



# Effectiveness of Rural Tribunal Courts in Dispensing Land Rights in Tanzania: Community Opinions from Dodoma and Mbeya Regions

MaClean C. Mwamlangala

Institute of Rural Development and Planning (IRDP), Department of Population Studies  
P.o.Box 138, Dodoma, Tanzania

Email of the Corresponding author: [mmwamlangala@irdp.ac.tz/mwamlangala@gmail.com](mailto:mmwamlangala@irdp.ac.tz/mwamlangala@gmail.com)

Received: June 24, 2019; Accepted: July 18, 2019; Published: October 22, 2019

**Abstract:** *Land rights present a debatable theme, it is also contentious to many scholars, policymakers and human rights activist around the world. It might be due to challenges that many rural people face through using tribunal courts in getting their rights. Thus, the study aimed to assess the effectiveness of rural tribunal courts in dispensing land rights in Mpwapwa and Mbarali districts in Dodoma and Mbeya regions of Tanzania, respectively. The study involved a sample size of 397 respondents. Observation, interview, documentary review, FGDs, and Key Informants were data collection instruments employed in this study. Both descriptive and inferential statistical analyses were computed by IBM-SPSS (ver.20). Results showed that people know tribunals that dispense justice over land. Furthermore, results from the ANOVA test showed there was no statistically significant difference between villages at  $p=0.493$  on knowledge on the tribunals. But it was reported that these organs are not effective in administering and managing land cases. The study revealed that the reason for ineffective administration and managing land cases is due to the shortage of labour force which cause backlog of land cases. Moreover, the study found that people did not know the procedure of opening and filling land cases which cost them to find lawyers. Furthermore, the study observed boundary conflict between farmers and pastoralists against farmers. ANOVA test results further revealed no significant statistical difference between villagers at  $p=0.141$  on emerging of land disputes. But also it was reported by the study that, women were not allowed by their husbands or families to involve in tribunals for decision making. The study concluded that land tribunals are not effective in managing land cases which results in endless land disputes. The study recommends that the government should employ more people, increase infrastructures and provide education to people on the procedure of opening land cases in villages.*

**Keywords:** Community opinions, Land Rights, Rural Tribunal Court

## 1. Introduction

Land acts as a yoke of an egg which provides vital nutrients for human health. In that case, land plays a vital role in providing human basic needs like food, shelter, and clothes which improve the livelihood of 85.6% of rural people in the world who depend on land for agriculture (Brinks, 2019). But most of the agro-pastoralists face challenges in using, accessing and distributing land (Charters, 2019). These challenges result in land disputes, food insecurity, poverty and insecurity of land (Sanga, 2019; Sanga *et al.*, 2019). However, most countries in the world established land tribunals in rural areas in order to address the mentioned challenges through dispensing land rights among agro-pastoralists (Shany, 2012; Ngombe *et al.*, 2014; Gebretsadik, 2019). Therefore, the effectiveness of land tribunals has been explained in various countries by different scholars, specifically in England (Courts and Tribunals Services, 2012; Charters, 2019). The land tribunal court was created by the Lands Tribunal Act, 1949 that had jurisdiction in

England, Wales and Northern Ireland (Courts and Tribunals Services, 2012; Charters, 2019) but still these tribunals are ineffective in addressing land disputes due to the development of the countries in the areas of industrialization and population growth (Charters, 2019). This has caused shortage of land for most rural people (Mwamlangala *et al.*, 2019). Similarly, in Mexico, Guatemala, Australia, Indonesia and Paraguayan and New Zealand had also experienced challenges of rural people to lose their land rights due to poor governance of tribunal courts which cause sparking of land disputes within the countries (Charters, 2019). This was due to mega-companies and powerful people confiscating productive land from the rural poor which affects their livelihoods (Sieder and Siera, 2011; Awofeso, 2011; Wojkowska and Cunningham, 2010; Miranda, 2015; Thompson, 2016).

Like other scholars in the world, African scholars are in the intense debate about the efficiency of land tribunal courts.



Some scholars argue that land tribunals in Africa address land cases more effectively (Shany, 2012), while others regard land tribunals as ineffective when it comes to addressing land cases (Max *et al.*, 2016).

Brett (2015) and Nyamasege (2017) contend that most Southern African countries' land tribunals are ineffective because had many land cases which are blocked or pending cases which are a source of the existing land disputes. People are now tired of going to land tribunal courts to seek redress and justice (Nyamasege, 2017). Max *et al.* (2016) in the East African Index (2014) study in Uganda report that 90% of the people face serious injustices over land due to the ineffective tribunal courts. This is because 45% of the people reported that paying bribery was the only way to access rights to land. Furthermore, Mushinge (2017) study in Zambia noted that tribunals use a lot of time to end up land cases between one to five years which is contrary to section 12 of the Lands Tribunal Act of 2010 which states that, the Tribunal shall deliver judgment within sixty days after the conclusion of hearing the case.

In a study conducted in Tanzania, Mangure (2015) reported that in spite of the challenges tribunal courts face they are doing better in dispensing land rights to all people in the country. Tanzania being one of the countries which passed through colonialism, its citizen had grievances on the existing laws. These laws being inherited from the colonial government have been regarded as not in favor of natives; as they were discriminatory and oppressive in nature. Thus, in 1974, the government of Tanzania formed a Judicial System Review Commission (famously known as Msekwa Commission) which influenced the establishment of land tribunal courts in 1985 through the Ward Tribunals Act, 1985 CAP 206 R.E. 2002. This happened when the central government decided to revitalize local government authorities due to the backlog of cases in ordinary courts. However, Section 8 (1) of the Ward tribunals Act of 1985 provides the primary function of each tribunal is to secure peace and harmony in their areas by mediating, consulting and endeavoring settlements of disputes. Also, section 62 of the Village Land Act (1999) and section 3 of the Land Dispute Courts Act (2002), Chapter 216 of the laws of Tanzania and its Constitution of 1977 indicate that land dispute settlement structure starts from the Village Land Council, the Ward Tribunal, The District Land and Housing Tribunal and the Land Division of the High Court. These tribunal courts have the power to administrate and manage all land cases filed by agro-pastoralists. But up to date land disputes are still an endless song to most agro-pastoralists in Tanzania, specifically in Mpwapwa and Mbarali districts of Dodoma and Mbeya regions, respectively. For example, between 2015 and 2016 there were about 1,872, 2016 and 2017 there were 2996 land cases in Southern Highland while in the Central zone between 2015 and 2016 there were 2011, 2016 and 2017 there were 2009 of land cases filed in tribunal courts (OXFAM, 2018). But also, Kironde (2009) study in Tanzania reported that in 2006 there were 5, 583 filed in land tribunals and 2,632 have been decided while 2,951 cases were pending. Between 2005 and 2008, 33,163

