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## Practitioners' Perspectives on Land Resource Conflicts and Resolution in Tanzania

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# **Practitioners' Perspectives on Land Resource Conflicts and Resolution in Tanzania**

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## **Abstract**

Land resource conflicts (LRCs) have been pervasive in many communities in Tanzania due to inadequate LRCs resolution mechanisms. This study explores the nature of LRCs in Tanzania in an attempt to devise the spectrum of potential LRCs resolution mechanisms. Focus group discussions in a total of eight workshops and two public meetings and subsequent interpretative analysis provided the main tools for collecting and analyzing the data respectively. The findings suggest that since many conflicts emanate from agricultural or pastoral land intersection with either adjacent farmland or conservation areas, these spatial units need to be delineated with proper community participation. Attempts to exclude one resource user from the other have often turned futile due to corruption and detection inability within government authorities. This provides a clear indication of miss-specified government interventions that defy social adaptability and cohesion as core pillars of any conflict resolutions strategy. The fact that local communities argue for reducing conservation areas in favour of expanded agriculture and/or grazing land while authorities are unwavering, strengthen the misspecification argument. There is, however, no recipe for LRCs resolution in Tanzania; the cost and benefit of the different approaches need to be evaluated before adopting any.

**Keywords:** Land resource conflicts, land resources, conflict resolution, land use planning, conflict theories, Tanzania

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## **1.0 Introduction**

During the 1960s and early 1970s, Tanzania implemented Ujamaa policies which were accompanied by large scale resettlement of people in what were called *Ujamaa* villages. Despite such a huge rural resettlement project, no mechanisms to define or protect customary land rights were in place (Achterberg-Boness, 2017). Consequently, by the end of the 1970s, the customary property rights structure was moving towards more individualized ownership accompanied by the development of the market, opening up more opportunities for land alienation, land degradation and environmental damage (United Republic of Tanzania, 1995; Kikula, 1996; Shivji, 2009; Lugoe, 2006; Lugoe, 2008; United Republic of Tanzania, 1994). Beginning in 1986, Tanzania implemented economic liberalization through the Structural Adjustment Programme (SAP) which was pioneered by the World Bank. In its early stages up to the 1990s, the SAP implementation fuelled insecurity and uncertainty associated with access to land, which was prevalent due to factors such as contradictory laws and the double-allocation of use and occupation rights (Ikdahl,

Hellum, Kaarhus, & Benjaminsen, 2005; Kironde, 2009; United Republic of Tanzania, 1994; Rwegasira, 2012). The first phase of economic reforms—also called liberalization—focused on trade liberalization, the second on foreign investment deregulation, and the third on parastatal and civil service reform (Gibbon, 1995). The land sector was adversely affected by each of these stages since it was a cross-cutting sector involving regulations, economic use as well as administrative superstructures.

In the land sector, economic reforms were initiated through the National Agricultural Policy (Agripol) (United Republic of Tanzania, 1982a). The Agripol declared a new relationship between land and economic growth, stating that an individualized system of land tenure—the modality through which land right holders claim their rights—is the most appropriate way to attract investment and hence stimulate the economy (Achterberg-Boness, 2017). The liberal policies on land however, led to land grabs by foreign investors interested in Tanzania's resources—anything used as an input in the production process. Such land grabs though existed since colonial times (Alananga, Makupa, Moyo, Matotola, & Mrema, 2019), the 1982 Agripol accelerated it (Igoe, 2003). In an attempt to increase security of tenure—the degree to which land resource owners have or perceive to be protected from expropriation by third parties—in rural areas, the government registered villages by offering a Village Land Certificate and villagers were allowed to obtain subtitles—leases from the village council—of 33 to 99 years under the defunct legal regime of the Land Ordinance of 1923. The Local Government (District Authorities) Act (United Republic of Tanzania, 1982b), allowed villages to make by-laws relating to local agreements, land use plans and access to other natural resources—well demarcated land rights considered as economic resource since they are used in the production of many other goods and can freely be traded in the market. 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, 2017). The titling policy under the 1982, Agripol was meant to provide greater land tenure security (Shivji, 1998b), however, in many cases it harmed it instead. Achterberg-Boness, (2017) identifies a number of challenges in these early village land individualization programmes under the Agripol 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 Village Land Certificate under the Agripol also gave the Village Council the power to abolish customary land rights;
- the titling process itself brought forward existing boundary conflicts between villages; and
- the failure of dispute settlement by state organs and corrupt practises in land control and management.

