

**THE POLITICS OF LAND
IN
TANZANIA**

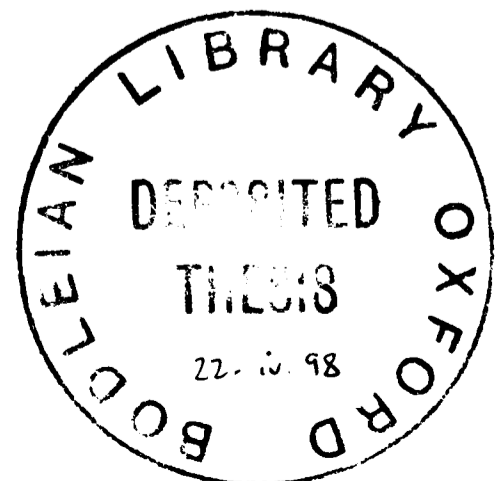
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THE POLITICS OF LAND IN TANZANIA

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D.Phil. dissertation submitted to the University of Oxford
Hilary term 1997



ABSTRACT

This is a study of the politics of public policy. It provides analysis of land policy and a study of policy making and of the Tanzanian state. Rather than deducing the state's agenda from its actions and the policies it produces, this thesis seeks to examine the interactions between the significant factions and personae of the Tanzanian political and administrative elites. This approach goes beyond identifying the divisions within the state between the Party leadership, the technocrats within the Government, and the Presidency. The thesis demonstrates how the ways in which conflicts are resolved, or deferred, and compromises are reached can lead to outcomes which do not necessarily constitute the sum of identifiable interests. In particular, a 'hidden level of government' is uncovered which consists of a technocratic elite which has, to a large extent, managed to depoliticise otherwise sensitive and controversial policy decisions and thus impose their stamp on policy outcomes.

This approach to the analysis of rural land policies reveals the continuities in the state's approach to land issues. Since the colonial period, the objective of Tanzania's land policies has been to transform the countryside from the presumed inefficiencies of the 'traditional' modes of land use to fit the needs of a 'modern' and monetised economy. The modernising policies have provided the rationale for an authoritarian approach to land tenure and have been implemented by a centralised land administration. This thesis' historical analysis of the policies associated with the period of ujamaa and villagisation, and of the case studies of the 1983 Agricultural Policy and the 1995 National Land Policy, show that a modernising discourse and centralising administrative practices have remained at the centre of the policy agenda, despite dramatic changes in economic strategies and political institutions, and controversies over the future direction of land policies. The resulting land tenure regime relies on discretionary decision making by politicians and land officials and fails to provide workable procedures of checks and controls against malpractice. This study's detailed examination of the formulation of the National Land Policy reveals how a small elite of senior civil servants were able to hijack the policy making process and side-step political pressure for reform. They ignored, or appropriated selectively, the evidence and recommendations produced by comprehensive policy reviews, including the 1992 Presidential Commission of Inquiry, to maintain their direction of land policy while failing to address the evident shortcomings of the existing land policy regime.

Acknowledgements

This thesis is the product of years of intense study of politics, land and Tanzanian affairs and I am deeply indebted to more people than I could possibly mention. I acknowledge the Tanzanian Commission of Science and Technology for kindly providing me with the necessary clearances to conduct research during my two field trips to Tanzania for eight months in 1991-92 and ten months in 1994-95. The Norman Chester Fund, the Graduate Studies Committee and Exeter College, all of the University of Oxford, helped to foot the expenses for the field trips for which I am grateful.

Ruth Morgenthau, my undergraduate supervisor at Brandeis University, got me started in my study of Tanzanian politics and inspired me with her wide knowledge of development issues and perceptive and inquisitive approach to political analysis. I am forever grateful for the guidance she provided in my earliest years of academic research. For the long period I spent at the University of Oxford in producing this work I owe most to my two academic supervisors, Gavin Williams and Deborah Fahy Bryceson. Gavin shared with me his vast knowledge of African development and political issues and his insistent questioning and insightful direction has left an indelible imprint on this thesis and undoubtedly will continue to influence my work in the years to come. His talents as an editorial reader are unsurpassed. Debbie first pointed me in the direction of the land issue, for which am immensely grateful, and her critical comments and refusal to accept simplistic arguments have added significantly to what there may be of scientific rigour in this work. I am privileged to have been able to draw on her unique knowledge of Tanzania and without her patient guidance this thesis would have been much the poorer.

My understanding of the politics of land owe much to a large number of researchers and analysts and I take the opportunity to thank Charles Lane, Phil Raikes, Kjell Havnevik and Kemal Mustapha for the help they have provided. Lecturers at the University of Dar es Salaam who assisted me in my efforts include Fred Lerise, Marjorie Mbilinyi, Issa Shivji, Ibrahim Shao, Ringo Tenga, Adolpho Macarenhas, who was my local contact, A.S. Kauzeni and all the others who patiently accommodated my questioning. Special thanks go to all the participants of the policy processes which are the subject of this study who agreed to be interviewed and thus make the most contribution to my research. Without their assistance none of what is presented would have been possible and I sincerely hope that the substance of my contribution to Tanzanian political analysis does justice to the time and effort they agreed to sacrifice of their already busy schedules.

Wenche and Bjørn Nilsen and Anni Brede Svendsen lent me rooms to stay in when I was first starting my work in Dar es Salaam and also immeasurably enriched my Tanzanian experience with their generosity and cheerful company. I owe special thanks to Wenche and Bjørn for looking after me when I was recovering from a nasty car accident. Vibeke Lilloe provided much good companionship and also introduced me to numerous useful political contacts and I will never forget the functions on her

incomparable Dar es Salaam residence and roof terrace. Heikki Lepikko became a close personal friend and I know that I can never fully repay him for all the support and enjoyment he gave me. Thank you Heikki.

A very special thanks to my parents who first took me along to Tanzania and who supported me generously when it was most needed. Without them none of this would have been possible. Last, but most definitely not least, the biggest 'thank you' to Jo. She has comforted me and cheered me throughout the last two years of write-up in more ways than I could ever tell. Her tireless support and loveable company mean everything to me. She has suffered with me and prodded me along and I know that nobody is happier than her to see this work come to fruition.

Many others have also been involved and I am grateful to all those who have taken part in my work in many different ways. The conclusions and inevitable shortcomings of this thesis are my sole responsibility.

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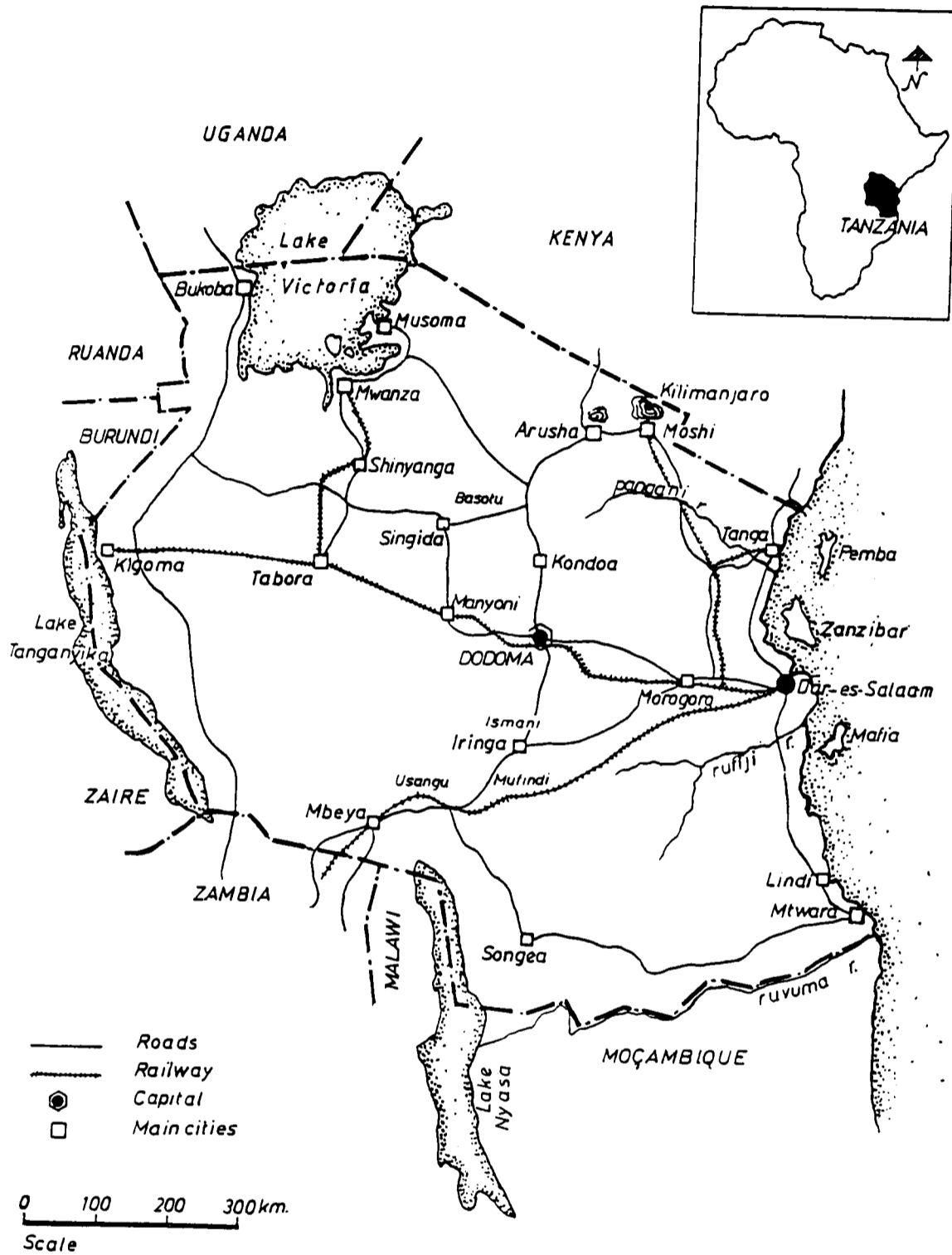
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Acronyms and abbreviations

Agripol	The Agricultural Policy of Tanzania
BLC	Board of Land Commissioners
CCM	<i>Chama cha Mapinduzi</i> (Party of the Revolution)
CCW	<i>Chama cha Wananchi</i> (Party of the People)
CHADEMA	<i>Chama cha Demokrasia na Maendeleo</i> (Party of Democracy and Progress)
CLC	Circuit Land Court
CRDB	Co-operative and Rural Development Bank
CUF	Civic United Front
CVL	Certificate of Village Land
DDC	District Development Council
EARC	East Africa Royal Commission
ERP	Economic Recovery Programme
G55	Group of 55
G.N.	Government Notice
HAM	<i>Hati za Ardhi ya Mila</i> (Certificate of Land Ownership)
IBRD	International Bank for Reconstruction and Development
IFES	International Foundation for Elections Systems
IMF	International Monetary Fund
IMTC	Inter-Ministerial Technical Committee
IPC	Investment Promotion Centre
ITR	Individualisation, Titling and Registration
KAMAHURU	<i>Kamati ya Mwelekeo wa Vyama Huru</i> (Committee for Promotion of Free Parties)
LARRRI	Land Rights Research and Resources Institute
LTC	University of Wisconsin Land Tenure Centre
LTG	Land Tenure Study Group
LUPC	National Land Use Planning Commission
MLHUD	Ministry of Lands, Housing and Urban Development
MLNRT	Ministry of Lands, Natural Resources and Tourism
MP	Member of Parliament
NBC	National Bank of Commerce
NCCR	National Committee for Constitutional Reform
NCCR-Mageuzi	National Convention for Construction and Reform - <i>Mageuzi</i>
NEC	National Executive Committee
NESP	National Economic Survival Programme
NGO	Non-Governmental Organisation
NLC	National Land Commission
NMC	National Milling Corporation
NRA	National Reconstruction Alliance
ODA	Organisation of Development Assistance
OIC	Organisation of Islamic Conference
PMO	Prime Minister's Office
RC	Regional Commissioner

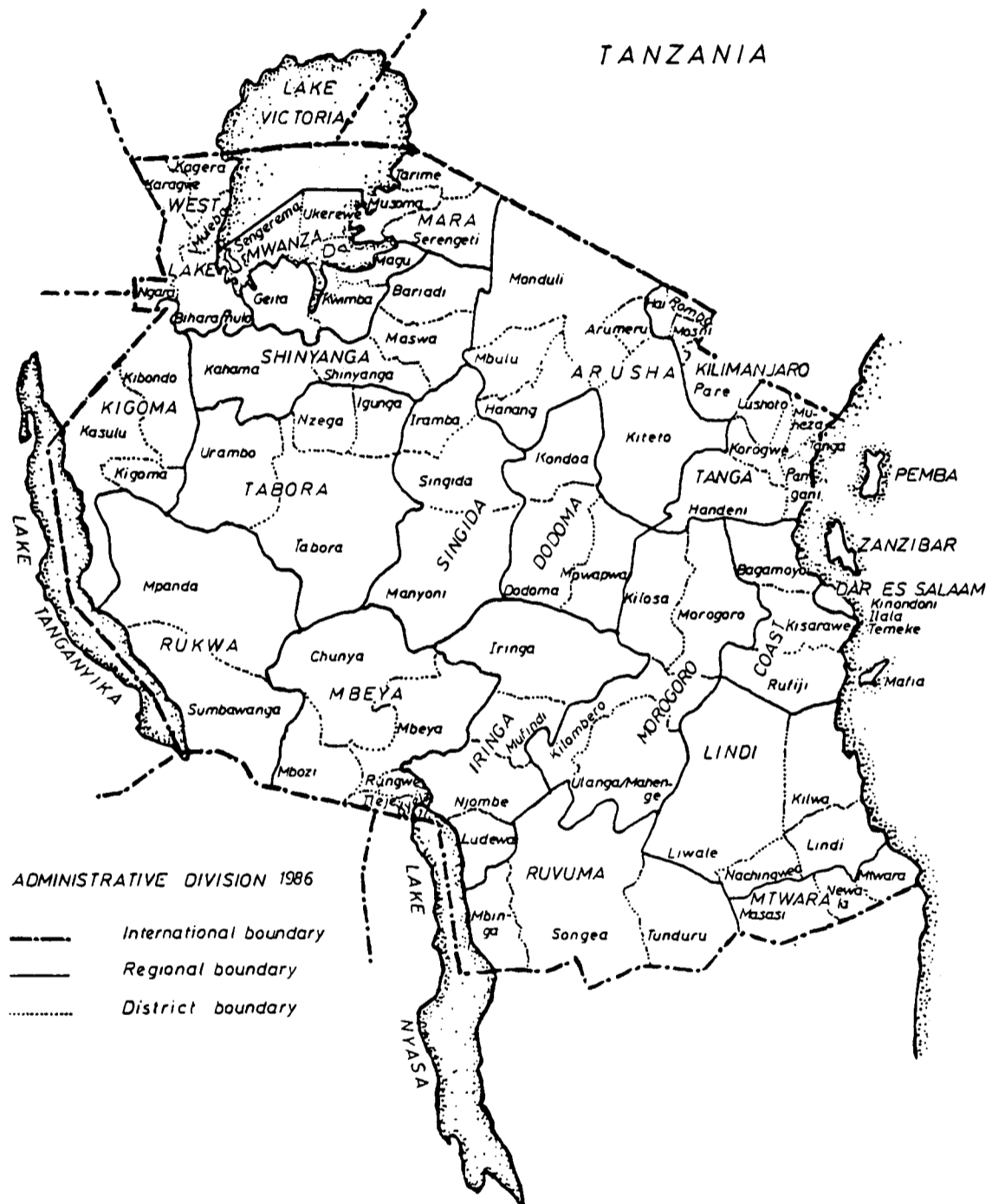
RDA	Ruvuma Development Association
RDC	Regional Development Council
RIDEP	Regional Development Programme
SAP	Structural Adjustment Programme
TAG	Tanzania Advisory Group
TANLET	Tanzania Law and Educational Trust
TANU	Tanganyikan African National Union
TR&D	Tropical Research & Development Inc.
TYL	TANU Youth League
UDP	United Democratic Party
UMD	Union for Multi-Party Democracy
UN	United Nations
URT	United Republic of Tanzania
USAID	United States Agency of International Development
VA	Village Assembly

TANZANIA; ROADS, RAILWAYS AND MAIN CITIES.



Source: Boesen *et al.* 1986.

TANZANIA; ADMINISTRATIVE DIVISION 1986



Source: Boesen *et al.* 1986.

Chapter 1

INTRODUCTION

In June 1995, Tanzania received her long-awaited new National Land Policy. The important policy document passed through parliament virtually unnoticed in the midst of the pre-election fervour of the run-up to the country's historic 1995 multiparty elections. The policy had gone through a long gestation period which involved numerous policy drafts, a Presidential Commission of Inquiry, a number of commissioned studies by domestic and international experts and a National Workshop. Most of this complex process had been invisible to the public eye and little was known, beyond a small inner circle of civil servants centred at the Ministry of Lands, about what had been the principal premises in the definition of the Policy. After the Land Policy was adopted, two incidents took place which pose important puzzles to the political analyst. Both relate to actors who played central parts in the policy making process but who were excluded from the Ministerial inner circle.

In August 1995, the senior advisor for Tropical Research & Development Inc., an international consultancy company which had been commissioned by the Ministry of Lands with World Bank finance to serve as a technical Land Policy Advisory Unit, issued a *Review of Land Policy Implementation Issues* to the Ministry with recommendations on

the institutional structure of a new land administration set-up.¹ The recommendations are notable for their interpretation of the policy document. Referring to “the debate” which preceded the 1995 Land Policy, the *Review* stated that “the monopoly powers of the central government with respect to land allocations [have come] under attack with a resounding call for a more decentralized land administration system.” (s. 1.0) The *Review* consequently proposed a new institutional hierarchy in which all lands were divided into two mutually exclusive categories: Village and National lands, in which village lands would be vested in the respective villages and the authority to allocate National Lands would be devolved down from the Ministry to six zonal offices. Detailed allocation procedures were outlined to address the stated problems of “illegal allocations made by unscrupulous officers and political meddling of all types.” (s. 4.1) Many of the consultant’s recommendations bore a close resemblance to those issued by the Presidential Commission almost three years earlier, all of which had been rejected by the government.

The *Review* was not favourably received by Ministry officials. A prompt response to the advisor’s recommendations dismissed the proposals and regretted that he had not consulted more closely with the Ministry prior to drafting the *Review*.² The advisor’s interpretation of the Land Policy was dismissed as conceptually wrong and his recommendations of structural reform were rejected as needlessly radical. Reportedly, the

¹ Undated mimeo by Dr. R. Ahene.

² “Brief Comments on Dr. Ahene’s Proposal for Implementing the Land Policy”, undated mimeo produced by six senior Ministry of Lands officials.

advisor was sharply rebuked by a Ministerial civil servant who had dominated much of the policy making process. A pending renewal of contract for the consultancy company which the advisor was representing was consequently refused and the consultants returned home.³ This episode signified an apposite conclusion to the long standing World Bank involvement in the land reform. The Bank had commissioned and/or financed numerous consultancies which reports had produced similar recommendations to that of the above mentioned *Review*,⁴ all of which had been rejected and/or ignored by the Ministry's officials. These reports too had mirrored many of the proposals which were forwarded by the Presidential Commission.

The Commission had been chaired by Prof. Issa Shivji, a political and legal scholar who is known internationally for his incisive analytical skills and strong anti-capitalist leanings. After the new Policy's adoption, Prof. Shivji was one of the prime movers behind a Tanzanian Non-Governmental Organisation which was formed, partly as a reaction to the government's rejection of the Presidential Commission's recommendation, with the purpose of conducting research, information dissemination and lobbying on land policy issues. At a workshop arranged by the NGO, in April 1996, Prof. Shivji presented an analysis of the National Land Policy in which he deplored the influence of foreign consultants in the decision-making: "that foreign consultants should have such a decisive role in domestic policy-making while the majority of the people are excluded and the country's own Presidential Commission ignored is a comment on how

³ Personal communications from Ministry advisors (identities withheld).

⁴ Notably Hoben *et al.* 1992 and Bruce 1994.

far we have gone down the road of re-colonisation.” (Shivji 1996: 17, n14) Another participant of the workshop interpreted the above mentioned consultant’s role in the process as follows: “Since it could not accept the Land Commission’s proposal, the government [hired] Tropical Research & Development, Inc. of the USA in 1994 to quickly write a technical report, financed by the World Bank ... It is these American consultants who helped the government come with the ‘National’ (!!!) Land Policy.” One of the effects of such involvement in the policy-making process, the same analyst opined, was that the Policy “serves well and protects the interests of capital in general, rather than those of the users and occupiers of land.” (Chachage 1996: 5-6)

There are obvious problems of conceptual reconciliation between these two scenes of Tanzanian political life: the frustrated ‘foreign consultant’ (a Ghanaian), who attempted in vain to influence a government policy in a direction which was more in line with an already rejected proposal by a Presidential Commission; and the discontented national analysts who deplored the government’s rejection of the Commission’s recommendations, a rejection which they in part put down to the pernicious influence of the same consultant. The latter interpretation of the events is a classical example of what might best be described as the ‘black box’ approach to political analysis, in which the state is seen as a monolithic entity which produces policies to serve the wider interests of the state and its allies. This level of analysis rarely delves under the surface of policy-making to scrutinise the nitty-gritty of policy deliberation and decision-making within the

political organs of the state and it consequently bestows the 'state' with misleading qualities of unity and purposefulness.

One of the two principal objectives of this work is to demonstrate that it is necessary to go beyond the 'black box' approach and that by doing so one might find explanations for political decisions which might be different what one could otherwise be led to expect. The second objective is to investigate the policy making process which lies behind Tanzanian land policies and analyse the substance of the same policies. A detailed case study is provided of the making of the National Land Policy in which the above related incidents indicate intriguing linkages of events and we encounter the policy-making apparatus standing behind the totalising mask of the state.

THE POLITICS OF POLICY MAKING

The literature on Tanzanian politics is famously extensive but there is a dearth of in-depth analyses of the political processes which lay to ground for the formulation of the country's policies. Political analysis of 'the Tanzanian state' has largely examined the state in light of its policies and their implementation. Such studies have commonly sought to deduce and assess the state's political agenda, be it through a classical class analysis or otherwise (Shivji 1976; Williams 1976; Raikes 1978; Bernstein 1981; Coulson 1982). They have tended to assign a monolithic identity to the state, ignoring in

the process the political divisions and conflicts which evidently exist within it. More recently, scholars have come to acknowledge and address the conflictual nature of national politics, particularly as the ideological rift widened between party and government as the reforms accelerated in the eighties (Kiondo 1990; Baregu 1994; McHenry 1994). In her detailed study of food policies, Bryceson breaks important ground by identifying the competing leverages on policy making which were exerted by the 'Party activists', the Government's 'technocrats' and the Presidency, under the respective reigns of Nyerere and Mwinyi (1993: 189-97). Such attention to internal divisions represents a more complete level of analysis than the crude 'black box' approach but it still leaves open the ways in which contending forces operate.

Only limited research has been presented specifically on the policy making process itself, but the few existing studies clearly illustrate the significance of the often complex practices of policy formulation and that studies thereof can contribute substantially to our understanding of Tanzanian politics. Hartmann's work on the Arusha Declaration is an important example of the utility of this mode of analysis. The Arusha Declaration, which was issued in 1967, took on constitutional significance and has served as the ruling party's policy blueprint ever since.

Unlike other accounts of the historic policy statement, Hartmann examined the sequencing of the Declaration, the debate which it occasioned within party and government and its presentation (Hartmann 1985). Her analysis, published eighteen years

after the event, belatedly identifies the different political forces which shaped the substance of the completed version of the policy. Contrary to what is commonly perceived, Hartmann shows that Nyerere's original design for the Declaration was significantly modified at the time it was adopted as the result of pressures from the left and the right in party and government, respectively. These modifications gave the policy a more prominent emphasis on nationalisations than what Nyerere had originally intended while the addition of a statement on Public Ownership 'clarified' that the policy did not seek to preclude continued involvement from the private sector in the economy. Hartmann's pioneering work on the Arusha Declaration greatly improves our reading of Tanzania's political history as it provides a fuller and more nuanced picture of the political processes which were at work. She explodes the monolithic vision of the Tanzanian state and shows us how different groups, each with their agenda, manage to put their own stamp on the resulting policy. This also tells us more about the actual substance of the policy and helps explain several of the policy changes which have taken place since the Declaration.

A rare contribution to the study of policy making in Tanzania is van Cranenburgh's analysis of the development of the state's approach to the agricultural cooperative movement (1990). Her research uncovers the deep-reaching split within the state between those who took an economic approach to cooperative policy and those who saw the movement in more political terms. Van Cranenburgh's detailed account of the internal political wrangles, which ensued in what often seemed like an endless process of policy

making, provides important insights into the political causes for the jagged progress of Tanzania's cooperative movement. Kiondo's excellent study, *The Politics of Economic Reforms in Tanzania 1977-1988* (1989), gives an uncommonly detailed and perceptive analysis of important political processes which goes a long way towards giving us a more complete understanding of political change in Tanzania. It is regrettable that this significant work remains unpublished.

I adopt a similar approach to that of Hartmann's in this work's analysis of Tanzanian political history. An attempt is made throughout of identifying the how the policies were reached; who had an impact, whether direct or indirect, on the policy formulation; and what were their intended purpose. We will see that by paying systematic attention to such details it is possible to better discern the underlying trends of Tanzanian politics and to improve our understanding of the relevant policies. I have argued elsewhere that there is a need to put the politics back into Tanzanian political analysis (Sundet 1994). This work is a modest attempt to answer that call.

THE POLITICS OF LAND IN TANZANIA

Issues relating to land tenure and land reform have been the subject of numerous studies in recent years and there has been much debate on what sort of tenure regime is best suited for Sub-Saharan African conditions. Commonly held orthodoxies that land

registration has a positive impact on agricultural investment and that indigenous systems of land tenure are a constraint on agricultural development have come under serious challenge. A new consensus is now forming across the 'development community', from the World Bank to academic and research institutions such as the Wisconsin Land Tenure Centre, that the preferred option to systematic land registration is to create an enabling institutional and legal framework in which the indigenous systems of land tenure are allowed to adapt to the changing socio-economic conditions of rural Africa (Bruce and Migot-Adholla (eds.) 1994; Birgegård 1993; Platteau 1992; Migot-Adholla *et al.* 1991). Not coincidentally, the recent revival in research on land tenure issues have taken place in the policy environment of Structural Adjustment. Structural Adjustment Programmes have since the mid-eighties instituted economic liberalisation in response to the dismal performance of the highly centralised African economies. In the wake of liberalisation a number of Southern African nations have undertaken extensive reviews of their respective institutional and legal basis for land. Apart from Tanzania, other countries in the region which are in the process of reforming their land tenure arrangements include Zambia, Mozambique, Zimbabwe, Malawi, Uganda, South Africa and Namibia.⁵

Land has been a particularly topical theme in the Tanzanian context. The country was the scene of a massive and compulsory resettlement drive in the seventies, commonly referred to as villagisation, which redrew the administrative map of the Tanzanian countryside. Villagisation was a key component of the country's development strategy

⁵ See Palmer 1997 for an extensive review of the most recent literature of the region.

under its much publicised policies of *ujamaa* - a popularised version of traditional African socialism designed by Julius Nyerere, Tanzania's first president. In the years of *ujamaa*, land ownership was highly politicised and private accumulation of land was prohibitively difficult. The 'African crisis' of the early eighties hit Tanzania hard and measures of Structural Adjustment were progressively being implemented. In 1983, a new National Agricultural Policy introduced what many interpreted to be a reversal of villagisation and the death-knell of *ujamaa* as the growth of a large-scale agricultural sector was actively encouraged. The liberalisation of land policies was not accompanied by legal reform and it soon became evident that even the land policies under *ujamaa*, notably villagisation, had not been legislated for. In the following years, the demand for land sky-rocketed and the country's smallholders and pastoralists, who form the majority of the country's population,⁶ experienced decreased land availability and increased pressure on their own land, if not outright land-loss. The land administration was unable to deal satisfactorily with the demands of the new policy environment and its difficulties were compounded by an ambiguous and in part contradictory land legislation.

In the nineties, the pace of change quickened and the ongoing programme of economic liberalisation was complemented by political reform as the one-party government amended its constitution to lift the party's monopoly on political activity. It was in this context of profound change that the government undertook to prepare a new National

⁶ In 1988, 85% of the population lived in the rural areas (Bryceson 1993: 152) the vast majority of whom are smallholders and pastoralists.

Land Policy. The policy formulation took more than five years and involved a large and varied number of participants, most notably a core committee of senior civil servants and a Presidential Commission of Inquiry. The new Land Policy was launched as a “turning point in the development of Tanzania” (URT 1995: ii). The Policy had a wide range of policy objectives, including safeguarding the security of tenure for smallholders and pastoralists and promoting an equitable distribution of land; maximising the efficiency of land use; streamlining land administration; and to facilitate the implementation of the nation’s development policies, foremost among which was an Investment Promotion Policy to attract investors to the country.

This work examines and analyses the complex exercise which lay behind this important policy. In order to comprehend the political developments of the recent years, it is necessary to place these events in their historical context. The process of policy making in the context of the national political agenda is taken as this work’s point of departure and an attempt is made at offering explanations, factual and analytical, for the way in which Tanzanian politics has progressed since independence with the purpose of discerning the political basis of Tanzanian land policies. The focus of the analysis is on the rural areas of mainland Tanzania.

STRUCTURE OF THE STUDY

Chapters 2 and 3 make up the historical background to the case studies. Chapter 2 covers the period from 1945 to 1967. It sets the colonial context of the Tanzanian land tenure regime and reviews the first policies, the most comprehensive of which never got beyond the drawing board, to transform the Tanzanian countryside into a modern agricultural economy. The political context of the land policies of the first years of independence is brought out and special attention is paid to the lead-up to the Arusha Declaration and Nyerere's call for ujamaa villages to be set up country-wide. Chapter 3 deals with the heyday of ujamaa in the period 1968 to 1979, which brought Tanzania to international fame. An attempt is made at pinpointing the political factors which led to the infamous villagisation operations of the early- and mid-seventies. The politics of the entrenchment of one-party supremacy is also examined. Chapter 4 considers the eighties with the start of economic liberalisation and the weakening of the party's grip on power. The most politically significant event of this period is Nyerere's relinquishing of the presidency in favour of the more liberal, but weaker, Ali Hassan Mwinyi. At the core of the chapter is an examination of the preparation and implementation of the 1983 Agricultural Policy. My research on the Policy's formulation is presented and the analysis of its the Policy's impact on land is seen against the background of my research findings.

Chapters 5, 6 and 7 relate to the National Land Policy and constitute the heart of the study. Chapter 5 covers the 1990 to 1995 period and sets the political and policy context

for the preparation of the Land Policy. It deals with the ideological demise of ujamaa and the politics of the political changes which most dramatically included the constitutional amendments which led to the country's first multiparty elections. Special consideration is given to how the style of policy making was affected by the political changes. The period's land policies are laid out and the issues which were to be addressed by the new Land Policy are summarised. Chapter 6 presents my research findings on the making of the National Land Policy. It consists of a detailed account of the policy discussions and a presentation of the various policy drafts together with a description of the way in which the policy formulation progressed. The report of the Presidential Commission is summarised and discussed as is the proceedings of the 'National Land Policy Workshop' which was convened in Arusha in January 1995. Chapter 7 is a comparative analysis of the policy substance of the Presidential Commission's Report and the National Land Policy. The findings and arguments of the work are summarised and concluded in Chapter 8.

Chapter 2

FROM COLONIAL RULE TO THE ARUSHA DECLARATION POLITICS AND LAND POLICIES, 1945-67

The post-war period in Tanzania marks the beginning of a still ongoing search for a suitable strategy for the systematic improvement of agricultural land use. This chapter discusses the various land policies that were implemented in the period leading up to the Arusha Declaration. The first part gives an overview of colonial land policies, the second reviews land policies of the first years of independence and the third discusses the political processes which resulted in the Arusha Declaration.

THE COLONIAL LAND POLICIES

The foundation of Tanzania's land legislation dates back to the colonial era, and contemporary land policies are still firmly rooted in the colonial practices.

Background to land legislation

German penetration of Tanzania started in the 1880s. Initially settlers, under the auspices of the German East Africa Company, acquired land by signing agreements with local chiefs, but in 1895, the colonial German government enacted an Imperial Ordinance in order to regulate the acquisition of lands in German East Africa. German East Africa included mainland Tanzania, Burundi and Rwanda. The administration of the territory passed from the German East African Company to the German imperial government in 1891 (Iliffe 1979: 97-8). The Ordinance ruled that no further tracts of land could be alienated “without the consent of the Governor.”¹ Loose provisions were made as to the conditions for alienation. *Ad hoc* commissions were set up to consider applications for land with the task of ensuring either that the land was unoccupied or that compensation would be paid to inhabitants for their loss of land and that there would be sufficient land left for them for their present and future needs (James 1971: 14). Few applications were turned down (Pitblado 1970: 7). Land without a documented title was deemed to be ownerless Crown Land (*Herrenlos Kronland*).

The German government was concerned to ascertain that alienated land would be developed. From 1903 onwards, few freeholds were granted outright. Instead, leaseholds valid for up to 25 years were granted on the condition that at least a tenth of the land should be put under cultivation each year, with the option of buying the land when half the area had been developed

¹ Cited in Pitblado 1970, 7.

(Pitblado 1970: 7-8). By the end of the German period about 1,300,000 acres of the best agricultural land in the country were alienated as freehold (James 1971: 15).

In 1922, Tanzania was conferred on Britain as a Mandate under the League of Nations (changed to a Trusteeship in 1946 under the United Nations). The Mandate agreement carried with it certain restrictions on British administration of the territory, especially with regard to land policies. The restrictions were phrased in general terms and Tanzania's status as a Mandate (and later a Trusteeship) left the British colonial Government at considerable liberty to self decide what was 'in the interest of the native population'.²

Tanzania's most important piece of land legislation, the Land Ordinance, was passed in 1923. German freehold titles were recognised and converted into the English fee simple. All other lands were declared to be public lands and were placed under the control of the Governor. The Governor was empowered to alienate land "in the general interest of the Territory"³ by issuing Rights of Occupancy. Rights of Occupancy are akin to government leaseholds and have a maximum term of 99 years. 'Natives' were to hold their land under 'customary law'.

The Permanent Mandates Commission of the League of Nations expressed concern about the lack of guarantees provided for the 'natives' by the Land Ordinance and with "the cavalier

² See Chidzero 1961, 217-47, for an extensive discussion of the effects that Tanzania's status as a Trusteeship had on land policies. Also see Wily 1988, 51-55, for an account that takes a much more critical stance towards the British policies.

³ Land Ordinance, s.6, cited in Wily 1988, 53.

manner in which the Administration treated customary law titles” (James 1971: 96). As a result of this, an amendment to the Land Ordinance was passed in 1928, defining customary rights to land as ‘deemed rights of occupancy’. The Governor, Sir Donald Cameron, summarised the effects of the amendments as follows:

the native community and the Native who occupies the land,...has exactly the same legal rights to the land as if he held a lease from the Government. He is in exactly the same position as the non-Native who leases land from the Government; he has the same legal rights to the land.⁴

The change was little more than a matter of semantics. The new terminology was not backed up by any concrete changes in the land administration. Customary claims to land still could not be documented and no set formal procedure existed for their verification and protection.

Granted Rights of Occupancy, as rights of occupancy held under statutory law now became known, were made conditional on the land being developed through the Land Regulations acts passed in 1926 and 1927. Such ‘development conditions’ were imposed to ensure that the land would be put to economic use and to forestall land speculation. There were loopholes in the conditionalities stated in the acts and several grantees spent the required amount of money on non-productive investments, e.g. residential buildings. As the Government recognised the legislation’s shortcomings, a new Land Regulations act was passed in 1948, with development conditions set out in much more detail. In order to further combat land speculation, it was made

⁴ Cited by Chidzero 1961, 223.

illegal to sell granted rights of occupancy unless the development conditions had been fulfilled (Pitblado 1970: 10-1).

No development conditions as such applied to lands held under customary law. The security of deemed rights of occupancy depended primarily on the colonial government's perception of land utilisation. Land tenure did not emerge as a major policy consideration until the 1950s. Instead, policy initiatives centred on cultivation methods and choice of crops. The inter-war period was dominated by 'plant more crops campaigns' which stressed the expansion of acreage and maximisation of production (McCarthy 1982: 71-82). These objectives were expected to be achieved through the guidance and exhortation of agricultural extension officers. A central motivation behind the drive was the wish to integrate the African farmer in a market economy. The main impediment to agricultural development was seen to be the supposed 'traditional' contentment with producing for subsistence only, which could only be overcome by external guidance and exhortation.

Comparatively little land was alienated during the inter-war period, partly due to the peripheral position Tanzania held among Britain's dependencies combined with the lack of available investment during and immediately after the depression and partly as a consequence of the political sensitivity of land alienation due to Tanzania's status as a League of Nation Mandate territory. Subsequent events show that the stipulations originally set up by the League of Nations did not represent insurmountable restrictions on Britain's administration. Rather they

worked as a disincentive for the execution of potentially controversial policies when they did not appear to bring about immediate benefits for Britain and the colonial administration.

Land and development, 1945-61

After World War II, increased pressure for further land alienation from the settler community and a change in emphasis from 'paramountcy of native interests' to economic development brought about a substantial change in the colonial land policies. The resulting emphasis on economic development was largely due to the increased demands exerted on the colonies by Britain's war-ravaged economy (Ilfte 1979: 436; Bowles 1979: 170-1). The new policy was founded on the conviction that expanded European production was the best way to bring about a rapid boost to the agricultural economy.

The Groundnut Scheme provides a clear illustration of this development ideology and its shortcomings. The scheme was first suggested in 1946 as an attempt to remedy the post-war shortage of edible fats and oil. Already in 1947, investments were committed and the clearing started of large areas of tse-tse infested lands which were mainly uninhabited. The scheme was to rely on heavily mechanised production and only a minimum of African labour. The scheme quickly ran into insurmountable obstacles and was abandoned in 1950 with a loss of £35,000,000 (Ilfte 1979: 441). The main reasons for the scheme's failure were an unfounded confidence in the superiority of mechanised production, rushed and insufficient planning and

surveying, and the choice of what proved to be lands of highly marginal productivity (Coulson 1977: 75-6). The uninhabited lands had been chosen because, at the time, “it was politically impossible to dispossess African cultivators” (Ilfie 1979: 441).

After the much-publicised Groundnut fiasco, the Government saw an irreconcilable contradiction in placing an over-riding priority on African rights to land and the need for economic development. This was consequently used as an argument before the UN Trusteeship Council and the British delegate declared that to pursue economic development and to refrain from land alienation were incompatible obligations (Chidzero 1961: 233-4). From this point onwards, land alienation was considered to be a necessary condition of agricultural development. The change was immediately put into practice and the Land Utilisation Board replaced the former Land Settlement Board in 1950. Governor Twining explained the change in the following terms:

The emphasis has...changed from one of who shall have a particular piece of land to a decision in each case as to how that piece of land can best be developed in the common interest of all communities in the Territory.⁵

The Meru Land Case became the most controversial incidence of land appropriation in the colonial period. In 1952, 3000 people were forcibly evicted from an area of 78,000 acres near Mount Meru (Japhet and Seaton 1967: 23-4). The land was resettled by European ranchers and consolidated a larger area of European dairy farms and it was now expected “that cattle raising

⁵ Cited by Chidzero 1961, 229.

and dairy farming would be developed on modern lines with governmental supervision of disease prevention measures.” (Japhet and Seaton 1967: 12) The Meru Citizens Union mustered a well organised protest at the Wameru’s loss of land, bringing the case before the United Nations’ Trusteeship Council and the General Assembly. The Wameru lost their case in the UN, but it provided a rallying point for opposition to colonial rule throughout the country and heightened political awareness. Cliffe argues that the Meru Land Case was a central factor behind the creation of TANU (1964: 19-20), and Listowel (1965; 209) states that “[t]he Meru affair served as a catalyst in the early 1950s, providing a rallying point for forces which were in existence, but had hitherto lacked cohesion and purpose.” The lands were later bought back by the Wameru as the Europeans were unsuccessful in their ventures and gave up, unable to prove the economic superiority commonly associated with ‘modern’ practices.

The new drive towards modernising Tanzanian agriculture was not restricted to land alienation for state-led and settler production. The increase in marketed output contributed by the African sector in the 1930s and 1940s, particularly of export crops, had led to an administrative appreciation of this sector’s potential. But there was also a rising concern about the supposedly detrimental environmental effects caused by an ‘uncontrolled and unplanned’ expansion of African production. By 1949, administrative officers in Sukumaland argued that “soil erosion and exhaustion from the overpopulation and the depredations of people and livestock threatened to make Sukumaland a desert.” (Maguire 1969: 11) From Uluguru there came similar warnings, reporting that the people were proceeding “to destroy the land on which they were living.” (Young and Fosbrooke 1960: 143) In both cases the prescribed solution was direct government

action through the implementation of by-laws. Maguire (1969:30-1) succinctly summarises the effects of the subsequent government initiatives on the African farmer in Sukumaland:

He had to tie-ridge and manure certain portions of his fields, plant specified minimum acreages of cassava (as an antifamine measure) and cotton, plant at certain times and pull out cotton stalks by certain dates for burning after harvest, refraining from cultivating near gullies, cutting trees or transporting cattle without permit, have his cattle dipped or inoculated against disease, slaughter or sell a certain percentage of his cattle each year and produce on request certificates indicating sale or attesting that the hides from slaughtered beasts had been seen by the appropriate government officer. These were but a few of the more salient examples of literally scores, if not hundreds, of specific natural resources measures which had begun to accumulate by 1952.

N.V. Rounce, the agricultural officer who was the main driving force behind the Sukumaland Development Scheme, explained that “the African must be compelled - and forcibly - to improve the condition under which he lives with his own hands.”⁶ In the mid-1950s the emphasis on compulsive measures in the drive towards ‘agricultural improvement’ was toned down. A major factor behind this change was the political opposition that rose throughout rural Tanzania as a reaction to the forcible implementation of by-laws. TANU’s success in establishing widespread grassroots support was largely founded in such opposition.⁷

⁶ Cited in Pratt 1976, 25.

⁷ Maguire (1969) and Young and Fosbrooke (1960) give good accounts of the roles played by the Tanganyika African Association (TAA) and TANU (after its founding in 1954) in the resistance against the colonial agricultural policies. Cliffe (1964) considers the nation-wide impact such resistance had on the rise of Tanganyikan nationalism.

Another strategy for the modernisation of African culture explored by the British was the resettlement schemes. It was rooted in the 'sleeping-sickness concentrations' that had been started in the mid-1920s in order to combat the threat presented by the tse-tse flies (McHenry 1979: 15). The scheme involved the encouragement of sufficiently close settlements to eradicate wild bush, thus eliminating the danger presented by the flies. The policy was constructed to deal with a specific problem and met with some degree of success. By 1945 a total of approximately 195,000 people had been involved in the scheme (Ibid., 25).

The apparently favourable results of the sleeping sickness concentrations soon gave rise to more ambitious and more widely applicable plans. In 1943, the Sleeping Sickness Officer wrote to the Governor that the:

grounds for resettling the population should not only be medical ones (or even medical ones at all) but resettlement should be undertaken by the Government's deliberate policy to improve the social and economic welfare of the people for who they are responsible.⁸

The collapse of the Groundnut Scheme provided an opportunity to test the ideas of resettlement further (while providing a welcome relief from embarrassment). The Tanganyika Agricultural Cooperation was set up in 1953 to administer the Scheme's major development areas, establishing settlements of 'progressive yeomen farmers' (Cliffe and Cunningham 1968: 134). Only few settlers were attracted but the scheme inspired the World Bank, in its 1959 field study,

⁸ H. Fairbairn, quoted in McHenry 1979, 17. The secretariat was skeptical of the idea of privileged settlements on the grounds that they would possibly result in furthering rural inequality.

to make recommendations regarding the ‘transformation approach’ (McHenry 1979: 16). The colonial administration was reluctant to commit itself fully to an expanded resettlement scheme as it would have involved much higher cost than the sleeping sickness concentrations, where the work consisted primarily of bush clearing done by the targeted groups themselves. On the other hand, the ideas and the research which had been done were passed on to the new independent government, which did not hesitate to put the World Bank’s plan into practice.

The most comprehensive set of recommendations on agricultural policies to come out under the British was the East Africa Royal Commission’s Report (EARC 1955). Throughout its discussion of agricultural policies the Report stresses the ‘shortcomings’ of ‘traditional’ husbandry, which was seen as uneconomical and environmentally destructive. It states unequivocally that “the relationship of land tenure and land usage [...] permeates all the faults of the present system” (Ibid.: 323). The Commission argues that the key to agricultural development lies in the modernisation of land tenure, i.e. the individualisation of land rights. But the formalisation and modernisation of land tenure is only desirable, according to the Commission, as far as it is considered likely to encourage economic development:

we find variations in the response with differing peoples make to economic incentives. On the one hand the pastoralists, who respond but slowly to opportunities for monetary gain, remain intent on applying the land to maintaining their herds without regard to more economic uses; and, on the other hand, individual members and sometimes groups of cultivating tribes are found, who, given security of tenure, are anxious to put land to its most productive use. A tenure law which compels may be required in the first case, whilst a law which facilitates may serve in the second. (Ibid.: 347)

This implies that the aim of developmental land policies is *not* to provide security of tenure for its own sake but to ensure that maximum economic benefit can be derived from the land for ‘the good of the country’. And evidently the decision as to who ‘deserves’ security of tenure falls to the Government - the modernising agent.

The Commissions recommendations were accepted by the Government, and in 1958 plans were announced to encourage “the transition from native customary tenure into ‘freehold’ in appropriate areas.”⁹ The plans were never implemented, due to concerted opposition from the now powerful TANU (Fimbo 1974a: 243).

From 1958 onwards, the rural development policies centred on the ‘focal point’ approach which consisted in providing support to ‘progressive’ farmers. The hope was that a wider segment of the population would follow the example of their more enlightened colleagues when they saw the superior results that could be yielded from modern methods of cultivation. The approach taken was seriously flawed and the advice given by the extension service often proved to have a negative impact on economic returns and soil fertility (Coulson 1977: 78-82).

TANU’s stand on land policies

As mentioned above, rural opposition to the colonial agricultural policies was a major factor behind the party’s widespread support. In 1954, TANU’s first constitution stated that:

⁹ *Review of Land Policy*, Government Paper no. 6 of 1958, cited in Wily 1988, 74.

TANU will work to encourage cooperatives and trade unions; urge that producers get the best price and that consumers buy in the best market; help Africans establish an increasing share in the running and owning of business; establish a minimum wage and a system for assisted farming; and oppose alienation of land.¹⁰

The position adopted by TANU on land policies is best represented by Nyerere's paper *Mali ya Taifa* (National Property), published in 1958. The paper was a response to the colonial government's plans to gradually replace customary tenure with freehold titles. Nyerere stresses the detrimental socio-political effects of a land market:

in a country such as this, where, generally speaking, the Africans are poor and the foreigners are rich, it is quite possible that, within a eighty or a hundred years, if the poor African were allowed to sell his land, all the land in Tanganyika would belong to wealthy immigrants, and the local people would be tenants. But even if there were no rich foreigners in this country, there would emerge rich and clever Tanganyikans. If we allow land to be sold like a robe, within a short period there would only be a few Africans possessing land in Tanganyika and all others would be tenants. (1958: 55)

Mali ya Taifa was not a defence of the 'traditional' system of land tenure. Nyerere concurs with the colonial government's intention to remove the "menace of shifting cultivation." (Ibid.) His alternative to a freehold system of land holding was government leaseholds, which he argued provided the same advantages for the modernisation of agriculture: "sufficient land, security and a way of raising capital [as security for loans]" (Ibid.: 57) In no way does he touch on customary law, except by stating that "we have the obligation to...rid ourselves of the old

¹⁰ Cited in Bienen 1970, 218.

customary system” (ibid.: 58), presumably because he saw it as inadequate for economic development. The only stated policy objectives in agriculture to emerge from TANU’s first years, therefore, were the abolition of freehold and the africanisation of agricultural marketing.

