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Land Resource Conflicts in Tanzania

Is there a way out?

Authors: ¹Samwel Sanga Alananga, ²Kerbina Joseph Moyo, ³Agnes Nkundwe Mwasumbi

1 Senior lecture, Department of Business, Ardhi University, salanangasanga@gmail.com, Dar es Salaam, Tanzania
 2 Lecturer, Department of Land Management and Valuation, Ardhi University, kerbina40@gmail.com, Dar es Salaam, Tanzania
 3 Senior Lecturer, Department of Land Management and Valuation, Ardhi University, anmwasumbi@yahoo.ca, Dar es Salaam, Tanzania

ABSTRACT

Context and background

With the implementation of Economic liberalization policies in the 1980s and recognition of land markets in the 1990s there has been an increase in competition and Land Resource Conflicts (LRCs) over land in many parts of Tanzania. As a result, the implementation of reforms has been accompanied with statutory multiplicity in land allocation leading to severe LRCs especially in rural areas.

Goal and objectives

This article examines the nature of LRCs in Tanzania and potential solutions based on juxtaposition of LRCs related theories onto practices in land management in Tanzania.

Methodology

Workshops were conducted in three regions of mainland Tanzania reaching a total of 210 professionals in forest, environment, Academia and land sectors. Participants' contributions in these workshops were clustered based on concepts derived from resource LRC theories and narratives were interpreted to arrive at the results and conclusion of the study.

Results

It was noted that since many LRCs emanate from farmers or pastoralists intersection with either farmland or conservation areas i.e., forests, game parks or/and natural ecosystems, these spatial units need to be delineated with proper community participation. Haphazard attempt to exclude one resource user from the other have often turned futile due to corruption and violation detection inability by government authorities. Local communities seem to argue for reducing these conservation areas in favor of expanded agriculture and/or grazing land. It seems however, there is no recipe for LRCs resolution in Tanzania, the cost and benefit of the different approaches need to be evaluated before one can adopt any.

Key Words:

Land resource LRC, Land resources, LRC resolution, Land use planning, LRC theories, Tanzania

1. INTRODUCTION

In the end of the 1960s and during the 1970s, Tanzania implemented Ujamaa policies which were accompanied with large scale resettlement under Ujamaa villages with no mechanisms to define or protect customary land rights (Achterberg-Boness, 2016). By the end of 1970s, the customary tenure was moving towards individual ownership of land. Such tenure transitions were accompanied by the development of the market, opening up more opportunities for land alienation, land degradation and environmental damage (URT 1995, Kikula 1996, Shivji 2009, Lugoe 2006, Lugoe 2008, URT 1994). It is during this period that Tanzania experienced the beginning of severe LRCs in rural areas. To date, common causes of land conflicts include double (multiple) sales, poor land administration system, lack of family history, lack of proper documentation, forced encroachment, Ignorance and inability to read and write, Conspiracy, Quack Surveying (Boafo-Anang, et al., 2021). Competition of resources is ranked as the highest cause of land conflict in some parts of Tanzania such as Kiteto district (Mohamed, 2020; Alananga Sanga, 2019).

During Liberalisation, under the Structural Adjustment Programmes (SAP) in the 1980s and in an attempt to increase security of tenure in rural areas, the government registered villages under the Management of Village Land Councils (VLCs) and villagers were allowed to obtain subtitles (leases from the village council) of between 33 and 99 years under the defunct legal regime of the Land Ordinance of 1923. This policy however, allowed more powers of central government over village land. The results were abuse of power including taking of unused village land (Achterberg-Boness 2016). The titling policy under the 1982, Agricol intended to provide greater land tenure security (Shivji 1998), but ended harming it. Achterberg-Boness, (2016) identifies a number of challenges in early village land individualization programmes to include; the VLC could grant land rights to outsiders behind the backs of villagers and hence exclude the local population from decision-making processes; the title also gave the VLC the power to abolish customary land rights; the titling process itself brought forward existing boundary LRCs between villages (Shivji 1998) and the failure of dispute settlement by state organs and corrupt practises in land control and management (Rwegasira 2012).

The Tanzania's Economic Liberalisation has so far been implemented in three phases all attempting to move the economy in the direction of free market. The first phase focused on trade liberalisation, the second on foreign investment deregulation, and the third on parastatal and civil service reform (Gibbon 1995). The new policies that accompanied liberalization, led to the beginning of a land market and increasing land scarcity in fertile regions. At the same time, there was a massive increase in influence of national NGOs on land-use planning at the district and village levels. Economic liberalisation also led to an increase in competition and LRCs over land (Englert 2005). After several years of implementing reforms and even after the land law reforms under the 1995 National Land Policy (NLP) and ultimately the operationalisation of the Land Act (LA) and the Village Land Act (VLA) through the land regulations in 2001, it is obvious that land management is still conducted by several statutory organs (URT 1995, URT 1999a, URT 1999b). Central and rural administrative bodies have the right to grant land access in villages, the Minister responsible for Land working on behalf of the President or even regional and district commissioners on the same behalf, are involved in land allocation, LRCs resolution and overall management of land (Achterberg-Boness 2016). As a

result, LRCs may emanate simultaneously from multiple channels making it difficult to single out the main source of the conflict. Failure to identify a major source of the conflict can misalign efforts to deal with the conflict in favour of periphery rather than central source/s of conflict. The multiplicity of land management organs whether legal or otherwise could be behind the escalation of LRCs in Tanzania though each might claim to be interested in reducing the same. This article has juxtaposed the paradigms of LRCs in Tanzania from at least seven theories, all of them can shade some lights on potential resolution mechanisms.

2. THE NATURE OF LRCs: THEORETICAL FRAMEWORK

Table 1 provide a summary of the core theories on the causes of Land Resource Conflicts (LRCs). Based on these theories, LRCs resolution mechanisms would vary depending on the nature of the LRC. Under the Malthusian theory, competition for scarce resource is at the core of LRC" (Malthus 1798). The competition is however demographic in nature and thus controlling population growth or identifying alternative resources beyond the local juridical boundaries may be a solution to such LRC (Barnett 1974). Under the classical economics theory, LRC emanating from scarcity of natural resources is ironed out by forces of demand and supply. That is competition exerts an upward pressure on prices thus reducing demand while encouraging supply (Smith 1937 [original 1778]). The imbalances will ultimately settle where there is neither excess demand nor excess supply. For land related resources however competition for a resource may encourage even further competition especially when the resource is a common pool resource (Clark 1973, Davidson 1999). Under these situations, the classical economics theory advocate for privatization of the resource (Demsetz 1967, De Soto 1989). Therefore, defining and enforcement of private property is the ultimate solution to LRC under the classical economics theory (Alananga Sanga, 2019).

