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THE TRANSITION TO DEMOCRATIC GOVERNANCE IN TANZANIA: AN ASSESSMENT AND GUIDELINES FOR NEAR-TERM ACTION

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TANZANIA DEMOCRACY AND GOVERNANCE ASSESSMENT

Executive Summary

Analysis of the Governance Context

The Tanzanian political system is sufficiently advanced on the path toward democratic governance to support the achievement of the other goals of sustainable development defined in USAID's overall policy approach, i.e. to play a part in improving the management of natural resources and the environment, to support health and population programs, and to support the process of a liberalized and more sustainable pattern of economic growth. Governance transitions, particularly the early phases of transitions, are always uneven, offering opportunities or openings in some areas of governance, while in others such support might be premature of inappropriate. Recognizing where these leads and lags are and how they affect the overall policy climate in Tanzania, USAID can better plan its program to emphasize particularly appropriate changes in governance and to help address places where political change is lagging.

Without question, Tanzania has made significant progress in liberalizing its economy and is continuing to take important steps in that direction. It has taken important steps as well in the liberalization of its political process, and in a short period of time the principle of open, multi-party political competition has been widely accepted. The Tanzanian political system has been able to undertake these changes while generally maintaining a high level of political order, managing exceptionally well potential religious, regional and ethnic conflicts. Combined with its human rights record, which while not perfect, is notably better than the norm for its region, Tanzania has begun to undertake the kind of transition to democracy which should enhance the possibilities of the Tanzanian people to address some of their long-term development problems peacefully and creatively.

Not withstanding these very positive developments, this study found that by a number of measures, Tanzania is still early in this transition process, and that there are areas where significant opportunities exist to support the people of Tanzania in furthering and deepening their transition to democracy.

Thus far, the process of political reform has been largely a managed one in the sense that ruling party, the CCM (Chama Cha Mapinduzi) and government have controlled the nature, the pace and the limits of reform. Particularly in the areas of legal reform, but also in the development of public accountability and responsiveness the momentum for reform seems to have slowed considerably, raising questions about whether top leadership has determined that the delinking of party and state in 1992 was as far as they needed to go. There is ample evidence that governmental officials feel little urgency to respond to pressures from the media, political parties, legal and academic communities to deal with a number of serious issues, including the drafting of a new, more democratically determined constitution, or the repeal of a large number of laws identified in a 1991 Presidential Commission report as repressive. Even the formal

business community complains that while they have access to top leaders, they are not listened to, and much of their agenda remains unaddressed. More broadly, there is widespread agreement that the level of rent seeking and lack of financial responsibility in the public sector is so serious that the public has come to associate politicians with corruption and to question the motives of all office seekers.

In spite of the slowing down of legal and political reform, there is enormous dynamism within civil society itself, with the expansion of associations both numerically, in size and in variety; the flourishing of an emboldened free press; the revival of the cooperative movement; and the emergence of self-help organizations at the village level and development associations at the district level, which are efforts at creating new local self-governance structures in the rural areas to build schools, clinics, roads, wells and provide other social services. These initiatives have taken advantage of the new political openness to express themselves. They have arisen to meet needs the state no longer can provide, and in response to new needs brought on by economic crisis and austerity measures linked to structural adjustment. They have also arisen in response to changing donor strategies which have increasingly given greater support to the non-governmental sector. These associations, however, confront limitations, not only to the further development of their service roles, but especially to their effectiveness in civic life.

The study indicates that linkages between civil society and public governance institutions are still very weak and vulnerable in Tanzania today. While civil society groups have grown in their capacity for action to meet the needs of their participants both individually and in expanding networks, they have yet to emerge as effective demanders of policy, or as monitors of governmental performance. The lack of government transparency and unwillingness to respond to societal pressures remains a constraint on the extent to which civil society is willing to engage the government in pressing for policy change. Political parties have yet to emerge as well as important channels of popular demands. Only the media has shown significant progress in linking people to government through the provision of vital information and through its monitoring and questioning role. The media too, however, has its limits and weaknesses.

Recommendations

USAID's democracy strategy in Tanzania should focus on strengthening the capacity of Tanzanians to become more effective demanders of democratic governance.

Specifically, USAID can assist in:

1. improving the legal-regulatory environment for democratic governance, and in particular by supporting democratic rules which facilitate the conduct of private business and farming and the rights of public association and expression;

2. strengthening associations of civil society and assisting in their capacity for action, including civic action, and;

3. strengthening additional channels for linking citizens to public policy by supporting the development of political parties, the media, and a variety of public fora.

This overall goal can best be achieved at the current stage of the political transition in Tanzania by focusing assistance on civil society actors. Specifically, the study recommends that AID undertake three basic actions in achieving these goals through civil society promotion:

1. Democratic Governance Project ($2-3 million 1994-96)

The objective of this project is to provide a funding mechanism for strengthening the capacity of civil society to undertaken governance functions, to build more extensive alliances for governance reform, including for legal reform, and to interact more effectively with government. It attempts to address in a modest way, all three objectives set out above.

The small Democracy/Governance project recommended would have five components.

- an NGO Resource Center, to provide services to NGOs and NGO-type associations (help with writing association constitutions and proposals, administration and project accounting, logistical support for seminars, legal education campaigns, communications/e-mail links to international organizations, a data-base on NGO and donor activities, training in computer skills and the principles of credit).

- support for the quality of media reporting. The most important element is training working journalists through short courses and evening programs, which encourage journalists to improve the quality of reporting on the performance of the executive, the parliament and the courts, and thus help actors in civil society to know what is going on.

- support for the creation and strengthening of networks of NGOs throughout the country in several public policies issues such as environment, education, women's rights.

- establish a trust fund to respond to the changing needs and capabilities of civil society groups with a variety of forms of financial support, such as support for seminars that bring together NGOs and NGO-type organizations to build their capacity of conflict resolution and mediation of disputes; programs to build leadership skills; training in the use of techniques such as dramatization and role-playing to make civic education more effective; programs which simply permit grassroots activists to share experiences on various issues.

- support for the development of political parties through a series of non-partisan workshops and training sessions for party activists from the district level up. These workshops would deal with basic party organization, structuring and

presenting issues, intra-party communications and education, electoral campaigning, registration and poll monitoring, and managing party finances. This component could also assist parties to work with legal experts in clarifying the electoral law, the parties law, and issues involving the functioning of the electoral commission.

2. Focused Democratic Governance Policy Dialogue

USAID's political dialogue with the government should include emphasis on constitutional issues including both the constitutional process itself and the protection of freedoms of speech and association. In addition, in its policy dialogue, USAID should work to increase the amount of information that government Ministries and other government agencies make available to the public, so that the public can monitor the government's performance better.

3. Enhanced Participation Across the Existing Portfolio

There should be a continued and intensified effort to involve Tanzanians, particularly those directly affected, to participate in the design and implementation stages, and to gain an understanding of the donor-government relationship. Specific suggestions are made for expanding participation in the Agricultural Transport Assistance Program, the program to promote health and population policy, and the Finance Enterprise Development (FED) Project.

SECTION I. INTRODUCTION: OVERVIEW OF RECENT OPENING UP

Tanzania is in the early stages of a political transition toward multi-party democracy. Since the late 1980s, significant and far reaching changes have taken place in the constitutional framework, the party system and the overall atmosphere within which the political process takes place. The constitution has been amended to end the constitutional supremacy of the governing party, the "Chama Cha Mapinduzi" (CCM), or Revolutionary Party and to permit multi-partyism. Nearly a dozen opposition parties have been registered of which, by general opinion, nearly half dozen have gained an important measure of public visibility and credibility. The government has now held three multi-party by elections and, although the opposition has yet to win a single seat in the National Assembly, one of the opposition parties received nearly 40% of the popular vote in the most recent of these. Perhaps most importantly, there is a growing atmosphere of political freedom. This is best evidenced by the emergence of a host of independent newspapers, many of them deeply critical of the government and governing party, and by the willingness of legal groups to challenge the constitutionality of government laws in the courts.

Tanzania's progress toward democratic governance must be understood in the context of how far it had previously moved in the opposite direction, creating a system of authoritarian rule during the roughly 30 years following independence in 1961. The defining political characteristic of the former system was a de jure single party government protected by a constitution that established the governing party, Revolutionary Party (CCM), as the supreme organ of government, superior even to the elected legislature. The party's constitutional supremacy was reenforced by a socialist economic approach that consolidated practically all of the country's major economic resources under the control of the state. There was intolerance of organized opposition, extensive use of repressive laws to suppress perceived opponents of the government, and an atmosphere of fear that greatly reduced the willingness of individual citizens to speak out against the system. Although occasional criticism was allowed to emerge, this was both limited in scope and negligible in effectiveness.

The CCM regime systematically suppressed or coopted most of the potentially countervailing sources of institutional authority, and eliminated some of the most basic and important individual rights including habeas corpus, speech, association and assembly. Instead of tolerating political pluralism, the CCM promulgated a socialist ethos that would bind all citizens to a single economic viewpoint. The end product was a monolithic state that effectively exercised control over the economic and political opportunities of its citizens.

Among the more salient steps in the implementation of that goal were the following:

- the formal dissolution of traditional chieftaincy in the early 1960s;

- the repudiation of the concept of a neutral civil service and the interpenetration of the civil service by the political party following the formal creation of a one party state in 1965;

- the dissolution of the country's independent trade union movement. the Tanganyika Federation of Labor (TFL) and the creation of a new governmentally controlled union organization, the National Union of Tanganyika Workers (NUTA), in 1965;

- the formal restriction of political campaigns to socialist approaches following the government's proclamation of a socialist agenda with the Arusha declaration;

- during this period, the passage of a Preventive Detention Act which gave the government the power to arrest and imprison persons suspected of the potential to engage in dissident behavior;

- the formal ending of the tradition of a non-political military following the creation of a one-party state in 1965 and resulting partially from the abortive military coup of 1964;

- the formal dissolution of democratically elected district councils in the early 1960s following a process the government termed the "decentralization exercise";

- the dissolution of autonomous producer cooperative societies perceived as sources of resistance to the government's attempt to introduce collective villages from 1967 to 1975;

- perhaps most importantly, a constitution that diminished the National Assembly to the status of a committee of the party apparatus, reducing the role of elected representatives to translating the political will of the party into legislative enactments.

The end product of these measures was a government that enjoyed a remarkable degree of control over the lives of its citizens.

A few brief examples may help illustrate this. Party membership was a practical requisite of appointment to the civil service, military, university, leadership in the trade union movement or administrative position within the innumerable parastatal institutions. It was also a criterion in the allocation of other opportunities such as promotion within these institutions, especially to high ranking positions, study fellowships abroad, and eligibility for state-owned housing and bank loans. In the rural areas, the party-state organized the political dimension of the lives of its citizens through its formidable "ten house cell" system in which each ten houses were a unit in the party hierarchy. The purpose of this hierarchy was less to facilitate participatory activity from below than to serve as a vehicle for the top-down dissemination of the party's ideological beliefs.

Election to public office was also rigorously controlled by a system that, while permitting some degree of nomination from below, formally restricted actual candidacy to those given formal approval by the highest level of the party hierarchy, the National Executive Committee. Not only was the right to stand for public office formally limited to members of

the party, but campaigns were subject to considerable restriction: two candidates only per district were allowed and, even for these, non-socialist ideas were proscribed. Methods of campaigning were also rigidly controlled thereby eliminating the possibility of individualistic campaigning. Some observers have commented that the party was even able to influence the outcome of election campaigns through its ability to allocate the valued hoe symbol to one candidate and the less valued house symbol to the second, the hoe being commonly taken as a signal of the party's preference between the two candidates.

The government's liberal use of its preventive detention authority also greatly restricted the realm of political discourse. Not only were political dissidents and disbelievers routinely imprisoned, sometimes for lengthy periods, but the very existence and use of the preventive detention measures had a chilling effect on the willingness of ordinary citizens to speak out against the system. There was an atmosphere of fear and anxiety compounded by the knowledge that any person might be acting covertly as a government informer. Journalists learned to be hyper-cautious in what they published; teachers and university lecturers learned to be extremely guarded in what they said to their students; and ordinary citizens generally avoided political conversations except among their closest friends.

The Tanzania government did not hesitate to use its considerable powers of coercion against large groups that appeared resistant to its policies. In late 1966, it dismissed from the university 300 students who had rallied against its National Service proposals. And in 1972, villagers resistant to collectivization were forcibly moved to socialist villages by the military in "Operation Kigoma" and "Operation Dodoma."

Economic Controls

The government's ability to maintain coercive domination over its citizens was reinforced by its pervasive control over the nation's economy. Some measure of economic control had been inherited from the colonial period such as the monopsonist marketing board system for certain export crops. After independence, this was extended to practically all export-oriented farmers including those growing coffee, tea, cashew nuts and cotton. These farmers were required to sell their crops through state agencies which could set producer prices in a non-competitive environment.

Shortly after independence, the marketing board system was also extended to the nation's principal food crops such as maize, wheat and rice with the creation of the National Milling Corporation (NMC). As with the export crop authorities, no farmer was permitted to sell produce other than through the official marketing system.

The country's movement toward a state-dominated economy was given a major impetus by the proclamation of socialism in early 1967. According to the Arusha Declaration, all of the country's most important economic assets would henceforth be owned by the state. These included, most notably, agricultural land. According to Tanzania's Land Ordinance, all land on mainland Tanzania henceforth became public land with (so-called) "radical" title vested in

the President. The legal effect of this ordinance was that every land occupier in Tanzania became a "tenant" of the state, subject to all of the uncertainties and insecurities inherent in that status. Among the other economic assets subject to governmental ownership were the banking and insurance industries, import and export trade, the manufacturing and mining sectors and critical public services including housing and health.

To extend its ideology to the countryside, the government also announced a program of socialist villagization. The essential idea of this well documented program was a simple one: to convert Tanzania's countryside, which accounted for well over 80% of the population and nearly that percentage of its foreign exchange earnings, from a socio-economic profile of individual household farms and large privately owned estates to one of collective villages. By the end of 1974, Tanzania officially counted slightly over 5,000 collective villages with a population of about 2.5 million residents out of a total national population of about 15 million.

The Beginnings of Political Reform

Tanzania's contemporary process of political reform is rooted in the economic and political failures of the old system. By the early 1970s, Tanzania had begun to experience an acute economic decline. The first symptom of that decline was an agricultural crisis in 1973/74. During that two year period, Tanzania suffered a major shortfall in domestic grain production resulting in the need to import more than 300,000 metric tons per year of maize, wheat and rice. This represented an astonishing turnabout for a country which, during most of the 1960s, had been a net exporter of grains to neighboring countries such as Zambia and Zaire and which, throughout the 1960s, had enjoyed sub-Saharan Africa's highest rate of increase of food production.

Since Tanzania imported most of this grain on direct commercial terms rather than as food aid, the result of the domestic production shortfall was an acute hemorrhage of the country's reserves of foreign exchange. This caused a problem of import strangulation in the industrial sector and severe problems for other sectors dependant upon imported goods.

Although Tanzania's political leaders officially maintained that the country's difficulties were the result of drought, they began to reform agricultural policy. A new law was passed in 1975 called The Villages and Ujamaa [Socialist] Villages Act. This law can be best understood as an attempt to withdraw gracefully from the goal of agricultural collectivization while, at the same time, finding alternate ways to maintain political control. The new law restored a measure of individualistic farming to the rural areas but was accompanied by measures that enabled the party to maintain control of the countryside through other mechanisms. It was followed in quick order by the dissolution of the two important rural institutions that were perceived by the government as centers of opposition: elected local governments and voluntary producer cooperative societies.

In its attempt to restore growth, the government made limited concessions to the importance of private sector activity. Certain economic activities were de-nationalized (e.g. petrol stations, butcheries, bookstores). And there was a limited debate within the CCM about whether socialism required the nationalization of the "nooks and crannies" of an economy. In 1976 and 1977, then, Dar es Salaam experienced its own particular version of the "Prague Spring." This was to be very short lived.

Although the 1976/77 reforms were extremely limited and, in retrospect, woefully inadequate, they did demonstrate that the Tanzanian political system, for all its faults, had the capacity to acknowledge an economic crisis when it occurred and to seek remedial measures. They also demonstrated that the Tanzanian Government had little understanding of the real roots of its economic travails and, therefore, no ability to formulate and implement solutions that would actually work. The 1976/77 period also demonstrated that there was powerful sentiment within the party against any loosening of its political controls.

Tanzania in 1982/83 exhibited all the symptoms of a country on the edge of economic collapse. These included:

- an acute scarcity of foreign exchange with the result that imports of all kinds, both consumer goods and production inputs, were in short supply;

- sharp further declines in agricultural production, especially of export crops. Since volume declines coincided with falling prices, the result was an even more severe balance of payments crisis and rising debt service ratio;

- rising urban unemployment as productive enterprises, both parastatal and private, were forced to adapt to the reality of inadequate equipment and inputs by reducing production schedules and sending workers on involuntary labor furloughs;

- a sharp rise in informal sector activity as Tanzanians turned to whatever means might be available to make ends meet. The term "informal sector" came to denote a bewildering variety of spontaneous economic activities from the sidewalk sale of foodstuffs, clothing and consumer items to the smuggling of consumer goods, illegal trade in agricultural staples and other necessities, and off-the-books provision of services;

- a sharp rise in inflation as even the most basic necessities became extremely scarce and were available only in informal markets where high prices reflected a risk and transaction cost premium.

The crisis gave rise to the first open debate over the political future of Tanzania since the Arusha declaration of 1967.

This debate had two important features. First, it was conducted almost entirely within the highest councils of the party and government and did not involve meaningful public participation. Second, the debate was about both economic and political matters. For the sake of brevity, it is convenient to give the two factions in the party the labels "conservatives" versus "reformers". The former were principally concentrated in the party itself and in the ministries of Trade, Commerce and Industry, Local Government and Cooperatives and Labour. The position of this group, which also included the President, was that Tanzania's crisis was externally induced by adverse trends in the global economy, that the donors should therefore increase their assistance and that no fundamental reforms in the socialist system were required.

The reformist faction, concentrated in the Central Bank, The Ministry of Finance and the Ministry of Agriculture and supported by key international donors and a number of influential economists at the University of Dar es Salaam, argued that the time had come for far-reaching economic reform. The reformist group argued that important donors such as the World Bank and International Monetary Fund were unlikely to come to Tanzania's assistance without drastic changes in economic policy.

The reformers came to predominate on matters of both economic and political reform. How and why this happened are subjects outside the scope of this report and would require a searching analysis of the internal dynamics of CCM politics in the early 1980s. The list of causes, however, would necessarily include the following:

- the depth of the economic crisis and its tendency to produce political discontent among key groups of government supporters such as industrial workers, civil servants, parastatal managers and employees, intellectuals and private contractors serving the parastatal sector;

- coordinated political pressure from the Bank, Fund and bi-lateral donors. U.S. aid to Tanzania was increasingly constricted by the Brooke Amendment which stipulated a cut-off of aid to countries failing to service their U.S. debt;

- the hardships being experienced by Tanzanians throughout the society;

- on the economic side, a paradigmatic change among development economists rejecting the protectionism Tanzania had attempted in the 1960s and 1970s and emphasizing the benefits of a more liberal approach to trade;

- on the political side, the paradox of diminishing control. Conditions of acute economic decline actually tend to shrink the effective domain of the state by limiting its economic resources. Those who wish to maintain a powerful state system paradoxically are forced to implement economic reforms that can recreate a flourishing economic base for state activity.

The roots of modern reform can be dated from early as 1982 when the Bank of Tanzania and the Ministry of Finance began to formulate a structural adjustment strategy that would comply with the broad outlines of the World Bank's conditions for financial assistance.

Political Reforms, 1982-1992

Because of the inter-connectedness of Tanzania's closed and ideologically monistic one-party system, on the one hand, and the inappropriate policy framework that had produced economic hardship, on the other, a debate on political reform began at almost the same time as economic reforms. The party first began to relinquish its network of controls with the Cooperative Societies Act of 1982 which began the process of restoring independent cooperative societies. This process was not completed until 1991. In 1983, the party held a debate on the constitution though, as earlier, the CCM leaders maintained tight controls over the parameters of this debate and one MP was actually detained for suggesting multi-partyism. In 1984, the Parliament passed a Bill of Rights though this was not to take effect until 1987 in order to give the government time to bring other laws into conformity. In 1988, the Bill of Rights became justiciable.

To date, progress toward political reform has been more ambiguous than progress toward economic reform, in part because as long as some restrictive laws remain (e.g., the Societies Ordinance, the Newspapers Act, even the 1991 Organization of Trade Unions Act) the government retains the legal basis for repressive behavior. Moreover, the continuing efforts by Government/CCM to devise new instruments for monitoring civil society suggest that the authorities still see their role in much the same way as before: to direct and control associations rather than facilitate their activities. The only difference now is that the government's capacity to regulate is severely curtailed and associations, as weak as they are, are substantially stronger than they were in the past.

The most important political changes resulting from the change to multi-partyism in 1992 have been the delinking of the CCM from the government and the beginnings of a struggle by Parliament to reclaim its role. The 1992 Political Parties Act was preceded by the 1991 Zanzibar Declaration, in which the Party modified the 1967 Arusha Declaration in ways that fundamentally challenged the original objectives of the document. The symbolic importance of these changes cannot be emphasized strongly enough since the Arusha Declaration had provided the ideological basis for establishing the egalitarian, self-reliant and socialist orientation that Tanzania followed until the beginnings of economic reform in the 1980s. The key provision of the Zanzibar Declaration lifted key restrictions on party members by eliminating the Leadership Code which officially prevented party members from having second incomes. But its symbolic importance was far greater: as an explicit rejection of the Arusha declaration by a party conference.

Removing the Leadership Cose was important in itself. The conditions of the Leadership Code were not only Party policy, they were made into an amendment to the country's constitution in 1967. The constitutional references to the Leadership Code have now also

been rescinded and that entire section of the constitution replaced. According to the Leadership Code, Party leaders and their spouses could not be associated with capitalist practices. Leaders were forbidden to own shares in any company, to hold directorships in privately owned businesses, to rent out houses, to receive two or more incomes and to hire workers for business, trade or one's profession.

The elimination of the Leadership Code was a reflection of the extent to which it had become impractical and unrealistic to expect a major segment of the population to refrain from business activity. By 1990, the CCM had come to constitute about 11 percent of the population, with 2.5 million members in a population of less than 25 million. Many CCM members held jobs in the civil service and parastatals and, in an environment of economic liberalization, wanted the same opportunity that other Tanzanians had to engage in business activity. The abandonment of the Code also reflected the extent to which it had become a transparent hypocrisy, as innumerable party members with government positions had already turned to business activity to supplement falling real public sector wages.

The abandonment of the Leadership Code paved the way ideologically for the separation of the CCM and government, a process that was legally embodied in the 1992 Political Parties Act and the Local Governments Law Amendment Act. The Political Parties Act restricts the electorate's choice in that it prohibits independent candidates and requires political organizations that wish to qualify as parties to go through an elaborate registration process: they must submit lists of 200 members from each of 10 regions, including 2 regions on Zanzibar, within 6 months of applying for registration. Also, parties cannot be formed along religious, ethnic or regional lines. The Local Government Law Amendment Act, No. 8, of 1992 allows the chairman of the village council to be elected by all members of the village not just the CCM members as in the past. However, the last is also restrictive in that anyone running for such a post must belong to a party and cannot run as an independent candidate. The subsequent CCM decisions to abolish party branches in the workplace and the armed forces and the delinking of high ranking civil servants from party were all part of the process of separating the single party from the state.

The result of these changes has been a huge enlargement of political freedom in Tanzania although some important restrictions do remain. Freedom of assembly, for example, remains curtailed both in law and practice. And the new opposition political parties have faced restrictions on times and location of assembly or have been denied permission too late to publicize the rally. Even seemingly non-political rallies have been denied permission. A case in point: after the suicide of a woman university student in 1992 related to sexual harassment, women's organizations on campus were denied permission to hold a rally to protest the seeming indifference of the university administration to the problem of sexual harassment on the campus. The discretion of CCM officials to limit public meetings under the rubric of keeping the peace continues to restrict freedom of assembly severely.

Our most serious concern is that the processes of constitutional and legal reform have slowed nearly to a stop. The 1992 Nyalali Commission called for a constitutional conference to

revise the constitution, and this recommendation had significant backing from journalists, some academics, the Tanganyika Law Society and even from former President Nyerere. Since that time there has been no response from the government to this request in spite of continued media coverage and interest in the subject by academics and lawyers. This means that since the Political Parties Act in 1992 there have been few tangible government contributions to an on-going political reform process, but rather a struggle, waged in the press and the courts, to move the process forward against government resistance.

Neither has the government taken up the Nyalali Commission's recommendation that Parliament repeal "40 oppressive laws." Many of these date to colonial times (Collective Punishment Ordinance 1921, Corporal Punishment Ordinance 1930) but the most notorious of these, the Preventive Detention Act 1962 was passed by the independent government of Tanganyika. This law enables the President to detain a person who is "likely conducting himself so as to be dangerous to peace and good order in any part of Tanganyika..." The government's inaction in Parliament shifts the struggle to the courts, where judicial review creates the possibility that some of these laws will be declared unconstitutional. An expression of the increase in political freedom is the increase in the number of test cases.

The Contemporary Scene

The most critical question now remains: what has and what has not been changed with the changeover to multi-partyism in Tanzania? The answer in a nutshell is that multi-partyism has changed some things for the better, some things for the worse and some things not at all.

By far the most visible and palpable change is the new atmosphere of freedom. Tanzanians everywhere have said that they feel more free, and they clearly act that way. Even though a number of repressive and seemingly unconstitutional laws remain on the books, Tanzanians are no longer as afraid of governmental repression as were just a short time ago. Any number of respondents commented on the fact that they would not have spoken as freely with us just a year or two ago as they did in the last month. Members of the civil service, for example, no longer required to be CCM members, report a feeling of freedom at not needing to belong to <u>any</u> political party. And even though strikes are legally banned, the newly formed independent trade union movement, the Organization of Tanzania Trade Unions (OTTU), has begun to threaten a strike of public sector workers for wage increases that were promised a year ago.

Another significant improvement, clearly the outcome of competitive party politics, is that the government has now begun to deliver improved services. Members of the opposition complained, following the recent by-election in Kigoma, that the government had used its resources to build roads and bring other material improvements to the area in order to win votes. If this means that the government now feels compelled to deliver real and improved services to people in order to have their support, we consider this a plus. There is other evidence that this may be the case. During our visit to one primary (coffee) cooperative, cooperative officials were preparing to make the final cash payment to farmers on their

deliveries for the 91/92 crop year. We were told elsewhere that the Tanzania Coffee Board (TCB) had become more active in settling its arrears with the coffee farmers. This, too, is precisely what democratic politics is expected to achieve.

A third significant change, one that has the most important implications for Tanzania's future, has to do with the dynamism of Tanzanian civil society. Tanzanians have taken advantage of the new atmosphere of freedom to form a host of voluntary associations, including gender-based groups, neighborhood and community associations and locally based development organizations. The liveliness of civil society has given Tanzania's political changes a highly dynamic quality. While the growth of associational life is partly the outcome of a freer political environment, the pressures and demands of these organizations for better government are also contributing to the growth of political freedom.

The picture is not unambiguously positive. On the negative side, it also seems clear that the new atmosphere of elite insecurity has caused some of the country's highest ranking politicians to intensify their financial predations. This is probably due to the fact that, among those who are the most corrupt and ineffectual, there is a growing sense that they may no longer be in government after the national elections of 1995. As a result, at least one clique of politicians appears to be behaving as if this next twenty months provides its last chance to profit from political power. In fostering a sense of insecurity among politicians who well deserve to feel insecurity, multi-party democracy may indirectly have worsened the tendency toward public theft.

Multi-partyism is also so new in Tanzania that many people seem uncertain what they should and should not have expected from it. There may have been a heightening of expectations. Some respondents seemed disappointed that multi-partyism had not changed the bedrock reality of their lives; namely, poverty and an inability to effect changes in the system. Perhaps this is inevitable, especially after so long a period during which one-partyism was associated with negative economic and political performance but it is nevertheless unfortunate. The higher the expectations, the greater the disappointment, The greater the disappointment, the greater the tendency to think that democracy has been a failure and to be ready for something else.

It is also important to be aware that certain aspects of the old system have resisted change. This is, perhaps, to be expected in a society in the very early stages of a transition process. One powerful institutional edifice carries over from the past: the bureaucracy. Tanzania's bureaucracy continues to be grossly overstaffed (despite some reductions), and major parts of it continue to behave as if civil servants were still administering a top-down, repressive and state-managed socio-economic system. Many of our respondents, particularly members of the business community, who have to deal with civil servants feel that the typical characteristics of the civil service of the past, e.g., slothfulness and insensitivity of behavior, continue to prevail.

Certain patterns of citizen behavior have also carried over from the previous system. One of these is the tendency toward a "big man" syndrome. In the past, when citizens who needed problems solved felt that there was nothing to be gained by appealing to formal political channels such as the courts or the bureaucracy, the way to have a problem addressed was to work through informal channels, the patron-client system. An individual would go to a political "big man", set out a case, expect to reciprocate with a favor of some kind, and ask for the problem to be addressed. Generally, but not always, the patron-client ties were ethnic: the individual would go to the minister who happened to be of the same ethnic group. The point is that the client would ask for a solution from a patron whose formal responsibilities might have nothing to do with the case at hand. Because of continuing mistrust of bureaucracy and the formal system, this pattern has continued.

SECTION II. WHAT DOES CONSOLIDATION OF DEMOCRATIC GOVERNANCE ENTAIL IN PRINCIPLE?

II.A. PRINCIPLES OF DEMOCRATIC GOVERNANCE

The United States government and USAID are officially committed to a policy of promoting "sustainable development" which entails improving the long-term prospects of four inter-related processes: economic development, improvements in health, improvements in managing natural resources and the environment, and furthering democracy. For AID, the promotion of democracy is understood to be both an objective in its own right and the most fundamental means by which other development objectives can be achieved in a sustainable manner. Above all, democratic development means development in which opportunities for meaningful participation are enhanced and institutionalized. It also implies widespread acceptance as legitimate of regular processes whereby people get the opportunity to choose their leaders in an open, and at least potentially competitive manner. For democratic development, and hence sustainable development to be feasible, the U.S. Government strongly believes that a reasonable standard of behavior with regard to basic human rights must be adhered to.

Various policy papers which have emerged both at the Agency level (AID) and specifically within the Africa Bureau of AID also suggest that successful democratic development is closely linked to improvements in governance. Governance can be viewed abstractly as the means by which societies organize themselves for the management of their "public" or collective resources. At a minimum, good governance (or better governance) implies management which is effective, efficient and responsive. In addition, most analysts and donors also include in their understanding of good governance some "process" dimensions which spell out how effectiveness and responsiveness should be undertaken and how accountability for performance should be enhanced. The basic elements of this improved process are transparency and financial accountability. Often, however, additional elements are suggested, including, in the Anglophone tradition, "fairness" and "due process," and, in the Francophone tradition, the establishment of widely known and accepted legal limitations on abuses of office and authority (the "Etat de Droit").

While it is possible conceptually to treat democracy and good governance as separate dimensions of societal development, the two notions have significant areas of overlap, particularly if the process dimension of governance is included. In fact, the Africa Bureau of AID has been focusing on the convergence of these two notions in its emphasis on "democratic governance" -- a form of improved governance which uses democratic processes to improve governance performance and to help insure that responsiveness, transparency and accountability are made meaningful (AID/AFR Concept of Governance Paper, 1992). The underlying assumption of this notion is that if governance decisions are to be truly responsive to public values, the public must have meaningful ways in which to express those values, to obtain adequate information about performance of actors who act presumably on their behalf,

and to limit those actors when they do not. The notion of democratic governance employed here, therefore, focuses not only on the efficiency and financial accountability of the public sector, but on increasing the opportunities of citizens to enforce sanctions for poor performance, and to choose those domains of public resource management over which they wish to limit the role of central government (the domain of self-governance).

II.B. DEVELOPING A SUSTAINABLE SYSTEM OF DEMOCRATIC GOVERNANCE

Democracy is an ideal concept whose definition and indicators have evolved significantly over the past two hundred years. Societies and political systems democratize over a period of time by incorporating into their practice a number of behaviors based on the growing convergence of formal rules governing the exercise of power and the rules people seem in fact to employ. While this convergence is never complete and the rules never completely static, it is possible and useful to think of the process of democratization as progress toward incorporating a number of "disciplines" of democracy--the formal limits the democratic rules place on the exercise of power--in the way people regularly exercise power. Another way of putting this is that such limits become institutionalized.

The transition to democracy and the possibility of the eventual consolidation of a democratic system of governance involves three significant developmental tasks:

- the development and broad acceptance of a set of rules which "discipline" or limit the exercise of power by state officials;

- the development of a civil society which at once incorporates democratic disciplines into its own ways of doing business, and in turn grows in its capacity to influence not only the rules governing the exercise of state power, but the application of these rules as a series of policy and operating decisions which impact interests of societal actors;

- the development of regular processes (institutions) whereby the state and society are continually linked.

Logically these three tasks must all be achieved if a viable pattern of democratic life is to emerge, however it is unrealistic to assume that they will be institutionalized at the same pace or "synchronically." Instead, they are much more likely to develop at different rates, requiring the assessment of given society to be dynamic and multi-dimensional.

II.C. DEVELOPING DEMOCRATIC DISCIPLINES

There are a number of "disciplines", or limits, which must be established for a democratic political transition to fulfill the promise of becoming an effective system of governance. Each discipline represents an aspect of democracy. Each aspect can be analyzed separately, but is incomplete and vulnerable in the absence of progress on the other aspects.

1. Constitutional Limits: The development of a set of limits on the exercise of power which are acknowledged as being embedded in a fundamental law that requires a fairly broad level of agreement to create or modify.