LAND POLICIES IN THE EARLY YEARS OF INDEPENDENCE, 1961-67

Tanzania’s land policies did not change dramatically during her first years of independence; they targeted the same groups and for the same reasons as in the colonial era. In the World Bank’s recommendations to the independent government, it noted that “the new Government, with an elected majority, will be able to carry the people with it in action to improve land use, and even to back that action, where necessary, by legislation to ensure soil conservation measures,” (IBRD 1961: 129). Agricultural and land policies are practically inseparable in Tanzania. I first consider the general framework of development policies, as regards both agriculture and land, before I turn to the specifics of the land legislation.

Development policies

Nyerere’s Presidential inauguration speech in December 1962 illustrates the rationale behind what was to become the independent government’s rural development strategy (1962b: 183-4):

If we want to develop, we have no choice but to bring both our way of living and our way of farming up to date. The hand-hoe will not bring us the things we need today. . . We have got to begin using the plough and the tractor instead. But our people do not have the money, and nor has the government, to provide each family with a tractor. So what we must do is to try and make it possible for groups of farmers to get together and share the cost and the use of a tractor between them. But we cannot even do this if our people are going to continue living scattered over a wide area, far apart from each other, and still haunted by the old superstitious fear of witchcraft, just like our grandfathers. The first and absolutely essential thing to do, therefore, if we want to be able to start using tractors for cultivation, is to begin living in proper villages. . . For the next few years Government will be doing all it can to enable the farmers of Tanganyika to come together in village communities. . . unless we do we shall not be able to provide ourselves with the things we need to develop our land and to raise our standard of living. We shall not be able to use tractors; we shall not be able to build hospitals, or have clean drinking water, it will be quite impossible to start small village industries. . . If we do not start living in proper village communities then all our attempts to develop the country will be just so much wasted effort.

The stress on modernisation as a development goal is obvious. Nyerere takes it as self-evident that agricultural growth depends on the use of tractors, because “[t]he hand-hoe will not bring us the things we need today.” And the adoption of modern methods of cultivation depends on living in “proper villages.” The following years’ development policies were adopted with the specific aim of encouraging such a transformation, and to ‘educate’ the peasantry. Nyerere defined Tanzania’s development strategy as a “war” against “poverty, ignorance and disease” [1962b: 177].

Settlements quickly became the central aspect of Tanzania’s rural development policy. The emphasis on resettling the rural population in nucleated villages followed previous colonial

practice in east and southern Africa. It has been widely acknowledged that the World Bank's recommendations (IBRD 1961) provided a major part of the justification behind the need for villagisation (van de Laar 1973, 73; Cliffe and Cunningham 1968, 134, fn. 9). We will see, however, that several of the pitfalls that the independent government fell into were pointed out in the World Bank report.

The World Bank's report focused on two main approaches to 'bringing about' agricultural development in Tanzania: the improvement approach and the transformation approach. The improvement approach (see IBRD 1961: 101-28) consisted of making resources available to 'progressive farmers', whom the World Bank considered to be the target group which could provide the national economy with the fastest economic growth and make the most efficient use of limited resources. The transformation approach (ibid., 129-40) was a much more radical strategy that recommended the resettlement of people in 'under-utilised' areas where, under proper guidance, they would adopt modern and sustainable techniques for cultivation.

When people move to new areas, they are likely to be more prepared for and receptive to change than when they remain in their familiar surroundings. And when people are under pressure to move or see the advantage of doing so, they can be required to abide by rules and to adopt new practices as a condition of receiving new land. (ibid., 131)

While the transformation approach was seen as a crucial part of the overall strategy, however, the Bank cautioned that care should be taken in the implementation of the transformation approach, primarily because of their costs:

The financial implications of supervised settlement schemes also need to be carefully investigated. These schemes will often involve relatively high costs in preparing the land for settlement, putting in roads, laying out holdings, and providing close supervision, It may well prove difficult for the Government to recover these costs, even taking into account the return by way of increased tax revenues. . . The immediate need is for further pilot projects to explore the inducements and financial arrangements required to make a success of planned settlement schemes.¹¹

Further, in direct reference to Nyerere's ideas on resettlement, it should be noted that the World Bank report is sceptical of the immediate profitability of rapid mechanisation:

Tractors pay in plowing and land preparation, but their further use in weeding, cultivating, harvesting and transport frequently costs too much in proportion to the increased yield produced or the value of labour saved. . . The conclusion is therefore widely accepted in Tanganyika that there are rather few farmers who can at present benefit from loans to buy tractors. (Ibid., 117)

Very few of the of the mechanized schemes so far attempted in Africa have succeeded both in covering overheads and in yielding a return to the farmer appreciably greater than he could obtain by farming his own land by traditional methods. (Ibid.: 133)

These cautionary notes were placed in a report that was otherwise characterised by constant reminders of the urgency of government action and the superiority of modern methods of cultivation. The World Bank was also heavily involved in the implementation of the plans.¹²

¹¹ IBRD 61, 132-3. Significantly, the full title of the chapter on the transformation approach in the World Bank report is "Agricultural Transformation and Research."

¹² Interview with Reginald Green, June 1993.

The independent government embraced the modernisation ideology espoused by the World Bank, but paid scant regard to its cautions on expanding settlement schemes and mechanisation too rapidly. This is amply demonstrated by the first Five Year Plan, which spanned the period 1964-69. The Plan announced that in the five year period the government would set up over 60 villages at a cost of £150,000 each, and additional funds were separately allocated for irrigation programmes which were an integrated part of the transformation approach (Tanganyika 1964: 21, 46-49). Settlement and irrigation schemes were budgeted to receive 9% of Government expenditure, while “traditional agriculture” (the improvement approach) was to receive 8.2%. This is in marked contrast to the Three Year Plan (1961-64), drafted by the colonial government, which apportioned 4.1% and 11% to the transformation approach and the improvement approach, respectively.¹³ The shift in emphasis between the transformation and improvement approach was sceptically received by the Ministry of Agriculture and the Treasury,¹⁴ where it was argued that the improvement approach would give faster financial returns (Pratt 1967: 16).

The Five Year Plan predicted that these heavily capitalised schemes would quickly become profitable and that the farms benefiting would eventually repay the government’s initial investment with interest. By 1965 it was becoming clear that there were severe problems in most aspects of the programme. Over-capitalisation and too much government involvement were seen as the main culprits in this regard (Ellman 1971, 314). The verdict was largely based

¹³ Tanganyika 1964, diagram 3b, facing page 90.

¹⁴ The Minister of Agriculture was Derek Bryceson and the Minister of Finance was Paul Bomani.

upon the findings in a report prepared by a team of invited British development experts, which was presented to the Government in December 1965 (Pratt 1976, 183).

In 1966 Rashidi Kawawa, the Second-Vice President, announced that the Government had abandoned the transformation approach and that no more such schemes would be started. Instead emphasis would be put on modernising existing villages by “provision of water supply, better lay-out of villages, improved farming and production methods, and re-organisation of land holdings” (Kawawa 1966: 8). The announcement signalled the return to a policy more reminiscent of those of the colonial era and targeted the sectors which had stood for the larger share of the increase in agricultural production since independence (Coulson 1982: 162-7). Nyerere was not content with the change in policy as he saw it to provide a further boost to capitalist farmers (Ibid.: 239). The transformation approach, as put forth in the first Five Year Plan, had failed. The Government admitted this and found itself temporarily in a limbo as to what was Tanzania’s development strategy.

Land legislation

Debates about land tenure policies were dominated by the freehold issue in the first two years after independence. As we have seen, Nyerere had countered the British plans to introduce freehold among African producers in order to stimulate agricultural development. The logical conclusion to the arguments presented in Nyerere’s first paper (1958) on this issue was

complete abolition of freehold tenure in Tanzania, which now became the first policy goal. In 1962 a government paper (Tanganyika 1962) outlined the aim and content of the change. It proposed to convert existing freeholds into Government Leaseholds not exceeding 99 years and also make all granted rights of occupancy subject to the 1948 Land Regulations.¹⁵ The rationale of the proposals centred on the country's need for economic development and that the Government, in order to ensure that development took place, had to have the ultimate control of the land:

...Government cannot too strongly emphasise that it has no desire to deprive any person of his land where such person has adequately developed it and has maintained such development. But Government considers that the urgent need for raising the standard of living for the people of Tanganyika and the vital importance of agriculture in the country's economy, compel it to use its power to procure development of land.
(Tanganyika 1962: 11)

The proposals were passed in 1963¹⁶ without much publicity. Only much later, in 1971, did Nyerere dramatise the implications of the Act:

Land nationalization was...effected in 1962, although it passed almost unnoticed!...By this Act of Parliament, and without any fanfare, Tanganyika achieved a socialist

¹⁵ At the time, granted rights of occupancy issued before the 1948 Regulations were not subject to it (on the Regulations' contents see p.17, above).

¹⁶ Freehold Titles (Conversion) and Government Leases Act, 1963 and Rights of Occupancy (Development Conditions) Act, 1963.

objective which more aggressive parties elsewhere in the world had almost given up advocating because of its difficulty! (Nyerere 1971: 9)

The Act was probably passed in this undramatic manner in order not to upset unduly the economically important settler community. Paul Bomani, then Minister for Lands and Surveys, had assured the settlers in 1961 that their lands would not be taken over by the independent government (Taylor 1963: 211). In 1964, Nyerere publicly acknowledged their economic importance and declared that “[t]he Government will give [privately-owned] estates more land if they need it.” (1964: x)

When considering the significance of the 1963 Act, one should keep in mind the relatively small area that is in question. In 1959 lands held in freehold totalled less than 500,000 acres, compared to the more than 2,500,000 acres held under granted rights of occupancy (Taylor 1963: 210). Despite the fact that less than a sixth of all alienated lands in Tanzania were held as freehold, Nyerere’s well-known paper *Ujamaa - the Basis of African Socialism* does not go beyond the issue of freehold in discussing land tenure:

We must not allow the growth of parasites in Tanganyika. The TANU Government must go back to the traditional African custom of land holding. That is to say, a member of society will be entitled to a piece of land on condition that he uses it. Unconditional, or ‘freehold’, ownership of land (which leads to speculation and parasitism) must be abolished. (1962a: 167)

The political significance of the so-called nationalisation lies in making *all* land the property of the nation - that is, administered by the Government and legally vested in the President. Thus,

the Government is enabled to execute its duty: the economic development of the nation. Maintaining the people's rights is defined as ensuring the absence of exploitation - in this case, landlordism and land speculation. The issue of rights to land in the traditional sector, which includes the greater part of 'the nation', is not directly addressed. The implication is that the primary objective of land legislation is to facilitate agricultural development, an objective which takes precedence over each individual's right to a given parcel of land. This priority is clearly reflected in the following years' land legislation.

A sector of the rural population that has been (and is) seen to be in particular need of 'development' is the pastoralists. The administrative problems posed by these nomadic people was addressed by the Range Development and Management Act of 1964,¹⁷ which was to enable the Government to take a more active role in the development of Tanzania's livestock resources. The Act prescribed the establishment of Range Development Commissions and ranching associations. The Commissions were given the power to issue by-laws governing the use of land. The Commissions were to consist entirely of appointed administrators. Ranching associations could be set up, providing that at least 60 per cent of the users of land in a given area agree to proposals presented to them by the area's Commission. All customary rights held within the area were to be extinguished, including those of the members of the association. Movement of cattle and stock-numbers were to be regulated by the associations according to the

¹⁷ The Act was inspired by a USAID report which stressed the importance of proper planning in the development of pastoral economies (Tenga 1992: 19), and Jacobs states that the principal motivation for the adoption of the Act was "the urging of expatriate planners and the promise of quick external aid" (1980: 3).

by-laws issued by the Commission. Failure to comply with by-laws could lead to expulsion with no provisions for guarantee of access to land outside the association's area. Significantly, granted rights to land within the area were not to be affected by the establishment of an association. (see McAuslan 1967: 187-90)

The Act was followed by a series of range development projects that had the principal objective of creating a 'livestock industry'. The projects were externally conceived and controlled with no appreciable consultation with the targeted population. They proved to be costly failures that often increased the hazards of environmental destruction and disease rather than reducing them (ole Parkipuny, M.L. 1979; Jacobs 1980).

The Land Tenure (Village Settlement) Act of 1965 was passed with the specific purpose of regulating land tenure in the new village settlements established on virgin land. The Act stated that rights of occupancy for the villages would be granted to a Rural Settlement Commission (s. 3). Whereas 'derivative rights' could be granted to individual members of the settlement, the full legal rights to all settlement land were to remain with the Commission. 'Derivative rights' were ultimately to encourage individualisation of land tenure but the security of tenure provided by such rights was made subject to limiting stipulations. The Commission was given considerable latitude for the forfeiture of rights and the land could not be transferred to, or inherited by, anyone without the approval of the Commission (ss. 9-12; cf. McAuslan 1967: 218-20). The Act never had much of an impact as it was tailor-made for the needs of the transformation approach which was abandoned the following year (James 1971: 233). It is still

of some interest both because of its characteristic style and content and because it can be seen as the first precursor to the present-day village titles.

Another Act was passed in 1965 to deal with any customary rights to land that might already have existed in the settlement areas.¹⁸ This was an amendment to a 1954 Ordinance which had enabled the Government to extinguish customary rights in a given area by declaring it Public Land.¹⁹ The original Ordinance had provisioned for compensation for ‘unexhausted improvements’ to be paid to any affected holder. The amendment stated that only holders that joined the village settlement were to be entitled to compensation in the form of credit against debts incurred to the Rural Settlement Commission (s. 7(3)). Granted rights of occupancy would still not be affected by the Act.

The Land Acquisition Act of 1967 greatly expanded the Government’s power to extinguish customary rights for ‘public purposes’. Of particular interest is a provision that enables the President to “acquire any land...for use by any person or group of persons who, in the opinion of the President, should be granted such land for agricultural development.” (s. 4(1))²⁰ This definition of ‘public purpose’ replicates the colonial government’s justification for alienation of land for agricultural use to members of the ‘modern’ sector as being in “the common interest of

¹⁸ Public Lands (Preserved Areas) Ordinance (Amendment) Act, No. 28, 1965.

¹⁹ Public Lands (Preserved Areas) Ordinance, 1954.

²⁰ The Act did not require amendment of the 1923 Land Ordinance as the Ordinance enabled the President to acquire land for public purpose. The significance of the Land Acquisition Act lay in the wide discretionary powers it afforded the President in defining ‘public purpose’.

all communities in the territory.” (p. 19, above) The implicit subjugation of the individual’s interest to the ‘common interest of economic development’ prejudices customary rights to land *vis-à-vis* statutory rights, as holders of statutory rights are practically always deemed better capable of effecting ‘economic development’. The wide scope for land alienation provided by the Land Acquisition Act continues to lessen customary holders’ security of tenure to the present day.

As we can see, land legislation was used as a tool for government initiatives in rural development. Laws were often tailor-made to facilitate upcoming development policies. Basically this gave the government all the leeway it could wish for *vis-à-vis* the individual farmer’s land rights, especially since the country’s land constitution - the 1923 Land Ordinance (with amendments) - protected customary rights only in the vaguest of terms. Consequently, the land laws become more a set of directives for the policy implementers, than a guarantee of protection for the land-holders. We shall see throughout this study that this is a recurring theme in the politics of land in Tanzania.

THE POLITICS OF DEVELOPMENT AND THE ARUSHA DECLARATION

It is important to keep in mind that there never was a general consensus as to the specific direction that land policies should take. It is therefore necessary to look into the intra-governmental conflicts that arose around the formulation of the policies, especially in the light

of the dramatic reforms introduced by the Arusha Declaration and Nyerere's post-Arusha policy paper *Socialism and Rural Development* (1967d). The contents of these events were as much the result of policy conflicts and compromises within the Tanzanian state as they were a product of Nyerere's political philosophy. The first years of independence were a formative period in Tanzanian politics and the institutional and political developments of these early years shaped the way politics would be conducted.

Tanganyika received her independence in December 1961 and the new era started with Nyerere at the helm of a Parliament in which the dominant TANU held all but one seat. The country had inherited the Westminster model of government. Only a month after independence, Nyerere resigned from his position as Prime Minister and left his right hand man, the trade union leader Rashidi Kawawa in charge. Nyerere used his retirement to work on his plans for Tanzania's future and to strengthen and consolidate the Party's standing among the people. First he returned to his home village, Butiama, where he wrote several pamphlets, foremost among them the well-known *Ujamaa - the Basis of African Socialism*, in which he outlined his vision of an idealised traditional past where Africans worked together for the good of all (Nyerere 1962a). He then toured the country and spoke to enthusiastic audiences about the challenges that lay ahead, explaining that the key to full liberation lay in self help and hard work. It was in this period that Nyerere acquired the title *Mwalimu* - the far-seeing teacher (Coulson 1982: 136).

Soon after independence, in February 1962, TANU's National Executive Committee introduced a motion in Parliament to adopt a republican constitution and in May the Government published

a paper outlining its proposals on the issue. The new constitution came into effect in December 1962 and Nyerere was duly elected the first President of the Republic of Tanganyika. Under the new system, the President was given wide discretionary powers. He was not obliged to follow advice by any other person and was free to appoint Cabinet Ministers and Regional Commissioners as he saw fit. Parliamentary bills were conditional on Presidential assent and the President also appointed a limited number of parliamentarians. The Government paper on the constitution had argued that in a country such as Tanganyika, the demanding task of eradicating poverty, ignorance and disease necessitated that the executive should be given extra powers (van Cranenburgh 1990: 65-67).

In April 1964, following the Zanzibar revolution, Presidents Karume and Nyerere signed the historic 'articles of union' which marked the beginning of the United Republic of Tanzania (Coulson 1982). Following the instigation of Nyerere at the 1963 Party Conference, preparations started for Tanzania to become a one-party state. In February 1964, a Presidential Commission was appointed to draw up recommendations for a one-party constitution. There was some debate on whether TANU should assume the role of a vanguard party but it was decided that the party would remain a mass organisation. TANU would be the sole party of mainland Tanzania (Tanganyika) while the Afro-Shirazi Party would rule in Zanzibar. The new constitution, which was adopted in July 1965, decreed that all political activity outside Government should be conducted under the auspices of the Party. The elections for the General Assembly (Parliament) would be run between two opposing party candidates nominated by the local party branches and screened by the Party's National Executive Committee (NEC).

Presidential elections were held with one candidate with people given the option of a 'yes' or 'no' vote. Presidential powers were extended by an expansion of the number of Presidential nomination for Parliament (van Cranenburgh 1990: 69-78).

The cabinet was to remain the principal policy making authority also under the new constitution but the overlapping of Party and Government offices makes it hard to distinguish between the relative influence of Party and Government. Pratt's account of the cabinet's role in these early years succinctly summarises the origins of what would become the basic divide in Tanzanian politics. Referring to the policy discussions which took place in Parliament, Pratt distinguishes between the role played by two different types of Ministers - the 'administrator-Ministers' and the 'political Ministers' (Pratt 1971: 234). The 'administrator -Ministers' placed the greatest emphasis on the technical and practical aspects of Government, such as budgeting, the running of the civil service and the social services, and the day-to-day operation of government. The 'political Minister', on the other hand, whom Nyerere once referred to as 'the talkers' were more concerned with the ideological aspects of independence and took the greater interest in international affairs, exemplified by the severing of Tanzania's ties with the United Kingdom after Ian Smith's unilateral declaration of independence for Rhodesia and what can be recognised as an anti-Western and more pronounced socialist sentiment developed within their ranks. The 'political Ministers' were more likely to associate themselves with the Party while the 'administrators' identified more closely with the Government. This partition of allegiances became more marked after the 1965 constitutional reform. Although there was not a clearly articulated and uniform ideological basis to distinguish each of these loosely connected

groupings of senior politicians, they can be usefully described as two opposing political forces within the Tanzanian state and I refer to Pratt's 'political Ministers' as radicals and the 'administrator-Ministers' as conservatives.

A significant aspect of this period is the part played by Nyerere. In the years following Nyerere's return to the leadership of Government as President up to and beyond the adoption of the one-party constitution, Nyerere assumed more responsibility for the definition of policy and he started to take a larger share of the political decisions without consultation with the cabinet. Pratt argues that he chose to take such action in order to cut through bureaucratic inertia and to avoid what he considered to be important projects to stall on lengthy discussion and potential deadlock in the cabinet (Pratt 1971: 236). The effect of Nyerere's increased willingness to take action outside the venues of Party and Government was that he emerged as the third, and arguably the most important, political force, although he was to take great care not to alienate his colleagues on either side of the political divide and consistently sought to broker agreement and compromise on any controversial issue.

The adoption of the first Five Year Plan brought about an early instance of factional disagreement within the government on issues relating to resettlement. The ministries of agriculture and the treasury were, as we have noted, sceptical of the emphasis on the transformation approach at the expense of the improvement approach. Pratt, in his discussion of the political processes surrounding the adoption of the Plan, concludes that this opposition had

little or no effect on the outcome.²¹ There was at the time considerable conflict between the radicals and the conservatives as to the position of private capital in Tanzania (Hartmann 1990: 235-9). Nyerere, in his recommendation of the Plan in parliament, had the following to say about private, “capitalist” farmers immediately following his outline of the transformation approach:

But as well as indigenous farmers, we have in Tanganyika²² a number of privately-owned estates and plantations. They occupy a tiny percentage of our land - less than one per cent - but at the present they account for some forty per cent of the value of our exports. These estates have both the capital and the technicians that are needed to increase output, and we need an increase from them. The Government will give the estates more land if they need it. But in return, they will be expected to help local farmers to participate, on a co-operative basis, in the production of these valuable export crops.²³

The decision to proceed with the costly transformation scheme was therefore at least partially offset by the continued support of the well-to-do, mainly expatriate, farmers, which promised quick economic returns and was intensely unpopular among the radicals in the Party.

After the British commission had submitted its report on the new settlement schemes in December 1965, it became clear that the transformation approach, as initially conceived, was a

²¹ Pratt 1967, 16. This article gives a valuable description of the institutional problems which affected the drafting of the Plan.

²² The first Plan did not include Zanzibar.

²³ Nyerere, J.K., Address to the National Assembly, May 12, 1964, reprinted in Tanganyika 1964, x.

failure and its abandonment was announced in April 1966 (see above). The decision justified the officials who had expressed scepticism as to the financial soundness of the approach. The emerging radicals, on the other hand, saw large-scale mechanised agriculture as a necessary component for socialist rural development and were not critical of capital intensive ‘transformation’ as such, but they did not see the transformation approach as desirable, owing to the prominent role played by expatriate managers in the scheme and the limited control afforded to the state in policy execution.²⁴ It is therefore not surprising that the radicals voiced no opposition to the abolition of the transformation approach.

The new policy of rural development left Nyerere in a bit of an ideological crisis. The policy changes reflected the conservatives’ objectives to a much larger extent than previously and there were signs of increasing rural differentiation among the peasantry (see Awiti 1972a; Feldman 1974; van Hekken and Thoden van Velzen 1972). The impatient and disenchanted radicals were gaining in influence. The National Executive Committee (NEC) of the Party had a considerably strengthened position in the government structure following the new TANU constitution adopted in 1965, which made Tanzania a *de jure* one-party state (Bienen 1970: 198-202). These political matters were obviously not Nyerere’s only concern. Village development was a central feature in his development ideology as was ujamaa. Nyerere started preparing for what was to become Tanzania’s best known policy paper ever, which was launched in Arusha in January 1967.

²⁴ Interview with Reginald Green, June 1993.

The preparation for the Arusha Declaration contrasts with other important policy reforms at the time. The 1965 British report on development policies was sent for a Ministry-by-Ministry review, and, according to Pratt (1976: 183), “[i]t was the most sustained consideration ever given at the political level to the economic policies of the government.” On politically sensitive, institutional issues the practise was (and is) to set up party or presidential commissions to submit recommendations for reforms, as set out by their terms of reference. The 1965 TANU constitution was partly based on the recommendation of a presidential commission. In 1966 commissions were set up to investigate the workings of NUTA (National Union of Tanganyika Workers) and the cooperative unions. In the same year, Nyerere was also planning to set up a commission to study the issue of socialism in the Tanzanian context (Pratt 1971: 236; Hartmann 1990: 239; Cliffe 1991: 106). Nyerere never did set it up, instead he decided to do it alone.

At a NEC meeting in Arusha, January 1967, Nyerere presented his recommendations on “socialism and self-reliance.” The seminal paper amounted to a manifesto laying down TANU’s commitment for the nation’s development. It set out that political leaders and senior civil servants would take cuts in salaries and fringe benefits and imposed restrictions on leaders engaging in ‘capitalist activities’ through the so-called Leadership Codes. It stated further that the principal means of production would be brought under state control and that the state would actively seek to improve the welfare of its citizens.

The four day NEC meeting produced the final published version of the Arusha formulations (TANU 1967)²⁵. Greater emphasis was placed on nationalisation than originally intended by Nyerere. The radicalisation of the policy was a result of the opposition to private capital and the drive towards a more ‘scientific’ socialism in the NEC which was dominated by the radicals (Hartmann 1985). Prominent members of the conservatives within the cabinet soon managed to modify the rejection of private capital. A policy paper on Public Ownership was made part of the Arusha Declaration in February (Nyerere 1967a). It “cleared up any uncertainties left by the Arusha Declaration” and put forward guarantees to companies (with the exception of sisal industries) not already nationalised that no further nationalisations would take place and that Tanzania would “continue to welcome private investment in all those areas not reserved for Government in the Arusha Declaration” (ibid.: 21, 23). This important and dramatic process proceeded at a neck-breaking speed. The drafting and passing of the Arusha Declaration, nationalisations and the inclusion of the ‘clarifications’ in the Public Ownership paper, all took place in less than three weeks.

The direct impact on the agricultural sector was limited to the nationalisations of estates. This was of negligible consequence for the rest of the rural sector as the estates were kept intact and were not broken up for redistribution. The Declaration says very little about rural development policies pertaining to small and medium-scale farmers, except for stating that agriculture is

²⁵ The Declaration was initially known under this name. The term “the Arusha Declaration” was coined by the papers *Uhuru* and *the Nationalist*, which were controlled by the ‘political Ministers’ on the left (Pratt 1976: 240).

important for the national economy and that it should be brought about with the application of hard work and intelligence.²⁶

The definitive statement on rural development did not come before September the same year, with the publication of Nyerere's second 'post-Arusha' policy paper *Socialism and Rural Development*. With an endorsement from the Party's National Conference a month later, this paper became the official blue-print for the establishment of ujamaa villages (Pratt 1971: 237). It gave a general three step model, which involved moving together in a village-settlement, starting a relatively small communal plot and, when a sufficient confidence in the superiority of communal work had been reached, an all out effort to centre the majority of the community's endeavours on communal ventures. It was stated that the process should not rely on force nor on material incentives.

Socialism and Rural Development also made another contribution of major significance to the rural development debate in Tanzania. For the first time in an official policy document, farmers who hired agricultural labourers were deemed to be exploiters. This marked the official beginning of Tanzania's anti-kulak rhetoric.

The fact that rural development was given cursory attention in the Arusha Declaration, only to later appear as a separate 'post-Arusha' policy paper entirely drafted by Nyerere which was

²⁶ TANU 1967, 13-18. Significantly, a preceding section states that development in Tanzania can not depend on money, simply because there is not enough of it (TANU 1967: 5-7). As regards rural development, this can be seen as a direct reaction against the capital-intensive schemes of the past.

accepted by the TANU National Conference without modifications shortly thereafter, poses interesting questions. Was this a pre-meditated tactic of Nyerere, or was it an after-thought or a result of initial oversight? Had Nyerere perhaps been approached by other influential policy makers or advisors after the Declaration? Or was it simply a matter of moving on to less politically sensitive issues once the main goal had been secured? To my knowledge, there exists no account that has tried to deal with these questions. An attempt will be made here to offer some speculative answers. This could serve a purpose as pointers to future research and it could shed some light on the existing political interpretations of the era; in turn, we shall see that it can prove useful for an interpretation of the subsequent events.

One possible explanation of the sequence of events is that, in the time leading up to Arusha, Nyerere saw the issues tackled in the Declaration to be of such urgent political importance that he saw no use in diluting them with mere policy directives. If this is the case, it is very likely that Nyerere was especially concerned with focusing attention on the Leadership Codes. When asked after the Declaration about its timing he answered that it was right because:

the people would not have understood the need for curbs on leaders much before, while had we delayed some two years from now we would have discovered that our leadership had become rather entrenched in the accumulation of private property.²⁷

This statement certainly suggests that Nyerere's prime consideration in drafting the Declaration was not the issue of rural development. One should keep in mind that considerable adjustments

²⁷ The Nationalist 1 March, 1967. Cited in Cliffe 1991, 106-7.

were made in the other concrete policy proposals initially raised by Nyerere in the process of getting the whole packet ratified. The one major part of Nyerere's draft that was accepted without argument was the issue of self-reliance as regards rural development. The adjustments made in the Public Ownership paper referred to foreign aid and the position of private investment. This was resourcefully tackled by Nyerere in *Socialism and Rural Development* as he denounced budding capitalist small and medium scale farmers as exploiters without any consequent disagreement from the conservatives or, if any such disagreement was voiced, it had no appreciable effect and it has not been recorded in any of the surveyed sources.

These observations suggest that Nyerere strategically separated the issue of rural development from the Arusha Declaration. Whether this was premeditated is hard to ascertain. Nyerere himself observed that the timing of the Declaration was well nigh perfect. As a result of the strengthened influence of the radicals, the conservatives were in a weak position within the policy making organs. The radicals were showing concerns that the present policies lent no active and spectacular role to the Government in the development efforts, and called for a better defined and 'more socialist' strategy. But the records give no evidence of any offer of a clearly defined, alternative strategy for rural development. The radicals were mostly concerned with Party discipline and control and the application of 'scientific socialism' (Bienen 1970: 212-37; Mulei 1972; Tordoff and Mazrui 1972) while the conservatives presumably were content with the direction the existing policies were taking. This situation afforded Nyerere the political space to break the 'developmental lull' unilaterally.

The passing of *Socialism and Rural Development* is therefore not an indication of a successful alliance of Nyerere and the radicals versus the conservatives. Within the doctrinaire factions of the radicals there was a steady push for a more dirigiste approach in development. And the paper clearly coupled the denunciation of kulaks with a stress on the self-reliance aspect of rural development, implying a certain degree of caution against excessive state control. This part of the policy was not to escape reinterpretation and redefinition.

CONCLUSION

The relationship between the government and the countryside which was forged in the colonial period became a permanent feature of Tanganyikan (and Tanzanian) development policies after independence. The colonial authorities saw it as their goal to effect a transformation of the rural areas from what they perceived as a stagnant state of backward tradition to a modern agricultural society capable of producing economic growth and prosperity. After the Second World War, the development activities intensified and what appeared to be a more focused and articulated strategy started to materialise. The East Africa Royal Commission produced the first comprehensive policy analysis with their 1955 Report. The EARC Report diagnosed the customary tenure regime as the key factor impeding rural development.

Nyerere, in his 1958 paper *Mali ya Taifa* (National Property), distanced himself from the colonial policies and strongly opposed British plans to introduce freehold tenure but he

concurred with the EARC in that he saw it as the duty of an independent Government to do away with the “old customary system.” In his 1962 inaugural speech, Nyerere outlined what method he had in mind for effecting the transformation of rural Tanzania and revealed that the foremost goal of the new government was to move the rural population into “proper villages”. The reasoning behind this strategy, which it shared with the ‘transformation approach’ recommended in the 1961 World Bank report, was that development was equated with modernisation which, in the context of rural Tanzania, necessitated establishing rural settlements.

Customary tenure had little or no part to play in this model of development. The government cast itself in the role of the modernising agent and the development regime, including tenure arrangements, was defined by the authorities, not by the targeted communities. Settlements schemes were (and are still) typically initiated by the executive authority extinguishing all existing customary rights to land. The targeted population consequently received new rights for their allotted plots through a settlement authority - ‘derivative rights’ in the case of settlements established under the Land Tenure (Village Settlement) Act of 1965. The implication of this process was that customary rights to land were put under administrative arbitration with decidedly negative consequences for security of tenure, as evidenced by the ease with which the state administration could acquire and dispose of land held under customary law with or without the proper recourse to law. The administrative bias which this arrangement lent the land tenure regime has remained a permanent feature of rural development in Tanzania.

The executive dominance of land tenure administration was made possible by the colonial legal framework which was inherited and taken on board virtually unaltered by the independent government. All land is declared to be public land and the President functions as its trustee. The executive has far-reaching powers to appropriate land more or less at will, which is underlined by the President's discretionary powers to decide whether a given project, even if it is privately owned, is of 'public purpose'. The so-called 'nationalisation of land' in 1962 also brought the freeholds which remained from the German period under the direct control of the President and was the only legislative reform of land tenure of any substance after independence. This policy initiative was first and foremost of symbolic significance and implied only a limited change in policy from the British reign, seeing that freehold tenure was a legacy of German rule which had not been practised by the British beyond the conversion of titles pre-dating the British conquest.

The political developments of the years following independence were eventful. TANU consolidated its control of the political agenda and insured its continued political hegemony by instituting constitutional one-party rule. As has been demonstrated by this chapter's analysis of the post-independence policy making, TANU's usurpation of the political life did not imply that the leadership was unified in its ideology and pursued common policy goals. A deep split emerged within the party between a radical faction which was impatient with the lack of socialist activism and a faction with a base in the Government which was in favour of a more pragmatic approach. The hidden conflict which arose between these two opposing groups marked the start of what was to become a long-standing battle for control. Nyerere assumed the

role as mediator, forger of compromises and pace-setter. He was the undisputed leader and he helped maintain his popularity and legitimacy through avoiding confrontational intra-party politics, a task well-suited to his leadership style as *Mwalimu* - the teacher.

Nyerere's authority was founded in a sure political instinct as demonstrated by the timing and presentation of the Arusha Declaration. The Declaration had a profound effect on the political climate of the country. It came at a time when the euphoria of independence had worn off and the legitimacy of the leadership was no longer a matter of course. The Arusha Declaration fired the public's imagination and there were spontaneous demonstrations of support across the country. Nyerere's call for villagisation with the 'post-Arusha policy paper' *Ujamaa Vijijini* took full advantage of the new-gained momentum.²⁸ The TANU and Government leaderships had little choice but to add their support to the policy strategy of villagisation, although they did not necessarily fully support Nyerere's vision of village community-based development. It was viewed as unscientific and too incremental by the party's ideological core while some of the more pragmatic people in government were concerned about the economic consequences which they feared villagisation would entail.

The various misgivings on villagisation aside, one aspect of the strategy appealed to leaders on both sides of the political field, namely its potential to provide a powerful impetus for modernisation. It afforded the state an active developmental approach which would bring the

²⁸ The literal translation of the original Swahili title of *Socialism and Rural Development* is 'Socialism in the villages'.

state closer to people and facilitate a large scale-drive to transform and modernise the rural areas. Nyerere recognised the potential for compromise which its appeal to modernising instincts lent his favoured development strategy and he was to exploit it fully in the years to follow. In the next chapter we see how the post-Arusha ideological zest politicised the development activities and culminated in the massive settlement drive of the seventies.

Chapter 3

UJAMAA AND VILLAGISATION POLITICS AND LAND POLICIES, 1968-79

The period discussed in this chapter marks the heyday of *ujamaa* in Tanzania. It was a time of intense experimentation and the state asserted itself ever more strongly in the administration of the rural sector. It is the period which best exemplifies what made Tanzania internationally known but it ended in a severe economic crisis and, ultimately, budding signs of self-criticism. The chapter starts with a survey of the villagisation process, the second part explores the land policies in the wake of villagisation, and the third part reviews the land legislation of the era. Finally, the political reactions to the intensifying economic and agricultural crisis are discussed.

VILLAGISATION, 1968-75

The Arusha Declaration and *Socialism and Rural Development* had paved the way for a new intensified drive in Tanzania's rural development policies. Both policy papers enjoyed widespread popular support and gave the Government a new lease of legitimacy. Tanzania's

initial years of independence had been characterised by a hit and miss search for a rural development strategy. *Socialism and Rural Development* provided the logical conclusion to this search as Nyerere's central concepts of village development and ujamaa were integrated in a coherent strategy for the first time. The establishment of new settlements and the development of productive and organisational structures within existing villages now became parts of the same overall strategy. The ujamaa village scheme can therefore be seen as a marriage of the improvement approach and the transformation approach and what appeared as a much more focused strategy was adopted in the quest for rural transformation. The ensuing policy of villagisation allowed the developmental state to place itself firmly in the driver's seat, the consequences of which were clearly illustrated by the following years' events.

The villagisation drive is the one factor that has had the most far-reaching consequences for land policies in Tanzania. It will therefore be dealt with at some length. I will first consider the implementation of villagisation before trying to establish what were the political conflicts and compromises that made such a dramatic turn of events possible.

The Villagisation campaign

There had been a number of settlement experiments in the 1961-67 period in addition to the capital-intensive ones involved in the transformation approach. But most of them had either

failed or were based on individual cultivation incompatible with the ujamaa village model.¹ By 1967, according to the Government's own records, there were only 48 ujamaa villages in Tanzania comprising only 0.04% of the population (Ellman 1971: 319). About half of these were spontaneous settlements of the kind that Nyerere prescribed in *Socialism and Rural Development*. Nyerere had started to call for people to set up villages since shortly after independence, but, as we see, only a very small fraction of the population had responded. And despite Nyerere's rhetoric, voluntary settlements never became an appreciable factor in Tanzanian rural development.

1968 saw the birth of what was to become the Government's most efficiently used instrument of implementation - the operation. Towards the end of the year, floods in the Rufiji River had washed away the houses and crops of farmers cultivating rice on the fertile banks of the river. An acute shortage of food arose and a plea was made to the Government for emergency help. This was not the first time that Rufiji had been struck by floods and previously the Government (both in colonial times and since independence) had granted emergency relief but this time President Nyerere let it be known that the Rufiji people would have to "solve its own problems", for which it would be granted Government assistance.²

¹ See Cliffe and Cunningham 1968 for a concise description and evaluation of the pre-Arusha settlements.

² For a detailed description of the planning and implementation of the Rufiji Scheme, see Turok 1971.

The central Government decided that 25 new villages would be constructed by the river banks and that only people who cooperated in the operation would receive food relief. There was some consultation with the people involved concerning the choice of sites and cultivation plots. It was decided that there would be no communal farms initially as this was regarded as too different from the farmers' former practices. Instead, the villagers individual plots were laid out adjacent to each other, so that they could later easily be joined to form a communal farm.³ A few arrests were made of prospective villagers refusing to take part in the exercise but outright force was not much used in the operation (Turok 1971, 402). Although the Government considered the operation a success (Coulson 1982, 248), it is uncertain whether food security was improved by the operation. It has been reported that at least parts of the affected population actually were more prone to food shortages and that most farmers were worse off economically after the operation, due to problems such as living too far from the most productive fields with increased time requirements for walking and added difficulties in protecting the crops from wildlife (Bryceson 1990, 48; Hyden 1980, 118-9).

The *Presidential Circular No.1 of 1969* (Nyerere 1969a) instructed all parts of government to give priority to encouraging the expansion of ujamaa villages throughout the country:

All Government policies, and the activities and decisions of all government officials, must ... be geared towards emphasising the advantage of living together

³ Such block farms, the so called *bega kwa bega* (shoulder to shoulder) plots, were to be formed in most village settlements later.

and working together for the good of all; they should be angled at discouraging the continuation of private individual farming; and should attempt to dampen down the urge for private expenditure on consumer and farm durables in favour of communal expenditure on things like cooperatively owned farm implements, stores, water supplies, good houses, dispensaries, nursery schools, roads, community centres, and so on. (Nyerere 1969a)⁴

The government's role in the implementation of the ujamaa policy was further elaborated with the announcement of the Second Five Year Plan, which made it official policy that Government resources in rural development would be concentrated on efforts to start ujamaa villages in what was termed the frontal approach. TANU's development ideology relating to rural development was now entirely centred around the promotion of ujamaa villages. The main instruments of implementation were ostensibly to remain persuasion and education but after the Presidential Circular and the Second Five Year Plan, it became clear that incentives would be used to maximum effect as well. The policy papers offered the carrot of government services to villages pursuing practices compatible with the Government's official policies. Perhaps more significantly, as would become increasingly clear in the years to come, they also presented a stick to the villages, warning that those who

⁴ These instructions bear an interesting resemblance to the improvement approach, which entailed providing resources primarily to 'progressive farmers', i.e. farmers adopting modern, capitalist methods, except that under the ujamaa policy the targeted group would be farmers utilising modern, socialist methods.

did not appear to conform with ujamaa policies to mend their ways or be denied any further provision of government services.⁵

Dodoma region became the Government's next target. Like Rufiji, Dodoma was seen as an area in special need for accelerated rural development. It was considered a marginal agricultural area, known for its dependency on pastoralism, which was particularly prone to famines in years with sub-average rainfall. As such, Dodoma was deemed to be "a national embarrassment and [was] resented as a drain on the national treasury."⁶ Dodoma had been chosen as a special target area as early as 1969. In villages which were well informed politically, communal fields were immediately started as there were rumours in circulation that, in the future, only ujamaa villages would receive famine relief. The farmers were unimpressed by the results of communal farming and considered its continuation purely as a defensive mechanism in relation to the Government.

⁵ There are numerous reports of tactical 'ujamaasation', as (usually better off) farmers made symbolic gestures to conform with ujamaa regulation, in order to get preferential access to government funds (Raikes 1975: 45-6; von Freyhold 79: 44; Coulson 1982: 244-5; Samoff 1981: 300 and Shivji 1976: 108).

⁶ Hill 1975, 237. Unless otherwise indicated, all references to Operation Dodoma are taken from the same article. It should be noted that Frances Hill's (and officialdom's) presentation of Dodoma region as one of the most marginal maize producers in the country is misleading. Dodoma is, in good years, one of the leading maize producing regions in the country. The statistics Hill cites are from the drought stricken season of 1969/70 in which Dodoma only produced 1% of the marketed national maize produce. In the preceding season, on the other hand, Dodoma led the national statistics with 34% of the total marketed output (Bryceson 1993, Table III.2, 230; also see Raikes 1986, 118).

The lack of enthusiasm and the absence of spectacular farmer response caused frustration among the higher placed political leaders. Three Presidential Planning Teams were already present in the area and plans for the villagisation of the entire region were taking form (Coulson 1982: 248). Finally, in March 1970 Nyerere announced that the entire population of the region were required to live in ujamaa villages within 14 months. The extent to which the different segments of the population were affected by this order depended on how well they were connected politically and on how adeptly they manipulated various local political conflicts. Among the less fortunate there was extensive use of force in the resettlement while others were virtually unaffected. Any action on a fundamental change in the structure of production was pragmatically left out by the officials behind the operation, who probably had enough to cope with as it was.

The issue of villagisation had now become the over-riding priority of Tanzania's rural development policy and operations similar to those in Rufiji and Dodoma were quickly spreading throughout the country. It was already evident that operations of this kind were to be the Government's main tool for accelerating development towards ujamaa and self-reliance. That villagisation could be achieved through administrative fiat was clearly demonstrated by the example set by one Regional Commissioner, Dr. Klerruu. Under his reign, the entire Mtwara Region was villagised in 1970. He was then transferred to Iringa Region where the number of villages subsequently increased dramatically before he was shot dead on Christmas Day 1971 by an irate large-scale maize farmer whom he had insulted in his zealous campaign to villagise the area (McHenry 1979: 160-61; Coulson

1982: 248-9). In 1972 villagisation operations were executed in Kigoma Region and Chunya District (Coulson 1982; Omari 1976).

In 1972 the country's administrative system was restructured in line with a policy of 'decentralisation'. The reform aimed at decentralising much of the development administration and planning that had previously taken place in the capital to the regional and district level. The status of regional and district officers were considerably upgraded. As decentralisation was initiated, Nyerere stated that its "success will depend upon TANU accepting enlarged responsibility for initiating ujamaa villages and cooperative activities." (Nyerere 1972: 348) The Party had been moved closer to the people.

In September 1973 TANU ruled in its Biennial Conference that villagisation was to be a national policy. In November Nyerere announced that "To live in villages is an order", and that the move should be completed by the end of 1976.⁷ All pretences of movement into villages necessarily being voluntary were dropped. In 1974, well after the start of the operation, Daily News editorialised:

Those who think they can avoid living in villages are deluding themselves. Those who try to resist going into such villages are also fighting a lost cause. Every Tanzanian peasant will have to move and live in such villages. Any one who refuses will be taken there by force. On this there will be no half-measures. TANU will not force anyone to become socialist. The party will educate the people on the

⁷ Daily News, 7 November 1973, cited in Coulson 1982, 249. Also see McHenry 1979, 108.

superiority of the socialist ideology over any other ideology. But TANU will not allow any Tanzanian - big or small - to hinder progress.⁸

TANU's central directives were now quickly translated into action throughout the country in what became known as Operation Tanzania. The rural administrative structure set up by decentralisation was, for all intents and purposes, tailor-made for the venture. From 1973 to 1975 the number of people living in villages increased from 2,000,000 to over 9,000,000.⁹ Compulsion, or the threat of it, had by now become the main instrument of implementation (Coulson 1982: 249-253; Boesen *et al* 1977; Boesen 1979; Mwapachu 1976; DeVries and Fortmann 1979; Matango 1975; Wily 1988: 150-56, 316-20).

The rains were poor for the 1973/74 season and even worse the following year. This caused reduced crops, which necessitated large food inputs at a time when international grain prices were at an all time high. Oil price hikes contributed to a severe pressure on foreign reserves. The timing of the villagisation operation had been less than favourable.

The ensuing economic crisis added to the sense of urgency exhibited in the state's approach to rural policies. Nyerere is reported to have told TANU officials in a special address that another year of drought would lead to 'famine' in which people would 'die' (*Financial Times*, 7.1.75). In 1974, alongside the villagisation campaign, agricultural by-laws started to

⁸ Daily News, 23 August 1974, cited in Tabari 1975, 95.

⁹ "Maendeleo ya Vijiji vya Ujamaa," Prime Minister's Office, June 1975, cited in Mascarenhas 1979, 152.

be widely used again (Ergas 1980: 292-3; Raikes 1975: 50). The *Daily News* explained the re-emphasis on by-laws in the following manner:

Bye-laws requiring people to cultivate land and care for their farms have been operating in the country for many years. After independence their enforcement was somewhat neglected. They are now being revived in many parts of the country to combat laziness and drunkenness.¹⁰

Simultaneously, producer prices for food crops were significantly increased in the 1974/75 and 1975/76 seasons.¹¹ By 1975 the operation was nearly completed. Tanzania had been villagised.

What lay behind these years' dramatic development in Tanzania's ujamaa policy? The following section will suggest some of the more political dynamics that might have led Nyerere to depart so radically from his previous insistence that villagisation should not be brought about by compulsion.

¹⁰ *Daily News* 13 August 1974, cited in Havnevik 1993, 48.

¹¹ Bryceson 1993, Table IV.4, p. 239. Price increases were 50% and 60%, respectively.

The politics of villagisation

Academic analysis of the villagisation process has been near monopolised by various forms of critique of the way in which it was implemented. This has generally involved a criticism of modernisation theory and bureaucratically steered politics (Coulson 1977 and 1982; DeVries and Fortmann 1979; Fortmann 1980; Boesen 1979; Raikes 1975 and 1986; Williams 1976). Others have taken the villagisation experience as a proof of rural socialism as such being the wrong approach in the pursuit of 'development' (Lofchie 1976; Ergas 1980). There are also attempts to defend the operation in light of the positive effects which are argued to follow (Mascarenhas 1979; Hyden 1980).

Fewer attempts have been made at answering the question "why did it happen?". What follows is an evaluation of some of the proposed theories together with a consideration of the internal conflicts that existed at the time leading up to whole-scale villagisation. We will see that political confrontation and resulting compromises can colour policy results as much as ideologies and policy goals and that such factors can help explain the unexpected (and unintended?) turn of events.