Under the Marxists theoretical postulates, LRCs emanate from class struggle. The rich "also called "haves" being at the center and the poor also called "have-nots" being at the periphery. The argument is that free markets create great disparities between the "haves" and the "have-nots" leading to LRC between the two (Marx and Engels 1962 [original 1848]). The rich i.e., the *centre* economy has largely developed out of the peasants' shoulder i.e., in the *periphery* economy (Dobkowski and Wallimann 1998). The inherent nature of classes created by capitalist economies leads to discontent among the poor who attempt to fight against the rich in order to survive. According to Marx private property is not a solution rather a source of LRC since the individualistic behavior creates attitude that leads to the utilization of a natural resource for the betterment of oneself rather than the society at large (Chirot 1982, Baran 1957, Wallerstein 1979, Dos Santos 1971). To Marxists the solution would be to create a classless society where all people have the same access to resources i.e., land. This ideal world of Marx though attractive, has never happened in the real world with the exception of very poor North Korea and Cuba. At the local level, the creation of communal rights in common pool resources are observable evidence of Marxists, though not directly related to the original propositions (Alananga Sanga, 2019). It seems a complex intermingling of private property and Marxists could provide some leeway in as much as LRC is concerned.

In a classical Sociologists view point, the increased competition for a resource due to population pressure leads to a complex division of labour which in turn increases social adaptability thus reducing LRC (Harper 1996, Humphrey 1982).

Table 1: Theories of LRC

Theoretical proposition	Drivers of LRC
Malthusian Theory: Due to population growth, human consumption will eventually exceed the availability of natural resources, causing negative social outcomes like war, disease, and famine.	Population induced competition over scarce resources
Classical Economic Theory (Smith): A system based on supply and demand will bring about a dynamic arrangement capable of addressing scarcity. Scarcity deters over-consumption and spurs technological developments and substitutions, which support continuous growth of old and new sectors of the economy, thus minimizing the need for disputes over resources.	Scarcity of a resource does not discourage demand rather encourages it.
Marxist Theory: Free markets create disparities in wealth, thus generating LRCs of interest between the “haves” and the “have-nots.”	Class struggle
Classical Sociological (Durkheim): Macro-structural changes in social organization affect social adaptability. Population growth and competition for resources resulting into an increasingly complex division of labour, which increases social adaptability and decreases LRC.	Competition over a resource yields complex division of labour which induces individualistic rather than social adaptability
Homer-Dixon Theory: Natural resource scarcity can cause LRC indirectly by causing social breakdown. Negative consequences of scarcity include human migration and expulsion, receptivity to insurgency, decreased economic productivity, and a weakened state.	Resource scarcity induces social breakdown
Schnaiberg and Gould Theory: Economic development causes social inequality and natural resource degradation and depletion, which will contribute to LRC.	Economic development induces inequality over resource over-exploitation and degradation

Constructed by the authour based on Green (2005)

In this case organic solidarity is core to reducing LRC (Durkheim 1965 [original 1902]). The main challenge here is that individualistic behavior tends to override the prospects for social adaptability due to the common free-riders problem. Social adaptability makes a lot of sense if being part of it yields the highest pay-off. In practice however, behaving individually when one knows for sure that all other will behave for the social good has the highest net return. It makes a lot of sense to free-ride in an environment where the social adaptability pay-off is lower than individual adaptability (Alananga Sanga, 2019). This commonly prevents social solutions to land related resources such as fisheries and forests since if the villagers agree to conserve a resource, then there will be plenty of resources which if harvested communally yield lower return than if harvested individually through for example illegal fishing or poaching.

A slight extension to the classical sociological view on LRC has been propounded by Dahrendorf who refuted both structural functionalism and Marxism explanation of social classes (Tittenbrun 2013, Dahrendorf 1959). The idea is that, Durkheimian view of social solidarity neglect the basic fundamentals of social LRC while Marxism views social classes in a relatively narrower sense while completely ignoring consensus and integration in modern social structures. Dahrendorf (1959) argued that class LRC in modern societies have been institutionalized into state and economic spheres such as unions, collective bargaining, the court system, and legislative debate. As such, class struggle that leads to LRC between antagonistic classes as envisaged by Marx are rare. Therefore, the two-class view of Marx is inadequate to explain the complex modern society in which political elite differentiate themselves from both bourgeoisie and proletariats (Alananga Sanga, 2019). Along

this view, it seems modern institutions provide a cure to LRC. In fact, the reduction in LRC has been motivated by the growing middle class in developed countries who differentiate themselves from the very poor low class.

In caste or customary systems of Asia and Africa respectively, there might be some traditional or family rulers who differentiate themselves from peasants and among peasant there might be some who are well-off than the bottom-line proletariats. It is also possible that some middle-class peasants may have shares in multi-billion-dollar firms while they are individually not billionaires. The complexity of the modern society makes Dahrendorf propositions more valid specifically on class formation though he might have made a mistake by splitting the society into two, the “command class” and “obey class”, the same mistakes he accused Marx of. The emphasis here is exercise of or exclusion from authority as a basis for class formation rather than effective private property. This view is also supported by Coser (1957) who ascribes the nature of LRCs to diversities within and between systems or social structures. In Coser's view, LRCs over a resource arises only when “*there exists an excess of claimants over opportunities for adequate reward*”. Scarcity of land resources curtails the option for reducing LRC through increasing opportunities and the only option under this view is to reduce legal claimants through effective formal institutions along the lines of De Soto (1989) and Demsetz (1967).

Homer-Dixon theory attributes LRCs to negative consequences of scarcity including human migration and expulsion, receptivity to insurgency, decreased economic productivity, and a weakened state power (Homer-Dixon 1991). These forces tend to yield social breakdown due to continuous changes that spur or block the process of building important social cohesion, an ingredient towards piece. To avoid these negative consequences there is a need to directly attack scarcity itself through technological innovation that increases the availability of food and other material needs of human being. This is evident in land resource protection as well whereby reducing dependence on natural grazing methods and providing farmers with high yield crops reduces dependence to the natural environment which can then be conserved. However, LRC will escalate if alternative survival mechanisms are not in place and land is allocated to conservation or other activities not directly connected to the livelihood of the local people. At the center of Schnaiberg and Gould Theory is inequality in access to land resources (Schnaiberg and Gould 1994). In cases of open access resources depletion and degradation of a resource can excessively contribute to LRC (Dunlap and Catton-Jr 1979). The obvious solution here would be similar to a combination of private property and Marxists where communal rights are defined and enforced as appropriately. These however, do not eliminate the free-riders problem and incentives altogether.

LRCs and resolution in Tanzania

Land reforms in Tanzania were marked by the presidential commission of enquiry into land matters commonly referred to as the Shivji Commission (URT 1994; Coldham 1995). The Shivji commission worked for two years and submitted its exhaustive Report in 1992 (the Shivji Report). This crucial document called for the development of a national land policy as a backbone for the formulation of the new legislation (Kironde 2009). Manji (1998) points out some substantive differences between the commissions' proposal and McAuslan (an expert hired to develop the land laws following the implementation of the 1995 NLP) in terms of the purpose of the land reform. While on one side, the

Commission had taken a step towards strengthen citizens' rights to land vis-à-vis their own government, McAuslan and his supporters' main objective was to "create a suitable environment for investment in land by large-scale buyers and to set up an efficient system for a market in land" (Manji 1998).

