by the year 2020'. This goal may be achievable through governments putting in place special urban land policies that address the plight of slum dwellers and the poor.

In Tanzania, the 1970-80s World Bank supported sites and services schemes were aimed at upgrading of slums in the City of Dar es Salaam and other selected urban areas. Two of the offshoots of the upgrading schemes were the provision of planned, surveyed and serviced plots before development and the creation of the now defunct Tanzania Housing Bank. The serviced plots were meant for the low income people most of whom were displaced from the areas being upgraded to give way for infrastructure and amenities. Sadly the government did not provide a parallel scheme to provide plots for the middle and higher income earners.

Kironde (1995) noted that in practice the beneficiaries of the schemes were not the low income households but middle and upper strata, as well as important businessmen. Kironde supports his position by noting that the houses that were constructed in the sites and services plots appeared to be beyond the means of low income households: even where a Housing Bank loan had been obtained, the houses constructed cost several times over what such loans could finance. In another study, Kironde and Rugaiganisa (2002) found out that 12 per cent of the land owners in Kijitonyama, - a sites and services area in Dar es Salaam City – had bought empty plots from the original allocatees and that a further 44 per cent had bought a house or a foundation in the same area. In this way, it appears, the poor had been outsmarted. Based on this, it can be summed up that urban land policies targeted at the poor only do not work. A holistic planning approach that considers both the rich and the poor is instead necessary.

This paper reflects on a study undertaken by the author on National Land Policies in eight countries of Eastern and Southern Africa (Silayo, 2007). The key question is whether pro-poor urban land policies have ever existed in the developing countries. To address this question, the author identifies and highlights issues presented in the National Land Policies (NLPs) that may constitute components of urban land policies. Within urban land policies the fate of the urban poor can be mitigated through provision of basic necessities including decent shelter, potable water, sanitation, employment and urban services.

2. NATIONAL LAND POLICIES

A National Land Policy (NLP) is usually a general, government document that defines the land tenure system(s) and prescribes proper allocation and management of land in a country. The term 'prescribe' is used here in complete agreement with van der Molen and Tuladhar (2007) who noted that 'the administration and management of land belongs to government authority'. However, the Zambia Land Alliance, (ZLA) (2007), rejected its country's draft NLP partly because, in addition to being not pro-poor, the NLP proposals confined to government intentions and motivations. However, it must be stressed that, for one reason or another, government goals are always embodied into a country's NLP. Normally for land policies to be implementable, the policy formulation process should be based on participatory approach, engaging stakeholders at all levels and taking into account challenges faced by the poor.

Land policies determine who has legal rights of access and/or ownership to certain resources and under what conditions, and therefore how these productive assets are distributed among diverse stakeholders (EU, 2004). Most of the urban poor do not have secure tenure and live in large informal settlements. Therefore securing formally recognised rights to land and housing in urban areas generally gives poor people access to basic services. It may also help them to access legal and financial services to raise capital to invest. It is necessary to alleviate poverty in growing towns and cities and mitigate the problems associated with rapid urbanisation (ibid.) through putting in place policies, laws and institutions that are all inclusive, notably facilitating and motivating the efforts of the poor to earn decent living. Thus, good land policies are those that focus on achieving equitable land distribution and fair laws that take into account the interests of the poor.

Land tenure may be defined as the system of access to and control over land and related resources. It defines the rules and rights which govern the appropriation, cultivation and use of natural resources on a given space or piece of land. Strictly it is not land itself that is owned, but rights and duties over it. Thus, a land tenure system is made up of rules, authorities, institutions and rights. Land administration itself (maps, deeds, registers, and so on) is only one part of a land tenure system (EU, 2004).

Based on a study undertaken by Silayo (2007) in eight countries of Eastern ad Southern Africa, it is clear that the formulation of National Land Policies (NLPs) emanated from the needs to address key issues which had emerged in various countries since independence and could not be

systematically addressed using policies, laws and infrastructure inherited from the colonial regimes. Among the key issues that caused formulation of the policies were:

- Rapid increase of population, notably in urban areas.
- Breakdown of land administration and delivery procedures.
- The growth of uncontrolled informal settlements.
- Gender and discrimination in access to land and exclusion of women in land decision making process.
- General disregard for land use planning.
- Multiplicity of legal regimes related to land, and
- The need to recognise the significance of land markets in order to address the question of land racketeering activities.

From the above list, it is quite obvious that the poor were left out from the very beginning.

The country NLPs examined were of Kenya, Malawi, Namibia, Rwanda, Swaziland, Tanzania, Uganda and Zambia. Fifty (50) per cent of the policies, namely of Malawi, Namibia, Rwanda and Tanzania, are already being implemented. The others are still in draft form.

3. ISSUES RELATED TO URBAN AREAS AS NOTED IN THE NATIONAL LAND POLICIES IN EAST AND SOUTHERN AFRICA

3.1 The statement of the problem

The background to the formulation and development of National Land Policies (NLPs) in the named countries of East and Southern Africa is discussed, mainly considering the aspects that have a bearing on urban land. The urban related problems/issues which were cited by different countries as being the causes of the formulation of the NLPs were proliferation of urban informal settlements (cited by 75% of the countries), population explosion (62.5%), lack of clear land rights (62.5%), need to recognize existence of land markets (37.5%) and the lack of land use planning capacity (37.5%). The issue on unequitable land allocation was considered by only two NLPs (25%).

