



Dissertation By
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**Contradictions in local government
decision making in Tanzania: A Case
Study of Land Allocation in
Dar Es Salaam City Council**

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CONTRADICTIONS IN LOCAL GOVERNMENT DECISION MAKING IN TANZANIA

**A CASE STUDY OF LAND ALLOCATION IN
DAR ES SALAAM CITY COUNCIL**

BY FRUMENCE GASTO

A dissertation submitted in partial fulfillment of the requirements for the Degree of Master of Arts (Public Administration) of the university of Dar es Salaam.

University of Dar es Salaam
September 1997

CERTIFICATION

The undersigned certify that they have read and hereby recommend for acceptance by the University of Dar es Salaam dissertation entitled: Contradictions in Local Government Decision Making in Tanzania, in partial fulfillment of the requirements for the degree of Master of Arts (Public Administration).

Prof. S.S. Mushi


.....

SUPERVISOR/INTERNAL EXAMINER

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23 / 9 / 97
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Prof.

EXTERNAL EXAMINER

DATE:

DECLARATION

I, Frumence Gasto, declare that this dissertation is my own original work and that it has not been presented and will not be presented to any other University for a similar or any other degree award.

Signature:

Frumence Gasto 22/09/97

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Finally, I would like to thank Mr. Mkanda who devoted considerable time and effort to the typing of this dissertation. However, while acknowledging the assistance of the above mentioned individuals and institutions, I am solely responsible for all the views and any mistakes in this dissertation.

DEDICATION

I would like to dedicate this study to my parents i.e. my father Frumence Luca and my mother Leonia Claudi, both of whom knew the importance of education and so they took me to school.

ABSTRACT

The major purpose of undertaking this study was to describe and analyze the causes of the prevailing contradictions in local government decision making, focusing specifically on land allocation in Dar es Salaam City authority. The contents of the study are based on the data obtained through interviews with officials of the Dar es Salaam City Council (DCC), Ministry of Lands, Housing and urban Development (MLHUD), Prime Minister's Office (PMO) and the Association of Local Authorities in Tanzania (ALAT). Other data were collected from a wide range of documents and books from the libraries of Dar es Salaam University and Dar es Salaam University College of Lands.

The study is presented in eight chapters. Chapter one provides the research design and background information on local government in Tanzania. Chapter two reviews available literature on land use, management and administration in Tanzania. This chapter also provides a theoretical framework whereby the concept of decentralization and local autonomy are discussed and used to develop the conceptual framework for our study.

Chapter three discusses the structures of local government in Tanzania from the colonial up to the present period. The findings showed that since independence the structure of local government authorities in Tanzania did not give them a relative autonomy that could enable them to discharge effectively their local socio-economic affairs. Instead the financial, decision making and personnel autonomy were on the central government authorities which usually made most decisions pertaining local affairs.

Chapter four traces the land policy and land management in Tanzania and found out that since independence Tanzania had not formulated a comprehensive land policy which could outline clearly among other things: the decision making process, powers and procedures in land allocation. The land tenure system was either influenced by broad party and government statements, social and philosophical visions or left to change pragmatically. This situation has caused many land problems such as the existence of contradictory decisions especially in land allocation.

Chapter five and six analyze two cases of land allocation in Dar es Salaam City Council. The study found out that despite the availability of government circulars,

orders and pamphlets which describe and outline the land allocation procedures and authorities, still, there are central and local government officials who ignore the laid down system in land allocation, thus causing many problems in land use, management and administration.

Chapter seven raises wider issues on centre-local relations in Tanzania. Basically the findings revealed that the existence of contradictory decisions in local government is caused by various factors: overlapping interests between central and local government officials and within local government itself, breach of laid down procedures, rules and regulations in the decision making process and the existence of rampant corruption among local and central government officials. The study further revealed that local government performance was affected by lack of awareness and competency of the responsibilities on the part of local councillors, the existence of imbalances of resource powers between central and local governments. All these have affected the performance of local authorities particularly in making rational and autonomous local decisions, thus causing inefficiency and ineffectiveness of local government performance.

On the basis of these findings, chapter eight concludes that local government laws in Tanzania do not provide for autonomous local institutions, hence creating the dependency nature of local authorities over central government. This situation is a root cause of many problems facing local authorities in the country including the present existence of contradictory decisions in day-to-day local operations. The study therefore, recommends the need for actual devolution of powers from the centre to the locality which in turn will make these authorities autonomous institutions particularly in raising their own local revenues; making their own autonomous decisions pertaining their local affairs such as land allocation system etc. This situation will make local authorities more accountable to the local people instead of the present structure where they are accountable and answerable to the central government authorities. In this context, local self-governance will have its meaning in the process of local development in the country.

ABBREVIATIONS

1. ALAT - Association of Local Authorities in Tanzania
2. DCC - Dar es Salaam City Council
3. DAO - District Administration Officer
4. DED - District Executive Director
5. DLDO - District Land Development Officer
6. DLDS - Director for Land Development Services
7. IPC - Investment Promotion Centre
8. LGSC - Local Government Service Commission
9. MLG - Minister for Local Government
10. MLHUD - Ministry of Lands, Housing and Urban
Development
11. PAC - Plot Allocation Committee
12. PMO - Prime Minister's Office
13. RC - Regional Commissioner
14. RDD - Regional Development Director
15. RLDO - Regional Land Development Officer
16. RTD - Radio Tanzania Dar es Salaam
17. TP - Town Planning

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CHAPTER ONE

THE PROBLEM AND RESEARCH DESIGN

1.1 Introduction

"Self-governance" which is an expression of democratic rights for the people to say how they shall be governed is a concept which has gained support in recent years (Donald, 1994). This idea emerged in the 1980's following the experience of extreme centralization in most developing countries which had discouraged popular participation and thereby stifling genuine development. Local self-governance entails, among other things, peoples' participation, development through local community initiatives, and democratic government.

Tanzania is one of the developing countries currently experimenting a devolutionary approach to local government. However, no progress can be made unless local authorities achieve a measure of independence in decision making. This study is designed to describe and analyze the causes of the prevailing contradictory decisions between central and local governments as well as within local government itself. The study is also aimed at proposing possible solutions that could be adopted to remove such contradictory decisions.

1.2 Definition of Local Government

It is important to define the concept of local government at the outset in order to clarify the context in which this concept shall be used. Local government has been defined differently by differently people. For example Roche (1982:1) defines local government as:

a system of administration in political subdivision of a state, by elected bodies having substantial control of local affairs including the power to impose taxes. These elected bodies are called local authorities.

In his definition Roche considers powers of taxation as necessary condition of the degree of independence which is required to qualify an administrative unit as a local authority. Another definition is that of Robson (1970:574):

... local government may be said to involve the conception of territorial non-sovereign community possessing legal right and necessary organization to regulate its own affairs. This, in turn, presupposes the existence of local authorities with powers to act independently of external control as well as the participation of the total community in the administration of its own affairs.

Both Roche and Robson agree fundamentally that local governments are the infra-sovereign geographic sub-division of a sovereign nation which have a considerable degree of independence and freedom of choice in the discharge of their functions and in determining the level and pattern of

their expenditure. In addition, they have independent source of revenue.

However, the definition adopted by Ladipo (1989:71) is more comprehensive since it includes most of the features that characterize local governments in the modern world. He considers local government as:

Government at local level exercised through representative councils established by law to exercise specific powers within defined areas. These powers should give the councils substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement projects so as to complement the activities of central government in their areas and to ensure that through the active participation of the people and their local initiative and response to local needs are maximized.

Given the above definitions, it can be said that local government is a system of administration which has three major characteristics:

- (i) A set of local authorities with a separate autonomy and a legal status distinct from that of central authority.
- (ii) Autonomous local institutions which have powers to generate their own revenue and spend it on the discharge of their functions, and

iii) Local institutions which have powers to make decisions as independent organs and not as extension of the central authority.

1.3 The need for local government

The present conditions of increasing complexity of social, economic and political life, the democratic desire of many people to participate in governance and the increasingly specialized as well as technical character of various aspects of governance, require a division of labour in which various groups and institutions are organized in terms of their similarities of functions in order to promote economic development of any society. This means that a state can no longer do everything by itself, despite its power, resources and the freedom. Therefore, given the increase both in number and complexity of governmental functions, central governments have to divide responsibilities and labour in the form of delegation, devolution or decentralization of powers so as to facilitate the efficiency and effectiveness of governmental operations.

Given the above situations, local governments fall into this scheme as partner for the performance of some of the governmental functions and the delivery of services. The need for local government therefore lies in the fact

that services at the local level are better provided by local government bodies because they are closer to the people, easily supervised and even criticised when they fail.

In this respect, Liviga (1993:20) argues that:

Local governments are potentially more capable of ascertaining local needs, considering demands, determining priorities, mustering local resources and arousing general interest and support and thus meeting many local needs more effectively and less expensively.

It is therefore believed that through local governments citizens can easily participate in the provision of certain services because the needs are felt by the people themselves and their welfare concerns them all.

Another argument in favour of the need for local governments originates from the fact that in any democratic state, local governments are established to serve as institutions to meet three fundamental requirements of democracy. These are: participation, discussion and education. Local governments can therefore enable the citizens to share not only in the making of decisions and policies but also in their execution. Local governments also provide avenue for discussion where citizens can register their consent and disapproval. (Liviga, 1993)

Mtunda (1995) is of the opinion that local government serves as the training ground for the art of

administration. It involves the general populace in the local governing process. Furthermore, local government creates room for politics and politicians preparing them for national politics. Thus, local governments are important institutions since they have social, political and economic role to play in the society.

1.4 Statement of the Problem.

Section 146(1) of the constitution of Tanzania states that the Purpose of establishing local government is to place powers in the hands of the people. This means that local people through their representatives can deliberate and decide on any matter which affect them.

However, in practice local governments in Tanzania do not have full autonomy to make decisions. Local governments are under strict control of the central government. For instance, they are subject to policy interventions and manipulations, and receive adhoc central government guidelines pertaining to their daily operations. This situation has led to many contradictory decisions made by central and local government authorities with regard to such things as land allocation. Given such a situation, it is hard to determine who is the rightful authority in making decisions pertaining to local affairs. It is important to trace the sources of these problems and

contradictory decisions if local governance is to be improved. This dissertation intends to address this issue.

1.5 Background to the Problem

In Tanzania Mainland, "Local" government started during the British colonial rule. The British administration in Tanganyika established the local administrative system known as "Indirect Rule". This system enabled the British colonial administration to govern the indigenous people through their own institutions like chiefs and councils. This type of local government was established under the Native Authority Ordinance, 1926 (Cap. 72) and was designated "Native Authorities" by the Governor.

Despite their acclaimed "native flavour", native authorities were not "local government in real or legal sense. They were mere arms of the central government. They used to serve as the major link between the colonial authorities and the people. Under this arrangement, the colonial administration was supreme in the chain of command in all matters of governance. In this respect Liviga (1992:209) argues that:

Local government was created as the arena where colonial policies and decisions were legitimized, before being pushed down to the people through the chiefs for implementation.

This means that the way local government authorities were introduced by the British could not have allowed independent decision making power at the local level. All decision making authority was concentrated at the centre which determined the functioning of local government authorities.

Local government in independent Tanzania inherited the principles and structures established by the British. Mwaikusa (1994:63) identifies the political and economic motives which led to the establishment of local authorities in independent Tanzania. These include the need to replace chiefs who as colonial native authorities had been associated with the colonial order; the need to bringing about speedy progress to ensure country's stability; and the need to ensure popularity for the government. These views are however, opposed by Mogella (1987:86) who argues that local government in independent Tanzania was established out of the desire to promote democracy so as to give the people a right to participate in making decisions which affect them most.

Whatever be the case, local authorities in Tanzania suffer a number of bottlenecks which undermine their autonomy. For example, many legitimate decisions which originate from the local authorities have been reversed or

revoked by the central government. This situation brings about numerous and endemic difficulties to local governments and frustrates their performance.

Land use and management has been one of the areas where many decisions that originate from local authorities have been either reversed or revoked by the central government elites. It is argued that the land question in both urban and rural contexts, is not only broad and complex but also economically and politically sensitive. Kiamba (1994:32) points out that:

Land is not only a basic component to any human activity, in most cases, it is the most important if not the only means of production and livelihood.

Given this fact, one would expect that land authorities, be they central or local, would have a systematic and clear policy that guides land use and management so as to maximize land benefits. However, the situation is different in Tanzania where land use and management has become one of the areas with many thorny and endless problems. Dar es Salaam City is a case in hand.

1.6 Objectives of the Study

Specific objectives of this study are the following:

- (i) To survey and solicit view/opinions and facts from individuals, local and central government

officials on how local governments in Tanzania could be made an effective governing structure with reference to decision making.

- (ii) To establish the awareness of local government officials, and councillors in particular, of their roles and responsibilities.
- iii) To explore the causes of the prevailing contradictory decisions relating to land allocation between central and local governments, as well as within local government itself.
- (iv) To propose practical policy measure or solutions for removing such contradictory decisions that have frequently arisen at the local level.

1.7 Significance of the Study

A number of studies have been conducted on various issues pertaining to the relationship between central and local governments. Others have dealt with how to strengthen local initiatives, i.e. local self-governance, decentralization and accountability. Yet, no consistent study has been carried out on the contradictions in local government decision making, on issues related to land allocation.

This study is therefore expected to uncover the reasons behind these contradictory decisions at the local level and suggest possible solutions that could be adopted to diffuse this potentially explosive situation. The study will contribute to literature on public policy particularly on decision making process at the local level, an aspect which is often ignored.

1.8 Hypotheses of the Study

Three main hypotheses were advanced, that;

- (i) Unclear definition of boundary between central and local governments in the decision-making process is likely to cause contradictions in land allocation.
- (ii) Non-conformity with the established local government laws and regulations is likely to cause contradictions in the local government decision-making process and therefore affect the land allocation system.
- iii) Engaging in corruption by the central and local government officials is likely to cause contradictions in local government decision-making and therefore lead to distortion in land allocation and utilization.

1.9 Research Methodology

1.9.1 Approach

In conducting research for this study the historical and descriptive - analytic approach was used. This approach enables comparisons and analyses of things like different provisions, statutes of local governments and their relationship to the performance of the same local institutions in a given period of time. Furthermore, such a descriptive/analytic approach is a good instrument for putting various events in proper historical perspective and their socio-economic and socio-political contexts.

1.9.2 Sampling Procedure

This study used purposive or judgemental sampling procedures to select the study area and the sample size.

This form of sampling generally considers the most common characteristics of the type it is desired to sample, tries to figure out where such individuals can be found and then tries to study them (Baker, 1988:157).

The Ministry of Lands, Housing and Urban Development (MLHUD), Prime Ministers' Office (PMO) - local government wing and the Association of Local Authorities in Tanzania (ALAT) were purposely chosen due to their strategic importance in policy formulation. The Dar es Salaam City Council (DCC) was chosen for the field study because it has persistent occurrence of contradictions in decisions relating to land allocation and land use.

1.9.3 Research Instruments

Data and information for this study were gathered mainly from three principal sources:

(i) Secondary/Documentary Sources

Most of the historical data and information on the topic were derived from relevant documents which were thoroughly examined. They include; books, articles, newspapers, government documents (files), official papers, and Acts of Parliament.

(ii) Personal Interviews

Unstructured interviews were conducted at two levels: at the national level the following were interviewed; an assistant commissioner for lands and three senior land officers from MLHUD, two commissioners from the Prime Minister's Office - Local Government Department, and two officials from the Association of Local Authorities in Tanzania (ALAT). At the local level (Dar es Salaam City Council) we interviewed, the Deputy City Director, a city planner, the city engineer, a city land development officer, five land officers working with the city council and the personnel and administrative officer (Research and Training) of the City Council.

Finally, we interviewed fifty citizens who were facing land problems in the city of Dar es Salaam.

(iii) Questionnaires

The main questionnaire for this study had five sets of questions relating to two major issues: the relationship between central and local governments with particular reference to decision making powers and the practicability of land policy (if any) in the country generally and Dar es Salaam City Council in particular. We administered eighteen questionnaires to Dar es Salaam City Councillors.

1.9.4 **Research Questions**

To achieve the stated broad objectives, the study purports to answer several pertinent questions:

- (i) Who initiates policy decisions in the local authority?
- (ii) Are decisions made according to the prescribed rules and procedures?
- iii) If there are conflicting decisions between central and local governments, which one prevails and why?

- iv) Is there any land policy which guides land allocation in the city?
- (v) What are the procedures used in land allocation?
- (vi) What is the actual practice of those procedures?
- (vii) What are the major problems associated with land allocation system?
- (viii) What are the major causes of such problems?
- (ix) How can such problems be solved?