The recommendations of the commission were however, fundamental in the formulation of the 1995 National Land Policy (NLP) (revised in 1997) and a number of statutory enactment and amendments that followed thereafter (Coldham 1995). The 1995 NLP as revised in 1997 targets optimal land use for and sustainable development by supporting equitable access to land and formalization. The 1998 guidelines for participatory village land use management in Tanzania introduces the National Land Use Planning Commission and institutionalizes participatory land use management and planning at village level (Achterberg-Boness 2016). Following the enactment of the 1999 twin land laws and the ultimate operationalisation of the laws through the Land regulations in 2001, land in Tanzania falls under three categories: general land, village land and reserved land. This categorisation slightly reflects the Shivji Commission's recommendations. Additionally, hazardous land is described under the two Acts as portions of land within the three categories, being protected mainly for environmental reasons, or to protect people from danger.

Reserved land includes statutorily protected or designated land such as national parks, forests, water catchment areas, land for public utilities (for roads, way leaves, water pipelines etc.), wildlife reserves and land classified as "hazardous" (section 6 of the LA, 1999 (URT 1999a)). The Village Land Act, No. 5, (URT 1999b) under Section 7 define Village land to includes land within the boundaries of a registered village as per the Local Government Act (District Authorities) of 1982 (URT 1982), land designated as per the Land Tenure (Village Settlements) Act of 1965 (URT 1965), demarcated and agreed to as village land by relevant VCs, and land (other than reserved land) that the villages have been occupying and using as village land for 12 or more years. Village land is further categorized as communal village land, which cannot be used for individual occupation or use; land occupied or used by an individual/family/group of persons under customary law and land that can be allocated by the Village Council for communal or individual occupation (Duncan 2014). The residual is General land i.e., land that is neither village nor reserved land.

Prior to 1995 NLP, the dispute resolution machinery in Tanzania was characterized by severe overlaps, long and everlasting cases, inaccessible justice and associated with great dissatisfaction. People described it as inefficiency, illegitimacy and injustice (Shivji, 2012). These LRCs were not only induced by overlapping claims but also overlapping dispute resolution mechanisms or legislation, rapidly growing population, breakdown in the Land Administration (LA) system due to corruption and lack of capacity (Alananga, et.al, 2019). It was therefore clear that the court system of the time could not handle all land related cases (Pedersen & Haule, 2013). In urban areas, the problem of double allocation of land plots has been a major area of concern. Lack of awareness on existing laws among both enforcers and right holders caused poor coordination and duplication of activities between formal and informal arrangements and finally resulted into double land allocation (John & Kabote, 2017).

Court hierarchy in adjudicating land matters are established under the sections 167 and 62 of Land Act, and the Village Land Act, Cap 13 (R.E. 2002) in 1999 respectively namely Court of Appeal, the High Court, the District Land and Housing Tribunal, the Ward Tribunal (WT) and the Village Land Council (VLC). These courts/tribunals are also emphasized under the 2002 Courts (land dispute settlement) Act (URT 2002). The Act under section 14 requires that every mediation to includes at least three members of the WT, of whom at least one must be a woman. The 7 member VLC, (must include 3 women), mediates disputes based on (a) any customary principles of mediation, (b) natural justice not provided in any customary principles (c) any principles and practices of mediation in which the members may have received any training (Mramba & Lamwai, 2017). Principles of natural justice during mediation such as the right to be heard and the right to be given reasons, rule against bias i.e., a member of the council not to be an interested party in the case. These principles mean that VLC members require certain training on these somehow foreign elements in their reasoning and for which they are required to apply in their daily mediation roles.

The Ward tribunal are established under the Ward Tribunals Act 1985 to i) secure peace and harmony in the area for which it is established by mediating the parties to arrive at a mutually acceptable solution, (ii) enquire into and determine disputes arising under the Land Act and the Village Land Act.41 (Mramba & Lamwai, 2017). The maximum quorum for the WT is eight members elected by the Ward Committee, of whom a minimum of three members must be women (Moyo 2017, Duncan 2014). Membership to any land tribunals is highly dependent on experience and gender as such experienced women in both traditional and modern institutions such as religion have more chances of being elected (Achterberg-Boness 2016). The presence of women on the board attracts other women who have faced injustices such as domestic violence (Chan, et al. 2016, Achterberg-Boness 2016). URT (2002) also establishes an appellate body for the WTs, called the District Land and Housing Tribunal (DLHT). The DLHT consists of the Chair [person] and up to seven assessors, who are appointed by the Minister. At least three of these assessors must be women (Duncan 2014). Experience from rural areas in Tanzania also indicates that the composition of these tribunals where they exist highly reflects the legal requirement of equal representation between male and female (Achterberg-Boness 2016, Moyo 2017). Appeals from the DLHT are addressed directly to the High Court (Land Division)¹.

Despite these legal provisions, practices on the ground are diverse. There are empirical evidences that limited awareness among villagers on the land dispute machinery has caused them to report cases to irrelevant organs (Alananga Sanga and Moyo 2018). There are also serious capacity constraints and corruption allegations that hamper LA successes on the part of the VLC and WTs (Alananga, et al. 2019; John and Kabote 2017). Village councils are not complete judicial entities, and are, therefore, not likely to have an appreciable impact on the incidence of LRCs (ibid). The 1982 Local Government (District Authorities) Act (URT 1982), allowed villages to make by-laws relating

¹ In 2010, section 17 of Act No. 2 of 2010, Written Laws (Miscellaneous Amendments) amended section 167 (1) (b) of the 2002 Courts (land dispute settlement) thereby dis-establishing the land division of the High Court and land matters become civil matters. Before the High Court (Mramba & Lamwai, 2017). The Land Disputes Courts Act was also amended by Act No. 2 of 2010 by substituting everywhere in the Act where it is read the word 'land division' with the word High Court. This was emphasized in Samwel George Mhina v. Justine Ernest Massawe and Another, Case No. 74 where the Commercial Division of the High Court ruled that the Land Division has been disestablished (Mramba & Lamwai, 2017).

to local agreements, land use plans and access to other natural resources. There are still cases of double allocation, maladministration and corruption within the system even after the 1999 land law reforms (Makupa and Alananga 2020; Kironde 2009, Lugoe 2006). Capacity constraint to deliver the LA products such as title documents to those who need them within reasonable timeframe has also been a major challenge (Makupa and Alananga 2020; MKURABITA 2008, Lupala 2002, Lugoe 2007). Under the reforms, apart from the new land dispute adjudication bodies, the VLA has strengthened the 1982 individualisation of rural land emphasizing on the need for a vibrant rural land market as a means of reducing poverty (Achterberg-Boness 2016, URT 1999b). These responsibilities vested onto VCs by the past and the current laws seem to be at odd with the capacity of these village bodies (Alananga & Exaud, 2023). As a result, LRCs in rural areas tend to escalate.

Similarly, there are cases of conflicting land-court judgements emanating from multiple sellers, multiple filing systems in same or different courts, poor coordination between land Court and lands commission office, poor data management, lack of system automation or centralization, improper documentations, fake documentation and the use of quack surveyors (Boafo-Anang, et al., 2021). Other causes of conflicts include land policy deficiencies and contradictions, imbalance political representation in leadership, bad governance and corruption, human rights violations, pastoralists' grazing cattle in farmers', no proper demarcation of land use plan, increased human and livestock population scored and insecurity of land tenure (Mohamed, 2020). LRCs in Tanzania are also fueled by land tenure contradictions between customary and granted land rights (Simbarashe, 2012) and accumulation of land in the hands of big national and multinational companies, leaving small-scale producers land less (Chachage, 2010) which have a direct impact on pastoralists and small holder farmers. Pastoralist use their wealth to address the challenges they face by offering bribes to local leaders and government officials thus marginalizing farmers outside the formal processes (Mohamed, 2020).