3.2 Vision and mission of the policies

As expected, a land policy presents a holistic approach to the land issue. Of the eight countries studied, only two, namely Kenya and Tanzania, explicitly stated their visions and missions. All the others left the vision and mission statements to be a subject of interpretation in the text of the policy documents. With the exception of Uganda's policy, no other policy document reflected specifically on the urban setting in the vision/mission statements.

3.3 Objectives of the policies

With the exception of Malawi's policy, no other country objectives expressly refer to the urban poor. That the urban areas have been left out in the vision, mission and objective statements of the policies, it raises concern particularly considering that the Second United Nations World Conference on Human Settlements (Habitat II – the City Summit) in Istanbul, 1996 acknowledged the direct and vital contribution that productive and sustainable cities can make to

social and economic advancement (UN-Habitat and UNEP, 1997). Furthermore, all the NLPs considered were conceived while the urban population trend was already a common knowledge. Figure 1 illustrates the urban population trend from 1950-2030.

The urban and rural population of the world, 1950-2030
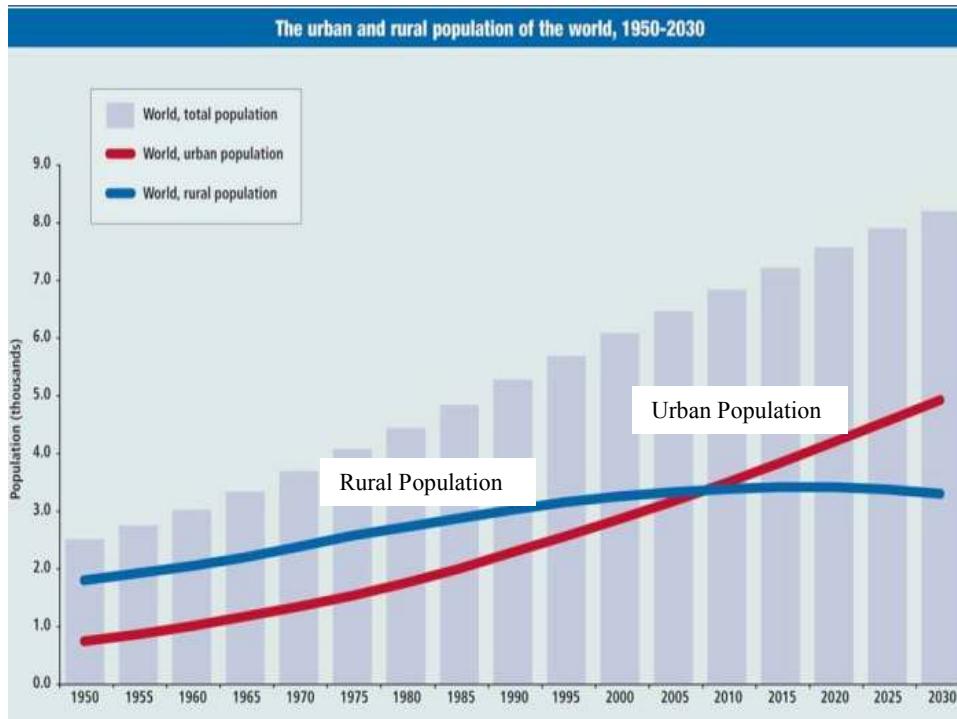
Source: www.int.com/articles/ap/2008/02/26/news/UN-GEN-Growing-Cities.php.

Figure 1: Urban population trend, 1950 – 2030.

Tibaijuka (2008) noted that, 'The world is becoming more urban ... and that this process of urbanization cannot be reversed'. Cities and towns can be made productive and sustainable only if the land on which the cities and towns stand are a focal point of planned development that is laid out in the land policy documents. Noting that land is a fundamental asset and the primary basis of livelihood for the majority of Zambians, the ZLA (2008) emphasized that a good land policy should provide a framework for poverty reduction, notably in the poorest of the developing countries. This position has not been reflected in the NLPs.

3.4   The policy formulation process
Fifty per cent of the countries, (namely Kenya, Malawi, Tanzania and Uganda), give an outline on policy formulation process. The rest did not do so. Those which outlined the process adopted, referred to making in depth literature review and case studies, stakeholder consultations and deliberations to obtain stakeholder consensus and expert opinions. But very little is said about urban areas or the poor.

3.5 Land administration

Land Administration aspects are discussed generally in 87.5 per cent of the NLPs studied. Of these, only Namibia cites 'urban land' as a specific case. Effective land administration institutions are necessary to protect and enforce land rights of the poor who cannot rely on the costly courts of law to defend such rights for them.

3.5.1 Authorities responsible for land administration

In all the policies investigated, countries put land administration functions under the National Land Commission and District Land Boards (Kenya, Rwanda and Uganda), Commissioner for Lands and Local Village/Customary Authorities (Tanzania and Zambia), Ministry responsible for land development (Malawi and Swaziland). Only Rwanda refers to urban areas thus: 'There shall be established national, provincial and district land management commission both in rural and urban areas'.