1.9.5 Limitations of the Study

This study faced a number of problems. The first related to data collection. Given that this study dealt with a complex and sensitive issue of land allocation, it was extremely difficult for the researcher to get access to all relevant information, especially data on plots with problems. In the MLHUD, DCC and PMO a lot of information was claimed to be sensitive and confidential. Thus, it seems that most of the information was concealed. Funds and time available to me also set a limit to the amount of information I could have collected for this study. However, the findings which were gathered are expected to point to the right direction.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Literature Review

There are a number of studies on land tenure and land policy in Tanzania, yet there are few on land allocation despite the fact that of recent land allocation has become one of the burning issues.

In his study of land uses and land values in the City of Dar es Salaam, Ndibalema (1986) found out that after thirty years of independence Tanzania has not formulated a comprehensive and authoritative land policy. Instead of a comprehensive land policy, there have been circulars, pamphlets, orders, etc. which have been issued from time to time to deal with various aspects of land. He concluded that the lack of clear policy had led to land administration problems and distortion of land allocation and utilization. Mosha (1986) asserts that the problems of land allocation in Tanzania are caused by the number of people involved in land administration: councillors, ward secretaries and even district commissioners. These tend to assume the role of land surveyors. This situation has resulted into confusions and in non-conformity with land use plans in the urban areas.

Vick (1983), Sendaro (1987) and Mosha (1986) share the view that central government intervention in the economy leads to confusions in land administration for it distorts and displaces complimentary land uses. In his research on the local government decision making pattern, Sendaro (op. cit.) observed that one of the functions of local government is to provide a forum for democratic participation of the people in deciding their own affairs. However, the decision making pattern has always been dominated by the central government officials. The councillors who are the true representatives of the local people play an insignificant role in the decision making process. The problem with Vick, Mosha and Sendaro is that they fail to explain why and under what conditions the central government becomes interested in dominating the local government decision making process. We think there is a need to go a step further in this direction.

Kimaryo (1984) conducted a study on urban land development and planning system in Tanzania, and concluded that the problem facing local government, especially in land allocation, was bureaucratic. He feels that central government intervention in land had created bureaucracy in land allocation. Nonetheless, he is not clear on how such

bureaucracy operates at the local level and how it interacts with the local structure of governance.

Similarly, Ngware and Haule (1983) have observed that despite the presence of statutory provisions which enable local government authorities to deliberate and decide on matters which affect them (including land allocation), in practice no decision is enforceable without the consent of some central government officials.

In this respect, Kimaryo (1984.) argues that the discretionary powers of the local government in urban development have been extremely limited. The central government still makes key decisions for local areas through the Ministry of Land, Housing and urban Development and the Prime Minister's office. Urban councils are restricted to local administration and execution of development projects confined to their areas but decided at the central level. Kimaryo (1984:89) concludes:

This kind of central-local relationship has tended to make urban councils mere tools of implementation of plans and policy decisions made by the central government.

Ngware and Haule (1983) give further elaboration on the planning system in Tanzania arguing that the planning system in Tanzania both under single and multiparty system is dominated by the centre. They argue that the

development planning system in the local governments is more or less a shopping list prepared by administrators and submitted by the councils to the central executive. Hence the plans do not originate from the people at the grass roots level. They give two reasons as to why there is lack of participatory decision making in the local government. First, there is a deliberate move by the central government to centralize major resources and, secondly, the central government lacks the will to involve the people in decision making.

Fimbo (1992) sees the origin of land allocation problems, especially double allocation of urban plots, as the re-organization of government machinery which took place in the 1970's. He says that before 1970 all land personnels were directly responsible and answerable to the Commissioner for Lands. However, between 1972 and 1982, re-organizations in the government machinery affected land allocation. According to him the decentralization package of 1972 (by Act No. 27 of 1972) made land officers outside the ministry headquarters answerable to the Regional Development Director (RDD). When urban local governments were re-established in 1978, land officers in urban authorities became answerable to Town/Municipal/City Director, which meant that the DLDS was no longer their boss. Therefore the land officers could ignore the

instructions and circulars of the DLDS and DLDS could take action without a clear picture of what was happening on the ground. As a result of such ambivalent situations, distortions in land use and management is obvious.

Mahela (1985) further argues that after the land administration was placed in the regional and urban planning officers in 1978, some confusion in land administration rose. He maintains that there had been conflicts between Regional Land Development Officer (RLDO) and Regional and Urban Planning Officers regarding who should enforce land development conditions. This situation has resulted into double allocation of plots which, according to Mahela is one of the major problems of land administration in Dar es Salaam, Arusha, Dodoma, Mwanza, Moshi and Tanga.

Mtetewanga (Presidential Commission on Land, 1995), the former Director for Land Development and Services (DLDS), identified five reasons for double allocation of plots. These were defective allocation records, bad allocation procedures; fraud, change of survey numbers and disregard of land laws. Similarly, the Presidential Commission of Inquiry into land matters under the chairmanship of Professor Issa Shivji (1995), identified the following as the major causes of double allocation of

plots: Malpractice in land offices, defective plot allocation system, issuance of plots from town planning (TP) drawings, overlapping plot issuing authorities, prolonged non-development of allocated plots, revocation of offers without following laid down procedures, shortages of surveyed plots, poor data storage; and retrieval system.

In his study, land dispute at the Ardhi House and Dar es Salaam City Council, Mundeme (1991) found out that double allocation of plots has become a widespread phenomenon, particularly in Dar es Salaam. He estimates that of the total number of plots allocated by the Dar es Salaam City Council between 1985 and 1989, 8-18 per cent were double allocated. Furthermore, land disputes involving double allocation in the various land offices and courts of Dar es Salaam between 1983 and 1989 averaged 200 per year.

Mgulu (1991) who analysed the problems of multiple allocation of plots and enclosure of beaches in Dar es Salaam found out that allocation of beaches was caused by the pressures from wealthy business persons and high government officials. He demonstrated that all such allocations went to either rich business persons, party or government officials. Similarly the Presidential Commission of Inquiry into land matters gave overwhelming

evidence to the effect that different political leaders and government officers at various levels of the administration are directly or indirectly involved in the allocation of land, particularly plots on prime land in urban areas, and alienation of large tracts of farmland in the rural areas.

In this regard, the Commission (1995:27) concluded that:

Malallocation, malpractice and discontent arising from this involvement result from abuse of authority. Even where authority to allocate land does exist, its exercise is very often motivated by extraneous considerations.

The commission's evidence shows that many of the land problems emanated from the abuse of authority, ignoring laid down procedures, or the use of procedures which are not open to public scrutiny.

The above discussions suggest that local government lacks autonomy in making decisions pertaining to their own affairs (including land allocation). As a result, there have been confusions and contradictory decisions which make it impossible to implement most of the decisions made. The studies cited have nonetheless touch on the implications of the lack of autonomy for land allocation. They have also failed to examine the contradictory decisions within the local government structure which is the main thrust of this study.

2.2 Conceptual Framework

2.2.1 Introduction

There are different theories which attempt to explain issues on the state in general and local government in particular. Among others, there are those which are related to party politics, organization, external pressure, instrumentalism, structuralism, functionalism, public choice, statism and decentralization (Liviga, 1993). This study is governed by the concepts of decentralization and relative autonomy of local governments. A combination of these two concepts allows the researcher to consider the following issues:

- (a) Types of power or authority that is decentralized. For example does it entail effective decision making power?
- (b) The levels to which different types of power are decentralized
- (c) The organizations or actors to which power is decentralized or delegated, for example elected or appointed local leaders, a local bureaucracy, a local chief etc.
- (d) The means by which power is decentralized or delegated, for example, by constitutional legislation, ordinary legislation,

administrative decrees or ad-hoc instructions of the chief executive.

2.2.2 Decentralization

As stated earlier, the purpose of this study is to analyse the causes of contradictory decisions in local government process of land allocation. Thus a review of the relevant literature on decentralization theory is necessary to clarify the issues raised above. It will help us to explain the forms of decentralization Tanzania has adopted and how such forms facilitate or constrain the effectiveness of local government and the extent of their decision-making autonomy.

Fox (1994) argues that decentralization is a value-laden term with wide connotations and therefore care must be taken in determining which connotation is being considered. This being the case, the following definitions of decentralization suit the Tanzanian context. Decentralization is the transfer or delegation of powers or authority by central government to field units of government departments or local units or specialized statutory bodies (Mbago, 1985:12). Another definition is that of Rondinelli and Cheema who see decentralisation as;

The transfer of planning, decision-making or administrative authority from the central government to field organizations, local administrative units, semi-autonomous and

parastatal organizations, local governments or non-governmental organizations (Liviga, 1993:59).

From these definitions it is clear that decentralization takes place both vertically and horizontally. They basically refer to delegation of authority by deconcentrating the centre. Gasper (1991) adds new dimensions or forms under which power has been transferred from the centre. He thus calls for a distinction among deconcentration, devolution and privatization as forms of decentralization. This study takes decentralization to mean two forms: deconcentration and devolution.

Deconcentration entails the delegation of certain authority within single administration to enable staff of the central government who are situated outside the headquarters to discharge specified governmental functions (Mbago, 1985). Fox (1994) views deconcentration as the movement of ministry offices to regional or local levels. Similarly, Rondinnelli and Cheema define deconcentration as the dispersion or redistribution of administrative responsibilities within the central government ministries to field officers without delegating the political power (Liviga, 1993). Deconcentration, therefore, can occur in two ways. The first is where some decision making power is transferred to field staff, and the second is where some

local administrative units subordinated to central authority become agents of the central government.

Devolution is defined by Fox (1994) as the transfer of responsibility and authority for service delivery from the central government to local units, particularly local governments. According to Sherwood, devolution means:

The transfer of power to geographic units of local government that lie outside the formal command structure of the central government ..., the essential idea of devolution is system separateness, in which local governments discharge obligations as part of a national political system and not as dependent element of a central hierarchy (Liviga, 1993:62).

Fox (1994) has listed several requirements which he thinks must be met for devolution to be a significant near-term option for a country:

- (i) The most important factor for effective devolution is that local governments need sufficient authority to meet their designed responsibility, otherwise devolved service delivery is likely to fail. Fox observes that there is a tendency in most countries to give local governments responsibility for delivering services, although they are not trusted enough to grant them the authority to do so.
- (ii) Devolved local governments must have the legal ability and institutional capacity to raise

revenues and retain them at the local level for service delivery.

- iii) Finally, availability of sufficient skilled personnel at the local level is essential for effective handling of devolved authority and responsibilities. This is a major problem for many developing countries.

Devolution is currently a desired goal for many countries, including Tanzania, since it is considered necessary - though insufficient - condition for local development. It is now realized that development requires local popular control and involvement in the making and implementation of decisions relating to their own future. This implies that the involvement of people at the grass-roots level constitute the nuclear of decentralization. But the question is whether Tanzania meets the above said requirements for effective devolution/decentralization. Do local units in Tanzania have sufficient authority, legal ability and institutional capacity to raise enough revenue? Do local authorities in Tanzania have sufficient skilled staff for effective devolution? Answers for these and related questions will be provided in the next chapter.

2.2.3 Local Autonomy

The above discussion has revealed that devolution calls for local autonomy which gives representatives of the local people a say on decisions about the services that are decentralized by law. Rondinnelli says that devolution requires that local units be given autonomy and independence and should be clearly recognized as a separate level over which central authority exercise little or no direct control (Liviga, 1993). This would mean that if there is a decentralized system with genuine autonomy at the grass-roots level normally the central government abstains from intervening in the decision-making process of local authorities. The central authority may, of course, need to regulate activities at the lower level to harmonise development strategies and ensure efficient use of the nation's scarce resources. However, this must be accomplished without intervening in the lower council's specific decisions and arrangements.

Scholars and researchers have diverging views about what elements constitute local autonomy. Layfield and White see local autonomy as being synonymous with self-reliance, whereby the power relation between central and local government is defined by the source from which funds are obtained. This self-reliance approach contends that local autonomy can be achieved only by increasing the income

gained from various local sources such as local taxation. It further suggests that most local governments are not autonomous precisely because the central government pays much for their expenditure which result in central control of the local authorities, for who pays the piper calls the tune (Liviga, 1992).

Gripps and Godley suggest that while local autonomy is enhanced by powers to raise local taxes, it depends primarily on the responsibilities, resources and discretion that the local authorities have (Liviga, 1992). In the same vein, Davey (1971) argues that local autonomy includes a wide degree of discretion in planning and executing specific local tasks within general central guidelines or policy contexts.

Other scholars have correctly emphasized the limitations of local government autonomy. For example, Mukharji (Liviga, 1992) argues that local autonomy cannot exist in the form of complete freedom to choose what and what not to do. This is because local governments are parts of a sovereign state. Since the central government is the main instrument of exercising state power, local governments have to accept general directives from it. These may be contained in the constitution, ordinary legislation or policy documents. In other words, however,

autonomous local governments may look like, still they are the functional agencies of the centre.

The debate on local government autonomy can be grouped into two views. The first group views local government as an organized entity which has governmental characters as well as sufficient discretion in the management of its own affairs. In this case, local government autonomy must include the following characteristics (Donald, 1994:59).

- (i) A set of local authorities with a separate autonomy and a legal status distinct from that of central government.
- (ii) Powers of the autonomous local institutions to raise their own revenue and spend it on the discharge of their functions as assigned to them by laws, and
- iii) Powers of the local institutions to make decisions as responsible organs in their own right.

This group attributes several benefits to local autonomy, including the ability to tune services to local demand, to promote grass roots participation and to create a sense of community self-reliance.

The second group views local governments as creatures of central government legislations whose existence presupposes the existence of a central government authority to which they are subordinated. The argument raised by this group is that central government has the legal right to intervene into local government affairs and that local authorities are semi-autonomous institutions which function under the central government directives. Various scholars such as Gondwe (1983) have mentioned the following reasons which justify intervention of central government into the affairs of local authorities:

- (i) The central government makes national policies and has to make sure that local governments operate in line with these policies
- (ii) The primary responsibility of a local government is to deliver services to the local community. However, most basic services like health, education, roads, water, co-operatives, trade and natural resources are regulated by the central government. Since these services affect the well-being of the nation directly, the central government must give close guidance and support to ensure their effective delivery.

- iii) Most local government areas have different resource endowments. Complete autonomy would increase the development gap between different geographical areas. In order to avoid this, central governments must have the legal right to intervene into local affairs so as to bridge the gap. This is done through various ways, including the annual budget and the allocation of grants and subsidy to disadvantaged councils.
- (iv) Most local authorities lack sufficient resource base. Thus large proportion of their development budgets should be provided by the central government which also pays for the recurrent costs of various services such as health, water and education. Therefore, it is proper that the central government should have close control of the expenditure of the money it grants.
- (v) Finally, local governments do not have sufficient skilled and technical manpower to enable them discharge their functions efficiently, and hence the central government has to intervene to train and supply the necessary manpower.

The Tanzanian situation is captured by the views of the second group. What exists in Tanzania is deconcentration rather than devolution given that the local authorities are non autonomous. The control of local authorities by the central government is discussed in more detail in the following chapter.

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CHAPTER THREE:**THE STRUCTURE OF LOCAL GOVERNMENT IN TANZANIA****3.1 The Colonial Period**

The structure of local government in Tanzania is a product of history that covers several decades. During the colonial administration, the Governor remained the ultimate authority for the establishment of native authorities and the day-to-day relations between the British Colonial government and the native authorities. The colonial government employed the deconcentration approach as described by Alderfer (1964) where the centre sets up administrative units and gives them directives on what to do. In this case, the colonial government had not only the power to enact the law which established local government but also had power to appoint local staff as well as defining their functions. For example, the British colonial government enacted the native authority ordinance (1926) which was amended in 1950 to empower the Governor to appoint members of the Council who could exercise administrative functions with the chiefs. The colonial government also defined the functions of native authorities which, among others, included the following:

- (i) To act as a major link between colonial government and the indigenous people,

- (ii) To maintain law and order so that the colonial government could govern peacefully,
- (iii) To collect the native tax and
- (iv) To perform local activities such as maintenance of minor roads, local water supply, etc.

Under this arrangement the colonial government was supreme in determination of all social, political and economic policies. This means that the relationship between central and local governments under colonialism can be expressed in terms of principal - agent relation whereby the native authorities were created as agents through which the colonial policies and decisions could be legitimized and implemented at the local level.

3.2 Powers and Functions of Local Government in Independent Tanzania

Local government in independent Tanzania inherited the colonial principle of the supremacy of the central government whereby the parliament has the power to establish or disestablish any local authority. The statutes which establish local authorities also assign them functions and define their powers.