cases were lodged with District Land and Housing Tribunals out of which 15,149 (48%) were heard and decided upon. In spite of the government establishing these land tribunal courts in 1985 and reforming other legal instruments for the aim of dispensing land rights in rural and urban areas still agro-pastoral community faces challenges of land disputes. Therefore, the paper assessed the effectiveness of these land tribunals in dispensing land rights basing on community opinions in Mpwapwa and Mbarali Districts in Dodoma and Mbeya regions, respectively.

## 2. Theoretical Framework

Institutional and property right theory has been adopted in this paper so as to provide and explain information on how tribunal courts operate in dispensing land rights to agro-pastoralists. The institutional theory explains the effectiveness of tribunal's courts, trend and procedure, knowledge, social environment, tribunal regulatory structure used by authorities to guide and manage land issues (Scott, 2007). Furthermore, property right theory provides a theoretical lens on rights, equality and legitimacy of the government on managing land (Demsetz, 1967; Libecap, 1989). It also, informs the bundle of rights like use rights on land, control or decision making rights and rights to transfer land. All these bundles of rights should be understood by tribunal courts and agro-pastoralists so as to know their responsibility and rights in owning land. Also, the framework shows the role of intermediate variables on how they can affect positively or negatively land titling in rural areas like politics, education population growth, resources, and policies. Therefore, the framework of this paper shows the way variables have been used in addressing the effectiveness of tribunals in dispensing land rights among agro-pastoralists in Mpwapwa and Mbarali districts.

## 3. Methodology

The study investigated the effectiveness of land tribunal courts in dispensing land rights in Mpwapwa and Mbarali districts. Four villages were picked Pwaga (Household with CCRO's) and Lupeta (Household without CCRO's) in Mpwapwa Districts and Mabadaga in Mapogoro ward (also with CCRO's) and Mswiswi in Mahongole ward (Household without CCRO's) in Mbarali Districts respectively. The population density of Pwaga (11,217), Lupeta (8,477), Mapogoro (24,754) and Mahongole (10,309) respectively (Village Register, 2017). The reasons for selecting these were due to frequent land disputes which cause a backlog of land cases.

Data were collected from both primary and secondary sources. The study employed qualitative and quantitative techniques. The methods used were questionnaire survey, interview, observation, and documentary review. About 397 questionnaire guides were distributed to the heads of the household or any person entrusted by the family. Focus Group Discussions which comprised fourteen (14) participants were conducted in each selected village. For the



purposes of triangulation, different methods and sources of data were used. Qualitative data were organised into themes and concepts of manageable units to back up findings. Quantitative data were coded and analysed using IBM- SPSS version 20. A one way ANOVA –test and Scheffe Post-test were used in analysing data. Effectiveness of land tribunals was measured or captured by computing the Mean Index of the attributes on Likert scales (Table 2). But also, quantitative data involved aspect like knowledge, effectiveness, and trends which were organised and presented in the form of tables and graphs to show the relationship between the effectiveness of land tribunals in dispensing land right in Dodoma and Mbeya regions in Tanzania.

The study employed two sampling techniques which were purposive and simple random sampling. Simple random sampling was used in this study to avail respondents an equal chance of being represented. Therefore using two sampling techniques helped the study to identify the extreme perspectives that are present in each population group. The sampling unit for this technique included village officers from all villages, tribunal members, ward officers, districts and region administrative, council leaders, village leaders, lawyers, and land officers. Village Executive Officer (VEO) from each village was consulted for information regarding the number of people in their village. The study sampled the household through a random number table which was used to select households to be involved during data collection.

## 4. Findings and Discussion

### 4.1 Awareness of Agro-pastoralists on authorities which address land cases in Mwapwa and Mbarali districts

In order to know if the respondents were aware of the authorities (at village, ward and district and national level) which address land cases, the respondents were asked to mention all tribunal courts. Results in Table 1 indicate that 36.0% of the respondents mentioned Village Land Tribunal while 23.9% reported that Ward Tribunal Court. Results from the study imply that frequently emerging land disputes in the villages force people to know where they can report such cases through opening and filing land cases.