3.5.2 Observation

Namibia's position on the separation of urban and rural land administration approaches could be an eye opener in the formulation of new NLPs. Given the sharp global rise of the number of urban dwellers, it is important for national land policy formulation process to shift from generalised to specific concepts.

3.6 Land tenure

Regarding reference to urban context, only Uganda and Namibia's NLPs refer to urban land tenure. The Uganda's context refers to conversion of all urban land areas held on freehold tenure to leaseholds, and *mailo* tenure into fully fledged freehold or long term leases for land located in urban areas. Namibia's National Land Policy (NLP) proposes a flexible land tenure system that comprises three levels of titles, namely starter, landhold and freehold. As the flexible system is basically pro-poor, more information about it is necessary hereinafter:

The Namibian NLP states that freehold is the only form of secure, registrable title available in urban areas which gives the holder ownership that is transferable, inheritable and provides collateral against a loan. The government of Namibia endorses the idea that urban dwellers, especially in informal settlements, (where the majority of urban poor live), should be entitled to hold rights to urban land on the basis of group tenure. This makes sense where there is a desire by a community to retain a customary tenure arrangement already existing or where a community development organization decides to acquire land and facilitate an urban housing development project. Therefore, the policy proposes amendments to the existing titling and registration procedures so that costs will be reduced to provide a starter (group) title that is affordable to the poor. This can be upgraded over time to individual landhold title and finally to the freehold title. The titles, aimed at the lower income groups, will be upgraded by stages as owner's financial circumstances permit.

According to Gold (2006), the aim of the flexile land tenure system is to enable access to affordable land for the most marginalized sectors of the population; emphasizing that not all citizens can afford freehold titles upon occupation of land. It should be noted that emphasis is foremost on availing systematic secure land tenure for the poor.

3.7   Access to land

Land being a source of wealth and a platform for human activities, access to it is necessary for economic development and poverty reduction. All policies clarify that governments shall take reasonable legislative and other measures to foster conditions which enable citizens to gain access to land on equitable basis, i.e. without discrimination, or denying anyone access to land on the basis of gender, ethnicity, or social and economic status.

Access to land is presented in general terms without making specific reference to urban areas. Indeed, 62.5 per cent of the NLPs, (Kenya, Malawi, Swaziland, Uganda and Zambia), do not refer to access to land in urban areas. It is only Rwanda that makes a clear distinction between access to land in urban and rural areas. Tanzania refers to access to land in urban areas implicitly. Only Uganda's NLP calls for a pro-poor process of access to land. Eighty seven and a half (87.5) per cent of the NLPs state that informal land markets are thriving in the urbanizing areas, and go further to propose ways to formalize the markets as a major means of land delivery.

Although the land market seems to be positively embraced by all NLPs, caution must be made that if this method of access to land is not carefully regulated, it can be a cause of landlessness and therefore promote poverty. The poor may be enticed to sell (all) their land holdings to the rich who end up amassing land while the poor majority remains without any land. In particular sales of undeveloped land should be strictly monitored and regulated or prohibited by governments before sale of allocated land parcels.

3.7.1   Protection of vulnerable groups

In the context of urban setting, the NLPs refer to internally displaced persons, refugees, persons with disabilities, orphans, widows, unemployed youths, unskilled and low skilled workers, slum and street dwellers, the aged as well as persons living with HIV/AIDS. People in this category are described as being vulnerable because they lack the means to access, use and own land and land based resources.

Although it is common knowledge that vulnerable groups are also in urban areas, fifty (50) per cent of the country NLPs, (Malawi, Rwanda, Swaziland and Tanzania), do not make reference to such groups in urban areas.

Regarding persons living with HIV/AIDS, Uganda and Zambia NLPs note that HIV/AIDS in urban areas generates landlessness and poverty through asset transfers, distress land sales at distress prices due to illness and death of land owners; close relatives grabbing land of the deceased, leaving orphans and widows landless. By this, inheritance procedures are greatly

abused. The NLPs thus propose that to protect the land rights of persons infected with HIV/AIDS, legislative measures will be put in place to:

- Control rural[1] land market operations to prevent distress sales involving victims of HIV/AIDS.
- Mainstream HIV/AIDS intervention into all land sector activities.
- Ensure recognition of the impact of HIV/AIDS pandemic in land administration and management services, and
- Work in partnership with other stakeholders to redress the impact of the pandemic.

The ZLA (2008) calls for the protection of the people living with disabilities of HIV/AIDS to hold onto their land even if they are unable to develop it. Other issues worth noting in the NLPs include:

- Establishment and enforcement of a strict inheritance system that will take care of land right interests of widows and orphans.
- Encouragement of joint registration of land rights for married couples to protect interests of couples in case of death of a spouse, and
- Disposal of land or a residential house be made subject to written consent of spouses.

Vulnerable persons can only benefit from land policies that emphasize on equitable access to land and defend the rights of the poor to own land in urban areas.

