

Institutional choices for low-income countries: state capacity, property rights and development paths in Tanzania

CGR Working Paper 54

Martha Prevezer

Abstract

I am using the North Wallis Weingast (2009) framework to analyse the nature of the basic Limited Access Order (LAO) in Tanzania. Looking at Tanzania historically in terms of the creation of state capacity, I use Levy's (2013) categorisations to place Tanzania in weighing up centralized state capacity vs strength of checks and balances and state dominance vs competitive clientelism models and identifying who the dominant elites have been, particularly since independence in 1961. Tanzania has strong state capacity compared with Zambia and various other Low Income countries but relatively weaker checks and balances to constrain state power; Tanzania fits better with a state dominance model than a competitive clientelism model in relation to dominant elites and nature of institutions. I combine this with an analysis of the history of property rights in Tanzania and following Boone (2007) outline the tensions between three types of property rights: communal, customary rights vs private individualized rights vs state user rights. Despite considerable debate within Tanzania (the Shivji Commission and other bodies), state user rights have won out over both customary and to a lesser extent private rights. I outline how the dominance of state user rights over property combined with strong centralized state capacity via its bureaucracy and patronage over jobs has underpinned Tanzania's development path, in line with Bates (1982,2014) analysis for many SSAs. In the 1960s and 1970s this path was to redistribute resources away from small farmer agriculture towards a monopolistic nascent industrial sector in a push to develop industry, absorbing surpluses from agriculture in exportable crops (eg coffee, sisal) via state-controlled structures such as Marketing Boards. Other supports such as extension officers, inputs, training shaped which farmers were supported and controlled prices paid to farmers to subsidize urban wage goods and control urban unrest. Since liberalization in the 1990s constraints on agriculture have been loosened, but in practice the power of District Commissioners and Marketing Boards remain in force. Land, backed by state user rights, is redistributed for the purposes of urban and rural/industrial enterprise away from smallholder farming and away from communal rights. More recent enterprise development has been in agribusiness, manufacturing and construction, diversified across industries but concentrated in relatively few firms. (Sutton 2012). There is a tension between the combined forces of strong centralized state capacity, weaker checks on the state plus property rights that give the state ultimate power to determine land use, and the fostering of bottom-up agricultural enterprise, either through cooperatives or through individual private enterprise. Liberalization has favoured private industrial enterprise, although difficulties over clarity of land rights, availat

<http://www.busman.qmul.ac.uk/cgr>

Institutional choices for low-income countries: state capacity, property rights and development paths in Tanzania

Martha Prevezer

Abstract

I am using the North Wallis Weingast (2009) framework to analyse the nature of the basic Limited Access Order (LAO) in Tanzania. Looking at Tanzania historically in terms of the creation of state capacity, I use Levy's (2013) categorisations to place Tanzania in weighing up centralized state capacity vs strength of checks and balances and state dominance vs competitive clientelism models and identifying who the dominant elites have been, particularly since independence in 1961. Tanzania has strong state capacity compared with Zambia and various other Low Income countries but relatively weaker checks and balances to constrain state power; Tanzania fits better with a state dominance model than a competitive clientelism model in relation to dominant elites and nature of institutions. I combine this with an analysis of the history of property rights in Tanzania and following Boone (2007) outline the tensions between three types of property rights: communal, customary rights vs private individualized rights vs state user rights. Despite considerable debate within Tanzania (the Shivji Commission and other bodies), state user rights have won out over both customary and to a lesser extent private rights. I outline how the dominance of state user rights over property combined with strong centralized state capacity via its bureaucracy and patronage over jobs has underpinned Tanzania's development path, in line with Bates (1982,2014) analysis for many SSAs. In the 1960s and 1970s this path was to redistribute resources away from small farmer agriculture towards a monopolistic nascent industrial sector in a push to develop industry, absorbing surpluses from agriculture in exportable crops (eg coffee, sisal) via state-controlled structures such as Marketing Boards. Other supports such as extension officers, inputs, training shaped which farmers were supported and controlled prices paid to farmers to subsidize urban wage goods and control urban unrest. Since liberalization in the 1990s constraints on agriculture have been loosened, but in practice the power of District Commissioners and Marketing Boards remain in force. Land, backed by state user rights, is redistributed for the purposes of urban and rural/industrial

enterprise away from smallholder farming and away from communal rights. More recent enterprise development has been in agribusiness, manufacturing and construction, diversified across industries but concentrated in relatively few firms. (Sutton 2012). There is a tension between the combined forces of strong centralized state capacity, weaker checks on the state plus property rights that give the state ultimate power to determine land use, and the fostering of bottom-up agricultural enterprise, either through cooperatives or through individual private enterprise. Liberalization has favoured private industrial enterprise, although difficulties over clarity of land rights, availability of land and administrative issues over transferring land continue to be obstacles.

Introduction

My starting point is the North Wallis Weingast (2009) (NWW) framework that analyses different kinds of state, that range from fragile, basic and mature Limited Access Orders (LAO) towards Open Access Orders (OAO). I explain the characteristics of the LAO and OAO and how NWW envisage a shift from between various types of LAO towards OAO in Section 2. I agree with Levy (2013) that for low income countries the basic LAO, which is the appropriate category of state for a group of low- income countries, is under-theorized. However the NWW approach is helpful when thinking about development paths in highlighting the need to focus on the particular characteristics of the state, who its dominant elites are in any particular country and what kind of deal it has created between elites in order to control the capacity for violence within the country. So section 2 outlines the NWW framework and nature of LAOs and OAOs.