First, it will be useful to outline what we know about the goals and interests of factions within the ruling party, TANU, regarding villagisation. The radicals in the Party were mainly concerned with party discipline and the execution of 'scientific socialism'. They were intensely distrustful of kulaks and traders. They attached a high value to Party control

to all aspects of rural development. There were repeated calls for TANU to assume the role of a *vanguard* party. Their definition of self-reliance was one of *national* self-reliance and they were less concerned about the self-reliance of the individual farmer community.

The radicals should not be seen as a homogenous group. Factions put different weight on the various aspects of the 'radical ideology' and on some issues there were opposing interests. Two of these factions can be more or less clearly identified. On one side were the powerful party leaders, who carried the heaviest influence in the NEC (next to Nyerere, that is) and who were closely associated with Nyerere. They placed the highest value on party control and they sought to exert party dominance as widely as possible throughout Tanzania but only in ways that did not challenge their own authority within the party. These are the 'political Ministers' from Pratt's account.

On the other side was the more revolutionary and adventurous faction consisting of the intellectuals of the party. They took a more pronounced interest in rural development, and called for ideological cadres to transform the countryside. It was this branch that called for TANU to assume the role of a *vanguard* party.¹² The Youth League (TYL) was its main component and it enjoyed support from the intellectuals on 'the Hill' (the University of Dar es Salaam). This faction contributed greatly towards the popularisation of TANU's ideology. Their attempts to effect structural adjustments within the party system were blocked by the more senior party stalwarts. Significantly, both factions agreed in their

¹² For the *vanguard*-debate, see Mwansasu 1979, 171; Mushi 1978, 73; Miti 1980, 199; 1982, 58; and Pratt 1979.

abhorrence of anything associated with private capital and trading. The main strength of the radicals lay in their influence in the NEC and in their contributions towards the definition of the nation's ideology. Their main weakness was that they lacked control of finances and that they had only minor involvement in policy implementation.

The conservatives were first and foremost concerned with economic matters. With regard to rural development, the conservative view favoured 'productive' investments that could give quick returns rather than expenditure of a more social- and service-oriented kind. Villagisation did not figure high on their list of priorities. The conservatives too were not a uniform group. The top administrators in the cabinet, who we recognise as Pratt's 'administrator-Ministers', subscribed fully to the conservative view. They also followed an alliance of sorts with lower placed administrators or 'technocrats.' These did not necessarily share all aspects of the conservatives' political outlook (although some certainly did) but they were uninterested in or sceptical of the highly 'ideological' aspects of the radical approach. They were first and foremost administrators and planners and saw little attraction in the more arduous task of 'politicising' rural life.

The conservatives' main strength was their control of government financing and policy implementation. They often had extensive input in the drafting of policies, especially of development plans, but had less say in the final ratification of policies. They had only limited influence on the definition of the national development ideology and no part in the issuing of the more ideological guidelines.

Again Nyerere played the part of the mediator. His primary concern was rural development and the creation of ujamaa villages, in which he enjoyed support from the radicals. He was sceptical, however, of the radicals' emphasis on party control. Nyerere's definition of self-reliance was more in favour of the individual farmer communities. Although, of everybody, he placed the highest priority on getting people *into* villages, he was arguably less concerned with controlling them once they were there. According to Reginald Green, Nyerere saw village communities as the rural people's best chance to assert their interests against an often authoritarian bureaucratic administration.¹³ He was never to stop insisting that one cannot force anyone to become a socialist but he was also an ardent moderniser who did not shy away from compulsion in enforcing 'proper' cultivation methods. The political strength of his position as President and Chairman of the Party was obvious. All policies had to be ratified by him and he decided cabinet appointments, an important part of his balancing between the radicals and the conservatives. Above all, he remained the unquestionable 'people's leader,' whose immense popular support made a change of leadership practically impossible.

In 1968 the issue of compulsion in villagisation started to become politicised. In the National Assembly in April 1968, the Regional Commissioner (RC) of West Lake Region took to the floor and complained that two West Lake MPs were involved in activities

¹³ Interview, June 1993. This point can be backed up by a careful reading of Nyerere's essays, especially *Socialism and Rural Development*, *Freedom and Development* and *Leaders must not be Masters*.

contrary to the policies of the Party and Government.¹⁴ The MPs had been critical of the RC's enthusiastic response to the President's call for the building of new ujamaa villages. The MPs had received complaints from the people who had been affected by his drive and it was reported that compulsion and outright force had been used.¹⁵ A commission appointed by TANU's central committee was sent to investigate the matter. The NEC expelled the two MPs from TANU in October.

The incident clearly deterred other MPs from being seen to oppose the villagisation policies in any way, though it entailed more political complexities than might be immediately apparent. The two MPs who had opposed the use of force in the region's villagisation drive were expelled simultaneously with five other MPs (and two ex-MPs), who had touched upon such sensitive matters as the union with Zanzibar and demands for a multiparty state. It is highly probable that the NEC considered all the 1968 expulsions to have a common denominator in the issue of party unity and/or control.

The expulsions demonstrate that the NEC exerted considerable influence in disciplinary matters. But Nyerere was still unwilling to let the doctrinaire radicals proceed unhindered in their push for statist control. October also saw the publication of Nyerere's essay *Freedom and Development* (Nyerere 1968c) where he again stressed that movement into villages

¹⁴ The incident and its political aftermath is reported in some detail in Thoden van Velzen and Sterkenburg 1969.

¹⁵ Musoke (1971) reports on the villagisation drive instigated by the RC in West Lake. His account clearly supports the MPs' allegations of compulsory resettlement.

should not be brought about by the use of force. Early in 1969, he dismissed the RC involved in the West Lake incident together with a number of others who had been found to pressure people into ujamaa villages (Cliffe 1973: 199-200). According to Boesen (1979: 133), it became “an unwritten rule that force should not be used in the promotion of ujamaa villages.”

The *Presidential Circular No.1* (Nyerere 1969) published at the beginning of 1969 and the adoption of the Second Five Year Plan (URT 1969) demonstrate a curious amalgam of policy compromises. On the one hand, it testified to the success of Nyerere, the populist, as these policies widened the scope of previous policy approaches. The Second Plan set out to “mobilize the widest possible participation in socialist activity throughout the rural society.” (Ibid.: 27) The policies did not facilitate any administrative structure in which the villages (new or existing) would become linked more directly into the party or government hierarchy. It is clear that the radicals were aiming for such a process as a part of their goal of creating a vanguard party. The radicals were also contemptuous of the incremental and ‘unscientific’ aspects of rural development which were implicit in the policy of ujamaa villages as it was practised.¹⁶ On the other hand, *The Presidential Circular* clearly gives government agencies a greater role to be played in the implementation of *Ujamaa Vijijini*. It became state policy to grant residents of ujamaa villages preferred access to government development funds.

¹⁶ Interview with R.H. Green, June 1993.

The Government's role in the frontal approach did not originate with the conservative technocrats. Nyerere received the second Plan from the responsible ministries without a prominent mention of ujamaa. Nyerere promptly rejected the draft, and demanded that it had to be rewritten to incorporate ujamaa in a consistent and useful manner (Barker 1979: 98; Cliffe 1973: 199 and Mushi 1978: 73). The conservatives were generally sceptical of the policy emphasis on *ujamaa vijijini* but in this matter they had no choice and had to oblige. It seems that Nyerere in this period was attempting to reach a policy compromise that would implicate as many factions as possible in the drive towards villagisation. The story of the RDA gives credence to this interpretation.

A group of villages in Ruvuma, which together made up the Ruvuma Development Association (RDA), were the best known ujamaa villages in the 1960s. The RDA had been formed in 1963 through the initiative of a TYL activist and an expatriate agricultural adviser.¹⁷ At the most, the RDA consisted of 17 villages. They were held by Nyerere to be the best example in Tanzania of what ujamaa villages ideally should be like. The villages practised extensive communal production and, through grants from foreign aid organisations and from Nyerere personally, they had been able to purchase their own maize mill and sawmill. The RDA offered higher prices to maize producers than did the regional

¹⁷ Coulson 1982, 263-71. Unless otherwise stated, all references in the next paragraphs are from Coulson's appendix on the RDA. Cliffe 1991 and Havnevik 1993 (pp 198-200) have additional evidence which backs up Coulson's interpretation of the RDA's dissolution, also see Brain 1977. For a description of the RDA's activities see Ibbott 1966.

cooperative union and was therefore seen as a dangerous competitor to the cooperative movement by local government officials. The RDA was also a focal point for resistance against government imposed by-laws. The RDA withstood government hostility mainly due to strong personal backing from Nyerere.

In 1969, the Central Committee of TANU was restructured to make the majority of its members representative of the regional administrations. In July the Central Committee met for a month's discussion of the implementation of ujamaa policies. The Committee decided that its members would visit some of the most advanced ujamaa villages in the country, many of which were in the RDA.¹⁸ Their meeting with RDA, the most autonomous farmers' organisation in Tanzania, confirmed their fears that this was a powerful organisation with its own power-base entirely outside the control of the Party. In September the Central Committee met again and the following day *The Nationalist's* front-page headline read "TANU to run all ujamaa villages":

The TANU Central Committee resolved yesterday that the time has now come for the Party to take charge of all Ujamaa villages with the aim of uniformity in their development. The Committee felt that because socialism in villages is TANU's policy the Party should be fully involved with the development of all Ujamaa villages.

... the Central Committee discussed at length the involvement of various organisations in the establishment of Ujamaa villages ... [and] paid tribute to their efforts and involvement in propagating TANU's policy of Ujamaa in the villages.

¹⁸ Havnevik reports that the tour was prompted by misgivings within the Party about the autonomy of independent settlements (1993: 199).

But because TANU has taken the trouble to ensure that the policy of Ujamaa is well understood all over the country, it is better for the Party to take charge of all Ujamaa villages.¹⁹

The existence of a strong, autonomous 'development' organisation had obviously presented an unacceptable challenge to the central administration. The RDA had openly opposed the authority of the regional authorities and the regional cooperative union had been threatened by competition. The radical faction of the Party were further piqued by the fact that the RDA had a sizeable staff of expatriates and received funding from foreign agencies. There are no references in the surveyed sources of any statement by Nyerere, formerly a strong RDA supporter, on the disbanding of the Association. As the Chairman of the Central Committee, however, he must have had a say in the matter and, if he had argued against the motion, it is highly unlikely that the vote would have been 21 of 24 in support, as was the case.

It appears significant that at the time of the Central Committee's decision there were 'success-stories' from Rufiji from the government's villagisation operation. So, although Nyerere had previously upheld the RDA as the example to follow, there now existed an alternative strategy for the achievement of 'ujamaa' which lent a more conspicuous role to the Party and government administration. Could it be that Nyerere conceded this case to the conservatives and the radicals in order to minimise central opposition to villagisation and ujamaa (in whichever form)?

¹⁹ *The Nationalist*, September 25, 1969, cited in Havnevik 1993, 199.

There is an interesting parallel to the RDA story within the Party. In November 1968 a new TANU department responsible for the coordination of all ujamaa village programmes was set up (McHenry 1979: 67-8; Cliffe 1991: 109). It was headed by Ntimbajayo Milinga, the co-founder of the RDA, and staffed mainly by young cadres from TANU's Youth League (TYL). The department withered away, however, as it was starved of funds from the central party administration and was denied any influence in administration at the grassroots. Christopher Lwoga presents one case from Morogoro region during the operations, wherein the recommendations from the Department of Ujamaa and Cooperative Development relating to the fate of a prospective village were unceremoniously ignored by the local (ward, district and region) Party branches and the government (Lwoga 1985: 65-77).

From 1969 onwards, policies were distinctly radicalised. Nationalisation came on the agenda again. Wholesale trade and rented buildings were nationalised in 1970 and 1971 (Hartmann 1991: 119). Major policy statements seemed to take a more urban turn. The Presidential Circular no. 1 of 1970 and the much publicised TANU Guidelines (*Mwongozo*) of 1971 both addressed worker-management relations (Kjekshus 1974: 365; Mihyo 1975; Coulson 1982: 284).²⁰ In two review papers at the beginning of the '70s Nyerere stressed the significance of the post-Arusha nationalisations, while not even mentioning the Leadership Code in either of them (Nyerere 1970; 1971).

²⁰ *Mwongozo* is reprinted in Coulson (ed.) 1979, 36-42.

Unlike the other major policy documents up to this time, the *Mwongozo* was not written by Nyerere (Coulson 1982: 329). The Guidelines read like a manifesto, with interspersed quotes from the Arusha Declaration as background, on Party ideology. It was written in a noticeably more Marxist jargon than was otherwise common in Tanzanian policy documents.²¹ It says little about the Party's role in rural development, except for its function as the supervisor of implementation. The Guidelines called for a 'people's militia' to be set up. The militia was later extensively used in the villagisation operation.

There is little mention in the literature of the conservatives' stand in this period. Some of their influence can be gathered from the aftermath of *Mwongozo*. The Guidelines were popularly received and a long line of strikes, lock-outs of managers and attempted take-overs by workers of privately-owned industries ensued. By June the government intervened and put a stop to all such action, stating that it was "for the benefit of the workers themselves." (Coulson 1982: 289; also see Mihyo 1975 and Mushi 1978: 83) Coulson suggests that this turnaround came as a consequence of pressure from foreign investment companies with interests in Tanzania (Coulson 1982: 289). In other words, there were influential forces within government which gave higher priority to capital investment than ideology.

²¹ Shivji has commented that "in terms of its rhetoric and vocabulary the *Mwongozo* is qualitatively different from the documents of the Arusha period. This suggests that it may be the work of the most left-wing members of the Party." (1976:125) Van Cranenburgh has argued that the Guidelines' "language resembles a more 'vanguard' notion about the role of the Party." (1990: 103)

The conservatives' main strength lay in their control of government financing. While the radicals in the Party had considerable influence in defining the national ideology, the implementation of policies were largely the responsibility of the less ideologically concerned government administration. The lack of financial and administrative control by the Party restricted its independence *vis-à-vis* the Government. The biennial National Conference of the Party in September 1971, for example, ruled that priority should be given to water, health and education projects. In January 1972, the NEC found that the Government's 1972/73 allocations did not reflect their policy demands. They demanded, unsuccessfully, that water, health and education allocations should be doubled (Finucane 1974: 183). It was clear that, even if the Party had unquestioned power as the definer of ideology, they had only limited control over policy implementation. Through decentralisation, the Party sought to redress some of this perceived imbalance in the control over policy implementation.

Decentralisation was seen as a necessary institutional reform for the execution of post-Arusha policies, particularly for villagisation. First, in 1969, a committee headed by Cranford Pratt was commissioned to draft a proposal for decentralisation. The committee's report was subsequently suppressed and it was rumoured that it had recommended that authority should be devolved to autonomous, elected regional bodies. Implementation of the report's recommendation would have brought about a significantly higher degree of self-rule for each of the country's regions (Kleemeier 1984: 189-90). After the rejection of the

Pratt report, the government commissioned McKinsey, an American consultancy company which specialised in development management, to draw up a plan for a new decentralised state administration which was speedily accepted and implemented. In April 1972, the Party announced its decision to press ahead with decentralisation and the following month Nyerere's document on decentralisation was published. After only two further months, in July 1972, the reform was implemented (Max 1991: 84).

The reform delegated more power in policy definition to the regional and district level. Local TANU branches were given the authority to oversee policy priorities. One reason for granting regional and district branches more responsibility was the hope that a strengthening of TANU branches in rural areas would enable the Party to 'guard' the implementation of policy (Nyerere 1972).

Whereas decentralisation meant granting more authority to the regions it did not make the regions more autonomous. The initial drafting of district and regional development plans was to take place at local level for then to receive approval by central government (the ministries) and the NEC. In practice, the resources to undertake locally conceived projects were limited and development activity was generally restricted to projects which were designed by nationally based experts and/or expatriates (Kleemeier 1984: 188-94). As Rweyemamu has argued, decentralisation entailed a "deconcentration of administrative powers to Regional and District Offices of the administration rather than a devolution of power for decision-making to the people." (1974: 125-6) Local government was abolished

and the most important administrators -- Regional and District Commissioners and their Development Directors -- were made Presidential appointees. The next three officers at in the administrative hierarchy at District level were also appointees.²²

Decentralisation gave more control to the Party in setting the policy priorities for rural development with the explicit purpose of increasing 'popular participation.' Local Party branches were seen to be more representative of the people than the civil service bureaucracy, and more likely to solicit local opinions. The reality of the institutional reform proved otherwise. The top brass in both Party and Government instantly took to their new elevated status in an arrogant manner which distanced them from the local population and made them a class of their own with distinct dictatorial tendencies. In his authoritative study of local government in Tanzania, John Max concludes that "the objective conditions for meaningful citizen participation were abolished rather than created by the changes brought about by decentralisation" (1991: 84-90, 97-8; also see Mushi 1978 and McHenry 1979: 71-4).

The reform produced a dual institutional hierarchy in which parallel, and often overlapping, links of command and accountability existed for the Party and the Government's civil service. Although decentralisation was presented as a means of strengthening the Party's authority over development matters, it can be described more accurately as a co-option of

²² These were the District Personnel Officer, District Planning Officer and the District Financial Controller (Max 1991: 86).

Party officials into the Government structure. Party leaders at District and Regional level were made *ex-officio* members of the respective Development Committees (DDCs and RDCs). They consequently ended up serving a dual role as Party and Government officers, a practice known in Tanzania as *kofia mbili* - two hats (McHenry 1994: 58; Picard 1980: 452). Of the two jobs, it was the position of Government officer which was most attractive and had the highest status and it therefore, as a rule, took precedent over the Party mandate which supposedly was closer to the people. Several years later, Nyerere remarked in summing up the experience of decentralisation:

At many levels we have given to one person two jobs at the same time: in the Party and in Government ... And every time these two jobs are combined, that of the Government tends to overshadow that of the Party.²³

One should therefore be cautious in interpreting the reform as an entrenchment of the Party's position in state administration. The decentralised government structure nevertheless proved eminently suitable for the implementation of the Party's directives on villagisation.

In May 1972 (two months before the decentralisation reform was eventually adopted), TANU's NEC passed a policy paper on agriculture -- *Siasi ni kilimo* (Politics is agriculture) (TANU 1972). At the time, *Siasi ni kilimo* appeared to be a curious anomaly in TANU's rural development policy. Despite interspersed reminders that the policy was primarily aimed at improving agricultural practices in 'ujamaa villages,' the policy prescriptions were

²³ *Bulletin of Tanzania Affairs*, No. 12, March 1981, cited in McHenry 1994, 59.

practically entirely centred on the necessity of ‘modernisation’ of cultivating techniques. Cooperation was mentioned as a necessary means for poor farmers to achieve the ‘economies of scale’ to apply modern methods of farming, but there were no explicit calls to Party or government officials to ‘encourage’ communal farming as such. Instead, officials were urged to educate the farmers in ‘modern agriculture.’

Towards the end of 1972, Nyerere outlined his plans for villagisation to the NEC. He suggested that the aspects of ‘living together’ and ‘working together’ should be separated. As Pius Msekwa²⁴ recalls: “[Nyerere] recommended that efforts should first of all be concentrated on getting people to live together[,] they will themselves see the benefits of cooperation for their common good.” (1975: 39) The NEC ratified the proposal and called for it to be implemented ‘throughout the country.’

At the 16th biennial conference of TANU in September 1973, Nyerere made use of the previous year’s NEC ruling when he addressed the Party:

The question of living in villages has been emphasised for eleven years²⁵ . . . I am talking of living in villages; I am not talking of Ujamaa . . . To be an Mjamaa²⁶ is not something compulsory . . . I am talking of living in villages . . .

²⁴ Then the national executive secretary of TANU.

²⁵ A reference to his 1962 inaugural speech, see chapter 2.

²⁶ *Mjamaa* - a member of an ujamaa village (plur.: *wajamaa*).

My duty is to see to it that the policy of the party is carried out; living together is the party's policy; it is your policy; you have said it yourself; the National Executive Committee has declared that we are no longer saying that moving into villages is for one region but it is for the whole nation. Now my duty and my comrades' duty is to implement it.

(cited in McHenry 1979: 107-8)

By separating the issues of living together and working together, Nyerere managed to justify compulsory resettlement, while still adhering to his belief in voluntary ujamaa. The call for villagisation on a national scale was accepted by the Party, probably partly due the fact that this afforded them of an opportunity to give a concrete contribution to the 'nation's Development.' In November Nyerere took the decision one step further when he announced in a village in Mbulu district that "it was now an order for everyone to live in villages, and all had to be moved by the end of 1976" (ibid.).

Throughout the decade leading up to this momentous decision, village settlements had been the central tenet of the Party and government's rural development policy. Yet little had been achieved and the progress thus far had been far from spectacular. This had undoubtedly undermined the credibility of the policy makers and implementers, however insidiously. Omari, in his contemporary interpretation of the policy developments and the various methods attempted in the drive for villagisation, reasoned that:

since [the] Ujamaa village policy is both a political and economic innovation, the performance of this policy at this stage becomes a testing ground for future moves. And to the Party and Government to let it fail is tantamount to political suicide.

Thus when one methodology does not succeed, it is likely that another will be applied. (1976: 118)

Omari's argument implies that the state, with all its constituent parts, felt an urgent need to accelerate rural development in order to maintain its legitimacy. In the internal balance of power, the decision reinforced the Party's position *vis-à-vis* the government administration. TANU assumed the role as the instigator of the policy and was also the self-appointed supervisor of its implementation. Administrators within the government advised against the move on technical grounds, but to no avail (Green *et. al.* 1980: 93). The easily identifiable objective of the policy also made it well-nigh impossible for policy implementors to ignore or sabotage the directives. Msekwa concluded from the decision to villagise and the 'success' of the consequent implementation that "NEC supremacy has been clearly established." (1975: 39)

The conflicts, if any, between Nyerere and the radical wing of the Party regarding villagisation are difficult to ascertain. A clue is provided by Nyerere's decision to separate the implementation of villagisation, i.e. physical resettlement, from the more ambitious task of ujamaa development. In so doing, Nyerere managed to instigate a radical speed-up of the villagisation process without breaking his own rule that ujamaa farming could only come about as the result of voluntary cooperation of the *wajamaa*. Thus he assuaged fears he might have had of over-zealous party-activists excessively interfering with the day-to-day farming activities of the villagers once the villages had been set up. There were at the time repeated calls from the radical wing for TANU to assume the role of a *vanguard* party, and

it is likely that Nyerere was concerned that party cadres would seek to impose 'ideological practices,' i.e. communal farming, on the villages. Moreover, if the stagnation in the agricultural sector had continued, it could have become progressively harder for him to stave off such demands for a more militant approach to ujamaa (as opposed to villagisation).

The food shortages combined with low foreign exchange reserves had a significant impact on decision making in the period after the operation had started. The foreign aid component of Tanzania's budget increased throughout the 1970s. From 1972 to 1975 total aid (loans and grants) went up from US\$ 60m to US\$ 300m (Havnevik *et al* 1988, 124). Several of the donors advised against any emphasis on collectivisation of production. Particularly, the World Bank is reported to have exerted pressure on the government to downgrade the perceived emphasis on communal farming (McHenry 1979: 221-22; Ergas 1980: 404-5).

The World Bank evidently mistakenly believed that compulsory communal labour was an integral part of the villagisation operation.²⁷ This misconception is not surprising, since confusion in Tanzania was rampant at the time as to the meaning of villagisation. Although Nyerere repeatedly stressed that the villages now created were 'development villages' as opposed to 'ujamaa villages' (which could only develop voluntarily), villages were still

²⁷ The World Bank's mistake was duplicated by Lofchie (1978), as he argued that communal farming was at the root of Tanzania's economic problems. Raikes (1979) quickly spotted Lofchie's mistake, and in a commentary to his article he pointed out that the communal aspect of villagisation had been dropped at the time when Tanzania's food shortage arose; also see Briggs 1979. (Lofchie does not seem to have taken note of Raikes' correction as he restated his argument ten years later (1989: 116-8).)

referred to as 'ujamaa villages' more often than not (McHenry 1979:168-9). An ujamaa village properly referred to a village where a significant proportion of the cultivation was communal. To what degree donor pressure was instrumental in keeping communal farming more or less off the agenda is uncertain. As we have seen, Nyerere had in his call for nationwide operations stressed that communal farming were to remain voluntary and TANU's 1972 paper *Siasi ni Kilimo* had been notable for omitting communal farming from the agricultural policy objectives. There is therefore no evidence of a shift in policy and it is at any rate far from certain that Party and Government would have wished to pursue collectivisation more vigorously considering the precarious nature of food security in the post-villagisation period (see McHenry 1979: 221-22).

The general crisis, intensified external pressure and reports to the government of grave errors committed in the operation by over-zealous officials, led to a slight relaxing of the requirements demanded for recognising villages, which in turn suggests that the conservatives' position was strengthened (McHenry 1979). In 1975, a tacit agreement was reached on some highly productive and densely populated areas, as for example Kilimanjaro region, which had not yet been touched by the operation. In these areas villages were 'created' without any actual movement of people or redistribution of land.²⁸ The operations were further tempered early in 1976, when the Prime Minister's Office issued a Directive, conceding that mistakes had been committed during the operations, which urged

²⁸ Interview with R.H. Green, June 1993.

Village Councils to make and implement 'village plans' designating farming, livestock, residential and service areas in order to rectify over-crowding in village centres.²⁹

In June 1975 the National Assembly passed an amendment to the constitution, which established the supremacy of the Party (Mwansasu 1979: 169). The act appears primarily to be of ideological significance as in practice it merely implied a transition from *de facto* supremacy to *de jure* supremacy. The previous years' policy making with all major decisions made in the NEC or National Conferences and the expulsions of MPs in 1968 indicate that the Party had long considered itself to be the country's superior organ. Nyerere's position in this apparent bout between Party and Government is unclear but, some years previously, in 1972, he had stated that "[i]n theory, the National Executive Committee of TANU is more powerful than the cabinet ... But our practice is different from this theory and policy of TANU."³⁰ After the amendment had been passed Nyerere went to great pains to stress that the government still had the responsibility of implementing TANU policies (Mwansasu 1979: 175-6).

It was at the other extreme of the organisational structure that the Party's institutional entrenchment in this period was most significant. The Villages and Ujamaa Villages Act of 1975 resolved that in villages with a TANU branch, the chairman and secretary of the

²⁹ PMO. January 1976. *Revisions to Actions Taken When People Were Moved to Villages*, cited in Wily 1988, 154.

The settlements adjustments which followed are known as Operation *Sogeza* (Operation Move).

³⁰ *The Nationalist*, 18.2.1972, cited in McHenry 1979, 69.

branch would automatically become the chairman and secretary of the Village Council, and village elections for Party office were closely supervised by the Party's district branch. The Village Assembly - the basic democratic unit of the village consisting of all adult villagers - elected the remaining councillors. These arrangements obviously entailed an appreciable strengthening of the Party's power, but one is well advised to keep in mind that under the decentralised administration the distinction between Party and the civil service was blurred, Party control of village activities inevitably also involved the civil service (see the above discussion on decentralisation).

LAND POLICIES AFTER VILLAGISATION, 1976-79.

Villagisation had dramatic and far-reaching implications for smallholders' rights to land. Villagers now found that they had become parts of a much larger state machinery and that they effectively had succumbed many of the rights they had over what they regarded as their land to the state administration, represented by village and district government. Villagisation effectively translated into an appropriation of all customary lands in practical, if not legal, terms. A village elder in Tabora region summed up the change in the following words:

In the old days, that is before Villagization, people owned the land. You could sell the house and the earth because no man would buy a house without first looking at the land with it. But most people cleared their own land, and even when people began to come and buy houses here they got more land by asking people with a lot

of land to give them some, or they borrowed it. Today you can't do anything with your land. It is not our land anymore. (Wily 1988: 288)

This statement poignantly captures the centralising effect the villagisation exercise had on land administration. The extent to which the smallholders lost control over their land varied across the country, according to the way in which the operations had been implemented and to local conditions, such as land availability and degree of involvement by the local councils but one can safely state that the qualitative shift from community to state control of land was common to all rural areas.³¹

The common form of laying out villagers' land-plots was in block farms (*bega kwa bega*), which were supposed to facilitate mechanisation and ease supervision of cultivation. The plots were held individually, but no firm guarantee of tenure existed under the village administration. The Village Council could reallocate utilised plots to others (URT 1982: 108). Villages generally had at least one communal farm, although communal farming did not appear as a central policy issue after villagisation. Nyerere, for example, did not once mention the issue of communal farming in the lengthy report on progress since the Arusha Declaration and on future plans which he presented to the NEC in 1977 (Nyerere 1977). The enforcement of communal farming depended first and foremost on the local Party officers' individual priorities as there were no clear national directives on the issue.

³¹ See Wily 1988 and Lerise 1996 for case studies from Tabora and Kilimanjaro regions, respectively. Good national surveys are URT 1994 and Hoben *et. al.* 1992.

The national land policy agenda in this period is vague and inconclusive. Resettlement or villagisation had been the central tenet since just after independence and, with that completed, questions of land and land ownership retreated more into the background. The relative absence of land issues in the policy debates, combined with a low level of implementation of existing plans, obscure the significance of the policies formulated in the last half of the 1970s. In this period we see the crystallisation of land use planning as the central concept in the land policy - a trend which has continued to the present. The first vehicle for land use planning was the Regional Integrated Development Plans (RIDEPs).

The decentralisation reform had set up an administrative structure which was well-suited to regional development plans by creating 'development teams' as the leading rural administrative bodies - Regional Development Councils (RDCs) and District Development Councils (DDCs). The main function of regional and district officials was to draft and execute development plans. For the control of regional development activities at the national level, the Decentralisation Act had created the Prime Minister's Office (PMO). The PMO was responsible for providing assistance to the regions' development activities and, with this in mind, the PMO devised the RIDEP policy to attract foreign assistance. Through the RIDEPs it was hoped that international donors would enable "the district and regional administrations to become effective agents of change in the rural areas on behalf of the national leadership." (Kleemeier 1982: 65)³² It was also a question of internal competition

³² Kleemeier's articles (1982; 1984 and 1988) provide detailed and insightful accounts of the RIDEPs in Tanzania, also see Belshaw 1982. Unless otherwise stated, the information in this paragraph is from Kleemeier 1982, 62-8.

for aid-funds. At the time, all foreign assistance was channelled through central ministries, not the PMO. McKinsey's decentralisation plan had recommended that 40 per cent of the government's development budget should be allocated to the regions but the regions received only an average of 14 per cent in the following years (Kleemeier 1984: 190).

In 1973 several donors were invited to assist in the preparation of regional plans (Belshaw 1982: 95). The RIDEPS were to develop through three phases: regional planning and project identification; project appraisal; and implementation. It was hoped that each region would be allocated a donor that would assist, i.e. provide expertise and financing, through all the three stages. As it turned out, however, the RIDEPS never had the impact on the regions' agricultural development that had been anticipated. Few donors followed through any further than the planning stage and even fewer implemented all or most of the planned projects.³³ The World Bank committed most resources to the RIDEPS but their programmes, notably the National Maize Programme, mostly concentrated on agricultural inputs which in turn proved to be uneconomic (Kleemeier 1988: 62-5; 1984). The main significance of the RIDEPS remain the institutional framework and the policy models that emerged from and that evolved around them. At the root of this structure was, and is, the villages.

It is not accidental that the RIDEPS arose shortly after decentralisation. The restructured administration set up through the reform was tailor-made for the implementation of large-

³³ See Belshaw 1982, Table 1, 298, for a schematic presentation of the various donors involvement in the RIDEPS in the 1973-81 period.

scale regional ventures such as the RIDEPs. Villagisation was a logical continuation/consequence of decentralisation and the villages fitted neatly in at the bottom of the new institutional hierarchy. It is widely reported that pressure for villagisation from local officials increased after decentralisation (Mwapachu 1979: 116-7; Friis-Hansen 84: 22; Kjekshus 1977: 279). This is probably due to administrators preferring people to live in villages where they are more easily 'reached' than in smaller, scattered settlements. Villages were for all intents and purposes viewed as something to be 'developed.' This view is clearly reflected in the Third Five Year Development Plan, which stated that "[v]illages will be regarded as Project Units" (URT 1978: 115).³⁴

In 1975 existing cooperative societies at village level were abolished as the Village Act defined registered villages *ipso facto* as cooperative societies. In 1976 the eradication of the voluntary cooperative movement was completed as the regional cooperative unions were banned as well (van Cranenburgh 1990: 144). The redefinition of cooperatives resulted in a still more clearly defined *vertical* structure of rural administration and horizontal links were only established at the top of the administrative hierarchy (see Fortmann 1980: 105). In 1978 the government appointed a large number of Village Managers for the villages.³⁵ This new post had the supervisory and advisory responsibility for development activities within

³⁴ The Third Plan was for the period 1976-81, although it was not published before 1978 due to delays in the submission of regional plans (Belshaw 1982: 296).

³⁵ McCall and Skutsch (1983: 258) report that approximately 2,000 Village Managers were appointed, while Maeda (1981: 152) gives the figure as 3,000.

the villages, which included the enforcement of agricultural by-laws (Kleemeier 1984: 183). These changes underlined the villages' position as a mere administrative unit at the bottom of the national hierarchy and the village governments were at this stage more likely to consider themselves to be accountable to their respective District Councils rather than their own Village Assemblies

In 1979 the Village Act was amended to allow the Village Council to raise revenue internally, mainly by collecting fees and by imposing fines on offenders against by-laws.³⁶ Although the Village Act also enabled Village Councils to pass agricultural by-laws, these were typically imposed by officials at the national or regional level and by-laws enacted by the Village Council needed authorisation from the District Council and the PMO in order to be legally valid. It is therefore fair to conclude that, although the amendment was intended to give villages added 'financial self-reliance,' it was more likely to serve primarily as an added incentive to Village Councils to police official directives.

The belated Third Five Year Plan placed much less emphasis on the agricultural sector than the previous plans. This is probably due to an understanding that RIDEPs through foreign investment would bear the brunt of agricultural development. An added reason is possibly that the regional plans that had been envisioned to have been included in the Plan were not forthcoming at the time of publication (see Belshaw 1982: 296). Industry was budgeted at 27 per cent of government investment, while agriculture, the second highest sector, was

³⁶ Villages (Revenue) Act, 1979.

allocated only 12 per cent (URT 1978: 10). The agricultural policies put forward by the Plan were reminiscent of those of *Siasa ni Kilimo* and made no mention of communal farming.

Under the heading 'Objectives and Goals' the Plan read:

Measures will be taken to ensure that the Party has effective control over all implementing institutions and that the people are involved in all economic activities by using new methods and modern technology. (URT 1978: 5)

The issue of communal farming was fudged by conflicting policy signals from different branches of the administration. The issue was not made explicit in any general statement on agricultural policy but it still remained an official Party objective (see McHenry 1979a: 202). The surveyed sources reveal no discernible trend of any coordinated and consistent Party effort to promote communal farming. It depended to a large extent on local Party leaders' efforts to fulfil seemingly vague directions on such requirements (see McCall and Skutsch 1983: 258; Lele and Meyers 1989: 30). When asked, most villages reported that they had communal farms, but these were typically far less productive than privately owned fields and were seen by villages as being more of a necessary political gesture than a productive venture (McCall and Skutsch 1983: 258).

That the land policies of this period are ridden with inconsistencies and contradictions is the product of conflicting policy signals, multiple agencies of implementation and vague and legally flawed land legislation. Three distinct institutional channels operated through the regional and district levels, and had their own vertical chains of command emanating from

their national head offices: the RIDEPs were run by their respective donor agencies and were coordinated by the PMO, which was also in charge of planning; the Government oversaw the activities at each level and implemented its policies through its appointed executive officers; and the Party machine policed the implementation of Party directives and ‘guided’ the various activities.³⁷ The multiplicity of policy objectives and implementers/administrators precluded the emergence of a more coherent policy vision and contributed to the often haphazard implementation of the stated policies (Kleemeier 1984: 190-92). The resulting muddle was further confounded by the large degree of autonomy enjoyed by local administrators, whether civil servants or Party officials (or both), who often took advantage of the lack of clarity by pursuing their own agendas.³⁸

The latitude afforded by national policy directives might have been intentional, with the expectation that the RIDEPs would provide the final policy definition. As it turned out, only a minority of the regions got beyond the planning stage and the plans were mostly project oriented with few, if any, general directives on land issues. Land and land rights were entirely subsumed under general project headings in this period and did not appear as an issue by themselves. Villagisation was a *fait accompli* and the state considered matters

³⁷ See Belshaw 1982, 295, for a schematic presentation of the complex administrative structure for ‘regional planning’ after decentralisation.

³⁸ John Max tells how the dictatorial manners of many district officers led to decentralisation being nicknamed *Madaraka Mikononi*, meaning Power in the Hands (of the administrators), derived from the correct Kiswahili name for decentralisation: *Madaraka Mikoani* (1991: 85).

relating to land to be at a fresh start. There were several attempts to sue the state over land held under customary tenure which was lost during the operations but the Chief Justice, an ardent admirer of Nyerere, refused to let such cases reach the courts.³⁹ Land ownership was considered to be entirely an administrative matter.

LAND LEGISLATION.

In the period surveyed in this chapter, rural Tanzania went through extraordinary changes in land settlement patterns. Yet surprisingly few major pieces of land legislation were passed. Whether this is the result of legislative prudence in a chaotic policy environment or plain oversight is hard to ascertain, although the heavy-handed administrative bias of the 1970s seem to indicate that legal considerations were deemed to be of little importance.

In 1968, a seemingly peripheral Act was passed which primarily addressed the issue of *Nyarubanja* Tenure in West Lake Region. This customary form of tenure had an element of feudalism which the independent Government wanted abolished at an early stage. The Act sought to eradicate all forms of customary feudalism, which was in line with the official

³⁹ Interview with Mr. Muggo - Secretary of the Presidential Land Commission, April 1995. According to Mr. Muggo, the first court case would have been in 1974 "if the court system had been independent."

land policy, but this aspect of the Act is beyond the scope of this work.⁴⁰ One particular provision of the legislation has had a significance far beyond its originally stated intentions. Section 8 of the Act empowered the Minister responsible for lands to establish a Customary Lands Tribunal. The Tribunals were to consist of members appointed by the Minister and were given the authority to rule in cases relating to customary law. The wording of the Act implied that the Tribunals were intended for cases directly relating to customary forms of landlordism but a subsequent High Court Directive ruled that customary cases of land should in the first instance be referred to the Customary Lands Tribunal.⁴¹ The Tribunals have become a central feature of Tanzania's administration of customary land.

In 1970 an amendment to the Land Ordinance was passed, which was obviously aimed to support the ongoing nationalisations.⁴² The amendment empowered the President to revoke a granted right of occupancy if he deemed it to be in 'the public interest,' notwithstanding any guarantee provided by the Land Ordinance prior to amendment (s. 7(b)). More importantly, if the holder of the revoked right was "not ordinarily resident in the United Republic", the President could rule that no compensation would be paid to the holder (s.

⁴⁰ The Customary Leaseholds (Enfranchisement) Act of 1968 discussed here was a refinement of the Nyarubanja Tenure (Enfranchisement) Act of 1965, which it replaced (Fimbo 1974: 246-50; James 1971: 82-86; James and Fimbo 1973: 372-74).

⁴¹ Interview with the late Mr. Lusuva, senior Ministry of Lands official (he was appointed Commissioner of Lands shortly after the interview), May 1992.

⁴² Land Laws (Miscellaneous Amendments) Act, 1970.

14C). The act in itself was not so remarkable, in as much as it enabled the government to undertake politically popular actions which furthered the stated policy objectives. But it underscores the marked difference in the legal guarantees afforded granted and deemed rights to land. In the case of statutory rights, such an Act was required for the government to take the desired path of action. In the case of customary rights on the other hand, no such legal backing was considered necessary as was made abundantly clear by the villagisation operations.

In 1973, shortly before Operation Tanzania commenced, the Land Utilisation Act was passed.⁴³ The Act empowered the President to declare a 'specified area' if he deemed it to be "in the public interest to regulate land development" (s. 4). In such an area the Minister responsible for regional administration could annul all existing rights to land (s. 5). According to a Cabinet Paper, the Act was intended to facilitate villagisation. The draconian powers provided to the President by the Act caused concern among several MPs and assurances were granted that the Act, after all, was not necessarily intended to facilitate villagisation prior to the passing of the Act (URT 1992: 46). As it turned out, no part of the country was declared a specified area during villagisation, so the Act was never utilised for this purpose (ibid.) but the Act was brought back into play again in the mid-1980s (see chapter 4).

⁴³ Rural Lands (Planning and Utilization) Act, 1973.

The Village Act of 1975 is of considerable interest. Its land tenure provisions were addressed in Directions made under the Act.⁴⁴ The directions ruled that the District Development Councils (DDCs) would allocate land to the villages. The Village Councils would in turn allocate land to the individual household (*kaya*). The Minister responsible for the villages (the Prime Minister) was delegated the authority to issue directions for land use as he saw fit. The Village Councils were obliged to give effect to such directions. The Village Council was also subject to orders from the Area Commissioner.

The Directions gave what amounted to total discretion to the Minister and President over matters relating to land use and ownership in the villages. In the villages, the Village Councils were made the supreme authority and the Act empowered the Councils “to do all such acts and things as are necessary or expedient for the economic and social development of the village” (section 12.1(a)). There were no provisions guaranteeing the land rights of individual villagers. Nowhere was it specified how the DDCs would acquire the land that they were to allocate to the villages. There was no mention of extinguishing existing rights to land (URT 1992: 47). The vagueness and contradictory nature of the Directions were to be revealed much later, when several actions which they were intended to address were successfully challenged in court. At the time, however, it was widely taken to be true that all village land had become communal ownership of the villages and that it was to be administered by the Village Councils.

⁴⁴ G.N. 168 of 22/8/75, see URT 1994, 44-5 and Tenga 1992, 9.

These legal issues throw light on the extreme weakness of the guarantees provided to small-holders under customary law. The legislation discussed in the previous chapter illustrated how easily deemed rights can be manipulated to fit the nation's 'development objectives.' In retrospect, the most obvious explanation for the legal muddle presented above seem to be as follows: seeing that it is so easy for the developmental state to fit customary land legislation to 'its needs,' the people involved just assumed that this had, indeed, been done.

POST-VILLAGISATION POLITICS.

The failure of a clear rural policy to emerge after villagisation is connected with the predominance of marketing and macro-economic issues on the political agenda. The period was further removed from a consensus on policy objectives than at any previous time. Conflicting goals and political objectives resulted in frequent swings in policy directions that exacerbated the lack of clarity and consistency in rural policies.

The post-villagisation period started with a retrenchment of the Party's position and a radicalisation of the economic policies. The abrupt abolition of the cooperatives was legitimised as a blow against corrupt and self-aggrandising 'middlemen.' Cooperatives were seen by the Party to be controlled by the wealthier farmers and were therefore incompatible with rural socialism. Van Cranenburgh, in her study of the politics of the cooperatives in Tanzania, sees their abolition as an expression of strengthened Party influence after the

1975 Party supremacy constitution (1990: 146-7, 191-2). The Party's position was further reinforced in 1977 as TANU merged with Zanzibar's Afro-Shirazi Party to form CCM⁴⁵ (Mlimuka and Kabudi 1986: 76; Bryceson 1993: 13).

In February 1976, Prime Minister Rashidi Kawawa, by then considered to be among the Party ideologues, took the curtailment of trade one step further when he unilaterally ruled that no private shops would be allowed to operate in the villages. The announcement was quickly followed by a concerted move to close all private shops in what became known as Operation Maduka.⁴⁶ The move led to widespread shortages of consumer goods in several villages and caused a public outcry. In May, Nyerere intervened and denounced the closing of shops in the villages which had not started a cooperative shop of their own (McHenry 1979a: 198-201).

Operation Maduka mark a turning point in the radicalisation of policies. Tanzania had come under heavy international criticism of the heavy-handed approach to villagisation, and the large dependence on foreign aid had strengthened the donors' influence. In February 1977, Kawawa was replaced as Prime Minister by Edward Sokoine (McHenry 1979a: 212, n.6). Sokoine became known as the Prime Minister who started to liberalise the economy. In his first year, petrol stations and butcher shops in Dar es Salaam were 'denationalised' and the

⁴⁵ *Chama cha Mapinduzi* - the Revolutionary Party.

⁴⁶ *Maduka* - shops.

city's business community later remembered 1977 as the year of "the wind of change" (Kiondo 1989: 181-82).

In 1977, the long troubled East African Community collapsed and a closure of the Kenyan border followed. One of the consequences of the severed economic ties with Kenya was an ensuing shortage of household goods such as soap and toothpaste. Kiondo connects the shortage with Nyerere's public encouragement of private investment in October 1977 (1989: 205). He referred on that occasion to the Public Ownership policy, reminding Party leaders that the Arusha Declaration had defined a place for the private sector in the economy (Lofchie 1978: 458; Hartmann 1990: 245).

By the end of 1977, mainly thanks to a sharp increase in coffee prices, the 1974-75 foreign exchange shortage had been surmounted. Tanzania was then advised/pressured by the IMF and the World Bank to liberalise import restrictions as the foreign reserves were incongruously deemed to be "too high" (Payer 1983: 797-8). The consequent import liberalisation led to an explosion in uncontrolled imports, much of which were non-essential consumer goods. By late 1978, the foreign reserves had depleted from the equivalent of 5 months imports to 10 days equivalent (*ibid.*). The Ugandan war broke out at this time and the country found itself deeply embroiled in a balance-of-payments crisis once again.

Nyerere held the Bretton Woods institutions responsible for the ensuing foreign reserve crisis and the incident hardened his stand against IMF and World Bank influence on the

country's economic policies. Negotiations with the IMF over a major reform programme broke down in November 1979. The sitting Finance Minister, Edwin Mtei, disagreed strongly with Nyerere and the Party's National Executive Committee over their opposition to the IMF conditionalities and was dismissed/resigned as a result of the breakdown (Payer 1983: 799; Bryceson 1993: 190). In his 1980 New Year's Address to the foreign diplomats accredited to the country, Nyerere delivered a fierce attack on IMF for seeking to take advantage of Tanzania's economic crisis by forcing it to displace its ujamaa policies with capitalist strategies (Kiondo 1990: 28; Payer 1983: 799).

Nyerere's defiance in the face of international pressure to liberalise the nation's command economy was a suitably symbolic entry to the new decade. Even as the economic crisis steadily worsened, Nyerere and the radicals who still dominated CCM were set to continue what was to be a protracted defence of the Party's ideology and development strategy. Mtei's unprecedented display of Ministerial opposition to Nyerere and the Party stands as a significant counterpoint to the national display of militancy. The late seventies had showed the first signs of a generational shift as younger and better educated (often at prestigious western academic institutions) officials, who were inclined towards a more market oriented approach and less likely to toe the line of a strict interpretation of Party ideology, ascended in the rank and file of the Government and CCM.⁴⁷ The brief economic thaw experienced in

⁴⁷ Hartmann argues that the merger between TANU and the Afro-Shirazi Party had contributed to putting the older generation of TANU barons in a minority within CCM (1990: 247). Hartmann's assertion is backed up by van Donge and Liviga's study of the 1982 NEC elections, which finds that only 10% of the successful Zanzibari

1977 had indicated that conservative forces within the government were gaining in influence. The stage was set for a profound and protracted struggle.

CONCLUSION

We have seen in this chapter that villagisation was the compound result of a wide range of political forces. First and foremost, the strategy dominated Nyerere's policy agenda. Having launched the blueprint with the post-Arusha paper *Ujamaa Vijijini*, he quickly followed up with his 1969 Presidential Circular and his adjustments to the second Five Year Plan. Both were unilateral policy initiatives which were enforced without debate within the party or government. The reason why the policy was widely accepted by leaders across the political spectrum, if not agreed upon in all its elements, was that it offered an attractive model of development in which the majority of the population could be made more readily available to the modernising influence and control of the centre, under whichever political creed. The 'decentralisation' reform was instituted for the same reason. It streamlined the administrative structure and integrated the organisations of party and government. Although decentralisation was probably intended as a means of strengthening party control over policy definition and implementation, it generally had the opposite effect as officials who

candidates were prominent at the end of the sixties, while the corresponding figure for the mainland candidates was 23% (1985: 53-4).

functioned as representatives of both organs tended to identify predominantly with their governmental responsibilities.