Several Acts of parliament have been passed to define the basic features of the local government system in Tanzania. It is worth mentioning some of them.

First, the local government (District Authorities) Act No. 7 of 1982 which established District Councils, Town Authorities, Village Authorities, their powers and relationship to the central government departments.

Second, the local government (urban authorities) Act No. 8 of 1982 which established Urban authorities (Town and Municipal Councils), their powers and relationship with the central government departments.

The functions, duties and powers of local government authorities in independent Tanzania are stated in Acts No. 7, 8, 9 and 10 of 1982 and can be grouped into two major categories: Basic or specific and general. The basic functions and duties that have been delegated to the local government usually comprise the responsibility of each local authority (Semboja and Therkildsen, 1991). They include the following:

- (a) To maintain and facilitate the maintenance of peace, order and good government.

- (b) To promote the social welfare and economic well-being of the inhabitants within its area of jurisdiction, and
- (c) Subject to national policy and plans for rural as well as urban development, to further social and economic development.

Apart from these basic functions, there are other general duties and functions of the local authorities. Among others, they include:

- (a) To formulate, coordinate and supervise the implementation of all plans for the economic, commercial, industrial and social development in its area of jurisdiction. This can be done through relevant committees of the local authorities.
- (b) To monitor and control the performance of the duties and functions of the council by departments and its offices and staff, and
- (c) To ensure the collection and proper utilization of the revenues of the councils.

From the above discussions, it is clear that local authorities in Tanzania have been delegated many functions and duties to perform. This study sought to determine the

magnitude of the local authorities on decision making autonomy, financial autonomy, personnel autonomy and to whom these authorities are accountable to, all of which will cover the remaining part of this chapter.

3.2.1 Financial Autonomy

The parliament has enacted the Local Government Finances Act No. 9 of 1982. This Act is designed to make provision for different sources of local revenues and the management of funds and resources of local authorities. The sources of revenues for all categories of authorities may be divided into two main groups.

- (i) Local government authorities' own revenues derived from direct and indirect taxation. Basically these sources include: Assets and liabilities vested in the authorities; money derived from any trade industry, works, services or other undertaking and all fees for licences granted within the area of the respective authorities (Max, 1991).
- (ii) Contributions and Grants from the Central Government. Sections 76(2)(c) (xiii) and 76(3)(6) (xvi) of the local government law (Cap. 333) contained adequate provisions requiring central government to pay to local authorities annual grants to finance a variety of socio-

economic activities such as public health, roads, primary education etc. (Max, 1991).

Part II and III of the Local Government Finance Act define sources of revenues for local authorities and also delegate powers to them to make by-laws on local revenues. Yet, part IV, Section 33 mentions the minister responsible for local government as proper officer for all urban authorities and Regional Commissioner as proper officer for each district authority within the region in respect of which he is the Regional Commissioner; and shall also be the assistant proper officer for each town and municipal council within that region. Although Section 33(d) states that every Director of Urban or district council shall be the accounting officer for the local authority of which also is the chief executive, section 34 states that proper officer shall also be responsible for ensuring the proper management of all financial matters of the local authority (Tume ya Rais ya Chama Kimoja au Vingi, 1991).

Local government finances is one of the areas where local government authorities in Tanzania lack autonomy. It has been observed that there are different provisions through which central government can exercise strict control over local government financial matters. For instance, the minister responsible for local government may

issue statutory orders and directions which local authorities must observe in the following areas:

- (i) Raising of revenues
- (ii) Expenditure
- iii) Approval by the Minister a number of local decisions concerning finances before they are acted upon
- (iv) The Minister exercises day to day supervision and may at any time interfere in a local authority's financial affair, and
- (v) In some cases, the minister may exercise appellate powers. (Tume ya Rais, 1991)

The table below enumerates some few selected central control provisions that are found in the Local Government Finances Act No. 9 of 1982. These provisions give central government authorities more powers to control, monitor and supervise local authorities' financial affairs, thus making these authorities less autonomous institutions as far as finance is concerned.

Table 1.3: Central Control Provisions Under the
Local Government

Finances Act No. 9 of 1982

Section enabling Control	Person Exercising Control	Way in which Control is or may be Exercised
10	Minister	Determining amount of grants and/or subsidy
11	"	Approving the raising of loans and security.
13	"	Making rules to govern imposition of local rates and taxes
15	"	Approving methods of rating
31	"	Making rating rules
42	"	Issuing Financial memoranda
54	"	Appointing members of Local Government Loans Board.
58	"	Issuing directions to govern the board.
34	Proper officer (RC)	Ensuring the proper management of finances
38	"	Approving investments
43	"	Approving annual and supplementary budgets
45(2)	"	Appointing Auditors for Township Authorities. Approving the foregoing appointments
51(2)	"	Disallowing unlawful expenditure.

Source:

"Tume ya Rais ya Mfumo wa Chama Kimoja au Vyama Vingvi vya Siasa Tanzania, 1991, Kitabu cha Tatu.

NOTE: "Proper Officer" means, for district authorities the Regional Commissioner, and for urban authorities the minister.
"Minister" means, the minister for the time being responsible for local government.

From the above discussions, it can be argued that the local government authorities are supposed to be autonomous institutions in all affairs of their localities including finance. However, from our observations of the local government finance Act No. 9 of 1982, there are a number of provisions and methods that can be employed by the central government to exercise strict control over local financial affairs. The responsibility for ensuring the proper management of finances and resources of all categories of local authorities has been placed squarely on the shoulder of two people. The minister responsible for local government, and the Regional Commissioner who are the central government elites (Max, 1991). This leads to lack of financial autonomy to the local authorities thus subjecting them into entire dependence on central government statutory orders and directives on how to manage their local financial matters.

3.2.2 Personnel Autonomy

The Local Government Service Act No. 10 of 1982 empowers individual local government authorities to employ their own staff to enable them to execute various functions and services. It is important, however, to note here that certain types of local government staff belong to the central government. They include, all staff in

agricultural and livestock, district hospitals, divisional secretaries etc.

Other local government employees have been appointed by the central government. These include the chief executives of the local authorities i.e. Directors who are presidential appointees. Local Government Service Act No. 10 of 1982 also established Local Government Service Commission (LGSC) whose responsibilities include recruitment and appointment of senior local government staff; training and staff development, maintenance of discipline, formulation of regulation governing staff matters and advising the ministry on matters related to the staff of local government authorities. The President also delegated powers to LGSC to make appointments, promotions, transfers, dismissals etc. of local government employees, but all these functions should be exercised in consultation with the minister responsible for local governments (Max, 1991).

The above discussion shows that almost all important decisions on major staff issues at the local level are made by central government officials such as the President, Minister responsible for local authorities and Local Government Service Commission whose chairman and members are appointed by the President and Minister respectively.

Therefore power of local authorities to recruit, hire and fire is done by the central government. This means that local government authorities lack sufficient autonomy over their own servants. The following table gives a summary of some of the provisions under the Local Government Service Act No. 10 of 1982 which gives too much powers to central government to exercise control over local personnels.

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Table 1.4 Central Control Provisions under the Local Government Service Act No.10 of 1982

Section Enabling Control	Person/Body Exercising Control	Way in which control is or may be exercised
4	President	Appointing chairman of the LGSC.
5	Minister	Appointing members of the LGSC.
5	Minister	Formulating and mending the LGSC scheme
9	Minister	Approving appointment or seconded officers and setting the terms and conditions of appointment.
21	Minister	Approving number and sizes of district council departments.
22	President	Appointing District Executive Directors
23	Commission	Appointing other officers and staff of district councils.
26	Commission	Appointing Township Executive officer
32	President	Appointing Urban Council Directors
33	Commission	Appointing other officers and employees of urban councils.

Source: Tume ya Rais ya Mfumo wa Chama Kimoja au Vyama Vingi vya Siasa Tanzania - Baadhi ya Sheria zinazohitaji kufutwa au kufanyiwa marekebisho (1991) p. 79.

Note: LGSC = Local Government Service Commission
Minister = Means the Minister for the time being responsible for Local Government.

3.2.3 Decision Making Autonomy

Decision making at the local government is exercised through committee system. There are six and seven standing committees at the district and urban authorities respectively. These committees are: Committee on Finance and Planning, Establishment and Administration, Social Services, Education and Culture, Economic Services and

Human Deployment (for District authorities). Urban authority, standing committees are: finance and Administration, urban planning, public health, education and culture, works, trade and economic affairs and human resource deployment (Max, 1991).

In principle, all decisions of any authority are supposed to be made by the full council, however, standing committees have been delegated powers from the full council to make local decisions on various issues such as administration, finance, planning, education, health and sanitation, urban development, co-operatives, community development, agriculture, livestock, natural resources, water, land recreational facilities etc. (Max, 1991). Therefore each committee gives its decision on matters related to its duties and functions and submit such decisions and deliberations to the full council.

However, despite the fact that most social, economic and political decisions of the local government are made by the elected councillors either in full council or in the standing committees of the council, the decision making system within the council is guided by different circulars, standing orders and regulations from the central government. In brief, decisions at the local government are based on the following: Central government and party

directives, circulars from the minister for local government (MLG), circulars and instructions by the district and urban directors, financial memoranda (issued by the MLG), financial regulations of the council and Local Government Service Commission (LGSC) and Disciplinary Code (Semboja & Therkisldsen, 1991).

Apart from the fact that the Minister for Local Government and Regional Commissioners are the proper officers for town and district authorities respectively, and that they guide, supervise and approve decisions made by the local authorities; local governments like any other institution in the country, are also subject to parliamentary control. Hence the parliament as one of the central government branches, is responsible to make sure that decisions made by local authorities abide by the laws of the country. In this respect, therefore local government authorities have very limited decision making autonomy given the fact that most local decisions are subject to central government control.

3.2.4 Local Council Accountability

Accountability is the requirement of answerability for one's performance (Flippo, 1983:100). In other words, accountability is the sanctions by which public officials may be held to account for their actions. Thus, local

council accountability means that the local people should be able to control the performance in terms of policies, decisions and behavior of local government officials and to hold them answerable for what they do. The question is, to whom is the local council accountable?

As explained earlier a local council is an elected body which represents people at the grass roots level. Thus, in principle, local council is supposed to be accountable to the local people who they represent. However, in Tanzania, the case is different. Local councils derive their legal status and powers from statutes passed by the parliament and approved by the president. Many of these statutes give to a central government minister, the duty to monitor how such powers are being exercised and make sure that at least the minimum standards of provision are being maintained. In this case, the minister has power to dissolve an authority if after due inquiry, he is satisfied that such an authority has defaulted in the performance of its duties and functions (Max, 1991).

Examples of how these powers have been exercised can be exemplified by different cases. In 1962, the North Mara (Now Tarime) district council was dissolved by the minister for excesses on the part of both the councillors and staff.

In May, 1963, the minister dismissed the elected chairman of the former Bagamoyo district council for using his position to advance his personal interests. By then, the minister was exercising those powers under the local government Ordinance Cap. 333 (Max, 1991).

Such event happened again in June 1996, when the prime minister dissolved Dar es Salaam City Council. He announced this dissolution in the National Assembly on 28 June 1996 and said that the government has dissolved the Dar es Salaam City Council because:

Had failed to comply with the provisions under which local governments are set up, and that it had conducted its affairs in a manner incompatible with the realization of the city authority's objectives (Business Time, July 12-18, 1996:1).

The prime minister dissolved the Dar es Salaam city council in accordance with section 76 of the local government act No. 8 of 1982 which empowers him to dissolve any authority which in his view has failed to discharge its duties and functions as stated in that Act (Business Time, July 12-18, 1996)

Central government has not only powers to establish and dissolve any local authority, but as discussed earlier, it has power to recruit, hire and fire local government staff particularly senior local personnels. Among local

staff who are central government appointees include chief executive of local authorities - i.e. the Directors who are responsible for day to day local authority's functions. Similarly, central government set the terms and conditions of appointment of these senior local government staff. Given this situation, these officials would automatically become more loyal, obedient and answerable to the central government than local council.

In this chapter, we had observed that there are a number of methods which are employed by the central government to exercise strict control of local government authorities. In principle, these controls over personnels, finance, revenues and expenditure of local government authorities should be exercised by the local people to whom these local bodies should be accountable. However, currently, they are only accountable to the central government authorities. It is therefore clear from what has been said above that local government authorities in Tanzania lack autonomy, hence they require more freedom and autonomy in discharging their local socio-economic affairs.

CHAPTER FOUR

LAND POLICY AND LAND MANAGEMENT IN TANZANIA

4.1 What is Land Policy?

Darin-Drabkin (1980) argues that land policy has wide connotations. For some, land policy is associated with land reforms, for others it is the policy of government in relation to the land which it owns. However, in this study land policy is looked at as a document which informs the rules of land tenure and land use. Ideally, a land policy must encompass both land tenure as well as land use. Any land policy has to be introduced and implemented by the government. Given this approach, land policy would cover the function of government in making laws affecting land; in setting up and operating urban and rural planning system for controlling land use and development; land policy would also cover the function of government as user of land for public purposes (government offices, civic centres and social overheads); as developer of land for public purposes (infrastructure, roads, airports, etc); and as controller of activities on land for government programmes (housing, etc).

Land policy is therefore sufficiently wide to encompass anything to do with land use, be it public or

private occupation. There is general agreement that policies are designed to give direction, coherence and continuity to the causes of action which the decision making body is responsible.

4.2 Evolution of Land Policy in Tanzania

4.2.1 Before and during Colonial Period

Before Tanzania was colonized by the Germans and later by the British, the general structure of land tenure was based on traditional law and culture of each tribe. In this respect, the individual as a member of a family, clan or tribe acquired rights of use in the arable land whereby he could clear, cultivate and manage it. In some cases, tribes had chiefs and elders or headmen who controlled and allocated lands to individuals (i.e. members of that tribe) on behalf of the tribe in a judicial capacity (National land policy:1995). This means that before the coming of colonial rule, land in Tanzania was held under customary laws.

During the colonial period, the imperialist needed a clear and appropriate land policy. This is due to the fact that their requirement could be met by the establishment of plantation agriculture, settler agriculture or peasant

agriculture in the colony. Therefore an appropriate land policy had to be devised so as to meet their objectives. The colonial administration in Tanganyika, both British and German, adopted identical land policies whose main feature was predominantly state's extensive supervisory powers over land tenure system in the country. When the Germans came in 1884, they enacted the first statutory land rights under a German Imperial Ordinance of 26th November 1895. On this case, Fimbo (1992:1) has remarked:

The (German) Imperial Decree of 26 November 1895 declared that all land in German East Africa was regarded as unowned and thereby vested in the empire. State institutions were assigned the function of granting land to planters and settlers.

Under the same Act, the native reserves were set up all over the country and all tribes were allowed to have four times the cultivated crop areas. The rest of the land was deemed government land and could be granted for German-law-type of conditional freeholds for definite periods and leaseholds for indefinite periods.

The British rulers came to Tanganyika in 1919, and, like their predecessor, exercised monopoly over land. In 1923 the British enacted land ordinance to supersede the German imperial ordinance. This ordinance states that the

lands of Tanganyika whether occupied or unoccupied belonged to the public. It was the first time the concept "public lands" was introduced in Tanganyika which gave power of granting lands to the Governor. Furthermore, the ordinance gave the Governor powers to grant land plots to enterprises, individuals and organizations and also to define terms for using the land (Fimbo, 1992). However, during the colonial period land policy favoured Europeans and Asians who engaged in agricultural and pastoral activities. In this case, James (1975:19) comments:

To declare the entire territory, with the exception of lands owned by settlers "public lands" is inconsistent with protecting native lands and customs and local interests, and is aiming at protecting the settlers' interests, and facilitating grants to them.

However, in 1928 a right of occupancy was redefined to include a native community which occupied land according to customary law. Such redefinition aimed at safeguarding the title of the indigenous people of Tanzania in their lands. Nevertheless, the objective behind redefinition of right of occupancy failed because there was no principle established to protect native rights in land. The policy of 'indirect rule' during the British colonial administration was the only positive attempt to safeguard traditional land law. In

this respect, local matters, including land use and management, should be governed by local laws where local rulers had responsibility of administering justice. (James, 1975)

In urban areas, the grantees of land were mainly government and private persons or companies. The colonial state declared that private persons would predominate the urban areas. This means customary law did not apply in urban areas. This is justified by paragraph 12 of a 1953 circular which states that:

It is the intention that in a township all land should be alienated from tribal tenure and that Africans should obey the same laws of the territory with regard to their occupation as members of any other race. (James, 1975:3)

The implication of this circular is that with the creation or extension of town, municipal or city boundaries, urban lands were no longer subject to customary law.