Section 3 goes on to examine the nature of the Tanzanian state, what sort of basic LAO it is and which functions it can do and where its perceived weaknesses lie. Is the state overall helpful for and conducive to doing business? This section relies on a number of indicators of state effectiveness created by international agencies – the Kaufmann-Kraay's Rule of law and Voice and accountability, the University of Maryland Polity IV database of executive constraints, the CPIA – which rank states according to state capacity in terms of stability, control of violence, strength of bureaucracy, ability to spend on infrastructure and provide public goods; and against this looks at strength of checks and balances on states power in the form of density of

non-state institutions such as independence of judiciary and media, density and independence of non-state enterprises such as cooperatives. The argument here is that there is a trade-off between stronger state capacity that is capable of maintaining order and has the monopoly of violence but at the expense of the development of a denser civil society and independence of cooperatives and enterprises of state power.

Section 4 examines the nature of property rights historically in Tanzania in underpinning the nature of development. In terms of Tanzania's history this means an evolution from communal village rights which are hierarchical and based on custom, non-capitalist and favouring smallholder enterprise, through colonialism where private rights were pitted against communal rights, through state socialism where state user rights trumped both communal and private rights. Liberalization from the 1990s sees the three types of land rights in contention but with state user rights stronger than both customary rights and than domestic private rights.

Section 5 discusses what difference this makes for development – both the nature of state capacity and the contention between different types of property rights. The choices for capitalist development are between strengthening private property rights of smallholder farmers through registration and titling of land; this will forestall the process of urbanization and leaving the land and will support small-scale agricultural enterprise. Alternatively the development path can favour larger scale enterprise both rural and industrial at the expense of communal property rights and smallholder agriculture. This would foster more rapid urbanization as subsistence agriculture becomes even more unviable and landless labourers move towards larger plantation agriculture or urban centres. The latter appears to be the path that the underlying institutions of state property rights and state power favours. But there is opposition at the grass-roots level by the larger mass of population which still resides in and depends on smallholder agriculture.

The helpfulness of the NWW framework is in situating these development choices in terms of power balances between different groups within the country and encapsulating the nature of the risks involved in moving towards increasing non-state power and independence from the state which might jeopardize stability and move towards lower productivity sources of growth. The bottom line is that Tanzania has a strong centralized state that curbs violence and has sufficient order. But at the expense

of private and customary property rights and entrepreneurial capacity growing out of smallholder agriculture.

Tanzania has been growing fast in the last decade: between 2002 and 2012 its average growth rate was 7% pa. Its 2007-12 average annual growth rate was 6.8% pa, above the SSA average of 5.2%. (Tanzania's President's Office, Planning Commission 2013). The average growth for agriculture however was only 4.2% 2002-12.

Its domestic revenue collections stood at 18% of GDP in 2012/13 due to an effective tax administration and tax policy reforms. And government expenditure grew from 15% of GDP in 2001/2 to 26% in 2007/8; of that capital expenditure increased from around 3% of GDP to about 9% of GDP. Agriculture as a share of GDP has been declining from 30% in 1998 towards 20% in 2012 (according to the Tanzanian Planning Commission although is nearer 30% by an FAO estimate), although still accounts for a much higher proportion of employment (80% of employment in mainland Tanzania) (FAO 2013). There has been an increase in FDI from around \$150m in 1995 to \$854m in 2011. Private sector credit grew from 6.7% of GDP in 2003 to 17.7% 2012.

Real per capita GDP increased from \$304 in 2002 to \$647 2012. However poverty has declined only slightly - from 36% of population below basic needs poverty line to 33% in 2007 and those below the food poverty line were 19% of the population in 2001 and stood at 17% of the population in 2007. There remains a wide rural-urban divide in the percentage of deprivation, with 68% of the population living below \$1.25 per day (UNDP 2013). The aim here is to place these development issues within the context of state capacity and property rights.

Section 2 The North Wallis Weingast 2009 framework

The North Wallis Weingast framework (2009) (NWW hereafter) sets out a series of types of states based on their capacity along a number of dimensions: to have a monopoly of violence (Weber 1919) ie consolidated political control of organizations with violence capacity and therefore for the state to control violence within the country; to have a rule of law that applies to all including the elites in the society; to have what they call perpetually lived organizations in both public and private spheres. Perpetually-lived organizations mean that organizations have a life beyond the life of

the current particular members or leaders, are not dependent on the personal ties to particular people.

NWW sees a trajectory of development, tying political and economic development together, from Limited Access Orders towards Open Access Orders. Open Access Orders are characterized by the conditions above, but also by the density and richness in number and variety of civil society organizations which are perpetually-lived and are independent of the state. These civil society organizations form part of the checks and balances that constrain the power of the state. For states to be functional and effective, they need to have sufficient infrastructural power (Mann 2010) and legal and fiscal capacity (Besley and Persson 2009) to exercise infrastructural power to provide public goods and maintain order; but they also need to be balanced by sufficient power in civil society independent of the state which constrains the state from expropriation and constrains state actions.

Greif (2006) calls these institutions Coercion Constraining Institutions (CCIs) that collectively are external to the state and act on it to keep in within bounds. The growth and extension of markets historically has depended on the combination of the formation of both CCIs and Contract Enforcing Institutions (CEIs) that enable traders to have sufficient trust or back-up to provide the glue between the quid and the quo of trading. These CEIs can be private order or public order. Greif argues that the natural progression is from private order CEIs where reputation and private violence back up trading towards public order CEIs where the state provides the machinery to underpin trading. This machinery is in the form of legal contracts backed by independent courts and judiciary.

