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Legal Pluralism Practices and Real Property Transaction Dilemma in Unguja, Zanzibar

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- Transaction Failure Risks

Abstract: The objective of this study is to assess the effect of legal pluralism practices on perceived transaction failure risk within Unguja's prevailing social structure. A descriptive research design was applied, using mixed methods, with interviews and surveys administered to a sample of 290 respondents. These instruments were used to describe the risks associated with property transactions in a legal pluralism environment. Simple linear regression analysis was further carried out to assess the probability of real transaction failure. These allowed the researcher to analyze, test for statistical significance, describe the direct and indirect effects, and relationships that result from the transaction dilemma. Findings reveal that legal pluralism practices have a significant effect on all stages of real property transactions. The study further confirms that legal pluralism-related practices pose substantial risks to property transactions, including legal and development risks, land title risks, and financial risks. The results indicate that LPPs have a positive unstandardized coefficient of 0.267 (p-value = 0.000 < 0.05), suggesting a significant LPPs transaction risk escalation effect and increasing the likelihood of TFRs across case study areas. The study further identifies multiple ownership Structure (MOS), Multiple Institutional Structure (MIS), and land tenure types as potential TFR escalators by causing transaction delays of between 8–20 percent. To overcome the institutional power dilemma and limited protection of title deed holders, it is recommended that the land policy be modernized to strengthen and integrate all land transactions into an effective land management system using low-cost technology.

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INTRODUCTION

Real Property Transactions (RPTs) in many countries are subject to legal pluralism (LP), in which transaction practices and procedures are carried out within multiple legal frameworks (Rahman et al., 2017). In this regard, RPTs are seen as complicated. They are directly or indirectly affected by Legal Pluralism Practices (LPPs), as they can determine the likelihood of

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transaction success or failure (Alananga, 2018). LPPs refer to a set of activities, rules, and procedures created from multiple legal frameworks (MLFs) with separate jurisdictions, which are connected to societies or state laws in carrying out RPTs (Gebeye, 2019). Legal pluralism can determine the level of RPTRs since it influences the shaping of risk behaviors (Bah, Faye, & Geh, 2018). This influence seems to affect individuals, groups of actors, and institutions. Hence, risk appetite is defined based on the observed and experienced nature of RPTs (Wiegelmann, 2012). These include access to property rights (Nzogela, 2017), registration (Babalola, 2023), decision making and property selection (Cai, 2011), verification (Alananga, 2018), property ownership and transaction control (Hoza, 2018), transaction power and authority (Baldarelli, 2018), negotiation (Boamah & Walker, 2016), restriction, as well as approval and recognition of property rights after RPTs (Agboola, Scofield, & Amiduc, 2017).

Mgiba (2023) suggests that LP compromises the interests of buyers and sellers when real property transaction entities fail to reconcile the balance of divergent interests. In another study, Mariadas & Abdullah (2019) suggest that the intensive LP gives power to land entities to halt RPTs even if the sales agreement has been reached by the seller and buyer with free consent, which could influence possible transaction failure. Such circumstances are reported to increase transaction malpractices and increase the level of informalities by 25% (Payne & Lasserve, 2012). The study by Agboola et.al. (2017) warns that through the entertainment of intensive MLF, the buyer and seller may use informal market channels to close the deal, which puts in jeopardy the formal tenure and transaction system.

LPPs are alleged to create complex conditions in RPTs, which can frustrate ownership structures and land tenure security (Alananga, 2018). The consequences of such LPPs in RPTs lead to increased transaction costs, property conflict (Lund, Odgaard, & Sjaastad, 2006), weakening of RPTs' records (Manara & Pani, 2023), and transaction power and control (Das & Roy, 2023) that hinder credit and financial access (Sanga, 2009). Wehrmann (2017) suggests that in Kenya, LP increased RPTs' cost by more than 23% and conflicts by 44.8%, while Delville & Houngbedj (2019) suggest that, in Benin, despite the country’s success in rolling out land title by 40%, LP has seen a weakening of title position by 6.7% because tenure is provided with a limited time of six years. This contributes to land conflicts by 21% (Singh & Gupta, 2022) and causes credit access to be below by 10% in Cameroon, despite the access of financial institutions being 49% (Joel & Bergaly, 2020). Furthermore, experience from Bolivia shows that LPPs have resulted in institutional overlap on LRS and RPTs that lead to titling duplication of more than 40%. In this case, RPTs were in hostile situations since they needed time for title verification before any transaction could take place (Burns, 2006).

Similarly, Prosper (2021), who carried out a study in Burundi, argues that LPPs resulted from MLF challenges in transacting parties in RPTs and ownership controls, which led individuals to access fewer property rights. Toward group behaviors, legal pluralism may have a strong connection with transaction risks in the real property market. Rahman et al. (2017) suggest that LP may lead to transaction failure risk (TFR) due to operational mismatch. Further, if LP is characterized by a mismatch in the regulation and control of transactions with the authorized entities, sustainable RPTs cannot be achieved. Prosper (2021) reveals that the reason behind the operational mismatch in most African countries is that land administrative entities import frameworks from outsiders, such as donor countries, to comply with aid requirements, leading to a loss of focus on organizational contextualization. At this point, Mgiba (2023) suggests that having such LPPs in the mandates can affect the pool of services, RPM prices, and information handling. When such conditions persist over time, they may reduce affordability for the low and middle classes, which may deter the flow of RPTs (Prosper, 2021).

Regarding group behaviors, legal pluralism may have a strong connection with transaction risks in the real property market. Rahman et al. (2017) suggest that LP may lead to transaction failure risk (TFR) due to operational mismatch. Further, if LP is characterized by a mismatch in the regulation and control of transactions with the authorized entities, sustainable RPTs cannot be achieved. Prosper (2021) reveals that the reason behind the operational mismatch in most African countries is that land administrative entities import frameworks from outsiders, such as donor countries, to comply with aid requirements, leading to a loss of focus on organizational contextualization. At this point, Mgiba (2023) suggests that having such LPPs in the mandates can affect the pool of services, RPM prices, and information handling. When such conditions persist over time, they may reduce affordability for the low and middle classes, which may deter the flow of RPTs (Prosper, 2021). These empirical data raise concerns about the reliability of RPTs and their records under LPPs. Hasanbasri et al. (2022) warn that such a risk level curtails the vibrancy of the Real Estate Market (REM), leading to weakened property prices, downgraded returns on RPTs, as well as failures to establish clear patterns of property rights (Hoza, 2018).