**Table 1: Awareness of Agro-pastoralists on Tribunal courts which addresses land cases in Mwapwa and Mbarali districts**

Villages	Mention Tribunal Land Court				
	Village Land Tribunal	Ward Tribunal	District Land and Housing Tribunal	Land Division of High Court	Court of Appeal
Pwaga (n=81)	23(28.4)	19(23.5)	17(21)	7(8.6)	6(7.4)
Lupeta (n=62)	25(40.3)	18(29.0)	7(11.3)	5(8.1)	2(3.2)
Mabadaga (n=179)	62(34.6)	43(24)	42(23.5)	6(3.4)	15(8.4)
Mswiswi (n=75)	33(44)	15(20)	7(9.3)	5(6.7)	11(14.7)
<b>Total %</b>	<b>36.0</b>	<b>23.9</b>	<b>18.4</b>	<b>5.8</b>	<b>8.6</b>

This was supported by FGD participants from the study villages and interview from Chairperson of Ward Tribunal Land Court in Mabadaga and Pwaga villages who both reported that respondents in the village know where they can report land cases. This signifies that land conflicts have been common events in these villages. These results are also consistent with what a 63 years old woman said at Mabadaga village on 26<sup>th</sup> March 2018:-

*“From the historical perspective, these instruments addressing land cases were present starting from the colonial regime which undermines human rights, specifically to women not to own land....is where I started to fight for my right so as to pick my land which I used for farming and pasturing my cows. But, after land reformation during the post-independence era is when these formal legal instruments emerge (Tribunal land court. I forced to see this court and I won against my opponent (a man 73 years old) and the registered case was at Mbarali District Court with Criminal Trespass Case Number 13/2017. These challenges forced me to know legal institutions that address land disputes”.*

Obviously, from what this woman said it indicates that she was aware of many historical events about informal and formal or legal instruments and authorities addressing land issues.

Similarly, the study by Adam and Birhanu (2017) conducted in rural Ethiopia report that tribunals which address land disputes were known in Amhara region because land administration system (LAS) is well structured and the effort to strengthen good governance in land administration at local/village is a commendable intervention. A study by Shimwela, (2018) in Tanzania, confirmed that villagers in Mbozi district were very familiar with tribunal courts due to occurrence of numerous land disputes in Mbozi district. The results conform to the report from an interview with a 45 years old man from Mabadaga village who was quoted saying:

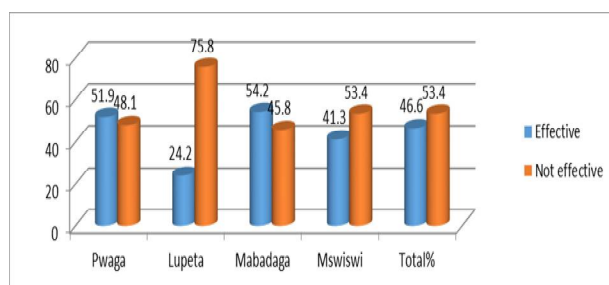
*“Indigenous people know the Ward tribunal court and District court after facing challenge of land conflicts with Investor (Mbarali Farm Rice Estate) as opponent who wanted to appropriate the whole land, with registered criminal case No. 109/2017/45 contrary to section 299(a) of the penal code 16 Volume 1 of the law revised in 2002. Up to now, the case is still in the tribunal court”.*

Due to numerous incidences of land cases at the study villages; respondents’ knowledge and awareness on legal aspects on how to address land issues seem to be enhanced. Furthermore, the results from ANOVA test indicates that there were no statistically significant differences in the results between study villages at  $p= 0.493$  on knowledge on the tribunals.



#### 4.2 Effectiveness of Tribunal courts in addressing land disputes in Mpwapwa and Mbarali districts

The respondents were asked on how effective they perceive the services received from local tribunals (village and ward). Results in Figure 1 indicate that 53.4% of the respondents from study villages reported that tribunals are ineffective and only 46.6% of the respondents reported that tribunals are effective in providing services. However, at Lupeta village, majority of the respondents (75.8%) reported that tribunals are not effective comparing to Mswiswi (53.4%) who reported that tribunals are effective. The reason was given by District Land Officer (DLO) in Mbarali who reported that awareness in Mswiswi and other villages in Mbarali district was created by non-governmental organizations particularly Legal and Human Rights Centre.



**Figure 1: Effectiveness of Tribunals in addressing land disputes in Mpwapwa and Mbarali districts**

Table 2 presents agro-pastoralists opinions on effectiveness of rural tribunal courts from a Likert scale. It was reported that most of the respondents (74.2% ) in the studied villages disagreed on the mentioned attributes (Table 2). The Mean Index ( $\bar{X}$ ) on opinions on effectiveness from Likert scale (Table 2) was computed. Results revealed that the Mean Index ( $\bar{X}$ ) = 2.0469 indicated 74.2% of all mentioned attributes that are not effective to tribunal courts in addressing land matters to agro-pastoralists in rural areas.

Results conform with Institutional theory which claims that ineffectiveness of the authorities which engage in land management are caused by the failure in practising good governance at workplaces (Scott, 2007). In similar cases, Property rights theory argues that investor who has economic power tries to force poorer people to leave their productive land which hence land disputes (Demsetz, 1967).

**Table 1(a): Agro-pastoralists Opinions on Effectiveness of Rural tribunal court in Mpwapwa and Mbarali districts**

Attributes	Pwaga (n=81)					Lupeta(n=62)				
	SD	D	N	A	SA	SD	D	N	A	SA
Address land cases timely	32.1	28.7	14.2	21.0	12	22.6	18.1	13.3	7.5	3.4
Land governance (practice corruption)	27.3	26.4	4.9	12.3	8.7	18.4	15.3	4.1	11.1	1.9
Justice compliance	23.5	28.3	3.4	18.5	11.6	29.2	28.4	3.3	12.0	13.3
Adequacy of tribunal resources	24.4	25.9	9.0	12.8	10.2	34.5	37.1	2.9	6.4	9.3
Transparency	2	22.7	3.7	13.8	11.3	36.1	49.3	8.0	5.6	4.3
Tribunal workload	7.8	34.7	32.8	9.9	12.1	10.0	36.8	27.1	5.1	15.5