The laws which establish the VLCs, WTs and DLHTs intended to establish the same at each village, ward and district respectively but to date they are only in few areas. By 2013 only 42 District Land and Housing Tribunals (DLHTs) were established but only 39 are functioning while there are about 151 Towns and District Councils, this means that about 109 urban authorities did not have a single DLHTs (Massay, 2013). Similarly, the competence of local leaders to apply principles of natural justice are still questionable. Performing extra-judicial function require an understanding of some basic legal principles some of which are technically cumbersome. Looking at the qualification of the members of the mediatory board such as the VLC it does not warrant that such knowledge is demonstrable. (Mramba & Lamwai, 2017).

The establishment of land "courts" with exclusive jurisdiction has however, brought some success. These include friendly and simplified procedures contrary to the technicalities in regular courts, as well as peace and tranquillity between parties due to the opportunities to mediate, especially in VLC and WTs. More recent initiatives include Mobile courts in Tanzania were introduced in Dar es Salaam and Mwanza to fast-track court cases. The two mobile courts worth TZS 470 million were financed by the World Bank in order to improve the delivery of judicial services in Tanzania (The citizen, 2019). Mobile courts seem to be very effective and productive as they are able to reach the country's remote areas. The Tanzanian government planned to introduce mobile courts in all districts

beginning 2022/2023 via the ongoing project titled “The Citizen-Centric Judicial Modernization and Justice Service Delivery Project”, to be funded by the World bank (The World Bank, 2022).

The Mobile court project achieved a reduction in the average time taken to resolve family cases from 1,650 days at the start of the project in 2016 to 367 in 2020. Whereas the gender disparity in new cases brought is high, the number of new cases brought by women increased by 1,000 from 2019 to 2020. The data also show that mobile courts are reducing the gender gap: between January and October 2021, 375 cases were brought by women and 353 by men. This plan will fast-track the trial of cases countrywide, especially in remote areas and benefit more women. However, an interview with court officials revealed that these courts have started operation in only four regions, including Dar es Salaam, Morogoro, Mbeya and Arusha.

Regardless of the success, as mentioned earlier, the land dispute settlement system is still characterized by legal and institutional challenges that hinder its efficiency and water down the main objectives of its establishment. For example, it has been disclosed that the WTs and DLHTs are interfered by political and government leaders. In incense this reflect a limited separation of power. On the basis of the principle of separation of powers, the State surrenders judicial power to the judiciary, which will have compulsory jurisdiction to inquire into disputes and then give binding, authoritative and enforceable decisions. The Courts under the land courts Act 2002, were designed to mimic the existing courts but to incorporate principles of access to justice, public participation in decision making, independence of the courts, speedy and justice, efficiency, effectiveness, economy and transparency. Based on Section 4 of the Interpretation of Laws Act, Cap. 1 of the Laws of Tanzania R.E a court is defined as any court in the United Republic, of competent jurisdiction.” Thus, the Village Council, the Ward Tribunals and the District Land and Housing Tribunals cannot be considered courts in the strict sense of the world.

3. RESEARCH METHODOLOGY

The workshops research methodology

The data used in this study are workshop based which refers to arrangement that were made to allow land resource professionals, academia and researchers to share experiences, acquire new knowledge and perform creative problem-solving task related to their respective work or professional domiciles (Ørngreen and Levinsen 2017). The workshops were often organised for a targeted group of participants who either share a common domain (Jackson, Joshi and Erhardt 2003) or work in the same field i.e., land administration, forestry or fishery (Putnam and Boroko 2000, Jaipal and Figg 2010) or share certain agendas, such as rural development (Chambers 1983). In this case the workshops provided a mechanism to generate reliable and valid data about the nature of LRCs and the resolutions thereof (Jaipal and Figg 2010, Baran, et al. 2014). Workshops however, involve considerable financial costs; it requires extra time and resources to plan and deliver. In this study, funding for organizing all the workshops were available and in cases where workshops were difficult to conduct, the standard-format meetings were preferred as proposed by Pavelin, et.al., (2014). Detailed descriptions of the participants in the various workshops from which data for this study were collected can be found in Alananga Sanga (1019).

4. WORKSHOPS ORGANISATION

The workshops for this study included experienced participants who are engaged in the implementation of the land and land resource laws along the VGGT framework. These stakeholders include; policy and decision-making entities, specialist sectoral ministries, government programs and agencies, civil societies, NGO's, development partners and the media. The workshops which drew participants from ministries, municipalities and district councils, academic and research institutions, CBOs, NGOs, private firms and the media were conducted through a wide spectrum of agenda items. The selection of participants emphasized on diversity in experience, opinions, seniority, and interests (Pavelin, et.al., 2014). This was ensured through pinpointing the names of officials to be invited in each workshop though the organisations could decide otherwise but that was restricted within the proposed criteria. In this regard, the nature of participants varied from indigenous and vulnerable to elite groups. Based on the above noted criteria, a total of 210 (132 males and 78 females) participants participated in a total of eight (8) workshops. These workshops were conducted in three (3) regions. The number of workshops was divided as follows: Dar es Salaam (6), Morogoro (1) and Dodoma (1) and one (1) multi-stakeholder workshop in Dar es Salaam. In terms of participants, 24 participants attended in Morogoro 34 in Dodoma and 152 showed up in Dar es Salaam workshops. Out of the 210 workshops attendee, 33% were females.

The data for this research were also collected in one national-wide workshop that involved stakeholders from different organisations. The workshop intended to create a national multi-stakeholder platform on tenure of land, forestry and fishery activities. The participants to the multi-stakeholder workshop were drawn from those who participated in the previous workshops as well as some organisations which were not represented in earlier forums. Moreover, the participants were invited with the underlying spirit to bring together representatives from the three sectors of land, forests and fisheries as advocated in the VGGT. A total of 53 participants attended the national multi-stakeholders' workshop, 43 from organisations in Dar es Salaam, 2 from Morogoro and 4 from Dodoma. The remaining three (3) came from Mbeya and Arusha regions which had not been reached in previous workshop.

The researchers also obtained data from two public meeting held in Pwani region which involved 213 people of whom 21% were females. The public meetings aimed at providing consultations with local government leaders at District, Division, Ward and Village levels. The attendees of the public meetings were Ward Councillors, Village Executives Secretaries, Village Chairpersons; and natural resources officers (land, forestry and fisheries), The public meetings were conducted in Chalinze and Bagamoyo Districts in Pwani Region. The majority of the participants at the Chalinze public meeting were Village executive officer comprising about 36% of all participants. 17% of the participants were female an indication of the limited role that women play in decision making (leadership) in rural areas. The meeting was also attended by 13 LGAs officials of whom five (5) were female. At Bagamoyo public meeting a total of 41 participants were reached of whom 39% were female. Unlike Chalinze, the Bagamoyo officials did not invite land and land resource professionals to the meeting.