After Nyerere had extracted a ratification from the party for the decision to separate the issues of living together and working together and he had announced that villagisation was mandatory, the policy gained a momentum of its own. The speed by which the rural population were settled in villages was considered by many a success in its own right. By this stage it was clear that the primary objective of villagisation was to be the pursuit of modernisation, as evidenced by the policy directions and exhortations in the 1972 *Siasi ni Kilimo* and the third Five Year Plan. The widely-perceived emphasis on the collectivisation of village cultivation was little more than a myth. Villagers resented mandatory and, in their experience, largely fruitless work on the village communal farm as a necessary evil but its impact remained limited and did not significantly affect the general structure of production.

The combined effect of 'decentralisation' and villagisation was a comprehensive centralisation of the country's administrative structures. The government was brought closer to the rural population and direct links of command were established between the centre and the rural areas. The village leadership was, in practice, accountable to the District Council and the local party branch rather than to their respective Village Assemblies. This rigid structure had a profound impact on administration of land. Land policies and arrangements of land ownership was first and foremost something to be implemented and the assumption was made that the local administration was at liberty to allocate land at will.

The Regional Integrated Development Programmes became the first vehicles for comprehensive land use planning but were more an indication of intent than a significant factor of rural life as Programmes rarely got beyond the planning stages. The basic idea behind the RIDEPs in relation to land was that they would enable government to effect the most rational and scientific base for land use by ensuring that all land would be put to its optimal use. Under this approach the establishment of land ownership was considered to be primarily a technical exercise.

Legal considerations of land ownership were accorded little importance in this period. The entire villagisation operation had been executed outside the framework of the law. Customary ownership of land was treated as if it was conditional on administrative consent. People who were dispossessed of land did not have their pre-operation rights formally extinguished and those who were moved onto new land did not have their rights to the land properly defined in law. The massive upheaval this led to in many parts of the country left a legacy of legal ambiguity and complications which still besets the Tanzanian judiciary. It is perhaps equally significant that this judicial mess could have been avoided. The 1973 Land Utilization Act was purposely enacted to facilitate large-scale resettlements and gave sufficient powers to the President to have extinguished customary rights in all areas involved in the operation. It would, at the time, have made little difference to the targeted population whether such measures had been taken or not but the fact that it was possible underlines the weakness of customary rights *vis à vis* the executive.

At the end of the seventies, Tanzania was heading for its most severe economic crisis yet and the policy ideals of Arusha were coming under increasing strain. As the public legitimacy of the political leadership was being eroded and pressures for reform mounted, the central administration would find it more difficult to maintain their control over the land policies and issues of land ownership in the rural areas. The politics of the economic and political reforms and their effect on land policies in the eighties are the subject of the next chapter.

Chapter 4

ECONOMIC LIBERALISATION AND THE NATIONAL AGRICULTURAL POLICY

1980 - 1989

This chapter explores a period of profound transition in the ideological and economic environment. It takes us from the ujamaa policies which still reigned at the beginning of the decade, through the gradual market liberalisation of the latter half of the eighties which led to the near open embrace of market economy in the nineties. The political significance of this period is underlined by the departure of Nyerere as the Republic's President. The National Agricultural Policy marked the end of the anti-kulak rhetoric of the post-Arusha era. Individuals and private enterprises were subsequently encouraged to acquire land. The lifting of restrictions on land acquisition brought added pressure on smallholder security of tenure but smallholders also benefited to a certain extent from the relaxed restrictions on landholding. The chapter starts with a review of the economic reforms of the period and goes on to explore the political dynamics which lay behind the reforms. The second part of the chapter is an examination of the Agricultural Policy and the work which went into preparing it, and the third and final part discusses the land policies of the period.

THE POLITICS OF TRANSITION

By 1980, Tanzania's economic crisis was deeply entrenched and steadily getting worse. Pressures for economic reform were mounting within the Government and Party, but no immediate change was evident as the official Party line was that the economic problems were 'temporary' and not the product of faulty policies. The following years would put this notion under increasing stress which ultimately led to its demise. The path towards economic liberalisation was politically tortuous and divisive. First, a brief overview of the economic policy changes is given, thereafter the political battles surrounding the reforms are considered in more detail.

Economic reforms in the eighties

As we saw in Chapter 3, negotiations with IMF collapsed at the end of 1979 and Nyerere inaugurated the new decade with a fierce denunciation of IMF's pressure on Tanzania to adopt 'capitalist' policies. A new agreement was nevertheless drafted and approved by the IMF in September 1980 only to fall apart a mere two months later as the Government failed to keep within the set limits for public spending. The over-spending was mainly due to excessive credit extension to the agricultural marketing boards, notably the National Milling Corporation (NMC). A new round of negotiations in 1981 proved

fruitless as the government steadfastly refused to accept what it regarded as unreasonable demands (Biermann & Wagao 1986: 93; Stein 1991: 91-2).

Seeking an alternative to the austerity of the IMF's designs, the Government and Party looked inwards to mobilise internal resources in a 'self-reliant' attempt to pull out of the deep crisis. The first in a long series of reform programmes was termed the National Economic Survival Programme (NESP). The document was drawn up by the Government and approved by the Party's National Executive Committee in May 1981 (Baregu 1994: 207). It identified unfavourable external factors which were beyond the control of the Government as the principal causes of the crisis and desisted from undertaking a reform of the economic policies. The Programme was hastily prepared and ill-articulated and largely consisted of directives to state corporations and moral exhortations to farmers to increase output in terms which were reminiscent of earlier Party inspired campaigns. NESP failed to make any impact on the continued economic decline and was discontinued within a year (Biermann 1988: 177-78; Kiondo 1990: 28; Stein 1991: 93-4).

In 1982, in the wake of NESP's failure to stem the crisis, a Tanzania Advisory Group (TAG) was set up with assistance from the World Bank with the aim of formulating a new economic policy. The Group was made up of a team of international and national experts who were mutually acceptable to the Government and the Bank (Wangwe 1987: 151). On the basis of TAG's recommendations, the Structural Adjustment Programme (SAP) was produced and adopted by the Government. The SAP substituted the usual Five

Year Plan and is significant for its inclusion of standard IMF demands such as devaluation, increase of producer prices and budget deficit reductions. The reforms were not far-reaching enough to receive IMF or World Bank approval and the Programme's policy targets depended on what proved to be an unrealistically high inflow of foreign assistance (Biermann 1988: 178; Biermann & Wagao 1986: 94-5 and Bryceson 1993: 22-3). Although SAP was a first step towards meaningful economic reform, it had little effect on the structural imbalances that by now were deeply entrenched within the Tanzanian economy.

As economic support from IMF and the World Bank foundered, Tanzania turned to donors who were less hostile towards its economic policies. The Nordic countries and Netherlands, in particular, set less stringent conditions for the continued disbursement of funds and assistance from these countries made up for much of the loss from other donors who tied their aid to IMF endorsement. In 1984 the Nordic countries, too, made it clear to the Tanzanian government that there would be no expansion of assistance without an IMF agreement (Havnevik 1993: 289-90). Aid disbursements fell to a low point in 1985 and the government had to make some critical choices.

The 1984/85 budget represented a significant turn-around. The budget included a significant devaluation, maize-subsidies were removed and expenditure on social services were substantially cut. The Government also eased import restrictions and importers with own funds were allowed to bring in specified goods (Wangwe 1987: 152). The budget

opened the door for renewed IMF negotiations and finally, in August 1986, an agreement was signed. The agreement was preceded by a new economic policy launched in June the same year, the Economic Recovery Programme (ERP). The ERP signalled a departure from the planned economy model and relied on the use of prudent fiscal and monetary management in achieving economic policy goals. Unlike previous economic policy papers which had stressed external factors as the cause of the economic maladies, the ERP pointed to policy failures as an important cause for economic stagnation (Kiondo 1995: 82).

With the ERP, the basic macro-economic framework had been set for the acceptance of a market-oriented economy. The ERP was the last comprehensive economic reform programme of its kind and it was now clear that Tanzania had made a definitive break with the planned economy approach. Continuous devaluation gradually brought the Shilling closer to a more realistic value. Between 1985 and 1990 the ratio of the parallel exchange rate to the official rate dropped from 9:1 to 1.5:1 (Havnevik 1993: 291). Internal trade was liberalised and the dominance of parastatals in the official economy began to fade away. Foreign assistance increased to a new high, with a large part allocated to import support for private companies in order to revitalise domestic industry. The economy started to register real growth per capita again but the country remained highly dependent on foreign assistance and the nation's infrastructure, including its erstwhile successes of health and education, was deteriorating. The next section considers

the major political processes which underlay the significant economic transition of the eighties.

The politics of economic reform

At the beginning of the 1980s, a realignment had started to emerge among Tanzania's political elite. The deteriorating economy and the stand-off with IMF put strain on the cohesion of the Tanzanian political fabric and there were two discernible groupings within the state with conflicting visions of how to meet the exactions of the escalating crisis. At this stage the basic dividing point was whether or not to acquiesce to IMF demands.

The opponents of economic reform held that the crisis was primarily caused by external factors, namely the break-up of the East African Community, the Ugandan war, rising oil prices and declining international prices for the country's agricultural exports. They favoured a 'self-reliant' mode of recovery which would utilise internal resources without compromising the policies of ujamaa. The leading figure in this group was Nyerere, who in the early years of the eighties, frequently took the opportunity to deliver impassioned and inflammatory denunciations of the IMF. Prominent among the anti-IMF faction were also the radicals in the Party, the foremost of whom were the Party ideologist Kingunge

Ngombale-Mwiru, the ex-Prime Minister Rashidi Kawawa and the economist Kighoma Malima.

The supporters of economic reform took a far more critical view of the nation's economic policies and sought a more market oriented approach. This faction incorporated the older generation of conservatives, such as Paul Bomani, but owed its strength and numbers more to a new generation of well educated officials, Cleopa Msuya being among its more influential members. They had observed the experience of ujamaa since the Arusha Declaration and concluded that its policies were unworkable. Their affiliation was with the Government rather than the Party.

The standard cautionary note needs to be added to the outlines of the opponents and proponents of economic reform. Both factions encompassed a wide range of individuals with differing ideologies. The opponents of reform spanned both the radical party activists and moderates loyal to the ideals of the Arusha Declaration (also known as Arushaists) while the reformers included both pragmatics who considered gradual reform to be economically expedient and those advocating a more rapid and comprehensive opening for market forces. The factions were not mutually exclusive and it would be misleading to portray it purely as a Party vs. Government rivalry as there could be and was considerable overlap between the two.

At the beginning of the decade, the opponents of reform dominated. The Party organised mammoth rallies to protest the IMF conditions in order to garner mass support and legitimacy for its policies (Mlimuka & Kabudi 1986: 76). Shows of defiance failed to sway the growing public dissatisfaction with the conditions of CCM rule. The standard of social services had been declining ever since the provision of universal primary education in 1976, there were widespread shortages of consumer essentials and many goods were only available on the rapidly expanding parallel market. The public (not unreasonably) suspected official complicity in the illegal market and one of CCM's new nicknames became *Chakua Chako Mapema*, which freely translates to Loot Now (or literally: Choose Yours Early) (Kiondo 1989: 110). The Party faced a pressing need to restore economic growth and popular legitimacy, to which it turned with more ideologically inspired campaigns.

In January 1981, the Central Committee of the Party was instructed by the NEC to investigate allegations of black marketeering and financial impropriety, particularly among Government and parastatal officials. A number of cases of corruption were unearthed and widely publicised, and high ranking officials were apprehended and dismissed. The cleansing exercise soon lost steam and its chair, the Vice Chairman of the Party and President of Zanzibar, Aboud Jumbe, announced that "innocent people may have been punished" and the exercise subsequently petered out. The officials who had lost their positions through the campaign, more often than not, received new appointments elsewhere. The Minister of Communications and Transport who had also

served as the Chairman of Air Tanzania, for example, lost his posts only to be appointed later as a Regional Commissioner, a position which holds Ministerial status (Mlimuka & Kabudi 1986: 77-9; Kiondo 1989: 231, n16).

The National Economic Survival Programme, which was passed by the NEC in May 1981, was drawn up by planning officials at the Ministry of Economic Affairs and Planning (Baregu 1994: 207), the Minister of which was the socialist hardliner Kighoma Malima. Malima's influence on the framing of the Government policy paper was readily apparent from its ideologically couched contents (see above). The NESP was closely followed with the launching of "The CCM Guidelines 1981". The document identified "a failure or inability to mobilise peasants and workers... a hostile international environment, declining agricultural production and the expansion of local capitalism" as the major challenges to the nation (Havnevik 1993: 60; also see van Cranenburgh 1990: 117-20). It bore a strong resemblance to TANU's *Mwongozo* (Guidelines) of ten years earlier and had evidently been announced with the hope of eliciting the same kind of outbursts of popular enthusiasm and support (Mlimuka & Kabudi 1986: 80). The Guidelines were received with indifference. Andrew Kiondo, in his meticulous and percipient study of the reforms, connects the Party's failure to elicit popular support with the Guidelines to the shelving of the unsuccessful NESP and the slow progress towards liberalisation which started with the subsequent Structural Adjustment Programme (1989: 236).

The Structural Adjustment Programme marked a significant shift to the right in Tanzanian economic policy. Unlike the NESP, the Programme stressed economic, rather than political, factors of policy and it can be seen as an attempt at *rapprochement* with the IMF (Biermann 1988: 178-9). The failure to gain IMF approval was partly a product of the refusal to include a cut-back in social expenditure under the SAP. The pledge to maintain social services at existing levels was not honoured and spending towards health and education was significantly cut in the 1982-84 period, contrary to what was envisioned in the Programme, so the SAP entailed a deeper commitment to structural reform than might have been immediately apparent (Kiondo 1989: 199-200). A new National Agricultural Policy which announced further liberalisation of the agricultural sector closely followed the launching of the Programme. The Policy is discussed in more detail in the next section of this chapter.

In 1982, ‘the rolling back of the state’ started in two significant arenas as this year saw the reintroduction of local government and cooperative unions in the rural areas.⁴⁸ The revival of local government institutions followed a recognition that the administrative structure set up at decentralisation had proved incapable of maintaining an adequate level of essential social services. CCM’s 1980 election manifesto first pledged to return local government “with the aim of enhancing democracy and the development of the policy of self-reliance” (cited in Max 1991: 103). The policy objective was also reiterated in the

⁴⁸ Urban councils had been reintroduced already in 1978, see Max 1991, 90-7. On the reintroduction of the cooperatives, see van Cranenburgh 1990, 152-67.

Party Guidelines (van Cranenburgh 1990: 119). In 1981, the Party instructed the Government to design and establish a new structure of local government in order to enhance democracy, improve welfare and to facilitate the mobilisation of the local populace in more efficient and participatory development activities (Max 1991: 104). The new policy was implemented in 1982 by the Prime Minister's Office.

The administrative reform reintroduced representative local councils but retained much of the structure set up at decentralisation (Semboja and Therkildsen 1991: 6). The principal executive officers continued to be presidential appointees. Although the Party remained constitutionally 'supreme', the 1982 Constitutional amendment separated the Party from local government, which had the knock-on effect of relaxing the Party's grip on economic activities at the grassroots (Kiondo 1989: 175; Havnevik 1993: 61). So, in spite of the reform having originated from within the CCM, it resulted in a weakening of the Party's dominance of local activities. Financial considerations were prominent in the Government's adoption of the revived local government structure which had the immediate effect of substantially reducing central disbursements to the districts.⁴⁹

The reintroduction of local government and cooperatives had only limited impact on the villages' position in relation to the central administration. The district party branch screened the elections of Village Party Chairman and Secretary, both of which had the corresponding positions in the Village Council, also all other Councillors had to be Party

⁴⁹ See Finance Minister Cleopa Msuya's 1983-84 budget speech, *Daily News*, 17.6.83, cited in Stein 1985, 119.

members, albeit the local party branch did not generally screen their elections. The elections for the District Councils were screened by the district party branch and the top executive officers were still appointed by the national executive. The regional administration was virtually unaffected by the Local Government Act and still consisted exclusively of appointed officers. Village Councils were also still required to gain authorisation for village by-laws from the District Council and the Prime Ministers Office (s. 118(1)(d)). (Semboja and Therkildsen 1991: 10-11; 55; 45-46) The 1982 Cooperatives Act was beset with ambiguities and contradictions and the new cooperatives were still under heavy party control. Membership in village cooperatives were mandatory and all cooperative society elections were screened by the party (van Cranenburgh 1990: 159-67).

In 1983, the radicals within the Party made another attempt to reassert their weight. Again, the state's ideological forces were unleashed on the 'corrupt elements' of society. At the beginning of the year, CCM launched a high profile crackdown on 'economic saboteurs.'⁵⁰ Hints of the campaign had come already with the launching of the 1981 Guidelines (Bryceson 1993: 24). The National Economic Sabotage campaign was directed at operators within an burgeoning parallel market, who were accused of profiteering and sabotaging the economy. The campaign was initially popularly received and it was commonly held that corruption had reached an unacceptable level. As the campaign carried on the initial enthusiasm wore off and cynicism set in. The received

⁵⁰ See Maliyamkono & Bagachwa 1990, ix-xix, for an account of the crackdown.

notion on the street was that: ‘Only petty dealers are affected, while the big fish are let off scot-free’ (Kiondo 1989: 238).

The Economic Sabotage campaign was followed by a similar party-style campaign with the Human Resource Deployment Act of 1983. This campaign, popularly known as *nguvu kazi* (work hard), was aimed at ‘loiterers’, i.e. people without formal employment in towns, who were summarily rounded up and returned to their ‘home villages’ (see Shaidi 1984). The campaign proved ineffectual and most of the repatriated ‘loiterers’ quickly returned back to the towns where they had been picked up. Again, the Party’s attempts to address the economic problems in a political manner had failed.

In the beginning of 1984, at the tail end of the Economic Sabotage campaign, Prime Minister Sokoine died in a car accident. Sokoine, who was considered to be Nyerere’s chosen heir, had been seen as the driving force behind the campaign (Kiondo 1989: 240). The man who took over as Prime Minister was Salim Ahmed Salim, a Zanzibari who was well known to be in support of a more market-oriented policy approach.

In the meantime, the budget deficit was steadily getting worse, and donor assistance fell well short of the targets set in SAP. The SAP and the Agricultural Policy had already indicated that an economic move to the right was under way and the escalating crisis gave further impetus to the forces within the Tanzanian state pressing for economic reform. The 1984/85 budget can only be seen as a victory for the reform-friendly elements in the government, with its retreat on social spending and acceptance of an evaluation on the

scale demanded by the IMF. Nyerere went to great pains to stress that the budget was not a matter of giving in to IMF pressure (Bryceson 1993: 28), a reasonable point since the reforms can plausibly be seen as the product of forces internal to the Tanzanian state.

Around May 1985, Nyerere announced that he would not seek re-election at the October 1985 presidential election. It was not immediately clear who the next candidate would be, but the choice soon narrowed down to three serious contenders: Ali Hassan Mwinyi, the President of Zanzibar, Rashidi Kawawa and Salim Salim. Of the three, Mwinyi and Salim were supporters of economic reform, Mwinyi had embarked on liberalisation in Zanzibar. Kawawa was the sole ideologue among the contenders. Initially, registration for the election was much lower than what was usually the case. Many attributed this to the prospect of Kawawa being the presidential candidate, and that people feared a return to hard-core ujamaa policies (Rajab 1985: 22). Nyerere then made it known to the leaders of CCM that he preferred a President from Zanzibar this time, which narrowed the field down to Mwinyi and Salim and quelled the people's misgivings about a consolidation of the hardships associated with the ujamaa policies.

An extraordinary spate of electioneering followed, of which I will present the main points here.⁵¹ Nyerere's preferred candidate was Salim. This was well known among the members of the Central Committee who were to nominate the presidential candidate but

⁵¹ The information of the political intrigues involved in the presidential election is from Rajab 1985. I have had the same story, with minor variations, from several informed sources in Dar es Salaam, so its veracity can be confirmed.

Nyerere did not actively campaigning on Salim's behalf. Instead, he approached Mwinyi and informed him that he wanted Salim as President. Mwinyi accepted this and said that he would support Salim's candidature. Two major lobby groups appeared on the scene, both with a base in Zanzibari politics. The 'frontliners', a newer generation of Zanzibari politicians, supported Salim, while the Mwinyi-supporting 'liberators' identified themselves closely with the former Afro-Shirazi Party.

There was no clear ideological difference between the two groupings regarding the major policy issues; it was rather a highly personalised conflict rooted in the various stages of Zanzibari political history. The 'liberators' enjoyed considerable support among mainlanders within the higher echelons in Tanzania, with the Paul Bomani as the most prominent patron. As if to underscore the point that questions of policy were a marginal issue, another significant mainland supporter of Mwinyi was Gertrude Mongella, a well-known radical socialist.⁵² At the Central Committee meeting, where the nomination was to be made, the 'liberators' ruled the day and Mwinyi appeared as the preferred choice. Mwinyi was asked whether he would accept nomination and, to Nyerere's shocked surprise, he accepted. Mwinyi's selection as the presidential candidate was met with relief among people around the country, as their main concern had been the prospect of being saddled with Kawawa as President. Mwinyi went on to win a landslide victory.

⁵² Other Mwinyi supporters included Party propagandist John Mwakawago and economic reformer and rising star, John Malecela (Rajab 1985: 24-5).

It is believed that, especially for the mainlanders, Mwinyi's selection was based largely on the fact that he was seen as a much more malleable candidate than Salim. Salim was a politician with his own agenda and with the strength and ability to make hard decisions. Mwinyi, on the other hand, was primarily a product of the Party machine and more easily swayed by other leaders (Rajab 1985: 25 and Kiondo 1989: 277).

Upon taking power, Mwinyi retained the members of Nyerere's cabinet but undertook a decisive reshuffle which put key Ministries under the reformers. Cleopa Msuya took charge of the newly expanded Ministry of Finance and Paul Bomani became the new Minister of Agriculture and Livestock Development, while Kighoma Malima and Rashidi Kawawa were moved to positions with less influence on economic policies (Kiondo 1989: 280). Nyerere retained his position as the Party's Chairman. Economic liberalisation now picked up further momentum, as evidenced by the ERP and the IMF agreement in 1986. The IMF agreement signified a shift away from Nyerere's virulent anti-IMF rhetoric, although it must be added that Party backing for the agreement was secured only through Chairman Nyerere's influence (Hartmann 1988: 171). Party hardliners had fielded bitter complaints about the secrecy which had surrounded the Government's negotiations with the IMF and there was a widespread disillusionment with Tanzania's embrace of 'capitalism' among the now marginalised radical faction of the Party.⁵³

⁵³ *Africa Events*, January/February 1987, "In the Stealth of the Night".

Baregu holds that it was discontent with the Party's loss of popular support which led Nyerere to resign as President, and that he now saw his role as revitalising the Party to its former vigour, a move reminiscent of his resignation in 1961 (1993: 108). A comment Nyerere made on the state of affairs in Tanzania on a visit to Zambia in mid-1986 gives credence to Baregu's interpretation of Nyerere's motivation for resigning, as well as giving some indication of things to come:

The single party system breeds complacency among the electorate and their elected representatives... Party leaders in some areas [of Tanzania] have become so complacent they do not even hold any meetings. Others did not bother to hold elections to fill vacant posts. (Baregu 1993: 108)

The period after the ERP proved to be relatively undramatic politically compared to the preceding ones. The economy started to recover and donor-relations became more amicable. Many fortunes were made in the wake of economic liberalisation while the living standards of many of the poorest in society declined as a result of the failing standard and rising costs of the previously freely provided social services.⁵⁴ The gulf between rich and poor was rapidly growing wider.

A widening gulf between the party leadership and the Government was made apparent at the 1987 Party Conference in Dodoma. Prior to the conference, there had been speculations of whether Nyerere would use the occasion to announce his resignation as Party Chairman. At the conference it soon became clear that Nyerere had no intention of

⁵⁴ For an overview of the effects the economic reforms had on the social services, see Tibaijuka 1995.

resigning, instead the event was dominated by the launching of a 15 year Party Programme for 1987-2002. The long-term Programme was presented by Kingunge Ngombale-Mwiru and was couched in strongly ideological terms, denouncing theories of 'a mixed economy' as 'alien to socialism' and affirming the Party's intention to 'purify its ranks' of 'capitalist sympathisers' (Kiondo 1989: 342-43; McHenry 1994: 22). Nyerere took a more moderate stand in his keynote speech in which he stressed the policies of the Arusha Declaration while maintaining a flexible view of the economic reforms as long as the ideals of ujamaa were kept alive (Kiondo 1989: 321). The sharp contrast between the Party Programme and the government's Economic Recovery Programme illustrated the sharp ideological crisis which the economic reforms had provoked within the Party.

Regarding the agricultural sector the long-term plan stated that "[t]he central instrument for building a socialist and self-reliant sector in agriculture and livestock-keeping is producer cooperatives in the rural areas." The continuation of the party's affirmation of its socialist agenda is particularly relevant to this study:

Non-application of science (the principles of better farming) and the use of inferior technology (implements) are the two factors which account for the poor performance of our agriculture.⁵⁵

⁵⁵ Translation from *Daily News*, 12.1.1988, 4, cited in McHenry 1994, 22.

The latter statement gives a clear illustration of the Party's view that the principal objective of its agricultural policy was to effect comprehensive modernisation of the smallholder sector.

Towards the end of the decade donor relations became more tense again as the donors were starting to show impatience with what they saw as too slow a pace of Tanzanian reforms. In 1989, the Paris Club (the donor forum for negotiation of foreign debt) informed the government that unless further progress was made, the country would face withdrawal of assistance again. In December, a range of reforms, including a restructuring of the marketing boards and reorganisation of the export market, were instituted (Baregu 1993: 111; Mtatifikolo 1994: 62-65). The reformers were by this stage well and truly the dominant force in Tanzanian politics. We now turn to the 1983 National Agricultural Policy.

THE AGRICULTURAL POLICY⁵⁶

By the beginning of the 1980s it had become obvious that villagisation and the existing agricultural policies were not delivering the desired results. Instead of the expected rise in agricultural production, output for export had stagnated and food production was falling

⁵⁶ All information in this section, unless otherwise indicated, is from interviews with members of the Agricultural Task Force.

short of requirements, necessitating large imports of grain (Raikes 1986: 119-20). Grave concern was mounting in the upper echelons of Government. The Minister of Agriculture, Machunda, decided to set up an Agricultural Task Force to review the country's agricultural policies and to recommend changes in policy that could help restore agricultural growth. He compiled a list of members for the Task Force and submitted the proposal to Nyerere. Nyerere shared the Minister's concern for the weak performance of the agricultural sector. He was particularly worried about recurring food shortages. Nyerere accepted Machunda's proposal but directed that a few changes should be made in the composition of the Task Force. Most significantly he ordered that his economic advisor, Simon Mbilinyi, be made Chairman. In this way he ensured that the Task Force was brought closer to his personal sphere of influence.

The Task Force commenced its work in May 1982. The investigations consisted of interviews with high level officials and experts in agricultural development and policy recommendations were solicited from "everyone thought to be useful." The Task Force also made a tour of nearly all the country's regions and solicited the opinions of local administrators and village smallholders.

The recommendations which were gathered fell largely under two discernible headings. The Government officials and technical experts who were approached by and large concurred that the main reason for the poor performance of the agricultural sector was that too much weight had been placed on small-holder production and that the ujamaa

policy hindered the emergence of a 'modern' large-scale sector. Village farmers, on the other hand, expressed deep resentment at what they considered to be excessive government intervention and control over the way in which they organised their production. They complained particularly vigorously about forced work at the village communal farms. Practically all communal work done at the time was a result of government coercion rather than voluntary agreement. The villagers also frequently complained about insecure tenure on the block farms. It was fairly common practice among village administrators to reallocate plots on the block farms from year to year, which produced negative incentives for soil conservation and improvement. Both sets of respondents, officials and smallholders, expressed dissatisfaction with the state-controlled marketing system.

The Task Force submitted its Final Report in October 1982 (URT 1982). The way in which the findings and the views of the Task Force members translated themselves into writing makes for interesting reading. The objective of encouraging the rise of a private (and 'modern') large-scale farming sector was diplomatically, but effectively, expressed. The Final Report recommended that private farms - whether foreign-owned, national or joint ventures - should be 'encouraged' to proceed (ibid.: 109). It was stated, somewhat ambiguously, that this "should be incorporated in the national [socialist] programme" (ibid.: 153-4). Not much was explicitly made of the granting of rights of occupancy to private farmers, except that the existing "land tenure system...should be honoured by the Party and Government" (ibid.: 153, also see 108). The Task Force took advantage of the

fact that there was nothing in the laws of the country, nor in its policies, which explicitly barred the practice of private, large-scale farming. Thus, it was possible to couch what proved to be radical and controversial recommendations in a subtle guise.

The recommendations relating to small-holder farming in villages provide curious reading. The lack of security of tenure in the block farms was clearly addressed. The Final Report stated that the practice of frequently reallocating the plots gave insufficient incentive for investment in productivity and it was therefore recommended that the rights to such plots should forthwith be guaranteed (ibid.: 108, 151). The matter of communal farming, on the other hand was all but completely dodged. The fact that most of the villagers who had been approached had expressed disagreement with the official emphasis on communal farming did not at all come out in the Task Force's recommendations. The following citation exemplifies the way in which this issue was dealt with in the Final Report:

In general, individually owned farms yield better results than collective village farms. However, a few, collective farms have showed very impressive performance. The collective and block-farming systems provide a good starting point for the introduction of modern techniques including mechanisation (ibid.: 25).

Even more inexplicably, it is later recommended that the “communal farm should be increased where possible in terms of *hectarage*, *yields* and *diversity* of crops grown”

(ibid.: 151). No mention is made of whether participation on the village communal farm should be voluntary or not.

I questioned a prominent member of the Task Force about these discrepancies, and he conceded that the members' own views on the issue of communal farming, as well as the views of the villagers who had been interviewed during the investigations, did not come clearly across in the Final Report. There had been tactical and political reasons for toning down criticism of communal farming. First and foremost, Nyerere was known to place great emphasis on the communal aspect of farming and to ensure Nyerere's backing for the Policy, it was decided that it was better to go easy on the subject of communal farming in order to get other controversial issues successfully through. At any rate, the Task Force members considered that it was more important to encourage the rise of a sector of medium and large scale farming, than it was to risk getting bogged down in the political polemic relating to the ideologically charged issues of village production and communal farming.⁵⁷

⁵⁷ Both Mr. Mbilinyi and Mr. Mpupua, the Chairman and Secretary of the Task Force, explicitly stressed this point (interviews, March 1992).

The NEC meeting

The Final Report was favourably received by Nyerere and Machunda, who agreed on the major points of the recommendations. Simon Mbilinyi was instructed to compress the Report into a 'White Paper,' which would be presented to the Party's National Executive Council for approval.

The reception at the NEC meeting proved to be hostile. The opposition to the proposal was led by Kingunge Ngombale-Mwiru. The policy was decried to be in conflict with the accepted ujamaa policies and there were accusations that the policy drafters were 'trying to kill ujamaa.' The consensus of the meeting swung heavily against accepting the proposal.

Nyerere responded by calling in several respected proponents of the policy, among whom were the principal members of the Task Force, and papers were hurriedly prepared for presentation for the NEC. Finally Nyerere gave a lengthy speech spelling out the advantages of the proposed policy and why it was necessary to implement it. This eventually succeeded in swinging the meeting and at the end of the day the proposal was passed with an overwhelming majority. The policy review had been Nyerere's baby virtually from the beginning and he now had also managed to get it through a difficult birth.

Land tenure

The Agricultural Policy introduced two major policy initiatives regarding land tenure - the new drive towards granting land tracts to large and medium scale 'commercial' farmers and the introduction of village land-titles. The decision to liberalise allocation of land to private investors was seen as a necessary pre-requisite for agricultural modernisation. Large scale, communal production within villages had failed to prove a viable tactic to speedily modernise methods of cultivation. No new legislation was necessary to facilitate this change of policy, since the pre-Arusha land legislation had not been altered in respect of the granting of land to private applicants.

The issue of village titling was related to the reversal of the anti-kulak policy. Previously, land officials had often experienced problems when attempting to allocate land which was deemed to be unutilised because a nearby village would protest that the land belonged to their village. The Task Force members anticipated that such problems would multiply following a liberalisation of the granting of rights of occupancy. In the words of one of the policy-drafters: "Villages say that no land is not village-land!" By demarcating all the country's villages, on the other hand, the Task Force hoped to 'free' large areas of 'public land.' The village titling exercise, therefore, was primarily conceived as a way of delimiting village land in order to make land available for new agricultural commercial development.⁵⁸ An indication of the close connection between these two policy initiatives

⁵⁸ Interview with Simon Mbilinyi, March 1993.

is also provided by the wording of the policy paper which states that “Village boundaries, and those of large and medium scale commercial farms, will be given priority in the surveying and mapping exercise ...” (URT 1983: 10)

The village titles were intended as the first step of a transformation of the village land tenure arrangements. The policy document states that the village title would be vested in the Village Council and that the Village Government would in turn provide sub-leases to the individual households. As is evidenced by the policy directions, such sub-leases would confer what amounts to mere user rights to the individual households with the Village Government retaining control over all rights of disposition:

each Household will normally be given its own long-term sub-lease so as to provide reasonably permanent occupancy of the house and the Household Shamba [farm], but the right to free sale will not be included in that lease; if the family wish [*sic*] to surrender their sub-lease they must return it to the Village Government in return for compensation for the value of the house and other buildings, of any land improvements which have been made, and of any permanent crops. (URT 1983: 11)

What we see here is an attempt to codify and formalise the arrangement which had been intended to follow from the 1975 Village Act. It clearly illustrates how villagisation had undermined the sovereignty of each smallholders’ land rights and helps put into context the plaint from the farmer in Wily’s account from Tabora region that “It is not our land anymore” (Wily 1988: 288; see Chapter 3).

No law was passed that addressed the issue of village titles. Consequently, a number of issues, both practical and legal, were overlooked, most of which relate to customary rights to land. The pre-condition for granting a right of occupancy, such as the village title, is that all existing rights to land must be settled. That was not made part of the procedure for village titling, which means that the granting of all existing village titles constitute double-allocation. The issue has not yet been challenged in the courts.

LAND POLICIES UNDER THE AGRICULTURAL POLICY

The adoption of the Agricultural Policy (Agripol) coincided with the beginning of the overall retreat by the state in the countryside. Both the 1982 reinstatement of local government and the revival of agricultural cooperatives the same year had already indicated a higher degree of autonomy for the rural areas *vis a vis* the political centre and both represented (partial) reversals of post-Arusha reforms. Together with Agripol these reforms signalled the beginning of a radical change in the Tanzanian country-side.

The new policy environment

The Agricultural Policy was not launched in a dramatic manner and there followed no immediate directives to local authorities and/or ministries as to the implications of the

new Policy. What followed, rather, was a gradual relaxation of the controls that had previously been imposed on land use in and around villages. Consequently, people residing in overcrowded village cores began to return to the lands they had cultivated before villagisation or seeking new lands beyond the village borders. Earlier, such moves had been likely to be met by punitive action from government officials (Havnevik 1988: 105). Wily reports from her research in Tabora region that villagers there had interpreted a radio announcement by Nyerere in 1984 to “go out and clear as much land as you need to live... cultivate until you are tired” as a *kibali* (permission) to return to their pre-villagisation plots (1988: 324).

A more explicit go-ahead for land expansion by villagers came with the *Agripol Implementation Programme* issued by the Ministry of Agriculture, which stated that the first priority was the “rectification of settlements in present villages so as to enable farmers to acquire enough land ownership so that he/she may develop it by using modern practices and increase his/her earnings”.⁵⁹ The statement appeared to be primarily aimed at budding, ‘progressive’ medium-scale farmers, and indicated a clear shift away from the earlier anti-kulak rhetoric. The main gist of the Agripol implementation, therefore, was to encourage the development of a medium and large-scale sector of ‘modern commercial’ farmers, and as we saw in the previous section, this was a clear reflection of the policy-drafters’ recommendations. A large increase in the granting of Rights of Occupancy

⁵⁹ Ministry of Agriculture. 1985. *Programu ya Kutekeleza Sera ya Taifa ya Kilimo na Mifugo* (Programme of Implementation for National Policies of Agriculture and Livestock), Government Printer, cited by Wily 1988: 113.

followed, predominantly to wealthy and well connected individuals. Many of the newly acquired plots fell within existing village boundaries (Havnevik *et al.* 1988: 47).

The extent of the issuing of new grants of land following Agripol is difficult to assess as no comprehensive records are easily available. The Ministry of Lands does not maintain any statistics of land allocation, and neither does any of the other authorities concerned with land issues in Tanzania. It is nevertheless clear that there was a sharp increase in the granting of rights of occupancy after the adoption of Agripol, predominantly of larger holdings that often fell within village boundaries.⁶⁰ The Land Commission compiled statistics on land allocations above 30 acres at the Moshi and Dar es Salaam land registries. The two registries, which cover 8 of the mainland's 20 regions,⁶¹ showed that a total of 205,000 acres had been granted in the 1987-92 period (URT 1994: 32). The estimated total of registered land in 1987 had not been more than approximately 2.6 million acres,⁶² which indicates the relative weight of the Land Commission's findings.

⁶⁰ URT 1994: chapters 2, 4, 6 and 7; Havnevik *et al.* 1988: 47; Wily 1988: 296 and Kiondo 1990: 39-40. Kiondo, referring to Agripol, actually stated that "the land tenure system has introduced private ownership." This, of course, is not correct, seeing that the law never abandoned the concept of private ownership, but it is indicative of the common perception of the policy changes under Agripol.

⁶¹ The Moshi Registry of Documents covers Arusha (47,074), Kilimanjaro (530) and Tanga (19,044) regions, while that of Dar es Salaam covers Dar es Salaam (1,146), Coast (60,365), Morogoro (55,270), Lindi (865) and Mtwara (1,188) (figures in brackets denote the acreage of granted land in each region).

⁶² ODA Land Resource Development Centre, quoted in Bruce 1994, 1.

Perhaps more significant is the fact that 86% of the land granted in the said regions falls within holdings of above 500 acres, with an average of over 3000 acres per holding.⁶³ We will see that these land grants largely fall within village boundaries and/or utilised grazing areas, and thus signify a loss of land for the smallholder/pastoral section of the population in favour of a burgeoning group of influential investors.

Early signs of increased land concentration had given rise to concern within Party circles already prior to the period surveyed by the Land Commission. The best solution to the problem was seen to be for the government to start in earnest with the issuing of title-deeds to villages. In 1987, a CCM directive was issued that declared that all the country's villages were to have received title-deeds by 1992 (URT 1994: 46). The first village titles were issued in 1988 (Wily 1988: 116). The same year, Nyerere urged the process to be sped up if land was not to continue to be "taken by individuals who corrupt their way to get long-term title deeds within village boundaries" (Daily News 7 July 1988, cited in Wily 1988: 116-7). Village titling continued to progress at a slow rate and it soon became obvious that the 1992 deadline could not be met. As for a stated policy objective of the Village Council issuing sub-leases to the individual villager (URT 1983: 11), next to no progress was made.

It is questionable whether a faster implementation of the village titling programme would have provided any strengthening of the villages' land rights in real terms. Receiving a

⁶³ Calculated from Table 2.2 in URT 1994, 32.

village title confers undeniable advantages to a village but it also brings with it new hazards of land loss. There are two principal pitfalls, one is inherent in the demarcation process and the other is associated with the vesting of the title.

The 1985 *Implementation Programme* for the Agricultural Policy directed that village demarcation should be done in connection with comprehensive land use planning (Lerise 1996: Ch. 10). In practice, such a land use planning exercise is likely negatively to affect the land rights of individual villagers. Planning typically proceeds without consideration of existing land rights and large areas are often set aside for ‘communal village projects’ or other district or regionally sponsored development projects regardless of whether part of or all the land in question is already used by people in the village. Land used for grazing is commonly considered to be ‘unused’ and therefore ‘available land’ in this context (see, for example, Lerise 1996: *passim*; Johansson 1991; Hoben *et al.* 1992: 67-80).

Once the village title is issued, it effectively vests all village land in the Village Council. Seeing that the title is, per definition, conclusive proof of ownership, it puts the Village Council in a position in which it can grant village land to individual applicants. Although Village Councils are theoretically obliged to consult with their Village Assemblies, this provision can be bypassed with relative ease as there are no set procedures which ensure that consultation takes place. There are numerous reports of Village Councils in both titled and un-titled villages going behind the backs of the ‘common villagers’ in

allocating large plots of land, doubtless in exchange for generous gifts, to outsiders.⁶⁴ The land use planning component of the titling exercise discussed above often serves to facilitate such allocations (Johansson 1991). Village land use is supposed to be regulated by the Village Councils by upholding village by-laws relating to land use, but the villages are not empowered to frame and enforce by-laws on their own initiative without a prior stamp of approval from their District Council and the Prime Minister's Office.

What we see here is a continuation of the expansion of centralised control in land matters which began with decentralisation and became further entrenched through the villagisation operations. The new local government structure did not devolve the authority to administer and allocate land to popularly accountable bodies and all matters of land remained under the control of centrally controlled land committees. The unsuitability of such organs as guarantors of tenure security to smallholders and livestock producers became increasingly obvious in the emerging post-ujamaa economic environment. The lack of transparency and democratic checks and balances in the bureaucracy empowered to allocate land opened a plethora of venues for influential and/or wealthy individuals seeking to acquire large plots of land.

⁶⁴ Cases of underhand allocations of village land to outsiders were related to me by numerous senior officials in the Ministry of Land and others involved in the formulation of the National Land Policy. This is also frequently referred to in recent literature on land issues in Tanzania, see, for example, Hoben *et. al.* 1992: 47; URT 1994: 36; URT 1993: Disputes 6 and 14; and Lane 1993: 5.

The reintroduction of local government blurred the lines of accountability in matters relating to allocation of land. Under the 1982 Local Government Act, district and regional Land Officers were under the jurisdiction of the local executive councils, which derive their power from the Minister responsible for local government.⁶⁵ The role and jurisdiction of the Ministry of Lands in matters of land allocation in the nation's local councils were therefore ambiguous. In 1988 the Ministry of Lands issued a Directive to 'clarify' land allocation procedures (MLNRT 1988).

The Directive drew up a structure in which the authority to allocate land was withdrawn from local councils and given to Land Allocation Committees with clearly defined areas of jurisdiction. At the local level, District and Regional Land Allocation Committees were set up, each consisting of five councillors appointed by the Regional Commissioner and nine government officials. The Chairman and Secretary of the Committees, the Commissioner and Development Director, are both Presidential appointees. The District and Regional Committees have the authority to allocate plots up to 100 and 500 acres, respectively, with certain key exceptions. Above these two tiers of local government a Ministerial Land Allocation Committee was established, consisting of six councillors appointed by the Minister responsible for local government and nine senior government officials. It is chaired by the Commissioner of Lands. The Ministerial Committee has the authority to allocate plots above 500 acres and all the 'key' areas excepted from the

⁶⁵ The Local Government (District Authority) and the Local Government (Urban Authority) Acts of 1982. At the moment of writing (November 1996), local government falls under the jurisdiction of the Prime Minister's Office.

District and Regional Committees, which includes all allocations within the city of Dar es Salaam and all plots for foreign undertakings; all heavy industry; tourist ventures and allocations on village lands.⁶⁶

The background to the Ministry's Directive provide interesting insight into the workings of the government machinery.⁶⁷ There had for a number of years been an escalating battle between the Ministry of Lands and the Dar es Salaam City Council over the powers to allocate land in the city, a conflict that had been partly personalised by the Ministry's Director of Town Planning and the City Planner in the City Council. The conflict was particularly over plots in the prestigious and growing suburbia of Mbezi Beach. The Minister of Lands consequently ordered that a directive be made to resolve the conflict in the favour of the Ministry. The Dar es Salaam City Council protested against the directive and it took intervention from the Prime Minister's Office to resolve the matter in the Ministry's favour in 1989. The Dar City Council continued to refuse to cooperate and the Land Commission reports that in the early nineties, the Ministry was handling allocation on its own accord. Confusion also persisted in many other parts of the country, and there were numerous reports of senior Officers in local government and the Ministry of Lands engaged in allocations of land single-handedly 'on behalf of' their respective Land Allocation Committees (URT 1994: 26-27). The manner in which this important matter

⁶⁶ The structure of the Land Allocation Committees is summarised in URT 1994, 25-6.

⁶⁷ The following incident was related to me by Fred Lerise and Tumsiph Nnkya of the Ardhi Institute and a senior official in the Land Use Planning Commission. The conflict over allocation power is also touched upon in URT 1994, 25-6.

was approached is indicative of how administrative bias in the definition of land policies has become part and parcel of the country's intensifying insecurity of tenure.

The reversal of villagisation, land shortage and the rising incident of land litigation

As we have seen, the new politico-economic environment engendered a sharp rise in the demand for land. Simultaneously, the rural communities' requirements for land continued to expand in rate with the growing population.⁶⁸ There was already a land shortage in areas of high population pressure and the problem was steadily getting worse. Villagisation had brought about localised land shortages in several places as farmers were moved to villages where they had access to less land or land of poorer quality than what they had cultivated prior to the move. The lifting of restrictions against moving out of village centres eased the pressure of land in village cores where there was still available land in the surrounding areas.

Farmers returning to fields which they had cultivated prior to villagisation and lost as a result of the operations would often find that others had in the meantime taken over their land. Many of them now took advantage of the liberalised policy environment and

⁶⁸ According to the 1988 census, annual population increase between 1978 and 1988 was 2.8% (URT. n.d.

Tanzania Sensa 1988. 1988 Population Census: Preliminary Report, Bureau of Statistics, Ministry of Finance, Economic Affairs and Planning, Dar es Salaam).

resorted to legal action in order to reclaim their lost land through litigation. Several of the litigants met with success and were backed with court orders for the present occupants to vacate the land. Philip Marmo, the Member of Parliament for Mbulu (Arusha region), recalls that the first court case to “rectify villagisation” was in 1983.⁶⁹ Successful litigations often set off a spate of cases as the victory became known among other people in the area who had lost land during villagisation and the courts were soon inundated with post-villagisation litigations and counter-litigations.

The problem was particularly acute in Arusha region, where several indigenous farmers had undertaken mechanised wheat production and cultivated relatively large areas of land which had been held under customary tenure prior to the villagisation operations (see Raikes 1971). There was also a community of landless estate workers in the region. Although villagisation was not intended as a land reform, the leaders in the wheat-growing areas of Arusha region interpreted it as such and took it as an opportunity to break up larger than average farms and effect a more equitable distribution of land.⁷⁰ When the dispossessed farmers started to reclaim their land in the eighties, this process was reversed and many families were issued court orders to vacate land which they had been ordered to move on to by the authorities during the operations. Many families now found themselves landless and some refused to move.

⁶⁹ Interview, June 1992.

⁷⁰ The information about the Arusha case is from the above noted interview with Philip Marmo. The matter is also dealt with in some detail in URT 1994, 51-6.

In order to arrest the chaos engendered by this unexpected development, the Government issued two Government Notices, invoking the 1973 Land Utilization Act (see Chapter 3), declaring the area in question to be a 'specified area' which meant that all customary rights were extinguished.⁷¹ The Notices were quickly challenged in court and the High Court in Arusha in 1988, found the Notices and parts of the 1973 Land Utilization Act unconstitutional and void. The Arusha decision was overruled in the Court of Appeal the following year on the ground of lack of jurisdiction (URT 1994: 55; Lane 1996: 169). Inconclusive legal challenges to both the villagisation operation and the Government Notices continued into the 1990s, leaving the people on the ground in a state of flux with regard to land rights. The continuation of the drama is covered in chapter 6, where we see the issue of post-villagisation litigation trigger further legislative action, with repercussions far beyond the regional arena.