Xiong (2023) asserts that before LP hybrid measures were adopted in large and small cities of China, RPTs were below 29%. The introduction of hybrid measures caused RPTs to increase by 33%, hence strengthening REM. Sun (2021) highlights that Beijing City has successfully reduced pressure on the sales and buying of RP over price and market control since legal pluralism frameworks allow central and local government interventions across transaction margins. This enables RPT quality to rise by 27% and enhances price control from 17 to 24%, which leads to RPs' affordability in the surrounding community and boosts the purchasing power of the low-income class through financial package incentives (Wen et al., 2023).

Goemans (2014) indicated that a complex set of overlapping rules and laws contributes to limited land access for youth. Mushinge & Mulenga (2016) suggest that failures of LP to provide access to acquire land and other RPs are contributed to by the low influence of individuals' social and transaction networks, which make youth have a weak position in influencing RPTs. Melissaris (2013) contends that when such a situation is experienced for a long time, youth participation in RPTs is expected to decrease and the level of dissatisfaction increases among the prospective buyers. According to UN-Habitat (2015c), LPPs make land title recognition vary across states or nations. Payne & Lasserve (2012) claim that variation in recognition of tenure status and titles can affect the rights of certain genders, particularly women, and make them possess temporary tenure in a conservative society. UNHRC (2015) describes such a condition as a failure of LP to ensure equity and raise discrimination against women in a society, which can impact their survival in their families and children, particularly following divorce or the death of their spouse, since the legal framework can restrict them from acquiring and participating in RPTs.

These findings merge with theories of legal pluralism, social capital and property rights. Meinzen-Dick & Pradhan (2002) suggest that legal pluralism theories indicate that social domains of life draw on a variety of aspects, including social norms, religious norms, and state law, to acquire and access resources. These strategies establish multiple legal and normative frameworks in coexistence, resulting in four distinct archetypes: combative, competitive, cooperative, and complementary (Swenson, 2018; Tchatchoua, 2021; Griffiths, 1986). Social capital theories suggest that the reaction of resource transactions depends on multidimensional interaction and relations built across transaction networks and developed behaviors based on social, cognitive, and rational elements, which are essential for making transaction decisions and right transfer (Caliskan & Ezilmez, 2021; Martin & Lee, 2015; Claridge B, 2018; Navas, Manzanares, & Gómez, 2019). Considering legal pluralism in relation to property rights access, Property Rights Theory suggests that laws and social behavior define four fundamental principles of property possession, including rights, privileges, powers, and immunities (Alananga, 2018; Abdulai & Ochieng, 2017).

Babalola (2023) observes that LP creates the possibility for hybrid administration for RPTs. Evidence from Ekiti State in Nigeria indicates that a hybrid of customary and statutory laws reduces time, cost, and transaction risk, including administrative ones, since these systems allow decentralization and provide the highest level of autonomy and transaction flexibility.

Despite the negative consequences of LP, it makes a significant contribution to RPT's success. Through LP, individuals can access the right to participate in RPTs across tenure types, simplifying disposition by establishing means and conditions that favor and protect the interests of the parties while ensuring the safety of well-structured entities (Klaus & Goyal, 2023). This situation exists in Tanzania, Zanzibar, as well as the mainland, where residents use different types of tenure to prove ownership. Empirical evidence collected during land regularisation in 2004 suggests that out of 220,000 registered plots in Ilala, Temeke, Kinondoni, and Ubungo municipalities, 48.6% used residential licenses, 1.3% used offer letters, 2% used Certificate of right of occupancy (CRO), 35% used Sales Agreement, and 13.1% used lease agreement (Manara & Pani, 2023).

Masore (2011) asserts that LP is responsible for creating overlapping regulations and responsibilities of organizations accountable for RPTs. Auma (2012) warns that without serious effort and legal coordination to prevent encroachment, the illegal development and expansion of informal neighborhoods will outrage. Hikmany (2023) shared the experience from Zanzibar that the Land Tenure Act No. 12 of 1994 and Property Transfer Decree Cap. 150 of 1917 create loopholes for speculative behaviors since disposition can take place in the tenure and deed system. Land Tenure Act (Sec. 33(2)) prohibits the transfer of granted title rights of occupancy and three-acre plots to another person; however, the granted owners seem to transact the land through deed tenure, which is guided by Property Transfer Decree Cap. 150 of 1917, Section 6. Such an act led to increased squatting and decreased agricultural land. Findings from the West District show that between 1995 and 2005, four farmed agricultural areas of Kwarara, Tomondo, Kijitoupele and Kinuni decreased from 635 - 162 hectares, which represents a 75% loss of agricultural land (Ali & Sulaiman, 2006)

Furthermore, Alananga and Mwasumbi (2019) suggest that variation of title recognition across the country or regions allows multiple ownership structures (MOS), which can result in distortion of land title quality (LTQ) when there are no equal values. Assembe-Mvondo et al. (2014) describe that MOS can limit the level of involvement among the actors. Jain et al. (2016) show a kind of reluctant behavior where having such ownership does not guarantee credit access to groups like farmers and rural societies. This response strongly supports the study by Sanga (2009) that customary property transactions and tenure have a poor relationship with credit access compared to statutory, where bankers do not prefer to issue credit due to high risk; they only provide it in selective areas, such as to farmers or villagers who already have capital. This represents 10% of the total population. The main argument was that credit costs exceed the value of transactions, and jurisdiction limits the disposition of such property within local boundaries. Peters (2007) asserted that failure to access credit and other financial benefits represents a state of failure to commodify land and other real property due to multiple ownership.