Prior to the 1995 National Land Policy (NLP) (United Republic of Tanzania, 1995), the land dispute resolution machinery in Tanzania was therefore characterized by severe overlaps, long and everlasting cases, inaccessible justice and was associated with great dissatisfaction. People described it as an inefficient, illegitimate and unjust system (Shivji, 1998a). These LRCs were not only induced by overlapping claims but also overlapping dispute resolution mechanisms or legislation (Achterberg-Boness, 2017), rapidly growing population (Englert, 2005), breakdown in the Land Administration (LA) system due to corruption and lack of capacity

(United Republic of Tanzania, 1994; Shivji, 1998a). 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 was a major area of concern (United Republic of Tanzania, 1994). Recently, lack of awareness of existing laws among both enforcers and right holders and poor coordination and duplication of activities between formal and informal arrangements have fuelled double allocation of land as well (John & Kabote, 2017). The need to address LRCs results from the associated impacts if left unattended. Isdori, (2016) observed the loss due to LRCs in rural communities in terms of management cost and expected output cost and lost income from the crops destroyed as a result of LRCs. The loss output included killed livestock—commonly sheep and cattle. Escalation of LRCs especially among farmers and pastoralist has also resulted in destruction of houses and other properties and lives of people. Isdori, (2016) noted that villagers spend 3 hours per day, 2 days per week and about 29 hours per month in trying to resolve conflict; time they could have spent in other productive activities. These observations point to the pervasive nature of LRCs, though evidence to the same is still scanty.

This paper, therefore, explores LRCs in Tanzania from professionals' point of view in an attempt to reaffirm the status of the same following the implementation of the 1999 land law reforms. Theoretical propositions argue for standalone conflict resolution mechanisms without consideration of the appropriate bases upon which positive state intervention may be realised. The main argument propounded here departs slightly from the basic theories and stresses that LRCs escalate in response to inappropriate intervention which does not build upon an appropriate foundation for which the community can be part of the conflict resolution mechanisms. Social stability and cohesion are the fundamentals of a positive response towards reducing resource exploitation and degradation as a result of human activities. These are however not given priority when designing conflict resolution laws and strategies.

## **2.0 Theoretical and Conceptual Frameworks**

Based on resource conflict theories, LRCs resolution mechanisms will vary depending on the nature of the conflict. Under the Malthusian theory, competition for scarce resources is at the core of conflict (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 LRCs (Barnett, 1974). Under the classical economics theory, conflict 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). The imbalances will ultimately settle where there is neither excess demand nor excess supply of a resource. For land related resources, however, competition for a resource may encourage even further utilization especially when the resource is a common pool resource (Clark, 1973; Davidson, 1998). Under these situations, the classical economics theory advocates for privatization of the resource (Demsetz, 1967; De Soto, 1989). Therefore, defining and enforcing of private property is the ultimate solution to LRCs under the classical economics theory (De Soto, 1989; Demsetz, 1967).

Under the Marxist theoretical postulate, conflicts emanate from class struggle. The rich—also called 'haves'—being at the centre and the poor—also called 'have-nots'—being at the periphery. The argument is that free markets create disparities between

the ‘haves’ and the ‘have-nots’ leading to conflict between the two (Marx & Engels, 1962). The *centre* economies have largely developed out of the peasants’ shoulders in the *periphery* economy (Dobkowski & 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 but rather a source of conflict since individualistic behavior creates an attitude that leads to the utilization of a natural resource for the betterment of oneself rather than the society at large (Chirot & Hall, 1982; Baran, 1957; Wallerstein, 1979; Dos Santos, 1971). To Marxists the solution would be to create a classless society where all people have equal access to a resource, which is communal right. At the local level, a complex intermingling of private property and Marxism could provide some leeway in as much as LRCs is concerned.

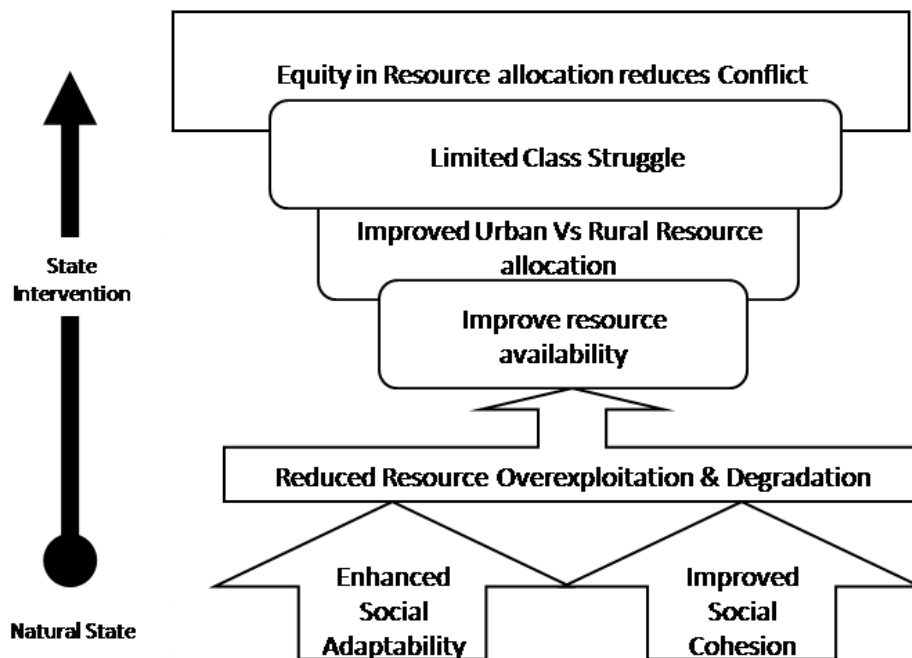
In a classical sociologist’s view point, the increased competition for a resource due to population pressure leads to a complex division of labour which in turn increases social adaptability thus reducing conflicts (Harper, 1996; Humphrey, 1982). In this case organic solidarity is at the core of declining conflicts (Durkheim, 1965). 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 others will behave for the social good has the highest return. Dahrendorf (1959) refutes both structural functionalism and Marxist explanations of social classes. The idea is that, the Durkheimian view of social solidarity neglects the basic fundamentals of social conflict while Marxism views social classes in a relatively narrower sense while completely ignoring consensus and integration in modern social structures. Dahrendorf (1959) argues that class conflicts in modern societies have been institutionalised into state and economic spheres such as unions, collective bargaining, the court system, and legislative debate. As such, class struggles that lead to conflicts 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 (Dahrendorf, 1959; Tittenbrun, 2013).