There are several critical roles which constitutional limits must play. Above all, the constitution must establish and maintain working agreements on procedures as the basis on which people agree to associate and constitute a legitimate system of governance. Second, constitutional rules must give assurances that access to power will be on the basis of fairness, or of a relatively level playing field. Third, they must establish the principle that no one is above these rules, including those who make them and the other laws which follow from constitutional principles. The failure to establish a widely accepted set of rules at this level gravely endangers the sustainability of a political system, since there is no fundamental basis for consent, and hence no basis of legitimate exercise of power. Serious violation of these rules often provokes violence and insurrection.

2. Popular Limits: The development of rules which impose popular limits on the exercise of authority.

These rules provide a basis for public accountability by creating incentives on the part of those chosen or delegated to exercise authority to take into account the interests of ordinary members of the political system. Elections are the principal instrument for exercising popular limits, but other mechanisms can also be employed such as referenda, recall and popular initiative. Popular limits are sustained by constitutional limits which broadly define the rights to vote, to contest elections, to be represented in a particular manner, and to recourse against elected officials.

3. Deliberative Limits: The development of rules which assure that the public not only can limit authorities occasionally when it makes electoral choices, but can have a voice in the on-going process of law-making.

In a "republican" form of government, these rules govern the rights of people designated as representatives to deliberate on the merits of the issue, including their rights to discuss and to participate in decision making in the interests of their constituents and the nation, not just their party. The principal instrument for exercising deliberative rights is a legislature which has and can exercise meaningful deliberative capability and procedures which allow citizens to lobby for their interests.

4. Judicial Limits: The development of rules which assure that when disputes of rights occur, either between members of the public, or between an individual and the state, the dispute can be resolved based on an impartial judgment.

The principles which must apply in order for the power of adjudication to be democratically limited are that no one is fit to judge his own cause (independence), and that judicial procedures must be agreed upon in advance to be fair (due process). The principal

instrument for exercising judicial limits has historically been an independent judiciary committed to applying a body of law in an impartial and fair manner. Independence of the judiciary is insufficient, if the judge is ignorant or unable to know the law, or believes himself/herself to be the law. For judicial limits to function, people must also have reasonable access to the courts to initiate judgments in cases of disputes of rights.

The executive branch must carry out court orders dependably and use its powers of coercion within prescribed procedures, e.g., for obtaining search warrants.

5. Limits on Control of Expression and Association: The development of rules which assure the classical rights of a liberal democracy to free and open discussion of issues facing a society.

These rules are vital to assuring an open public realm-- the basis for the meaningful exercise of popular limits and deliberative processes. They are also the basis of regime transparency. Holders of positions of authority must be limited by law in their ability to free speech, free press and free assembly. They must also be required by law to provide sufficient access to information on their performance so that there can be a basis on which discussions of public issues can take place.

6. Limits on Centralization of Decision Making: The development of rules which assure that to the extent possible decisions can be made at the lowest level of those affected and at the level appropriate for their execution.

Failure to set these limits both removes governance from the vast majority of the public, and almost certainly assures that governance decisions will respond less fully and effectively to their needs.

II.D. BUILDING A DEMOCRATIC CIVIL SOCIETY

A second facet of the consolidation of democratic government involves building a democratic civil society and political culture. It is doubtful whether the formal democratic rules of the game will long survive without a vigilant and organized civil society with the institutional means to monitor, publicize, and penalize abuses of power. **Civil society constitutes the sphere of more-or-less autonomous social organization which lies between the family, on the one hand, and the state, on the other.** (ARD, Inc., 1994)

Authoritarian regimes typically regulate, undermine, or absorb autonomous civil associations in their drive to centralize power and pre-empt dissent and opposition. Yet, even in such repressive circumstances, some courageous voices refuse to conform. The public media are usually state-controlled or cowed into submission, but bar associations, women's groups, student and faculty associations, human rights organizations and others may continue to speak out on political issues. A democratic opening often witnesses a resurgence of civil society: new organizations surface, old ones assert their independence, and the press begins to voice

criticisms of governmental policy and practices. This is the recrudescence of social pluralism upon which political pluralism ultimately rests.

The consolidation of democratic governance requires the democratization of civil society as well as its strengthening. Civil associations that are intolerant of opposing views (for example, fundamentalists of all religious faiths), wedded to patriarchal domination, autocratic in their internal affairs or ethnically or racially exclusivist cannot form the social basis of democratic rule. It is, therefore, often not only the political regime that requires democratization. Democratic values must flourish outside the state if they are to survive within. For this reason, the development and consolidation of democracy are long-term processes.

The strengthening of civil society, as distinct from its democratization, encompasses two related dimensions. One is the growing density of independent civil associations, especially those which do not see themselves as politically engaged. The other, discussed below, is the strengthening of linkage institutions.

The growth of civil society actors, particularly local-level and informal associations, can precede the development of democratic disciplines in national politics. Although these actors often do not see themselves as political, and may even attempt to avoid extensive contact with "politicians" and parties, they can become valuable schools for the development of habits of participation and cooperation. In addition, particularly before a legitimate national regime emerges and a national economy begins to function in the interests of the majority of people, these actors may become important instruments for providing services and survival strategies, and therefore not only enhance individual well-being, but begin to build some sense of civic or community values essential to the operation of a democratic political culture. Important as well is the fact that associations of this type are often born of the failures of state economic policies, intensified by the crises of states forced by their failures to "adjust" and to "compress" the public sector numerically and in terms of control of revenues.

The growth of a second type of associational life, often referred to as intermediate groups with some civic orientation[1] may precede or follow the growth of the type of civil association discussed above. These groups, like trade unions, women's associations, environmental groups, human rights associations, and professional associations, as well as grassroots membership-based development-oriented nongovernmental organizations, and community improvement associations, also see themselves as "apolitical," and often jealously defend that status. Yet they constitute ready-made means of popular mobilization against

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[1] Civic action as "any organized activity which foster goals and norms of civic community (involving the development of some trust, reciprocity, tolerance, and inclusiveness) and which enhances the participation of a country's citizens in either self-governance or national governance." (ARD, Inc., 1994, page 11)

tyrannical or inept governance - as dictators well know. Increasing the density of this network is associated with gradually accelerating challenges to the unfair "rules of the game," and may evolve into the politicization of civic society. These associations, although forced to work under difficult material conditions, may also be strengthened by economic liberalization policies and by the slow retreat of the state from some areas it has previously monopolized.

II.E. BUILDING THE BASIS FOR LINKAGE

The third crucial dimension is the emergence and growing effectiveness of "linkage structures", i.e., **those institutions that link civil society to the state.** These institutions are invaluable because they monitor the performance of government, publicize inept policies or abuses of power, transmit to the political authorities the views of key constituencies, and, if needed, mobilize resistance to an incompetent or repressive regime.

Three primary types may emerge as the political opening widens. The first type is explicitly political, such as political clubs and parties. For conceptual reasons it is preferable to think of these as discrete from civil society, since their principal task is often to take control of the state and to rewrite the rules of the governance game. As liberalization proceeds, these actors often develop out of civic-minded associations and economic interest groups which become politicized, identify with a particular, usually oppositional point of view, and may become an important element in an electoral or revolutionary party movement.[2] If parties do evolve in this manner, they have the potential for providing linkages between civil society actors and the state. All parties, however, are not linkage institutions: if they represent only the power struggles of narrow elites, factions of the ruling elite, or mere personalities, they are not. The character of parties must therefore be closely analyzed to determine whether in fact they can and do play a linkage role.

A second type of linkage actor is the media, which, while functioning as a business enterprise, or the expression of an interest group (such as a religious group) or even political party, can play a critical role in monitoring governmental performance. The media can pose questions which, prior to the successful completion of a democratic transition, are difficult for any other civil society actors to pose and publicize as effectively.

Still a third type is represented by forums which bring together a variety of interests (which are not necessarily political), either with one another, or with representatives of political institutions such as parties, officials of the executive branch, legislators or judges. State officials may intend such forums to enhance "management," yet the forums open channels for influence and potential civil empowerment and may begin to strengthen valuable mechanisms for managing conflict peacefully.

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[2] An excellent example of this is the transformation of civic groups in Madagascar into the political movement called the Forces Vives which eventually won the election of 1993.

II.F. EVALUATING PROGRESS TOWARD DEMOCRATIC GOVERNANCE

The movement from authoritarianism to consolidated democratic governance is an uncertain, multifaceted, and long-term process. As indicated above, these processes may not change at the same rate, and the precise form of institutionalization of these changes can vary considerably. Progress is not guaranteed, and progress can often take the form of "two steps forwards and one back." Nonetheless, we can think about the general state of change for the three principal processes described here (creation of accepted constitutional and legal limits, development of civil society institutions, and the development of linkage institutions) as describing a general "overarching political context" for sustainable development (USAID, 1994).

The Pre-transition Context

Political systems which have not yet begun the transition to democratic government will vary considerably in their basic governance characteristics. Some will feature collapsed or imploded states, barely controlling the capital city, and facing severe, often armed, challenges not only to its remaining authority, but to the power of any actors attempting to organize a new realm of effective governance. Some will be characterized by the seemingly contradictory combination of weak and predatory state, which, while capable of maintaining a general structure of order within most of the national territory, can do little else apart from levying excessive taxes and rents on the few remaining "formal" economic operators. Some, although almost no African case exists, will be characterized by relatively effective bureaucratic-authoritarian regimes which demonstrate very low levels of development of democratic limits. Some of these may embody judicial processes sufficient to assure some means of adjudication on the basis of fairly consistently applied bureaucratic rules.

The status of civil society will also vary according to the type of political system which precedes the transition. Often, civil society will be characterized by a rich associational life, almost totally disconnected from national interests and power, and involving a civic realm which, if present at all, is very restrained. In others, and sometimes coterminous with the first condition, formal civic associations will have been so completely captured and dominated by the state that as autonomous actors they cannot be said to exist. In still others, particularly those based on corporatist structures, there may be a fairly well developed organized associational life, which is permitted some autonomy within a general structure of state-managed linkages. In general, though, civil society will have a minimal civic component beyond the local level in pre-transition societies.

Generally, linkage mechanisms will also be extremely weak and asymmetrical, providing little potential for "voice" or for the meaningful encounter and negotiation of ideas and interests. Autonomous political organizations will obviously be weak, non-existent, or clandestine. Media, as a linkage, is unlikely to be able to play a significant role, and where a nominally autonomous or private media exists, it is likely to survive only by heavy doses of self-censorship. Where authoritarian states are well institutionalized and strong, some

forums usually organized along corporatist lines, may function and play some linkage role. The weaker and less institutionalized the authoritarian state, the less likely such institutions are to exist even nominally, and forums among non-state actors which cut across sectors of interest are likely to be totally repressed.

Early Transition

Formally, the transition to democratic governance begins with a "democratic opening" - either the collapse of an authoritarian regime, or the decision to negotiate or impose a new, more open, political order. An "opening," is marked by some change in rules (possibly even in the constitution) liberalizing freedoms of expression and assembly. The regime eventually recognizes the legitimacy of some popular choice mechanisms, allowing competitive, although not necessarily true multi-party, elections to occur.

The most common feature of early transition will be the weak development of democratic limits in all or most dimensions. Constitutionalism as a principle will be weak, and, if the system operates under formal constitutional limits at all, there will be growing challenges to the legitimacy of this constitution in the forms of calls for revision or for a totally new social compact based on a "representative" constituency assembly. Even where constitutions exist, implementing laws and corrupt and political controlled judiciaries weaken their capacity to limit or discipline executive power. The pressure for change at this stage may simply be shown in bringing these conflicts to the attention of the public, or by testing outrageous conflicts between implementing and constitutional law, if lawyers can get access to courts.

The principal avenue of contestation will be in legal limits to the "open public realm," testing law governing expression and assembly, and courageously pushing the limits of this law through non-compliance and practice largely unprotected by fundamental law. For a variety of reasons, often in African countries yielding to international pressures, holders of state power may permit some expansion in this area while resisting its full legalization. There will be periodic and selective crackdowns to serve notice that self-censorship is still highly desirable. As a private media emerges, the principal sanction for going too far may be economic; seizure of issues or destruction of equipment to make the operation unprofitable. Occasionally a journalist will be imprisoned or assassinated.

Contestation over electoral limits is likely to emerge only somewhat later in the transition as some opening involving the legality of multiple parties occurs. Apart from the party legislation, the principal struggles will be over rules governing the "playing field," such as the voter registration process and the powers of the electoral commission. Embryonic opposition parties and movements will find it very difficult during this phase to gain relatively fair access to the media or non-partisan rulings from the electoral commission. Above all, little trust will exist over these issues, resulting in a high probability that if elections are held, their results will be heavily contested based on the unfairness of the rules. In fact, some or all potential opposition movements may use this period to build

pressure for rule changes rather than to participate in elections by tying boycotts to the alteration of rules they consider especially unfair.

Neither judicial nor deliberative limits will have proceeded very far. Limits on centralized decision making will be practical rather than legal for the most part, and struggles between the central state and local-level actors, over such issues as property rights, will be intense. The failure to resolve such issues can well lead to heightened intra-local conflict, as alternative rules for allocating property rights play out and come into sharp conflict with one another.

Depending upon the pre-transition experience, civil society may be more or less well developed at this time. Some regions of the country may have undergone historical experiences enabling them to develop some civic norms (Putnam, 1993). Elsewhere, civil society will be limited to "informal" small-scale associations organized to escape state control and to provide participants with some survival options. Rarely will a wide variety of national-level civil society actors have much capacity for action or legitimacy in this stage of political development. Sometimes, however, particularly where a state has ceded power after a long and slow collapse, a few corporate groups, such as the military or the civil service unions, may have developed an inordinate (compared to the rest of the society) amount of organizational power. When this is the case and holders of state power refuse to accept meaningful reform, civil society actors may attempt to formally discredit and overthrow the state, or completely marginalize it through the declaration of the sovereignty of society (the notion of the Sovereign National Conference). This may be feasible only if portions of the coercive services actively collaborate, or withdraw from further support of state officials.

Apart from the growing role of the media, linkage institutions are likely to remain very weak, threatening to resist, parallel or marginalize the state with disparate demands and interests. Only regimes emerging from bureaucratic-authoritarian forms are likely to be able to promote forums in which civil society actors will agree to participate with public officials. Elsewhere, meetings of this kind can informally occur, often under the auspices of non-governmental organizations (NGOs) or foreign donors. Parties will play a limited role in linking to mass society, and are likely to be perceived by civil society and individuals as matters for the urban elite (or in francophone parlance, as la politique des politiciens).

The "Completed" Transition

A transition can be said to be completed when, following a democratic opening, a democratic regime is brought into being. A "regime" is defined by a particular set of rules of the political game and institutional mechanisms to adjudicate these rules. A transition is completed, therefore, when a new, and in this case "democratic," set of normative rules and institutions is accepted as the basis for governing political life.

The most important landmark of "completion" of transition to a democratic set of rules is usually taken to be the conducting of a "fair" election with meaningful opportunities for

contestation, usually in the form of multiple party candidates. Since during the transition struggle rules governing these behaviors are precisely the subjects of great contestation, it is probable that any first election will be conducted under rules and rule applications that are only moderately fair. The judgment about their degree of fairness is usually left to the examination of results. Although international observers may pronounce an election (or electoral process) "free and fair," what matters most is the perception of the losers, who will rarely accord the process unqualified approbation. Therefore, transitions are completed only in a formal and somewhat temporary sense, and can certainly be reversed.

In terms of limits, the most important evidence for a completed transition may in fact be evidence that holders of state power, whether newly elected former opponents or incumbents of the previous regime, can themselves be held to constitutional limits without precipitating state crises.

Apart from this, a transition is complete when relevant political actors, including newly mobilized groups, generally agree that sufficient limits exist or are likely to be rapidly agreed upon. These will be in the specific domains of protection of civil and political liberties, including notably rights of expression and assembly; rights governing electoral competition; rights to be involved in representative and deliberative processes; rights of redress through peaceful and impartial judicial processes; and rights to assert effective control over those who enforce the rules, notably the armed forces and police, i.e., to expect that officials will themselves be limited by legal constraints and democratic values.

It is at this stage of democratic development that it is vital to support public sector governance, for, if the newly established democratic regime cannot learn to manage public resources more effectively and transparently, and more honestly than its predecessors, people may rapidly become disillusioned with "democracy." This will not be easily achieved given the array of difficulties, natural and endemic, and the new political pressures for performance that the regime will confront. The investment in public capability will have to be significant and long-term, but it must be considered, since this is the first point in the transition where such investments have any real probability of yielding positive results.

Given the configuration of civil society and linkage institutions prevalent during the transition phase, these agreements on limits will be neither easily obtained nor maintained. Civil society is not transformed automatically by the electoral process or even by the constitutional struggle, which may be the work of a small number of largely urban elites, and may be heavily influenced by international political pressure. In this phase, civil society is likely to maintain a number of the following characteristics:

- Many actors will continue to mistrust the state and its authority and will be both reluctant to accept the new regime and to participate in it as "citizens." Many will, therefore, continue to prefer to operate informally. For a significant period of time, many will prefer to maximize self-governance, declaring their freedom from control,

rather than to associate in a "national civic culture," or to become effective demanders of public policy and performance.

- National interest groups will continue to have the tendency to be dominated by urban, usually capital city, elites rather than to build true constituency organizational bases. There will be persistent conflicts between national associations (NGOs, parties, private sector interest groups, etc.) and their national leadership over policy and over the degree to which they should cooperate with public authorities.

- National interest groups will continue to be weak financially and in analytic and educational capability, with very few exceptions.

- Few effective institutions for aggregating interests will develop. Parties will be particularly weak in developing support from a range of civil society interests.

- Only the free media and, to the extent that they develop due to the acceleration of private sector economic opportunities, professional associations, are likely to be able to play significant roles in monitoring and pressuring government.

The key to consolidating democratic governance will continue to be the reinforcement of popular limits and effective demands.

Systems Consolidating Democratic Governance Reforms

The consolidation of democratic governance, if it is achieved, may easily take a further two or three decades to be accomplished. In European societies, this process typically entailed more than a century of struggle.

A democracy may be said to be consolidated when none of the major political actors, parties, or organized interests, forces, or institutions consider that there is any alternative to democratic processes to gain power, and that no political institution or group has a claim to veto the action of democratically elected decision makers.

This does not mean that there are no minorities ready to challenge and question the legitimacy of the democratic process by nondemocratic means. It means, however, that major actors do not turn to them, and they remain politically isolated. To put it simply, democracy must be seen as the "only game in town." The consolidation of democracy is an on-going task, even in the most developed and historically durable of democratic societies.

Simply put, in new democracies the consolidation of democratic governance requires continual progress in each of the three domains of political system change. At the stage of consolidation, however, it is most vital to continue making progress in correcting the worst defects of public governance if democracy is to be seen as legitimate in terms of the way it functions. This involves focusing on governance issues such as improving the public sector's

capacity for effective and responsive decision making and implementation. It is at this stage that public sector management reform has the most prospect for achieving successes, despite the fact that governments will be pressured by civil society for bigger shares of the benefits of power.

Consolidation also depends heavily on continuing the on-going process of establishing democratic limits through formal rules, correcting and amending rules as they prove inadequate or unworkable, and promoting the practice of rules through expanded opportunities for local governance. Civic education can meaningfully proceed at this stage, if people come to believe that rules preached bear some correspondence to rules actually employed, or rules which can be used at least for mutual benefit. The justice system will emerge as the most critical and visible contact between people and government, and its performance and accountability must be radically improved if it is to win support and legitimacy.

All the disabilities and limits of civil society discussed in the section above, must continue to be addressed if people are to begin to believe and act as though they have a stake in the new system of rules. Especially important is the willingness of the leaders of the new regime to tolerate and even encourage the autonomy of civil society actors, including interest groups, even when this means that policy making and implementation is complicated by the need to bargain.

Above all, linkage institutions must be considerably strengthened. Gradually, political parties must come to be perceived as representing interests deeper than those of individual leaders, and narrow urban-based interests. This will require parties to engage in internal democratization at every level to build a base of support from the bottom up. Short of true mass-based parties linking interests to policy making, the new governments must develop channels for on-going consultation and dialogue with those actors in civil society who will sit down with them, avoiding the overwhelming temptation to want to manage these in a corporatist style which prevents non-governmental associations from finding their own linkages and common ground.

SECTION III. WHAT STAGE HAS TANZANIA REACHED IN A DEMOCRATIC TRANSITION?

III.A. CHANGES IN THE LEGAL ENVIRONMENT: THE DEMOCRATIC DISCIPLINES

Tanzania is in the early stages of transition to democracy; the decision to change to a multi-party system came in 1992, and the first general elections will be held in 1995. Many basic democratic issues are unresolved and currently under debate.

The legal environment for multi-party democracy has been produced by three sets of changes. The first two are those resulting from the 1983-1985 national debate about constitutional and economic direction, which resulted in the addition of a Bill of Rights to the 1977 Constitution and the amendment of the Preventive Detention Act in 1985; and the CCM decision to move to a multi-party state in 1992, which resulted in three constitutional amendments, changes to the elections laws, and the Political Parties Act of 1992. CCM has not introduced new legislation continuing the political reform process since 1992. The effects of the changes are seen in the registration of numerous political parties, multi-party by-elections and a more overt leadership struggle within CCM. The third set of changes including the testing of the meaning of the early two sets and the efforts to make Tanzania's laws consistent with the Bill of Rights and a multi-party system, is taking place in the courts, pushed by members of the legal profession. The dynamic of political reform now seems to be a CCM leadership opposed to further legal reform (and attempting to create some new institutions for control), high-ranking CCM members who, although united in opposing widespread participation in drawing up a new constitution, do favor additional legal reform, particularly allowing independents to stand for office, and a segment of the legal profession that feels strongly that Tanzania's legal environment should incorporate democratic principles, particularly checks on the power of the executive and adherence to human rights principles.

One indication that Tanzania is in the early stages of transition to democracy is that issues that being debated in the press and through test cases in the courts which deal with fundamental changes to the relationship between the state and the people, and executive powers, as expressed in the Constitution. This section looks at the legal basis for a number of aspects of democracy and compares the current legal situation in Tanzania with what might be expected in a consolidated democracy: avenues for the electorate to limit the party in power; independence of branches of government, and minimization of opportunities for the incumbent party to skew electoral processes. From this point of view, as can be expected at the early transition stage, the current situation has many non-democratic features. As the section on law associations describes, there are vigorous efforts to change a number of these features.

Constitutional Limits

One of the most important debates is over the government's process of changing the political system in Tanzania to a multi-party democracy by amending the 1977 Constitution through a Parliament elected under the one-party rules. At issue is the fairness of a process that is monopolized by the CCM with no formal opportunities for participation, and a parliamentary procedure and timetable that make lobbying very difficult. Also at issue is whether CCM parliaments are passing and amending legislation that is constitutional in terms of the 1977 Constitution. The short chronology below of changes to the 1977 Constitution highlights the issues whose constitutionality is under debate.

Chronology of Changes to the Constitution

1983 - debate on the constitution

1984 - James Mapalala jailed for advocating change to multi-party democracy

1984 - Bill of Rights included in Constitution (Fifth Constitutional Amendment, Act 15 of 1984), government given three years to bring all laws into conformity with the Bill of Rights (did not complete). President limited to two terms.

1985 - Preventive Detention (Amendment) Act, (Act 2 of 1985) - applied preventive detention to more categories of people, but gave detainees the right to petition their cases and to be released if not informed of the grounds for detention, and required that the names of detainees be published in the government Gazette.

1988 - Bill of Rights became justiciable

1990 - Sixth Constitutional Amendment (Act 14 of 1990), changes in Electoral Reform Commission and Election Petitions.

1990 - Seventh Constitutional Amendment (Act 16 of 1990), new procedures for the nomination of a sole presidential candidate for Zanzibar

1991 - Report of the Presidential Commission on the Party System in Tanzania (Nyalali Report):

- recommended change to multi-party system and a 13-step transition process including new constitution (steps not adopted)
- to create a new constitution, the Commission recommended the establishment (by act of Parliament) of a constitutional commission to oversee the drafting of a new constitution, and debate and adoption of a new constitution by an elected constituent assembly. It did not recommend an interim national government, a national constitutional conference or a referendum.

- gave a ten point summary of democratic defects:
  - one-party rule had undermined citizen participation;
  - CCM over time had become a state party:
  - CCM exerted hegemonic control over all of civil society;
  - at least 40 laws restricted constitutional freedoms;
  - the Bill of Rights had not enlarged the rights and freedoms of citizens significantly because of clawback clauses;
  - the judiciary's independence had been infringed upon;
  - the powers assigned by the Constitution were heavily weighted in favor of the executive and particularly of the President;
  - the CCM National Education Committee (NEC), not Parliament, effectively made the laws;
  - tension between Zanzibaris and mainlanders were increased because problems with the Union were not being resolved democratically;
  - the 1977 Constitution was full of serious shortcomings, contradictions and inconsistencies.

early 1992 - CCM extraordinary annual conference adopted NEC recommendation to adopt multi-partyism in Tanzania.

May 1992 - Eighth Constitutional Amendment (Act 4 of 1992), removed one-party system; new rules on State of Emergency; composition of multi-party parliament (all elected except 1) Attorney-General, 2) qualified women nominated to seats equalling 15% of number of constituencies, to represent parties in proportion to the number of seats won, and 3) 5 Zanzibaris nominated by the Zanzibari House); new rules for National Electoral Commission (appointed by President and with power to create new constituencies, subject to Presidential permission).

May 1992 - Political Parties Act, 1992 passed - without public debate and of doubtful constitutionality in terms of freedom of assembly, the questionable independence of the office of Registrar of Political Parties (a civil servant), the inability to appeal the Registrar's decisions, and the prohibition to independent candidates.

late 1992 - Ninth Constitutional Amendment (Act 20 of 1992), guidelines on presidential elections in multi-party system; procedures to impeach President; procedure for parliamentary vote of No Confidence in the Prime Minister as an individual office holder; President's choice of prime minister limited to elected Members of Parliament; when President must dissolve Parliament.

1992 - Regulation of Land Tenure (Established Villages) Act. 1992 - declared unconstitutional in High Court, Court of Appeals case pending.

1993 -	Tenth Constitutional Amendment (Act 7 of 1993), expands scope of National Electoral Commission to oversee local elections.
August 1993 -	Private Members Motion in Parliament asking for a special committee to probe alleged misuses of donor funds defeated.
November 1993 -	Private Members Motion passed on a resolution to amend the Constitution to create a three-government system: Union, Zanzibar, Tanganyika.
November 1993 -	procedure suggested by Mwalimu Nyerere for creating new Constitution: CCM grassroots recommendations passed to CCM NEC, taken up by CCM National Conference and become part of 1995 election manifesto, with the Constitution to be amended on basis of manifesto of party winning 1995 elections.

When the Report of the Presidential Commission on the Party System in Tanzania was submitted to the President in 1991, its findings and recommendations, which amounted to blunt criticism of CCM's undemocratic and unconstitutional practices, opened the door for debate on the conditions for democracy in Tanzania. Although a limited number of copies were printed, and two volumes are available only in Swahili, while the third is only in English, the Nyalali Report as it came to be known, became the benchmark by which CCM critics judged its commitment to and progress towards a new democratic system. The government has not responded to the report's recommendations with a White Paper giving reasons for rejecting its recommendations.

The government has taken some steps that begin a transition to multi-party democracy while ignoring the bulk of the Report's recommendations; thus, the legitimacy of the government's actions has been sharply questioned. CCM supporters reply that the government is not legally bound to follow the Report's recommendations, and that the most important steps have been taken. The critics respond that the new acts and amendments contain provisions that are unconstitutional under the existing constitution, that the government has not repealed or amended the unconstitutional laws identified by the Commission, and that the recommended processes for a new constitution and for voter education cannot be completed in an orderly way before the 1995 elections. Some individuals feel that opposition parties should boycott elections until the government complies with the Nyalali Commission recommendations.

At the moment the process of amending the Constitution is easily dominated by CCM since there is no opposition in Parliament. The conventional wisdom is that the Parliament elected in 1995 will also contain a huge CCM majority, enough to pass amendments. The current Parliament has barely debated constitutional amendments, and the procedure does not allow time for adequate public debate. The legitimacy of the current process of re-drawing

the 1977 Constitution by a series of amendments passed rapidly by a Parliament elected under the one-party rules is almost a litmus test dividing CCM, including its dissident members, from the loose opposition that includes not only political parties but intellectuals. some church groups, some newspapers and some professional groups. The Tanganyika Law Society's official position since 1992 has been that the constitution should be re-written under a constitutional conference process. Test cases of the constitutionality of old and new laws are being brought by private lawyers in increasing numbers.

It is not clear to what extent the constitutional debate is a mass issue. The independent Swahili press has been vocal on the subject, and some of Tanzania's leading lawyers have published regular newspaper articles on constitutional questions. It is not certain that the mass political culture includes an emphasis on the centrality and supremacy of constitutional law in a democracy, and the importance of respect for the constitution by citizens and political parties, including the party in power. For many years the constitution taught in the schools was CCM's, and "civic" education focussed on party history and ideology. The change to multi-partyism has been interpreted by some people as the freedom not to join a party or engage in politics, and there is considerable cynicism about politicians and parties in general. It is another indication that the transition is in its very early stages that there is not yet a widespread consensus that the terms of the Constitution are important because they set the rules for everyone in the political arena and public realm.

The constitutional debate touches not only what a multi-party democratic constitution should contain and by what process it should be written, but whether the government has shown respect for the provisions of the current constitution. Anecdotal evidence from all levels of society and seminar papers by lawyers with detailed and specific examples indicate that there is a segment of public opinion in Tanzania which believes that the CCM government and a significant number of public servants have little respect for the constitution and for the rule of law. On the other hand, at the mass level, some extra-legal institutions, particularly the sungu sungu neighborhood watch organizations, have benefitted people in the absence of government service. Minister for Home Affairs Mrema draws fire from the legal community for his extra-legal solutions to people's problems, but is enormously popular for his assistance. These are additional signs that in legal and institutional terms the transition has barely begun.

Respect for constitutional rules is important because, if trust in the government is to be re-born, then people must have confidence that the rules are not biased in favor of the government and that there is redress of grievances. There is an analogy at the business level: clear and enforceable contract law allows people who have no other reason to trust each other to enter into agreements, because if trust is betrayed there is a remedy. A government that is voted into power enters into an agreement of trust; if it behaves unconstitutionally there should be a remedy. However, the constitution itself must create a balance of power, reasonable limits and reasonable remedies. As the constitutional debate in Tanzania suggests, the constitution represents an investment of effort to reach a decision about how to make rules. Should they be made effectively by the leadership of the party in

power or should there be a system of checks and balances that can be enforced by the people if necessary? What system of rule-making (and enforcement) is consonant with Tanzanian values and workable as an operational structure of incentives? Can the structure be described as democratic? At the moment there seems to be stalemate; if the government moves to create an entirely rewritten constitution, it is not clear that it will be accepted. So long as the current level of disagreement over fundamental principles persists, Tanzania will remain in the early transition stage: neither fully democratic not fully authoritarian, and full of uncertainties.

Popular and Deliberative Limits: The Role of Members of Parliament

The Parliament that will sit until after the 1995 elections was elected under the one-party state. This is not an assembly limited to representatives of the electorate and where each citizen's vote counts about equally. One hundred and eighty out of 246 Members of Parliament (MPs) were elected by their constituents; 66 were chosen by other means. Zanzibar, with about 3 per cent of the total population, has 77 MPs, or 31 per cent of the total. There are 50 constituencies for less than one million Zanzibaris; there are 130 mainland constituencies for about 25 million Tanganyikans. One way that parties in power can maximize their control in parliamentary systems is by appointing so many MPs as Ministers (the front bench) and Deputy Ministers (the middle bench) who are bound by collective responsibility to vote with the government, that ordinary MPs (back benchers) number less than two-thirds of the House, making a two-thirds vote against the government impossible. The current National Assembly has 36 Ministers and Deputy Ministers, less than one-third. Non-elected MPs, however, are unlikely to vote against the government.

The future Parliament described in the Eighth Constitutional Amendment (Act 4 of 1992) should contain fewer non-elected MPs: a number of women equal to 15 per cent of the constituencies will be nominated by parties in proportion to their shares of seats, the Attorney-General will be an ex-officio MP, and five nominated MPs will be sent from the Zanzibari House. The number of constituencies, and whether they will be more equal in population, will be determined by the National Electoral Commission (appointed by the President) and approved by the President. Representation will continue to be by single-member constituency.

Between Tanzania's tradition of party discipline and the lack of opportunities, other than elections, for popular participation, the new arrangement still does not give much power to the electorate. Constituents do not necessarily have a voice in the nomination of candidates, which will be controlled by the parties. Once elected the MP may not change parties and retain the seat; if thrown out of the party, the MP must resign. This gives party discipline tremendous force, and intimidates back benchers from debating freely and, arguably, from expressing the views of their constituents when these differ from the views of the party leaders. There are no provisions in the Constitution for recall of MPs whom their constituents find unsatisfactory, and there are no provisions for popularly initiated referenda. There are no mid-term elections, except by-elections, to allow part of the electorate to

express any modification of its opinion of the party in power. Essentially, if a party is elected with a clear majority, its leadership is home free for five years. As the case of Zambia currently illustrates, this can be dangerous: the leadership can move away from its electoral manifesto and operate completely unchecked.

The recognition by many Tanzanians, including some lawyers and some CCM officials, that the Eighth Constitutional amendment is imperfect is demonstrated in the pressure on the government through the press and the courts to allow independents to stand as Members of Parliament and for local office. This is argued from the Bill of Rights: the right of the individual to participate in politics and the right of the electorate to choose its representatives freely (Article 21). This change would break the iron grip of the parties somewhat. However, the future Parliament would still be more under the control of party leaders than responsive to the electorate, because the rules give the parties immediate power over the behavior of their MPs, while their constituents are silent for five years.