The existence of multiple laws and institutions responsible for real property transactions in Zanzibar creates the context of legal pluralism, which frustrates the practical implementation of the transactions. In certain areas, the frameworks seem to conflict and overlap with each other in terms of jurisdiction and powers. Land and RPTs were administered by separate entities with different authorities, which may fail to control transaction risks, property conflicts, and loss of loans from banks that rely on title documents to issue loans. Despite their negative consequences, empirical evidence suggests that there are situations where LPPs may potentially not lead to high risks, reflecting the strong underlying social structures. Therefore, this study aims to assess the effect of legal pluralism practices on perceived transaction failure risk, given the social structure prevailing in Unguja.

RESEARCH METHOD

The descriptive research design was used to evaluate transaction risks based on data from Unguja Island. This section describes the data collection, processing, and presentation approaches. The study adopted a descriptive research design to enable the researcher to describe and observe characteristic patterns of legal pluralism, which allowed the researcher to measure cause-and-effect relationships between legal pluralism practices and the RPT behaviors generated within existing dimensions of social structures that are presumed to cause RPTs' success or failures. This was operationalized via survey questionnaires and indepth interviews to obtain reliable responses, which were translated into qualitative and quantitative analyses of data to provide meaningful interpretation.

This study was conducted at Unguja Island within three regions - North, South and Urban West regions, where five districts of North “B”, West “A”, West “B”, Urban, and Central were selected. In each district, two Shehia were involved, as shown in Table 3.1. The researcher selected these areas to enable a good mix of transaction categories and to analyze social and transaction behaviors, as these areas are imbued with social structures and legal pluralism activities that can be readily identified.

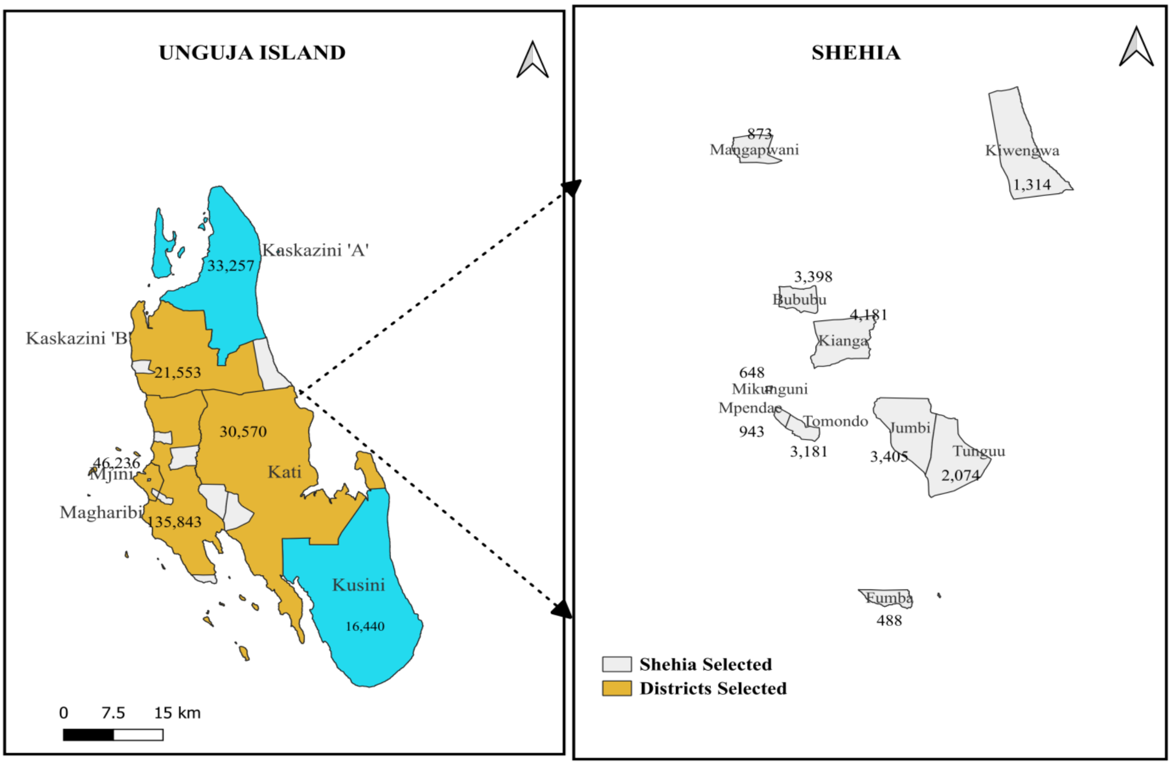

Figure 1: *case study areas with the number of households*

The study targeted 1049 participants who are property buyers and sellers involved in RPTs as per transaction statistics provided by the Ministry of Land and Housing Development of Zanzibar in 2022/2023. Furthermore, to get supportive data on the roles of SS on RPTs under LPPs, the researcher included the administrative institutions such as BPRA, LRO, COLA, and LTB, as well as local leaders (Sheha), since the unit of analysis is based on transaction behaviors generated by LPPs in relation to SS. To obtain the sample size, the study used Slovene’s formula (n=N/1+Ne2) with a 95% confidence level. Deriving the sample size from the target population of property owners (buyers & sellers) in selected districts resulted in 290 respondents. In addition, the study used 20 respondents from the supportive population to collect qualitative data. The illustration is provided below:

$$\boldsymbol{n} = \frac{\boldsymbol{N}}{1+\boldsymbol{N}(\boldsymbol{e})^2} \text{.................} (1)$$

$$n = \frac{1{,}049}{1 + 1{,}049 * (0.05)^2}$$

Sample size = 290 respondents

***Table 1**: Target Population and Sample Size*

S/N	Region	District	No. of households/Transaction	Expected Sample Size	% ages
1	North Region	North "A"	107	N/A	N/A
		North "B"	147	58	20%
2	Urban West	Urban	38	38	13%
		West "A"	79	58	20%
		West "B"	302	78	27%
3	South Region	Central	106	58	20%
		South	216	N/A	N/A
	TOTAL		1,049	290	100%

The study used simple stratified sampling and convenience sampling techniques to obtain data from property owners, including sellers and buyers as key respondents, as well as a supportive sample including local leaders and land professional staff. This provided equal chances for respondents to be selected to participate in the study. Respondents who were available and willing to participate helped the researcher gain knowledge about real property transactions and respondents' perceptions across property types.