Similar cases arose in the different context of abandoned estates. A large number of estates, many of which were not nationalised, were left idle by their owners in the post-Arusha era. The legal status of such lands is unclear, but due to the fact that they have been demarcated and registered as grants of occupancy, land administrators typically regard the lands as being earmarked for reallocation to suitable applicants, meaning 'modern' developers. Such lands are generally in areas where land was extensively alienated in the colonial period and these are also the areas where land shortage has since

⁷¹ The specified area included wards in Arumeru, Babati, Hanang and (mostly) Mbulu districts (G.N. No. 659 of 12/12/86 and G.N. No. 88 of 13/2/87).

developed. Adjoining villages have often expanded onto the abandoned estates, and some were actually placed on parts of the land during the operations. Taking a strict legal interpretation, the Government views such farmers as ‘squatters’ and sees the land as still being ‘available’ for alienation.⁷²

In Babati district, Arusha region, several large estates were abandoned after the Arusha Declaration.⁷³ The farms had been mortgaged, and their titles rested with the Cooperative and Rural Development Bank (CRDB) and the National Bank of Commerce (NBC). At the beginning of the eighties the banks decided to default on the loans and sold the estates. The catch was that within many of these estates villages had been established during villagisation. The villagers now found themselves in the awkward situation of being defined as squatters on land they had been forcefully settled on in the villagisation operation. Despite being ordered to abandon their land by the authorities the majority of the villagers understandably refused to move. According to their MP, a court-case against them filed by the new owners was still pending in court in 1995. Some of the ‘squatters’ are now paying rent to their new landlords in order to continue living and farming on the land which they were allocated during villagisation. The estates were not surveyed prior to their sale as it was not deemed to be necessary given that the titles already rested with the banks. This is another telling illustration of the inferior bargaining power of small-

⁷² Numerous cases of this nature are described in the second volume of the Land Commission’s Report (URT 1993a). See Disputes no. 19, 23, 24, 29 and 40.

⁷³ The information about the Babati estates is from an interview with Mr. Qaresi, MP for Babati, April 1995. One of the cases reported by the Land Commission tells a similar story from Lindi Region (URT 1993a: Dispute no. 24).

holders versus large-scale investors and of haphazard policy implementation by the highly centralised land administration.

Land Use Planning

As a part of the general strategy for modernising Tanzanian agriculture, Agripol prescribed extensive, nation-wide planning in order “to make rational decisions about land allocation between alternative new users” (URT 1983: 10). Village titling was seen as an element of this exercise and the Policy directed Regional and District Authorities to ensure that all villages have Village Land Use Plans to facilitate soil conservation and to regulate use of available land (ibid.: 11-12).

In 1984, the Government set up the National Land Use Planning Commission (LUPC) to serve as an overseer and coordinator of all matters relating to land use planning.⁷⁴ In spite of the setting up of the LUPC, urban and rural land use planning continued to be the responsibility of the Director of Town Planning in the Ministry of Lands.⁷⁵ The role of the Commission is limited to that of an advisory organ to the Ministry.

⁷⁴ The National Land Use Planning Commission Act, 1984. The establishment of the Commission was called for by Agripol, p. 12.

⁷⁵ In 1992, the Ministry was transformed from the Ministry of Lands, Natural Resources and Tourism to the Ministry of Lands, Housing and Urban Development. The Department of Town Planning then changed to the Department of Urban Development, with the Director of Urban Development as its principal officer.

Land use planning, as it is conceived in Tanzania, consists mainly of mapping the planned area, identifying zones for designated uses, as for example cultivation, residential, services, grazing and forest. This is primarily approached as a technical exercise, in which technical experts are employed to survey the land and indicate what is the optimal use for each area. Planning takes place at regional and district level and the main emphasis is on the production of village land use plans. The local offices receive central funding for planning and the finance is tied to the number of plans prepared. Local lands officers therefore have reason to prioritise quantity over quality. As presently practised, completed village plans typically consist of little more than a map indicating the recommended zones for the various forms of land utilisation.

The plans are made without a prior survey of existing rights to land. Even if such an exercise were considered necessary by the planners, which it is not, it would be far beyond the financial and institutional capacity of each planning unit. The implicit assumption that customary rights may readily be adjusted to fit the plan rather than vice versa is, in practice, unworkable. The result is that the existing land use plans invariably run into insurmountable legal and practical obstacles when (and if) implementation is attempted. In the words of a Tanzanian expert on land use planning: “On the ground you

realise that land use planning is *all* about land rights.”⁷⁶ Consequently, plans which are continuously produced at considerable expense are left more or less unimplemented with no tangible benefits to land use efficiency (Kauzeni *et al.* 1993: 66). A team of international land consultants, who had been commissioned by the World Bank to frame recommendations to the Ministry, made the following observation on the practice:

Tanzanian governmental elites have a deeply ingrained faith in land use planning in which experts prepare maps indicating how land should be used ... this top-down bias reflects an outdated view of rural producers as inefficient, ignorant and governed by tradition. It fails to take account of the fact that individuals and communities to a great extent already do land use planning and that they do it in a reflexive, recursive, and purposeful manner. While this local-level planning process is by no means perfect, it is generally grounded in local people’s intimate knowledge of their landscape, how to exploit it most efficiently with available technologies, and their own changing needs. It is very difficult for experts and officials responsible for land use planning, from their higher vantage point, to adopt the perspective of the farmers or appreciate the dynamic interplay of natural, social and economic factors that shape their natural resource use strategies. (Hoben *et al.* 1992: 17)

The persistence of land use planning as a policy making device in the Tanzanian context is rooted in the conviction that problems and challenges relating to land use can be dealt with administratively through centrally imposed guidelines and directives. The land administration also has its own interest invested in persevering with land use planning as

⁷⁶ Personal communication Fred Lerise, February 1996, whose Ph.D. Thesis: *Planning at the end of the River: Land and Water Use Management in Chekereni - Tanzania*, provides the best documented and most insightful account of Tanzanian land use planning that I have come across.

a principal component of policy as it is a means by which the central administration asserts its control over land. Planning is a political process dressed up as a technical exercise.

CONCLUSION

The eighties saw significant changes in Tanzania's development policies. The ideologically-inspired economic policies of the post-Arusha era were gradually replaced with the more market-oriented policies associated with structural adjustment. The process was most dramatically marked by the signing of the IMF agreement in 1986. The movement towards economic reform was brought on by the financial crisis and intensifying donor pressure but was also inextricably linked with the political rise of reform-friendly administrators in government. Nyerere's departure as president heralded the start of a new era in Tanzanian politics, although the significance of his departure should not be overstated as it is doubtful that he would have been able, or even desired, to stem the tide of change had he remained in power.

One of the significant features of the politics of this era was the deepening of the party-government conflict. The party attempted to regain the initiative through ideologically inspired campaigns and exhortations, first in the early eighties through a range of highly visible campaigns to correct the ills of corruption and laziness and later, in 1987, through

the issuance of the long-term Party Programme with reaffirmations of the nation's socialist agenda which contrasted sharply with the government's liberalising economic policies. The internal contradictions peaked after the party found itself compelled to sanction the IMF agreement and it became increasingly clear that the reformers were gaining in strength but the struggle for dominance would not be decisively resolved before in the early nineties.

The above scrutiny of the period's land policies indicates that the policy changes had a mixed effect on the land rights in the rural sector. Farmers benefited from the liberalisation of the villagisation policy which was launched with the National Agricultural Policy. Individuals were allowed to seek land beyond the often over-crowded village cores, communal farming ceased to be imposed and village land use was individualised. Issues relating to land use and ownership were depoliticised and the government's involvement in the administration of land became a near-exclusive domain of technicians and civil servants.

In evaluating the period's land policies in relation to those of the preceding era it is important to recognise that there was considerable continuity of policy as well as areas of change. Agripol signified a partial reversal of the post-Arusha policies as it lifted the strict control on settlements which had been imposed after villagisation and ceased to pursue and enforce an equal distribution of land but it also entailed a continuation and intensification of the existing policy objective of whole-scale modernisation of the rural

areas which had previously been evident through the 1972 policy document *Siasi ni Kilimo* and the RIDEP approach of 'integrated development'. The consensus across the ideological spectrum of the perceived superiority of large-scale agricultural production over the traditional smallholder sector is evidenced by Agripol, which originated with the reformers in government, and the 1987-2002 Party Programme which was the most comprehensive policy statement from the ideological left after the adoption of Agripol.

Central government maintained control over land allocation and also attempted to regulate land use directly. Centrally administered allocation of land in the context of market liberalisation posed new dangers to customary right holders. As applications for land started to come in, land was often allocated haphazardly and the system provided few checks and balances to control whether procedures were being followed correctly and whether the land was, indeed, free for allocation. The issuance of village titles was supposed to protect villages from 'landgrabbing'. The policy failed to gain momentum and was, at any rate, ill-conceived and of uncertain legal status. The villages were potentially useful units of land administration but control of village land was concentrated in the hands of a small elite and there were insufficient provisions for transparency and accountability to ensure democratic control.

Village land use planning was central on the central government's agenda and planning activities absorbed much of the land administration's resources. Despite the heavy emphasis on planning it failed to have an appreciable impact on land use, which is

probably for the better considering the poor quality of the vast majority of plans. The failure of village titling and land use planning to make an impact created a policy vacuum in the wake of the Agricultural Policy. The political ambiguity is perhaps best captured by the crisis of post-villagisation litigation. As the policy of villagisation was partially reversed it emerged that the existing legal framework was not properly equipped to deal with the demands of the new policy environment.

Chapter 5

INVESTMENT PROMOTION AND THE TRANSITION TO MULTIPARTYISM: POLITICS AND LAND POLICIES, 1990-95

In the early nineties, the face of Tanzanian politics changed. The process of economic liberalisation progressed unabated and principles of ujamaa were unceremoniously laid aside and, on the political front, CCM finally relinquished its monopoly on political activity and adopted a multiparty constitution. The conflict between Party and Government dissipated as a new party leadership brought CCM much closer to the Government. In other respects the changes were less profound. Policy-making continued to be the prerogative of a closed inner circle, well away from the glare of the public eye, public policy discussions rarely moved beyond the sensational and the politics remained personality- rather than policy-oriented. This chapter is divided in to two parts. The first part analyses the processes of the political transition of this period with the changes in the economic policies, the adoption of the tenets of multipartyism and the historic elections. The second part discusses the land policies of the period. It considers the effects the Investment Promotion Policy had

on the execution of land policies and the virtual breakdown of the land administration under the new economic policies.

THE POLITICAL TRANSITION

By 1990 the reformers controlled the formulation of the Government's policies. The remaining vestiges of the ujamaa epoch were being disassembled one by one and the hard core of the Party's Arushaists was diminishing in both numbers and influence. The Party had been on the decline as a political force since the passing of the IMF agreement. Mukandala reflected the opinion of many national analysts when he argued that the CCM Central Committee had been turned into a "rubber stamp" for secretively framed, pro-market Government policies (Mukandala 1994: 59). The acid-test for the consolidation of Tanzania's new market oriented policy regime was the framing and passing of the National Investment Promotion Policy.

The demise of ujamaa

The Government's economic reformers had argued for some time that it was necessary to attract foreign investment in order to sustain the economic recovery and facilitate faster economic growth. For this purpose, it was deemed essential to implement a new Investment

Code which would provide the requisite incentives and guarantees for investors and the Code had been in the pipelines since 1988 when the Government had first intended to launch it (Kiondo 1989: 389). The new policy was politically sensitive and touched on the very basis of ujamaa in the pillars of 'socialism and self-reliance'. It was staunchly opposed by the Party leadership, in particular its Chairman, Mwalimu Nyerere. The Government nevertheless pressed ahead and eventually issued the Policy in February 1990 prior to presenting it to the Party (URT 1990).

The Party's stamp of approval was necessary for an Investment Promotion Act to be tabled in the National Assembly and, in March, the policy paper was submitted to the Party's Central Committee. The Policy was first rejected on grounds of its focus on attracting foreign, as opposed to domestic, capital (Baregu 1993: 111). The Committee reneged after only a few days and grudgingly accepted the policy as an inevitable aspect of the new economic environment, allegedly after receiving assurances that the Act would make special allowances for domestic investors.¹ In June 1990, the National Assembly passed the Investment Promotion and Protection Act. Investment Promotion subsequently became the mainstay of the Government's economic policy.

Baregu argues that the Investment Promotion Policy was the final straw which broke Nyerere's faith in the Party and prompted his decision to resign as Party Chairman (Baregu

¹ Interview with Lt. ole Moloimet, MP for Monduli, Arusha region, until the October 1995 elections (when he lost his CCM candidacy to Mr. Lowassa, see below), April 1995.

1993: 111). In February 1990, Nyerere called a press conference at his Dar es Salaam residence and declared to an astonished assembly that “the time had arrived when Tanzanians should begin to question the wisdom of retaining the single party system or discard it altogether” and that the “single party system is not a religious dogma which was never to be tampered with” (Mmuya and Chaligha 1992: 108). This public announcement from ‘the Father of the Nation’ has since been seen as the official starting gun for the Tanzanian debate on democratic reform. Later, in May 1990, Nyerere let it be known that he intended to step down as Chairman of the Party. He described the Government’s policies as “a hotchpotch of unplanned retreats from socialism” and he challenged the Party to engage actively in the debate on a transfer to political pluralism (Baregu 1993: 112). Finally, at an Extraordinary CCM Party National Conference in August 1990, Nyerere vacated the Chair for President Mwinyi.²

The leadership changes denoted a significant shift in Party-Government relations. Mwinyi had already made his mark as a pro-market President and he was now joined by Horace Kolimba, who took over as the Party’s General Secretary after Rashidi Kawawa. Kolimba was a firm supporter of further market liberalisation while Kawawa was an ardent upholder of the ideals of Arusha. On Nyerere’s insistence, Kawawa remained in the Party leadership as Party Vice-Chairman but failed to maintain any discernible influence on the Party’s policies. From this moment on, the Party ceased to function as the dominant countervailing

² On the new Party leadership, see *Bulletin of Tanzanian Affairs*, No. 37, September 1990, “Major Leadership Changes,” 2-4.

ideological force. Nyerere continued to be highly critical of the Government's economic policies but he now shifted his energies more onto the international arena. He had been the founding Chairman of the South Commission since 1987 (Ramphal 1995) and concerned himself less with the day-to-day affairs of domestic politics, although he could still muster considerable political influence as was symbolised by his honorary title - *Baba ya Taifa* (Father of the Nation).

The increasing strength of the pro-market forces in Government is poignantly illustrated by the fact that the Investment Promotion Policy was launched by Professor Kighoma Malima, now the Minister of State responsible for Planning in the President's Office. Professor Malima was, as shown in the previous chapter, a prominent ideologist in the early eighties but had since altered his opinions to fall in behind the Mwinyi Government's drive for economic reform. By this stage, there was an unspoken understanding among the country's leading politicians that a pro-market stand was a virtual prerequisite for a successful political career (see, for example, Mukandala 1994: 59).

In what was arguably a direct consequence of Nyerere's departure, a little noted political event leading up to the October 1990 national elections signalled that the Party had moderated its ideological position. Early in 1990, the Party had announced that the 15 year Party Programme of 1987 was to function as CCM's election manifesto in the upcoming elections. For reasons which are yet to be explained, the Party reversed this decision and belatedly issued a new election manifesto after the nomination process already was under

way. In contrast to the Party Programme (see Chapter 4), the new manifesto made only “very scanty references to the Ujamaa policies of the Arusha Declaration” (Baregu and Mushi 1994: 95; also see Mukandala 1994: 58-61). The major surprise among the appointments of Mwinyi’s post-election Government was the choice of Tanzania’s High Commissioner to Britain, John Malecela, as the new Prime Minister and First Vice-President. Malecela was a strong supporter of further economic reform and replaced the more cautious Joseph Warioba.

A dramatic new development took place in February 1991 with the adoption of what became known as the Zanzibar Declaration. At a meeting in Zanzibar, the Party’s National Executive Committee resolved to lift the strict conditions which had formally been imposed on Party leaders since the passing of the Leadership Code with the Arusha Declaration to enable political officers to engage in business activities. The Leadership Code had barred CCM leaders from participating in any ‘capitalist’ ventures, including receiving a second salary and letting property for rent (see Chapter 2). The removal of these restrictions was to a large extent a matter of Party legislation catching up with the realities of the new politico-economic environment. Most political officials were by this stage engaged in some kind of money-generating activity on the side and the Leadership Code had never been strictly enforced (McHenry 1994: 29-32). The Zanzibar Declaration was symbolically significant as it provided a *formal* permission for CCM leaders to engage in business.

The CCM Secretary General, Horace Kolimba, explained that the purpose of the Zanzibar Declaration was to provide “a sense of direction to the Party members and the people of Tanzania as a whole” and that the relaxation of the Leadership Code had been necessary to “rescue our ideology of *Ujamaa* from being fossilised like in some of the European countries.”³ He contended that the changes were necessary in the new economic environment and that it would provide Tanzanians with a way of lifting themselves out of “debilitating poverty” which, he argued, “is the true spirit of the Arusha Declaration.”⁴ A *Sunday News* columnist spoke for the many Tanzanians who interpreted the decision differently when he described the Zanzibar Declaration as “the last straw which is bound to break the spinal cord of the Arusha Declaration.”⁵

The absence of any recorded opposition to the decision suggests that the Party leadership had been all but purged of socialist ideologues by this historical cross-roads. That is not to say that the Zanzibar Declaration was uncritically received by all political leaders. A group of outspoken back-benchers had argued against both the Investment Promotion Policy and the Zanzibar Declaration in the National Assembly, including Philip Marmo, Patrick Qorro,

³ *Daily News*, 18.3.91, cited in McHenry 1994: 22.

⁴ *Daily News*, 20.3.91, cited in McHenry 1994: 32.

⁵ *Sunday News*, 26.5.91, cited in McHenry 1994: 32.

Mateo Qaresi, Mussa Nkhangaa and Njelu Kasaka.⁶ They are perhaps best described as democratic populists who were often critical of Government policies but did not identify with the Party's waning doctrinaire socialists. They were dissatisfied with what they saw as the Government's indecent haste to free the market in favour of those with access to capital but they did not advocate a return to the policies of ujamaa. The same group of MPs were a little later to form the hard core of the back bench group termed the G55 which demanded a restructuring of the Union with Zanzibar to establish a separate Mainland (Tanganyika) Government (see below).

After the adoption of the Investment Promotion Policy, Nyerere's resignation as Party Chairman and the Zanzibar declaration, Tanzania's political environment had changed decisively. Socialism and self-reliance had ceased to function as operative concepts in the Government's policy agenda and the Party machine no longer worked as a significant force for restraint against further liberalisation. 'Ujamaa' survived the political shift solely as a nondescript and functionally impotent label for the national development ideology. Tanzanian social scientists were by this stage publicly deploring the state's lack of a vision to guide the nation's development (e.g. Bukuku 1994: 31). While this process was played out, there was a definite feeling among Tanzanians that a new era had started. It was

⁶ Interview with Lt. Ole Moloimet, April 1995. Patrick Qorro, the MP for Karatu, later explained his opposition to the Declaration saying that, whilst he agreed with the need to relax the Leadership Code, he lamented the failure to install safeguards to protect against abuse of power. He described the Zanzibar Declaration as "opening the windows to let in fresh air without providing mosquito nets" (interview, April 1995).

popularly termed *Mageuzi*, meaning reform or transformation. *Mageuzi* became the byword for the upheaval which people associated with economic liberalisation and the movement for political reform.

*Mageuzi: a new politics?*⁷

The changes which swept across Eastern Europe at the close of the 1980s triggered demands for democratisation also among African one-party states and Tanzania was no exception. Tanzania's donors had started to exert subtle pressure for the adoption of pluralism and there was an emerging domestic movement waiting to make political demands. The issue had been present in the domestic arena even prior to the rise of the 'international winds of change.' The external influences, as Shivji has argued, "merely created some space for a debate which was always on the agenda as far as the popular forces are concerned." (Shivji 1991a: 83) Nyerere's public questioning of CCM's right to govern unopposed dramatised the issue and forcefully put it at or near the top of the public agenda. President Mwinyi was initially dismissive of talk of democratic reform and pronounced, in March 1990, that what Tanzania needed was "economic development and not many parties." The previous month, Rashidi Kawawa had argued that the changes taking place in

⁷ See my report, *Democracy in Transition. The 1995 Elections in Tanzania*, for a fuller account of the issues dealing with the adoption of a multiparty system (Sundet 1996).

East Europe were not relevant to Tanzania because of ujamaa's indigenous roots and CCM's closeness to the people (Baregu 1993: 112).

Tanzania's civil society was slow to respond to Nyerere's provocative invitation to partake in a discourse on democratic change. The Tanzania Law Society was, in April 1990, the only recognised organisation to make an early public statement calling for the adoption of pluralism.⁸ James Mapalala, a former political detainee, spearheaded an attempt to register a Civil and Legal Rights Movement but was frustrated by repeated refusals from the authorities and was thus barred from operating openly (Halfani and Nzomo 1995: 6; also see Mmuya and Chaligha 1992: 133). In December, the Law Society lent its name to a public seminar convened by a small group of political campaigners. The group consisted of prominent lawyers and disgruntled ex-politicians. The seminar was highly critical of the Government's refusal to respond to the widening calls for political reform.

At this stage, the leadership had recognised that it would be imprudent to ignore the issue of multipartyism and instead sought to gain the initiative in the political debate and, when CCM's National Executive Committee met in Dodoma at the end of 1990, Nyerere's calls for a national debate on single party rule was a central item on the agenda. The NEC resolved to comprehensively review the situation and instructed the President to conduct an official inquiry into the issue of democratic reform (Halfani and Nzomo 1995: 6-7). In

⁸ *The EastAfrican*, 16-22 October 1995, "A different Path...".

February 1991, President Mwinyi established the Presidential Commission on Single Party or Multiparty System in Tanzania. It was chaired by the widely-respected Chief Justice Nyalali, and was commonly referred to as the Nyalali Commission. The timing of the Commission's appointment is significant as it preceded by one day the formation of a Steering Committee by the leading political activists who were campaigning on the same issue (Mmuya and Chaligha 1992: 131).

In June 1991, the Steering Committee convened a high profile workshop on democratic reform in Dar es Salaam. The participants called for the adoption of a multiparty system and formed the National Committee for Constitutional Reform (NCCR) with Chief Fundikira, a former Minister of Justice, as its first Chairman.⁹ The Government responded by effecting an immediate ban on all political activity relating to the multiparty issue while the Presidential Commission was conducting its inquiry and revoked the registration of the organisation which had stood as organisers of the workshop, Tanzania Law and Educational Trust (TANLET) (Kiondo 1995: 89). One might have expected that the Government's attempts to stifle the emerging opposition movement would have provided an impetus for the critics of CCM to maintain a united front but the movement started to fragment shortly after its inception. By the end of 1991, there were already at least four distinct groupings: the young and prominent lawyer Mabere Marando's National Convention for Construction and Reform - Mageuzi (NCCR-Mageuzi); James Mapalala's Chama cha Wananchi (CCW,

⁹ Chief Fundikira tendered his resignation in 1963, in protest at TANU's decision to adopt a one-party system (*Bulletin of Tanzanian Affairs*, September 1991, "Chief Fundikira feels his time has come," 24).

the Party of the People); Khamis Mloos Zanzibar-based KAMAHURU; and Chief Fundikira's Union for Multi-Party Democracy (UMD) (Mmuya and Chaligha 1992: 25).

The Nyalali Commission submitted a preliminary report to the President in December 1991 setting forth its recommendations. The final report was submitted in February 1992 (URT 1992). The Commission reported that its nation-wide survey of 36,000 Tanzanians had found that 77% wished to retain the single party system while 21% were for the adoption of multipartyism. The Commission's qualitative findings indicated considerably less satisfaction with the existing structures for democracy. There was a general consensus that there was a need for a number of reforms to enhance democracy, including granting more autonomy to civil organisations, having more than one Presidential candidate, that Parliament should be the highest authority, the right for non-party members to stand for elections and making the leadership more accountable (URT 1992: 7-9). These popular demands, the Commission argued, were incompatible with the single party structure. On the basis of its findings and its own analysis of the situation the Commission recommended that CCM amend the constitution to provide for the adoption of political pluralism.

The CCM National Executive unanimously resolved to support the Nyalali Commission's recommendations at a meeting in January 1992, and called an Extra-Ordinary National Party Conference for the following month which ratified the NEC decision. The Nyalali Commission had recommended that a total of three constituent assemblies be established, one each for Zanzibar, Tanganyika (Tanzania mainland) and the Union. According to the

recommendations, the required constitutional legislation should be preceded with preliminary legislation which would establish constituent assemblies with the view to separate CCM and Government in order to restore Parliamentary supremacy:

The Constituent Assemblies should genuinely represent the people of Tanganyika and Zanzibar and it should not be just a question of transforming the present [Union] National Assembly and [Zanzibar] House of Representatives into Constituent Assemblies. These two law-making bodies belong to CCM, and they might, therefore, be prejudiced. (URT 1992: 190)

The Party Conference disregarded the Commission's recommendations on this matter and a CCM committee was instead appointed to frame the required constitutional changes.¹⁰ In May 1992, the amendments to the constitution and the new electoral legislation were passed in the National Assembly. The amendments occasioned much debate in Parliament but the combined forces of Government and Party saw the tabled bills through virtually unaltered (Mmuya and Chaligha 1992: 112-16; Halfani and Nzomo 1995: 15-16).¹¹

The new political environment which emerged at the dawn of multiparty politics in Tanzania had obvious differences with the past but also retained many, if not most, of its

¹⁰ Shivji appears to have anticipated the Party assuming control of the transition, as he had cautioned against just such a development in an article published in 1991 (Shivji 1991a: 88-91).

¹¹ See Mtaki and Okema (eds.) 1994, for an informative compilation of essays on the constitution which were presented at a seminar organised by the Dar es Salaam University Faculty of Law in September 1993.

previous characteristics. The most significant changes were the separation of Party (i.e. CCM) and Government, the new role which each of these institutions now had to fulfil and the addition to political life of an organised opposition. Although seemingly profound and far-reaching, these developments did not entail a radical transformation of political affairs. The Government and the CCM leadership, now well in step with each other, had managed to regain and keep the initiative in the events leading up to the constitutional changes and also managed to continue dictating the agenda.

The political changes required CCM to shed much of its extensive Party machine. Previously, there had been a CCM branch and office at every working place within the state sector. As a part of the exercise to separate state and Party, these premises now had to be closed down. The Party also lost most of its substantial state financing. Under the new constitution, the National Assembly is the nation's highest authority and has the power to impeach the President. In practice, the President and his Government inherited most of the power which had previously resided with the Party and kept most of the privileges which they had prior to the change. It is still exceedingly difficult for the Assembly to hold the President and his cabinet accountable.

The laid down procedure for Presidential impeachment provides an illustrative example. First, a motion, supported by at least one-third of the Parliamentarians, alleging Presidential misconduct recommending the establishment of a Committee of Enquiry to investigate the allegations should be presented to the Speaker. Once the Speaker is satisfied that the motion

has followed the correct procedures, it is presented to the National Assembly where it has to be carried by a two-third majority. The Committee proceeds to investigate and reports back to the Assembly. If its findings are in support of the allegations, Parliament deliberates on the issue. The motion now requires support by two-thirds of the MPs from Mainland and from Zanzibar to pass. If the Committee finds that any of the allegations are not conclusively proven, on the other hand, the motion of impeachment stands annulled. Prof. Shivji concludes from his discussion of the issue that “it is probably easier for the President to dissolve the Parliament than for the National Assembly to unseat him through impeachment.” (Shivji 1992: 89-90)

Despite the perpetuation of executive dominance, the era of *Mageuzi* heralded increased Parliamentary activity and back-benchers spoke against the Government more frequently. This tendency was already apparent before the constitutional amendment, as shown in the above discussion of the Investment Code and the Zanzibar Declaration. With the separation of Party and Government, the Members felt less restricted by Party political control and it became commonplace to hear MPs challenge the Government line in Parliament. Although many back-benchers relished the opportunity to speak more openly, the newly asserted independence of the National Assembly did not bring about any substantive changes in the legislative process.

Back bench opposition tended to focus on isolated ‘showcase’ issues, the best known being Zanzibar’s unilateral entry into the Organisation of Islamic Conference (OIC) and the

demand issued by a group of 55 back-benchers, who became known as the G55, to establish a separate 'Tanganyika Government' for the mainland, in addition to the existing Union and Zanzibar Governments, thereby transforming the Union into a federation proper.¹² In both these cases, Government and Party used all means at their disposal to contain and derail the debate, which most notably included convening the General Assembly in camera as a Party Committee to enforce discipline and avoid publicity.¹³ The Parliamentary Committees, theoretically the focus of Parliamentary participation in the legislative process, continued to have minimal impact on the Government policies tabled in the General Assembly, also after the constitutional changes. The Committees lacked both the expertise and the resources to undertake any serious scrutiny of Government policies and budget proposals and had little or no effect on decision making (Halfani and Nzomo 1995: 13-14).

It is therefore clear that, despite the political reform, policy making remained under tight control by a limited inner circle in much the same way as under constitutional Party

¹² This is in accord with a recommendation made by the Nyalali Commission to adopt a federal solution to the Union, consisting of a Union Government and separate Tanganyika (mainland) and Zanzibar Governments (under the existing two-Government structure, 'Tanganyikan affairs' fall under the Union government). For references on the issue, see reports in the *Bulletin of Tanzanian Affairs*, nos. 45-47; McHenry 1994: 198-99; Msekwa 1995: 12; 35-38.

¹³ Mtaki 1994: 105, n25. This was not a novel strategy, the same tactics had been employed in 1989 to suppress a private member's motion to discuss the rights and independence of members in Parliamentary proceedings (Halfani and Nzomo 1995: 14-15).

Supremacy. The political debate within the National Assembly was only on the periphery of decision making and the Parliament's participation was generally limited to passing the finished Acts and Policies. The Speaker of the Assembly, the CCM veteran Pius Msekwa, has himself decried the lack of openness in policy making and he made the following comment on the handling of the important legislative processes which lay behind the political reform:

The most prominent deficiency on the part of CCM and the Government [in the transition to multipartyism] was the failure to publish a white paper on the Nyalali Commission's report, clearly indicating which of the Commission's recommendations had been accepted or rejected, or accepted but modified, etc. As a result, the public was left in the dark. (Msekwa 1995: 12)

This "conspiracy of silence", as Msekwa terms it (1995: 12), closed all avenues for meaningful debate on constitutional reform both before and after the 1992 amendments. This left back bench Members of Parliament and the general public in no doubt that little had changed and that the advent of Parliamentary Supremacy was mostly of theoretical significance. The style of policy making under the new constitution remained virtually unaltered.

MULTIPARTY POLITICS AND ELECTIONS

I have dealt with the institution of multiparty politics in Tanzania and the 1995 elections in detail elsewhere (Sundet 1996). The purpose of this section is to set the political context of the formulation of the National Land Policy, which took place in the 1991-95 period, and to highlight issues which are of particular relevance to this study.

The democratic reform came at a time when the public confidence in CCM's ability to rule was at a low point. Economic liberalisation had turned the economy around to show a steady growth but the benefits were unequally divided. Particularly in the urban areas, basic salaries could not keep up with inflation and hardship was added by the increasing cost and declining quality of health and education services. At the same time, luxury villas shot up in the suburbs of Dar es Salaam and the import of fashionable four-wheel drives was rising rapidly. Rampant corruption in the state administration was popularly seen to lay behind much of the newly acquired wealth and the malaise of racketeering was widely considered to be Tanzanian society's most pressing problem. The conditions for registering opposition to the incumbent regime seemed ideal and the upcoming national elections of October 1995 loomed large on the political horizon.

The nascent opposition movement was incapable of capitalising on the public dissatisfaction with CCM rule. As soon as the relevant institutions were in place, there was a veritable rush to register political parties. By July 1992, there were 27 recognised

opposition groups in the country (Mmuya and Chaligha 1992: 54). The rapid proliferation of political organisation did not bode well for the prospects of a united front against the CCM, and ongoing power struggles and mutual distrust among the most prominent leaders in the opposition frustrated numerous attempts to form coalitions (Sundet 1996: 23-25; Mmuya and Chaligha 1992: 63-65). The failure to resolve internal conflicts and to present a common front also contributed to the opposition's problems with winning public credibility. The opposition's agenda revolved around criticisms of 'CCM corruption and mismanagement' with the argument that the time had come for change. The various opposition parties were unanimous in their demands for the holding of a constitutional conference, demands which were consistently rebuffed by the CCM leadership.

The only successful constitutional challenge against the Government was headed by the highly popular and well known political activist Rev. Mtikila, who was the leader of the unregistered Democratic Party. In October 1994, in a case against the Attorney General, the High Court ruled in Rev. Mtikila's favour judging two points in the electoral legislation to be unconstitutional, namely a requirement to obtain permission from the District Commissioner prior to holding a political rally and the denial of the right of independent candidates to stand for elections.¹⁴ The Government quickly sought to negate the court's ruling and issued a directive stating that parties wishing to hold political rallies would require prior permission from the Police Commissioner and, in Dodoma in February 1995, a Constitutional Amendment was enacted to 'clarify' that the citizen's right to participate in

¹⁴ *Bulletin of Tanzanian Affairs*, January 1995, No. 50, 17.

political elections was conditional on him or her standing as a candidate for a registered party (Sundet 1996: 28).

The courts greatly impressed the public in this period with the independence they demonstrated through a series of significant rulings against the Government. In two other widely publicised judgements, the judiciary nullified the CCM victories in a Parliamentary by-election in Kigoma - on the grounds that the winning candidate, Azim Premji, was ruled not to be a Tanzanian citizen; and the re-election of the famously well connected but deeply unpopular Dar es Salaam mayor, Kitwana Kondo (a.k.a. 'K.K. '), in the local elections in 1994 - on grounds of irregular and defamatory campaigning by the CCM.¹⁵

The embarrassment for CCM caused by these widely publicised Court defeats was further compounded by a string of scandals relating to embezzlement of public funds and officially sanctioned tax evasion. The controversy over the Government's handling of the nation's finances reached a peak in late 1994 with reports that tax evasion was standing at around 140 million dollars a year, much as the result of discretionary tax exemptions issued by the Ministry of Finance. Tanzania had more than 30 million dollars of payment support funds cut from the Scandinavian countries as a direct result of the scandal. At the centre of the affair stood the Minister of Finance, Kighoma Malima, who many held personally

¹⁵ *Bulletin of Tanzanian Affairs*, May 1995, No. 52, 6; *Daily News*, 14.3.95, "Kitwana Out," 1.

responsible for arbitrary granting of tax exemptions and it was reported that the donor community demanded his resignation.¹⁶

President Mwinyi sought to resolve the crisis by announcing a cabinet reshuffle in which Malima was moved to the Ministry of Trade and Industries. Another demotion which was to prove significant was the transfer of the popular and charismatic Augustine Mrema from his previous position as the Minister of Home Affairs to the Ministry of Labour and Youth Development. Mrema had endeared himself to the public through what can perhaps be best described as a personal and populist vendetta against corrupt individuals. But he had attracted considerable criticism from the legal profession for his disregard of established procedures: he preferred setting up his own *ad hoc* tribunal in the Ministry and he was mistrusted among the other leaders as overly ambitious and dangerously popular.

Mrema and Malima became the only two Parliamentarians to defect from the ruling party. Both had been known to harbour presidential ambitions and the reshuffle had convinced them that they were out of contention for CCM nomination for that post. Of the two, Mrema made by far the most significant impact. In February 1995, Mrema stood up in Parliament and castigated the Government for its mishandling of the so-called Chavda-affair.¹⁷ He was

¹⁶ *Business Times*, 25 Nov. - 1 Dec., 1994, "MALIMAGATE" and "Donors want Malima out".

¹⁷ Mr. Chavda, an Indian-Tanzanian businessman, had been accused of pocketing in excess of a million dollars in debt-conversion funds which had been earmarked for the development of sisal estates.

consequently sacked from the cabinet for failing to uphold 'collective responsibility' and shortly thereafter he resigned from the party and announced that he had accepted the chairmanship of one of the main opposition parties - NCCR-Mageuzi. Mrema's sensational switch of allegiance dramatically altered the political landscape. NCCR became the most popular opposition party overnight and signals from the other parties indicated that they might be willing to back Mrema's candidacy for the presidency. For the first time it appeared possible that the opposition was capable of posing a real threat to CCM in the upcoming elections.

Malima resigned at a later stage and assumed the chairmanship of NRA (the National Resistance Alliance), a relatively minor opposition party (he narrowly missed winning what would have been NRA's only seat in the elections). Apart from these two prominent figures, no other incumbent CCM Member of Parliament defected. Members of the G55 continued to be highly critical of the sitting Government but none from their fold indicated any intention of shifting to the opposition.¹⁸ In the reshuffle it appeared as if the leadership sought to co-opt the most outspokenly critical of the back-benchers as two prominent G55 members, Njelu Kasaka and Philip Marmo, were appointed to the cabinet at the levels of Deputy Minister and Minister, respectively.

¹⁸ Gathered from meetings with several members of the G55 in the spring of 1995 including Mateo Qaresi, Patrick Qorro, Lt. ole Moloimet and Shashu Lugeye.

The key issue within the CCM in the run-up to the election was the selection of the Party's presidential candidate. The constitution barred Mwinyi from running for a third consecutive term and there was not an obvious choice as his successor. Among the front runners for the job at an early stage were Cleopa Msuya, who had resumed the position as Premier after the reshuffle, and the young and charismatic Minister of Lands, Edward Lowassa. Benjamin Mkapa, Minister of Education and a veteran of the foreign service, gained prominence at a later stage and became rumoured to be Nyerere's preferred choice. In the beginning of April, Njelu Kasaka stood forth as the first to declare his intention to contest for the nomination.¹⁹ A total of 17 candidates came forward in the next few weeks. By an Extraordinary CCM Conference in July, the field had been narrowed down to three candidates - Cleopa Msuya, Benjamin Mkapa and Jakaya Kikwete, a young officer, especially popular among the youth, who had taken over as Minister of Finance after Malima's demotion. Lowassa had fallen out of the race by this stage, reputedly much due to strong opposition from Nyerere. Kikwete scored highest in the first round of the ballot but failed to score above a required 50% of the votes and Mkapa narrowly won the run-off after Msuya had stepped back.

In the opposing camp, the common understanding arrived at after Mrema's inclusion in NCCR soon collapsed and two other parties, CUF and UDP, also fielded their own

¹⁹ *Daily News*, 3.4.95, "Njelu Kasaka now eyes Union presidency".

Presidential candidates. CHADEMA, the fourth of the significant opposition parties, endorsed Mrema's candidacy.

The election campaign was a highly personalised affair and was dominated by negative campaigning. CCM stressed the party's record of peace, stability and unity and warned of imminent chaos in the case of a victory for the opposition. References were frequently made of the atrocities which had been recently committed in neighbouring Rwanda. CCM further referred to its long experience in Government and argued that the opposition lacked the capabilities to govern the country. The opposition, on the other hand, depicted CCM's reign as one of corruption and incompetence. They argued that after more than 30 years of one-party rule, the time had come for a change. The opposition parties placed little emphasis on their respective policy agendas.

The October 1995 elections occasioned considerable controversy, albeit mostly connected to the seriously flawed Zanzibar elections (Sundet 1996: 33-35; IFES 1995: 46-55). The historic event was marred by massive logistical problems which peaked in Dar es Salaam where the poll was annulled and postponed three weeks due to late and insufficient deliveries of polling material, but there were no signs of vote rigging on the mainland. Mkapa comfortably secured more than 60% of the vote in the Presidential elections and CCM won a massive 219-55 majority in the National Assembly, much thanks to the 'first-past-the-post' constituency-based electoral system.

Mkapa marked the start of the new regime with appointing a youthful cabinet, most of whom were new to the Government, and sidelining the old guard, notably Msuya, Malecela and Kolimba. He also incorporated two more of the G55, Mateo Qaresi, who together with Njelu Kasaka had spearheaded the group, and Mussa Nkhangaa, as Ministers of State in the President's and the Prime Minister's Office, respectively.

The public agenda in the run-up to the elections had shown little consideration for underlying policy issues, apart from the overriding theme of runaway corruption. Benjamin Mkapa had arguably been picked as a direct response to this pressing issue. He was among the very few of the incumbent regime who could plausibly be presented as a 'Mr. Clean' in the campaign and also possess the credibility of a politician with integrity and a proven record. Similarly, Mrema was ideally suited to a 'corruption busting' campaign due to his reputation as an uncompromising crusader. The wider issues of economic policy and governance were therefore not central to the election campaign and it is doubtful whether the institution of multipartyism had much effect on the general policy agenda in Tanzania.

CCM had managed the transition to multipartyism and its first national elections relatively unscathed. There had been a generational shift but that had appeared as a meditated strategy rather than the result of overt pressure from within the Party. The party was still firmly in control of the National Assembly and Government.

LAND POLICIES UNDER INVESTMENT PROMOTION

The processes of land policy which were initiated with Agripol and economic reform in the eighties continued to progress along the same lines in the nineties. The demand for land rose with the liberalisation of the economy and applications for land were increasingly likely to be met with a favourable response from officials in a position to expedite their requests. The land administration groaned under the weight of the high workload, demands imposed by elaborate procedural requirements and, not least, by a rising number of complaints and litigations against decisions already made. Tanzanian smallholders and pastoralists faced a steady deterioration of their already tenuous security of tenure as a result of these developments. The following discussion of land policies in the nineties and the situation in the rural areas serves to set the context for the policy discussions and policy formulation, covered in next chapter, which were being conducted in this period.

The Investment Promotion Policy

We saw earlier in the chapter how the controversial Investment Promotion Policy was adopted in February 1990. The Policy was launched with the objective of providing a significant boost to the rate of economic growth and its implementation became a mainstay of the Government's economic policy. The policy had a considerable impact on the way in

which land was administered and land officials were instructed that it was a Government priority to assist investors.

The Policy offered approved investors tax-breaks and promises of government support to set up new business ventures. An Investment Promotion Centre was set up to assess applications for approval and to assist in getting approved ventures started. Agriculture and Livestock Development and Tourism were listed among the priority areas for investment, and the already high demand for land further intensified. The Policy specified that village land was not available for “commercial activities” by investors, except for “joint ventures”, but emphasised that “there are extensive areas of arable land, outside designated village land, which are still available for lease by private or public investors” (URT 1990: §13). The notion that prime land is plentiful is a misconception, albeit a common one among Tanzanian officials. In reality, there is little land in rural Tanzania which is not claimed by a village or falls within a protected area. Officials recognise this fact to a certain extent but put it down to villages laying claim to ‘too much’ land. As shown in the previous chapter, the perception that there was a need to delimit over-expansive villages’ claims to land was also the primary motivation behind the Agricultural Task Force’s recommendation to start the village titling exercise under Agripol.

In October 1991, the Director of Town Planning in the Ministry of Lands issued a directive to the Regional Town Planning Offices giving the following instructions on village land use planning:

Village viability assessment should be carried out in order to establish the carrying capacity of each village, on the basis of which land requirements for the village population will be determined for a period of 20 to 30 years. Once the requirement for the village population is established the remaining amount of land will be shown, and that may be set aside for private investors from outside the village. From then, land use plan preparation should be carried out together with the demarcation of village boundaries and titling. (cited in Lerise 1996: Chapter 10, 9)

According to Lerise's account from Moshi, the directive was not followed and it is clear that the Director's instructions were far beyond the capacity of the Regional Town Planning Offices and therefore unrealistic. The notion that the planners were in a position to estimate every village's carrying capacity, let alone future requirements, to any degree of accuracy beggars belief. Furthermore, surveying usually takes place before land use plans are prepared and surveyors generally find it expedient to go by the villagers' view of what are the correct boundaries and the main problems they tend to encounter are border disputes between villages which often flair up during demarcation. Villages are consequently usually given common borders without any 'spare land' between them and people in titled villages are most often satisfied that the correct borders have been drawn (Bruce 1994: 52; Johansson 1991). The significance of the above citation is the light it throws on the priorities of the central authorities with respect to land. The next chapter's discussion of the policy discussions at the Ministry further brings out the impact the Investment Promotion Policy had on policy formulations.

There were few land-intensive rural projects with approval from the Investment Promotion Centre ('IPC Approval') initiated in this period and for that reason the Policy had little

direct impact on rural lands. A senior Ministry official stated that there was little interest from investors in agriculture and that they did not expect much more to be forthcoming.²⁰ The impact of the Policy was first and foremost to influence the official agenda of land administration further in favour of applicants, with or (usually) without IPC approval, who were looking to secure tracts of land and the stated policy objective of encouraging investment also served to justify and legitimise land allocations. Investment Promotion can therefore be usefully seen as an escalation of the process which started with Agripol, with policies turning still more in favour of entrepreneurs seeking to acquire land in the rural areas. Smallholders and pastoralists were ill-positioned to withstand the added threats to their lands and the security of tenure under customary law continued to deteriorate. The safeguards which were supposedly built into the administrative system had come under severe strain.

Breakdown of the land administration

The land administration was performing few of its regulatory duties satisfactorily at this stage. The system was struggling under the much increased workload of an unprecedented demand for land and high incidence of land litigation. District and Regional offices were

²⁰ Interview with Mr. Lubuva, Department of Urban Planning, MLHUD, September 1994. Mr. Greenwood, a World Bank consultant commissioned to advise the Ministry on Land Policy, seconded Mr. Lubuva's judgement (interview, October 1994).

pressed hard to keep up with the Ministry's calls for the production and implementation of village land use plans in addition to the work involved with the village titling programme (Lerise 1996: Chapter 10, 1-13). The problems associated with these tasks were compounded by the highly centralised structure of the administration. Blurred lines of accountability and a critical lack of transparency made it exceedingly difficult to ensure that the correct procedures were adhered to. This environment gave rise to a string of practices which undermined tenure security in the country's villages and led to widespread land losses while failing to rectify passed injustices.

In the early nineties, reports of individuals using questionable methods to encroach on village land became more widespread and the practice was widely referred to as 'landgrabbing'. Pastoralists were particular exposed to such practices. The method used by people seeking to secure tracts of land was generally to approach the Village Chairman or Secretary. These could then either hold a secret Village Council meeting or simply concoct the minutes to allocate the outsider a given acreage and provide him/her with the documentation necessary to acquire a title for the said land. Such Village Council meetings, whether real or imaginary, could, for the right price, often allocate vast areas of land at the stroke of a pen. Copies of the minutes from one such meeting shows the Naberere Village Council in Simanjiro district allocating a total of 28,000 acres to 17 recipients and other reports proves this not to be an isolated or uncommon case.²¹ Newspaper reports from

²¹ The minutes from the Village Council meeting of 15.4.92. Extracts from VC meetings in two other Simanjiro villages, Loiborsoit and Orkesmet, show their Village Councils allocating 15,000 acres to 14 recipients and 6,300

Simanjiro and Loliondo, both districts in Arusha, tell of similar cases of land being allocated to well-connected individuals in exchange for 'presents' to village leaders.²²

The Land Commission reports that Lolkisale village in Monduli district, also Arusha, lost nearly 19,000 acres through allocations to 71 people who were outsiders to the village. One of the recipients of 1,000 acres was the then Regional Commissioner and several of the others on the list were also senior local administrators. This case differed from the examples from Simanjiro in as much as the Village Council had not been involved in the 'transaction.' The allocations had been made at the office of the District Commissioner, who regularly allocated land without convening the District Land Allocation Committee. Challenges to the legality of the titles issued in this manner were met with the answer that "once a title had been issued it was valid and could only be revoked by the president."²³

acres to 12 recipients, respectively (documents in my possession). The documents were provided to me by a Tanzanian journalist (identity withheld) who had investigated land-grabbing in Arusha. He also showed me several similar records and stated that he had ascertained that a clear majority of the recipients were local 'big-shots' and that the villagers had not been informed of the allocations.