3.8   Land hoarding/speculation

Land hoarding or speculation is a symptom of both poorly functioning land market and a lack of viable alternative investment opportunities. It promotes development of unplanned settlements, encourages urban sprawl, increases the cost of delivering services, creates an artificial shortage of development land and interferes with the government's desire for fair distribution of land. This operates through some people acquiring many land parcels, often purchasing them from the poor. They acquire many such parcels than they can develop them. They keep them undeveloped (sometimes for many years) and dispose of them at exorbitant prices often through the informal market at times when the official supply of parcels is low. The poor are thus forced to migrate to the suburbs where, if they are lucky to get land, they start new informal settlements, thus exacerbating urban sprawl and slum development.

The NLPs of the countries which have tackled the issue of land hoarding propose to discourage it through:

- Strict enforcement of development conditions.
- Granting of planned urban land and ensuring timely effective utilization of the land.
- With the exception of mortgaged land, disallow disposition of land for which all development conditions have not been complied with.

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[1] Although the two NLPs do not make similar reference for urban dwellers living with HIV/AIDS, this citation has been made here because urban dwellers living with the pandemic experience the same fate as their rural counterparts.

- Imposition of punitive tax incentives to prevent speculative holding of land, and
- Treating land that has not been developed as per the stipulated conditions to be speculative and so be considered as they have breached the development conditions.

Malawi's NLP notes that, based on speculative motives, some landholders sell their plots when they are still bare or underdeveloped or just a short period after acquiring them. Kenya and Tanzania's National Land Policies make explicit reference to rural setting, but remain implicit in urban context. Namibia, Rwanda, Swaziland, Uganda, and Zambia's NLPs do not make any reference to urban land on this matter.

Treating undeveloped urban plots and development that fails to meet building quality standards and required land development intensity as being speculative development and breach of development conditions may be risky to the poor. The poor, being unable to cope with the stringent development conditions, may be rated as speculative and so lose their landholding rights. Urban authorities should therefore consider setting aside areas for the poor; and provide serviced parcels with restrictions on disposal, and enforce less stringent building standards and development regulations in such areas.

3.9 Land registration

Land registration in all the countries examined is standardised: registration of urban land is not given a specific attention, although in practice the Land Act of Tanzania allows a short term registration of land held in the informal settlements (s. 23 of the Land Act No. 4 of 1999). The operation of most registration systems:
- Are bureaucratic, corrupt and inefficient (Kenya).
- Have poor land records that result to allocation of a land parcel to more than one person (Kenya and Tanzania) thus causing many disputes.
- Processing of rights in land are performed under manually operated systems that are slow, prone to errors and abuse (Malawi, Rwanda, Uganda and Zambia).
- Have centralized land registry system that is expensive to users (Zambia).

With regard to urban areas, the Tanzania's NLP is quite categorical when it states that the government shall record and register rights of residents in unplanned urban settlements, and shall additionally decentralize the services of land registration. Namibia, Rwanda and Zambia also intend to decentralize and modernize land registry offices and services.

These shortfalls frustrate the efforts of the poor to register rights in land. Accordingly, the poor, unable to compete in the system, give up efforts to register rights in their land holdings. Based on the malfunctioning of many of the land adjudication cum registration processes, there are reported occurrences of many disputes that remain in courts of law unresolved for many years (Kenya, Swaziland, Tanzania, and Uganda). Tanzania reports of disputes which have stayed in courts of law unresolved for as long as 20 years! Zambia refers to the need to institute fast track and low cost dispute resolution mechanisms targeting the underprivileged persons in society.

If there are in a country many laws dealing with the same theme, one issue may be illegal in one piece of legislation and be otherwise in another. Crafty people in society take undue advantage of such situations to advance their land related interests even where they know that the poor are adversely affected. So it is necessary to harmonise such laws into as few legislations as possible.

Furthermore, the solutions that will be beneficial to the poor include:
- Countries to adopt appropriate modern technologies, (such as computerization of the processes), that are affordable, efficient, effective, and speed up the land registration and delivery processes.
- Adherence to ethical performances by the public officials entrusted with land allocation, land use management and land administration aspects.
- In case of disputes over land rights registration, governments should establish accessible, efficient, low cost dispute resolution mechanisms targeting the under privileged persons in society who cannot access Tribunals or courts of law mainly due to the complex procedures and high costs involved. Resolution of land disputes is an incentive to investment on land, facilitates land tenure security. Kenya's NLP opts for the need to encourage and facilitate the use of alternative dispute resolution mechanism such as negotiation, mediation and arbitration to reduce the number of cases that end up in the court system and delayed justice.

3.10   Decentralization of land administration and management
This theme has been quite popular among all the policies examined. Every policy has embraced it. The reasons for supporting decentralization of services are clearly stated as follows:
- The existing institutional framework for land administration and management are highly centralized, exceedingly bureaucratic, corrupt and have not been able to provide efficient services.
- The majority of people, especially the poor, cannot afford the cost of securing land rights.

Therefore, the policies propose that in order to have rapid, efficient, cost effective and equitable services for all participants, institutional frameworks be created at local levels which are able to resolve all local-level land administration inefficiencies (Kenya, Malawi, Swaziland, Uganda and Zambia).

3.11   Urban and peri-urban land use planning
Regarding development of land in urban and peri-urban areas, all NLPs make reference to two aspects that are of interest to the urban poor, namely:
- Urban agriculture.
- Urban sprawl that result in towns extending into rural land that may be prime agricultural land and is predominantly under customary tenure.