***Table 2**: Supportive Population and Sample Size*

S/N	Categories	Population	Expected Sample	%ges	Cluster by Purpose
1	BPRA	3	2	10%	Regulator
2	OLR	3	2	10%	Regulator
3	LTB	6	2	10%	Regulator
4	SHEHA	194	10	50%	Facilitator
5	COLA (Head Office)	10	4	20%	Regulator
	TOTAL	226	20	100%	

Data Analysis and Interpretation

Qualitative data collected through interviews were analyzed thematically to explore themes obtained from the field and are presented in the form of narratives. For quantitative data, the researcher used descriptive statistics and simple linear regression to analyze submitted responses. These allowed measuring the strength of interaction of dependent and independent variables and the presence of moderating variables. Further analysis targeted to test the statistical significance and describe the link between variables. In presenting the findings, the researcher linked the responses with theories applied to the study in relation to practices from the ground.

FINDINGS

Based on descriptive analysis, the results indicate that 75.66% of total property transactions in Unguja involved land plots and 24.32% involved buildings and other landed properties.

Figure 1 suggests the majority of RPTs take place across case study areas, especially in inner-city, outer-city, and rural areas, which are conducted informally, whereby 40% of transactions have no supporting ownership documents (NDP), followed by transactions supported by Shehia Sales Agreements (SSA). Results also indicate that property sellers and buyers are applying for official ownership documents, including Certificate of Right of Occupancy (CRO), Lease (LA), Conveyance (C), and Statutory Declaration (SD). An interview with Sheha of Bububu, Tomondo, and Kinyasini revealed that the main reasons are that most areas were not planned and surveyed; hence, property sellers and buyers use community members, such as neighbors and Sheha, to verify ownership based on the ownership history. These observations are supported by the settlement development policy of 2024 and land statistics provided by COLA, which claim that only 23% of Zanzibar land, including Unguja, has been surveyed, mapped, and provided with titles.

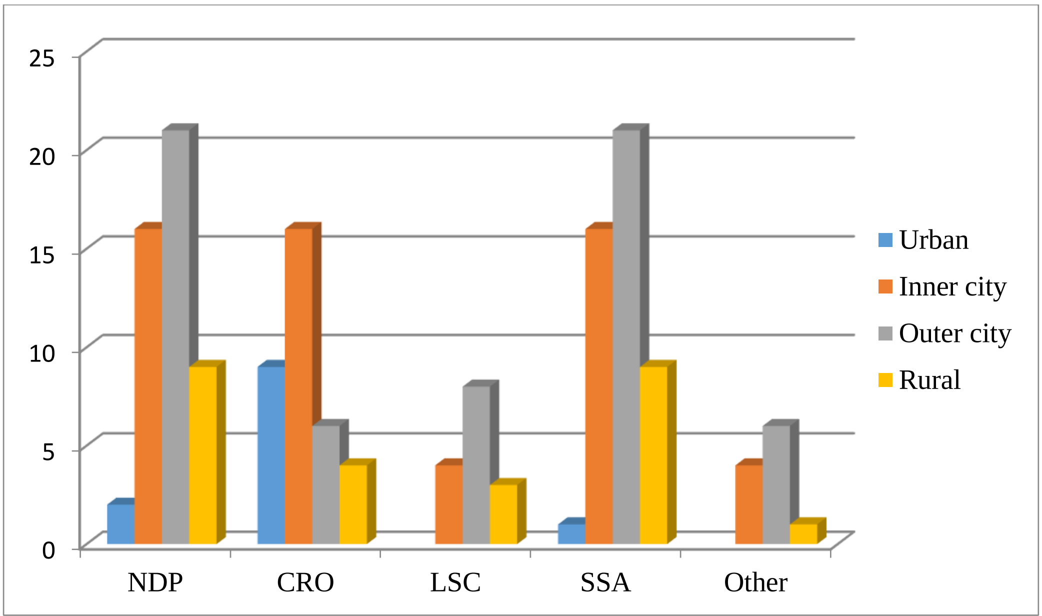

***Figure 1**: Property Transaction Documents*

Source: Field Data, 2024

The respondents were asked several questions to measure the existence of legal pluralism practices via a questionnaire and an interview guide. Results, as shown in Figure 2, confirm that Unguja experiences legal pluralism practices in property transactions caused by institutional and individual practices. Institutional practices are supported by existing legal frameworks, ownership and institutional structures in registration practices, as well as approval and recognition of real property transactions. Furthermore, individual practices are influenced by state and non-state actors that support RPTs' access to information, allowing actors to build trust and confidence in transactions through verification before making a transaction decision.

Respondents indicated that institutional structures are shaped by several legal frameworks, which support the arrangement of multiple ownership structures in which the tenure system operates. Secondary data indicate that the legal frameworks in which tenure operates include

Property Transfer Decree Cap 99 of 1919, Document Registration Decree Cap 150 of 1917, Land Tenure Act no. 12 of 1992, Registered Land Act no.10 of 1990, Land Transfer Act no. 8 of 1994, and Contract Decree Cap. 149. These acts and decrees support the Commission for Land Act no. 6 of 2015 and Business and Property Registration Agency Act no. 13 of 2012; the Commission for Land, Business and Property Registration Agency, Office of Land Registrar, and Land Transfer Board/Committee were created, which are part of multiple institutional structures used to guarantee tenure.