**Table 2(b): Agro-pastoralists Opinions on Effectiveness of Rural tribunal court in Mpwapwa and Mbarali districts**

Attributes	Mabadaga (n=179)					Mswiswi (n=75)				
	SD	D	N	A	SA	SD	D	N	A	SA
Address land cases timely	34.2	51.8	7.7	16.7	14.6	26.3	38.9	5.0	17.0	19.0
Land governance (practice corruption)	53.3	49.1	5.6	13.8	10.3	35.0	43.3	6.1	12.7	10.0
Justice compliance	34.4	48.3	4.9	25.0	7.4	29.2	56.1	7.9	18.1	8.0
Adequacy of tribunal resources	36.6	39.1	12.2	15.6	9.9	19.3	43.0	4.0	11.0	15.0
Transparency	27.7	38.0	3.9	13.3	15.5	14.0	48.0	9.1	16.9	14.8
Tribunal workload	43.3	53.8	12.8	15.6	14.6	5.3	54.7	6.7	18.8	12.6

The study also investigated on what prompted ineffectiveness of tribunals in studied villages. It was found (Table 3) that about 41.1% of the respondents reported that shortage of labour force caused ineffectiveness of tribunals hence provision of poor services. This imply that the studied villages had a very few workers in the tribunals' offices hence failure in delivering services. Results from the study area are similar to Mangure (2015) study in Tanzania, which reported that about 92% of the respondents revealed absence of good working environment in the courts due to limited infrastructure. This has resulted into poor performance of tribunals. Additionally, studies (Shivji, 1999; Rwegasira, 2012; Hendrik *et al.*, 2019) report that effectiveness of many courts needs outlay of resources so as to increase the effectiveness in providing services to many people in rural and urban areas.



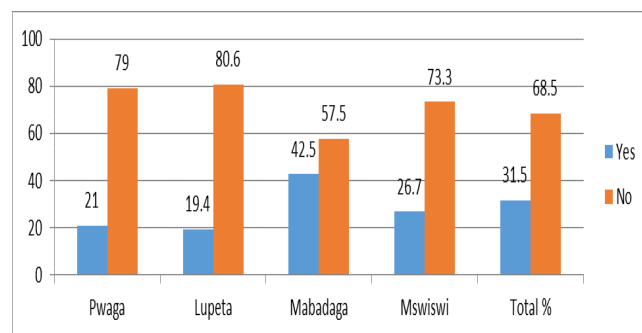


**Table 3: Reasons for ineffective of Tribunal courts in addressing land cases in Mpwapwa and Mbarali districts**

Villages	Reasons mentioned by respondents			
	Lack of motivation	Shortage of labor force	Lack of infrastructures	Poor customer care
Pwaga	20(24.7)	33(40.7)	5(6.2)	16(19.8)
Lupeta	18(29)	20(32.3)	6(9.7)	9(14.5)
Mabadaga	30(16.8)	75(41.9)	24(13.4)	29(16.2)
Mwiswi	8(10.7)	35(46.7)	13(17.3)	7(9.3)
<b>Total %</b>	<b>19.1</b>	<b>41.1</b>	<b>12.1</b>	<b>15.4</b>

#### 4.3 Knowledge on procedures of filing and litigations of land cases at the tribunal land courts in Mpwapwa and Mbarali districts

Knowing how the respondents understand procedures of filing and litigation of land cases was an interest of the study. This obviously has effects on agro-pastoralists livelihoods in terms of time and income spent when dealing with such aspects, among others. Results (Figure 2) revealed that about 68.5% of the respondents reported that they do not know the procedure of filing land cases while only 31.5% knew the procedure of filing land cases. The study observed through in-depth interviews and FGDs that respondents were not knowledgeable on how to fill application form at the tribunal court for approval and payment for registration of the case. It was opposite to the procedure of opening a case before the ward tribunal as provided under the provisions of section 11 (1) of The Ward Tribunals Act as quoted; "Proceedings may be instituted by making of a complaint to the secretary of the Tribunal, the Secretary of an appropriate authority, Chairman of a Village Council or a ten-cell leader." Subsection 2 of the provision 11 provides that, any person who reasonably believes that any person has committed an offense may make a complaint about the matter to any of the persons specified in subsection (1).



**Figure 2 Knowledge on procedure of filing and litigations of land cases to the Tribunal land courts in Mpwapwa and Mbarali districts**

Results indicate that Mabadaga village had more respondents who know the procedure of filling land cases at the court. It was observed and noted that in Mbarali District there are many NGOs dealing with human rights issues that take

dealing with advocacy of court procedure and ligations and other relating issues. This has helped residents in the area to know these procedures compared to other study areas. The results were similar to FGD participants from the study areas who reported that villagers do not know how to process land cases because earlier they used customs and traditional leaders to address land disputes. This report from FGD holds the same view from an interview with a 47 years old man from Pwaga on 19<sup>th</sup> March 2018, who was quoted claiming that...

*".....I am blaming our government of URT which does not even think about the general education about laws and court procedures to people.....Because even those who went to school are not familiar with court procedures, thus in 2017, I had a case with Mr X and my case was criminal trespass which causes boundary disputes and was contrary to 299 of the penal code 16 revised in 2002, because I did not know procedure of filing and technicalities of ligations of cases to the court I lost my right and paid fine of Tshs.20,000/= and if I were not able to pay I would have gone to jail ..."*

Studies (Ray 2015; Gilbert and Begble, 2018) posit that indigenous people are generally subjected to loose their land rights because they do not know the procedures of processing, filing and litigations of land cases. This was also supported by Districts Court magistrate from Mbarali who reported that in practice before going to court a person and their legal teams have to develop a process of documenting attachments of their land claims issues which could help to process the case. Moyo (2017) and Marwa (2015) studies conducted in Tanzania, noted that most women are unaware of the tribunal courts and the procedure of filing land cases compared to men.

#### 4.4 Types of Land disputes addressed by Tribunal Courts in Mpwapwa and Mbarali districts

Moreover, in the study the respondents were asked on the type of land disputes which result in filing land cases to the tribunals. It was found (Table 4) that about 92.2% of the respondents reported that boundary conflicts amongst farmers and 84.4% reported farmers against pastoralists was the dominant land dispute existing to all studied villages. Results imply that studied villages are experiencing frequent land disputes. Similar arguments were made by District Livestock Officer (DLO) and village leaders from all studied villages that there are endless land conflicts in villages which affect agro-pastoralist livelihoods. The argument from DLO corroborates with Sanga (2019) study in Tanzania, Charter (2019) study in New Zealand and Gebretsadik (2019) study in Ethiopia which report that lack of land use planning in rural and urban areas leads to different types of land disputes among users, consequently affecting their income, food security and time in dealing with land cases to the tribunals.