²² *The Express*: 4-10.3.1993, "134 Arusha villagers protest over land allocation"; "Maasai ready to take up arms," Issue no. 97; "Maasai angry with land grabbers," Issue no. 126.

²³ URT 1993: Dispute No. 6, 25-27. Lolkisale is adjacent to the above mentioned Simanjiro village Loiborsoit. Igoe and Brockington provide several other cases of land loss to 'investors' among Simanjiro villages (1996: 37-75).

The above examples all concern rangelands which have proven particularly hard to protect seeing that in the absence of permanent cultivation it is difficult to prove ownership of land or to protect from wrongful transfer in cases where the land has already been titled to the village. Forested areas within village boundaries have also been particularly exposed to loss. District Councils often seek to bring forests under the direct control of the District through the establishment of official Forest Reserves making use of forest resources conditional on approval from the authorities.²⁴

The state administration constitutes perhaps the gravest danger to the village land. Apart from forest reserves, other common reasons for removing land from village jurisdiction include, expansion of game parks or reserves (Igoe and Brockington 1996; URT 1993: Disputes nos. 9, 21, 32; and 34; Hoben *et. al.* 1992: 57-60), allocation to public institutions such as the military, prisons or schools (URT 1994: 28-9; URT 1993: Dispute no. 29; Lwoga 1985) and expansion of town boundaries (Izumi 1997; URT 1993: Dispute no. 20; URT 1994: 73-9). Officials have considerable incentives for appropriating village land for such public purposes. Due to the poor standards of accountability and transparency in the state administration, public control of land and other resources lends itself to a wide range of opportunities for officials to cash in on, for example, user fees, exclusive licenses and land allocations.

²⁴ See Kalms *et. al.* 1995, Annex 8, 13 and URT 1993, Dispute no. 18, 77-9, for examples from Singida and Kigoma regions, respectively.

Such losses of land can have grave consequences for villages. Many villages are already struggling to keep up with the demand for land imposed by an increasing population and an oft heard question in rural Tanzania is “where shall my children farm after me?” (Wily 1988: 1) The problems of the Village Councils’ far-reaching authority of land matters without adequate safeguards against abuse, as discussed in the previous chapter, remained virtually unaltered under the new multiparty system. The elections of Councillors, including the Village Chairman, were still held as party elections with party appointed candidates, albeit with more parties and candidates competing. The Village Secretary was appointed by the District Council and also functioned as the Village Executive Officer. The Village Council is therefore arguably as accountable to the centre as it is to the villagers it is meant to be representing.

The villages’ impotence relative to the centre is clearly demonstrated by the example of village by-laws. Villages commonly manage their commons through the enactment of environmental by-laws. Such laws are normally respected and enforced within the village but to make a by-law legally enforceable, it needs to be submitted to the District Council for review and if the Council certify the by-law as sound, it is forwarded to the Prime Minister’s Office for authorisation. Only after the relevant documents are returned to the Village Council is the by-law legally valid.

A poignant example of the pitfalls of this excessively elaborate procedure is provided by a case from Babati district. In 1989, the Village Council of Endagwe village in Babati decided

to conserve two areas as 'Village Forest' and decreed that it was illegal to cultivate there and that nobody would be allocated the land. Shortly after, a recently immigrated villager cleared and burned a major part of one of the forested areas and started cultivation. The Village Council decided to sue the 'encroacher' in the District Court for breach of village by-law. The court found that the by-law lacked the proper authorisation of the PMO and that the law was not valid. The defendant was allowed to continue cultivation and the village was ordered to pay him compensation. (Hoben *et. al.* 1992: 59)

The competition for land reached particularly high levels in densely populated areas, especially peri-urban areas, where land values rose considerably. In such areas, there was little or no spare land and it was becoming increasingly difficult to expand landholdings or for newcomers to acquire land and the marketing for land has been growing since the economic liberalisation started.²⁵ These are also the areas where the demand for titling is highest. The long and complex procedure for surveying and processing titles combined with poor control mechanisms have led to the perpetration of frequent mistakes which have seriously troubled the tenure situation in high value areas.

Short-term grants of up to five years can be issued by the local authority while long-term grants can only be given by the Ministerial Committee and must be signed by the Minister (see Chapter 4). After land is surveyed and the application is accepted the grantee receives a

²⁵ Bruce 1994: 31. Although sale of land is technically illegal in Tanzania at present, sales commonly take place by charging an inflated price for 'improvements' and/or through money changing hands unofficially.

Letter of Offer to be signed and returned to the appropriate authority, after which a title (if it is a long-term grant) is prepared, a process which can take several years. Only when the grantee receives the final title is he or she the lawful owner of the land in question, although people tend to assume they have established ownership upon receiving the Letter of Offer.

The potentially long delays in the multi-link process and whether each part can be negotiated successfully depends to a large extent on the applicant's knowledge of the administrative system and the officials involved and the ability to offer rewards for speedy and favourable processing. The delays sometimes lead to double allocation, with two people being offered and possibly granted the same piece of land. The poor upkeep of transaction records and cases of local Government going against Ministerial directives by issuing land independent of the approved Committees, as illustrated above by the case of the District Commissioner in Monduli, adds to this possibility (Bruce 1994: 32-4; URT 1994: 25-7). Conditions also abound for wrongful allocation of land which is already under customary ownership as the result of administrative negligence or deliberate oversight.

The often chaotic conditions produced by this procedural and institutional set-up is poorly suited to cope with the strenuous demands of the environment of keen competition for land amidst rising prices and an expanding land market. The demand for titling is beyond the administration's capacity to deliver and mechanisms for vetting applications for authenticity and adjudicating and settling third party interests are either not in place or not operating properly. The problems are compounded by a high number of complaints against

administrative action or inaction and the litigations which have ensued with increasing frequency.

The courts were inundated with cases of land litigation throughout this period and incapable of resolving the disputes in a timely manner. Perhaps fortunately for the courts, a majority of the land disputes did not reach the judiciary. Investigations by the Land Commission in the early eighties revealed that the executive were involved in conflict resolution in 52% of the cases while the judiciary came in to play in only 27% of the cases. The Commission argues that the low level of participation by the courts is in part due to “the relative inaccessibility of the judiciary to the large number of people but partly also due to a dominant tendency of the executive arm of the state to arrogate extensive powers to itself.” (URT 1994: 104) Interference by the executive has not led to a speedier resolution of conflicts. Moshi is one of the places where the Ministry of Lands has set up a Customary Lands Tribunal and figures collected by Fred Lerise in November 1994, show that of 192 cases which were filed in the 1990-94 period, only 20 had been deliberated and judgement had been reached in none (Lerise 1996: Chapter 6, 8).

Another set of statistics compiled by the Land Commission reveals interesting findings on who it received complaints against in its investigations. Private persons, companies and parastatals attracted 30% of all complaints; local and central government 52%; and village authorities 14% (URT 1994: 103). These figures clearly illustrate that the people were discontented with the manner in which the authorities are handling the administration of

their land. Considering the high level of involvement of the executive in all aspects of land management and allocation and the extensive scope for personal discretion allowed by the present system it is hardly surprising that the authorities were the target of frequent complaints. It is also interesting to note the relative high share of the complaints which were lodged against the village authorities. Such complaints usually concerned Village Councils reaching unpopular decisions on land allocations without consulting the villagers, as in the cases of landgrabbing referred to above.

Summary of issues

The Tanzanian land tenure system was overly reliant on administrative fiat. Its regulatory and procedural framework was of a complexity which it was beyond its capacity to execute in a satisfactory manner. The application of regulations such as development conditions was futile as practised, due to the inability of the administration to follow up on the terms of the conditions, let alone to enforce them. The strategy of regulating land utilisation in detail from the centre through land use planning down to village level was based on an unfounded faith in the power of 'scientific' planning. Even if sufficient capacity existed to undertake such a vastly complex venture the supposition that decisions regarding parcelling and allocation of valuable land will, in the last instance, be based on scientific criteria is naive.

The notion that land had no intrinsic value was a legal myth. Although legally barred, an unofficial land market existed in most parts of the country, being most widespread in high value areas. The disadvantages of such an arrangement are plainly obvious when it comes to government allocation of land, seeing that undeveloped land was, in theory, allocated for free. This provided liberal room for rent-seeking by officials who wielded authority or influence in land allocation. The practice also denied the government revenue and had a potentially negative effect on land use as it encourages unproductive speculation in land.

The judiciary was incapable of dealing with the large number of conflicts over land, it was inundated with land litigations and cases were often delayed for inordinately long periods. The judiciary was also inaccessible to a majority of the people and the state administration assumed responsibility for deliberating and judging upon the larger share of the disputes, a less than ideal solution which raised doubt as to the impartiality of the judgements, particularly since the administration more often than not was a party of the dispute.

At the roots of the major flaws in the Tanzanian land administration was its overly centralised structure. Decision-making powers were concentrated in a few individuals and there were few functioning checks against arbitrary or irregular decisions relating to allocation and control of land. Land allocating authorities were essentially non-representative and the procedures of land allocation did not provide for a satisfactory level of transparency. It was therefore often prohibitively difficult to challenge and investigate decisions and to hold officials accountable for abuse of power.

CONCLUSION

The first half of the nineties was a politically tumultuous period for Tanzania. The economic liberalisation which had started in the mid-eighties picked up additional pace and little but symbolic significance remained of the once-proud ideology of ujamaa. CCM relinquished its constitutional supremacy and the political field was opened for other parties. Important as they decidedly are, these radical changes, collectively known as *mageuzi*, obscured persistence of a markedly authoritarian and non-participatory style of policy making. Deliberations of policy were not made public and, once decided, a policy was virtually guaranteed to be passed without alterations. The political agenda in the context of the elections was first and foremost oriented to personalities and, apart from corruption, no issues of development policy, land policy included, gained any level of prominence during the campaign.

To be sure, land was a hotly contested and political issue on the ground. Tenure insecurity among smallholders and pastoralists was reaching an alarming level as the policy changes favoured the wealthy and the well-connected who were best positioned to successfully manoeuvre the increasingly complex land administration. On the one hand, the Investment Promotion Policy was a logical follow-on of the 1983 Agricultural Policy in its stated goal of providing land for commercial developers and thus a further removal from the egalitarian basis of ujamaa and the Arusha Declaration. On the other hand, the Policy was also the culmination of the state's much longer standing modernising drive. The Meru Land Case of

the colonial period, the villagisation operations and the Investment Promotion Policy as it was practised are all related examples of the developmental state's tendency to set aside smallholders' land rights in order to achieve what it saw as more efficient utilisation of the land.

The Investment Promotion Policy can therefore be seen both as a break from ujamaa and as a continuation of the policy of modernisation. The top-heavy land administration was the product of a continuous if disjointed historical strategy of transforming the rural areas into modern, large-scale units, whether cooperative or private, of production. By the beginning of the nineties this administrative structure was in danger of collapsing under its own weight and it was widely agreed that the system was in urgent need of reform. Parallel to the processes presented in this chapter, the nation's new land policy was being formulated through an uncommonly comprehensive policy review. In the next chapter we turn to this important process for a detailed inspection of the proceedings.

Chapter 6

THE NATIONAL LAND POLICY:

THE MAKING OF A POLICY

This chapter is an examination of the extensive policy-making process which led up to the adoption of Tanzania's new *National Land Policy*. Five years passed from the time that work on the policy started till the final document was passed in Parliament. The main actors in the policy formulation were a Ministerial Committee working within the Ministry of Lands and the Presidential Commission of Inquiry into Land Matters, chaired by Prof. Shivji. Towards the end of the process a high-profile National Land Policy Workshop was held at the International Conference Centre in Arusha to discuss the various policy proposals and to make the final recommendations towards the policy. The completed version of the Policy was finally unanimously approved in Parliament in June 1995, in the midst of rising pre-election fervour.

The Land Commission's Report and the National Land Policy have already been the subject of analysis by interested scholars.¹ Less is known about the way in which the Policy came into

¹ See, for example, the papers presented at the Workshop on the National Policy arranged by the Land Rights Research and Resources Institute (LARRRI) in Dar es Salaam, 3.4.96 (Shivji, Juma, Kapinga, Mwaikusa, Chachage and Shaba 1996) and Havnevik 1995.

existence. The following account will shed some light on the guarded workings of the Ministry of Lands, which has been the policy's prime mover since its inception, and on how the policy has evolved and devolved through its various drafts. Only by taking into account the details of the process of policy-making, as well as the end result, will it be possible to make a meaningful analysis of the Government's approach to the land issue. Insight into the policy-making process will assist us in evaluating the Land Policy and give us a better appreciation of how the Policy is likely to be implemented. This chapter provides a detailed consideration of the unfolding of the process. The various policy proposals and drafts are summarised as they appear with the purpose of assessing their impact on the formulation of policy. The analysis of the substance of the Policy and of the Land Commission's Report will be presented in the following chapter.

The bulk of the information in this chapter is derived from my collection of relevant policy documents and interviews with people who have been involved in the formulation of the Policy. The interviewees include participants in all the numerous bodies which were set up to contribute towards the definition and drafting of the National Land Policy. In the interviews I sought to understand the motivation and origin, as well as the substance, of the various aspects of policy. The chapter starts with a brief review of the agenda at the beginning of the decade and of the beginning of the policy-making process, the second part deals with the Land Commission and its analysis and recommendations. The third section describes the work which took place at the Ministry of Lands at the same time, and reviews the Government's response to the Commission's recommendations. The penultimate part deals with the subsequent period which

culminated in the Arusha Workshop and in a revised draft for the Land Policy. Finally, the finished version of the National Land Policy is presented.

THE CALL FOR A NEW LAND POLICY

At the end of the 1980s, the strain of consolidating an antiquated and self-contradictory land legislation with new policy demands and a rapidly changing rural, as well as urban, structure started to be acutely felt at Government level. Of particular concern was the growing incidence of land conflicts and disputes over allocation of land. The 1983 Agricultural Policy and the subsequent trade liberalisation had increased the demand for land and lifted the previous policy restrictions on acquiring land. The existing administrative set-up was ill-equipped to deal with the new policy environment. There was also a sense that the land policy was lacking in direction following Agripol. The issuing of village titles continued to be the cornerstone of the rural land policy but the titling programme had never gained much momentum and was subject to much criticism.

The first concerted efforts to bring Tanzania's land legislation up-to-date were initiated for reasons other than the problems which were experienced in the rural sector. In 1989, the then Director of Town Planning (changed to Director of Urban Development in 1992), in the Ministry of Lands, had set about framing an Urban Development Policy. He said that he soon found that it would be impractical to draft an Urban Policy in the absence of a national policy of

land and an updated land law (we also recall that the Ministry was embroiled in a substantial conflict at this time with the Dar es Salaam City council over the right to allocate land, see chapter 4). He subsequently proposed that a Committee should be set up to draft a comprehensive National Land Policy. In July 1990, the proposal received approval and financing from the Planning Commission, which stated: “This is important. Especially in light of Investment Promotion.”²

A policy-making body with its base in the Ministry of Lands was then set up and started to work on the formulation of the National Land Policy. At the same time as these developments took place, Mr. Komanya, the then Minister of Lands, registered serious concern about the increasing rate of land conflicts. He brought this to the President’s attention and recommended that a Presidential Commission be set up to investigate the causes of the problem and to recommend legal reforms to remedy the shortcomings of the existing land legislation. The Minister was aware that there already was a committee within the Ministry drafting proposals for a new land policy, but he considered that “such a small committee” within the Ministry was not suited to undertake the country-wide investigation of land conflicts that he had in mind.³ Komanya, a relatively recent arrival in the Ministry, was also mostly concerned with the political fall-out from escalating land conflicts and complaints of widespread landgrabbing while the Ministerial Committee was more concerned with development issues and the

² Interview with Prof. Hayuma, Director of Urban Development, May 1992.

³ Interview with Mr. Komanya, Minister of Lands March 1990 - October 93, February 1995.

modernisation of an antiquated land tenure structure. President Mwinyi consented to the Minister's request, and the Presidential Commission of Inquiry Into Land Matters was established.

The existence of two separate and unrelated policy-making bodies working side by side on the same policy gave rise to a curious situation laden with uncertainty and tension. I did my initial research in Tanzania at the time when both these bodies were working simultaneously on drafting a policy to address the same issues. There was a tense competitive atmosphere between the two groupings and a premonition of conflict to come, as indeed it would. The following presentation of their findings and recommendations will show two groups with widely different interpretations of the problems to be addressed and equally varying policy solutions. First, we turn to the contribution made by the Land Commission.

THE REPORT OF THE PRESIDENTIAL COMMISSION

The Commission started its investigation in January 1991. It was chaired by Issa Shivji, a well-known political and legal scholar, and the appointed members were all political veterans and/or legal experts. The Commission's methodology was similar to that of the Agricultural Task Force of the early eighties. The Commission solicited expert and public opinion and toured all the country's regions and managed to visit all but two districts. Public complaints of problems

relating to land administration and disputes were followed up with on-site investigations. The Commission submitted its policy recommendations in November 1992 (URT 1994).

The Commission's Report is the most comprehensive analysis of the land issue in Tanzania ever made. It traces Tanzania's existing legal and administrative framework from its colonial origins up to the present time. It demonstrates how the basic land legislation has remained virtually unaltered since the colonial era and it argues that the fact that all land in Tanzania is declared to be public land has leant a distinctly administrative bias to the manner in which the state has dealt with the land rights of the public. The Commission cites a now familiar body of evidence to demonstrate how the state has repeatedly failed to uphold a meaningful guarantee for land rights under customary law. The substance of the Commission's analysis is already illustrated in this work by the issues discussed in the previous chapters, and does not require repetition here. The Commission identifies the following points to be the main failings of the existing arrangements.⁴

- a failure to separate the legal from the administrative basis for land with resulting confusion in the implementation of land related policies.
- inadequate security for land claimed under customary law.
- insufficient presence of checks and balances on the allocating authority and absence of transparency in allocation procedures.

⁴ See URT 1994, 19-24 for a concise summary of the Commission's assessment of the existing system's shortfall's in reference to customary tenure.

The Commission traces the weaknesses of the land legislation to the fact that all land in Tanzania is vested in the President, i.e. the executive arm of Government. In consequence of its diagnosis, the Land Commission recommends a radical restructuring of the nation's legal and institutional framework for land. A summary of the main points in the Commission's recommendations pertaining to rural lands is set out below.

The Commission recommends that the President is divested of the radical title to all land, and that Tanzania instead adopts a two-tier system of land tenure, divided between Village Lands and National Lands. Village Lands would cover the whole land area which falls within the boundaries of the country's villages and largely corresponds to the area which is presently owned under customary law. The land of each village would be vested directly in the Village Assembly, i.e. the village's administrative unit consisting of all adult villagers. National Lands would be a residual category consisting of all lands not covered by Village Lands. They would be administered by a National Lands Commission (NLC) and vested in a Board of Land Commissioners (BLC), which would serve as a watchdog over the NLC. The BLC would consist of eight appointed members and four ex-officio members from institutions concerned with land matters. The appointed members would be nominated by the President for approval by the Parliament. The Board of Land Commissioners would be accountable to Parliament.

The boundaries of Village Lands would be determined by the demarcation of all the country's villages, with each village receiving a Certificate of Village Land (CVL) as proof of ownership,

and to certify the village borders. The existing village titling programme would be dropped and the demarcation procedures would be simplified, using the general boundary rule and thus enabling the demarcation process to be sped up considerably. The CVL would be vested in the Village Assembly and would require that all decisions taken in the villages concerning land use and ownership would be taken in public in accordance with a majority vote.

Each Village Assembly would elect five elders for a *Baraza la Wazee la Ardhi* (Elders' Land Council). The *Baraza la Wazee* would serve as the primary judiciary organ in land disputes within villages. The villages would also establish a Village Land Registry within each village, and the villagers given a certificate called *Hati za Ardhi ya Mila* (HAM) to serve as proof of land ownership. The Registry would be administered by the *Baraza la Wazee*. The HAM would be negotiable among villagers and would also be acceptable as security for credit arrangements within the village, but would not be transferable to non-villagers. Each HAM would bear the name of the head of household and spouse(s), and consent from spouse(s) would have to be obtained for a land transaction to be recognised by the *Baraza*.

The Commission recommends that Village Lands be made inalienable to outsiders (i.e. non-members of the village), who would only be able to acquire land in the village by 'Customary Leases' issued by the Village Assembly. A Customary Lease is proposed which is not to exceed a period of 10 years, after which it may be renewed, and for an area not to exceed 3 acres (ibid.: 153) In the case of existing granted rights of land at the time of adoption of the proposed land tenure structure, it is proposed that the Village Assembly may consent, conditional on a two-

thirds majority, to excise such land and let it be included in National Lands (ibid.: 196). After the conversion from the existing to the new regime the Land Commission would allow of no further disposal of Village Lands, regardless of whether the villagers desired to excise land or not.

As set out above, National Lands would be vested in a Board of Land Commissioners and administered by a National Lands Commission operating under it. The Commission argues that by vesting the land in an independent executive organ purposely designed to administer land, one would eliminate the present system's vulnerability to administrative, institutional and policy changes, thus ensuring the needed stability and consistency of land administration.

Tenure in National Lands would be of two types - rights of occupancy and customary rights. Rights of occupancy would essentially have the same characteristics as the present granted rights of occupancy, meaning that they would be Government leases, chargeable to rent and with attached development conditions. The main difference from the existing system would lie in the procedure for allocation. The Land Commission makes detailed step by step instructions for allocation of rights of occupancy under their recommended system, with an emphasis on provisions for transparency and participation. The five stage procedure can briefly be summarised as follows:⁵

⁵ See URT 1994, 163-7 for further details of the allocation procedure.

- 1. The land in question is declared a registration area and a specified period is given for any person with customary claims to land to register his/her claims. A regional Registrar of Customary Rights (a new office to operate under the NLC) will adjudicate upon and register the claims.

- 2. The required town planning is undertaken in urban areas. Broad land use plans are produced in rural areas to indicate preferred land use. The NLC ideally indicates suitable land to the applicants, not *vice versa*.

- 3. Surveying is done with the neighbours or the neighbouring communities of the plot present, whose signatures will also be required on the final deed plans.

- 4. The NLC submits the full documentation for the plot(s) to the Circuit Land Court (see below) for certification. The Court sets a date for a public hearing where objections may be raised by any person. The Court certifies the land to be ready for allocation after it is satisfied that all the stages and procedures of the process have been satisfactorily fulfilled.

- 5. The NLC advertises the land for allocation and invites applications (for residential plots) or tenders (for commercial lands). The list of applicants/tenderers is then made public and submitted to the NLC's local land committees - District Land Committees in rural and Ward Land Committees in urban areas, both consisting of

elected citizens. The Land Committees will make the final decision on the allocations in meetings which are open to the public. Allocations of more than 100 acres will require the consent of the BLC.

Sales or transfers of rights of occupancy would require consent from the relevant district or ward land committees. Such consent would be refused if the relevant authority considered the sale to be “purely for speculative purposes” ((ibid.: 169) There is no explanation of what would constitute such a judgement.

The Land Commission recommends the establishment of a specialised branch of the judiciary to deal with matters pertaining to land (see URT 1994, 197-202). On the village level the *Baraza la Wazee la Ardhi* would serve as a court of original jurisdiction. Its first attempt would be to reconcile the parties, failing which it would reach a verdict in a public hearing. Appeals from decisions of the *Baraza* lie to the next level on the judicial hierarchy - the Circuit Land Courts.

An average of two Circuit Land Courts (CLCs) would be established in every region. The CLCs would have appellate jurisdiction for Village Lands and original jurisdiction for National Lands and for conflicts between villages. Each CLC would consist of a senior magistrate with specialised training in land law and three *Wazee* appointed by the magistrate for each hearing from a panel of *Wazee*. The role of the *Wazee* would be akin to that of a jury. At the end of the proceedings in each case, the magistrate would summarise the relevant issues for the *Wazee* and seek their opinion. The *Wazee* would retire for deliberation and then deliver their opinion in

open court. The magistrate would not be bound by their opinion but would be required to present his or her reasons for agreeing or differing with the judgement of the elders. The CLCs' hearings would be held at the site of the dispute, whether in villages or in urban wards, all of which would be visited regularly. All hearings would be held in public. The CLCs would exercise supervisory jurisdiction over the *Baraza* and would register all the decisions of the *Baraza*. And as we saw above, the CLCs also serves a supervisory role over the land allocation procedures of the NLC.

Appeals from the CLCs would go to a new Land Division of the High Court within each existing High Court centre. It would be composed of a High Court Judge with specialised training in land law and three *Wazee*, who will serve the same role as in the CLCs. Appeals from the High Court would lie to the Court of Appeal as before.

The Commission further recommends that the quasi-judiciary customary tribunals presently functioning under the authority of the Minister of Lands is abolished, as their role is subsumed by the *Baraza* and the CLCs. The Land Commission justifies the inclusion of the *Wazee* in the judicial system at the CLC and High Court level as serving a dual purpose. It would allow for fuller participation of the local communities in the adjudicatory process of land and it would also expose the professional personnel to the local communities' values and perceptions of fairness, with the ultimate goal of developing a more legitimate judicial system.

The final component of the Commission's recommendations to be accorded mention here pertains to land reform and the issue of post-villagisation litigations. We recall from the previous chapters that considerable problems had arisen over claims on lands where villages had more or less forcefully been settled on farms held under customary law and on abandoned estates during the villagisation process. Several court orders had already led to the eviction of numerous families from their lands, and the problem was rapidly increasing in severity. The Commission holds that in order to reach a satisfactory solution to this problem some elements of land reform will be required. It states that where it is deemed necessary, the counter-claims to village lands will be extinguished, and due compensation paid or alternative land offered to the claimant. What proved to be a prophetic warning was attached to the review of the post-villagisation litigation debacle:

At this stage, the Commissioners would like to underline the dangers of attempting to resolve the land tenure problems arising from villagisation through *ad hoc* legal measures, such as passing retrospective legislation to validate villagisation or *en masse* and indiscriminate extinction of customary titles ... We believe that the tenurial problems arising from villagisation can only be resolved within, and as an integral part of, a new dispensation on village tenure. (URT 1994: 55)

The Land Commission's Report is an impressively comprehensive piece of work, and its recommendations propose a boldly radical break with the past. It was obviously destined to cause considerable controversy and was never likely to be enthusiastically received among many of those who were implicated in the Commission's fairly damning verdict of the *status quo*. The thoroughness of its analysis and the ingenuity of its recommendations nevertheless

made it manifestly deserving of serious deliberation by the powers that be. It was also an eminently suitable starting point for an informed public debate on the various aspects of land and land policy formulation. The Commission's final recommendation in the Report it submitted in December 1992 was that it be translated into Swahili and made available for "public scrutiny and debate" (ibid., 210). This latter recommendation was not heeded by the Government and the Land Commission's contribution to the policy-making process failed to spark the hoped for public debate on land reform.

ACT 22: BUSINESS AS USUAL

The first significant policy response to the Land Commission took place while the Commission was finalising its work, a few weeks before the Report was submitted. In November 1992, the National Assembly passed the Land Tenure (Established Villages) Act 22 of 1992. The Act was evidently intended to be a means of resolving the problem of post-villagisation litigation, as it retroactively validated all land allocations made during the villagisation operations. Sections three and four of the Act succinctly set out the conditions under which this would be done and are worth quoting in full:

3(1). Notwithstanding any law to the contrary, all rights to occupy or to use land in accordance with any custom or rule of customary law existing or held or claimed to be held by any person in any village land prior to Operation Vijiji [villagisation], are hereby extinguished.

4. No compensation shall be payable only on account of the loss of any right or interest in or over land which has been extinguished under section 3 of this Act.

The Act was extremely wide in its scope and had potential consequences considerably beyond its original intentions. The Act served to amplify the centralising of powers effected by decentralisation and villagisation and strengthened the hands of Village Councils *vis-a-vis* the other villagers. The individual villager's land rights had been weak and ill-defined prior to the Act, partly as a result of the ambiguous situation left by the Village Act, which placed the administration of village land under the domain of the Village Council, which in turn was answerable to the District Councils, without legally extinguishing the existing customary rights. While Act 22 cannot be said to have extinguished customary rights as such in villages, it definitely worked to villagers disadvantage on several occasions, as it tilted the balance in the ambiguous situation further in favour of Village Councils and the local authorities. Pastoralists were particularly hard hit by the Act as some officials took the Act to imply that they had lost their long-standing, clan-based customary rights to rangelands (see, for example, Hoben *et al.* 1992). The Act is a typical example of an *ad hoc* solution applied to an ill-understood problem which caused more problems than it solved.

The particular circumstances leading up to the Act are instructive. Mbulu, Karetu and Babati districts in Arusha region had been particularly plagued by post-villagisation land litigations.⁶

⁶ Interviews with Philip Marmo (MP Mbulu), Patrick Qorro (MP Karatu) and Mateo Qaresi (MP Babati), June 1992, August 1994 and April 1995, respectively.

Several of the litigations were successful and this caused serious social problems as it was predominantly previous holders of large tracts of land that were reclaiming their lost farms. A single case could often lead to the displacement of 30-40 families. Farming families, who had been placed on that land by the Government in the first place, now found themselves in the ludicrous position of being ruled to be trespassers on the same land. Previous attempts at solving the problem by invoking the Land Utilisation Act of 1973 had foundered in the courts (see Chapter 4), and there was now a growing political pressure in the area 'to do something about the situation.'

Leading politicians from the area were instrumental in the drafting of the bill and it temporarily solved the acute problems they had been facing in the matter set out above. But there seems to be something amiss between their original motivation for the bill and the final content of the Act. Two years later, when the Act was finally repealed by the Court of Appeal, Patrick Qorro, the MP for Karatu and one of the prime movers of the Act, expressed astonishment that the Act had affected the whole country.⁷ It appears clear that the Government saw the Act as an opportunity to provide a blanket solution to the problem of all post-villagisation litigations with the stroke of the pen.⁸

⁷ Interview, February 1995.

⁸ See Shivji 1994 for a detailed discussion of the (non-) constitutionality of the Act.

The timing of the Act is curious, coming as it did only a couple of weeks before the submission of the Land Commission's Report. The Land Commission had, after all, been given the specific task of recommending solutions to the problem of land litigations. It is doubly ironic that the Land Commission explicitly warned against exactly this type of attempt at an sleight-of-hand solution to the problem.

The Act was almost immediately challenged in court, and a High Court ruling in Arusha declared the Act to be null and void.⁹ The Attorney General appealed the decision. It is a telling illustration of the environment in the land administration in Tanzania that, despite legal experts insisting that the case was null and void while the appeal was pending, the senior administrators within the Ministry of Lands assured me that the Act was still good law.¹⁰ The Court of Appeal finally upheld the Arusha ruling and annulled the Act in December 1994.¹¹

THE MINISTERIAL POLICY-MAKING MACHINE

At the beginning of the chapter we saw how a policy-making body had already been established within the Ministry of Lands to formulate a new land policy by the time the Land Commission

⁹ Attorney General vs. Aknonaay and Lohay, Civil Cause No. 1 of 1993.

¹⁰ Interviews with several senior officials, July - September 1994.

¹¹ Attorney General vs. Aknonaay and Lohay, Civil Appeal No. 31 of 1994.

started its work. Its formal structure consisted of a Technical Committee, based within the Ministry, which reported to an Interministerial Steering Committee under the chairmanship of the Principal Secretary in the Ministry of Lands.

The Technical Committee consisted of civil servants from the Ministry with a few members from other Government Ministries and organisations. The exact composition of the Committee's members fluctuated throughout the period of its work but it revolved around a Secretariat of eight, which consisted of senior officials (generally at departmental deputy level), six of whom were from the Ministry of Lands and one each from the Planning Commission and the National Land Use Planning Commission.¹² The responsibility for the drafting of policy recommendations lay with the Secretariat. The Secretariat reported to the Steering Committee which decided on all major policy issues and laid down general directions for the contents of the policy recommendations. The Steering Committee consisted of Senior Officers from the Ministry of Lands and other Ministries and parastatal organisations with interests in land.¹³ For the sake of ease, I refer to the whole of this body as the Ministerial Committee.

The Ministerial Committee's approach to the Land Policy reflected the Committee's composition. It was technocratic in outlook and saw the land policy, including all its legal aspects, first and foremost as a tool to enable the Government actively to implement its policies.

¹² Interview with Prof. Kulaba, May 1992, also see MLHUD 1993, ii.

¹³ See MLHUD 1993, ii for a listing of the Government bodies. According to Prof. Kulaba the Planning Commission was also involved at this level in addition to those listed, interview September 1994.

The Committee's main objective in their drafting of the new policy was to ensure optimal control of land allocation and land use. The then Commissioner of Lands asserted succinctly that the central issue was "how to administer the land on the behalf of the people."¹⁴ Accordingly, throughout my discussions with the policy-makers, they consistently prescribed administrative solutions to what they perceived to be the main problems associated with land.

The policy issue which was most frequently emphasised in the interviews was Investment Promotion. Particular concern was voiced on how to make 'suitable land' available to would-be-investors. The example of village demarcation and titling in Mtwara was brought up on a couple of occasions to illustrate this perceived problem. At the time, Mtwara was the only region in Tanzania which had all its villages demarcated. This had caused an unforeseen and novel problem for the land administrators. The villages had been drawn up with common boundaries, as is commonly done, and in the whole of Mtwara region there was no land 'available' for Government projects and/or investors. Such a situation was deemed to be self-evidently untenable as it gave the Government only limited lee-way for the implementation of its stated policies - notably Investment Promotion.¹⁵ The solution which the land administrators invariably gave to this 'problem' was that land use planning should precede village

¹⁴ Interview with Mr. Luguru, June 1992.

¹⁵ Interviews with Mr. Nyakiha, Assistant Land Evaluator and member of the Secretariat, and the late Mr. Lusuva, member of the Secretariat, both in May 1992.

demarcation, so that it could be ensured that ‘sufficient land would remain available.’¹⁶ The Ministry’s position on Investment Promotion and village demarcation was clearly expressed by the Principal Secretary, Mr. Msimbira, at a Land Policy Workshop in Arusha:

the village demarcation principle has to be reviewed, so that prime land which has national interest is identified and protected, and the power to allocate land is vested in the Ministry responsible for lands. This means the Ministry would not need to ask permission from the village, District, or Region, as it does now. It should be emphasised here that in areas or districts where there is no public land or land set aside for public use it would be extremely difficult for the government to attract investment from within and from outside the country. This is one of the burning issues that has to come forward very clearly in the Land Policy to be formulated.¹⁷

Land use planning was frequently prescribed in a similar manner as the appropriate administrative device to reach the desired outcome in a wide range of problem areas. A frequently cited example was the issue of a common type of land conflict in northern Tanzania. At the time of the Ministerial Committee’s preliminary work, there was a steadily rising stream of reports from Arusha region concerning land conflicts between pastoralists and expanding farmers who, they claimed, were encroaching on their grazing ranges (examples of which are cited in chapter 5). Two members of the Steering Committee commented on the issue, and both

¹⁶ Interviews with Messrs. Nyakiha and Lusuva, and Prof. Hayuma, the Director of Urban Development and Secretary of the Steering Committee.

¹⁷ Mr. Msimbira’s “Opening Remarks”, printed in MLHUD 1991, 11-14.

considered land use planning to be the fitting way to resolve the dilemma.¹⁸ Their view was that a land use planning exercise should be executed in order to determine which areas were to be reserved for continual pastoral use, and which areas should be opened for (outsiders') crop farming. The issue of land rights and whether there was a need for legislative reform was not considered to be important in this context.

Next in importance to the policy-makers to the issue of Investment Promotion, was the question of whether to allow for a land market. There was a general agreement that in the light of the new economic environment in the country a land market "should be accommodated somehow."¹⁹ The one misgiving that was expressed on the introduction of a free, no holds barred land market was the effects it would have on poor land holders. There were concerns that it would lead to a high degree of land concentration and that the poor would be bought off their land. The Secretary of the Steering Committee expressed fears that the prospect of rich people, particularly members of ethnic minorities (especially Asians and Lebanese), amassing great tracts of land in rural and urban areas would be to "invite a revolution."²⁰ The general feeling was, therefore, that while some kind of land market should be provided for, it had to be controlled in order to stave off unacceptable social consequences.

¹⁸ Interviews with Mr. Mollell, Director of Mapping and Surveying, MLHUD, April 1992, and Mr. Mayeye, Director General, Land Use Planning Commission, May 1992.

¹⁹ Interview with Mr. Luguru, May 1992, all other interviewees who spoke on the matter responded likewise.

²⁰ Interview with Prof. Hayuma, May 1992.

The policy-makers placed little emphasis on any aspect of customary law. Investment Promotion and modernisation were the mainstays of the Government's policy objectives, and they generally considered customary landholding as a form of tenure which should not be needlessly encouraged, as it was seen as having little role to play in a modernising economy. The General Secretary of the Land Use Planning Commission, for example, explained that the drawback with customary tenure is that it "does not allow for ownership of land, and makes land unusable as collateral."²¹ The perception that the prevalence of mortgageable land is a prerequisite to development and modernisation was marked among the policy-makers. There was widespread, if not universal, scepticism towards the village titling programme because the village titles were not mortgageable and, besides, they were seen to discourage individual, 'progressive' villagers from getting mortgageable titles for their plots.²²

At this stage, the discussions within the Ministerial Committee centred around the predominantly administrative concerns of how to facilitate the implementation of Government policies. The Committee's first policy proposal, which was finalised in May 1992, reflected these priorities (MLHUD 1992). The policy proposal was rudimentary in its scope compared to the drafts that would follow but it provides an unusually candid picture of how the Ministry viewed the issues which were addressed at this stage of the policy-making.

²¹ Interview with Mr. Mayeye, September 1994.

²² The two previous Land Commissioners Mr. Luguru and Mr. Lusuva, both stressed this point, interviews in June and May 1992, respectively.

The first section of the document bears the heading 'Land Tenure and Administration' and deals with the broader issues of the Policy. It is stated that all land should continue to be 'public land vested in the President' and that Rights of Occupancy should continue to be the recognised form of tenure. The proposed departure from the existing policy comes with the statement that land has value in its own right. The reason given for this reform is that it would bring an already existing land market into the open and allow Government to raise revenue by exacting tax on transfers of land. Allocations of very large plots of land in the range of 5,000 to 100,000 hectares to foreign investors is singled out as a problem deserving attention. The proposed solution is to introduce unspecified land ceilings and to thoroughly "ascertain the actual ability of a developer to develop the area" (ibid.: 2).

The next section is 'Land Use and Effects' and is by far the largest of the document, taking up a good two thirds of the total. The recommendations in this section consist by and large of calls for intensive land use planning. A national land use plan should be prepared in order to determine what form of land use (i.e. farming, forestry, livestock production, wildlife, etc.) should be permitted in any given area. To resolve the problem of "unplanned population movements," regional land use plans should be drawn up in order to "establish potential available for resettlement," thus minimising incidents of land conflicts that result from land hungry farmers encroaching on land claimed by neighbouring residents (ibid.: 5). Similarly, in villages where individuals are suffering from land shortages, village land use plans should be prepared in order to identify land that is free to be allocated to needy villagers.

It is further suggested that anticipated rural land shortages resulting from population growth should be dealt with by “changing the employment pattern from agriculture to industrial employment and from extensive farming to intensive farming [and to] encourage more urbanisation” (ibid.). One stated problem arising from population increases is that conflicts between land uses occur. This should be dealt with by adjusting the land use patterns of the affected areas. “For example, where agriculture conflicts with forestry, introduce agro-forestry. In areas with agriculture and livestock keeping, introduce agro-pastoralism.” (Ibid.: 6-7) It is not stated who it is that should ‘introduce’ the new land use pattern.

Insecurity of customary tenure appears as one of the issues to be addressed under this section. It is stated that village titling is the existing strategy to deal with this problem, but that there are insufficient resources to provide all villages with titles. Moreover, it is recognised that village titles still render villagers insecure as it vests all village land with the Village Chairman. It is recommended that the Rural Land Utilization Act of 1973, the Village Act of 1975 and the Land Acquisition Act of 1967 should be revised so as to render customary tenure more secure.²³

The last section of the document is titled ‘Land Availability and Investment Promotion.’ It states that it is an objective of the Land Policy to provide developable plots to potential investors. This is to be achieved by earmarking certain areas for such purposes. In rural areas, this should be achieved by pooling land “from villages with surplus arable land (with the

²³ All three Acts are discussed in Chapters 2 and 3.

villagers' consent)" (ibid.: 15). There is no mention of any inducements for the villages to consent to part with their land except that investors would develop the land jointly with the villagers "where possible" (ibid.).

THE GOVERNMENT'S RESPONSE TO THE REPORT OF THE LAND COMMISSION

Little, if anything, was known outside closed Government circles about the Ministerial Committee's existence as the public attention was focused on the Land Commission, awaiting its recommendations. The Commission submitted its report to the President on schedule in November 1992 and there was a general expectancy that the new land policy was more or less imminent. Events were to prove otherwise as it took more than two years for the Government to go public with its position on the Report. In the interim period, the continuing policy-making process all but disappeared from the public domain. The Land Commission's Report was not distributed to the legislature and there was next to no public discussion on the Report's analysis and recommendations or on the contents of the still impending land bill.²⁴ That did not mean that work on the Policy ceased. Only two months lapsed before a Draft Government Position on the Land Commission Report was ready (URT 1993a), and by May 1993 a Second Draft of the

²⁴ One copy of the Land Commission Report was supplied to the University of Dar es Salaam, so it was not actively withheld from the public.

National Land Policy had been completed (MLHUD 1993). Both of these policy papers are considered together in this section.

The Government's Draft Position is a little known document which has been kept out of the public domain. The drafters of the document are predominantly higher officials from the Ministry of Lands. There is little in its policy content to set it apart from the subsequent policy drafts, as it maps out in broad lines the stand the Government policy-makers maintained up to the completion of the policy. The significance of the position paper lies in the fact that it is the only document which was to contain anything approximating an articulated discussion of the Government's stand on the Land Commission Report. The Second Draft, on the other hand, is a concise policy document and makes no direct reference to the Commission's Report or any other source. It follows closely the policy statements given in the Draft Position document, but is less explicit with regard to the reasoning behind adopting the policy and sets out policy directives in greater technical detail. It was not treated as a secret document as such. It was distributed to a limited circle of 'experts' but it was not made available to Members of Parliament.

The draft Government Position spells out a firm rejection of the major points in the Land Commission's recommendations. The stated position on the issue of divesting the President of the radical title to land is particularly clear and is worth quoting in full:

The President as Head of State is responsible for the development of the country and well-being of the people, and land being an important element for development has to be controlled by the President. If land is vested in [the] Board of Land Commissioners and the Village Assemblies then the Government will be turned into a beggar for land when required for development. Instead of simply acquiring land for public purpose under the Land Acquisition Act the Government will now be required to apply to the Board of Land Commissioners. In villages the Government is an outsider and can only be given land of not more than three acres at a time for less than ten years.²⁵ The Government will not implement its policies in that way. The Investment Promotion Policy will be impossible to implement when the Government does not have a say in land matters. Land has to remain in the hands of the Government ... the Commission has not given enough reasons for the departure. (URT 1993a: 5)

The above paragraph succinctly summarises what was to be the Government's principal objection to the system proposed by the Land Commission. Yet the document purported to embrace most of the elements of the Land Commission's recommendations and the Government's differences with the Commission were consistently downplayed. Many parts of the proposed system were indeed taken on board but with substantial modifications which all served to ascertain the Executive's continued control over land management and administration.

The Government accepted that there is need for additional checks and balances on the Executive in land matters. It is argued that this can be satisfactorily resolved by a partial incorporation of three of the Land Commission's recommendations. First, the policy drafters agree that land should be made a constitutional category, which they claim would "prevent the government

²⁵ These are the conditions for leases of village land to outsiders recommended by the Land Commission, see above.

from making arbitrary decisions on land issues.” (Ibid.: 4) The exact kind of constitutional provision which is intended is not specified, although it is clear that it would not be the far reaching separation of powers which the Land Commission had in mind. The second means of providing additional checks and balances on the Executive’s power which is taken on board by the Government’s drafters is the Commission’s recommendation of establishing a Land Committee in the National Assembly (the Tanzanian parliament). This is considered to be of particular significance due to the fact that the National Assembly has the power to impeach the President under the new multiparty constitution (ibid.: 7).

The third and final institutional reform tabled by the Government pertains to the dispute settlement machinery. The Government states its intentions to set up a specialised body of land courts much along the same lines as the system proposed by the Land Commission. That is, a hierarchy consisting of *Baraza la Wazee la Ardhi* (Elders’ Land Council) at village level, Circuit Land Courts on an (unspecified) intermediate level and a National Land Court (instead of the Commission’s Land Division of the High Court). Appeals would lie to the Court of Appeals on points of law only. The Circuit Land Courts and the National Land Court would incorporate elders as recommended by the Commission. The major departure from the judicial model proposed by the Land Commission is that the Government rejects placing the land court system within the judiciary. The reasons for the rejection is stated to be “the inordinate delays, lack of finality and malpractices arising from the procedural technicalities of the Judicial systems.” (Ibid.: 44) Instead, the policy drafters propose to make the land courts a quasi-judicial body to be directly accountable to the President. It is further stated that:

[i]n addition to the settlement of land disputes, the Circuit Land Courts and the National Land Court will be empowered to deal with petitions against actions and decisions of the Executive on Land Matters. (Ibid.: 45)

This is apparently the reason for the quasi-judicial body to be put forward as one of the additional checks and balances to the Executive which the Government intends to incorporate under the National Land Policy.²⁶ The fact that the same judicial system would in turn be accountable to the Executive does not appear to be considered problematic by the policy drafters.

The Government found itself in full agreement on the issue of recognising land as have intrinsic value and stated the intention to implement the Commission's recommendation that commercial land be allocated through auction and tender, while plots for the applicant's own residence be allocated freely (ibid.: 23). Like the Commission, the Government held that land markets should still be subjected to some degree of control to "avoid abuse" (ibid.: 41).

On the question of land administration and allocation procedures, the document states that:

The Government sees no reason to change the present allocation procedure which was introduced only in 1988 through 'Mwongozo wa Kupanga, Kupima na Kugawa Ardhi'. The Commission has not challenged the procedure therein. Almost all the basic

²⁶ See, for example, URT 1993b, p. 8: "The Commission's recommendation for a separate Quasi-Judicial organ which will be adopted by the government will provide additional checks and balances to the Executive." A host of similar provisions appeared in the policy documents which were to follow.

principles suggested by the Commission have been taken care of in the procedures laid down by the 'Mwongozo'. Openness and transparency is by way of publications and advertisement of the allocations. Participation is assured by including elected Councillors in the allocation committees. (Ibid.: 22)

The Guidelines (*Mwongozo*) referred to here is the Ministerial directive which was issued in 1988 and placed the authority to allocate land unambiguously with the Executive (MLNRT 1988), after there had been considerable confusion regarding multiple sources of such authority after the reintroduction of local government, in 1978 for urban areas, and 1982 for rural districts (see Chapter 4).

The Guidelines established Land Allocation Committees at District (for up to 100 acres), Regional (100-500 acres) and Ministerial (more than 500 acres) level. The district and regional committees both have 14 members, of which 5 are elected councillors appointed by the Regional Commissioner (a Presidential appointee), while the Ministerial committee has 16 members, of which 6 are elected councillors appointed by the Minister of Local Government. The other members of the committees are appointed government officials, working at the respective levels. Hence, the elected Councillors referred to above are a minority of the Committee members and are all chosen by Presidential nominees.

The Government position on village lands incorporates aspects of the Commission's legal and institutional innovations, but without accepting any fundamental structural reform of the existing system. As seen above, it was insisted that the President retain the radical title to land.

The proposal to move the jurisdiction of land matters in villages from the Village Council to the Village Assembly was also rejected:

In practice the Village Assembly is not the proper forum for decision making because of the difficulties of reaching consensus and due to problems of quorum which the Commission has also noted. Responsibility to manage land in the Village will continue to be under Village Councils which are elected organs of the villagers... (URT 1993a: 10)

No consideration was given to the known problem of Village Councils allocating land to outsiders without informing their Village Assemblies, although this issue had been acknowledged in the Ministry's first policy proposal (see above). It appears throughout the document that the Government placed great weight on the effects which the 1992 multiparty constitutional amendment had on the country's democratic institutions and in the above context it was implied that the 1992 amendment had ensured that village democracy had been significantly strengthened. The previous chapter's brief discussion on the issue suggests that the democratising effect of multipartyism on village democracy might have been overstated.