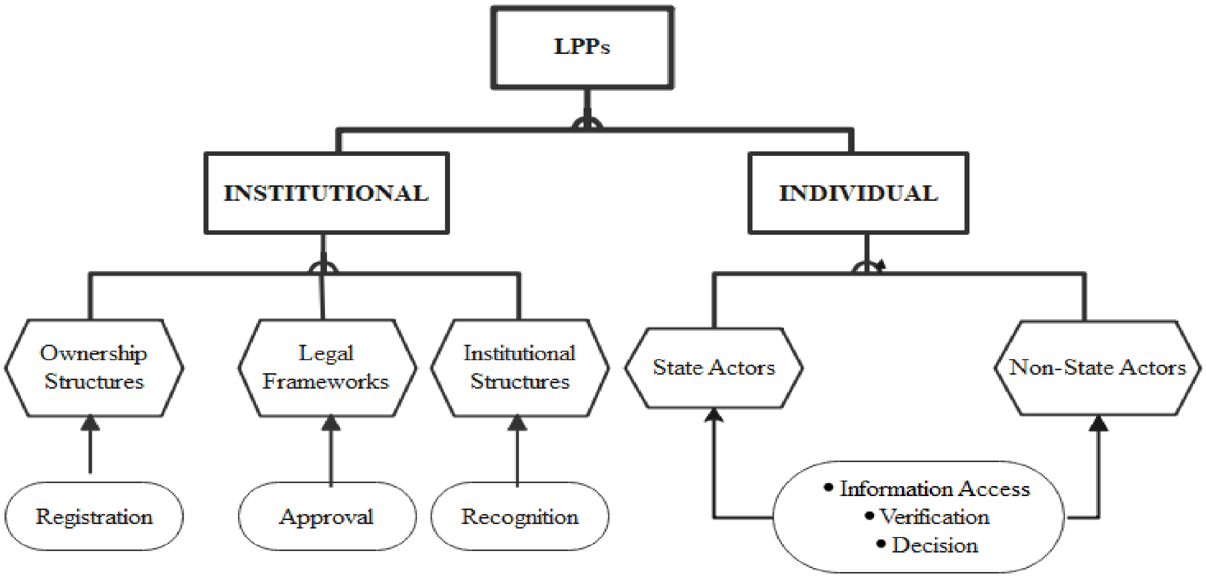

Figure2: *Thematic figure on Legal Pluralism found in Zanzibar*

Source: Author's own work (2024)

The Land Tenure Act and Property Transfer Decree have created ownership structures with different tenures, including lease, right of occupancy, conveyance, and statutory declaration. The community found in the study area also created another informal land ownership known as Kilemba. Therefore, registration practices are conducted in accordance with the requirements established by legal frameworks and social arrangements. Information access and verification also as part of LPPs were found to be carried out with the support of section 36 and 37 of Registered Land Act; for registered title to the Office of Land Registrar, section 15A (2); for land transfers to Land Transfer Board, section 6 A; for Commission for Land and document registration decree for transaction, they are conducted to Business and Property Registration Agency.

Furthermore, the study found that respondents use informal tactics for information access and verification by involving respected leaders from religions and Shehia, as well as neighbors, friends, and relatives. These practices are carried out by considering the social backgrounds of owners and the past ownership history found in a particular area. Furthermore, decisions, approvals, and recognition are carried out when entities are satisfied that a transaction has fulfilled their requirements and met social concerns. These imply that property owners have to rely on multiple sources of information before making a transaction.

The existence of multiple land institutions dealing with transactions may cause transactions to take a long time and increase risk for land grabbing.

The interview responses from BPRA and COLA identify challenges of transaction delay despite the presence of a service charter that requires completing one transaction within 7-14 days and 30-40 days. Public officials admitted that RPTs take a long time due to the requirement to obtain official approval and provide title documents. Responses from local authorities, including Shehia and District offices, indicate the presence of an approval schedule for transactions, where authorities always collect RPT requests for at least two weeks to detect encumbrances across districts and submit all requests in time. On the other hand, responses from property owners address reasons for failure for RPTs to complete on time, including high approval costs for transactions: approval to BPRA takes 1% of property values; COLA takes 0.5% of property values for land plot, 1% for lease, and 0.5% of market values for mortgage report approval out of other costs.

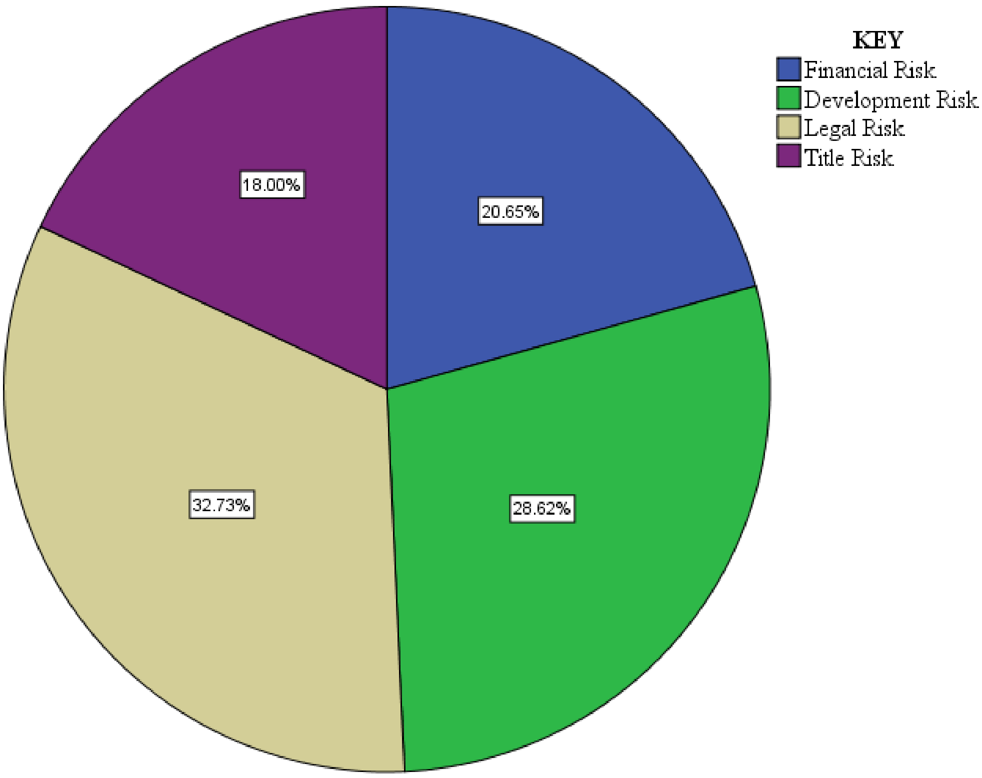

***Figure 3**: Real Property Transaction Risks*

Source: Field Data (2024)

Moreover, respondents identify that the current land policy was introduced in 2018 to improve land management and smooth line RPTs at local and institutional levels. Much emphasis was placed on regulating informal transactions and strengthening institutional capacity to tackle tenure abnormality. However, the policy was found to be ineffective since it sidelined the title tenure structure while failing to recognize deed tenure despite its operation since 1919. This has led to increased confusion on the level of protection for deed tenure holders against title tenure holders, which is accompanied by an imbalance of institutional power between COLA and BPRA.