ISSN 2619 – 8894 (online) and ISSN 2619 – 8851 (print)  
**Table 4 Types of Land disputes which addressed by Tribunal Courts in Mpwapwa and Mbarali Districts**

Attributes	%	Pwaga (n=81)	Lupeta (n=62)	Mabadaga (n=179)	Mswiswi (n=75)	Total %
Farmer /Pastoralists	Yes	63(77.8)	49(79.0)	163(91.1)	60(80.0)	84.4
	No	18(22.2)	13(21.0)	16(8.9)	15(20.0)	15.6
Farmer/Farmers (Boundary Conflicts)	Yes	73(90.1)	56(90.3)	166(92.7)	71(94.7)	92.2
	No	8(9.9)	6(9.7)	13(7.3)	4(5.3)	7.8
Pastoralists/Pastoralists	Yes	66(77.8)	48(77.4)	126(70.4)	60(80.0)	76.4
	No	18(22.2)	13(22.6)	53(29.6)	15(20.0)	23.6
Investor/Villagers	Yes	9(11.1)	23(37.1)	130(72.6)	54(72.0)	54.4
	No	72(88.9)	39(62.9)	49(27.4)	21(28.0)	45.6
Government/Villagers (TANAPA)	Yes	11(13.6)	22(35.5)	143(79.9)	55(73.3)	58.2
	No	70(86.4)	40(64.5)	36(20.1)	20(26.7)	41.8
Village/Village (Boundary Conflicts)	Yes	37(45.7)	50(80.6)	89(49.9)	62(82.7)	59.9
	No	44(54.3)	12(19.4)	90(50.3)	13(17.3)	40.1

Furthermore, the study investigated on the occurrence of land disputes between 2012 to April 2018. Table 5 indicates that the trend of land disputes has been increasing. the ANOVA test shows that the results were statistically insignificant at  $p=0.141$ . When the Scheffe Post hoc-test was computed, the results revealed that no significant statistical differences between all study villages. The study results were similar to the growing body of literature like OXFAM (2018), Schreiber (2018), Hendricks *et al.* (2019) and Sanga *et al.*, (2019) who found that land disputes in rural areas are increasing rapidly every year hence affecting livelihoods to most agro-pastoralists. Results are in line with District Land Officer (DLO) from the studied villages who both reported that land disputes, specifically boundary conflicts, are still occurring in villages because people want to own large farms while there is shortage of land.

**Table 5 Experience of Agro-pastoralists on Trends of Land Disputes and Filed Cases in the Villages from 2010 up to April 2018 in Mpwapwa and Mbarali Districts**

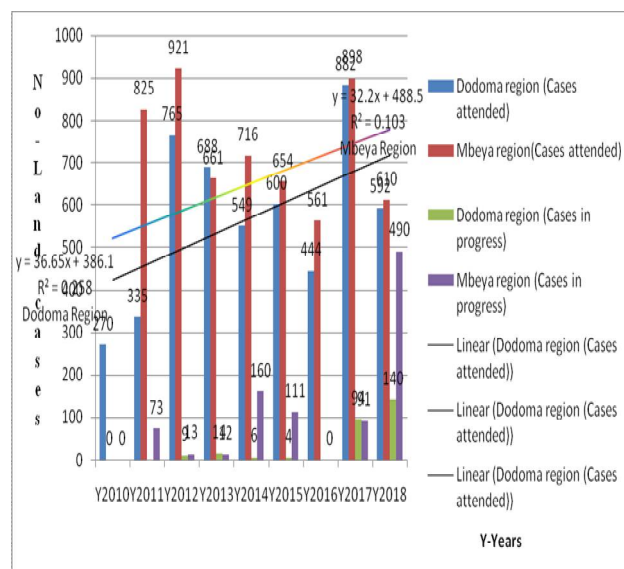
Villages	The trend of land Dispute in villages (%)							ANOVA test
	Before 2012	2013	2014	2015	2016	2017	April, 2018	
Pwaga	11.1	14.8	23.5	9.9	19.8	21.0	7.4	$p=0.141$
Lupeta	16.1	11.3	21.0	12.9	24.2	14.5	9.6	
Mabadaga	13.4	10.6	13.4	11.2	21.8	29.6	10.2	
Mswiswi	14.7	20.0	17.3	12.0	10.7	25.3	11.1	
Total %	13.6	13.4	17.4	11.3	19.6	24.7	9.6	

Moreover, the study results displayed (Figure 3) are in line with a report from tribunal court magistrate from Central and Southern Zones of Tanzania which reported that:

The total number of land disputes cases were 5125; cases attended were 4848, cases in progress were 267 from Central Zone of Tanzania while a total number of land case were

7538, case attended were 5846 and cases in progress were 950 from the Southern Zone of Tanzania. But also, the study found through trendline (Figure 3) that there was no statistically significant difference in the decreasing number of land cases at  $R^2=0.258$  and  $R^2=0.103$  in Dodoma and Mbeya regions, respectively. The statistical results imply that land disputes increase every year in the study regions. The report from Key Informants was confirmed by an old man (77) years who had a land case filed 2013/162/123 on 23<sup>rd</sup> July 2018 from Mabadaga village during an in-depth interview who politely reported that:

*“Land disputes in Mbarali and other areas of Tanzania will never end and will increase every coming year because of corruption and shortage of labour power to the tribunal’s courts. There are few tribunals in the zones, every zone has one land tribunal court which resolves land cases which caused my case to be running into the land tribunal court for a long time”*