Although not a function of towns and cities, when properly organized, urban agriculture has a potential to provide employment, income and is a supplementary source of food supply. In this view, 50 per cent of the NLPs, (including Kenya, Malawi, Namibia and Tanzania), propose the need to accommodate and regulate the carrying out of urban agriculture in a way that it does not disrupt planned urban development.

Regarding urban sprawl into rural agricultural land and inroads into customary tenure, 37.5 per cent of the NLPs, (including Malawi, Rwanda and Tanzania), discourage urban expansion into rural land as it reduces arable land, and propose instead, revision of planning standards to accommodate vertical building developments. When urban areas extend into rural land, the rural poor are deprived of their land rights and are forced to start a new lease of life as urban poor. Citing Chinese experience, van der Molen and Tuladhar (2007) observed that fast urbanization in China converted 6.7 million hectares of land into roads, factories, and residential areas thus leaving millions of farmers homeless and poor.

The persons affected by urban extensions are engulfed into social/economic conflicts caused by the mix of customary tenure, dominant in rural areas and statutory tenure, prevalent in urban areas where they find themselves moving into.

3.12   Land use and environmental management
Kenya, Malawi and Tanzania's NLPs note that the management of solid wastes is poor in most urban areas and that there was an increasing encroachment on hazardous lands for housing and other developments in towns. When left uncollected, both solid and liquid waste become breeding grounds for vermin, mosquitoes, and other disease vector insects creating grave health hazards and pollution to the urban environments. It should be underscored that although everyone is potentially a polluter of the environment, it is the poor who are more vulnerable to the pollution/degradation effects.

3.13   Surveys and Mapping
Land surveying and mapping are functions which are integral to an efficient land delivery under many land tenure systems. These functions support the planning process in general, and the land registration systems by supplying base maps needed for planning and information on parcel characteristics; including sizes, boundaries and servitudes.

Despite this positive role played by Surveys and Mapping institutions, the surveying and mapping processes have been hampered by:
- Slow, cumbersome and outdated modes of operation (Kenya, Uganda and Zambia).
- Cadastral surveys that are expensive, centralized, slow and cumbersome procedures (Kenya, Uganda and Zambia).
- Lack of human resource capacity to cope with the workload of cadastral surveying (Malawi and Tanzania).

- Inadequate or out of date topographic maps needed for land use planning, plot demarcation and identification (Namibia, Rwanda and Tanzania).
- Inadequate geodetic control framework (Kenya, Namibia and Tanzania).
- Cadastral surveys are mainly done by government surveyors (who are few) (Malawi, Tanzania, Uganda and Zambia).

To address the shortfalls in surveying and mapping systems, the NLPs proposed:
- Adoption of modern technology such as GPS and GIS (Kenya, Malawi, Rwanda and Zambia).
- Simplify demarcation of parcels and streamline survey authentication procedures (Kenya, and Uganda).
- Improve human resource capacity through training (Malawi and Rwanda).
- Produce and revise large scale topographic maps (Malawi, Namibia and Tanzania).
- Establish uniform, homogenous national geodetic networks (Kenya, Namibia and Tanzania).
- Encourage public–private partnerships in delivery of survey and mapping services (Malawi, Tanzania and Uganda).
- Decentralize survey services (Zambia).

There is no doubt that surveying and mapping processes are expensive and stand to benefit the socially better placed people in society if the processes continue to be undertaken sporadically. One of the ways of lowering the costs and thus benefit the poor as well, is to undertake simplified, systematic survey and mapping operations. For purposes of identification of individual land units in developed areas, such as in informal settlements, spatial description of land units may be adequately made using simple survey and/or mapping techniques.

3.14 Land value, valuation and land taxation

The policies state that land as a scarce resource has value. Hence land values will be recognized in all transactions involving land and in the assessment of land tax and rent. In that regard, land valuation is necessary for public purchase and/or sale of land and immovable fixtures, for expropriation and compensation, for land property taxation, and for the functioning of property land markets. Tanzania and Malawi further clarify that land has value as a share in negotiation to create joint ventures in various investment projects.

However, in the countries examined, it is reported that land tax is not efficiently collected partly because there is yet no mechanism for the collection of the tax (Kenya, Zambia, and Uganda). There is also lack of accurate data and reliable land information management (Zambia).
In order to create a base for revenue collection, the NLPs proposed to:
- Introduce a development levy on undeveloped land (Kenya and Rwanda).
- Enhance an efficient and effective revenue collection system for ground rent and other related fees and charges (Malawi, Tanzania, Uganda and Zambia).
- Improve land information management system (Zambia and Tanzania).

- Broaden the revenue base by regularizing the unplanned settlements (Zambia).

Without an efficient system of land tax collection, local governments will not be able to cater for the interests of the poor. Furthermore, to help the poor, systematic valuation of all houses and land should be done so that those whose values are below a specified cut off point should either get land and property tax exemption or be required to pay a nominal tax amount.

3.15 Informal urban settlements

The rapid growth of urban population together with the inability of the land administration systems to provide sufficient plots to meet demands has resulted in the growth of informal settlements in urban and peri-urban areas. Kironde and Rugaiganisa (2002) noted that in many sub Saharan African urban areas, the informal land delivery system supplies far more land than the formal system. The Tanzania's NLP notes that more than 50 per cent of urban residents in Tanzania live in poor conditions in informal/unplanned settlements where they have no security of tenure or access to sanitary and other basic services.