The complexity of the modern society makes Dahrendorf’s (1959) propositions more valid specifically on class formation though he might have made a mistake by splitting the society into two, the ‘command class’ and the ‘obey class’, the same mistakes he accused Marx & Engels, (1962) 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 conflicts to diversities within and between systems or social structures. In Coser’s (1957) views, conflict over a resource, arises only when “there exists an excess of claimants over opportunities for adequate reward” p. 201. Scarcity of land resources curtails the option for reducing conflict 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’s (1991) theory attributes conflicts to negative consequences of scarcity, including human migration and expulsion, receptivity to insurgency, decreased economic productivity, and a weakened state power. 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 peace. 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. At the centre of Schaumberg and Gould's (1994) theory is inequality in access to land resources. In cases of open access resources, depletion and degradation of a resource can excessively contribute to LRCs (Dunlap & Catton, 1979). The obvious solution here would be similar to a combination of private property and Marxism where communal rights are defined and enforced as appropriately. These, however, do not eliminate the free-riders problem and incentives altogether.

For the purpose of this study, the basic theories of LRCs provide the basic themes of interests which are summarized in Figure 1. The basic idea in this paper is that enhanced social adaptability and cohesion do not directly reduce LRCs. They work to bring about harmonious relationship in the exploitation of such resources hence reducing overexploitation and resource degradation. Once this understanding of the value of land resources is well established in the community, subsequent processes may be natural or facilitated by state machinery. The reduced overexploitation and degradation of a resource—the subject of conflict—will induce more availability or allow the natural increase in amount and size allowing for more flexibility in its allocation between both rural and urban dwellers. As a result, rural-urban migration will be avoided leading to lower levels of overpopulation related conflicts. Similarly, as incentive to migrate to urban areas in search for better opportunities is eliminated, rural residents realize the opportunities of transiting from their current social status towards better social classes within their respective communities. The class struggle between the rich and the poor is thus eliminated as a source of conflict leading to equity or rather desired resource allocation levels for each member of the community. This process ends-up by eliminating all potential LRCs. State intervention through reforms—by defining and enforcing property rights—must therefore be preceded with efforts to build social cohesion and induce willingness to adapt to new situations that come with the need to reduce overexploitation and degradation of locally available land resources.

Figure 1. Conceptualization of the different states of LRCs resolution processes.



### **3.0 Land Resource Conflict Resolution in Tanzania**

Prior to 1995, the court system had the mandate to deal with all types of conflicts in Tanzania. The structure of the court system in Tanzania evolves from the Primary Courts where all LRCs had to be initiated. All appeals from Primary Courts were to be lodged at the District Court and then to Magistrate Courts unless they involved issues of customary nature for which direct appeal to the High Court of Tanzania was allowed. Appeals from Magistrate Courts are lodged with the High Court of Tanzania and further appeals are submitted to the Court of Appeals. The court system as a LRCs resolution mechanism was more certain because outcome highly depended on statutes. However, this system relied on the number of available and employed magistrates and judges; something that made it impossible to reach the wider audience especially in rural areas leading to significant delays in resolving cases (United Republic of Tanzania, 1994; Shivji, 1998a). Such delays attracted opportunistic political figures such as regional commissioners and District Commissioners and ruling party leaders to involve themselves in LRCs resolution. Lack of awareness on existing laws among both enforcers and right holders also caused poor coordination and duplication of activities between formal and informal arrangements and finally resulted in LRCs (John & Kabote, 2017; United Republic of Tanzania, 1994). It was therefore clear that the court system of the time could not handle all reported LRCs (Pedersen & Haule, 2013; United Republic of Tanzania, 1994). Based on these shortcomings, the 1995 NLP advocated for alternative mechanisms to replace the lower courts i.e. from Magistrate Courts with Tribunals (United Republic of Tanzania, 1995), which are not real courts rather operates using both alternative dispute resolution and statutory laws.