4.2.2 The Independence Period, 1960's - 1970's

In 1961 Tanzania achieved independence with a government committed to building socialism. The government could choose to adopt a freehold system based on customary

laws or put all land under state or public control (James, op. cit). Nyerere (1962) favoured the second alternative, and in 1963 all lands were declared public property to be controlled by the state. Only a few changes in the colonial ordinance were made, such as the substitution of the word 'President' for the word 'Governor' whenever it appeared.

In order to avoid the creation of a small landed class after independence in 1961, Tanzania introduced government leaseholds to replace the freeholds title on the grounds that all land must be owned by the people (i.e. "public"). Freehold titles were converted into leaseholds. This was done under the Freehold Titles (Conversion) and government Lease Act (Cap 523) of 1963 and was later changed into Rights of Occupancy under the government Leaseholds Act No. 44 of 1969 (National land policy, 1995). Fimbo (1992) lists what constitutes public lands in Tanzania:

- (a) Agricultural land granted for use to 'ujamaa' villages, development villages, state farms and other users for agricultural purposes.
- (b) Land of populated localities (city, municipalities, towns and minor settlements).

- (c) Land of industry, transport, health and other non-agricultural land;
- (d) State forests;
- (e) State waters; and
- (f) Preserved land.

Between mid 1960's and mid 1970's Tanzania was strongly committed to building socialism and therefore nationalized millions of acres of land to bring them into public sector. The following principles were emphasized:

- (i) Land belongs to society, not to individuals and the 'trustee' is the government
- (ii) One's right to land is dependent on the use of it.
- (iii) Land is not a commercial commodity.

4.2.3 Land Policy - 1980's and 1990's

Despite the above ethos and principles, Tanzania did not formulate a comprehensive land policy until mid 1990s. The land tenure system was either influenced by broad party and government statements, social and philosophical visions or left to change pragmatically (Presidential Commission of Land, 1995). despite such fundamental government policy

statements as the Arusha declaration which had major implications for land tenure, the practice showed that the land tenure system in Tanzania continued to be governed by the rules and principles of the colonial land ordinance of 1923.

The constitution too, lacked explicit provisions on land and its ownership except for defining the territory of the country for purpose of anchoring state's political sovereignty. Even the so-called communal and co-operative production which was the main focus of 'Ujamaa' was not translated into any explicit rules of land tenure embedded in law. Furthermore, most development policies in Tanzania concentrated more on forms and methods of production rather than on land tenure system. Paying little regard to land tenure issues, the villagization movement faced many land problems and conflicts (Presidential Commission, 1995). The legal basis of the land tenure system remained weak and inadequate.

The land tenure system in Tanzania after the mid-1980's has been dominated by the liberalization policy. Given that the country lacked explicit land policy, much of what happened to the land use, management and

administration was greatly influenced by the politics of liberalization. For instance, land allocation was based on the market mechanism which allocates the best land to the highest bidder. Therefore those who were able to pay the highest price were allocated the land. Some of the present problems of land use in big towns like Dar es Salaam are a result of this market mechanism operated by big sharks contrary to the government regulation.

In 1995 the government made an effort to prepare a national land policy. However, to date it has not been presented to the parliament for approval. The government admitted that there had not been an explicit land policy since independence and that there was a need for a comprehensive land policy that would govern land tenure, land use and land administration. The ministry of lands has listed down four developments which have precipitated the need for a comprehensive national land policy in the 1990's (National Land Policy, 1995):

- (i) Changes in land use and the growth of human population over the last two and half decades have increased the demand for land and competition for plots, especially in urban centres and their surroundings.

- (ii) Increased urbanization requiring more land for settlements, industries and commerce which has intensified competition for lands, particularly in urban areas.
- iii) Land markets are developing in and around urban centres requiring recognition and regulation to enable the government to capture gains from land market transactions.
- (iv) Within the villages and fringes of major urban centres, land transactions have been taking place with the price reflecting locational advantages and land quality. Although the present land laws do not allow such transactions, there is a need to have a clear policy on land markets and transactions.

This policy still retains the four central tenets of the land tenure, though in a slightly modified form (National Land Policy, 1995):

- (i) Land is publicly owned and vested in the president as a trustee on behalf of the citizens;
- (ii) Speculation in land will be controlled;

- iii) Rights of occupancy whether statutory or customary are and will continue to be the only recognized type of land tenure; and
- (iv) Rights and title to land under any consolidated or new land will continue to be based on use and occupation.

The intention of this chapter is not to discuss in detail the present status of land policy in the country. Instead the focus is on the assessment of the land allocating authorities, procedures for land (plot) allocation and organizational structure of land management in Tanzania and Dar es Salaam City Council in particular. It worth while starting with land management practice in Tanzania.

4.3 Land Management Practice in Tanzania

4.3.1 Introduction

Section 3(1) of the land ordinance Cap 113 of 1923 (as amended) provides that all land in Tanzania whether occupied or unoccupied is public owned. Section 4 of the same ordinance states that:

Subject to the provision of sub-section (1) of section 5 all public land and all rights over the same are hereby declared to be under the control and subject to the disposition of the president and common benefit, direct or indirect, of the natives of Tanganyika and no title to the occupation and use of any such lands, shall be valid without the consent of the president. (Gondwe, 1983:50)

Given the above statement, it means that land management function is vested into the president, i.e. the power of land acquisition, allocation, disposition and revocation is vested in the president. Therefore the president acting on behalf of the state is the sole land administrator and landlord. However, under the transfer of power and duties (consolidation) order No. 478 of 1962 the president is empowered to transfer such responsibilities to the minister for lands, to approve all dealings in lands. In this respect, the ministry of lands has the fundamental role of ensuring a proper and efficient management and development of land resources. Its duties include land surveying, land use planning (urban and settlement planning), land management and evaluation, land use, allocation and development and housing development (Mushi, 1984). In addition, the ordinance empowers the minister for lands to declare planning areas and set in motion the preparation of general and detailed schemes.

The general schemes are often referred to as "master plan" in the urban planning parlance and the detailed schemes are known as "layout plans".

Part (b) of the transfer of powers and duties (consolidation) order No. 478 of 1962 also enables the minister to delegate his power to his subordinate for efficient performance. It states:

A minister may, by order published in the Gazette, delegate to any other person the exercise of any power or the performance of any duty vested in him by any written law
(Rwehumbiza, 1990:16)

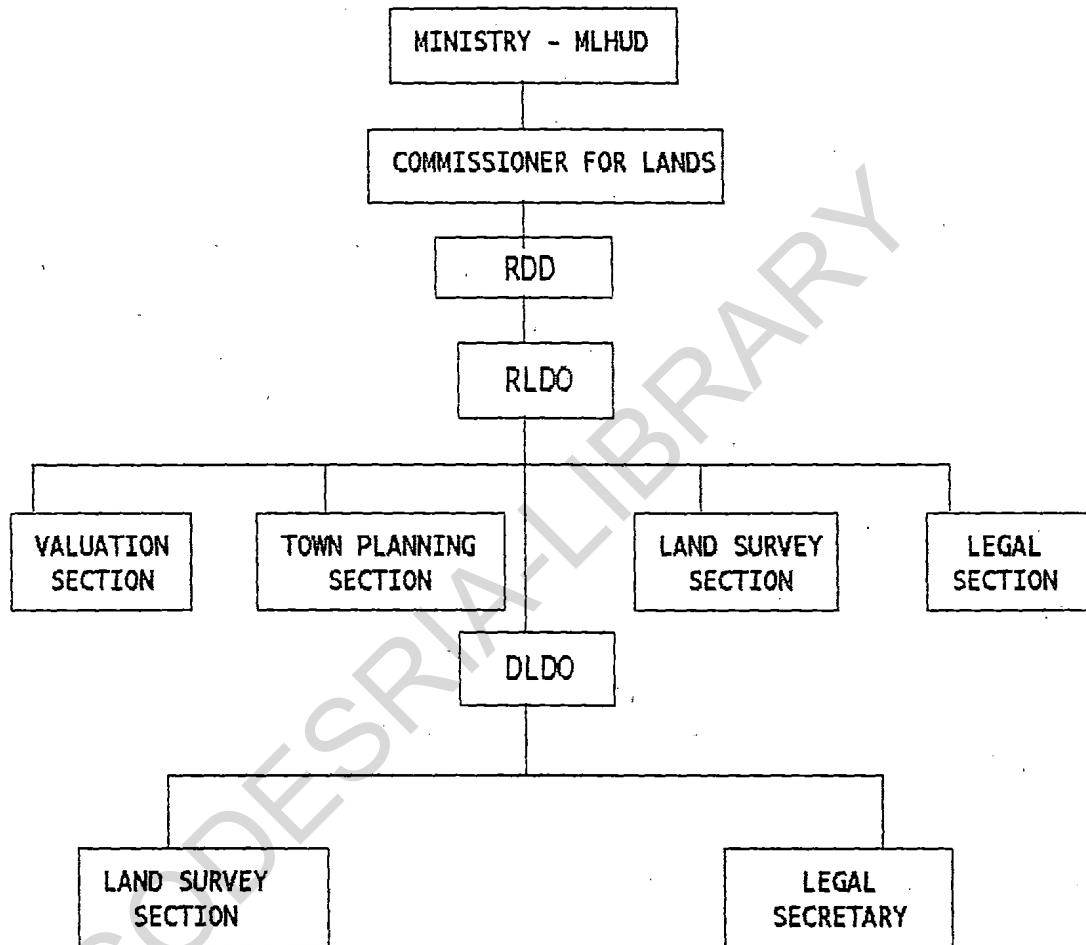
Therefore this Act has empowered the minister responsible for lands to create different divisions and assigned them specific tasks to execute.

4.3.2 Organizational Structure of the Ministry of Lands, Housing and urban Development

The Ministry for Lands performs the function of land management through regional land development offices (RLDO) which function as representatives of the ministry of lands at the regional level. Usually RLDOs receive technical assistance and directives from MLHUD. On administration matters these offices (RLDOs) function under the prime

minister's office (PMO) as a department within the Regional Development Directorate (RDD). Under this arrangement, RLDO co-ordinate the duties of District Land Development Offices (DLDOs) in their respective regions. This means that DLDO acts as representative of MLHUD at the district level. However, with the introduction of local government (urban council) in 1978, land management section in urban areas was placed under Town Planning Section. Nevertheless, land section in both RLDO and urban council function under PMOs through local government ministry (Mushi, op. cit). Therefore the Ministry responsible for lands remain with the duty of providing technical assistance and directives to these offices. Figure 1.0 and 1.1 show the organizational structure of the Land Management Department of the Ministry of Lands, Housing and urban Development and the Land Management Section in urban/city councils.

Figure 1.0 Organizational Structure - Land Management Department - MLHUD



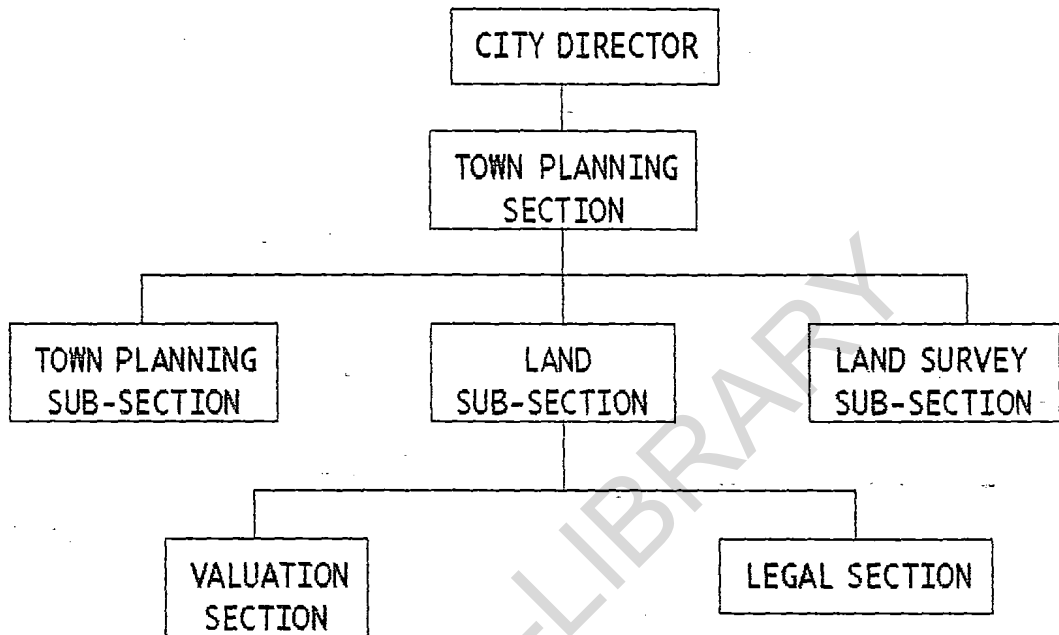
Source: Ministry of Lands, Housing and Urban Development (MLHUD).

Notes: RDD - Regional Development Directorate

RLDO - Regional Land Development Office

DLDO - District Land Development Office

Figure 1.1 Dar es Salaam City Council Land Management Structure



Source: Dar es Salaam City Council, 1996.

4.3.3 Land Allocation Authorities

Traditionally, the land allocation authorities in the rural areas were chiefs, clan leaders, headmen and council of elders. However, after independence these authorities were replaced by village development committees. The traditional system of land allocation was stopped in the 1970's by the decentralization of government administration (interim provisions) Act of 1972 which assigned the function of land allocation to the district development council in rural areas, while in urban areas the preparation, allocation and control of land was placed under the lands division of the Ministry of lands (Fimbo, 1992).

However, following a persistent tussle between different authorities, particularly between the local governments and the ministry of lands, the ministry of lands issued a circular dated 21 July 1989 setting up a system of land allocation committees at the district, regional and ministerial levels.

4.3.4 Members of Plot Allocation Committees (PAC)

(a) District level PAC Composition

- (i) District Administrative officer (DAO) -
Chairman
- (ii) District Land Development Officer (DLDO) -
Secretary
- (iii) District Land Surveyor - Member
- (iv) District Water Engineer - "
- (v) District Civil Engineer - Member
- (vi) District Health Officer - "
- (vii) District Executive Director (DED) -"
- (viii) 5 (five) Councillors - appointed by
the Regional Commissioner (RC) - Members

District PAC is authorized to allocate residential, commercial, service and small-scale industrial plots and also farmlands which do not exceed 100 acres. However, in Dar es Salaam City, the power of the District committees is limited to allocation of high density plots and farms of less than three acres.

(b) Regional level PAC Composition

- (i) Regional Administrative Officer (RAO) -
Chairman
- (ii) Regional Land Development Officer (RLDO) -
Secretary
- iii) Regional Town Planner - Member

- (iv) Regional Land Surveyor - "
- (v) Regional Water Engineer - "
- (vi) Regional Civil Engineer - "
- (vii) City Land Development Officer) For
Dar es Salaam
- (viii) City Town Planner) City only. "
- (ix) Five Councillors appointed by the Regional-
Members Commissioner (RC)

With the exception of Dar es Salaam region, the regional land committees have powers to allocate plots for light industries, commerce and residence in urban centres. They can also allocate plots for use by the government, for parastatals and religious organizations, as well as farms between 100 and 500 acres.

(c) The Ministerial Level PAC Composition

- (i) Principal Secretary - MLHUD.. - Chairman
- (ii) Commissioner for Lands- Secretary
- (iii) Director for Town Planning....- Member
- (iv) Director for Surveying and Mapping - "
- (v) Director for National Environment - "
- (vi) Director for Forests - "
- (vii) Director for Tourism - "

- (viii) Director for Heavy Industry .. - "
- (ix) Commissioner for Local Government. - "
- (x) Dar es Salaam City Director - "
- (xi) Six Councillors appointed by the Minister
for Local Government - "

The Ministerial committee has the power to allocate all City Centre plots in the city of Dar es Salaam, site and service plots, medium and low density plots, beach plots, heavy industrial plots, government plots; and also plots for use by tourist hotels and foreign missions. The ministerial committee also allocates village land and farms exceeding 500 acres. The system of plot allocation committees does not apply to Dodoma region since its Capital Development Authority (CDA) is responsible for land allocation in the region (Presidential Commission on Land Matters, 1995).