Findings presented in Figure 4 indicate that risks in RPTs are inevitable; however, they differ in margin and multiple effects. It is indicated further that the possibility of occurrence of legal and development risk was 32.73 and 28.62%, respectively, which were found to be much higher than title and financial risk, which account for 18 and 20.65%. Further results are presented in Table 4, indicating that these risks probably occurred due to the presence of events encroachment, development beyond the borders, limited legal compliance, poor property financing, and resistance experienced from social groups.

***Table 4**: Transaction risk factors*

Characteristics	Mean	Std. Deviation
Encroachment	2.94	1.599
Development Beyond The Borders	2.51	1.574
Loss of Money to Trickster	1.66	1.249
Double Transaction	1.58	1.037
Multiple Legal Compliance	2.87	1.728
Property Financing Failure	1.81	1.251
Limited Ownership Knowledge	2.80	1.555
Social Cultural Rejection	1.74	1.229
Resistance from a nearby religiously affiliated group	1.60	1.111
Transferor’s Family Objection	1.85	1.316
Valid N (listwise)		

Source: Field Data (2024)

Reported risks caused by the presence of legal pluralism, as presented in Figure 5, led to an increase in tenure disputes. Zanzibar Land Tribunal has reported an increase in land and tenure disputes, which are recorded over the years, while institutional performance remains limited. Statistically, Figure 4.3 shows the widening gaps in the number of new cases filed compared to those remaining. The cases were seen to involve government institutions, investors, foreigners, and Zanzibar. The increased number of reported cases indicates the need for making deep verification before making a transaction decision, which leads to increased transaction expenses.

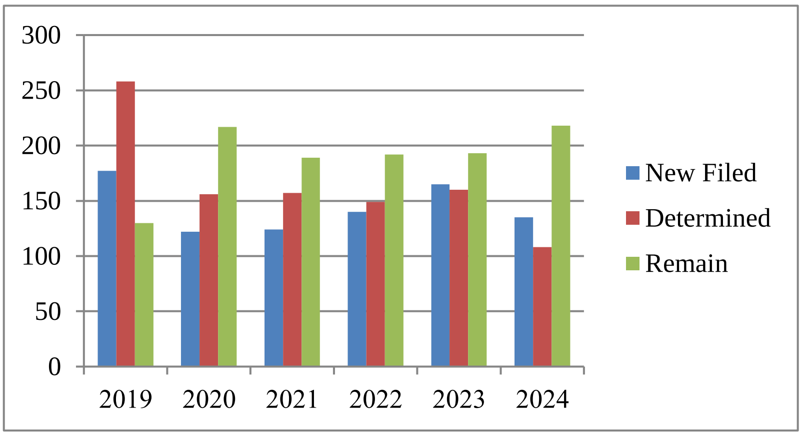

***Figure 5.** Property Transaction Tenure Disputes; Source: Land Abstract (2024)*

The study examined the direct effect of legal pluralism practices on real property transaction failure risks during property disposition in Zanzibar, intending to test the null hypothesis against the alternative. In the first place, the findings reveal that legal pluralism practices (LPPs) exist in RPTs performed in Zanzibar, where formal and informal actors, including land institutions such as COLA and BPRA, local actors such as neighbors, friends, and relatives, and Sheha, use to guarantee transactions. Through these actors' transaction practices, information access, verification of title, registration, transaction approval, and recognition and approval take place.

In the next step, the effect of LPP on TFR is examined based on logistic regression analysis. The study examines the direct effect of LPPs on TFR. Null and alternative hypotheses are formulated to test whether legal pluralism practices have a significant effect on the risk of real property transaction failure. Table 4 indicates that LPPs explain the variability of TFRs by 8.8%, which is equivalent to 0.083 Adjusted R2. Furthermore, the results show a positive unstandardized coefficient of 0.267 (p-value = 0.000<0.05), which suggests the existence of strong LPPs in a significantly increased chance of TFRs across case study areas. Results from Appendix 6.5 identify that MOS, MIS, and tenure types lead to TFRs by causing transaction delay by 20% (p-value =0.000<0.05), cost escalation by 8.2% (p-value = 0.000<0.05), transaction finance failure, and failure to comply with multiple legal frameworks in the country by -0.06 Adjusted R2 (p-value = 0.994>0.05).

The study examined the direct effect of legal pluralism practices on real property transaction failure at the time of the transaction. Null and alternative hypotheses were used to test whether legal pluralism practices have a significant effect on real property transaction failure risk. Table 3 indicates that LPPs explain 8.8% of the variability in TFRs, equivalent to 0.083 Adjusted R2. Furthermore, the results show a positive unstandardized coefficient of 0.267 (p-value = 0.000<0.05), suggesting strong LPPs in RPTs that significantly increase the likelihood of TFRs across case study areas. Further, Table 3 identifies that MOS, MIS, and tenure types lead to TFRs by causing transaction delay by 20% (p-value =0.000<0.05), cost escalation by 8.2% (p-value = 0.000<0.05), transaction finance failure, and failure to comply with multiple legal frameworks by -0.06 Adjusted R2 (p-value = 0.994>0.05).