The NWW state is not a monolithic ruler but a collection of organizations controlled by the dominant elites in the country. In the NWW framework there is a logic in the natural state: elites have privileges which give them rents in exchange for their controlling violence in the state. The source of the elite rents is the privilege of forming organizations – having monopolies, access to resources – supported by the state. So early natural states are composed of dominant elites who hold the monopoly of violence but contain that violence in return for elite privileges in the form of rents. The agreement between them is to respect each other's rights including property rights and privileges. These elites span across the different spheres – military,

religious, political, economic – in the country. They perceive it to be in their interests to cooperate in exchange for rents and deliver peace. The state needs to enforce and support what the elites are doing. It is unclear from NWW how far the elites recognise what they are doing and consciously maintain their power bases; or whether this jostling between them is done unconsciously to preserve themselves.

Limited Access Orders and Open Access Orders

Most countries – all but around 24 developed economies are LAOs so for low income countries and development purposes the focus is on the LAO. The ‘ideal’ of the OAO which characterises the most developed, richest economies is useful however for highlighting their institutional characteristics.

OAO characteristics are: they control violence with consolidated powerful monopolistic military and police organizations which are under the control of the political system. The political system limits the use of violence and is broadly supported by economic and social interests. The idea of openness is that both economic and political efforts are open to a broad proportion of the people. This doesn’t have to include everyone and the exact proportion is unclear. But the idea is that there are no tight entry barriers excluding large chunks of the population – from both the economy and politics. All citizens have rights to form organizations and there are many and a great variety of organizations, and without requiring consent of the state. All actors compete for political control – this keeps in check the power of those who do have political force.

Impersonality is an important concept in an OAO – people form organizations but the organizations are not based on who they are or whom they know. Citizens have equal rights to do so. (I use terms citizens to denote those officially recognized members of a nation-state. Mann uses the term people, distinguishing people from populace who are without citizen rights and participation. An OAO has organizations that are not immortal but their life-span is independent of any person and they have an impersonal identity. OAOs support a large number of such perpetually-lived organizations. There is competition between organizations of a Schumpeterian kind, with the old being replaced by new organizations. These organizations are in different areas of the economy and society: firms but also non-profit organizations, civil society

organizations that may be political, religious, social. All these spheres of activity are outside the control of the state. There is continuous change in an OAO with new interests forming new organizations. Because of competition, rent-seeking is less of an issue – privileges from pockets of activity are competed away. Another issue in the NWW framework is that the economic participation goes hand in hand with political participation, and the institutions are complementary and supportive of each other.

The relationship between the transition to OAO status and take-off into industrial development is however much less clear (Prevezer forthcoming). Whilst it is true that the most developed and richest countries are OAOs, their transition from LAO to OAO mostly occurred after the beginnings of their respective agricultural and industrial revolutions and the onset of what has been called ‘the Great Divergence’ between those countries taking off into more rapid industrial development and growth and those left behind. This is pertinent for considering the kinds of LAO state that are most conducive to development and growth. It is certainly true that rapid rates of development and growth have been achievable by LAOs: China is classed by NWW as a mature LAO for example, as is Germany under the Nazis. This calls into question the nature of the mature LAO and the fluidity between LAO and OAO and its possible reversal. However it does reinforce the necessity to elaborate more concretely on characteristics of the basic LAO which is most relevant for low-income countries.

One of main features of an OAO is the high proportion of state expenditures in national income which can be in the form of centralized or decentralized expenditures. Piketty (2014) gives figures of 30-35% of national income in US and Japan and higher – 45-50% in Western Europe, paying for health, education and providing skills for growth. Building a fiscal and social state is an essential part of modernization and development. With 10-15% of national income as tax revenues (which Piketty cites as the level of state expenditures in SSA countries since the 1990s), it is impossible for a state to do much more than fulfill its traditional responsibilities – maintaining order through a police force, judicial system. He argues that 1980s policies foisted on poor countries of cutting public sectors lowered government receipts in poor countries in 1990s and meant cutting their capacity to create infrastructures.

Besley and Persson (2009) looks at the relationship between legal capacity (strength and clarity of property rights) and fiscal capacity (ability to raise taxes and government expenditure). Pointing to lessons from history and the trigger of war in building up fiscal capacity in 18th century England, they cite Bates (2001) and Herbst (1990) arguing that weak states in Africa might in part be due to paucity of external conflict. One argument is that states are investing too little in fiscal capacity and using that capacity for redistribution rather than for public good provision. Investments in legal and fiscal capacity can be complements, but property rights are not straightforward; the distribution of economic power affects the path of institution building. The more the state has common interests across the population, the greater the complementarity between fiscal and legal capacity. The greater the checks and balances on the state, the more inclusive and the more dense civil society is, then revenue raising is made easier. Their argument on the distribution of economic power is that if a society is dominated by rich elites, the protection of property rights will be greater but the ability to tax will be lower and income inequality will be greater. Conversely if there is rule by the masses, the protection of property rights will be lower, but ability to tax will be higher and income inequality will be lower. The more unequal income distribution is, the greater the investment in legal capacity ie stronger property rights. Economic growth softens these constraints and leads to better legal capacity and higher fiscal capacity. Besley and Persson's hypothesis is that higher legal capacity based on more unequal incomes leads to a negative relation between fiscal capacity and growth; whereas higher legal capacity based on more equal income equality goes with higher fiscal capacity and is positively related to growth.

LAOs have much slower growing economies and larger number and duration of negative shocks. Their politics tends more to be without the consent of the governed. They have a small number of organizations and smaller more centralized governments. Social relationships are more along personal lines ie privileges and hierarchies; there is unequal enforcement of laws, insecure property rights, unequal treatment of individuals, favouring elites and excluding the mass of the population.