The Government states that it is in full agreement with the Commission's recommendation to drop the village titling programme and replace it with more straightforward village demarcation and the issuance of Certificates of Village Land (CVLs), albeit within the parameters of the existing system. The CVLs are envisioned as a type of proof of village boundaries, which would protect the villages from encroachers on their land, rather than a registered grant of land or title.

The reasoning behind the discontinuation of village titling was dramatically different than that of the Land Commission. Village titling was seen to be of only limited benefit, because village titles are not accepted by banks as security for loans. Moreover, they were regarded as a liability to entrepreneurial villagers because village titles precluded them from seeking mortgageable titles for their individual parcels of village land. The policy makers point out that CVLs would still make it possible for “individual developers to get full titles for their lands instead of ... subtitles or leases and thus easily get loans for their development.” (Ibid.: 6) There is no mention of where the credit would come from nor any consideration of the effects of possible bank foreclosure of land within the village.

The Government rejected the Commission’s recommendation to establish a Village Land Registry to be administered by the *Baraza la Wazee la Ardhi*, with the villagers receiving *Hati za Ardhi ya Mila* (HAM) as certificates of land-ownership under customary law. The drafters of the Government Position argued that such certificates would not be negotiable out of the village, and that they would consequently serve to “inhibit village development since there are no financial institutions within a village from where villagers could get loans.” (Ibid.) This position is somewhat contradicted later in the document where it is observed that it is important for customary land rights holders to possess written documents to certify ownership. The policy-makers consequently state that District Land Registries will be established where villagers can apply for Customary Land Rights Titles, provided they have sought the consent of the *Baraza* (ibid.: 30-31). There is no further elaboration on the issue of registered customary

rights except that “customary rightholders may convert their deemed rights of occupancy into a granted Rights of Occupancy subject to approval of Baraza la Wazee.” (Ibid.: 24)

The Government’s position is unclear on the issue of allocation of village land to outsiders. On the one hand, there is little evidence of any significant change from the existing system, as a change from village titling to the issuance of Certificates of Village Lands, would have little effect on the villagers’ security of tenure, both *vis-a-vis* outsiders and the Village Council. The CVLs would, in fact, marginally improve the security of tenure for individuals villagers as the Certificates would not, unlike the present village titles, legally weaken their land rights. The document further states that in order “[t]o protect Village Land against arbitrary allocations no allocations within village boundaries should be made without the consent of the Village Council” (ibid.: 6), although this reassurance appears to be contradicted by the Government’s stated policy on recognised investors:

Investments on projects approved by the Investment Promotion Centre will be classified as ‘public purpose’ to warrant Land Acquisition where necessary. Investors will thus not be obliged to negotiate with villagers for land. They need only to make an application with the Ministry of Lands, and the Ministry will look for the necessary land and invoke [the] Land Acquisition Act before allocation to investor. (Ibid.: 25)

The Village Council’s role in allocation of village land, and the status of customary rights to land, is further obscured by the following directive: “In villages, where almost all land is held

under customary law, allocations will be [preceded] by land acquisition and extinction of existing rights.” (Ibid.: 24)

The Ministry’s Second Draft of the National Land Policy placed the policy statements of the draft Government Position in the concise format of a policy document (MLHUD 1993). No significant alterations were made between the two documents, although a number of issues had been worked out in some more detail. Whereas the Government Position had not laid down an explicit position on foreigners’ rights to acquire land, the Second Draft tabled specific restrictions relating to non-citizens. It is stated that non-citizens and foreign companies will be required to gain clearance for Investment Promotion purposes to acquire land and “should not be allowed to acquire land through transfer or purchase.” (Ibid.: 9)

The policy document also sets out a policy for pastoralists and their land rights, an issue which the Land Commission seemed to subsume under its general framework, without according it much specified attention. The policy-makers observe that pastoralists have suffered from the spread of large-scale agriculture and the alienation of rangelands, particularly in the north of the country. The problem is seen to be partly stemming from their “nomadic behaviour” which “render them no right to own land.” In order to protect the pastoralists’ land and also to arrest the spread of land disputes, it is stated that rangelands will be protected and that pastoralists “will be settled in permanent villages so that they automatically may get land rights under both customary laws or granted rights.” (Ibid.: 31)

The draft Government Position on the Land Commission's recommendations and the Second Draft of the National Land Policy convey a vision of the Tanzanian policy environment which contrasts sharply with that of the Land Commission, as can readily be seen from the above summaries. The Land Commission concludes that the country's troubled history and contemporary problems with respect to land issues goes to show that it is time to rethink the very basis of the legal and institutional framework. The Government and its Ministerial core of policy makers, on the other hand, insist that the existing system is not in need of replacement, but that it is merely a case of adjusting and updating particular problem areas.

The distinct divergence of these opposing views belies a general acknowledgement among the members of the Ministerial Committee of the existing policy problems. Mr. Komanya, the Minister of Lands at the time of the submission of the Land Commission's Report, stated that "most issues [of the Report] were agreed upon", but that "the main problem was the proposed solution."²⁷ This view was widely shared in Ministerial circles. Another of the actors in the aftermath of the Report, who was also sympathetic to much of its analysis had the following to say about the proposed solution: "It is unfortunate that Shivji (the Commission's Chairman) was so much against the Executive, and that he tailored the Report towards this end [divesting the Executive of the radical title]."²⁸

²⁷ Interview, August 1994.

²⁸ Interview with Mr. Lubuva, one of the drafters of both the Government Position and the Second Draft, September 1994.

The substance of the Presidential Commission's recommendations was a cause of unease in the Ministry. After the submission of the Report, most of the participants in the policy making process displayed a noticeable tendency to cut short any discussion on the Report. Prof. Hayuma, the Secretary of the Steering Committee and key mover in the policy making endeavour, fittingly summarised the prevailing mood when he was asked what impact the Report and its recommendations would have on the finalisation of the Land Policy. His terse reply was that "[the Report was] supposed to be an input ... anything workable and acceptable will be incorporated."²⁹

THE LONG INTERMISSION

After the Second Draft of the Policy came off the drawing board in May 1993, the policy-making proceedings seemed to grind to a halt and almost two years would pass before a revised policy draft was ready. During the first year of this long interval there was little or no progress in the preparation of the land policy. A change of leadership in the Ministry of Lands during this period partly accounts for the hold-up. In October 1993, the sitting Minister, Hon. Komanya, was transferred to a post as Regional Commissioner for Iringa Region and Edward Lowassa became the new Minister of Lands. The change can be seen as a Government response to public dissatisfaction with the state of land administration and frequent allegations of corrupt

²⁹ Interview, September 1994.

allocations of land. The outgoing Komanya was an unassuming individual with a low-key public profile, while the Governmental new-comer Lowassa was a rising star in Tanzanian politics, who wasted no time in establishing a name as a ‘protector of the little people’ by personally intervening in publicised land disputes in a style reminiscent of the crusading and ever-popular Augustine Mrema. Some time would lapse before the new Minister turned his attention towards the completion of the National Land Policy.

By this stage of the policy-making process, Tanzania’s new political environment had started to have a significant impact on the proceedings. Land disputes became more visible with the advent of multipartyism and the Government was concerned that “opposition parties used the land question as a stepping-stone.”³⁰ The unexpected gravity of the scope and content of the Presidential Commission’s recommendations could have upset the progress of policy formulation under any circumstance and the impending elections only served to further heighten the political sensitivity of the process. Before the Land Commission submitted its Report to the President, the Ministry officials were open about their work in preparing the land policy. After the Report had been submitted, on the other hand, there was an abrupt change in the Ministry’s approach to the affair, as evidenced by the Ministry’s attempt to have the Government’s Position paper classified as a confidential document.

³⁰ Interview with Mr. Komanya, February 1995.

The sensitivity of the issues at stake appears to be at least partly responsible for the slow gestation of the policy. The Director of Urban Development described the policy-making as “a very difficult task” because there were “so many interested parties involved”, meaning the various Ministries and other Governmental bodies with interests in land. When pressed on what was the schedule for the completion of the Land Policy, he maintained that no further decisions would be taken “before the elections”.³¹

Much of the work which did take place in this period revolved around groups of experts who were brought in through what was referred to as the ‘World Bank component’, with the Bank extending assistance towards the drafting of the Policy. After the completion of the Second Draft, an American consultancy company - Steptoe & Johnson - was commissioned to advise on the needs for reforms in order to facilitate a policy environment conducive to investment. Its Final Report was submitted in February 1994, in which recommendations were presented to the Government to move towards privatisation of land (Steptoe & Johnson 1994). In September 1994, the Ministry commissioned, with World Bank finance, an American consultancy company - Tropical Research & Development, Inc. (TR&D) - to assist in the drafting of the Policy. The company’s consultants set up a Land Policy Advisory Unit within the Ministry of Lands and assisted in technical aspects of the policy reforms, such as cadastral surveying and record keeping. They also performed specialised studies, and advised on the wider policy issues (Rose 1994; Bruce 1994; Eisenhauer 1994; Ahene, Greenwood and Bloch 1994).

³¹ Interview with Prof. Hayuma, September 1994.

At some point after the completion of the Second Draft, an Inter-Ministerial Technical Committee (IMTC) was set up to make the necessary policy decision for the pending white paper on the Land Policy. It operated under the umbrella of the Ministry of Lands and the Committee's membership and proceedings was kept under a tight lid of confidentiality. The IMTC formulated no official recommendations on the Policy and there is little evidence that it actually effected any significant changes in the policy formulae.

From the completion of the Second Draft in May 1993 and throughout the most of 1994, there was no discernible progress in the policy formulation. It was only after the TR&D set up the Land Policy Advisory Group, that matters seemed to finally gain momentum. First, the consultants assisted the Ministry of Lands to hold a seminar in Dar es Salaam in the end of October 1994 for Government officials to discuss the Land Policy. The next step was a high profile National Land Policy Workshop financed by the World Bank at the beginning of 1995, and expected to be the conclusive link in the policy-making process. By this time, of course, the political climate had started to hot up in anticipation of the approaching elections, and one of the key questions of the time was who would stand as CCM's candidate for President.

THE ARUSHA WORKSHOP

The National Land Policy Workshop was held at the Arusha International Conference Centre in January, 1995.³² It was attended by approximately 150 invited participants, the majority of whom were senior civil servants, Regional and District Commissioners, and Members of Parliament. Others included a small number of donor observers, World Bank consultants, a delegation from one Maasai NGO and a handful of legal and technical experts. The Minister of Lands, Edward Lowassa, chaired the Workshop.

The aim of the workshop was to consider the policy recommendations presented by the Land Commission and the Government's position on the Report and to make resolutions on what should be the basic elements of the new land policy. The first day of the three day workshop consisted of the presentation of the two policy proposals and of two studies specially prepared for the workshop: a land policy study by TR&D, and a study prepared by the Land Tenure Study Group, which had been set up at the University of Dar es Salaam. The relevant documents were distributed to the participants at the start of the workshop. For the second day, the workshop participants were divided into four working groups. Each group were assigned certain issues pertinent to Land Policy formulation and asked to draft policy recommendations. The final day consisted of presentations of the working group recommendations followed by plenary discussions and drafting of the workshop policy resolutions.

³² I attended the conference as an observer for NORAD. All information from the workshop, unless otherwise indicated, is from my own observation of the proceedings.

From its onset, the workshop was pervaded by a certain sensation of historic occasion and several of the participants who had been involved in the policy deliberations virtually from their onset expressed the view that this was to be the decisive venue for the formulation of the new National Land Policy. That the workshop was presented to be the key link in the policy making process lends additional significance to the subsequent proceedings.

The policy proposals

The Land Commission's Report was presented by the Commission's chairman, Prof. Shivji. He summarised the Report's recommendations, adding a 'preliminary appraisal' of the report in which he responded to criticism that had been fielded against the proposed reforms (Shivji 1995). He argued that the existing misgivings about the consequences of divesting the executive of the radical title to land were exaggerated, stressing that the Board of Land Commissioners would be a state organ, specially created for the control and administration of land, and that the proposed system therefore did not entail divesting the state of National Lands. The vesting of Village Lands in the Village Assemblies he described as "not significantly different" from granting a corporate body - the Village Assembly - a freehold (ibid: 52).

Prof. Shivji noted that the Land Commission had been criticised for 'romanticising' customary tenure. On this point he drew attention to the contemporary literature on the topic which is largely sympathetic to the relative virtues of customary tenure and further cited the Kenyan

experience as evidence of the hazards of individualisation, titling and registration (ITR).³³ He also conceded that there had been had been registered concern that the Report had “not adequately addressed the issue of gender inequality in relation to land under customary systems.” (ibid.: 55) In order to strengthen the gender component of the Land Commission’s recommendations he proposed the additional provision that at least two of the five-member *Baraza la Wazee* be women.

The Government’s response to the report was presented by Mr. Lumbanga, the Principal Secretary of the Ministry of Lands.³⁴ He outlined the key points of the Ministry’s policy vision, which were essentially identical with the Second Draft. The one significant departure from the earlier document, as stated by Mr. Lumbanga, was that in addition to Rights of Occupancy “other tenure systems should also be examined.” (Lumbanga 1995: 1) In addition to the Principal Secretary’s address the Ministry circulated two documents to the workshop participants to inform them of the Government’s position on the land policy, those were a document titled “National Land Policy Draft” which was a reproduction of the Second Draft and the “Tentative Government Position on the Report of Presidential Commission Into Land Matters” (*sic*). (MLHUD 1995a and 1995b) The ‘Tentative Position’ was a schematic presentation with four rubrics listing ‘Issue’, ‘Commission Recommendation’ and ‘Tentative Government Position’ for each policy point, the fourth and unfilled rubric had the heading

³³ The referenced literature is J-Ph. Platteau 1992, R. Barrows and M. Roth 1990 and S. Migot-Adholla *et al* 1991 (ibid.: 53, fn 9).

³⁴ Mr. Lumbanga was also the chairman of the IMTC, although he was not introduced as such at the workshop.

‘Workshop Recommendation’. Brief explanations were given for the Government’s reason for accepting or rejecting the various points. The arguments which were provided were summaries of those given in the Draft Government Position of January 1993. The document was the first publicised commentary from the Government on the Land Commission’s Report.

The fact that the policy papers which were discussed at the workshop represented no change from what had been decided at the Ministerial level by May 1993 warrants some elaboration. There were plans to have a White Paper ready by this time which would include the more recent decisions made on the policy.³⁵ I am aware of the existence of a drafted document similar to the ‘Tentative Government Position’ which also included resolutions made by the IMTC,³⁶ although it does not appear to be significantly different from the Second Draft. TR&D’s *Technical Report* (see below) makes mention of both the Second Draft (“the Ministry’s position”) and the IMTC, and the only central point of policy on which the IMTC is mentioned to differ is that it “appears” to be in favour of introducing some sort of freehold tenure (Ahene *et al.* 1994: 8). As seen above, this ‘resolution’ was also stated in the Principal Secretary’s presentation. At no point during the workshop was the existence of the IMTC mentioned. In his conclusion to the presentation of the Land Policy Draft the Principal Secretary alluded that the circulated documentation was, in fact, out-dated:

³⁵ Interviews with Messrs. Nyakiha and Mayeye, August and September 1994, respectively.

³⁶ Personal communication from Paul Ryan (the World Bank’s regional representative in Nairobi and part organiser of the workshop) who also briefly showed me a copy of the document.

Since the draft policy document was issued, many changes have happened. The Ministry of Lands, Housing and Urban Development intends to revise this draft to accommodate suggested amendments, additions and or deletions to be suggested and discussed by this workshop and the general public. The consensus reached will be incorporated into the next final draft of the National Land Policy. Therefore I request every participant to keenly contribute to this process of preparing a final draft of the National Land Policy of Tanzania. (Lumbanga 1995: 7)

Picking up on this final point, Patrick Qorro, the MP for Karatu, demanded clarification of what were to be the Government's procedure for finalising the Policy after the workshop. He also registered discontent with the absence of any prior encouragement of a public debate, and stressed the need for involving the Parliament in the Policy decisions. Both the Principal Secretary and the Minister refused to make any response to the MP's insistent demand for information on the schedule for the future policy developments.

The commissioned special studies

TR&D's *Technical Report* was presented by Dr. Ahene, the Team Leader of the Land Policy Advisory Group. The Report referred to the National Land Policy Draft as the "Ministry's position" and also made mention of the IMTC's position in its extensive consideration of a wide range of options for the land policy. The Advisory Group recommended that the basic structure of the tenure system be retained but that substantial modifications be made in order to strengthen landholders' rights, both customary and statutory, to land *vis-à-vis* the government. It

was recommended that government acquisition of land from land holders only be allowed when land was needed for public purpose and that ‘public purpose’ be clearly defined, preferably in the Constitution (Ahene *et al.* 1995: 31). It was warned against relying on purely administrative procedures in the allocation of land:

If land continues to be allocated administratively, by a bureaucratic process which confers considerable administrative discretion on those making allocation decisions, there is every reason to be concerned that corruption of the process and landgrabbing through the process will continue.³⁷

The Advisory Group recommended that land should be recognised as having value and that land allocation be driven by market forces, except in areas where it is deemed necessary to protect the access to land of the ‘underprivileged’ (ibid. 23).

The Land Policy Advisory Group recommended flexibility with regard to the administration of individual plots within villages, allowing conversions to granted rights on demand but refraining from external interference of village land administration. It was recommended that communal areas should be held by the ‘village’ (presumably through the Village Assembly) and that the Village Council should “make and enforce rules for the effective management of common property.” (Ibid.: 19)

³⁷ Ibid.: 22. This is originally a quote from one of TR&D’s commissioned Special Studies - Bruce 1994.

The second commissioned study, was a report by the Land Tenure Study Group (LTG) of the University of Dar es Salaam, and was presented by Prof. Anna Tibaijuka. It was formatted as a position paper on the Land Commission's Report and made no reference to the Ministry's Land Policy Draft. The Group agreed with the Land Commission that the existing system had failed to provide holders of land under customary law with sufficient security of tenure and that the problem was largely a product of arbitrary execution of the Government's land policies. Their main reservation with the Land Commission's recommendations was the issue of divesting the President of the radical title to land, disbanding the Ministry of Lands and the installation of the National Land Commission as the executive organ to be responsible for land matters. The University's Land Tenure Study Group questioned the wisdom of such radical institutional reform and reminded the workshop participants of Tanzania's previous negative experience with whole-scale replacement of executive structures, as in the 'decentralisation' exercise of 1972, and the disbandment of institutions which were seen to have failed, as the abolition of the cooperative movement in 1975:

we would warn against radical, if not reckless restructuring of our institutions instead of reforming them. We have to bear in mind that past efforts in radical restructuring have in other areas not been successful. (LTG 1995: 38)

Instead, the Group recommended that the existing system be strengthened to ensure that the existing rules and regulations were properly followed and that land should be made a constitutional category in order to protect against arbitrary changes. Their recommendations bore some resemblance to the system proposed by the Land Commission in as much as they

supported the establishment of a dual system differentiating between village and national lands. The Land Advisory Group recommended that villages receive “free hold titles of 999 years” and would in turn be able to issue sub-titles of 21-99 years (ibid.: 39). It was argued that:

This structure virtually allows a gradual but unrestrained individualization of land in village areas as will be dictated by market forces. If we believe in democracy, then there should not be need for excessive protectionism of the village lands. We need not, for example, restrict the sale of land only to village members. We must have greater confidence in the Village Assemblies, and allow them to make their own decisions on whether to grant sub-titles to outsiders or not. To put it bluntly, once given the freehold title, if the Village Assembly cannot protect its lands from encroachment by outsiders, then no one else can. (Ibid.)

While the Group concurred with the Commission that village lands be vested in the Village Assembly (albeit with the President retaining the radical title), it argued that the Assemblies were too large to effectively administer land and that a purposely designed Sub-Committee be designed that would report to the Village Councils and the Village Assemblies. Being sceptical as to the immediate benefits likely to derive from such a reform, the Group warned that “for the foreseeable future, VAs are likely to continue being manipulated by the elite, the rich and the Village Councils”, and recommended that the changes be followed up by extensive civic education programmes which would include village-level administrative issues relating to land (ibid.: 44-45).

Prof. Tibaijuka stated the Group's agreement with the Commission's recommendation that a specialised body be set up in the judicial system to deal with land matters. She agreed that participation by the *Wazee* would serve to lend the judiciary sorely needed legitimacy at the village level but she raised concern about the existence of gender prejudices among village elders. In order to protect against such prejudices, the Group recommended that half of the *Wazee* in the *Baraza* and the CLC should be women.³⁸ The Group expressed dissatisfaction with the Land Commission's conservative approach with regard to the gender aspect of land reform. It rejected the Commission's advocacy of an 'evolutionary approach,' arguing that 'hard law' was the only way to effectively put a stop to gender discrimination in matters concerning land ownership. Prof. Tibaijuka referred to Tanzania's progressive Marriage Act, which states that in case of divorce the woman is entitled to 50% of "the property accumulated with her husband, regardless of the nature of her contribution", and argued that there was no reason not to include similarly gender conscious provisions in the inheritance laws which would 'outlaw' the common-place discrimination regarding inheritance of land on the basis of sex under customary law (Ibid.: 44).

On the controversial topic of land markets and allocation to investors, the University's Group made what would turn out to be a significant contribution to the debate. It argued that a land market should be allowed to operate freely and that outright 'land speculation' could be avoided by subjecting landowners to a land-tax which, besides providing revenue for the Government or

³⁸ This would also involve increasing the number of *Wazee* in the *Baraza* from 5 to 6, and from 3 to 4 in the CLCs (ibid.: 40).

for the Village Assembly in the case of village land, would ensure that the land was put to productive use. The key restriction on the land market would be an outright ban on non-citizens acquiring land. Foreigners would only be given access to land if in joint venture with Tanzanian citizens or, in cases where “private local interests cannot be found,” the state could join the investor as “a silent partner” (ibid.: 17).

The recommendations of the working groups

For the second day the participants of the workshop were divided into four working groups, each of which were assigned certain policy areas for the drafting of recommendations. The groups were as follows: Land Tenure Systems; Land Access, Land Administration & Land Use Planning; Registration & Titling; and Rationalizing Land Rights & Consolidation of Laws. The purpose of the group sessions was to allow for detailed discussion of the pertinent policy points and to draft group recommendations which would be presented to the workshop on the final day and would serve as a platform for the last day’s plenary discussions in which the workshop resolutions would be made.

The group discussing ‘Land Tenure Systems’ recommended that a dual land tenure system be adopted, in which village lands should be vested directly in the Village Assemblies. All land which is not village land should remain as public lands under the trusteeship of the President. Non-citizens should only be allowed to acquire land through joint ventures or rent and the

Government should retain the power to impose development conditions on all granted rights of occupancy.

In accordance with the proposals of the Presidential Commission, it was recommended that each village should establish a registrar for all village land, and that the spouse(s)'s name should be included in all issued land certificates. It was also recommended that the Presidents power to revoke existing titles should be clearly defined and that compensation value should reflect market value. One of the group members related to me that there had been heated discussions on whether the President should be divested of the radical title to all lands and that the decision against it had been decided by one vote only.³⁹

The group on 'Land Access, Land Administration & Land Use Planning' accepted all the major points in the Government's policy proposal. The only alteration that merits mention here was that the name of spouse(s) should be included in individual titles to land.

The Group on 'Registration & Titling' resolved that deemed rights of occupancy should be retained and enhanced to a status closer to freehold. The Village Council should have the right to decide whether village land can be transferred to outsiders or not and whether land could be mortgaged or not. Individuals and villages should bear the cost of demarcation/titling, except in areas that the Government feels there is an urgent need for demarcation/titling, where the costs

³⁹ The group member in question was Mateo Qaresi, MP for Babati, who was one of the most vocal critics of the Ministerial position during the workshop. The group was chaired by the Deputy Minister of Lands, Mr. Mwambulukutu.

should be covered by the Government. It was further recommended that leaseholds should take the place of rights of occupancy. The Group recommended the adoption of the judicial system proposed by the Presidential Commission and also that the name of spouse(s) be included in land titles.

The group dealing with ‘Rationalising Land Rights and Consolidation of Laws’ recommended that all land should remain vested in the President but that the administration of village land should be moved from the Village Council to the Village Assembly. Provided that consent is granted by the Assembly, village land should be transferable to outsiders. It was further recommended that adequate checks and balances had to be incorporated in the land administration; however, no concrete measures were proposed. The proposition of land being recognised as having value was accepted. The Group rejected obligatory inclusion of spouse(s)’s name on title deed as impractical and unnecessary.

The final plenary discussions and workshop recommendations

The working group recommendations were discussed as they were presented during the final day’s plenary sessions. The sessions were chaired by Minister Lowassa, who tried to establish a consensus on each of the policy recommendations. There was no clear structure over the discussions and the decision making. There was, for example, no systematic point-by-point agenda on the major issues, such as land allocation procedures, provisions for transparency and

accountability, and checks and balances on the executive. Discussions frequently got bogged down in technical detail as the discussions included all aspects of every working group's often detailed recommendations.⁴⁰

In one of his few contributions to the discussions of the final day, Prof. Shivji made a pointed protest to the Minister about the workshop and the format of the exercise. His main complaint was that the Government had not presented a White Paper on the Commission's Report and that the participants had not been given adequate opportunity to prepare for the workshop. He concluded that there had been no conscious effort to inform and to obtain optimum input.

An interchange which was illustrative of the decision making at the workshop took place over the issue of the land rights of villagers who had settled on land which was already titled to a second party. The discussion was close to being decided in the favour of the statutory titleholder, mainly on the basis of "the importance of law and order," when the proceedings were interrupted by another of the day's impassioned interjections. The MP Mateo Qaresi related the plight of several of his constituents in Babati district who had been placed on titled land during the villagisation operation, and were now, twenty years later, deemed to be squatters and were faced with a court eviction order. He angrily put the rhetorical question to the workshop: "How can you be a squatter on your own land?"⁴¹ The Minister replied that he could see that there was

⁴⁰ I have copies of the recommendations of the working groups in my possession.

⁴¹ The Babati case is discussed in some further detail in Chapter 5.

a problem and that in the case of Babati district an exception would be made and the rights of the ‘squatters’ would prevail. There was no further discussion of the issue.

By and large, the workshop consensus fell into line with the “Tentative Government Position”. Agreement was reached on making land a constitutional category, recognising land as having value and the establishment of a quasi-judicial dispute settlement machinery to deal with land conflicts along the lines proposed by the Government. There was also a general agreement that more checks and balances should be imposed on the administrative land structure in order to strengthen accountability and transparency, although consensus failed to form on how such provisions could be made.

Only on two points did the workshop make recommendations which parted from the Government position, both of which occasioned considerable debate. First, as a means of strengthening women’s rights to land, it was decided, along the lines proposed by the Land Commission, that the name of the spouse(s) should be included on all customary land certificates and that consent from spouse(s) would be necessary for disposition of land. This point was clinched by a senior female participant in the workshop, who literally put an end to the debate by expressing outrage at the workshop’s hesitancy to accept the recommendation, particularly seeing that, as she put it, the woman was the one most likely to have done most of the work on the land.

The other major departure from the Government Position was a decision to move the jurisdiction of village land from the Village Council to the Village Assembly. The lengthy discussion was decided by several speakers, the most vocal of whom were the northern MPs Mateo Qaresi and Patrick Qorro, who referred to cases known to them where village leaders had transferred large tracts of land to outsiders in return for generous kickbacks without the knowledge of others in the village. Moving the authority to dispose of land to the Village Assembly was seen as the most practicable way of ensuring democratic control and transparency in land matters.

At the end of the workshop, the general (if vague) impression among the participants was that a decisive step towards the new National Land Policy had been made, the final version of which was expected to be imminent. Despite the heightened sense of occasion, there was no formalised summary of the workshop resolutions at the end of the exercise, and there was no issuing of workshop recommendations after the its completion. Also the press was curiously ineffective in publicising the proceedings of the workshop and to date there is, to my knowledge, no published account or official record of what was purportedly a historic occasion. Many of the participants left the workshop with the suspicion that it had first and foremost been an exercise of legitimisation, a suspicion which was substantiated by the subsequent developments.

THE PENULTIMATE POLICY

Only a few days after the workshop, Minister Lowassa issued a Ministerial Directive decreeing that non-citizens should not be allocated land, except if in joint venture with citizens. The move was immediately hailed in the press as a much-needed reform to combat landgrabbing.⁴² There had in fact been a lengthy debate on this issue at the workshop (it had been proposed by the University's Land Tenure Study Group, see above) but no consensus had been established and no workshop recommendation was made on the issue. Enquiries at the Ministry concerning the reasoning behind this curiously timed policy initiative were met with the reply that "this is just politics, he [Lowassa] has started campaigning."⁴³ The directive originated with the Minister and had no direct connection with the established policy making bodies which had been entrusted with the formulation of the Land Policy.

By this stage of the policy making process, Lowassa had taken a keen interest in the Policy and he added his weight to the process with the view of securing a rapid finalisation of the drafting.

⁴² *Daily News*, 25/1/95, "This land is OURS".

⁴³ Interview with senior Ministry official (identity withheld), 25.1.95, this interpretation has since been substantiated by a series of high ranking officials who were involved in the drafting of the Policy. At the time, Lowassa was considered to be one of the most prominent prospectives for the nomination of CCM's presidential candidate for the national elections. He was also embarking on a campaign for CCM nomination for the parliamentary elections in Monduli district, against the incumbent Mr. ole Moloimet (Lowassa had entered Parliament as a 'National Candidate' at the previous elections and had not competed at the constituency level before). Monduli is a predominantly Maasai district in Arusha region where landgrabbing was a prime concern.

He pressed ahead with a plan to present a National Land Policy Bill to Parliament for its sitting in April, 1995.⁴⁴ Following the Ministerial Directive, the next product of the new push was a National Land Policy document which appeared on the first of March. It was introduced as a revised version of the 2nd Draft which had incorporated the Government Position on the Land Commission's Report, the recommendations of the Arusha Workshop and "comments and suggestions from the public and mass media." (MLHUD 1995c: 2) The document was boldly presented as "a new turning point in the development of Tanzania." (Ibid.)

The revised policy paper maintained much the same substance as the Second Draft, but significant changes and/or additions had been made on several key points. The Arusha recommendation that the power to administer village land be moved from the Village Council to the Village Assembly was incorporated as was the recommendation to include the name of spouse(s) on documentation of land ownership under customary law, and that the consent of spouse(s) would be required for disposition of "family land" (ibid.: 12). It was further decreed that villagers would be issued with certificates (HAMs) to document ownership of village land under customary law. The certificates were to be issued by the Village Assemblies and registered at the District Land Registries. Also the latter policy statement was in accordance with recommendations made in Arusha.

⁴⁴ Personal communication from Mr. Lowassa, 16.2.96.

The document also incorporated several of the policy statements which had been presented in the Government Position, but which had not made it into the Second Draft. It was stated that land would be made a constitutional category and that a Parliamentary Lands Committee be established. The Minister of Lands would be made the “sole authority responsible for land administration.” (Ibid.: 10) A statement was also made confirming that “[p]rime residential, commercial and industrial land will be allocated by open tender.” (Ibid.: 11)

The question of whether or not to allow for an open land market had posed as a major dilemma for the policy makers right from the onset of the deliberation on the National Land Policy. The new policy paper introduced what appeared to be a compromise of sorts on the issue. Restrictions from the Second Draft which precluded the sale of land within three years of its acquisition or before all development conditions have been fulfilled, were retained, but an additional policy statement ruled that: “The consent of the Minister or his appointed land officers is not necessary for market transfer to take place.” (Ibid.: 13) No elaboration on the issue was presented.

The restrictions on non-citizens acquiring land which the Minister had recently launched through the Ministerial Directive were also included in the policy paper. Under the guidelines for ‘Disposition’ an additional point was put forth on the issue of foreign ownership of land: “When majority shares in a local company changes from citizens to foreigners the minister shall convert the right of occupancy to a leasehold.” (Ibid.) This provision suggests that a separate

ownership regime may be introduced for foreigners. There is no explanation of what would set a 'leasehold' apart from the existing Rights of Occupancy.

As set out above, Lowassa's plan was to present the policy paper together with an accompanying National Land Policy Bill to Parliament for its sitting in April. The task of preparing the legislation proved to be much too complex for the speedy execution of such an ambitious task, and strenuous objections from the Attorney General's Office put a brake on Lowassa's haste, and the preparation of the Bill was temporarily shelved.⁴⁵

THE NATIONAL LAND POLICY

The problems with preparing the Bill in time for the April session, which was the penultimate Parliament sitting before the nominations for the elections, also extended to the Land Policy paper. The document was to go through further modifications before it was finally presented to Parliament for approval in June, albeit without the accompanying legislation. After a gestation period of almost five years, an additional delay of a mere two months may appear to be of only trifling importance, but for Lowassa it was a major set back. April had been the Presidential-hopeful's last chance to make a mark for himself in the unofficial campaign for the nomination

⁴⁵ Personal communication from Fred Lerise (lecturer at Ardhi Institute, who assisted the Ministry in the drafting of the Policy) and Prof. McAuslan (who was eventually given the task of drafting the new land legislation). Also see *The Express*, 16-18,3, 1995, "Land Bill may have to wait".

as the CCM Presidential candidate before June, when the race was to be narrowed down to three candidates. It is likely that Lowassa's quest for nomination was the main motivation for his drive to bring the Policy before Parliament and, as he missed the opportunity to use the Policy as a trump card in the contest, he turned his attention towards the task of day-to-day campaigning.

Lowassa was obviously not the only politician whose attention centred predominantly on the upcoming elections by this stage of the proceedings and it is likely that the issue of finalising the Land Policy was considered to be of relatively less importance by other senior Government members as well. The concentration of political efforts on the looming elections provided extra leeway for the officials within the Ministry of Lands to exert their influence on the final formulation of the Land Policy. It is impossible at this point to ascertain exactly what degree of influence the inner core of the Ministry were allowed in the policy making but the substance of the changes which were made in this period suggests that it was substantial.⁴⁶

The National Land Policy document which was finally presented to Parliament in June had been subjected to a few, deeply significant, alterations since Lowassa's March 1995 version of the Policy. Both the changes in the March document which stemmed from the recommendations

⁴⁶ My last formal research stay in Tanzania ended in April 1995, so it has not been possible to do systematic research into the issue, but I have since received information from domestic experts who were brought in to assist the Ministry at various stages of policy formulation (identities withheld) which suggests that the prime mover of the policy making at this stage was the Director of Urban Development, Prof. Hayuma.

made at the Arusha workshop had been scrapped. The power to administer village lands had reverted to the Village Councils. On the issue of women's rights to land the Policy now stated that "inheritance of clan and family land will continue to be governed by custom and tradition" and "[o]wnership of land between husband and wife shall not be the subject of legislation." (URT 1995: 12)

Other changes were more subtle. There was no longer a stated commitment to establish a Parliamentary Committee. Such a provision had been included in the Government Position but not in the Second Draft. The March draft had given the Minister of Lands as the official who should be "the sole authority responsible for land administration", but in the Policy's final version the Minister had been substituted by the Commissioner for Lands. This change, which represents little more than a retention of the existing structure, signified resistance towards moving land affairs closer to the elected Government (of which the Minister is a member) by ensuring that land administration remains an essentially internal Ministry affair (the Commissioner being a Ministerial civil servant).

Another significant change stands as a direct snub to Lowassa's attempt to put his stamp on the Policy. The outright ban on non-citizens acquiring land was dropped. In its place remained the same restrictions on foreigners' acquisition of land which had first been introduced in the Second Draft - i.e. non-citizens can only acquire land for approved investment purposes and are barred from acquiring land through purchase or transfer of customary land.

An added policy statement under the section 'Land Use Management' was less subtle: "Shifting agriculture and nomadism will be prohibited." (Ibid.: 36)

The Policy did not address the issue of post-villagisation litigation, but an amendment to the recently repealed Act 22 of 1992 was passed at the same Parliamentary session as the Policy was tabled.⁴⁷ The amendment signified a clear improvement on the original Act. It specified that only rights pre-existing villagisation which had been directly affected by the operation were extinguished, unlike the original version which had appeared to extinguish all customary rights in the country. It also ruled that people affected by the rights were entitled to compensation for unexhausted improvements which were to be determined by the Customary Lands Tribunal. The amendment thus brought the solution to this problem closer to that proposed by the Land Commission but it still declined to release the issue from executive control and, as discussed in the previous chapter, unless the capacity of the Tribunals are significantly strengthened they are unlikely to be able to effectively deal with such cases.

As might have been predicted given the almost exclusive focus on the elections at the time, the Policy occasioned little debate when it was considered for approval in Parliament. The tabling of the document took place only days before the CCM Central Committee met in Dodoma to decide who were to be the last three candidates to compete for the nomination of the Party's Presidential ticket. After minor discussions on the issue of women's rights to land, the

⁴⁷ The Regulation of Land Tenure (Established Villages) Act No. 22 of 1992, amended by Act No. 18 of 1995.

Parliament unanimously approved the policy paper.⁴⁸ Tanzania had received its new National Land Policy.

CONCLUSION: THE MAKING OF A POLICY

In July 1990, the Director of Urban Development in the Ministry of Lands received the go-ahead from the Planning Commission to proceed with the drafting of a National Land Policy. In June 1995 - five years, a Presidential Commission of Inquiry, numerous specially commissioned consultancy reports, two Government Position documents, a National Workshop and several policy drafts later - the final and approved version of the National Land Policy rolled off the press in Dar es Salaam. This chapter has presented a detailed review of this complex policy making process and we have seen that the 'black box approach' to political analysis, i.e. the supposition that government policies are the products of a monolithic state, misses critical elements of the process. Rather than being the sum of Government priorities and considered policy analyses, the completed policy document disproportionately reflected the objectives of a limited circle of senior civil servants in the Ministry of Lands.

The first policy statement was issued in May 1992 and set out what would remain the essence of the new land policy: the key policy objectives were to release land to facilitate the Investment

⁴⁸ Personal communication from Mateo Qaresi, who was appointed Minister without Portfolio in the President's Office after the elections.

Promotion Policy; to streamline the land administration by centralising the powers to administer land in the Ministry of Lands; and to enable the land administration to effect optimal land utilisation by preparing and implementing extensive land use planning. This policy model did not entail any fundamental restructuring of the existing land tenure regime apart from a much vaunted ruling that land was to be recognised as having value in its own right. The Presidential Commission's Report differed radically from the Ministry's policy vision. It prescribed radical tenure reform including divesting the President of the radical title of land, decentralising the administration of all village land to the individual villages and the establishment of an independent land commission to administer all non-village land. The government, mostly as represented by senior land officials, quickly rejected the basic tenets of the Land Commission's recommendations on the grounds that it would render the government unable to implement its policies. Some of the Commission's institutional concepts, such as the *Baraza la Wazee* and the Certificates of Village Lands (CVLs), were adopted but without accepting any degree of devolution of administrative powers down to village level.

The government's position on the Land Commission Report was put into policy form in the Ministry's Second Draft of May 1993 which is identical to the policy proposal which was presented to the National Workshop in Arusha, January 1995. The Workshop, at which attendance was dominated by land officials, approved most parts of the policy save some alterations which were demanded by participating politicians, most significantly moving the authority to allocate land in the village from the Village Council to the Village Assembly and making disposal of customary land conditional on spouse's consent. These changes were

incorporated into the revised policy which was issued in March 1995, only to be reversed in the final version of the National Land Policy of June 1995. This chapter's discussion of the various policy drafts show that little changed from the Ministry's Second Draft in 1993 to the passing of the completed policy in June 1995, while the 1993 Draft presented what was essentially the same policy vision as the one which had been put forth by the Ministry's first policy statement of the process in May 1992.

The complex policy making process with its numerous policy drafts, commissioned reports, and national workshop therefore belies the policy drafters' reluctance to make changes to their initial policy model and to take on board external expert advice and recommendations. The Ministry's rejection of the Land Commission's proposal to decentralise the land administration and to institute procedures of allocation which allowed for a higher degree of transparency and accountability is lent added significance by the fact that the World Bank reports and the report of the University of Dar es Salaam's Land Tenure Study Group all stressed the importance of decentralising the land administration and moving away from administratively based land allocation procedures.

Perhaps the most striking aspect of the making of the National Land Policy is the extent to which it was the product of the small elite of land administrators based in the Ministry of Lands. It is remarkable that this group of civil servants managed to dominate the drafting of a policy of such political sensitivity in a way which effectively relegated senior government minister to positions of only minor influence and disregarded the advice from the specifically

commissioned domestic and expatriate expert consultants. The Ministry relied on obtaining government approval for its policy proposals, a task which was rendered possible by successfully depoliticising the policy discussions by framing them in a technical jargon which served to obscure the policy's severely circumscribed acceptance of reform. Another factor which worked in the Ministry's favour was that to a large extent, with respect to land, the Ministry *is* the Government. Within the Ministry, on the other hand, we have seen that the administrators (the civil servants) set the agenda and controlled the lion's share of the policy making process which put the political officers (the Minister and Principal Secretary) at a distinct disadvantage. Thus, Lowassa's attempt to put his populist stamp on the policy was thwarted by his more strategically placed senior civil servants who exploited the Minister's failure to follow the policy through to its conclusion.

The Ministry's endeavour to keep the policy deliberations on a technical level separated from political considerations was achieved partly by discouraging a public debate on the land issue. Much of the policy making-process took place behind a dense wall of secrecy and none of the various policy drafts were distributed to the public or the country's national politicians prior to the 1995 workshop. The Presidential Commission's Report was only made public close to two years after its submission and then only as the result of a donor's initiative, this was also the first time the Parliamentarians saw it. The National Workshop evidently served to fulfil the part of a public debate but a number of factors deducted from its usefulness as a open venue for transparent and participatory decision making: all workshop participants were invitees of the Ministry and the numbers were dominated by civil servants, many of whom had been involved

in the policy drafting; the government failed to present a fully up-to-date report on its position on the land policy; it was not set out clearly what exact role the workshop proceedings would play in the finalisation of the policy; and no official summary and/or statement of the workshop resolution was drawn up at the close of the Workshop. Particularly the latter point served to render the recommendations void of any concrete significance in the final instance. The Ministry's and Government's attempt to avoid a public debate was made relatively easy due to the mass media's spectacular failure to pursue the matter. Also other parts of the burgeoning civil sector, notably the numerous non-governmental organisations with interests in land and the political opposition failed visibly to address and raise the public consciousness of the policy discussions.

Chapter 7

ANALYSIS OF THE LAND COMMISSION REPORT AND THE NATIONAL LAND POLICY

It should be clear at this juncture that the policy guidelines set out by the National Land Policy and the legislation that follows will have a profound impact on the social and economic development in Tanzania, particularly in the rural areas. It should be equally obvious that the policy-makers were keenly aware of the importance of the choices they were making: What should the role of customary tenure be, should it be allowed to adapt to the changing circumstances or should it be replaced by statutory tenure? What role should the villages play in the administration of land? And should the emphasis be on administrative guidance or market forces?

This chapter reviews and evaluates the policy content of the two principal policy documents in our story - the Presidential Commission's Report and the Ministry's final version of the National Land Policy. The Land Commission and the Ministry took highly contrasting positions on most of the issues relating to these aspects of policy, but there were also significant similarities in the otherwise divergent policy visions. The first section re-visits

the Land Commission's recommendations with an analysis of the Report's policy substance, and the second half provides an evaluation of the National Land Policy.

THE LAND COMMISSION REPORT

The Land Commission Report is an exceptionally well researched and argued document on land tenure in the Tanzanian context. Its recommendations outline an innovative model for a new tenure regime promising to decentralise land administration and lift customary smallholder tenure from its present subservient position. The Report has aroused considerable interest among international tenure scholars. Two renowned international land specialists who reviewed the Report for the World Bank each stated that “[it] is the best report of its kind on land issues that I have had the opportunity to read” (Bruce 1994) and “[t]here is not a more thorough and thoughtful official consideration of land tenure issues from Africa” (Hoben 1994).¹ The Report is certainly an unusual official document in the African context, not least for its informed treatment of customary rights and emphasis on participatory procedures. Other orthodoxies on land still remain, such as the notion that the traditional smallholder cannot be exposed to the impersonal impact of market forces.

¹ The following analysis is indebted to the insights provided by these reviews of the Commission's recommendations.

The Commission's recommendation to divide all land into Village Land and National Land is a logical next step for Tanzanian land policies and is in itself not a radical departure from the present system. It constitutes a significant formalisation and refinement of the situation which has existed since villagisation and has the potential to resolve the conflict-ridden, legal ambiguity of the present situation. As has been shown throughout this work, the Commission is well-founded in its identification of the state as the villagers' main source of tenure insecurity. By vesting the land directly with the individual village and making the Village Assembly the authority of allocation, the Commission's proposal would achieve a dual objective - it would resolve the problems associated with the existence of multiple allocation authorities and ensure that a minimum of transparency is maintained in the allocation procedures.

A reservation to be noted on this aspect of the recommendations is that the Village Assembly is most probably an unsuitable organ for the more mundane but important tasks of day to day administration of land, such as conducting the negotiations required prior to the allocation of land and management of village commons. A sub-committee of the Assembly would be a more appropriate venue to carry out these tasks, while the basic propriety of such a committee's functions could be ensured by retaining Village Assembly approval as a condition for land allocation.²

² This was also recommended by the Dar es Salaam University's Land Tenure Group, see chapter 6.

Recent research has shown that systems of customary tenure are highly adaptive and tend to move increasingly towards individualisation of rights as the market develops and pressure on land increases (Platteau 1992; Birgegård 1993; Bruce 1993; Migot-Adholla *et. al.* 1991). The establishment of a village land register and the issuance of registered customary rights - HAMs (*Hati ya Ardhi ya Mila*) - provides a workable way of institutionalising such rights over time, without arresting the continuing evolution of their characteristics. The *Baraza la Wazee la Ardhi*, i.e. the elders' land council, is an extremely useful institutional invention which would probably maximise the possibilities of conflict resolution through compromise and/or mutually acceptable agreements between the contestants in a land dispute at an early stage of the conflict. The presence and influence of *Wazee* (elders) in the Circuit Land Courts would also help to legitimise the judicial system and bring it closer to the people.

Whereas the Land Commission demonstrates great confidence in the vitality and resilience of the customary system, it takes a dim view on the potential consequences of an open land market and consequently adopts a position in relation to the marketability of village lands which is protective in the extreme. The Commissioners' primary concern in this respect is obviously to put a definite stop to the existing problem of 'landgrabbing', but one suspects that other, less draconian measures could have provided satisfactory protection of village land against encroachment from outsiders.

Making village land inalienable under any circumstance takes away a significant dimension from the proposed system's evolutionary potential and could serve to isolate the villages

from certain aspects of national economic development in the future. It would deny villagers access to significant sources of credit and may discourage capital intensive investment in the village, be it agricultural or otherwise. In the short run, this would probably only have limited effect on village development and the importance of mortgageability of land for rural development should not be overstated. The Kenyan experience indicates that credit is not likely to be readily available due to inability and/or unwillingness of the poorly developed financial markets to accept smallholder land as security for loans, regardless of whether the land is titled or not, and when loans are secured against land they are more likely to be spent towards more profitable investments in the urban sector rather than in the village (Haugerud 1983; Shipton 1988; Pinckney and Kimuyu 1996).

In the longer run, on the other hand, as the financial infrastructure is strengthened and the national economy expands, it would be desirable that villagers too have the full options of mortgage and transfer. The short-term Customary Leases the Commission proposes for allocation of village land to outsiders are unlikely to offer sufficiently robust protection for anyone wishing to make any significant long-term investments within the village, be it for commercial, industrial, agricultural or any other purpose. Particularly where there is high demand for land, such as in areas of acute land shortage and peri-urban areas, is it desirable that the landholder should be able to take full advantage of the high value attached to his or her land.

