

REVIEW

A Review of the Causes of Land Use Conflicts between Farmers and Pastoralists in Tanzania and a Proposal for Resolutions

Method J. Gwaleba^{1*} Eugene Silayo²

1 Department of Geospatial Sciences and Technology, Ardhi University, P.O. Box 35176, Dar es Salaam, Tanzania.

2 P. O. Box 32241, Dar es Salaam, Tanzania.

ARTICLE INFO

Article history

Received: 7 December 2018

Accepted: 8 January 2019

Published: 7 March 2019

Keywords:

Land

Farmers

Pastoralists

Land conflict

Conflict resolution

ABSTRACT

Land use conflicts are complex disputes that contribute at large in terms of negative social and economic impacts within the heterogeneous societies. The mechanisms of success for land use conflict resolution still need further research because of various mindsets of the people. In this paper, the issues of land conflicts between farmers and pastoralists in Tanzania mainland which could lead to low economic development are reviewed and the general causes and effects of land use conflicts are outlined. Poor land governance, inappropriate of land use plans, inadequate land policies, land tenure insecurity, corruption and population increases are cited as being among of the main offenders fuelling land use conflicts in Tanzania.

As pastoralists move across the country with large herds of hungry livestock in search of pastures and water, the livestock are randomly led into farms where they forage on whatever crops that may be in sight. Angered farm owners (farmers) often take the law into their hands and fight the invaders. Armed fights erupt resulting to human and livestock deaths, destruction of crops and homesteads, fear and poverty.

Since a National Land Policy (NLP) is a key instrument for, among other things, land management and administration, land use planning, conflict resolution, and a stable land tenure security, both the countrywide lack of land use plans in the rural areas, and the (now) outdated National Land Policy of 1995 brought in focus in line with the recurring land conflicts between farmers and pastoralists.

The paper provides the case of how Mediation-Arbitration (MED-ARB) approach can be used in solving land conflicts between farmers and pastoralists. Based on the various studies that have been undertaken and the recommendations made on this issue, the authors propose MED-ARB as the optimal way to put in place sustainable curative measures of land conflicts.

**Corresponding Author:*

Method J. Gwaleba,

Department of Geospatial Sciences and Technology, Ardhi University, P.O. Box 35176, Dar es Salaam, Tanzania

gwalebamj@gmail.com

1. Introduction

In both developed and developing countries, socio-economic developments are correlated with increased demand on land. This economic development increases the development pressures on land, leading to growing of land use conflicts, competition for land and other natural resources, the need for the land developments and shortcoming in land use planning practices^[1]. Generally speaking, the accumulative effects of these forces often lead to complex land use conflict situation which require deliberative approaches to resolve them^[1,3].

Land conflict is a social fact in which at least two parties are involved, the roots of which are different interests over the property rights to land: the right to use the land, to manage the land, to generate an income from the land, to exclude others from the land, to transfer it and the right to compensation for it^[4], drawing on Temirkulov^[5] contendst that “conflict exists where the interest of one stakeholder clashes with the interest of another”. Resolving such conflict could need alternative dispute resolutions that need active participation of involved actors in decision making process and mutual acceptance of the decision^[1,3].

Land is a source of conflict in Sub-Saharan Africa, and in Tanzania particularly where land access has been traditionally characterized through inheritance or customary approach^[6]. Inheritance conflicts emerge from disagreements among siblings on how to share and use land after their parents death. The formal institutions for land administration are often superimposed on traditional structures without a clear delineation of responsibilities and competencies, implying that they lack both outreach and social legitimacy (ibid). The judicial organs are biased in provision of judgments and this has led people to have negative attitudes to reconciliation bodies. For instance, the case of Kilosa District, pastoralists complained about biased judgments provided by the Village Land Council to favour farmers, also on the other side, farmers grieved about the compensation being paid by the pastoralists from grazing their livestock on croplands that were not enough. This has revealed that both parties do not trust the judicial organs in settling land grievances because they lack capacity in terms of negotiation and mediation. Lack of efficient process in detecting and redressing of land grievances and lack of mandatory adjudication have fuelled the negative perceptions of these judicial organs to communities^[2,3,7] to resolve land disputes among communities.

The successful land use conflict resolution is very important in the context of applying compromise among the heterogeneous parties. For the purpose of contributing

to the growing literature on alternative dispute resolution towards collective decision making, this paper provides insights into the causes of land use conflicts in Tanzania. We then highlight the main causes and effects of farmers - pastoralists land use conflicts through conflict analysis. Thereafter, we propose the mechanism that could help to resolve farmers - pastoralists land use conflicts in Tanzania.

2. Materials and Methods

This study is based on a qualitative research design and it has utilized documentation as an instrument for data collection. According to Gwaleba^[8] drawing on Nuhu^[9] argues that secondary research is an approach which involves the systematic description, analysis and summarization of the existing research or previously completed studies and applying the result to your own situation. The review of the documents whether published or not published depended on its status to provide a critical analysis of the causes and effects of land use conflicts in Tanzania, particularly the farmers and pastoralists. The secondary data collected for this study are mainly focused on the causes of land conflicts between individuals or groups, and more so, conflicts between pastoralists and farmers in different regions in Tanzania. The preventive and curative measures for land conflict resolution are discussed. The main focus of this paper is to present the curative approach or conflict resolution approach for the pastoralists and farmers with regard to existing conflicts. However, the review analysis of the land use conflict between farmers and pastoralists in Tanzania is built to address the following questions:

- What are the main causes and effects of farmers-pastoralists land use conflicts in Tanzania?
- What mechanism should be followed to ensure effective land use conflict resolution process in the future?