The question of how democratic Tanzanian deliberative representation is comes down to whether MPs are free to deliberate measures of public policy, to originate, amend and pass legislation and to act as watchdog to the policies and spending of the executive, using their own discretion to balance the interests of their party, their constituents and the nation. This is particularly important for democracy in a mixed presidential-parliamentary system like Tanzania's: if party discipline is absolute, then parliament can not be independent of the executive when both are subject to the same ruling party or coalition of parties. This point was demonstrated in the current Parliament when debate on the Private Members Motion to resolve that the government should bring in a three-government constitution was removed from Parliament to party caucus, and the question raised there (by Mwalimu Nyerere) was whether it was for MPs (a small sub-group of the CCM) or the party as a whole to make such a decision. Parliament can have, as the Tanzanian parliament does, all the powers of subpoena, rules of debate, committee structure, ability to bring private members motions and bills, etc., that it needs to function as an independent branch of government, but still be subordinate and unable to function democratically because of party discipline. Clearly, party discipline is ingrained in the Tanzanian political culture, and working out the contradictions between party discipline and the presidential-parliamentary structure in order to arrive at a more democratic way for elected representatives to deliberate, legislate and monitor the executive will be part of the transition process. Indeed, the Private Members Motions of the current Parliament are, on one level, part of a debate over the powers of Parliament.

Although, in general, Tanzania's Parliament follows standard Commonwealth practices, there are some exceptions, notably in the powers of the Speaker and Deputy Speaker. They remain active MPs; they have sole power of appointment to parliamentary committees; and the MPs' financial disclosure statements are submitted only to them and not made public. What has gone unremarked in a one-party parliament may cause problems in a multi-party parliament.

The Clerk of the National Assembly is appointed by the President, and the number of offices in the Secretariat is determined by the President. This would seem to give undue power to the executive to determine whether or not MPs and parliamentary committees are adequately served, although the current level of service seems to be good. The parliamentary staff is made up of seconded civil servants (Articles 87 and 88). This creates a conflict of incentives for the staff, who are asked to assist with Parliament's watchdog functions over the executive branch at the same time that their career paths are determined by the executive branch. The staff are aware of this problem and have requested that an independent parliamentary service be created, with its own service commission and budget.

CCM officials expressed agreement with reformers on the need for more lobbying opportunities. Parliamentary rules and circumstances make it difficult for the electorate to express its views on proposed legislation. Three of the four Parliamentary sessions have traditionally been very short: two weeks or less, and held in Dodoma. The budget session is longer and held in Dar es Salaam. As is generally recognized, there are timing problems with public availability of proposed legislation and the subsequent debate in Parliament. Proposed legislation is gazetted 21 days before debate. The government Gazette's distribution by post is very slow (approximately three months). The publication of Hansard is, at best, several months after the end of the Parliamentary session. The private press, obviously, does not publish legislation or debate verbatim. It takes an extraordinary effort to become informed and to lobby on specific legislation.

Popular Limits: Electoral Processes and Choices

Elections are the primary way that people exercise choice in a democracy. The mechanics and management of elections can skew the electoral process if the rules allow the incumbent party to make partisan decisions. Management of elections has been entrusted to the National Electoral Commission (NEC) created under the Eighth Amendment (Act 4 of 1992). Originally empowered to oversee and monitor presidential and parliamentary elections, the NEC's work was expanded to include local elections by the Tenth Constitutional Amendment (Act 7 of 1993). The 13 members of the Commission are appointed by the President and serve part-time for five-year terms. The Commission is served by a staff of civil servants headed by the Director of Elections and organized as an independent department under the Office of the President. Apart from monitoring elections, the functions of the NEC are to oversee and monitor the registration of voters, and to investigate and set constituency boundaries. Constituency boundaries can be reviewed at any time but must be reviewed at least every ten years. The NEC's decisions about boundaries and the number of constituencies need the permission of the President to come into force. The decisions can be based on enquiries or censuses, and should take geography and communications systems into account.

There are problems at several levels with the NEC. At the constitutional level, it is impossible to see how it can be considered a non-partisan body. The U.S. experience shows that decisions about constituency numbers and boundaries will be made in a partisan fashion

until stopped by rules incorporating objective criteria, primarily rough equality in numbers of voters. The use, with regard to the NEC, of the President's powers of appointment and oversight is one of many examples of presidential powers that made sense in a one-party system but that, in a multi-party system, skew electoral advantages to the incumbent party.

At the operational level, one small agency is asked to do an enormous amount of work, some of which (registration and election monitoring) might be more efficiently and transparently handled at the local level under regulation. And, at the level of feasibility, there is so much work to be done to prepare for the coming local and national elections that the questions in the press about whether the NEC can do the job seem reasonable. Nonetheless, the NEC has been meeting regularly.

Three by-elections have been managed by the NEC. The third result is being contested by the runner-up. The NEC is not a named party in the CHADEMA petition to nullify the results of the Kigoma by-election, but it seems likely that the case may clarify the operational role and responsibilities of the NEC. The Kigoma case should answer some questions about the legal limits of campaign financing, beyond the current allowance of sh.1.5 million, and about how polling should be conducted.

Political Parties Act (Act 5 of 1992)

The Registrar of Political Parties is appointed by the President and consults with the Minister of Justice, who appoints assistant registrars and other staff. The decision of the Registrar to register or cancel the registration of any party is final and cannot be appealed in any court. The Minister, not Parliament, is empowered to make changes in the act. The constitutional problems with the appointment and staffing of the Registry are much the same as for the National Electoral Commission. The lack of a right of appeal presents an additional constitutional question, as does the empowerment of an incumbent politician to change regulations affecting all parties.

The grounds on which the Registrar may exercise discretion over the registration and deregistration of parties, and whether the process involved in registering and maintaining registration is so cumbersome and restrictive as to amount to a violation of the constitutional right of assembly, will probably be tested in the courts. The issue of discretion also arises for political rallies. The right to hold and address public meetings is qualified in the act by the requirement to obtain a permit from a political appointee, the District Commissioner in the area. There have been press reports from by-election campaigns in Ilege and Kigoma in 1994 that District Commissioners were behaving in a way that could be interpreted as partisan in their handling of permits to opposition parties.

The only information that the Registrar is required to make public is an annual report on the audited accounts of every party (not necessarily the accounts themselves), which must be published in the government Gazette. In practice, the Registrar has been secretive to the point of not giving out parties' addresses, let alone financial information. The CCM

aroused some suspicion by exempting itself from the registration process. Those who wanted to examine its financial statements have been disappointed. The requirement that parties submit audited annual accounts and declarations of party property would contribute to accountability and transparency if the records were open to public scrutiny. The withholding of sensitive information by a Presidential appointee allows the possibility of partisan use of the information.

Judicial Limits

There are a few signs of improvement in the judicial system. Recent judicial appointments by the President have reportedly followed the recommendations of the Judicial Service Commission, trained lawyers have been appointed as Regional Police Commissioners and, helped by some recent judgements about proper police procedures, have been training some parts of the national police force in citizens' rights. However, there is universal agreement that the functioning of the courts now is impeded by a host of factors related to inadequate funding and training, particularly of magistrates and the police. There is also the perception that a significant number of individual judges, magistrates and policemen are susceptible to bribes or other pressures. However, the judiciary is perceived to be relatively independent of the executive, and there have been several indications that its functioning may improve in the medium-term.

Flows of information should improve. SIDA and the World Bank are funding the compilation, indexing and publishing of Tanzania's laws, the first such revision since 1965. Currently, there are about half a dozen complete sets of the laws of Tanzania in the country. The Tanganyikan Law Society is exploring how to collect and publish judges' opinions, which have not been published since the early 1980s. At the moment, it is difficult for practitioners to find out what the law is.

Some of the difficulties citizens have with the court system relate to problems with the law. Particularly with regard to women's rights, there seems to be less clarity about when customary or Islamic law applies and when "written" law supersedes them. Constitutional rights have got to be recognized as superseding customary or Islamic law. Land rights are now very confused, particularly since the passage of the Regulation of Land Tenure (Established Villages) Act, 1992, which attempted to assign property rights to those allocated land during villagization in the 1970s. Recently, a High Court judge found that the law is unconstitutional. The appeal in the Court of Appeals is pending.

The jurisdictions of the different courts also create problems for citizens. The original jurisdiction of many cases is the magistrates' courts, where a lawyer may not appear for the litigant. Most magistrates have far less legal training than advocates (lawyers) or judges, but citizens must take many cases there first, and then appeal them in the High Courts, of which there are 11 for the mainland.

The slowness, cost and uncertainty (because of bribery) of the court system deters many people from using the courts for the resolution of grievances. It also deters many business people. The willingness of private advocates to bring legal aid and test cases is a testimony to their zeal, although it was reported that a number of judges would also like to see the body of law made consistent.

One half of the democratic discipline of juridical democracy is the functioning of the courts. The other half is the assiduity with which the executive enforces court orders and itself follows legal procedures. Do law enforcement officers follow the proper procedures for getting permission from the judiciary to use coercive powers, e.g., properly obtain search warrants?

The team did not collect systematic data, but heard and read in the press a number of apparent instances of failure of the police to follow procedures.

What is worrisome is the common perception that the executive branch does not apply the law evenly (eg, a newspaper is suspended for violating a technical rule that a government-owned paper has also violated) or constitutionally (Christopher Mtikila is arrested under the preventive detention law, which violates the right to freedom of movement, without having committed any crime) and top officials find extra-legal remedies for problems (Minister for Home Affair Mrema dictates how to run the Kariakoo market). A sufficient number of instances were brought to the team's attention to conclude that the perception of the executive's lack of respect for the rule of law is a serious political problem for the transition to democracy, and probably has some basis in fact.

The problem comes back again to the fact that the government did not use the interval between the passage of the Bill of Rights in 1984 and its becoming justiciable in 1988 to amend the laws of Tanzania to bring them into conformity, as the executive was directed to do. The Nyalali Report pointed out the most glaring exceptions in 1991 but, with all the legislation that the government has passed since, it has not completed the task of making the recommended changes. This inaction in itself could be construed as lack of respect for the rule of law and the centrality of the Constitution. The practical implication is that the legal underpinning for an open public realm is weak, so that, even if a government behaves without repression, its behavior is at its own discretion and not legally enforceable.

Freedom of Expression and Association: The Open Public Realm

There has been an enormous opening up of the public realm in recent years, but the current freedom is not unambiguously guaranteed by the laws on the books. Freedom of assembly and freedom of speech are the basis for an open public realm that can raise issues of concern to the public, disseminate information freely and demand information from the government. The Societies Ordinance of 1954 and the Newspaper Act of 1976 claw back, as Nyalali and others have underlined, freedom of assembly and freedom of speech. Individuals have only very recently had their right to sue the government confirmed in the courts, and that right

has not yet been well established. There is little that a citizen can do to compel the government to disclose information, and to date the government maintains a monopoly of the radio medium, although three or four private radio stations may register soon.

Limits on the Centralization of Decision-making

At the level of local government, the change in the election rules for villages now allows free election of village governments. This is a significant improvement. As in many other countries, it is not matched by additional fiscal autonomy or freedom to create local governing structures to address local problems, e.g., irrigation authorities. Regional and District Commissioners are still political appointees with considerable powers.

In conclusion, the rules embodied in the 1977 Constitution and the laws on the books include many undemocratic features, which the government is clearly reluctant to relinquish. The limitations at this level in turn inhibit the growth of civil society and the development of linkage structures between civil society and the state. Much of the progress towards democracy since the change to a multi-party system has come from the press and the legal profession.

III.B. PATTERNS OF ASSOCIATION AND PARTICIPATION IN THE POLITICAL PROCESS

The capacity of various sectors of civil society to play a meaningful role in national politics, to promote policies on behalf of their members and to involve new groups in the political process is very much tempered by the capacity of the government to respond to those challenges. Where the government has shown a willingness to respond, at least at the policy level (which does not always translate into implementation), there have been greater efforts from civil society to keep the process of reform in motion. This explains why one sees relatively greater interest within sectors of the business community to effect change. On issues of economic liberalization, despite all the problems, there has been a steady stream of reform measures adopted - many with the help of external pressure — and there has been some tangible success.

The trajectory of political reform, however, has been far from even, resulting in a more cautious response from civil society. At the same time, decades of systematic cooptation or outright suppression have left many actors with little choice but to focus on developing their own internal associational capacities, which are fairly weak at the moment. The prospect of affecting policy change at the national level is a distant goal, given perceptions of government unresponsiveness. To the extent that many actors in civil society have mobilized around national issues, it has been to keep government from interfering excessively in their activities rather than to extract resources or make demands for government involvement or supervision.

Background

In the 1980s the government began to retreat from decades of intervention that undermined business and associational life. This happened in part because the government no longer had the capacity to enforce its control, but also because its resource base had seriously diminished due to economic crisis. To maintain what little legitimacy it had left, the government had little choice but to allow greater societal and community participation in development activities it had previously attempted to direct.

Before independence, Tanzania had a growing and lively associational life, especially in the urban areas, including Christian and Moslem religious associations, burial societies, ethnically and regionally based unions,[3] dance and sports societies, an influential labor and cooperative movement, all of which played an important role in backing the independent movement led by the Tanganyika African Nationalist Union (TANU).

After independence, the limitations on civil society were felt increasingly as the Party assumed supremacy. At independence, the Parliament had been supreme. By 1965 Tanganyika had become a one-party state and by 1975 the party had become constitutionally supreme. This growing party domination continued with the formation of the union between Tanganyika and Zanzibar in 1977 and the formation of Chama Cha Mapinduzi (CCM). The 1967 Arusha Declaration was another key event in asserting and consolidating party supremacy by nationalizing major financial, commercial and manufacturing companies.

The first organizations to be banned or curtailed were those organized around particularistic interests. The ethnic unions were banned and the Native Authority system was abolished, effectively removing the local chiefs and sub-chiefs and replacing them with elected counselors. Religious institutions were told to keep out of politics and were reprimanded in years to come when they crossed this line.

The autonomy the labor movement had exhibited in the 1940s and 1950s was sharply curtailed after independence in 1961 even though much of the leadership of the new nation came from the organized labor movement. The Government limited the right to strike in

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[3] Examples include the Pogoro Union formed in 1912, followed by the Chagga Association and Mbisa group of Northern Rhodesia, formed in 1919. By 1920s the Nyamwezi, Sukuma, Ngoni, Pare and Sudanese had formed their own associations. The Ukami Union, founded in 1938, brought together members of the Kwere, Luguru, Kutu, Zigua, Doe, Vidunda and Sagara and Kami ethnic groups. In the early 1950s, the Nyakyusa and Fipa also formed associations. By this time the largest association was the Wazaramo Union with 3,500 members. Regionally based organizations included the Nyiramba Association, the Mbaha Union, the Marui Association, the Buganda and Bukoba Natives Association Dar es Salaam, and the Nyasaland and Northern Rhodesia Association (Leslie 1963, 40-56, Iliffe 1979, 390).

1962 and prevented civil servants from joining unions. By 1964 only one trade union was allowed, the National Union of Tanganyika Workers (NUTA). NUTA was affiliated to the Party and its General Secretary appointed by the President. Membership in the union was made compulsory for workers (Coulson 1982, 137, 140). In 1977 NUTA was replaced by a workers mass organization, JUWATA, affiliated to the ruling Party, in which management and workers were fused into this one organization.

While in the urban areas the trade union movement was crushed, in the rural areas, the agricultural cooperatives were replaced by crop authorities in 1976, bringing farmers under direct state control. Cooperatives had been relatively accountable to the local communities prior to their removal but after 1982 when they were reinstated, their former vitality and independence was seriously limited (Kleemeier 1984, 187). Genuine local grassroots initiatives like the Ruvuma Development Association were also destroyed in this period. This particular association had succeeded in organizing communal production and providing social services to its members. However its independence and emphasis on democracy and self-reliance were perceived as a threat by regional authorities, who disbanded the association in 1969.

While some organizations were crushed, others were coopted by the government and given a semi-official status. For example, the Tanzania Home Economics Association received considerable funding from the Ministry of Education, was housed in the Ministry and the same person who headed the Home Economics Program in the Ministry was the head of the association for 12 years. Similarly, the leadership of other associations was dominated by party and government representatives as has been the case with the Tanzania Journalists Association or even religious bodies like the Muslim National Council BAKWATA. This seriously limited the capacity of these associations to act as lobbying or interest groups.

By the early 1980s, the ruling Party monopolized most associational activities through its affiliate mass organizations, which included the Union of Tanzanian Women (UWT), the Youth Organization (VIJANA), the Union of Tanzanian Workers (JUWATA), the Union of Cooperative Societies (CUT) and the Tanzanian Parents Association (WAZAZI).

The Limits of Economic and Political Reform

The Party gradually began to relinquish control, first with the restoration of Cooperative Societies in 1982, although in reality cooperatives did not regain their autonomy until the 1991 Cooperative Societies Act, which delinked them from the CCM. Under pressures from donors but also from internal actors, the government began to accede on the economic front, undoing many of its key policies of the *ujamaa* era. Economic reform measures began to be adopted in the early 1980s and have continued steadily since that time, encouraging parts of the business community and the agricultural communities to start reasserting their collective interests. Initial weak efforts at reform in the 1981 National Economic Stabilization Program and the 1982 Structural Adjustment Program were followed by the more effective Economic

Recovery Programme I (1986-1989), ERP II (1989-1992) and Economic and Social Action Plan (1992 -).

The movement on the political reform front has been more ambiguous, in part because as long as the restrictive legal instruments remain intact (e.g., the Societies Ordinance, the Newspapers Act, even the recent 1991 Organization of Trade Unions Act), the government's genuine commitment to political reform can be questioned. Moreover, the continuing efforts by Government/CCM to devise new instruments for monitoring civil society suggests that the authorities still see their role in much the same way as before: directing and controlling associations rather than facilitating their activities. The only difference now is that the government's capacity to regulate is severely curtailed and associations, as weak as they are, are still substantially stronger than they were in the past.

These recent efforts to reimpose control include: the Media Ordinance Bill proposed by the Ministry of Information that is intended to regulate the media far beyond with the Newspapers Act provides for, the NGO Forum proposed by the Prime Minister's Office, which would monitor NGOs, and a Woman's National Council that the Ministry of Community Development, Women and Youth would use to mobilize all women's associations. In all three cases, the response of the affected organizations has been vehement resistance. Similarly, even though the 1991 Act provided for the autonomy of labor unions and the creation of OTTU, its independence from the government is highly circumscribed, as evidenced in the recent teachers strike.

What Difference Can Civil Society Make?

In spite of all these difficulties, the importance of most local and grassroots civic associations lies in the benefits they afford their members and communities in the here and now, rather than in some future hopefully democratic regime. They offer people concrete avenues of participation instead of institutions that are superimposed from the top and used to serve political ends, like the ten cell system. In other words, people are now shaping their own preferred forms of association. The outcomes of their own efforts and monetary contributions are tangible, e.g., roads, schools, wells, when compared with the many contributions people were expected to make in the form of the Development Levy or other taxes, whose benefits rarely materialized at the local level.

These associations offer people a taste of real governance in the arenas where it matters the most; in the neighborhoods and villages where they live and work. Here local people are attempting to decide their priorities and find ways to meet developmental goals through recently formed development associations. They are meeting community needs where the government made empty promises and did not have the capacity to deliver the goods.

Not surprisingly, built into these efforts is unevenness and inequality: those regions that had more to begin with will undoubtedly end up with more, and there is no "great equalizer" to intervene and look out for those who are disadvantaged, unless the central government were

to assume this role. Different kinds of institutions emerge in different parts of the country shaped by particular historic and cultural contexts. There is nothing uniform about local governance. Neither is decision making always democratic, often falling into the hands of male elders, the well-off or the better educated members of the community. The inequalities that disadvantage women, the youth, and the poor have been resisted where broader understandings of democracy have evolved.

What is the role of the government under circumstances where local village and district level development associations are effective? This will depend once again on local dynamics and how they interface with the real practices (not simply objectives) of central and local government authorities. Thus far the relationship has not been adversarial for the most part. Government authorities realize they have far too little to offer and, in fact, depend on these local institutions to maintain a sense of stability. More often than not, the government's role has been to supplement initiatives already taken by local actors in development projects. Perhaps not officially taking full cognizance of these associations and their impact in affecting decision making at the community level allows them the freedom they need to develop without the kind of regulatory and monitoring stance taken by the Prime Minister's Office vis-a-vis NGOs.

A continuing political reform process will create better conditions for the flourishing of associational life and civil society more generally. While that reform process may be in fits and starts, it is clear that the currently achieved changes in associational life are irreversible. There is a momentum which cannot be stopped.

What is less clear is the extent to which civil society can effect change at the national level at this time. Clearly those associations best equipped to effect change at that level are those which are connected to national bodies that are well established. Therefore, we have seen Catholic and Protestant bishops and laity seeking to curb corruption and to lobby for a Tanganyika motion both through their own publications, the press, in official Bishop's letters, and through their connections in parliament. One also finds law associations active in test cases, in pressing for a constitutional conference, and in assisting various sectors that have come under repression, e.g., the media professionals when they struggled against the Media Bill. Perhaps most critical has been the private press which has been able to expose and demand accountability and transparency from government officials. At the same time, the extent to which government officials have felt an obligation to respond to those challenges in a satisfactory manner has not always been evident.

Other segments of civil society are not engaging in the political process. The lack of policy advocacy and interest in the political process is most profound within the indigenous NGO community, which is just beginning to get on its feet. Its preoccupation with developing its own capacity is to be expected but there is also a disdain for politics that many expressed in talking not only about the CCM but also about the new political parties. People argued that party leaders were only interested in power in order to enrich themselves personally. Levels

of perceived efficacy are low because experience has taught people that the government is incapable of being responsive.

In the meantime, religious bodies, NGOs, women's organizations, law associations and representatives of the media have shown considerable interest in being conduits of civic education and some have undertaken such efforts of their own accord. They have seen this as necessary to create the conditions and the awareness among the population of how to use their vote and how to express their rights as citizens.

In spite of the apolitical character of civil society at present, it is playing an extremely important role in the Tanzanian political reform context. It provides avenues for participation and for the creation of new institutions and norms that have the potential to create new bases for governance. Potentially, civil society can challenge authorities to be more accountable to the people they are supposed to represent, and under a multi-party system people can more easily vote out representatives who refuse to be transparent. Civil society has the means to mobilize people through the media, or through voluntary associations or religious bodies in order to define and affect democratic change, making linkages between various sectors of civil society all the more important.

III.B.1. BUSINESS AND CIVIL SOCIETY

Introduction

"No bourgeoisie, no democracy." -- Barrington Moore, Jr.

Barrington Moore's famous dictum that the business classes have historically proven to be the foremost champions of democratic values and institutions grew out of the case studies in his classic book[4]. Moore believed that where the business community was robust and independent of the political system, it played a direct role in the growth of limited constitutional government, representative institutions, the rule of law and individual rights. The principle of "no taxation without representation" was one that the American revolutionaries borrowed verbatim from the British aristocracy's successful fight for parliamentary government during the 17th and early 18th centuries. Where the business classes have been weak, democracy has had less of a chance to flourish.

In Moore's view, a developing country would ideally resemble England during the early stages of democratic development where there was a long and unbroken tradition of parliamentary democracy. In England, the aristocracy fostered democratic institutions in order to limit the power of the monarchy to interfere with the aristocrats' profits from the wool trade.

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[4] Barrington Moore, Jr. Lord and Peasant: The Social Bases of Democracy and Dictatorship (Boston: Beacon Press, 1974).

Most developing countries, including Tanzania, bear a closer resemblance to France than to England. There the business classes were poorly developed and, therefore, unable to assert their economic interest by fostering a vigorous democratic tradition. In the French case, the aristocracy was unable to create a constitutional system because its economic base, in the ground-rents from wine grape and grain production, made it politically dependent upon the monarchy. As a result, periods of democratic rule have been interspersed with longer periods of absolutist rule and military dictatorship.

To the extent that the bourgeoisie perceives that its interests are served by a government that operates on the principles of fair regulation, transparency in competition and accessible dispute resolution, the implication for the donor community is unmistakable: "champion the bourgeoisie, champion democracy."

Tanzanian Business

The political weakness of the Tanzanian business community forms the subject of this section of our report. The principal sources of this weakness are the following: (1) the state continues to dominate major sectors of the economy, effectively "crowding out" the private sector and depriving it of an independent economic base; (2) opposition parties are still too weak to present a credible threat to the government and the business community, therefore, lacks a political alternative to the present system; (3) even the private business community is heavily dependent upon the government for protection from foreign goods, credit from the banking system, assistance with labor relations and contracts with government agencies.[5] This pattern of dependence upon the state can be expected to change gradually but until it does, the business community will find it difficult to play an independent role.

In Tanzania, then, the critical question is whether the business classes have the political capacity to produce the kind of government they need; namely, one of limited and representative political authority which abides by the rule of law, respects property rights especially in productive assets, and which can be influenced in its choice and implementation of policies by legitimate interest groups from within society. Thus far, the business community has not established itself as being among the social forces pushing the democratic process ahead.

This weakness of the business sector may well provide the most basic explanation for why Tanzania's democratic process has been slow and is still characterized by economically inappropriate fiscal and tax policies. In the absence of more effective business pressure for real representation of its economic interests, Tanzania's progress toward democracy may remain sluggish. Indeed, unless the bourgeoisie can more effectively champion democratic

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[5] To cite just one example, the two largest clients of the country's largest private computer services firm are the National Bank of Commerce (NBC) and the Harbors Authority.

values, a lurking popular culture that increasingly associates democracy with corruption and ineffectuality could come to predominate.

Background

After independence, the Tanzanian government nationalized the major banks, insurance companies, manufacturing enterprises and trading firms. This was immediately followed by nationalization of rental housing (compensation was rarely paid) and by the creation of a host of state industries for manufacturing, agricultural production (state farms), mining, forestry and retail marketing. Sometimes a state industry was created by the simple act of nationalizing and confiscating the assets of an existing private firm while, at others, entire new companies and factories were created.

Where state enterprises and private companies competed side-by-side, the state enterprises were given a decisive competitive advantage through their ability to draw on operating subsidies from the Treasury, preferential access to imports of raw materials and capital goods, exemptions from taxes, tariffs and license fees, and de-facto immunity from many of the contractual and legal obligations faced by private companies. By the mid 1970s, the Tanzanian government had created a virtually complete state monopoly of such areas as banking, insurance, rental housing and trade services and tourism and a near monopoly in the manufacturing of consumer goods for domestic consumption including beer, soft drinks, cigarettes, textiles, shoes, construction materials, soaps and paper products. The country's gargantuan system of state enterprise was justified on the basis of a political ethos that treated private entrepreneurship as inherently exploitative and, therefore, inimical to the welfare of the Tanzanian people.

An atmosphere open to private business is, therefore, relatively new to Tanzania. The first economic reforms can be dated from mid-1984. They included a substantial exchange rate devaluation and modest efforts at trade liberalization including an own-financed import arrangement (Tanzanians with overseas accounts were allowed to bring in production goods on a no questions asked basis) and some provision for foreign exchange retention as an incentive to non-traditional exports. Of considerable and often overlooked importance was internal trade liberalization, the removal of barriers to inter-district trade, especially in agricultural products. Since those early efforts, Tanzania's program of economic liberalization has moved steadily forward. The exchange rate system has been almost entirely liberalized with the creation of a Central Bank auction and a network of privately licensed bureaus. Agricultural marketing of food grains has been entirely liberalized with the role of the National Milling Corporation now confined to the provision of a strategic grain reserve.

Trade has also been dramatically liberalized with quantitative restrictions on imported goods replaced by a an Open General License (OGL) system with a modest schedule of tariffs intended as revenue-generating measures. The impact of the OGL system has been the virtual elimination of a bureaucratically burdensome system of administrative allocation of foreign exchange among competing import demands.

There is strong indication that the Government of Tanzania (GOT) intends to push forward with portions of its agenda of economic liberalization. It has announced its intention to proceed further with exchange rate reform by moving to an inter-bank rate (the rate at which banks borrow from one another), to free capital movements by creating a stock market, and to take additional steps to liberalize trade. The government also took important initial steps toward divestiture of state-owned enterprises through the Parastatal Sector Reform Commission (PSRC) and toward the recovery of domestic debts owed to the banking system by the parastatal corporations through the Loans and Advances Realization Trust (LART). It will shortly begin to allow export farmers to sell directly to private businesses rather than requiring them to market through the official marketing system.

Other desperately important economic reforms, however, seem stalled. There is urgent need to continue with reform of the civil service. The government itself acknowledges that there are still an unknown number of "ghost workers" on the civil service payroll, and members of the business community allege that civil servants still behave as if they controlled a state economy. Divestiture of state owned enterprises (SOEs) also currently seems hopelessly stalled, bogged down in bureaucratic rivalry between two agencies, the Loans and Advances Realization Trust (LART) and the Parastatal Sector Reform Commission (PSRC). In addition, the government has also yet to deal effectively with official corruption and with establishing the spending priorities appropriate for a private sector economy.

The future of these reform efforts depends upon whether the beneficiaries of the changes that have occurred become an effective constituency for their continuation. There is a broad consensus that the major reforms to date are not principally the product of domestic group pressures. The most significant forces for change include the pressures of the donor community whose leverage is the considerable importance its funding has for the government and the economy. The present economic reform effort, then, has some important missing ingredients. The most important of these is the formation of a coalition of interest groups able to lobby the government effectively.

Business Today

The shape of Tanzania's business community is only just beginning to emerge and is, therefore, all but impossible to define succinctly. All business communities are pluralistic and Tanzania's is certainly no exception. Indeed, in many highly important respects it exhibits more than the ordinary number of internal divisions and cleavages. First, for example, it is divided by mode of ownership: state versus private enterprise. A second division, though one whose importance is sometimes exaggerated, is race: ownership of enterprise by indigenous Tanzanians versus enterprises owned by Tanzanians of Asian extraction. A third significant division is that between the formal sector, consisting of business that are licensed and subject to taxes and regulations, and the informal sector consisting of such widely heterogeneous activities as sidewalk sale of consumer goods, "off-the-books" provision of services, and a host of other activities, including illegal ones, that are unlicensed, untaxed and unregulated.

The Tanzanian business community also exhibits a distinct gender divide. Males tend to have a distinct monopoly over large and medium-scale formal sector enterprise of all kinds, factories, trading companies and service-oriented firms. Female Tanzanians are concentrated almost exclusively in small-scale enterprises, in both the formal and informal sectors. For whatever reasons, the Tanzanian society exhibits a de facto barrier to upward mobility by women.

There is also a distinct generational divide. Younger members of the Tanzanian business community tend to feel that their senior counterparts, especially those who dominate such organizations as the Tanzanian Chamber of Commerce, Industry and Agriculture (TCCIA) are too closely tied in to the old political system, that they are in fact members of the governing party and, therefore, that they are excessively reluctant to pressure the government on behalf of business interests.

Finally, there are the normal divisions between agricultural, manufacturing, trading and services. Here the issue is the comparative inability of the holders of fixed assets to evade taxes, and complaints that the tax system is unfair.

Tanzania's business community also exhibits seemingly irreconcilable political characteristics. That private enterprise was able to survive at all during the period of the socialist one-party state, when government took an implacably adversarial posture, is testimony to the durability, versatility and sheer tenacity Tanzanian business possesses. Yet today, many Tanzanian businesspeople claim that unless the government behaves in a more favorable manner, their ability to continue will be in serious jeopardy. Some Tanzanian businesspeople, including owners of large industrial conglomerates claim that they have no difficulty gaining a degree of access to the highest levels of government, including top-ranking ministers, that their western counterparts could only envy. Yet, the same people claim, the government has been either insensitive to or unable to accommodate their most fundamental needs so far as the policy environment is concerned.

Even ubiquitous governmental corruption, one of the most salient features of Tanzania's business environment, elicits a varied response. Most businesspeople claim that it raises their transaction costs to the point where profit margins are razor thin and the possibility of reinvestment in growth opportunities is eliminated. A minority of businesspeople, however, regard it as a necessary and possibly beneficial evil in dealing with a bureaucracy whose middle level personnel still exhibit the sloth and indifference to performance of the socialist era.

Perhaps the most glaring feature of the Tanzanian business environment is the yawning gulf between government and business over the quality of the government's recent performance. The position of high ranking governmental spokespersons can be summed up in the following way: a great deal has been accomplished in recent years in the way of reform of the economic environment; the public sector has already fully accepted the importance of private business to development and more reforms are on the immediate horizon; we acknowledge

that much remains to be done, but please be patient. This was essentially the content and tone of the presentations by the Ministers for Finance and Trade at a USAID-sponsored business conference in Dar es Salaam in February 1994.

There is much to substantiate the government's viewpoint. Since the beginning of the reform era in the early 1980s, there has been a seismic shift in the quality of Tanzania's economic environment including a breathtaking devaluation of the Tanzania shilling from $1 = TShs 12 in early 1984 to $1 = Tshs 500+ today and a major structural change in the determination of the exchange rate. Today, the private bureau system helps insure that the Tanzanian shilling will not again become hopelessly overvalued. Other important reforms include a massive degree of trade liberalization including the elimination of quantitative restrictions on manufactured goods and a structural change in agricultural pricing policies that completely liberalizes the prices of food grains by permitting private traders to purchase directly from individual farmers. Finally, the government has made great strides in ending its policy of providing fiscal subsidies for the parastatal sector, thereby helping to level the playing field in the credit arena between parastatal and private enterprise.

The government also points with pride to a series of major pieces of legislation that have been passed by the Tanzanian Parliament in recent years. These include the following: The Investment Promotion and Protection Act (1990) which was intended to correct the tendency for public sector investment to crowd out private sector investment; The Banking and Financial Institutions Act (1991) which led to the restructuring of state commercial institutions and paved the way for private banking; The Capital Market & Securities Act (1994) which sets the legal stage for a Tanzanian stock exchange. This development, widely anticipated within the next two years, is widely expected to mobilize private savings for investment purposes and, in so doing, to absorb the excess liquidity that generates inflationary pressures in the economy. Taken together, the government argues, these laws provide the basis of a legal framework for private sector financing and investment. More importantly, they reflect the government's on-going intention to continue to promote the interests of the private sector.