4.3.5 Plot Allocation Procedures

Methods of Application

The layout, surveying and land allocation guidelines specify the following procedures for plot allocation:

- (i) Available plots are to be advertised at the Town Councils and at district and regional headquarters in local newspapers and other media.
- (ii) Applicants are required to collect and complete plot allocation forms (see appendix I) from a nearby land office.
- (iii) The filled forms should be returned to the secretary of the plot allocation committee.
- (iv) The secretary is required to prepare a list of available plots against the list of applicants.
- (v) In the plot allocation committee, the first priority should be given to parastatal organizations and individual applicants. The system adopted should be "first come, first served". However, priority should also consider applicants who have ability to use the plot/farm effectively and who do not have other plots/farms elsewhere. Speculators should not be given plots/farms.
- (vi) Every plot allocation committee is required to send a monthly report to the MLHUD showing the

number of allocated plots and to whom they have been allocated.

(vii) Letter of Offer

After approval of the application by relevant authorities, the DLDO informs the successful applicant by sending him a "letter of offer". This letter informs the applicant that if he accepts the conditions of the offer he should send receipts of payments to respective land manager within thirty days after the issue of the letter of the offer.

The payments include preparation fees, survey, land rent and service charges, stamp duty and registration fees. After these payments have been made the land manager starts preparation of the certificate of occupancy.

(viii) Certificate of Occupancy

Section 2 of Cap 113 defines the term 'right of occupancy as a "title to the use and occupation of land and includes a title of a native community lawfully using or occupying land in

accordance with native law and custom".
(Gondwe, 1983)

Usually applications for right of occupancy are lodged with the land office at Dar es Salaam or the district office where the land is situated. Certificate of occupancy is prepared after the offeree has accepted the offer. Right of occupancy is granted as provided in the land ordinance Cap. 113 (as amended) under section 6 or 12. The granted rights of occupancy are grouped into two, namely short-term rights of occupancy which have a duration of one to five years and are prepared by the DLDO on behalf of the Commissioner for Lands, and long-term rights of occupancy (5-99 years) which are prepared and granted by the zonal land offices or by the commissioner for lands where zonal offices do not exist (e.g. Dar es Salaam, Coast and Morogoro regions).

(ix) Revocation of Rights

Breach of the terms and conditions of the right of occupancy constitutes a cause for revoking

the right. The breach may involve non-payment of rates and taxes or non-use of the land for a period of five years. While short-term rights of occupancy can be revoked by a land officer grade II or above (Mushi, 1984), long-term rights of occupancy can only be revoked by the president or minister for lands on his behalf (Land Ordinance, 1970).

4.4 DAR ES SALAAM MASTER PLAN 1970 - 1999

4.4.1 Objectives of the Master Plan

A master plan is a blue print for the physical, social and economical development of a town over a long period of 20 years or so. It prescribes a fixed physical structure as a basis for social and economic activities of the area concerned (Land Policy, 1995). Objectives of a master plan include the following (Dar es Salaam Master Plan, 1979):

- (i) To provide a development programme for the Dar es Salaam urban area and region, including a unified general physical design for the urban area and a comprehensive set of development guidelines.

(ii) To ensure that the city develops in an organized and co-ordinated fashion, and that all new developments (residential,

industrial, etc.) are based on properly surveyed and allocated plots.

(iii) To assist in making major policy and development decisions regarding the overall development of the city.

4.4.2 Land use in the Dar es Salaam City Council

The proposed land use for Dar es Salaam City can be categorized into five major groups which represent the major land uses, namely residential, commercial, institutional, industrial and open space.

4.4.3 Existing Land Use

As explained earlier, Dar es Salaam master plan summarises the major land uses and their areas for both urban and rural planning areas. Table 1.1 gives a summary of the existing land use in the city as indicated in the master plan - 1978.

Table 1.1: Existing Land use Summary (June 1978 - (Hectares)

<u>A.</u>	<u>Urban Planning</u>	<u>Acres</u>	<u>Percent of Total</u>	
	Planned Residential	3,725		
	Unplanned Residential ...	2,349		
	Cemeteries	50		
			6,124	13.7
	Industrial	1,258		
	Port facilities	112		
	Quarries	326	1,696	3.8
	Institutional	1,192		
	Airport	640		
	Military	1,010	2,842	6.3
	Agriculture		17,790	39.7
	Major open spaces		12,020	26.8
	Hazard land		4,342	9.7
	Sub-Total urban Planning Area		44,814	100
			=====	==

B. Rural Planning Area

Quarries	360	5
Military	3,856	5.7
Agriculture	14,128	21.0
Major open spaces	44,885	66.7
Hazard land	4,083	6.1
	-----	---
Sub-Total Rural Planning area	67,312	100
Total - DAR ES SALAAM REGION	112,126	

Source: Dar es Salaam master plan 1979 - 1999 - p.15.

4.4.4 Dar es Salaam Population Growth

According to Dar es Salaam master plan, the population in the city increased from about 10,000 in 1884 to a recorded population of 69,227 in 1948, 272,515 in 1967 and 782,000 according to the 1978 census (Dar es Salaam Master Plan, 1979). In 1988, the Dar es Salaam region had a total population of 1,345,118 out of which 1,205,443 people lived in urban areas and 139,675 people in the rural areas (Population Census, 1988). Table 1.2 shows population projections in Dar es Salaam City Council from the year 1979 up to 1999.

Table 1.2 Population Projections 1979 - 199 DCC Urban
Planning Area

Year	Urban Population	Rural Population	Rural Planning Area	Total - Region
1979	849,000	51,000	32,000	932,000
1984	1,183,000	48,000	38,000	1,269,000
1989	1,546,000	50,000	46,000	1,642,000
1999	2,368,000	29,000	64,000	2,461,000

Source: Dar es Salaam Master Plan 1979 - 1999.

Population projections aim at anticipating the population growth in the region and it enables the policy makers and land planners to formulate policies and provide facilities which will meet the needs of the anticipated population.

It is now important that we tested the laid down land allocation procedures and authorities and see whether they tally with the actual practices in the field. Chapter five and six therefore present the findings from the field and discuss the implications of the practices as per the hypotheses advanced earlier. The presentations will be in a form of case studies.

CHAPTER FIVE

CASE I: ALLOCATION OF KIVUKONI FRONT -

PLOT NO. 2455/18

5.1 Introduction

The Kivukoni Front area Plot No. 2455/18 is located along the Indian Ocean and Sokoine Drive in the Central area of the Dar es Salaam City Council. The Dar es Salaam master plan indicates that this area is an open space (see appendix IIA) and this plan stresses two major things:

- (i) These areas (open spaces) should be maintained and improved to encourage public use.
- (ii) These areas should be provided with shade trees similar to those which presently line many of the streets in the central area (Dar es Salaam Master Plan, 1979).

In January, 1994, the Kivukoni area plot No. 2455/18 was issued by the Ministry for Lands to a businessman under the business name - "Imara Holdings Limited" for the construction of the Fisherman's Grill. This study sought to know why this area was allocated for the commercial

purposes while the Dar es Salaam master plan has declared it as an open space. Furthermore the study sought to know the procedures followed to allocate such an area, procedures violated if any, who were involved in allocating this area, and why the granted right of occupancy was later revoked by the government.

5.2 Procedures followed in allocating the area

According to senior land officials at the Ministry of Lands, Housing and Urban Development (MLHUD), Imara Holdings Ltd applied for such a plot to the MLHUD for the construction of "Fisherman's Grill". Correspondence at the MLHUD as far as this case is concerned shows that prior to the grant of this plot to the applicant, the Dar es Salaam City authority has highly recommended the building of the requested "Fisherman's Grill". For instance records showed that letter No. MK 4 of 29/10/1992 was written to the applicant indicating that both the Dar es Salaam City Council and the Minister responsible for lands have approved the putting up of the Fisherman's Grill at the suit plot. (MLHUD, 1996)

It was also observed that the Fisherman's Grill project had obtained the permission of the Investment

Promotion Centre (IPC) as shown in its letter of approval reference No. MK 7. The investigation further showed that allocation of the plot had in fact been done by top land officials at the MLHUD. The assistant commissioner for lands who was interviewed, said that sometimes top land officials such as commissioner had to allocate plots to customers without convening plot allocation committee. He claimed that the committee system is a time consuming and an expensive exercise.

The letter of offer was prepared and issued by the Ministry for Lands. It was however difficult to obtain the date and reference number of the letter from the Ministry. A certificate of occupancy No. 186029/18 of 8th July 1993 was prepared and issued by the Ministry. The certificate was for a period of 99 years (MLHUD, 1996).

The occupier - Imara Holdings Ltd was issued a building permit No. 22239 by the Dar es Salaam City Council's authority on September 7, 1993, and thereafter the Imara Holdings Ltd started to erect a fence around the plot.

5.3 Procedures violated in allocating the area

As pointed out earlier, the Kivukoni Front area is an open space as shown in the Dar es Salaam Master Plan. Thus the procedure of changing the land use was not followed by the land allocation authority at the Ministry as stipulated in the "Guidelines to the land survey and allocation." These guidelines which were issued by the Ministry for lands to the land allocation authorities state that any land authority desiring to modify a land scheme has to submit to the minister a written explanation as to the need for such modification together with a drawing to show its effect on the scheme. In this case, the minister responsible for lands has power to consent to such modification or to disapprove it. Our observation showed that since the preparatory authority for modification of Kivukoni Front area was the ministry itself, this procedure was skipped.

The findings also revealed that the Kivukoni Front area/plot was not advertised in the Newspapers or notice boards at the Ministry and/or Dar es Salaam City Council so as to give equal access to all citizens to apply for it. The procedures for land allocation require that all plots

have to be advertised in the Newspapers and notice boards of the lands' offices where plots are located (Mwongozo wa Kugawa Viwanja, 1988).

As explained in chapter four, there are plot allocation committees (PACs) at the District/Town, regional and ministerial levels which are the only organs responsible for plot allocation. Our investigation showed that there are various letters from the Ministry to the land offices at the district/town and regional levels which insist that plots must be allocated by the plot allocation committees. They further stressed that plots which will be allocated by any land officer without involving PAC will be regarded as invalid and revoked by the government. (Vide letters No. MLHUD-C.1135/11/23 of 15 November 1978 and TC 65023/54 of 1 February, 1980 from the Ministry to the regional land officers and town/municipal councils' directors respectively (Mwongozo wa Ardhi, 1988). We, however, found that the Kivukoni Front area was allocated by top senior land officials. Records showed that plot allocation committee at the ministry was not involved in allocating this area and the Dar es Salaam City Council (where the plot is located) was involved only in approving

the building plans (vide letters No. MK 2 and MK 3 of 24/10/1992 and 20/10/1992).

5.4 Public Complaints

The allocation of Kivukoni Front area which was previously an open space rose many complaints from members of the public. Many of these complaints were directed to the government in general and Dar es Salaam City Council in particular. Some of the people used Radio Tanzania Dar es Salaam (RTD) through its special programme on "Corruption is an enemy" while others used newspapers to air their complaints and views.

Our investigation came out with various public complaints and views over the allocation of open spaces such as Kivukoni Front in newspapers like The Express (1994), Mzalendo (1993) and Motomoto (1993). In these newspapers, three citizens had similar complaints, they complained that there is a practice among land officials both at the city council and ministry to change plans so as to create plots, sometimes plots are subdivided, at other times the use is changed and becomes incongruous with the town planning or master plan. This situation has manifested in creating plots in playing grounds,

recreational areas, like Kivukoni Front, School compounds and other open spaces.

Furthermore, they complained that the habit of some land officials to allocate open spaces to big businessmen in Dar es Salaam City Council and other towns was a grievous error showing how corrupt some government leaders were. For instance, Nandi had this to say:

Instead of making sure that open spaces are developed for intended purposes, the culprit officers look for the highest bidders to buy the grounds. (The Express Newspaper, Feb. 2-5, 1994:9)

In brief, these public complaints were mainly directed to the government elites and politicians and were specifically concerned with the existence of rampant corruption in land sector which in turn led to decisions which contradicted the laid down procedures and land policies.

5.5 Revocation of Plot No. 2455/18

On 14 May 1995 the government, through the minister responsible for lands, revoked the title deed issued to Imara Holdings Limited for the construction of the "Fisherman's Grill" which was to be built along Kivukoni

Front area (open space) in Dar es Salaam City Council. The following four reasons were given by the central government for the revocation of the title deeds:

- (i) That the City Council had reserved the area as an open space for the use and refreshment by the city dwellers and also for preservation of the coastal environment. The minister said that the government had decided that the area should remain an open space for public recreation and for the interest of conserving the delicate coastal area.
- (ii) That the area would in future facilitate road expansion. The minister pointed out that the central government had plans for the expansion of the Kivukoni Front road and thus allowing the building of the restaurant would make such expansion impossible.
- iii) That the area was within 60 metres from the high water mark, and going by government notice number 76 of May 1992, construction of restaurants would not be permitted in such an area.

(iv) That change of use from open space to construction was contrary to the government notice No. 678 of 1964. The notice states that changes in the usage of areas set aside as open space for public interest should not greatly alter the previous usage or affect interests of others (Reports of plot No. 2455/18, MLHUD, 1996).

From the above observations, it can be argued that it is only one out of four reasons above given by the government which tallies with the actual circumstances, public pressures in particular, which led to revocation. In this case, many people and government officials, for instance, minister for lands, agree that specifically open spaces are meant for making beautiful flower beds, tree gardens and play grounds, to which people resort for fresh air, rest, play, private discourse, medication and thinking. Therefore both government and public had similar reason for revocation of Plot No. 2455/18 because a decision to allocate it was contradictory to the purposes of leaving open spaces in the city and other towns.

However, there are other reasons raised by the public which led to the revocation but do not tally with the government reasons. For instance most of the articles in the newspapers (The Express, 1993, Mzalendo, 1993 and Motomoto, 1993) complained over the habit of corruption among land officials both at the Dar es Salaam City Council and Ministry for lands. They also complained on the favouratism over the whole system of land allocation whereby only the rich people got free access to lands where the disadvantageous poor people had no access. Such kind of complaints depicts a class struggle over resource, particularly scarce-resource such as land, between the poor and the rich people and when such kind of struggle occurs, usually, the lower-class i.e. the poor people loses. Interestingly, these two reasons (public pressures): corruption and favouratism were not mentioned by the government but in actual circumstances, they were raised by the public and contributed to the revocation of the plot No. 2455/18.

CHAPTER SIX

CASE II: ALLOCATION OF PLOT NO. 271

BLOCK C CHANG'OMBE MADUKA MAWILI

6.1 Introduction

Plot No. 271 Block C is located at Temeke district - Chang'ombe - Maduka Mawili, and like the Kivukoni Front area, plot No. 271 was also an open space set aside by the Dar es Salaam City Council for the public use. However, the same Dar es Salaam City Council issued this area to a businessman for a commercial purpose. This situation shows how the city council makes contradictory decisions in its daily operations. Like the Kivukoni Front case, we investigated the allocation of plot No. 271 in an effort to discover whether the laid down procedures followed to make such allocation decisions, who was involved in the decisions and why the central government later revoked the decision.

6.2 Procedures followed in allocating the area

It was learnt that the applicant applied to Dar es Salaam City Council (DCC) for an area to construct a shopping centre (super market) in 1983.

Report of this area which was found in file No. DCC 271 at the City Council showed that this area was issued on 21st August 1984 under the name "Site for Super Market". The report showed that before allocation of this area, city land development officer requested the Director of Town Planning at the Ministry for change of the use of this area from open space to a site for super market. However, no letter was found from the ministry showing that the previous use of plot No. 271 had been changed from recreational to construction area.

The report further showed that survey instruction was issued on 1984 by the City planner and the plot was surveyed by the City land surveyors in the same year.

Our investigation showed that application for construction of a shopping centre was then submitted to the layouts and building committee at the City Council on 7th May 1992 by the city land development officer. This committee visited the area and decided that although the area was an open space, it could be developed. Therefore, the committee recommended that the applicant should be given a building permit.

The recommendation was thereafter submitted to the Town Planning Committee by the City Land officials on 14th

July 1992. The Town Planning Committee approved it. (See appendix VIA & VIB).

The report on plot No. 271 at the City Council showed that the building permit was issued by the city council on 15th May 1992. However, it was discovered that the report was contradictory (appendix VIB) because the building permit was issued before the Town Planning Committee had approved the allocation of the applied plot. The report showed that the town planning committee approved the allocation on 14th July 1992 while the building permit had already showed that the building permit was issued even before the applicant had requested for it. This would mean that the applicant applied for a building permission 5th July 1992 when he paid the required charges and was provided receipt No. 627/91. This situation explains how corrupt land officials were, when executing their duties.