Limiting access – there being a dominant coalition that has power – creates rents which may be stabilizing. These rents are based on local monopolies and restrictions which hinder entry and growth; the problem of violence may be solved but growth

processes may be impeded in the longer run. This is a dynamic process.

There are different types of LAO – fragile, basic and mature. Fragile states are where violence potential has not been centralized into the state and there are multiple sources of violence and instability of the state is a major problem. The interest of this paper is in the nature of the basic state in particular, where there is a well-established government/state which is stable and which controls the main source of violence potential ie controls the military and police and there are not competing militia in the country. It is characterized as the state or government being the main durable type of organization. But there is a relative paucity or lack of density in non-state civil society organizations. Elite privileges and organizations are strongly identified with the state. The mature LAO has a greater development of civil society and perpetually lived organizations outside the state and are more stable than basic LAO states, have more political organizations and public sector organizations independent of the government which allow private sector organizations to prosper.

Section 3 Tanzania and enlarging the basic LAO framework

I argue here, along with others, that Tanzania currently is a basic LAO. But what kind of basic LAO, what are its characteristics? The nature of the basic LAO in the NWW is rather thinly theorised, as pointed out by Levy in NWWW (2013). This is the area that many low income developing countries are in and in particular Tanzania. Levy (2013) points to a trade-off within the basic LAO space between those states whose resources are concentrated on building up stronger state capacity and bureaucracy and those states whose state capacity is weaker but whose non-state organizations and constraints on the state are more developed. In determining where Tanzania fits into this schema, I look first at its post-colonial history and analyse who are and have been the dominant elites in Tanzania. This question has to be seen in terms of who have been insiders within the state and which groups have benefited from the particular state policies adopted.

History

Putting together the history of Tanzania from this perspective focuses on the nationalist struggle and colonial bequest: the opposition to colonial authority served as the basis for a nationalist coalition bringing disparate groups together. With

independence the differences between these groups emerged. Political power was transferred to the African majority; but economic power continued to reflect the colonial order in terms of ownership, control and access to income opportunities. The best paid and senior jobs were in the civil service and continued to be held to some extent by Europeans. Marketed agricultural goods were produced by white settler farmers on commercial farms; resources continued to be owned with clearer property title (see below) by settlers. Rents continued in the hands of pre-existing elites.

From independence in 1961, Nyerere combated fragmentation and created a national identity through charismatic one-party leadership, Africanizing and with strong enforcement of state control. Foreign-owned firms were taken over and Tanzania became a one-party LAO, fusing economic and political power under state control. The civil service became a key source of patronage. It grew rapidly, becoming the largest employer in the country.

On independence the legacy in terms of governance was a strong shell of formal institutions, political and bureaucratic, but mostly just a shell as a mix of colonial legacy and aspirations of independence (Levy 2004). The mode of governance shifted from formal checks and balances to what Levy and others call the neopatrimonial system of rule (Dia 1996, Lewis 1996, Levy 2004). With autocratic political leadership, there was a decline in the quality of bureaucracy, affecting policy and performance. Neopatrimonial rule meant giving privileges and rents to allies of the ruling party. This meant a disruption of markets, rising costs of doing business, protectionism, urban bias and a rentier relationship between government and business, with the business class dependent on government. Measuring the relationship between private firms and government in 1986 and 1996 and asking whether government was obstructive or helpful, Tanzania comes out as obstructive in both years, but less so in the later year (Levy 2004).

Price controls were imposed on the purchase and sale of food crops and on other products. The economy was centralized and managed through parastatals during the 1970s. The ujamaa villagization policy between 1973-6 forced the movement of many farmers and illustrates the extent of state power at the expense of rural small farmers. The one party state excluded many people, especially the rural poor. The central tool was distribution of patronage to the elite, the economy subordinated to maintaining

the elite and allocating rents towards them.

Bates (1982,2014) has charted the history of such policies against agriculture, pro-urban development, pro-highly concentrated industry, giving out monopolies to favoured elites, using revenues from controlled agricultural pricing through Marketing Boards with the state taking the difference between the world price for the agricultural goods and the official domestic price paid to farmers. Newly independent states like Tanzania in 1960s seeking development and with socialist and independence ideologies, sought to industrialize. The policies for this were, and still are to some extent, taxing or extracting revenues from the primary exporting crops – coffee and sisal – and from the rural sector as a whole. The way this was done was through state institutions, the Marketing Boards, corralling all crops through it and paying the farmers a lower price than that on international markets, taking as revenues the difference between those prices. These Marketing Boards are part of the state apparatus, they were established before independence with an original mandate to use the revenues for the farming community. But the state sequestered the revenues – either through borrowing at favourable rates of interest or directly through control of the marketing agencies. The Boards are ‘faithful servants of governments’ Bates 1982 p15. Over time, borrowing shifted to taxation of farmers; the Marketing Boards were the main vehicle for appropriating funds from farmers. Investments were made in the urban sector, with the urban population at 10% receiving 30% of public expenditure in the 1970s (Clark 1978). Investment policies for industrial development included the state securing low prices of raw materials from the farmers.