Data collection

In these workshops, the participatory active/experiential learning approach provided a mechanism through which data were collected. By adopting the participatory and experiential learning approach

(FAO/FIAN International 2017), the workshops were conducted by people with experience within the domain of land administration, forestry and fisheries. The workshop started with a brief introduction where participants would pair and introduce first to each other and then each would introduce his/her partner to all other participants. This facilitated socialisation and conformability in sharing ideas later on (Pavelin, et.al., 2014). For group discussion, experts were divided into discussion groups of between 4–8 people depending on the number of participants in each workshop. Under participatory and experiential learning, participants are encouraged to actively participate and influence the workshop's direction, as well to as practice the relevant techniques, skills and situations. From the active engagement of participants, the researchers observed and collected the views, new insights and suggestions. The workshops were organised in an open format where the participants and facilitator(s) were free to negotiate and influence the format during the workshop. Thus, the facilitators were at will to intervene on-the-fly as the workshop develops and unforeseen phenomena emerge by introducing challenging activities from a conceptual format *repertoire* (e.g., role-plays, artefacts, scenarios, and obstructions) along the lines with the *collaboratorium* in participatory design of Buur and Bødker (2000) and participatory pattern workshops of Mor, Warburton, and Winters (2012).

The facilitators as researchers whose focus were on research quality and the participants' perspectives and performance in the workshops as part of the research design to produce the required data. The participation was both contractual and consultative where participants were invited to contribute their views and opinion on certain aspects of land tenure and share their experiences with others. Thereafter, a discussion on each case discussed was presented to all workshop participants. During discussion every effort was done to split colleagues who work in the same office into different groups to exposes them to alternative perspectives and new thinking and to stimulate creativity (Pavelin, et.al., 2014). Participants within their expertise group were given time to discuss relevant land tenure cases in smaller group first and then make a presentation to the larger audience where non-group members could also make their reservation on the case/s presented. The researcher would walk around the different groups during discussion and pick-up important quotes and post them on the board or allow the participants to writes the key points of discussion on cards and post them on the white board in front of the room also referred as post-it (Gultekin-Atasoy, et al. 2013). Thus, the idea written on the post-it became a shared decision that others were informed of. Later, during presentations, participants were given more chance to comment on post-its and the facilitators on a number of occasions asked the presenters for clarifications or commented on the post-it's in order to stimulate further discussion.

5. FINDINGS AND DISCUSSIONS

LRCs and remedies in Tanzania

As noted in the literature section of this paper institutions defining authority defines the spectrum of social classes (Dahrendorf 1959, Coser 1957), the institutions guiding LRCs resolutions in Tanzania provide for a well-articulated LRC management system starting at village then ward and ultimately district or higher levels. The strict application of formal instructions such as legal order in these tribunals is marginal and LRCs are mainly resolved through Alternative Dispute Resolution (ADR) mechanisms (Alananga & Exaud, 2023). Tribunals have often been preferred to courts because they

have the advantages of speed, cheapness, informality and expertise. These advantages are of particular importance in areas involving mass administrative justice such as the distribution of social welfare benefits (Mramba & Lamwai, 2017). Since these organs are empowered to deal with land related cases and administration in general, the workshop participant in Dodoma proposed for the extension of land administrative structures involving qualified personnel for the management of land resources at these levels specifically ward and village level.

Similar proposals were also put forward in URT (2020) where it was clear that local offices vested with land dispute mediation role lack knowledge and capacity to do so and the need to improve the same was among the recommendations of the report. Theoretically, these proposals are consistent with Dahrendorf (1959) who suggested for a limited impact of LRCs in modern institutions. It is however urged here that, although knowledge on land matters is highly relevant for LRC resolution, extending formal education graduates to lower level as village might be impractical and even irrational. Increased education and awareness to the existing land governance personnel might be more practical than new employment of staff. Similarly, employing qualified staff would LRC with the governance structure proposed in the NLP where customary laws should guide decision on issues related to land at local level. This spirit requires the employment of local people who might be more conversant with the local superstructures than a graduate from the proposed institutions.

The legal position in LRC resolution is the application of customary laws at VLC and WT. However, such customs focus on mediation and not litigation and does not strictly comply with the principles of natural of justice and it does not strictly follow the rules of evidence (Kivaria, 2020). As observed in Rwanda mediation rather than litigation are favored in some African communities in order to avoid confrontation thus 'consensus' rather than 'debate' is chosen in as a governance tool in order to avoid "dividing the nation" (Abbott, et. al., 2018). Individuals in civil disputes therefore sort issues without formal recourse to the law if this is possible, by discussion leading to an agreed solution. In Tanzania informal procedures in these tribunals are allowed and only in rare cases could the chairman of the VLC or WT adopt formal procedures (Mramba & Lamwai, 2017). This is however in sharp contrast to principles of justice or rule of law (Abbott, et. al., 2018). However, it is noteworthy that VLCs and WTs do not have enough resources in terms of finance, equipment, office accommodation and personnel, absence of procedural guidelines for WTs and VLCs and absence of DLHTs in most of the districts in the Mainland Tanzania are the major challenges that fuel LRCs even in areas where institution to resolve the same have been established.

This study has noted some LRCs that are related to failed urban land governance machinery. In about two cases that were encountered, it has been observed that urban forest management is directly managed by village authorities with extinct statutory registration. There are also rural-urban pressures which increase informality in cities and major urban centers in Tanzania confirming the migration effect in Homer-Dixon (1991). Any intervention of these informal institutions for housing generally fuels LRCs contradicting somehow the view that social classes are eliminated with modern institution (Dahrendorf 1959). It is evident here that overlying modern institutions over customary or informal institutions is a recipe for class struggle which may end-up into LRC. Incidences of double allocation leading to professional misconduct are many but actions against such misconduct are

rarely reported. Professionals seem to prefer the last-in-first-served approach thus limited access to land by those who were allocated land earlier.

The preceding observations, while supporting the social adaptability in a different context, does not support the modern society claims found in Dahrendorf (1959) Similarly, the reactive responses by the government to LRC issues and a major focus among professionals on paper work rather than results on the ground seem to be key factor in the escalation of urban LRCs. The good news with regard to urban LRC is that most often those who resort to the court system end-up being successful in getting a redress though the cost and time are unbearable to the majority. These provide a slight departure from the 1990s observations where the court system was highly inefficient and suspect of corruption (Pedersen and Haule 2013).

A further discussion on the issues pertaining to the structure of the laws was whether they complement a bottom-up approach as envisaged in both the Land Act and VLA. One land professional in the Journalist group workshop in Dar es Salaam had this to say with regard to the matter;

“The bottom-up approach is covered in the Participatory approaches to land use planning but communities still feel isolated,..... no ownership of resources thus defined land uses tend to infringe the right of some community members” [Workshop held on the 12th March 2018 at DMTC Hall, Ardhi University, with emphasis by the authour]

There is also a governance failure as a source of LRC in this case. The reactive nature of government action poses a serious threat to LRC management as LRC may escalate making them unmanageable at some points. At individual level Moyo, (2017) observed that LRCs are caused by inheritance practices which was the main source of LRC in his cases followed by use of family land and divorce. The Chalinze public meeting participants reported a LRC along those line at Pwani ward where two families were contesting ownership over a land parcel they claim to have inherited from their predecessors [Public meeting held on 9th March 2018 at Lugoba Secondary School, Chalinze District, Pwani region]. At the time of the meeting, the LRC had reached up to the Regional Commissioner’s office.