The attitude of the private business sector, especially large-scale manufacturing enterprise, was summed in an address which Mr. Iddi Simba, Chair of the Confederation of Tanzanian Industries (CTI), made in February 1994. His position and that of other CTI leaders can be effectively summarized as follows: too little, too late, especially too little implementation of the new legal framework; too much corruption that saps the energies and resources of the business sector and reflects the real intent of government; and hopelessly slow implementation of the remaining agenda including privatization of state-owned enterprises (SOEs).

Among the deterrents to private sector development cited by Mr. Simba are the following:

- The Investment Promotion Center (IPC) created by the Investment Promotion and Protection Act (above) has completely failed to live up to its intended purpose which

was to constitute itself as a "one stop shopping center" able to provide quick turnaround service for prospective private investors. Instead, Simba suggested, the IPC has itself simply become one more "corruption pit stop" in an already overly corrupt bureaucratic environment.

- Lack of capital. Simba cited the "past and present inability of the state banks to provide attractive credit and capital to budding entrepreneurs."

- The persistence of an anti-entrepreneurial ethos on the part of state bureaucrats. Simba claimed, in his address, that "[O]ne can still notice a general belief on the part of bureaucrats that a private investor is out to defraud the country rather than to engage in an activity that can be beneficial to both."

Simba's speech also suggested that one of the foremost constraints on the full development of civil society is the mental carryover of the socialist era.

The broad consensus of the Tanzanian business community is that the mere existence of a legal framework should not be confused with the existence of an economic climate genuinely conducive to business growth. Among representatives of the business community interviewed for this report, there was near unanimity that businesses both small and large still confront a host of daunting difficulties in their efforts to maintain themselves, much less grow in scale. The major constraints, listed roughly in order of frequency mentioned, are as follows:

(1) The disadvantages of indigenous entrepreneurs in an environment dominated by Tanzanians who are not indigenous to the mainland.
(2) Corruption as a source of high transaction costs.
(3) High interest rates and difficult access to credit facilities.
(4) The unpredictability of the fiscal environment.
(5) Poor and inadequate infrastructure as a source of high transaction costs.
(6) Difficulty of using the courts.

Each of these merits comment.

(1) Problems of indigenous entrepreneurs. Correctly or incorrectly, many African business entrepreneurs feel competitively handicapped by the presence of a sizable business community composed of persons of Asian, Arab and Zanzibari extraction. This viewpoint is sometimes articulated forcefully and with great vehemence; at other times, in a more low key manner. But the frequency with which it emerges at one point or other in the course of an interview is itself evidence of the great depth of feeling about this matter. African businesspeople feel handicapped in the following ways: (a) less business experience than non-indigenous entrepreneurs, especially in international business; (b) fewer international business contacts as contrasted especially with Asians, owing to Asian extended family ties in India, Britain, Canada and elsewhere; (c) less ability, resulting from the above, to draw upon international sources of finance capital which often carry far lower interest rates than

domestic capital sources; and, (d) non-indigenous businesspeople are indifferent to the well-being of indigenous Tanzanians and are, therefore, more prepared to import and sell questionable goods (e.g., foods and pharmaceutical products that are unfit for human consumption); (e) less "meaningful" contacts with government leaders (meaning bribery) than Asians.

The main thrust of the racial imagery is that non-indigenous Tanzanians, feeling less of a sense of permanence in this society, avoid investments that have long gestation periods before profitability; that they are, therefore, less prepared to invest in critically important growth-producing sectors such as manufacturing because this sector requires the development of highly expensive fixed assets. Non-indigenous Tanzanians are said to strongly prefer trade, as opposed to manufacturing, because investment capital in that sector is highly liquid and can produce quicker profits.

Some of these perceptions do not appear to be accurate. Asian businesspeople are to be found, for example, among Tanzania's large-scale manufacturers. The converse may be less true, as fewer Africans are active in international trade. But inaccurate or not, a widely held imagery such as this does drive political action. And the political implication: for many African businesspeople, the highest item on the agenda of policy interests is a Tanzanian affirmative action program for indigenous business.

Some African businesspeople, especially those who have been to the United States or who have children in American universities, are very aware of our own Small Business Administration (SBA) and of the preferential treatment accorded minority-owned enterprises at both federal and local levels. Exactly what form such a program might assume in Tanzania is never clearly stated. But there is no doubt that in private meetings between African businesspeople and high ranking government officials, this topic forms an important part of the conversation.

(2) Corruption. This topic ranks a very close second in the frequency list of constraints mentioned by the business community. Everyone is, of course, opposed to it but beyond that opinion divides as discussed briefly above. Some consider it a wholly negative factor whose most important effect is to raise transaction costs, lower profits and thereby prevent reinvestment in growth. One informant, said "corruption is a cancer and its spreading everywhere." Others argue that given a bureaucratic climate influenced at middle levels by Tanzania's recent socialist past and which poses a huge inertial resistance to private sector initiatives, corruption provides a necessary lubricant. Perhaps there are simply two forms of corruption: the massive, top-level corruption of the country's highest ranking political leaders and the smaller, mid-level form necessary to move intermediate bureaucrats to action.

The terms of reference of this report call for a consideration of the broad issue of democracy and governance. There can be little doubt that, from a governance standpoint, ubiquitous corruption is a considerable liability for the Tanzanian system. Its most significant effect, in this context, is that it breeds an atmosphere of cynicism and mistrust that undermines the

credibility of government, lowers its legitimacy and, at some deeper level of popular consciousness, associates democratic politics with politicians who seek office only to engage in dishonesty and theft.

Corruption may well set the stage for anti-democratic behavior. A great many of Africa's military coups have been justified on the basis of their necessity as a means to cleanse the political system of its corrupt tendencies. Even absent military intervention, corruption in Tanzania appears to pave the way for demagogic leaders who appeal to the deep frustration that ordinary citizens feel at their inability to change the conduct of their political leaders. In numerous discussions of corruption, many Tanzanians expressed the view that all politicians are alike. At the street level, the exceptions to this generalization are a small number of politicians who tap into this anger by articulating an almost xenophobic hatred of those who corrupt the democratic system to their own narrow economic purposes.

(3) High Interest Rates. Tanzania's present nominal borrowing rate from the banking system is approximately 35%. Since Tanzania's inflation rate is approximately 25%, this means that the real interest rate is approximately 10%. While high, this is certainly not out of the range of efficient and therefore profitable enterprises. Indeed, from an economic standpoint, the purpose of a high interest rate is to sort out the most profitable investments and allocate scarce capital only to those that businesses that have the highest potential for real growth.

From a political economy standpoint, however, high interest rates are a different matter altogether. It is clear in Tanzania, for example, that high nominal interest rates are among the difficulties that have alienated the business community from the new (democratic) system and thereby deprived it of an important source of support. African entrepreneurs view high interest rates as a manifestation of the government's inability or unwillingness to do anything real to improve the business climate or take a measure necessary to ameliorate their competitive disadvantages vis-a-vis non-African entrepreneurs who, they feel, are able to borrow internationally at more favorable rates.

The Asian issue aside, high interest rates would probably in any case have become a tangible symbol of the government's ineffectiveness at developing a genuinely pro-business environment. High nominal interest rates create an atmosphere of economic uncertainty and thereby deter investment. The inflation that drives up these rates is a tangible sign that not all is well in the government's capacity to manage the nation's fiscal and monetary systems in a prudent and responsible manner.

Here again, an unfortunate association is created from the standpoint of governance: democracy equals government's ineffectiveness. For those many businesspeople who have come to believe this association, it forms the basis of a latent preference for anti-democratic political forms which, implicitly, offer a greater prospect of lowering borrowing costs for the business community.

High interest rates are also associated by many businesspeople with the inordinately bureaucratic character of the banking system, the extraordinary amount of time and paperwork required to apply for and demonstrate qualification for loan approval. Part of this frustration is indeed warranted. The inefficiency of Tanzania's banking system which can take between one and four months to clear a check and which, even then, may require repeated visits to the bank to do so, is appalling.

Some of this frustration, however, may be unwarranted: some Tanzanian businesspeople appear to be unfamiliar with the amount of paperwork required to qualify for a large loan anywhere. Others appeared to have very high expectations of what sort of loans should be available: two businessmen interviewed uncritically assumed that equity loans should cover 100% (or close to it) of the cost of new capital equipment. They tended to hold the government accountable if this did not occur. If the day-to-day management of the complex and varied institutions necessary for a private sector economy is unfamiliar terrain for the new government, it appears to be at least equally unfamiliar to some members of the private sector as well.

One implication of this discussion is clear. The government could be encouraged to explore ways of making the banking system more efficient. The mere presence of two private banks which are in process of enlarging their operations should help enormously. To gain better credibility with the business community, the government should also find ways to make the loan application process easier. Simple improvements might go far, such as making loan forms available in simplified Swahili for small businesspeople who feel insecure about their English language skills.

The "credit bottleneck" Iddi Simba condemned so roundly may also be a problem that lends itself fairly readily to two other low cost and easily implemented solutions that would help this government to improve the image of its governance within the business community.

The first solution has to do with the role of lending officers in the credit system. Part of Tanzania's problem derives from the fact that most lending officers are still located in state banking institutions that are a carryover from the socialist period. These individuals are simply unfamiliar with assessing financial risk in the private sector. The two private banks are completely new to the society. (One, Meridien Bank, is still in process of constructing its principal floor space.) The state banks have mostly had experience lending to the parastatal sector. Since those loans were guaranteed by the Tanzanian Treasury, no element of risk assessment was involved: parastatal enterprises incurred losses and asked for loans; lending officer checked the government's letter of guarantee with the bank and automatically approved the loan.

Lending to private borrowers is an entirely different matter. It requires risk assessment: not only the riskiness of the borrower, but the risk to the lending officer who approves a bad loan. In all likelihood, many lending officers are probably completely uncertain what the personal and career consequences of making a bad loan might be. Since there might be no

career gain to making a number of good loans but a calamitous loss of job and career for making a bad loan, the rational choice response is to sit on loan applications and make no loans at all. Small wonder that businesspeople feel that they have to bribe high ranking government officials to help them obtain loans from the banking system.

The solution here is to find ways to help train lending officers in the process of risk-based lending. It would be helpful to clarify not only the methodology of assessing risk, but to spell out in clear detail the kinds of career implications that attach to performance in this critically important role. There must be a balance between incentives for good performance and fear that a person will be fired for the first bad loan he or she makes.

The second solution to Simba's credit bottleneck has to do with the role of the exchange bureaus. Many members of the Tanzanian business community hanker for a face-to-face relationship with their lenders, one in which personal familiarity and trust define their relationship with the people they borrow from. Large impersonal banking institutions could not fulfill this need even under much improved circumstances, but the exchange bureaus could.

Many members of the business community already deal with the exchange bureaus for some aspects of their business needs, such as the hard currency to finance imports, but the present system requires that the exchange bureaus operate strictly on a cash-for-cash basis. With only the most minor changes in the legislation establishing the exchange bureaus, they could easily become small scale deposit and lending institutions. Businesspeople could be allowed to deposit their shillings in shilling accounts to draw out hard currency at a later date. Alternatively, they could receive loans of hard currency to finance imports and arrange to pay for the hard currency when the imports are sold. This modest reform could provide the Tanzanian small business community with just the sort of face-to-face lending it seems to require without in any basic way threatening the deposit or lending roles of the major banks.

(4) Fiscal Instability. The recent "mini-budget" debate has galvanized the business community to bitter complaints about the unpredictability of the country's tax and exchange rate environments. These complains generally had the same logic. Businesses must plan their activities over the course of a year, adjusting prices and charges for an existing level of costs including taxes and business licenses. All too often in recent years the government has introduced new taxes or charges so unexpectedly or hiked so greatly that the economics of managing a business is completely disrupted.

The difficulty of doing business in this environment is illustrated by the following anecdote told by the owner of a small travel agency in Moshi. Her agency was asked to quote a price for a photographic climb of Mt. Kilimanjaro for four Spanish tourists who wished to film professionally. She quoted $15,100 which included the $2,800 cost of the required special photo license. Three weeks later the government announced an increase in the fee for the photo license to $15,000 as of the date of the announcement! Since the tourists were to leave within a matter of days, she was compelled to a furious fax correspondence with Spain.

Because the license fee had to be paid in US dollars, the Spanish group assured her, at the last minute, that they had wired a $15,000 deposit to an account in Britain. Since Tanzania's corresponding banks cannot verify an electronic deposit abroad within a short time, she was forced to send her husband to England to verify the deposit.

When the government announced its mini-budget, with a major increase in fees for vehicles, the owners of construction companies, transportation companies (including large travel agencies with their own vehicles) and taxi drivers were outraged at what they regarded as an act of economic victimization. Their outrage was shared by innumerable other Tanzanians in all walks of life. Many believed deeply that they were being made to pay because of the government's inability or reluctance to collect taxes from the non-indigenous trading community.

However necessary it may have been to a prudent fiscal policy, the mini-budget was a disaster from a governance standpoint. It reenforced virtually every negative stereotype businesspeople have of the quality of governance in contemporary Tanzania: that the government is financially incompetent; that it is anti-business, especially indigenous business; that it is corruptly controlled by the members of a particular trading community; and, that no amount of lobbying or political representation by business or commercial interest groups can affect these realities.

If the quality of governance in Tanzania is to be improved, and the image of that governance along with the improvement, something must be done on the side of revenue collection. In the process of improving revenues, however, it is imperative to develop an approach that spreads the burden of taxation more equitably as between the manufacturing and trading sectors.

(5) Poor Infrastructure and Transaction Costs. The condition of Tanzania's road and railroad systems is still poor, despite significant improvements in the road network. The telephone system is equally unpredictable and decrepit, and the cost of making an international phone call from anywhere in Tanzania is exorbitant. One coffee buyer interviewed in Moshi indicated that he budgets $1,000 in phone calls per major transaction. International investors expect -- indeed demand -- the highest level of services including hotel accommodations, airport procedures and ability to communicate both domestically and internationally.

From the standpoint of domestic business, one great source of difficulty is that virtually everything must be done in Dar es Salaam. Thus, for people who have businesses in other parts of the country, huge amounts of time and money are consumed in travelling to Dar es Salaam to deal with the simplest kinds of transactions including licenses and import permits. Add in the cumulative costs of transportation, expensive hotel accommodation, the need to offer "chai" (a bribe) to virtually every government officer who has a negative veto and, for many, the costs are simply not worth it.

Improvements to infrastructure would serve both development and governance. From a developmental standpoint, better infrastructure would make business easier and more profitable, thereby contributing to investment and growth. From a democratic governance standpoint, better infrastructure would make it easier to distribute newspapers, to convene both partisan and educational meetings and, more generally, to share important information throughout the society.

(6) Difficulties of the Legal Process. Businesspeople also have occasion to feel that legal system continues to be unhelpful. Tanzania's judges are principally accustomed to dealing with a socialist society in which disputes between privately owned businesses and the government or between private businesses were practically non-existent. Thus, they have practically no experience in dealing with such matters as private contracts. Attorneys have also commented to us on the wide range of judicial acumen within the judiciary: some are attentive and able to weigh conflicting arguments; others have clearly been appointed for political reasons. In addition, the laws governing business, which were in any case principally drafted by an American attorney, are so new that there is almost no case precedent to help clarify points of interpretation.

In at least one major area of law, property in land, Tanzanian law is a hopeless jumble of conflicting legal principles and interpretations. This country has only barely begun, for example, to sort out the conflicting rights of traditional landholders, previous private owners of large estates that were confiscated during the socialist period and small scale settlers who were moved by the government during the period of rural collectivization.

In a recent landmark case a group of traditional rights holders sued in court to recover land that had been taken during the socialist era. The government had passed a law extinguishing traditional rights in cases where the government had created socialist villages, but the High Court declared the law unconstitutional and ordered in favor of the traditional rights holders. The Attorney General has issued a "stay" order until the Court of Appeals (Tanzania's Supreme Court) decides on the appeal. Either way, the decision will leave land claimants unsatisfied.

Tanzania's court system is also overcrowded, and many people consider that judges are no more immune to the ubiquitous tendency toward corruption than other public officials. In the absence of an affordable, quick and trustworthy legal system to turn to, the business community has an additional source of reluctance to invest.

The Business Community and Political Influence

In assessing the political efficacy of the Tanzanian business community it is essential to begin with the fact that the process of lobbying the government on behalf of private sector interests is a wholly new and unfamiliar one in this country. The two organizations which conduct this activity, the Tanzanian Chamber of Commerce, Industry and Agriculture (TCCIA) and the

Confederation of Tanzanian Industries (CTI) have both been formed within the last six years; the former in 1988, the latter in 1991.

The spokespersons for these organizations do not now claim political efficacy nor do they anticipate it soon. There seems almost no doubt that the Tanzanian Government's steady movement toward economic liberalization and an environment more favorable toward the private sector has been largely donor-driven and that the business sector is, to this degree, benefitting from a changing environment it has had little part in creating and has almost no role in shaping.

The TCCIA was founded in October 1988 largely at the stimulus of the Preferential Trade Area (PTA) which insists that each member country have a national chamber of commerce with which it can deal. It is composed of about 2,000 small and medium-sized business just under half of which are located in Dar es Salaam. For the first five years of its existence, the TCCIA was deliberately ignored by the government because its chair, a former MP who had been "sacked" from Parliament in the 1960s, was known to be sympathetic toward and then a leader, in the political opposition.

The present chair of the organization, who considers lobbying the government for favorable business policies a major ultimate objective, believes that the most important present priority is organization-building. He is determined to expand from the present 8 regional branches (Dar es Salaam, Morogoro, Iringa, Arusha, Mbeya, Dodoma, Shinyanga and Tanga) to a total of 16 and to expand from the present 2,000 business members to about 4,000. His reason for this emphasis is that so long as TCCIA was chaired by a member of the political opposition, many businesses were reluctant to join out of fear of being identified as supporters of an opposition party. Thus, there is an untapped membership potential which, in the long run, will make the TCCIA's political position stronger.

The TCCIA's lobbying efforts will be carried out by a Committee on Governmental Affairs and Legislation. That committee was still in process of being created as of the preparation of this report. The chair indicated that its lobbying efforts, when these are finally underway, "will and won't be acceptable." The reasons, he indicated, are that most African governments want to learn from experience and that most have a tradition of having the same political leaders for many years. Such leaders, he believes, are not amenable to changes. The present need, he considers, is to create an awareness (of business needs) on the part of government leaders via seminars and informal meetings. To facilitate that process, he would like to have the Chair of TCCIA serve as an ex-officio member of the Council of Ministers.

The CTI, although the newer of the two organizations, already has a well developed approach to governmental relations. Perhaps because it represents large manufacturing enterprise and industrial conglomerates, its leaders have no difficulty gaining access to the highest councils of government. Indeed, representatives of the CTI meet regularly with government ministers and, at least once per year, generally in April, CTI organizes a formal

meeting with the President and key ministers in order to make its budget requests and representations.

For the CTI, the problem is not in gaining access to government. The problem is to have government implement the commitments it undertakes at these meetings. CTI spokespersons consider that the principal present difficulty in Tanzania is that the government does not follow through on its intention to continue improving the business environment. The reason may be lack of will or lack of capacity or both. But the CTI leadership feels there is no evidence that even the most powerful ministers in this government can have their legislative intent or policy directives implemented by lower echelons of the bureaucratic system. Thus the paradox of an organization that, by its own account, has unparalleled access to government yet finds itself at the same time utterly impotent to influence day-to-day government policy.

There is no doubt whatsoever that the member industries of CTI are being deeply hurt by this impotence. As an association of manufacturers, principally consumer goods manufacturers, the CTI's deepest economic interest is in having a stable, transparent and effective rate of protection that will enable Tanzanian industries to compete effectively with goods exported to this country from nations that have more mature industrial systems. Tanzania's official rate of protection for manufactured goods is approximately 20-30%. But economic experts concur that, due to the all-pervasive problem of corruption that suffuses the entire goods entry system, Tanzania's effective rate of protection is 0%. The result is that industrialists are having the greatest difficulty merely surviving in the face of an onslaught of imported consumer items and are deeply reluctant to invest in the expansion of plant and capacity.

Informal Sector

The analysis thus far has focussed on the formal sector of Tanzanian business, but a survey of Tanzanian business would be incomplete without consideration of the informal sector and its potential contribution to development and governance. The most important point is that the informal sector has been growing very dynamically in recent years, making a significant positive contribution to the Tanzanian economy by contributing to the growth of employment, to the value of productive output and, indirectly, by enabling Tanzanians to gain valuable technical and managerial skills.

Two aspects of the broad macro-economic environment have contributed to this trend. First, radical devaluation has created a natural cocoon of protection for productive enterprise by increasing the TSh price of imported goods. This has created a highly favorable business environment for small, low-cost firms that produce inexpensive goods that can compete with cheap imports. Second, as many large state productive enterprises have gradually shut down their operations due to a cessation of government subsidies, some goods that Tanzanians can readily produce for themselves have become scarce. Large scale manufacturers, who generally have higher costs, who must compete with the flood of imports that are basically

entering the country duty-free, have been unable to take advantage of these changes. Informal sector entrepreneurs have.

The result has been a boom in informal productive and service enterprises owned by Tanzanians. Examples include wood-working companies that produce a variety of products such as furniture and door and window frames, tailoring shops, firms that re-manufacture automobile, truck and bus parts for re-use, firms that produce inexpensive household utensils including storage containers, stoves (both oil and charcoal), and lamps. There are small scale producers of soap, pottery, brushes and a host of other consumer products. The informal sector also includes the innumerable street vendors who clog the sidewalks of Dar es Salaam and its nearby areas selling everything from foodstuffs to imported tape cassettes. The informal sector, then, is both import-substituting and import-providing.

The immense contribution of the informal sector to the Tanzanian economy has been summarized by Aili Tripp in the following way:[6]

- micro and small scale entrepreneurs have been a growing sector at a time when much of the rest of the economy was on a downward spiral;
- small businesses have been a major source of employment when the formal economy has been laying off workers and imposing freezes on hiring;
- informal incomes represent the major source of non-agricultural incomes;
- small scale and micro entrepreneurs rely primarily on local inputs unlike formal industry, which is heavily dependent on foreign exchange and the importation of inputs;
- in terms of productivity, small scale producers have proven to be at least five times more efficient than their large scale counterparts;
- small scale entrepreneurs primarily serve local markets although their exports of sea products, spices, charcoal, etc., have become an important source of foreign exchange in recent years;
- small scale entrepreneurs provide local consumers with affordable products, often tailored to meet the specifications of the individual;
- in the informal economy incomes come much closer to meeting actual needs than formal wages;
- the informal economy has provided opportunities for sectors of society, like urban women, who have limited opportunities for formal employment;
- because of the structure of micro and small scale enterprises, capital and resources do not remain in the hands of a few, but are more widely distributed among a larger segment of the population.

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[6] Aili Mari Tripp, Changing the Rules: The Politics of Liberalization and the Urban Informal Economy in Tanzania (Unpublished ms., March, 1993), pp. 31-32.

Against the background of this compelling case for the economic and social importance of the informal sector, the donor community would do well to consider ways to support it.

Lobbying by Business?

Neither of Tanzania's two major interest groups claims any significant influence over public policy at the present time. For the TCCIA, the present agenda calls for organization-building rather than political pressure and, although there has been communication with the government over minor questions (the rates for postal boxes), lobbying over significant economic matters has been explicitly deferred to a later date.

The CTI's disappointment over the lack of a government response to its pressures is a different matter. This organization has been explicitly political since its formation three years ago, has organized a series of meetings with government ministers and has supported its calls for industrial protection with a series of excellently prepared technical studies. Yet its representatives approach the forthcoming meeting in April with a sense of resignation that their requests will be heard politely but that nothing of consequence will occur.

There are several possible explanations.

(1) Tanzania's "street theory of politics." At some level of popular consciousness, galvanized perhaps by the speeches of certain political leaders, Tanzanians believe that their political leaders have been corrupted by wealthy members of the trading community. Since traders want to bring their goods in without paying tariffs or customs duties, they bribe political leaders to enable them to do so. Hence, Tanzania's revenue crisis and the shifting of the tax burden to holders of fixed assets.

(2) Mid-Level Corruption. Others believe that although there is corruption at the top of the system, the real difficulty is with the ease with which mid-level customs and excise officials can be bribed. It is at mid-levels of the civil service that low real salaries begin to bite deeply into family purchasing power and thereby render the system vulnerable to corrupt practices.

(3) The fiscal crisis of the state. One informant suggested that, in fact, the CTI had been more effective than it gave itself credit for. In his judgement, several annual budgets, most notably the budget of 1992/93, directly reflected the input of CTI lobbying so far as the intended pattern of protection was concerned. The difficulty arose in the fact that, by mid-year, the government's revenue crisis was so severe that there was no alternative to generating additional tax revenues quickly. New taxes on holders of fixed assets were the most expeditious way of doing so even though this contributed to the unpredictability of the business environment. According to this reasoning, the CTI should continue its efforts which will gradually have a greater effect.

(4) The absence of credible opposition. Business organizations in Tanzania definitely do not have the leverage of threatening to support opposition parties. The opposition has not yet demonstrated that it can win an election and defection to the opposition would, therefore, lack credibility. Most owners of large enterprise seem to assume that, in the near future at least, there is no alternative but to work with the existing government.

The truth is probably some combination of all of the above considerations plus the leverage the government enjoys over business, especially its ability to influence the pattern of loans and credit from state banks. Due to the influx of cheap imported goods, Tanzania's manufacturing sector is clearly under great stress at the present time. The ability to run overdrafts with the banking system may well be a matter of life or death for some enterprises. It would be reckless, in this circumstance, to risk a lobbying effort that might alienate key government officials.

III.B.2. COOPERATIVES AND CIVIL SOCIETY

Introduction

If Tanzania is to build a civil society coalition for democratic governance, cooperative societies must be one of its more important components. Not only do cooperatives have a long and lively history as natural economic associations of peasant producers but, as the historical narrative in this report suggested, they have had an important political role since before independence when they were active supporters of the nationalist movement as well as during the 1970s when they were important sources of opposition to the collective villagization program.

Cooperatives are of great interest to donors and development workers for additional reasons having to do with the incidence of poverty, low educational levels and disease at the grassroots level. Any efforts to improve the standard of living of the vast majority of the Tanzanian people must begin in the countryside and here cooperative organizations have the potential to play an important role. Many rural Tanzanians regard their cooperatives as far more than purely economic organizations. There is a tendency to treat the cooperatives, especially primary cooperatives, as basic units of social organization. Even crop marketing cooperatives deal with such diffuse issues as transportation, water supplies and women's role in development. Most cooperative members believe that their cooperatives should remain completely non-partisan: but there may be value in considering a role for cooperatives as units of civic education.

Background

The history of the cooperative movement in Tanzania dates to the 1920s. The Kilimanjaro Native Planters' Association, an organization of coffee growers in the Kilimanjaro region was founded in 1925 and registered as the Kilimanjaro Native Cooperative Union (KNCU) in 1932. The number of cooperative societies grew rapidly, and by the mid 1960s there were

more than 1,500 cooperative societies registered under the Cooperative Societies ordinance. The majority of Tanzania's cooperatives were single purpose producer cooperatives organized for the marketing of agricultural commodities. There were also a number of consumer cooperatives and some credit cooperatives.

By the time of independence in June, 1961, the cooperative movement had proven so successful in establishing itself at the grassroots and regional (cooperative union) levels that it seemed natural to form an apex organization that would represent the interests of all cooperatives at the National Level. The Cooperative Union of Tanganyika (CUT) was formed in 1961 with this political objective its high highest priority. During this period, which was one of cooperation between the government and the cooperative movement, it was intended that the CUT and government work together to advance the interests of rural cooperatives.

A Cooperative Bank was formed in 1962 to give short-term loans to agricultural producers and to provide working capital for both marketing and consumer cooperative societies. After a series of banking changes, this was replaced by the National Cooperative Bank in 1964. In 1963, the Moshi Cooperative College was formed. Its purpose was primarily to offer courses for Secretaries and other workers in primary cooperative societies, and government inspectors involved with the cooperative movement.

To understand the difficulties of the cooperative movement today, it is necessary to understand what the government did to the movement during the mid-1970s, and the way Tanzania's crop marketing system operated before government intervention. First, villagers from a number of adjacent villages would come together and form a primary cooperative society specialized for the marketing of a particular crop; e.g., a coffee marketing cooperative. A typical primary cooperative society might function for between a half dozen and a dozen villages and might number between 600 and 1,200 members. During the harvest season, the villagers gather the crop, perform whatever preliminary processing tasks are essential and deliver the crop to the primary cooperative society. Here, they are given a receipt for their produce and a preliminary down payment.

Second, a number of primary cooperative societies taken together form a cooperative union; e.g., Kilimanjaro Native Cooperative Union (KNCU). The function of the cooperative union is to collect the produce from all of its member primary cooperatives and to prepare the produce for final processing. In the case of coffee, this meant that it was the responsibility of the cooperative union also to deliver the produce from the village cooperatives to the Tanzania Coffee Curing Company (TCCCO) which operated a factory for final processing and grading.

Third, upon completion of these tasks, the cooperative union would deliver the crop to the statutory marketing authority for final sale. Recall here that Tanzania had established a state controlled marketing system in which crop marketing authorities had a legal monopoly for the procurement and final marketing of all of the country's most important food and cash

crops. In the pre-1976 Tanzanian system, this actually meant that the state marketing authorities would procure their crops not from individual peasants or from primary cooperative societies but from the regional cooperative unions.

Fourth, upon final sale, the statutory marketing authority would remit final payments to the regional cooperative unions which would remit payments to the primary cooperative societies which, in turn, would make the final payments to individual farmers.

Chronology

1961-1966

During the early post-independence period, the Tanzanian government supported the cooperative movement. Cooperatives had been important building blocks in the formation of the nationalist movement and, indeed, the organizational and accounting skills of the leaders of cooperative societies often made them invaluable in forming and leading the local branches of the Tanganyika African National Union (TANU). The newly independent government initiated a crash program to expand the number of cooperative societies and to extend the cooperative movement to areas of the country where it was only weakly developed, including the Central and Coastal Regions.

1967-1974

During this period, latent conflicts between the cooperative movement and the Tanzanian Government became overt. Recall that the primary cooperative societies were voluntary organizations of individual farmers living in traditional areas and cultivating individual farms on a household basis. With the proclamation of collective villagization in 1967, it became readily apparent that the Government's rural agenda was wholly different: it was seeking to move the villagers, on a coercive basis if necessary, to non-traditional areas where cultivation and other farming activities would be carried out on a collective basis. The government's view was that cooperatives should now promote the national goal of socialist villagization.

A host of critically important questions remained unanswered, however. There was a host of questions about legal entitlement. What would become of an individual farmer's landholding after that farmer was moved to a collective farm? And, since the villagization program was being carried out on the basis of presidential decree, would the status of settlers in new areas be fully legalized? Would it be permissible for a household to split its labor, allotting part to the traditional individual household and part to the new collective farm? And what would happen to the individual farmer's share value in the primary producer cooperative society serving the original village? The first two of these questions are now the subject of extensive litigation at the Tanzanian High Court and Court of Appeals.

The government came to perceive the primary cooperative societies as centers of rural resistance to the collective villagization process and, hence, as potential centers of opposition to the government itself. To ensure that the cooperatives served the new socialist political objectives, the government passed a new law, the Cooperative Societies Act of 1968. This law gave vast powers to the Registrar of Cooperatives, including the power to remove democratically elected cooperative officials and replace them with government officers. The CUT defended the historic voluntarist conception of cooperatives and opposed the government's power to replace cooperative leaders with its own officers.

To further weaken the cooperative societies and reduce their role as an opposition force, the Tanzanian Government began to strengthen the authority of the statutory marketing authorities. Its justification was the need "to reduce costs and increase efficiency in handling crop produce." Implicitly, this meant that the crop procurement function of the marketing authorities did not need to stop at the level of the regional cooperative unions but could extend downward to the level of the individual farmer. There was an implicit but fundamental conflict between the primary cooperative societies and the statutory marketing authorities over which one would buy at the farmgate.

The government passed the Villages and Ujamaa Villages Act of 1975. According to the terms of this act, any village with at least 250 families could be registered as a multi-purpose cooperative society: each village cooperative would handle all of the crops produced in that village and might function as a consumer cooperative as well. The practical effect of this act was to by-pass both the primary cooperative societies and the regional cooperative unions by requiring villages to market their produce directly to the purchasing stations of the statutory crop authorities.

1976

The government announced the formal dissolution of the producer cooperative organization in May 1976. [Consumer, industrial and savings and credit cooperatives were allowed to continue to operate under the 1968 Co-operative Act.] The government treated the dissolution of the producer cooperatives as a de-facto liquidation of assets. During the liquidation, all of the assets and liabilities of the cooperative unions and primary cooperative societies were given to the crop marketing authorities.

Governmental liquidators were appointed and put in full charge of regional cooperative unions and primary cooperative societies. Their obligation was to liquidate the assets of these organizations and, implicitly, to distribute the proceeds to the individual members. Such distribution rarely occurred. The governmental liquidators generally treated the liquidation process as a source of private enrichment: bank accounts (over which the liquidators were given signatory authority) were pillaged; rolling stock and movable equipment were given to friends and family members or sold for personal gain; and buildings were allowed to become run down and decrepit. [To illustrate the sort of approach that appeared to characterize the liquidation process, we were told of one case in which a financial liquidator simply signed

over to himself approximately $1,000,000 in cash assets, and took this plus the proceeds from the sale of a fleet of about 20 trucks, and fled the country!] The financial records of the cooperatives were typically discarded or stored so improperly that eventual retrieval became all but impossible.

With the dissolution of the cooperative societies, the parastatal marketing authorities completed their takeover of the procurement process. The marketing authorities now needed to establish buying stations near the villages to replace the primary cooperatives. This was generally done by the simple expedient of taking over the building and facilities of the primary cooperative society and converting it into a purchasing station. The multi-purpose village cooperatives (established under the 1975 Act) would market their produce at the parastatal buying station.