**Figure 3 Number of Land Cases in Rural Tribunals Court from Central and Southern Highland Zones (Zonal Tribunal courts, 2018)**

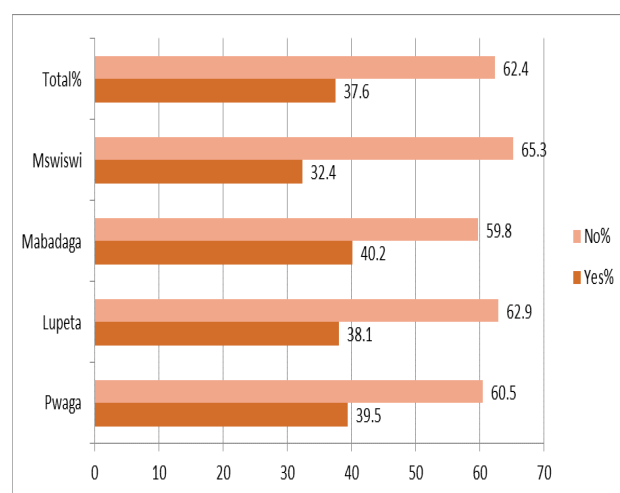
Furthermore, the findings are in the same vein with what was reported by FDG participants from the study villages. It was reported that land disputes within the study villages still exist and do not stop due to the increase of the inefficiency of tribunal courts in Tanzania. This argument is in line with studies (Mwamlangala *et al.*, 2016; Schreiber, 2018; Shimwela, 2018; Flitner, 2018; Kassie, 2018; Hendricks *et al.*, 2019) which report that land disputes in rural and urban areas are unavoidable and will continue to grow due to corruption which leads to unsolved or pending land cases from tribunals. This argument holds the same view with an interview from the chairpersons of the Ward Tribunal land courts from Mbarali and Mpwapwa districts who claimed that there are about 5 to 6 land cases per week which make



20 to 24 land cases per month, especially during the rainy seasons. Generally, the trend of land disputes is rapidly increasing due to lack of efficiency and effectiveness of tribunals in implementing land cases in study areas.

#### 4.5 Effectiveness of Rural Tribunal court in considering Gender into decision making in addressing land cases

Gender is a sensitive issue in livelihoods and sustainable development in any society. This is because in practice it creates opportunities in performing social, economic and political activities. Results in Figure 4 indicate that about 62.4% of the respondents do not consider women's inclusion in tribunals' decision making while 37.6% reported that, gender inclusion is considered in tribunals for decision making.



**Figure 4 Gender consideration into Rural Tribunal court in addressing Land Cases**

The results of the study imply that all villages excluded women in implementing decision making which affected the marginalised group. However, the difference showed in Mabadaga and Pwaga as registered villages were to some extent gender in the tribunal courts is well recognised compared to unregistered villages, that is Lupeta and Mswiswi. It was found that registered villages had knowledge from Property and Business Formalization Programme (PBF) in Kiswahili "Mkakati wa Kukuza Uchumi na Kuondoa Umasikini Tanzania" (MKURABITA) and NGO's during implementation of VLUP and the enforcement of Districts Council in organising Village Land Committees (VLC's). This was made possible through the use of Village Land Act of 1999 which states that, for decisions in the Village Adjudication Committee (VAC), a quorum of five members is required, of which at least two must be women (Village Land Act 1999). Furthermore, Achterberg-Boness (2016) reports that, Section 14 of the Court Act, 2002 requires that in any mediation, three members of the local tribunal, of whom at least one must be a woman to constitute the panel. The Ward Tribunal comprises four to eight members elected by the Ward Committee, of whom a minimum of three members must be

women (Tanzania Ward Tribunal Court, 1987). Similarly, Moyo, (2018) argues that VAC or any officer must treat the rights of women equal to those of men. The results are in line with Chan, *et al.*, (2016) and Duncan, (2014) who reported that VLA stipulates that the VLC must treat all applications for land equally, regardless of the gender of the applicant, and it is forbidden to adopt any discriminatory practices or attitudes towards women. In corresponding with the report from the District Land Housing Tribunals from Southern and Central Tanzania, it was observed that the government is serious in assessing these tribunals and VLC to ensure equal opportunities between men and women in decision making in all land issues.

Studies (Chan, *et al.*, 2016; Veit, 2018; Moyo, 2018) hold the same view that Village Adjudication Committee (VAC) to be set up whenever a Village Assembly decides there is a need for an adjudication process concerning land. Females are eligible to participate in Village Assembly but no mandatory requirements to ensure female participation in the Assemblies or to ensure adequate female representation in their decision-making. Of the nine members of the VAC, four must be women.

Conversely, FGD's participants in Lupeta and Mswiswi villages reported that women are not being involved in all tribunals because they fear to apply for opportunities in Village Adjudication Committee in which they can be selected in land tribunals. This report from unregistered villages is consistent with a report from an in-depth interview where one woman (49) years old from Mswiswi on 24<sup>th</sup> March 2018 was quoted saying that:-

*".....It is not easy to be involved in tribunal courts which provide strong decision upon the right of defendants and opponents. It needs experiences, skills, but you must understand land laws ....So when I think of all these pertinent issues I lose confidence to apply for tribunals and other people identify you as a corruptive person. This makes me not accept these opportunities within my village....."*

Generally, the study found that women excluded by their husbands to be involved in decision making during running land cases to the tribunal court. The reason was given by the agro-pastoral community that culture does not allow women to be involved in providing decisions in all community issues.

## 5.0 Conclusion and Recommendations

### 5.1 Conclusion

Basing on the findings, the study concludes that:-

- Generally, many respondents in the studied villages know ward tribunals which address land cases in their villages.
- It was observed that tribunals are not effective in addressing land cases because of the shortage of labour force and other resources.
- Land disputes are rapidly increasing in villages.
- Also, people are not familiar with the process and procedure of filing land cases.