Concomitant with the implementation of the 1995 NLP, LRCs are currently resolved through tribunals at lower levels as emphasized under the 2002 Courts (Land Disputes Settlement) Act (United Republic of Tanzania, 2002). The tribunal approach basically starts from the Village Land Council (VLC) before appeals are lodged to the Ward Tribunal. No need for lawyers at these organs until one reaches the District Land and Housing Tribunal. The 2002 Courts (Land Dispute Settlement) Act, under section 14 requires that every mediation tribunal include at least three members of the Ward Tribunal, of whom at least one must be a woman. The maximum quorum for the Ward Tribunal is eight members elected by the Ward Committee, of whom a minimum of three members must be women. Both the VLC and the Ward Tribunals have mandates to deal with land cases whose value do not exceed THz. 3,000,000<sup>1</sup> and cannot apply discriminatory practices in their decisions. The District Land and Housing Tribunal consists of the chairperson 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 Tanzania indicates that the composition of these tribunals, where they exist, highly reflects the legal requirements of equal representation between male and female (Achterberg-Boness, 2017; Moyo, 2017).

The major shortcoming of the Tribunal approach has however been limited fund to organize periodic sitting of these tribunals (Achterberg-Boness, 2017; Moyo, 2017). Similarly, the outcomes are highly varied depending on traditions and customs and the composition of the tribunal. There are also empirical evidences that limited awareness among villagers on the land dispute machinery has caused them to report

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<sup>1</sup> Tanzania shillings (THz) 3,000,000 are equivalent to around USD 1,277.

cases to irrelevant organs (Alananga Sanga & Moyo, 2018). There are also serious capacity constraints and corruption allegations that hamper LA successes on the part of the VLC and Ward tribunals (John & Kabote, 2017). The VLC is also constrained by limited capacity to deliver LA products such as Customary Certificate of Right of Occupancy to those who need them within reasonable timeframe (Alananga Sanga, 2010; Alananga, Makupa, Moyo, Matotola, & Mrema, 2019; Lugoe, 2007; Lupala, 2002). Likewise, VLCs are not complete judicial entities and are, therefore, not likely to have an appreciable impact on the incidence of LRCs (John & Kabote, 2017). This is because their mandates are not clearly defined in terms of what laws to apply to what case and to what extent. Therefore, decisions are highly dependent on the experience, knowledge, and understanding of those participating in any LRCs resolution case that is reported to these organs.

## **4.0 Research Methodology**

The data reported in this paper were collected through eight Workshops and two Public Meetings. Each workshop was preceded with a lecture or presentation on what the study was all about and some background information on local and international status of Tanzania in terms of land tenure issues. Thereafter, focus group discussions were organized to respond to specific research questions that the researcher was interested.

### **4.1 The Workshops Research Methodology**

The term workshop as used in this study refers to arrangements that were made to allow land resource professionals, academia and researchers to share experiences, acquire new knowledge, and perform creative problem-solving tasks related to their respective work or professional domiciles (Ørngreen & Levinsen, 2017). A total of eight workshops in four regions of mainland Tanzania are covered under this study. In cases where workshops were difficult to conduct, the standard-format meetings were preferred, as proposed by Pavelin, Pundir and Cham (2014). Based on Pavelin, Pundir and Cham (2014), the selection of workshop participants needs to emphasise diversity of experience, opinions, seniority, and interests. The workshop participants for this research were, therefore, drawn from ministries, municipalities and district councils, academic and research institutions, Community Based Organisations, Non-Governmental Organisations, private firms and the media with cognizance of diversity in experience, seniority and interest as shown in Table 1. It is notable in Table 1 that out of the 210 workshop attendees, 33% were females. The data for this research were also collected in one nation-wide multi-stakeholder workshop that drew stakeholders involved in tenure of land, forestry and fishery activities as well as pastoral communities as shown in Table 1. The workshop included representatives of Non-Governmental Organisations that deal with hunters and gatherers and other marginalized groups and private firms. Efforts to invite some gatherers and hunters turned futile as they were difficult to reach throughout the exercise. The non-attendance of some invited participants did not impair the validity of the findings since the focus was on practitioners and hence experiences reported touches almost all aspects of interest.