Bates gives examples of coffee and sisal in Tanzania with the crop authority buying coffee from farmers at under half the world market price in 1975-6. For sisal, grown on large estates, the state subsidized six major spinning mills so that by 1980 Tanzania could process over 90% of sisal production, in order to increase the value of textile exports. The Sisal Authority sold to domestic sisal producers at a price well below the world market price, and bought from the farmers at a reduced price. In 1976 the Tanzanian Sisal Authority sold 36.072 tons of fiber to local mills at Tsh 1984 per ton compared with an export price of Tsh 3007 per ton. Sales to spinning companies were subsidized and the producers bore the brunt of the subsidy. The interests of farmers were sacrificed to building up industry. But in addition plant

location was on the basis of political advantage, maintaining labour forces for political advantage rather than profitability. So the dominant elites were the state civil servants plus allies in monopoly industrial positions and the outsiders were the farmers, who did not favour industrial development especially when exports of agricultural goods were diverted to domestic use.

The building up of state capacity through the bureaucracy was another feature. But with weak constraints on the state, the costs of marketing, storage, transport, disposal, careless contracting and growth in staff members and their perquisites soared. Bates 1982 p27. This is thoroughly documented for Tanzania by Kriesel et al 1970.

In this way surpluses were extracted from farmers and agriculture and transferred towards the growth of urban centres, towards growing industry albeit in highly concentrated form. With few checks and constraints on the state, policy was captured by vested interests. With the state as the main employer, curbing unrest meant keeping down the cost of living which meant keeping food prices low and controlling or forbidding exports of food. The Turner Commissions in Tanzania and Zambia on labour unrest in the 1970s focused on the urban demands for higher standards of living and the efforts of the governments to keep down the prices of wage goods, food, to appease those demands. These states' wage bills included not only civil servants and bureaucrats but those operating ports and harbours, railways, transport systems and nationalized firms. One way to pacify urban interests has been coopting labour leaders onto government boards and public enterprises and giving them perquisites. Another is repression: using the state capacity to jail labour leaders, dissolve unions. The link between urban unrest and agricultural policy was tight.

More evidence of elites being urban and industrial at the expense of farmers: 1977 Bureau of Marketing and research of Tanzanian Ministry of Agriculture 'Retail prices for the main cereals have not been increased for three years'. 1971-6 government offering farmers between 1/5 and 1/2 of world food prices. Farmers marketing produce outside official channels were then subject to legal action. There was persistent conflict between peasant and bureaucrat in rural markets, with joint gains to corruption as the bureaucrat could help the peasant evade market controls in exchange for bribes.

Post liberalization position

Stevens and Teggemann (2004) in Levy's Building state capacity, compares Tanzania, Zambia and Ghana. The public sector is run by elites beholden to various interest groups. Tanzania's political environment with relative civic peace, unity and stability, owes much to the dominance of a single party (Kiragu and Mukandala 2004). Under the socialist system there was a single ruling party – originally the Tanganyika African National Union which later became the Chama Cha Mapinduzi CCM. There was limited party competition, with broad popular support for CCM into the 1990s and 2000s in parliamentary and presidential elections. Trade unions stayed acquiescent. There was an uncompetitive pluralism and political stability. During the liberalization of the 1990s, there was a revival of the multiparty system and a re-emergence of the unions, and pay reform became a political issue, with a proliferation of allowances favouring senior civil servants. So as Levy (2007) argues there has been stability and bureaucratic capacity but dominated by a single party state with much weaker civil society checks on state power through an independent judiciary or free press.

Levy (2007) distinguishes between bureaucratic capability – which is akin to the historical concept of state capacity (Besley and Persson 2009; Mann 2010, O'Brien 2005). But his bureaucratic capability has more to do with the quality of the civil service, its administrative capability, than how far the state reaches into society. Levy then contrasts this with checks and balances on the state which comprises constraints on the state in terms of non-governmental organizations, the independence of the legislative, the judiciary, and features of civil society and media like the scrutiny by a free press, free elections and other institutions outside the immediate executive running government. He measures these checks and balances by amalgamating the various world indices – the University of Maryland Polity IV database of executive constraints, Kaufmann-Kraay's Rule of Law and Voice and Accountability. As with all these world-wide governance indicators, their strengths lie in building comparable measures; their weaknesses lie in losing the country characteristics in doing so. But they provide broad rankings on the basis of this comparability, so Tanzania can be judged relative to various other low-income basic LAOs.

Who are the dominant elites in Tanzania? This is a question of interpreting the

agricultural and bureaucratic structures in terms of who the dominant elites are in Tanzania. How far has there been competitive clientelism in Tanzania ie competing elites as opposed to state dominance (Levy blog 2014). How permeable are the boundaries between insiders and outsiders? Zambia has stronger checks and balances institutions than Tanzania, so more outside scrutiny and influence on insiders; But with weaker state capacity than Tanzania, so less public investment (at levels of 6% of GDP). Tanzania's reported public capital investment figures give proportions of 9% of GDP in 2012.

Levy argues that Tanzania is one of a group of low income countries with strong bureaucracies and weak checks and balances institutions. Zambia has the reverse, with weaker state capacity and stronger non-state checks and balances. Levy emphasises the different types of elite bargain between insiders and outsiders. The first type, of which Tanzania is part, has strong state capacity, has relatively sharp boundaries between insiders and outsiders, with higher payoffs for insiders than outsiders. The second group, of which Zambia is part, has more diffuse boundaries and payoffs between insiders and outsiders. Levy suggests that at low levels of income, insiders have an incentive to consolidate their authority by building state capability rather than investing in checks and balances institutions. Tanzania falls into this group. We need (see section 5) to assess the extent and how these types of elite bargain – strengthening state capability vs strengthening checks and balances – interact with private investment and growth. The NWW argument is that growth leads to incentives for greater state capacity and for greater checks and balances institutions. NWW argue for a virtuous spiral of LAOs anchored in a dominant party or leader, with stability provided by the insider group, giving incentives for private incentives. Levy (2013) suggests this was the route of Korea and China. It is possible that this fits Tanzania. The alternative model is one where there are stronger checks and balances and weaker state capacity – Zambia – which offers more opportunities to outsiders, with a less exclusionary pattern of payoffs – what Levy calls competitive clientelism – but where incentives are strong enough to abide within the existing institutional status quo, providing sufficient stability to attract private investment and allowing for gradual strengthening of institutional capability based on more inclusive arrangements. Tanzania fits the first group of state dominance and weaker checks and balances, promoting insider interests, with higher entry barriers for outsiders.