According to the NLPs examined, factors that contribute to the growth of unplanned settlements include:
- Natural population increases.
- Rural to urban migration.
- Costly and bureaucratic procedures for land acquisition and registration.
- High building standards that are unaffordable to the poor urban majority, and
- Laxity in the control of development.

Measures proposed to remedy the situation include:
- Put in place a mechanism for:
  o Removal of squatter from unsuitable land (Kenya and Tanzania)
  o Except for housing in hazardous areas, the land rights of residents be recognized and protected through slum upgrading programmes that involve participation of the residents (Kenya, Malawi, Rwanda, Swaziland and Tanzania).
- Undertaking of timely planning of all potential areas for urban development in the periphery of towns so as to pre-empt further slum development (Kenya, Malawi and Tanzania).
- Design special areas that will be planned for low income housing with simplified building regulations and provide necessary services that are affordable by the residents, (Malawi, Namibia and Tanzania).
- Register all public open spaces to prevent them from being invaded by private developers (Kenya and Malawi).
- Observe strict enforcement of development controls in urban and peri-urban areas (Rwanda, Swaziland, Uganda and Zambia).

In order to contain proliferation of slums while giving the poor the rights to continue to live in urban areas two things are worth emphasizing:

- Measures are required to prevent growth of new slums; for example, through timely planning, control and implementation of land use plans ahead of development.
- Recognize existing slums and upgrade them while doing demolition and eviction only where it is absolutely inevitable, i.e. where houses are built in hazardous land. This may require putting in place resettlement policies.

3.15.1 Improving land tenure security in urban informal settlements in Tanzania

Pursuant to its NLP's desire to record and register rights in land in informal settlements, Tanzania has adopted an innovative approach of using geo-referenced, high resolution satellite imagery to issue residential licences/titles to dwellers in urban informal settlements. Hard copies of the satellite imagery, enlarged to the scale of 1:1,500, are used in the field for recording landholding boundary adjudication and delineation.

The process involves a team composed of a planner, a surveyor and a cartographer visiting an informal settlement. The team identifies individual houses, contacts the house owners and local leaders in the area. Accompanied by house owners, neighbours and a local leader (usually a ten cell/*mtaa* leader) the team is shown the agreed boundaries of individual landholdings. It marks such boundaries on the hard copy of the satellite imagery and gives each such landholding a unique number and takes relevant notes. Then the team completes the fieldwork by filling in a questionnaire for each landholding, namely ownership particulars. Note that there is no mark which is emplaced on the ground on any landholding to denote positions of boundaries.

Back in office, the boundary lines are screen-digitized on the original soft copy imagery, landholding sizes determined and numbers entered to get a photo-map composite showing digitized boundaries, landholding numbers, buildings as well as other topographic features appearing on the imagery (Figure 2).

Figure 2: A photo-map composite.

A digital database is then prepared for all landholdings in a settlement. The composite map, together with the database, is the basis for issuance of residential licences for individual persons whose landholdings are in relatively safe areas. Figure 3 illustrates an example of a sketch map, (an extract from the composite map), used as a deed plan that constitutes a component of the residential licence. The composite map may also serve as a basis for full land regularization when opportunity arises.
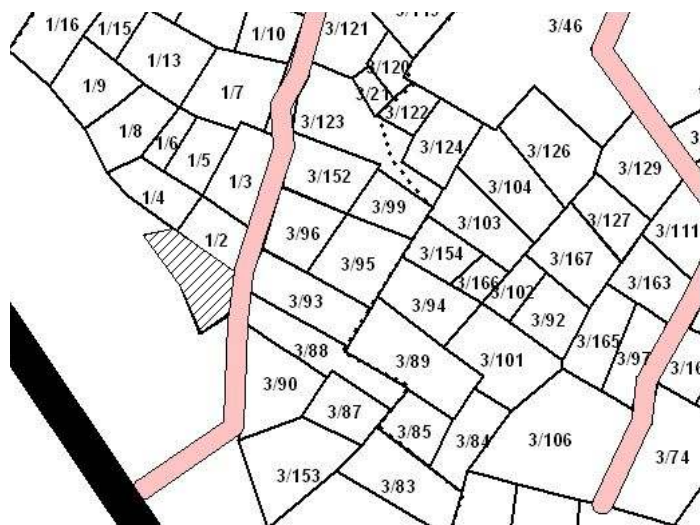

Figure 3: An example of a sketch map used as a deed plan.

3.16   Public private partnership
Under the public-private partnership arrangement, the NLPs call for privatization or divestiture of some of the land administration functions. This may be done through privatization of limited number of land rights administration services under guidelines established by governments which will then remain with the functions of policy formulation and development supervision, monitoring and performance enforcement.

The need for a public-private partnership is reinforced by Swaziland's NLP, which correctly states that the private sector holds the key to economic growth; and as the majority of wealth in all countries is held in the form of real property in private hands, then there is every reason for the public sector to devolve to the private sector some of its functions. Land administration functions which readily fall under this category include physical planning, land surveying and mapping, and property valuation. Doing so will bring such services much closer to the people and expand the employment base that will also benefit the poor.