Table 1: Nature and Composition of Workshop Participants

Serial Number	Region	Target Group	No. of Participants	
			Male	Female
<b>Training workshop</b>				
1	Morogoro	Academics, Foresters, Land administrators, Agriculturalists	13	11
2	Dodoma	Ministries, Research and Academic Institutions	20	14
3	Dar es Salaam	Training of trainers	7	5
		Ardhi University Academic Staff	17	7
		Media and Professionals	25	6
		Non-Governmental Organisations, Academic Institutions, Government Agencies, Researchers and Private firms	18	12
		Ministry of Lands Officials	12	10
		Officials from Municipal Councils	20	13
<b>Total</b>			<b>132</b>	<b>78</b>
<b>National multi-stakeholders workshop</b>				
1	Arusha	Pastoralist representative	1	
2	Dodoma	Forest, Land, Academia, Private sector	2	2
3	Dar es Salaam	Academia, Forest, Land, Fisheries, Agriculture, NGO, CSOs, Professionals, Media Others	17	10
4	<b>Dar es Salaam</b>	<b>Journalist</b>	10	6
5	Mbeya	Environment	1	
6	Morogoro	Land, Academia	2	
<b>Total</b>			<b>35</b>	<b>18</b>

Additional data were obtained from two public meeting held in Chalinze and Bagamoyo Districts 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 executive secretaries, village chairpersons; and natural resources officers (land, forestry, and fisheries). Table 2 indicates that the 36% of all participants of the Chalinze public meeting were Village executive officers of whom 17% were female. The meeting was also attended by 13 Local Government Authorities (LGAs) officials of whom 5 were female. The

Bagamoyo public meeting was attended by a total of 41 participants of whom 39% were female as shown in Table 2.

Table 2: *Participants to Public Meetings Held in Pwani Region*

Serial Number	Target Group	No. Of Participants			
		Chalinze		Bagamoyo	
		M	F	M	F
1	District Executive Officer (DED)			1	0
2	Councillors	15	5	6	5
3	Village Executive Officers	50	12	5	4
4	Village Chairmen	58	4	6	0
5	Ward executive officer	12	3	6	5
6	District council chairman/secretariat	1	0	1	2
7	Forest officer	1	0		
8	Environmental officer	1	1		
9	Fisheries officer	1	0		
10	Division executive officer	2	0		
11	District livestock officer	1	1		
12	District land officer	0	1		
13	District town planning officer	0	1		
14	District agricultural officer	0	1		
15	District planning officer	1	0		
	<b>Total</b>	<b>143</b>	<b>29</b>	<b>25</b>	<b>16</b>

#### 4.2 *The Workshops Data Collection*

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, Pundir, & Cham, 2014). For focus group discussions workshop participants were divided into discussion groups of between four–eight people depending on the number of participants in each workshop. 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 facilitator could intervene on-the-fly as the workshop developed and unforeseen phenomena emerged, 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).

## **5.0 Findings of the Study**

### ***5.1 Land Administration and Conflicts Resolution in Tanzania***

The observations made in this study suggest that the strict application of formal rules such as legal order in rural LRCs tribunals in Tanzania is marginal and land resource conflicts are mainly resolved through alternative dispute resolution mechanisms. Since rural LRC resolution organs are empowered to deal with land related cases and administration in general, a workshop participant in Dodoma proposed for the extension of land administrative structures involving qualified personnel for the management of land resources at these lower levels specifically ward and village level. This proposal was put forward by one participant in the Dodoma workshop as follows:

At ward level many conflicts can be resolved and for that purpose we need land officers up to ward level. The government can utilise certificate level graduate from Tabora and Morogoro Ardhi Institutes. Given the current structures, land officials from municipal or district level cannot follow on what is happening on the ground (Workshop held on the 23rd February 2018 at St. Gasper Hotel in Dodoma).

The current legal position requires the employment of a local land administrator who is conversant with the local superstructures rather than a graduate of form all and administration institutions. This legal position was meant to bring LA to the people on the ground. The preceding proposal if implemented, however, entails strengthening the top-down approach which is against the spirit of the NLP and the VLA as emphasized by one participant in the Journalist group in Dar es Salaam:

From my own opinion there are challenges with the current top-down approach, maybe we adopt the bottom-up approach which is basically the spirit of the VLA [though its practicability is still questionable] -Workshop held on the 12th March 2018 at DMTC Hall, Ardhi University, with emphasis by the author).

A further discussion of 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 practitioner in the planner 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).

The Chalinze public meeting participants reported an LRC case along those lines 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 conflict had reached to the Regional Commissioner's office. Furthermore, the Bagamoyo public meeting revealed an important constraint in access to justice, that is, distance to tribunals (public meeting held on 9th March 2018 at Bagamoyo District headquarter, Pwani region). Based on these observations, it is clear that despite having a formal system of conflict resolutions in Tanzania there are a number of challenges that still prevent the system from functioning well. From the legal point of view, land administration, the top-down structure, institutional overlap and physical access to conflict resolution mechanisms provide the main challenge to the majority of rural residents.