Table 3: *Influence of Legal Pluralism Practices on Transaction Failure Risks*

Characteristics	Variables	R2	Adj. R2	S.E	B	Sig
Direct effect of LPPs on TFR	LPPs → TFRs	.088	.083	1.023	.267	.000
Transaction Time (TT)	MOS →TT	.200	.195	2.057	-.481	.000
Transaction Cost (TC)	DBT→TC	.082	.077	895363.296	-97562.112	.000
Tenure types vs. Legal Compliance (LC)	DAT→MLC	.000	-.006	1.733	.000	.994
Tenure Security	MLF→DT	.034	.029	1.022	.161	.012

Source: Field Data (2024)

The interview responses from BPRA and COLA identify challenges of transaction delay despite the presence of a service charter that requires completing one transaction within 7 to 14 days and 30 to 40 days. Public officials have admitted that RPTs take a long time due to the requirement to get official approval and provide title documents. Responses from local authorities, including Shehia and District offices, indicate the presence of an approval schedule for transactions, where authorities always collect RPT requests for at least two weeks for encumbrance detection from all RPTs that take place around districts and submit all requests in one. On the other hand, the responses from property owners address reasons for RPTs to fail to complete on time, including high approval costs for transactions; respondents claim that approval to BPRA takes 1% of property values; COLA takes 0.5% of property values for land plots, 1% for lease, and 0.5% of market values for mortgage report approval out of other costs. (See Figure 4.10)

These results imply that TFRs caused by existing LPPs on RPTs weaken title quality and increase land and property conflicts, which may impact property transaction values and neighborhood property attraction due to the increase in slums. Further, the results indicate the failure of the legal framework to protect the interests of the parties and, hence, may lead to a massive expansion of the informal property market and land grabbing.

Additionally, the findings confirmed that LPPs can have a direct effect on RPTs, leading to transaction failure risks. This happens due to the presence of multiple ownership structures (MOS) across study areas. Therefore, for RPTs to take place, property owners have to conduct an extensive study to verify the title information presented to support the transaction and property registration before making approval. This was found to cause a 20% delay in RPTs. Furthermore, as the presence of multi-tenure during the RPT process increases, there is a probability of escalating the cost of the transaction by 8.2%. This happens because existing ownership structures are required to pass many layers of approval with unstandardized common charges. As a result, property owners were discouraged from following formal transaction procedures to access and hold formal title, leading to a decrease in the value of properties.

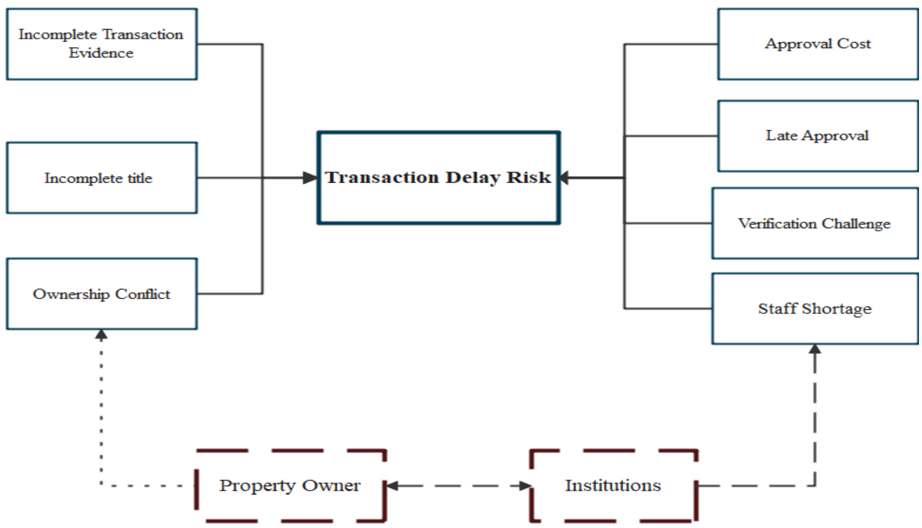

***Figure 6**: Thematic figure on Transaction Delay Risk*

Source: Field data 2024

Therefore, the level of discouragement in holding the official title adds to the problem of title quality by increasing title vulnerabilities, which can harm institutional operational efficiency in controlling improper speculative behaviors and the proportionality of rights and responsibilities of each participant in RPTs. The situation also led to RPTs' records and registrations losing the qualities of a good record due to a lack of principles of clarity, precision, completeness, and certainty. Findings indicated major implications for RPTs, whereby recorded transactions fail to present actual RPTs pictures, making it difficult for land administrative institutions to predict current and future transaction demand that can assist in adopting strategic land use and administrative plans and cost control. Secondly, reported MOS do not guarantee tenure security; they increase transaction uncertainties where tenure principles fail to qualify, leading to high bureaucracy and risk margin. These reduce the appetite for property acquisition among property buyers.

DISCUSSION

The observations that LPP exists in Unguja and has an implication in transactions confirm previous findings presented by Eidenschink (2022), Mgiba (2023), and Khandekar (2017), which suggest LPPs worldwide can never be avoided and operate in different phases of transactions, which allow for guaranteeing information and rights transfer between groups of individuals. Further, findings aligned with Diala (2021), which indicates that society contributes to the creation and development of legal pluralism practices through the social adaptation of cultural and religious values when experienced for a long time. Considering the reported LPPs, their existence was influenced by multiple legal frameworks (MLF), which support the creation of Multiple Institution Structure (MIS) and Multiple Ownership Structures (MOS).

Results indicate that Legal Pluralism Theory (LPT) prevails over general RPTs in Zanzibar, which have mixed archetypes; a combative archetype is found in tenure control institutions, where formal institutions fight for dominance, contributed by legal frameworks that often fail to recognize each other. According to the Land Transfer Act No. 8 of 1994, section 3 requires no transaction to take place until the transaction is reviewed by the Land Transfer Unit (formerly known as the Land Transfer Board) from COLA. Further, Land Tenure Act no. 12 of 1992, section 6, and Commission for Land Act no. 1 of 2015, section 4, give the Commission for Land the power and jurisdiction to supervise and administer all land transactions. BPRA also gives property transaction approval and registration mandates as per the Transfer of Property Decree Cap. 150 of 1917, section 54, and Document Registration Decree no. 99 of 1919. All these fail to provide legal doctrines that separate the powers and jurisdiction of these government boards, which results in jeopardized transaction outcomes and the interpretation of authorities.