The land governance machinery requires the VLC and WTs to adjudicate LRC rather than the central government superstructure which include both Regional and District Commissioners. Often times Regional and District Commissioners are consulted by the village council but the ultimate decision lies to the Village Council, the evidence that problems of multiple authorities in dispute resolutions as observed in the 1990s (URT 1994, Achterberg-Boness 2016, Shivji 2012) are still prevalent even after reforms. In this case it is the individuals who reported the case to the RC an indicator of grave violation of the LRC resolution machinery possibly due to lack of awareness (Alananga Sanga and Moyo 2018), or the higher convincing power of the RCs in resolving land related disputes.

Despite having a formal system of LRC resolution in Tanzania, there are a number of challenges that still prevent the well-functioning of this system. The Bagamoyo public meeting revealed an important constraint in access to justice i.e., distance to tribunals [Public meeting held on 9th March 2018 at Bagamoyo District headquarter, Pwani region] Land dispute tribunals were reported to be far away, hence, many citizens are unable to follow-up their cases. Potentially this provides one reasons as to why some residents would resort to Regional and/or District authorities instead of

going through the formal land court system. The primary objectives of the VLCs' establishment under the Land (Disputes Courts) Act No.2 of 2002 were to mediate and assist parties to arrive at a mutually acceptable solution on any matter concerning village land. VLCs are not judicial bodies to administer justice rather instruments to ensure peace and tranquility in land administration (Mramba & Lamwai, 2017). With the VLC there is no guarantee that disputes pertaining to village land will come to an end or even be minimized but costs incurred to travel to the courts on trivial matters can be eliminated or minimized. Once some matters are settled at lower levels, Higher courts can reduce backlogs of cases. Apart from distance, cost and time, an even greater uncertainty of the outcome of many cases deters litigants to approach these councils or tribunals (Moyo 2017, Achterberg-Boness 2016).

6. THE ROLE OF PLUP IN LRC RESOLUTION

The importance of PLUP in addressing LRCs between farmers and pastoralists need to be underscored. In Dodoma it was however, noted that despite having PLUP in place the major challenge is enforcement [Workshop held on the 23rd February 2018 at St. Gasper Hotel in Dodoma]. Participants were of the opinion that land use planning must be more participatory with a direct involvement of local people in all stages. Community involvement in government programmes is among the institutions employed to iron out potential LRCs in the land sector alongside Dahrendorf (1959) theoretical proposition. An important observation regarding rural land governance in Tanzania is that, Village Councils are the ultimate authority in the process of making PLUP, Ward Executive Officers (WEO) are not responsible for any stage of the land use planning process including land allocation but they often influence the process or allocate land based on their political position. It is not only authority that matter but also exercise of that authority whenever possible (Coser 1957). Although the WEOs are not authorised to allocate land rather manage, there is no law that prohibit them from exercising the authority of allocating land. Their involvement in PLUP and ultimately land allocation could be among the sources of LRCs in rural Tanzania.

Another resource LRC case which is slightly different from that of Dodoma occurred in Tanganyika district (a district in Katavi region, Western Tanzania). In this case Pastoralist from Tabora, Shinyanga and Mwanza went into Tanganyika district in Katavi region in search of pastures. These so called "*environmental refugees*" grazed on farms instead of grazing fields thus leading to severe LRCs with farmers in the region. This is a typical case of resource scarcity and competition alongside Malthusian and Marxists. There is however, no evidence that pastoral migration was induced by population pressure but it is clear that they moved out of area where grazing land was relatively scarce. The immediate source of LRCs probably relates to migration and social breakdown alongside Homer-Dixon (1991), but the fact that they grazed on farms belonging to others reflects the nature of rural classes; the pastoralist are relatively rich and tend to despise farmers as growers of glass, a reflection of low level social class LRCs alongside Marx and Engels (1962 [original 1848]) or Dahrendorf (1959). They do not see farms as field of crops rather as glasses for feeding cattle. The areas where the pastoralist grazed their cattle had no land use plans but in some other nearby villages such as Gombe, Masito and Ugalla, they had conducted Participatory Land Use Plans (PLUP) which clearly separated farmlands from grazing land.

The major question in this case was whether PLUPs existed at the time of pastoralist move-in. It was obvious that most of the villages invaded by pastoralists had no PLUP and the pastoralists were told by local authorities to go back to where they come from or go to villages where PLUP have already been prepared. This helped to resolve the LRC supporting the Dahrendorf (1959) on the effect of institutions in avoiding LRC in modern societies. But there was still a question *“are PLUP adequate and from which population?”* Generally proper management of rural land can significantly reduce incidences of LRCs alongside classical economics view (Smith 1937 [1778]). This view entails defining and enforcing property rights which is often implemented through PLUP. The major area of concern is however, the fact that information on villages with PLUP are hardly available and in the case of pastoral life, PLUP tend to be an ineffective tool to manage LRC in as much as pastoralist move across larger areas beyond contagious villages (John and Kabote 2017).

In the discussion that ensued thereafter, participants had diverging opinions on pastoral life. While some were of the opinion that pastoralist are *“...local investors and cannot be considered refugees in their own country...”* others were of the view that *“...the damages they cause to environment and farmers must be internalised...”*. The issue of internalisation of the pastoral created externalities came into severe attack from opponents as some participants were of the view that pastoralist create the same amount of environmental damage as do farmers. This was anchored in the question put by one participant:

“Why not force pastoralist pay for the externalities they cause?” [Workshop held on the 23rd February 2018 at St. Gasper Hotel in Dodoma]

and the response to the opponent of the proposal was clear;

“..... but why farmers should not be forced to pay compensation to the communities, they also create a lot of negative externalities?” [Ibid]

On the issue of internalising the externalities, the debate was further entrenched on the need to have farmers also internalise as one participant put it;

“..... Farmers cannot be restricted! [wondered a little bit], without proper individualisation of rural land through titling, there is limited incentive to economise on the use of land ...[referring to the tragedy of the commons]. As long as it is possible to wonder around in the wilderness for cultivation or grazing land, pastoralist and even farmers have no incentive to economise.....” [Ibid]

The case presented in Box 1 is a reflection on forest management best practices where three villages were supported to create an integrated land use plan with the sole purpose of protecting the forests

Box 1 Integrated land use for forest conservation initiatives

40% of Kiteto district is forest and before 1993 there was no clear guideline on forest conservation. Most of the forests were common pool resources leading to severe destruction. There was also a lot of competing users such as pastoralists, water catchments and farmers leading to LRC. After 1993, a UN sponsored development programme initiated a community-based forest management programme carried out in three wards of Sunya Lengatei Dongo leading to the name (SULEDO) with the purpose of managing the sustainable use of forest resources. In implementing the programme the implementers also demarcated all forest reserves. The outcome of this process was an integrated land use plan. Currently a lot of forest reserves are protected and there is fairness in the use of resources among competing groups, LRCs have declined.