### ***5.2 The Role of Participatory Land Use Planning (PLUP) In Conflict Resolution***

The importance of PLUP in addressing LRCs between farmers and pastoralists need to be underscored. In the Dodoma workshop, it was noted that despite having PLUP in place, the major challenge is enforcement. Participants were of the opinion that land use planning must be more participatory with the direct involvement of local people in all stages. In Tanganyika district—a district in Katavi region, Western Tanzania—the Dodoma workshop participants reported a case where pastoralists from Tabora, Shinyanga and Mwanza went into Tanganyika district in search of pastures. These so called 'environmental refugees' grazed on farms instead of wilderness thus leading to severe conflict with farmers in the respective villages. The major challenge with pastoralists was reported to be their perceptions when it comes to crops. They do not see farms as fields of crops but rather as grasses for feeding cattle. The areas where the pastoralists grazed their cattle had no land use plans but in some other nearby villages such as Gombe, Masito and Ugalla, they had conducted PLUP which clearly separated farmlands from grazing land. It was observed 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 came from or go to villages where PLUP have already been prepared. This helped to resolve the conflict since the invasive pastoralists agreed to relocate to villages that had PLUP an indicator that PLUP could be an effective mechanism to resolve LRC.

In the discussion that ensued at the Dodoma workshop, participants had diverging opinions on pastoral life. While some were of the opinion that pastoralists 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 internalized...". The issue of internalization of the pastoral created externalities came under severe attack from opponents as some participants were of the view that pastoralists 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?" and the response by 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?" (Workshop held on the 23rd February 2018 at St. Gaspar Hotel in Dodoma)

On the issue of internalizing the externalities, the debate was further entrenched on the need to have farmers also internalize as one participant put it:

...farmers cannot be restricted!... [wondered a little bit]...without proper individualization of rural land through titling, there is limited incentive to economise on the use of land...[referring to the tragedy of the common]. As long as it is possible to wander around in the wilderness for cultivation or grazing land, pastoralist and even farmers have no incentive to economise... (Workshop held on the 23rd February 2018 at St. Gasper Hotel in Dodoma).

Although many rural areas are engulfed with LRCs, the study noted some good practices as well. 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 that were being degraded by human activities, that is, The SULEDO case. The SULEDO case is an integrated land use for forest conservation initiatives in Kiteto district (Northern Tanzania) which is 40% forest and in which before 1993 there was no clear guideline on forest conservation. Most of the forests were common pool resources something that led to severe destruction. There was also a lot of competing users such as pastoralists, water catchments and farmers leading to conflict. 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 SULEDO programme the implementers further demarcated all forest reserves. The outcome of this process was an integrated land use plan. The current situation is that a lot of forest reserves are protected and there is fairness in the use of resources among competing groups, conflicts have declined. In the SULEDO programme forest conservation management entailed several control mechanisms for resource utilization including registering of resource user groups for beekeeping and harvesting of poles and thatching material. These activities were allowed when an individual was in the process of constructing his or her own house. In certain periods 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 production is only allowed in the general land forest after payment of a fee.

The role of 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 making processes arose (public meeting held on March 9, 2018, at Lugoba Secondary School, Chalinze District, Pwani region). The issue was that some residents did not accept the PLUP's defined uses for their village because the demarcations of various land use areas were not clear to them. Hence, it was requested that areas should be well defined and demarcated to reduce conflicts. The case was however noted to be 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. 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 PLUP. Community participation seems to be a vague term not well understood among land use planners.

With regard to the role of PLUP as a conflict resolution tool, the observations made in this study provide for divergent opinion. While on one hand PLUP is a tool to address land resource conflicts, the community participation aspect which is central in PLUP making is often ignored, leading to severe LRCs in areas where PLUP exists. The conflicts are further entrenched among pastoral communities as they wander across villages and when professionals ignore some members of the community during PLUP making. This is often the case if defined grazing land areas across villages are not contiguous. The other side of the matter is that PLUP can be highly beneficial to rural communities as was the case with the PLUP in Katavi region or the integrated land use plan under SULEDO. Based on the finding of this study, it is difficult to have a definite conclusion on the role of PLUP as some PLUP are made but end-up being a source of quarrels and LRCs.

### ***5.3 Surveying Practices and Land Resource Conflicts***

The proper demarcations of farm and urban plots could be used as an important tool to reduce LRCs. The Dodoma workshop participants stressed that sensitive protected areas need to be demarcated and such demarcations must duly be communicated to locals–villagers. Further need for demarcations was propounded by workshop participants in Dodoma who argued for establishment of a marine cadastre to reduce LRC for marine related resources. Similarly, participants of the planner group workshop in Dar es Salaam stressed the need to have buffer zones along infrastructure for clearer demarcations, visibility, and protection. In this study, one case of a serious coordination failure of government organs and a private sector surveying firm was reported by the surveyor group workshop in Dar es Salaam but relating to surveying practices under Capital Development Authority (CDA) in Dodoma. In this case the rapid development of the Dodoma municipality forced CDA to plan and demarcate more land. For that, they hired a private surveying firm to plan and survey an area called Ndyuka. The surveyor having presumed that the municipality or CDA had made all the necessary arrangements, proceeded to the area and started demarcation works. Within a short period after starting the work, they found themselves surrounded by a number of villagers all armed with traditional weapons such as panga (machete), arrows and clubs possibly intending to attack them. It was the efforts and ingenuity of one elder among the locals that calmed the situation down and asked the surveyor to explain their mission. Despite the effort to explain the mission, the project was suspended. A similar case happened in Songongo area during clearance for a standard gauge railway route. One local person, armed with an arrow, shot it in the direction of the surveyors but missed them. In all these cases coordination and communication failure could have been at the heart of failed or delayed activities. Generally, although planning and surveying provide a good mechanism to reduce LRCs, the mechanistic approaches adopted by the surveyors, poses a real challenge to acceptability of government led projects. Government intervention through planning and surveying land may as well be challenged by local communities simply because of limited awareness, preparation and attitude and dogmatic practices among practitioners.