We also found out that Dar es Salaam city council issued letter of offer of plot No. 271 Block C - Chang'ombe to the applicant. The letter shows that the area was given as a site for a super market and the offer was for a period of 99 years (i.e. long term right of occupancy). The DCC proceeded to issue a certificate of occupancy (Title deed)

No. 41027 which was prepared by the City Council authority and registered by the Commissioner for lands on 21st December 1992.

6.3 Procedures Violated in allocating the Area

Similar to the Kivukoni Front case, plot No. 271 was also not advertised in the newspapers and notice boards of DCC. Many people complained that city officials lacked transparency in the execution of their duties. For instance "Rai" newspaper (Feb-March, 1995) had reported that despite the fact that local government Acts number 7 section 69 and number 8 section 36 of 1982 call for transparency at the local government, these acts had not been respected by some of the city government officials including the land officials.

We also observed that application for plot No. 271 was not submitted to the town planning committee by the city land officers for discussion before allocation. The application was considered by only the city land officers who finally decided to survey the area and prepare site plan for the requested shopping centre.

According to the Town and country planning (modification of schemes) Regulations, of 1964, any land authority which seek to modify the use of any area, must apply to the minister to consent to such modification (Mwongozo wa Ardhi, 1988). In this case, the report of plot 271 at the city council showed that a written explanation as to the need for such modification together with a drawing to show its effects on the scheme was submitted to the ministry. However, this was done without the knowledge of town planning committee at the city council. The report showed that land officers had changed the use of plot 271 from being a public recreational area to a commercial area without prior - consultation with the town planning committee which is the sole responsible organ for land allocation in the city. As explained earlier, the town planning committee was briefly informed by the land officials at its normal meeting on the change of use and allocation of plot no. 271 on 14th July 1992 (see appendix VIA).

We further observed that procedure for preparation of certificate of occupancy was also violated. In this case, the procedure requires that where there is no zonal land officers functioning like in Dar es Salaam region, the long

term right of occupancy should be prepared and granted by the Commissioner for lands at the MLHUD (Mushi, 1984). However, we found out that the city council had prepared and issued long term right of occupancy (for 99 years) to a businessman who was allocated plot No. 271 at Chang'ombe-Maduka Mawili.

From the above discussions, it is now clear that decision making system at the city council ignore the laid down rules, regulations and procedures which guide land allocation system.

6.4 Complaints from the Public

The allocation of plot No. 271 to which was previously a recreational area rose a lot of complaints from the public. Most of the people who complained were petty traders who own kiosks around this area and those who lived around Chang'ombe area where this plot was. Their complaints were directed to the Dar es Salaam City Council (DCC) and the central government, particularly the office of the president where public lands had been vested.

Most of the complaints appeared in the newspapers and others in the Radio Tanzania Dar es Salaam (RTD). For

instance Mwananchi Newspaper (Nov. 26-28, 1993) reported that people at Chang'ombe - Maduka Mawili had threaten to destroy all properties that would be installed by the businessman who had been allocated plot No. 271. A representative of the Chang'ombe dwellers who was quoted by Mwananchi newspaper said that the DCC ordered owners of the kiosks around plot No. 271 to demolish their kiosks so that the businessman would start to build a shopping centre. He further said that when petty traders refused to obey the order of the City Council, they were always harassed by the City policemen, and charged fine amounted to 5,000 shillings.

Chang'ombe people also complained that in 1987, the Islamic people had applied for the same plot so as to expand their mosque. However, the City Council refused to issue this plot claiming that it was not expecting to change the previous use of this plot (open space) and urged Islamic people to look for another area. The people at Chang'ombe wondered why the city council had now decided to issue the same plot to a businessmen. Given these contradictory decisions, they said that they would fight against the city council's decision and make sure that plot No. 271 remained an open space for recreational purposes.

Uhuru Newspaper (Nov. 30, 1993) also carried the same complaints from members of the public over the existing contradictory decisions of the city council. The Editor of the Uhuru newspaper said that people at Chang'ombe area had applied for plot No. 271 to the city council in 1984 to build a police station, but the city authority refused to issue this area on the grounds that the area was set aside for recreational purposes. He said that, people at Chang'ombe had the right to complain because the city authority did not have strong reasons as to why in 1984, it refused to issue this area for the construction of police station, yet in 1993 it issues the same plot for construction of a shopping centre.

Mwananchi newspaper (Nov. 19-21, 1993) also reported that about 20,000 people at Temeke district had decided to sue the City Council for random selling of open spaces and recreational areas. Two representatives of these people who were quoted by this paper, said that Temeke dwellers would form an organization whose main objectives were to protect and prevent the allocation of open spaces by the land allocation authorities. They further said that they would convene a meeting of Temeke people to discuss the

existing behavior of city land officials of selling open spaces to the higher income earners.

These public complaints captured the central government attention which led to a visit by the minister responsible for lands to the plot on 29 November 1993. During this visit, the minister received many complaints from the people living around the allocated area who were against the decision made by the City Council to change the use of plot 271 from a recreational to a commercial area. (See appendix IV.)

6.5 Revocation of Plot No. 271 Title Deed

With regard to the complaints and reactions made by the public over the allocation of the Chang'ombe open space to the businessman, the central government, through its minister for lands, ordered that the area should remain an open space for the public use and that the City Council should find another plot/area for the applicant. A senior lands official from the MLHUD wrote a letter to the applicant to inform him that his offer was subject to revocation under section 10(2) of the land ordinance. (See appendix IV.) Two reasons were given for the revocation:

- i) That the area was to be used as a garden and play ground for children as previously planned.
- (ii) That part of the area was to be used for the purpose of building a police station.

Yet, there was no letter from the MLHUD to the City Council showing that the title deed had been revoked by the central government. We, however, found a letter written by the City land officer to the commissioner for lands asking if the procedures for revocation of the said title deed had been completed by the Ministry (See appendix V).

The procedures for revocation was not violated because the provision of land ordinance Cap 113 section 10 of 1959 states that long-term rights of occupancy can be revoked by the president. In this respect, where there is a cause for revocation, the minister responsible for lands on behalf of the president may revoke the granted right. This is done after the resident land officer had applied, with reasons for revocation. However, the president may also revoke right of occupancy if in his opinion it is in the interest of the public to do so (Mushi, 1984). The only problem with revocation of plot No. 271 title deed was that the ministry for lands had not submitted a copy of revocation letter to the Dar es Salaam City Council as an authority which allocated the revoked area.

CHAPTER SEVEN**WIDER ISSUES ON CENTRE-LOCAL RELATIONS****7.1 Introduction**

In chapter six we saw how land allocation decision are effected in Tanzania, particularly in Dar es Salaam City Council. We also observed how various decisions contradict to the laid down land procedures and policies. In this chapter, an attempt is made to discuss some of the wider issues on centre-local relations which this study had observed. Some of the issues that will be discussed include: The inbalance of powers between central and local government, local councils' responsibilities, land use planning and the role of plural politics in local governance.

7.2 The Imbalance of powers between centre and localities

Our study had revealed that the development of centre-local relations in Tanzania had been characterized by a top-down organizational structure where centre had excessive decision-making powers in all important social, political and economic matters. As explained earlier, various Acts which re-establish local government in 1982

give insufficient administrative capacity to make autonomous decisions and policies in governing local affairs. There is centralized forces at the local level which are enormously powerful, thus provide unfavourable environment for local institutions to execute their duties and functions independently.

Our findings showed that most of the councillors and other officials working with city council who were interviewed complained about the central government domination over scarce resources such as land, manpower and finance. These resources are necessary for the local authorities to properly discharge their functions and duties. This situation leads to one of the major problems facing local governments in Tanzania, that is their functions are far greater than their financial and administrative capacity to carry them out.

We found out that this kind of imbalance of resource power between centre and local had led to scramble for resources. This situation is justified by the Dar es Salaam City Council case when it issued plot No. 271 which was an open space to a businessman for the construction of super market. In this case, a greater number of city

councillors who responded to our questions said that the major objective of allocating such a plot was to expand sources of income for the city council. However, they claimed that due to excessive control of centre over local, central government revoked the decision made by the city authority to allocate plot No. 271 - Chang'ombe.

However, senior land officials from the ministry of lands who were interviewed gave a different story. They believed that prior to the enactment of the decentralization Act in 1972, land problems were minimal because there was only one institution that was responsible for land matters at all levels of operation. They further claimed that the problem of land administration began to surface in 1978 when local authorities were reinstated. They remarked that, at that time, the local authorities were provided with land experts in anticipation that they would work for the local authorities effectively and efficiently. But, contrary to this expectation, local authorities failed to manage land in a co-ordinated manner.

Local government officials vigorously dismissed such an inherent belief of the central government elites that local authorities have no ability to co-ordinate, monitor

and control scarce resources such as land and finance and are unable to perform the functions devolved to them by law. They claimed that by reserving for itself most powers in decision-making, central government renders the local authorities a mere recipient of decisions made by the centre. To local government officials, this top-down model of decision-making seeks to protect the economic interests of central elites at the expense of local or public interests.

Given the above premise, it can be argued that there is continuing tension and friction between central and local governments both politically and economically. This situation is part and parcel of the current demands in many countries for greater devolution of power from the centre to the locality.

7.3 Local Council Responsibilities

In principle, important decisions of a local council like Dar es Salaam City Council are made by the councillors either in full council meetings or in the six standing committees of the council. Usually these committees are operating on powers delegated to them by the full council (Semboja & Therkildsen, 1991). In this case, therefore

local council as representative organ at the local level is supposed to be both autonomous and competent. This means that it must have capability to scrutinize, criticise, deliberate and publicise local policies and their consequences to the people. The question here is to which extent are they able and willing to use their formal powers to control local decisions?

Our investigation showed that local councils lack both autonomy and competency. For instance, councillors in Dar es Salaam City Council have never asked land officials why land allocation system has become a big problem. Records at the city council revealed that in most of their meetings, they just endorse minutes and/or reports as brought to them by technocrats. Most of the councillors are either illiterate or semi-literate, meaning that their level of understanding complex policy issues is limited. This situation is rampant in the management of land in the city council. For instance, in the case of plot No. 271, there are circulars which spell out clearly the procedures of changing the use of land. Yet land officials at the city council submitted their recommendations to the ministry of lands on the change of land use for plot No. 271 before the Town planning committee had approved such

recommendations. Furthermore, when the report for plot No. 271 was submitted to the Town Planning Committee, it approved the presence of such a plot and ordered it be allocated to the applicant as recommended by city land officials. This is contrary to the laid down procedures for change of land use. In addition, the town planning committee which involve councillors, did not consider positive and negative social consequences of such a move.

Given the above situation, it can be argued that councillors are ignorant of their responsibilities, thus contributing into malpractice and contradictory decisions that take place in the Dar es Salaam city council.

A greater number of local councillors in the city who responded to our questions had indicated their discontent on central government intervention on local council responsibilities. They pointed out that some of the land problems at the city council originate from either direct or indirect intervention and/or pressures from top government and political leaders on land management authorities both at the ministry of land and Dar es Salaam City Council. They also admitted that in some cases there are instructions from the top government elites or

politicians ordering them/land authorities to allocate plots to certain individuals, particularly to wealthy businessmen. However, we are on the view that lack of awareness of their responsibilities and the incompetency among members of local council had largely contributed to the central government intervention over local council responsibilities.

7.4 Land Use Planning

Land use planning means the working out in broad outlines the allocation of uses of the earth's surface. More popularly denotes a socio-economic activities associated with land use such as human settlement (Lichfield & Drabkin, 1980).

In Tanzania, the experience indicates that there is no coordinated national development planning of the economic or physical development, though few particular sectors have their own plans and programmes organized from the local to the national level (for example industry, schools etc). In land sector, however, we noted that land use planning was weakened by having been evolved as a central government operation, without a comparable system in support at the local level. Theoretically, Tanzania adopted a

decentralized system of planning whereby people at the grass roots level were delegated powers to participate in the decision making system, such as planning of their socio-economic activities. Land ordinance provides for prior-consultation of the relevant local authorities before an area had been declared a planning area (Presidential Commission on land, 1995). Thus the involvement of people at the grass roots level in the land use planning depends entirely on the extent to which their representatives (councillors) are consulted in the whole process of land use planning by the central government officials.

However, in practice, participation of land users in the process of planning and execution of plans is very minimal. The majority of City councillors who were interviewed, said that land ordinance had delegated too much powers to the minister responsible for lands. For instance the scheme of the ordinance empowers the minister to declare planning areas and even define detailed planning schemes. They further claimed that given such arrangement, the land ordinance provides for indirect participation of the land users in the process of planning through local authorities.

Linked to land use planning, the study also investigated other problems related to land use, management and administration in Tanzania and Dar es Salaam City Council in particular. It was found out that:

(i) on the one hand there was limited space in Dar es Salaam city Council and on the other there was growing space requirements for different purposes. This situation outlines the framework for the struggle for land for different purposes by different interests which result into making of contradictory decision on the part of both central and local government officials. We further found out different levels of contradictions in land use pattern in the City Council such as

(a) The short-term needs of the population for housing and the long-run consequences of land use decisions.

(b) Different needs and economic functions which compete for land space.

(c) Individual private needs which may be different from collective land use needs (also the differing priorities of local and national interests over the use of lands).

(ii) Related to above, it was also noted that the implementation of Dar es Salaam master plan was faced with a lot of problems which have negative effects on land use, management and development. We observed that scarcity of surveyed plots was one of the major problems facing the implementation of the master plan. Most of the City Councillors and land officials who were interviewed, said that the implementation of these plans had been facing a lot of problems mainly due to lack of financial resources available to local authorities, lack of equipment and machinery and lack of qualified land experts especially engineers.

They further claimed that master plan were prepared at a great cost, but their development either did not take place at all, or if it did it was at a very slow pace. In a number of instances, development went contrary to the master plan proposals. They admitted that the haphazard construction of houses and kiosks in the city areas was attributed to the failure by land authorities to survey and allocate buildings in time. They also remarked that while Dar es Salaam population was growing at a fast rate, survey

and allocation of plots was done slowly. This means that demands of plots is higher than the supply. The Dar es Salaam City Councillors vigorously blamed central government for creating dependency of the local to the centre, they said that the budget provided by the central government to the City Council for land management and development was inadequate and thus, made it difficult to administer some of the land problems such as shortages of surveyed plots. The following tables show plots requirement and manpower requirement (land officials) in Dar es Salaam City Council (DCC).

Table 1.5 Plots Requirement in DCC

Year	1993	1994	1995	TOTAL
Required	1574	1347	1398	4319
Available	897	592	636	2125
Deficiency	677	755	762	2194
% Deficiency	43	56	55	51

Source: Dar es Salaam City Council: 1996.

Table 1.6: Manpower Requirement (Land Dept.) in DCC for 1995/96

Designation	Projected	Available	Variation
Senior Land Officers	8	3	5
Land officers	8	7	1
Assistant Land Officers	8	4	4
Total	24	14	10

Source: Dar es Salaam City Council 1996.

- (iii) Another noted problem of land use, management and administration in the City of Dar es Salaam was double allocation of plots. This was one of the manifestations of the prevailing contradictory decisions in local government particularly on land matters. Double allocation has become a widespread phenomenon in the city council and this arises when a single plot or a piece of land is allocated to more than one person. All of them may have been issued with some formal evidence of grants such as letter of offer or even certificate of occupancy (Presidential Commission on Land, 1995). The study identified the following

as the major causal factors of double allocation of plots:

- (a) Overlapping plot allocating authorities. For instance, we observed that in Dar es Salaam City Council, there was urban planning department which performed duties of land use planning, development, control, plot allocation, land surveying, valuation, compensation etc. The same duties were also performed by the ministry of lands through its different land sections namely valuation, town planning, land surveying sections etc. The two authorities, city council and MLHUD had been given certain powers to allocate lands which in turn led in making contradictory decisions due to overlapping of plot allocation authorities.
- (b) Poor recording system in land offices. The study discovered that in the city council there was poor recording system i.e. defective record keeping whereby allocated plots were not well recorded and kept in

the safe place. City land development officer (CLDO) admitted that it was easy for unfaithful land officers to destroy records of allocated plots and re-allocate the same plots because the city council had inadequate and modern data recording facilities like computers.

- (c) Favouratism and corruption. Our study received many complaints from the people who had faced land problems in the city. Most of the people who were interviewed asserted that there were some land officials both at the MLHUD and city council who disregard the land allocation system because of favouratism and/or bribes. They claimed that land officers allocate plots in favour of the wealthy people, while the majority low income earners lived in slums and squatters. One of the respondents gave an example of Sinza area which was earmarked for low income earners, but ended up in the hands of well to do people who acquired two to three

plots. He further demanded that some of these plots were allocated to poor people in the first place, but later re-allocated to wealthy people through double allocation system.