Confusion and conflict arose concerning the relationship between the multi-purpose village cooperative and the single crop procurement and marketing function of the parastatal buying station. The system might theoretically have worked if the villagers produced only a single crop for the marketplace. But what of villages that produced a variety of marketable commodities? How would crops other than that for which the parastatal had taken over the primary society as a buying station be marketed?

Under the historic cooperative system, this sort of decision and others like it had been handled democratically at the level of the primary society. The members of each cooperative society elected a governing committee on a one member, one vote basis. And that committee could make decisions having to do with the affairs of that cooperative. Democratic processes gave this system great flexibility. The elected committee of a primary coffee cooperative could decide, with the approval of the members, to allot some of the cooperative funds for the test marketing of other cash crops (e.g., macadamia nuts), or to purchase a pickup truck to market food crops in a nearby town, or even to buy a bus to facilitate transportation between the villages and the town. No such flexibility was possible under the parastatal procurement system.

The involuntary character of the parastatal system created serious problems of credibility and legitimacy with the villagers. Since the state marketing system charged farmers huge deductions, resulting in large differences between the world price or retail market price of a good and its village level producer price, there was also an irreconcilable economic conflict between the villagers and the parastatal procurement agencies.

1977-79

During the late 1970s, the CCM government persisted in its efforts to consolidate control over what remained of the cooperative movement. In 1977, the CUT was made an organ of the party along with organizations representing women, trade unions, youth and parents. The idea was to make the cooperative movement more directly subordinate to the ideological agenda of the CCM.

1980-84

The early 1980s was a period of political reform. (See historical narrative, Section I.A.) Pro and anti reform factions emerged and this division manifested itself also over the question of how cooperatives should be treated. The result of this division was a cooperative policy shrouded in ambiguities and inconsistencies. Pro-reform elements seemed able to win a number of important changes in the government's official approach to cooperatives while, at the same time, the party's conservative wing seemed strong enough not only to block more thorough-going reform but to delay and frustrate the implementation of even modest reforms.

This tendency -- official announcement or legislation of vital reforms but failure of implementation at the level of bureaucracy -- is a salient feature of Tanzania's overall reform effort to this day and is thus worth considering from the standpoint of democratic governance. Even now vitally important changes are announced by the highest ranking government leaders and even legislated by the National Assembly but the implementation of these changes becomes lost in the country's massive bureaucracy with the result that many of our informants commented that the reality at ground level seems utterly unchanged from the previous pattern. This same inability to implement policy is seen today by the business community.

This often bewildering pattern of apparent change that, on closer inspection, turned out to be no change at all reveals much about the nature of Tanzania's early reform activities; namely, the fact that for the most part it has been and remains a top-down effort with the decision-making process very much confined to the highest levels of the party and the government. Because the process of seeking and resisting change has so much the quality of an intra-elite struggle in which the various groups, associations and unions that constitute civil society play only a tiny role, reform efforts seem lacking in the quality of momentum that would push them forward even against a certain amount of elite resistance.

The early 1980s impulse to restore Tanzania's producer cooperatives came from basically the same places within the political system as the impulse to undertake other reforms, but principally from key persons in the Ministry of Agriculture who wished to curtail the role of the parastatal crop authorities and who believed that the crop procurement and marketing system of the pre-1976 period should be restored.

The reform group succeeded in securing the creation of a national Commission of Inquiry into the Possibility of Re-establishing Cooperative Unions. Not surprisingly, the Commission recommended a return to the earlier system and in 1982, the Parliament passed a new Cooperatives Act permitting the re-registration of cooperative unions. That process began to take place in 1983 and 1984.

If the impulse to restore the cooperative unions had emanated from below, from farmer lobbies, the process of restoration might have been a relatively smooth one despite the obvious and daunting constrains on recreating organizations that had been liquidated years

earlier.[7] But because the political struggle was almost entirely intra-party and intra-government, the restoration process reflected the same old ambiguity: reform in official policy but and lack of basic change at the primary and cooperative union level.

The politics of policy reform in Tanzania is partly a struggle between differing governmental institutions such as rival ministries. The struggle over the cooperative movement was an excellent example. If the Ministry of Agriculture was the principal proponent of reform, the principal opposition to reform emanated from the Office of the President and the Ministry of Local Government and Cooperatives. The subject of this conflict was a division of opinion as to whether cooperatives should be viewed as the foundation building blocks of a socialist form of rural production or whether they should be viewed more pragmatically, as viable (and democratic) economic institutions for the marketing of crops.

1985-1988

To signal his personal opposition to cooperative reform, President Nyerere met with Tanzania's Regional Commissioners in January, 1985. Under the old single-party state system, the Regional Commissioners were given vast amounts of arbitrary authority at the local level. They had, for example, full powers of arrest and detention; the power to suspend the budgetary processes of local government institutions; and the power to issue directives that guided central government ministries in their implementation of government policy at the local level. Tanzania's Regional Commissioners have frequently been compared to local potentates in the extent of their executive powers. As a result, the position of Regional Commissioner was among the most coveted within the party apparatus. For those who performed well, it was considered an almost certain guarantee of advancement to higher office. Not surprisingly, these Commissioners have generally been regarded as among the most anti-reformist element in Tanzania.

At the meeting, President Nyerere placed himself squarely in opposition to cooperative reform by endorsing the principle of the 1975 law that each village should form a multi-purpose cooperative. The result was an utterly anomalous situation at the local and village levels. It meant that at the very same moment that cooperative unions were being restored in the principal towns, the parastatal crop authorities would continue to maintain their own rural buying stations to deal directly with village level cooperatives.

The situation at the village level in 1985 was thus completely muddled. First, the 1982 legislation made it clear that the village level cooperatives were to be attributed wider

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[7] During 1983, the government initiated an exercise of handing back the cooperative's assets and an assets commission went around the country dealing with the return of assets to the cooperative societies. In general, the assets commission discovered that, aside from the original buildings, which were generally in extremely poor condition, there were simply no assets to return.

functions than simply crop marketing. They were to be administrative and political units of the government by electing representatives to lower levels of the party hierarchy and by functioning as broader developmental units. While the villages might have functioned perfectly well in their political and administrative roles, the individual village is not a naturally efficient economic unit. Economies of scale in both marketing and production were the factor that had given rise to primary cooperative societies in the first place.

The variety of choices open to peasant villagers was utterly bewildering. They could choose to register as multi-purpose village cooperatives or they could choose to retain the identity of a multi-village primary cooperative society. Many villages, not wishing to antagonize political authorities on whom their lives might depend, passed resolutions to register as multi-purpose cooperatives but did not take steps to implement the resolutions. And an almost equally large number of primary cooperative societies took no decision at all.

The confusion at the village level was one of a number of factors that put the cooperative unions in an extremely difficult position. Among the other obstacles to full organizational recovery were the following:

- The cooperatives were expected to reestablish themselves as viable organizations without a distinct and clearly assigned role in the crop procurement process at the village level.

- Officials within the cooperative movement were frustrated by the fact that the 1982 Cooperatives Act continued to lodge vast powers of supervision and intervention in the hands of the CCM-dominated central government. The Commissioner of Cooperatives continued to have a great deal of authority over cooperative affairs including registration of primary societies, approval of budgets and, most importantly, the right to approve of the elections to cooperative boards. [At least one cooperative official insisted that, throughout the late 1980s, these powers were used quite extensively, including the power to dismiss and replace elected cooperative boards.]

- The nation's entire cooperative movement continued to be one of the five mass organizations attached to the political party through its membership in the CUT. This meant that the cooperatives were still politically subordinate to the goals of the party organization.

- Because of their heavy debts to the banking system, the cooperatives were unable to borrow funds to finance their recovery and were thus in an extremely tight cash position.

- The cooperatives also had to contend with a political environment in which anti-reform sentiment remained a factor of considerable importance.

The on-going political strength of the anti-reformist faction was well exemplified in 1987 when the Ministry of Local Government and Cooperatives took over the functions of the cooperative division from the Prime Minister's office. The Minister, Kingunge Ngombale-Mwiru, was generally considered one of the party's staunchest socialist ideologues and a leader among the anti-reformers. His authority as Minister was consistently used to frustrate the rebuilding of the cooperative organizations.

1988-1994

Although the intentions of the Cooperatives Act of 1982 had appeared to be frustrated by the political strength of the anti-reformist group within the government, it did have one important effect: in enabling the cooperative unions to become legally registered, it effectively created an important interest group for further reform. As a result, the politics of cooperative reform in the early 1990s differed substantially from the politics of cooperative reform in the early 1980s. The most important difference was that the reformist element was strengthened by the direct airing of views from cooperative officials. Indeed, according to one informant, the initiative for further cooperative reforms came from within the cooperative movement.

The principal concerns of the regional cooperative unions were a separation of the cooperative movement from the party and an open path toward the full restoration of primary cooperative societies.

After still another study commission to consider the needs of the cooperative movement, the Tanzanian Parliament passed the Cooperative Societies Act of 1991. This Act gave the cooperative societies autonomy from the CCM. One of the most striking features of the 1991 law was that it left the party apparatus in an anomalous position. There was still a Cooperative Union of Tanzania as an apex organization of cooperatives. To resolve the anomaly, the CCM in 1992 amended its constitution to omit cooperatives as a mass organization attached to the party. Under a multi-party system, there would be no place for an apex organization whose function was to join the nation's cooperatives together under a dominant single party. This left the CUT in the position of being an apex organization without a function. In early 1993, the government decided to dissolve the CUT: this organization, which for sixteen years had been the arch symbol of the government's implacable opposition to independent cooperatives, was put under trusteeship pending the formation of an independent National Federation of Cooperatives.

1994-1995

The dissolution of the CUT symbolizes how far Tanzania has now come in its efforts to restore the cooperative movement. There is every reason for optimism. Cooperative officials report a dramatic change in the political atmosphere from that which prevailed in the early 1980s.

This is best exemplified in the attitude of some officials toward the Cooperative Societies Act of 1991. Even though this act gives the Commissioner of Cooperatives many of the same powers that were conferred in the Cooperatives Act of 1982 (e.g., approval of cooperative society budgets, registration of new primary cooperative societies, approval of changes in cooperative by-laws) there is a widespread conviction that these powers will no longer be used in anything other than a pro forma manner. Indeed, one longstanding member and former general manager of a major cooperative society insisted that the government's powers over cooperative societies could now be regarded as a beneficial plus: they might help prevent reemergence of the very real organizational problems which plagued cooperative organizations in the 1960s and which eventually provided the justification for governmental intervention.

To recover fully, the struggling cooperative movement must overcome three difficulties; two immediate and real and one potential. The first of these is the debt burden the cooperatives have inherited from the era of governmental controls. The cooperative societies are in desperately need of physical assets to conduct even the most basic activities. When they were first restored in 1983, there were almost no physical facilities available except the hollowed-out shells of decrepit buildings. Some, in the more prosperous regions, have managed to acquire office equipment, furniture and rolling stock. For most, the process of doing so is much slower.

Borrowing from the members for these purposes appears to be unavailable as a solution. Many farmers are reported to feel quite properly that they and earlier generations of farmers have already contributed the funds that built up the cooperative facilities and should not be expected to do so again. This sentiment may be compounded by the sense of mistrust that was created in the years following the dissolution of cooperatives in 1976.

Borrowing from the banking system is also an unacceptable option. Because commercial interest rates presently average about 35%, borrowing for physical equipment would only make the debt overhang even more intolerable. As matters presently stand, these interest rates are causing the debt levels of the cooperatives to grow at a prodigious rate.

Practically all of our informants agreed that bankruptcy was also out of the question as remedy for the cooperatives' debts because it might place in jeopardy the few physical assets the cooperatives have remaining. Psychologically, however meager these assets might be, they represent the hard attained investments of earlier generations of cooperative members.

The positive aspect of the cooperatives' debt problem is that both government and the cooperatives seem committed to solving it. The government has agreed in principle to debt forgiveness for debts it caused through the dissolution of the cooperatives and inappropriate liquidation of their assets in the late 1970s. It remains to devise the methods and principles that will differentiate government-induced debt from debt caused by the poor management of the cooperatives themselves and to go through the exercise, on a cooperative by cooperative

basis, of sorting out which debts must be absorbed by the government and which should remain the responsibility of the cooperative organizations.

The second and most daunting difficulty may well lie in the psychological realm, the task of restoring the confidence of peasant villagers in their cooperative societies. Large numbers of cooperative members continue to feel betrayed and vulnerable because of the way their properties were confiscated and stolen during the 1970s and there is a reluctance to become too trustful again. One of our most knowledgeable informants referred to this issue as the "web of trust" problem and indicated his conviction that since the "web of trust" had been broken, it would be enormously time consuming to restore.

The third and potential difficulty has to do with an additional phase of crop marketing in the cash crop areas scheduled to take effect in the traditional export crop areas during April 1994. At that time, licensed buyers will be allowed for the first time to purchase the traditional exports from individual producers. That is, individual farmers will not longer be required to market their crops through the vertical ladder of institutions that begins with the primary society, extends through the cooperative union and ends with the state marketing authority.

Some traditional cooperators have asserted that this will only serve to undermine the financial base of the primary cooperative societies and cooperative unions at the very moment they are struggling to regain their economic equilibrium. The reasoning underlying this fear is that individual farmers are cash needy and, as a result, will always be tempted to sell their crops for a lower amount of cash-in-hand than they would receive if they were patient enough to wait out the time-consuming multi-payment process of the parastatal crop authorities.[8] If farmers should choose to sell their crops in this manner, the fees available to the primary societies would drop measurably. One informant also suggested that once the primary cooperative had failed, farmers would have no recourse but to sell to the traders who could then take advantage of their exclusive position in the marketplace.

This sort of liberalization has already taken place in the food crop areas and seems not to have been the major factor accounting for the slow recovery of the primary cooperative societies in those areas. As might have been expected, the farmers have proven to be rational managers of economic risk. One informant reported that maize farmers have learned to split their marketed produce between private buyers and primary cooperative societies to optimize their income and security. Farmers in the cash crop areas can be expected to behave in the same manner.

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[8] Generally speaking, farmers receive a down payment on the final price at the time of delivery to the primary cooperative society. They then typically receive two or three additional payments including a final payment after the crop has been marketed. This payment system has proven very controversial because it is often as much as a year and a half to two years between the first and final payments.

In the end then, the further liberalization of crop marketing can only work to the advantage of the individual farmer. It will offer individual farmers alternative outlets for their marketed produce and force a healthy competition between private traders and primary cooperative societies.

Cooperatives and Civil Society

The one unambiguous conclusion that can be drawn from the entire foregoing narrative is that cooperative societies are a natural and vital part of Tanzanian civil society. Their remarkable recuperation after approximately twenty years (1967-1987) of intense governmental repression is testimony to their unique identity as spontaneous forms of peasant economic organization. That these organizations can also be highly political in identifying and asserting peasant rights is demonstrated by their role during the early 1970s as centers of peasant resistance to the unwanted collectivization program of the CCM and government. There is every reason to believe that under a multi-party system in which rival party organizations must compete for the peasant vote, the cooperative societies will become more important in the expression of rural politico-economic interests.

Farmer Politics

On the whole, Tanzania's farmers have gained from the process of liberalization. While there are obviously considerable differences among farmers with variations by region, principal crop (or crop palette), recent climate and, most importantly, by gender, the overall rural economic environment has improved since the early 1980s. The evidence of this generalization is palpable. Part of the change is simply release from an oppressive policy: farmers are no longer being badgered into communal villages they fear and mistrust. And, to the extent that crop marketing has been liberalized, they are no longer the helpless victims of inefficient, exploitative and corrupt state monopolies.

The evidence of improvement is everywhere to be seen. There is massive rehabilitation of the country's sisal plantations, for example. Food shortages due to drought in some regions of the country (Arusha-Moshi) are being handled with grain surpluses produced in non-drought regions rather than through massive food aid. Tanzania's major cities are well supplied with a variety of food crops from the rural areas and urban consumer need no longer pay risk prices in informal markets. Today, the stores in rural towns that cater to farming populations and the "dukas" in rural villages are well stocked with a variety of consumer goods, an unfailing barometer of rising purchasing power among rural residents.

To understand this changed reality, it is essential to understand what Tanzania had become during the period of the party-state system. Beneath the veneer of socialism propounded by the president, Tanzania became during the 1960s and 1970s a classic but extreme form of import-substituting economy. The formula was simple and commonplace during that period: industrialize by creating a series of local industries to produce consumer goods. To finance these industries, heavy taxes would need to be imposed on the rural sector. The previous

Tanzanian economic system was a single one: beggar the farmer to subsidize the industrial worker and manager.

It is against that background that the gains to farmers during the years of liberalization must be viewed. The improvements in farmers lives include the following.

- Devaluation has resulted in improved TSh prices for exportable agricultural commodities. These can be expected to be passed on to farmers more fully with the liberalization of export crop marketing in April 1994. Devaluation raises the prices of imported grains, thereby providing better protection for cereals producers.

- Liberalization of grain marketing and the virtual elimination of the National Milling Corporation (NMC) as a procurement agency has freed cereals farmers to choose between alternate marketing systems for their produce, private traders or primary cooperative societies.

- Improvement in the flow of consumer goods which, as imports and because they are in abundance, effectively remove the quality and scarcity tax of the domestic items.

- Fewer bribes. Because farmers are no longer required to sell to state monopolies, there is less of an economic hemorrhage to the purchasing officers at the parastatal buying stations. With the removal of the ban on inter-district trade, farmers no longer have to pay bribes to move goods to other districts.

- Restoration of voluntary democratic cooperatives. Farmers are now free to rebuild primary cooperative societies whose leaders are democratically elected and cooperative unions. Over time and with further rebuilding, these can be expected to make an on-going contribution to farmer welfare.

Lest the position of farmers be viewed in entirely optimistic terms, certain cautionary notes are necessary. Undoubtedly, for example, these improved realities are seeping through to various regions and through different cropping systems at uneven rates of time. As this is an early phase of Tanzania's transition toward multi-partyism, it is also to be expected that, in the farming sector as in others, the CCM government is seeking ways to maintain aspects of the old system of control in newly adapted forms.

The gains have been uneven over time. The full liberalization of grain marketing, for example, preceded the liberalization of export crop marketing by several years. The National Milling Corporation (NMC), once the major symbol of an inefficient state procurement monopoly was, several years ago, reduced to the status of building a strategic grain reserve. This reform has been beneficial to women in the rural areas since women generally have primary responsibility for the production and marketing of food crops.

The government has not yet liberalized the marketing of certain traditional exports such as coffee and tea, but important changes are imminent. As of April 1994, however, the government will license private companies to purchase these crops directly from individual farmers and/or primary cooperatives. This will create a much freer economic environment in which farmers of these crops have the option of selling individually or through the primary cooperative and will, in turn give primacy cooperatives the option of selling through the established parastatals or to private buyers.

Liberalization of the cash crop system, however, cannot be expected to benefit women farmers as much as liberalization of cereals production and may accentuate gender inequality in the cash crop areas. Men have traditionally controlled cash crop production and this feature of Tanzanian rural society will not be greatly affected by liberalization of the marketing system.

In addition, economic liberalization is said, in certain respects, to have affected farmers negatively. It has increased some prices that farmers must pay, for example, especially the prices of imported inputs including fertilizers and pesticides. We heard less about this, however, than we heard about the health problems of farmers who are inexperienced and untrained in the use of chemical inputs and who use them in ways that are injurious to health, suggesting that these are more available than they were in the past.

Liberalization is also said to have exposed farmers to greater price fluctuations than in the past. However, price fluctuations around an improved price are an improvement over steady prices at an artificially low level.

Farmer Lobbying?

The historic tradition of farmer activism in Tanzania is one of protest against sharply adverse policies: farmers tend become politically mobilized when there is occasion to oppose some policy that seriously threatens economic survival or a way of life. This was so during the colonial period (the "Maji Maji" rebellion, protest against forced cotton cultivation.) and it was true during the independence period (resistance to villagization). Farmers want high producer prices, low input and consumer goods prices and low taxes. They also want freedom from intervention except when intervention provides a measure of economic protection, as against traders or transporters.

Tanzania's farmers, like other African farmers, have often been described as economically "risk averse." That description is probably inaccurate or at least inadequate. Most farmers in fact appear to pursue mixed strategies by cultivating some low-risk, low-value crops (drought resistant crops such as sorghum and millet), some medium-value but more risky crops (the preferred grains which require some imported inputs and are more vulnerable to drought) and, where possible, some high-value cash crops.

The concept of risk aversion may be more valuable as a description of farmers' political strategies. Absent the sort of acute threat that has provoked protest in the past, farmer are unlikely to become intensely mobilized over political issues. Thus, open support for opposition parties or leaders at the present time would appear to farmers (as to business) as a risky strategy. Opposition parties seem to have very little chance of winning and, therefore, of being in a position to help, but a constituency or district that supports the opposition runs the risk of political reprisal. Therefore the apparently non-political or a-political posture of most farmers. What is really happening, of course, is that farmers are holding their own counsel. It is to be expected that this overtly non-political posture will continue to characterize Tanzania's farming population so long as it is doing well economically.

The one present issue that has the potential to arouse the rural population and to mobilize it politically is the question of unresolved land rights, especially the rights of newly settled populations (last twenty years) as against traditional rights holders (several generations deep). This issue has already surfaced in a number of court cases, in widespread press coverage and in the report of the [Issa] Shivji Land Commission.

The legal question can be briefly stated as follows. During the period of intensive collective villagization, from 1967 to 1974, the Tanzanian government moved more than 2 million people from their traditional areas to locations traditionally owned by others. Some of those who were moved have sought to drift back to their traditional areas. Many others have not and have occupied their present farms for more than twenty years. Today, many traditional rights holders are seeking to regain their original lands. Whose rights have legal precedence? The new settlers who were often moved against their will but have now occupied their farms for almost a generation? Traditional rights holders whose families had held the land since time immemorial?

It is clear that this question has the potential to galvanize the deepest and most intense emotions and could easily mobilize a large segment of the rural population. But it is not clear how the land question will play out politically. Thus far, the political parties have been silent on the question of whose rights should prevail, surrendering the question almost entirely to the courts, the press and the CCM-dominated National Assembly. If the issue is politicized, it could bitterly divide Tanzania's rural population.

III.B.3. LABOR

After playing a vital role in the struggle for independence and in the formation of TANU in the 1950s, organized labor in Tanzania has been dominated by the one-party state since 1964, and has been allowed no autonomous role as an actor in civil society. This situation is just beginning to change with the political openings afforded by multi-partyism.

In the pre-independence period, the Tanzanian trade union movement, under the leadership of the Tanganyikan Federation of Labor (TFL), was unparalleled in East Africa in terms of the percent of union members in the formal wage sector (Mushi, 1992). In the early 1950s,

TANU, the Tanganyikan African National Union, building from the base of the old Tanganyika African Association, became a political movement largely composed of teachers, clerks and civil servants, and added support from farmer cooperatives and the TFL. From 1958 to the early 1960s, TFL officials sat on TANU's executive council (Kasilati, 1994:65). In 1964, following the attempted army mutiny, the TANU government ended all formal autonomy of the TFL, forcing its member unions into NUTA (National Union of Tanganyika Workers, as per the terms of the Trade Union Ordinance Act of 1962 (Kapinga,1985:87-106). Together with NUTA, the Association of Tanzanian Employers was created, and both NUTA and ATE were bound to follow a set of industrial relations laws, including the Civil Service (Negotiating Machinery) Act of 1962, the Trade Disputes (Settlement) Act of 1962, and eventually the Permanent Labor Tribunal Act of 1967. Together these laws severely limited the right to strike. Coupled with the infamous Preventive Detention Act of 1962, which empowered the President to order the detention of "any person..conducting himself in a manner prejudicial to the state," these laws made any attempt to assert union autonomy positively dangerous. The first people to be prosecuted under the Preventive Detention Act were TFL union leaders.

Under these laws, it was envisioned that labor would file grievances which would be heard by the Industrial Court on referral by the Minister of Labor. The laws required labor to follow this procedure for all disputes, and to use these means to arrive at "voluntary agreements." Should a voluntary agreement prove impossible, the government could invoke statutory compulsory arbitration and conciliation to be handled by the Labor Commissioner, a Presidential appointee. This system, while limiting labor's ability to strike, committed the government to nothing. Under it, the Labor Commissioner would make recommendations to the Minister of Labor. The Minister in turn would make a decision on any issue referred to him, and this decision was final and not subject to appeal in any court. The only additional possible step was to refer the decision to the President, whose ultimate decision would also be final. Aggrieved parties subsequently filed court cases seeking a writ of <u>certiorari and mandamus</u>, arguing that procedures employed constituted a "breach of rules of natural justice." These cases, however, failed since the Tanzanian High Court found that the Minister of Labor was neither bound to follow the rules of "natural justice," nor even, in effect, rules of procedure laid down in the act (Kinemo, 1991:267-285).

In 1977 the destruction of an autonomous organized labor movement was completed with the passage of the new Constitution of the Union which declared labor to be a mass organ of the party-state. Two years later the 1979 Labor Act created JUWATA (Jumuiya ya Wafanyakazi Tanzania), formally replacing NUTA with a official party organ which was declared to be the sole union for all workers in enterprises employing over 20 workers. Employers were authorized to deduct JUWATA dues directly from the pay of their workers.

It is difficult to imagine a less favorable legal environment for exercising the rights of labor. As a consequence, labor in Tanzania had one of the least militant records in all of Africa of engaging in strikes during the 1970s and 1980s (Kraus, 1988). These rules and "procedures"

remain on the books and were invoked in the build-up to the threatened OTTU strike of March 1, 1994 (Daily News, February 25, 1994:1).

Meanwhile, the condition of workers in organized labor, including the Civil Service deteriorated dramatically. Between 1969 and 1990 the average wage in Tanzania fell by about 90% per cent in real terms, one of the sharpest drops in Africa (Kasilati,1994:53; Mukandala,1994:29). While the drop cannot be attributed entirely to labor's non-existent bargaining position, that must certainly have played a role, and it continues to structure the current labor debate over wage levels. In Tanzania today it is generally acknowledged that on average the formal wages of workers, including civil servants, cover between twenty-five percent and thirty-three percent of the minimum income required to sustain a family of four, with the minimum wage sufficient to cover less than 18% of a worker's living requirements (Daily News, 2/26/1994, p.3; Mukandala,1994:32-33). Allowances constitute an important supplement to this wage level, but virtually every government employee is forced to earn the bulk of his or her income from supplemental and often informal economic activities. In addition, employment security has been seriously threatened as the government of Tanzania has reduced the number of civil servants and workers in the para-statal sector in response to structural adjustment and its budgetary constraints. It was expected that at least 50,000 additional government workers would be laid off in 1993-94.

In December 1991, prior to the official recognition of legal multi-partyism, JUWATA was, in turn, replaced by OTTU (The Organization of Tanzania Trade Unions). OTTU was given the right to be the sole association of unions representing workers in Tanzania. Apart from the fact that OTTU was formally no longer a party organ, nothing else changed. Since OTTU was created without consultation with its constituent unions, and its officers were selected with no worker mandate, many consider OTTU to merely represent the continuity of CCM dominance over labor. Under the 1991 law, all unions must affiliate with OTTU and must be registered. Registration for all unions is subject to cancellation by the Ministry of Labor if unions violate the provisions of the OTTU act. A member of CCM's National Executive Committee, Bruno Mpangala, was named to head the new union with no vote of "membership."

In the light of this extremely unpromising legal and economic environment, it is hardly surprising that labor has played almost no role in Tanzania's political liberalization. What is noteworthy are the rumblings of possible changes in this situation, and the potential for labor to emerge as a significant interest group. As in other areas, members of JUWATA began to push for autonomy from the party as early as 1984 (Kasilati, 1994:65). While these efforts were rebuffed, they resurfaced in the early 1990s with the official separation of OTTU and CCM. Two developments have proven worthy of observation. First, OTTU leadership, despite its compromised character, has made some effort to confront the government on salary issues. Second, and perhaps more interesting, several groups of workers have been encouraged by political liberalization to challenge OTTU's monopoly over collective bargaining. Both developments are as yet embryonic, with far from promising short-term outcomes, yet organized labor in Tanzania must be considered to be at least a potentially

potent interest group, given that as of 1988/89 it still remained the second most unionized formal wage sector in Africa (with 58% of all formal wage earners).

Following broken promises in May, 1993 by the government that it would improve the minimum wage for civil servants, OTTU leadership called a country-wide general strike asking that workers from the private sector join. Predictably, the government threatened to fire any worker joining and strike, and given the dearth of alternative employment opportunities the strike fizzled (Daily News, 3/2/94:4).[9] What is interesting, however, are the arguments which the CCM-appointed OTTU official employed to explain his union's decision to strike. Not only did he point to the very low, and falling level of real wages for civil servants, but he linked the Mwinyi government's supposed inability to provide salary increases to its laxity and possible corruption in collecting tax revenues and in recovering loans from "private sector business." With these revenues, he argued, salary increases could easily be afforded (Daily News, 2/26/94:3).

On the other hand, there is serious reason to doubt the independence of OTTU and its leadership. For example, OTTU's head, Bruno Mpangala, issued a statement congratulating CCM for its victories in the three recent by-elections on the day following its victory in Kigoma on February 13. This nominally independent labor leader declared that his union believes that CCM will stand firm in protecting the interest of workers and the nation in general (Sunday News ,2/20/94:4). While OTTU leadership has formally stated that it will cooperate with any political party "whose policies are directed toward furtherance of workers' interests," thus far it has identified its interests only with CCM (Kasilati, 1994:65).

Perhaps more significant are the struggles by workers in one sector, education, to assert the independence of their labor union from OTTU, challenging the very legitimacy of the OTTU Act. In 1986 teachers had demanded the right to form an autonomous professional association. The response of government was to establish an association considered to be a creature of the Ministry of Education. But, as liberalization proceeded, the teachers found it normal to attempt to turn their association into a trade union, and began to involve international teachers' associations in their struggle (notably Swedish and Canadian Teachers unions). In response, the government agreed to the formation of the CCW, the Tanzanian Teacher's Union, but only if the teachers agreed to follow procedures outlined by OTTU for the definition of eligible members, and for holding elections of its officers at all levels. In the meantime, teachers from Dar es Salaam held meetings in November 1993 to form a union, and to take strike action.

The government responded by detaining a number of leaders. In January, 1994 it dismissed at least 150 teachers from three secondary schools in Dar es Salaam, replacing them with student teachers (The Express, 1/30-2/2/94:1). In early February a number of leaders of this

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[9] The story, however, reports considerable participation in the strike in the Mbeye area where a number of public services came to a halt.

nascent union were arrested, according to the acting Chair of the Commission for establishing the CCW, Dr. Mmari, not for striking, but for illegal assembly and association. The Dar teachers then formed a special committee to organize and coordinate a nation-wide boycott by teachers to protest the arrest of their leaders and engaged an advocate from the Faculty of Law at the University of Dar es Salaam to represent them. The case is still pending. This episode, however reveals both the rise of labor demands for autonomy and the continued repression of these efforts by the government, using unconstitutional means, to maintain its control over labor. It is interesting to note that in a parallel, but much less publicized act, faculty at the University of Dar es Salaam declared that they would not agree to place their union, UDASA, under OTTU as demanded in the 1991. They seem somewhat better protected from direct repression for the moment.

While elements of labor are just beginning to test their scope for autonomy, workers as an economic category do not seem to be becoming politicized by the opening to multi-partyism. One study of workers and ex-workers in ten parastatal industrial firms revealed that fully 45 percent reported that they had "changed their political orientation since the legalization of multi-partyism." Two-thirds of those who responded indicated that they had quit CCM and joined no other party, while the other third indicated that they had either joined a party for the first time or switched from CCM to an opposition party (Mukandala,1994:74). Considering the history of labor's relations with the CCM government, it may appear difficult to explain why workers have not identified with opposition parties. These findings are consistent with our analysis that a major impact of political liberalization has been to free individuals from the necessity to belong to parties, and reflects a deep alienation from the political system.

II.B.4. LAW ASSOCIATIONS, LEGAL AID AND HUMAN RIGHTS GROUPS

A transition to democracy puts an extra burden on law associations and lawyers to bring test cases and to educate people in the new rules. In Tanzania where some of the lawyers are also questioning the constitutionality of the government's transition measures and the government's commitment to constitutional limits and the rule of law, the burden is even greater. The opening up of civil society in Tanzania has also increased the opportunities to carry out activities to meet ongoing needs: legal aid counselling, taking on legal aid and public interest cases, legal literacy programs, particularly on women's rights, and human rights activities.

The legal profession's involvement in the political arena broadly defined, both in terms of test cases and the debate on constitutional limits, began when the 1984 Bill of Rights became justiciable in 1988. Before then, lawyers had to be apolitical in order to practice: they could not form firms and their business licenses to practice as private lawyers could be withdrawn arbitrarily. The government stopped revoking licenses around 1985; it took some years for lawyers to develop the confidence to begin forming firms and legal aid groups. However, many of the organizations are less than three years old, are small and are subject to

variations in level of activities depending on leadership and funding. As a whole, the amount of activity is clearly expanding, by both individuals and groups.

Lawyers in Tanzania, individually and through their associations, represent, after the private press, the greatest force in civil society for shaping the rules of the democratic transition. The lawyers have used their meetings and seminars over the last three years to define the issues of debate within the legal community and with the government: the questionable legitimacy of the government's transition steps so far; the government's preservation and use of laws that violate the current constitution and generally accepted human and civil rights; and the principles that should guide multi-party democracy in Tanzania.

As well as debating, lawyers are testing their points in the courts. They are handicapped by the following factors: 1) the government's failure since 1984 to amend legislation to bring it into conformity with the Bill of Rights, forcing the change process into the courts; 2) the slowness with which cases are tried, which increases the expense of bringing pro bono and test cases; 3) the slowness with which decisions and new legislation are disseminated; 4) their virtual exclusion from lobbying Parliament on proposed legislation because of the difficulty of obtaining draft legislation before it is debated; 5) the lack of funding for test cases and legal aid, which limits the number of cases brought to court.