3. Situation of Land Conflicts in Tanzania

Tanzania is one of many African countries that land use conflict between the individuals or group of people persist, mainly farmers and pastoralists. Several studies have identified the number of land use conflicts that exist in Tanzania, mainly caused policies and laws that are not user friendly to disadvantaged people. However, researchers blame that the root cause of on-going land use conflicts in Tanzania is the competition over land and water resources and lack of effective conflict mechanisms for resolving land conflicts as well as the long history of modernization in Tanzanian policies^[9,10]. This section provides

overview of different types of conflicts and details of each type as follows:

3.1 Land Ownership Conflict

The land ownership conflict has been taking place when two or more people claim ownership over the same piece of land, each claiming to be the rightful owner. This type of conflicts have been emerged from inheritance, overlapping of land rights due to legal pluralism of customary and statutory tenure rights and lack of proper land registration in the country^[11]. Lack of tenure security in rural areas has caused land conflicts between farmers and pastoralists in many parts of the regions in Tanzania^[12]. In view of pastoral communities and farmers, Walwa^[13] argues that the government's attempt to prepare land use plans in rural areas have been the source of land use conflicts as it is taking away the prime land occupied by the two groups in favour of the large scale investors.

3.2 Competing Use Rights on Public Land

This type of conflicts occurs when the statutory and the customary right of occupancy compete on the same piece of land. Customary rights of occupancy play its role in rural areas while statutory rights of occupancy do in urban areas. Both holders either in rural or urban may be granted to use and own land but in most cases, statutory rights override customary rights^[11]. The Land Act, No. 4 of 1999 and the Village Land Act, No.5 of 1999 have been a cause of land disputes on public land^[14]. However, the Care International report indicates that about 54% of all land based conflicts were the result of political appointees order (Care International, 2016^[38]) as illustrated in Figure 1.

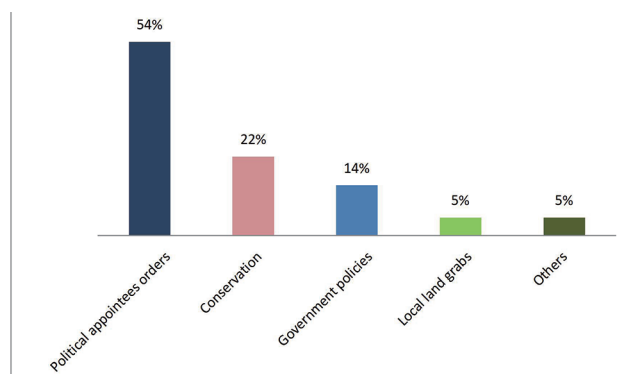


Figure 1. Drivers of land use-based conflicts from 2005-2016

Source: Care International, 2016

3.3 Land Grabbing

Land grabbing has been identified as one of the most land based problem in Tanzania especially in rural areas where

indigenous land rights are deprived. A huge number of foreign companies acquired large scale land for commercial production of mines, biofuels, and food, tourism and forest plantations in different parts of the country. The rural poor have been moved from land without compensation and some of them remained landless and homeless due to lack of clear path and transparency of land acquisition contracts through the Tanzania Investment Center^[15,16]. This has caused conflicts between investors and indigenous people in the area where investors have invested. In addition, corrupt public leaders are the main causes of land grabbing incidents that have been increasing over the years, leading to numerous land disputes that the country is witnessing, especially between pastoralists and farmers (www.ippmedia.com, reported by Semberya^[17]).

3.4 Land Expropriation and Unfair Compensation

This occurs when the government expropriates land from the community without compensation or may provide inadequate compensation which does not reflect the reality of the land market. For instance, study carried out by Kombe on valuation of land and other property at Kipawa, an area proposed for the expansion of the Mwalimu Nyerere International Airport in Dar es Salaam city, indicates that valuation was completed since 1997, but surprisingly enough, payments were made only in 2010^[18]. In this regard, the compensation paid after the number of years from when the valuation took place was low and didn't reflect the reality. This led to disputes between the acquiring government authorities and the landholders. In many cases, while government authorities and institutions claim to have concessions over certain areas of land, communities claim they have user rights because they have used the land for so long and therefore need to be paid timely with respect to the current land value market.

3.5 Poor Land Governance

The improper operational of land management and governance institutions, including a lack of transparency, trust, equity especially in public land acquisition; weak structures for checking land grabbing; and exclusion of the disadvantaged people are the major causes of land conflicts in most areas in Tanzania^[18]. For instance small-scale miners who try to protect their rights to minerals to areas allocated to large-scale mining companies are undermined^[15]. Due to irresponsible actions taken by government authorities, land disputes have been taking place all over the country. On the other hand, lack of political will and financial resources^[9,19], lack of actors participation^[20] among others, are factors that lead to poor land

governance. The governance of land has been difficult to understand and it has been threatened by corruption^[16].