Section 4 Property rights and land reform: conflicts between three types of rights

How does the basic LAO relate to other institutions that underpin growth and development – namely (private?) property rights and contracting?

The other big institutional issue shaping capitalism and development in Tanzania is that of land tenure, the nature of property rights and land reform, which itself is intimately linked to the nature of the state described above. The key work here is Catherine Boone (2007). This ties up the nature of land tenure with the nature of the state in Africa. She debunks the idea of framing the debate in terms of the tension between market versus the state. She argues instead that there are three ‘ideal types’ of property regimes with different and competing notions of citizenship and distribution of authority, and different bureaucratization at the local level. Land law reform connects with the political structuring of society. ‘Mass enfranchisement has come before rather than after the general consolidation of a market-based property regime’. This is where African countries differ from Western Europe and the US. African states have electoral democracy (albeit dominated by a single party for a long time and only recently with opposition parties) yet the nature of property law is not fixed. The three contending types of property regime are: the individualized, privately-held freeholds favoured by the Washington Consensus ideas with the argument that this underpins a western-style market economy; the communal, traditional, village-based, hierarchical land rights with a long heritage where property rights are not individualized, are not written down, are not readily transferable in market-type transactions; and what Boone calls user rights, where property rights are vested in the State or President and for practical purposes belong to those who use or farm the land. Boone argues that the way the African state has been created has been through interpretation and enforcement of rural land rights, protecting the power of allies, promoting commercialization of agriculture, fixing some rural populations to the land and promoting the mobility of others. The idea behind user rights was to break down old customary rights, to bring new land into productive use. Under these user rights, small farmers are not freeholders as the state is the landlord, holding final rights to the land.

Before colonialism, landholding in Tanzania was based on customary laws of the 120

different tribes. Title to land was based on traditions and customs. Ownership was communal, owned by the family, clan or tribe. Chiefs, headmen and elders had powers of land administration. Since 1963 chiefs have been replaced by elected village councils. German 1884-1916 and later British 1917-1961 land tenure declared all land to be crown and public land. By German Imperial Decree of 1885, all land occupied or not was treated as unowned crown land, vested in the Empire, excepting claims of ownership by private persons which could be proved. There was a distinction between claims of occupancy and rights of occupancy. Claims had to be proved by documentary evidence; occupation by fact of cultivation. Settlers doing plantation agriculture such as sisal, coffee, who could prove title had security of tenure; indigenous people who couldn't prove ownership had only permissive rights of occupancy. Under this system by the end of World War I 1.3m acres of the best highlands were alienated to foreigners. By British land tenure legislation of 1923 Land Ordinance, all lands, occupied or not, were public lands except those lawfully acquired before the Ordinance. Rights of Occupancy were either granted or deemed: granted rights were statutory and subject to law, whereas deemed rights were customary and governed by administrative policy. During 44 years of British rule, 3.5m acres were alienated from native lands in favour of settlers.

The government of Tanganyika inherited the vesting of land in the state as the ultimate landlord and until 1995, the Tanzanian government kept these basic premises with the President holding radical title and occupancy rights. The National Land Policy in 1995 recognized the need to accommodate changes and conflicts in land use, increases in the population, and wanted to encourage prospective investment with liberalization as well as getting over the heritage of the villagization programme of the 1970s.

Tanzania has a user rights property rights regime where land use over time confers citizenship and access rights. This is mainly for farming households, the moral basis to the land claim resting in their labour (sweat equity). But this confers huge rights to the state in terms of allocation of land rights and settlement of disputes. The state is the mediator in exchange in user rights regimes: the state's endorsement is required to acquire land. This is very different from a private property rights regime where land is commoditized and under market allocation rather than state allocation. (Boone 2007

p50). This is also different from a regime of customary rights where local groups reallocate property rights and they have the political sovereignty to do so.

In Tanzania, governments challenged existing land rights and allocation, carrying out relocation and resettlement under its ujamaa villagization programme on a massive scale in the 1970s. State agents have played a hands-on role in resource allocation and dispute resolution, in defiance of traditional communal rights. The 1990s Structural Adjustment Programmes in aiming to get states to withdraw from input-distribution programmes (of seeds, credit, tools) nevertheless allowed the connection between land tenure and the state to remain. 80% of the Tanzanian workforce works in the agricultural sector.

There have been a number of land law initiatives since 1992: 1995 National Land Policy; Land Act and Village Land Act of 1999; Land (Amendment) Act of 2004. There are pressures for land reform and clarity over land rights: but all reform has been in the direction of vesting land rights in the state ie institutionalizing user rights rather than promoting private property rights or reinforcing community rights (Boone 2007). There is some dispute as to whether formalizing customary rights strengthens or weakens them. Herbst, (States and Power 2000 p186-7) argues that state recognition of customary tenure is disruptive. Most policy people assume that state recognition will help preserve these rights. Green argues that institutionalization of collective land rights in Uganda has curbed the power of central government to expropriate land and stems the flow of outsiders and foreign investors.