Using the courts to pressure the government tends to remove the policy debate from the mass level to the arcane reaches of legal argument. The lawyers are participating in shaping issues of national importance; it is not clear how well the private press, which does cover their efforts, succeeds in communicating the importance and urgency of their work to ordinary people, particularly since the one-party political culture did not stress the centrality of constitutional questions in a democracy. It is also not clear whether the donors try to follow the intricacies of some of the debates, although many of the points made about where to limit government power in a multi-party democracy and which laws violate commonly accepted principles of human rights should be readily intelligible, particularly to citizens of established democracies.

What is striking about the debate in Tanzania is its reasonableness and consistency in seeing the defects in the existing system and recommending the generally accepted democratic remedies. Particularly in seeing where presidential powers are inconsistent with democratic principles and which laws are inconsistent with the Bill of Rights, the arguments made by leading lawyers in Tanzania are more outspoken about democracy and governance than in Zambia or Ghana, both of which have similar problems with their new constitutions. An outside observer might worry about some additional issues, but there doesn't seem to be much extremism in the arguments presented to the government for changes along the lines of the Nyalali Commission's recommendations, and most of the lawyers presenting seminar papers seem to be roughly in agreement.

Some of the groups currently active are described below.

Tanganyika Lawyers Association (TLS)

The oldest and largest law association is the Tanganyika Law Society (TLS). It and its Zanzibari equivalent are statutory bodies. The TLS is primarily a professional association to which all practicing advocates belong, but non-practicing lawyers and non-lawyers may join. In addition to its activities related to maintaining the standards of the profession, it has long been a conduit for some legal aid cases, usually referred to it by the courts, and then assigned to individual TLS members who are private advocates. There have been, on average, about 75 such cases brought to court each year. For many years the TLS leadership was considered to be "toothless."

The TLS began playing a more activist role in 1988. At the 1988 Annual General Meeting two branches of the TLS were formed: the Tanzania Women Lawyers Association and the Northern Lawyers Association (which added a Kilimanjaro branch for lawyers in Moshi in 1993.) A new president, Bob Makani, was elected. Soon after, the decision to publish a journal for the profession was made, and the long and arduous process of registering a publication under the Newspapers Act was begun. (The first issue of The Lawyer, Tanzania came out in late 1993.) In 1991 the TLS held an important seminar on Multi-party Democracy. In April 1992 the TLS held a seminar on "Democracy and the Rule of Law during and after Mageuzi" at which it passed 26 resolutions endorsing and amplifying the recommendations of the Nyalali Commission. These resolutions are considered to be the official position of the TLS. In 1993 the TLS seminar on "The Role of Lawyers and the Press in the Democratic Process" (sponsored by USAID) resolved that Radio Tanzania should become an independent, commercialized entity, and that some of the functions of the Ministry of Information should be eliminated. It called for a national program of education in democratic rule.

There is still divided opinion among the membership whether the TLS should be a narrow professional body or active in national debates. However, at the 1994 Annual General Meeting in Arusha members voted to increase the annual fees from sh. 12,000 to sh.30,000 in order to support more activist activities. The members re-affirmed the TLS position recommending a Constitutional Commission to draft a new Constitution, followed by a Constitutional Conference to debate and adopt it. The membership of the Constitutional Conference should be drawn from a broad spectrum of civil society, not just political parties. This is viewed as a minimum requirement for a legitimate transition process.

As other legal organizations do, the TLS finds the cost of bringing legal aid cases daunting. One member indicated that the minimum cost to the individual lawyer is sh.200,000, and the slowness of the court system adds to the time and costs. Private advocates are required to take some criminal cases assigned by the High Courts which are remunerated at low government rates; while not pro bono, these cases limit the time available for pro bono work. The TLS is hoping to get some legal aid funding from the Danes, which will allow them to do more legal aid. Some of the cases will be selected in terms of their national interest.

The TLS has an advocate's committee which used to comment on draft bills before they were debated in Parliament. The government has ceased to send a copy directly to the committee, and members do not receive the Government Gazette in time to meet as a committee or to go to their Members of Parliament as individuals. (The delay in receiving the Gazette is caused by the three-to-four month delivery time for government mailings.) A complaint was made at the 1994 AGM that advocates have been marginalized; that the committee could save the government embarrassment; and that the government should resume sending a copy of its draft bills in good time to the committee.

The 1994 AGM also set up a committee to recommend a mechanism to solve one of the long-standing problems of all practicing lawyers: the lapse in publication of judges' opinions and judgements. The last volume of selected judgements was published in 1982; since then lawyers have obtained judgements only on an ad hoc and individual basis from the High Court libraries. The committee will recommend some mechanism for collecting the judgements from each of the 11 High Courts and the Court of Appeals and making them available to members.

The activities of the TLS that contribute to civil society and the democratic transition are their seminars, their magazine, their resolutions on constitutional and legal issues and their legal aid work. The TLS is the one legal organization that brings together all mainland members of the legal profession (its Zanzibari equivalent does the same). It is thus both a channel for communication within the profession and a voice at the national level. Its internal governance is well-established and democratic. When women lawyers organized to increase their representation among TLS officers, they were able to do so. Many of TLS members belong to other legal associations or do other work in bringing test cases, legal education or legal aid. The TLS is a hub organization, bringing together members engaged in many other organizations and activities, and the TLS itself is expanding its activities and engagement in the transition process.

Legal Aid Committee, University of Dar es Salaam

The Legal Aid Committee of the Law Faculty of the University of Dar es Salaam began in 1967 after a struggle to get approval from the University. It is shielded from government or University pressure by its structure, which makes it accountable only to the Law Faculty Board. The Committee is made up of about a dozen members of the Law Faculty. New members are suggested by the existing Committee members and appointed by the Board. Students who are interested in volunteering may help with the legal aid clinics and with case preparation. The committee decides as a whole which cases it will bring to litigation. Other cases may be referred to lawyers with appropriate experience. Most of the Committee's cases help poor individuals; some are of national interest. The Committee's current fields of interest are labor law, matrimonial law, land appropriation, probate administration, landlord-tenant law and human rights cases. Human rights cases have involved deportation, right to bail and rights of women and children.

Since the late 1980's the Committee's cases have helped to meet the need to bring Tanzania's laws into conformity with the Bill of Rights. The government was given 3 years (1985-1987) to revise the laws but failed to do so. In general, the Committee has found the judiciary receptive to its efforts; there is agreement in both parts of the legal profession that it is necessary to nullify or reinterpret a number of laws, particularly those that violate the Constitution.

One particular sequence of cases illustrates what the effort of bringing test cases accomplishes in the current state of uneven adherence to rule of law. The Committee through two test cases has established the legal procedure for expelling university students. In spite of the establishment of legal requirements, when the President expelled students in 1992 for their ultimatum letter, the proper procedure was not followed. However, the government did not pursue the case; the university authorities quietly re-examined the circumstances in light of the legal procedure, and allowed most of the students back.

The activities of the Committee have varied over the years depending on funding and changing energy levels and priorities of members. Its core activities, legal aid and litigating test cases, have continuously been undertaken. In addition, members have at times held legal literacy seminars for mid-level government officials. They were also organizing legal literacy campaigns in rural areas on a fairly large scale. These were workshops conducted in Swahili on the meaning of a rule of law and education on land, inheritance and labor laws, accompanied by free literature in Swahili. The campaigns were conducted during university vacations; the donor funding for them has now ceased. Funding has also ceased for a publication, Haki (Justice). The Committee used to produce a column for the Daily News and Uhuru and broadcasts for Radio Tanzania, but the arrangement was ended by the Committee because the editors were occasionally allowing the column to be filled with articles by lawyers who were not members of the Committee. Individual members of the Committee are writing newspaper articles, and seminar papers and participating in other legal groups. The Committee has material it would like to publish and is drafting proposals to resume holding rural legal literacy campaigns and publishing legal literacy literature.

Since they operate as a group of faculty members contributing their time and expertise, their core activities are not dependent on external funding, although they are not without some transport and subsistence costs. The legal aid clinic is held once a week in town. Committee members take turns to attend, give legal counsel and make referrals. A few cases will be selected as public interest cases for the Committee to litigate.

Kilimanjaro Women's Information Exchange and Consultancy Group (KWIECO) Legal Committee

KWIECO is a Moshi-based NGO, organized in 1987, and primarily a professional women's group, although its membership is open to all local women. Its main activities, organized by committees, are legal education and counselling, health education, and assistance in economic

self-reliance. It reaches women throughout the Kilimanjaro region through networking with other women's groups.

Members of the KWIECO legal committee include two private advocates, several magistrates and several non-lawyers. The committee draws up an annual program; the main focus for several years has been women's legal education. Committee members speak frequently to local women's groups on women's legal rights and hold weekly legal aid clinics. Like all other private women advocates, the two in Moshi are overwhelmed with pro bono cases - they are committed to litigating ten each in 1994.

In 1993 the committee received funding (from HIVOS) to hold two-day seminars in each of the five Kilimanjaro districts. From their previous work they had identified inheritance, family and land law as the most important areas of law to women, and the seminars aimed to sensitize women to their rights in these areas. Through other women's groups they identified women leaders of rural communities and invited them to the seminars. Expecting 15 to attend each seminar, they were surprised by the response and had to cut off attendance at 25. One result of the seminars was a large increase in their legal aid casework, as a significant percentage of the women, once they realized what their rights were and that they now knew someone to turn to, wanted help with their legal problems, which the advocates felt unable to refuse.

The seminars for 1994 constitute the next leg of their program: sensitization for a new group of women and men, since it is important for men to know what women's legal rights are. For the 1993 group of women, more training will help them to help others, and the committee will be able to hold legal aid camps. They have funding again for the seminars, but not for the legal aid work.

The Member of Parliament for a near-by constituency wants them to run a similar seminar series in his area; they have promised that they will do so when he gets funding.

KWIECO as a whole networks extensively with the local church women's groups, and the legal committee members have a number of ties with local and national law, women's and human rights organizations.

Welfare Through Law

Welfare Through Law was registered in 1990. It has a board of seven, many volunteers, and a number of activities to help women, poor people and the handicapped, working with a number of organizations including the Salvation Army and the Tanzania Media Women's Association (TAMWA). It is largely funded through local contributions, but has organized several donor-funded seminars.

Welfare Through Law litigates the cases referred to it by TAMWA's women's crisis center. In 1993 lawyers associated with WTL litigated about 30 cases, paying all costs including the

taxi-fares of plaintiffs and witnesses from their own pockets. The cases predominantly concerned violence against women, alimony, child custody, sexual abuse and incest.

Human Rights Monitoring Group (HURIMOG)

Started in 1993 and still in its initial stages, HURIMOG has about 15 members, mostly Arusha-based lawyers, although its membership is open to all and it hopes to become a national organization. It intends to undertake training for election monitoring, but the main function will be human rights monitoring. They represented citizens in two constitutional test cases against the government last year, both of which are now in the Court of Appeals.

Since Tanzania was not part of the international human rights network for many years they are now re-establishing links with such organizations as IRI, the RFK Foundation, the International Commission of Jurists and, particularly, Amnesty International. They do not see the need for links to the Tanganyika Law Society or to the Legal Aid Committee. The Chairman, Ben Lobulu, is a member of the National Electoral Commission.

The point at which they, as advocates barred from appearing in magistrates' courts, can take up a human rights case has always been when the case reached the High Courts. A recent Court of Appeal ruling that allows District and Resident Magistrates to refer human rights cases directly to the High Courts for decisions has not yet been used but will allow human rights cases to be brought to the High Courts faster.

Again, they make the point that there are an enormous number of cases to be brought in order to establish the supremacy of the Bill of Rights and that the lawyers willing to take pro bono cases are flooded with demands.

Human Rights Center - University of Dar es Salaam

After a hard struggle for permission to establish itself, the Human Rights Center received approval in April 1993. It has office space at the Law Faculty. The first activity is to build a database. Requests for human rights literature have brought in materials from the British Council, the Raoul Wallenberg Institute in Sweden, UN documents and EEC cases on disk. Their equipment consists of one small computer.

Tanganyika Women Lawyers Association (TWLA)

The TWLA is a branch of the Tanganyika Law Society, started in 1988 with 78 members. It has been successful in ensuring that women are represented in the TLS leadership and committees. It now has 100 members but is operating only as a loose network of women in the legal profession. There is a 10-member council elected by the members, but the last annual meeting was held in 1989. There is an informal legal aid system: women go to the YWCA in Dar es Salaam and are given the addresses of TWLA volunteers. Members counsel or refer women seeking advice to other members with the appropriate experience or

holding relevant jobs in the judicial system. One attempt to undertake legal aid litigation failed because the two volunteers were quickly overwhelmed and could not afford the time or money to litigate cases.

Other Groups

There are a number of other groups working on legal aid and human rights activities, including the Tanganyika Legal Aid Society in Dodoma and the UWT legal aid clinic. Church seminars are an important venue for women to learn about their legal rights. These are regular events for women at the parish, district and diocesan level held by at least the Lutheran, Roman Catholic and Anglican churches. They often bring in outside experts to speak, including women law professionals. One result may be that women are learning more about their legal rights than men are.

The Lutheran church sees its mission to include voter education. One of its planned activities is to distribute cartoons with voter education messages before the 1995 elections, and to produce literature that combines adult literacy and civic education by mixing serious information with entertaining reading.

The Political Science Department at the University of Dar-es-Salaam is carrying a civic education project, "Education for Democracy in Tanzania", whose components include 1) research on the transition; 2) seminars for all political parties in 1993 and June 1994; 3) a political culture survey funded primarily by DANIDA, with a baseline study of 5,000 people in all regions; 4) help to the Ministry of Education to develop new civics materials, and help schools organize democracy groups; 5) working with the National Electoral Commission on civic education for the police, military and civil servants. Voter and civic education activities have been mentioned as important activities by a number of other groups, as the section on NGOs discusses.

III.B.5. INDIGENOUS NON-GOVERNMENTAL ORGANIZATIONS

Since 1985 the number of independent indigenous NGOs has grown exponentially, in part due to efforts to respond to new needs brought on by economic crisis and austerity measures tied to structural adjustment programs. Also, they have emerged because people needed to find institutions to provide services the state no longer could provide. In addition, people were ready to take advantage of the new political openness that has come with the creation of a multiparty system. Yet another factor giving rise to new associations has been a shift in donor funding strategies away from the public sector towards non-governmental actors. By 1993 there were 224 registered international and national NGOs with 62% of them formed between 1983 and 1993 (Kiondo 1993, 170).

These developments in the NGO sector were also part of an attitudinal shift. As one leader of the Tanzania Media Women's Association (TAMWA) put it, "What changed was psychological ... Years of paternalistic state-led development had led to a prevalent attitude

that if you want educational facilities, you wait for the government. If you want health services, you wait for the government. And then when that did not come, you blame the government." She continued, "Economic crisis and political decontrol was what forced people into action in terms of income-generation and in terms of real self-help efforts."

Changing Forms of Association: The Struggle for Autonomy

The growth of these new NGOs has given rise to several important networking and umbrella organizations that had not existed before. One of these umbrella organizations is the Tanzania Association of Non-Governmental Organizations (TANGO), which was formed by women's organizations after the 1985 Nairobi conference marking the end of the UN Decade of Women. The NGO Forum at that conference inspired many women to think of starting new organizations and of linking these groups in an umbrella organization. Although begun by women's groups, TANGO is an umbrella organization for all NGOs. At the time it was formally registered in 1988 it was made up of 20 associations; today it comprises over 140 associations, 30 of which are women's associations.

Women's organizations have also networked through organizations like Tanzania Gender Networking Programme (TGNP), which brought dozens of groups together to prepare for an East African Women's Conference held in Kampala in June 1993. They have helped coordinate activities, develop joint strategies around legal reform, structural adjustment, and a proposed Equal Opportunities Act to mention only a few of their concerns. Another regional networking organizations is the Kilimanjaro Women's Information Exchange and Consultancy Group (KWIECO), which is an association of professional women in Moshi that brings women's groups together to discuss women's legal rights, health issues and economic activities.

While all other forms of NGOs expanded in number in the late 1980s, the quasi-governmental organizations did not (Kiondo 1993, 170). In some cases, however, semi-autonomous associations successfully extricated themselves from their links to government and were able to reestablish themselves as independent and viable associations on their own. One case in point is the Tanzania Home Economics Association, which not only cut its financial ties to the Ministry of Education, but strengthened its ties to the rural groups under its wing and dramatically increased the number of organizations it coordinated. Moreover, it charted a new course of activities that diverged radically from its previous emphasis on domestic skills, linking its activities in health, nutrition and family life to women's rights, women's economic and political empowerment, even raising issues of women's leadership in the context of multipartyism.

Other associations have been less successful in delinking from the state and CCM. Many of the leaders of the women's union *Umoja wa Wanawake* (UWT), have wanted to make the organization an NGO, but have met with resistance from the CCM, which wants to keep the association tied to the Party for political purposes, since women make up 51% of the electorate. The UWT has over the years lost credibility in many parts of the country. Its

activities have dwindled as CCM financial support has diminished, yet it has come to rely almost exclusively on the Party for resources since its popular base is so thin. It has been plagued with internal splits, and lost considerable support from its better educated members who became disillusioned by attacks on them. In addition, UWT's activities, according to some critics, failed to keep up with times. They lost support as women's NGOs gained ground because they did not take up an activist role in fighting for women's rights at a time when these kinds of issues were clearly coming onto the agenda. Moreover, now it faces serious competition from numerous women's associations at the national and local levels. Some leaders within the UWT, including women in other associations, envision that the UWT could regain its popularity if it delinked itself from the Party. They argue that its structure is worth preserving since it provides an avenue to bring together women at the grassroots level in all parts of the country. They also argue that by breaking from the CCM, they would have greater access to donor support.

Still other organizations have become so discredited because of their links to the party and government, that their membership has abandoned them to join new more effective organizations. For example, during the debate over the proposed Media Bill (see Media section), journalists had to force the leadership of Tanzania Journalists Association (TAJA) into opposing the bill and many simply worked with other organizations like the Media Institute of Southern Africa chapter in Tanzania because they had become so disillusioned with TAJA.

With the emergence of new associations, older semi-autonomous organizations have faced sometimes unwanted competition and increasing pressure to become fully independent. Until the formation of TANGO in 1988, the Tanzania Council of Social Development (TACOSODE), for example, was the only umbrella association for non-governmental organizations, although it included mainly welfare associations for the blind, disabled, etc. It operated under the jurisdiction of the Social Welfare Department and was considered by many NGOs to be the government's "watchdog" of NGOs in Tanzania. Not surprisingly, its autonomy was questioned by many NGOs which subsequently joined TANGO. The existence of TACOSODE also made it difficult for TANGO to become registered because TACOSODE lobbied the Registrar in the Ministry of Home Affairs, arguing that TANGO was duplicating the role of TACOSODE. TANGO was eventually registered in 1988 two years after it applied for registration. Today it cooperates with TACOSODE in spite of past difficulties.

Finally, old forms of association have been reinvigorated and recast to meet new needs. Local defense teams (*sungu sungu*) and even local traditional authorities have emerged to deal with local governance and security issues in many parts of the country, especially where police protection and government structures have lost their effectiveness and legitimacy. There is also a myriad of forms of association that are informal and loosely structured, and rarely registered. At the local level old forms of association are being adapted and modified to meet new needs. For example, rotating savings schemes (*upato*) have become enormously popular, especially among urban women entrepreneurs in the past decade. While these

cannot be characterized as NGOs, they are extremely important to daily local economic and political life.

Gender-based NGOs

An important part of the democratization and pluralization of associational life has been the struggle for gender inclusiveness. Women's associations and women's participation in NGOs have added some new dimensions to the character of these associations that are worth noting.

Struggles to get women's concerns onto the agendas of professional associations resulted in many cases in the formation of new women's professional associations in the late 1980s. For example, women in the Tanzania Medical Association, the Tanzania Journalists' Association and the Tanganyika Law Association found that their interests were not being taken into account and therefore, while remaining active in some of these parent organizations, they also formed their own associations like the Tanzania Women Lawyer's Association, Medical Women's Association of Tanzania and the Tanzania Media Women's Association.

Older organizations have transformed themselves. For example, the Catholic Women's Association (formed 1969), in the past was mainly involved in child care during the service and cleaning the church. Today, they are helping women develop leadership skills; they have a $87,000 credit fund to help women start business enterprises; they assist women in business skills and carry out education on women's legal rights. Women are also assuming greater leadership within church associations. Catholic women leaders see these developments as an enormous improvement from the days when church leaders saw women's task as primarily one of leading prayers and singing in the choir.

At a time when there is evidence of greater associational differentiation based on ethnicity and religion, (see section on religious institutions) women's organizations have been adamant that their uniting principle is that of gender and have taken pains to make sure their associations cut across ethnic and religious ties, especially in urban areas where such linkages are more readily made. In women's organizations, for example, women come together around common causes of women's legal rights, economic and social concerns and see sectarian divisions as undermining that broader cause.

This same principle of inclusiveness and common cause is applied to the political changes brought about by the multiparty system. With few exceptions, associations are formed around non-partisan concerns and generally maintain their distance from party politics of CCM or the opposition parties. Individuals within associations may have their party preferences, but these rarely come into play in the context of the affairs of women's associations. They are clear that what brings them together are common gender-related concerns.

At the same time, one of the consequences of multipartyism is that for the first time one is beginning to hear serious discussions by NGO leaders around the issue of how to get women

candidates into local and national leadership who can advance women's interests. Women are increasingly raising these issues in their organizations, writing articles in newspapers, and talking on the radio about the need to strategize, support and help women get into leadership positions and then to assist them with information once they have been voted into office. Although, according to the 1992 constitutional amendments, women will make up at least 15% of the parliament, women's organizations are concerned now that these women not simply fill in slots for these parties, but actually represent the interests of women. For this reason, many women's associations are interested in sponsoring civic education programs. Some are starting newsletters that will incorporate civic education. One group of women is starting a women's community radio station which will provide a forum for such non-partisan discussions about strategies for getting women into political leadership. Some women Members of Parliament are talking about the need for university women's research groups to help them with data that they can use to make their arguments in the National Assembly.

Women also tend bring to their associations a particular set of orientations to social, economic and political issues. For example, when leaders of women's NGOs talk about democratization, they argue that this cannot occur if women are not included in the process on an equal footing. In addition, they link up issues of democratizing the home to the issue of women in local or even national politics. They see these issues are intimately related since women cannot participate in politics unless society, including their own communities and families, accept that women have the personal freedom to control their own lives. As one Member of Parliament explained, women in politics are often not taken seriously because people think that politics is not the proper domain of women, that they must be deficient mothers and wives if they choose such a career or that they must not be "behaving properly" to have a job that involves travel and public exposure.

Another characteristic of women's associations is their tendency to incorporate a strong social welfare component, even in groups which primarily share income-generating objectives or associations which seek to cater primarily to the needs of their membership. This is no accident since women so often are the ones who have the final responsibility to put food on the table, care for the sick and the elderly, and pay the school fees. One example of this kind of social welfare outreach organization is a Dar es Salaam group of retired, widowed, divorced and single women, who formed Getting Old is to Grow in 1991. The society provides social, recreational and spiritual functions for its members. But it also allows them to teach their handicraft and other educational skills at a school the organization runs for young women (many of whom could not complete school due to pregnancy).

Internal Constraints on NGOs

Many of the internal problems NGOs face reflect the fact that they are so new. They are struggling with problems of low capacity, poor administrative skills, and problems of accountability and transparency. As one dynamic leader of a women's organization put it, "if I could just find a full time administrator who knew how to manage this organization, I could do anything. The money is there, the donors are ready. But I lack the time and the

capacity, even to write a proposal. So how are they going to fund me now?" These kinds of problems are compounded by problems of transport and poor communication facilities (e.g., phones that don't work), which make it hard to mobilize people.

Some identified leadership as a problem, especially in cases where founding leaders were dominating the organization and were reluctant to give up control. While NGOs appreciated donor assistance, many leaders found that donors set too much of the agenda and were sometimes trying to push NGOs too hard into areas they were not prepared to venture into. Others saw how external funding had in some instances created more problems than it solved. One individual pointed out how she was trying to create an organization that was non-hierarchical and run through a more consensual leadership mode. She feared applying for donor assistance even though her organization needed funding because in previous organizations, she had found that when money began to flow in, the problems began. Cliques formed, people became "big headed" and more isolated from the real problems of the people the organization sought to serve.

Legal and Regulatory Constraints

One of the major constraints on the NGOs remains the legal and regulatory environment within which they operate and the uncertainty of government plans. For example, in 1993 the Prime Minister's office proposed, with little if any consultation with NGOs, that it would form a NGO Liaison Unit in the Prime Minister's Office and devise a code of conduct to guide NGO activities. In response, the umbrella organization TANGO developed its own code of conduct, providing guidelines to enhance accountability and transparency. Reaction to the government's proposal was at times fierce. As TANGO Board Chairperson Christine Nsekela pointed out: "NGOs are formed on a voluntary basis and therefore they must be independent of the government bureaucratic rules and free to criticize it." At a September 1993 TANGO seminar where a representative from the Prime Minister's Office presented the proposal, NGO representatives strongly rejected the measure as an effort by government to control NGOs.

A similar proposal is in the early stages of development by the Ministry of Community Affairs, Women and Youth to control women's NGOs. Because they find women's NGOs do not feel "comfortable with the Ministry," as one top official in the ministry put it, then by creating such a Council, the Ministry would find it easier to "monitor, regulate and collaborate" with women's institutions. One of the rationales given for the creation of this body is that with multipartyism, women will be divided unnecessarily and therefore they need a neutral body which is not political and bureaucratic that can coordinate their activities. The Ministry, which was formed in 1991, got off to a bumpy start in its relations with women's NGOs. With few resources to work with, a broad mandate from above, and an active women's NGO community, the Ministry did not have the capacity to accommodate all the demands placed on it. Women's NGOs reported that they found their interactions with the Ministry alienating, they found the Ministry trying to compete with them rather than work with them and at times accused the Ministry of being obstructionist.

For example, members of TAMWA went to Vienna Human Rights conference and were influenced by the tribunal in which women testified. They decided they would start their own tribunal in Tanzania to "shake up the system," as one TAMWA leader put it. The organization held a three-day tribunal in November 1992 on violence against women, but met with resistance from Ministry of Justice and Ministry of Women's Affairs because they said that by holding a tribunal they were implying that the system was not working. TAMWA's response was that the best thing the Ministry could do was to improve the legal system, which was slow and corrupt and one that women cannot take refuge in.

Another particular conflict that was cited by many NGOs was the uneasy relationship between TGNP and the Ministry in preparing for the 1993 Kampala conference and the Ministry's feeling that TGNP was "too enthusiastic" in its preparations. The unprecedented success of TGNP in its mobilization efforts and the appreciation it drew from women's NGOs for its role in coordinating and developing joint strategies did not leave the Ministry with much to say and eventually the differences between TGNP and the Ministry were smoothed over.

Although the process of registering organizations has improved, it has been a continuing source of frustration for many NGOs. The Tanzania Media Women's Association (TAMWA), for example, had trouble registering with the Registrar of Societies which was not convinced that women needed their own media association because of the existence of the Tanzania Journalists Association (TAJA), which among journalists is widely regarded as an government/party sponsored organization. More recently, the delays TGNP experienced in becoming registered could also be attributed to fears that this independent associations would overshadow the Ministry of Community Affairs, Women and Children's efforts at coordinating women's organizations or possibly even the efforts of UWT.

Such difficulties in registration have raised concerns among NGOs about the extensive powers granted the Registrar of Societies in the Societies Ordinance of 1954, which was an inherited colonial ordinance used to closely monitor and watch civil and political organizations in the pre-independence period (Shivji 1990, 17, Makaramba 1993, 2). The Societies Ordinance is one of the 40 laws identified by the Nyalali Commission report for amendment. TANGO has established a committee to study the Societies Ordinance and propose action. The organization's leaders have raised their objections to the Ordinance with the Prime Minister, they have published articles about it and have invited relevant government officials to their workshops where they have discussed the Ordinance. They plan to continue exerting pressure to modify the Ordinance.

III.B.6. RELIGIOUS INSTITUTIONS

One of the byproducts of political liberalization has been the release of religious tensions and religious extremism within fringe elements of both the Muslim and Christian communities. On the one hand there is the outspoken Reverend Christopher Mtikila, who has declared his mission to defend Christianity against Islam and has led a rampage against Indian and Arab

shop owners, even attacking some Africans wearing Muslim garb. Another manifestation of the souring of Christian-Muslim relations occurred in April 1993 when a group of Muslims smashed shops that sold pork in Kinondoni district of Dar es Salaam. While these are extreme reactions to perceived inequalities and injustices, they reflect more widespread frustrations within both religious communities.

Within the Muslim community there is a widespread perception of continuing discrimination against Muslims in public institutions and in access to educational opportunities, an imbalance which was intensified during the Nyerere era. They feel that the President, a Muslim himself, has betrayed his fellow Muslims by not taking steps to enhance their position. At the same time, many Christians perceive a preponderance of Zanzibari Muslim influence in the present political regime that is increasingly corrupting the government and is opening the door to Islamic "fundamentalism," which they claim is being funded by Muslims in the Arab world. Tanzanian Muslim ties to Arabs are also seen as a source of much of the illegal economic activity on the mainland. While this may caricature and exaggerate the sentiments of Christians and Muslims, the thrust of these sentiments have driven some of the activities of these communities. At the same time, it is clear that the vast majority of people in both Muslim and Christian communities want to see the continuance of a peaceful and stable country and would not wish their different perceptions to result in a breakdown of that harmony. Therefore, it is important to try to disentangle the perceptions from the "reality" as much as possible and to place the organizational efforts of Tanzania's religious communities within that context.

Like other bodies, Muslim associations were highly circumscribed after independence. Even though Muslims had played a major role in the formation of the Tanganyika African Association and were active in TANU in the struggle for independence, they felt betrayed when Nyerere banned the East African Muslim Welfare Society after independence. Nyerere personally founded Baraza Kuu la Waislamu Tanzania (Supreme Council of Tanzanian Muslims) otherwise known as BAKWATA and imposed it on the country's Muslims. Outside of this organization Muslims were not permitted to organize until 1992. Government control of BAKWATA's leadership and the fact that it did not do anything to uplift the welfare of the Muslim community further discredited the organization.

Muslims began to take advantage of the loosening of restrictions on organization in the 1990s and formed an independent organization, the Baraza Kuu or Supreme Council of Islamic Organisations and Institutions of Tanzania led primarily by intellectuals and professionals (Shivji 1993). Baraza Kuu, founded in 1991, seeks to represent the entire Muslim community, including both Sunni and Shi'i Muslims. Baraza Kuu's objectives are to help the Muslim community "catch up" in the areas of education, economic power and to participate in politics as equal citizens. President Mwinyi himself tried for a while to bring BAKWATA together with Baraza Kuu but BAKWATA was so discredited in the Muslim community that eventually he was forced to refrain.

At the fringe of the Muslim community is the more extremist BALUKTA (Council for the Propagation of the Koran in Tanzania), which was formed by a group of leaders who broke away from BAKWATA. BALUKTA was banned after some of its leaders had been implicated in the destruction of several pork butcheries in Dar es Salaam.

While Christian communities historically had greater access to formal missionary education and hence were well-placed in the early years of independence to assume political leadership, they too faced limits on their activities, although not to the same extent as Muslims. The nationalization of Christian schools and hospitals in 1969/70 was one such incident in an ongoing dialogue between the Catholic and Protestant churches and the state over the direction the country was taking, especially after the Arusha Declaration. Leaders of these religious bodies openly expressed their concern about Nyerere's *ujamaa* policies in pastoral letters and meetings with the President, arguing that the ideological turn Tanzanian had taken was anti-development, foreign to African culture and beliefs and was undermining individual rights (Omari 1993).

This dialogue continued under President Mwinyi, but the substance of it changed. In 1993 the Catholic Bishops issued three pastoral letters directed at the country's leadership, addressing concerns about the rise in Islamic fundamentalism; growing corruption and lack of transparency; and the need to build a civic consciousness in the country. The National Council of Laity in the Catholic Church, actively pushed their Bishops to speak out on the issue of Zanzibar joining the Organization of Islamic Conference. They sought out background information on the incident and provided the Bishops with evidence of how they perceived that the country's leadership had acted illegally. Leaders of both the Tanzania Episcopal Conference and the Christian Council of Churches met with Mwinyi to find out what had happened. They also contacted Members of Parliament and pressured them to take up the issue in parliament. Both Catholic and Protestant church and laity leaders felt that their efforts and lobbying had played an important role in the way the issue was raised in Parliament.

Both Catholic and Protestant churches have also become increasingly interested in carrying out civic education among their parishioners in this multiparty context. They see their widespread communications mechanisms throughout the country as facilitating such dissemination of information. The Evangelical Lutheran Church, for example, is already carrying out educational programs around women's rights, the debt crisis and structural adjustment and other social and political concerns that reach far beyond their more limited concerns in the past. A central component of future educational activities will focus on civic education and the new responsibilities citizens face within a multiparty context.

III.B.7. DEVELOPMENT ASSOCIATIONS

A variety of self-help development associations have emerged at district, ward and village levels throughout the country. Some are organized around institutions like the church, around activities like farming, or around specific objectives, like Parent-Teacher

Associations, which raise funds to build schools, provide supplies and pay teachers. Some are organized by urban dwellers or other sectors of society (university students) to give assistance to their home areas. Yet others are organized exclusively by people living in rural areas while some organizations are formed through rural-urban collaboration. Some are explicitly ethnically based, and others avoid such distinctions. Some are trusts to which rural dwellers apply for support. In other associations councils of elected officials decide on how to spend their resources. While they overwhelmingly rely on their own resources, a few that are tied to religious bodies may receive external funds from foreign religious associations and some receive modest support from bilateral donors for specific projects.

A major expansion of these development associations, in particular, the district development associations, began in the late 1980s although some date back as far as the 1960s. Ole Therkildsen estimates that about 850 such district level associations were formed between 1960 and 1991, with 40 per cent formed between 1986 and 1991 (cited in Kiondo 1993, 172).