- Lastly, there is limited inclusion of women in tribunal courts for decision making during running land cases and litigations.

## 5.2 Recommendations

From the conclusion above, the study recommends the following:-

- The Ministry of Land and Housing should cooperate with legal instruments (courts) in provision of land laws education to agro-pastoralists in order to minimize land disputes in rural areas.
- Also, the land tribunals should be provided with enough funds by the government and other stakeholders so as to assure all important resources are available. This will help to reduce unattended land cases in the tribunal courts.
- Gender consideration when appointing individuals to work as members of the committee of the tribunal by Local Government Authorities. Such appointments should also base on the capability and commitment.
- Furthermore, Ministry of Justice and Legal Affairs should continue establishing more tribunals in rural areas. This will reduce the problem of backlog of land cases which cause the trend of land disputes to grow every year which affect community livelihoods.

## 5.0 Acknowledgement

I acknowledge the Open University of Tanzania (OUT) for hosting two International Conferences in collaboration with JLS Africa where I presented papers for publication as criteria for Ph.D. study. But, also East African Journal of Social Sciences and Humanities (EAJSSH) for initiating this platform of disseminating research reports to the public. Also, my employer Institute of Rural Development Planning (IRDP) and Professor John Safari, the Head of Department of Population studies (IRDP), Professor Kim Kayunze from Sokoine University of Agriculture (SUA) and Professor Wilbard Kombe from Ardhi University (ARU) for endless support and my respondents from studied regions. My sincere and special appreciation is extended to my supervisors, Professor Abiud Kaswamila and Dr. Cosmas Haule, for their constructive guidance, direction, endurance, encouragement, empathetic understanding, and supportive ideas to ensure that this project is meaningful. Their skills, value, enlightenment and mentorship have been an empirical handle for the success of the project.

## References

- Achterberg-Boness, A.C. (2016). *"Dynamics of Law, Culture and Society in the Organisation of Land and Water Distribution among Rural Farmers in Karatu District/Northern Tanzania"* der Philosophischen Fakultät.. PhD Thesis Report. Köln:der Universität zu Köln. 280pp.
- Adam, A. G., and Birhanu, T. A. (2017). Decentralised Rural Land Administration in Ethiopia. *Journal of Land and Rural Studies*, 6(1), 34–49. doi:10.1177/2321024917731841.
- Awofeso, N. (2011). Racism: A major impediment to optimal Indigenous health and health care in Australia. *Australian Indigenous Health Bulletin*, 11(3), 1–13.
- Anyuru, M.A., Rhoads, R., Mugenyi, O; Ekwenyu, Balesmesa, T. (2016). *"Balancing Development and Community Livelihoods": A Framework for Land Acquisition and Resettlement in Uganda*: ACODE Policy Research Series, No. 75.
- Brett, P. (2015) *"Who are Judicial Decisions Meant For?"* The 'Global Community of Law' in Southern Africa : Paper prepared for ECPR Annual Conference, Montreal, 26th University of London August 2015.
- Brinks, D. M. (2019). Access to What? Legal Agency and Access to Justice for Indigenous Peoples in Latin America. *The Journal of Development Studies*, 55(3), 348-365, DOI:10.1080/00220388.2018.1451632.
- Chan, M.K., Kamugisha, G., Kesi, M. and Mavunjina, A. (2016). *Strengthening Women's Voices in the Context of Agricultural Investments: Lessons from Tanzania*. London/Dar es Salaam: IIED/TAWLA. 234pp.
- Charters, C. (2019). The Declaration on the Rights of Indigenous Peoples in New Zealand Courts: A Case of Cautious Optimism. *SSRN Electronic Journal*. doi:10.2139/ssrn.3356127.
- Demsetz H. 1967. Towards a theory of property rights. *American Economic Review*, 57 (2): 347– 359.
- Gebreetsadik Ayele, D. (2019). Challenges to rural livelihoods: A case study at Chichu community in Gedee, Southern Ethiopia. *The Journal of Rural and Community Development*, 14(2), 107–xx.
- Gilbert, J. and Begble- Clench, B. (2018). *Mapping For the Right: Indigenous People, Litigation and Legal Empowerments*. ELR, 1, .2-18;doi 105553/ELR000092;
- Hendriks B, Zevenbergen J ,[Bennett,R](#), and [Antonio,D](#) .(2019). *Pro-poor land administration: Towards practical, coordinated, and scalable recording systems for all*. Elsevier, [Land Use Policy Volume 81](#), 21-38; <https://doi.org/10.1016/j.landusepol.2018.09.033>
- Isinta, D. and Flitner, M. (2018). *Gender and Tenure Security in Gusii, Kenya: Improving Household Welfare Through Land Rights*. Paper presented at World Bank Conference on Land and Poverty, 19<sup>th</sup> to 23<sup>th</sup> 2018 in Washington, DC.
- Kassie, G.W. (2017). The Nexus between Livelihood diversification and Farmland management strategies in Rural Ethiopia. *Cogent OA journal*, .5(1),1-6 <http://dx.doi.org/10.1080/23322039.2016.127508>.
- Kironde, L. (2009). *Improving Land Sector Governance in Africa: The Case of Tanzania*. Workshop on Land