3.6 Population Increase

Increase in population raises the development pressures on land. While the amount of land remains fixed, the high demand of land use and ownership within the community raises which results to conflicts. In this regard, land conflicts have been a crucial issue due to high demand of land use in both urban and rural areas.

3.7 Legal Contradictions

The National Land Policy of 1995 which establishes the 1999 Land Act No. 4 and Village Land Act No.5, both of them classify land as: i) reserved land; ii) village land; and iii) general land. The reserved land is statutorily protected as national parks, land for public utilities, wildlife and game reserves including land selected by sectoral legislation. The village land describes agreed boundaries land in rural areas. The village land is under the managerial authority of Village Councils, which are answerable for land management decisions to the Village Assembly. The general land is a residual category and includes all public land which is not reserved land or village land and includes unoccupied or unused village land^[21,22]. Hitherto, the definition of general land is unclear for the reason that “unoccupied or unused village land is considered as “excess” and thus falls under the jurisdiction of the Land Commissioner rather than the village authorities”^[3]. It is in this respect, that the Village Councils have been given less power on managing the village land because one hand the law is giving them rights to manage their land, while another hand takes those rights. Because of this confusion, village land has become new spots of land use conflicts.

3.8 Invasion in Conflicting Land Use

This cause of land conflicts occurs when individuals with power decide to take the undeveloped land held by the poor for the purpose of developing it. For example, poor people may have land obtained by inheritance, but because they can't develop it instantly, powerful people decide to invade and develop it. This has caused land disputes in the society. In urban areas, powerful people invade lands that have been set aside for public use and develop them. This has been experienced in Kinondoni Municipality in Dar es Salaam City where public open spaces have been invaded by powerful people in collaboration with government officials. In rural areas, land use conflicts have been occurred^[12] when pastoralists tend to search for grazing land and water for cattle, drive their cattle into farmlands.

3.9 Tenure Insecurity

Lack of security of tenure in Tanzania is also the major cause of land conflicts between the individuals, groups or communities. For instance, the root of land conflict between farmers and pastoralists has been identified as lack of tenure security^[18,23]. Every party is competing on the rights of land use. Enhanced security of tenure is the pre-requisite component for socio-economic development. However, most of the village land is yet to be allocated for every individual or groups.

4. The Case of Farmers versus Pastoralists Conflicts

4.1 Land Use Conflict between Farmers and Pastoralists in Tanzania

In principle, both farmers and pastoralists struggle against each other to secure rights in land. Different studies from different parts in Tanzania indicates that conflicts over land use between farmers and pastoralists have been contributed by competition over land and water resources, and the lack of effective conflict resolution mechanisms as well as unclear tenure rights^[2,3,9] and accumulation of land in the hands of large scale investors, leaving small-scale producers landless. Most importantly, land conflicts are essentially on the scramble for resources such as areas for grazing versus areas for cultivation. The circumstances that influence this situation to happen is due to the farmers to have freedom to choose good areas for cultivation, while pastoralists had no freedom of choosing good areas for grazing their livestock^[2]. In addition, the tendency by the government to evict pastoralists and farmers from their prime land in favor of foreign investors has increased land conflicts in Tanzania^[13] which in turn has led to deaths and destruction of properties.

Further, corruption among some of local authorities have steered land conflict in large scale and spread in different areas in the country. Areas such as Kilosa, Mvomero and Kilombero Districts in Morogoro region, Kilwa District in Lindi region; Mbarali District in Mbeya region and Kiteto District in Manyara region and Rufiji district in Coast region are well - known for highest records of death, injuries and loss of properties resulting from persistent pastoralists - farmers fighting^[2,3,13]. For instance, in the year of 2014, pastoralists in Kiteto district used to bribe District officers to access land owned by the farmers. Later on, as pastoralists realized that they had been cheated by the District officers (as they faced resistance from farmers) they demanded a refund of their money. As the money was not restored, pastoralists decided to fight

the farmers to evict them from the land by force. The research findings show that, most pastoralists are illiterate and therefore do not know the laws and regulations pertaining to grazing sector. Table 1 illustrates cases of land use conflicts that have been reported in different districts crossways the country.

Table 1. Occurrence of violent of farmers-pastoralists land use conflicts

Period	Land use conflict culmination
February, 2015	Conflicts in Kilosa district resulted in the killing of three people
November, 2014	Conflicts in Kiteto district resulted in the killing of seven people
October, 2014	Conflicts in Kakonko district resulted in the killing of three people
March, 2014	Conflicts in Igunga district resulted in the killing of five people
January, 2014	Conflicts in Kiteto district resulted in the killing of fifteen people
November, 2013	Conflicts in Mvomero district resulted in the killing of seven people
February, 2013	Conflicts in Kilosa district resulted in the killing of one person
December, 2012	Conflicts in Kiteto district resulted in the killing of eight people
May, 2012	Conflicts in Rifiji district resulted in the killing of one person
December, 2000	Conflicts in Rudewa district resulted in the killing of thirty eight people

Source: Compiled from Benjamensen et al., 2009^[13]

More so, land use planning has been recognized as a tool for allocation of land use rights^[20] between farmers and pastoralists but most of pastoral communities do not attend meetings for preparing land use plans. One of the reasons mentioned by researchers is that when farmers are in the majority, they either set decision-making meetings on market days and/or fail to disclose meeting dates to pastoralists. Most pastoralists attend the livestock markets to sell their livestock and buy their basic needs such as food and clothes. Organizing village assembly meetings therefore denies pastoralists opportunities to negotiate their rights in such land use planning and protect their grazing land, routes for their livestock movement, and access to water^[2,3,17].