What the associations share in common at the district level is that they are usually begun by wealthier, well-educated, and well-connected individuals involved either in business, politics or the church. Often they are led by civil servants or business managers who have returned to their home village to retire. It is expected that these associations will assume even greater importance as greater numbers of people are retrenched and given early retirement since they will seek to involve themselves to a greater extent in their home areas. Not infrequently, Members of Parliament will either start or involve themselves in these associations to help their home areas but also as a way of garnering votes. As political patrons, MPs can often can find ways to direct government or even donor funding to assist their constituents.

Most development associations emerged specifically to respond to collective community needs that were no longer being met by the government. They also filled gaps left by institutions that had been curtailed by the state, including educational and health services that had once been provided by religious organizations and activities that had once been carried out by cooperatives (Qorro 1993, 7). Education is the main concern of many Development Associations. The extent to which development associations have taken over the provision of educational services is seen in figures on the growth of private secondary schools, which increased more than three-fold from 1980 to 1992, while public secondary schools less than doubled in the same period so that by 1992 the number of private secondary schools (227) significantly outnumbered public ones (158) (Kiondo 1993, 171).

The range of activities development associations are involved in is enormous, including cooperative based agriculture; water development; support for micro-entrepreneurs, women's income generating groups and market sellers; rehabilitating and building schools, roads, medical facilities and libraries; AIDS support; care of orphans; the establishment of projects to conserve the environment; the provision of solar electricity; and raising funds in crisis situations for flood relief and other such causes.

The urge for urban dwellers to support their rural kin is strong. Rural attachments remain active and many families own houses and farms in the rural areas where they plan eventually to retire. They continue to visit relatives on a regular basis. News from the home area travels fast and local rural churches will send reminders to urban residents requesting contributions.

Competition from neighboring development associations often spurs an organization to try to exceed the efforts of their neighbor in building a school or clinic. In other instances, officers from several village groups may join forces to cooperate in rebuilding a road.

Women also have become increasingly active in such associations although not always as prominent in the leadership. Women have learned the importance of joining such associations in order to make contacts they need for carrying out business. As one woman involved in Moshi Rural Development Association put it: "In the past, women refused to be active in these associations, but now they have learned that those who enter the association, their lives have improved." Another member of the Kagera Development Association said that the women had threatened to pull out of the association if they were "pushed to the corner" and since then had found that their concerns were listened to.

People are very clear why these newly formed organizations are so viable. They contrast their successes with the failures of Nyerere's *ujamaa* self-reliance policy in which a generic institutional model was supposed to work everywhere. As one woman put it, "Self-help was generalized, the same procedure was applied everywhere. But people in the communities knew what would work and what would not work and they knew where good land and the bad land was. But this was all ignored, local knowledge was ignored." Another observed that "In the past, the state was made to be the father of people and was to provide all. We waited and nothing happened. Before *ujamaa* people had their own ways of surviving and that is what we have now."

While the activities of most development associations are to carry out concrete community improvement projects, some organizations have also served as lobbying groups to protect community interests. The Kibosho Development Trust Fund is a case in point. The Fund was formed in 1988 by professionals and coffee farmers in the "greenbelt" suburbs outside of Moshi, primarily to carry out development in the areas of education, health and road construction. The Fund has been effective in raising funds: for example, in 1993 it successfully raised 8 million shillings from coffee farmers who agreed to donate 5 sh per kilo of their coffee sales to the Fund. The Fund was galvanized into an advocacy role when a private road construction company came in to upgrade a road in their area. Without consulting the residents, the company knocked out the water pipes, cut down trees and tore up what had been an adequate road with little indication that they would complete their task and replace the pipes before the contract expired. Even though the Fund made requests to be present at site inspections of the road, the company did not contact them. The Fund then brought in their own inspectors and discovered that the contractors had not complied with the specifications of the contract.

Up until the time the contractor came onto the scene, the Fund had used communal labor and levies to maintain their own roads and had been successful in pressing the District to do some of the road work. Therefore, when the community found its road and water pipes destroyed by the contractor, they actively lobbied the Ministry of Works, the road construction company itself, donors and other responsible parties to rectify the situation. To date they have been unsuccessful in these lobbying efforts, but the case indicates how vital the participation of such community organizations potentially could be in such a development enterprise.

The importance of these development associations lies in their capacity to mobilize local resources, people and knowhow and to create innovative governance structures to meet community needs as defined by people themselves. This is not to deny that at times urban dwellers or wealthier patrons of these organizations have exerted undue influence at the expense of the rural communities or poorer members of the association. But, in general, the emergence of these associations calls for a heightened awareness on the part of donors to recognize their potential to mobilize community input into development initiatives. All of these associations can offer local knowledge of the conditions, needs and capacities of their communities. Moreover, some of them have highly educated politically astute members who are extremely capable of demanding their rights and of devising effective strategies to press those demands.

III.C LINKAGE INSTITUTIONS

In a system undergoing political transition toward democracy, institutions which link civil society to participation in public governance are of critical importance. The most important of these institutions are normally the media, and political parties. Forums which permit associations to network, share views and bargain with one another, and which permit them to interact with agencies of the state may also provide important avenues for expanded participation.

III.C.1. THE MEDIA

Up until the late 1980s the most widely read news publications in Tanzania were limited to the government owned Daily News/Sunday News, the ruling party's Uhuru/Mzalendo and the trade union federation's Mfanyakazi. Of these, only Mfanyakazi veered slightly from the CCM's official line, but for the most part, the Party perspective was reflected in the pages of all these publications with little criticism of Government or Party policies. The first openings in the media came with the availability of foreign publications (e.g., Africa Events, New African, African Business) on the streets of Dar es Salaam. These magazines featured articles by Tanzanian nationals that were critical of the regime. This was followed by the launching of a private Tanzanian weekly, Business Times, in 1987, Family Mirror a year later and eventually the creation of a flourishing Swahili press, including papers like Mwanainchi and Rai and a Swahili daily Majira in 1994. At first, Business Times was

regarded with some suspicion by government authorities but eventually the government came to accept the existence of this independent press.

Thus, the most dramatic changes in the media have been 1) the proliferation of newspapers (some 20-30 private newspapers are now available); 2) the openness in press reporting of government and party matters; 3) and the loss of fear of government reprisal among media professionals.

In stark contrast to these developments is the position taken by government authorities, who seem to have begrudgingly acceded to these changes because of internal and donor pressures. According to the Director of Information at the Ministry of Information, the government's policy had not changed regarding the media and indeed, the Newspapers Act that regulates the press, is still intact. Moreover, the Ministry of Information had attempted to propose a bill to further regulate the media. The bill was loudly and swiftly rejected by the media professionals and the diplomatic community so that the bill has been shelved for the time being.

The Changing Press Media

Many of the owners of the more viable publications are Asian and African business people, who saw the market as an open one with ample opportunities for making a profit. The more unsuccessful ones were started by four or five people, often individuals with little experience in journalism, who paid their 500 shilling registration fee, and hoped to make a quick profit. Frequently, they put out a few issues, whereupon their ventures folded.

Of the English language weeklies, Family Mirror leads with a circulation of 25,000, followed by Business Times 15,000; Express 10,000, and Weekly Mail 1,500-2,500. The average circulation for most of the thriving Swahili papers is around 10,000. Dimba has a circulation of roughly 20,000, Mwanainchi 10,000-15,000, Rai 12,000. The daily Majira has a circulation of about 6,000. For most papers 25-30% of their readership is based in Dar es Salaam, with the remainder being transported via buses, trains and vehicles to regional distribution centers in towns around the country. The readership of these papers remains the urban population. In the case of the English papers, this includes the donor and diplomatic communities in addition to well-educated and elite Tanzanians.

The government-owned paper Daily News has suffered a dramatic decline in readership from 100,000 in 1980 to 20,000-30,000 in 1994. This is due to the rising price of the paper, but also, in part, it can be attributed to the competition posed by other papers. The readership of the CCM paper Uhuru has also been declining and in the last four years alone suffered a 35% drop to 40,000.

The major independent papers are owned by business people, e.g., Express and Mwanainchi (Mr. Gulamani of Media Holdings); Family Mirror and Nyota (Mr. Macha of General Publications); Weekly Mail (Mr. Dialo of DM Investments); Change (Juma Mwapachu of JV

Group); Business Times and Majira (Rashidi Mbugun of Business Care Services). In almost all these instances, although the publishers might give some general guidelines on issues that concern them directly, like the business sector, the editorial decision making is largely in the hands of the editor.

Most papers claim to be non-partisan. Some, like the editor of Family Mirror, are explicit about their paper's intended role as a catalyst for political and social change and as a force for human rights and democracy. The publisher of Business Times tends to see his paper as playing a more low key role as a mediator, bringing together the opposition parties and private publishers to articulate common goals and strategies. Only a handful take explicit political positions (Radi and New Outlook have been associated with NCCR); Rai and Dimba are owned by Member of Parliament Jenerali Ulimwengu, who is one of the Group of 55 CCM reform MPs that sought the Tanganyika motion; and Mizrani and Baraza have been Muslim papers with overt political emphases.

Impact of the Press

The press has been one of the most vital and critical forces for change in Tanzania. They have become increasingly fearless in challenging the abuses that economic and political monopoly has wrought on the system. The bolder papers have exposed scandals implicating government officials in the case of illegal land sales; Zanzibar's unconstitutional application for membership in the Islamic Organization Conference, President Mwinyi's misuse of funds at the 1992 UN Environment conference in Rio de Janeiro, and violations of the Open General License. Other papers like *Business Times* have veered away from such scandals, preferring to push for greater political openness by showing major discrepancies in approaches to the market system, trying to give legitimacy to opposition parties, exposing unnecessary CCM force and trying to expose the systemic bases of corruption and fundamental weaknesses of the system. These kinds of exposures have given popular backing to Members of Parliament to bring up issues of corruption in the Parliament with moderate success.

Some specialized media associations have been active in publicizing issues that concern them. Within this sector, the Tanzania Media Women's Association, formed in 1989, has been active in publicizing issues of violence against women, sexual harassment and women's legal rights. Similarly the Journalist Environmental Association of Tanzania, formed in 1991, has been lobbying to oppose the building of government-owned pesticide plant in Moshi, the building of the Sheraton Hotel on Gymkhana Club grounds, the placement of a garbage dump in Kisutu near a school, and pollution in Lake Victoria.

Constraints on the Press

The private press faces innumerable problems. These include poor distribution networks that must contend with unreliable means of transport and undependable informal mechanisms of distributing the papers within the regions. Related to this is the problem of getting the

revenue generated from sales back to the main offices in Dar es Salaam. One editor had to send people from his office to the various towns to pick up the cash, since sometimes the distributors would pocket the money and mailing a check could easily take over one month to clear through the banking system and only then after considerable prodding.

Most journalists have little if any training in journalism and are usually trained on the job. The best trained have studied two years at the School of Journalism which they start after four years of secondary school. The School graduates 30 students a year, most of whom return to their former employment in government and party institutions. But teachers at the School admit the training provided in this institution is inadequate by any standards. Moreover, journalists often lack exposure to the foreign media and all but a few have traveled abroad for additional training. Similarly, they have little access to newspapers and journals from other parts of the world.

The publication houses lack adequate transport (the entire staff of 60 in one major newspaper shared one car, which was used for multiple purposes); phones are commonly out of order, faxes are almost non-existent, and computers a rarity in this business. Resources for staff are also similarly limited, which means that the best journalists are also freelancing on the side or are apt to move on if a better offer comes their way. Moreover, there is little money left over for investigative reporting.

Legal and Regulatory Constraints on the Press

In addition to the problems the media faces due to poor training of journalists and poor infrastructure, a large source of their difficulties has to do with the legal and regulatory environment they operate within. Examples of these kinds of constraints include the following:

- Private publishers feel their papers are prohibitively expensive due to high taxes (40%) on paper and printing materials which they end up transferring to the consumer. Editors and publishers were especially bitter about this and thought that the government should lower the taxes on reading materials in the interests of promoting literacy, especially since the party and government presses are exempt from these taxes.

- The Prime Minister's Office has not refuted the charge that it secretly instructed parastatal heads not to advertise in the private media. The only parastatal that has seemingly defied this directive is the Tanzania Posts Corporation.

- Another way the government and party have maintained their grip on the media has been through indirect control of the leadership of the Tanzania Journalists Association (TAJA). Because the press was dominated by the party and government press, this meant that the executive committee of TAJA also reflected the leaders of this press, most of whom were presidential appointees. Because of the nature of TAJA's

leadership, members of the private press have been left without an organizational structure to assert their interests. This became clear during the 1993 struggle over the Media Bill, when TAJA's leadership had to be forced by its own membership to back down from supporting the bill. Because of TAJA's untenable position around the bill, the Media Institute of Southern Africa (MISA) chapter in Tanzania gained strength and as one journalist put it, "MISA really rallied journalists together, screamed and shouted and said they would take it to High Court. MISA also got the Tanganyika Law Society to agree to help." Others are thinking of starting a chapter of the Commonwealth Journalists Association because TAJA is so discredited.

The Newspapers Act, 1976 (Act No. 3/1976) remains in effect. It had been deemed unconstitutional by the Nyalali Commission's report, which argues that under the constitution "each and every person has the right to freely express any opinion and receive information and any ideas through any media without consideration of country." This right and freedom, according to the report is violated because the Government and Party control all major forms of public communication and the Government engages in censorship of information. After the Arusha Declaration the government came to control all national media, including newspapers, radio and TV in Zanzibar. Even the film industry came under state and party control and censorship (Mushi 1992).

At present the part of this act that is most discussed by media professionals is the protection it gives to government to continue to hide public information deemed secret even though this information does not fall within the scope of the State Secrets Act. Information on government actions or plans is considered a privilege rather than right, thus shielding public officials from criticism and from being accountable to the country's citizens (Mushi 1992). Numerous editors and journalists mentioned that they ran up against this when they tried to obtain the government position on a particular issue and were stonewalled. In the end they would be forced to publish an allegation and mention that there was "no comment" from the responsible official. In this way they hoped to embarrass the government into responding by leaving the reader no choice but to make up their own minds on the issue without the benefit of the government's side of the story. One editor argued, "People in the government and party see us as enemies, as if we are people who want their blood. If we call the Principal Secretary they say they are busy, they can't talk, so you end up going with the story because you can't get confirmation or their point of view. Ministers do not know that their responsibility extends to the private media." Some editors and journalists have argued for a Freedom of Information Act.

The Newspapers Act also impinged on the private press in the closing down of two newspapers on technicalities. It was understood that one was closed for printing libelous accusations against a Minister and the other for printing what was deemed obscene material. Neither case has roused much reaction from media professionals, in part, because the papers were rather marginal but also because they had expected

more of such overt repression and were almost relieved that this was the extent of it. The major papers took it as a signal to them that there were limits to what would be tolerated but did not feel threatened themselves.

The other way publishers point out the Newspapers Act curtails their freedom of expression is in the difficulty of obtaining a printer who will agree to sign all the affidavits necessary for the publisher to become registered. If the material being printed is potentially sensitive politically this can be a problem since the printer is liable for printing material that could be considered "seditious." For example, the publisher/editor of the Tanganyika Law Society's new journal The Lawyer, Tanzania had to go to 20 printers all over the country before she could find one who would agree to sign the affidavits.

While the private press does not receive phone calls from the Minister of Information telling them what to print and what not to print, the government and party owned media still does face limitations on what they can publish. Although the Daily News has loosened up considerably from the past and will, for example, cover the activities of the opposition parties, there is little doubt that it continues to serve as a mouthpiece for the CCM and government and will not publish anything seriously critical of the party or government. Editors and journalists working at Daily News find that little has changed. A new chief editor of Daily News started in 1993. For a short while it seemed that a new editorial policy was taking shape and then with the by-elections in Ileje and Kigoma, the paper reverted to its old emphases.

All journalists in Tanzania can point to stories that under a free press would have resulted in investigative reports (e.g., the death of former Prime Minister Sokoine, the Bank of Tanzania fire, President Mwinyi's role in the deaths of 10 people in Shinyanga and Mwanza in 1976 when he was Minister of Home Affairs and in the torture and detaining of countless others in those regions) (Mwambungu 1991, 1993). Today these kinds of stories are being pursued in the private press, but not in the party or government papers. Although the calls from the Minister of Information to the editor of Daily News to kill a story or complain about a story are less frequent, direct and indirect censorship continues. For example, one Daily News journalist described how having written a story about a police officer who beat a woman was surprised to find the article completely rewritten to the extent that it bore little factual resemblance to the original version. Upon investigation, the reporter learned that a Regional Police Chief had placed a call to have the story withdrawn. Instead it was just rewritten. Similarly, Daily News journalists have allegedly been forbidden to report the teachers' side of the 1994 strike.

In addition to the Newspapers Act, the Nyalali Commission's report also cites the Tanzania News Agency Act (No. 14 of 1976) as a violation of the constitution. It created the Tanzania New Agency (SHIHATA) as the sole institution responsible for collecting and distributing news in and outside of Tanzania. The Minister can

refuse/revoke/suspend any authorization without giving any reason and decisions made by the Minister cannot be challenged in a court of law, according to the report. In spite of its official monopoly of information, professionals in both the public and private media have little regard for this parastatal agency, which appears to be in serious demise with few resources at its disposal. In fact, one of the publishers in the private press is planning to start his own news agency for the network of papers he publishes.

The most flagrant effort to "muzzle the press," as several media professionals put it, was the proposed Bill to establish a Tanzania Media Council, (Media Professions Regulation Act), which was eventually shelved after media professionals and lawyers jointly resisted it in public fora. Donors also exerted significant pressure, which was seen as critical to the withdrawal of the bill. Tanzania's chapter of the Media Institute of Southern Africa (MISA) organized a petition drive to condemn the bill. Journalists felt that the government saw the media as unruly, especially after the exposures of Loliondo, Islamic Organisation Conference and Steyn scandals, and they wanted to rein it in.

The Bill to establish a Tanzania Media Council would have given the council the right to register journalists, to shut down any paper or jail reporters without the right to legal representation. A journalist is defined as one who writes for print media or a broadcast or television journalist. The wording was vague enough to suggest that even guest columnists be required to register. The Bill also would allow the council to scrutinize foreign publications including those brought out by any Embassy or other foreign representatives in Tanzania and aimed at reviewing assistance received by media institutions. Moreover, if accused of offenses, the state could confiscate foreign materials, property or equipment of a radio station or newspaper just because employees were accused of an offense, even if not convicted. Journalists considered the Bill more oppressive than the Newspapers Act and the Tanzania News Agency Act. One argued that it was the biggest blow to the democratization process, another said it was the most unjust and most sadistic idea ever to come from the brains of the CCM leadership.

The fact that this bill was drawn up at this particular juncture suggests two things. One, that the government feels the need to reassert its former control and authority over the media, and, two, that it does not intend to allow political reform to go any further than it absolutely must. This was made perfectly clear in an interview with the Director of Information, who insisted that the mandate of the Ministry had not changed in any way since the establishment of a multiparty system and also that the Media Bill had not been shelved but was still being reviewed. The powerful resistance to the bill, however, shows the limits of the government's capacity to assert authority and claim legitimacy. In the tussle that ensued, the media professionals and government authorities both tested how far they could advance their interests.

Radio and TV

While the press has seen the most change in recent years, more important is the fate of the radio, which is the single most important vehicle of mass communication, reaching approximately 30-50% of the population 15 years and over (Mushi 1992). As in the press, business interests have asserted themselves in this sector and there are 3-4 licenses pending to establish independent radio stations. But there are also numerous new efforts to establish community radio stations, including a women's community radio station that would address social, economic and political issues of concern to women. If permission is granted, these private stations would break the monopoly of Radio Tanzania. A government appointed a National Broadcasting Commission was created in 1993 to regulate this sector.

The privately owned CTN is the first TV station to be granted a license to operate on the mainland and it started broadcasting in 1994. Although TV can potentially reach approximately 150,000 TV sets in Dar, these belong primarily to the elites and business people.

III.C.2. POLITICAL PARTIES

Since 1991 there has been an explosion of political organization in Tanzania, accelerating after the decision of the CCM National Executive Committee to recommend the revision of the Tanzanian Constitution to allow for multi-partyism. With Presidential approval of this constitutional amendment on July 1, 1992 political parties other than the CCM were permitted to apply for legal registration. This decision did not stem from broadbased popular demand, if the data gathered in the Nyalali Commission Report is at all indicative. According to this report nearly 80 per cent of mainlanders, and 56 per cent of Zanzibaris polled declared themselves to be opposed to multi-partyism; however, more than half of those who expressed a preference for one-party rule wanted substantial changes within the party that, in the Commission's view, required a multi-party system to effect. In addition, a vocal and increasingly vociferous minority, based mainly in a few urban areas, had been pushing for political liberalization and specifically for multi-partyism since the mid-1980s.

There is little doubt the events in Eastern Europe, and elsewhere in Africa, as well as growing foreign donor pressure for political liberalization and governance reform influenced the decision of CCM leadership to open up the political choice process. However, it is equally clear that CCM leadership hopes to manage the process of multi-partyism very carefully, permitting CCM to remain the dominant political force, while venting some internal and external political pressure.

Tanzania today faces a series of political decisions which will now be made in the context of multi-party competition. The resolution of these decisions will substantially influence where Tanzania will be when it proceeds to national elections for parliament and for the Presidency. Whether or not "opposition parties" play critical roles directly in those decisions, their existence and operation will almost certainly influence the outcomes of many of them. In

brief these critical decisions are:

- with President Mwinyi ineligible for renomination, the CCM leadership succession, is almost certain to be an intra-party struggle, but with important ramifications for the broader society and polity. Since many of the leaders of the opposition parties are political figures from the 1960s and 1970s, a sub-theme of this succession struggle is a generational conflict, and the playing out of unresolved political struggles from the past. The crucial question is whether the succession outcome will pass the mantle of leadership to a younger or at least more dynamic group, or confirm the role of older CCM and ex-CCM politicians.

- the struggle for improved governance, which will also be fought out principally as a leadership and potentially as a factional struggle within CCM. The issue here is how to deal with the dysfunctional characteristics of the Mwinyi regime, principally its tolerance of and possible involvement in a level of corruption which donors and some investors consider to threaten economic development. Tanzanians are also dismayed with the indecisiveness and lack of any clear "game plan" on the part of the Mwinyi government. The resolution of this issue may connect closely to the next issue as well;

- the struggle for the Union versus the appeal of Tanganyikan African nationalism, particularly in the economic domain. Susceptible to the voices of the Tanganyikan nationalists, the CCM will have to resolve whether to confirm the Nyerere vision of the party in this domain, or to broaden CCM's base of appeal by capturing some of the discontent expressed by this movement;

- the struggle to maintain sufficient central control over potentially key political actors, such as labor and the military, to assure "social peace" and order, while dealing with the reform trend of less central control of the economy and of the political process.

The section will not analyze these specific transition issues in detail. Rather, it will attempt to indicate how the changes which are underway, both within the ruling CCM, and in the "opposition," have contributed to broadening the participation of societal interests and forces in the political process, and how politicians now will have to deal with them.

The CCM

Thus far, the most important and potentially interesting effects of emerging multi-partyism in Tanzania have been on already existing struggles within the ruling CCM (Chama Cha Mapinduzi, or Revolutionary Party). Essentially, the CCM has attempted to respond to this challenge by:

a) attempting to revitalize its membership and candidate base in order to be more politically competitive;

b) relaxing its control somewhat over key agencies of civil society;

c) liberalizing its internal political doctrine, attempting to capture the center through reversal of the socialist Arusha Declaration made explicit with the issuing of the Zanzibar Declaration in February 1991 (Mmuya and Chaligha, 1992, 125-154).

d) being obliged to be more responsive to local and district level political interests, particularly, but not exclusively, in the process of campaigning for seats in the National Assembly in by-elections

e) and by allowing internal cleavages to surface in the parliament and government, creating the image and possible reality of a more democratic and internally pluralistic political organization.

Building a Party for Competition

From 1991 to 1993 the CCM has responded internally to its managed transition by expanding its official membership by over one million. In part, it was able to do this by renouncing the Arusha Declaration, and therefore opening membership up to categories of the population previously excluded. At the same time, it has had to contend with the fact that the end of single-party rule has freed people, particularly in cooperatives and unions, to leave the CCM. The net effect of this cannot be accurately assessed, but it is evident that to retain membership the CCM has to appeal to people's real interests more fully. At the same time, the CCM has had to reduce its paid party machinery substantially, cutting back its agents in the field by approximately 50 per cent. This has forced it to rely more on voluntary labor and genuinely motivated activists.

The forms which these adjustments have taken are embryonic and not yet discernible as regular patterns. Judging from the conduct of the two competitive by-elections of early 1994 (Ilege and Kigoma), several trends may be appearing.

First, CCM must make commitments of resources to assure its electoral ascendancy. In Kigoma this took the form of infrastructure improvements as well as, allegedly, a certain amount of vote buying.

Second, it may have to weigh its national agenda against local preferences in the selection of party candidates. The CCM has never been a party which has completely imposed nominees from the top.(Munishi and Mtengeti-Migaro, 1992, 182-201). The CCM's National Executive Committee has not systematically overridden candidate preferences by Annual District Assemblies, and has sometimes overruled choices made by CCM District Committees in favor of Assembly preferences. Since District Committees are generally thought to be much more easily controlled, this is taken as evidence of some internal freedom of choice within the party (Othman, Bavu, Okema, 1990:ix-x). Now, the CCM must be increasingly aware of the need to select candidates who will generate local support.

According to several studies of such choice processes, the principal motivation for support of a given candidate is his/her perceived ability to deliver resources to the constituency (Munishi and Mtengeti-Migaro). Interviews with some Members of Parliament indicate that the recognition of this fact is merely the reflection of an existing local-level reality. Both at the level of MP's and villages, people are beginning to express their approval of CCM incumbents or vote against them, even choosing candidates of other parties in some cases, based on the candidate's local popularity and perceived patronage potential.[10]

Third, CCM must learn to campaign with fewer "state" resources, avoiding as much as it can charges of unfairness in the use of public assets in its partisan activities. This represents a huge change for CCM, and one which forces it to be increasingly dependent on private sector financial interests.

To be successful as a competitive party, CCM has had to change its electoral appeal. Its adoption of a liberal economic program, stressing private and non-governmental contributions to the economy is also the reflection of a profound pre-existing reality-- that most Tanzanians, including many CCM officials and civil servants, are deeply involved in the private, informal and non-governmental economy. The principal groups who might benefit from this policy shift are traders and farmers. On the other hand, industrial producers and workers seem to favor a less liberal and more protected market. These groups, as we shall see below, have nowhere else to turn for policies more favorable to their interests.

Control over civil society is less critical to CCM with its new economic policy. By freeing up cooperatives and agriculturalists to form their own producer, marketing and credit associations, the CCM is in a position to reverse decades of antagonism from this sector and genuinely broaden its base of support, although CCM now is certainly not trusted by the cooperative movement. Its toleration and even support for local development associations could help it win local support. How far and how fast it will be willing to go in relaxing control remains to be seen. The most important constraint is likely to be with the decontrol of organized labor. This group represents the most serious threat to its economic program, if free labor unions, particularly Civil Service unions, are allowed to bid up the state's wage burden significantly. The failure to permit this group to bargain relatively freely, however, offers the opposition a ready-made constituency. Unfortunately for organized labor, while "unions" represent nearly 60% of the salaried work force, they also represent only 4% of the total work force. Perhaps CCM calculates that it can live with an organized labor movement which continues to be alienated from the government and the party.

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[10] An unpublished study by Max Mmuya has examined election to hamlet-level committees as a function of party identification and finds significant "opposition" to unpopular CCM candidates at this level. In one district, for example (Maswa in Shinyanga region) 27.5 percent of the councillor selected at the hamlet level were from the CUF party.

Finally, the cleavages which CCM leadership has permitted to surface in the parliamentary party and beyond may at once be useful to the party's future and to broader participation in politics. They carry with them, however, dangers. For the first two years of transition to multi-partyism, CCM leaders appear to have been very much in control of the debate (Mmuya and Chaligha, 1992, Chapter 5). There is little doubt that the Nyalali Commission and its subsequent report were carefully planned efforts on the part of CCM leadership to "manage" the budding opposition, and to set the terms of the debate. Similarly, the gradual relaxation of restrictions which led first to the 1990 Tanganyikan Law Society Seminar on Party Systems and Democracy, and to the critical June 1991 workshop on multi-partyism, have all the earmarks of carefully calculated actions by the CCM. The immediate responses to these meeting were to delimit the scope of "legitimate" contestation, ruling out any constitutional conference, and restricting assembly and rallies until the Parties Act could define the nature of opposition organization. In addition, one cannot ignore Nyerere's role in orchestrating internal party support for controlled multi-partyism.

The surfacing of a group of backbenchers in the one-party National Assembly--the so-called Group of 55-- poses other issues. What does this group and its "initiatives" on the Tanganyikan Motion, and on charges of corruption and mismanagement by Mwinyi government officials represent?[11] The answer is difficult to discern. On the one hand, it may represent an effort to move the party toward a popular and electoral base, as contrasted with the automatic majority in the Assembly for Mwinyi due to block voting by appointed MPs and CCM representatives from Zanzibar. The Tanganyikan motion may represent an effort on the part of some elected and a few appointed deputies to undercut the opposition in the area of its greatest potential appeal, to Tanganyikan nationalism with undertones of anti-Zanzibari and Asian racism. Criticisms of the Mwinyi regime may reveal a real cleavage over issues of accountability and the exercise of state power. If these interpretations are correct, these developments may serve to broaden CCM's appeal as an electoral party, albeit at the risk of damaging the coalition with the Asian business community.

On the other hand, there are some who interpret these developments much more narrowly. They look at the dissident movement as a reflection of personal leader struggles within CCM, and perhaps an effort to take the party away from the Mwinyi wing, for no particular civic purpose other than to assure a "rotation of elites," perhaps with more dynamic CCM leaders like Augustine Mrema at the fore. The keys to this analysis are thought to be the struggle between John Malecela (Prime Minister, First Vice President), and Mrema, supported by Deputy Speaker of Parliament Pius Msekwa. This version has the G55 acting to undermine the influence of other CCM old guards such as Nyerere and Joseph Warioba. Still another version sees the G55 movement, at least with regard to the Tanganyikan motion, as orchestrated, as supportive of Malecela, and as intended to reduce Nyerere's impact on

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[11] See notably the public pronouncements of Philip Marmo, MP from Mbulu (Arusha), and a nominal leader of the G55, on institutionalize corruption, theft and nepotism within the CCM government.

policy. They find evidence for this in the fact that G55 leader, Njelu Kasaka, who introduced the motion is alleged to be very close to Malecela.

Obviously, it is both too early and too difficult to judge where the weight of evidence lies. But, it is impossible to reject the proposition that at the minimum the CCM is split over the Mwinyi regime and the likelihood of a Malecela succession. There is yet little evidence, however, that would cause one to conclude that these developments in the parliament represent real opportunities for expanded political participation, beyond existing contenders and elites.

The Opposition

Opposition movements and parties did not spring forth de novo from the political opening of 1991. For the most part they had their roots in developments in civil society beginning in the mid 1980s, notably with the emergence of the Civil and Legal Rights Movement (CLRM, under James Mapalala), the National Convention for Constitutional Reform (first led by Chief Abdallah Said Fundikara and then by Mabere Marando), and the Committee for Reform and Freedom in Zanzibar (under Khamis Shabaan Mloo). These "pressure groups," were joined by individual efforts to create social movements for democracy and human rights such as Christopher Mtikila's Liberty Desk (Mmuya and Chaligha, 1992: 133).

As of early 1994 the "major" opposition parties are the following:

NCCR-Mageuzi (National Convention for Construction and Reform). Rooted in a civil rights movement, and appropriating its acronym, this party is headed by advocate Mabere Marando and political scientist Prince Bagenda. Although its leadership is said to have had close ties with the internal security service, it is also said to have some support from the intellegensia for its strong civil rights and liberties platform. It espouses a somewhat more social democratic doctrine with significant state ownership and control of the economy than some of the other opposition groups do. This party is also explicitly federalist, insisting on a government for Tanganyika.

CHADEMA (Chama Cha Demokrasia na Maendalo). Headed by Edwin Mtei, former Minister of Finance, Governor of the Bank of Tanzania and chair of the CCM appointed commission on civil service reform), and Bob Makani, lawyer and former head of the Tanganyika Law Society. At its formation in late 1992 many saw CHADEMA as so closely allied to CCM that it was known as CCM-B. Mtei's party reflects his somewhat ambivalent position on private sector development and strict monetary policy (devalued shilling). CHADEMA has none of the rhetoric of social democracy, but does emphasize the development of the small African business community and cash crop farmers who would be helped by a weaker shilling. CHADEMA's natural appeal should be to these two groups of producers. CHADEMA stands for a voluntary Union rather than an explicitly federalist position.

CUF (Civil United Front). This party is the marriage of a mainland civic league led by James Mapalala, and the Zanzibari KAMAHURU party, led by Sheif Shariff Hamad and Shabaan Mloo. Both Hamad and Mloo were intimately involved in CCM politics, and were each rejected by the party. Hamad as former Chief Minister was suspended from office, and detained on allegations of a plot against the (CCM) Zanzibari administration. CUF-Zanzibar is seen by many to be a party primarily of Pemba people living on Zanzibar. CUF's program is vague and contradictory, involving a mixture of free enterprise and state management. Unlike the other registered parties, CUF argues for the separation of Tanganyika and Zanzibar.

UMD (Union for Multiparty Democracy). Originally led by Former Minister of Law and long-time exile from CCM, Chief Abdullah Fundikira, the party has now split into three personality-dominated factions, one led by Fundikira, one by former party UMD Secretary General Christopher Kasanga Tumbo, and one by John Cheyo (leader of the splinter United Democratic Party). This has reduced the party to virtual insignificance. As a united party, UMD stood for a constitutional conference, free market development, particularly industrial development, a strong anti-corruption program, and a somewhat ambiguous position on the Union, leaving its future to the constitutional conference.