- Governance in support of the MDGs: Responding to New Challenges. Washington DC, USA. 45pp.
- Mangure, D.W. (2015). "Effectiveness of Ward Tribunals in Dispensing Justice as Land Courts in Tanzania": Case of Arusha City. *International Journal of Science and Research (IJSR)*, 6(5), 2045-2049.
- Marwa, J. (2015). *Challenges Facing Village Land Councils in Managing Lands Disputes: A Case Study of Girango Division Rorya District – Mara Region*. School of Public Administration and Management. Morogoro, Tanzania: Master Dissertation Report Mzumbe University. 84pp.
- Mushinge, A. (2017). Assessment of the Lands Tribunal in Resolving State Land Conflicts in Zambia. *Research on Humanities and Social Sciences* 7(18):16-23.
- Mwamlangala, M.C., Haule, C.B.M., Kaswamila, A. (2019). Assessment of Customary Land Registration Dynamics among Agro-Pastoralists in Tanzania: A Case of Dodoma and Mbeya Regions. *International Doctoral Research Scholars Journal (IDRSJ)*, 1(1)105-113.
- Mwamlangala, M.C., Msaki, M. and Nhembu, M. (2016). Public Awareness on Land Policy as an Instrument to Avoid Land Conflicts in Dodoma Municipality. A case of Dodoma Makulu Ward in Dodoma –Municipality. *Imperial Journal of Interdisciplinary Research (IJIR)*, 2(6), 72-80.
- Namagembe, L. (2015). "Uganda CSOs Cry Out On Land Titles". The Monitor, July 24, 2015. <http://www.monitor.co.ug/News/National/CSOs-cry-out-on-land-titles/-/688334/2804650/-/o0r1ym/-/index.htm>
- Ng'ombe, A., Keivani, R., Mattingly, M., and Stubbs, M. (2014). Impacts of privatization of customary land rights in Zambia: A comparative research of rural and Perilocations. *International Journal of Urban and Regional Research*, 38(6), 1985-2007.
- Nyamasege, G., Swazuri, M. and Chavangi, T. (2017). Alternative Dispute Resolution as a Viable Tool in Land Conflicts: A Kenyan Perspective. Paper presented at the "2017 World Bank Conference on Land and Poverty" The World Bank – Washington DC, March 20-24, 2017.
- OXFAM. (2018). "Leveraging Cost in Land Titling in Tanzania": A review of Stakeholders Practices, BriefingNote2018. <https://tanzania.oxfam.org/.../tanzania.oxfam.../files/file./leveraging%20Cost%20in>
- Ray, A. J. (2015). Traditional Knowledge and Social Science on Trial: Battles over Evidence in Indigenous Rights Litigation in Canada and Australia. *The International Indigenous Policy Journal*, 6(2) .DOI: 10.18584/iipj.2015.6.2.5.
- Rwegasira, A. (2012). Land as a Human Right": A History of Land Law and Practice in Tanzania. *Journal of African Law*, 58(01):179-181.
- Sanga, S.A., Makupa, E. R., Moyo, K. J., Matotola, U. C., and Mrema, E. F. (2019). Land administration practices in Tanzania: a replica of past mistakes. *Journal of Property, Planning and Environmental Law*, 11(1), 30–50. doi:10.1108/jppel-02-2018-0005.
- Sanga, S.A. (2019). Practitioners' perspectives on land resource conflicts and resolution in Tanzania. *The Journal of Rural and Community Development*, 14(2), 87–106.
- Sanga S.A. and Moyo, K.J. (2018). Women, Awareness and Land Conflicts: Evidence from Makete Tanzania. *African Journal of Geospatial Sciences and Land Governance*, 1(1), 33-50.
- Shany, U. (2012). Assessing the Effectiveness of International Courts: A Goal-Based Approach. *The American Journal of International Law*, 106(2), 225. doi:10.5305/amerjintlaw.106.2.0225.
- Shimwela, J. (2018). "Effects of Indigenous Land Tenure Titling on Agricultural Investment Among Smallholder Farmers In Mbozi District, Tanzania" .A Dissertation Submitted in Partial Fulfilment of The Requirements for the Degree of Master of Science in Agricultural Economics of Sokoine University of Agriculture. Morogoro, Tanzania. 100 pp.
- Shivji, I.G. (1999). "The Land Acts 1999: A Cause for Celebration or a Celebration of a Cause?" Keynote Address to the Workshop on Land, held at Morogoro ... [www.fao.org/fileadmin/templates/nr/.../1999\\_land\\_act\\_and\\_village\\_land\\_act.rtf](http://www.fao.org/fileadmin/templates/nr/.../1999_land_act_and_village_land_act.rtf)
- Sieder, R., and Sierra, M. T. (2010). Indigenous women's access to justice in Latin America. CMI Working Paper Series (WP2010:2). Retrieved from the Christian Michelsen Institute website: <https://www.cmi.no/publications/3880-indigenous-womens-access-to-justice-in-latin>.
- Scott, W.R. (2007). *Institutions and Organizations: Ideas and Interests*. Sage Publications, Thousand Oaks, CA. 266pp.
- URT. (1977). The Constitution of the United Republic of Tanzania. Government Printers, Dar Es Salaam, Tanzania. 89pp.
- URT. (1985). The Ward Tribunals Act 1987. Law, Tanzania. Government Printers, Dar Es Salaam, Tanzania. 55pp.
- URT. (1999). The Land Act 1999'. Law, Tanzania. Government Printers, Dar Es Salaam, Tanzania. 45pp.
- URT (1999) The Village Land Act 1999'. Law, Tanzania. Government Printers, Dar Es Salaam, Tanzania. 40pp.
- URT (2002) The Land Disputes Courts Acts 2002'. Tanzania. Government Printers, Dar Es Salaam, Tanzania. 58pp.
- Veit, P. (2018). "Custom, Law and Women's Land Rights in Zambia" [https://landportal.org/library/resources/custom-law-and-women's-land-rights\\_zambia10.18584/iipj.2015.6.2.5](https://landportal.org/library/resources/custom-law-and-women's-land-rights_zambia10.18584/iipj.2015.6.2.5). Retrieved on 12<sup>th</sup> January, 2019.
- Wojkowska, E., and Cunningham, J. (2010). "Justice Reform's new Frontier: Engaging with customary systems to legally empower the poor". In S. Golub (Ed.), *Legal empowerment: Practitioners' perspectives*, p.101-107. Rome: International Development Law Organization.