4.2 Land Use Conflict Analysis of Farmers - Pastoralists in Tanzania

Conflict analysis refers to “in-depth study of the conflict profile, actors, causes and dynamics”^[5]. On the other hand, Fisher, Ibrahim, Ludin, Smith, & Williams^[23] define conflict analysis as the practical process of examining and

understanding the reality of the conflict from a variety of perspectives. In this respect, these definitions lead to the fact that the conflict analysis finds a means of solving the conflict situation among the conflicting parties. Many research findings show that, conflict analysis often focuses on the root causes, actors and their relationships. It captures the dynamic character of conflicts by observation from multiple perspectives and takes into consideration the past, present and the future^[23]. From this perspective, the authors therefore analyze the land use conflicts between farmers and pastoralists by using conflict tree, the onion and the ABC triangle models that illustrate the root cause, problem and the effects among the conflicting parties.

4.2.1 Conflict Tree Analysis

The conflict tree is an adaptation of the ‘problem tree’ which is employed in conflict management^[5]. It is a participatory instrument where conflict stakeholders take part in the analysis led by an expert. Participants create a diagram of a tree with a symbolic trunk, roots and branches. The trunk is regarded as the core problem. The roots represent causes and the branches represent effects. Thus, the participants identify the core problems, their causes and effects. Thereafter, a causal relationship between the problem and its causes and effects can be identified (ibid). Figure 2 illustrates the conflict analysis using conflict tree tool between farmers and pastoralists. The core problem in this analysis is land alienation which creates tension on both sides because every party is in the need of land. For instance, the root causes of land conflict in Kiteto District is the corruption of Government officials which resulted to tension, unsettled mind among the communities, hunger just to name a few.

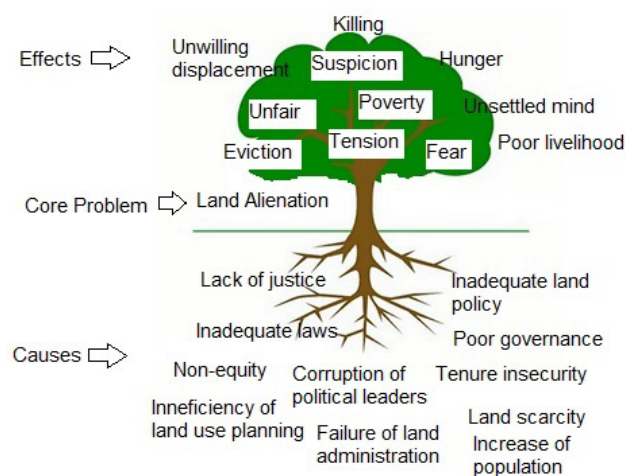


Figure 2. Conflict tree model

Source: Authors

4.2.2 The Onion Analysis

The onion model allows a better understanding of the conflicting parties' positions, and their real interests and needs. It helps us to distinguish between what the different parties want, and what they really want and their need (<http://www.peacebag.org/articles/toolkit-p4-conflictanaly.html>). This type of analysis is mostly useful for “parties who are involved in negotiation, to clarify for themselves their own needs, interests and positions”^[23]. Figure 3 illustrates the conflict analysis using the onion tool.

the Court of Appeal (Mwamfupe, 2013). All these judicial organs are to be referred as non-consensual approach in solving land conflicts. However, paying of losses to one group by another has been used to resolve the conflict through consensual approach (ibid.).

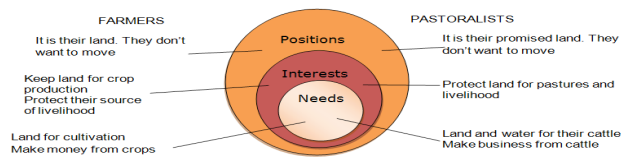


Figure 3. The Onion model

Source: Authors

4.2.3 ABC Triangle Analysis

The ABC Triangle model describes the key aspects within a conflict as: (A) Attitudes, (B) Behaviors and (C) Context (or Contradictions) being the key aspects within a conflict. It is used to deal with destructive or violent conflicts^[24]. Attitudes refer to “assumptions, cognitions and emotions that one party may have about the other” (ibid.p.6). It refers to the psychological states of people involved in a conflict situation which involve the parties' perceptions and misperceptions of each other and of themselves, which are more likely to be negative, as opposing parties tend to develop negative stereotypes of the others (accessed from <http://www.peacebag.org/articles/toolkit-p4-conflictanaly.html>). Behaviors refer to “the mental, verbal or physical expressions put forth in a conflict”^[24]. Behavior can be explained that, they are actions undertaken by one party aimed at affecting the opposing party, with the intention of making that opponent abandon or modify their goals. Context is perceived as the underlying conflict situation, including the real or perceived incompatibility of goals between the conflicting sides. This is the contradiction defined by the parties, their interests, or directly from the structure of the society itself, political, economic or societal mechanisms, processes and institutions (accessed from <http://www.peacebag.org/articles/toolkit-p4-conflictanaly.html>). Czyz^[24] argues that ‘context’ is the “root of conflict and it is the core issue that is causing the violent attitudes and behaviors”^[24]. Figures (4a) and (4b) provide the analysis of the conflict between the pastoralists and farmers using the ABC Triangle model.