The only other parties worthy of mention are TADEA (Tanzanian Democratic Alliance) led by former CCM Foreign Minister and self-exile Oscar Kambona, and PONA (The Popular National Party) led by Wilfrem Mwakitwange, former head of TCCIA, and Peter Terry, former manager of the parastatal steel industry, and former Secretary General of the Democratic Party. PONA leaders appear to share a number of common points of view with Mtikila and his Democratic Party movement, although its methods differ and public appeals are not blatantly racist.

Perhaps, next to CHADEMA, the most important opposition "party," is the Democratic Party, an illegal and unregistered movement, led by Christopher Mtikila. DP and its leadership have been continuously harassed and jailed for openly espousing separation from Zanzibar and the expulsion of Zanzabaris and Asians from the mainland. Without question, Mtikila has generated the most enthusiastic public following, as demonstrated by his mass rallies in Dar-es-Salaam and elsewhere in the country. His party is said to have made direct appeals to the rank and file military as well. In recent months Mtikila's popularity has been declining because of the fear of violence his message provokes in many Tanzanians.

Opposition Party Effectiveness

Opposition parties confront a host of difficulties in emerging as potential contenders in national politics. There is some evidence, however, that they may be able to do better in local elections.

In national elections, the most serious problem which opposition parties face is that they have failed to develop support from any interest group other than some of the educated and

intellectuals. The only exception to this statement appears to be the DP, which appears to have the potential to attract some support from those groups most painfully affected by economic liberalization and by years of general economic decline under CCM. Even more of a problem is that none of the opposition parties appears to have any significant social base. Most are viewed, therefore, as personal parties of Dar politicians, who would not offer a real alternative to CCM. In fact, there appears to be general alienation from all political parties, including CCM, and the failure of opposition parties to distinguish themselves from CCM is damning.

The problem for the opposition is not that their candidates lack name recognition. Levels of recognition are surprisingly high (Sivalon, 1994: 13). There appear to be several serious problems of public perception which opposition parties face. First, as an earlier study indicated, there is fear that multi-partyism might lead to instability and violence (Booth, 1993:29). The second problem is that people do not identify prominent opposition leaders with specific parties for the most part. Third, to the extent that people know anything about parties, they generally view them as not having played a very constructive role in the political transition. In addition, the proliferation of opposition groups who can not work with each other appears to many people as useless (Silivan, 1994:10; Mukandala, 1994:74).

The only polling which has been done on candidate preferences suggests that none of the opposition parties has a viable Presidential candidate who could contend successfully with even the weaker CCM candidates (Sivalon, 1994). According to these polls, Mtikila does better than other opposition leaders, except, against both the more populist and more mainline CCM leaders Mrema and Malecela.

In addition, people in general, and potential constituencies in specific, seem unpersuaded that individually or collectively opposition parties are more likely to serve their interests than the CCM. This is true despite the high levels of dissatisfaction with CCM policies expressed in national and sectoral surveys. The most fertile constituencies for the opposition are the producers of private sector goods and cash crops for CHADEMA, and Tanganyikans who feel that they have been badly hurt by Asian and Zanzibari competition, for DP. But neither party is able to tap this potential support. The productive business community is too closely tied to CCM despite the fact that it has serious reservations about the government's policies and integrity in a number of domains. Until these businessmen see the opposition as having a genuine opportunity to win, however, they cannot afford to take the risk of being too closely associated with them. The poorest and least educated, for their part are the most reluctant to favor any of the opposition parties. Not even workers, who have fared badly under CCM policies and control of labor, identify with any opposition party, although according to one survey, a number have dropped their CCM membership (Mukandala, 1994:74).

Thus, political parties have been unsuccessful at broadening the basis of political participation, at providing important avenues for interest groups (formal and informal) to

employ in the pursuit of their own interests, and at seriously challenging CCM as the ruling political party.

In local elections, the situation may prove to be different. Incomplete evidence from elections to village committees indicate that opposition candidates or independents have won as much as one-third of the seats in some districts.[12] Interviews with a number of current Members of Parliament indicate that they are encountering some opposition at this level, and are tailoring their appeals to local issues. Some even indicate an potential interest in running as independents, if this were possible. But as long as the Elections Act forbids independent candidates to parliament, and provides for only winner-take-all single-member constituencies, it is very doubtful that opposition parties, individually, or in coalition, can win a significant number of seats in the next parliament.

In addition to the electoral laws, the reasons for this are multiple and painfully obvious. Thus far, none of the opposition parties has the resources to mount successful campaigns in a number of electoral districts. None has a sound financial base, even in revenues from the sale of party cards or publications. Only CHADEMA has district-level officials in all voting districts, and these are all volunteers, operating with minimal resources. The best equipped opposition party (CHADEMA) reports that it has three vehicles available to it to conduct party work throughout the country.[13] In addition, opposition parties have found it impossible to overcome, or even reconcile themselves to, CCM's very significant advantages of incumbency. Evidence from the two relevant by-elections (Ileje and Kigoma, 1994) amply demonstrate CCM's vast superiority in logistics, financial resources, for domination of the print media, and capacity for patronage promises. According to opposition leaders, they also demonstrate another important thing-- that CCM can continue to use its position as the party in power to control numerous conditions of elections, including the functioning of the National Electoral Commission, and local voting officials, who are said to be government employees and CCM supporters.

Despite these experiences, problems of public perceptions and objective disadvantages, some opposition parties and political analysts believe that they can build support and even potentially win in 1995. CHADEMA's 35% showing in Kigoma was taken by some to indicate that CCM is vulnerable and can be beaten. But to beat the CCM, the opposition will have to adopt a coherent strategy based on three things: maximum cooperation among opposition parties in electoral contests at the level of National Assembly elections; recruitment and promotion of locally popular figures to run for office; and a platform evoking discontent with CCM policies above opposition party identity and promising to

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[12] Interview with Max Mmuya, Department of Political Science, University of Dar es Salaam, based on his current research.

[13] This is probably an underestimation. Other sources stated that CHADEMA had at least 9 four-wheel drive vehicles.

address the needs of those most seriously hurt by CCM policies in the recent past, notably its agricultural policies and its failure to protect the poor and the increasingly impoverished.

In the current circumstances, the prospects for these conditions to be realized appear dim. Thus far, opposition parties have been unable to form any kind of working alliance despite several efforts. The most serious effort in 1993 brought CUF, NCCR and UMD together to discuss fielding a single candidate in each electoral district and a single candidate for President. This agreement did not stand up to the first by-elections in Ileje and Kigoma. CHADEMA, one of the most viable parties, was unable on its own to work out a similar arrangement, and attributes the failure of the alliance to personalities, notably within NCCR. The level of mutual trust among opposition parties is low. Party leaders even seriously question each other's legitimacy as "real" oppositions, as contrasted to groupings orchestrated by CCM, or groupings of disgruntled and rejected ex-CCM militants. For the opposition, as for CCM, political personalities seem to still be working through unresolved personal disputes dating to the 1960s. In addition, the promise of 1.5 million shillings to all parties running a candidate in a national assembly election is sufficient incentive for some parties not to unite with others on a single candidate.

The rule that people may only run as candidates of a given party at every level of the political system has posed problems both for the opposition and for potential CCM dissidents. If the current court case is found in favor of independent candidates it could have a significant impact on CCM support in some constituencies where local popularity may prove more important than an identity with CCM.

IV. A CONCEPTUAL FRAMEWORK FOR IDENTIFYING DONOR PRIORITIES

The conceptual framework which guides this study has been laid out in the second section of this report. In brief, it looks at the prospects for advancing the democratic transition in terms of three aspects of governance change--changes in the rules limiting and defining the exercise of power; the strengthening and deepening of civil society; and the linkage of civil society to state institutions at various levels of the political system, particularly at the top. We recognize that these three types of change occur at different rates, and that even within a particular type the evolution is uneven rather than across the board. Still, the hypothesis is that unless all three can proceed, political transition and the achievement of a system of consolidated democratic governance will stagnate and, predictably, will backslide.

Our analysis reveals in great detail that Tanzania is in the early stages of transition to democratic governance. While much has changed for the good in political life in Tanzania over the past three years, there are still areas where progress is lagging and, if unresolved, these lags could impede further progress on the economic policy reforms and in dealing with natural resource and environmental management issues.

Developing Democratic Disciplines

While progress has been made in the behavior of state officials in the areas of human rights and freedom of expression, in a number of other specific areas, notably in changes in the formal rules of the political game, the Tanzanian political system exhibits important lags in the evolution toward democratic governance. There is a major debate about whether, and how, the constitution should be re-written, and about whether the government respects the provisions of the current constitution. This is an important and legitimate debate, particularly given the biases towards the party in power in numerous laws, the government's willingness to use repressive and unconstitutional laws on the books, and the ease with which legislation, including Constitutional amendments, can be passed in the current Parliament, which is a hold-over from the one-party state. The press and the legal profession as a whole are now carrying the burden of explaining the importance of the debate and pushing for definition of the new rules of a multi-party system. These two and many other groups are engaged in various aspects of civic education.

USAID's overall objectives of furthering democracy in terms of a) meaningful participation in the process of governance and b) general acceptance of open, potentially competitive and regular processes for choosing leaders suggest that USAID carefully consider how it can support Tanzanians in arriving at a peaceful resolution of the meaning of the change to democracy as a new set of enforceable rules. The 1991 Nyalali Commission report recommended changes in 40 repressive laws, including those that most affect the growth of civil society: the Societies Ordinance, the Newspaper Act, the Preventive Detention Decree, and the labor legislation. The problems with the new legislation on the National Electoral Commission and the Political Parties Act affect the rights of the electorate to choose.

Strengthening Civil Society

The analysis presented in Section III of this report demonstrates that in some important areas civil society in Tanzania has flourished since 1989, and in a few areas there is evidence that groups are beginning to take an active role in "civic life." The key questions now are what are the constraints and the opportunities which exist at this stage of the political transition?

As a result of the changes, many more opportunities exist. However, our study has identified two significant constraints for the development of civil society in Tanzania today. Above all, Tanzanians have learned that they can expect little good and much that is harmful from their central government. In this context they see little possibility or even reason to attempt to influence national policy. The reality appears to be that government is often unresponsive to the demands of even the best organized associations. This is a pattern which will not change rapidly.

This leaves Tanzania with a civil society that has too little ability to function in the civic life of the country and to play a role of checking national politicians and of cultivating attitudes of growing trust based on their experience of interacting with government. In the short-term the opportunities are mainly to continue to assist civil society, which is just now expanding and growing. There are two things which donors can do. First, they can assist associational life to function better, more effectively, to network more effectively, to function more accountably and democratically, and to expand to fill an increasing space in Tanzanian society. At this stage of development this should be the primary role of donors who have this capability. Second, donors can promote, through the policy dialogue process and through assistance to legal reform, a rule of law and a form of administration which not only tolerates, but legally sanctions and supports a vigorous associational life involved to the maximum possible in self-governance.

There are opportunities which are particularly important to respond to in within this general context. First, donors can continue to identify the existing civic associations, particularly those which have the capacity for national or at least regional scope. Of course, in Tanzania today there are not many such associations, the likely candidates are obvious, and a number of donors will be pursuing them. One answer to this problem might be to see how networks of associations which are not explicitly civic-oriented, such as the women's network, or a possible network of local development associations can be assisted, and in turn can be drawn into fora with civic-oriented groups, which will begin to broaden their perspectives. While many of these associations wish to remain "apolitical" workshops and seminars with such group may be able to persuade them to make the distinction between becoming partisan and acting on behalf of civic (community) values. It will only be in this way that the civic realm in Tanzania will be able to grow.

Some of these actors may in turn be able to play meaningful roles in civic education, training their members about their rights, about participating in the civic life of the community, without becoming partisan. The upcoming elections will provide an excellent opportunity for this kind of action. Some associations which have not usually conceived of themselves in civic terms,

such as the Catholic and Lutheran Churches and the women's networks, can be supported to continue to work of civic education which they have tentatively begun. They may be able to participate specifically in election education and observation. Unions, particularly teachers unions, should be a natural for civic education work as well, but at present may be too weak and threatened to take on tasks outside of their own organizational issues. Political parties, of course, represent the most important source of civic action and education, particularly at campaign time. AID should make every effort, together with the Embassy, to assist parties in political education and campaigning through non-partisan training programs. Some of these activities may be able to be undertaken through the Electoral Commission, if evidence continues to build that, despite its formal relationship to the sitting CCM government, it can operate with integrity and a good deal of independence.[14]

A second opening might be specifically with business networks. Currently, only larger scale industrial enterprises through CTI have access to policy makers. Their experience confirms the limitations of even the best funded and organized. Not only has government found few ways to deal with them except through personal channels, but CCM policy makers experience significant problems of implementing the agreements they make with business. The opportunity is to assist in the continued expansion and institutionalization of business networks to include smaller producers, farmers, and especially small manufacturers. Until the government learns that this might be helpful to the achievement of its own goals, and masters implementation sufficiently to make working with it useful, the donors will have to play an important role in stimulating these networks. Of course donors can through their projects and rapid disbursing assistance, encourage government to meet with these networks, but it can not insure the results. For now, that is all that can be expected.

Strengthening Linkages

Our study indicates that linkages between civil society and public governance institutions are still very weak and vulnerable in Tanzania today. As the analysis of civil society reveals, much of the blame for this must be placed at the feet of an state which over the years of Ujamma earned the mistrust of non-state actors. The result has been the weakening of the habits of association, particularly beyond the local survival network.

A review of the major linkage institutions (media, parties, networking fora, dialogue fora) leads to the view that there are opportunities at this stage of transition to strengthen the media, and to assist political parties in a non-partisan manner to compete more effectively, to spread their message and to build their party organizations. The run-up to the 1995 election should provide an excellent opportunity to undertake training programs in this area. In addition, donors can encourage the process of networking among actors in civil society and between these actors and public officials through their own programs and through sponsorship of fora and workshops.

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[14] Reports from specific by-elections indicate that the Election Commission by-in-large played a positive role as an honest broker.

Preconditions for Democratic Development

One factor which has become increasing apparent as we have studied the spread of civil society in Tanzania is the networking requirement for decent physical infrastructure. While rehabilitating roads and telecommunications systems are not generally considered part of democratic development, decentralized access to and maintenance of physical infrastructure proves to be a great help in developing commercial and other associational network communications, and improvement from a base as poor as Tanzania's had become contributes significantly to a climate conducive to civil society development.

Prioritizing Actions in the Early Transition Stage

Support to communications infrastructure should be a priority of donor assistance in Tanzania, as a way of improving communication among actors in civil society and of improving conditions for private commerce. In undertaking these infrastructure projects an particular effort should be made to maximize participation and consultation with non-governmental actors at every stage of design and implementation.

Apart from this, the overall strategy which AID should adopt at this point in the transition and for at least the next several years is to focus on the promotion of civil society and specialized linkage institutions as **demanders of better governance, and as actors capable of more effectively providing self-governance services.** The logic of this focus is that public governance reform will likely only advance in Tanzania as it is driven by, and closely monitored by demand from a civil society which becomes increasingly "civic-oriented." While government institutions remain limited in their effectiveness and accountability, the basis for a more participatory and democratic society which can legally provide for some of its own governance needs should be supported.

This focus does not mean that reforms in formal rule-making are unimportant or that they should be ignored. Rather it suggests that the best way at present to make advances in this area is through strengthening civil society and its demands for better governance rules, and through support to the testing of existing rules which seem to limit respect for human rights, transparency, accountability and fairness.

Linkage here should be understood not solely as linking society and its associational life to the state, but furthering its own networking processes by encouraging public authorities to relax controls and to allow a new form of mutually sought and mutually beneficial linkage to develop. An emphasis on linkage permits AID and its post partners to concentrate on helping to enhance the effectiveness of the media, of political parties, and of civic-oriented actors in civil society, judging each proposed activity by its contribution to strengthening the demand for good governance, and enhancing the political space and capacity for improved self-governance.

SECTION V. RECOMMENDATIONS FOR USAID

The Tanzanian political system is sufficiently advanced on the path toward democratic governance to support the achievement of the other goals of sustainable development defined in USAID's overall policy approach, i.e. to play a part in improving the management of natural resources and the environment, to support health and population programs, and to support the process of a liberalized and more sustainable pattern of economic growth. Governance transitions, particularly the early phases of transitions, are always uneven, offering opportunities or openings in some areas of governance, while in others such support might be premature of inappropriate. Recognizing where these leads and lags are and how they affect the overall policy climate in Tanzania, USAID can better plan its program to emphasize particularly appropriate changes in governance and to help address places where political change is lagging.

V. A. NEAR-TERM OBJECTIVES IN DEMOCRATIC GOVERNANCE

The analysis which precedes suggests three objectives for USAID support to governance change in Tanzania in the near-term.

1. Improve the legal-regulatory environment for democratic governance, and support specific democratic rules which facilitate the conduct of private business and farming, and which generally support the rights of public association and expression.

At this stage in Tanzania's political development, one major challenge is to develop broader agreement and clarity on limits to the exercise of authority by the state.

There is an on-going debate in the media, legal profession and in academic circles in particular, about whether, and how, the constitution should be re-written, and about the extent to which the government respects the provisions of the current constitution. This is an important and legitimate debate, particularly given the biases towards the party in power in numerous laws. Lags in this area of basic democratic understanding and their application can compromise further progress toward the establishment and consolidation of democratic governance. At this stage of political transition, USAID's actions on this theme should be to concentrate on supporting civil society actors to press for the resolution of critical issues in the legal enabling environment. USAID should look for ways to support the press and the legal profession in their efforts to broaden and deepen the pressure for constitutional reform and for a legal environment more conducive to the free functioning of a vigorous civil society, including private sector enterprise.

2. Strengthen civil society and assist in its developing a more civic-orientation.

At this early stage of political transition in Tanzania, the highest priority of USAID should be to improve the capacity of civil society actors, particularly those with civic orientations to function, to link with one another, and to connect to the processes of public governance at

higher levels in the political system. Improvements in the legal enabling environment appear to depend more on strengthening empowered public demands than on strengthening public institutions.

Civil society in Tanzania reacted strongly to openings provided by the weaknesses of the overly centralized and ineffective state, to the economic crisis and to donor pressure. Without much support in the past from the state, Tanzanian associational life has developed the capacity to involve people in decisions and processes which affect their lives, principally through the flourishing of informal as well as formally recognized associations. But in this context civic orientation beyond the local community level has been limited, and the capacity of non-governmental actors to address issues requiring broader networks and more developed capabilities has suffered. With the opening toward democratic governance, there are opportunities to redress these limitations through selective donor support to the internal capacity of some of these associations.

3. Strengthen channels for linking citizens to public policy processes

Strengthening the capacity of civil society actors is only a prelude to broadening their participation in policy making and conflict resolution. The experience of the past thirty years and the recent political openings have left Tanzania not only with civil society groups moving toward more local self-governance, but with the challenge of how effectively link them to processes which determine policy at higher levels of the political system. The principal means for linking civil society to policy making are a) elections and political party organization, b) the media, c) informal forums.

Political parties are very early in their development as democratic linkage institutions, and could be assisted as they move to the first general elections and beyond. Parliament will not be a representative institution linking the public to the deliberative process until there are opposition MPs. Until parties become more competitive, mass-based, and internally democratic there will be limits on how effective they can be in broadening participation in the policy process. As Tanzania moves to general elections, AID, together with the Embassy and USIS, can contribute to the effectiveness of parties in this area, and can assist with the electoral process to help insure that it provides a reasonable forum for public participation and choice.

The media, particularly the print media, have begun to play an important role in this linkage process, but require significant support and broadening (to include more privately-owned, mass-distributed media channels). USAID, together with USIS, can assist the media to become more skillful at economic and political reporting as a way of enabling it to inform the public.

USAID can also assist in developing channels for less formal but more effective face-to-face communication between government and non-governmental actors, as a means not only for broadening participation, but for hearing and dealing with conflicting points of view.

Networking among NGOs has begun to develop and USAID should now support the expansion of this dialogue and networking process to promote communication and problem-solving across specific interest groups's perspectives. AID can help strengthen involvement of civil society actors in governmental processes through its own participatory internal processes, and by serving, with other donors, as a catalyst for dialogues between NGOs and governmental officials.

V. B. GENERAL APPROACHES TO FURTHERING USAID's DEMOCRATIC GOVERNANCE OBJECTIVES

OBJECTIVE 1: Improve the Legal-Regulatory Environment for Democratic Governance

At this stage in Tanzania's political transition, the principal way in which AID can assist is by training and funding civil society groups whose interests relate to the legal and regulatory environment. Without persistent and more effective pressure for reform from below, it will be difficult to make rapid and sustainable progress in this area.

This general approach, however, can be augmented significantly by actions which AID, together with the Embassy can take, such as:

a. Engaging in a continuing policy dialogue on issues of human rights and specific constitutional principles which influence the functioning of civil society and business, particularly freedom of association and speech, and access points for popular participation other than through elections.

b. Making explicit conditions for authorizing rapid disbursing assistance which include improvements in the legal regulatory environment, and by raising questions about serious breaches of rights in practice:

c. Raising issues of the integrity of the government's fiscal processes including revenue collection and transparency of information as part of the policy dialogue.

OBJECTIVE 2: Stronger and More Civic-Oriented Civil Society

The principal way that USAID can assist in this area is to provide services to support networks of civil society actors to increase their effectiveness as governance providers and as demanders of policy.

The success of this objective will be significantly influenced by progress on Objective 1 (the rules governing associational life).

OBJECTIVE 3: Strengthen Channels for Linking Citizens to Public Policy Processes

The principal approach which USAID should employ in improving linkages is to assist in

providing opportunities for dialogue and networking and through improvements to communications infrastructure.

a. Specifically, USAID's efforts to improve roads and telecommunications, particularly to link rural areas to one another and to urban centers, can help civil society actors to develop more effective linkages and enter into policy processes in a more timely manner.

b. USAID can facilitate communications between civil society actors and policy makers by providing opportunities in which these actors can meet and discuss issues of common concern.

c. USAID, in conjunction with USIS, can support the independent media to continue performing the role of linking the public to policy issues through training programs, seminars and prizes both to journalists and to outstanding newspapers designed to emphasize analysis of information about the performance of government. Should independent radio develop, this should become a major focus of USAID's and USIS's efforts.

d. Assuring that in its own assessment and programming, USAID structure forums for consultation which involve, to the maximum degree possible, actors from various strata of civil society.

e. USAID, working closely with Department of State, can support the development of political parties as more effective agencies for involving people in discussions on issues, and as more competitive mobilizers of public opinion, through non-partisan pre-election workshops with party leaders.

V. C. SPECIFIC PROGRAMMATIC RECOMMENDATIONS FOR USAID/TANZANIA (Near-Term Democratic Governance Activities)

Designing a near-term strategy for achieving progress on the three objectives outlined above can be simplified by adopting the focus suggested in Section III. At this early stage of political development the highest priority for building sustainable democratic progress should be to strengthen and support particular civil society actors, and to assist in linking them to policy processes. All three objectives can be served by such an approach.

It is recommended that USAID undertake three basic actions in achieving these goals through civil society promotion:

1) It undertake a small new Democracy/Governance project with several components;

2) It include specific issues in its policy dialogue with government;

3) It maximize civil society participation in its activities across its existing portfolio.

1. Democratic Governance Project ($2-3 million 1994-96)

The objective of this project is to provide a funding mechanism for strengthening the capacity of civil society to undertaken governance functions, to build more extensive alliances for governance reform, including for legal reform, and to interact more effectively with government. It attempts to address in a modest way, all three objectives set out above.

The small Democracy/Governance project recommended would have five components.

The first would be the creation of an NGO Resource Center, or the strengthening of one of the existing NGO umbrella organizations (possibly TGNP), to provide services to NGOs and NGO-type associations (help with writing association constitutions and proposals, administration and project accounting, logistical support for seminars, legal education campaigns, communications/e-mail links to international organizations, a data-base on NGO and donor activities, training in computer skills and the principles of credit). Fees for the center's services would be paid by the NGOs themselves or out of project funds they obtain. This component focuses on strengthening the capacity of the NGO sector to interact smoothly with the organizations that partially fund it, to enhance its ability to implement programs, to bring it in touch with international sources of information, and to build local skills.

The second component is support for the quality of media reporting. The most important element is training working journalists through short courses and evening programs. This can be supplemented by seminars, a monthly prize for the best article on a democracy issue. The media professionals need additional skills and encouragement to continue to improve the quality of reporting if they are to play a more important and responsible role in reporting on the performance of the executive, the parliament and the courts, and thus help actors in civil society to know what is going on.

The third is support for the creation and strengthening of networks of NGOs throughout the country in several public policies issues such as environment, education, women's rights. This not only brings together interest groups that spread over the country, but supports groups that have an interest in improving the legal framework.

Fourth, setting up a trust fund with a board composed of Tanzanian nationals and possibly US PVOs operating in Tanzania, to respond to the changing needs and capabilities of civil society groups with a variety of forms of financial support. Tanzanians involved in NGOs identify a number of critical areas where support would be welcome: support for seminars that bring together NGOs and NGO-type organizations to build their capacity of conflict resolution and mediation of disputes; programs to build leadership skills; training in the use of techniques such as dramatization and role-playing to make civic education more effective; programs which simply permit grassroots activists to share experiences on various issues. Trust fund grants might also be used to support NGOs to become involved in voter education, and testing constitutional and legal rights. For example, the fund could provide grants to assist in litigating specific national interest cases. The mission might wish to

consider including the re-emerging cooperative movement as possible recipients of funding from the proposed trust fund. The criteria employed to decide upon grants would have to be carefully crafted to reflect linkage objectives, flexibility and relevance to governance, and should in most cases require matching funds from the recipient organization.

Fifth, the project should contain a specific component for assisting the development of political parties. Under the project, USAID could sponsor a series of non-partisan workshops and training sessions for party activists from the district level up. These workshops would deal with basic party organization, structuring and presenting issues, intra-party communications and education, electoral campaigning, registration and poll monitoring, and managing party finances. This component could also assist parties to work with legal experts in clarifying the electoral law, the parties law, and issues involving the functioning of the electoral commission.

2. Policy Dialogue

USAID's political dialogue with the government should include emphasis on constitutional issues - both the constitutional process itself and the protection of the freedoms of speech and association that produce an open public realm. The Mission, both in policy dialogue and in designing its projects, should work to increase the amount of information that government Ministries and other government agencies make available to the public, so that the public can monitor the government's performance better.

In addition, the Mission has an interest in the governance aspects of economic liberalization. At this stage private business most needs government to provide a satisfactory regulatory environment, an equitable tax structure based on value, and more regularized points of access for the business community to make its views known to government.

3. Participation Across the Existing Portfolio

Both the current situation in Tanzania and USAID's own objectives underscore the importance of participation in USAID projects. There should be a continued and intensified effort to involve Tanzanians, particularly those directly affected, to participate in the design and implementation stages, and to gain an understanding of the donor-government relationship. The Agricultural Transport Assistance Program (which has beneficial effects for democracy, as well as the economy, by allowing easier association, movement and transport of printed information like newspapers) should make a point of including local community associations meaningfully in the implementation process. While recognizing that the choice of roads to rehabilitate must normally be made using objective criteria, there can be valuable local contributions to micro-decisions and oversight of the contractor's work. Similarly, USAID's program to promote health and population programs in Tanzania currently involves NGOs at the implementation stage. Again, decisions must be made based on technically sound approaches to managing health care, but USAID should take advantage of every opportunity to involve community, district and regional NGOs in discussions with

specialized NGO health care-providers in order to magnify the governance implications of these programs.

In the current phase of political development in Tanzania, USAID must be increasingly sensitive to public perceptions of the role its assistance plays in supporting existing governmental authority, or in promoting transparency and responsiveness on the part of government. The distancing of civil society from the government means that in Tanzania the donor community has two clients/partners: the government and the people. Government misuse of donor funds is a sensitive topic that is on the front burner for some NGOs. For the strength of the donor relationship over time, the donor community should respond to the new demands to be accountable and transparent about where its funding goes and for what purposes.

USAID's new Finance Enterprise Development (FED) projects offers particularly promising openings in governance areas, and full advantage should be taken of them as they mature.

For the FED project, the specific activities that could enhance governance that seem to fit within the project's scope are to meet a need that the team identified as prevalent in both the NGO and private sectors: the lack of understanding about the prudent use of credit and the functions of a private banking system. This is a practical problem of strengthening civil society; it is also a governance problem because unrealistic expectations of how much credit ought to be available and on what terms contribute to public disillusion with both political and economic liberalization. The other activity relates to the tax structure: the project could undertake analysis of the tax structure in terms of its impact on small business and manufacturers and make recommendations to the government for a more equitable system. This is a governance issue because of the widespread perception that the system is unfair, not only because of the exemptions that hit the newspapers, but because of its arbitrariness and distortions, and the consequent disincentives to pay taxes.

The FED project is already working with the Tanzanian Audit and Accounting Society, a professional association that seeks to promote standards for audits and accounting. This is precisely the kind of support for civil society which can make a difference in governance reform. In addition, the Business Service Center part of the project should now begin to consider how it can involve the private sector in accountability and advocacy roles. There may be additional opportunities which can be developed within the structure of the FED project as a way of strengthening the governance environment for reform.

Measures of Success in the Near-Term (2-3 years)

OBJECTIVE 1: Improve the Legal-Regulatory Environment for Democratic Governance

Increase in number of test cases brought to challenge constitutionality of legislation. Increases in quantity and quality of government reports. Increase in the number of civil society groups raising issues of law and constitutionality. Content analysis of discourse by

legal interest groups revealing that they generally acknowledge the fairness of the laws in place (may take 4-5 years).

OBJECTIVE 2: Stronger and More Civic-Oriented Civil Society

Increased availability and use of telephone and fax by civil society actors; increased travel of civil society officers to meetings with other civil society actors and with government officials; improved internal accounting systems; enhanced satisfaction of members with services provided; the number of national networks of single-interest groups; increased contributions by NGOs to share costs of activities they undertake.

OBJECTIVE 3: Strengthen Channels for Linking Citizens of Public Policy Processes

Increased number of communications with government officials answered; increase in number of seminars/meetings grouping civil society actors; increase in number of fora in which civil society actors meet with governmental officials at local and national levels; increased number of fora in which civil society officials and grassroots members participate in USAID assessments, designs, consultations; increase in number of articles, and editorials in the private press providing specific information about and raising questions about governmental performance.

APPENDIX I
PEOPLE INTERVIEWED

Zaffer Ali, advocate, Moshi

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Steve Browning, Deputy Chief of Mission, Counselor of Embassy

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Freda Chale, President, Tanzania Home Economics Association (TAHEA)

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Najmi Kanji, Aga Khan foundation

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Raymond Kimaro, General Manager, Kilimanjaro Native Cooperative Union

Bertha Koda, Institute for Development Studies-Women' Studies Group, University of Dar es Salaam, Women's Research and Documentation Project

Motoo Konishi, Resident Representative, World Bank

Winnie Korosso, States Attorney, Ministry of Justice

Jacqueline Kovacs, Editorial/Production Consultant, Semezana (Journal of the Tanzania Association of Non-Governmental Associations), taught at College of Journalism

John Kulekana, Parliament reporter, Daily News

Eliseta Isaac Kwayu, Cabinet Undersecretary, the State House

Clement Kwayu, Managing Consultant, Bumaco

Paul Leissner, Manager, Lutheran Uhuru Hostel, Moshi

Michael Languiana, Moshi and District Consumers Cooperative

Jeremy Lindsell, Coffee Buyer, Moshi

Siria Lopez, Political/Economic Officer, U.S. Embassy, Dar es Salaam

F. O. Louaga, Professor, Faculty of Law, University of Dar es Salaam, Legal Aid Committee

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Kim Lucas, Anthropologist, conducting a study in Tanzania

Olivia Luena, secretary general, TANGO; chair, Catholic Women's Organization of Tanzania; member, Pontifical Council of Laity; chair, Laity Council of St. Joseph's church

Joe Lugalla, Associate Professor, Department of Sociology, University of Dar es Salaam

Rose Lugembe, Principal Secretary, Ministry of Community Development, Women Affairs and Children

Fdam Luoga, Law Faculty, University of Dar es Salaam

Gregory Lynch, Public Affairs Officer, USIS-Tanzania

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Hambasia Maeda, Chairperson, Going Old is to Grow Society

Isabella Maeda, Medical Women's Association of Tanzania

Mr. Maenda, Association of Tanzania Employers (ATE)

John Mahenda, Political and Parliamentary Affairs Department, Prime Minister's Office

Pastor Elisongu Macha, ELCT, Moshi

Bob Makani, Advocate, Secretary General of CHADEMA

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Shem E. Migot-Adhalla, Senior Sociologist, World Bank

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Tom Mmari, Secretary, Civil Service Commission

Dr. Mmari, Head of Open University of Dar es Salaam, former Vice Chancellor University of Dar es Salaam

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Aggripina Mosha, Organizational Secretary, Tanzania Gender Networking Programme

Mr. Mosha, Cooperative Accounting & Supervision Corporation

Dr. Humphrey P. B. Moshi, Senior Research Fellow, Lecturer, Economic Research Bureau, University of Dar es Salaam

M.A. Mrema, Managing Director, Motel Impala, Ltd.

Bernard Msekwa, Secretary, Dar es Salaam Chamber of Commerce

Hon. Pius Msekwa, Member of Parliamanet, Deputy Speaker of the House

Dr. Rogate R. Mshana, Development Secretary, ELCT

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David A. Mwaibulla, National Chairman, Tanzania Chamber of Commerce, Industry and Agriculture

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Joel E. Schlesinger, Deputy Director, USAID/Tanzania

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Amit Shah, Sunripe Kilimanjaro Ltd.

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Pascal Shija, Editor, The Express

Robert Shoemaker, USAID/AFR/ONI/OG

Len Shurtleff, Department of State/Washington, Director Office of Regional Affairs (Africa)

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APPENDIX II
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