Based on the nature and types of transaction findings, it is indicated that 40% of RPTs take place across case study areas initiated by informal means. This happens because 73.5% of Zanzibar land is not surveyed; hence, the number of transaction risks identified, including title, development, and financial risks, whereby encroachment, limited property finance, and legal compliance issues are found to be the main reasons. Title risk and failure to comply with legal requirements were also reported due to overlapping roles and responsibilities of land transfer offices, which may damage land administration systems and title-right protections, resulting in a sharp increase in land conflicts. These arguments support Kusiluka (2012) and Prosper (2021), whose findings suggest that multiple legal protocols decrease title strength and increase the risk of transaction failures and title inconvenience. The implication of the findings indicates that the presence of a large number of transactions without proper documentation weakens transaction consistency, which may limit long-term title holding and enjoyment. Such an act reduces generosity and the ability to identify distinct rights as identified by property right theory unless supported by a social bond, which can reinforce trust and confidence among society members.

Analysis also reports male dominance on RPTs across the case study area; however, the number of female-headed transactions continues to grow over time. The increasing number of transactions conducted by females may be interpreted as a result of the growth of their incomes and the presence of positive social changes, which help them to have direct involvement in transaction decisions. Previous literature suggests that women tend to face significantly higher TFR when transacting in land or housing (Alananga & Mwasumbi, 2019). However, this is not well observed in Zanzibar; women may be completely uninvolved, or their involvement should, as a matter of custom, be supported by males.

As a result, there are increased land conflicts which may exist for a long time without being solved. This argument confirms findings by Byamugisha (2016) that the presence of LP on RPTs may result in transaction failure risk by more than 20% because of influencing disruption activities on tenure and transaction procedures. Again, unequal treatment of land tenures found in the Zanzibar land policy of 2018 sidelines the title tenure structure. It also fails to recognize deed tenure despite its operation since 1919. Failure to recognize deed tenure raises speculation on the balance of interest values and the right of protection to hold between tenures. The policy further fails to recognize the institutional setup in which deeds operate, despite being recognized by the Business and Property Registration Act no 13 of 2012 alongside the Property Transfer Decree Cap. 150 of 1919. The results imply that having tenure systems that operate without recognizing each other increases the level of informality and the fight for tenure dominance.

CONCLUSION

The study results show that LPPs cannot be avoided in Unguja; it appears in various aspects of RPTs. Its existence is caused by the presence of state and non-state actors and stakeholders who are participating in RPTs. Results have confirmed the presence of a direct effect and support the alternative hypothesis. Furthermore, the study reiterates that the presence of LPPs in Unguja RPTs increases TFRs due to transaction delays, cost escalation, and financing failures that can directly affect RPTs' access to information and finance. The study also indicates that the presence of MOS created from MLF has weakened the title position and increased confusion about the strengths and weaknesses of title and deed tenure. Moreover, findings suggest that a lack or limited recognition of deed tenure in land policy downgrades their ability to protect the values and interests of property owners and beneficiaries. Further results indicate that the transaction dilemma has been experienced in Unguja due to long delays in institutional set-up for the land tribunal in handling conflict, despite its requirement for adoption since 1994 and the present Land Tribunal Act, No.7 of 1994.

The results further confirmed that having multiple institutions created with the presence of MLF has contributed to RPTs being in limbo. It has also added confusion to society about their administrative roles, power, and jurisdictions, especially in deciding where to transact their property and the portion of guarantee they acquire for the transaction process. To eliminate or reduce the identified challenges and dilemmas, efforts are needed to integrate the legal and tenure system to allow the application of a single tenure system in Unguja. Integration may also protect the interests of the parties and control professional malpractices. Secondly, findings have recognized the contribution of existing social structures in escalating transaction failure risks; hence, friendly strategies, including lowering title costs and decentralizing services, should be adopted to ensure productive community engagement. Lastly, emphasize efforts to adopt digital technology in title transfer and record management. Digitization of titles and RPTs will help reduce double transactions, strengthen the title record, and increase tenure security.

The situation in Unguja challenges the basic proposition of property rights theory, which suggests that property rights of individuals must have legal attachment and provide power and protection to attain values of privileges and generosity from written and unwritten rules of society or state laws. The theory argues that failures in these areas result in inconsistency and failure of stewardship. Findings confirmed the hypothetical alternative assumptions that legal pluralism has a significant direct effect on real property transactions. Moreover, findings indicated that pluralist practices are influencing factors for transaction failures due to their impact on transactions' legal compliance. In addition, results suggest there is no possibility for one transaction to comply with all legal requirements at one time in places where legal pluralism exists. Failure of such compliance may result in title and development risks where encroachment and development beyond the border are commonly experienced, putting property rights in a vulnerable position.

To overcome current challenges of institutional power and limited protection for those who rely on deed tenure, land policy should be modernized to support fair title recognition and strengthen and integrate an effective land management system with low-cost technology. Furthermore, the policy should be modernized to ensure proactive land management and transaction strategies are established or adopted to fulfill current and future demand, as well as control land disputes. Despite the success of this study, further studies are needed to assess the impact of legal pluralism practices on affordable housing pricing. This will help to determine the level of price volatility and the power of market absorption based on consumer perception and economic parameters. Expected findings will help us accept or reject the hypothetical assumption that legal pluralism practices have a significant impact on affordable housing prices and investment.

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Author Contributions

- Dr. Kerbina Moyo conceptualized the idea of this research, crafted the proposal, and developed a methodology. The author also provided overall project administration.
- Zubeir Said Rashid collected the data, carried out data analysis, and wrote and prepared the first draft of the manuscript.
- Samwel S. Alananga supervised the first author by refining the conceptual idea and supervising data collection and curation, as well as data analysis and interpretation. The author also refined the draft manuscript into the final version, reviewed and edited it for submission to the journal.
- All authors reviewed the manuscript.

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Data Availability Statement

The data used for this research can be obtained from the corresponding author upon a reasonable request.

Conflict of Interest

The authors declare that they have no conflict of interest.

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