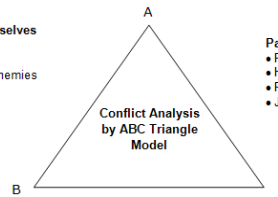
I. FARMERS

Triangle model.

I. FARMERS

Farmers View of Themselves

- Landholders
- Feel protected
- View pastoralists as enemies
- Respected



Pastoralists View of Farmers

- People who are not civilized
- Hinders their daily activities
- Prevent their economic development
- Jealous

Farmers View of Themselves

- Organized people
- Work together and love each other
- Productive people (contribute to national economy)
- Civilized society
- Respect human rights
- Keep environment

Farmers

- Land for cultivation
- Tenure insecurity
- Inadequate of land policy
- Lack of land use planning

Pastoralists view of Farmers

- Work hard but they are not productive
- Not friendly and not respect others

Figure 3. ABC Triangle model based on Farmers conflict

Source: Author

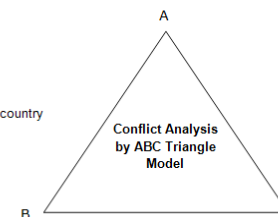
Figure 4a

II. PASTORALISTS

II. PASTORALISTS

Pastoralists View of Themselves

- Feel marginalized
- Not respected
- Feel insecure on land
- Feel migrants in their country



Farmers View of Pastoralists

- People who are not civilized
- Not minded people
- Most of them not educated
- Overgraze their land and invade farmers land
- Environmentally destructive
- Non-organized society

Pastoralists View of Themselves

- Superior and well organized
- Organized people
- Traditional
- Hard working people

Pastoralists

- Lack of land for grazing which cause their displacement
- Lack of water points for herds
- Lack of cattle dips
- Tenure insecurity
- Lack of veterinary medicine services

Farmers view of Pastoralists

- Work hard but they are not productive
- Roam round society (not organized)
- Thieves, not smart, give bribes
- Danger people as they always walk with weapons
- Angry people who don't need consensus
- Not respect human rights

Figure 4b

Figure 4(a) and (b) illustrating conflict analysis using ABC Triangle model

Source: Authors

4.3 Land Use Conflict Resolutions

Conflict resolution refers to the elimination of the causes of the underlying conflict, generally with the agreement of the parties^[25]. It provides the way of “handling conflict by taking problems out, not fighting them out”^[26]. In this respect, land dispute resolution can be achieved through negotiation among the two parties conflicting over land such that each part feels satisfied.

Mwamfupe^[27] makes a telling point that, few has been done to search for “solutions that go beyond just satis-

fighting” community interests^[3]. The interventions geared towards conflict management and resolution has been done by involving the judicial organs, instead of using alternative dispute resolutions that could seek the rooted sources of the land conflicts deliberatively. Lack of local governance to resolve the conflict between farmers and pastoralists is formed by the doubt that exists between the conflicting parties (ibid.). It is from this fact that, this paper is centered on discussing the management and resolution of land use conflict between farmers and pastoralists in Tanzania. The preventive measures and curative measures that could be used to manage and resolve land use conflicts between farmers and pastoralists are outlined as follows:

4.3.1 Preventive Measures Undertaken

Land use conflicts between farmers and pastoralists in most parts of the country have been taken as preventive measures for the benefits of the present and future generations between including:

- Clarifying, legalizing and securing property rights: This measure can help to prevent land use conflict by analyzing types of property rights; being documented as formal rights or perceived rights on land disputes^[11]. The rights of these groups are supposed to be transparent, legally documented and objectively secured;

- Participatory land use planning: This tool can be used to prevent land conflicts between two parties if done effectively. It can be used to mediate two parties through participatory approach in such a way that conflict can be prevented. Land use planning improves land uses and sustains natural resources while settling land conflicts. Through allocating land to different parties, the conflict can be prevented as each part will benefit from using land without problems^[37].

- Surveying and land registration: Although the existing cadastre and land registration systems are not a panacea for land conflicts, some form of land parcel descriptions through cadastral surveying process and registration are necessary for land rights allocation and protection; and

- Awareness creation: Awareness about land conflict and their effects should be provided so that if something happens against each part, they should look for negotiation instead of going into fighting which leads to death of people, property destruction and reduction of motivation of investment. However, education with respect to land laws and regulations should be provided to both pastoralists and farmers through campaign as most of pastoralists

are illiterate. Hence, by conducting awareness campaign may help them to understand the rules and regulations about land use and ownership so as to prevent any misunderstandings that eventually cause conflicts.

4.3.2 Curative Measures Undertaken

The land use conflicts between pastoralist and farmers in the country have been resolved through judicial systems including Village Land and Ward Tribunal Councils, the District Land and Housing Tribunal, the Land Division of the High Court and the Court of Appeal^[7,27]. All these judicial organs¹ are referred to as non-consensual approaches in solving land use conflicts. This is because the process does not involve interviewing and counseling the conflicting parties.