## **6.0 Discussion and Conclusion**

In terms of LA and LRCs resolutions, the findings of this study point to at least four anomalies that fuel LRCs: (a) failed land administration, (b) the top-down land management institutional mandate, (c) institutional overlap, and (d) physical access to LRCs resolution bodies. In terms of failed LA, the study has noted that,

practitioners point to limited knowledge on land matters among those working at grassroots level and argues for expanded employment of qualified personnel. This proposition is in line with Dahrendorf (1959) who argued for a limited impact of LRCs when modern LRCs resolutions institution are effective. It is however argued here that, although knowledge on land matters could be highly relevant for conflict resolution (Alananga Sanga & Moyo, 2018), introducing formal or modern institutions at lower administrative levels might be impractical and even irrational. Increased education and awareness of the existing land governance personnel might be more practical than employment of formally trained staff. Similarly, employing formally educated staff would conflict with the governance structure proposed in the NLP where customary laws should guide decision on issues related to land at the village level.

In terms of the top-down approach, practitioners' observations contradict the legal position under the current statutes in Tanzania. While the law provides for a well articulated conflict resolution mechanism starting at village then ward and ultimately district or higher levels (United Republic of Tanzania, 1999; United Republic of Tanzania, 2002), practitioners insists that on the ground it is top-down rather than bottom-up. The top-down view in land conflict management may be linked to the failed urban land governance machinery. In two cases that were encountered in this study, it has been observed that urban forest management is directly managed by village authorities with extinct statutory powers. There are also rural-urban pressures which increase informality in cities and major urban centers in Tanzania confirming the migration effect described in Homer-Dixon (1991). Any government intervention on these migratory decisions can fuel conflicts, contradicting the view that social classes are eliminated with modern institutions (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 with further LRCs.

In terms of institutional overlap, the current land resolution machinery requires the VLCs and Ward tribunals to adjudicate LRCs rather than the central government superstructure which includes both regional and district commissioners. The involvement of these political figures though provides a temporal limit along the LRCs escalation curve, its long-term effect is not well known. United Republic of Tanzania, (1994) noted that institutional overlap in land dispute resolution was a major obstacle in LRCs resolution prior to the 1999 land law reforms. It is therefore clear that politically resolved LRCs are prone to long term resurgence which is outside the reach of many politicians. Often times, however, regional and district commissioners are consulted by the villagers to arbitrate land resource conflicts, but the ultimate decision lies with the VLC. This provides further evidence of multiple authorities in land resource dispute resolutions as observed in the 1990s (United Republic of Tanzania, 1994; Achterberg-Boness, 2017; Shivji, 1998a). Since individual villagers report their cases to politicians, they basically infringe their rights and obligations possibly due to lack of awareness as noted by Alananga Sanga & Moyo, (2018).

The last challenge facing rural households in their attempt to utilize the existing LRCs resolution machinery relates to the physical distance to established tribunals. 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 resort to the regional and district commissioners instead of going through the formal LRCs resolution machinery. Apart from distance, cost, time and an even

greater uncertainty of the outcome of many cases deters litigants from approaching these councils or tribunals (Moyo, 2017; Achterberg-Boness, 2017; Alananga Sanga & Moyo, 2018). Therefore, despite having in place LRCs resolution tribunals, their limited access could be responsible for the pervasive nature of many LRCs in rural Tanzania. The intervention would therefore entail operationalizing these rural tribunals through direct central government intervention in terms of budget support.

With regard to PLUPs the observations in this study point to the fact that even if they are regarded as an important tool to address LRCs, community participation, which is central in the PLUPs making process, is often ignored leading to severe LRCs in areas where PLUP exists. Community participation in any government programmes is among the approaches employed to iron-out potential LRCs alongside Dahrendorf's(1959) theoretical proposition. An important observation regarding rural land governance in Tanzania is that VLCs are the ultimate authority in the process of making PLUPs. Ward executive officers 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, therefore, not only authority that matters but also exercise of that authority (Coser, 1957). Although the ward executive officers are not required to allocate land, but rather manage it, there is no law that prohibits them from exercising the authority of allocating land. Their involvement in PLUP making and ultimately land allocation could be among the sources of LRCs in rural Tanzania. As such, local leaders who in one way or another have the responsibility to arbitrate LRCs may be responsible for the persistence of the same.