3.17   Capacity building
All NLP documents examined state that there is a great shortage or lack of land administration human capacity, notably land surveyors, town planners, valuers, land delivery officers and land

information management staff. As a result, land administration, (notably cadastral surveying and land registration functions), in East and Southern Africa has not been able to register appreciable number of land parcels mainly due to inadequacy or lack of capacity (Silayo, 2007(b)). Furthermore, decentralization of land administration and management functions to districts, cities, municipalities and lower levels was seen to demand more human, institutional and organizational capacity than what already existed (ibid.). To compound this problem, the cadastral systems are manually operated and are thus not delivering services efficiently.

The policy documents therefore note that there is the need to enhance institutional and human resource capacity through education and training of land administration and management professionals at a variety of levels. Kenya, Malawi and Tanzania specifically refer to creating human resource capacity to operate computerized infrastructure for land delivery and registration.

Lack or shortage of human capacity and modern technology in land administration is complicated by prevalence of illiteracy. Literacy is fundamental to the understanding, and implementing of land policies by the stakeholders. Yet on average, less than 60 per cent of the total adult population in sub Saharan Africa can read and write with understanding (EFA Global Monitoring Report, 2006). Success of the land related Millennium Development Goals is dependent on the ability of the stakeholders to comprehend intended objectives in the land policies right from policy formulation to implementation.

4.0   CONCLUSION
From the National Land Policies (NLPs) of eight countries in East and Southern Africa, it is clear that the NLPs were formulated as general documents that did not: (a) make clear distinctions between urban and rural environments and (b) consider poverty reduction or the urban poor. Yet the NLPs were formulated when it was already common knowledge that more and more people would live in urban areas. This oversight is the most probable cause that has made over 46 per cent of urban population in Africa to live in slums where lifestyle is devoid of basic human necessities and security of land tenure is uncertain. A change is needed now.

5.0   RECOMMENDATIONS
5.1 General
- Governments be urged to reformulate existing and new National Land Policies (NLPs) so that the NLPs comprise two sections – one urban and the other rural. The urban section further be divided into two parts – one general and the other for the poor. The objectives of such urban land policies should foremost be made quite clear. The section for the poor will *inter alia* take account of systematic upgrading of slums/informal settlements.
- Governments be urged to prepare pro-poor land development schemes in tandem with general schemes, taking into account participatory approaches.
- Governments be urged to prepare two building codes and regulations for urban areas – one for the general areas and the other for the new areas where the people displaced from areas being upgraded will be resettled to give way for public utilities and spaces. The

building codes, regulations and services for the poor areas should be simple, enforceable, implementable and affordable.
- In areas planned for the poor, a land parcel should not be available for sale unless it has been developed; and any further development should not exceed a certain value which shall be determined by the local area authorities responsible for land development control.
- Governments should be urged to allow some non-urban functions such as urban agriculture, home based workshops, tailoring, etc. to take place in cities and towns as sources of creating employment for the urban poor.

5.2 Establish efficient land administration institutions
- Should there be any claims on their land rights, the poor cannot defend their rights in courts of law due to the high cost and complex procedures involved. Therefore governments are urged to establish efficient and effective land administration institutions to protect and enforce land property rights, notably for the poor.
- The implementation of land administration functions and processes should shift from sporadic to systematic approaches so that the poor can benefit from inclusiveness and the resulting relatively low operational costs.

5.3 Implement the MDG on literacy
- Slum dwellers are the main stakeholders in urban upgrading programmes. Little will be appreciated and valued by stakeholders who cannot easily understand or appreciate the objectives of a programme or understand and fight for their land rights if they are not literate. Governments are, therefore, urged to expedite implementation of the Millennium Development Goal on Universal Primary Education and to take it further to secondary school level and beyond where feasible.

5.4 Adopt pro-poor land tenure security
- Governments should be urged to borrow a leaf from the Namibia's Flexible Land Tenure System on enabling the poor to acquire security of land tenure stepwise as their financial positions improve.
- As cities and towns extend into rural land, the rural people affected are either evicted or accommodated and forced to change their land tenure systems from customary to statutory. To help such people to cope with the changes, governments be urged to establish transitional tenure systems that shall help them to absorb the shock.

5.5 Formalize informal settlements
- Wherever land and housing occur, the two properties/assets together have considerable economic value which, if officially known, can be beneficial to both the individual owners and the State. Therefore it is important that land professionals conceive simple, quick systems of describing, adjudicating, mapping, recording and registering ownership interests on all land holdings in informal settlements. Already Tanzania has adopted an

innovative approach on recording and registering rights in land in informal settlements. This approach is worth consideration for emulation by others.

5.6 Decentralize land administration functions
- Governments should be urged to expedite decentralization and enforcement of good governance of land administration functions to the local area levels so that land matters and services may be attended to at that level, leaving only the 'few' more complicated ones to reach the Centre for final decisions.

5.7 Prioritize human capacity building
- While other forms of capacity building and adoption of modern technologies are equally important; foremost, priority should be given to human capacity building in the land sector as a strategy to first put in place human resources that shall develop and implement pro-poor policies. Hence education and training in the land administration functions should be expedited and coordinated at regional levels. Sharing of education materials, equipment and human resources among academic institutions training in land administration functions should also be considered at regional levels.