Mwamfupe^[3] argue that there is a weakness in the reconciliatory bodies when dealing with resolving land use conflicts. The research undertaken in Kilosa District by Mung'ong'o & Mwamfupe^[27] indicates that both farmers and pastoralists have negative attitudes to reconciliation bodies. For instance, pastoralists in Kilosa District complained of biased judgments that often favor farmers. One pastoralist complained that, “Only in one case out of 10 will pastoralists win a dispute against farmers”. On the other hand, farmers also complained that “the fines charged on pastoralists were not enough to deter them from grazing their livestock on croplands”^[27]. From these arguments, it is seen that both parties do not trust judicial organs in resolving conflicts because they lack capability in terms of negotiation and mediation which are crucial in land use conflict resolutions. It is revealed that judicial organs take wrong approaches to resolve land conflicts. This is because of the existing corruption in these conflict settlement machineries. Lack of an efficient process of detecting, preventing, managing, and resolving conflicts has fueled the negative perception to these organs. “The mediation councils (now village land councils), and the land tribunals that are meant to settle such disputes seem not only to lack mandatory adjudication, but also that they have no participatory structures”^[2].

5. The Role of National Land Policy in Land Conflict Resolution

The major issues in the National Land Policy are land tenure, land management, land administration, urban and rural planning, institutional framework and an implementation framework. Its overall objective is to promote

¹ Section 3 of the Land Disputes Courts Act, 2002 (URT, 2002).

and ensure secured land tenure system that encourage the optimal land use resources and facilitate the broad based social-economic development without endangering the ecological balance of the environment^[3,28]. In addition, it helps to resolve recurring land conflicts (ibid). The policy was the basis for enacting the Land Act No.4 of 1999 and the Village Land Act No.5 of 1999 which are used for conflict resolution. However, the position of the Land Policy in land conflict resolution matters is very difficult as most of land conflicts have been attributed by the result of the existing problems in the national land policy of the country (Economic and Social Research Foundation - ESRF^[29]). One of the problems of the National Land Policy of 1995 is that it does not guarantee security of tenure for small land users, especially farmers and pastoralists^[3]. In this respect, the inefficient of land policy have led to large areas of land to be given to large scale farming and other investors and consequently marginalizing the farmers and pastoralist's populations whose life is dynamic depending on agriculture and pastures respectively (ibid). However, while land is still allocated to large scale investors regardless of their proven ability to develop them, the land policy does not have specific statements for reversing the use of land that have been abandoned without development (ESRF^[29]). Due to these shortfalls in the land policy, conflicts happen everywhere in the country as it has not been able to provide solutions to land conflicts.

More so, Mwamfupe^[3] makes a telling point that insufficiencies of land policy are noticeably revealed on the policy framework of Grazing-Land and Animal Feed Resources Act which translates and implements the National Livestock Policy of 2006. The framework provides the guidance for management and control of land for grazing and animal feed resources. However, the identified issue in the framework is majored in the interpretation of the terms used. For example, the framework defines "communal grazing land" to mean a grazing land owned by pastoralists and it defines the pastoralist as a person who engages on livestock keeping for commercial purpose. Within this context, the framework tends to provide protection and promotion of herders whose focuses are on commercial livestock keeping and not smaller livestock keeping. Thus, land is taken by powerful investors, leaving marginalized pastoralists and even small farmers without access to land. Failure of the government to balance between the promotion of investment to large scale investors (of which private interests of government policy-makers may themselves be involved), and the land access interests of smallholder farmers and pastoralists has fueled land use conflicts instead of resolutions^[3].

6. Proposed Curative Measures for Land Use Conflict Resolution

Land use conflicts often occur in a political context such that it requires a deliberative approach to resolve it. Regarding the characteristics and nature of land use conflicts taking place in different parts of Tanzania, we propose the Mediation - Arbitration (MED-ARB) approach as a curative measure for conflict resolution between farmers and pastoralists. However, defining the two terms (i.e. mediation and arbitration) could help in understanding on how this model may resolve land conflict cases efficiently and faster and provide peace among the conflicting parties involved.

Mediation as an alternative dispute resolution method is defined as a process which employs neutral or impartial person or persons to facilitate negotiation between the parties to a dispute in an effort to reach a mutually accepted resolution^[30]. Cheung^[31] contends that, mediation is a type of negotiation facilitated by mediation specialist, in which the mediator bridges the communication gap between the conflicting parties and thereby sustaining equilibrium. In this approach, the Mediator's role is; to help the conflicting parties think an innovative ways in solving related problem, to avoid pitfalls of taking rigid positions instead of looking after their interests, to smooth discussions when there is misunderstanding between the parties that hinders the discussions prosperity, and eventually to steer the process away from negative outcomes and possible breakdown towards compromise situation through active participation among the parties^[30]. Participation in the mediation process is crucial as it creates a collective decision making between the conflicting parties as well as acceptable and realistic solutions. The mediator's role is not to provide a decision, but just to provide procedural information that stimulates the dialogue, facilitate exchange of opinions and information between parties, helping the parties to identify their needs and interests at stake^[32]. In this respect, mediation approach creates a bridge that can resume the mutual relationship after the case has been resolved because it is designed to promote the needs of the conflicting parties through transforming a controversial relationship into a more deliberative one.