From the above observation, it can be concluded that corruption and favouratism practices make the issue of land allocation more complex. Lack of integrity, honesty, discipline and professional ethics, result into decisions which contradict the master plans and land policies.

- (iv) Finally, we found out that ignorance of the applicants led into decisions that contradicted the laid down procedures in land allocation. A greater number of land officials in the city council maintained that some of the applicants were ignorant of the laid down procedures of plot allocation and how to obtain rights of occupancy. For instance, as explained in chapter four, the offeree is required to pay fees as indicated in the letter of offer within thirty days and send the receipts to the

respective land officers to confirm that he/she had accepted the offer. However, given the ignorance of some applicants, they do not confirm such acceptance in a given time hence land officers conclude that the offeree had rejected the offer, thus, re-allocate the same plot to another applicant.

Related to above, land officials at the city council also complained that many people who had been allocated plots, did not know that there was a specified period of five (5) years to develop the allocated plot. According to these officials, other plots were allocated twice because of prolonged non-development by the occupier. The following table shows plots with double allocation problem in Dar es Salaam city council:

Table 1.7: Plots with Problems (Double allocation) in DCC

Year	1992	1993	1994	1995	TOTAL
Number of Plots	307	217	264	213	1001

Source: Dar es Salaam City Council 1996.

7.5 The Role of Plural Politics in Local Governance

It has been argued that most of the problems of local self-governance in Tanzania are a result of the present status of central-local relations. Thus, the centre-local relation is an issue of law and institutional framework. Local government laws in Tanzania do not provide for local autonomy. The laws give much powers to central government authorities. The institutional framework of the two levels of government is one in which the central government always appears at the apex of a hierarchy and local institutions forming subordinate organs. In this respect, Halfani (1994:162) remarks:

The African ruling class has abused and manipulated the laws to stifle popular participation.

This situation has weakened the critical importance of local self-governance i.e. preventing people at the grass roots level from assuming a leading role in deciding their own destiny.

Since 1980's most African countries have been discussing the important issues of empowerment of the people through local governance and other democratic organizations of civil society (Ngware: 1994). However,

despite the adoption of plural politics in 1992 which gives more room for open and free democratic discussions; very little had been discussed on how to improve the present status of centre-local relations.

The most intriguing question was: to what extent could plural politics improve the on-going process of local self-governance, especially at the grass root level? It can be suggested that one of the approaches to this issue is that political parties and other organizations of civil society should formulate comprehensive and clear policies which elaborate various strategies on how to attain autonomous local governing institutions. Such strategies should give much emphasis on how to strike a balance of powers between the central and local government authorities. Experience shows that since the introduction of plural politics in Tanzania, political parties as central organs of a democratic political system have not yet demonstrated such kind of policies and strategies in their party manifestos.

So as to develop clear policies and strategies, political parties and other civil society such as professional groups, religious, farmers associations etc. can organize different conferences so as to discuss the

present position of centre-local relations and give their general consensus and recommendations as to how strong and autonomous local self-governance can be institutionalized in the country. In Tanzania, experience also demonstrates that very few voices had been raised among different political parties and organizations of civil society as a struggle towards a creation of autonomous popular institutions called "local government authorities". It is appropriate to reiterate here that local self-governance in Tanzania is a political struggle on legal reforms and constitutional protection of the local authorities, a struggle which must involve local authorities themselves, political parties and other organizations of the civil society.

CHAPTER EIGHT

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

8.1 SUMMARY AND CONCLUSIONS

In this study we have analyzed and described the possible factors that contribute to the frequent occurrence of contradictions in local government decision making system, focusing specifically on land allocation system. Dar es Salaam City Council was involved in the study because it provides a challenge and it is a good sample in an attempt to test the effectiveness and efficiency of local self-governance in Tanzania, particularly when dealing with such a complex problem like that of land allocation system.

It was revealed that local governments in Tanzania derive their legal status and powers from statutes passed by the parliament and consented by the president. These statutes give more powers to central government than local government authorities, thus create imbalances of powers between central and local government authorities. Therefore local government laws in Tanzania do not provide

for autonomous local institutions. This situation has created a dependency nature of local authorities over central government, i.e. local authorities can not raise their own revenue and spend it in executing their own duties and functions without central government subsidy and grants. Furthermore, local authorities lack the power to make independent decisions. They usually act as mere administrative agents, ready to comply with decisions and directives taken by the central authorities.

It was noted that since independence, Tanzania does not have a clear, detailed and comprehensive land policy, which could act as a guideline to the land tenure system in the country. Instead there are government circulars, pamphlets, directives, order etc. all acting as guidelines to the land use, management and administration. Lack of clear land policy has led to lack of clear definition of boundary in decision making between central and local government authorities, particularly in land allocation. This situation had partly contributed to the contradictory decisions in the land management and administration. From the above findings it is clear that the first hypothesis [i.e. lack of clear definition of boundary between central and local governments in the decision making process is

likely to cause contradictions in land allocation] has been sustained.

It can further be argued that the breach of the laid down procedures, rules, regulations and powers of the land allocation system in the country and Dar es Salaam City Council in particular is eminent. The plot allocation committees are the sole responsible organs in land allocation at the District/Town, regional and ministerial levels, but land allocation is mainly done by senior land officers at all levels without full involvement of the plot allocation committees. This situation contradicts the laid down land allocation system, thus causing contradictory decisions. From the above discussions, it is obvious that the second hypothesis has also been sustained [i.e. non-confirmity to the established local government laws and regulations is likely to cause contradictions in the local government decision making process and therefore affect land allocation].

Moreover, the study had found out that the struggle for powers, resources, and overlapping interests between central and local government authorities had been observed as one of the factors that contribute to the occurrence of

contradictory decisions at the local level and therefore affect performance of local self-governance. Finally, corruption and favouratism in land management and administration had spoiled the whole system of land allocation. The study had found out that land officials made decisions that contradict master plans and land policies because of personal gains through corruption and favouratism. In this case therefore, our final hypothesis i.e. engaging in corruption by the central and local government officials is likely to cause contradictions in the local government decision making process has also been sustained. The study had found out that all factors that have been mentioned above have in one way or another affected the effectiveness and efficiency of local government performance.

8.2 Recommendations

On the basis of the findings and analysis made in this study on factors that contribute to the prevailing contradictions in local government decision making, particularly on land allocation system, the following recommendations are advanced.

First, due to the present technicalities and complexities of many policy matters, and given the importance of the local self-governance in the world today, there is a need for the actual devolution of powers from the centre to the locality. The present structure of centre-local relations where central government had reserved for itself most decision making powers over local authorities is unfavourable for genuine development at the grass-roots level. It is therefore suggested that most powers should be devolved from the centre to the locality because local authority are normally better placed and informed as they are involved in day to day local operations and constantly in touch with the local people. Thus, this will make it easy to detect policy problems arising in the course of policy implementation.

Secondly, in line with the actual devolution of powers, it is suggested that local government authorities should have their own independent sources of revenues. Local Government Act No. 9 of 1982 which gives central government statutory powers to control, monitor and supervise all local government financial matters such as revenues and expenditure should be amended; instead, these powers should be vested to the local people through their

representative organ i.e. local councils. Whereas, central government had to provide subsidy and/or grants to local authorities, this should be clearly specified and stated in the constitution. The constitution may specify and state, for example, that 30% of the national revenue should be allocated to the local government authorities to enable them to execute their duties and functions more efficiently and effectively. This will help to solve the present problem of uncertainty of subsidy and/or grants provided by the central government to the local authorities as it will reduce the present central government discretion to decide what amount and when should the subsidy and/or grants be taken to the local government authorities. In addition it would also help to solve the prevailing problem of struggle of resources between the two levels of governments.

Third, in relation to devolution of powers, it is suggested that local government should be able to recruit, hire and fire their own personnels, the personnel who can be hired may include: the chief executives of the local authorities i.e. Directors. This would solve the present problem of accountability whereby some of the local government officials such as Directors are answerable to the council but the council itself has no part in appointing them or even setting their conditions and terms of their appointments. Given the fact that these officials

are central government appointees, they have tended to be more answerable to the central government authorities than local councils. In addition, it is suggested that Local Government Service Commission which makes provisions relating to services in local government authorities should be an independent organ, its chairman and members should be appointed by Association of Local Authorities in Tanzania (ALAT). Instead of the President and minister responsible for local government. If local government authorities will have adequate power to control, monitor and supervise their own resources such as personnels, these personnels will automatically be answerable to the local people through their own representatives - councillors, thus enhancing local government efficiency.

Fourth, it is recommended that in order to solve the present problem of duplication of responsibilities between central and local government authorities, there should be a clear differentiation and demarcation of local and central government responsibilities across sectorial ministries. Though, provisions of Acts Nos. 7, 8, 9 and 10 of 1982 had defined the functions and duties of local authorities, however, they do not cut across various sectorial ministries. For instance, in land sector there is overlapping plot allocation authorities. To avoid this, it is therefore suggested that in each sector, each

government responsibilities should be clearly delineated. Perhaps most important here is that the dichotomy between central government as policy makers and local government as supervisors of policy implementations should be removed. Both central and local governments should work as partners in policy formulation, implementation and evaluation. This would cultivate a harmonious relationship between the two governments and ensure an improvement in the provision of services entrusted in them.

Fifth, in line with number four, central government in collaboration with local government authorities should make sure that there is a detailed and comprehensive land policy which among other things should state clearly the following;

- (i) Land tenure structure in the country
- (ii) Land allocation system
- (iii) Open and transparent land allocation procedures
- (iv) Powers and boundary of land allocation authorities
- (v) Disciplinary actions against those who would breach the laid down land allocation procedures.

It is therefore strongly suggested that such a policy should reduce the current prolonged process of land allocation (bureaucracy) and create one autonomous organ

or department that will specifically deal with all matters of land use, management and administration at the district and town council levels where land activities take place. This will reduce some of the current problems of land such as double allocation and allocation of recreational areas.

Six, it is proposed that before allocation of any plot, land allocation authority should execute the following tasks:

- (a) Undertake preliminary studies of the area and see to it if it comply with the existing master plan of that area and national land policy.
- (b) Undertake the study on the effects which may result from the proposed project.

If we are talking of "rationality" of decision making particularly in land allocation, the above two considerations are very important components to enable land allocation authority to select the best alternative decision before allocation of any plot. This in turn will help to solve the problem of allocation of many open-spaces such as school compounds, play grounds, beaches and other recreational areas.

Seven, it is suggested that in order to create awareness of responsibility on the part of local government officials, councillors in particular, local government as an organization need time to develop skills in policy formulation, implementation and evaluation before any substantial responsibility can be passed to them. This means that councillors and other local government officials must be exposed to different courses and seminars to upgrade their knowledge on policy management and administration. Perhaps what is most important here is that people who aspire for councillorship should be required to meet certain minimum qualifications. Form six leaver for example can be the minimum qualification. This will enable local government officials particularly councillors to manage the present technical and complex policy issues like land use planning.

Eight, since corruption has become a national problem in Tanzania today practiced by both central and local government officials, it is therefore suggested that this problem should be solved at the national level in respect of the following:

- (i) Central and local government employees should be paid adequate salary and wages to enable them to meet their day to day requirements according to the present standard of living in a given period of time.
- (ii) Other employee benefits such as motivation and other incentives should also be provided by both central and local government. They should also make sure that there is no difference between salary and other benefits provided by the government and the private sector; and
- iii) There should be clearly spelt out stern measures and disciplinary actions to be taken against any corrupt employees.

Finally, to solve the problem of unawareness and ignorance of the people on the whole process of land allocation system, it is strongly recommended that the process of planning, allocation and disposition of public properties such as lands should be initiated at the level of elected wards and district/town committees which involve local representatives, for instance councillors. In this case councillors and chairmen of localities should play a role of explaining and educating people in their localities

about different policy issues and thus make these issues open and transparent for public scrutiny and challenge. This system will finally create awareness to the general public on different policy matters. Thus they will be able to criticise and challenge decisions made contrary to the laid down procedures and policy guidelines. Within this context, popular participation in decision making system will have its meaning at the local self-governance.

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Appendix I

MINISTRY OF LANDS, NATURAL RESOURCES AND TOURISM
APPLICATIONS FOR PLOTS OR FARMS

This Form should be read carefully before being completed. After completion you should bring the same to the District Land Development Officer who is also the Secretary to the Land Allocation Committee.

- 1. Name in Full:
- 2. Postal Address:
- 3. I wish to apply for a Plot:
 - (a) Location:
 - (b) Size:
 - (c) Use:
- 4. I wish to apply for a Farm:
 - (a)
 - (b)
 - (c)
- 5. I enclose herewith a sketch Plan showing the location and boundaries of the Farm (see paragraph 4 above).
- 6. Occupation:
- (a) Salary per month: Shs.
- (b) Employer:
- (c) Postal Address:
- (d) Confirmation for Employer concerning above particulars:

SIGNATURE AND RUBBER STAMP OF EMPLOYER

- 7. I hereby confirm that:
 - (a) I am in possession of a Plot known as Plot No. Block. along Street situated at in Township which I have/have not developed.
 - (b) I am in possession of a Farm comprising acres situated in District which is/is not under cultivation.
 - (c) I hold/do not hold a Right of Occupancy.
 - (d) Certificate of Title No. Land Office No.
 - (e) I do not have any other Plot/Farm.
- 8. For Self-employed Applicants please state whether:
 - (a) Peasant Farmer: YES/NO
 - (b) Pastoralist/Herdsman: YES/NO
 - (c) Businessman: YES/NO

- (d) Any other:
- 9. Monthly Income: Shs.
- 10. Are you intending to apply for a loan to the Tanzania Housing Bank? YES/NO
- 11. Any other information which may lead support to the Application.
- 12. Applicant's declaration:
 - I: Mr./Mrs/Miss

hereby declare and confirm that what is state above is true to the best of my knowledge and belief. If any of the above information is found to be false my Application will not be considered and that I stand to for it the Plot if it has already been allocated to me.

SIGNATURE OF APPLICANT

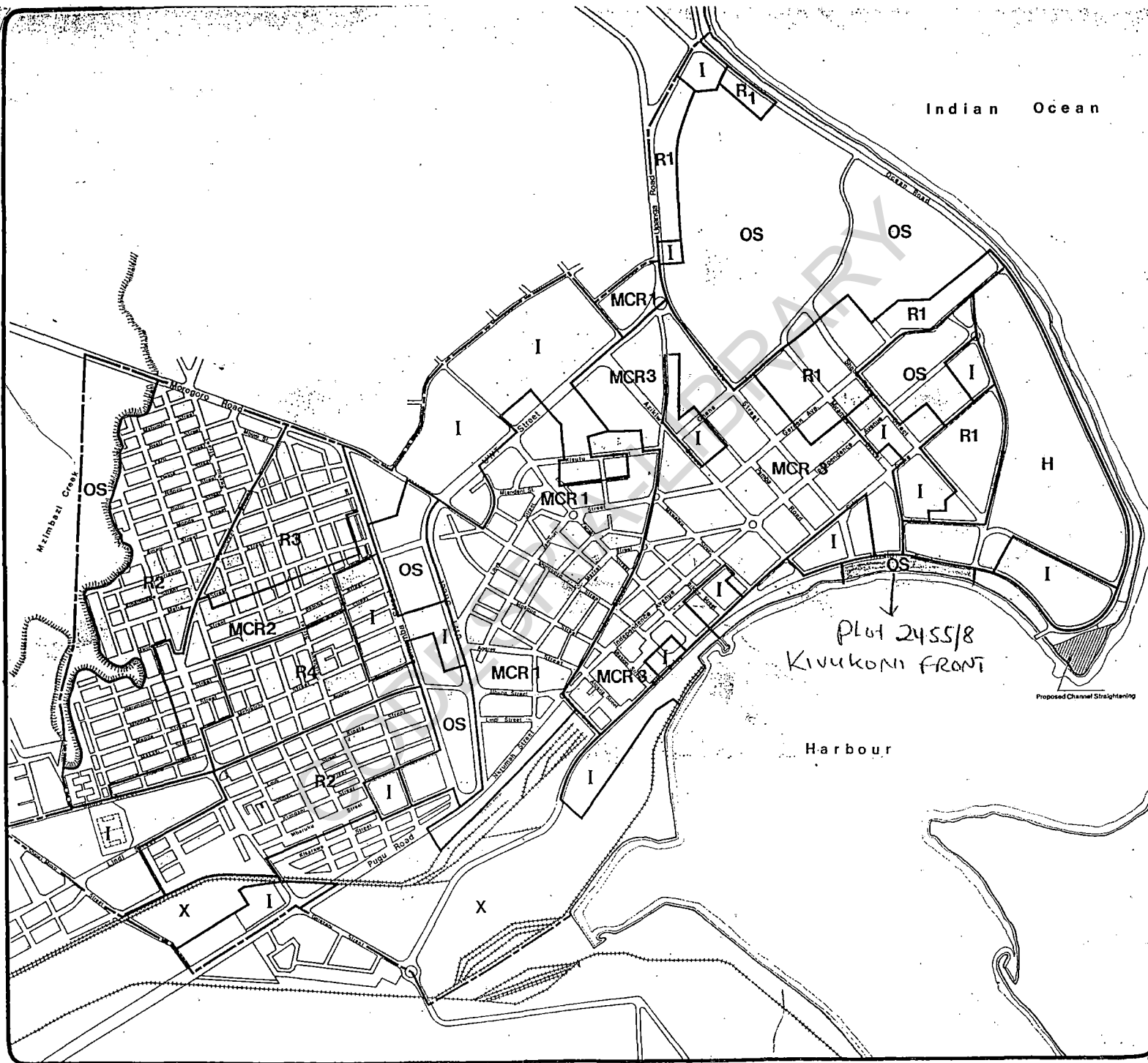
DATE

- 13. Recommendations of the District land Development Officer:
- 14. The Decision of the Land Allocation Committee:
- 15. The Application is approved/rejected:

CHAIRMAN'S SIGNATURE

DATE

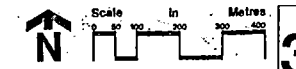
Central Area Zoning Plan

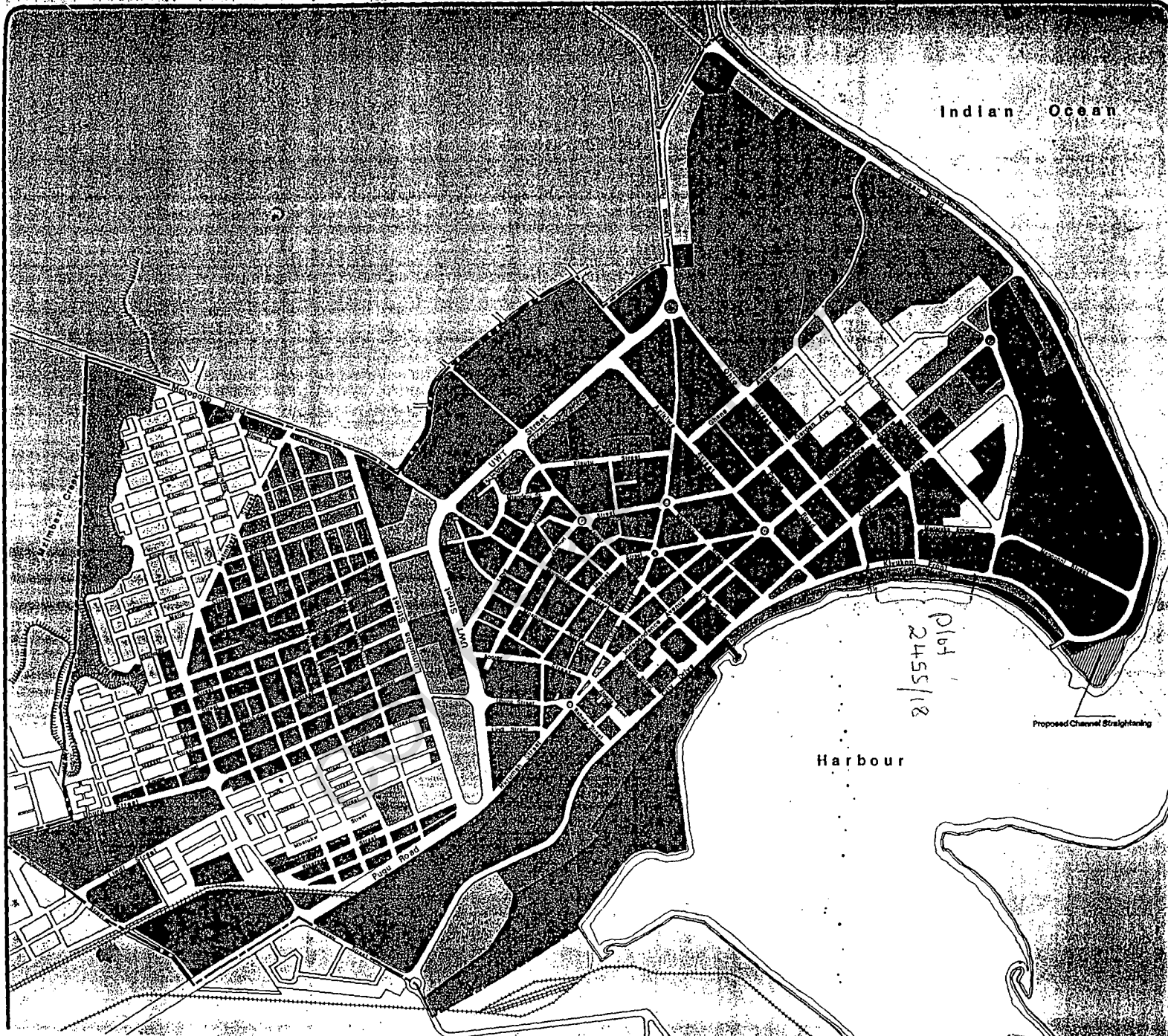


Legend

- R1 Low rise residential and related local community facilities
- R2 Low rise residential and corner shops
- R3 Medium rise residential
- R4 High rise residential and commercial at ground level
- MCR1 Mixed Commercial - Residential
- MCR2 Mixed Commercial - Residential
- MCR3 Mixed Commercial - Residential
- I Institutional
- H Heritage
- X Industrial
- OS Open Space, Recreational
- Central Area Boundary









Dar es Salaam
Master Plan,
Tanzania



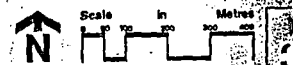


Central Area Concept Plan

Legend:

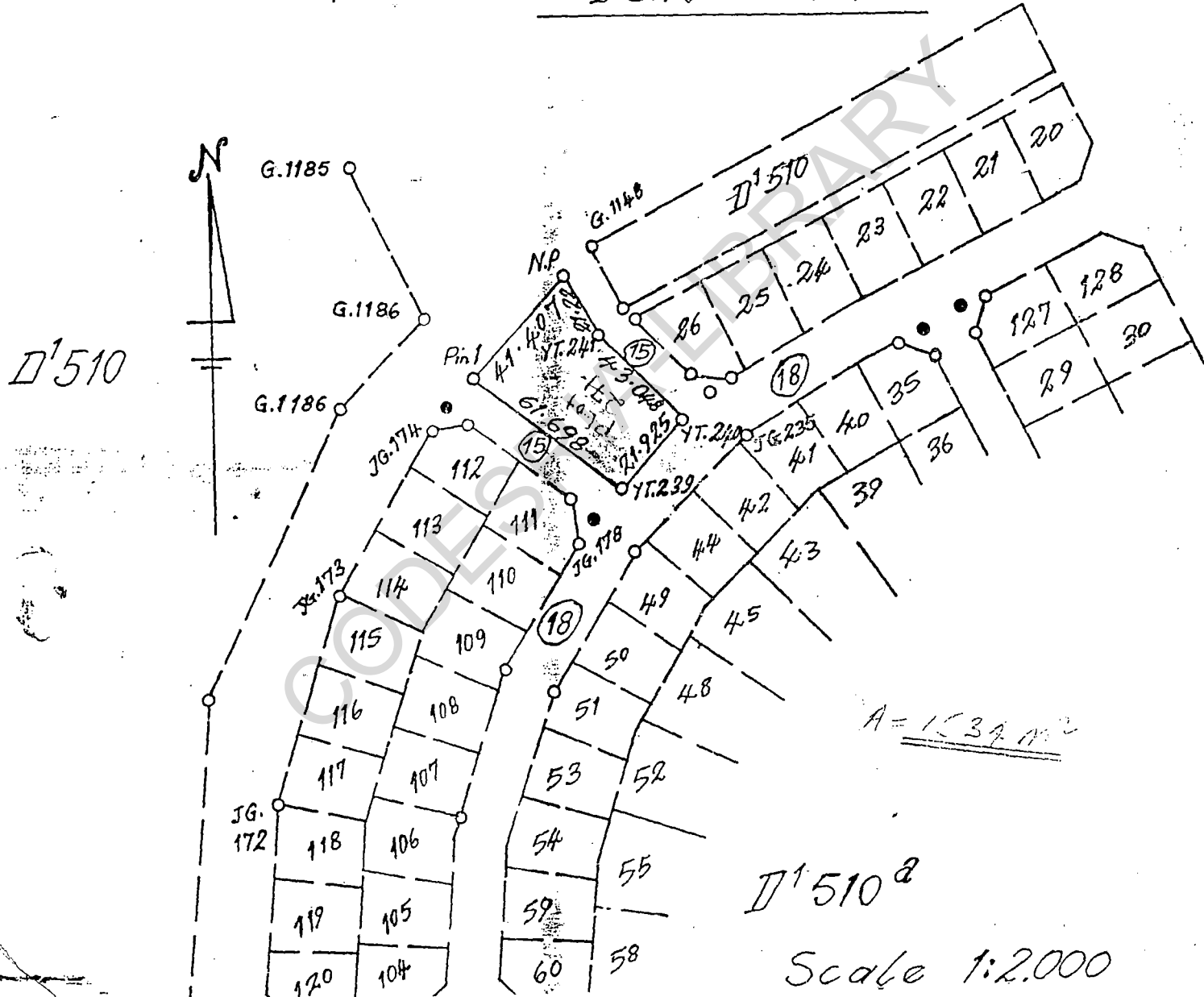
-  Residential I
-  Residential II
-  Residential III
-  Commercial
-  Institutional
-  Industrial
-  Major Open Space
-  Central Area Boundary

Dar es Salaam
Master Plan,
Tanzania



Appendix III

SITE PLAN FOR SUPER MARKET PLOT (No. 271)
BLOCK 'C' CHANGOMBE SHOPPING CENTRE
D'SALAM CITY





JAMHURI YA MUUNGANO WA TANZANIA

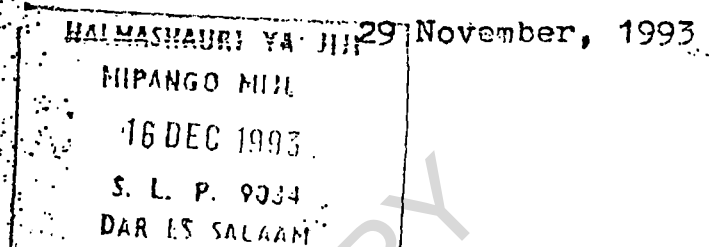
WIZARA YA ARDHI, NYUMBA NA MAENDELEO MIJINI

Anwani ya Simu: VIWANJA
Simu Nambari: 21241-9, 22783
Unapojibu tafadhali taja:

IDARA YA ARDHI,
S.L.P. 9230,
DAR ES SALAAM.

Kumb. Na: LD/461497/7/SLK

Ndugu Ally Abdallah Salehe,
S.L.P. 7329,
Dar es Salaam.



YAH: KIWANJA NA. 271 KITALU 'E' CHANG'OMBE
MIJINI DAR ES SALAAM.

Hii ni kukujulisha rasmi kuwa unamo tarehe 29 November, 1993 Waziri wa Ardhi, Nyumba na Maendeleo Mijini alitembelea kiwanja hiki baada ya kupata malalamiko kutoka kwa baadhi ya wakazi wa eneo hilo na kuagiza mbele ya wananchi hao kuwa kiwanja hiki kibaki wazi kwa ajili ya bustani ya watoto na kituo cha Polisi.

Pia aliagiza kuwa Halmashauri ya Jiji la Dar es Salaam wakutafutie eneo jingine.

Kutokana na uamuzi huo hati yako ya kumiliki ardhi inabidi ibatilishwe chini ya kifungu nambari 10(2) cha sheria ya Ardhi Sura 113 ili eneo hili liweze kurudia matumizi yake ya awali. Lakini kabla ya kuchukua hatua za kubatilisha hati yako ya kumiliki ardhi hii, nakupatia muda wa siku 28 kuanzia tarehe ya barua hii unieleze kwanini Serikali isichukue hatua hiyo.

(S. L. Kivinge)

kny: KAMISHINA WA ARDHI

Nakala: Mkurugenzi wa Jiji,
Dar es Salaam.

Handwritten signatures and stamps, including a circular stamp with the number 3.

38060
DCC/LD/42270/12/MI

4 Januari, 1996

Kamishina wa Ardhi,

S.L.P. 9230,

DAR ES SALAMU.

YAH: KIMANJA NA: 271 KITALU '01 CHING'OMBE DAR ES SALAMU

Barua yako, yenye Kumb.Na.LD/461497/7/SIA ya tarehe 29/11/93, ambayo uli tupa nakala yahusika.

Barua yako jivo ilimjulisha mwilivaji wa Mwanja hiki nia ya Serikali ya kufuta Hati yako chini ya kifuturu N.10(2) cha Sheria ya Ardhi Suru 113, ili ena hucika hirudi kwenye matuzizi yake ya awali.

Kwa barua hii tutaomba hujulishwa kama hatup ya mwitaji huo umelwishakamilika. Tugeshukururu sana kama majibu kwa tungeyapata mapema iwezekanavyo.

Jamil
Mwiba, M.I.

Waz:

AFISA ARMI NA JUMI

DAR ES SALAMU

CHANG'OMBE (maduka mawili)

na Halmashauri ya Diti

- Kiwanja hiki kilitolewa kwa Nd. Ally Abdallah Saleh wa ShB 7329 Dar es Salaam mnamo tarehe 21.8.84 kikiwa kinajulikana kama "Site for Supermarket Block C Chang'ombe".
Milki ya kiwanja hicho ^{ilikuwa} ya miaka 99 kwa matumizi ya Biashara pekee.

Eneo hilo lilikuwa ni eneo la Wazi kwa mude mrefu.

Rejia Viambatanisho Ia - barua ya taleo

Ib - location plan - eneo ^{alilobonyeshwa} ^{ku} nyekundu.

- Kabla ya kutolewa kwa kiwanja hiki, mnamo mwaka 1983 ^{eneo} ~~kiwanja~~ hiki kilombewa kubadilishwa matumizi kwa Mkurugenzi wa Mipango Miji kutoka Open Space na kuwa Super Market, ^{ichasemekana} hivyo ~~haya~~ Mabadiliko haya ^{haya} kupitia ka Kamati ya Mipango Miji kutokana na mawasi ya barua zilizopo katika jalada la Ardhi ~~ya~~ Diti.

- Hivyo kilipewa na 271/c Chang'ombe na Survey Instruction ilitolewa mnamo mwaka 1984, kikapi mwan na kutolewa mwaka huo. Rejia viambatanisho Ia na Ib na ~~Ic~~ Ic.

• Maelero kuhusu kiwanja hiki yalipelikwa ^{kupata baraka} katika Kamati ya Mipango Miji iliyoka tarehe 14/7/92 ambayo ilihalalisha kuwepo kwake na kwa matumizi ya Market.

Rejia bama Kiambatanisho **II** - bama ya tarehe
24.7.92

- Maombi ya kibali cha Ujenzi ya Nd. Ally S. Saleh yalitwa Halmashauri ya Jiji tarehe 4.7.91. Alilepa malipo yote yanayostahili na kupewa Na. 627/91.

Maombi haya yalikuwa kujenga nyumba ya biashara ya ghoreji mbili (3 Storeys) kwa ajili ya Supermarkets ~~na Restaurant~~ ~~Sakafu~~ ~~Sakafu~~ ya chini na ya kwanza na mgatama sakafu ya pili.

- Ombi hili lilishughulikiwa katika uingostahili na kumpu kuwa ilishwa katika kitas chake cha Ramani na Rajengo cha tarehe 7/5/92. Kamati haikupitisha ombi hilo na badala yake ilamua Kamati Wziwa kutembelea eneo hilo. Baada ya Kamati kutembelea eneo hilo waligundua kuwa kina eneo hilo lipo, lipo wazi na halina walalizo. Hivyo Kamati ilipendekera apewe kibali cha Ujenzi cha Rejia Kiambatanisho **III** - muhtasari No. 25.3 ^{kiwa} tarehe 14. Kibali cha Ujenzi kilitolewa tarehe 15.5.92 chenye Namba 27453.

Bama ya kuzaza ya kabadaka kutoka Com/Res. Jiji Supermarket.