REFERENCES
- ECA-CEA (Economic Commission for Africa) and UN-Habitat (2008). The State of African Cities 2008 – a Framework for Addressing Urban Challenges in Africa, UN-Habitat, Nairobi.
- EFA Global Monitoring Report (2006). Regional Overview: Sub Saharan Africa. www.unesco.org/education/GMR2006/full/africa_eng.pdf accessed January 2009.
- EU (European Union), (2004). EU Land Policy Guidelines – Guidelines for support to land policy design and land policy reform processes in developing countries.
- Gold, J., (2006). The Flexible Land tenure System in Namibia: Enabling Sustainable Options to Urban poor. Paper presented at the Africa Region CASLE Conference, 14-17 March 2006, Bagamoyo, Tanzania.
- GoT (Government of Tanzania), 1997. The National Land Policy, Second Edition, Printed by the Ministry of Lands, Housing and Urban Development, Dar es Salaam, Tanzania.
- Government of Swaziland, The Draft National Land Policy. February 2004. www.ecs.co.sz/land_policy/land_policy_chapter.
- International Herald Tribune of 26th February, 2008. www.int.com/articles/ap/2008/02/26/news/UN-GEN-Growing-Cities.php.
- Kironde, J.M.L. (1995). The Evolution of the Land Use Structure of Dar es Salaam 1890-1990: A Study in the Effects of Land policy, Department of Land Development, Faculty of Architecture, Design and Development, University of Nairobi, Nairobi.
- Kironde, J.M.L. and Rugaiganisa, D.A., (2002). Urban Land Management Regularization and Local Development Policies in Tanzaia – With Special Emphasis on Dar es Salaam. University College of Lands and Architectural Studies, Dar es Salaam.
- Ministry of Lands, Environment, Forests, Water and Mines, (February 2005). National Land Policy, Kigali, Rwanda.

- Ministry of Lands, Housing and Urban Development, (January, 2007). Drafting the National Land Policy – Working Draft 3, Kampala, Uganda.
- Ministry of Lands, Physical Planning and Surveys, 2002. Malawi National Land Policy, 17th January 2002.
- National Land Policy secretariat, (March 2007), National Land policy - The Formulation Process, Nairobi, Kenya.
- Republic of Namibia, (1998). National Land Policy, Ministry of Lands, Resettlement and rehabilitation, April 1998.
- Silayo E.H. (2007). Comparative Analysis of Core Issues Addressed in the National Land Policies in Eight Countries of Eastern and Southern Africa + Cambodia,- Cambodia, Kenya, Malawi, Namibia, Rwanda, Swaziland, Tanzania, Uganda and Zambia. ITC, Enschede, The Netherlands; an unpublished resource manual.
- Silayo, E.H., (2007(b)). Professional Skills Needed in Implementing National Land Policies, a paper presented at the Commonwealth People's Forum, Kampala, Uganada, 19-24 November 2007.
- The Republic of Zambia (October 2006). Draft Land Administration and Management Policy, ministry of Lands. Lusaka, Zambia.
- Tibaijuka, A. (2008). Improving Slum Conditions Through Innovative Financing, FIG, Article of the Month, October 2008. www.fig.net/pub/monthly_articles/October_2008_tibaijuka.html
- UN-Habitat and UNEP (1997). Implementing the Urban Environment Agenda, Volume 1, Majestic Printing Works Ltd., Nairobi.
- UNHabitat (2003) The Challenge of Slums – Global Report on Human Settlements 2003, Earthscan Publications Ltd, London and Sterling, VA.
- van der Molen, P. and Tuladhar, A. (2007). Corruption and Land Administration, FIG, Article of the Month, March 2007. www.fig.net/pub/monthly_articles/march_2007_vandermolen_tuladhar...
- Wikipedia, the free encyclopaedia, accessed December 2008.
- ZLA (Zambia Land Alliance), (2008). Land Policy Option for Development and Poverty Reduction – Civil Society View for Pro-Poor Land Policies and Laws in Zambia, Lusaka, www.zla.org.zm accessed in January 2009.

BIOGRAPHICAL NOTES

Eugene H. Silayo is a land surveyor cum cartographer. He has wide experiences as a practicing professional surveyor and an academician. He is currently working as a Senior Lecturer in the Department of Geomatics, School of Geospatial Science and Technology at Ardhi University, Dar es Salaam, Tanzania. He has published and presented many conference papers on cadastral surveying and cartography. His outstanding publication is a textbook titled Cadastral Surveying Practice in Tanzania. He is a Fully Registered Surveyor and a Fellow of the Institution of Surveyors of Tanzania (IST). His current research interests focus on cadastral systems, land administration and land policy.

CONTACTS:
Mr. Eugene Silayo
Department of Geomatics,
School of Geospatial Science and Technology,
Ardhi University;
P.O. Box 35176,
Dar es Salaam,
TANZANIA;
Tel. +255 22 2775004,
Fax +255 22 2775391,
E-mail: silayo@aru.ac.tz.
Website: www.aru.ac.tz

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