A user rights strategy calls for land registration and titling to stabilize land access, securing rights, making expropriation less easy and making investment and technological change less risky for the small farmer. But Boone argues that the political implications of user rights strategy go against customary rights. Users are not community members. And it also goes against private property rights as the state continues to be involved in land exchange and allocation.

There has been considerable dispute in Tanzania over the kind of property rights regime that should be adopted.(Tsikata 2001). The user rights principle has won out. The law has strengthened the power of the central state (Shivji 1999). The most striking feature of the two land bills is the enormous powers over the ownership,

control and management of village land placed in the hands of the Ministry of Lands and through the Ministry, the Commissioner. The Commissioner has even greater powers over reserved and general land. The bottom-up role of more elective bodies like village assemblies has been done away with'. (Issa Shivji 1998). The question that arises is whether a democratically elected government can in fact securitize land rights without huge redistributive implications that expropriates rights of those claiming ancestral entitlement. A user rights regime does provide some constraint on the central state expropriating land without recourse to due process of law; but it nevertheless gives huge redistributive power to the state in terms of reallocation of land rights. It then becomes of question of whose rights prevail.

The World Bank advocates land registration and titling programmes to promote capitalist farming. Turning arable land into private property with formal property rights means land can then be mortgaged, sold, used as collateral for loans. Women's movements also support a private rights-based approach to land ownership as a way of escaping the hierarchical patriarchal customary rights that discriminate against women having ownership of land. But the World Bank's idea of land titling would gradually transfer land use and rights away from small farmers with little capacity to invest in land and into the hands of richer capitalist farmers. There are protests against this sort of land reform for the adverse effects it has on the land rights of small producers (Myenzi 2005).

Section 5 Impacts on development paths and enterprise formation

By way of conclusion this section pulls together these threads and argues that these institutional choices on the nature of state capacity and the different types of property rights shape the development path and enterprise formation.

As outlined in section 3, the history of Tanzania in the 1960s through to the 1980s is typical of other SSA states with a socialist, one party state favouring highly concentrated industry with connections to the state through the bureaucracy over agriculture and within agriculture favouring large-scale over smallholder farming. Revenues were shifted away from smallholder farming through Marketing Boards and the control of agricultural pricing (Bates 1982, 2014). This process has been liberalized somewhat since the 1990s but with many vestiges of state control

remaining.

Sutton and Olomi (2012) give us a recent Enterprise Map of Tanzania (2012) after a decade of substantial growth: agriculture grew by a factor of 1.5 and manufacturing by 2.2, and the FDI/GDP flow averaged 3.2% per annum over 2001-2010. They chart the striking and diverse industrial growth that has taken place over the last decade across different industrial sectors, from agribusiness, manufacturing and construction. Enterprises are a mix of cooperatives, MNCs and local private firms. Since the mid-1990s there has been substantial privatization. Of the 50 largest industrial companies, 29 are domestic private companies, the rest are foreign or government-owned. Of the 29 domestic companies, 14 are start-up ventures and 12 are pre-existing trading firms, built on the long tradition of trading and knowledge of markets. However these firms are still relatively few in number and fairly concentrated: 22 firms account for half of Tanzania's exports, so growth is led by a small number of leading firms (Sutton and Olomi 2012).

The challenges that Sutton and Olomi highlight across all sectors are: lack of infrastructure in terms of poor railway connections, poor roads or lack of them, therefore poor distribution networks, lack of power supply. The inability to get hold of raw materials affects volumes and scaling up. As infrastructure falls within the public goods category in most countries, this paucity of infrastructure reflects a relatively weak state or low fiscal capacity. Many of these challenges relate to insufficient public expenditure – poor infrastructure, poor distribution, lack of power supply, inability to scale up due to failure to get access to inputs such as raw materials or capital. In addition various issues relating to property rights are identified as challenges to enterprise growth by Sutton and Olomi: restrictions on access to land, lack of clarity over land title, difficulty in transferring title and administrative delays are all obstacles to industrial enterprise.

So how does state dominance favouring insiders combined with user property rights vested in the state square with the weakness in public infrastructure and government expenditure (although increasing) in the 1990s and 2000s? There has been investment in legal capacity and working towards greater clarity of property rights but a particular sort of legal capacity that strengthens state power and lowers checks and balances (the independent constraints on the state). Does Tanzania's particular state

legal capacity tend towards greater political equality lowering barriers to outsiders or favour insiders furthering inequality? The Tanzanian state is built on single party dominance rather than competitive clientelism, and has tended to dominate agriculture in particular. My hypothesis is that property rights based on state user rights, favouring bureaucratic elites and monopolistic industry have initially been based on greater inequality, particularly related to agriculture and negatively related to growth (Atkinson 2014). Since liberalization in the 1990s, and particularly over the last decade there has been growth in the number of enterprises and greater complementarity between legal and fiscal capacity, more positively related to growth especially in industrial capacity. But smallholder agriculture and farmers remain outsiders.

The choices for capitalist development are between strengthening private property rights of smallholder farmers through registration and titling of land; this will forestall the process of urbanization and leaving the land and will support small-scale agricultural enterprise. However, there are structural weaknesses in small-scale farming: having lower productivity, with lower levels of investment and greater vulnerability to weather and pests. Alternatively the development path can favour larger scale enterprise both rural and industrial at the expense of communal property rights and smallholder agriculture. This fosters more rapid urbanization as subsistence agriculture becomes more unviable and landless labourers move towards larger plantation agriculture or urban centres. The latter appears to be the path that the underlying institutions of state property rights and state power in Tanzania is taking. But there is opposition at the grass-roots level by the larger mass of population which still resides in and depends on smallholder agriculture.

