

# COMMON POOL RESOURCE POLICY PAPER 3



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## Village Governance and Common Pool Resources in Tanzania

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### BACKGROUND

Tanzania is one of the ten poorest countries in the world; half of its estimated population of 32 million live below the poverty line. Basic needs poverty in rural areas was estimated at 57% in 1991/92 and food poverty incidence at 32%. The country ranks 156th in the world in terms of its human development index, although during the 1970s and 1980s, it showed remarkable progress in some social welfare indices such as life expectancy, access to medical care, adult literacy and infant mortality rates. This was largely due to its populist policy of *Ujamaa na Kujitegemea* or 'socialism and self-reliance'. One of the outstanding achievements of that period was to keep the ratio of income inequality fairly low. The neo-liberal structural reforms initiated at the behest of International Financial Institutions (IFIs) in the 1980s, and enforced through aid and debt conditionalities, have eroded some achievements of the *Ujamaa* period. The ratio of the average income of the better-off to the hard-core poor rose by more than 350% between 1983 and 1991.

Tanzania is predominantly an agricultural economy producing primary commodities for export. Almost half of the GDP is contributed by agriculture while the manufacturing sector contributes 8% of the GDP (having declined from 12% in the 1970s). A study conducted in 1997/98 showed that slightly more than 70% of the population live in 4.4 million small agricultural households. Smallholder agriculture is dependent on the hoe and thus suffers from low productivity. The contribution of large-scale agriculture is rather small although reliable estimates are difficult to come by.

Forest resources are an important common pool resource, exploited both for subsistence and the market. The total forest cover is about 33.5 million hectares; of this, 12.5 million hectares are gazetted as reserves under direct government control, and 2 million hectares are within national parks. Local communities rely on forests on public and village lands for building material, herbal medicines, fruits, bee products, etc. Forests are the main source of energy for rural households, accounting for 92% of the country's energy consumption.

The grasslands and open woodlands in the Northeast and Northwest of the country provide important habitat for wildlife. Almost one-fifth of land in Tanzania is designated as protected areas for wildlife, where no human settlement is allowed. Protected areas have been a significant site of conflict between state organs and local communities. This is particularly true of state appropriation of pastoral lands, which has increased pressure on limited pastureland and undermined the transhumance system of pastoralists like the Maasai in the Northeast of the country.

Conservation of wildlife for tourism purposes has undergone some recent policy changes. Previously, conservation policies revolved around excluding local communities from these areas and enforcing exclusion by means of penal laws. Over the last decade or so, the international conservation community shifted, for various paternalistic and pragmatic reasons, towards emphasising 'community based conservation' (CBC). The new sectoral policies on Wildlife and Forestry have followed suit and are providing for 'community-based management' and participation. It is argued that these policies do not address the fundamental questions of tenure, ownership, control and governance of natural resources.

### THE LEGAL REGIME GOVERNING COMMON POOL RESOURCES

The conceptual framework of natural resource tenure in Tanzania was laid down by the land tenure regime established by the colonial state in its 1923 Land Ordinance. In spite of recent land tenure reform, the fundamental premises of the colonial system have been maintained. These are that (a) all lands are public lands whose (b) ultimate ownership (radical title) is vested in the State and (c) are to be controlled and regulated, top-down, by the state bureaucracy. Immediate occupiers are given time-limited usufruct rights in the form of rights of occupancy. These were called 'granted rights of occupancy' and were given to immigrants, while the customary rights of indigenous communities were recognised as 'deemed rights of occupancy'. The contractual 'granted rights of occupancy' were titled and registered, and could be

enforced against the state as a matter of law. The 'deemed rights of occupancy' were considered inferior; they were categorised as 'permissive' rights, regulated by administrative policies rather than law, and whose security was at the goodwill of the state. Both the colonial and the post-independence states used the flexibility of the customary land tenure system to appropriate land when they wanted, depending on the exigencies of contemporary state policies. Customary rights were therefore fragile and insecure.

The new land laws passed in 1999 (the Land Act and the Village Land Act) have placed the customary land tenure on a par with granted rights. However, they have otherwise done little to redress past injustices and illegitimate appropriation of customary lands by the state and private investors. The philosophy underlying the new acts is to create an enabling environment for the land market on one hand, and regulate it top-down by a rule-based system of bureaucratic control, on the other. While the law places some restrictions on the expropriation of land by state agencies, and provides for the process of consultation, the ultimate power over village land remains in the hands of the central state organs. In this regard, the land regime is singularly inconsistent with the local government reform policy, which advocates devolution of power to district and village levels.

Following the forced village settlements of rural communities in the early 1970s, two major organs of administration were created at the village level; the village assembly (VA) composed of the entire adult population of the village, and the village council (VC), an elected body of up to 25 representatives. The historical outlook of the village as the recipient of top-down orders has meant that the democratic potential of the village assembly, as an organ of village governance, has not been realised.

The central recommendation of the Presidential Commission of Inquiry into Land Matters in 1991 was to locate the ownership, control and governance of land at the village level, and vest it in the VA, to be managed by the VC on its behalf. Whilst the Government did not accept this recommendation, the current local government reform programme has revived discussion on the place and role of village governance. In another report done by the author with a colleague, it was recommended that the village should be reconceptualised as the site of governance, with direct participation enabled through the village assembly. Meanwhile, relations between different levels of governance

should be regulated by the *rule of law* rather than administrative fiat.

#### COMMON POOL RESOURCES AND LOCAL GOVERNANCE

Devolved governance is crucial for the ownership and control of common pool resources. Only in that context can village communities, and the poor among them, benefit. This does not mean that village communities are homogenous bodies; there are contentious and differentiated interests within them. However, in the case of Tanzania, the village has never had an enabling environment to address and resolve contentions at the village level. Rather, intra- and inter-community issues have been mediated by an outside agency, such as the state during the stabilisation period, and more recently, donor-driven project functionaries.

It is counter-productive to attempt to resolve contentions over common pool resources through ad hoc measures such as creating project-led village natural resources committees or "authorised associations" outside the regular organs of village governance. Whatever the short-term successes of such measures, in the long run they are neither sustainable nor politically viable and much less rooted in local politics. Thus the success stories of Mgori forest in Singida and MBOMIPA project in Iringa are shown to be dependent on the goodwill of local bureaucrats, funding by donor agencies and 'enthusiasm' of foreign consultants. Astute observers have doubted their sustainability. The replicability of such *project-based* successes is doubtful, and the validity and wisdom of organising village life and development around donor-driven projects is questionable.

The ownership, control and use of common pool resources are contentious issues, and the process of policy-dialogue and policy-making in this context cannot be politically neutral. Current policy-making pays lip-service to stakeholder consultation, community participation and poverty alleviation as if these (a) do not relate to historical evolution of relations of power and wealth in society and (b) are issues of management, rather than ownership, control and governance. Such an approach is not only misleading and self-defeating, but also self-perpetuating.

The major conclusions of this analysis, therefore, are, first, to link the question of common pool resources with the reform of village governance, and, second, to vest the ultimate ownership and control over common pool resources in the village communities through their village assemblies.