Village Assemblies should be free to decide which rules should apply for a wide range of aspect of land management, including transfer to outsiders. In the Commissioners' recommendations for the procedures to be followed in the initial conversions into Village Lands and National Lands, the Assemblies are given the option of excising existing granted rights of occupancy from Village Lands and thus making the relevant land part of National Lands, provided the Village Assembly grants approval by a two-thirds majority. It is difficult to see a convincing reason why the option of excising Village Land should not be extended beyond the conversion period.

The Commission exhibits caution on the issue of gender and recognises the problematic nature of legislating for customary law. The proposed solution of including the name of spouse(s) on the customary certificates of land (HAMs) and to require the express consent of spouse(s) as a condition for the disposal of land represents a significant safeguard for the women's rights to land in the household. Such protection is particularly vital in connection with any kind of land registration programme. Women commonly suffer deterioration of land rights when household land is registered in the husband's name as any previously existing safeguard, communally imposed or otherwise, is more easily bypassed after registration (Mackenzie 1990).

The recommendations are weak on issues pertaining to pastoralism and common property regimes. The intended arrangements for the tenurial rights for the grazing ranges of pastoralists are not explicitly set out but appear to be subsumed under the village

demarcation program. Such an approach carries many of the characteristics and many of the dangers of a settlement programme. Where claims by agricultural communities and pastoral groups conflict, pastoralists are set to lose large tracts of land which they have traditionally used for grazing on a seasonal basis. Pastoral land rights are notoriously difficult to legislate for and administer in a way which provides adequate security and the Commissioners failure to address the issue directly is regrettable.

The Commission's recommended model of land administration would give a much needed boost to the existing structures of local government. Since villagisation, village government has been the basic foundation for national democracy but, due to the concentration of administrative authority in the executive branches of the state, the Village Assembly has all but withered away as a functioning venue of debate and dissemination of information. Typically, Village Assemblies today rarely convene and when called by Village Councils the attendance, more often than not, is unimpressive, which is not surprising considering the Assembly's virtually non-existent decision making powers (Ngware and Haule 1992). Vesting village land in the Assemblies would for the first time allow the villagers a decisive say in the administration of their most important resource, which would revitalise village democracy and strengthen the nation's local government structure from bottom up. As John Bruce comments in his review of the Report:

control of land and viable local government seem to be inextricably tied together in rural Africa. A local government which does not control land is almost irrelevant, given that the concerns of rural people are so focused on land. (1994: 4-5)

In comparison with the above, the Commission's proposed model for National Lands is disappointing. The reform component of the package is largely isolated to the institutional reforms associated with divesting the President of the radical title to land and the setting up of the National Lands Commission. To be sure, the Commissioners set out relatively clear and detailed procedures to be followed, which would provide for a higher standards of transparency and accountability in land allocation than allowed by the present system. Apart from these adjustments to the present system, however positive, the proposed system offers only limited change from the basic features of the present tenure regime. The notable exception, of course, is the Commissioners' decision to recognise land as having monetary value. This, in itself, constitutes a marked improvement on the present system as it is clear that to allocate a valuable good for free leaves the door wide open to corrupt practices in land allocation.

The basic nature of the Rights of Occupancy recommended by the Commission is virtually identical with the existing one. It is time limited with a renewable maximum of 99 years; it has attached development conditions, of which failure to comply is punishable by revocation of title; and official consent is required prior to disposal. There is a good argument to be made for choosing to provide landholders with more robust rights than what the familiar system of Rights to Occupancy has to offer. The reason for imposing elaborate restrictions on granted rights is to ensure that the land is being utilised in a way which is beneficial to society and to safeguard against hazards as preventable environmental

degradation and undesired concentration of land. The main weakness of such provisos is their reliance on administrative discretion.

The setting and policing of development conditions will inevitably be a highly subjective affair with obvious openings for maladministration. The right holder suffers a possibly arbitrary threat of revocation; few, if any, of the intended social benefits are realistically likely to be actualised; and the only set to gain from the procedure is the land administrator. Much the same applies for requiring official sanction for sale of land. Particularly the clause which stipulates that permission to sell land will be refused if it is deemed to be “purely for speculative purposes” (URT 1994: 169). It takes little imagination to see the occasion such a proviso provides the relevant authority to solicit bribes.

The Commission’s argument that an open land market would necessarily lead to increased land concentration and widespread landlessness is to a large extent misconceived. This is brought home by the case of Kenya, which has sub-Saharan Africa’s most comprehensive and longest standing experience of freehold tenure, where there is little evidence that the land market has led to an accumulation of larger holdings (Shipton 1988; Collier 1983).³ Inequality in land ownership is much more likely to be the result of government allocation and preferential treatment of individuals during first-time registration (Hoben *et al* 1992:

³ Although, ironically, the creation of “a landed and a landless class” was one of the original objectives for the start of titling in Kenya (Swynnerton, R.J.M. 1954. *A Plan to Intensify the Development of African Agriculture in Kenya*, Government Printer, Nairobi, 10. Cited in Shipton 1988, 98).

Box 11, 105; Bruce 1988; Haugerud 1983). For National Lands the institutional capacities should therefore be concentrated on ensuring maximum justice in demarcation and registration of rights. The requirement of official sanction for disposition is unlikely to have the intended benefits and would needlessly weaken the status of legitimate rights.

The continued reliance on administrative guidance is reflected in a range of other issues as well. As set out by the Commissioners, the National Land Commission would dictate the pace of land registration:

It is not for the potential user to identify areas and then pressurise the Government machinery to obtain a grant over his preferred area. Rather the NLC should identify and prepare lands indicating their proposed use for applicants to put in applications with reference to available plots of farm-lands. (URT 1994: 165)

Previous experience with land use planning would suggest that this approach is not cost effective. Another aspect of the proposal which reflects the Commissioners' hesitance to rely on market forces is the recommendation to allocate residential plots free of charge. In summary, the proposals relating to National Lands rely overwhelmingly on institutional reform and procedural adjustments and show little evidence of a paradigmatic change in the approach to land administration.⁴

⁴ I draw attention to the Dar es Salaam University Land Tenure Group's astute observation at the Arusha Workshop, where it drew a parallel between the Commission's proposals for National Land and the Tanzanian Government's penchant for institutional reform as a means of resolving basic shortcomings of policy (see Chapter 6).

The Commission recommends, that in compulsory acquisition of land, 'public purpose' should be narrowly defined to denote projects for use by the general public, such as schools and hospitals. This represents an important improvement over the existing legislation, wherein 'public purpose' encompasses any project, public or commercial, which the President deems to be so.⁵

The Commission's commitment to empower smallholder agriculture in order for it function as the rural engine of growth is a radical departure from what has been the official line of thinking throughout Tanzanian history. Whereas the country's past policies have purported to assist and develop smallholder agriculture, they have largely tended to implement such 'development' by subjecting rural communities to external control which have often led to the loss of land and user rights thereof. Assumptions of economics of scale in agricultural production has been a unifying factor of the development ideologies of policy environments as diverse as the colonial era, the socialist days of ujamaa and the present day return to market economics. Recent influential studies have shown that such assumptions lack foundation and that smallholders tend to achieve higher yields than estates. Existing elements of economics of scale are generally the result of policy distortions which favour larger producers rather than inherent productivity advantages (Binswanger *et al.* 1993; Bruce and Migot-Adholla (eds.) 1994).

⁵ See chapter 2 for a more detailed discussion of the Land Acquisition Act of 1967.

The recommendations of the Land Commission provide a well-thought out and realistically set framework for land tenure reform regarding customary law. Its model for village-based administration of most rural land has the potential to resolve the legally ambiguous and conflict-ridden state of affairs which has prevailed since the villagisation operations of the seventies. The heavily decentralised structure of land administration would make the adjudication and registration of claims to land infinitely easier and much more likely to be precise, thus ensuring sustained stability in the system. The shortfalls of the Commission's recommendations lay in their continued reliance of predominantly administrative control over land held under statutory law and in the arguably excessive limitations it imposes on villages' rights to dispose of their land. Both policy traits are the product of the commonly held belief that land markets inevitably lead to increased inequality of land holdings and landlessness, although available evidence suggests that such a development is more likely to be brought on by the allowance of administrative discretion in land allocation.

THE NATIONAL LAND POLICY

Tanzania's new National Land Policy does not represent a significant change in the Government's approach to land. It is underpinned by the same basic assumptions as the policies of the past and does not prescribe any change in the institutional framework. It can best be seen as a consolidation of the present situation, in which the Ministry's command in all matters relating to land is emphatically confirmed. The document largely consists of

broad policy guidelines and is vague and partly self-contradictory at some significant points. It bears all the hallmarks of a document hurriedly prepared. It is therefore somewhat difficult to accept Minister Lowassa's assertion that the Policy "represents a new turning-point in the development of Tanzania" (URT 1995b: ii).

The basic institutional hierarchy set out by the Land Policy implies a significant centralisation of powers. It resolves the ambiguity and resulting conflict relating to land allocation powers which has existed between the Ministry and the local councils since the reintroduction of local government in the late seventies (urban) and early eighties (rural) decisively in favour of the Ministry. The Policy gives the Minister wide discretionary powers to decide the procedures and the institutional hierarchy of the various land allocation bodies down to village level. Accordingly, the Policy does not define any of the details of the allocation procedures under the new system. Previous policy drafts indicate that the allocation procedure and hierarchical structure will continue as outlined in the 1988 Ministerial Guidelines.⁶ The experience to date clearly goes to prove that these procedures fail to ensure a satisfactory level of transparency in land allocation.

The decision to make land a constitutional category is positive but of only limited value beyond the symbolic. The Court of Appeals, which nullified Act 22 on grounds of being in

⁶ Both the Government Position papers discussed in the previous chapter explicitly state that the Guidelines will be retained under the new Policy (URT 1993a: 22; URT 1995a: 11). See Chapter 4 for a discussion of the Guidelines - *Mwongozo Kuhusu Kubuni Michoro, Kupima na Kugawa Viwanja* (MLNRT 1988).

contravention with the Bill of Rights, shows that the said Bill already affords the protection which will be provided by another constitutional amendment. A closely related issue is the definition of 'public interest'. The Policy states that for purposes of compulsory acquisition of land a "clear legal definition of 'public interest' will be established by law" (section 4.2.16). No further elaboration on this issue is provided but both versions of the Government's Position on the Land Commission Report indicate that the definition will remain wide and would notably encompass private projects approved for Investment Protection (URT 1993a: 5; URT 1995a: 17).

The decision to recognise land as having value is important and puts an end to the anomaly of allocating a valuable commodity free of charge. To what extent it can be expected to reduce the scope for malfeasance in land allocation, on the other hand, is questionable. One reason for doubt is the failure to specify the procedure for the auctioning or tendering of land. More importantly, the Policy evinces a continued commitment to rely on the guiding hand of central Government in all matters concerning land rights. The problems related to such an approach is illustrated by the following scrutiny of the Policy's directives for the allocation of sizeable tracts of land, which are the Government's response to the concern over the oft-reported occurrences of 'landgrabbing.'

Under the section of Land Utilization, it is observed that tracts of several thousand hectares of land are presently allocated to individuals or private firms with the result that land is

unproductively hoarded for “speculative purposes” and neighbouring villages are faced with shortages of land (section 4.2.7). The Government’s solution to the problem is as follows:

(i) Special Areas for various investments will be identified and set aside for allocation to investors by the Government.

(ii) Land will be allocated to investors according to their ability to develop it and that interests of citizens over their land shall be safeguarded.

(iii) Land ceilings will be fixed by Government on the basis of use, location, feasibility study and proven ability to develop the said parcels of land.

(iv) Land hoarding will be discouraged by strict enforcement of development conditions and by the use of local by-laws, planning and land use regulations. (section 4.2.8)

These policy statements signify no change whatsoever from the present land policy (as far as one can be said to exist) and impose no legal restriction on the land administration. There is little credibility in this stated commitment to hinder improper land allocations by means of enforcing Ministerial directives and regulations. Hitherto, development conditions have been of virtually no significance after the title is issued. The existing land administration is stretched to the limit with the day-to-day tasks of processing applications for land and mediating in land conflicts and has little or no resources to spare to check on the compliance of development conditions or for the zoning of land for specified purposes. The adequate

policing of such regulations would depend on a massive increase in the institutional capacity of the land administration at all levels.

Whatever revenue is likely to be raised from sale of land and land taxes would almost certainly not suffice to cover the cost such an expansion would imply. Despite the popular perception among Tanzanian land officials that there is plenty of ‘unused land’ in Tanzania, there is in fact very little land without any attached customary user rights. It follows that the revenue from sales of land is required to cover the compensation costs for individuals or groups who have given up rights to the land in question, rather than administrative costs.

Considerations of institutional resources aside, another serious weakness of the system is the opportunities it creates for discretionary decision making and administrative malpractice. It is all too easy to imagine a situation wherein the threat of revocation for failure to comply with development conditions is used by land administrators as an instrument of intimidation and rent-seeking. It is also unclear how the administration is expected to determine an investor’s “ability to develop” the land, and how this would affect the tendering or auctioning of a given parcel of land. Will the applicant’s ability to develop the land have to be certified prior to the placing of a bid? In which case, by whom? Or will the applicant’s ability be considered after the bid is placed? Either option opens a Pandora’s box of opportunities for bribery and nepotism.

Throughout the Policy, the Government exhibits ambiguity in its position on the land market. While it accepts the need to accept and legislate for the already existing land market, it is reluctant to allow the market free reigns due to fears of a rapid increase in land concentration and landlessness, which is perceived to be the inevitable corollary of a land market. The attempted solution is a compromise in which legitimate marketing is allowed but barriers are raised against the evils of 'hoarding' and 'speculation'. Consequently, the Policy states that sales Rights of Occupancy are not allowed "unless all development conditions have been complied with" and that no sale is allowed "within the first three years of its acquisition," but in the same section it is also emphasised that the "consent of the Minister is not necessary for market transfer to take place" (section 4.2.12). The immediate danger of such conflicting policy statements is that a land market will evolve which becomes increasingly bogged down in litigations and counter-litigations as transfers can take place only to be challenged in court to prove the legality of the sale at a later stage.

The Land Policy's treatment of village land is schematic and non-committal. It incorporates many of the Land Commission's institutional innovations but does not undertake any reform of the basic structure of village authority. The result is a hodgepodge of poorly consolidated institutional concepts which does little to address the problems currently faced by Tanzania's village communities. The following paragraphs examine the policy tools which are the core of the Policy's reforms on village land - the Certificate of Village Land (CVL), the customary certificate of land, HAM (Hati ya Ardhi ya Mila), and the elders' *Baraza*.

The Land Policy's version of the CVL redresses much of the ambiguity of the present village title's status. The CVL is to be a document certifying village boundaries rather than an actual title of ownership, and would not directly affect the villagers' customary rights to village land. The Policy accepts the Land Commission's recommendation that the General Boundaries method will be used for village demarcation, which will facilitate demarcation to proceed at a quicker pace. Other weaknesses of the present system of village titling remain. Land is still to be administered by the Village Council (rather than the Village Assembly) and there are no provisions which guarantee a satisfactory degree of transparency in land allocation. It is merely stated that "Village Councils shall report to their respective Village Assemblies all land allocations in their respective villages" which, in practice, does not constitute any significant change from the existing system (section 4.1.1).

The procedure for establishing the extent of the village boundaries is not specified. The only direct reference to the process of demarcation is the following:

In order to protect the villagers' land rights and promote better and sustainable use of the natural resources within those villages, the Government will continue to provide guidance on village demarcation. (Section 5.2.1)

'Government guidance' suggests that an element of land use planning is intended to be part of the process. In the past such planning practices has often been more about delimiting village land than securing it for use by the village. This will lead to a continuation of the long standing conflict between the villagers' wish to secure all standing customary rights to

land and central Government's concern about 'releasing land for investors'. The contrast with the Land Commission's recommendation on this issue is instructive:

The demarcation of village boundaries should rely on the traditional perceptions and mutual agreements of the villagers themselves on their boundaries ... It is important to emphasise that the process of village demarcation should avoid any latent objectives to reduce village lands (URT 1994: 151).

The Policy's directions regarding the use of Customary Certificates of land are vague and appear unrealistic and ill-conceived. It is stated that the HAM "will be issued by the Village Council and registered at the corresponding District Land Registry" (section 4.1.1). There is no extrapolation of what such a Certificate would constitute or how it is to be recorded at the District Land Registry. This is particularly puzzling considering another policy statement: "Registration of customary interests in land be compulsory to safeguard the interest of the villagers." (Section 4.2.22) If this is to mean that the individual holdings of all villagers are to be registered with their District Land Registries it is safe to conclude that there is not even a remote chance of accomplishing the task.

The document's only statement on the elders' council, the *Baraza*, is equally non-informative:

There is need for a well established land dispute settlement machinery. Therefore existing quasi-judicial bodies should be strengthened to deal with such disputes. Such bodies shall start from Mabaraza ya Wazee ya Ardhi to quasi-judicial bodies

at the district, regional and national levels with appeals to the High Court on points of law. (Section 4.2.26)

The Policy indicates no role for the *Baraza* in any of the routines of village land administration, other than dispute settlement, and it will not act as the supervisory organ as originally intended by the Land Commission. It is likely to function as a venue of last resort for full-blown conflicts over land rather than as an institution which can mitigate potential conflicts at an earlier stage. Also, the decision to continue referring cases of customary law to the Ministry's existing quasi-judicial bodies (Customary Land Tribunals) does not level with the commitment that:

A dual system of tenure which recognizes both customary and statutory rights as equal in law will be established. (Section 4.1.1)

It is unclear exactly what is implied with the latter statement, as the Policy decrees no change from the existing system in relation to customary law, whether on the legal or the institutional basis.

To summarise, the Land Policy does not facilitate the evolution of the village as a self-governing body. Instead, the village is essentially treated as an enclave of customary tenure towards which the Government has two separate duties to fulfil: to protect sufficient land for the village to meet its basic needs and to encourage and enable progressive farmers to gain statutory rights to land.

Essentially, the National Land Policy signifies more of the same for Tanzania. The Government has declined to loosen its firm grip on all matters relating to land. In fact, the land administration is becoming marginally more centralised, with the Ministry of Lands for the first time confirmed as the sole authority of land with full powers of defining procedures of allocation. As a partial consequence of the refusal to devolve the authority to alienate and allocate land, the Policy fails to guarantee an adequate level of transparency and accountability. It also offers only limited prospect for clarification of the legislation. The belated consolidation of the country's land laws in one basic Land Act will be of some relief but the lack of clearly defined procedures which provide for a satisfactory standard of adjudication rights prior to allocation or disposition of land is likely to continue to bedevil the judiciary. It is disconcerting that no judicial reform is undertaken and that the serious problem of post-villagisation litigation is not directly addressed. There is little prospect of the large backlog of land disputes in the courts clearing up. The consequence of continued legal ambiguity and heavy administrative bias in land matters will serve to undermine the security of tenure for both statutory and customary rights.

CONCLUSION

The World Bank and the University of Wisconsin's Land Tenure Center (LTC) recently conducted a large survey on tenure security and agricultural productivity, encompassing empirical studies from seven African countries with varying experiences of land tenure

reform.⁷ The objectives of the project were to investigate whether customary tenure provided farmers with sufficient security of tenure and how tenurial arrangements affect agricultural investment and productivity. The concluding question posed by the analysts was whether customary tenure was best approached in a reform focused on ‘institutional adaption’ or ‘replacement’. This dilemma captures the contrast between the two policy models discussed in this chapter, with the Land Commission’s proposal exemplifying the ‘institutional adaption’ approach, and the Ministry’s Policy being a variant of the ‘replacement’ model.

The classic approach to land tenure reform is the systematic replacement of indigenous tenure with statutory law through compulsory registration and titling, of which Kenya is the best known example. The World Bank and LTC survey found serious shortcomings with this approach and cast doubt on its cost-effectiveness. One of the main drawbacks with registration programmes initiated by the Government, is that the statutory tenure regime is not fully accepted in the community in question with the community continuing to impose some restrictions on the individual landholder along the lines of the supposedly extinguished customary tenurial regulations. Moreover, the Government is often, if not always, unwilling or unable to ensure adequate adjudication prior to the initial registration

⁷ The countries covered by the project included Kenya, Uganda, Rwanda, Somalia, Burkina Faso, Ghana and Senegal. All the country studies and the project’s overall conclusions are presented in *Searching For Land Tenure in Africa*, edited by John W. Bruce and Shem E. Migot-Adholla (1994). The volume’s concluding chapter contains a clear and concise synopsis of the survey’s findings and frames policy recommendations (Bruce *et. al.* 1994).

of rights, which serves further to deepen the subsequent confusion involving a complex web of conflicting rights of differing nature and origin.⁸

The Government's Land Policy is a cautious application of the replacement approach. Rather than aiming at a comprehensive registration and titling exercise, the Policy constitutes a titling on demand approach, in which the Ministry undertakes to assist in registration and titling at the initiative of the applicant. In the absence of a adequate system of adjudication and registration, this approach is likely to continue to run into the same problems as it has experienced elsewhere in Africa. Titling on demand within the present institutional and legal structure opens up a plethora of possibilities for land-grabbing by well-connected individuals, which is likely to result in a further erosion of people's existing rights to land.

The World Bank and LTC survey concluded with drawing the following recommendation as an alternative to the replacement approach:

Rather than rewrite the laws governing property rights - an effort which will serve mainly to introduce another set of arguments into the ongoing debates over access to land - governments should focus on strengthening institutions for mediation of

⁸ Barrows and Roth observes the following on the Kenyan experience of titling and subsequent legal entanglements: "... many of the charges against the displacement of rightful owners in Kenya stem from the Government's unwillingness and inability to bear the full costs needed to adjudicate and register all rights." (1990: 292)

what, in changing and unstable economies, will continue to be conflicting interests of farmers with respect to rights in rural lands.⁹

Such an approach allows the indigenous tenure regime to evolve gradually and exploits the community's knowledge of the local conditions and distribution of land rights, thus allowing for more accurate and efficient methods of administration and, ultimately, registration. The Land Commission's model is an eminent example of the 'institutional adaption' approach. The village communities are the logical point of departure for land reform in today's rural Tanzania, and the Commission's recommendations facilitates the evolution of the country's indigenous systems of tenure and afford a feasible method for registering and securing the existing rights.

While the Commission's proposal may be *too* protective of the population holding land under customary law, its basic institutional framework provides an excellent model for a long-term transition to a statutory system which would unfold on the landholders' own premises. We have seen that although the Government utilised several of the institutional concepts put forward by the Commission, it failed to commit itself to a corresponding reform of the basic structure of authority. As has been argued here, the resulting National Land Policy constitutes a largely cosmetic reform which is unlikely to fulfil the Policy's fundamental objectives. The concluding chapter explores the possible reasons for the

⁹ From Sara Berry's review of the survey's findings: "Land Tenure and Agricultural Performance in Africa: Report on a Conference." Paper on a Conference on Rural Land Tenure, Credit Agricultural Investment, and Farm Productivity, June 4-8, 1990, Nairobi, cited in Bruce et. al. 1994: 262.

Ministry's spectacular disregard of expert recommendations and contemporary knowledge on land tenure reform.

CONCLUSION

The two principal objectives of this work have been to demonstrate the shortcomings of what I have termed the 'black box' approach to political analysis and to analyse Tanzanian land policies by examining the political processes which have been involved with their formulation and execution. At the start of the first chapter we encountered the intriguing case of an actor in the policy-making process, a foreign consultant, who was sharply reprimanded and rebuffed by Ministerial officials for advising the government to decentralise its land administration, but who was nonetheless accused, by political analysts in a national NGO, of being party to a foreign plot to sabotage a popular proposal to reform central government's highly centralised control over land. I held the case forth as an eminent example of the fallacies of neglecting to dip below the surface of seemingly all-too-familiar processes of policy-making prior to reaching conclusions on the origins and intentions of new policies. The same incident was also given as a snapshot of the government's refusal to change its approach to land in contradiction to a wide range of expert advice and pressure from civil society. The latter point begs the question of what is the government's agenda in relation to land if, indeed, it has a recognisable agenda at all.

The preceding chapters have pursued these themes through the last half century of Tanzanian history. We have encountered the significant political events of these years and scrutinised a series of dramatic changes both in regard to policy-making and specifically in relation to the development of land policy, which has consistently appeared to be central to the government's political agenda. But we have also seen that under the turbulent sea of political changes and policy reforms there has been a strong current of continuity and that central tenets of policy-making and land policy have remained virtually unaltered since the colonial period.

The stated objective of the government's land policy has consistently been to effect a transformation of the rural areas with the view of overcoming the perceived inefficiencies of the 'traditional' modes of land use. Underpinning this single-minded pursuit of progress is an all-pervading and unshakeable faith in modernisation ideology and the administrative and legal framework has been specifically designed to enable the executive to take an active and controlling part in the development of the countryside. There are similar lines of continuity in the way these policies have been formulated and implemented. As a rule, policy-making has been hidden from the public eye and open and exhaustive policy debates have been discouraged even within Party and Government organs. The way in which the political process has progressed is not as clearly defined as is often suggested by much of the discourse on Tanzanian politics.

THE DEVELOPMENT OF TANZANIA'S LAND POLICIES: Continuity over change

The basic tenets of Tanzania's land policies were set already early in the colonial period. Both customary and statutory law were defined in a manner which vested exclusive authority with the Executive and land officers were given wide-ranging discretionary powers to decide on matters regarding land use and ownership. This system has lent the Tanzanian land tenure regime an administrative bias which has remained in force up to the present.

The British colonial land policies ostensibly had one primary objective, namely to ensure that land was developed 'in the best interest of the native population'. The Governor functioned as the trustee of all lands and the land administration was heavily dominated by the executive branch of the government. The policy in relation to native interests in land had two guiding principles, namely to ensure that enough land was available to the 'natives' to meet 'present and future needs' and to ensure that the land was put to its best possible use. A predominantly European estate economy grew up alongside the African sector of smallholders and pastoralists and the colonial government took a radically different approach to each of the two distinct sectors. The settlers held their land under statutory law, and their *granted* Rights of Occupancy carried with them essentially the same rights and guarantees as a government leasehold, albeit with certain provisos for the utilisation and rights of disposition. The Africans held their land under 'customary law',

and their *deemed* Rights of Occupancy were permissive rights which were seen to be actively ‘provided’ and guaranteed by the government rather than being indisputable rights held by smallholders and pastoralists in their own right.

The Meru Land Case, in which 78,000 acres of land was appropriated from the local residents to be allocated to a group of European ranchers, is the classic example of the ease with which the administration could dispose of land as it saw fit, regardless of whether it was already ‘owned’ under customary law. In this case, alienation was justified as being in the interest of the community at large as it was expected to accrue economic benefits for the nation and would serve the purpose of demonstrating the methods and benefits of modern ranching to the ‘traditional’ livestock producers. The government’s objective of transforming the ‘traditional’ rural areas into a producer economy which run according to ‘modern’ and ‘scientific’ methods of farming and ranching consistently led it to take an activist approach to land policy. The colonial ruler often tried to directly control the way in which the African used his or her land. By-laws imposed minimum acreage for certain crops, directed when and how crops should be planted and decreed rules on culling.

The 1955 East Africa Royal Commission identified the customary tenure regime as the key impediment to agricultural modernisation. The Commission’s recommendation that selective individualisation and titling be initiated was rejected by the young Tanganyikan leader, Julius Nyerere, who argued that to allow a market for land would inevitably lead

to land being amassed by a few wealthy landlords while the vast majority of the people would be reduced to the position of tenants. His affirmation of the values of the traditional African society notwithstanding, Nyerere too had little faith in customary tenure and he shared the colonialists' goal of actively transforming the rural sector. Instead of following the Kenyan path of conversions to freehold he decided to pursue another colonial development strategy, that of resettlement.

Nyerere's 1962 inaugural speech set out the reasoning behind the settlement policies which became the mainstay of Tanzania's rural policies. Villagisation was seen as the only way of overcoming the fundamental shortcomings of traditional rural isolation. Bringing people together into village settlements would enable the state to exercise its modernising influences, facilitate land use planning and confer on the residents the advantages of economics of scale which would be available through communal ventures. The policies' emphasis on communal farming has received attention beyond its significance and collectivisation did not assume any importance much beyond the symbolic. The principal purpose of villagisation was to mobilise the rural population, if necessary through compulsion, in efforts to effect a large-scale modernisation of the rural areas. That modernisation was the primary objective of villagisation is demonstrated by the 1972 policy document *Siasi ni Kilimo* (Politics is Agriculture) which forcefully stressed the need to adopt modern agricultural practices in the villages while making little or no mention of communal farming. The Regional Integrated Development Programmes were another attempt to inject an element of scientific planning into the rural

development drive. As stated in the Third Five Year Plan, the villages were viewed as project units to be co-ordinated by experts.

The socialist content of the rural development strategy in this period was largely articulated in form of the 'anti-kulak' policy of discouraging the emergence of a large-scale private sector which was launched with the post-Arusha policy document *Ujamaa Vijijini* (Socialism and Rural Development). The agricultural crisis of the late seventies and early eighties sparked a considered rethink of this aspect of the ujamaa ideology and the 1983 National Agricultural Policy (Agripol) announced that it was government policy to encourage the development of a private sector and that registered villages would be demarcated and receive titles for their land. The presented evidence on the background to Agripol shows that these two policy initiatives were closely connected as village titling was originally conceived as a means of freeing land for development projects and entrepreneurs. The preparation of village titles was seen as an opportunity to institute village planning and village land use plans were routinely attached to the titles as development conditions.

Agripol is often presented as the reversal of the development approach associated with villagisation but it was just as much a reaffirmation of the state's modernising agenda in the rural areas. Development was equated with the emergence of a modern agricultural sector consisting of medium- and large-scale farms and the opening for agricultural entrepreneurs was an implicit admission that the strategy of achieving economics of scale

through the collectivisation of village ventures and the growth of a state farm sector had failed to live up to expectations. The decision to encourage the development of a private sector in agriculture also harks back to the reassurances which were given the estate economy after independence, the addition of the Public Ownership policy paper to the Arusha Declaration and Nyerere's reference to the same when he publicly encouraged private investment in industry and retail in 1977.

The Investment Promotion Policy went further along the same path. The Policy did not directly affect land policies to a significant degree, because few investors with IPC approval applied for grants of land in the rural areas. Rather, Investment Promotion was significant with respect to land due its indirect impact on the execution of the land allocation procedures. Land officers were implicitly and explicitly encouraged to allocate land to 'investors', regardless of whether they were officially certified as such or not. The land administration proved incapable of dealing satisfactorily with the demands which were imposed by the new policy environment. The number of land litigations skyrocketed; problems associated with 'landgrabbing' ascended on the list of rural people's concerns and insecurity of tenure was increasingly often cited to be among the most serious threats to the well-being of smallholders and livestock producers.

It was in this policy environment that the National Land Policy was formulated. The two principal components of the policy-making process originated from opposite corners of the political arena: one arose as an undertaking to resolve the practical land policy

problems experienced at ground level while the other was an initiative to bring the land policy into line with the Government's policy objectives. Government concerns over the high incidence of land litigations and popular complaints of miscarriages of justice perpetuated by the land administration led to the appointment of the Presidential Commission of Inquiry Into Land Matters. The Commission's Report recommended a radical restructuring of the entire legal and institutional framework for land administration. At the heart of the Commission's proposal was a massive decentralisation of the land administration in which all village lands would be vested directly in the respective villages and all other lands would be divested from the executive and made the responsibility of an independent national Lands Commission.

The Ministry of Lands set up a set of policy making committees which pre- and post-dated the existence of the Presidential Commission. The ministerial committees were staffed and run by civil servants and experts in land administration. The Ministry's main objective was to streamline and rationalise the land administration and to facilitate the Investment Promotion Policy. The Government, as represented by the Ministry, rejected the recommendations of the Presidential Commission for the reason that they would have deprived the Executive of the powers deemed necessary to implement Government policies, i.e. Investment Promotion. The Ministry's alternative, the National Land Policy, resisted pressures to reform substantially the Government's approach to land. The Policy introduced isolated aspects of reform, principally a partial allowance for the operation of a land market, and incorporated a small number of the Presidential Commission's

institutional innovations, albeit in a severely circumscribed format. Essentially, the new Policy represented little more than a streamlined version of the original set-up. Existing problems of policy and administration were addressed through a further centralisation of authority and stated resolutions to tighten the regulatory framework and ensure strict enforcement.

The policy process relating to the use and ownership of land in the period spanning liberation, independence, the years of ujamaa, liberalisation and, finally, the adoption of the National Land Policy evidently encompasses a series of eye-catching reversals and changes. Nevertheless, as this study has demonstrated throughout, there is also a deeply significant line of continuity which lends the historical process a perhaps surprising degree of cohesiveness. The constancy of the Tanzanian state's approach to land becomes still more evident when we draw together the study's findings on the structural make-up of the land administration and the legal framework within which it is meant to operate.

THE INSTITUTIONAL AND LEGAL BASIS OF LAND POLICY IN TANZANIA

In chapter three we saw that, in 1969, Nyerere appointed a committee chaired by Cranford Pratt to investigate and make recommendations into plans to decentralise government. The committee's report was subsequently suppressed and it was reported to have recommended a devolution of authority from central government down to more

autonomous and directly elected local government bodies. Following the rejection of the Pratt report, the Government appointed the American consultancy company McKinsey which drafted the 'Decentralisation' reform of 1972. This chain of events makes an interesting parallel to the formulation of the National Land Policy. Both processes include rejected recommendations issued by teams commissioned by the President to decentralise substantially state administration and, in both cases, international consultants are brought in to design, or merely legitimise, solutions more acceptable to the Government, solutions which entail further centralisation of the pre-reform systems.

These examples epitomise the Tanzanian government's on-going reluctance to relinquish control over state administration. Decentralisation set up a clearly structured administrative hierarchy which was ideally suited for the implementation of the villagisation policy. The new system was specifically designed to implement development programs and it established chains of command which linked Districts and Regions with the central organs of Party and Government. Villagisation brought about a vast expansion of the 'decentralised' local government structure and after the operations more than 8,000 villages have been registered as the lower level of local government. Like the executive officers at District and regional level, the village executives were accountable to their superiors rather than to the people they were supposed to be representing. Villagisation was therefore an extension of 'Decentralisation' in the respect that it entailed a massive centralisation of the rural administration.

In the period during and after villagisation, customary land holdings were administered extra-legally as the supporting legislation was seriously faulty and erroneously applied. The Village Act of 1975 grants the nation's District Development Councils the authority to allocate land as it sees fit to registered villages but fails to specify where the DDCs derive their rights from. Most significantly, existing customary rights to land were not extinguished so the operations led to an unprecedented scale of double-allocations of land. The only reason why the legal and administrative consequences of this problem did not show any earlier was that, prior to Agripol, the executive enforced strict central control on settlement patterns and denied judicial challenges on land allocations against village and district governments.

The reintroduction of urban and rural local government in the late seventies and early eighties played further havoc with the land administration. Ambiguous lines of accountability blurred the division of authority of the officers working under the Ministry responsible for local government and the local land officers of the Ministry of Lands so that it was unclear who possessed the authority to allocate land. This set off an intra-government conflict which the Ministry of Lands attempted to resolve in its favour in 1988 through the issuance of a Ministerial Directive 'clarifying' the correct procedure for the allocation for land. The Directive established Land Allocation Committees at the District, Regional and Ministerial levels but failed to protect against the continued occurrence of double- and wrongful allocations, caused to a large extent by the unchecked usurpation of powers to allocate land by local officers.

The reason why the land administration was so susceptible to institutional changes in government is to be found in the nature of the land legislation. Tanzania's land tenure regime is (and has always been) designed to allow the executive extensive control over the use and ownership of land, the principal objectives being to ensure that the land is effectively developed and utilised and that the rural population has access to 'sufficient land'. The restriction this imposes on statutory rights is in the form of development conditions which are attached to the grants. Such conditions are rarely overly onerous and ought not to detract from the security of the user rights to the land provided they are administered in an orderly and predictable fashion.

The legal safeguards in place for customary rights are much weaker. In case of dispute, the onus is on the customary rights holder to prove that he or she is the rightful owner of the land in question, a task which is complicated by the absence of any written certification of such rights. Within settled customary tenure regimes, the indigenous institutions have dealt largely satisfactorily with land allocation and dispute resolution. The main cause of tenure insecurity is competition over land from sources which are exogenous to the local community, be it individuals from neighbouring communities seeking to actively expand their holdings held under customary law, allocations of granted rights to outsiders ('investors') or appropriation by governmental bodies due to urban expansion, the establishment of development projects or game or forest reserves. There were, at the time the National Land Policy was being formulated, no functioning set of procedures which ensured that existing customary rights to land were properly

adjudicated prior to the issuance of granted rights of occupancy. This caused close to anarchic conditions in many, particular pastoral, areas where few effective checks existed against serious malpractice in land allocation.

Such conditions contributed to the breakdown of the land administration and the various government institutions and the courts were soon inundated with complaints of wrongful decisions and litigations over land ownership. The post-villagisation litigations, which were caused by the mistakes committed during the operations, formed but one part of the legal predicament. The failure to ensure that all claims to land were satisfactorily adjudicated prior to new allocations of land gave rise to the majority of the land disputes. The changing politico-economic environment had put both pressures and inducements on land administrators to give applications for land grants favourable treatment and a great number of grants were subsequently contested in court and/or were the source of complaints against the land administration. This situation led to a severe erosion of the security of tenure among customary landholders which had a knock-on destabilising effect on the solidity of newly acquired grants as it became increasingly likely that the rights would be contested after titles had been issued. So, ironically, even though the official policy objective was to assist and encourage investors by facilitating grants of land for 'development', the new direction in rural management has also been responsible for the erosion of confidence among investors as a result of the uncertainty which became associated with land grants.

What has developed is a policy framework which produces the worst of both worlds. The legislation is weak on customary rights for smallholders and pastoralists and overly reliant on administrative procedures for its implementation. Customary holders of land are consequently facing acute insecurity of tenure and do in many cases suffer land losses which undermine their welfare and livelihood which is in direct contravention of the colonial and contemporary tenet that the people's present and future needs for land be 'protected'. The uncertain status of customary rights also works as a disincentive to commit resources to improve productivity and ensure the environmental sustainability of the land which again falls foul of the guiding principles of the official land policies.

Likewise, the existing land tenure regime is failing to uphold the requirements of statutory rights to land. Grants of rights of occupancy, though in law more firmly established, are increasingly being challenged by customary rights holders or even by others with conflicting titles over the same land. Even if the title holders are scrupulously correct in their applications for land they may unwittingly be implicated in faulty transactions due to carelessness or deliberate duplicity by the land officials. Moreover, applicants for land are often subjected to arbitrary treatment from the authorities and there is considerable lee-way for subsequent revocation or modification of the grants if the government decides that the land is in better hands elsewhere.

This sorry state of affairs is caused by a overly centralised institutional and legal framework which is held hostage to the discretionary decisions of executive officers and

the civil servants who are land administrators. The fundamental shortcomings of this system has been well documented by a series of comprehensive studies and all available statistics indicate that, as it stood at the time of the making of the National Land Policy, it was in urgent need of radical reform. Yet, the Policy neglected to address the most glaring weaknesses of the existing regime. Most notably the government chose to ignore the arguments for decentralising the land administration, which had been put forward by all the commissioned studies on the policy question, deciding instead to attempt to resolve the problem of arbitrary and unmanageable administration by effecting a further centralisation of the administration. The new Policy was less of a change than it was a solidification of the existing regime. This perverse policy outcome was not simply the product of the state refusing to relinquish its power over a valuable resource, although that was certainly a factor, but the result of a more complex set of ideological and political determinants.

THE POLITICS OF POLICY MAKING

The central philosophical influence behind the formulation of Tanzania's land policies is that of modernisation ideology. The government uses the policy objective of transforming the countryside to rationalise and legitimise its highly interventionist approach to land administration. The state sees and portrays itself as the pre-eminent modernising agent and commonly views and uses land legislation as an instrument of

policy implementation. Issues of land rights, particularly those of the 'traditional' sector, are implicitly relegated in importance to those of 'development'. The politically significant aspect of modernisation ideology is that it has wide appeal across the political spectrum.

My analysis of the political process which led up to villagisation illustrates how the concept of resettlement was acceptable to both the radical and conservative factions of the ruling elite. The radicals saw, in villagisation, an opportunity to politicise the rural population and to modernise agriculture through communal ventures. The more conservative elements in government, on the other hand, approached it as a means to institutionalise the agricultural market and to employ 'expert' land use planning at a large scale. The most obvious emphasis of the modernising zeal of Tanzanian policy makers is perhaps represented by Nyerere's populist vision of communal development and participation for all. The same factors made decentralisation an attractive and commonly acceptable institutional solution. In the years since the adoption of Agripol and the consequent liberalisation of rural development policies, the reformers have increasingly come to dominate the agenda but the emphasis on modernisation remains in force and continues to defuse potential conflicts over policy decisions.

It follows that modernisation ideology has a dual function in the politics of land in Tanzania. It has been used as a legitimising tool to rationalise the government's extensive powers to regulate the use and ownership of land. In this sense it serves to depoliticise

what are issues of extreme political sensitivity. Secondly, it has been the common ideological denominator across a wide range of political beliefs which has lent the approach to customary land tenure a degree of consistency which contrasts with the changeability of Tanzania's political life since the colonial period.

The way in which the land policies have been formulated is anything but straightforward and this study's historical analysis and case studies have shown that the full complexities of policy making can serve to obscure political processes which are commonly overlooked by political analysts. Detailed examination of policy making processes provides access to two central aspects of the political process: who makes the policy decisions; and what are the primary objectives of the policies. The former assists us in discerning more about how the Tanzania state works and what its constituent parts are. The latter gives us additional insight into the nature of each policy and helps us understand how it is likely to be implemented. The presented research on Agripol and the National Land Policy have thus provided us with information which supplements or challenges many of our received notions of how the Tanzanian state works and who controls its various parts.

The eighties in Tanzania were a period of intense political activity and by this time most political analysts were taking notice of the escalating conflicts which were openly emerging between the various factions of party and government. The basic line of division between party ideologues and government reformers has been widely noted

(Bryceson 1993: 190; van Cranenburgh 1990: 204-6; Baregu 1994: 207-9; Mlimuka and Kabudi 1986: 79-80; Hodd 1996; McHenry 1994). Nyerere's position on the reforms, on the other hand, emerges less clearly from the available literature. The 1986 Economic Recovery Programme and the subsequent IMF agreement are rightfully seen to be the watershed in the liberalisation process and have commonly been associated with the departure of Nyerere and the start of Mwinyi's reign. Although useful and not entirely misleading, this is an interpretation which needs to be applied with caution. Nyerere often appeared as the front figure of the 'anti-IMF movement', particularly with his virulent attacks on the 'imperialist agenda' of the Bretton-Woods institutions in the late seventies and early eighties, but it needs also to be noted that the *rapprochement* with IMF and the World Bank started under Nyerere with the 1982 Structural Adjustment Programme, drafted with assistance from the World Bank, the 1983 National Agricultural Policy and the liberalising measures which were unceremoniously introduced in the 1984/85 budget. What took place in 1986 was not a dramatic shift from the policies of Nyerere's reign and, as Hartmann has noted, Nyerere was also instrumental in securing Party ratification of the agreement (Hartmann 1988: 171).

This study's analysis of the National Agricultural Policy throws new light on Nyerere's role in the definition of policies at this important stage of early reforms. Agripol was a startlingly radical piece of reform at its time and it touched on the very basis of Nyerere's design for ujamaa in the rural areas. It is therefore significant to our historical understanding of the process to find that the person responsible for the drafting of

Agripol, Simon Mbilinyi, was hand-picked by Nyerere and that the policy was given a reluctant approval by the National Executive of the Party only by virtue of Nyerere's heavy influence in its favour. This clearly illustrates the considerable political distance between Nyerere and the party ideologues and shows Nyerere to have played an active role in the liberalisation process.

Such information is important for our interpretation of Tanzania's political history but the presented evidence on the formulation of Agripol is perhaps more instructive for what it tells us about the drafters' conception of the policy and the way in which they presented and manipulated the substance of their recommendations. The drafters' main objective with the Policy was to facilitate the growth of a private medium- and large-scale agricultural sector. Village titling was conceived as a mechanism for delimiting village land and thus liberating 'free land' for development projects and agricultural entrepreneurs. This is not how they presented their ideas to Nyerere and it is certain that he would not have lent the policy his pivotal support if it had been. In the policy document village titling was solely forwarded as a means of securing villagers' land and modernising village land tenure through the issuance of subtitles. The policy drafters' reservations regarding communal labour in the villages were toned down for tactical reasons. Thus, the more radical aspects of Agripol were disguised at the time of its adoption. The fuller implications of these events is born out by the way in which the policy was implemented. In the following years the government and the rural

administration applied the new policy directives in more or less exactly the fashion they had been originally intended by the drafters of Agripol.

It would be wrong to attribute the close correlation between the vision behind the policy and the actual outcome to coincidence or to see it as no more than an inevitable policy outcome given the general drift of the reforms. The members of the Task Force which drafted Agripol, particularly its Chairman, Simon Mbilinyi, were experienced administrators and policy advisors who knew well the ways of government and the hows and whys of decision making and policy implementation. They were therefore well positioned to judge how the government's technical officers would interpret the policy and which aspects of it which were likely to be particularly stressed in the implementation process. This is significant as they knew and shared the views of the senior officers of the agriculture and land administrators on what were the key stumbling blocks for the implementation of their policy vision. The picture therefore emerges of technocrats producing policy for technocrats. Much thanks to Mbilinyi's adept handling of the tactical issues at hand, Agripol was presented in a format which could find approval and support from politicians, notably Nyerere, while still enabling technical officers to implement the policy in the manner in which it was originally intended.

This type of process reveals a 'hidden level' of government represented by the administrators and technocrats who occupy the senior posts of the civil service immediately below the top political officers of the various ministries. It is clearly visible,

of course, and it is no secret that civil servants have extensive influence on the formulation and implementation of policies, but it is hidden in the sense that it is insulated from the political branch of government and the public, and much of its actions are invisible to both. Thus, a policy may be designed to meet objectives which have not been openly discussed and perhaps not even considered by the political body, be it the National Executive or Parliament, which adopts it as its own.

My examination of the National Land Policy has shown this ‘apolitical’ or technocratic mode of policy making to be still more evident. The political objectives which the Policy was meant to address were the escalating problem of land conflicts and frequent complaints of land loss to encroachers from the nation’s villages. The President, the Minister of Lands and several MPs were among those who had registered concern with the political consequences of this situation. We have seen how the policy making process was virtually hijacked by the group of civil servants who stood to lose most by substantially reforming the bankrupt administrative structure. The near monopoly this technocratic elite exercised in the formulation of the Policy was made possible by the existing biases on the subject of land administration and the political factors working to its advantage - an executive jealous of its powers and a weak civil society.

At the very core of the matter is the notion that land policy is a technical matter which is best left to the experts. This is part and parcel of the dominant modernisation ideology which continues to inform the government’s approach to land and the persistent

perception that customary systems of land tenure are inherently inefficient continues to act as an argument against strengthening the institutions within which they work, i.e. the village, rather than replacing them.

The Government's rejection of the Presidential Commission's recommendations and the policy content of the National Land Policy caused consternation and outrage from sections of Tanzania's civil society and has been the subject of much critical debate among scholars. The criticism of the alleged impact of foreign consultants on the policy outcome, cited at the beginning of this work, illustrates the shortcomings of an analytical approach which neglects to address the process of policy making, particularly when engaging in a political debate. Tanzania's 'hidden level of government' remains hidden largely due to the failure of analysts and commentators to expose and consider how the state arrives at its policies. This technocratic level of government owes much of its arguably disproportionate influence to the fact that thus far its role and methods of policy intervention have escaped notice. This work's analysis has also shown that land policies are particularly susceptible to this kind of interference, because of the administrative bias of the land tenure regime and the activist, rather than facilitatory, approach of the administration which it bases on the obsolete tenets of modernisation ideology.

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