On the other hand, Arbitration is a method of alternative dispute resolution where the conflicting parties submit their disputes to a neutral person who will determine the outcome of their case^[33]. Arbitration system authorizes a qualified third party to decide how the conflict should be resolved and does not follow the rules of the judicial system. The arbitrator should be professional or knowledgeable with the issues in hand and all parties must accept

him/her and derives his power from private agreement, not from the authority of the government (David, 1985 in ^[11]). The power of the arbitrator is directly granted by the conflicting parties ^[33]. The parties agree to the resolution of their disputes through a simple strategy which is not similar to court system that need to embark on evidences (ibid). However, Sackey^[11] contends that, two types of arbitration exist; namely binding and non-binding arbitration. Binding arbitration often does not allow appeal to a higher court. Non-binding arbitration produces a third party decision which the parties may reject if not satisfied. Thus, for the purpose of this paper and even making sure that each party is satisfied and not showing that there is no party which is the loser, the non-binding arbitration is more useful for land use conflict resolution between farmers and pastoralists in Tanzania.

Therefore, this paper suggests that combining the two techniques: mediation and arbitration together, and hence the so called MED-ARB approach could help to solve land conflict cases more efficiently than the judicial systems. This could be due to the fact that in judicial systems, farmers and pastoralists could have little participation in decision making process as compared to MERD-ARB model. The model leads to make sure that each party is participating effectively to reach a sustainable resolution. It requires empowering individuals or groups to talk openly without fear as to reach the desired decision making. In addition, MED-ARB model may produce results that follow cultural norms and justice than judicial organs because mostly it follows the participatory structures that involve counseling and interviewing the conflicting parties. The MED-ARB model can be used as the best approach at the very initial stage, where parties meet and discuss their differences and then resolve their differences willingly and in a friendly manner instead of directing issues to court system. If the consensus between two parties is not achieved, then any part can pursue the court system for further claims. But in order to build sustainable relationships in the community, the MERD-ARB model creates a room for each party to seek their rights and create peace between them. Thus, the MED-ARB is proposed as the optimal way to put in place sustainable curative measures of land use conflicts.

7. Conclusion

It is believed that, “conflict is not an objective, tangible phenomena; rather, it exists in the minds of the people who are party to it”^[34]. Many land use conflicts are still taking place all over the global south. Often, these involves poor implementations of land use^[18,35], insufficient

actors participation in decision making process^[20,36], low transparency and trust among government authorities as well as dominance in economic interests^[1].

To resolve land use conflicts, one needs to understand the situation as it is seen by the key parties involved by counseling and interviewing them as the first step. When participants rethink their views with regard to their perspectives on conflict situation, will facilitate resolution faster rather than divisiveness. In this regard, the proposed MED-ARB model approach as alternative dispute resolution could be adopted so as to fast the process of resolving these conflicts that often happen in the Tanzanian communities. This could be one way of reducing the level of conflicts via the use of mediation and arbitration, specifically between the farmers and pastoralists over the use of land because it involves counseling and interviewing the parties whereby this part is mostly overlooked. Applying our framework could help identify existing problems in the conflicting parties and thus a sustainable resolution process.

References:

- [1] Tudor, C. A., Ioja, I. C., Pătru-Stupariu, I., Nita, M. R., & Hersperger, A. How successful is the resolution of land-use conflicts? A comparison of cases from Switzerland and Romania. *Applied Geography*, 2014, 47, 125-136.
- [2] Shao, I. F. Democracy and Land Conflicts in Tanzania: The Case of Pastoralists Versus Peasants. *Tanzania Journal of Development Studies*, 2008, 8 (2), 71-83.
- [3] Mwamfupe, D. Persistence of Farmer-Herder Conflicts in Tanzania. *International Journal of Scientific and Research Publications*, 2015, 5(2), 1-8.
- [4] Wehrmann, B. LAND CONFLICTS. A practical guide to dealing with land disputes. Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), 2008.
- [5] Temirkulov, A. The “conflict volcano”: methodological proposition for conflict analysis. *Journal of Aggression, Conflict and Peace Research*, 2014, 6 (2), 99 - 115.
- [6] Yamano, T., & Deininger, K. Land Conflicts in Kenya: Causes, Impacts, and Resolutions. FASID Discussion Paper 2005-12-002. National Graduate Institute for Policy Studies, Tokyo, 2005.
- [7] Kishenyi, B. Resolving land disputes through alternative dispute resolution (ADR). An overview of Tanzania’s legal framework. Masters Thesis, University of Bagamoyo, Tanzania, Bagamoyo, 2017.
- [8] Gwaleba, M. Urban Growth in Tanzania: Exploring