that were being degraded by human activities i.e. The SULEDO case. When resources are depleted scarcity ensues and the resulting competition fuels LRC (Dunlap and Catton-Jr 1979). In the SULEDO programme forest conservation management entailed several control mechanisms for resource utilization including; registering of resource user groups for beekeeping, harvesting of poles and thatching material. These activities are allowed when an individual is in a process of constructing his/her own house. In certain period of the year livestock keepers are allowed to graze in the forest based on the decision made at the village level and as communicated to all villagers. Charcoal is only allowed in the general land forest after payment of a fee. This solution however, is a complex combination of Marxists (Marx

and Engels 1962 [1848]) and classical economics (Smith 1937 [original 1778]) proposition. The case suggests that with an adequate level of local communities taken aboard, many resource conservation programme tend to be highly successful thus the bottom-up approach could be the most appropriate mechanisms to reduce LRCs.

The PLUP making process was not a settled matter in almost all the workshops and meetings that were conducted. In a Public Meeting at Chalinze it was reported that at Ubena Ward a dispute regarding village PLUP process arose [Public meeting held on 9th March 2018 at Lugoba Secondary School, Chalinze District, Pwani region]. The issues were that some residents did not agree with the village PLUP for their village because the demarcations of various land use areas were not clear to them. Hence, it was requested that land use planning areas should be well defined and demarcated to reduce LRC, a perspective well within Dahrendorf (1959) on the importance of modern institution in resource LRCs. This was a case of professional misconduct as not all villagers were clearly involved or some pivotal villagers were not consulted at all during the PLUP making process. These might have been behind the failure to properly identify all land uses in the Chalinze ward since the participants to the workshop indicated that land for grazing was not in the Map. A similar blame was noted at Bagamoyo public meeting where Land Use Planning experts were reported to have failed to consider existing and projected population when preparing village land use plans Community participation seems to be a vague term not well understood among land use planners. [ibid]

7. THE PRACTICE OF SURVEYING AND LRCS

The proper demarcation of farm and urban plot could be used as an important tool to reduce LRCs. For that matter, it is imperative that the surveying should be based on clear and well-known survey

framework and must be participatory. The Dodoma workshop participants stressed that sensitive protected areas need to be demarcated and such demarcations must dully be communicated to local/villagers. [Workshop held on the 23rd February 2018 at St. Gasper Hotel in Dodoma] For marine cadastre, it is important to use bowyers to create demarcations in the ocean for different activities. However, it is well known that throughout Tanzania, there is a serious shortage of surveying equipment in almost all LGAs in Tanzania (Lugoe 2007; Makupa & Alananga 2020). Similarly, the use of permanent marker after initial survey which is often proposed by surveyors is further hampered by financial constraints facing LGAs. Participants to the planner group workshop in Dar es Salaam stressed the need to have buffer zones along infrastructure for clearer demarcation, visibility and protection. “The moment the first intruder is in the moment he/she is evicted”. Delayed eviction poses an additional layer of complexity towards effective public land management.

Questioning the national land tenure system

Concerning the tenure system that Tanzania embraces, the opinion of one participant in the second TAGLA workshop provides some insightful observations:

“..... What about governance of tenure? we have a weak system; it needs to be strengthened. We also need to enhance awareness, some LRC can be minimised” [Workshop held on the 27^h Feb 2018 at Tanzania Global Learning Agency (Tagla), Dar Es Salaam]

The preceding extract suggest that probably it is the tenure itself that is behind LRC escalation in Tanzania. In the Planner group workshop, which was held in Dar es Salaam, the tenure system was further scrutinised. In one of the critical comments, one participant had the following to say;

“..... There is a lot of confusion; if you are given a 99 years title (Referring to wrongly issued titles along road reserve) and all over a sudden you do not have any title!..... If the government made mistakes somehow in the past, should the residents bear the burden, they should be compensated..... in fact, the government has certain rights over land and they need to be considered but what rights and where?” [Workshop held on the 12th March 2018 at DMTC Hall, Ardhi University]

The case of enforcement of the good laws that the nation has proclaimed also came under discussion during this study. Based on VGGTs, good governance would entail adequate safeguards against threats related to tenure including government expropriation. One participant in the Journalist group workshop held in Dar es Salaam queried the position in Tanzania as anchored in the following extract;

“..... the principle requires the government to safeguard....., against what threats..... The tribunals under the court Act 2002 can be used to resolve LRC over land resources, but the question is, are our people able to present cases before these courts/tribunals? [ibid]

Further exposition to the strength and weaknesses of our tenure system can be observed from the following extracts;

“.....In some other places we have buildings that have stayed long enough to acquire a title, but of recent [referring to demolitions along Morogoro road in Dar es Salaam and some areas of

Buguruni and Ilala to pave way for road expansion and Standard Gauge Railway respectively] *they have been pulled down including the famous TANESCO building.....”* [ibid]

At the National Multi-Stakeholders workshop in Dar es Salaam, the issue of land dispute resolution machinery came under serious discussion [Workshop held on the 14th March 2018 at LAPF Tanzanite Hall, Dar es Salaam]. The issue was whether the current structure of the LRC resolution machinery should remain as it is or it should be sent back to the court system. Some participants were hesitant on returning land matters to court system from which it was detached after the 1999s land law reforms. However, policy makers who attended at the workshop informed participants that the ongoing land policy review will take into consideration this aspect. Participants were concerned with the ever-increasing land related problems especially in the laws with regard to LRC resolution and the question was whether the government still want the tribunals or otherwise.

The decision to detach land disputes from the formal court systems was based on the observation in the 1990s that courts were overwhelmed with cases but had limited manpower. However as of current they (the court) claim to be “somehow relaxed and would like to take land cases back to the normal court system” [Workshop held on the 14th March 2018 at LAPF Tanzanite Hall, Dar es Salaam]. Ongoing initiatives to improve the court systems including the introduction of Mobile courts could be hailed in a bid to improve and speed up court proceedings, especially in areas with shortages of court buildings. However, this court is claimed to have reversed the general rules of the judicial system. For example, mobile courts in Bangladesh are claimed to have neither a constitutional basis nor a legal basis, and it violates the principle of separation of powers (Tamanna, 2023). A serious question then arises; until when will a country have definitive solution on the placement of land case resolution mechanisms? The practice of shifting these machineries is not only detrimental to the resources we have but also on the certainty of transactions related to land. People could be better off transacting based on social network rather than relying on a constantly changing regulatory framework. What investors need is certainty, too much flexibility in our laws and incidental response dynamics in the laws discourages long term investment and encourages informality in the land sector.