The position of the cooperatives illustrates this tension. They are interesting as an example of a traditional institution – pre-individual, communal, hierarchical. They had a period of capture by the state and treatment as parastatals in the 1970s. They have restored their independence formally, but some parastatal institutions remain, such as the Marketing Board and Auction for exporting coffee. There are also more informal instances of monitoring or vetting of appointments to cooperative primary society boards by state functionaries like the District Commissioner (Sutton S. 2014). The provision of extension officers and other subsidies such as tools and fertilizers

also keeps the state involved in selecting those farmers who will receive subsidies and training and those who won't. And there is continuation of the 1970s and 80s policy of transferring surpluses through taxing small farmers to subsidize industrial development, although with liberalization farmers are more free to sell outside the cooperative to buyers directly, although at the risk of undermining the viability of the cooperative itself. So from the point of view of links to the state, the cooperative may be seen as an example of a more independent entity than in the 1970s and 80s, but not fully unregulated or free of monitoring ties.

In terms of property rights and their influence on the kinds of enterprise that are favoured, user rights with ultimate rights vested in the state have stronger force in Tanzania particularly than customary rights. Also there is no natural presumption in favour of private property rights by individuals (except by foreigners with former formal title to the land) and establishing them is an obstacle for the majority of poor smallholder farmers. The legacy of state expropriation and reorganization of cooperatives lives on in the memories and is reflected in the legal structures, that the state continues to have the capacity to reorganize land rights in the services of development. This means taking over reserve lands – the communal lands – and altering their use for public services. This is an inhibiting force on individual and cooperative enterprise development. Additionally cooperative land rights are typically unclear, unwritten, untitled and the process of titling and registering land for the purposes of establishing ownership is complex. Overall farmers' land rights within cooperatives remain unclear and complex and not encouraging of enterprise at the individual level. Disputes are settled at the level of the Primary Society, subject to the more hierarchical structures of more powerful elders holding sway over less powerful poorer farmers.

And yet without land as collateral, it is hard for the average farmer to obtain any sort of bank loan to undertake improvements to their land, held according to occupancy rights. So this is a further vicious circle: without clear entitlement to the land, there is restricted access to finance; without access to finance there are restrictions on the types of enterprise that are likely to be developed. And if farmers act collectively through their traditional cooperative societies, pitting customary land rights against state ownership is not likely to be successful.

Looking at development paths through the lens of these power balances, despite impressive expansion of industrial enterprise capacity and across diverse sectors, given state dominance and state-vested property rights, this development continues to be fairly narrowly based and to exclude the large swathes of the population still reliant on smallholder agriculture.

References

Atkinson A.B. 2014 The colonial legacy: Income inequality in former British African colonies, WIDER Working Paper 2014/045

Bates R.H. 1982, 2014 Markets and States in Tropical Africa: the Political Basis of Agricultural Policies, University of California Press

Bates R.H., Block S. Fayad G, Hoeffler A. The New Institutionalism and Africa, Bates website

Bates R. H, Block S. Revisiting African Agriculture: Institutional Change and Productivity Growth, Journal of Politics forthcoming

Besley T. and Persson T. (2009) The origins of state capacity: property rights, taxation and politics, American Economic Review 99(4) pp1218-1244

Boone C. (2007) Property and Constitutional Order: Land tenure reform and the future of the African State, in African Affairs 106/425, 557-586

Clark E. 1978 Socialist Development and Public Investment in Tanzania 1964-73, Toronto University Press

FAO website 2013

Greif A. 2006 Institutions and the Path to the Modern Economy: Lessons from Medieval Trade, Cambridge University Press

Levy B. 2004 Governance and Economic Development in Africa: Meeting the Challenge of Capacity Building, in Building State Capacity in Africa

Levy B. 2007 Governance Reform: Bridging Monitoring and Action, The World Bank

Levy B blog

Mann M. 2012 The Sources of Social Power volume 3, Cambridge University Press

Myenzi Y 2005 Implications of the recent land reforms in Tanzania on the land rights of small producers, Paper prepared for internal discussion at the Land Rights Research and Resources Institute in Dar es Salaam Tanzania

North D. Wallis J. Weingast B. 2009 Violence and Social Orders: A Conceptual

Framework for Interpreting Recorded Human History, Cambridge University Press

North D. Wallis J. Weingast B. Webb S. 2013 In the Shadow of Violence, Politics, Economics and the Problems of Development, Cambridge University Press

Piketty T. 2014 Capital in the Twenty First Century, Harvard University Press

Prevezer M. (forthcoming) Varieties of Capitalism, in history transition and emergence: new perspectives on institutional development, Routledge

Planning Commission, President's Office (2013) State of the Tanzania Economy, J.K.Nyerere Conference Centre DSM

Shivji 1998 Not yet democracy: Reforming Land Tenure in Tanzania, IIED, HAKIARDHI and the Faculty of Law, Tanzania

Stevens M. and Teggemann S. 2004, Comparative Experience with Public Service Reform in Ghana, Tanzania and Zambia in B.Levy Building State Capacity in Africa

Sutton John and Donath Olomi 2012 An Enterprise Map of Tanzania, International Growth Centre

Sutton Shannon 2014, Voice, Choice and Governance: The Case of Tanzania's Fairtrade Coffee Co-operatives, Queen Mary University of London unpublished PhD.

Tsikata Dzodzi, (2001) Land Tenure Reforms and Women's land Rights, Recent Debates in Tanzania, ISSER University of Ghana, Paper prepared for the UNRISD Project on Agrarian Change, Gender and Land Rights