The other side of PLUP is that it provides a means to reduce LRCs, as was the case with the PLUP in Katavi region or the integrated land use plan under SULEDO. As one type of formal institution, PLUP helped to resolve the LRCs between pastoralists and farmers, supporting Dahrendorf (1959) on the effect of institutions in avoiding conflict in modern societies. But there was still a question: *are PLUP adequate and from which population?* Generally, it is accepted in this context that management of rural land through formal institutions can significantly reduce incidences of LRCs alongside classical economics view by Smith (1937) and De Soto (1989). This view entails defining and enforcing property rights which are often implemented through PLUPs. 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 conflict in as much as pastoralist move across larger areas beyond contiguous villages (John & Kabote, 2017). The SULEDO LRCs resolution provides an example of a complex combination of Marxist and classical economic propositions. The case suggests that with an adequate number of local communities taken aboard, many resource conservation programmes tend to be highly successful; thus the bottom-up approach could be the most appropriate mechanisms to reduce LRCs.

The observations made in this study, however, provide no evidence that pastoral migration is in any way induced by population pressure. It is clear that LRCs are causing pastoralists to move out of areas where grazing land is relatively scarce in search of better grazing land. Thus, when resources are depleted, scarcity ensues and the resulting competition fuels conflict (Dunlap & Catton-Jr, 1979). The immediate source of conflict probably relates to migration and social breakdown as suggested by Homer-Dixon (1991), but the fact that they grazed on farms belonging to others reflects the nature of rural social classes; the pastoralist are relatively rich and tend



to despise farmers as growers of ‘animal feed’ a reflection of low level social class conflict in line with Marx and Engels (1962) or Dahrendorf (1959).

Further evidence of the effect of formal institutions in mitigating LRC relates to the reported cases on surveying practices. From practitioners’ points of view, demarcation of private and public land can reduce LRCs, a perspective well within Dahrendorf’s (1959) views on the importance of modern institution in resource conflicts. Demarcations can also significantly reduce delay in evicting intruders. Delayed eviction poses an additional layer of complexity towards effective LRCs resolution. There are, however, significant drawbacks associated with this proposal; serious shortages of surveying equipment, manpower and financial resources in almost all rural jurisdictions in Tanzania, thus making most of the proposal impractical (Lugoe, 2007). Similarly, surveying practices on the ground significantly depart from this theoretical proposition specifically when local communities are not well involved in planning and surveying of their land. The previously reported case of Ndyuka Dodoma, suggest a serious coordination breakdown which could have resulted into serious injury or even death. The CDA did not make proper arrangements for the surveying company to start the work and the private surveying company did not communicate with the CDA for such information. Furthermore, it is important to note that government intervention through planning and surveying land may be challenged by local communities simply because of limited awareness, preparation, attitude and enshrined practices among professional surveyors. The surveyors’ approaches are often mechanistic and defy the core pillars in LRCs resolutions, that is, social adaptability, and social cohesion.

Based on the preceding discussion it is noted that the nature of LRCs in Tanzania do vary considerably. In relation to competing resource use, conflicts emanate mostly from farmers’ or pastoralists’ intention to farm or graze in conservation areas which might be forests or ecosystems. There is 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. Government intervention in this case is misinformed as it directly attacks the users of a resource in order to prevent overexploitation or degradation. For example, attempts to directly evict pastoralists from conserved ecosystems, for example, has been hampered by corruption and detection inability by responsible authorities. The most appropriate intervention entails intervention at the resource allocation stage, provided that the resource is relatively abundant. At the grassroots level, the government only needs to instil consciousness among local communities to engage themselves in conservation activities as noted in the SULEDO case. When intervention is premature, the response of the local community would be to reduce the conserved resource in favour of expanded agriculture and grazing land. Similar interventions have been detrimental when controlling grazing land through PLUPs. Farmers-pastoralists’ related LRCs have been responded by the government by excluding one group from the other through PLUPs that delineate grazing land away from farmland. Though in some areas such as Katavi this was found to work—PLUPs have generally been noted to be an effective tool to deal with LRCs in contiguous villages—it turns out to be ineffective for wandering or nomadic pastoralists crisscrossing districts and regions.

There are market approaches to dealing with LRCs as well, by simply making the person responsible for a conflict internalise it by paying a tax which can then be

used to subsidize the affected person. When pastoral communities are forced to pay for fuelling land resource scarcity through overgrazing for example, they are likely to be more responsible to conserve the environment thereby increasing the availability of a scarce resource. This will ultimately attract rural communities to stay in rural areas instead of moving to urban areas due to a balanced resource allocation. The envisaged rural class struggle declines as rules over exploitation of a conserved resource are enforced leading to equity in resource allocation and limited LRCs. This applies as well when farmers are the creators of environmental damage that leads to LRCs. Therefore, ecosystem conservation can best be done through registration of resource user groups by their categories, that is, non-for-profit and those for profit to specify the rights of each resource user. Harvesters of resources for profit may pay following the general agreement by the whole community. By defining the rules of the game limited class struggles are likely to emerge leading to limited LRCs as well.

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