There are also contradictory provisions in the National laws that guide land resources in general which might be at the core of certain types of LRCs. The contradictory provision of the Land Act, No 4 & 5 1999 and the Mining Act was reported by the councilors who participated in the Public Meeting in Chalinze, Pwani region [Public meeting held on 9th March 2018 at Lugoba Secondary School, Chalinze District, Pwani region]. As anchored by one participant, “*The two land Acts of parliament are conflicting each other; therefore, there is a need to harmonized various laws related to land, forest and minerals*”. Similarly, as new villages emerge, older villages tend to lose their boundaries and Customary Certificates of Rights of Occupancy (CCRO) held by villagers tend to lose value. At Chalinze Public Meeting it was reported that the establishment of new administrative village boundaries makes existing village land use plans impracticable for the issuance of CCRO². There is always added value in harmonizing different statutes dealing with related issues in order to avoid LRC and encourage local and international investors.

² *ibid*

8. CONCLUSION

Based on the above discussion it is obvious that the nature of LRC in Tanzania do vary considerably. In relation to competing resource use, LRCs emanate mostly from farmers or pastoralists intention to farm or graze in conservation areas which might be forests or ecosystems. There is ample evidence in this study that the process of delineating these areas is limitedly participatory and the actions taken on violation of the demarcations are sometimes outside the regulations. Attempt to directly evict pastoralists from conserved ecosystems for example has been hampered by corruption and detection inability by responsible authorities. The general view with regard to these forms of LRCs is reducing these conservation areas in favor of expanded agriculture and grazing land. On private land farmers and pastoralist have been on major LRCs and government intervention has been to exclude one from the other through PLUPs. The study has noted that PLUP may be an effective tool to deal with LRCs in contagious villages but turns out to be not effective for wondering pastoralist cutting across district and regions.

There are market approaches to dealing with this problem as well by simply making the person responsible for creating an externality internalise it by either paying a tax which can then be used to subsidise the affected person. However, it is obvious in this study that both farmers and pastoralists generate negative externalities and as such who should pay the tax and who should be subsidised may require a deeper analysis. With regard to ecosystem conservation the best practice would entail registration of resource user groups by their categories i.e. non-for-profit and those for profit. Harvesters of resources for profit must pay following the general agreement by the whole community. A limited incidence of LRC between villagers and investors were reported and are attributed mainly to livelihood necessities such as inadequate farmland. There are however serious problems on the way investor obtain land and the evidence gathered here indicate lack of community participation, problem with PLUP making process and failure of tribunals to resolve cases involving investors and villagers.

The laws that established the VLCs, WTs, and DLHTs intended to establish the same at each village, ward, and district, respectively. However, it is noted that, to date, VLCs, WTs, and DLHTs have not yet been established in all villages, wards, and districts. Therefore, a number of steps may be taken for example first, VLCs and WTs could be established and maintained in all villages and wards, as intended respectively; second, local government authorities be required to provide enough resources (finance, equipment and office) to VLCs and WTs with a system of double reporting to the ministry responsible for land matters and local government as well as the Registrar of High court of the Chief Justice for the good dispensation of justice³; and third, the functions and powers of DLHTs should be transferred to and vested in the District Courts (URT, 2020). These approaches may provide a leeway for reduced LRCs in Tanzania.

The observation in this study suggests that there are no procedural guidelines for handling land disputes before the WT. Consequently, each WT has its own ways or procedure for handling land disputes in terms of how to lodge complaints, determine filing fees, hear the dispute, visit locus in

³ Justice is the principle of balancing or reconciling human relations in society in such a way as enables each one to get his due rights, towards and punishments. Justice has several dimensions: Social Justice, Economic Justice, Political Justice and Legal Justice.

quo, and write the decision and filing fees. Therefore, it is recommended that first, regulatory procedures/rules to guide proceedings in WT should be made in the Kiswahili language; Second, the Ministry responsible for local government should prepare and conduct regular training programmes for members of WT on mediation of land disputes. This is more likely to improve the performance of the WTs; and third, procedural guidelines at WTs and VCs should be devised by the Ministry responsible for local government in consultation with the Chief Justice.

Mechanisms to hasten the dispute resolution mechanisms in Tanzania may be facilitated through the initiated Mobile Court System. The Mobile court project achieved a reduction in the average time taken to resolve family cases from 1,650 days at the start of the project in 2016 to 367 in 2020. the number of new cases brought by women increased by 1,000 from 2019 to 2020 and between January and October 2021, 375 cases were brought by women and 353 by men. Since there is a gender element in Mobile court strengthening and expanding these court systems to more regions and districts has the potential to reduce the gender gap in access to justice.

On the basis of the principle of separation of powers, the State surrenders judicial power to the judiciary, which will have compulsory jurisdiction to inquire into disputes and then give binding, authoritative and enforceable decisions⁴. This is, however, not evident in the established land dispute resolution machinery in Tanzania. It is recommended that the VLC and WT be linked directly to the judiciary through a double reporting system where an appointment is through the ministry and daily operations in dispute resolutions are reported to the Registrar of HC or Chief Justice for Monitoring while the DLHT be merged with the normal district court.

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11. AUTHORS' CONTRIBUTIONS

Dr. Samwel Sanga Alananga: framed the idea, collected data, analysed the data and participated in the discussion before the final paper was produced

Dr. Kerbina Joseph Moyo: Collected the data, literature review and participated in the discussion before the final paper was produced

Dr. Agnes Nkundwe Mwasumbi: data collection, proof reading the final paper before submission

⁴ (Mramba & Lamwai, 2017)

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13. KEY TERMS AND DEFINITIONS

Ujamaa Villages⁵: Villages established in Tanzania under the 1967 villagisation programmes. They were constructed in particular ways to emphasize community and economic self-reliance. The village was structured with homes in the center in rows with a school and a town hall as the center complex. These villages were surrounded by larger communal agricultural farms.

Land titling: Programmes established to demarcate land plots and issue ownership documents to rightful holders. The main objective of a National Land Titling Programme (NLTP) is to carry out a systematic registration of all property in a particular country.

Village Land Councils: a body established under the Village Land Act, 1999 to manage land within its jurisdictions (a village).

The Shivji Commission⁶: A Presidential commission of Inquiry into Land Matters established by President Ali Hassan Mwinyi in January 1991. "It was mandated not only to review laws and policies concerning the allocation, tenure, use, and development of land, and to make recommendations for reform, but also to examine the nature of the disputes that had arisen, and to propose measures for their solution. More generally, it was to hear complaints from the general public and to look into any other matters connected with land that it deemed appropriate"

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<https://en.wikipedia.org/wiki/Ujamaa#:~:text=Ujamaa%20villages%20were%20constructed%20in,by%20larger%20communal%20agricultural%20farms>

⁶ <https://doi.org/10.1017/S0022278X00021042>

National Land Policy (NLP): The 1995 policy (as updated in 1997) guiding land laws and regulation in Tanzania

United Republic of Tanzania (URT): A country along the eastern cost of the African Continent bourdering countries like Kenya Uganda (to the North), DRC, Burundi, Rwanda and Zambia to the west, Malawi and Mozambique to the South and the Indian ocean to the East.

Land Administration: Encompasses all activities related to the management of information about land survey, LRC resolution, land markets and planning.

Land LRC Machinery: A mechanism established to address Conflicting land rights held by different people over the same piece of land

Workshop Research Method: Arrangement that were made to allow land resource professionals, academia and researchers to share experiences, acquire new knowledge and perform creative problem-solving task related to their respective work or professional domiciles