- Challenges, Opportunities and Management. *International Journal of Social Science Studies*, 2018, 6 (12), 47-60.
- [9] Nuhu, S. Peri-Urban Land Governance in Developing Countries: Understanding the Role, Interaction and Power Relation Among Actors in Tanzania. *Urban Forum*, <https://doi.org/10.1007/s12132-018-9339-2>.
- [10] Benjaminsen, T., Maganga, F., & Abdallah, J. The Kilosa Killings: Political Ecology of a Farmer–Herder Conflict in Tanzania. *Development and Change*, 2009, 40 (3), 423-445.
- [11] Sackey, G. Investigating Justice Systems in Land Conflict Resolution. A Case Study of Kinondoni Municipality, Tanzania. MSc. Thesis, University of Twente, Enschede, The Netherlands, 2010.
- [12] Falanta, E. M., & Bengesi, K. M. Drivers and Consequences of Recurrent Conflicts between Farmers and Pastoralists in Kilosa and Mvomero Districts, Tanzania. *Journal of Sustainable Development*, 2018, 11 (4), 13-26.
- [13] Walwa, W. J. Land use plans in Tanzania: repertoires of domination or solutions to rising farmer-herder conflicts? *Journal of Eastern African Studies*, DOI:10.1080/17531055.2017.1359878.
- [14] Odgaard, R. Land rights and land conflicts in Africa: The Tanzania case. Danish Institute for International Studies, Copenhagen, 2006.
- [15] Sulle, E., & Nelson, F. Biofuels, land access and rural livelihoods in Tanzania. International Institute for Environment and Development (IIED), London, 2009.
- [16] Locher, M., & Sulle, E. Challenges and methodological flaws in reporting the global land rush: observations from Tanzania. *The Journal of Peasant Studies*, 2014, 41 (4), 569-592.
- [17] Semberya, D. Farmers, pastoralists conflicts: Where have we failed? 2014.
- [18] Kombe, W. Land Conflicts in Dar es Salaam: Who gains? Who loses? . Crisis States Working Papers Series No.2, ISSN 1749-1797, Dar es Salaam, 2010.
- [19] Durand-Lasserve, A. Land for housing the poor in African cities: Are neo-customary processes an effective alternative to formal systems?'. *Urban futures: Economic development and poverty reduction*, 2005, 160–174.
- [20] Gwaleba, M., & Masum, F. Participation of Informal Settlers in Participatory Land Use Planning Project in Pursuit of Tenure Security. *Urban Forum*, 2018, 29 (2), 169-184.
- [21] United Republic of Tanzania. (1995). The National Land Policy. Dar es Salaam: Government Printers.
- [22] Sundet, G. THE 1999 LAND ACT AND VILLAGE LAND ACT: A technical analysis of the practical implications of the Acts. Working Draft, 2005.
- [23] Fisher, S., Ibrahim, A., Ludin, J., Smith, R., & Williams, S. Working with Conflict: Skills and Strategies for Action, Zed Books. London, 2000.
- [24] Czyz, M. A. Applying the ABC Conflict Triangle to the Protection of Children's Human Rights and the Fulfillment of their Basic needs. MSc. Thesis, European University Centre for Peace Studies, Stadtschlaining/Burg, Austria, 2006.
- [25] Norman, A. Conflict Management among the Farmers and Pastoralists in Tanzania. *International SAMANM Journal of Business and Social Sciences*, 2013, 1 (2), 40-50.
- [26] Nathan, A. Everything You Need to Know About Conflict Resolution. New York: Rosen Publishing Group, 1996.
- [27] Mung'ong'o, C., & Mwamfupe, D. Poverty and Changing Livelihoods of Migrant Maasai Pastoralists in Morogoro and Kilosa Districts, Tanzania. Dar es Salaam: Mkuki na Nyota Publishers, 2003.
- [28] United Republic of Tanzania. National Land Policy: Second Edition. Dar es Salaam: Government Printers, 1997.
- [29] Mugabi, C. Challenges Facing Land Ownership in Rural Tanzania: What needs to be done? Dar es Salaam: ECONOMIC AND SOCIAL RESEARCH FOUNDATION, 2013.
- [30] Shamir, Y. Alternative Dispute Resolution Approaches and Their Application. Technical Documents in Hydrology. Israel Center for Negotiation and Mediation (ICNM), 2003.
- [31] Cheung, S. Mediation for Improved Conflict Resolution. *JOURNAL OF LEGAL AFFAIRS AND DISPUTE RESOLUTION IN ENGINEERING AND CONSTRUCTION*, 2010, 2 (3), 135-135.
- [32] Radulescu, D. M. Mediation - a Method to Resolve Conflicts Without Going to Justice. *Revista Română de Statistică – Supliment Trim IV/2012*, 279-284.
- [33] Sgubini, A., Prieditis, M., & Marighetto, A. Arbitration, Mediation and Conciliation: differences and similarities from an International and Italian business perspective. Retrieved December 9, 2018, from www.mediate.com/articles/sgubiniA2.cfm
- [34] Greenhalgh, L. SMR Forum: Managing Conflict. *Sloan Managing Review*, 1986, 45-51.
- [35] Kaswamila, A., & Songorwa, A. Participatory land-use planning and conservation in northern Tanzania rangelands. *African Journal of Ecology*, 2009, 47 (1), 128–134.
- [36] Chigbu, U. E., Schopf, A., de Vries, W. T., Masum, F., Mabikke, S., Antonio, D., et al. . Combining land-

- use planning and tenure security: a tenure responsive land-use planning approach for developing countries. *Journal of Environmental Planning and Management*, 2017, 60 (9), 1622-1639.
- [37] Kushoka, N. LAND USE PLAN AND FARMERS-PASTORALISTS CONFLICT IN MVOMERO DISTRICT: IT'S IMPLICATIONS ON HOUSEHOLD FOOD PRODUCTION. Masters' Thesis, Sokoine University of Agriculture, Morogoro, 2011.
- [38] Care International. Land-based conflicts situation and trends analysis in Tanzania. Accessed at: <https://www.caretanzania.org/images/Documents/PP-Land-Based-Conflicts-Situational-Analysis-Case-Study.pdf>, 2016.